

# FINAL BILL REPORT

## E2SSB 5071

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Synopsis as Enacted

**Brief Description:** Creating transition teams to assist specified persons under civil commitment.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Dhingra, Darneille, Das, Hunt, Kuderer, Nguyen and Wilson, C.).

**Senate Committee on Health & Long Term Care**

**Senate Committee on Behavioral Health Subcommittee to Health & Long Term Care**

**Senate Committee on Ways & Means**

**House Committee on Civil Rights & Judiciary**

**House Committee on Appropriations**

**Background:** Involuntary Commitment for Behavioral Health Treatment. Involuntary commitment occurs when a court orders a person to undergo a period of involuntary behavioral health treatment. Involuntary treatment may occur in an inpatient setting, or it may consist of a period of outpatient treatment, which is known as less restrictive alternative (LRA) treatment. Washington law refers to orders requiring LRA treatment as LRA treatment orders, conditional release orders, or assisted outpatient behavioral health treatment orders.

Reasons for Involuntary Commitment. A person may receive an involuntary commitment order through a civil court case or a criminal court case. An involuntary commitment order arises through a civil court case when a designated crisis responder (DCR) determines, following investigation, that a person who is refusing voluntary behavioral health treatment presents a likelihood of serious harm or is gravely disabled due to a behavioral health disorder. The DCR may detain the person up to 120 hours in a community treatment facility. The treatment facility may subsequently petition for a court order requiring continuing involuntary treatment for defined periods if certain legal criteria are met.

An involuntary commitment order may arise through a criminal court case in one of two ways:

- a person may be acquitted of a criminal charge as not guilty by reason of insanity, and

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- then subsequently found by a court or jury to present a substantial danger to other persons unless kept under further control by the court or other persons or institutions, or be found to present a substantial likelihood of committing criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions; or
- a person may be found incompetent to stand trial and referred for civil commitment after the statutory time period allotted for competency restoration treatment has expired without a finding of restoration, with special grounds for civil commitment being available on the basis of proof that the person has committed acts constituting a felony, and as a result of a behavioral health disorder presents a substantial likelihood of repeating similar criminal acts. If the court makes a special finding that the person committed acts constituting a felony that is classified as violent under state law, the person will qualify for additional terms of supervision including oversight by an board known as the Public Safety Review Panel (PSRP), which is charged with issuing an advisory opinion to the courts concerning release recommendations by the Department of Social and Health Services (DSHS).

DSHS oversees inpatient treatment for adults who receive involuntary commitment through criminal court cases at one of two state hospitals: Western State Hospital and Eastern State Hospital.

Minimum Components of Less Restrictive Alternative Treatment. In 2016, the Legislature established mandatory minimum components for a course of LRA treatment. These include:

- assignment of a care coordinator;
- a psychiatric evaluation;
- a schedule of regular contacts with the treatment provider;
- a transition plan;
- an individual crisis plan; and
- notification to the care coordinator when the client does not substantially comply with treatment requirements.

Other optional LRA treatment requirements were specified. These requirements were not applied to persons who are conditionally released after being acquitted as not guilty by reason of insanity.

**Summary:** Minimum requirements for an order of conditional release to less restrictive alternative treatment for a person who has been civilly committed under criminal insanity laws are increased by:

- requiring the appointment of a multidisciplinary transition team to assist the person, consisting of a representative of the community behavioral health agency providing treatment, a representative of DSHS, and a specially-trained community corrections officer;
- requiring the court to specify the name of a behavioral health agency responsible for

- supervising the person's outpatient treatment; and
- requiring the course of outpatient treatment to include minimum components similar to those applicable to persons ordered to receive LRA treatment, with the component of care coordination provided by DSHS instead of the treating behavioral health agency.

Minimum requirements for an LRA treatment order for a person who has been civilly committed following dismissal of a violent felony charge based on incompetency to stand trial are increased to include appointment of a multidisciplinary transition team to assist the person, consisting of a representative of the community behavioral health agency providing treatment and a specially-trained community corrections officer.

In either case, the court may omit appointing the community corrections officer if it makes a special finding that the appointment of a community corrections officer would not facilitate the success of the person, or the safety of the person or the community. The Department of Corrections must collaborate with DSHS to develop specialized training for community corrections officers who participate in transition teams. A community corrections officer without special training may be appointed if necessary to avoid causing delay to the entry of a conditional release or LRA treatment order.

A transition team must monitor the person's progress in treatment, compliance with court-ordered conditions, and problem solve around extra support the person may need or circumstances that may arise that threaten the safety of the person and the community. The team must meet according to a schedule developed by the team, and communicate as needed if issues arise that require immediate attention. The Health Care Authority must coordinate with DSHS to offer contracts to community behavioral health agencies to support the non-Medicaid costs entailed in fulfilling the agencies' role in transition teams, and may establish requirements and provide technical assistance and training to these agencies within available funding.

Conditional release planning for persons civilly committed under criminal insanity laws must start at admission, and be facilitated by the state hospital liaison for the person's managed care organization or behavioral health administrative services organization. LRA treatment pursuant to a conditional release order may include a substance use disorder evaluation instead of, or in addition to, a psychiatric evaluation, must include consultation about the formation of a mental health advance directive, and may include periodic court review. The care coordinator may share information with parties as needed to implement the involuntary treatment order. The committed person or DSHS may make a motion for limited conditional release if there is insufficient evidence to support a full conditional release, but the person would benefit from the opportunity to exercise increased privileges and can do so under the supervision of DSHS without substantial danger to other persons or substantial likelihood of committing criminal acts jeopardizing public safety or security.

The clerk of each superior court must share all involuntary commitment hearing outcome

information with its local behavioral health administrative services organization, which must track information related to LRA treatment orders and ensure that the information is provided to the appropriate managed care organization for Medicaid enrollees. The behavioral health administrative services organization must provide for the availability of LRA treatment services to all persons subject to LRA treatment orders who do not have access to health insurance coverage for these services, not just in circumstances where adequate resources are available to provide the services.

A court may delay a bail hearing for a defendant at first appearance or arraignment if it determines that a competency evaluation will be requested or ordered for the defendant if the charges are pursued.

The Health Care Authority must revise its behavioral health data system for tracking involuntary commitment orders to enable users to distinguish between types of orders.

The provisions of this act apply to persons who are committed for inpatient behavioral health treatment when the law comes into effect.

**Votes on Final Passage:**

Senate	49	0	
House	70	28	(House amended)
Senate	48	0	(Senate concurred)

**Effective:** July 25, 2021

July 1, 2026 (Section 3)

July 1, 2022 (Section 12)

Contingent (Sections 13 and 14)