
HOUSE BILL 1773

State of Washington

67th Legislature

2022 Regular Session

By Representatives Taylor, Davis, Leavitt, Callan, Cody, Macri, Ormsby, and Harris-Talley

Prefiled 01/05/22. Read first time 01/10/22. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to assisted outpatient treatment for persons with
2 behavioral health disorders; amending RCW 71.05.148, 71.05.150,
3 71.05.150, 71.05.156, 71.05.212, 71.05.230, 71.05.240, 71.05.240,
4 71.05.245, 71.05.280, 71.05.365, 71.05.585, 10.77.175, 71.05.590,
5 71.05.590, 71.05.595, and 71.24.045; reenacting and amending RCW
6 71.05.020, 71.05.020, 71.05.201, 71.05.212, 71.05.320, 71.05.320, and
7 71.29.045; reenacting and amending 2021 c 264 s 24 and 2021 c 263 s
8 21 (uncodified); adding a new section to chapter 71.34 RCW; providing
9 effective dates; providing a contingent effective date; and providing
10 expiration dates.

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

12 **Sec. 1.** RCW 71.05.020 and 2021 c 264 s 21 and 2021 c 263 s 12
13 are each reenacted and amended to read as follows:

14 The definitions in this section apply throughout this chapter
15 unless the context clearly requires otherwise.

16 (1) "Admission" or "admit" means a decision by a physician,
17 physician assistant, or psychiatric advanced registered nurse
18 practitioner that a person should be examined or treated as a patient
19 in a hospital;

20 (2) "Alcoholism" means a disease, characterized by a dependency
21 on alcoholic beverages, loss of control over the amount and

1 circumstances of use, symptoms of tolerance, physiological or
2 psychological withdrawal, or both, if use is reduced or discontinued,
3 and impairment of health or disruption of social or economic
4 functioning;

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

9 (4) "Approved substance use disorder treatment program" means a
10 program for persons with a substance use disorder provided by a
11 treatment program certified by the department as meeting standards
12 adopted under chapter 71.24 RCW;

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

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

17 (7) "Behavioral health disorder" means either a mental disorder
18 as defined in this section, a substance use disorder as defined in
19 this section, or a co-occurring mental disorder and substance use
20 disorder;

21 (8) "Behavioral health service provider" means a public or
22 private agency that provides mental health, substance use disorder,
23 or co-occurring disorder services to persons with behavioral health
24 disorders as defined under this section and receives funding from
25 public sources. This includes, but is not limited to: Hospitals
26 licensed under chapter 70.41 RCW; evaluation and treatment facilities
27 as defined in this section; community mental health service delivery
28 systems or community behavioral health programs as defined in RCW
29 71.24.025; licensed or certified behavioral health agencies under RCW
30 71.24.037; facilities conducting competency evaluations and
31 restoration under chapter 10.77 RCW; approved substance use disorder
32 treatment programs as defined in this section; secure withdrawal
33 management and stabilization facilities as defined in this section;
34 and correctional facilities operated by state and local governments;

35 (9) "Co-occurring disorder specialist" means an individual
36 possessing an enhancement granted by the department of health under
37 chapter 18.205 RCW that certifies the individual to provide substance
38 use disorder counseling subject to the practice limitations under RCW
39 18.205.105;

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

4 (11) "Community behavioral health agency" has the same meaning as
5 "licensed or certified behavioral health agency" defined in RCW
6 71.24.025;

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

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

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

18 (15) "Department" means the department of health;

19 (16) "Designated crisis responder" means a mental health
20 professional appointed by the county, by an entity appointed by the
21 county, or by the authority in consultation with a federally
22 recognized Indian tribe or after meeting and conferring with an
23 Indian health care provider, to perform the duties specified in this
24 chapter;

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

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

35 (19) "Developmental disability" means that condition defined in
36 RCW 71A.10.020(5);

37 (20) "Director" means the director of the authority;

38 (21) "Discharge" means the termination of hospital medical
39 authority. The commitment may remain in place, be terminated, or be
40 amended by court order;

1 (22) "Drug addiction" means a disease, characterized by a
2 dependency on psychoactive chemicals, loss of control over the amount
3 and circumstances of use, symptoms of tolerance, physiological or
4 psychological withdrawal, or both, if use is reduced or discontinued,
5 and impairment of health or disruption of social or economic
6 functioning;

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

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

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

36 (26) "Hearing" means any proceeding conducted in open court that
37 conforms to the requirements of RCW 71.05.820;

38 (27) "History of one or more violent acts" refers to the period
39 of time ten years prior to the filing of a petition under this
40 chapter, excluding any time spent, but not any violent acts

1 committed, in a behavioral health facility, or in confinement as a
2 result of a criminal conviction;

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

5 (29) "In need of assisted outpatient ~~((behavioral health))~~
6 treatment" ~~((means that a person, as a result of a behavioral health~~
7 ~~disorder: (a) Has been committed by a court to detention for~~
8 ~~involuntary behavioral health treatment during the preceding thirty-~~
9 ~~six months; (b) is unlikely to voluntarily participate in outpatient~~
10 ~~treatment without an order for less restrictive alternative~~
11 ~~treatment, based on a history of nonadherence with treatment or in~~
12 ~~view of the person's current behavior; (c) is likely to benefit from~~
13 ~~less restrictive alternative treatment; and (d) requires less~~
14 ~~restrictive alternative treatment to prevent a relapse,~~
15 ~~decompensation, or deterioration that is likely to result in the~~
16 ~~person presenting a likelihood of serious harm or the person becoming~~
17 ~~gravely disabled within a reasonably short period of time)) refers to~~
18 ~~a person who meets the criteria for assisted outpatient treatment~~
19 ~~established under RCW 71.05.148;~~

20 (30) "Individualized service plan" means a plan prepared by a
21 developmental disabilities professional with other professionals as a
22 team, for a person with developmental disabilities, which shall
23 state:

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

26 (b) The conditions and strategies necessary to achieve the
27 purposes of habilitation;

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

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

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

33 (f) Where relevant in light of past criminal behavior and due
34 consideration for public safety, the criteria for proposed movement
35 to less-restrictive settings, criteria for proposed eventual
36 discharge or release, and a projected possible date for discharge or
37 release; and

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

1 (31) "Intoxicated person" means a person whose mental or physical
2 functioning is substantially impaired as a result of the use of
3 alcohol or other psychoactive chemicals;

4 (32) "Judicial commitment" means a commitment by a court pursuant
5 to the provisions of this chapter;

6 (33) "Legal counsel" means attorneys and staff employed by county
7 prosecutor offices or the state attorney general acting in their
8 capacity as legal representatives of public behavioral health service
9 providers under RCW 71.05.130;

10 (34) "Less restrictive alternative treatment" means a program of
11 individualized treatment in a less restrictive setting than inpatient
12 treatment that includes the services described in RCW 71.05.585. This
13 term includes: Treatment pursuant to a less restrictive alternative
14 treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant
15 to a conditional release under RCW 71.05.340; and treatment pursuant
16 to an assisted outpatient (~~behavioral health~~) treatment order under
17 RCW 71.05.148;

18 (35) "Licensed physician" means a person licensed to practice
19 medicine or osteopathic medicine and surgery in the state of
20 Washington;

21 (36) "Likelihood of serious harm" means:

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

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

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

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

39 (39) "Mental health professional" means a psychiatrist,
40 psychologist, physician assistant working with a supervising

1 psychiatrist, psychiatric advanced registered nurse practitioner,
2 psychiatric nurse, or social worker, and such other mental health
3 professionals as may be defined by rules adopted by the secretary
4 pursuant to the provisions of this chapter;

5 (40) "Peace officer" means a law enforcement official of a public
6 agency or governmental unit, and includes persons specifically given
7 peace officer powers by any state law, local ordinance, or judicial
8 order of appointment;

9 (41) "Physician assistant" means a person licensed as a physician
10 assistant under chapter 18.71A RCW;

11 (42) "Private agency" means any person, partnership, corporation,
12 or association that is not a public agency, whether or not financed
13 in whole or in part by public funds, which constitutes an evaluation
14 and treatment facility or private institution, or hospital, or
15 approved substance use disorder treatment program, which is conducted
16 for, or includes a department or ward conducted for, the care and
17 treatment of persons with behavioral health disorders;

18 (43) "Professional person" means a mental health professional,
19 substance use disorder professional, or designated crisis responder
20 and shall also mean a physician, physician assistant, psychiatric
21 advanced registered nurse practitioner, registered nurse, and such
22 others as may be defined by rules adopted by the secretary pursuant
23 to the provisions of this chapter;

24 (44) "Psychiatric advanced registered nurse practitioner" means a
25 person who is licensed as an advanced registered nurse practitioner
26 pursuant to chapter 18.79 RCW; and who is board certified in advanced
27 practice psychiatric and mental health nursing;

28 (45) "Psychiatrist" means a person having a license as a
29 physician and surgeon in this state who has in addition completed
30 three years of graduate training in psychiatry in a program approved
31 by the American medical association or the American osteopathic
32 association and is certified or eligible to be certified by the
33 American board of psychiatry and neurology;

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

36 (47) "Public agency" means any evaluation and treatment facility
37 or institution, secure withdrawal management and stabilization
38 facility, approved substance use disorder treatment program, or
39 hospital which is conducted for, or includes a department or ward
40 conducted for, the care and treatment of persons with behavioral

1 health disorders, if the agency is operated directly by federal,
2 state, county, or municipal government, or a combination of such
3 governments;

4 (48) "Release" means legal termination of the commitment under
5 the provisions of this chapter;

6 (49) "Resource management services" has the meaning given in
7 chapter 71.24 RCW;

8 (50) "Secretary" means the secretary of the department of health,
9 or his or her designee;

10 (51) "Secure withdrawal management and stabilization facility"
11 means a facility operated by either a public or private agency or by
12 the program of an agency which provides care to voluntary individuals
13 and individuals involuntarily detained and committed under this
14 chapter for whom there is a likelihood of serious harm or who are
15 gravely disabled due to the presence of a substance use disorder.
16 Secure withdrawal management and stabilization facilities must:

17 (a) Provide the following services:

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

20 (ii) Clinical stabilization services;

21 (iii) Acute or subacute detoxification services for intoxicated
22 individuals; and

23 (iv) Discharge assistance provided by certified substance use
24 disorder professionals or co-occurring disorder specialists,
25 including facilitating transitions to appropriate voluntary or
26 involuntary inpatient services or to less restrictive alternatives as
27 appropriate for the individual;

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

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

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

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

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

4 (55) "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 (56) "Treatment records" include registration and all other
11 records concerning persons who are receiving or who at any time have
12 received services for behavioral health disorders, which are
13 maintained by the department of social and health services, the
14 department, the authority, behavioral health administrative services
15 organizations and their staffs, managed care organizations and their
16 staffs, and by treatment facilities. Treatment records include mental
17 health information contained in a medical bill including but not
18 limited to mental health drugs, a mental health diagnosis, provider
19 name, and dates of service stemming from a medical service. Treatment
20 records do not include notes or records maintained for personal use
21 by a person providing treatment services for the department of social
22 and health services, the department, the authority, behavioral health
23 administrative services organizations, managed care organizations, or
24 a treatment facility if the notes or records are not available to
25 others;

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

33 (58) "Video," unless the context clearly indicates otherwise,
34 means the delivery of behavioral health services through the use of
35 interactive audio and video technology, permitting real-time
36 communication between a person and a designated crisis responder, for
37 the purpose of evaluation. "Video" does not include the use of audio-
38 only telephone, facsimile, email, or store and forward technology.
39 "Store and forward technology" means use of an asynchronous
40 transmission of a person's medical information from a mental health

1 service provider to the designated crisis responder which results in
2 medical diagnosis, consultation, or treatment;

3 (59) "Violent act" means behavior that resulted in homicide,
4 attempted suicide, injury, or substantial loss or damage to property.

5 **Sec. 2.** RCW 71.05.020 and 2021 c 264 s 23 and 2021 c 263 s 14
6 are each reenacted and amended to read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

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

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

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

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

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

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

31 (7) "Behavioral health disorder" means either a mental disorder
32 as defined in this section, a substance use disorder as defined in
33 this section, or a co-occurring mental disorder and substance use
34 disorder;

35 (8) "Behavioral health service provider" means a public or
36 private agency that provides mental health, substance use disorder,
37 or co-occurring disorder services to persons with behavioral health
38 disorders as defined under this section and receives funding from
39 public sources. This includes, but is not limited to: Hospitals

1 licensed under chapter 70.41 RCW; evaluation and treatment facilities
2 as defined in this section; community mental health service delivery
3 systems or community behavioral health programs as defined in RCW
4 71.24.025; licensed or certified behavioral health agencies under RCW
5 71.24.037; facilities conducting competency evaluations and
6 restoration under chapter 10.77 RCW; approved substance use disorder
7 treatment programs as defined in this section; secure withdrawal
8 management and stabilization facilities as defined in this section;
9 and correctional facilities operated by state and local governments;

10 (9) "Co-occurring disorder specialist" means an individual
11 possessing an enhancement granted by the department of health under
12 chapter 18.205 RCW that certifies the individual to provide substance
13 use disorder counseling subject to the practice limitations under RCW
14 18.205.105;

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

18 (11) "Community behavioral health agency" has the same meaning as
19 "licensed or certified behavioral health agency" defined in RCW
20 71.24.025;

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

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

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

32 (15) "Department" means the department of health;

33 (16) "Designated crisis responder" means a mental health
34 professional appointed by the county, by an entity appointed by the
35 county, or by the authority in consultation with a federally
36 recognized Indian tribe or after meeting and conferring with an
37 Indian health care provider, to perform the duties specified in this
38 chapter;

39 (17) "Detention" or "detain" means the lawful confinement of a
40 person, under the provisions of this chapter;

1 (18) "Developmental disabilities professional" means a person who
2 has specialized training and three years of experience in directly
3 treating or working with persons with developmental disabilities and
4 is a psychiatrist, physician assistant working with a supervising
5 psychiatrist, psychologist, psychiatric advanced registered nurse
6 practitioner, or social worker, and such other developmental
7 disabilities professionals as may be defined by rules adopted by the
8 secretary of the department of social and health services;

9 (19) "Developmental disability" means that condition defined in
10 RCW 71A.10.020(5);

11 (20) "Director" means the director of the authority;

12 (21) "Discharge" means the termination of hospital medical
13 authority. The commitment may remain in place, be terminated, or be
14 amended by court order;

15 (22) "Drug addiction" means a disease, characterized by a
16 dependency on psychoactive chemicals, loss of control over the amount
17 and circumstances of use, symptoms of tolerance, physiological or
18 psychological withdrawal, or both, if use is reduced or discontinued,
19 and impairment of health or disruption of social or economic
20 functioning;

21 (23) "Evaluation and treatment facility" means any facility which
22 can provide directly, or by direct arrangement with other public or
23 private agencies, emergency evaluation and treatment, outpatient
24 care, and timely and appropriate inpatient care to persons suffering
25 from a mental disorder, and which is licensed or certified as such by
26 the department. The authority may certify single beds as temporary
27 evaluation and treatment beds under RCW 71.05.745. A physically
28 separate and separately operated portion of a state hospital may be
29 designated as an evaluation and treatment facility. A facility which
30 is part of, or operated by, the department of social and health
31 services or any federal agency will not require certification. No
32 correctional institution or facility, or jail, shall be an evaluation
33 and treatment facility within the meaning of this chapter;

34 (24) "Gravely disabled" means a condition in which a person, as a
35 result of a behavioral health disorder: (a) Is in danger of serious
36 physical harm resulting from a failure to provide for his or her
37 essential human needs of health or safety; or (b) manifests severe
38 deterioration from safe behavior evidenced by repeated and escalating
39 loss of cognitive or volitional control over his or her actions and

1 is not receiving such care as is essential for his or her health or
2 safety;

3 (25) "Habilitative services" means those services provided by
4 program personnel to assist persons in acquiring and maintaining life
5 skills and in raising their levels of physical, mental, social, and
6 vocational functioning. Habilitative services include education,
7 training for employment, and therapy. The habilitative process shall
8 be undertaken with recognition of the risk to the public safety
9 presented by the person being assisted as manifested by prior charged
10 criminal conduct;

11 (26) "Hearing" means any proceeding conducted in open court that
12 conforms to the requirements of RCW 71.05.820;

13 (27) "History of one or more violent acts" refers to the period
14 of time ten years prior to the filing of a petition under this
15 chapter, excluding any time spent, but not any violent acts
16 committed, in a behavioral health facility, or in confinement as a
17 result of a criminal conviction;

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

20 (29) "In need of assisted outpatient (~~behavioral health~~)
21 treatment" (~~means that a person, as a result of a behavioral health~~
22 ~~disorder: (a) Has been committed by a court to detention for~~
23 ~~involuntary behavioral health treatment during the preceding thirty-~~
24 ~~six months; (b) is unlikely to voluntarily participate in outpatient~~
25 ~~treatment without an order for less restrictive alternative~~
26 ~~treatment, based on a history of nonadherence with treatment or in~~
27 ~~view of the person's current behavior; (c) is likely to benefit from~~
28 ~~less restrictive alternative treatment; and (d) requires less~~
29 ~~restrictive alternative treatment to prevent a relapse,~~
30 ~~decompensation, or deterioration that is likely to result in the~~
31 ~~person presenting a likelihood of serious harm or the person becoming~~
32 ~~gravely disabled within a reasonably short period of time)) refers to
33 a person who meets the criteria for assisted outpatient treatment
34 established under RCW 71.05.148;~~

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

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

1 (b) The conditions and strategies necessary to achieve the
2 purposes of habilitation;

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

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

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

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

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

15 (31) "Intoxicated person" means a person whose mental or physical
16 functioning is substantially impaired as a result of the use of
17 alcohol or other psychoactive chemicals;

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

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

24 (34) "Less restrictive alternative treatment" means a program of
25 individualized treatment in a less restrictive setting than inpatient
26 treatment that includes the services described in RCW 71.05.585. This
27 term includes: Treatment pursuant to a less restrictive alternative
28 treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant
29 to a conditional release under RCW 71.05.340; and treatment pursuant
30 to an assisted outpatient (~~(behavioral health)~~) treatment order under
31 RCW 71.05.148;

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

35 (36) "Likelihood of serious harm" means:

36 (a) A substantial risk that: (i) Physical harm will be inflicted
37 by a person upon his or her own person, as evidenced by threats or
38 attempts to commit suicide or inflict physical harm on oneself; (ii)
39 physical harm will be inflicted by a person upon another, as
40 evidenced by behavior which has caused harm, substantial pain, or

1 which places another person or persons in reasonable fear of harm to
2 themselves or others; or (iii) physical harm will be inflicted by a
3 person upon the property of others, as evidenced by behavior which
4 has caused substantial loss or damage to the property of others; or

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

7 (37) "Medical clearance" means a physician or other health care
8 provider has determined that a person is medically stable and ready
9 for referral to the designated crisis responder;

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

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

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

23 (41) "Physician assistant" means a person licensed as a physician
24 assistant under chapter 18.71A RCW;

25 (42) "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, or
29 approved substance use disorder treatment program, which is conducted
30 for, or includes a department or ward conducted for, the care and
31 treatment of persons with behavioral health disorders;

32 (43) "Professional person" means a mental health professional,
33 substance use disorder professional, or designated crisis responder
34 and shall also mean a physician, physician assistant, psychiatric
35 advanced registered nurse practitioner, registered nurse, and such
36 others as may be defined by rules adopted by the secretary pursuant
37 to the provisions of this chapter;

38 (44) "Psychiatric advanced registered nurse practitioner" means a
39 person who is licensed as an advanced registered nurse practitioner

1 pursuant to chapter 18.79 RCW; and who is board certified in advanced
2 practice psychiatric and mental health nursing;

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

9 (46) "Psychologist" means a person who has been licensed as a
10 psychologist pursuant to chapter 18.83 RCW;

11 (47) "Public agency" means any evaluation and treatment facility
12 or institution, secure withdrawal management and stabilization
13 facility, approved substance use disorder treatment program, or
14 hospital which is conducted for, or includes a department or ward
15 conducted for, the care and treatment of persons with behavioral
16 health disorders, if the agency is operated directly by federal,
17 state, county, or municipal government, or a combination of such
18 governments;

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

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

23 (50) "Secretary" means the secretary of the department of health,
24 or his or her designee;

25 (51) "Secure withdrawal management and stabilization facility"
26 means a facility operated by either a public or private agency or by
27 the program of an agency which provides care to voluntary individuals
28 and individuals involuntarily detained and committed under this
29 chapter for whom there is a likelihood of serious harm or who are
30 gravely disabled due to the presence of a substance use disorder.
31 Secure withdrawal management and stabilization facilities must:

32 (a) Provide the following services:

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

35 (ii) Clinical stabilization services;

36 (iii) Acute or subacute detoxification services for intoxicated
37 individuals; and

38 (iv) Discharge assistance provided by certified substance use
39 disorder professionals or co-occurring disorder specialists,
40 including facilitating transitions to appropriate voluntary or

1 involuntary inpatient services or to less restrictive alternatives as
2 appropriate for the individual;

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

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

6 (52) "Severe deterioration from safe behavior" means that a
7 person will, if not treated, suffer or continue to suffer severe and
8 abnormal mental, emotional, or physical distress, and this distress
9 is associated with significant impairment of judgment, reason, or
10 behavior;

11 (53) "Social worker" means a person with a master's or further
12 advanced degree from a social work educational program accredited and
13 approved as provided in RCW 18.320.010;

14 (54) "Substance use disorder" means a cluster of cognitive,
15 behavioral, and physiological symptoms indicating that an individual
16 continues using the substance despite significant substance-related
17 problems. The diagnosis of a substance use disorder is based on a
18 pathological pattern of behaviors related to the use of the
19 substances;

20 (55) "Substance use disorder professional" means a person
21 certified as a substance use disorder professional by the department
22 of health under chapter 18.205 RCW;

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

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

1 and health services, the department, the authority, behavioral health
2 administrative services organizations, managed care organizations, or
3 a treatment facility if the notes or records are not available to
4 others;

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

12 (59) "Video," unless the context clearly indicates otherwise,
13 means the delivery of behavioral health services through the use of
14 interactive audio and video technology, permitting real-time
15 communication between a person and a designated crisis responder, for
16 the purpose of evaluation. "Video" does not include the use of audio-
17 only telephone, facsimile, email, or store and forward technology.
18 "Store and forward technology" means use of an asynchronous
19 transmission of a person's medical information from a mental health
20 service provider to the designated crisis responder which results in
21 medical diagnosis, consultation, or treatment;

22 (60) "Violent act" means behavior that resulted in homicide,
23 attempted suicide, injury, or substantial loss or damage to property.

24 **Sec. 3.** RCW 71.05.148 and 2019 c 446 s 21 are each amended to
25 read as follows:

26 ~~((This section establishes a process for initial evaluation and
27 filing of a petition for assisted outpatient behavioral health
28 treatment, but however does not preclude the filing of a petition for
29 assisted outpatient behavioral health treatment following a period of
30 inpatient detention in appropriate circumstances:))~~

31 (1) ~~((The designated crisis responder))~~ A person is in need of
32 assisted outpatient treatment if the court finds by a preponderance
33 of the evidence in response to a petition filed under this section
34 that:

35 (a) The person has a behavioral health disorder;

36 (b) Based on a clinical determination and in view of the person's
37 treatment history and current behavior, at least one of the following
38 is true:

1 (i) The person is unlikely to survive safely in the community
2 without supervision and the person's condition is substantially
3 deteriorating; or

4 (ii) The person is in need of assisted outpatient treatment in
5 order to prevent a relapse or deterioration that would be likely to
6 result in grave disability or a likelihood of serious harm to the
7 person or to others;

8 (c) The person has a history of lack of compliance with treatment
9 for his or her behavioral health disorder, in that at least one of
10 the following is true:

11 (i) The person's behavioral health disorder has, at least twice
12 within the last 36 months, been a substantial factor in necessitating
13 hospitalization, or receipt of services in a forensic or other mental
14 health unit of a state correctional facility or local correctional
15 facility, not including any period during which the person was
16 hospitalized or incarcerated immediately preceding the filing of the
17 petition;

18 (ii) The person's behavioral health disorder has, at least twice
19 within the last 36 months, been a substantial factor in necessitating
20 emergency medical care, a substantial factor necessitating
21 hospitalization for behavioral health-related medical conditions
22 including overdose, infected abscesses, sepsis, endocarditis, or
23 other maladies, or a substantial factor in behavior which resulted in
24 the person's incarceration in a state or local correctional facility;
25 or

26 (iii) The person's behavioral health disorder has resulted in one
27 or more violent acts, threats, or attempts to cause serious physical
28 harm to themselves or another within the last 48 months, not
29 including any period in which the person was hospitalized or
30 incarcerated immediately preceding the filing of the petition;

31 (d) The person has been offered an opportunity to participate in
32 a treatment plan, and the person continues to not engage in
33 treatment;

34 (e) Participation in an assisted outpatient treatment program
35 would be the least restrictive alternative necessary to ensure the
36 person's recovery and stability; and

37 (f) The person will benefit from assisted outpatient treatment.

38 (2) The following individuals may directly file a petition for
39 less restrictive alternative treatment on the basis that a person is
40 in need of assisted outpatient treatment:

- 1 (a) The director of a hospital where the person is hospitalized;
2 (b) The director of a behavioral health service provider
3 providing behavioral health care or residential services to the
4 person;
5 (c) The person's treating mental health professional or substance
6 use disorder professional or one who has evaluated the person;
7 (d) A designated crisis responder;
8 (e) A release planner from a corrections facility; or
9 (f) An emergency room physician.

10 (3) A court order for less restrictive alternative treatment on
11 the basis that the person is in need of assisted outpatient treatment
12 may be effective for up to 18 months. The petitioner must personally
13 interview the person, unless the person refuses an interview, ((and))
14 to determine whether the person will voluntarily receive appropriate
15 ((evaluation and)) treatment ((at a mental health facility, secure
16 withdrawal management and stabilization facility, or approved
17 substance use disorder treatment program)).

18 ~~((2))~~ (4) The ((designated crisis responder)) petitioner must
19 ((investigate and evaluate the)) allege specific facts ((alleged
20 and)) based on personal observation, evaluation, or investigation,
21 and must consider the reliability or credibility of any person
22 providing information((. The designated crisis responder may spend up
23 to forty-eight hours to complete the investigation, provided that the
24 person may not be held for investigation for any period except as
25 authorized by RCW 71.05.050 or 71.05.153)) material to the petition.

26 ~~((3) If the designated crisis responder finds that the person is~~
27 ~~in need of assisted outpatient behavioral health treatment, they may~~
28 ~~file a petition requesting the court to enter an order for up to~~
29 ~~ninety days of less restrictive alternative treatment.))~~ (5) The
30 petition must include:

31 (a) A statement of the circumstances under which the person's
32 condition was made known and ((stating that there is evidence, as a
33 result of the designated crisis responder's)) the basis for the
34 opinion, from personal observation or investigation, that the person
35 is in need of assisted outpatient ((behavioral health)) treatment((7
36 and stating the)). The petitioner must state which specific facts
37 ((known as a result of)) come from personal observation ((or
38 investigation, upon which the designated crisis responder bases)) and
39 specify what other sources of information the petitioner has relied
40 upon to form this belief;

1 (b) A declaration from a physician, physician assistant, advanced
2 registered nurse practitioner, or the person's treating mental health
3 professional or substance use disorder professional, who has examined
4 the person no more than 10 days prior to the submission of the
5 petition and who is willing to testify in support of the petition, or
6 who alternatively has made appropriate attempts to examine the person
7 within the same period but has not been successful in obtaining the
8 person's cooperation, and who is willing to testify to the reasons
9 they believe that the person meets the criteria for assisted
10 outpatient treatment. If the declaration is provided by the person's
11 treating mental health professional or substance use disorder
12 professional, it must be cosigned by a supervising physician,
13 physician assistant, or advanced registered nurse practitioner who
14 certifies that they have reviewed the declaration;

15 (c) The declarations of additional witnesses, if any, supporting
16 the petition for assisted outpatient ((behavioral health)) treatment;

17 ~~((c) A designation of retained counsel for the person or, if~~
18 ~~counsel is appointed, the name, business address, and telephone~~
19 ~~number of the attorney appointed to represent the person;))~~

20 (d) The name of an agency, provider, or facility which ((agreed))
21 agrees to ((assume the responsibility of providing)) provide less
22 restrictive alternative treatment if the petition is granted by the
23 court; and

24 ~~(e) ((A summons to appear in court at a specific time and place~~
25 ~~within five judicial days for a probable cause hearing, except as~~
26 ~~provided in subsection (4) of this section))~~ If the person is
27 detained in a state hospital, inpatient treatment facility, jail, or
28 correctional facility at the time the petition is filed, the
29 anticipated release date of the person and any other details needed
30 to facilitate successful reentry and transition into the community.

31 ~~((4) If the person is in the custody of jail or prison at the~~
32 ~~time of the investigation, a petition for assisted outpatient~~
33 ~~behavioral health treatment may be used to facilitate continuity of~~
34 ~~care after release from custody or the diversion of criminal charges~~
35 ~~as follows:~~

36 ~~(a) If the petition is filed in anticipation of the person's~~
37 ~~release from custody, the summons may be for a date up to five~~
38 ~~judicial days following the person's anticipated release date,~~
39 ~~provided that a clear time and place for the hearing is provided; or~~

1 ~~(b) The hearing may be held prior to the person's release from~~
2 ~~custody, provided that (i) the filing of the petition does not extend~~
3 ~~the time the person would otherwise spend in the custody of jail or~~
4 ~~prison; (ii) the charges or custody of the person is not a pretext to~~
5 ~~detain the person for the purpose of the involuntary commitment~~
6 ~~hearing; and (iii) the person's release from custody must be expected~~
7 ~~to swiftly follow the adjudication of the petition. In this~~
8 ~~circumstance, the time for hearing is shortened to three judicial~~
9 ~~days after the filing of the petition.~~

10 ~~(5))~~ (6) The petition must be served upon the ~~((person and the~~
11 ~~person's counsel with a notice of applicable rights))~~ prosecuting
12 attorney for the county. Proof of service must be filed with the
13 court. The prosecuting attorney shall review the petition. If
14 appropriate, the prosecutor shall consult with the petitioner to
15 conform the contents of the petition with the requirements of law.
16 The prosecutor may decline to proceed with a petition which does not
17 meet legal requirements. When appropriate, the prosecutor shall
18 schedule the petition for a hearing and cause the petition, notice of
19 rights, the name, business address, and telephone number of appointed
20 counsel, and summons to appear to be served upon the person and their
21 guardian, if any. Information about appointed counsel need not be
22 provided if the prosecutor has knowledge that the person has retained
23 counsel. Proof of service must be filed with the court and all papers
24 in the court file must be provided to the person's designated
25 attorney.

26 (7) If the petition involves a person whom the prosecutor knows,
27 or has reason to know, is an American Indian or Alaska Native who
28 receives medical or behavioral health services from a tribe within
29 this state, the prosecutor shall notify the tribe and Indian health
30 care provider. Notification shall be made in person or by telephonic
31 or electronic communication to the tribal contact listed in the
32 authority's tribal crisis coordination plan as soon as possible.

33 ~~((+6))~~ (8) A petition for assisted outpatient ~~((behavioral~~
34 ~~health))~~ treatment filed under this section ~~((must))~~ shall be
35 adjudicated under RCW 71.05.240.

36 NEW SECTION. Sec. 4. A new section is added to chapter 71.34
37 RCW to read as follows:

1 (1) An adolescent is in need of assisted outpatient treatment if
2 the court finds by a preponderance of the evidence in response to a
3 petition filed under this section that:

4 (a) The adolescent has a behavioral health disorder;

5 (b) Based on a clinical determination and in view of the
6 adolescent's treatment history and current behavior, at least one of
7 the following is true:

8 (i) The adolescent is unlikely to survive safely in the community
9 without supervision and the adolescent's condition is substantially
10 deteriorating; or

11 (ii) The adolescent is in need of assisted outpatient treatment
12 in order to prevent a relapse or deterioration that would be likely
13 to result in grave disability or a likelihood of serious harm to the
14 adolescent or to others;

15 (c) The adolescent has a history of lack of compliance with
16 treatment for his or her behavioral health disorder, in that at least
17 one of the following is true:

18 (i) The adolescent's behavioral health disorder has, at least
19 twice within the last 36 months, been a substantial factor in
20 necessitating hospitalization, or receipt of services in a forensic
21 or other mental health unit of a state correctional facility or local
22 correctional facility, not including any period during which the
23 adolescent was hospitalized or incarcerated immediately preceding the
24 filing of the petition;

25 (ii) The person's behavioral health disorder has, at least twice
26 within the last 36 months, been a substantial factor in necessitating
27 emergency medical care, a substantial factor necessitating
28 hospitalization for behavioral health-related medical conditions
29 including overdose, infected abscesses, sepsis, endocarditis, or
30 other maladies, or a substantial factor in behavior which resulted in
31 the person's incarceration in a state or local correctional facility;
32 or

33 (iii) The adolescent's behavioral health disorder has resulted in
34 one or more violent acts, threats, or attempts to cause serious
35 physical harm to themselves or another within the last 48 months, not
36 including any period in which the adolescent was hospitalized or
37 incarcerated immediately preceding the filing of the petition;

38 (d) The adolescent has been offered an opportunity to participate
39 in a treatment plan, and the adolescent continues to not engage in
40 treatment;

1 (e) Participation in an assisted outpatient treatment program
2 would be the least restrictive alternative necessary to ensure the
3 adolescent's recovery and stability; and

4 (f) The adolescent will benefit from assisted outpatient
5 treatment.

6 (2) The following individuals may directly file a petition for
7 less restrictive alternative treatment on the basis that an
8 adolescent is in need of assisted outpatient treatment:

9 (a) The director of a hospital where the adolescent is
10 hospitalized;

11 (b) The director of a behavioral health service provider
12 providing behavioral health care or residential services to the
13 adolescent;

14 (c) The adolescent's treating mental health professional or
15 substance use disorder professional or one who has evaluated the
16 person;

17 (d) A designated crisis responder;

18 (e) A release planner from a juvenile detention or rehabilitation
19 facility; or

20 (f) An emergency room physician.

21 (3) A court order for less restrictive alternative treatment on
22 the basis that the adolescent is in need of assisted outpatient
23 treatment may be effective for up to 18 months. The petitioner must
24 personally interview the adolescent, unless the adolescent refuses an
25 interview, to determine whether the adolescent will voluntarily
26 receive appropriate treatment.

27 (4) The petitioner must allege specific facts based on personal
28 observation, evaluation, or investigation, and must consider the
29 reliability or credibility of any person providing information
30 material to the petition.

31 (5) The petition must include:

32 (a) A statement of the circumstances under which the adolescent's
33 condition was made known and the basis for the opinion, from personal
34 observation or investigation, that the adolescent is in need of
35 assisted outpatient treatment. The petitioner must state which
36 specific facts come from personal observation and specify what other
37 sources of information the petitioner has relied upon to form this
38 belief;

39 (b) A declaration from a physician, physician assistant, or
40 advanced registered nurse practitioner, or the adolescent's treating

1 mental health professional or substance use disorder professional,
2 who has examined the adolescent no more than 10 days prior to the
3 submission of the petition and who is willing to testify in support
4 of the petition, or who alternatively has made appropriate attempts
5 to examine the adolescent within the same period but has not been
6 successful in obtaining the adolescent's cooperation, and who is
7 willing to testify to the reasons they believe that the adolescent
8 meets the criteria for assisted outpatient treatment. If the
9 declaration is provided by the adolescent's treating mental health
10 professional or substance use disorder professional, it must be
11 cosigned by a supervising physician, physician assistant, or advanced
12 registered nurse practitioner who certifies that they have reviewed
13 the declaration;

14 (c) The declarations of additional witnesses, if any, supporting
15 the petition for assisted outpatient treatment;

16 (d) The name of an agency, provider, or facility which provide
17 less restrictive alternative treatment if the petition is granted by
18 the court; and

19 (e) If the adolescent is detained in a state hospital, inpatient
20 treatment facility, or juvenile detention or rehabilitation facility
21 at the time the petition is filed, the anticipated release date of
22 the adolescent and any other details needed to facilitate successful
23 reentry and transition into the community.

24 (6) The petition must be served upon the prosecuting attorney for
25 the county. Proof of service must be filed with the court. The
26 prosecuting attorney shall review the petition. If appropriate, the
27 prosecutor shall consult with the petitioner to conform the contents
28 of the petition with the requirements of law. The prosecutor may
29 decline to proceed with a petition which does not meet legal
30 requirements. When appropriate, the prosecutor shall schedule the
31 petition for a hearing and cause the petition, notice of rights, the
32 name, business address, and telephone number of appointed counsel,
33 and summons to appear to be served upon the adolescent and their
34 guardian, if any. Information about appointed counsel need not be
35 provided if the prosecutor has knowledge that the adolescent has
36 retained counsel. Proof of service must be filed with the court and
37 all papers in the court file must be provided to the adolescent's
38 designated attorney.

39 (7) If the petition involves an adolescent whom the prosecutor
40 knows, or has reason to know, is an American Indian or Alaska Native

1 who receives medical or behavioral health services from a tribe
2 within this state, the prosecutor shall notify the tribe and Indian
3 health care provider. Notification shall be made in person or by
4 telephonic or electronic communication to the tribal contact listed
5 in the authority's tribal crisis coordination plan as soon as
6 possible.

7 (8) A petition for assisted outpatient treatment filed under this
8 section shall be adjudicated under RCW 71.34.740.

9 **Sec. 5.** RCW 71.05.150 and 2021 c 264 s 1 are each amended to
10 read as follows:

11 (1) When a designated crisis responder receives information
12 alleging that a person, as a result of a behavioral health disorder,
13 presents a likelihood of serious harm or is gravely disabled, (~~or~~
14 ~~that a person is in need of assisted outpatient behavioral health~~
15 ~~treatment;~~) the designated crisis responder may, after investigation
16 and evaluation of the specific facts alleged and of the reliability
17 and credibility of any person providing information to initiate
18 detention (~~or involuntary outpatient treatment~~), if satisfied that
19 the allegations are true and that the person will not voluntarily
20 seek appropriate treatment, file a petition for initial detention
21 under this section (~~or a petition for involuntary outpatient~~
22 ~~behavioral health treatment under RCW 71.05.148~~). Before filing the
23 petition, the designated crisis responder must personally interview
24 the person, unless the person refuses an interview, and determine
25 whether the person will voluntarily receive appropriate evaluation
26 and treatment at an evaluation and treatment facility, crisis
27 stabilization unit, triage facility, secure withdrawal management and
28 stabilization facility, or approved substance use disorder treatment
29 program. As part of the assessment, the designated crisis responder
30 must attempt to ascertain if the person has executed a mental health
31 advance directive under chapter 71.32 RCW. The interview performed by
32 the designated crisis responder may be conducted by video provided
33 that a licensed health care professional or professional person who
34 can adequately and accurately assist with obtaining any necessary
35 information is present with the person at the time of the interview.

36 (2)(a) A superior court judge may issue a warrant to detain a
37 person with a behavioral health disorder to a designated evaluation
38 and treatment facility, a secure withdrawal management and
39 stabilization facility, or an approved substance use disorder

1 treatment program, for a period of not more than one hundred twenty
2 hours for evaluation and treatment upon request of a designated
3 crisis responder, subject to (d) of this subsection, whenever it
4 appears to the satisfaction of the judge that:

5 (i) There is probable cause to support the petition; and

6 (ii) The person has refused or failed to accept appropriate
7 evaluation and treatment voluntarily.

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

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

16 (d) A court may not issue an order to detain a person to a secure
17 withdrawal management and stabilization facility or approved
18 substance use disorder treatment program unless there is an available
19 secure withdrawal management and stabilization facility or approved
20 substance use disorder treatment program that has adequate space for
21 the person.

22 (e) If the court does not issue an order to detain a person
23 pursuant to this subsection (2), the court shall issue an order to
24 dismiss the initial petition.

25 (3) The designated crisis responder shall then serve or cause to
26 be served on such person(~~(7)~~) and his or her guardian(~~(7—and~~
27 ~~conservator)~~), if any, a copy of the order together with a notice of
28 rights, and a petition for initial detention. After service on such
29 person the designated crisis responder shall file the return of
30 service in court and provide copies of all papers in the court file
31 to the evaluation and treatment facility, secure withdrawal
32 management and stabilization facility, or approved substance use
33 disorder treatment program, and the designated attorney. The
34 designated crisis responder shall notify the court and the
35 prosecuting attorney that a probable cause hearing will be held
36 within one hundred twenty hours of the date and time of outpatient
37 evaluation or admission to the evaluation and treatment facility,
38 secure withdrawal management and stabilization facility, or approved
39 substance use disorder treatment program. The person shall be
40 permitted to be accompanied by one or more of his or her relatives,

1 friends, an attorney, a personal physician, or other professional or
2 religious advisor to the place of evaluation. An attorney
3 accompanying the person to the place of evaluation shall be permitted
4 to be present during the admission evaluation. Any other individual
5 accompanying the person may be present during the admission
6 evaluation. The facility may exclude the individual if his or her
7 presence would present a safety risk, delay the proceedings, or
8 otherwise interfere with the evaluation.

9 (4) The designated crisis responder may notify a peace officer to
10 take such person or cause such person to be taken into custody and
11 placed in an evaluation and treatment facility, secure withdrawal
12 management and stabilization facility, or approved substance use
13 disorder treatment program. At the time such person is taken into
14 custody there shall commence to be served on such person, his or her
15 guardian, and conservator, if any, a copy of the original order
16 together with a notice of rights and a petition for initial
17 detention.

18 (5) Tribal court orders for involuntary commitment shall be
19 recognized and enforced in accordance with superior court civil rule
20 82.5.

21 (6) In any investigation and evaluation of an individual under
22 (~~RCW 71.05.150~~) this section or RCW 71.05.153 in which the
23 designated crisis responder knows, or has reason to know, that the
24 individual is an American Indian or Alaska Native who receives
25 medical or behavioral health services from a tribe within this state,
26 the designated crisis responder shall notify the tribe and Indian
27 health care provider regarding whether or not a petition for initial
28 detention or involuntary outpatient treatment will be filed.
29 Notification shall be made in person or by telephonic or electronic
30 communication to the tribal contact listed in the authority's tribal
31 crisis coordination plan as soon as possible but no later than three
32 hours subject to the requirements in RCW 70.02.230(2)(ee) and (3). A
33 designated crisis responder may restrict the release of information
34 as necessary to comply with 42 C.F.R. Part 2.

35 **Sec. 6.** RCW 71.05.150 and 2021 c 264 s 2 are each amended to
36 read as follows:

37 (1) When a designated crisis responder receives information
38 alleging that a person, as a result of a behavioral health disorder,
39 presents a likelihood of serious harm or is gravely disabled, (~~or~~

1 ~~that a person is in need of assisted outpatient behavioral health~~
2 ~~treatment;~~) the designated crisis responder may, after investigation
3 and evaluation of the specific facts alleged and of the reliability
4 and credibility of any person providing information to initiate
5 detention (~~or involuntary outpatient treatment~~), if satisfied that
6 the allegations are true and that the person will not voluntarily
7 seek appropriate treatment, file a petition for initial detention
8 under this section (~~or a petition for involuntary outpatient~~
9 ~~behavioral health treatment under RCW 71.05.148~~). Before filing the
10 petition, the designated crisis responder must personally interview
11 the person, unless the person refuses an interview, and determine
12 whether the person will voluntarily receive appropriate evaluation
13 and treatment at an evaluation and treatment facility, crisis
14 stabilization unit, triage facility, secure withdrawal management and
15 stabilization facility, or approved substance use disorder treatment
16 program. As part of the assessment, the designated crisis responder
17 must attempt to ascertain if the person has executed a mental health
18 advance directive under chapter 71.32 RCW. The interview performed by
19 the designated crisis responder may be conducted by video provided
20 that a licensed health care professional or professional person who
21 can adequately and accurately assist with obtaining any necessary
22 information is present with the person at the time of the interview.

23 (2)(a) A superior court judge may issue a warrant to detain a
24 person with a behavioral health disorder to a designated evaluation
25 and treatment facility, a secure withdrawal management and
26 stabilization facility, or an approved substance use disorder
27 treatment program, for a period of not more than one hundred twenty
28 hours for evaluation and treatment upon request of a designated
29 crisis responder whenever it appears to the satisfaction of the judge
30 that:

- 31 (i) There is probable cause to support the petition; and
32 (ii) The person has refused or failed to accept appropriate
33 evaluation and treatment voluntarily.

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

38 (c) The order shall designate retained counsel or, if counsel is
39 appointed from a list provided by the court, the name, business

1 address, and telephone number of the attorney appointed to represent
2 the person.

3 (d) If the court does not issue an order to detain a person
4 pursuant to this subsection (2), the court shall issue an order to
5 dismiss the initial petition.

6 (3) The designated crisis responder shall then serve or cause to
7 be served on such person(~~(7)~~) and his or her guardian(~~(7—and~~
8 ~~conservator)~~), if any, a copy of the order together with a notice of
9 rights, and a petition for initial detention. After service on such
10 person the designated crisis responder shall file the return of
11 service in court and provide copies of all papers in the court file
12 to the evaluation and treatment facility, secure withdrawal
13 management and stabilization facility, or approved substance use
14 disorder treatment program, and the designated attorney. The
15 designated crisis responder shall notify the court and the
16 prosecuting attorney that a probable cause hearing will be held
17 within one hundred twenty hours of the date and time of outpatient
18 evaluation or admission to the evaluation and treatment facility,
19 secure withdrawal management and stabilization facility, or approved
20 substance use disorder treatment program. The person shall be
21 permitted to be accompanied by one or more of his or her relatives,
22 friends, an attorney, a personal physician, or other professional or
23 religious advisor to the place of evaluation. An attorney
24 accompanying the person to the place of evaluation shall be permitted
25 to be present during the admission evaluation. Any other individual
26 accompanying the person may be present during the admission
27 evaluation. The facility may exclude the individual if his or her
28 presence would present a safety risk, delay the proceedings, or
29 otherwise interfere with the evaluation.

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

1 (5) Tribal court orders for involuntary commitment shall be
2 recognized and enforced in accordance with superior court civil rule
3 82.5.

4 (6) In any investigation and evaluation of an individual under
5 (~~RCW 71.05.150~~) this section or RCW 71.05.153 in which the
6 designated crisis responder knows, or has reason to know, that the
7 individual is an American Indian or Alaska Native who receives
8 medical or behavioral health services from a tribe within this state,
9 the designated crisis responder shall notify the tribe and Indian
10 health care provider regarding whether or not a petition for initial
11 detention or involuntary outpatient treatment will be filed.
12 Notification shall be made in person or by telephonic or electronic
13 communication to the tribal contact listed in the authority's tribal
14 crisis coordination plan as soon as possible but no later than three
15 hours subject to the requirements in RCW 70.02.230(2)(ee) and (3). A
16 designated crisis responder may restrict the release of information
17 as necessary to comply with 42 C.F.R. Part 2.

18 **Sec. 7.** RCW 71.05.156 and 2018 c 291 s 12 are each amended to
19 read as follows:

20 A designated crisis responder who conducts an evaluation for
21 imminent likelihood of serious harm or imminent danger because of
22 being gravely disabled under RCW 71.05.153 must also evaluate the
23 person under RCW 71.05.150 for likelihood of serious harm or grave
24 disability that does not meet the imminent standard for emergency
25 detention (~~(, and to determine whether the person is in need of~~
26 ~~assisted outpatient behavioral health treatment)~~).

27 **Sec. 8.** RCW 71.05.201 and 2020 c 302 s 24 and 2020 c 256 s 304
28 are each reenacted and amended to read as follows:

29 (1) If a designated crisis responder decides not to detain a
30 person for evaluation and treatment under RCW 71.05.150 or 71.05.153
31 or forty-eight hours have elapsed since a designated crisis responder
32 received a request for investigation and the designated crisis
33 responder has not taken action to have the person detained, an
34 immediate family member or guardian (~~(or conservator)~~) of the person,
35 or a federally recognized Indian tribe if the person is a member of
36 such tribe, may petition the superior court for the person's initial
37 detention.

1 (2) A petition under this section must be filed within ten
2 calendar days following the designated crisis responder investigation
3 or the request for a designated crisis responder investigation. If
4 more than ten days have elapsed, the immediate family member,
5 guardian, or conservator may request a new designated crisis
6 responder investigation.

7 (3)(a) The petition must be filed in the county in which the
8 designated crisis responder investigation occurred or was requested
9 to occur and must be submitted on forms developed by the
10 administrative office of the courts for this purpose. The petition
11 must be accompanied by a sworn declaration from the petitioner, and
12 other witnesses if desired, describing why the person should be
13 detained for evaluation and treatment. The description of why the
14 person should be detained may contain, but is not limited to, the
15 information identified in RCW 71.05.212.

16 (b) The petition must contain:

17 (i) A description of the relationship between the petitioner and
18 the person; and

19 (ii) The date on which an investigation was requested from the
20 designated crisis responder.

21 (4) The court shall, within one judicial day, review the petition
22 to determine whether the petition raises sufficient evidence to
23 support the allegation. If the court so finds, it shall provide a
24 copy of the petition to the designated crisis responder agency with
25 an order for the agency to provide the court, within one judicial
26 day, with a written sworn statement describing the basis for the
27 decision not to seek initial detention and a copy of all information
28 material to the designated crisis responder's current decision.

29 (5) Following the filing of the petition and before the court
30 reaches a decision, any person, including a mental health
31 professional, may submit a sworn declaration to the court in support
32 of or in opposition to initial detention.

33 (6) The court shall dismiss the petition at any time if it finds
34 that a designated crisis responder has filed a petition for the
35 person's initial detention under RCW 71.05.150 or 71.05.153 or that
36 the person has voluntarily accepted appropriate treatment.

37 (7) The court must issue a final ruling on the petition within
38 five judicial days after it is filed. After reviewing all of the
39 information provided to the court, the court may enter an order for
40 initial detention (~~or an order instructing the designated crisis~~

1 ~~responder to file a petition for assisted outpatient behavioral~~
2 ~~health treatment))~~ if the court finds that: (a) There is probable
3 cause to support a petition for detention (~~(or assisted outpatient~~
4 ~~behavioral health treatment))~~); and (b) the person has refused or
5 failed to accept appropriate evaluation and treatment voluntarily.
6 The court shall transmit its final decision to the petitioner.

7 (8) If the court enters an order for initial detention, it shall
8 provide the order to the designated crisis responder agency and issue
9 a written order for apprehension. The designated crisis responder
10 agency serving the jurisdiction of the court must collaborate and
11 coordinate with law enforcement regarding apprehensions and
12 detentions under this subsection, including sharing of information
13 relating to risk and which would assist in locating the person. A
14 person may not be detained to jail pursuant to a written order issued
15 under this subsection. An order for detention under this section
16 should contain the advisement of rights which the person would
17 receive if the person were detained by a designated crisis responder.
18 An order for initial detention under this section expires one hundred
19 eighty days from issuance.

20 (9) Except as otherwise expressly stated in this chapter, all
21 procedures must be followed as if the order had been entered under
22 RCW 71.05.150. RCW 71.05.160 does not apply if detention was
23 initiated under the process set forth in this section.

24 (10) For purposes of this section, "immediate family member"
25 means a spouse, domestic partner, child, stepchild, parent,
26 stepparent, grandparent, or sibling.

27 **Sec. 9.** RCW 71.05.212 and 2020 c 256 s 305 are each amended to
28 read as follows:

29 (1) Whenever a designated crisis responder or professional person
30 is conducting an evaluation under this chapter, consideration shall
31 include all reasonably available information from credible witnesses
32 and records regarding:

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

36 (b) Historical behavior, including history of one or more violent
37 acts;

38 (c) Prior determinations of incompetency or insanity under
39 chapter 10.77 RCW; and

1 (d) Prior commitments under this chapter.

2 (2) Credible witnesses may include family members, landlords,
3 neighbors, or others with significant contact and history of
4 involvement with the person. If the designated crisis responder
5 relies upon information from a credible witness in reaching his or
6 her decision to detain the individual, then he or she must provide
7 contact information for any such witness to the prosecutor. The
8 designated crisis responder or prosecutor shall provide notice of the
9 date, time, and location of the probable cause hearing to such a
10 witness.

11 (3) Symptoms and behavior of the respondent which standing alone
12 would not justify civil commitment may support a finding of grave
13 disability or likelihood of serious harm, or a finding that the
14 person is in need of assisted outpatient ~~((behavioral health))~~
15 treatment, when:

16 (a) Such symptoms or behavior are closely associated with
17 symptoms or behavior which preceded and led to a past incident of
18 involuntary hospitalization, severe deterioration, or one or more
19 violent acts;

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

22 (c) Without treatment, the continued deterioration of the
23 respondent is probable.

24 (4) When conducting an evaluation for offenders identified under
25 RCW 72.09.370, the designated crisis responder or professional person
26 shall consider an offender's history of judicially required or
27 administratively ordered antipsychotic medication while in
28 confinement.

29 ~~((5) The authority, in consultation with tribes and coordination
30 with Indian health care providers and the American Indian health
31 commission for Washington state, shall establish written guidelines
32 by June 30, 2021, for conducting culturally appropriate evaluations
33 of American Indians or Alaska Natives.))~~

34 **Sec. 10.** RCW 71.05.212 and 2020 c 302 s 28 and 2020 c 256 s 305
35 are each reenacted and amended to read as follows:

36 (1) Whenever a designated crisis responder or professional person
37 is conducting an evaluation under this chapter, consideration shall
38 include all reasonably available information from credible witnesses
39 and records regarding:

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

4 (b) Historical behavior, including history of one or more violent
5 acts;

6 (c) Prior determinations of incompetency or insanity under
7 chapter 10.77 RCW; and

8 (d) Prior commitments under this chapter.

9 (2) Credible witnesses may include family members, landlords,
10 neighbors, or others with significant contact and history of
11 involvement with the person. If the designated crisis responder
12 relies upon information from a credible witness in reaching his or
13 her decision to detain the individual, then he or she must provide
14 contact information for any such witness to the prosecutor. The
15 designated crisis responder or prosecutor shall provide notice of the
16 date, time, and location of the probable cause hearing to such a
17 witness.

18 (3) Symptoms and behavior of the respondent which standing alone
19 would not justify civil commitment may support a finding of grave
20 disability or likelihood of serious harm, or a finding that the
21 person is in need of assisted outpatient ((behavioral—health))
22 treatment, when:

23 (a) Such symptoms or behavior are closely associated with
24 symptoms or behavior which preceded and led to a past incident of
25 involuntary hospitalization, severe deterioration from safe behavior,
26 or one or more violent acts;

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

29 (c) Without treatment, the continued deterioration of the
30 respondent is probable.

31 (4) When conducting an evaluation for offenders identified under
32 RCW 72.09.370, the designated crisis responder or professional person
33 shall consider an offender's history of judicially required or
34 administratively ordered antipsychotic medication while in
35 confinement.

36 ~~((5) The authority, in consultation with tribes and coordination
37 with Indian health care providers and the American Indian health
38 commission for Washington state, shall establish written guidelines
39 by June 30, 2021, for conducting culturally appropriate evaluations
40 of American Indians or Alaska Natives.))~~

1 **Sec. 11.** RCW 71.05.230 and 2020 c 302 s 34 are each amended to
2 read as follows:

3 A person detained for one hundred twenty (~~hour~~) hours of
4 evaluation and treatment may be committed for not more than fourteen
5 additional days of involuntary intensive treatment or ninety
6 additional days of a less restrictive alternative treatment. A
7 petition may only be filed if the following conditions are met:

8 (1) The professional staff of the facility providing evaluation
9 services has analyzed the person's condition and finds that the
10 condition is caused by a behavioral health disorder and results in:

11 (a) A likelihood of serious harm; or (b) the person being gravely
12 disabled; (~~or (c) the person being in need of assisted outpatient~~
13 ~~behavioral health treatment;~~) and are prepared to testify those
14 conditions are met; and

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

18 (3) The facility providing intensive treatment is certified to
19 provide such treatment by the department or under RCW 71.05.745; and

20 (4) (a) (i) The professional staff of the facility or the
21 designated crisis responder has filed a petition with the court for a
22 fourteen day involuntary detention or a ninety day less restrictive
23 alternative. The petition must be signed by:

24 (A) One physician, physician assistant, or psychiatric advanced
25 registered nurse practitioner; and

26 (B) One physician, physician assistant, psychiatric advanced
27 registered nurse practitioner, or mental health professional.

28 (ii) If the petition is for substance use disorder treatment, the
29 petition may be signed by a substance use disorder professional
30 instead of a mental health professional and by an advanced registered
31 nurse practitioner instead of a psychiatric advanced registered nurse
32 practitioner. The persons signing the petition must have examined the
33 person.

34 (b) If involuntary detention is sought the petition shall state
35 facts that support the finding that such person, as a result of a
36 behavioral health disorder, presents a likelihood of serious harm, or
37 is gravely disabled and that there are no less restrictive
38 alternatives to detention in the best interest of such person or
39 others. The petition shall state specifically that less restrictive
40 alternative treatment was considered and specify why treatment less

1 restrictive than detention is not appropriate. If an involuntary less
2 restrictive alternative is sought, the petition shall state facts
3 that support the finding that such person, as a result of a
4 behavioral health disorder, presents a likelihood of serious
5 harm(~~(r)~~) or is gravely disabled(~~(, or is in need of assisted~~
6 ~~outpatient behavioral health treatment,~~) and shall set forth any
7 recommendations for less restrictive alternative treatment services;
8 and

9 (5) A copy of the petition has been served on the detained
10 person, his or her attorney, and his or her guardian (~~(or~~
11 ~~conservator)~~), if any, prior to the probable cause hearing; and

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

15 (7) The petition reflects that the person was informed of the
16 loss of firearm rights if involuntarily committed for mental health
17 treatment; and

18 (8) At the conclusion of the initial commitment period, the
19 professional staff of the agency or facility or the designated crisis
20 responder may petition for an additional period of (~~(either)~~) ninety
21 days of less restrictive alternative treatment (~~(or ninety days of~~
22 ~~involuntary intensive treatment)~~) as provided in RCW 71.05.290; and

23 (9) If the hospital or facility designated to provide less
24 restrictive alternative treatment is other than the facility
25 providing involuntary treatment, the outpatient facility so
26 designated to provide less restrictive alternative treatment has
27 agreed to assume such responsibility.

28 **Sec. 12.** RCW 71.05.240 and 2021 c 264 s 8 are each amended to
29 read as follows:

30 (1) If a petition is filed for (~~(fourteen-day)~~) up to 14 days of
31 involuntary treatment (~~(or ninety)~~), 90 days of less restrictive
32 alternative treatment, or 18 months of less restrictive alternative
33 treatment under RCW 71.05.148, the court shall hold a probable cause
34 hearing within (~~(one hundred twenty)~~) 120 hours of the initial
35 detention (~~(of such person as determined in)~~) under RCW 71.05.180, or
36 at a time (~~(determined)~~) scheduled under RCW 71.05.148.

37 (2) If the petition is for mental health treatment, the court or
38 the prosecutor at the time of the probable cause hearing and before
39 an order of commitment is entered shall inform the person both orally

1 and in writing that the failure to make a good faith effort to seek
2 voluntary treatment as provided in RCW 71.05.230 will result in the
3 loss of his or her firearm rights if the person is subsequently
4 detained for involuntary treatment under this section.

5 (3) If the person or his or her attorney alleges, prior to the
6 commencement of the hearing, that the person has in good faith
7 volunteered for treatment, the petitioner must show, by preponderance
8 of the evidence, that the person has not in good faith volunteered
9 for appropriate treatment. In order to qualify as a good faith
10 volunteer, the person must abide by procedures and a treatment plan
11 as prescribed by a treatment facility and professional staff.

12 (4)(a) Subject to (b) of this subsection, at the conclusion of
13 the probable cause hearing, if the court finds by a preponderance of
14 the evidence that (~~such~~) a person detained for behavioral health
15 treatment, as the result of a behavioral health disorder, presents a
16 likelihood of serious harm, or is gravely disabled, and, after
17 considering less restrictive alternatives to involuntary detention
18 and treatment, finds that no such alternatives are in the best
19 interests of such person or others, the court shall order that such
20 person be detained for involuntary treatment not to exceed
21 (~~fourteen~~) 14 days in a facility licensed or certified to provide
22 treatment by the department or under RCW 71.05.745.

23 (b) A court may only order commitment to a secure withdrawal
24 management and stabilization facility or approved substance use
25 disorder treatment program if there is an available facility with
26 adequate space for the person.

27 (c) At the conclusion of the probable cause hearing, if the court
28 finds by a preponderance of the evidence that (~~such~~) a person
29 detained for behavioral health treatment, as the result of a
30 behavioral health disorder, presents a likelihood of serious harm or
31 is gravely disabled, but that treatment in a less restrictive setting
32 than detention is in the best interest of such person or others, the
33 court shall order an appropriate less restrictive alternative course
34 of treatment for up to ninety days.

35 (d) If the court finds by a preponderance of the evidence that
36 (~~such~~) a person subject to a petition under RCW 71.05.148, as the
37 result of a behavioral health disorder, is in need of assisted
38 outpatient (~~behavioral health~~) treatment (~~, and that the person~~
39 ~~does not present a likelihood of serious harm and is not gravely~~

1 ~~disabled~~)), the court shall order an appropriate less restrictive
2 alternative course of treatment for up to (~~ninety days~~) 18 months.

3 (5) An order for less restrictive alternative treatment must name
4 the behavioral health service provider responsible for identifying
5 the services the person will receive in accordance with RCW
6 71.05.585, and must include a requirement that the person cooperate
7 with the treatment recommendations of the behavioral health service
8 provider.

9 (6) The court shall notify the person orally and in writing that
10 if involuntary treatment is sought beyond the (~~fourteen-day~~) 14-day
11 inpatient (~~or ninety-day~~), 90-day less restrictive treatment, or
12 18-month less restrictive treatment period, the person has the right
13 to a full hearing or jury trial under RCW 71.05.310. If the
14 commitment is for mental health treatment, the court shall (~~also~~)
15 notify the person orally and in writing that the person is barred
16 from the possession of firearms and that the prohibition remains in
17 effect until a court restores his or her right to possess a firearm
18 under RCW 9.41.047.

19 (7) If the court does not issue an order to detain or commit a
20 person under this section, the court shall issue an order to dismiss
21 the petition.

22 (8) Nothing in this section precludes the court from subsequently
23 modifying the terms of an order for less restrictive alternative
24 treatment under RCW 71.05.590(3).

25 **Sec. 13.** RCW 71.05.240 and 2021 c 264 s 9 are each amended to
26 read as follows:

27 (1) If a petition is filed for (~~fourteen-day~~) up to 14 days of
28 involuntary treatment (~~or ninety~~), 90 days of less restrictive
29 alternative treatment, or 18 months of less restrictive alternative
30 treatment under RCW 71.05.148, the court shall hold a probable cause
31 hearing within (~~one hundred twenty~~) 120 hours of the initial
32 detention (~~of such person as determined in~~) under RCW 71.05.180, or
33 at a time (~~determined~~) scheduled under RCW 71.05.148.

34 (2) If the petition is for mental health treatment, the court or
35 the prosecutor at the time of the probable cause hearing and before
36 an order of commitment is entered shall inform the person both orally
37 and in writing that the failure to make a good faith effort to seek
38 voluntary treatment as provided in RCW 71.05.230 will result in the

1 loss of his or her firearm rights if the person is subsequently
2 detained for involuntary treatment under this section.

3 (3) If the person or his or her attorney alleges, prior to the
4 commencement of the hearing, that the person has in good faith
5 volunteered for treatment, the petitioner must show, by preponderance
6 of the evidence, that the person has not in good faith volunteered
7 for appropriate treatment. In order to qualify as a good faith
8 volunteer, the person must abide by procedures and a treatment plan
9 as prescribed by a treatment facility and professional staff.

10 (4) (a) At the conclusion of the probable cause hearing, if the
11 court finds by a preponderance of the evidence that ~~((such))~~ a person
12 detained for behavioral health treatment, as the result of a
13 behavioral health disorder, presents a likelihood of serious harm, or
14 is gravely disabled, and, after considering less restrictive
15 alternatives to involuntary detention and treatment, finds that no
16 such alternatives are in the best interests of such person or others,
17 the court shall order that such person be detained for involuntary
18 treatment not to exceed fourteen days in a facility licensed or
19 certified to provide treatment by the department or under RCW
20 71.05.745.

21 (b) At the conclusion of the probable cause hearing, if the court
22 finds by a preponderance of the evidence that ~~((such))~~ a person
23 detained for behavioral health treatment, as the result of a
24 behavioral health disorder, presents a likelihood of serious harm or
25 is gravely disabled, but that treatment in a less restrictive setting
26 than detention is in the best interest of such person or others, the
27 court shall order an appropriate less restrictive alternative course
28 of treatment for up to ninety days.

29 (c) If the court finds by a preponderance of the evidence that
30 ~~((such))~~ a person subject to a petition under RCW 71.05.148, as the
31 result of a behavioral health disorder, is in need of assisted
32 outpatient ~~((behavioral health))~~ treatment ~~((, and that the person~~
33 ~~does not present a likelihood of serious harm and is not gravely~~
34 ~~disabled))~~, the court shall order an appropriate less restrictive
35 alternative course of treatment for up to ~~((ninety days))~~ 18 months.

36 (5) An order for less restrictive alternative treatment must name
37 the behavioral health service provider responsible for identifying
38 the services the person will receive in accordance with RCW
39 71.05.585, and must include a requirement that the person cooperate

1 with the treatment recommendations of the behavioral health service
2 provider.

3 (6) The court shall notify the person orally and in writing that
4 if involuntary treatment is sought beyond the (~~fourteen-day~~) 14-day
5 inpatient (~~or ninety-day~~), 90-day less restrictive treatment, or
6 18-month less restrictive treatment period, such person has the right
7 to a full hearing or jury trial under RCW 71.05.310. If the
8 commitment is for mental health treatment, the court shall also
9 notify the person orally and in writing that the person is barred
10 from the possession of firearms and that the prohibition remains in
11 effect until a court restores his or her right to possess a firearm
12 under RCW 9.41.047.

13 (7) If the court does not issue an order to detain or commit a
14 person under this section, the court shall issue an order to dismiss
15 the petition.

16 (8) Nothing in this section precludes the court from subsequently
17 modifying the terms of an order for less restrictive alternative
18 treatment under RCW 71.05.590(3).

19 **Sec. 14.** RCW 71.05.245 and 2018 c 291 s 14 are each amended to
20 read as follows:

21 (1) In making a determination of whether a person is gravely
22 disabled, presents a likelihood of serious harm, or is in need of
23 assisted outpatient (~~behavioral health~~) treatment in a hearing
24 conducted under RCW 71.05.240 or 71.05.320, the court must consider
25 the symptoms and behavior of the respondent in light of all available
26 evidence concerning the respondent's historical behavior.

27 (2) Symptoms or behavior which standing alone would not justify
28 civil commitment may support a finding of grave disability or
29 likelihood of serious harm, or a finding that the person is in need
30 of assisted outpatient (~~behavioral health~~) treatment, when: (a)
31 Such symptoms or behavior are closely associated with symptoms or
32 behavior which preceded and led to a past incident of involuntary
33 hospitalization, severe deterioration, or one or more violent acts;
34 (b) these symptoms or behavior represent a marked and concerning
35 change in the baseline behavior of the respondent; and (c) without
36 treatment, the continued deterioration of the respondent is probable.

37 (3) In making a determination of whether there is a likelihood of
38 serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320,
39 the court shall give great weight to any evidence before the court

1 regarding whether the person has: (a) A recent history of one or more
2 violent acts; or (b) a recent history of one or more commitments
3 under this chapter or its equivalent provisions under the laws of
4 another state which were based on a likelihood of serious harm. The
5 existence of prior violent acts or commitments under this chapter or
6 its equivalent shall not be the sole basis for determining whether a
7 person presents a likelihood of serious harm.

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

10 **Sec. 15.** RCW 71.05.280 and 2020 c 302 s 41 are each amended to
11 read as follows:

12 At the expiration of the fourteen-day period of intensive
13 treatment, a person may be committed for further treatment pursuant
14 to RCW 71.05.320 if:

15 (1) Such person after having been taken into custody for
16 evaluation and treatment has threatened, attempted, or inflicted: (a)
17 Physical harm upon the person of another or himself or herself, or
18 substantial damage upon the property of another, and (b) as a result
19 of a behavioral health disorder presents a likelihood of serious
20 harm; or

21 (2) Such person was taken into custody as a result of conduct in
22 which he or she attempted or inflicted physical harm upon the person
23 of another or himself or herself, or substantial damage upon the
24 property of others, and continues to present, as a result of a
25 behavioral health disorder, a likelihood of serious harm; or

26 (3) Such person has been determined to be incompetent and
27 criminal charges have been dismissed pursuant to RCW 10.77.086(4),
28 and has committed acts constituting a felony, and as a result of a
29 behavioral health disorder, presents a substantial likelihood of
30 repeating similar acts.

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

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

39 (4) Such person is gravely disabled(~~(; or~~

1 ~~(5) Such person is in need of assisted outpatient behavioral~~
2 ~~health treatment))~~ .

3 **Sec. 16.** RCW 71.05.320 and 2021 c 264 s 10 and 2021 c 263 s 2
4 are each reenacted and amended to read as follows:

5 (1)(a) Subject to (b) of this subsection, if the court or jury
6 finds that grounds set forth in RCW 71.05.280 have been proven and
7 that the best interests of the person or others will not be served by
8 a less restrictive treatment which is an alternative to detention,
9 the court shall remand him or her to the custody of the department of
10 social and health services or to a facility certified for ninety day
11 treatment by the department for a further period of intensive
12 treatment not to exceed ninety days from the date of judgment.

13 (b) If the order for inpatient treatment is based on a substance
14 use disorder, treatment must take place at an approved substance use
15 disorder treatment program. The court may only enter an order for
16 commitment based on a substance use disorder if there is an available
17 approved substance use disorder treatment program with adequate space
18 for the person.

19 (c) If the grounds set forth in RCW 71.05.280(3) are the basis of
20 commitment, then the period of treatment may be up to but not exceed
21 one hundred eighty days from the date of judgment to the custody of
22 the department of social and health services or to a facility
23 certified for one hundred eighty-day treatment by the department or
24 under RCW 71.05.745.

25 (2) If the court or jury finds that grounds set forth in RCW
26 71.05.280 have been proven, but finds that treatment less restrictive
27 than detention will be in the best interest of the person or others,
28 then the court shall remand him or her to the custody of the
29 department of social and health services or to a facility certified
30 for ninety day treatment by the department or to a less restrictive
31 alternative for a further period of less restrictive treatment not to
32 exceed (~~ninety~~) 90 days from the date of judgment. If the grounds
33 set forth in RCW 71.05.280(3) are the basis of commitment, then the
34 period of treatment may be up to but not exceed (~~one hundred~~
35 ~~eighty~~) 180 days from the date of judgment. If the court has made an
36 affirmative special finding under RCW 71.05.280(3)(b), the court
37 shall appoint a multidisciplinary transition team as provided in
38 subsection (6)(a)(i) of this section. (~~If the court or jury finds~~
39 ~~that the grounds set forth in RCW 71.05.280(5) have been proven, and~~

1 ~~provide the only basis for commitment, the court must enter an order~~
2 ~~for less restrictive alternative treatment for up to ninety days from~~
3 ~~the date of judgment and may not order inpatient treatment.))~~

4 (3) An order for less restrictive alternative treatment entered
5 under subsection (2) of this section must name the behavioral health
6 service provider responsible for identifying the services the person
7 will receive in accordance with RCW 71.05.585, and must include a
8 requirement that the person cooperate with the services planned by
9 the behavioral health service provider.

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

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

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

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

32 (ii) In cases under this subsection where the court has made an
33 affirmative special finding under RCW 71.05.280(3)(b), the commitment
34 shall continue for up to an additional one hundred eighty-day period
35 whenever the petition presents prima facie evidence that the person
36 continues to suffer from a behavioral health disorder or
37 developmental disability that results in a substantial likelihood of
38 committing acts similar to the charged criminal behavior, unless the
39 person presents proof through an admissible expert opinion that the
40 person's condition has so changed such that the behavioral health

1 disorder or developmental disability no longer presents a substantial
2 likelihood of the person committing acts similar to the charged
3 criminal behavior. The initial or additional commitment period may
4 include transfer to a specialized program of intensive support and
5 treatment, which may be initiated prior to or after discharge from
6 the state hospital; or

7 (d) Continues to be gravely disabled(~~(; or~~

8 ~~(e) Is in need of assisted outpatient behavioral health~~
9 ~~treatment)).~~

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

13 If less restrictive alternative treatment is sought, the petition
14 shall set forth any recommendations for less restrictive alternative
15 treatment services.

16 (5) A new petition for involuntary treatment filed under
17 subsection (4) of this section shall be filed and heard in the
18 superior court of the county of the facility which is filing the new
19 petition for involuntary treatment unless good cause is shown for a
20 change of venue. The cost of the proceedings shall be borne by the
21 state.

22 (6) (a) The hearing shall be held as provided in RCW 71.05.310,
23 and if the court or jury finds that the grounds for additional
24 confinement as set forth in this section are present, subject to
25 subsection (1) (b) of this section, the court may order the committed
26 person returned for an additional period of treatment not to exceed
27 (~~(one hundred eighty))~~ 180 days from the date of judgment, except as
28 provided in subsection (7) of this section. (~~(If the court's order is~~
29 ~~based solely on the grounds identified in subsection (4) (e) of this~~
30 ~~section, the court may enter an order for less restrictive~~
31 ~~alternative treatment not to exceed one hundred eighty days from the~~
32 ~~date of judgment, and may not enter an order for inpatient~~
33 ~~treatment.)) An order for less restrictive alternative treatment must
34 name the behavioral health service provider responsible for
35 identifying the services the person will receive in accordance with
36 RCW 71.05.585, and must include a requirement that the person
37 cooperate with the services planned by the behavioral health service
38 provider.~~

39 (i) In cases where the court has ordered less restrictive
40 alternative treatment and has previously made an affirmative special

1 finding under RCW 71.05.280(3)(b), the court shall appoint a
2 multidisciplinary transition team to supervise and assist the person
3 on the order for less restrictive treatment, which shall include a
4 representative of the community behavioral health agency providing
5 treatment under RCW 71.05.585, and a specially trained supervising
6 community corrections officer. The court may omit the appointment of
7 a community corrections officer if it makes a special finding that
8 the appointment of a community corrections officer would not
9 facilitate the success of the person, or the safety of the person and
10 the community under (a)(ii) of this subsection.

11 (ii) The role of the transition team shall be to facilitate the
12 success of the person on the less restrictive alternative order by
13 monitoring the person's progress in treatment, compliance with court-
14 ordered conditions, and to problem solve around extra support the
15 person may need or circumstances which may arise that threaten the
16 safety of the person or the community. The transition team may
17 develop a monitoring plan which may be carried out by any member of
18 the team. The transition team shall meet according to a schedule
19 developed by the team, and shall communicate as needed if issues
20 arise that require the immediate attention of the team.

21 (iii) The department of corrections shall collaborate with the
22 department to develop specialized training for community corrections
23 officers under this section. The lack of a trained community
24 corrections officer must not be the cause of delay to entry of a less
25 restrictive alternative order.

26 (b) At the end of the (~~one hundred eighty day~~) 180-day period
27 of commitment, or one-year period of commitment if subsection (7) of
28 this section applies, the committed person shall be released unless a
29 petition for an additional (~~one hundred eighty day~~) 180-day period
30 of continued treatment is filed and heard in the same manner as
31 provided in this section. Successive (~~one hundred eighty day~~) 180-
32 day commitments are permissible on the same grounds and pursuant to
33 the same procedures as the original (~~one hundred eighty day~~) 180-
34 day commitment.

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

39 (8) No person committed (~~as provided in~~) under this section may
40 be detained unless a valid order of commitment is in effect. No order

1 of commitment (~~can~~) under this section may exceed (~~one hundred~~
2 ~~eighty~~) 180 days in length except as provided in subsection (7) of
3 this section.

4 (9) Nothing in this section precludes the court from subsequently
5 modifying the terms of an order for less restrictive alternative
6 treatment under RCW 71.05.590(3).

7 **Sec. 17.** RCW 71.05.320 and 2021 c 264 s 11 and 2021 c 263 s 3
8 are each reenacted and amended to read as follows:

9 (1) If the court or jury finds that grounds set forth in RCW
10 71.05.280 have been proven and that the best interests of the person
11 or others will not be served by a less restrictive treatment which is
12 an alternative to detention, the court shall remand him or her to the
13 custody of the department of social and health services or to a
14 facility certified for ninety day treatment by the department for a
15 further period of intensive treatment not to exceed ninety days from
16 the date of judgment.

17 If the order for inpatient treatment is based on a substance use
18 disorder, treatment must take place at an approved substance use
19 disorder treatment program. If the grounds set forth in RCW
20 71.05.280(3) are the basis of commitment, then the period of
21 treatment may be up to but not exceed one hundred eighty days from
22 the date of judgment to the custody of the department of social and
23 health services or to a facility certified for one hundred eighty-day
24 treatment by the department or under RCW 71.05.745.

25 (2) If the court or jury finds that grounds set forth in RCW
26 71.05.280 have been proven, but finds that treatment less restrictive
27 than detention will be in the best interest of the person or others,
28 then the court shall remand him or her to the custody of the
29 department of social and health services or to a facility certified
30 for ninety day treatment by the department or to a less restrictive
31 alternative for a further period of less restrictive treatment not to
32 exceed (~~ninety~~) 90 days from the date of judgment. If the grounds
33 set forth in RCW 71.05.280(3) are the basis of commitment, then the
34 period of treatment may be up to but not exceed (~~one hundred~~
35 ~~eighty~~) 180 days from the date of judgment. If the court has made an
36 affirmative special finding under RCW 71.05.280(3)(b), the court
37 shall appoint a multidisciplinary transition team as provided in
38 subsection (6)(a)(i) of this section. (~~If the court or jury finds~~
39 ~~that the grounds set forth in RCW 71.05.280(5) have been proven, and~~

1 ~~provide the only basis for commitment, the court must enter an order~~
2 ~~for less restrictive alternative treatment for up to ninety days from~~
3 ~~the date of judgment and may not order inpatient treatment.))~~

4 (3) An order for less restrictive alternative treatment entered
5 under subsection (2) of this section must name the behavioral health
6 service provider responsible for identifying the services the person
7 will receive in accordance with RCW 71.05.585, and must include a
8 requirement that the person cooperate with the services planned by
9 the behavioral health service provider.

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

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

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

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

32 (ii) In cases under this subsection where the court has made an
33 affirmative special finding under RCW 71.05.280(3)(b), the commitment
34 shall continue for up to an additional one hundred eighty-day period
35 whenever the petition presents prima facie evidence that the person
36 continues to suffer from a behavioral health disorder or
37 developmental disability that results in a substantial likelihood of
38 committing acts similar to the charged criminal behavior, unless the
39 person presents proof through an admissible expert opinion that the
40 person's condition has so changed such that the behavioral health

1 disorder or developmental disability no longer presents a substantial
2 likelihood of the person committing acts similar to the charged
3 criminal behavior. The initial or additional commitment period may
4 include transfer to a specialized program of intensive support and
5 treatment, which may be initiated prior to or after discharge from
6 the state hospital; or

7 (d) Continues to be gravely disabled(~~(; or~~

8 ~~(e) Is in need of assisted outpatient behavioral health~~
9 ~~treatment)).~~

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

13 If less restrictive alternative treatment is sought, the petition
14 shall set forth any recommendations for less restrictive alternative
15 treatment services.

16 (5) A new petition for involuntary treatment filed under
17 subsection (4) of this section shall be filed and heard in the
18 superior court of the county of the facility which is filing the new
19 petition for involuntary treatment unless good cause is shown for a
20 change of venue. The cost of the proceedings shall be borne by the
21 state.

22 (6) (a) The hearing shall be held as provided in RCW 71.05.310,
23 and if the court or jury finds that the grounds for additional
24 confinement as set forth in this section are present, the court may
25 order the committed person returned for an additional period of
26 treatment not to exceed (~~(one hundred eighty))~~ 180 days from the date
27 of judgment, except as provided in subsection (7) of this section.

28 (~~(If the court's order is based solely on the grounds identified in~~
29 ~~subsection (4) (e) of this section, the court may enter an order for~~
30 ~~less restrictive alternative treatment not to exceed one hundred~~
31 ~~eighty days from the date of judgment, and may not enter an order for~~
32 ~~inpatient treatment.))~~ An order for less restrictive alternative

33 treatment must name the behavioral health service provider
34 responsible for identifying the services the person will receive in
35 accordance with RCW 71.05.585, and must include a requirement that
36 the person cooperate with the services planned by the behavioral
37 health service provider.

38 (i) In cases where the court has ordered less restrictive
39 alternative treatment and has previously made an affirmative special
40 finding under RCW 71.05.280(3)(b), the court shall appoint a

1 multidisciplinary transition team to supervise and assist the person
2 on the order for less restrictive treatment, which shall include a
3 representative of the community behavioral health agency providing
4 treatment under RCW 71.05.585, and a specially trained supervising
5 community corrections officer. The court may omit the appointment of
6 a community corrections officer if it makes a special finding that
7 the appointment of a community corrections officer would not
8 facilitate the success of the person, or the safety of the person and
9 the community under (a)(ii) of this subsection.

10 (ii) The role of the transition team shall be to facilitate the
11 success of the person on the less restrictive alternative order by
12 monitoring the person's progress in treatment, compliance with court-
13 ordered conditions, and to problem solve around extra support the
14 person may need or circumstances which may arise that threaten the
15 safety of the person or the community. The transition team may
16 develop a monitoring plan which may be carried out by any member of
17 the team. The transition team shall meet according to a schedule
18 developed by the team, and shall communicate as needed if issues
19 arise that require the immediate attention of the team.

20 (iii) The department of corrections shall collaborate with the
21 department to develop specialized training for community corrections
22 officers under this section. The lack of a trained community
23 corrections officer must not be the cause of delay to entry of a less
24 restrictive alternative order.

25 (b) At the end of the (~~one hundred eighty day~~) 180-day period
26 of commitment, or one-year period of commitment if subsection (7) of
27 this section applies, the committed person shall be released unless a
28 petition for an additional (~~one hundred eighty day~~) 180-day period
29 of continued treatment is filed and heard in the same manner as
30 provided in this section. Successive (~~one hundred eighty day~~) 180-
31 day commitments are permissible on the same grounds and pursuant to
32 the same procedures as the original (~~one hundred eighty day~~) 180-
33 day commitment.

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

38 (8) No person committed (~~as provided in~~) under this section may
39 be detained unless a valid order of commitment is in effect. No order
40 of commitment (~~can~~) under this section may exceed (~~one hundred~~

1 ~~eighty~~) 180 days in length except as provided in subsection (7) of
2 this section.

3 (9) Nothing in this section precludes the court from subsequently
4 modifying the terms of an order for less restrictive alternative
5 treatment under RCW 71.05.590(3).

6 **Sec. 18.** RCW 71.05.365 and 2019 c 325 s 3008 are each amended to
7 read as follows:

8 When a person has been involuntarily committed for treatment to a
9 hospital for a period of (~~ninety~~) 90 or (~~one hundred eighty~~) 180
10 days, and the superintendent or professional person in charge of the
11 hospital determines that the person no longer requires active
12 psychiatric treatment at an inpatient level of care, the behavioral
13 health administrative services organization, managed care
14 organization, or agency providing oversight of long-term care or
15 developmental disability services that is responsible for resource
16 management services for the person must work with the hospital to
17 develop an individualized discharge plan, including whether a
18 petition should be filed for less restrictive alternative treatment
19 on the basis that the person is in need of assisted outpatient
20 treatment, and arrange for a transition to the community in
21 accordance with the person's individualized discharge plan within
22 (~~fourteen~~) 14 days of the determination.

23 **Sec. 19.** RCW 71.05.585 and 2021 c 264 s 13 are each amended to
24 read as follows:

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

27 (a) Assignment of a care coordinator;

28 (b) An intake evaluation with the provider of the less
29 restrictive alternative treatment;

30 (c) A psychiatric evaluation, a substance use disorder
31 evaluation, or both;

32 (d) A schedule of regular contacts with the provider of the
33 treatment services for the duration of the order;

34 (e) A transition plan addressing access to continued services at
35 the expiration of the order;

36 (f) An individual crisis plan;

37 (g) Consultation about the formation of a mental health advance
38 directive under chapter 71.32 RCW; and

1 (h) Notification to the care coordinator assigned in (a) of this
2 subsection if reasonable efforts to engage the client fail to produce
3 substantial compliance with court-ordered treatment conditions.

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

6 (a) Medication management;

7 (b) Psychotherapy;

8 (c) Nursing;

9 (d) Substance use disorder counseling;

10 (e) Residential treatment;

11 (f) Partial hospitalization;

12 (g) Support for housing, benefits, education, and employment; and

13 ~~((g))~~ (h) Periodic court review.

14 (3) If the person was provided with involuntary medication under
15 RCW 71.05.215 or pursuant to a judicial order during the involuntary
16 commitment period, the less restrictive alternative treatment order
17 may authorize the less restrictive alternative treatment provider or
18 its designee to administer involuntary antipsychotic medication to
19 the person if the provider has attempted and failed to obtain the
20 informed consent of the person and there is a concurring medical
21 opinion approving the medication by a psychiatrist, physician
22 assistant working with a supervising psychiatrist, psychiatric
23 advanced registered nurse practitioner, or physician or physician
24 assistant in consultation with an independent mental health
25 professional with prescribing authority.

26 (4) Less restrictive alternative treatment must be administered
27 by a provider that is certified or licensed to provide or coordinate
28 the full scope of services required under the less restrictive
29 alternative order and that has agreed to assume this responsibility.

30 (5) The care coordinator assigned to a person ordered to less
31 restrictive alternative treatment must submit an individualized plan
32 for the person's treatment services to the court that entered the
33 order. An initial plan must be submitted as soon as possible
34 following the intake evaluation and a revised plan must be submitted
35 upon any subsequent modification in which a type of service is
36 removed from or added to the treatment plan.

37 (6) A care coordinator may disclose information and records
38 related to mental health services pursuant to RCW 70.02.230(2)(k) for
39 purposes of implementing less restrictive alternative treatment.

1 (7) For the purpose of this section, "care coordinator" means a
2 clinical practitioner who coordinates the activities of less
3 restrictive alternative treatment. The care coordinator coordinates
4 activities with the designated crisis responders that are necessary
5 for enforcement and continuation of less restrictive alternative
6 orders and is responsible for coordinating service activities with
7 other agencies and establishing and maintaining a therapeutic
8 relationship with the individual on a continuing basis.

9 **Sec. 20.** RCW 10.77.175 and 2021 c 263 s 4 are each amended to
10 read as follows:

11 (1) Conditional release planning should start at admission and
12 proceed in coordination between the department and the person's
13 managed care organization, or behavioral health administrative
14 services organization if the person is not eligible for medical
15 assistance under chapter 74.09 RCW. If needed, the department shall
16 assist the person to enroll in medical assistance in suspense status
17 under RCW 74.09.670. The state hospital liaison for the managed care
18 organization or behavioral health administrative services
19 organization shall facilitate conditional release planning in
20 collaboration with the department.

21 (2) Less restrictive alternative treatment pursuant to a
22 conditional release order, at a minimum, includes the following
23 services:

24 (a) Assignment of a care coordinator;

25 (b) An intake evaluation with the provider of the conditional
26 treatment;

27 (c) A psychiatric evaluation or a substance use disorder
28 evaluation, or both;

29 (d) A schedule of regular contacts with the provider of the less
30 restrictive alternative treatment services for the duration of the
31 order;

32 (e) A transition plan addressing access to continued services at
33 the expiration of the order;

34 (f) An individual crisis plan;

35 (g) Consultation about the formation of a mental health advance
36 directive under chapter 71.32 RCW; (~~and~~)

37 (h) Appointment of a transition team under RCW 10.77.150;
38 (~~and~~) and

1 (i) Notification to the care coordinator assigned in (a) of this
2 subsection and to the transition team as provided in RCW 10.77.150 if
3 reasonable efforts to engage the client fail to produce substantial
4 compliance with court-ordered treatment conditions.

5 (3) Less restrictive alternative treatment pursuant to a
6 conditional release order may additionally include requirements to
7 participate in the following services:

8 (a) Medication management;

9 (b) Psychotherapy;

10 (c) Nursing;

11 (d) Substance use disorder counseling;

12 (e) Residential treatment;

13 (f) Partial hospitalization;

14 (g) Support for housing, benefits, education, and employment; and

15 (~~(g)~~) (h) Periodic court review.

16 (4) Nothing in this section prohibits items in subsection (2) of
17 this section from beginning before the conditional release of the
18 individual.

19 (5) If the person was provided with involuntary medication under
20 RCW 10.77.094 or pursuant to a judicial order during the involuntary
21 commitment period, the less restrictive alternative treatment
22 pursuant to the conditional release order may authorize the less
23 restrictive alternative treatment provider or its designee to
24 administer involuntary antipsychotic medication to the person if the
25 provider has attempted and failed to obtain the informed consent of
26 the person and there is a concurring medical opinion approving the
27 medication by a psychiatrist, physician assistant working with a
28 supervising psychiatrist, psychiatric advanced registered nurse
29 practitioner, or physician or physician assistant in consultation
30 with an independent mental health professional with prescribing
31 authority.

32 (6) Less restrictive alternative treatment pursuant to a
33 conditional release order must be administered by a provider that is
34 certified or licensed to provide or coordinate the full scope of
35 services required under the less restrictive alternative order and
36 that has agreed to assume this responsibility.

37 (7) The care coordinator assigned to a person ordered to less
38 restrictive alternative treatment pursuant to a conditional release
39 order must submit an individualized plan for the person's treatment
40 services to the court that entered the order. An initial plan must be

1 submitted as soon as possible following the intake evaluation and a
2 revised plan must be submitted upon any subsequent modification in
3 which a type of service is removed from or added to the treatment
4 plan.

5 (8) A care coordinator may disclose information and records
6 related to mental health treatment under RCW 70.02.230(2)(k) for
7 purposes of implementing less restrictive alternative treatment
8 pursuant to a conditional release order.

9 (9) For the purpose of this section, "care coordinator" means a
10 representative from the department of social and health services who
11 coordinates the activities of less restrictive alternative treatment
12 pursuant to a conditional release order. The care coordinator
13 coordinates activities with the person's transition team that are
14 necessary for enforcement and continuation of the conditional release
15 order and is responsible for coordinating service activities with
16 other agencies and establishing and maintaining a therapeutic
17 relationship with the individual on a continuing basis.

18 **Sec. 21.** RCW 71.05.590 and 2021 c 264 s 14 are each amended to
19 read as follows:

20 (1) Either an agency or facility designated to monitor or provide
21 services under a less restrictive alternative order or conditional
22 release, or a designated crisis responder, may take action to
23 enforce, modify, or revoke a less restrictive alternative treatment
24 order or conditional release order. The agency, facility, or
25 designated crisis responder must determine that:

26 (a) The person is failing to adhere to the terms and conditions
27 of the ~~((court))~~ order;

28 (b) Substantial deterioration in the person's functioning has
29 occurred;

30 (c) There is evidence of substantial decompensation with a
31 reasonable probability that the decompensation can be reversed by
32 further evaluation, intervention, or treatment; or

33 (d) The person poses a likelihood of serious harm.

34 (2) Actions taken under this section must include a flexible
35 range of responses of varying levels of intensity appropriate to the
36 circumstances and consistent with the interests of the individual and
37 the public in personal autonomy, safety, recovery, and compliance.
38 Available actions may include, but are not limited to, any of the
39 following:

1 (a) To counsel or advise the person as to their rights and
2 responsibilities under the court order, and to offer (~~appropriate~~)
3 incentives to motivate compliance;

4 (b) To increase the intensity of outpatient services provided to
5 the person by increasing the frequency of contacts with the provider,
6 referring the person for an assessment for assertive community
7 services, or by other means;

8 (c) To request a court hearing for review and modification of the
9 court order. The request must be (~~made to or by~~) directed to the
10 court with jurisdiction over the order and specify the circumstances
11 that give rise to the request and what modification is being sought.
12 The county prosecutor shall assist the (~~agency or facility in~~)
13 entity requesting (~~this~~) the hearing and (~~issuing~~) issue an
14 appropriate summons to the person. This subsection does not limit the
15 inherent authority of a treatment provider to alter conditions of
16 treatment for clinical reasons, and is intended to be used only when
17 court intervention is necessary or advisable to secure the person's
18 compliance and prevent decompensation or deterioration;

19 (d) To (~~cause~~) detain the person (~~to be transported by a peace~~
20 ~~officer, designated crisis responder, or other means to the~~) for up
21 to 12 hours for evaluation at an agency (~~or~~), facility (~~monitoring~~
22 ~~or~~) providing services under the court order, (~~or to a~~) triage
23 facility, crisis stabilization unit, emergency department, evaluation
24 and treatment facility, secure withdrawal management and
25 stabilization facility with available space, or an approved substance
26 use disorder treatment program with available space. The (~~person may~~
27 ~~be detained at the facility for up to twelve hours for the~~) purpose
28 of (~~an~~) the evaluation is to determine whether modification,
29 revocation, or commitment proceedings are necessary and appropriate
30 to stabilize the person and prevent decompensation, deterioration, or
31 physical harm. Temporary detention for evaluation under this
32 subsection is intended to occur only following a pattern of
33 noncompliance or the failure of reasonable attempts at outreach and
34 engagement, and may occur only when (~~in the~~), based on clinical
35 judgment (~~of a designated crisis responder or the professional~~
36 ~~person in charge of an agency or facility designated to monitor less~~
37 ~~restrictive alternative services~~), temporary detention is
38 appropriate. The agency, facility, or designated crisis responder may
39 request assistance from a peace officer for the purposes of temporary
40 detention under this subsection (2)(d). This subsection does not

1 limit the ability or obligation of the agency, facility, or
2 designated crisis responder to pursue revocation procedures under
3 subsection (5) of this section in appropriate circumstances; and

4 (e) To initiate revocation procedures under subsection (5) of
5 this section (~~(or, if the current commitment is solely based on the~~
6 ~~person being in need of assisted outpatient behavioral health~~
7 ~~treatment as defined in RCW 71.05.020, initiate initial inpatient~~
8 ~~detention procedures under subsection (7) of this section)~~).

9 (3) A court may supervise a person on an order for less
10 restrictive alternative treatment or a conditional release. While the
11 person is under the order, the court may:

12 (a) Require appearance in court for periodic reviews; and

13 (b) Modify the order after considering input from the agency or
14 facility designated to provide or facilitate services. The court may
15 not remand the person into inpatient treatment except as provided
16 under subsection (5) of this section, but may take actions under
17 subsection (2) (a) through (d) of this section.

18 (4) The facility or agency designated to provide outpatient
19 treatment shall notify the secretary of the department of social and
20 health services or designated crisis responder when a person fails to
21 adhere to terms and conditions of court ordered treatment or
22 experiences substantial deterioration in his or her condition and, as
23 a result, presents an increased likelihood of serious harm.

24 (5) (a) (~~(Except as provided in subsection (7) of this section,~~
25 ~~a))~~ A designated crisis responder or the secretary of the department
26 of social and health services may, upon their own motion or
27 (~~(notification by)~~) upon request of the facility or agency designated
28 to provide outpatient care (~~(order)~~), cause a person (~~(subject to a~~
29 court order under this chapter)) to be (~~(apprehended and taken into~~
30 eustody and temporary detention)) detained in an evaluation and
31 treatment facility, (~~(an)~~) available secure withdrawal management and
32 stabilization facility with adequate space, or (~~(an)~~) available
33 approved substance use disorder treatment program with adequate
34 space(~~(7)~~) in or near the county in which he or she is receiving
35 outpatient treatment(~~(. Proceedings under this subsection (5) may be~~
36 initiated without ordering the apprehension and)) for the purpose of
37 a hearing for revocation of a less restrictive alternative treatment
38 order or conditional release order under this chapter. The designated
39 crisis responder or secretary of the department of social and health
40 services shall file a petition for revocation within 24 hours and

1 serve the person, their guardian, if any, and their attorney. A
2 hearing for revocation of a less restrictive alternative treatment
3 order or conditional release order may be scheduled without detention
4 of the person.

5 ~~(b) ((Except as provided in subsection (7) of this section, a))~~ A
6 person detained under this subsection (5) must be held until such
7 time, not exceeding five days, as a hearing can be scheduled to
8 determine whether or not the ~~((person should be returned to the~~
9 ~~hospital or facility from which he or she had been released))~~ order
10 for less restrictive alternative treatment or conditional release
11 should be revoked, modified, or retained. If the person is not
12 detained, the hearing must be scheduled within five days of service
13 on the person. The designated crisis responder or the secretary of
14 the department of social and health services may ~~((modify or rescind~~
15 ~~the order at any time prior to commencement of))~~ withdraw its
16 petition for revocation at any time before the court hearing.

17 ~~(c) ((The designated crisis responder or secretary of the~~
18 ~~department of social and health services shall file a revocation~~
19 ~~petition and order of apprehension and detention with the court of~~
20 ~~the county where the person is currently located or being detained.~~
21 ~~The designated crisis responder shall serve the person and their~~
22 ~~attorney, guardian, and conservator, if any. The))~~ A person
23 detained
24 under this subsection (5) has the same rights with respect to notice,
25 hearing, and counsel as in any involuntary treatment proceeding,
26 except as specifically set forth in this section. There is no right
27 to jury trial. The venue for proceedings is the county where the
28 petition is filed. Notice of the filing must be provided to the court
29 that originally ordered commitment, if different from the court where
30 the petition for revocation is filed, within two judicial days of the
31 person's detention.

32 ~~(d) ((Except as provided in subsection (7) of this section, the))~~
33 The issues for the court to determine are whether: (i) The person
34 adhered to the terms and conditions of the ~~((court))~~ order; (ii)
35 substantial deterioration in the person's functioning has occurred;
36 (iii) there is evidence of substantial decompensation with a
37 reasonable probability that the decompensation can be reversed by
38 further inpatient treatment; or (iv) there is a likelihood of serious
39 harm; and, if any of the above conditions apply, whether it is
40 appropriate for the court ~~((should))~~ to reinstate or modify the
person's less restrictive alternative treatment order or conditional

1 release order, or order the ((~~person's~~)) person to continue detention
2 for inpatient treatment. The person may waive the court hearing and
3 allow the court to enter a stipulated order upon the agreement of all
4 parties. If the court orders detention for inpatient treatment, the
5 treatment period must be for ((~~fourteen~~)) 14 days from the revocation
6 hearing if the ((~~outpatient~~)) less restrictive alternative treatment
7 order or conditional release order was based on a petition under RCW
8 71.05.160 or 71.05.230. If the court orders detention for inpatient
9 treatment and the ((~~outpatient~~)) less restrictive alternative
10 treatment order or conditional release order was based on a petition
11 under RCW 71.05.290 or 71.05.320, the number of days remaining on the
12 ((~~outpatient~~)) order must be converted to days of inpatient treatment
13 ((~~authorized in the original court order~~)). A court may not ((~~issue~~
14 ~~an order to~~)) detain a person for inpatient treatment ((~~in~~)) to a
15 secure withdrawal management and stabilization facility or approved
16 substance use disorder treatment program under this subsection unless
17 there is a ((~~secure withdrawal management and stabilization~~))
18 facility or ((~~approved substance use disorder treatment~~)) program
19 available ((~~and~~)) with adequate space for the person.

20 (6) In determining whether or not to take action under this
21 section the designated crisis responder, agency, or facility must
22 consider the factors specified under RCW 71.05.212 and the court must
23 consider the factors specified under RCW 71.05.245 as they apply to
24 the question of whether to enforce, modify, or revoke a court order
25 for involuntary treatment.

26 ((~~(7)(a) If the current commitment is solely based on the person~~
27 ~~being in need of assisted outpatient behavioral health treatment as~~
28 ~~defined in RCW 71.05.020, a designated crisis responder may initiate~~
29 ~~inpatient detention procedures under RCW 71.05.150 or 71.05.153 when~~
30 ~~appropriate. A designated crisis responder or the secretary may, upon~~
31 ~~their own motion or notification by the facility or agency designated~~
32 ~~to provide outpatient care to a person subject to a less restrictive~~
33 ~~alternative treatment order under RCW 71.05.320 subsequent to an~~
34 ~~order for assisted outpatient behavioral health treatment entered~~
35 ~~under RCW 71.05.148, order the person to be apprehended and taken~~
36 ~~into custody and temporary detention for inpatient evaluation in an~~
37 ~~evaluation and treatment facility, secure withdrawal management and~~
38 ~~stabilization facility, or in an approved substance use disorder~~
39 ~~treatment program, in or near the county in which he or she is~~
40 ~~receiving outpatient treatment. Proceedings under this subsection may~~

1 ~~be initiated without ordering the apprehension and detention of the~~
2 ~~person.~~

3 ~~(b) A person detained under this subsection may be held for~~
4 ~~evaluation for up to one hundred twenty hours, excluding weekends and~~
5 ~~holidays, pending a court hearing. If the person is not detained, the~~
6 ~~hearing must be scheduled within one hundred twenty hours of service~~
7 ~~on the person. The designated crisis responder or the secretary may~~
8 ~~modify or rescind the order at any time prior to commencement of the~~
9 ~~court hearing.~~

10 ~~(c) The issues for the court to determine are whether to continue~~
11 ~~the detention of the person for inpatient treatment or whether the~~
12 ~~court should reinstate or modify the person's less restrictive~~
13 ~~alternative order or order the person's detention for inpatient~~
14 ~~treatment. To continue detention after the one hundred twenty hour~~
15 ~~period, the court must find that the person, as a result of a~~
16 ~~behavioral health disorder, presents a likelihood of serious harm or~~
17 ~~is gravely disabled and, after considering less restrictive~~
18 ~~alternatives to involuntary detention and treatment, that no such~~
19 ~~alternatives are in the best interest of the person or others.~~

20 ~~(d) A court may not issue an order to detain a person for~~
21 ~~inpatient treatment in a secure withdrawal management and~~
22 ~~stabilization facility or approved substance use disorder program~~
23 ~~under this subsection unless there is a secure withdrawal management~~
24 ~~and stabilization facility or approved substance use disorder~~
25 ~~treatment program available and with adequate space for the person.))~~

26 **Sec. 22.** RCW 71.05.590 and 2021 c 264 s 15 are each amended to
27 read as follows:

28 (1) Either an agency or facility designated to monitor or provide
29 services under a less restrictive alternative order or conditional
30 release, or a designated crisis responder, may take action to
31 enforce, modify, or revoke a less restrictive alternative treatment
32 order or conditional release order. The agency, facility, or
33 designated crisis responder must determine that:

34 (a) The person is failing to adhere to the terms and conditions
35 of the ((court)) order;

36 (b) Substantial deterioration in the person's functioning has
37 occurred;

1 (c) There is evidence of substantial decompensation with a
2 reasonable probability that the decompensation can be reversed by
3 further evaluation, intervention, or treatment; or

4 (d) The person poses a likelihood of serious harm.

5 (2) Actions taken under this section must include a flexible
6 range of responses of varying levels of intensity appropriate to the
7 circumstances and consistent with the interests of the individual and
8 the public in personal autonomy, safety, recovery, and compliance.
9 Available actions may include, but are not limited to, any of the
10 following:

11 (a) To counsel or advise the person as to their rights and
12 responsibilities under the court order, and to offer ~~((appropriate))~~
13 incentives to motivate compliance;

14 (b) To increase the intensity of outpatient services provided to
15 the person by increasing the frequency of contacts with the provider,
16 referring the person for an assessment for assertive community
17 services, or by other means;

18 (c) To request a court hearing for review and modification of the
19 court order. The request must be ~~((made to or by))~~ directed to the
20 court with jurisdiction over the order and specify the circumstances
21 that give rise to the request and what modification is being sought.
22 The county prosecutor shall assist ~~((the agency or facility in))~~
23 entity requesting ~~((this))~~ the hearing and ~~((issuing))~~ issue
24 appropriate summons to the person. This subsection does not limit the
25 inherent authority of a treatment provider to alter conditions of
26 treatment for clinical reasons, and is intended to be used only when
27 court intervention is necessary or advisable to secure the person's
28 compliance and prevent decompensation or deterioration;

29 (d) To ~~((cause))~~ detain the person ~~((to be transported by a peace
30 officer, designated crisis responder, or other means to the))~~ for up
31 to 12 hours for evaluation at an agency ~~((or))~~, facility ~~((monitoring
32 or))~~ providing services under the court order, ~~((or to a))~~ triage
33 facility, crisis stabilization unit, emergency department, evaluation
34 and treatment facility, secure withdrawal management and
35 stabilization facility, or an approved substance use disorder
36 treatment program. The ~~((person may be detained at the facility for
37 up to twelve hours for the))~~ purpose of ~~((an))~~ the evaluation is to
38 determine whether modification, revocation, or commitment proceedings
39 are necessary and appropriate to stabilize the person and prevent
40 decompensation, deterioration, or physical harm. Temporary detention

1 for evaluation under this subsection is intended to occur only
2 following a pattern of noncompliance or the failure of reasonable
3 attempts at outreach and engagement, and may occur only when (~~in~~
4 ~~the~~), based on clinical judgment (~~(of a designated crisis responder~~
5 ~~or the professional person in charge of an agency or facility~~
6 ~~designated to monitor less restrictive alternative services)),
7 temporary detention is appropriate. The agency, facility, or
8 designated crisis responder may request assistance from a peace
9 officer for the purposes of temporary detention under this subsection
10 (2)(d). This subsection does not limit the ability or obligation of
11 the agency, facility, or designated crisis responder to pursue
12 revocation procedures under subsection (5) of this section in
13 appropriate circumstances; and~~

14 (e) To initiate revocation procedures under subsection (5) of
15 this section (~~(or, if the current commitment is solely based on the~~
16 ~~person being in need of assisted outpatient behavioral health~~
17 ~~treatment as defined in RCW 71.05.020, initial inpatient detention~~
18 ~~procedures under subsection (7) of this section)).~~

19 (3) A court may supervise a person on an order for less
20 restrictive alternative treatment or a conditional release. While the
21 person is under the order, the court may:

22 (a) Require appearance in court for periodic reviews; and

23 (b) Modify the order after considering input from the agency or
24 facility designated to provide or facilitate services. The court may
25 not remand the person into inpatient treatment except as provided
26 under subsection (5) of this section, but may take actions under
27 subsection (2)(a) through (d) of this section.

28 (4) The facility or agency designated to provide outpatient
29 treatment shall notify the secretary of the department of social and
30 health services or designated crisis responder when a person fails to
31 adhere to terms and conditions of court ordered treatment or
32 experiences substantial deterioration in his or her condition and, as
33 a result, presents an increased likelihood of serious harm.

34 (5) (a) (~~(Except as provided in subsection (7) of this section,~~
35 ~~a))~~ A designated crisis responder or the secretary of the department
36 of social and health services may, upon their own motion or
37 (~~(notification by))~~ upon request of the facility or agency designated
38 to provide outpatient care (~~(order)),~~ cause a person (~~(subject to a~~
39 ~~court order under this chapter))~~ to be (~~(apprehended and taken into~~
40 ~~eustody and temporary detention))~~ detained in an evaluation and

1 treatment facility, (~~in a~~) secure withdrawal management and
2 stabilization facility, or (~~in an~~) approved substance use disorder
3 treatment program(~~r~~) in or near the county in which he or she is
4 receiving outpatient treatment(~~. Proceedings under this subsection~~
5 ~~(5) may be initiated without ordering the apprehension and~~) for the
6 purpose of a hearing for revocation of a less restrictive alternative
7 treatment order or conditional release order under this chapter. The
8 designated crisis responder or secretary of the department of social
9 and health services shall file a petition for revocation within 24
10 hours and serve the person, their guardian, if any, and their
11 attorney. A hearing for revocation of a less restrictive alternative
12 treatment order or conditional release order may be scheduled without
13 detention of the person.

14 (b) (~~Except as provided in subsection (7) of this section, a~~) A
15 person detained under this subsection (5) must be held until such
16 time, not exceeding five days, as a hearing can be scheduled to
17 determine whether or not the (~~person should be returned to the~~
18 hospital or facility from which he or she had been released) order
19 for less restrictive alternative treatment or conditional release
20 should be revoked, modified, or retained. If the person is not
21 detained, the hearing must be scheduled within five days of service
22 on the person. The designated crisis responder or the secretary of
23 the department of social and health services may (~~modify or rescind~~
24 ~~the order at any time prior to commencement of~~) withdraw its
25 petition for revocation at any time before the court hearing.

26 (c) (~~The designated crisis responder or secretary of the~~
27 ~~department of social and health services shall file a revocation~~
28 ~~petition and order of apprehension and detention with the court of~~
29 ~~the county where the person is currently located or being detained.~~
30 ~~The designated crisis responder shall serve the person and their~~
31 ~~attorney, guardian, and conservator, if any. The~~) A person detained
32 under this subsection (5) has the same rights with respect to notice,
33 hearing, and counsel as in any involuntary treatment proceeding,
34 except as specifically set forth in this section. There is no right
35 to jury trial. The venue for proceedings is the county where the
36 petition is filed. Notice of the filing must be provided to the court
37 that originally ordered commitment, if different from the court where
38 the petition for revocation is filed, within two judicial days of the
39 person's detention.

1 (d) (~~Except as provided in subsection (7) of this section, the~~)
2 The issues for the court to determine are whether: (i) The person
3 adhered to the terms and conditions of the (~~court~~) order; (ii)
4 substantial deterioration in the person's functioning has occurred;
5 (iii) there is evidence of substantial decompensation with a
6 reasonable probability that the decompensation can be reversed by
7 further inpatient treatment; or (iv) there is a likelihood of serious
8 harm; and, if any of the above conditions apply, whether it is
9 appropriate for the court (~~should~~) to reinstate or modify the
10 person's less restrictive alternative treatment order or conditional
11 release order or order the (~~person's~~) person to continue detention
12 for inpatient treatment. The person may waive the court hearing and
13 allow the court to enter a stipulated order upon the agreement of all
14 parties. If the court orders detention for inpatient treatment, the
15 treatment period must be for (~~fourteen~~) 14 days from the revocation
16 hearing if the (~~outpatient~~) less restrictive alternative treatment
17 order or conditional release order was based on a petition under RCW
18 71.05.160 or 71.05.230. If the court orders detention for inpatient
19 treatment and the (~~outpatient~~) less restrictive alternative
20 treatment order or conditional release order was based on a petition
21 under RCW 71.05.290 or 71.05.320, the number of days remaining on the
22 (~~outpatient~~) order must be converted to days of inpatient treatment
23 (~~authorized in the original court order~~).

24 (6) In determining whether or not to take action under this
25 section the designated crisis responder, agency, or facility must
26 consider the factors specified under RCW 71.05.212 and the court must
27 consider the factors specified under RCW 71.05.245 as they apply to
28 the question of whether to enforce, modify, or revoke a court order
29 for involuntary treatment.

30 (~~(7) (a) If the current commitment is solely based on the person~~
31 ~~being in need of assisted outpatient behavioral health treatment as~~
32 ~~defined in RCW 71.05.020, a designated crisis responder may initiate~~
33 ~~inpatient detention procedures under RCW 71.05.150 or 71.05.153 when~~
34 ~~appropriate. A designated crisis responder or the secretary may, upon~~
35 ~~their own motion or notification by the facility or agency designated~~
36 ~~to provide outpatient care to a person subject to a less restrictive~~
37 ~~alternative treatment order under RCW 71.05.320 subsequent to an~~
38 ~~order for assisted outpatient behavioral health treatment entered~~
39 ~~under RCW 71.05.148, order the person to be apprehended and taken~~
40 ~~into custody and temporary detention for inpatient evaluation in an~~

1 ~~evaluation and treatment facility, in a secure withdrawal management~~
2 ~~and stabilization facility, or in an approved substance use disorder~~
3 ~~treatment program, in or near the county in which he or she is~~
4 ~~receiving outpatient treatment. Proceedings under this subsection may~~
5 ~~be initiated without ordering the apprehension and detention of the~~
6 ~~person.~~

7 ~~(b) A person detained under this subsection may be held for~~
8 ~~evaluation for up to one hundred twenty hours, excluding weekends and~~
9 ~~holidays, pending a court hearing. The designated crisis responder or~~
10 ~~the secretary may modify or rescind the order at any time prior to~~
11 ~~commencement of the court hearing.~~

12 ~~(c) The issues for the court to determine are whether to continue~~
13 ~~the detention of the person for inpatient treatment or whether the~~
14 ~~court should reinstate or modify the person's less restrictive~~
15 ~~alternative order or order the person's detention for inpatient~~
16 ~~treatment. To continue detention after the one hundred twenty hour~~
17 ~~period, the court must find that the person, as a result of a~~
18 ~~behavioral health disorder, presents a likelihood of serious harm or~~
19 ~~is gravely disabled and, after considering less restrictive~~
20 ~~alternatives to involuntary detention and treatment, that no such~~
21 ~~alternatives are in the best interest of the person or others.)~~

22 **Sec. 23.** RCW 71.05.595 and 2018 c 291 s 16 are each amended to
23 read as follows:

24 A court order for less restrictive alternative treatment for a
25 person found to be in need of assisted outpatient (~~behavioral~~
26 ~~health~~) treatment must be terminated prior to the expiration of the
27 order when, in the opinion of the professional person in charge of
28 the less restrictive alternative treatment provider, (1) the person
29 is prepared to accept voluntary treatment, or (2) the outpatient
30 treatment ordered is no longer necessary to prevent a relapse,
31 decompensation, or deterioration that is likely to result in the
32 person presenting a likelihood of serious harm or the person becoming
33 gravely disabled within a reasonably short period of time.

34 **Sec. 24.** RCW 71.24.045 and 2021 c 263 s 17 are each amended to
35 read as follows:

36 (1) The behavioral health administrative services organization
37 contracted with the authority pursuant to RCW 71.24.381 shall:

1 (a) Administer crisis services for the assigned regional service
2 area. Such services must include:

3 (i) A behavioral health crisis hotline for its assigned regional
4 service area;

5 (ii) Crisis response services twenty-four hours a day, seven days
6 a week, three hundred sixty-five days a year;

7 (iii) Services related to involuntary commitments under chapters
8 71.05 and 71.34 RCW;

9 (iv) Tracking of less restrictive alternative orders issued
10 within the region by superior courts, and providing notification to a
11 managed care organization in the region when one of its enrollees
12 receives a less restrictive alternative order so that the managed
13 care organization may ensure that the person is connected to services
14 and that the requirements of RCW 71.05.585 are complied with. If the
15 person receives a less restrictive alternative order and is returning
16 to another region, the behavioral health administrative services
17 organization shall notify the behavioral health administrative
18 services organization in the home region of the less restrictive
19 alternative order so that the home behavioral health administrative
20 services organization may notify the person's managed care
21 organization or provide services if the person is not enrolled in
22 medicaid and does not have other insurance which can pay for those
23 services;

24 (v) Additional noncrisis behavioral health services, within
25 available resources, to individuals who meet certain criteria set by
26 the authority in its contracts with the behavioral health
27 administrative services organization. These services may include
28 services provided through federal grant funds, provisos, and general
29 fund state appropriations;

30 (vi) Care coordination, diversion services, and discharge
31 planning for nonmedicaid individuals transitioning from state
32 hospitals or inpatient settings to reduce rehospitalization and
33 utilization of crisis services, as required by the authority in
34 contract; and

35 (vii) Regional coordination, cross-system and cross-jurisdiction
36 coordination with tribal governments, and capacity building efforts,
37 such as supporting the behavioral health advisory board, the
38 behavioral health ombuds, and efforts to support access to services
39 or to improve the behavioral health system;

1 (b) Administer and provide for the availability of an adequate
2 network of evaluation and treatment services to ensure access to
3 treatment, investigation, transportation, court-related, and other
4 services provided as required under chapter 71.05 RCW;

5 (c) Coordinate services for individuals under RCW 71.05.365;

6 (d) Administer and provide for the availability of resource
7 management services, residential services, and community support
8 services as required under its contract with the authority;

9 (e) Contract with a sufficient number, as determined by the
10 authority, of licensed or certified providers for crisis services and
11 other behavioral health services required by the authority;

12 (f) Maintain adequate reserves or secure a bond as required by
13 its contract with the authority;

14 (g) Establish and maintain quality assurance processes;

15 (h) Meet established limitations on administrative costs for
16 agencies that contract with the behavioral health administrative
17 services organization; and

18 (i) Maintain patient tracking information as required by the
19 authority.

20 (2) The behavioral health administrative services organization
21 must collaborate with the authority and its contracted managed care
22 organizations to develop and implement strategies to coordinate care
23 with tribes and community behavioral health providers for individuals
24 with a history of frequent crisis system utilization.

25 (3) The behavioral health administrative services organization
26 shall:

27 (a) Assure that the special needs of minorities, older adults,
28 individuals with disabilities, children, and low-income persons are
29 met;

30 (b) Collaborate with local government entities to ensure that
31 policies do not result in an adverse shift of persons with mental
32 illness into state and local correctional facilities; and

33 (c) Work with the authority to expedite the enrollment or
34 reenrollment of eligible persons leaving state or local correctional
35 facilities and institutions for mental diseases.

36 (4) The behavioral health administrative services organization
37 shall employ an assisted outpatient treatment program coordinator to
38 oversee system coordination and legal compliance for assisted
39 outpatient treatment under RCW 71.05.148 and section 4 of this act.

1 **Sec. 25.** RCW 71.24.045 and 2021 c 263 s 17 and 2021 c 202 s 15
2 are each reenacted and amended to read as follows:

3 (1) The behavioral health administrative services organization
4 contracted with the authority pursuant to RCW 71.24.381 shall:

5 (a) Administer crisis services for the assigned regional service
6 area. Such services must include:

7 (i) A behavioral health crisis hotline for its assigned regional
8 service area;

9 (ii) Crisis response services twenty-four hours a day, seven days
10 a week, three hundred sixty-five days a year;

11 (iii) Services related to involuntary commitments under chapters
12 71.05 and 71.34 RCW;

13 (iv) Tracking of less restrictive alternative orders issued
14 within the region by superior courts, and providing notification to a
15 managed care organization in the region when one of its enrollees
16 receives a less restrictive alternative order so that the managed
17 care organization may ensure that the person is connected to services
18 and that the requirements of RCW 71.05.585 are complied with. If the
19 person receives a less restrictive alternative order and is returning
20 to another region, the behavioral health administrative services
21 organization shall notify the behavioral health administrative
22 services organization in the home region of the less restrictive
23 alternative order so that the home behavioral health administrative
24 services organization may notify the person's managed care
25 organization or provide services if the person is not enrolled in
26 medicaid and does not have other insurance which can pay for those
27 services;

28 (v) Additional noncrisis behavioral health services, within
29 available resources, to individuals who meet certain criteria set by
30 the authority in its contracts with the behavioral health
31 administrative services organization. These services may include
32 services provided through federal grant funds, provisos, and general
33 fund state appropriations;

34 (vi) Care coordination, diversion services, and discharge
35 planning for nonmedicaid individuals transitioning from state
36 hospitals or inpatient settings to reduce rehospitalization and
37 utilization of crisis services, as required by the authority in
38 contract; and

39 (vii) Regional coordination, cross-system and cross-jurisdiction
40 coordination with tribal governments, and capacity building efforts,

1 such as supporting the behavioral health advisory board and efforts
2 to support access to services or to improve the behavioral health
3 system;

4 (b) Administer and provide for the availability of an adequate
5 network of evaluation and treatment services to ensure access to
6 treatment, investigation, transportation, court-related, and other
7 services provided as required under chapter 71.05 RCW;

8 (c) Coordinate services for individuals under RCW 71.05.365;

9 (d) Administer and provide for the availability of resource
10 management services, residential services, and community support
11 services as required under its contract with the authority;

12 (e) Contract with a sufficient number, as determined by the
13 authority, of licensed or certified providers for crisis services and
14 other behavioral health services required by the authority;

15 (f) Maintain adequate reserves or secure a bond as required by
16 its contract with the authority;

17 (g) Establish and maintain quality assurance processes;

18 (h) Meet established limitations on administrative costs for
19 agencies that contract with the behavioral health administrative
20 services organization; and

21 (i) Maintain patient tracking information as required by the
22 authority.

23 (2) The behavioral health administrative services organization
24 must collaborate with the authority and its contracted managed care
25 organizations to develop and implement strategies to coordinate care
26 with tribes and community behavioral health providers for individuals
27 with a history of frequent crisis system utilization.

28 (3) The behavioral health administrative services organization
29 shall:

30 (a) Assure that the special needs of minorities, older adults,
31 individuals with disabilities, children, and low-income persons are
32 met;

33 (b) Collaborate with local government entities to ensure that
34 policies do not result in an adverse shift of persons with mental
35 illness into state and local correctional facilities; and

36 (c) Work with the authority to expedite the enrollment or
37 reenrollment of eligible persons leaving state or local correctional
38 facilities and institutions for mental diseases.

39 (4) The behavioral health administrative services organization
40 shall employ an assisted outpatient treatment program coordinator to

1 oversee system coordination and legal compliance for assisted
2 outpatient treatment under RCW 71.05.148 and section 4 of this act.

3 NEW SECTION. **Sec. 26.** Sections 1, 2, and 27 of this act take
4 effect July 1, 2022.

5 **Sec. 27.** 2021 c 264 s 24 (uncodified) and 2021 c 263 s 21
6 (uncodified) are each reenacted and amended to read as follows:

7 (1) Sections 4 and 28, chapter 302, Laws of 2020, sections 13 and
8 14, chapter 263, Laws of 2021, (~~and, until July 1, 2022, section 22,~~
9 ~~chapter 264, Laws of 2021 and, beginning July 1, 2022,~~) section 23,
10 chapter 264, Laws of 2021, and sections 2 and 10, chapter ... (this
11 act), Laws of 2022 take effect when monthly single-bed certifications
12 authorized under RCW 71.05.745 fall below 200 reports for 3
13 consecutive months.

14 (2) The health care authority must provide written notice of the
15 effective date of sections 4 and 28, chapter 302, Laws of 2020,
16 sections 13 and 14, chapter 263, Laws of 2021, (~~and sections 22~~
17 ~~and~~) section 23, chapter 264, Laws of 2021, and sections 2 and 10,
18 chapter ... (this act), Laws of 2022 to affected parties, the chief
19 clerk of the house of representatives, the secretary of the senate,
20 the office of the code reviser, and others as deemed appropriate by
21 the authority.

22 NEW SECTION. **Sec. 28.** Sections 5, 12, 16, and 21 of this act
23 expire July 1, 2026.

24 NEW SECTION. **Sec. 29.** Sections 6, 13, 17, and 22 of this act
25 take effect July 1, 2026.

26 NEW SECTION. **Sec. 30.** Section 24 of this act expires October 1,
27 2022.

28 NEW SECTION. **Sec. 31.** Section 25 of this act takes effect
29 October 1, 2022.

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