
SECOND SUBSTITUTE SENATE BILL 5071

State of Washington

67th Legislature

2021 Regular Session

By Senate Ways & Means (originally sponsored by Senators Dhingra, Darneille, Das, Hunt, Kuderer, Nguyen, and Wilson, C.)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to creating transition teams to assist specified
2 persons under civil commitment; amending RCW 10.77.150, 71.05.320,
3 71.05.320, 10.77.060, 70.02.230, 70.02.240, 71.24.035, 10.77.010,
4 71.05.740, 71.24.035, and 71.24.045; amending 2020 c 302 s 110
5 (uncodified); reenacting and amending RCW 71.05.020, 71.05.020,
6 71.05.020, and 71.05.020; adding a new section to chapter 10.77 RCW;
7 adding a new section to chapter 71.24 RCW; creating new sections;
8 providing effective dates; providing a contingent effective date; and
9 providing expiration dates.

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

11 **Sec. 1.** RCW 10.77.150 and 2010 c 263 s 5 are each amended to
12 read as follows:

13 (1) Persons examined pursuant to RCW 10.77.140 may make
14 application to the secretary for conditional release. The secretary
15 shall, after considering the reports of experts or professional
16 persons conducting the examination pursuant to RCW 10.77.140, forward
17 to the court of the county which ordered the person's commitment the
18 person's application for conditional release as well as the
19 secretary's recommendations concerning the application and any
20 proposed terms and conditions upon which the secretary reasonably
21 believes the person can be conditionally released. Conditional

1 release may also contemplate partial release for work, training, or
2 educational purposes.

3 (2) In instances in which persons examined pursuant to RCW
4 10.77.140 have not made application to the secretary for conditional
5 release, but the secretary, after considering the reports of experts
6 or professional persons conducting the examination pursuant to RCW
7 10.77.140, reasonably believes the person may be conditionally
8 released, the secretary may submit a recommendation for release to
9 the court of the county that ordered the person's commitment. The
10 secretary's recommendation must include any proposed terms and
11 conditions upon which the secretary reasonably believes the person
12 may be conditionally released. Conditional release may also include
13 partial release for work, training, or educational purposes. Notice
14 of the secretary's recommendation under this subsection must be
15 provided to the person for whom the secretary has made the
16 recommendation for release and to his or her attorney.

17 (3) (a) The court of the county which ordered the person's
18 commitment, upon receipt of an application or recommendation for
19 conditional release with the secretary's recommendation for
20 conditional release terms and conditions, shall within thirty days
21 schedule a hearing. The court may schedule a hearing on applications
22 recommended for disapproval by the secretary.

23 (b) The prosecuting attorney shall represent the state at such
24 hearings and shall have the right to have the ~~((patient))~~ person
25 examined by an expert or professional person of the prosecuting
26 attorney's choice. If the committed person is indigent, and he or she
27 so requests, the court shall appoint a qualified expert or
28 professional person to examine the person on his or her behalf.

29 (c) The issue to be determined at such a hearing is whether or
30 not the person may be released conditionally to less restrictive
31 alternative treatment under the supervision of a multidisciplinary
32 transition team under conditions imposed by the court, including
33 access to services under section 4 of this act without substantial
34 danger to other persons, or substantial likelihood of committing
35 criminal acts jeopardizing public safety or security.

36 ~~((The court, after the hearing, shall rule on the secretary's~~
37 ~~recommendations, and if it disapproves of conditional release, may de~~
38 ~~se)) In cases that come before the court under subsection (1) or (2)
39 of this section, the court may deny conditional release to a less
40 restrictive alternative only on the basis of substantial evidence.~~

1 The court may modify the suggested terms and conditions on which the
2 person is to be conditionally released. Pursuant to the determination
3 of the court after hearing, the committed person shall thereupon be
4 released on such conditions as the court determines to be necessary,
5 or shall be remitted to the custody of the secretary.

6 (4) If the order of conditional release (~~includes a~~) provides
7 for the conditional release of the person to a less restrictive
8 alternative, including residential treatment or treatment in the
9 community, the conditional release order must also include:

10 (a) A requirement for the committed person to (~~report to a~~) be
11 supervised by a multidisciplinary transition team, including a
12 specially trained community corrections officer, (~~the order shall~~
13 also specify that the conditionally released person shall be under
14 the supervision of the secretary of corrections or such person as the
15 secretary of corrections may designate and shall follow explicitly
16 the instructions of the secretary of corrections including)) a
17 representative of the department of social and health services, and a
18 representative of the community behavioral health agency providing
19 treatment to the person under section 4 of this act.

20 (i) The court may omit appointment of the representative of the
21 community behavioral health agency if the conditional release order
22 does not require participation in behavioral health treatment;

23 (ii) The court may omit the appointment of a community
24 corrections officer if it makes a special finding that the
25 appointment of a community corrections officer would not facilitate
26 the success of the person, or the safety of the person and the
27 community;

28 (b) A requirement for the person to comply with conditions of
29 supervision established by the court which shall include at a minimum
30 reporting as directed to a (~~community corrections officer~~)
31 designated member of the transition team, remaining within prescribed
32 geographical boundaries, and notifying the (~~community corrections~~
33 officer)) transition team prior to making any change in the
34 (~~offender's~~) person's address or employment. If the (~~order of~~
35 conditional release includes a requirement for the committed person
36 to report to a community corrections officer, the community
37 corrections officer shall notify the secretary or the secretary's
38 designee, if the)) person is not in compliance with the court-ordered
39 conditions of release(~~-~~), the community corrections officer or

1 another designated transition team member shall notify the secretary
2 or the secretary's designee; and

3 ~~((4))~~ (c) If the court ~~((determines that receiving regular or~~
4 ~~periodic medication or other medical treatment shall be a condition~~
5 ~~of the committed person's release, then the court shall require him~~
6 ~~or her to report to a physician or other medical or mental health~~
7 ~~practitioner for the medication or treatment. In addition to~~
8 ~~submitting any report required by RCW 10.77.160, the physician or~~
9 ~~other medical or mental health practitioner shall immediately upon~~
10 ~~the released person's failure to appear for the))~~ requires
11 participation in behavioral health treatment, the name of the
12 licensed or certified behavioral health agency responsible for
13 identifying the services the person will receive under section 4 of
14 this act, and a requirement that the person cooperate with the
15 services planned by the licensed or certified behavioral health
16 agency. The licensed or certified behavioral health agency must
17 comply with the reporting requirements of RCW 10.77.160, and must
18 immediately report to the court, prosecutor, and defense counsel any
19 substantial withdrawal or disengagement from medication or treatment,
20 or ~~((upon a))~~ any change in the person's mental health condition that
21 renders ~~((the patient))~~ him or her a potential risk to the public
22 ~~((report to the court, to the prosecuting attorney of the county in~~
23 ~~which the released person was committed, to the secretary, and to the~~
24 ~~supervising community corrections officer))~~ .

25 (5) The role of the transition team appointed under subsection
26 (4) of this section shall be to facilitate the success of the person
27 on the conditional release order by monitoring the person's progress
28 in treatment, compliance with court-ordered conditions, and to
29 problem solve around extra support the person may need or
30 circumstances that may arise that threaten the safety of the person
31 or the community. The transition team may develop a monitoring plan
32 that may be carried out by any member of the team. The transition
33 team shall meet according to a schedule developed by the team, and
34 shall communicate as needed if issues arise that require the
35 immediate attention of the team.

36 (6) The department of corrections shall collaborate with the
37 department to develop specialized training for community corrections
38 officers under this section. The lack of a trained community
39 corrections officer must not be the cause of delay to entry of a

1 conditional release order. Another community corrections officer may
2 be appointed if no specially trained officer is available.

3 (7) Any person, whose application for conditional release has
4 been denied, may reapply after a period of six months from the date
5 of denial, or sooner with the support of the department.

6 **Sec. 2.** RCW 71.05.320 and 2020 c 302 s 45 are each amended to
7 read as follows:

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

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

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

28 (2) If the court or jury finds that grounds set forth in RCW
29 71.05.280 have been proven, but finds that treatment less restrictive
30 than detention will be in the best interest of the person or others,
31 then the court shall remand him or her to the custody of the
32 department of social and health services or to a facility certified
33 for ninety day treatment by the department or to a less restrictive
34 alternative for a further period of less restrictive treatment not to
35 exceed ninety days from the date of judgment. If the grounds set
36 forth in RCW 71.05.280(3) are the basis of commitment, then the
37 period of treatment may be up to but not exceed one hundred eighty
38 days from the date of judgment. If the court or jury finds that the
39 grounds set forth in RCW 71.05.280(5) have been proven, and provide

1 the only basis for commitment, the court must enter an order for less
2 restrictive alternative treatment for up to ninety days from the date
3 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 days from the date of judgment, except as provided
28 in subsection (7) of this section. If the court's order is based
29 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 treatment.
33 An order for less restrictive alternative treatment must name the
34 behavioral health service provider responsible for identifying the
35 services the person will receive in accordance with RCW 71.05.585,
36 and must include a requirement that the person cooperate with the
37 services planned by the behavioral 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 period of
26 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 period of continued
29 treatment is filed and heard in the same manner as provided in this
30 section. Successive one hundred eighty-day commitments are
31 permissible on the same grounds and pursuant to the same procedures
32 as the original one hundred eighty-day commitment.

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

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

1 **Sec. 3.** RCW 71.05.320 and 2020 c 302 s 46 are each amended to
2 read as follows:

3 (1) If the court or jury finds that grounds set forth in RCW
4 71.05.280 have been proven and that the best interests of the person
5 or others will not be served by a less restrictive treatment which is
6 an alternative to detention, the court shall remand him or her to the
7 custody of the department of social and health services or to a
8 facility certified for ninety day treatment by the department for a
9 further period of intensive treatment not to exceed ninety days from
10 the date of judgment.

11 If the order for inpatient treatment is based on a substance use
12 disorder, treatment must take place at an approved substance use
13 disorder treatment program. If the grounds set forth in RCW
14 71.05.280(3) are the basis of commitment, then the period of
15 treatment may be up to but not exceed one hundred eighty days from
16 the date of judgment to the custody of the department of social and
17 health services or to a facility certified for one hundred eighty-day
18 treatment by the department or under RCW 71.05.745.

19 (2) If the court or jury finds that grounds set forth in RCW
20 71.05.280 have been proven, but finds that treatment less restrictive
21 than detention will be in the best interest of the person or others,
22 then the court shall remand him or her to the custody of the
23 department of social and health services or to a facility certified
24 for ninety day treatment by the department or to a less restrictive
25 alternative for a further period of less restrictive treatment not to
26 exceed ninety days from the date of judgment. If the grounds set
27 forth in RCW 71.05.280(3) are the basis of commitment, then the
28 period of treatment may be up to but not exceed one hundred eighty
29 days from the date of judgment. If the court or jury finds that the
30 grounds set forth in RCW 71.05.280(5) have been proven, and provide
31 the only basis for commitment, the court must enter an order for less
32 restrictive alternative treatment for up to ninety days from the date
33 of judgment and may not order inpatient treatment.

34 (3) An order for less restrictive alternative treatment entered
35 under subsection (2) of this section must name the behavioral health
36 service provider responsible for identifying the services the person
37 will receive in accordance with RCW 71.05.585, and must include a
38 requirement that the person cooperate with the services planned by
39 the behavioral health service provider.

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

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

13 (b) Was taken into custody as a result of conduct in which he or
14 she attempted or inflicted serious physical harm upon the person of
15 another, and continues to present, as a result of a behavioral health
16 disorder or developmental disability, a likelihood of serious harm;
17 or

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

23 (ii) In cases under this subsection where the court has made an
24 affirmative special finding under RCW 71.05.280(3)(b), the commitment
25 shall continue for up to an additional one hundred eighty-day period
26 whenever the petition presents prima facie evidence that the person
27 continues to suffer from a behavioral health disorder or
28 developmental disability that results in a substantial likelihood of
29 committing acts similar to the charged criminal behavior, unless the
30 person presents proof through an admissible expert opinion that the
31 person's condition has so changed such that the behavioral health
32 disorder or developmental disability no longer presents a substantial
33 likelihood of the person committing acts similar to the charged
34 criminal behavior. The initial or additional commitment period may
35 include transfer to a specialized program of intensive support and
36 treatment, which may be initiated prior to or after discharge from
37 the state hospital; or

38 (d) Continues to be gravely disabled; or

39 (e) Is in need of assisted outpatient behavioral health
40 treatment.

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

4 If less restrictive alternative treatment is sought, the petition
5 shall set forth any recommendations for less restrictive alternative
6 treatment services.

7 (5) A new petition for involuntary treatment filed under
8 subsection (4) of this section shall be filed and heard in the
9 superior court of the county of the facility which is filing the new
10 petition for involuntary treatment unless good cause is shown for a
11 change of venue. The cost of the proceedings shall be borne by the
12 state.

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

29 (i) In cases where the court has ordered less restrictive
30 alternative treatment and has previously made an affirmative special
31 finding under RCW 71.05.280(3)(b), the court shall appoint a
32 multidisciplinary transition team to supervise and assist the person
33 on the order for less restrictive treatment, which shall include a
34 representative of the community behavioral health agency providing
35 treatment under RCW 71.05.585, and a specially trained supervising
36 community corrections officer. The court may omit the appointment of
37 a community corrections officer if it makes a special finding that
38 the appointment of a community corrections officer would not
39 facilitate the success of the person, or the safety of the person and
40 the community under (a)(ii) of this subsection.

1 (ii) The role of the transition team shall be to facilitate the
2 success of the person on the less restrictive alternative order by
3 monitoring the person's progress in treatment, compliance with court-
4 ordered conditions, and to problem solve around extra support the
5 person may need or circumstances which may arise that threaten the
6 safety of the person or the community. The transition team may
7 develop a monitoring plan which may be carried out by any member of
8 the team. The transition team shall meet according to a schedule
9 developed by the team, and shall communicate as needed if issues
10 arise that require the immediate attention of the team.

11 (iii) The department of corrections shall collaborate with the
12 department to develop specialized training for community corrections
13 officers under this section. The lack of a trained community
14 corrections officer must not be the cause of delay to entry of a less
15 restrictive alternative order.

16 (b) At the end of the one hundred eighty-day period of
17 commitment, or one-year period of commitment if subsection (7) of
18 this section applies, the committed person shall be released unless a
19 petition for an additional one hundred eighty-day period of continued
20 treatment is filed and heard in the same manner as provided in this
21 section. Successive one hundred eighty-day commitments are
22 permissible on the same grounds and pursuant to the same procedures
23 as the original one hundred eighty-day commitment.

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

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

32 NEW SECTION. Sec. 4. A new section is added to chapter 10.77
33 RCW to read as follows:

34 (1) Conditional release planning should start at admission and
35 proceed in coordination between the department and the person's
36 managed care organization, or behavioral health administrative
37 services organization if the person is not eligible for medical
38 assistance under chapter 74.09 RCW. If needed, the department shall
39 assist the person to enroll in medical assistance in suspense status

1 under RCW 74.09.670. The state hospital liaison for the managed care
2 organization or behavioral health administrative services
3 organization shall facilitate conditional release planning in
4 collaboration with the department.

5 (2) Less restrictive alternative treatment pursuant to a
6 conditional release order, at a minimum, includes the following
7 services:

8 (a) Assignment of a care coordinator;

9 (b) An intake evaluation with the provider of the conditional
10 treatment;

11 (c) A psychiatric evaluation or a substance use disorder
12 evaluation, or both;

13 (d) A schedule of regular contacts with the provider of the less
14 restrictive alternative treatment services for the duration of the
15 order;

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

18 (f) An individual crisis plan;

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

21 (h) Appointment of a transition team under RCW 10.77.150;

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

26 (3) Less restrictive alternative treatment pursuant to a
27 conditional release order may additionally include requirements to
28 participate in the following services:

29 (a) Medication management;

30 (b) Psychotherapy;

31 (c) Nursing;

32 (d) Substance use disorder counseling;

33 (e) Residential treatment;

34 (f) Support for housing, benefits, education, and employment; and

35 (g) Periodic court review.

36 (4) Nothing in this section prohibits items in subsection (2) of
37 this section from beginning before the conditional release of the
38 individual.

39 (5) If the person was provided with involuntary medication under
40 RCW 71.05.215 or pursuant to a judicial order during the involuntary

1 commitment period, the less restrictive alternative treatment
2 pursuant to the conditional release order may authorize the less
3 restrictive alternative treatment provider or its designee to
4 administer involuntary antipsychotic medication to the person if the
5 provider has attempted and failed to obtain the informed consent of
6 the person and there is a concurring medical opinion approving the
7 medication by a psychiatrist, physician assistant working with a
8 supervising psychiatrist, psychiatric advanced registered nurse
9 practitioner, or physician or physician assistant in consultation
10 with an independent mental health professional with prescribing
11 authority.

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

17 (7) The care coordinator assigned to a person ordered to less
18 restrictive alternative treatment pursuant to a conditional release
19 order must submit an individualized plan for the person's treatment
20 services to the court that entered the order. An initial plan must be
21 submitted as soon as possible following the intake evaluation and a
22 revised plan must be submitted upon any subsequent modification in
23 which a type of service is removed from or added to the treatment
24 plan.

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

29 (9) For the purpose of this section, "care coordinator" means a
30 clinical practitioner within the community behavioral health agency
31 providing less restrictive alternative treatment who coordinates the
32 activities of less restrictive alternative treatment pursuant to a
33 conditional release order. The care coordinator coordinates
34 activities with the person's transition team that are necessary for
35 enforcement and continuation of the conditional release order and is
36 responsible for coordinating service activities with other agencies
37 and establishing and maintaining a therapeutic relationship with the
38 individual on a continuing basis.

1 **Sec. 5.** RCW 10.77.060 and 2016 sp.s. c 29 s 408 are each amended
2 to read as follows:

3 (1) (a) Whenever a defendant has pleaded not guilty by reason of
4 insanity, or there is reason to doubt his or her competency, the
5 court on its own motion or on the motion of any party shall either
6 appoint or request the secretary to designate a qualified expert or
7 professional person, who shall be approved by the prosecuting
8 attorney, to evaluate and report upon the mental condition of the
9 defendant.

10 (b) The signed order of the court shall serve as authority for
11 the evaluator to be given access to all records held by any mental
12 health, medical, educational, or correctional facility that relate to
13 the present or past mental, emotional, or physical condition of the
14 defendant. If the court is advised by any party that the defendant
15 may have a developmental disability, the evaluation must be performed
16 by a developmental disabilities professional.

17 (c) The evaluator shall assess the defendant in a jail, detention
18 facility, in the community, or in court to determine whether a period
19 of inpatient commitment will be necessary to complete an accurate
20 evaluation. If inpatient commitment is needed, the signed order of
21 the court shall serve as authority for the evaluator to request the
22 jail or detention facility to transport the defendant to a hospital
23 or secure mental health facility for a period of commitment not to
24 exceed fifteen days from the time of admission to the facility.
25 Otherwise, the evaluator shall complete the evaluation.

26 (d) The court may commit the defendant for evaluation to a
27 hospital or secure mental health facility without an assessment if:
28 (i) The defendant is charged with murder in the first or second
29 degree; (ii) the court finds that it is more likely than not that an
30 evaluation in the jail will be inadequate to complete an accurate
31 evaluation; or (iii) the court finds that an evaluation outside the
32 jail setting is necessary for the health, safety, or welfare of the
33 defendant. The court shall not order an initial inpatient evaluation
34 for any purpose other than a competency evaluation.

35 (e) The order shall indicate whether, in the event the defendant
36 is committed to a hospital or secure mental health facility for
37 evaluation, all parties agree to waive the presence of the defendant
38 or to the defendant's remote participation at a subsequent competency
39 hearing or presentation of an agreed order if the recommendation of
40 the evaluator is for continuation of the stay of criminal

1 proceedings, or if the opinion of the evaluator is that the defendant
2 remains incompetent and there is no remaining restoration period, and
3 the hearing is held prior to the expiration of the authorized
4 commitment period.

5 (f) When a defendant is ordered to be (~~committed for inpatient~~
6 ~~evaluation~~) evaluated under this subsection (1), or when a party or
7 the court determines at first appearance that an order for evaluation
8 under this subsection will be requested or ordered if charges are
9 pursued, the court may delay granting bail until the defendant has
10 been evaluated for competency or sanity and appears before the court.
11 Following the evaluation, in determining bail the court shall
12 consider: (i) Recommendations of the evaluator regarding the
13 defendant's competency, sanity, or diminished capacity; (ii) whether
14 the defendant has a recent history of one or more violent acts; (iii)
15 whether the defendant has previously been acquitted by reason of
16 insanity or found incompetent; (iv) whether it is reasonably likely
17 the defendant will fail to appear for a future court hearing; and (v)
18 whether the defendant is a threat to public safety.

19 (2) The court may direct that a qualified expert or professional
20 person retained by or appointed for the defendant be permitted to
21 witness the evaluation authorized by subsection (1) of this section,
22 and that the defendant shall have access to all information obtained
23 by the court appointed experts or professional persons. The
24 defendant's expert or professional person shall have the right to
25 file his or her own report following the guidelines of subsection (3)
26 of this section. If the defendant is indigent, the court shall upon
27 the request of the defendant assist him or her in obtaining an expert
28 or professional person.

29 (3) The report of the evaluation shall include the following:

30 (a) A description of the nature of the evaluation;

31 (b) A diagnosis or description of the current mental status of
32 the defendant;

33 (c) If the defendant suffers from a mental disease or defect, or
34 has a developmental disability, an opinion as to competency;

35 (d) If the defendant has indicated his or her intention to rely
36 on the defense of insanity pursuant to RCW 10.77.030, and an
37 evaluation and report by an expert or professional person has been
38 provided concluding that the defendant was criminally insane at the
39 time of the alleged offense, an opinion as to the defendant's sanity
40 at the time of the act, and an opinion as to whether the defendant

1 presents a substantial danger to other persons, or presents a
2 substantial likelihood of committing criminal acts jeopardizing
3 public safety or security, unless kept under further control by the
4 court or other persons or institutions, provided that no opinion
5 shall be rendered under this subsection (3)(d) unless the evaluator
6 or court determines that the defendant is competent to stand trial;

7 (e) When directed by the court, if an evaluation and report by an
8 expert or professional person has been provided concluding that the
9 defendant lacked the capacity at the time of the offense to form the
10 mental state necessary to commit the charged offense, an opinion as
11 to the capacity of the defendant to have a particular state of mind
12 which is an element of the offense charged;

13 (f) An opinion as to whether the defendant should be evaluated by
14 a designated crisis responder under chapter 71.05 RCW.

15 (4) The secretary may execute such agreements as appropriate and
16 necessary to implement this section and may choose to designate more
17 than one evaluator.

18 **Sec. 6.** RCW 70.02.230 and 2020 c 256 s 402 are each amended to
19 read as follows:

20 (1) (~~Except as provided in this section, RCW 70.02.050,~~
21 ~~71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and~~
22 ~~70.02.265, or pursuant to a valid authorization under RCW 70.02.030,~~
23 ~~the~~) The fact of admission to a provider for mental health services
24 and all information and records compiled, obtained, or maintained in
25 the course of providing mental health services to either voluntary or
26 involuntary recipients of services at public or private agencies
27 ((must be confidential)) may not be disclosed except as provided in
28 this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210,
29 70.02.240, 70.02.250, 70.02.260, and 70.02.265, or pursuant to a
30 valid authorization under RCW 70.02.030.

31 (2) Information and records related to mental health services,
32 other than those obtained through treatment under chapter 71.34 RCW,
33 may be disclosed (~~only~~):

34 (a) In communications between qualified professional persons to
35 meet the requirements of chapter 71.05 RCW, including Indian health
36 care providers, in the provision of services or appropriate
37 referrals, or in the course of guardianship proceedings if provided
38 to a professional person:

39 (i) Employed by the facility;

1 (ii) Who has medical responsibility for the patient's care;
2 (iii) Who is a designated crisis responder;
3 (iv) Who is providing services under chapter 71.24 RCW;
4 (v) Who is employed by a state or local correctional facility
5 where the person is confined or supervised; or
6 (vi) Who is providing evaluation, treatment, or follow-up
7 services under chapter 10.77 RCW;

8 (b) When the communications regard the special needs of a patient
9 and the necessary circumstances giving rise to such needs and the
10 disclosure is made by a facility providing services to the operator
11 of a facility in which the patient resides or will reside;

12 (c)(i) When the person receiving services, or his or her
13 guardian, designates persons to whom information or records may be
14 released, or if the person is a minor, when his or her parents make
15 such a designation;

16 (ii) A public or private agency shall release to a person's next
17 of kin, attorney, personal representative, guardian, or conservator,
18 if any:

19 (A) The information that the person is presently a patient in the
20 facility or that the person is seriously physically ill;

21 (B) A statement evaluating the mental and physical condition of
22 the patient, and a statement of the probable duration of the
23 patient's confinement, if such information is requested by the next
24 of kin, attorney, personal representative, guardian, or conservator;
25 and

26 (iii) Other information requested by the next of kin or attorney
27 as may be necessary to decide whether or not proceedings should be
28 instituted to appoint a guardian or conservator;

29 (d)(i) To the courts, including tribal courts, as necessary to
30 the administration of chapter 71.05 RCW or to a court ordering an
31 evaluation or treatment under chapter 10.77 RCW solely for the
32 purpose of preventing the entry of any evaluation or treatment order
33 that is inconsistent with any order entered under chapter 71.05 RCW.

34 (ii) To a court or its designee in which a motion under chapter
35 10.77 RCW has been made for involuntary medication of a defendant for
36 the purpose of competency restoration.

37 (iii) Disclosure under this subsection is mandatory for the
38 purpose of the federal health insurance portability and
39 accountability act;

1 (e) (i) When a mental health professional or designated crisis
2 responder is requested by a representative of a law enforcement or
3 corrections agency, including a police officer, sheriff, community
4 corrections officer, a municipal attorney, or prosecuting attorney to
5 undertake an investigation or provide treatment under RCW 71.05.150,
6 10.31.110, or 71.05.153, the mental health professional or designated
7 crisis responder shall, if requested to do so, advise the
8 representative in writing of the results of the investigation
9 including a statement of reasons for the decision to detain or
10 release the person investigated. The written report must be submitted
11 within seventy-two hours of the completion of the investigation or
12 the request from the law enforcement or corrections representative,
13 whichever occurs later.

14 (ii) Disclosure under this subsection is mandatory for the
15 purposes of the federal health insurance portability and
16 accountability act;

17 (f) To the attorney of the detained person;

18 (g) To the prosecuting attorney as necessary to carry out the
19 responsibilities of the office under RCW 71.05.330(2),
20 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
21 access to records regarding the committed person's treatment and
22 prognosis, medication, behavior problems, and other records relevant
23 to the issue of whether treatment less restrictive than inpatient
24 treatment is in the best interest of the committed person or others.
25 Information must be disclosed only after giving notice to the
26 committed person and the person's counsel;

27 (h) (i) To appropriate law enforcement agencies and to a person,
28 when the identity of the person is known to the public or private
29 agency, whose health and safety has been threatened, or who is known
30 to have been repeatedly harassed, by the patient. The person may
31 designate a representative to receive the disclosure. The disclosure
32 must be made by the professional person in charge of the public or
33 private agency or his or her designee and must include the dates of
34 commitment, admission, discharge, or release, authorized or
35 unauthorized absence from the agency's facility, and only any other
36 information that is pertinent to the threat or harassment. The agency
37 or its employees are not civilly liable for the decision to disclose
38 or not, so long as the decision was reached in good faith and without
39 gross negligence.

1 (ii) Disclosure under this subsection is mandatory for the
2 purposes of the federal health insurance portability and
3 accountability act;

4 (i)(i) To appropriate corrections and law enforcement agencies
5 all necessary and relevant information in the event of a crisis or
6 emergent situation that poses a significant and imminent risk to the
7 public. The mental health service agency or its employees are not
8 civilly liable for the decision to disclose or not so long as the
9 decision was reached in good faith and without gross negligence.

10 (ii) Disclosure under this subsection is mandatory for the
11 purposes of the health insurance portability and accountability act;

12 (j) To the persons designated in RCW 71.05.425 for the purposes
13 described in those sections;

14 (k) By a care coordinator under RCW 71.05.585 or section 4 of
15 this act assigned to a person ordered to receive less restrictive
16 alternative treatment for the purpose of sharing information to
17 parties necessary for the implementation of proceedings under chapter
18 71.05 or 10.77 RCW;

19 (l) Upon the death of a person. The person's next of kin,
20 personal representative, guardian, or conservator, if any, must be
21 notified. Next of kin who are of legal age and competent must be
22 notified under this section in the following order: Spouse, parents,
23 children, brothers and sisters, and other relatives according to the
24 degree of relation. Access to all records and information compiled,
25 obtained, or maintained in the course of providing services to a
26 deceased patient are governed by RCW 70.02.140;

27 ~~((+l))~~ (m) To mark headstones or otherwise memorialize patients
28 interred at state hospital cemeteries. The department of social and
29 health services shall make available the name, date of birth, and
30 date of death of patients buried in state hospital cemeteries fifty
31 years after the death of a patient;

32 ~~((+m))~~ (n) To law enforcement officers and to prosecuting
33 attorneys as are necessary to enforce RCW 9.41.040(2)(a)(iv). The
34 extent of information that may be released is limited as follows:

35 (i) Only the fact, place, and date of involuntary commitment, an
36 official copy of any order or orders of commitment, and an official
37 copy of any written or oral notice of ineligibility to possess a
38 firearm that was provided to the person pursuant to RCW 9.41.047(1),
39 must be disclosed upon request;

1 (ii) The law enforcement and prosecuting attorneys may only
2 release the information obtained to the person's attorney as required
3 by court rule and to a jury or judge, if a jury is waived, that
4 presides over any trial at which the person is charged with violating
5 RCW 9.41.040(2)(a)(iv);

6 (iii) Disclosure under this subsection is mandatory for the
7 purposes of the federal health insurance portability and
8 accountability act;

9 (~~(n)~~) (o) When a patient would otherwise be subject to the
10 provisions of this section and disclosure is necessary for the
11 protection of the patient or others due to his or her unauthorized
12 disappearance from the facility, and his or her whereabouts is
13 unknown, notice of the disappearance, along with relevant
14 information, may be made to relatives, the department of corrections
15 when the person is under the supervision of the department, and
16 governmental law enforcement agencies designated by the physician or
17 psychiatric advanced registered nurse practitioner in charge of the
18 patient or the professional person in charge of the facility, or his
19 or her professional designee;

20 (~~(o)~~) (p) Pursuant to lawful order of a court, including a
21 tribal court;

22 (~~(p)~~) (q) To qualified staff members of the department, to the
23 authority, to behavioral health administrative services
24 organizations, to managed care organizations, to resource management
25 services responsible for serving a patient, or to service providers
26 designated by resource management services as necessary to determine
27 the progress and adequacy of treatment and to determine whether the
28 person should be transferred to a less restrictive or more
29 appropriate treatment modality or facility;

30 (~~(q)~~) (r) Within the mental health service agency or Indian
31 health care provider facility where the patient is receiving
32 treatment, confidential information may be disclosed to persons
33 employed, serving in bona fide training programs, or participating in
34 supervised volunteer programs, at the facility when it is necessary
35 to perform their duties;

36 (~~(r)~~) (s) Within the department and the authority as necessary
37 to coordinate treatment for mental illness, developmental
38 disabilities, alcoholism, or substance use disorder of persons who
39 are under the supervision of the department;

1 ~~((s))~~ (t) Between the department of social and health services,
2 the department of children, youth, and families, and the health care
3 authority as necessary to coordinate treatment for mental illness,
4 developmental disabilities, alcoholism, or drug abuse of persons who
5 are under the supervision of the department of social and health
6 services or the department of children, youth, and families;

7 ~~((t))~~ (u) To a licensed physician or psychiatric advanced
8 registered nurse practitioner who has determined that the life or
9 health of the person is in danger and that treatment without the
10 information and records related to mental health services could be
11 injurious to the patient's health. Disclosure must be limited to the
12 portions of the records necessary to meet the medical emergency;

13 ~~((u))~~ (v)(i) Consistent with the requirements of the federal
14 health insurance portability and accountability act, to:

15 (A) A health care provider, including an Indian health care
16 provider, who is providing care to a patient, or to whom a patient
17 has been referred for evaluation or treatment; or

18 (B) Any other person who is working in a care coordinator role
19 for a health care facility, health care provider, or Indian health
20 care provider, or is under an agreement pursuant to the federal
21 health insurance portability and accountability act with a health
22 care facility or a health care provider and requires the information
23 and records to assure coordinated care and treatment of that patient.

24 (ii) A person authorized to use or disclose information and
25 records related to mental health services under this subsection (2)
26 ~~((u))~~ (v) must take appropriate steps to protect the information
27 and records relating to mental health services.

28 (iii) Psychotherapy notes may not be released without
29 authorization of the patient who is the subject of the request for
30 release of information;

31 ~~((v))~~ (w) To administrative and office support staff designated
32 to obtain medical records for those licensed professionals listed in
33 ~~((u))~~ (v) of this subsection;

34 ~~((w))~~ (x) To a facility that is to receive a person who is
35 involuntarily committed under chapter 71.05 RCW, or upon transfer of
36 the person from one evaluation and treatment facility to another. The
37 release of records under this subsection is limited to the
38 information and records related to mental health services required by
39 law, a record or summary of all somatic treatments, and a discharge
40 summary. The discharge summary may include a statement of the

1 patient's problem, the treatment goals, the type of treatment which
2 has been provided, and recommendation for future treatment, but may
3 not include the patient's complete treatment record;

4 ~~((x))~~ (y) To the person's counsel or guardian ad litem, without
5 modification, at any time in order to prepare for involuntary
6 commitment or recommitment proceedings, reexaminations, appeals, or
7 other actions relating to detention, admission, commitment, or
8 patient's rights under chapter 71.05 RCW;

9 ~~((y))~~ (z) To staff members of the protection and advocacy
10 agency or to staff members of a private, nonprofit corporation for
11 the purpose of protecting and advocating the rights of persons with
12 mental disorders or developmental disabilities. Resource management
13 services may limit the release of information to the name, birthdate,
14 and county of residence of the patient, information regarding whether
15 the patient was voluntarily admitted, or involuntarily committed, the
16 date and place of admission, placement, or commitment, the name and
17 address of a guardian of the patient, and the date and place of the
18 guardian's appointment. Any staff member who wishes to obtain
19 additional information must notify the patient's resource management
20 services in writing of the request and of the resource management
21 services' right to object. The staff member shall send the notice by
22 mail to the guardian's address. If the guardian does not object in
23 writing within fifteen days after the notice is mailed, the staff
24 member may obtain the additional information. If the guardian objects
25 in writing within fifteen days after the notice is mailed, the staff
26 member may not obtain the additional information;

27 ~~((z))~~ (aa) To all current treating providers, including Indian
28 health care providers, of the patient with prescriptive authority who
29 have written a prescription for the patient within the last twelve
30 months. For purposes of coordinating health care, the department or
31 the authority may release without written authorization of the
32 patient, information acquired for billing and collection purposes as
33 described in RCW 70.02.050(1)(d). The department, or the authority,
34 if applicable, shall notify the patient that billing and collection
35 information has been released to named providers, and provide the
36 substance of the information released and the dates of such release.
37 Neither the department nor the authority may release counseling,
38 inpatient psychiatric hospitalization, or drug and alcohol treatment
39 information without a signed written release from the client;

1 (5) The fact of admission to a provider of mental health
2 services, as well as all records, files, evidence, findings, or
3 orders made, prepared, collected, or maintained pursuant to chapter
4 71.05 RCW are not admissible as evidence in any legal proceeding
5 outside that chapter without the written authorization of the person
6 who was the subject of the proceeding except as provided in RCW
7 70.02.260, in a subsequent criminal prosecution of a person committed
8 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were
9 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand
10 trial, in a civil commitment proceeding pursuant to chapter 71.09
11 RCW, or, in the case of a minor, a guardianship or dependency
12 proceeding. The records and files maintained in any court proceeding
13 pursuant to chapter 71.05 RCW must be confidential and available
14 subsequent to such proceedings only to the person who was the subject
15 of the proceeding or his or her attorney. In addition, the court may
16 order the subsequent release or use of such records or files only
17 upon good cause shown if the court finds that appropriate safeguards
18 for strict confidentiality are and will be maintained.

19 (6)(a) Except as provided in RCW 4.24.550, any person may bring
20 an action against an individual who has willfully released
21 confidential information or records concerning him or her in
22 violation of the provisions of this section, for the greater of the
23 following amounts:

24 (i) One thousand dollars; or

25 (ii) Three times the amount of actual damages sustained, if any.

26 (b) It is not a prerequisite to recovery under this subsection
27 that the plaintiff suffered or was threatened with special, as
28 contrasted with general, damages.

29 (c) Any person may bring an action to enjoin the release of
30 confidential information or records concerning him or her or his or
31 her ward, in violation of the provisions of this section, and may in
32 the same action seek damages as provided in this subsection.

33 (d) The court may award to the plaintiff, should he or she
34 prevail in any action authorized by this subsection, reasonable
35 attorney fees in addition to those otherwise provided by law.

36 (e) If an action is brought under this subsection, no action may
37 be brought under RCW 70.02.170.

38 **Sec. 7.** RCW 70.02.240 and 2019 c 381 s 20 are each amended to
39 read as follows:

1 The fact of admission and all information and records related to
2 mental health services obtained through inpatient or outpatient
3 treatment of a minor under chapter 71.34 RCW must be kept
4 confidential, except as authorized by this section or under RCW
5 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265.
6 Confidential information under this section may be disclosed only:

7 (1) In communications between mental health professionals to meet
8 the requirements of chapter 71.34 RCW, in the provision of services
9 to the minor, or in making appropriate referrals;

10 (2) In the course of guardianship or dependency proceedings;

11 (3) To the minor, the minor's parent, including those acting as a
12 parent as defined in RCW 71.34.020 for purposes of family-initiated
13 treatment, and the minor's attorney, subject to RCW 13.50.100;

14 (4) To the courts as necessary to administer chapter 71.34 RCW;

15 (5) By a care coordinator under RCW 71.34.755 or section 4 of
16 this act assigned to a person ordered to receive less restrictive
17 alternative treatment for the purpose of sharing information to
18 parties necessary for the implementation of proceedings under chapter
19 71.34 or 10.77 RCW;

20 (6) To law enforcement officers or public health officers as
21 necessary to carry out the responsibilities of their office. However,
22 only the fact and date of admission, and the date of discharge, the
23 name and address of the treatment provider, if any, and the last
24 known address must be disclosed upon request;

25 ~~((6))~~ (7) To law enforcement officers, public health officers,
26 relatives, and other governmental law enforcement agencies, if a
27 minor has escaped from custody, disappeared from an evaluation and
28 treatment facility, violated conditions of a less restrictive
29 treatment order, or failed to return from an authorized leave, and
30 then only such information as may be necessary to provide for public
31 safety or to assist in the apprehension of the minor. The officers
32 are obligated to keep the information confidential in accordance with
33 this chapter;

34 ~~((7))~~ (8) To the secretary of social and health services and
35 the director of the health care authority for assistance in data
36 collection and program evaluation or research so long as the
37 secretary or director, where applicable, adopts rules for the conduct
38 of such evaluation and research. The rules must include, but need not
39 be limited to, the requirement that all evaluators and researchers
40 sign an oath of confidentiality substantially as follows:

1 "As a condition of conducting evaluation or research concerning
2 persons who have received services from (fill in the facility,
3 agency, or person) I,, agree not to divulge, publish, or
4 otherwise make known to unauthorized persons or the public any
5 information obtained in the course of such evaluation or research
6 regarding minors who have received services in a manner such that the
7 minor is identifiable.

8 I recognize that unauthorized release of confidential information
9 may subject me to civil liability under state law.

10 /s/";

11 ~~((8))~~ (9) To appropriate law enforcement agencies, upon
12 request, all necessary and relevant information in the event of a
13 crisis or emergent situation that poses a significant and imminent
14 risk to the public. The mental health service agency or its employees
15 are not civilly liable for the decision to disclose or not, so long
16 as the decision was reached in good faith and without gross
17 negligence;

18 ~~((9))~~ (10) To appropriate law enforcement agencies and to a
19 person, when the identity of the person is known to the public or
20 private agency, whose health and safety has been threatened, or who
21 is known to have been repeatedly harassed, by the patient. The person
22 may designate a representative to receive the disclosure. The
23 disclosure must be made by the professional person in charge of the
24 public or private agency or his or her designee and must include the
25 dates of admission, discharge, authorized or unauthorized absence
26 from the agency's facility, and only any other information that is
27 pertinent to the threat or harassment. The agency or its employees
28 are not civilly liable for the decision to disclose or not, so long
29 as the decision was reached in good faith and without gross
30 negligence;

31 ~~((10))~~ (11) To a minor's next of kin, attorney, guardian, or
32 conservator, if any, the information that the minor is presently in
33 the facility or that the minor is seriously physically ill and a
34 statement evaluating the mental and physical condition of the minor
35 as well as a statement of the probable duration of the minor's
36 confinement;

37 ~~((11))~~ (12) Upon the death of a minor, to the minor's next of
38 kin;

1 (~~(12)~~) (13) To a facility in which the minor resides or will
2 reside;

3 (~~(13)~~) (14) To law enforcement officers and to prosecuting
4 attorneys as are necessary to enforce RCW 9.41.040(2)(a)(iv). The
5 extent of information that may be released is limited as follows:

6 (a) Only the fact, place, and date of involuntary commitment, an
7 official copy of any order or orders of commitment, and an official
8 copy of any written or oral notice of ineligibility to possess a
9 firearm that was provided to the person pursuant to RCW 9.41.047(1),
10 must be disclosed upon request;

11 (b) The law enforcement and prosecuting attorneys may only
12 release the information obtained to the person's attorney as required
13 by court rule and to a jury or judge, if a jury is waived, that
14 presides over any trial at which the person is charged with violating
15 RCW 9.41.040(2)(a)(iv);

16 (c) Disclosure under this subsection is mandatory for the
17 purposes of the federal health insurance portability and
18 accountability act;

19 (~~(14)~~) (15) This section may not be construed to prohibit the
20 compilation and publication of statistical data for use by government
21 or researchers under standards, including standards to assure
22 maintenance of confidentiality, set forth by the director of the
23 health care authority or the secretary of the department of social
24 and health services, where applicable. The fact of admission and all
25 information obtained pursuant to chapter 71.34 RCW are not admissible
26 as evidence in any legal proceeding outside chapter 71.34 RCW, except
27 guardianship or dependency, without the written consent of the minor
28 or the minor's parent;

29 (~~(15)~~) (16) For the purpose of a correctional facility
30 participating in the postinstitutional medical assistance system
31 supporting the expedited medical determinations and medical
32 suspensions as provided in RCW 74.09.555 and 74.09.295;

33 (~~(16)~~) (17) Pursuant to a lawful order of a court.

34 **Sec. 8.** RCW 71.24.035 and 2020 c 256 s 202 are each amended to
35 read as follows:

36 (1) The authority is designated as the state behavioral health
37 authority which includes recognition as the single state authority
38 for substance use disorders and state mental health authority.

1 (2) The director shall provide for public, client, tribal, and
2 licensed or certified behavioral health agency participation in
3 developing the state behavioral health program, developing related
4 contracts, and any waiver request to the federal government under
5 medicaid.

6 (3) The director shall provide for participation in developing
7 the state behavioral health program for children and other
8 underserved populations, by including representatives on any
9 committee established to provide oversight to the state behavioral
10 health program.

11 (4) The authority shall be designated as the behavioral health
12 administrative services organization for a regional service area if a
13 behavioral health administrative services organization fails to meet
14 the authority's contracting requirements or refuses to exercise the
15 responsibilities under its contract or state law, until such time as
16 a new behavioral health administrative services organization is
17 designated.

18 (5) The director shall:

19 (a) Assure that any behavioral health administrative services
20 organization, managed care organization, or community behavioral
21 health program provides medically necessary services to medicaid
22 recipients consistent with the state's medicaid state plan or federal
23 waiver authorities, and nonmedicaid services consistent with
24 priorities established by the authority;

25 (b) Develop contracts in a manner to ensure an adequate network
26 of inpatient services, evaluation and treatment services, and
27 facilities under chapter 71.05 RCW to ensure access to treatment,
28 resource management services, and community support services;

29 (c) Make contracts necessary or incidental to the performance of
30 its duties and the execution of its powers, including managed care
31 contracts for behavioral health services, contracts entered into
32 under RCW 74.09.522, and contracts with public and private agencies,
33 organizations, and individuals to pay them for behavioral health
34 services;

35 (d) Define administrative costs and ensure that the behavioral
36 health administrative services organization does not exceed an
37 administrative cost of ten percent of available funds;

38 (e) Establish, to the extent possible, a standardized auditing
39 procedure which is designed to assure compliance with contractual
40 agreements authorized by this chapter and minimizes paperwork

1 requirements. The audit procedure shall focus on the outcomes of
2 service as provided in RCW 71.24.435, 70.320.020, and 71.36.025;

3 (f) Develop and maintain an information system to be used by the
4 state and behavioral health administrative services organizations and
5 managed care organizations that includes a tracking method which
6 allows the authority to identify behavioral health clients'
7 participation in any behavioral health service or public program on
8 an immediate basis. The information system shall not include
9 individual patient's case history files. Confidentiality of client
10 information and records shall be maintained as provided in this
11 chapter and chapter 70.02 RCW;

12 (g) Monitor and audit behavioral health administrative services
13 organizations as needed to assure compliance with contractual
14 agreements authorized by this chapter;

15 (h) Monitor and audit access to behavioral health services for
16 individuals eligible for medicaid who are not enrolled in a managed
17 care organization;

18 (i) Adopt such rules as are necessary to implement the
19 authority's responsibilities under this chapter;

20 (j) Administer or supervise the administration of the provisions
21 relating to persons with substance use disorders and intoxicated
22 persons of any state plan submitted for federal funding pursuant to
23 federal health, welfare, or treatment legislation;

24 (k) Require the behavioral health administrative services
25 organizations and the managed care organizations to develop
26 agreements with tribal, city, and county jails and the department of
27 corrections to accept referrals for enrollment on behalf of a
28 confined person, prior to the person's release;

29 (l) Require behavioral health administrative services
30 organizations and managed care organizations, as applicable, to
31 provide services as identified in RCW 71.05.585 and section 4 of this
32 act to individuals committed for involuntary (~~commitment~~) treatment
33 under less restrictive alternative court orders when:

34 (i) The individual is enrolled in the medicaid program; or

35 (ii) The individual is not enrolled in medicaid, does not have
36 other insurance which can pay for the services, and the behavioral
37 health administrative services organization has adequate available
38 resources to provide the services; and

1 (m) Coordinate with the centers for medicare and medicaid
2 services to provide that behavioral health aide services are eligible
3 for federal funding of up to one hundred percent.

4 (6) The director shall use available resources only for
5 behavioral health administrative services organizations and managed
6 care organizations, except:

7 (a) To the extent authorized, and in accordance with any
8 priorities or conditions specified, in the biennial appropriations
9 act; or

10 (b) To incentivize improved performance with respect to the
11 client outcomes established in RCW 71.24.435, 70.320.020, and
12 71.36.025, integration of behavioral health and medical services at
13 the clinical level, and improved care coordination for individuals
14 with complex care needs.

15 (7) Each behavioral health administrative services organization,
16 managed care organization, and licensed or certified behavioral
17 health agency shall file with the secretary of the department of
18 health or the director, on request, such data, statistics, schedules,
19 and information as the secretary of the department of health or the
20 director reasonably requires. A behavioral health administrative
21 services organization, managed care organization, or licensed or
22 certified behavioral health agency which, without good cause, fails
23 to furnish any data, statistics, schedules, or information as
24 requested, or files fraudulent reports thereof, may be subject to the
25 contractual remedies in RCW 74.09.871 or may have its service
26 provider certification or license revoked or suspended.

27 (8) The superior court may restrain any behavioral health
28 administrative services organization, managed care organization, or
29 service provider from operating without a contract, certification, or
30 a license or any other violation of this section. The court may also
31 review, pursuant to procedures contained in chapter 34.05 RCW, any
32 denial, suspension, limitation, restriction, or revocation of
33 certification or license, and grant other relief required to enforce
34 the provisions of this chapter.

35 (9) Upon petition by the secretary of the department of health or
36 the director, and after hearing held upon reasonable notice to the
37 facility, the superior court may issue a warrant to an officer or
38 employee of the secretary of the department of health or the director
39 authorizing him or her to enter at reasonable times, and examine the
40 records, books, and accounts of any behavioral health administrative

1 services organization, managed care organization, or service provider
2 refusing to consent to inspection or examination by the authority.

3 (10) Notwithstanding the existence or pursuit of any other
4 remedy, the secretary of the department of health or the director may
5 file an action for an injunction or other process against any person
6 or governmental unit to restrain or prevent the establishment,
7 conduct, or operation of a behavioral health administrative services
8 organization, managed care organization, or service provider without
9 a contract, certification, or a license under this chapter.

10 (11) The authority shall distribute appropriated state and
11 federal funds in accordance with any priorities, terms, or conditions
12 specified in the appropriations act.

13 (12) The authority, in cooperation with the state congressional
14 delegation, shall actively seek waivers of federal requirements and
15 such modifications of federal regulations as are necessary to allow
16 federal medicaid reimbursement for services provided by freestanding
17 evaluation and treatment facilities licensed under chapter 71.12 RCW
18 or certified under chapter 71.05 RCW. The authority shall
19 periodically share the results of its efforts with the appropriate
20 committees of the senate and the house of representatives.

21 (13) The authority may:

22 (a) Plan, establish, and maintain substance use disorder
23 prevention and substance use disorder treatment programs as necessary
24 or desirable;

25 (b) Coordinate its activities and cooperate with behavioral
26 programs in this and other states, and make contracts and other joint
27 or cooperative arrangements with state, tribal, local, or private
28 agencies in this and other states for behavioral health services and
29 for the common advancement of substance use disorder programs;

30 (c) Solicit and accept for use any gift of money or property made
31 by will or otherwise, and any grant of money, services, or property
32 from the federal government, the state, or any political subdivision
33 thereof or any private source, and do all things necessary to
34 cooperate with the federal government or any of its agencies in
35 making an application for any grant;

36 (d) Keep records and engage in research and the gathering of
37 relevant statistics; and

38 (e) Acquire, hold, or dispose of real property or any interest
39 therein, and construct, lease, or otherwise provide substance use
40 disorder treatment programs.

1 **Sec. 9.** RCW 10.77.010 and 2019 c 325 s 5005 are each amended to
2 read as follows:

3 As used in this chapter:

4 (1) "Admission" means acceptance based on medical necessity, of a
5 person as a patient.

6 (2) "Commitment" means the determination by a court that a person
7 should be detained for a period of either evaluation or treatment, or
8 both, in an inpatient or a less-restrictive setting.

9 (3) "Conditional release" means modification of a court-ordered
10 commitment, which may be revoked upon violation of any of its terms.

11 (4) A "criminally insane" person means any person who has been
12 acquitted of a crime charged by reason of insanity, and thereupon
13 found to be a substantial danger to other persons or to present a
14 substantial likelihood of committing criminal acts jeopardizing
15 public safety or security unless kept under further control by the
16 court or other persons or institutions.

17 (5) "Department" means the state department of social and health
18 services.

19 (6) "Designated crisis responder" has the same meaning as
20 provided in RCW 71.05.020.

21 (7) "Detention" or "detain" means the lawful confinement of a
22 person, under the provisions of this chapter, pending evaluation.

23 (8) "Developmental disabilities professional" means a person who
24 has specialized training and three years of experience in directly
25 treating or working with persons with developmental disabilities and
26 is a psychiatrist or psychologist, or a social worker, and such other
27 developmental disabilities professionals as may be defined by rules
28 adopted by the secretary.

29 (9) "Developmental disability" means the condition as defined in
30 RCW 71A.10.020(5).

31 (10) "Discharge" means the termination of hospital medical
32 authority. The commitment may remain in place, be terminated, or be
33 amended by court order.

34 (11) "Furlough" means an authorized leave of absence for a
35 resident of a state institution operated by the department designated
36 for the custody, care, and treatment of the criminally insane,
37 consistent with an order of conditional release from the court under
38 this chapter, without any requirement that the resident be
39 accompanied by, or be in the custody of, any law enforcement or
40 institutional staff, while on such unescorted leave.

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

9 (13) "History of one or more violent acts" means violent acts
10 committed during: (a) The ten-year period of time prior to the filing
11 of criminal charges; plus (b) the amount of time equal to time spent
12 during the ten-year period in a mental health facility or in
13 confinement as a result of a criminal conviction.

14 (14) "Immediate family member" means a spouse, child, stepchild,
15 parent, stepparent, grandparent, sibling, or domestic partner.

16 (15) "Incompetency" means a person lacks the capacity to
17 understand the nature of the proceedings against him or her or to
18 assist in his or her own defense as a result of mental disease or
19 defect.

20 (16) "Indigent" means any person who is financially unable to
21 obtain counsel or other necessary expert or professional services
22 without causing substantial hardship to the person or his or her
23 family.

24 (17) "Individualized service plan" means a plan prepared by a
25 developmental disabilities professional with other professionals as a
26 team, for an individual with developmental disabilities, which shall
27 state:

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

30 (b) The conditions and strategies necessary to achieve the
31 purposes of habilitation;

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

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

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

37 (f) Where relevant in light of past criminal behavior and due
38 consideration for public safety, the criteria for proposed movement
39 to less-restrictive settings, criteria for proposed eventual release,
40 and a projected possible date for release; and

1 (g) The type of residence immediately anticipated for the person
2 and possible future types of residences.

3 (18) "Professional person" means:

4 (a) A psychiatrist licensed as a physician and surgeon in this
5 state who has, in addition, completed three years of graduate
6 training in psychiatry in a program approved by the American medical
7 association or the American osteopathic association and is certified
8 or eligible to be certified by the American board of psychiatry and
9 neurology or the American osteopathic board of neurology and
10 psychiatry;

11 (b) A psychologist licensed as a psychologist pursuant to chapter
12 18.83 RCW; or

13 (c) A social worker with a master's or further advanced degree
14 from a social work educational program accredited and approved as
15 provided in RCW 18.320.010.

16 (19) "Release" means legal termination of the court-ordered
17 commitment under the provisions of this chapter.

18 (20) "Secretary" means the secretary of the department of social
19 and health services or his or her designee.

20 (21) "Treatment" means any currently standardized medical or
21 mental health procedure including medication.

22 (22) "Treatment records" include registration and all other
23 records concerning persons who are receiving or who at any time have
24 received services for mental illness, which are maintained by the
25 department, by behavioral health administrative services
26 organizations and their staffs, by managed care organizations and
27 their staffs, and by treatment facilities. Treatment records do not
28 include notes or records maintained for personal use by a person
29 providing treatment services for the department, behavioral health
30 administrative services organizations, managed care organizations, or
31 a treatment facility if the notes or records are not available to
32 others.

33 (23) "Violent act" means behavior that: (a) (i) Resulted in; (ii)
34 if completed as intended would have resulted in; or (iii) was
35 threatened to be carried out by a person who had the intent and
36 opportunity to carry out the threat and would have resulted in,
37 homicide, nonfatal injuries, or substantial damage to property; or
38 (b) recklessly creates an immediate risk of serious physical injury
39 to another person. As used in this subsection, "nonfatal injuries"
40 means physical pain or injury, illness, or an impairment of physical

1 condition. "Nonfatal injuries" shall be construed to be consistent
2 with the definition of "bodily injury," as defined in RCW 9A.04.110.

3 (24) "Community behavioral health agency" has the same meaning as
4 "licensed or certified behavioral health agency" defined in RCW
5 71.24.025.

6 **Sec. 10.** RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301, and
7 2020 c 5 s 1 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

36 (8) "Behavioral health service provider" means a public or
37 private agency that provides mental health, substance use disorder,
38 or co-occurring disorder services to persons with behavioral health
39 disorders as defined under this section and receives funding from

1 public sources. This includes, but is not limited to, hospitals
2 licensed under chapter 70.41 RCW, evaluation and treatment facilities
3 as defined in this section, community mental health service delivery
4 systems or community behavioral health programs as defined in RCW
5 71.24.025, 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) "Conditional release" means a revocable modification of a
19 commitment, which may be revoked upon violation of any of its terms;

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

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

29 (14) "Department" means the department of health;

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

36 (16) "Detention" or "detain" means the lawful confinement of a
37 person, under the provisions of this chapter;

38 (17) "Developmental disabilities professional" means a person who
39 has specialized training and three years of experience in directly
40 treating or working with persons with developmental disabilities and

1 is a psychiatrist, physician assistant working with a supervising
2 psychiatrist, psychologist, psychiatric advanced registered nurse
3 practitioner, or social worker, and such other developmental
4 disabilities professionals as may be defined by rules adopted by the
5 secretary of the department of social and health services;

6 (18) "Developmental disability" means that condition defined in
7 RCW 71A.10.020(5);

8 (19) "Director" means the director of the authority;

9 (20) "Discharge" means the termination of hospital medical
10 authority. The commitment may remain in place, be terminated, or be
11 amended by court order;

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

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

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

39 (24) "Habilitative services" means those services provided by
40 program personnel to assist persons in acquiring and maintaining life

1 skills and in raising their levels of physical, mental, social, and
2 vocational functioning. Habilitative services include education,
3 training for employment, and therapy. The habilitative process shall
4 be undertaken with recognition of the risk to the public safety
5 presented by the person being assisted as manifested by prior charged
6 criminal conduct;

7 (25) "Hearing" means any proceeding conducted in open court that
8 conforms to the requirements of RCW 71.05.820;

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

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

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

29 (29) "Individualized service plan" means a plan prepared by a
30 developmental disabilities professional with other professionals as a
31 team, for a person with developmental disabilities, which shall
32 state:

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

35 (b) The conditions and strategies necessary to achieve the
36 purposes of habilitation;

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

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

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

2 (f) Where relevant in light of past criminal behavior and due
3 consideration for public safety, the criteria for proposed movement
4 to less-restrictive settings, criteria for proposed eventual
5 discharge or release, and a projected possible date for discharge or
6 release; and

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

9 (30) "Intoxicated person" means a person whose mental or physical
10 functioning is substantially impaired as a result of the use of
11 alcohol or other psychoactive chemicals;

12 (31) "Judicial commitment" means a commitment by a court pursuant
13 to the provisions of this chapter;

14 (32) "Legal counsel" means attorneys and staff employed by county
15 prosecutor offices or the state attorney general acting in their
16 capacity as legal representatives of public behavioral health service
17 providers under RCW 71.05.130;

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

21 (34) "Licensed physician" means a person licensed to practice
22 medicine or osteopathic medicine and surgery in the state of
23 Washington;

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

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

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

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

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

4 (38) "Mental health professional" means a psychiatrist,
5 psychologist, physician assistant working with a supervising
6 psychiatrist, psychiatric advanced registered nurse practitioner,
7 psychiatric nurse, or social worker, and such other mental health
8 professionals as may be defined by rules adopted by the secretary
9 pursuant to the provisions of this chapter;

10 (39) "Peace officer" means a law enforcement official of a public
11 agency or governmental unit, and includes persons specifically given
12 peace officer powers by any state law, local ordinance, or judicial
13 order of appointment;

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

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

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

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

33 (44) "Psychiatrist" means a person having a license as a
34 physician and surgeon in this state who has in addition completed
35 three years of graduate training in psychiatry in a program approved
36 by the American medical association or the American osteopathic
37 association and is certified or eligible to be certified by the
38 American board of psychiatry and neurology;

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

1 (46) "Public agency" means any evaluation and treatment facility
2 or institution, secure withdrawal management and stabilization
3 facility, approved substance use disorder treatment program, or
4 hospital which is conducted for, or includes a department or ward
5 conducted for, the care and treatment of persons with behavioral
6 health disorders, if the agency is operated directly by federal,
7 state, county, or municipal government, or a combination of such
8 governments;

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

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

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

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

22 (a) Provide the following services:

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

25 (ii) Clinical stabilization services;

26 (iii) Acute or subacute detoxification services for intoxicated
27 individuals; and

28 (iv) Discharge assistance provided by certified substance use
29 disorder professionals or co-occurring disorder specialists,
30 including facilitating transitions to appropriate voluntary or
31 involuntary inpatient services or to less restrictive alternatives as
32 appropriate for the individual;

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

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

36 (51) "Social worker" means a person with a master's or further
37 advanced degree from a social work educational program accredited and
38 approved as provided in RCW 18.320.010;

39 (52) "Substance use disorder" means a cluster of cognitive,
40 behavioral, and physiological symptoms indicating that an individual

1 continues using the substance despite significant substance-related
2 problems. The diagnosis of a substance use disorder is based on a
3 pathological pattern of behaviors related to the use of the
4 substances;

5 (53) "Substance use disorder professional" means a person
6 certified as a substance use disorder professional by the department
7 of health under chapter 18.205 RCW;

8 (54) "Therapeutic court personnel" means the staff of a mental
9 health court or other therapeutic court which has jurisdiction over
10 defendants who are dually diagnosed with mental disorders, including
11 court personnel, probation officers, a court monitor, prosecuting
12 attorney, or defense counsel acting within the scope of therapeutic
13 court duties;

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

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

37 (57) "Video," unless the context clearly indicates otherwise,
38 means the delivery of behavioral health services through the use of
39 interactive audio and video technology, permitting real-time
40 communication between a person and a designated crisis responder, for

1 the purpose of evaluation. "Video" does not include the use of audio-
2 only telephone, facsimile, email, or store and forward technology.
3 "Store and forward technology" means use of an asynchronous
4 transmission of a person's medical information from a mental health
5 service provider to the designated crisis responder which results in
6 medical diagnosis, consultation, or treatment;

7 (58) "Violent act" means behavior that resulted in homicide,
8 attempted suicide, injury, or substantial loss or damage to property;

9 (59) "Written order of apprehension" means an order of the court
10 for a peace officer to deliver the named person in the order to a
11 facility or emergency room as determined by the designated crisis
12 responder. Such orders shall be entered into the Washington crime
13 information center database.

14 (60) "Community behavioral health agency" has the same meaning as
15 "licensed or certified behavioral health agency" defined in RCW
16 71.24.025.

17 **Sec. 11.** RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301,
18 2020 c 80 s 51, and 2020 c 5 s 1 are each reenacted and amended to
19 read as follows:

20 The definitions in this section apply throughout this chapter
21 unless the context clearly requires otherwise.

22 (1) "Admission" or "admit" means a decision by a physician,
23 physician assistant, or psychiatric advanced registered nurse
24 practitioner that a person should be examined or treated as a patient
25 in a hospital;

26 (2) "Alcoholism" means a disease, characterized by a dependency
27 on alcoholic beverages, loss of control over the amount and
28 circumstances of use, symptoms of tolerance, physiological or
29 psychological withdrawal, or both, if use is reduced or discontinued,
30 and impairment of health or disruption of social or economic
31 functioning;

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

36 (4) "Approved substance use disorder treatment program" means a
37 program for persons with a substance use disorder provided by a
38 treatment program certified by the department as meeting standards
39 adopted under chapter 71.24 RCW;

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

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

5 (7) "Behavioral health disorder" means either a mental disorder
6 as defined in this section, a substance use disorder as defined in
7 this section, or a co-occurring mental disorder and substance use
8 disorder;

9 (8) "Behavioral health service provider" means a public or
10 private agency that provides mental health, substance use disorder,
11 or co-occurring disorder services to persons with behavioral health
12 disorders as defined under this section and receives funding from
13 public sources. This includes, but is not limited to, hospitals
14 licensed under chapter 70.41 RCW, evaluation and treatment facilities
15 as defined in this section, community mental health service delivery
16 systems or community behavioral health programs as defined in RCW
17 71.24.025, facilities conducting competency evaluations and
18 restoration under chapter 10.77 RCW, approved substance use disorder
19 treatment programs as defined in this section, secure withdrawal
20 management and stabilization facilities as defined in this section,
21 and correctional facilities operated by state and local governments;

22 (9) "Co-occurring disorder specialist" means an individual
23 possessing an enhancement granted by the department of health under
24 chapter 18.205 RCW that certifies the individual to provide substance
25 use disorder counseling subject to the practice limitations under RCW
26 18.205.105;

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

30 (11) "Conditional release" means a revocable modification of a
31 commitment, which may be revoked upon violation of any of its terms;

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

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

1 (14) "Department" means the department of health;

2 (15) "Designated crisis responder" means a mental health
3 professional appointed by the county, by an entity appointed by the
4 county, or by the authority in consultation with a federally
5 recognized Indian tribe or after meeting and conferring with an
6 Indian health care provider, to perform the duties specified in this
7 chapter;

8 (16) "Detention" or "detain" means the lawful confinement of a
9 person, under the provisions of this chapter;

10 (17) "Developmental disabilities professional" means a person who
11 has specialized training and three years of experience in directly
12 treating or working with persons with developmental disabilities and
13 is a psychiatrist, physician assistant working with a supervising
14 psychiatrist, psychologist, psychiatric advanced registered nurse
15 practitioner, or social worker, and such other developmental
16 disabilities professionals as may be defined by rules adopted by the
17 secretary of the department of social and health services;

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

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

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

24 (21) "Drug addiction" means a disease, characterized by a
25 dependency on psychoactive chemicals, loss of control over the amount
26 and circumstances of use, symptoms of tolerance, physiological or
27 psychological withdrawal, or both, if use is reduced or discontinued,
28 and impairment of health or disruption of social or economic
29 functioning;

30 (22) "Evaluation and treatment facility" means any facility which
31 can provide directly, or by direct arrangement with other public or
32 private agencies, emergency evaluation and treatment, outpatient
33 care, and timely and appropriate inpatient care to persons suffering
34 from a mental disorder, and which is licensed or certified as such by
35 the department. The authority may certify single beds as temporary
36 evaluation and treatment beds under RCW 71.05.745. A physically
37 separate and separately operated portion of a state hospital may be
38 designated as an evaluation and treatment facility. A facility which
39 is part of, or operated by, the department of social and health
40 services or any federal agency will not require certification. No

1 correctional institution or facility, or jail, shall be an evaluation
2 and treatment facility within the meaning of this chapter;

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

11 (24) "Habilitative services" means those services provided by
12 program personnel to assist persons in acquiring and maintaining life
13 skills and in raising their levels of physical, mental, social, and
14 vocational functioning. Habilitative services include education,
15 training for employment, and therapy. The habilitative process shall
16 be undertaken with recognition of the risk to the public safety
17 presented by the person being assisted as manifested by prior charged
18 criminal conduct;

19 (25) "Hearing" means any proceeding conducted in open court that
20 conforms to the requirements of RCW 71.05.820;

21 (26) "History of one or more violent acts" refers to the period
22 of time ten years prior to the filing of a petition under this
23 chapter, excluding any time spent, but not any violent acts
24 committed, in a behavioral health facility, or in confinement as a
25 result of a criminal conviction;

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

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

1 (29) "Individualized service plan" means a plan prepared by a
2 developmental disabilities professional with other professionals as a
3 team, for a person with developmental disabilities, which shall
4 state:

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

7 (b) The conditions and strategies necessary to achieve the
8 purposes of habilitation;

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

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

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

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

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

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

24 (31) "Judicial commitment" means a commitment by a court pursuant
25 to the provisions of this chapter;

26 (32) "Legal counsel" means attorneys and staff employed by county
27 prosecutor offices or the state attorney general acting in their
28 capacity as legal representatives of public behavioral health service
29 providers under RCW 71.05.130;

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

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

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

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

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

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

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

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

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

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

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

26 (41) "Private agency" means any person, partnership, corporation,
27 or association that is not a public agency, whether or not financed
28 in whole or in part by public funds, which constitutes an evaluation
29 and treatment facility or private institution, or hospital, or
30 approved substance use disorder treatment program, which is conducted
31 for, or includes a department or ward conducted for, the care and
32 treatment of persons with behavioral health disorders;

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

39 (43) "Psychiatric advanced registered nurse practitioner" means a
40 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 (44) "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 (45) "Psychologist" means a person who has been licensed as a
10 psychologist pursuant to chapter 18.83 RCW;

11 (46) "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 (47) "Release" means legal termination of the commitment under
20 the provisions of this chapter;

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

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

25 (50) "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 (51) "Social worker" means a person with a master's or further
7 advanced degree from a social work educational program accredited and
8 approved as provided in RCW 18.320.010;

9 (52) "Substance use disorder" means a cluster of cognitive,
10 behavioral, and physiological symptoms indicating that an individual
11 continues using the substance despite significant substance-related
12 problems. The diagnosis of a substance use disorder is based on a
13 pathological pattern of behaviors related to the use of the
14 substances;

15 (53) "Substance use disorder professional" means a person
16 certified as a substance use disorder professional by the department
17 of health under chapter 18.205 RCW;

18 (54) "Therapeutic court personnel" means the staff of a mental
19 health court or other therapeutic court which has jurisdiction over
20 defendants who are dually diagnosed with mental disorders, including
21 court personnel, probation officers, a court monitor, prosecuting
22 attorney, or defense counsel acting within the scope of therapeutic
23 court duties;

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

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

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

18 (58) "Violent act" means behavior that resulted in homicide,
19 attempted suicide, injury, or substantial loss or damage to property;

20 (59) "Written order of apprehension" means an order of the court
21 for a peace officer to deliver the named person in the order to a
22 facility or emergency room as determined by the designated crisis
23 responder. Such orders shall be entered into the Washington crime
24 information center database.

25 (60) "Community behavioral health agency" has the same meaning as
26 "licensed or certified behavioral health agency" defined in RCW
27 71.24.025.

28 **Sec. 12.** RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020
29 c 256 s 301, and 2020 c 5 s 1 are each reenacted and amended to read
30 as follows:

31 The definitions in this section apply throughout this chapter
32 unless the context clearly requires otherwise.

33 (1) "Admission" or "admit" means a decision by a physician,
34 physician assistant, or psychiatric advanced registered nurse
35 practitioner that a person should be examined or treated as a patient
36 in a hospital;

37 (2) "Alcoholism" means a disease, characterized by a dependency
38 on alcoholic beverages, loss of control over the amount and
39 circumstances of use, symptoms of tolerance, physiological or

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

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

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

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

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

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

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

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

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

1 (11) "Conditional release" means a revocable modification of a
2 commitment, which may be revoked upon violation of any of its terms;

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

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

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

13 (15) "Designated crisis responder" means a mental health
14 professional appointed by the county, by an entity appointed by the
15 county, or by the authority in consultation with a federally
16 recognized Indian tribe or after meeting and conferring with an
17 Indian health care provider, to perform the duties specified in this
18 chapter;

19 (16) "Detention" or "detain" means the lawful confinement of a
20 person, under the provisions of this chapter;

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

29 (18) "Developmental disability" means that condition defined in
30 RCW 71A.10.020(5);

31 (19) "Director" means the director of the authority;

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

35 (21) "Drug addiction" means a disease, characterized by a
36 dependency on psychoactive chemicals, loss of control over the amount
37 and circumstances of use, symptoms of tolerance, physiological or
38 psychological withdrawal, or both, if use is reduced or discontinued,
39 and impairment of health or disruption of social or economic
40 functioning;

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

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

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

30 (25) "Hearing" means any proceeding conducted in open court that
31 conforms to the requirements of RCW 71.05.820;

32 (26) "History of one or more violent acts" refers to the period
33 of time ten years prior to the filing of a petition under this
34 chapter, excluding any time spent, but not any violent acts
35 committed, in a behavioral health facility, or in confinement as a
36 result of a criminal conviction;

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

39 (28) "In need of assisted outpatient behavioral health treatment"
40 means that a person, as a result of a behavioral health disorder: (a)

1 Has been committed by a court to detention for involuntary behavioral
2 health treatment during the preceding thirty-six months; (b) is
3 unlikely to voluntarily participate in outpatient treatment without
4 an order for less restrictive alternative treatment, based on a
5 history of nonadherence with treatment or in view of the person's
6 current behavior; (c) is likely to benefit from less restrictive
7 alternative treatment; and (d) requires less restrictive alternative
8 treatment to prevent a relapse, decompensation, or deterioration that
9 is likely to result in the person presenting a likelihood of serious
10 harm or the person becoming gravely disabled within a reasonably
11 short period of time;

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

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

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

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

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

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

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

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

32 (30) "Intoxicated person" means a person whose mental or physical
33 functioning is substantially impaired as a result of the use of
34 alcohol or other psychoactive chemicals;

35 (31) "Judicial commitment" means a commitment by a court pursuant
36 to the provisions of this chapter;

37 (32) "Legal counsel" means attorneys and staff employed by county
38 prosecutor offices or the state attorney general acting in their
39 capacity as legal representatives of public behavioral health service
40 providers under RCW 71.05.130;

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

4 (34) "Licensed physician" means a person licensed to practice
5 medicine or osteopathic medicine and surgery in the state of
6 Washington;

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

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

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

19 (36) "Medical clearance" means a physician or other health care
20 provider has determined that a person is medically stable and ready
21 for referral to the designated crisis responder;

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

25 (38) "Mental health professional" means a psychiatrist,
26 psychologist, physician assistant working with a supervising
27 psychiatrist, psychiatric advanced registered nurse practitioner,
28 psychiatric nurse, or social worker, and such other mental health
29 professionals as may be defined by rules adopted by the secretary
30 pursuant to the provisions of this chapter;

31 (39) "Peace officer" means a law enforcement official of a public
32 agency or governmental unit, and includes persons specifically given
33 peace officer powers by any state law, local ordinance, or judicial
34 order of appointment;

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

37 (41) "Private agency" means any person, partnership, corporation,
38 or association that is not a public agency, whether or not financed
39 in whole or in part by public funds, which constitutes an evaluation
40 and treatment facility or private institution, or hospital, or

1 approved substance use disorder treatment program, which is conducted
2 for, or includes a department or ward conducted for, the care and
3 treatment of persons with behavioral health disorders;

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

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

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

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

22 (46) "Public agency" means any evaluation and treatment facility
23 or institution, secure withdrawal management and stabilization
24 facility, approved substance use disorder treatment program, or
25 hospital which is conducted for, or includes a department or ward
26 conducted for, the care and treatment of persons with behavioral
27 health disorders, if the agency is operated directly by federal,
28 state, county, or municipal government, or a combination of such
29 governments;

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

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

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

36 (50) "Secure withdrawal management and stabilization facility"
37 means a facility operated by either a public or private agency or by
38 the program of an agency which provides care to voluntary individuals
39 and individuals involuntarily detained and committed under this
40 chapter for whom there is a likelihood of serious harm or who are

1 gravely disabled due to the presence of a substance use disorder.
2 Secure withdrawal management and stabilization facilities must:

- 3 (a) Provide the following services:
 - 4 (i) Assessment and treatment, provided by certified substance use
 - 5 disorder professionals or co-occurring disorder specialists;
 - 6 (ii) Clinical stabilization services;
 - 7 (iii) Acute or subacute detoxification services for intoxicated
 - 8 individuals; and
 - 9 (iv) Discharge assistance provided by certified substance use
 - 10 disorder professionals or co-occurring disorder specialists,
 - 11 including facilitating transitions to appropriate voluntary or
 - 12 involuntary inpatient services or to less restrictive alternatives as
 - 13 appropriate for the individual;
- 14 (b) Include security measures sufficient to protect the patients,
- 15 staff, and community; and
- 16 (c) Be licensed or certified as such by the department of health;

17 (51) "Severe deterioration from safe behavior" means that a
18 person will, if not treated, suffer or continue to suffer severe and
19 abnormal mental, emotional, or physical distress, and this distress
20 is associated with significant impairment of judgment, reason, or
21 behavior;

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

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

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

34 (55) "Therapeutic court personnel" means the staff of a mental
35 health court or other therapeutic court which has jurisdiction over
36 defendants who are dually diagnosed with mental disorders, including
37 court personnel, probation officers, a court monitor, prosecuting
38 attorney, or defense counsel acting within the scope of therapeutic
39 court duties;

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

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

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

34 (59) "Violent act" means behavior that resulted in homicide,
35 attempted suicide, injury, or substantial loss or damage to property;

36 (60) "Written order of apprehension" means an order of the court
37 for a peace officer to deliver the named person in the order to a
38 facility or emergency room as determined by the designated crisis
39 responder. Such orders shall be entered into the Washington crime
40 information center database.

1 (61) "Community behavioral health agency" has the same meaning as
2 "licensed or certified behavioral health agency" defined in RCW
3 71.24.025.

4 **Sec. 13.** RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020
5 c 256 s 301, 2020 c 80 s 51, and 2020 c 5 s 1 are each reenacted and
6 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, facilities conducting competency evaluations and
5 restoration under chapter 10.77 RCW, approved substance use disorder
6 treatment programs as defined in this section, secure withdrawal
7 management and stabilization facilities as defined in this section,
8 and correctional facilities operated by state and local governments;

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

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

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

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

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

28 (14) "Department" means the department of health;

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

35 (16) "Detention" or "detain" means the lawful confinement of a
36 person, under the provisions of this chapter;

37 (17) "Developmental disabilities professional" means a person who
38 has specialized training and three years of experience in directly
39 treating or working with persons with developmental disabilities and
40 is a psychiatrist, physician assistant working with a supervising

1 psychiatrist, psychologist, psychiatric advanced registered nurse
2 practitioner, or social worker, and such other developmental
3 disabilities professionals as may be defined by rules adopted by the
4 secretary of the department of social and health services;

5 (18) "Developmental disability" means that condition defined in
6 RCW 71A.10.020(5);

7 (19) "Director" means the director of the authority;

8 (20) "Discharge" means the termination of hospital medical
9 authority. The commitment may remain in place, be terminated, or be
10 amended by court order;

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

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

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

38 (24) "Habilitative services" means those services provided by
39 program personnel to assist persons in acquiring and maintaining life
40 skills and in raising their levels of physical, mental, social, and

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

6 (25) "Hearing" means any proceeding conducted in open court that
7 conforms to the requirements of RCW 71.05.820;

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

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

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

28 (29) "Individualized service plan" means a plan prepared by a
29 developmental disabilities professional with other professionals as a
30 team, for a person with developmental disabilities, which shall
31 state:

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

34 (b) The conditions and strategies necessary to achieve the
35 purposes of habilitation;

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

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

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

1 (f) Where relevant in light of past criminal behavior and due
2 consideration for public safety, the criteria for proposed movement
3 to less-restrictive settings, criteria for proposed eventual
4 discharge or release, and a projected possible date for discharge or
5 release; and

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

8 (30) "Intoxicated person" means a person whose mental or physical
9 functioning is substantially impaired as a result of the use of
10 alcohol or other psychoactive chemicals;

11 (31) "Judicial commitment" means a commitment by a court pursuant
12 to the provisions of this chapter;

13 (32) "Legal counsel" means attorneys and staff employed by county
14 prosecutor offices or the state attorney general acting in their
15 capacity as legal representatives of public behavioral health service
16 providers under RCW 71.05.130;

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

20 (34) "Licensed physician" means a person licensed to practice
21 medicine or osteopathic medicine and surgery in the state of
22 Washington;

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

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

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

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

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

1 (38) "Mental health professional" means a psychiatrist,
2 psychologist, physician assistant working with a supervising
3 psychiatrist, psychiatric advanced registered nurse practitioner,
4 psychiatric nurse, or social worker, and such other mental health
5 professionals as may be defined by rules adopted by the secretary
6 pursuant to the provisions of this chapter;

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

11 (40) "Physician assistant" means a person licensed as a physician
12 assistant under chapter 18.71A RCW;

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

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

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

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

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

38 (46) "Public agency" means any evaluation and treatment facility
39 or institution, secure withdrawal management and stabilization
40 facility, approved substance use disorder treatment program, or

1 hospital which is conducted for, or includes a department or ward
2 conducted for, the care and treatment of persons with behavioral
3 health disorders, if the agency is operated directly by federal,
4 state, county, or municipal government, or a combination of such
5 governments;

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

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

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

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

19 (a) Provide the following services:

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

22 (ii) Clinical stabilization services;

23 (iii) Acute or subacute detoxification services for intoxicated
24 individuals; and

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

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

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

33 (51) "Severe deterioration from safe behavior" means that a
34 person will, if not treated, suffer or continue to suffer severe and
35 abnormal mental, emotional, or physical distress, and this distress
36 is associated with significant impairment of judgment, reason, or
37 behavior;

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

1 (53) "Substance use disorder" means a cluster of cognitive,
2 behavioral, and physiological symptoms indicating that an individual
3 continues using the substance despite significant substance-related
4 problems. The diagnosis of a substance use disorder is based on a
5 pathological pattern of behaviors related to the use of the
6 substances;

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

10 (55) "Therapeutic court personnel" means the staff of a mental
11 health court or other therapeutic court which has jurisdiction over
12 defendants who are dually diagnosed with mental disorders, including
13 court personnel, probation officers, a court monitor, prosecuting
14 attorney, or defense counsel acting within the scope of therapeutic
15 court duties;

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

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

39 (58) "Video," unless the context clearly indicates otherwise,
40 means the delivery of behavioral health services through the use of

1 interactive audio and video technology, permitting real-time
2 communication between a person and a designated crisis responder, for
3 the purpose of evaluation. "Video" does not include the use of audio-
4 only telephone, facsimile, email, or store and forward technology.
5 "Store and forward technology" means use of an asynchronous
6 transmission of a person's medical information from a mental health
7 service provider to the designated crisis responder which results in
8 medical diagnosis, consultation, or treatment;

9 (59) "Violent act" means behavior that resulted in homicide,
10 attempted suicide, injury, or substantial loss or damage to property;

11 (60) "Written order of apprehension" means an order of the court
12 for a peace officer to deliver the named person in the order to a
13 facility or emergency room as determined by the designated crisis
14 responder. Such orders shall be entered into the Washington crime
15 information center database.

16 (61) "Community behavioral health agency" has the same meaning as
17 "licensed or certified behavioral health agency" defined in RCW
18 71.24.025.

19 **Sec. 14.** RCW 71.05.740 and 2020 c 302 s 58 are each amended to
20 read as follows:

21 (1) All behavioral health administrative services organizations
22 in the state of Washington must forward historical behavioral health
23 involuntary commitment information retained by the organization,
24 including identifying information and dates of commitment to the
25 authority. As soon as feasible, the behavioral health administrative
26 services organizations must arrange to report new commitment data to
27 the authority within twenty-four hours. Commitment information under
28 this section does not need to be resent if it is already in the
29 possession of the authority. Behavioral health administrative
30 services organizations and the authority shall be immune from
31 liability related to the sharing of commitment information under this
32 section.

33 (2) All superior courts must share hearing outcomes in all
34 hearings under this chapter with the local behavioral health
35 administrative services organization that serves the region where the
36 superior court is located, including in cases in which the designated
37 crisis responder investigation occurred outside the region. The
38 hearing outcome data must include the name of the facility to which a
39 person has been committed.

1 **Sec. 15.** RCW 71.24.035 and 2020 c 256 s 202 are each amended to
2 read as follows:

3 (1) The authority is designated as the state behavioral health
4 authority which includes recognition as the single state authority
5 for substance use disorders and state mental health authority.

6 (2) The director shall provide for public, client, tribal, and
7 licensed or certified behavioral health agency participation in
8 developing the state behavioral health program, developing related
9 contracts, and any waiver request to the federal government under
10 medicaid.

11 (3) The director shall provide for participation in developing
12 the state behavioral health program for children and other
13 underserved populations, by including representatives on any
14 committee established to provide oversight to the state behavioral
15 health program.

16 (4) The authority shall be designated as the behavioral health
17 administrative services organization for a regional service area if a
18 behavioral health administrative services organization fails to meet
19 the authority's contracting requirements or refuses to exercise the
20 responsibilities under its contract or state law, until such time as
21 a new behavioral health administrative services organization is
22 designated.

23 (5) The director shall:

24 (a) Assure that any behavioral health administrative services
25 organization, managed care organization, or community behavioral
26 health program provides medically necessary services to medicaid
27 recipients consistent with the state's medicaid state plan or federal
28 waiver authorities, and nonmedicaid services consistent with
29 priorities established by the authority;

30 (b) Develop contracts in a manner to ensure an adequate network
31 of inpatient services, evaluation and treatment services, and
32 facilities under chapter 71.05 RCW to ensure access to treatment,
33 resource management services, and community support services;

34 (c) Make contracts necessary or incidental to the performance of
35 its duties and the execution of its powers, including managed care
36 contracts for behavioral health services, contracts entered into
37 under RCW 74.09.522, and contracts with public and private agencies,
38 organizations, and individuals to pay them for behavioral health
39 services;

1 (d) Define administrative costs and ensure that the behavioral
2 health administrative services organization does not exceed an
3 administrative cost of ten percent of available funds;

4 (e) Establish, to the extent possible, a standardized auditing
5 procedure which is designed to assure compliance with contractual
6 agreements authorized by this chapter and minimizes paperwork
7 requirements. The audit procedure shall focus on the outcomes of
8 service as provided in RCW 71.24.435, 70.320.020, and 71.36.025;

9 (f) Develop and maintain an information system to be used by the
10 state and behavioral health administrative services organizations and
11 managed care organizations that includes a tracking method which
12 allows the authority to identify behavioral health clients'
13 participation in any behavioral health service or public program on
14 an immediate basis. The information system shall not include
15 individual patient's case history files. Confidentiality of client
16 information and records shall be maintained as provided in this
17 chapter and chapter 70.02 RCW;

18 (g) Monitor and audit behavioral health administrative services
19 organizations as needed to assure compliance with contractual
20 agreements authorized by this chapter;

21 (h) Monitor and audit access to behavioral health services for
22 individuals eligible for medicaid who are not enrolled in a managed
23 care organization;

24 (i) Adopt such rules as are necessary to implement the
25 authority's responsibilities under this chapter;

26 (j) Administer or supervise the administration of the provisions
27 relating to persons with substance use disorders and intoxicated
28 persons of any state plan submitted for federal funding pursuant to
29 federal health, welfare, or treatment legislation;

30 (k) Require the behavioral health administrative services
31 organizations and the managed care organizations to develop
32 agreements with tribal, city, and county jails and the department of
33 corrections to accept referrals for enrollment on behalf of a
34 confined person, prior to the person's release;

35 (l) Require behavioral health administrative services
36 organizations and managed care organizations, as applicable, to
37 provide services as identified in RCW 71.05.585 to individuals
38 committed for involuntary commitment under less restrictive
39 alternative court orders when:

40 (i) The individual is enrolled in the medicaid program; or

1 (ii) The individual is not enrolled in medicaid((~~r~~)) and does not
2 have other insurance which can pay for the services((~~r~~—~~and~~—~~the~~
3 ~~behavioral health administrative services organization has adequate~~
4 ~~available resources to provide the services~~)); and

5 (m) Coordinate with the centers for medicare and medicaid
6 services to provide that behavioral health aide services are eligible
7 for federal funding of up to one hundred percent.

8 (6) The director shall use available resources only for
9 behavioral health administrative services organizations and managed
10 care organizations, except:

11 (a) To the extent authorized, and in accordance with any
12 priorities or conditions specified, in the biennial appropriations
13 act; or

14 (b) To incentivize improved performance with respect to the
15 client outcomes established in RCW 71.24.435, 70.320.020, and
16 71.36.025, integration of behavioral health and medical services at
17 the clinical level, and improved care coordination for individuals
18 with complex care needs.

19 (7) Each behavioral health administrative services organization,
20 managed care organization, and licensed or certified behavioral
21 health agency shall file with the secretary of the department of
22 health or the director, on request, such data, statistics, schedules,
23 and information as the secretary of the department of health or the
24 director reasonably requires. A behavioral health administrative
25 services organization, managed care organization, or licensed or
26 certified behavioral health agency which, without good cause, fails
27 to furnish any data, statistics, schedules, or information as
28 requested, or files fraudulent reports thereof, may be subject to the
29 contractual remedies in RCW 74.09.871 or may have its service
30 provider certification or license revoked or suspended.

31 (8) The superior court may restrain any behavioral health
32 administrative services organization, managed care organization, or
33 service provider from operating without a contract, certification, or
34 a license or any other violation of this section. The court may also
35 review, pursuant to procedures contained in chapter 34.05 RCW, any
36 denial, suspension, limitation, restriction, or revocation of
37 certification or license, and grant other relief required to enforce
38 the provisions of this chapter.

39 (9) Upon petition by the secretary of the department of health or
40 the director, and after hearing held upon reasonable notice to the

1 facility, the superior court may issue a warrant to an officer or
2 employee of the secretary of the department of health or the director
3 authorizing him or her to enter at reasonable times, and examine the
4 records, books, and accounts of any behavioral health administrative
5 services organization, managed care organization, or service provider
6 refusing to consent to inspection or examination by the authority.

7 (10) Notwithstanding the existence or pursuit of any other
8 remedy, the secretary of the department of health or the director may
9 file an action for an injunction or other process against any person
10 or governmental unit to restrain or prevent the establishment,
11 conduct, or operation of a behavioral health administrative services
12 organization, managed care organization, or service provider without
13 a contract, certification, or a license under this chapter.

14 (11) The authority shall distribute appropriated state and
15 federal funds in accordance with any priorities, terms, or conditions
16 specified in the appropriations act.

17 (12) The authority, in cooperation with the state congressional
18 delegation, shall actively seek waivers of federal requirements and
19 such modifications of federal regulations as are necessary to allow
20 federal medicaid reimbursement for services provided by freestanding
21 evaluation and treatment facilities licensed under chapter 71.12 RCW
22 or certified under chapter 71.05 RCW. The authority shall
23 periodically share the results of its efforts with the appropriate
24 committees of the senate and the house of representatives.

25 (13) The authority may:

26 (a) Plan, establish, and maintain substance use disorder
27 prevention and substance use disorder treatment programs as necessary
28 or desirable;

29 (b) Coordinate its activities and cooperate with behavioral
30 programs in this and other states, and make contracts and other joint
31 or cooperative arrangements with state, tribal, local, or private
32 agencies in this and other states for behavioral health services and
33 for the common advancement of substance use disorder programs;

34 (c) Solicit and accept for use any gift of money or property made
35 by will or otherwise, and any grant of money, services, or property
36 from the federal government, the state, or any political subdivision
37 thereof or any private source, and do all things necessary to
38 cooperate with the federal government or any of its agencies in
39 making an application for any grant;

1 (d) Keep records and engage in research and the gathering of
2 relevant statistics; and

3 (e) Acquire, hold, or dispose of real property or any interest
4 therein, and construct, lease, or otherwise provide substance use
5 disorder treatment programs.

6 **Sec. 16.** RCW 71.24.045 and 2019 c 325 s 1008 are each amended to
7 read as follows:

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

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

12 (i) A behavioral health crisis hotline for its assigned regional
13 service area;

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

16 (iii) Services related to involuntary commitments under chapters
17 71.05 and 71.34 RCW;

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

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

1 (~~(v)~~) (vi) Care coordination, diversion services, and discharge
2 planning for nonmedicaid individuals transitioning from state
3 hospitals or inpatient settings to reduce rehospitalization and
4 utilization of crisis services, as required by the authority in
5 contract; and

6 (~~(vi)~~) (vii) Regional coordination, cross-system and cross-
7 jurisdiction coordination with tribal governments, and capacity
8 building efforts, such as supporting the behavioral health advisory
9 board, the behavioral health ombuds, and efforts to support access to
10 services or to improve the behavioral health system;

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

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

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

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

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

24 (g) Establish and maintain quality assurance processes;

25 (h) Meet established limitations on administrative costs for
26 agencies that contract with the behavioral health administrative
27 services organization; and

28 (i) Maintain patient tracking information as required by the
29 authority.

30 (2) The behavioral health administrative services organization
31 must collaborate with the authority and its contracted managed care
32 organizations to develop and implement strategies to coordinate care
33 with tribes and community behavioral health providers for individuals
34 with a history of frequent crisis system utilization.

35 (3) The behavioral health administrative services organization
36 shall:

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

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

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

7 NEW SECTION. **Sec. 17.** A new section is added to chapter 71.24
8 RCW to read as follows:

9 The authority shall coordinate with the department of social and
10 health services to offer contracts to community behavioral health
11 agencies to support the nonmedicaid costs entailed in fulfilling the
12 agencies' role as transition team members for a person recommended
13 for conditional release to a less restrictive alternative under RCW
14 10.77.150, or for a person who qualifies for multidisciplinary
15 transition team services under RCW 71.05.320(6)(a)(i). The authority
16 may establish requirements, provide technical assistance, and provide
17 training as appropriate and within available funding.

18 NEW SECTION. **Sec. 18.** The Washington state health care
19 authority shall revise its behavioral health data system for tracking
20 involuntary commitment orders to distinguish less restrictive
21 alternative orders from other types of involuntary commitment orders,
22 including being able to distinguish between initial orders and
23 extensions.

24 NEW SECTION. **Sec. 19.** The provisions of this act apply to
25 persons who are committed for inpatient treatment under chapter 10.77
26 or 71.05 RCW as of the effective date of this section.

27 **Sec. 20.** 2020 c 302 s 110 (uncodified) is amended to read as
28 follows:

29 (1) Sections 4 and 28 (~~of this act~~), chapter 302, Laws of 2020
30 and sections 12 and 13 of this act take effect when monthly single-
31 bed certifications authorized under RCW 71.05.745 fall below 200
32 reports for 3 consecutive months.

33 (2) The health care authority must provide written notice of the
34 effective date of sections 4 and 28 (~~of this act~~), chapter 302,
35 Laws of 2020 and sections 12 and 13 of this act to affected parties,
36 the chief clerk of the house of representatives, the secretary of the

1 senate, the office of the code reviser, and others as deemed
2 appropriate by the authority.

3 NEW SECTION. **Sec. 21.** Section 2 of this act expires July 1,
4 2026.

5 NEW SECTION. **Sec. 22.** Section 3 of this act takes effect July
6 1, 2026.

7 NEW SECTION. **Sec. 23.** Sections 10 and 12 of this act expire
8 July 1, 2022.

9 NEW SECTION. **Sec. 24.** Sections 11 and 13 of this act take
10 effect July 1, 2022.

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