
SENATE BILL 5073

State of Washington

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2021 Regular Session

By Senators Dhingra, Das, Kuderer, Salomon, Warnick, and Wilson, C.

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1 AN ACT Relating to improving involuntary commitment laws;
2 amending RCW 71.05.210, 71.05.210, 71.05.240, 71.05.240, 71.05.320,
3 71.05.320, 71.05.340, 71.05.585, 71.05.590, 71.05.590, 71.34.755,
4 2.30.010, 70.02.230, 70.02.240, 71.05.425, and 71.24.035; amending
5 2020 c 302 s 110 (uncodified); reenacting and amending RCW 71.05.150,
6 71.05.150, 71.05.153, 71.05.153, 71.05.020, 71.05.020, 71.05.020, and
7 71.05.020; providing effective dates; providing a contingent
8 effective date; and providing expiration dates.

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

10 **Sec. 1.** RCW 71.05.150 and 2020 c 302 s 13, 2020 c 256 s 302, and
11 2020 c 5 s 2 are each reenacted and amended to read as follows:

12 (1) When a designated crisis responder receives information
13 alleging that a person, as a result of a behavioral health disorder,
14 presents a likelihood of serious harm or is gravely disabled, or that
15 a person is in need of assisted outpatient behavioral health
16 treatment; the designated crisis responder may, after investigation
17 and evaluation of the specific facts alleged and of the reliability
18 and credibility of any person providing information to initiate
19 detention or involuntary outpatient treatment, if satisfied that the
20 allegations are true and that the person will not voluntarily seek
21 appropriate treatment, file a petition for initial detention under

1 this section or a petition for involuntary outpatient behavioral
2 health treatment under RCW 71.05.148. Before filing the petition, the
3 designated crisis responder must personally interview the person,
4 unless the person refuses an interview, and determine whether the
5 person will voluntarily receive appropriate evaluation and treatment
6 at an evaluation and treatment facility, crisis stabilization unit,
7 triage facility, secure withdrawal management and stabilization
8 facility, or approved substance use disorder treatment program. As
9 part of the assessment, the designated crisis responder must attempt
10 to ascertain if the person has executed a mental health advance
11 directive under chapter 71.32 RCW. The interview performed by the
12 designated crisis responder may be conducted by video provided that a
13 licensed health care professional or professional person who can
14 adequately and accurately assist with obtaining any necessary
15 information is present with the person at the time of the interview.

16 (2) (a) A written order of apprehension to detain a person with a
17 behavioral health disorder to a designated evaluation and treatment
18 facility, a secure withdrawal management and stabilization facility,
19 or an approved substance use disorder treatment program, for a period
20 of not more than one hundred twenty hours for evaluation and
21 treatment, may be issued by a judge of the superior court upon
22 request of a designated crisis responder, subject to (d) of this
23 subsection, whenever it appears to the satisfaction of a judge of the
24 superior court:

- 25 (i) That there is probable cause to support the petition; and
26 (ii) That the person has refused or failed to accept appropriate
27 evaluation and treatment voluntarily.

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

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

36 (d) A court may not issue an order to detain a person to a secure
37 withdrawal management and stabilization facility or approved
38 substance use disorder treatment program unless there is an available
39 secure withdrawal management and stabilization facility or approved

1 substance use disorder treatment program that has adequate space for
2 the person.

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

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

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

38 (5) An Indian tribe shall have jurisdiction exclusive to the
39 state as to any involuntary commitment of an American Indian or
40 Alaska Native to an evaluation and treatment facility located within

1 the boundaries of that tribe, unless the tribe has consented to the
2 state's concurrent jurisdiction, or the tribe has expressly declined
3 to exercise its exclusive jurisdiction.

4 (6) Tribal court orders for involuntary commitment shall be
5 recognized and enforced in accordance with superior court civil rule
6 82.5.

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

21 **Sec. 2.** RCW 71.05.150 and 2020 c 302 s 14, 2020 c 256 s 303, and
22 2020 c 5 s 3 are each reenacted and amended to read as follows:

23 (1) When a designated crisis responder receives information
24 alleging that a person, as a result of a behavioral health disorder,
25 presents a likelihood of serious harm or is gravely disabled, or that
26 a person is in need of assisted outpatient behavioral health
27 treatment; the designated crisis responder may, after investigation
28 and evaluation of the specific facts alleged and of the reliability
29 and credibility of any person providing information to initiate
30 detention or involuntary outpatient treatment, if satisfied that the
31 allegations are true and that the person will not voluntarily seek
32 appropriate treatment, file a petition for initial detention under
33 this section or a petition for involuntary outpatient behavioral
34 health treatment under RCW 71.05.148. Before filing the petition, the
35 designated crisis responder must personally interview the person,
36 unless the person refuses an interview, and determine whether the
37 person will voluntarily receive appropriate evaluation and treatment
38 at an evaluation and treatment facility, crisis stabilization unit,
39 triage facility, secure withdrawal management and stabilization

1 facility, or approved substance use disorder treatment program. As
2 part of the assessment, the designated crisis responder must attempt
3 to ascertain if the person has executed a mental health advance
4 directive under chapter 71.32 RCW. The interview performed by the
5 designated crisis responder may be conducted by video provided that a
6 licensed health care professional or professional person who can
7 adequately and accurately assist with obtaining any necessary
8 information is present with the person at the time of the interview.

9 (2) (a) A written order of apprehension to detain a person with a
10 behavioral health disorder to a designated evaluation and treatment
11 facility, a secure withdrawal management and stabilization facility,
12 or an approved substance use disorder treatment program, for a period
13 of not more than one hundred twenty hours for evaluation and
14 treatment, may be issued by a judge of the superior court upon
15 request of a designated crisis responder whenever it appears to the
16 satisfaction of a judge of the superior court:

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

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

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

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

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

31 (3) The designated crisis responder shall then serve or cause to
32 be served on such person, his or her guardian, and conservator, if
33 any, a copy of the order together with a notice of rights, and a
34 petition for initial detention. After service on such person the
35 designated crisis responder shall file the return of service in court
36 and provide copies of all papers in the court file to the evaluation
37 and treatment facility, secure withdrawal management and
38 stabilization facility, or approved substance use disorder treatment
39 program, and the designated attorney. The designated crisis responder
40 shall notify the court and the prosecuting attorney that a probable

1 cause hearing will be held within one hundred twenty hours of the
2 date and time of outpatient evaluation or admission to the evaluation
3 and treatment facility, secure withdrawal management and
4 stabilization facility, or approved substance use disorder treatment
5 program. The person shall be permitted to be accompanied by one or
6 more of his or her relatives, friends, an attorney, a personal
7 physician, or other professional or religious advisor to the place of
8 evaluation. An attorney accompanying the person to the place of
9 evaluation shall be permitted to be present during the admission
10 evaluation. Any other individual accompanying the person may be
11 present during the admission evaluation. The facility may exclude the
12 individual if his or her presence would present a safety risk, delay
13 the proceedings, or otherwise interfere with the evaluation.

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

23 (5) An Indian tribe shall have jurisdiction exclusive to the
24 state as to any involuntary commitment of an American Indian or
25 Alaska Native to an evaluation and treatment facility located within
26 the boundaries of that tribe, unless the tribe has consented to the
27 state's concurrent jurisdiction, or the tribe has expressly declined
28 to exercise its exclusive jurisdiction.

29 (6) Tribal court orders for involuntary commitment shall be
30 recognized and enforced in accordance with superior court civil rule
31 82.5.

32 (7) In any investigation and evaluation of an individual under
33 RCW 71.05.150 or 71.05.153 in which the designated crisis responder
34 knows, or has reason to know, that the individual is an American
35 Indian or Alaska Native who receives medical or behavioral health
36 services from a tribe within this state, the designated crisis
37 responder shall notify the tribe or Indian health care provider
38 regarding whether or not a petition for initial detention or
39 involuntary outpatient treatment will be filed. Notification shall be
40 made in person or by telephonic or electronic communication to the

1 tribal contact listed in the authority's tribal crisis coordination
2 plan as soon as possible but no later than three hours subject to the
3 requirements in RCW 70.02.230 (2) ~~((dd))~~ (ee) and (3). A designated
4 crisis responder may restrict the release of information as necessary
5 to comply with 42 C.F.R. Part 2.

6 **Sec. 3.** RCW 71.05.153 and 2020 c 302 s 16 and 2020 c 5 s 4 are
7 each reenacted and amended to read as follows:

8 (1) When a designated crisis responder receives information
9 alleging that a person, as the result of a behavioral health
10 disorder, presents an imminent likelihood of serious harm, or is in
11 imminent danger because of being gravely disabled, after
12 investigation and evaluation of the specific facts alleged and of the
13 reliability and credibility of the person or persons providing the
14 information if any, the designated crisis responder may take such
15 person, or cause by oral or written order such person to be taken
16 into emergency custody in an evaluation and treatment facility,
17 secure withdrawal management and stabilization facility if available
18 with adequate space for the person, or approved substance use
19 disorder treatment program if available with adequate space for the
20 person, for not more than one hundred twenty hours as described in
21 RCW 71.05.180.

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

- 29 (i) Pursuant to subsection (1) of this section; or
- 30 (ii) When he or she has reasonable cause to believe that such
31 person is suffering from a behavioral health disorder and presents an
32 imminent likelihood of serious harm or is in imminent danger because
33 of being gravely disabled.

34 (b) A peace officer's delivery of a person, to a secure
35 withdrawal management and stabilization facility or approved
36 substance use disorder treatment program is subject to the
37 availability of a secure withdrawal management and stabilization
38 facility or approved substance use disorder treatment program with
39 adequate space for the person.

1 (3) Persons delivered to a crisis stabilization unit, evaluation
2 and treatment facility, emergency department of a local hospital,
3 triage facility that has elected to operate as an involuntary
4 facility, secure withdrawal management and stabilization facility, or
5 approved substance use disorder treatment program by peace officers
6 pursuant to subsection (2) of this section may be held by the
7 facility for a period of up to twelve hours, not counting time
8 periods prior to medical clearance.

9 (4) Within three hours after arrival, not counting time periods
10 prior to medical clearance, the person must be examined by a mental
11 health professional or substance use disorder professional. Within
12 twelve hours of notice of the need for evaluation, not counting time
13 periods prior to medical clearance, the designated crisis responder
14 must determine whether the individual meets detention criteria. As
15 part of the assessment, the designated crisis responder must attempt
16 to ascertain if the person has executed a mental health advance
17 directive under chapter 71.32 RCW. The interview performed by the
18 designated crisis responder may be conducted by video provided that a
19 licensed health care professional or professional person who can
20 adequately and accurately assist with obtaining any necessary
21 information is present with the person at the time of the interview.
22 If the individual is detained, the designated crisis responder shall
23 file a petition for detention or a supplemental petition as
24 appropriate and commence service on the designated attorney for the
25 detained person. If the individual is released to the community, the
26 behavioral health service provider shall inform the peace officer of
27 the release within a reasonable period of time after the release if
28 the peace officer has specifically requested notification and
29 provided contact information to the provider.

30 (5) Dismissal of a commitment petition is not the appropriate
31 remedy for a violation of the timeliness requirements of this section
32 based on the intent of this chapter under RCW 71.05.010 except in the
33 few cases where the facility staff or designated crisis responder has
34 totally disregarded the requirements of this section.

35 **Sec. 4.** RCW 71.05.153 and 2020 c 302 s 17 and 2020 c 5 s 5 are
36 each reenacted and amended to read as follows:

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

1 imminent danger because of being gravely disabled, after
2 investigation and evaluation of the specific facts alleged and of the
3 reliability and credibility of the person or persons providing the
4 information if any, the designated crisis responder may take such
5 person, or cause by oral or written order such person to be taken
6 into emergency custody in an evaluation and treatment facility,
7 secure withdrawal management and stabilization facility, or approved
8 substance use disorder treatment program, for not more than one
9 hundred twenty hours as described in RCW 71.05.180.

10 (2) A peace officer may take or cause such person to be taken
11 into custody and immediately delivered to a triage facility, crisis
12 stabilization unit, evaluation and treatment facility, secure
13 withdrawal management and stabilization facility, approved substance
14 use disorder treatment program, or the emergency department of a
15 local hospital under the following circumstances:

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

17 (b) When he or she has reasonable cause to believe that such
18 person is suffering from a behavioral health disorder and presents an
19 imminent likelihood of serious harm or is in imminent danger because
20 of being gravely disabled.

21 (3) Persons delivered to a crisis stabilization unit, evaluation
22 and treatment facility, emergency department of a local hospital,
23 triage facility that has elected to operate as an involuntary
24 facility, secure withdrawal management and stabilization facility, or
25 approved substance use disorder treatment program by peace officers
26 pursuant to subsection (2) of this section may be held by the
27 facility for a period of up to twelve hours, not counting time
28 periods prior to medical clearance.

29 (4) Within three hours after arrival, not counting time periods
30 prior to medical clearance, the person must be examined by a mental
31 health professional or substance use disorder professional. Within
32 twelve hours of notice of the need for evaluation, not counting time
33 periods prior to medical clearance, the designated crisis responder
34 must determine whether the individual meets detention criteria. As
35 part of the assessment, the designated crisis responder must attempt
36 to ascertain if the person has executed a mental health advance
37 directive under chapter 71.32 RCW. The interview performed by the
38 designated crisis responder may be conducted by video provided that a
39 licensed health care professional or professional person who can
40 adequately and accurately assist with obtaining any necessary

1 information is present with the person at the time of the interview.
2 If the individual is detained, the designated crisis responder shall
3 file a petition for detention or a supplemental petition as
4 appropriate and commence service on the designated attorney for the
5 detained person. If the individual is released to the community, the
6 behavioral health service provider shall inform the peace officer of
7 the release within a reasonable period of time after the release if
8 the peace officer has specifically requested notification and
9 provided contact information to the provider.

10 (5) Dismissal of a commitment petition is not the appropriate
11 remedy for a violation of the timeliness requirements of this section
12 based on the intent of this chapter under RCW 71.05.010 except in the
13 few cases where the facility staff or designated crisis responder has
14 totally disregarded the requirements of this section.

15 **Sec. 5.** RCW 71.05.210 and 2020 c 302 s 26 are each amended to
16 read as follows:

17 (1) Each person involuntarily detained and accepted or admitted
18 at an evaluation and treatment facility, secure withdrawal management
19 and stabilization facility, or approved substance use disorder
20 treatment program:

21 (a) Shall, within twenty-four hours of his or her admission or
22 acceptance at the facility, not counting time periods prior to
23 medical clearance, be examined and evaluated by:

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

26 (ii) One mental health professional. If the person is detained
27 for substance use disorder evaluation and treatment, the person may
28 be examined by a substance use disorder professional instead of a
29 mental health professional; and

30 (b) Shall receive such treatment and care as his or her condition
31 requires including treatment on an outpatient basis for the period
32 that he or she is detained, except that, beginning twenty-four hours
33 prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240,
34 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may
35 refuse psychiatric medications, but may not refuse: (i) Any other
36 medication previously prescribed by a person licensed under Title 18
37 RCW; or (ii) emergency lifesaving treatment, and the individual shall
38 be informed at an appropriate time of his or her right of such
39 refusal. The person shall be detained up to one hundred twenty hours,

1 if, in the opinion of the professional person in charge of the
2 facility, or his or her professional designee, the person presents a
3 likelihood of serious harm, or is gravely disabled. A person who has
4 been detained for one hundred twenty hours shall no later than the
5 end of such period be released, unless referred for further care on a
6 voluntary basis, or detained pursuant to court order for further
7 treatment as provided in this chapter.

8 (2) If, (~~after~~) at any time during the involuntary treatment
9 hold and following the initial examination and evaluation, the mental
10 health professional or substance use disorder professional and
11 licensed physician, physician assistant, or psychiatric advanced
12 registered nurse practitioner determine that the initial needs of the
13 person, if detained to an evaluation and treatment facility, would be
14 better served by placement in a secure withdrawal management and
15 stabilization facility or approved substance use disorder treatment
16 program, or, if detained to a secure withdrawal management and
17 stabilization facility or approved substance use disorder treatment
18 program, would be better served in an evaluation and treatment
19 facility then the person shall be referred to the more appropriate
20 placement; however, a person may only be referred to a secure
21 withdrawal management and stabilization facility or approved
22 substance use disorder treatment program if there is an available
23 secure withdrawal management and stabilization facility or approved
24 substance use disorder treatment program with adequate space for the
25 person.

26 (3) An evaluation and treatment center, secure withdrawal
27 management and stabilization facility, or approved substance use
28 disorder treatment program admitting or accepting any person pursuant
29 to this chapter whose physical condition reveals the need for
30 hospitalization shall assure that such person is transferred to an
31 appropriate hospital for evaluation or admission for treatment.
32 Notice of such fact shall be given to the court, the designated
33 attorney, and the designated crisis responder and the court shall
34 order such continuance in proceedings under this chapter as may be
35 necessary, but in no event may this continuance be more than fourteen
36 days.

37 **Sec. 6.** RCW 71.05.210 and 2020 c 302 s 27 are each amended to
38 read as follows:

1 (1) Each person involuntarily detained and accepted or admitted
2 at an evaluation and treatment facility, secure withdrawal management
3 and stabilization facility, or approved substance use disorder
4 treatment program:

5 (a) Shall, within twenty-four hours of his or her admission or
6 acceptance at the facility, not counting time periods prior to
7 medical clearance, be examined and evaluated by:

8 (i) One physician, physician assistant, or advanced registered
9 nurse practitioner; and

10 (ii) One mental health professional. If the person is detained
11 for substance use disorder evaluation and treatment, the person may
12 be examined by a substance use disorder professional instead of a
13 mental health professional; and

14 (b) Shall receive such treatment and care as his or her condition
15 requires including treatment on an outpatient basis for the period
16 that he or she is detained, except that, beginning twenty-four hours
17 prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240,
18 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may
19 refuse psychiatric medications, but may not refuse: (i) Any other
20 medication previously prescribed by a person licensed under Title 18
21 RCW; or (ii) emergency lifesaving treatment, and the individual shall
22 be informed at an appropriate time of his or her right of such
23 refusal. The person shall be detained up to one hundred twenty hours,
24 if, in the opinion of the professional person in charge of the
25 facility, or his or her professional designee, the person presents a
26 likelihood of serious harm, or is gravely disabled. A person who has
27 been detained for one hundred twenty hours shall no later than the
28 end of such period be released, unless referred for further care on a
29 voluntary basis, or detained pursuant to court order for further
30 treatment as provided in this chapter.

31 (2) If, (~~after~~) at any time during the involuntary treatment
32 hold and following the initial examination and evaluation, the mental
33 health professional or substance use disorder professional and
34 licensed physician, physician assistant, or psychiatric advanced
35 registered nurse practitioner determine that the initial needs of the
36 person, if detained to an evaluation and treatment facility, would be
37 better served by placement in a secure withdrawal management and
38 stabilization facility or approved substance use disorder treatment
39 program, or, if detained to a secure withdrawal management and
40 stabilization facility or approved substance use disorder treatment

1 program, would be better served in an evaluation and treatment
2 facility then the person shall be referred to the more appropriate
3 placement.

4 (3) An evaluation and treatment center, secure withdrawal
5 management and stabilization facility, or approved substance use
6 disorder treatment program admitting or accepting any person pursuant
7 to this chapter whose physical condition reveals the need for
8 hospitalization shall assure that such person is transferred to an
9 appropriate hospital for evaluation or admission for treatment.
10 Notice of such fact shall be given to the court, the designated
11 attorney, and the designated crisis responder and the court shall
12 order such continuance in proceedings under this chapter as may be
13 necessary, but in no event may this continuance be more than fourteen
14 days.

15 **Sec. 7.** RCW 71.05.240 and 2020 c 302 s 39 are each amended to
16 read as follows:

17 (1) If a petition is filed for fourteen day involuntary treatment
18 or ninety days of less restrictive alternative treatment, the court
19 shall hold a probable cause hearing within one hundred twenty hours
20 of the initial detention of such person as determined in RCW
21 71.05.180, or at a time determined under RCW 71.05.148.

22 (2) If the petition is for mental health treatment, the court or
23 the prosecutor at the time of the probable cause hearing and before
24 an order of commitment is entered shall inform the person both orally
25 and in writing that the failure to make a good faith effort to seek
26 voluntary treatment as provided in RCW 71.05.230 will result in the
27 loss of his or her firearm rights if the person is subsequently
28 detained for involuntary treatment under this section.

29 (3) If the person or his or her attorney alleges, prior to the
30 commencement of the hearing, that the person has in good faith
31 volunteered for treatment, the petitioner must show, by preponderance
32 of the evidence, that the person has not in good faith volunteered
33 for appropriate treatment. In order to qualify as a good faith
34 volunteer, the person must abide by procedures and a treatment plan
35 as prescribed by a treatment facility and professional staff.

36 (4) (a) Subject to (b) of this subsection, at the conclusion of
37 the probable cause hearing, if the court finds by a preponderance of
38 the evidence that such person, as the result of a behavioral health
39 disorder, presents a likelihood of serious harm, or is gravely

1 disabled, and, after considering less restrictive alternatives to
2 involuntary detention and treatment, finds that no such alternatives
3 are in the best interests of such person or others, the court shall
4 order that such person be detained for involuntary treatment not to
5 exceed fourteen days in a facility licensed or certified to provide
6 treatment by the department or under RCW 71.05.745.

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

11 (c) At the conclusion of the probable cause hearing, if the court
12 finds by a preponderance of the evidence that such person, as the
13 result of a behavioral health disorder, presents a likelihood of
14 serious harm or is gravely disabled, but that treatment in a less
15 restrictive setting than detention is in the best interest of such
16 person or others, the court shall order an appropriate less
17 restrictive alternative course of treatment for up to ninety days.

18 (d) If the court finds by a preponderance of the evidence that
19 such person, as the result of a behavioral health disorder, is in
20 need of assisted outpatient behavioral health treatment, and that the
21 person does not present a likelihood of serious harm and is not
22 gravely disabled, the court shall order an appropriate less
23 restrictive alternative course of treatment for up to ninety days.

24 (5) An order for less restrictive alternative treatment must name
25 the behavioral health service provider responsible for identifying
26 the services the person will receive in accordance with RCW
27 71.05.585, and must include a requirement that the person cooperate
28 with the treatment recommendations of the behavioral health service
29 provider. Nothing in this section precludes the court from
30 subsequently modifying the terms of an order for less restrictive
31 alternative treatment under RCW 71.05.590(3).

32 (6) The court shall notify the person orally and in writing that
33 if involuntary treatment is sought beyond the fourteen-day inpatient
34 or ninety-day less restrictive treatment period, the person has the
35 right to a full hearing or jury trial under RCW 71.05.310. If the
36 commitment is for mental health treatment, the court shall also
37 notify the person orally and in writing that the person is barred
38 from the possession of firearms and that the prohibition remains in
39 effect until a court restores his or her right to possess a firearm
40 under RCW 9.41.047.

1 (7) If the court does not issue an order to detain a person under
2 this section, the court shall issue an order to dismiss the petition.

3 **Sec. 8.** RCW 71.05.240 and 2020 c 302 s 40 are each amended to
4 read as follows:

5 (1) If a petition is filed for fourteen day involuntary treatment
6 or ninety days of less restrictive alternative treatment, the court
7 shall hold a probable cause hearing within one hundred twenty hours
8 of the initial detention of such person as determined in RCW
9 71.05.180, or at a time determined under RCW 71.05.148.

10 (2) If the petition is for mental health treatment, the court or
11 the prosecutor at the time of the probable cause hearing and before
12 an order of commitment is entered shall inform the person both orally
13 and in writing that the failure to make a good faith effort to seek
14 voluntary treatment as provided in RCW 71.05.230 will result in the
15 loss of his or her firearm rights if the person is subsequently
16 detained for involuntary treatment under this section.

17 (3) If the person or his or her attorney alleges, prior to the
18 commencement of the hearing, that the person has in good faith
19 volunteered for treatment, the petitioner must show, by preponderance
20 of the evidence, that the person has not in good faith volunteered
21 for appropriate treatment. In order to qualify as a good faith
22 volunteer, the person must abide by procedures and a treatment plan
23 as prescribed by a treatment facility and professional staff.

24 (4)(a) At the conclusion of the probable cause hearing, if the
25 court finds by a preponderance of the evidence that such person, as
26 the result of a behavioral health disorder, presents a likelihood of
27 serious harm, or is gravely disabled, and, after considering less
28 restrictive alternatives to involuntary detention and treatment,
29 finds that no such alternatives are in the best interests of such
30 person or others, the court shall order that such person be detained
31 for involuntary treatment not to exceed fourteen days in a facility
32 licensed or certified to provide treatment by the department or under
33 RCW 71.05.745.

34 (b) At the conclusion of the probable cause hearing, if the court
35 finds by a preponderance of the evidence that such person, as the
36 result of a behavioral health disorder, presents a likelihood of
37 serious harm or is gravely disabled, but that treatment in a less
38 restrictive setting than detention is in the best interest of such

1 person or others, the court shall order an appropriate less
2 restrictive alternative course of treatment for up to ninety days.

3 (c) If the court finds by a preponderance of the evidence that
4 such person, as the result of a behavioral health disorder, is in
5 need of assisted outpatient behavioral health treatment, and that the
6 person does not present a likelihood of serious harm and is not
7 gravely disabled, the court shall order an appropriate less
8 restrictive alternative course of treatment for up to ninety days.

9 (5) An order for less restrictive alternative treatment must name
10 the behavioral health service provider responsible for identifying
11 the services the person will receive in accordance with RCW
12 71.05.585, and must include a requirement that the person cooperate
13 with the treatment recommendations of the behavioral health service
14 provider. Nothing in this section precludes the court from
15 subsequently modifying the terms of an order for less restrictive
16 alternative treatment under RCW 71.05.590(3).

17 (6) The court shall notify the person orally and in writing that
18 if involuntary treatment is sought beyond the fourteen-day inpatient
19 or ninety-day less restrictive treatment period, such person has the
20 right to a full hearing or jury trial under RCW 71.05.310. If the
21 commitment is for mental health treatment, the court shall also
22 notify the person orally and in writing that the person is barred
23 from the possession of firearms and that the prohibition remains in
24 effect until a court restores his or her right to possess a firearm
25 under RCW 9.41.047.

26 (7) If the court does not issue an order to detain a person under
27 this section, the court shall issue an order to dismiss the petition.

28 **Sec. 9.** RCW 71.05.320 and 2020 c 302 s 45 are each amended to
29 read as follows:

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

38 (b) If the order for inpatient treatment is based on a substance
39 use disorder, treatment must take place at an approved substance use

1 disorder treatment program. The court may only enter an order for
2 commitment based on a substance use disorder if there is an available
3 approved substance use disorder treatment program with adequate space
4 for the person.

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

11 (2) If the court or jury finds that grounds set forth in RCW
12 71.05.280 have been proven, but finds that treatment less restrictive
13 than detention will be in the best interest of the person or others,
14 then the court shall remand him or her to the custody of the
15 department of social and health services or to a facility certified
16 for ninety day treatment by the department or to a less restrictive
17 alternative for a further period of less restrictive treatment not to
18 exceed ninety days from the date of judgment. If the grounds set
19 forth in RCW 71.05.280(3) are the basis of commitment, then the
20 period of treatment may be up to but not exceed one hundred eighty
21 days from the date of judgment. If the court or jury finds that the
22 grounds set forth in RCW 71.05.280(5) have been proven, and provide
23 the only basis for commitment, the court must enter an order for less
24 restrictive alternative treatment for up to ninety days from the date
25 of judgment and may not order inpatient treatment.

26 (3) An order for less restrictive alternative treatment entered
27 under subsection (2) of this section must name the behavioral health
28 service provider responsible for identifying the services the person
29 will receive in accordance with RCW 71.05.585, and must include a
30 requirement that the person cooperate with the services planned by
31 the behavioral health service provider.

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

39 (a) During the current period of court ordered treatment: (i) Has
40 threatened, attempted, or inflicted physical harm upon the person of

1 another, or substantial damage upon the property of another, and (ii)
2 as a result of a behavioral health disorder or developmental
3 disability presents a likelihood of serious harm; or

4 (b) Was taken into custody as a result of conduct in which he or
5 she attempted or inflicted serious physical harm upon the person of
6 another, and continues to present, as a result of a behavioral health
7 disorder or developmental disability, a likelihood of serious harm;
8 or

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

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

29 (d) Continues to be gravely disabled; or

30 (e) Is in need of assisted outpatient behavioral health
31 treatment.

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

35 If less restrictive alternative treatment is sought, the petition
36 shall set forth any recommendations for less restrictive alternative
37 treatment services.

38 (5) A new petition for involuntary treatment filed under
39 subsection (4) of this section shall be filed and heard in the
40 superior court of the county of the facility which is filing the new

1 petition for involuntary treatment unless good cause is shown for a
2 change of venue. The cost of the proceedings shall be borne by the
3 state.

4 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
5 and if the court or jury finds that the grounds for additional
6 confinement as set forth in this section are present, subject to
7 subsection (1)(b) of this section, the court may order the committed
8 person returned for an additional period of treatment not to exceed
9 one hundred eighty days from the date of judgment, except as provided
10 in subsection (7) of this section. If the court's order is based
11 solely on the grounds identified in subsection (4)(e) of this
12 section, the court may enter an order for less restrictive
13 alternative treatment not to exceed one hundred eighty days from the
14 date of judgment, and may not enter an order for inpatient treatment.
15 An order for less restrictive alternative treatment must name the
16 behavioral health service provider responsible for identifying the
17 services the person will receive in accordance with RCW 71.05.585,
18 and must include a requirement that the person cooperate with the
19 services planned by the behavioral health service provider.

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

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

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

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

1 **Sec. 10.** 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 (b) At the end of the one hundred eighty-day period of
30 commitment, or one-year period of commitment if subsection (7) of
31 this section applies, the committed person shall be released unless a
32 petition for an additional one hundred eighty-day period of continued
33 treatment is filed and heard in the same manner as provided in this
34 section. Successive one hundred eighty-day commitments are
35 permissible on the same grounds and pursuant to the same procedures
36 as the original one hundred eighty-day commitment.

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

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

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

8 **Sec. 11.** RCW 71.05.340 and 2018 c 201 s 3017 are each amended to
9 read as follows:

10 (1)(a) When, in the opinion of the superintendent or the
11 professional person in charge of the hospital or facility providing
12 involuntary treatment, the committed person can be appropriately
13 served by outpatient treatment prior to or at the expiration of the
14 period of commitment, then such outpatient care may be required as a
15 term of conditional release for a period which, when added to the
16 inpatient treatment period, shall not exceed ~~((the period of~~
17 ~~commitment))~~ 90 days if the underlying commitment was for a period of
18 14 or 90 days, or 180 days if the underlying commitment was for a
19 period of 180 days. If the facility or agency designated to provide
20 outpatient treatment is other than the facility providing involuntary
21 treatment, the outpatient facility so designated must agree in
22 writing to assume such responsibility. A copy of the terms of
23 conditional release shall be given to the patient, the designated
24 crisis responder in the county in which the patient is to receive
25 outpatient treatment, and to the court of original commitment.

26 (b) Before a person committed under grounds set forth in RCW
27 71.05.280(3) or 71.05.320(4)(c) is conditionally released under (a)
28 of this subsection, the superintendent or professional person in
29 charge of the hospital or facility providing involuntary treatment
30 shall in writing notify the prosecuting attorney of the county in
31 which the criminal charges against the committed person were
32 dismissed, of the decision to conditionally release the person.
33 Notice and a copy of the terms of conditional release shall be
34 provided at least thirty days before the person is released from
35 inpatient care. Within twenty days after receiving notice, the
36 prosecuting attorney may petition the court in the county that issued
37 the commitment order to hold a hearing to determine whether the
38 person may be conditionally released and the terms of the conditional
39 release. The prosecuting attorney shall provide a copy of the

1 petition to the superintendent or professional person in charge of
2 the hospital or facility providing involuntary treatment, the
3 attorney, if any, and guardian or conservator of the committed
4 person, and the court of original commitment. If the county in which
5 the committed person is to receive outpatient treatment is the same
6 county in which the criminal charges against the committed person
7 were dismissed, then the court shall, upon the motion of the
8 prosecuting attorney, transfer the proceeding to the court in that
9 county. The court shall conduct a hearing on the petition within ten
10 days of the filing of the petition. The committed person shall have
11 the same rights with respect to notice, hearing, and counsel as for
12 an involuntary treatment proceeding, except as set forth in this
13 subsection and except that there shall be no right to jury trial. The
14 issue to be determined at the hearing is whether or not the person
15 may be conditionally released without substantial danger to other
16 persons, or substantial likelihood of committing criminal acts
17 jeopardizing public safety or security. If the court disapproves of
18 the conditional release, it may do so only on the basis of
19 substantial evidence. Pursuant to the determination of the court upon
20 the hearing, the conditional release of the person shall be approved
21 by the court on the same or modified conditions or the person shall
22 be returned for involuntary treatment on an inpatient basis subject
23 to release at the end of the period for which he or she was
24 committed, or otherwise in accordance with the provisions of this
25 chapter.

26 (2) The facility or agency designated to provide outpatient care
27 or the secretary of the department of social and health services may
28 modify the conditions for continued release when such modification is
29 in the best interest of the person. Notification of such changes
30 shall be sent to all persons receiving a copy of the original
31 conditions. Enforcement or revocation proceedings related to a
32 conditional release order may occur as provided under RCW 71.05.590.

33 **Sec. 12.** RCW 71.05.585 and 2020 c 302 s 53 are each amended to
34 read as follows:

35 (1) (~~Less restrictive alternative~~) Court-ordered involuntary
36 outpatient behavioral health treatment, at a minimum, includes the
37 following services:

38 (a) Assignment of a care coordinator;

1 (b) An intake evaluation with the provider of the ((~~less~~
2 ~~restrictive alternative~~)) treatment;

3 (c) A psychiatric evaluation, a substance use disorder
4 evaluation, or both;

5 (d) A schedule of regular contacts with the provider of the
6 ((~~less restrictive alternative~~)) treatment services for the duration
7 of the order;

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

10 (f) An individual crisis plan; ((~~and~~))

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

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

16 (2) ((~~Less restrictive alternative~~)) Court-ordered involuntary
17 outpatient behavioral health treatment may additionally include
18 requirements to participate in the following services:

19 (a) Medication management;

20 (b) Psychotherapy;

21 (c) Nursing;

22 (d) Substance abuse counseling;

23 (e) Residential treatment; ((~~and~~))

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

25 (g) Periodic court review.

26 (3) If the person was provided with involuntary medication under
27 RCW 71.05.215 or pursuant to a judicial order during the involuntary
28 commitment period, the ((~~less restrictive alternative~~)) court-ordered
29 involuntary outpatient behavioral health treatment order may
30 authorize the ((~~less restrictive alternative~~)) treatment provider or
31 its designee to administer involuntary antipsychotic medication to
32 the person if the provider has attempted and failed to obtain the
33 informed consent of the person and there is a concurring medical
34 opinion approving the medication by a psychiatrist, physician
35 assistant working with a supervising psychiatrist, psychiatric
36 advanced registered nurse practitioner, or physician or physician
37 assistant in consultation with an independent mental health
38 professional with prescribing authority.

39 (4) ((~~Less restrictive alternative~~)) Court-ordered involuntary
40 outpatient behavioral health treatment must be administered by a

1 provider that is certified or licensed to provide or coordinate the
2 full scope of services required under the (~~less restrictive~~
3 ~~alternative~~)) order and that has agreed to assume this
4 responsibility.

5 (5) The care coordinator assigned to a person ordered to (~~less~~
6 ~~restrictive alternative~~)) court-ordered involuntary outpatient
7 behavioral health treatment must submit an individualized plan for
8 the person's treatment services to the court that entered the order.
9 An initial plan must be submitted as soon as possible following the
10 intake evaluation and a revised plan must be submitted upon any
11 subsequent modification in which a type of service is removed from or
12 added to the treatment plan.

13 (6) A care coordinator may share information, including treatment
14 and compliance records, to parties necessary for the implementation
15 of proceedings under this chapter or chapter 10.77 RCW without a
16 release of information.

17 (7) For the purpose of this section(~~(, "care~~)):

18 (a) "Care coordinator" means a clinical practitioner who
19 coordinates the activities of (~~less restrictive alternative~~)) court-
20 ordered involuntary outpatient behavioral health treatment. The care
21 coordinator coordinates activities with the designated crisis
22 responders that are necessary for enforcement and continuation of
23 less restrictive alternative orders and assisted outpatient
24 behavioral health treatment orders, coordinates activities with the
25 department of social and health services regarding conditional
26 release orders under chapter 10.77 RCW, and is responsible for
27 coordinating service activities with other agencies and establishing
28 and maintaining a therapeutic relationship with the individual on a
29 continuing basis; and

30 (b) "Court-ordered involuntary outpatient behavioral health
31 treatment" means mandatory treatment provided in a less restrictive
32 setting than inpatient hospitalization pursuant to a less restrictive
33 alternative treatment, conditional release, or assisted outpatient
34 behavioral health treatment order under this chapter, or pursuant to
35 a conditional release order under chapter 10.77 RCW.

36 **Sec. 13.** RCW 71.05.590 and 2020 c 302 s 55 are each amended to
37 read as follows:

38 (1) Either an agency or facility designated to monitor or provide
39 services under a less restrictive alternative order or conditional

1 release order, or a designated crisis responder, may take action to
2 enforce, modify, or revoke a less restrictive alternative or
3 conditional release order. The agency, facility, or designated crisis
4 responder must determine that:

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

7 (b) Substantial deterioration in the person's functioning has
8 occurred;

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

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

13 (2) Actions taken under this section must include a flexible
14 range of responses of varying levels of intensity appropriate to the
15 circumstances and consistent with the interests of the individual and
16 the public in personal autonomy, safety, recovery, and compliance.
17 Available actions may include, but are not limited to, any of the
18 following:

19 (a) To counsel or advise the person as to their rights and
20 responsibilities under the court order, and to offer appropriate
21 incentives to motivate compliance;

22 (b) To increase the intensity of outpatient services provided to
23 the person by increasing the frequency of contacts with the provider,
24 referring the person for an assessment for assertive community
25 services, or by other means;

26 (c) To request a court hearing for review and modification of the
27 court order. The request must be made to or by the court with
28 jurisdiction over the order and specify the circumstances that give
29 rise to the request and what modification is being sought. The county
30 prosecutor shall assist the agency or facility in requesting this
31 hearing and issuing an appropriate summons to the person. This
32 subsection does not limit the inherent authority of a treatment
33 provider to alter conditions of treatment for clinical reasons, and
34 is intended to be used only when court intervention is necessary or
35 advisable to secure the person's compliance and prevent
36 decompensation or deterioration;

37 (d) To cause the person to be transported by a peace officer,
38 designated crisis responder, or other means to the agency or facility
39 monitoring or providing services under the court order, or to a
40 triage facility, crisis stabilization unit, emergency department,

1 evaluation and treatment facility, secure withdrawal management and
2 stabilization facility with available space, or an approved substance
3 use disorder treatment program with available space. The person may
4 be detained at the facility for up to twelve hours for the purpose of
5 an evaluation to determine whether modification, revocation, or
6 commitment proceedings are necessary and appropriate to stabilize the
7 person and prevent decompensation, deterioration, or physical harm.
8 Temporary detention for evaluation under this subsection is intended
9 to occur only following a pattern of noncompliance or the failure of
10 reasonable attempts at outreach and engagement, and may occur only
11 when in the clinical judgment of a designated crisis responder or the
12 professional person in charge of an agency or facility designated to
13 monitor less restrictive alternative services temporary detention is
14 appropriate. This subsection does not limit the ability or obligation
15 to pursue revocation procedures under subsection ~~((4))~~ (5) of this
16 section in appropriate circumstances; and

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

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

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

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

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

37 ~~((4))~~ (5)(a) Except as provided in subsection ~~((6))~~ (7) of
38 this section, a designated crisis responder or the secretary of the
39 department of social and health services may upon their own motion or
40 notification by the facility or agency designated to provide

1 outpatient care order a person subject to a court order under this
2 chapter to be apprehended and taken into custody and temporary
3 detention in an evaluation and treatment facility, an available
4 secure withdrawal management and stabilization facility with adequate
5 space, or an available approved substance use disorder treatment
6 program with adequate space, in or near the county in which he or she
7 is receiving outpatient treatment. Proceedings under this subsection
8 (~~(4)~~) (5) may be initiated without ordering the apprehension and
9 detention of the person.

10 (b) Except as provided in subsection (~~(6)~~) (7) of this section,
11 a person detained under this subsection (~~(4)~~) (5) must be held
12 until such time, not exceeding five days, as a hearing can be
13 scheduled to determine whether or not the person should be returned
14 to the hospital or facility from which he or she had been released.
15 If the person is not detained, the hearing must be scheduled within
16 five days of service on the person. The designated crisis responder
17 or the secretary of the department of social and health services may
18 modify or rescind the order at any time prior to commencement of the
19 court hearing.

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

34 (d) Except as provided in subsection (~~(6)~~) (7) of this section,
35 the issues for the court to determine are whether: (i) The person
36 adhered to the terms and conditions of the court order; (ii)
37 substantial deterioration in the person's functioning has occurred;
38 (iii) there is evidence of substantial decompensation with a
39 reasonable probability that the decompensation can be reversed by
40 further inpatient treatment; or (iv) there is a likelihood of serious

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

20 ~~((+5))~~ (6) In determining whether or not to take action under
21 this section the designated crisis responder, agency, or facility
22 must consider the factors specified under RCW 71.05.212 and the court
23 must consider the factors specified under RCW 71.05.245 as they apply
24 to the question of whether to enforce, modify, or revoke a court
25 order for involuntary treatment.

26 ~~((+6))~~ (7)(a) If the current commitment is solely based on the
27 person being in need of assisted outpatient behavioral health
28 treatment as defined in RCW 71.05.020, a designated crisis responder
29 may initiate inpatient detention procedures under RCW 71.05.150 or
30 71.05.153 when appropriate. A designated crisis responder or the
31 secretary may, upon their own motion or notification by the facility
32 or agency designated to provide outpatient care to a person subject
33 to a less restrictive alternative treatment order under RCW 71.05.320
34 subsequent to an order for assisted outpatient behavioral health
35 treatment entered under RCW 71.05.148, order the person to be
36 apprehended and taken into custody and temporary detention for
37 inpatient evaluation in an evaluation and treatment facility, secure
38 withdrawal management and stabilization facility, or in an approved
39 substance use disorder treatment program, in or near the county in
40 which he or she is receiving outpatient treatment. Proceedings under

1 this subsection may be initiated without ordering the apprehension
2 and detention of the person.

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

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

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

26 **Sec. 14.** RCW 71.05.590 and 2020 c 302 s 56 are each amended to
27 read as follows:

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

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

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

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

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

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

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

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

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

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

1 of noncompliance or the failure of reasonable attempts at outreach
2 and engagement, and may occur only when in the clinical judgment of a
3 designated crisis responder or the professional person in charge of
4 an agency or facility designated to monitor less restrictive
5 alternative services temporary detention is appropriate. This
6 subsection does not limit the ability or obligation to pursue
7 revocation procedures under subsection ~~((4))~~ (5) of this section in
8 appropriate circumstances; and

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

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

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

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

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

29 ~~((4))~~ (5) (a) Except as provided in subsection ~~((6))~~ (7) of
30 this section, a designated crisis responder or the secretary of the
31 department of social and health services may upon their own motion or
32 notification by the facility or agency designated to provide
33 outpatient care order a person subject to a court order under this
34 chapter to be apprehended and taken into custody and temporary
35 detention in an evaluation and treatment facility, in a secure
36 withdrawal management and stabilization facility, or in an approved
37 substance use disorder treatment program, in or near the county in
38 which he or she is receiving outpatient treatment. Proceedings under
39 this subsection ~~((4))~~ (5) may be initiated without ordering the
40 apprehension and detention of the person.

1 (b) Except as provided in subsection (~~(+6)~~) (7) of this section,
2 a person detained under this subsection (~~(+4)~~) (5) must be held
3 until such time, not exceeding five days, as a hearing can be
4 scheduled to determine whether or not the person should be returned
5 to the hospital or facility from which he or she had been released.
6 If the person is not detained, the hearing must be scheduled within
7 five days of service on the person. The designated crisis responder
8 or the secretary of the department of social and health services may
9 modify or rescind the order at any time prior to commencement of the
10 court hearing.

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

25 (d) Except as provided in subsection (~~(+6)~~) (7) of this section,
26 the issues for the court to determine are whether: (i) The person
27 adhered to the terms and conditions of the court order; (ii)
28 substantial deterioration in the person's functioning has occurred;
29 (iii) there is evidence of substantial decompensation with a
30 reasonable probability that the decompensation can be reversed by
31 further inpatient treatment; or (iv) there is a likelihood of serious
32 harm; and, if any of the above conditions apply, whether the court
33 should reinstate or modify the person's less restrictive alternative
34 or conditional release order or order the person's detention for
35 inpatient treatment. The person may waive the court hearing and allow
36 the court to enter a stipulated order upon the agreement of all
37 parties. If the court orders detention for inpatient treatment, the
38 treatment period must be for fourteen days from the revocation
39 hearing if the outpatient order was based on a petition under RCW
40 71.05.160 or 71.05.230. If the court orders detention for inpatient

1 treatment and the outpatient order was based on a petition under RCW
2 71.05.290 or 71.05.320, the number of days remaining on the
3 outpatient order must be converted to days of inpatient treatment
4 authorized in the original court order.

5 ~~((5))~~ (6) In determining whether or not to take action under
6 this section the designated crisis responder, agency, or facility
7 must consider the factors specified under RCW 71.05.212 and the court
8 must consider the factors specified under RCW 71.05.245 as they apply
9 to the question of whether to enforce, modify, or revoke a court
10 order for involuntary treatment.

11 ~~((6))~~ (7)(a) If the current commitment is solely based on the
12 person being in need of assisted outpatient behavioral health
13 treatment as defined in RCW 71.05.020, a designated crisis responder
14 may initiate inpatient detention procedures under RCW 71.05.150 or
15 71.05.153 when appropriate. A designated crisis responder or the
16 secretary may, upon their own motion or notification by the facility
17 or agency designated to provide outpatient care to a person subject
18 to a less restrictive alternative treatment order under RCW 71.05.320
19 subsequent to an order for assisted outpatient behavioral health
20 treatment entered under RCW 71.05.148, order the person to be
21 apprehended and taken into custody and temporary detention for
22 inpatient evaluation in an evaluation and treatment facility, in a
23 secure withdrawal management and stabilization facility, or in an
24 approved substance use disorder treatment program, in or near the
25 county in which he or she is receiving outpatient treatment.
26 Proceedings under this subsection may be initiated without ordering
27 the apprehension and detention of the person.

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

33 (c) The issues for the court to determine are whether to continue
34 the detention of the person for inpatient treatment or whether the
35 court should reinstate or modify the person's less restrictive
36 alternative order or order the person's detention for inpatient
37 treatment. To continue detention after the one hundred twenty hour
38 period, the court must find that the person, as a result of a
39 behavioral health disorder, presents a likelihood of serious harm or
40 is gravely disabled and, after considering less restrictive

1 alternatives to involuntary detention and treatment, that no such
2 alternatives are in the best interest of the person or others.

3 **Sec. 15.** RCW 71.34.755 and 2020 c 302 s 96 are each amended to
4 read as follows:

5 (1) (~~Less restrictive alternative~~) Court-ordered involuntary
6 outpatient behavioral health treatment, at a minimum, must include
7 the following services:

8 (a) Assignment of a care coordinator;

9 (b) An intake evaluation with the provider of the (~~less~~
10 ~~restrictive alternative~~) treatment;

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

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

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

18 (f) An individual crisis plan; (~~and~~)

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

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

24 (2) (~~Less restrictive alternative~~) Court-ordered involuntary
25 outpatient behavioral health treatment may include the following
26 additional services:

27 (a) Medication management;

28 (b) Psychotherapy;

29 (c) Nursing;

30 (d) Substance abuse counseling;

31 (e) Residential treatment; (~~and~~)

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

33 (g) Periodic court review.

34 (3) If the minor was provided with involuntary medication during
35 the involuntary commitment period, the (~~less restrictive~~
36 ~~alternative~~) court-ordered involuntary outpatient behavioral health
37 treatment order may authorize the (~~less restrictive alternative~~)
38 treatment provider or its designee to administer involuntary
39 antipsychotic medication to the person if the provider has attempted

1 and failed to obtain the informed consent of the person and there is
2 a concurring medical opinion approving the medication by a
3 psychiatrist, physician assistant working with a supervising
4 psychiatrist, psychiatric advanced registered nurse practitioner, or
5 physician or physician assistant in consultation with an independent
6 mental health professional with prescribing authority.

7 (4) (~~Less restrictive alternative~~) Court-ordered involuntary
8 outpatient behavioral health treatment must be administered by a
9 provider that is certified or licensed to provide or coordinate the
10 full scope of services required under the (~~less restrictive~~
11 ~~alternative~~) order and that has agreed to assume this
12 responsibility.

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

21 (6) A care coordinator may share information, including treatment
22 and compliance records, to parties necessary for the implementation
23 of proceedings under this chapter or chapter 10.77 RCW without a
24 release of information.

25 (7) For the purpose of this section (~~(, "care)~~):

26 (a) "Care coordinator" means a clinical practitioner who
27 coordinates the activities of (~~less restrictive alternative~~) court-
28 ordered involuntary outpatient behavioral health treatment. The care
29 coordinator coordinates activities with the designated crisis
30 responders that are necessary for enforcement and continuation of
31 less restrictive alternative treatment orders and assisted outpatient
32 behavioral health treatment orders, coordinates activities with the
33 department of social and health services regarding conditional
34 release orders under chapter 10.77 RCW, and is responsible for
35 coordinating service activities with other agencies and establishing
36 and maintaining a therapeutic relationship with the individual on a
37 continuing basis; and

38 (b) "Court-ordered involuntary outpatient behavioral health
39 treatment" means mandatory treatment provided in a less restrictive
40 setting than inpatient hospitalization pursuant to a less restrictive

1 alternative treatment, conditional release, or assisted outpatient
2 behavioral health treatment order under this chapter, or pursuant to
3 a conditional release order under chapter 10.77 RCW.

4 **Sec. 16.** RCW 2.30.010 and 2015 c 291 s 1 are each amended to
5 read as follows:

6 (1) The legislature finds that judges in the trial courts
7 throughout the state effectively utilize what are known as
8 therapeutic courts to remove a defendant's or respondent's case from
9 the criminal and civil court traditional trial track and allow those
10 defendants or respondents the opportunity to obtain treatment
11 services to address particular issues that may have contributed to
12 the conduct that led to their arrest or other issues before the
13 court. Trial courts have proved adept at creative approaches in
14 fashioning a wide variety of therapeutic courts addressing the
15 spectrum of social issues that can contribute to criminal activity
16 and engagement with the child welfare system.

17 (2) The legislature further finds that by focusing on the
18 specific individual's needs, providing treatment for the issues
19 presented, and ensuring rapid and appropriate accountability for
20 program violations, therapeutic courts may decrease recidivism,
21 improve the safety of the community, and improve the life of the
22 program participant and the lives of the participant's family members
23 by decreasing the severity and frequency of the specific behavior
24 addressed by the therapeutic court.

25 (3) The legislature recognizes the inherent authority of the
26 judiciary under Article IV, section 1 of the state Constitution to
27 establish therapeutic courts, and the outstanding contribution to the
28 state and local communities made by the establishment of therapeutic
29 courts and desires to provide a general provision in statute
30 acknowledging and encouraging the judiciary to provide for
31 therapeutic court programs to address the particular needs within a
32 given judicial jurisdiction.

33 (4) Therapeutic court programs may include, but are not limited
34 to:

- 35 (a) Adult drug court;
- 36 (b) Juvenile drug court;
- 37 (c) Family dependency treatment court or family drug court;
- 38 (d) Mental health court, which may include participants with
39 developmental disabilities;

- 1 (e) DUI court;
- 2 (f) Veterans treatment court;
- 3 (g) Truancy court;
- 4 (h) Domestic violence court;
- 5 (i) Gambling court;
- 6 (j) Community court;
- 7 (k) Homeless court;
- 8 (l) Treatment, responsibility, and accountability on campus (Back
- 9 on TRAC) court; and
- 10 (m) Involuntary treatment act therapeutic treatment courts, which
- 11 monitor and assist patients who are in the community under an
- 12 assisted outpatient behavioral health treatment order, conditional
- 13 release order, or less restrictive alternative order entered under
- 14 chapter 71.05 RCW.

15 **Sec. 17.** RCW 70.02.230 and 2020 c 256 s 402 are each amended to
16 read as follows:

17 (1) (~~Except as provided in this section, RCW 70.02.050,~~

18 ~~71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and~~

19 ~~70.02.265, or pursuant to a valid authorization under RCW 70.02.030,~~

20 ~~the~~) The fact of admission to a provider for mental health services

21 and all information and records compiled, obtained, or maintained in

22 the course of providing mental health services to either voluntary or

23 involuntary recipients of services at public or private agencies

24 ((must be confidential)) may not be disclosed except as provided in

25 this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210,

26 70.02.240, 70.02.250, 70.02.260, and 70.02.265, or under a valid

27 authorization under RCW 70.02.030.

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

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

- 36 (i) Employed by the facility;
- 37 (ii) Who has medical responsibility for the patient's care;
- 38 (iii) Who is a designated crisis responder;
- 39 (iv) Who is providing services under chapter 71.24 RCW;

1 (v) Who is employed by a state or local correctional facility
2 where the person is confined or supervised; or

3 (vi) Who is providing evaluation, treatment, or follow-up
4 services under chapter 10.77 RCW;

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

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

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

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

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

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

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

31 (ii) To a court or its designee in which a motion under chapter
32 10.77 RCW has been made for involuntary medication of a defendant for
33 the purpose of competency restoration.

34 (iii) Disclosure under this subsection is mandatory for the
35 purpose of the federal health insurance portability and
36 accountability act;

37 (e)(i) When a mental health professional or designated crisis
38 responder is requested by a representative of a law enforcement or
39 corrections agency, including a police officer, sheriff, community
40 corrections officer, a municipal attorney, or prosecuting attorney to

1 undertake an investigation or provide treatment under RCW 71.05.150,
2 10.31.110, or 71.05.153, the mental health professional or designated
3 crisis responder shall, if requested to do so, advise the
4 representative in writing of the results of the investigation
5 including a statement of reasons for the decision to detain or
6 release the person investigated. The written report must be submitted
7 within seventy-two hours of the completion of the investigation or
8 the request from the law enforcement or corrections representative,
9 whichever occurs later.

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

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

14 (g) To the prosecuting attorney as necessary to carry out the
15 responsibilities of the office under RCW 71.05.330(2),
16 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
17 access to records regarding the committed person's treatment and
18 prognosis, medication, behavior problems, and other records relevant
19 to the issue of whether treatment less restrictive than inpatient
20 treatment is in the best interest of the committed person or others.
21 Information must be disclosed only after giving notice to the
22 committed person and the person's counsel;

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

36 (ii) Disclosure under this subsection is mandatory for the
37 purposes of the federal health insurance portability and
38 accountability act;

39 (i)(i) To appropriate corrections and law enforcement agencies
40 all necessary and relevant information in the event of a crisis or

1 emergent situation that poses a significant and imminent risk to the
2 public. The mental health service agency or its employees are not
3 civilly liable for the decision to disclose or not so long as the
4 decision was reached in good faith and without gross negligence.

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

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

9 (k) By a care coordinator under RCW 71.05.585 assigned to a
10 person ordered to receive court-ordered involuntary outpatient
11 behavioral health treatment for the purpose of sharing information to
12 parties necessary for the implementation of proceedings under chapter
13 71.05 or 10.77 RCW;

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

22 (~~(l)~~) (m) To mark headstones or otherwise memorialize patients
23 interred at state hospital cemeteries. The department of social and
24 health services shall make available the name, date of birth, and
25 date of death of patients buried in state hospital cemeteries fifty
26 years after the death of a patient;

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

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

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

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

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

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

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

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

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

35 ~~((s))~~ (t) Between the department of social and health services,
36 the department of children, youth, and families, and the health care
37 authority as necessary to coordinate treatment for mental illness,
38 developmental disabilities, alcoholism, or drug abuse of persons who
39 are under the supervision of the department of social and health
40 services or the department of children, youth, and families;

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

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

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

12 (B) Any other person who is working in a care coordinator role
13 for a health care facility, health care provider, or Indian health
14 care provider, or is under an agreement pursuant to the federal
15 health insurance portability and accountability act with a health
16 care facility or a health care provider and requires the information
17 and records to assure coordinated care and treatment of that patient.

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

22 (iii) Psychotherapy notes may not be released without
23 authorization of the patient who is the subject of the request for
24 release of information;

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

28 (~~(w)~~) (x) To a facility that is to receive a person who is
29 involuntarily committed under chapter 71.05 RCW, or upon transfer of
30 the person from one evaluation and treatment facility to another. The
31 release of records under this subsection is limited to the
32 information and records related to mental health services required by
33 law, a record or summary of all somatic treatments, and a discharge
34 summary. The discharge summary may include a statement of the
35 patient's problem, the treatment goals, the type of treatment which
36 has been provided, and recommendation for future treatment, but may
37 not include the patient's complete treatment record;

38 (~~(x)~~) (y) To the person's counsel or guardian ad litem, without
39 modification, at any time in order to prepare for involuntary
40 commitment or recommitment proceedings, reexaminations, appeals, or

1 other actions relating to detention, admission, commitment, or
2 patient's rights under chapter 71.05 RCW;

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

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

34 ~~((aa))~~ (bb) (i) To the secretary of social and health services
35 and the director of the health care authority for either program
36 evaluation or research, or both so long as the secretary or director,
37 where applicable, adopts rules for the conduct of the evaluation or
38 research, or both. Such rules must include, but need not be limited
39 to, the requirement that all evaluators and researchers sign an oath
40 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 persons who have received services such that the person who
7 received such services is identifiable.

8 I recognize that unauthorized release of confidential information
9 may subject me to civil liability under the provisions of state law.
10 /s/"

11 (ii) Nothing in this chapter may be construed to prohibit the
12 compilation and publication of statistical data for use by government
13 or researchers under standards, including standards to assure
14 maintenance of confidentiality, set forth by the secretary, or
15 director, where applicable;

16 (~~(bb)~~) (cc) To any person if the conditions in RCW 70.02.205
17 are met;

18 (~~(ee)~~) (dd) To the secretary of health for the purposes of the
19 maternal mortality review panel established in RCW 70.54.450; or

20 (~~(dd)~~) (ee) To a tribe or Indian health care provider to carry
21 out the requirements of RCW 71.05.150(7).

22 (3) Whenever federal law or federal regulations restrict the
23 release of information contained in the information and records
24 related to mental health services of any patient who receives
25 treatment for a substance use disorder, the department or the
26 authority may restrict the release of the information as necessary to
27 comply with federal law and regulations.

28 (4) Civil liability and immunity for the release of information
29 about a particular person who is committed to the department of
30 social and health services or the authority under RCW 71.05.280(3)
31 and 71.05.320(4)(c) after dismissal of a sex offense as defined in
32 RCW 9.94A.030, is governed by RCW 4.24.550.

33 (5) The fact of admission to a provider of mental health
34 services, as well as all records, files, evidence, findings, or
35 orders made, prepared, collected, or maintained pursuant to chapter
36 71.05 RCW are not admissible as evidence in any legal proceeding
37 outside that chapter without the written authorization of the person
38 who was the subject of the proceeding except as provided in RCW
39 70.02.260, in a subsequent criminal prosecution of a person committed

1 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were
2 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand
3 trial, in a civil commitment proceeding pursuant to chapter 71.09
4 RCW, or, in the case of a minor, a guardianship or dependency
5 proceeding. The records and files maintained in any court proceeding
6 pursuant to chapter 71.05 RCW must be confidential and available
7 subsequent to such proceedings only to the person who was the subject
8 of the proceeding or his or her attorney. In addition, the court may
9 order the subsequent release or use of such records or files only
10 upon good cause shown if the court finds that appropriate safeguards
11 for strict confidentiality are and will be maintained.

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

17 (i) One thousand dollars; or

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

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

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

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

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

31 **Sec. 18.** RCW 70.02.240 and 2019 c 381 s 20 are each amended to
32 read as follows:

33 The fact of admission and all information and records related to
34 mental health services obtained through inpatient or outpatient
35 treatment of a minor under chapter 71.34 RCW must be kept
36 confidential, except as authorized by this section or under RCW
37 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265.
38 Confidential information under this section may be disclosed only:

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

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

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

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

9 (5) By a care coordinator under RCW 71.34.755 assigned to a
10 person ordered to receive court-ordered involuntary outpatient
11 behavioral health treatment for the purpose of sharing information to
12 parties necessary for the implementation of proceedings under chapter
13 71.34 or 10.77 RCW;

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

19 ((+6)) (7) To law enforcement officers, public health officers,
20 relatives, and other governmental law enforcement agencies, if a
21 minor has escaped from custody, disappeared from an evaluation and
22 treatment facility, violated conditions of a less restrictive
23 treatment order, or failed to return from an authorized leave, and
24 then only such information as may be necessary to provide for public
25 safety or to assist in the apprehension of the minor. The officers
26 are obligated to keep the information confidential in accordance with
27 this chapter;

28 ((+7)) (8) To the secretary of social and health services and
29 the director of the health care authority for assistance in data
30 collection and program evaluation or research so long as the
31 secretary or director, where applicable, adopts rules for the conduct
32 of such evaluation and research. The rules must include, but need not
33 be limited to, the requirement that all evaluators and researchers
34 sign an oath of confidentiality substantially as follows:

35 "As a condition of conducting evaluation or research concerning
36 persons who have received services from (fill in the facility,
37 agency, or person) I,, agree not to divulge, publish, or
38 otherwise make known to unauthorized persons or the public any
39 information obtained in the course of such evaluation or research

1 regarding minors who have received services in a manner such that the
2 minor is identifiable.

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

5 /s/";

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

13 ~~((9))~~ (10) To appropriate law enforcement agencies and to a
14 person, when the identity of the person is known to the public or
15 private agency, whose health and safety has been threatened, or who
16 is known to have been repeatedly harassed, by the patient. The person
17 may designate a representative to receive the disclosure. The
18 disclosure must be made by the professional person in charge of the
19 public or private agency or his or her designee and must include the
20 dates of admission, discharge, authorized or unauthorized absence
21 from the agency's facility, and only any other information that is
22 pertinent to the threat or harassment. The agency or its employees
23 are not civilly liable for the decision to disclose or not, so long
24 as the decision was reached in good faith and without gross
25 negligence;

26 ~~((10))~~ (11) To a minor's next of kin, attorney, guardian, or
27 conservator, if any, the information that the minor is presently in
28 the facility or that the minor is seriously physically ill and a
29 statement evaluating the mental and physical condition of the minor
30 as well as a statement of the probable duration of the minor's
31 confinement;

32 ~~((11))~~ (12) Upon the death of a minor, to the minor's next of
33 kin;

34 ~~((12))~~ (13) To a facility in which the minor resides or will
35 reside;

36 ~~((13))~~ (14) To law enforcement officers and to prosecuting
37 attorneys as are necessary to enforce RCW 9.41.040(2)(a)(iv). The
38 extent of information that may be released is limited as follows:

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

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

11 (c) Disclosure under this subsection is mandatory for the
12 purposes of the federal health insurance portability and
13 accountability act;

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

24 ~~((15))~~ (16) For the purpose of a correctional facility
25 participating in the postinstitutional medical assistance system
26 supporting the expedited medical determinations and medical
27 suspensions as provided in RCW 74.09.555 and 74.09.295;

28 ~~((16))~~ (17) Pursuant to a lawful order of a court.

29 **Sec. 19.** RCW 71.05.425 and 2018 c 201 s 3019 are each amended to
30 read as follows:

31 (1)(a) Except as provided in subsection (2) of this section, at
32 the earliest possible date, and in no event later than thirty days
33 before conditional release, final release, authorized leave under RCW
34 71.05.325(2), or transfer to a facility other than a state mental
35 hospital, the superintendent shall send written notice of conditional
36 release, release, authorized leave, or transfer of a person committed
37 under RCW 71.05.280(3) or 71.05.320(4)(c) following dismissal of a
38 sex, violent, or felony harassment offense pursuant to RCW
39 10.77.086(4) to the following:

1 (i) The chief of police of the city, if any, in which the person
2 will reside;

3 (ii) The sheriff of the county in which the person will reside;
4 and

5 (iii) The prosecuting attorney of the county in which the
6 criminal charges against the committed person were dismissed.

7 (b) The same notice as required by (a) of this subsection shall
8 be sent to the following, if such notice has been requested in
9 writing about a specific person committed under RCW 71.05.280(3) or
10 71.05.320(4)(c) following dismissal of a sex, violent, or felony
11 harassment offense pursuant to RCW 10.77.086(4):

12 (i) The victim of the sex, violent, or felony harassment offense
13 that was dismissed pursuant to RCW 10.77.086(4) preceding commitment
14 under RCW 71.05.280(3) or 71.05.320(4)(c) or the victim's next of kin
15 if the crime was a homicide;

16 (ii) Any witnesses who testified against the person in any court
17 proceedings;

18 (iii) Any person specified in writing by the prosecuting
19 attorney. Information regarding victims, next of kin, or witnesses
20 requesting the notice, information regarding any other person
21 specified in writing by the prosecuting attorney to receive the
22 notice, and the notice are confidential and shall not be available to
23 the person committed under this chapter; and

24 (iv) The chief of police of the city, if any, and the sheriff of
25 the county, if any, which had jurisdiction of the person on the date
26 of the applicable offense.

27 (c) The thirty-day notice requirements contained in this
28 subsection shall not apply to emergency medical transfers.

29 (d) The existence of the notice requirements in this subsection
30 will not require any extension of the release date in the event the
31 release plan changes after notification.

32 (2) If a person committed under RCW 71.05.280(3) or
33 71.05.320(4)(c) following dismissal of a sex, violent, or felony
34 harassment offense pursuant to RCW 10.77.086(4) escapes, the
35 superintendent shall immediately notify, by the most reasonable and
36 expedient means available, the chief of police of the city and the
37 sheriff of the county in which the person escaped and in which the
38 person resided immediately before the person's arrest and the
39 prosecuting attorney of the county in which the criminal charges
40 against the committed person were dismissed. If previously requested,

1 the superintendent shall also notify the witnesses and the victim of
2 the sex, violent, or felony harassment offense that was dismissed
3 pursuant to RCW 10.77.086(4) preceding commitment under RCW
4 71.05.280(3) or 71.05.320(4) or the victim's next of kin if the crime
5 was a homicide. In addition, the secretary shall also notify
6 appropriate parties pursuant to RCW 70.02.230(2)((-n)) (o). If the
7 person is recaptured, the superintendent shall send notice to the
8 persons designated in this subsection as soon as possible but in no
9 event later than two working days after the department of social and
10 health services learns of such recapture.

11 (3) If the victim, the victim's next of kin, or any witness is
12 under the age of sixteen, the notice required by this section shall
13 be sent to the parent or legal guardian of the child.

14 (4) The superintendent shall send the notices required by this
15 chapter to the last address provided to the department of social and
16 health services by the requesting party. The requesting party shall
17 furnish the department of social and health services with a current
18 address.

19 (5) For purposes of this section the following terms have the
20 following meanings:

21 (a) "Violent offense" means a violent offense under RCW
22 9.94A.030;

23 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

24 (c) "Next of kin" means a person's spouse, state registered
25 domestic partner, parents, siblings, and children;

26 (d) "Felony harassment offense" means a crime of harassment as
27 defined in RCW 9A.46.060 that is a felony.

28 **Sec. 20.** RCW 71.24.035 and 2020 c 256 s 202 are each amended to
29 read as follows:

30 (1) The authority is designated as the state behavioral health
31 authority which includes recognition as the single state authority
32 for substance use disorders and state mental health authority.

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

38 (3) The director shall provide for participation in developing
39 the state behavioral health program for children and other

1 underserved populations, by including representatives on any
2 committee established to provide oversight to the state behavioral
3 health program.

4 (4) The authority shall be designated as the behavioral health
5 administrative services organization for a regional service area if a
6 behavioral health administrative services organization fails to meet
7 the authority's contracting requirements or refuses to exercise the
8 responsibilities under its contract or state law, until such time as
9 a new behavioral health administrative services organization is
10 designated.

11 (5) The director shall:

12 (a) Assure that any behavioral health administrative services
13 organization, managed care organization, or community behavioral
14 health program provides medically necessary services to medicaid
15 recipients consistent with the state's medicaid state plan or federal
16 waiver authorities, and nonmedicaid services consistent with
17 priorities established by the authority;

18 (b) Develop contracts in a manner to ensure an adequate network
19 of inpatient services, evaluation and treatment services, and
20 facilities under chapter 71.05 RCW to ensure access to treatment,
21 resource management services, and community support services;

22 (c) Make contracts necessary or incidental to the performance of
23 its duties and the execution of its powers, including managed care
24 contracts for behavioral health services, contracts entered into
25 under RCW 74.09.522, and contracts with public and private agencies,
26 organizations, and individuals to pay them for behavioral health
27 services;

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

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

36 (f) Develop and maintain an information system to be used by the
37 state and behavioral health administrative services organizations and
38 managed care organizations that includes a tracking method which
39 allows the authority to identify behavioral health clients'
40 participation in any behavioral health service or public program on

1 an immediate basis. The information system shall not include
2 individual patient's case history files. Confidentiality of client
3 information and records shall be maintained as provided in this
4 chapter and chapter 70.02 RCW;

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

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

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

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

17 (k) Require the behavioral health administrative services
18 organizations and the managed care organizations to develop
19 agreements with tribal, city, and county jails and the department of
20 corrections to accept referrals for enrollment on behalf of a
21 confined person, prior to the person's release;

22 (l) Require behavioral health administrative services
23 organizations and managed care organizations, as applicable, to
24 provide services as identified in RCW 71.05.585 to individuals
25 committed for involuntary commitment under (~~less restrictive~~
26 ~~alternative court orders~~) court-ordered involuntary outpatient
27 behavioral health treatment when:

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

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

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

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

1 (a) To the extent authorized, and in accordance with any
2 priorities or conditions specified, in the biennial appropriations
3 act; or

4 (b) To incentivize improved performance with respect to the
5 client outcomes established in RCW 71.24.435, 70.320.020, and
6 71.36.025, integration of behavioral health and medical services at
7 the clinical level, and improved care coordination for individuals
8 with complex care needs.

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

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

29 (9) Upon petition by the secretary of the department of health or
30 the director, and after hearing held upon reasonable notice to the
31 facility, the superior court may issue a warrant to an officer or
32 employee of the secretary of the department of health or the director
33 authorizing him or her to enter at reasonable times, and examine the
34 records, books, and accounts of any behavioral health administrative
35 services organization, managed care organization, or service provider
36 refusing to consent to inspection or examination by the authority.

37 (10) Notwithstanding the existence or pursuit of any other
38 remedy, the secretary of the department of health or the director may
39 file an action for an injunction or other process against any person
40 or governmental unit to restrain or prevent the establishment,

1 conduct, or operation of a behavioral health administrative services
2 organization, managed care organization, or service provider without
3 a contract, certification, or a license under this chapter.

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

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

15 (13) The authority may:

16 (a) Plan, establish, and maintain substance use disorder
17 prevention and substance use disorder treatment programs as necessary
18 or desirable;

19 (b) Coordinate its activities and cooperate with behavioral
20 programs in this and other states, and make contracts and other joint
21 or cooperative arrangements with state, tribal, local, or private
22 agencies in this and other states for behavioral health services and
23 for the common advancement of substance use disorder programs;

24 (c) Solicit and accept for use any gift of money or property made
25 by will or otherwise, and any grant of money, services, or property
26 from the federal government, the state, or any political subdivision
27 thereof or any private source, and do all things necessary to
28 cooperate with the federal government or any of its agencies in
29 making an application for any grant;

30 (d) Keep records and engage in research and the gathering of
31 relevant statistics; and

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

35 **Sec. 21.** RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301, and
36 2020 c 5 s 1 are each reenacted and amended to read as follows:

37 The definitions in this section apply throughout this chapter
38 unless the context clearly requires otherwise.

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

5 (2) "Alcoholism" means a disease, characterized by a dependency
6 on alcoholic beverages, loss of control over the amount and
7 circumstances of use, symptoms of tolerance, physiological or
8 psychological withdrawal, or both, if use is reduced or discontinued,
9 and impairment of health or disruption of social or economic
10 functioning;

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

15 (4) "Approved substance use disorder treatment program" means a
16 program for persons with a substance use disorder provided by a
17 treatment program certified by the department as meeting standards
18 adopted under chapter 71.24 RCW;

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

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

23 (7) "Behavioral health disorder" means either a mental disorder
24 as defined in this section, a substance use disorder as defined in
25 this section, or a co-occurring mental disorder and substance use
26 disorder;

27 (8) "Behavioral health service provider" means a public or
28 private agency that provides mental health, substance use disorder,
29 or co-occurring disorder services to persons with behavioral health
30 disorders as defined under this section and receives funding from
31 public sources. This includes, but is not limited to, hospitals
32 licensed under chapter 70.41 RCW, evaluation and treatment facilities
33 as defined in this section, community mental health service delivery
34 systems or community behavioral health programs as defined in RCW
35 71.24.025, facilities conducting competency evaluations and
36 restoration under chapter 10.77 RCW, approved substance use disorder
37 treatment programs as defined in this section, secure withdrawal
38 management and stabilization facilities as defined in this section,
39 and correctional facilities operated by state and local governments;

1 (9) "Co-occurring disorder specialist" means an individual
2 possessing an enhancement granted by the department of health under
3 chapter 18.205 RCW that certifies the individual to provide substance
4 use disorder counseling subject to the practice limitations under RCW
5 18.205.105;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (38) "Mental health professional" means a psychiatrist,
39 psychologist, physician assistant working with a supervising
40 psychiatrist, psychiatric advanced registered nurse practitioner,

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

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

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

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

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

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

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

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

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

1 state, county, or municipal government, or a combination of such
2 governments;

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

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

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

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

16 (a) Provide the following services:

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

19 (ii) Clinical stabilization services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 **Sec. 22.** RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301,
11 2020 c 80 s 51, and 2020 c 5 s 1 are each reenacted and amended to
12 read as follows:

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

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

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

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

29 (4) "Approved substance use disorder treatment program" means a
30 program for persons with a substance use disorder provided by a
31 treatment program certified by the department as meeting standards
32 adopted under chapter 71.24 RCW;

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

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

37 (7) "Behavioral health disorder" means either a mental disorder
38 as defined in this section, a substance use disorder as defined in

1 this section, or a co-occurring mental disorder and substance use
2 disorder;

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

16 (9) "Co-occurring disorder specialist" means an individual
17 possessing an enhancement granted by the department of health under
18 chapter 18.205 RCW that certifies the individual to provide substance
19 use disorder counseling subject to the practice limitations under RCW
20 18.205.105;

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

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

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

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

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

36 (15) "Designated crisis responder" means a mental health
37 professional appointed by the county, by an entity appointed by the
38 county, or by the authority in consultation with a federally
39 recognized Indian tribe or after meeting and conferring with an

1 Indian health care provider, to perform the duties specified in this
2 chapter;

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

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

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

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

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

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

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

38 (23) "Gravely disabled" means a condition in which a person, as a
39 result of a behavioral health disorder: (a) Is in danger of serious
40 physical harm resulting from a failure to provide for his or her

1 essential human needs of health or safety; or (b) manifests severe
2 deterioration in routine functioning evidenced by repeated and
3 escalating loss of cognitive or volitional control over his or her
4 actions and is not receiving such care as is essential for his or her
5 health or safety;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (33) "Less restrictive alternative treatment" means a program of
27 individualized treatment in a less restrictive setting than inpatient
28 treatment that includes the services described in RCW 71.05.585. This
29 term may be used to refer to treatment pursuant to a less restrictive
30 alternative treatment order under RCW 71.05.240 or 71.05.320, a
31 conditional release order under RCW 71.05.340, or an assisted
32 outpatient behavioral health treatment order under RCW 71.05.148;

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 **Sec. 23.** RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020
26 c 256 s 301, and 2020 c 5 s 1 are each reenacted and amended to read
27 as follows:

28 The definitions in this section apply throughout this chapter
29 unless the context clearly requires otherwise.

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

34 (2) "Alcoholism" means a disease, characterized by a dependency
35 on alcoholic beverages, loss of control over the amount and
36 circumstances of use, symptoms of tolerance, physiological or
37 psychological withdrawal, or both, if use is reduced or discontinued,
38 and impairment of health or disruption of social or economic
39 functioning;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (22) "Evaluation and treatment facility" means any facility which
40 can provide directly, or by direct arrangement with other public or

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

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

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

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

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

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

37 (28) "In need of assisted outpatient behavioral health treatment"
38 means that a person, as a result of a behavioral health disorder: (a)
39 Has been committed by a court to detention for involuntary behavioral
40 health treatment during the preceding thirty-six months; (b) is

1 unlikely to voluntarily participate in outpatient treatment without
2 an order for less restrictive alternative treatment, based on a
3 history of nonadherence with treatment or in view of the person's
4 current behavior; (c) is likely to benefit from less restrictive
5 alternative treatment; and (d) requires less restrictive alternative
6 treatment to prevent a relapse, decompensation, or deterioration that
7 is likely to result in the person presenting a likelihood of serious
8 harm or the person becoming gravely disabled within a reasonably
9 short period of time;

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

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

16 (b) The conditions and strategies necessary to achieve the
17 purposes of habilitation;

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

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

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

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

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

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

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

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

39 (33) "Less restrictive alternative treatment" means a program of
40 individualized treatment in a less restrictive setting than inpatient

1 treatment that includes the services described in RCW 71.05.585. This
2 term may be used to refer to treatment pursuant to a less restrictive
3 alternative treatment order under RCW 71.05.240 or 71.05.320, a
4 conditional release order under RCW 71.05.340, or an assisted
5 outpatient behavioral health treatment order under RCW 71.05.148;

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

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

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

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

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

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

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

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

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

39 (41) "Private agency" means any person, partnership, corporation,
40 or association that is not a public agency, whether or not financed

1 in whole or in part by public funds, which constitutes an evaluation
2 and treatment facility or private institution, or hospital, or
3 approved substance use disorder treatment program, which is conducted
4 for, or includes a department or ward conducted for, the care and
5 treatment of persons with behavioral health disorders;

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

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

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

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

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

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

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

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

38 (50) "Secure withdrawal management and stabilization facility"
39 means a facility operated by either a public or private agency or by
40 the program of an agency which provides care to voluntary individuals

1 and individuals involuntarily detained and committed under this
2 chapter for whom there is a likelihood of serious harm or who are
3 gravely disabled due to the presence of a substance use disorder.
4 Secure withdrawal management and stabilization facilities must:

5 (a) Provide the following services:

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

8 (ii) Clinical stabilization services;

9 (iii) Acute or subacute detoxification services for intoxicated
10 individuals; and

11 (iv) Discharge assistance provided by certified substance use
12 disorder professionals or co-occurring disorder specialists,
13 including facilitating transitions to appropriate voluntary or
14 involuntary inpatient services or to less restrictive alternatives as
15 appropriate for the individual;

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

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

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

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

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

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

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

1 attorney, or defense counsel acting within the scope of therapeutic
2 court duties;

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

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

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

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

38 (60) "Written order of apprehension" means an order of the court
39 for a peace officer to deliver the named person in the order to a
40 facility or emergency room as determined by the designated crisis

1 responder. Such orders shall be entered into the Washington crime
2 information center database.

3 **Sec. 24.** RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020
4 c 256 s 301, 2020 c 80 s 51, and 2020 c 5 s 1 are each reenacted and
5 amended to read as follows:

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

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

12 (2) "Alcoholism" means a disease, characterized by a dependency
13 on alcoholic beverages, loss of control over the amount and
14 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 (3) "Antipsychotic medications" means that class of drugs
19 primarily used to treat serious manifestations of mental illness
20 associated with thought disorders, which includes, but is not limited
21 to atypical antipsychotic medications;

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

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

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

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

34 (8) "Behavioral health service provider" means a public or
35 private agency that provides mental health, substance use disorder,
36 or co-occurring disorder services to persons with behavioral health
37 disorders as defined under this section and receives funding from
38 public sources. This includes, but is not limited to, hospitals
39 licensed under chapter 70.41 RCW, evaluation and treatment facilities

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (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. This
20 term may be used to refer to treatment pursuant to a less restrictive
21 alternative treatment order under RCW 71.05.240 or 71.05.320, a
22 conditional release order under RCW 71.05.340, or an assisted
23 outpatient behavioral health treatment order under RCW 71.05.148;

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

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

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

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

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

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

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

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

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

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

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

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

36 (44) "Psychiatrist" means a person having a license as a
37 physician and surgeon in this state who has in addition completed
38 three years of graduate training in psychiatry in a program approved
39 by the American medical association or the American osteopathic

1 association and is certified or eligible to be certified by the
2 American board of psychiatry and neurology;

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

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

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

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

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

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

26 (a) Provide the following services:

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

29 (ii) Clinical stabilization services;

30 (iii) Acute or subacute detoxification services for intoxicated
31 individuals; and

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

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

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

1 (51) "Severe deterioration from safe behavior" means that a
2 person will, if not treated, suffer or continue to suffer severe and
3 abnormal mental, emotional, or physical distress, and this distress
4 is associated with significant impairment of judgment, reason, or
5 behavior;

6 (52) "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 (53) "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 (54) "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 (55) "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 (56) "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 (57) "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 (58) "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 (59) "Violent act" means behavior that resulted in homicide,
19 attempted suicide, injury, or substantial loss or damage to property;

20 (60) "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 **Sec. 25.** 2020 c 302 s 110 (uncodified) is amended to read as
26 follows:

27 (1) Sections 4 and 28 (~~of this act~~), chapter 302, Laws of 2020
28 and sections 23 and 24 of this act take effect when monthly single-
29 bed certifications authorized under RCW 71.05.745 fall below 200
30 reports for 3 consecutive months.

31 (2) The health care authority must provide written notice of the
32 effective date of sections 4 and 28 (~~of this act~~), chapter 302,
33 Laws of 2020 and sections 23 and 24 of this act to affected parties,
34 the chief clerk of the house of representatives, the secretary of the
35 senate, the office of the code reviser, and others as deemed
36 appropriate by the authority.

37 NEW SECTION. **Sec. 26.** Sections 1, 3, 5, 7, 9, and 13 of this
38 act expire July 1, 2026.

1 NEW SECTION. **Sec. 27.** Sections 2, 4, 6, 8, 10, and 14 of this
2 act take effect July 1, 2026.

3 NEW SECTION. **Sec. 28.** Sections 21 and 23 of this act expire
4 July 1, 2022.

5 NEW SECTION. **Sec. 29.** Sections 22 and 24 of this act take
6 effect July 1, 2022.

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