

CERTIFICATION OF ENROLLMENT
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5071

67th Legislature
2021 Regular Session

Passed by the Senate April 14, 2021
Yeas 48 Nays 0

President of the Senate

Passed by the House April 11, 2021
Yeas 70 Nays 28

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5071** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5071

AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

State of Washington 67th Legislature 2021 Regular Session

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

READ FIRST TIME 02/22/21.

1 AN ACT Relating to creating transition teams to assist specified
2 persons under civil commitment; amending RCW 10.77.150, 71.05.320,
3 71.05.320, 10.77.060, 70.02.230, 70.02.240, 71.24.035, 10.77.010,
4 10.77.195, 71.05.740, 71.24.035, and 71.24.045; amending 2020 c 302 s
5 110 (uncodified); reenacting and amending RCW 71.05.020, 71.05.020,
6 71.05.020, and 71.05.020; adding a new section to chapter 10.77 RCW;
7 adding a new section to chapter 71.24 RCW; creating new sections;
8 providing effective dates; providing a contingent effective date; and
9 providing expiration dates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (8) A person examined under RCW 10.77.140 or the department may
7 make a motion for limited conditional release under this section, on
8 the grounds that there is insufficient evidence that the person may
9 be released conditionally to less restrictive alternative treatment
10 under subsection (3)(c) of this section, but the person would benefit
11 from the opportunity to exercise increased privileges while remaining
12 under the custody and supervision of the department and with the
13 supervision of the department these increased privileges can be
14 exercised without substantial danger to other persons or substantial
15 likelihood of committing criminal acts jeopardizing public safety or
16 security. The department may respond to a person's application for
17 conditional release by instead supporting limited conditional
18 release.

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

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

29 (b) If the order for inpatient treatment is based on a substance
30 use disorder, treatment must take place at an approved substance use
31 disorder treatment program. The court may only enter an order for
32 commitment based on a substance use disorder if there is an available
33 approved substance use disorder treatment program with adequate space
34 for the person.

35 (c) If the grounds set forth in RCW 71.05.280(3) are the basis of
36 commitment, then the period of treatment may be up to but not exceed
37 one hundred eighty days from the date of judgment to the custody of
38 the department of social and health services or to a facility

1 certified for one hundred eighty-day treatment by the department or
2 under RCW 71.05.745.

3 (2) If the court or jury finds that grounds set forth in RCW
4 71.05.280 have been proven, but finds that treatment less restrictive
5 than detention will be in the best interest of the person or others,
6 then the court shall remand him or her to the custody of the
7 department of social and health services or to a facility certified
8 for ninety day treatment by the department or to a less restrictive
9 alternative for a further period of less restrictive treatment not to
10 exceed ninety days from the date of judgment. If the grounds set
11 forth in RCW 71.05.280(3) are the basis of commitment, then the
12 period of treatment may be up to but not exceed one hundred eighty
13 days from the date of judgment. If the court has made an affirmative
14 special finding under RCW 71.05.280(3)(b), the court shall appoint a
15 multidisciplinary transition team as provided in subsection (6)(a)(i)
16 of this section. If the court or jury finds that the grounds set
17 forth in RCW 71.05.280(5) have been proven, and provide the only
18 basis for commitment, the court must enter an order for less
19 restrictive alternative treatment for up to ninety days from the date
20 of judgment and may not order inpatient treatment.

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

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

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

39 (b) Was taken into custody as a result of conduct in which he or
40 she attempted or inflicted serious physical harm upon the person of

1 another, and continues to present, as a result of a behavioral health
2 disorder or developmental disability, a likelihood of serious harm;
3 or

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

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

24 (d) Continues to be gravely disabled; or

25 (e) Is in need of assisted outpatient behavioral health
26 treatment.

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

30 If less restrictive alternative treatment is sought, the petition
31 shall set forth any recommendations for less restrictive alternative
32 treatment services.

33 (5) A new petition for involuntary treatment filed under
34 subsection (4) of this section shall be filed and heard in the
35 superior court of the county of the facility which is filing the new
36 petition for involuntary treatment unless good cause is shown for a
37 change of venue. The cost of the proceedings shall be borne by the
38 state.

39 (6) (a) The hearing shall be held as provided in RCW 71.05.310,
40 and if the court or jury finds that the grounds for additional

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

15 (i) In cases where the court has ordered less restrictive
16 alternative treatment and has previously made an affirmative special
17 finding under RCW 71.05.280(3)(b), the court shall appoint a
18 multidisciplinary transition team to supervise and assist the person
19 on the order for less restrictive treatment, which shall include a
20 representative of the community behavioral health agency providing
21 treatment under RCW 71.05.585, and a specially trained supervising
22 community corrections officer. The court may omit the appointment of
23 a community corrections officer if it makes a special finding that
24 the appointment of a community corrections officer would not
25 facilitate the success of the person, or the safety of the person and
26 the community under (a)(ii) of this subsection.

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

37 (iii) The department of corrections shall collaborate with the
38 department to develop specialized training for community corrections
39 officers under this section. The lack of a trained community

1 corrections officer must not be the cause of delay to entry of a less
2 restrictive alternative order.

3 (b) At the end of the one hundred eighty-day period of
4 commitment, or one-year period of commitment if subsection (7) of
5 this section applies, the committed person shall be released unless a
6 petition for an additional one hundred eighty-day period of continued
7 treatment is filed and heard in the same manner as provided in this
8 section. Successive one hundred eighty-day commitments are
9 permissible on the same grounds and pursuant to the same procedures
10 as the original one hundred eighty-day commitment.

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

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

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

21 (1) If the court or jury finds that grounds set forth in RCW
22 71.05.280 have been proven and that the best interests of the person
23 or others will not be served by a less restrictive treatment which is
24 an alternative to detention, the court shall remand him or her to the
25 custody of the department of social and health services or to a
26 facility certified for ninety day treatment by the department for a
27 further period of intensive treatment not to exceed ninety days from
28 the date of judgment.

29 If the order for inpatient treatment is based on a substance use
30 disorder, treatment must take place at an approved substance use
31 disorder treatment program. If the grounds set forth in RCW
32 71.05.280(3) are the basis of commitment, then the period of
33 treatment may be up to but not exceed one hundred eighty days from
34 the date of judgment to the custody of the department of social and
35 health services or to a facility certified for one hundred eighty-day
36 treatment by the department or under RCW 71.05.745.

37 (2) If the court or jury finds that grounds set forth in RCW
38 71.05.280 have been proven, but finds that treatment less restrictive
39 than detention will be in the best interest of the person or others,

1 then the court shall remand him or her to the custody of the
2 department of social and health services or to a facility certified
3 for ninety day treatment by the department or to a less restrictive
4 alternative for a further period of less restrictive treatment not to
5 exceed ninety days from the date of judgment. If the grounds set
6 forth in RCW 71.05.280(3) are the basis of commitment, then the
7 period of treatment may be up to but not exceed one hundred eighty
8 days from the date of judgment. If the court has made an affirmative
9 special finding under RCW 71.05.280(3)(b), the court shall appoint a
10 multidisciplinary transition team as provided in subsection (6)(a)(i)
11 of this section. If the court or jury finds that the grounds set
12 forth in RCW 71.05.280(5) have been proven, and provide the only
13 basis for commitment, the court must enter an order for less
14 restrictive alternative treatment for up to ninety days from the date
15 of judgment and may not order inpatient treatment.

16 (3) An order for less restrictive alternative treatment entered
17 under subsection (2) of this section must name the behavioral health
18 service provider responsible for identifying the services the person
19 will receive in accordance with RCW 71.05.585, and must include a
20 requirement that the person cooperate with the services planned by
21 the behavioral health service provider.

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

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

34 (b) Was taken into custody as a result of conduct in which he or
35 she attempted or inflicted serious physical harm upon the person of
36 another, and continues to present, as a result of a behavioral health
37 disorder or developmental disability, a likelihood of serious harm;
38 or

39 (c) (i) Is in custody pursuant to RCW 71.05.280(3) and as a result
40 of a behavioral health disorder or developmental disability continues

1 to present a substantial likelihood of repeating acts similar to the
2 charged criminal behavior, when considering the person's life
3 history, progress in treatment, and the public safety.

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

19 (d) Continues to be gravely disabled; or

20 (e) Is in need of assisted outpatient behavioral health
21 treatment.

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

25 If less restrictive alternative treatment is sought, the petition
26 shall set forth any recommendations for less restrictive alternative
27 treatment services.

28 (5) A new petition for involuntary treatment filed under
29 subsection (4) of this section shall be filed and heard in the
30 superior court of the county of the facility which is filing the new
31 petition for involuntary treatment unless good cause is shown for a
32 change of venue. The cost of the proceedings shall be borne by the
33 state.

34 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
35 and if the court or jury finds that the grounds for additional
36 confinement as set forth in this section are present, the court may
37 order the committed person returned for an additional period of
38 treatment not to exceed one hundred eighty days from the date of
39 judgment, except as provided in subsection (7) of this section. If
40 the court's order is based solely on the grounds identified in

1 subsection (4)(e) of this section, the court may enter an order for
2 less restrictive alternative treatment not to exceed one hundred
3 eighty days from the date of judgment, and may not enter an order for
4 inpatient treatment. An order for less restrictive alternative
5 treatment must name the behavioral health service provider
6 responsible for identifying the services the person will receive in
7 accordance with RCW 71.05.585, and must include a requirement that
8 the person cooperate with the services planned by the behavioral
9 health service provider.

10 (i) In cases where the court has ordered less restrictive
11 alternative treatment and has previously made an affirmative special
12 finding under RCW 71.05.280(3)(b), the court shall appoint a
13 multidisciplinary transition team to supervise and assist the person
14 on the order for less restrictive treatment, which shall include a
15 representative of the community behavioral health agency providing
16 treatment under RCW 71.05.585, and a specially trained supervising
17 community corrections officer. The court may omit the appointment of
18 a community corrections officer if it makes a special finding that
19 the appointment of a community corrections officer would not
20 facilitate the success of the person, or the safety of the person and
21 the community under (a)(ii) of this subsection.

22 (ii) The role of the transition team shall be to facilitate the
23 success of the person on the less restrictive alternative order by
24 monitoring the person's progress in treatment, compliance with court-
25 ordered conditions, and to problem solve around extra support the
26 person may need or circumstances which may arise that threaten the
27 safety of the person or the community. The transition team may
28 develop a monitoring plan which may be carried out by any member of
29 the team. The transition team shall meet according to a schedule
30 developed by the team, and shall communicate as needed if issues
31 arise that require the immediate attention of the team.

32 (iii) The department of corrections shall collaborate with the
33 department to develop specialized training for community corrections
34 officers under this section. The lack of a trained community
35 corrections officer must not be the cause of delay to entry of a less
36 restrictive alternative order.

37 (b) At the end of the one hundred eighty-day period of
38 commitment, or one-year period of commitment if subsection (7) of
39 this section applies, the committed person shall be released unless a
40 petition for an additional one hundred eighty-day period of continued

1 treatment is filed and heard in the same manner as provided in this
2 section. Successive one hundred eighty-day commitments are
3 permissible on the same grounds and pursuant to the same procedures
4 as the original one hundred eighty-day commitment.

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

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

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 10.77
14 RCW to read as follows:

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

25 (2) Less restrictive alternative treatment pursuant to a
26 conditional release order, at a minimum, includes the following
27 services:

28 (a) Assignment of a care coordinator;

29 (b) An intake evaluation with the provider of the conditional
30 treatment;

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

33 (d) A schedule of regular contacts with the provider of the less
34 restrictive alternative treatment services for the duration of the
35 order;

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

38 (f) An individual crisis plan;

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

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

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

8 (3) Less restrictive alternative treatment pursuant to a
9 conditional release order may additionally include requirements to
10 participate in the following services:

11 (a) Medication management;

12 (b) Psychotherapy;

13 (c) Nursing;

14 (d) Substance use disorder counseling;

15 (e) Residential treatment;

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

17 (g) Periodic court review.

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

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

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

39 (7) The care coordinator assigned to a person ordered to less
40 restrictive alternative treatment pursuant to a conditional release

1 order must submit an individualized plan for the person's treatment
2 services to the court that entered the order. An initial plan must be
3 submitted as soon as possible following the intake evaluation and a
4 revised plan must be submitted upon any subsequent modification in
5 which a type of service is removed from or added to the treatment
6 plan.

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

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

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

22 (1)(a) Whenever a defendant has pleaded not guilty by reason of
23 insanity, or there is reason to doubt his or her competency, the
24 court on its own motion or on the motion of any party shall either
25 appoint or request the secretary to designate a qualified expert or
26 professional person, who shall be approved by the prosecuting
27 attorney, to evaluate and report upon the mental condition of the
28 defendant.

29 (b) The signed order of the court shall serve as authority for
30 the evaluator to be given access to all records held by any mental
31 health, medical, educational, or correctional facility that relate to
32 the present or past mental, emotional, or physical condition of the
33 defendant. If the court is advised by any party that the defendant
34 may have a developmental disability, the evaluation must be performed
35 by a developmental disabilities professional.

36 (c) The evaluator shall assess the defendant in a jail, detention
37 facility, in the community, or in court to determine whether a period
38 of inpatient commitment will be necessary to complete an accurate
39 evaluation. If inpatient commitment is needed, the signed order of

1 the court shall serve as authority for the evaluator to request the
2 jail or detention facility to transport the defendant to a hospital
3 or secure mental health facility for a period of commitment not to
4 exceed fifteen days from the time of admission to the facility.
5 Otherwise, the evaluator shall complete the evaluation.

6 (d) The court may commit the defendant for evaluation to a
7 hospital or secure mental health facility without an assessment if:

8 (i) The defendant is charged with murder in the first or second
9 degree; (ii) the court finds that it is more likely than not that an
10 evaluation in the jail will be inadequate to complete an accurate
11 evaluation; or (iii) the court finds that an evaluation outside the
12 jail setting is necessary for the health, safety, or welfare of the
13 defendant. The court shall not order an initial inpatient evaluation
14 for any purpose other than a competency evaluation.

15 (e) The order shall indicate whether, in the event the defendant
16 is committed to a hospital or secure mental health facility for
17 evaluation, all parties agree to waive the presence of the defendant
18 or to the defendant's remote participation at a subsequent competency
19 hearing or presentation of an agreed order if the recommendation of
20 the evaluator is for continuation of the stay of criminal
21 proceedings, or if the opinion of the evaluator is that the defendant
22 remains incompetent and there is no remaining restoration period, and
23 the hearing is held prior to the expiration of the authorized
24 commitment period.

25 (f) When a defendant is ordered to be (~~committed for inpatient~~
26 ~~evaluation~~) evaluated under this subsection (1), or when a party or
27 the court determines at first appearance that an order for evaluation
28 under this subsection will be requested or ordered if charges are
29 pursued, the court may delay granting bail until the defendant has
30 been evaluated for competency or sanity and appears before the court.
31 Following the evaluation, in determining bail the court shall
32 consider: (i) Recommendations of the evaluator regarding the
33 defendant's competency, sanity, or diminished capacity; (ii) whether
34 the defendant has a recent history of one or more violent acts; (iii)
35 whether the defendant has previously been acquitted by reason of
36 insanity or found incompetent; (iv) whether it is reasonably likely
37 the defendant will fail to appear for a future court hearing; and (v)
38 whether the defendant is a threat to public safety.

39 (2) The court may direct that a qualified expert or professional
40 person retained by or appointed for the defendant be permitted to

1 witness the evaluation authorized by subsection (1) of this section,
2 and that the defendant shall have access to all information obtained
3 by the court appointed experts or professional persons. The
4 defendant's expert or professional person shall have the right to
5 file his or her own report following the guidelines of subsection (3)
6 of this section. If the defendant is indigent, the court shall upon
7 the request of the defendant assist him or her in obtaining an expert
8 or professional person.

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

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

11 (b) A diagnosis or description of the current mental status of
12 the defendant;

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

15 (d) If the defendant has indicated his or her intention to rely
16 on the defense of insanity pursuant to RCW 10.77.030, and an
17 evaluation and report by an expert or professional person has been
18 provided concluding that the defendant was criminally insane at the
19 time of the alleged offense, an opinion as to the defendant's sanity
20 at the time of the act, and an opinion as to whether the defendant
21 presents a substantial danger to other persons, or presents a
22 substantial likelihood of committing criminal acts jeopardizing
23 public safety or security, unless kept under further control by the
24 court or other persons or institutions, provided that no opinion
25 shall be rendered under this subsection (3)(d) unless the evaluator
26 or court determines that the defendant is competent to stand trial;

27 (e) When directed by the court, if an evaluation and report by an
28 expert or professional person has been provided concluding that the
29 defendant lacked the capacity at the time of the offense to form the
30 mental state necessary to commit the charged offense, an opinion as
31 to the capacity of the defendant to have a particular state of mind
32 which is an element of the offense charged;

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

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

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

1 (1) (~~Except as provided in this section, RCW 70.02.050,~~
2 ~~71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and~~
3 ~~70.02.265, or pursuant to a valid authorization under RCW 70.02.030,~~
4 ~~the~~) The fact of admission to a provider for mental health services
5 and all information and records compiled, obtained, or maintained in
6 the course of providing mental health services to either voluntary or
7 involuntary recipients of services at public or private agencies
8 ((must be confidential)) may not be disclosed except as provided in
9 this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210,
10 70.02.240, 70.02.250, 70.02.260, and 70.02.265, or pursuant to a
11 valid authorization under RCW 70.02.030.

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

15 (a) In communications between qualified professional persons to
16 meet the requirements of chapter 71.05 RCW, including Indian health
17 care providers, in the provision of services or appropriate
18 referrals, or in the course of guardianship proceedings if provided
19 to a professional person:

20 (i) Employed by the facility;

21 (ii) Who has medical responsibility for the patient's care;

22 (iii) Who is a designated crisis responder;

23 (iv) Who is providing services under chapter 71.24 RCW;

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

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

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

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

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

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

1 (B) A statement evaluating the mental and physical condition of
2 the patient, and a statement of the probable duration of the
3 patient's confinement, if such information is requested by the next
4 of kin, attorney, personal representative, guardian, or conservator;
5 and

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

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

14 (ii) To a court or its designee in which a motion under chapter
15 10.77 RCW has been made for involuntary medication of a defendant for
16 the purpose of competency restoration.

17 (iii) Disclosure under this subsection is mandatory for the
18 purpose of the federal health insurance portability and
19 accountability act;

20 (e)(i) When a mental health professional or designated crisis
21 responder is requested by a representative of a law enforcement or
22 corrections agency, including a police officer, sheriff, community
23 corrections officer, a municipal attorney, or prosecuting attorney to
24 undertake an investigation or provide treatment under RCW 71.05.150,
25 10.31.110, or 71.05.153, the mental health professional or designated
26 crisis responder shall, if requested to do so, advise the
27 representative in writing of the results of the investigation
28 including a statement of reasons for the decision to detain or
29 release the person investigated. The written report must be submitted
30 within seventy-two hours of the completion of the investigation or
31 the request from the law enforcement or corrections representative,
32 whichever occurs later.

33 (ii) Disclosure under this subsection is mandatory for the
34 purposes of the federal health insurance portability and
35 accountability act;

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

37 (g) To the prosecuting attorney as necessary to carry out the
38 responsibilities of the office under RCW 71.05.330(2),
39 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
40 access to records regarding the committed person's treatment and

1 prognosis, medication, behavior problems, and other records relevant
2 to the issue of whether treatment less restrictive than inpatient
3 treatment is in the best interest of the committed person or others.
4 Information must be disclosed only after giving notice to the
5 committed person and the person's counsel;

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

19 (ii) Disclosure under this subsection is mandatory for the
20 purposes of the federal health insurance portability and
21 accountability act;

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

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

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

32 (k) By a care coordinator under RCW 71.05.585 or section 4 of
33 this act assigned to a person ordered to receive less restrictive
34 alternative treatment for the purpose of sharing information to
35 parties necessary for the implementation of proceedings under chapter
36 71.05 or 10.77 RCW;

37 (l) Upon the death of a person. The person's next of kin,
38 personal representative, guardian, or conservator, if any, must be
39 notified. Next of kin who are of legal age and competent must be
40 notified under this section in the following order: Spouse, parents,

1 children, brothers and sisters, and other relatives according to the
2 degree of relation. Access to all records and information compiled,
3 obtained, or maintained in the course of providing services to a
4 deceased patient are governed by RCW 70.02.140;

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

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

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

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

23 (iii) Disclosure under this subsection is mandatory for the
24 purposes of the federal health insurance portability and
25 accountability act;

26 ~~((n))~~ (o) When a patient would otherwise be subject to the
27 provisions of this section and disclosure is necessary for the
28 protection of the patient or others due to his or her unauthorized
29 disappearance from the facility, and his or her whereabouts is
30 unknown, notice of the disappearance, along with relevant
31 information, may be made to relatives, the department of corrections
32 when the person is under the supervision of the department, and
33 governmental law enforcement agencies designated by the physician or
34 psychiatric advanced registered nurse practitioner in charge of the
35 patient or the professional person in charge of the facility, or his
36 or her professional designee;

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

39 ~~((p))~~ (q) To qualified staff members of the department, to the
40 authority, to behavioral health administrative services

1 organizations, to managed care organizations, to resource management
2 services responsible for serving a patient, or to service providers
3 designated by resource management services as necessary to determine
4 the progress and adequacy of treatment and to determine whether the
5 person should be transferred to a less restrictive or more
6 appropriate treatment modality or facility;

7 ~~((q))~~ (r) Within the mental health service agency or Indian
8 health care provider facility where the patient is receiving
9 treatment, confidential information may be disclosed to persons
10 employed, serving in bona fide training programs, or participating in
11 supervised volunteer programs, at the facility when it is necessary
12 to perform their duties;

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

17 ~~((s))~~ (t) Between the department of social and health services,
18 the department of children, youth, and families, and the health care
19 authority as necessary to coordinate treatment for mental illness,
20 developmental disabilities, alcoholism, or drug abuse of persons who
21 are under the supervision of the department of social and health
22 services or the department of children, youth, and families;

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

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

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

34 (B) Any other person who is working in a care coordinator role
35 for a health care facility, health care provider, or Indian health
36 care provider, or is under an agreement pursuant to the federal
37 health insurance portability and accountability act with a health
38 care facility or a health care provider and requires the information
39 and records to assure coordinated care and treatment of that patient.

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

5 (iii) Psychotherapy notes may not be released without
6 authorization of the patient who is the subject of the request for
7 release of information;

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

11 (~~(w)~~) (x) To a facility that is to receive a person who is
12 involuntarily committed under chapter 71.05 RCW, or upon transfer of
13 the person from one evaluation and treatment facility to another. The
14 release of records under this subsection is limited to the
15 information and records related to mental health services required by
16 law, a record or summary of all somatic treatments, and a discharge
17 summary. The discharge summary may include a statement of the
18 patient's problem, the treatment goals, the type of treatment which
19 has been provided, and recommendation for future treatment, but may
20 not include the patient's complete treatment record;

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

26 (~~(y)~~) (z) To staff members of the protection and advocacy
27 agency or to staff members of a private, nonprofit corporation for
28 the purpose of protecting and advocating the rights of persons with
29 mental disorders or developmental disabilities. Resource management
30 services may limit the release of information to the name, birthdate,
31 and county of residence of the patient, information regarding whether
32 the patient was voluntarily admitted, or involuntarily committed, the
33 date and place of admission, placement, or commitment, the name and
34 address of a guardian of the patient, and the date and place of the
35 guardian's appointment. Any staff member who wishes to obtain
36 additional information must notify the patient's resource management
37 services in writing of the request and of the resource management
38 services' right to object. The staff member shall send the notice by
39 mail to the guardian's address. If the guardian does not object in
40 writing within fifteen days after the notice is mailed, the staff

1 member may obtain the additional information. If the guardian objects
2 in writing within fifteen days after the notice is mailed, the staff
3 member may not obtain the additional information;

4 ~~((z))~~ (aa) To all current treating providers, including Indian
5 health care providers, of the patient with prescriptive authority who
6 have written a prescription for the patient within the last twelve
7 months. For purposes of coordinating health care, the department or
8 the authority may release without written authorization of the
9 patient, information acquired for billing and collection purposes as
10 described in RCW 70.02.050(1)(d). The department, or the authority,
11 if applicable, shall notify the patient that billing and collection
12 information has been released to named providers, and provide the
13 substance of the information released and the dates of such release.
14 Neither the department nor the authority may release counseling,
15 inpatient psychiatric hospitalization, or drug and alcohol treatment
16 information without a signed written release from the client;

17 ~~((aa))~~ (bb)(i) To the secretary of social and health services
18 and the director of the health care authority for either program
19 evaluation or research, or both so long as the secretary or director,
20 where applicable, adopts rules for the conduct of the evaluation or
21 research, or both. Such rules must include, but need not be limited
22 to, the requirement that all evaluators and researchers sign an oath
23 of confidentiality substantially as follows:

24 "As a condition of conducting evaluation or research concerning
25 persons who have received services from (fill in the facility,
26 agency, or person) I,, agree not to divulge, publish, or
27 otherwise make known to unauthorized persons or the public any
28 information obtained in the course of such evaluation or research
29 regarding persons who have received services such that the person who
30 received such services is identifiable.

31 I recognize that unauthorized release of confidential information
32 may subject me to civil liability under the provisions of state law.

33 /s/"

34 (ii) Nothing in this chapter may be construed to prohibit the
35 compilation and publication of statistical data for use by government
36 or researchers under standards, including standards to assure
37 maintenance of confidentiality, set forth by the secretary, or
38 director, where applicable;

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

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

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

7 (3) Whenever federal law or federal regulations restrict the
8 release of information contained in the information and records
9 related to mental health services of any patient who receives
10 treatment for a substance use disorder, the department or the
11 authority may restrict the release of the information as necessary to
12 comply with federal law and regulations.

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

18 (5) The fact of admission to a provider of mental health
19 services, as well as all records, files, evidence, findings, or
20 orders made, prepared, collected, or maintained pursuant to chapter
21 71.05 RCW are not admissible as evidence in any legal proceeding
22 outside that chapter without the written authorization of the person
23 who was the subject of the proceeding except as provided in RCW
24 70.02.260, in a subsequent criminal prosecution of a person committed
25 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were
26 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand
27 trial, in a civil commitment proceeding pursuant to chapter 71.09
28 RCW, or, in the case of a minor, a guardianship or dependency
29 proceeding. The records and files maintained in any court proceeding
30 pursuant to chapter 71.05 RCW must be confidential and available
31 subsequent to such proceedings only to the person who was the subject
32 of the proceeding or his or her attorney. In addition, the court may
33 order the subsequent release or use of such records or files only
34 upon good cause shown if the court finds that appropriate safeguards
35 for strict confidentiality are and will be maintained.

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

1 (i) One thousand dollars; or

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

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

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

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

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

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

17 The fact of admission and all information and records related to
18 mental health services obtained through inpatient or outpatient
19 treatment of a minor under chapter 71.34 RCW must be kept
20 confidential, except as authorized by this section or under RCW
21 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265.
22 Confidential information under this section may be disclosed only:

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

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

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

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

31 (5) By a care coordinator under RCW 71.34.755 or section 4 of
32 this act assigned to a person ordered to receive less restrictive
33 alternative treatment for the purpose of sharing information to
34 parties necessary for the implementation of proceedings under chapter
35 71.34 or 10.77 RCW;

36 (6) To law enforcement officers or public health officers as
37 necessary to carry out the responsibilities of their office. However,
38 only the fact and date of admission, and the date of discharge, the

1 name and address of the treatment provider, if any, and the last
2 known address must be disclosed upon request;

3 ~~((6))~~ (7) To law enforcement officers, public health officers,
4 relatives, and other governmental law enforcement agencies, if a
5 minor has escaped from custody, disappeared from an evaluation and
6 treatment facility, violated conditions of a less restrictive
7 treatment order, or failed to return from an authorized leave, and
8 then only such information as may be necessary to provide for public
9 safety or to assist in the apprehension of the minor. The officers
10 are obligated to keep the information confidential in accordance with
11 this chapter;

12 ~~((7))~~ (8) To the secretary of social and health services and
13 the director of the health care authority for assistance in data
14 collection and program evaluation or research so long as the
15 secretary or director, where applicable, adopts rules for the conduct
16 of such evaluation and research. The rules must include, but need not
17 be limited to, the requirement that all evaluators and researchers
18 sign an oath of confidentiality substantially as follows:

19 "As a condition of conducting evaluation or research concerning
20 persons who have received services from (fill in the facility,
21 agency, or person) I,, agree not to divulge, publish, or
22 otherwise make known to unauthorized persons or the public any
23 information obtained in the course of such evaluation or research
24 regarding minors who have received services in a manner such that the
25 minor is identifiable.

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

28 /s/";

29 ~~((8))~~ (9) To appropriate law enforcement agencies, upon
30 request, all necessary and relevant information in the event of a
31 crisis or emergent situation that poses a significant and imminent
32 risk to the public. The mental health service agency or its employees
33 are not civilly liable for the decision to disclose or not, so long
34 as the decision was reached in good faith and without gross
35 negligence;

36 ~~((9))~~ (10) To appropriate law enforcement agencies and to a
37 person, when the identity of the person is known to the public or
38 private agency, whose health and safety has been threatened, or who
39 is known to have been repeatedly harassed, by the patient. The person

1 may designate a representative to receive the disclosure. The
2 disclosure must be made by the professional person in charge of the
3 public or private agency or his or her designee and must include the
4 dates of admission, discharge, authorized or unauthorized absence
5 from the agency's facility, and only any other information that is
6 pertinent to the threat or harassment. The agency or its employees
7 are not civilly liable for the decision to disclose or not, so long
8 as the decision was reached in good faith and without gross
9 negligence;

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

16 ~~((11))~~ (12) Upon the death of a minor, to the minor's next of
17 kin;

18 ~~((12))~~ (13) To a facility in which the minor resides or will
19 reside;

20 ~~((13))~~ (14) To law enforcement officers and to prosecuting
21 attorneys as are necessary to enforce RCW 9.41.040(2)(a)(iv). The
22 extent of information that may be released is limited as follows:

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

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

33 (c) Disclosure under this subsection is mandatory for the
34 purposes of the federal health insurance portability and
35 accountability act;

36 ~~((14))~~ (15) This section may not be construed to prohibit the
37 compilation and publication of statistical data for use by government
38 or researchers under standards, including standards to assure
39 maintenance of confidentiality, set forth by the director of the
40 health care authority or the secretary of the department of social

1 and health services, where applicable. The fact of admission and all
2 information obtained pursuant to chapter 71.34 RCW are not admissible
3 as evidence in any legal proceeding outside chapter 71.34 RCW, except
4 guardianship or dependency, without the written consent of the minor
5 or the minor's parent;

6 ~~((15))~~ (16) For the purpose of a correctional facility
7 participating in the postinstitutional medical assistance system
8 supporting the expedited medical determinations and medical
9 suspensions as provided in RCW 74.09.555 and 74.09.295;

10 ~~((16))~~ (17) Pursuant to a lawful order of a court.

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

13 (1) The authority is designated as the state behavioral health
14 authority which includes recognition as the single state authority
15 for substance use disorders and state mental health authority.

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

21 (3) The director shall provide for participation in developing
22 the state behavioral health program for children and other
23 underserved populations, by including representatives on any
24 committee established to provide oversight to the state behavioral
25 health program.

26 (4) The authority shall be designated as the behavioral health
27 administrative services organization for a regional service area if a
28 behavioral health administrative services organization fails to meet
29 the authority's contracting requirements or refuses to exercise the
30 responsibilities under its contract or state law, until such time as
31 a new behavioral health administrative services organization is
32 designated.

33 (5) The director shall:

34 (a) Assure that any behavioral health administrative services
35 organization, managed care organization, or community behavioral
36 health program provides medically necessary services to medicaid
37 recipients consistent with the state's medicaid state plan or federal
38 waiver authorities, and nonmedicaid services consistent with
39 priorities established by the authority;

1 (b) Develop contracts in a manner to ensure an adequate network
2 of inpatient services, evaluation and treatment services, and
3 facilities under chapter 71.05 RCW to ensure access to treatment,
4 resource management services, and community support services;

5 (c) Make contracts necessary or incidental to the performance of
6 its duties and the execution of its powers, including managed care
7 contracts for behavioral health services, contracts entered into
8 under RCW 74.09.522, and contracts with public and private agencies,
9 organizations, and individuals to pay them for behavioral health
10 services;

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

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

19 (f) Develop and maintain an information system to be used by the
20 state and behavioral health administrative services organizations and
21 managed care organizations that includes a tracking method which
22 allows the authority to identify behavioral health clients'
23 participation in any behavioral health service or public program on
24 an immediate basis. The information system shall not include
25 individual patient's case history files. Confidentiality of client
26 information and records shall be maintained as provided in this
27 chapter and chapter 70.02 RCW;

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

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

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

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

1 (k) Require the behavioral health administrative services
2 organizations and the managed care organizations to develop
3 agreements with tribal, city, and county jails and the department of
4 corrections to accept referrals for enrollment on behalf of a
5 confined person, prior to the person's release;

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

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

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

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

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

22 (a) To the extent authorized, and in accordance with any
23 priorities or conditions specified, in the biennial appropriations
24 act; or

25 (b) To incentivize improved performance with respect to the
26 client outcomes established in RCW 71.24.435, 70.320.020, and
27 71.36.025, integration of behavioral health and medical services at
28 the clinical level, and improved care coordination for individuals
29 with complex care needs.

30 (7) Each behavioral health administrative services organization,
31 managed care organization, and licensed or certified behavioral
32 health agency shall file with the secretary of the department of
33 health or the director, on request, such data, statistics, schedules,
34 and information as the secretary of the department of health or the
35 director reasonably requires. A behavioral health administrative
36 services organization, managed care organization, or licensed or
37 certified behavioral health agency which, without good cause, fails
38 to furnish any data, statistics, schedules, or information as
39 requested, or files fraudulent reports thereof, may be subject to the

1 contractual remedies in RCW 74.09.871 or may have its service
2 provider certification or license revoked or suspended.

3 (8) The superior court may restrain any behavioral health
4 administrative services organization, managed care organization, or
5 service provider from operating without a contract, certification, or
6 a license or any other violation of this section. The court may also
7 review, pursuant to procedures contained in chapter 34.05 RCW, any
8 denial, suspension, limitation, restriction, or revocation of
9 certification or license, and grant other relief required to enforce
10 the provisions of this chapter.

11 (9) Upon petition by the secretary of the department of health or
12 the director, and after hearing held upon reasonable notice to the
13 facility, the superior court may issue a warrant to an officer or
14 employee of the secretary of the department of health or the director
15 authorizing him or her to enter at reasonable times, and examine the
16 records, books, and accounts of any behavioral health administrative
17 services organization, managed care organization, or service provider
18 refusing to consent to inspection or examination by the authority.

19 (10) Notwithstanding the existence or pursuit of any other
20 remedy, the secretary of the department of health or the director may
21 file an action for an injunction or other process against any person
22 or governmental unit to restrain or prevent the establishment,
23 conduct, or operation of a behavioral health administrative services
24 organization, managed care organization, or service provider without
25 a contract, certification, or a license under this chapter.

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

29 (12) The authority, in cooperation with the state congressional
30 delegation, shall actively seek waivers of federal requirements and
31 such modifications of federal regulations as are necessary to allow
32 federal medicaid reimbursement for services provided by freestanding
33 evaluation and treatment facilities licensed under chapter 71.12 RCW
34 or certified under chapter 71.05 RCW. The authority shall
35 periodically share the results of its efforts with the appropriate
36 committees of the senate and the house of representatives.

37 (13) The authority may:

38 (a) Plan, establish, and maintain substance use disorder
39 prevention and substance use disorder treatment programs as necessary
40 or desirable;

1 (b) Coordinate its activities and cooperate with behavioral
2 programs in this and other states, and make contracts and other joint
3 or cooperative arrangements with state, tribal, local, or private
4 agencies in this and other states for behavioral health services and
5 for the common advancement of substance use disorder programs;

6 (c) Solicit and accept for use any gift of money or property made
7 by will or otherwise, and any grant of money, services, or property
8 from the federal government, the state, or any political subdivision
9 thereof or any private source, and do all things necessary to
10 cooperate with the federal government or any of its agencies in
11 making an application for any grant;

12 (d) Keep records and engage in research and the gathering of
13 relevant statistics; and

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

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

19 As used in this chapter:

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

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

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

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

33 (5) "Department" means the state department of social and health
34 services.

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

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

1 (8) "Developmental disabilities professional" means a person who
2 has specialized training and three years of experience in directly
3 treating or working with persons with developmental disabilities and
4 is a psychiatrist or psychologist, or a social worker, and such other
5 developmental disabilities professionals as may be defined by rules
6 adopted by the secretary.

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

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

12 (11) "Furlough" means an authorized leave of absence for a
13 resident of a state institution operated by the department designated
14 for the custody, care, and treatment of the criminally insane,
15 consistent with an order of conditional release from the court under
16 this chapter, without any requirement that the resident be
17 accompanied by, or be in the custody of, any law enforcement or
18 institutional staff, while on such unescorted leave.

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

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

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

34 (15) "Incompetency" means a person lacks the capacity to
35 understand the nature of the proceedings against him or her or to
36 assist in his or her own defense as a result of mental disease or
37 defect.

38 (16) "Indigent" means any person who is financially unable to
39 obtain counsel or other necessary expert or professional services

1 without causing substantial hardship to the person or his or her
2 family.

3 (17) "Individualized service plan" means a plan prepared by a
4 developmental disabilities professional with other professionals as a
5 team, for an individual with developmental disabilities, which shall
6 state:

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

9 (b) The conditions and strategies necessary to achieve the
10 purposes of habilitation;

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

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

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

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

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

22 (18) "Professional person" means:

23 (a) A psychiatrist licensed as a physician and surgeon in this
24 state who has, in addition, completed three years of graduate
25 training in psychiatry in a program approved by the American medical
26 association or the American osteopathic association and is certified
27 or eligible to be certified by the American board of psychiatry and
28 neurology or the American osteopathic board of neurology and
29 psychiatry;

30 (b) A psychologist licensed as a psychologist pursuant to chapter
31 18.83 RCW; or

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

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

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

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

1 (22) "Treatment records" include registration and all other
2 records concerning persons who are receiving or who at any time have
3 received services for mental illness, which are maintained by the
4 department, by behavioral health administrative services
5 organizations and their staffs, by managed care organizations and
6 their staffs, and by treatment facilities. Treatment records do not
7 include notes or records maintained for personal use by a person
8 providing treatment services for the department, behavioral health
9 administrative services organizations, managed care organizations, or
10 a treatment facility if the notes or records are not available to
11 others.

12 (23) "Violent act" means behavior that: (a) (i) Resulted in; (ii)
13 if completed as intended would have resulted in; or (iii) was
14 threatened to be carried out by a person who had the intent and
15 opportunity to carry out the threat and would have resulted in,
16 homicide, nonfatal injuries, or substantial damage to property; or
17 (b) recklessly creates an immediate risk of serious physical injury
18 to another person. As used in this subsection, "nonfatal injuries"
19 means physical pain or injury, illness, or an impairment of physical
20 condition. "Nonfatal injuries" shall be construed to be consistent
21 with the definition of "bodily injury," as defined in RCW 9A.04.110.

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

25 **Sec. 10.** RCW 10.77.195 and 2010 c 263 s 9 are each amended to
26 read as follows:

27 For persons who have received court approval for conditional
28 release, the secretary or the secretary's designee shall supervise
29 the person's compliance with the court-ordered conditions of release
30 in coordination with the multidisciplinary transition team appointed
31 under RCW 10.77.150. The level of supervision provided by the
32 secretary shall correspond to the level of the person's public safety
33 risk. In undertaking supervision of persons under this section, the
34 secretary shall coordinate with any treatment providers (~~designated~~
35 ~~pursuant to RCW 10.77.150(3), any~~) or department of corrections
36 staff designated pursuant to RCW 10.77.150(~~(+2)~~), and local law
37 enforcement, if appropriate. The secretary shall adopt rules to
38 implement this section.

1 **Sec. 11.** RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301, and
2 2020 c 5 s 1 are each reenacted and amended to read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

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

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

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

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

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

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

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

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

1 treatment programs as defined in this section, secure withdrawal
2 management and stabilization facilities as defined in this section,
3 and correctional facilities operated by state and local governments;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (24) "Habilitative services" means those services provided by
35 program personnel to assist persons in acquiring and maintaining life
36 skills and in raising their levels of physical, mental, social, and
37 vocational functioning. Habilitative services include education,
38 training for employment, and therapy. The habilitative process shall
39 be undertaken with recognition of the risk to the public safety

1 presented by the person being assisted as manifested by prior charged
2 criminal conduct;

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

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

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

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

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

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

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

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

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

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

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

1 discharge or release, and a projected possible date for discharge or
2 release; and

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

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

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

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

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

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 (60) "Community behavioral health agency" has the same meaning as
11 "licensed or certified behavioral health agency" defined in RCW
12 71.24.025.

13 **Sec. 12.** RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301,
14 2020 c 80 s 51, and 2020 c 5 s 1 are each reenacted and amended to
15 read as follows:

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

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

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

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

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

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

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

1 (7) "Behavioral health disorder" means either a mental disorder
2 as defined in this section, a substance use disorder as defined in
3 this section, or a co-occurring mental disorder and substance use
4 disorder;

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

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

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

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

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

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

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

38 (15) "Designated crisis responder" means a mental health
39 professional appointed by the county, by an entity appointed by the
40 county, or by the authority in consultation with a federally

1 recognized Indian tribe or after meeting and conferring with an
2 Indian health care provider, to perform the duties specified in this
3 chapter;

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

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

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

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

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

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

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

39 (23) "Gravely disabled" means a condition in which a person, as a
40 result of a behavioral health disorder: (a) Is in danger of serious

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

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

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

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

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

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

37 (29) "Individualized service plan" means a plan prepared by a
38 developmental disabilities professional with other professionals as a
39 team, for a person with developmental disabilities, which shall
40 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;
- 29 (34) "Licensed physician" means a person licensed to practice
30 medicine or osteopathic medicine and surgery in the state of
31 Washington;
- 32 (35) "Likelihood of serious harm" means:
- 33 (a) A substantial risk that: (i) Physical harm will be inflicted
34 by a person upon his or her own person, as evidenced by threats or
35 attempts to commit suicide or inflict physical harm on oneself; (ii)
36 physical harm will be inflicted by a person upon another, as
37 evidenced by behavior which has caused such harm or which places
38 another person or persons in reasonable fear of sustaining such harm;
39 or (iii) physical harm will be inflicted by a person upon the

1 property of others, as evidenced by behavior which has caused
2 substantial loss or damage to the property of others; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (a) Provide the following services:

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

33 (ii) Clinical stabilization services;

34 (iii) Acute or subacute detoxification services for intoxicated
35 individuals; and

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

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

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

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

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

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

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

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

38 (56) "Triage facility" means a short-term facility or a portion
39 of a facility licensed or certified by the department, which is
40 designed as a facility to assess and stabilize an individual or

1 determine the need for involuntary commitment of an individual, and
2 must meet department residential treatment facility standards. A
3 triage facility may be structured as a voluntary or involuntary
4 placement facility;

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

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

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

22 (60) "Community behavioral health agency" has the same meaning as
23 "licensed or certified behavioral health agency" defined in RCW
24 71.24.025.

25 **Sec. 13.** 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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 **Sec. 14.** RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020
5 c 256 s 301, 2020 c 80 s 51, and 2020 c 5 s 1 are each reenacted and
6 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (a) Provide the following services:

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

22 (ii) Clinical stabilization services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 **Sec. 15.** RCW 71.05.740 and 2020 c 302 s 58 are each amended to
20 read as follows:

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

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

1 **Sec. 16.** RCW 71.24.035 and 2020 c 256 s 202 are each amended to
2 read as follows:

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

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

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

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

23 (5) The director shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (13) The authority may:

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

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

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

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

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

6 **Sec. 17.** RCW 71.24.045 and 2019 c 325 s 1008 are each amended to
7 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (g) Establish and maintain quality assurance processes;

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

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

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

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

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

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

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

7 NEW SECTION. **Sec. 18.** A new section is added to chapter 71.24
8 RCW to read as follows:

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

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

24 NEW SECTION. **Sec. 20.** The provisions of this act apply to
25 persons who are committed for inpatient treatment under chapter 10.77
26 or 71.05 RCW as of the effective date of this section.

27 **Sec. 21.** 2020 c 302 s 110 (uncodified) is amended to read as
28 follows:

29 (1) Sections 4 and 28 (~~of this act~~), chapter 302, Laws of 2020
30 and sections 13 and 14 of this act take effect when monthly single-
31 bed certifications authorized under RCW 71.05.745 fall below 200
32 reports for 3 consecutive months.

33 (2) The health care authority must provide written notice of the
34 effective date of sections 4 and 28 (~~of this act~~), chapter 302,
35 Laws of 2020 and sections 13 and 14 of this act to affected parties,
36 the chief clerk of the house of representatives, the secretary of the

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

3 NEW SECTION. **Sec. 22.** Section 2 of this act expires July 1,
4 2026.

5 NEW SECTION. **Sec. 23.** Section 3 of this act takes effect July
6 1, 2026.

7 NEW SECTION. **Sec. 24.** Sections 11 and 13 of this act expire
8 July 1, 2022.

9 NEW SECTION. **Sec. 25.** Sections 12 and 14 of this act take
10 effect July 1, 2022.

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