

ESB 5130 - H COMM AMD
By Committee on Appropriations

ADOPTED AS AMENDED 04/12/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 71.05.148 and 2022 c 210 s 3 are each amended to
4 read as follows:

5 (1) A person is in need of assisted outpatient treatment if the
6 court finds by clear, cogent, and convincing evidence pursuant to a
7 petition filed under this section that:

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

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

12 (i) The person is unlikely to survive safely in the community
13 without supervision and the person's condition is substantially
14 deteriorating; or

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

19 (c) The person has a history of lack of compliance with treatment
20 for his or her behavioral health disorder that has:

21 (i) At least twice within the 36 months prior to the filing of
22 the petition been a significant factor in necessitating
23 hospitalization of the person, or the person's receipt of services in
24 a forensic or other mental health unit of a state correctional
25 facility or local correctional facility, provided that the 36-month
26 period shall be extended by the length of any hospitalization or
27 incarceration of the person that occurred within the 36-month period;

28 (ii) At least twice within the 36 months prior to the filing of
29 the petition been a significant factor in necessitating emergency
30 medical care or hospitalization for behavioral health-related medical
31 conditions including overdose, infected abscesses, sepsis,
32 endocarditis, or other maladies, or a significant factor in behavior

1 which resulted in the person's incarceration in a state or local
2 correctional facility; or

3 (iii) Resulted in one or more violent acts, threats, or attempts
4 to cause serious physical harm to the person or another within the 48
5 months prior to the filing of the petition, provided that the 48-
6 month period shall be extended by the length of any hospitalization
7 or incarceration of the person that occurred during the 48-month
8 period;

9 (d) Participation in an assisted outpatient treatment program
10 would be the least restrictive alternative necessary to ensure the
11 person's recovery and stability; and

12 (e) The person will benefit from assisted outpatient treatment.

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

16 (a) The director of a hospital where the person is hospitalized
17 or the director's designee;

18 (b) The director of a behavioral health service provider
19 providing behavioral health care or residential services to the
20 person or the director's designee;

21 (c) The person's treating mental health professional or substance
22 use disorder professional or one who has evaluated the person;

23 (d) A designated crisis responder;

24 (e) A release planner from a corrections facility; or

25 (f) An emergency room physician.

26 (3) A court order for less restrictive alternative treatment on
27 the basis that the person is in need of assisted outpatient treatment
28 may be effective for up to 18 months, unless the person is currently
29 detained for inpatient treatment for 14 days or more under RCW
30 71.05.240 or 71.05.320, in which case the order may be effective for
31 90 days if the person is currently detained for 14 days of treatment,
32 or 180 days if the person is currently detained for 90 or 180 days of
33 treatment. The petitioner must personally interview the person,
34 unless the person refuses an interview, to determine whether the
35 person will voluntarily receive appropriate treatment.

36 (4) The petitioner must allege specific facts based on personal
37 observation, evaluation, or investigation, and must consider the
38 reliability or credibility of any person providing information
39 material to the petition.

40 (5) The petition must include:

1 (a) A statement of the circumstances under which the person's
2 condition was made known and the basis for the opinion, from personal
3 observation or investigation, that the person is in need of assisted
4 outpatient treatment. The petitioner must state which specific facts
5 come from personal observation and specify what other sources of
6 information the petitioner has relied upon to form this belief;

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

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

25 (d) The name of an agency, provider, or facility that agrees to
26 provide less restrictive alternative treatment if the petition is
27 granted by the court; and

28 (e) If the person is detained in a state hospital, inpatient
29 treatment facility, jail, or correctional facility at the time the
30 petition is filed, the anticipated release date of the person and any
31 other details needed to facilitate successful reentry and transition
32 into the community.

33 (6)(a) Upon receipt of a petition meeting all requirements of
34 this section, the court shall fix a date for a hearing:

35 (i) No sooner than three days or later than seven days after the
36 date of service or as stipulated by the parties or, upon a showing of
37 good cause, no later than 30 days after the date of service; or

38 (ii) If the respondent is hospitalized at the time of filing of
39 the petition, before discharge of the respondent and in sufficient

1 time to arrange for a continuous transition from inpatient treatment
2 to assisted outpatient treatment.

3 (b) A copy of the petition and notice of hearing shall be served,
4 in the same manner as a summons, on the petitioner, the respondent,
5 the qualified professional whose affidavit accompanied the petition,
6 a current provider, if any, and a surrogate decision maker or agent
7 under chapter 71.32 RCW, if any.

8 (c) If the respondent has a surrogate decision maker or agent
9 under chapter 71.32 RCW who wishes to provide testimony at the
10 hearing, the court shall afford the surrogate decision maker or agent
11 an opportunity to testify.

12 (d) The respondent shall be represented by counsel at all stages
13 of the proceedings.

14 (e) If the respondent fails to appear at the hearing after
15 notice, the court may conduct the hearing in the respondent's
16 absence; provided that the respondent's counsel is present.

17 (f) If the respondent has refused to be examined by the qualified
18 professional whose affidavit accompanied the petition, the court may
19 order a mental examination of the respondent. The examination of the
20 respondent may be performed by the qualified professional whose
21 affidavit accompanied the petition. If the examination is performed
22 by another qualified professional, the examining qualified
23 professional shall be authorized to consult with the qualified
24 professional whose affidavit accompanied the petition.

25 (g) If the respondent has refused to be examined by a qualified
26 professional and the court finds reasonable grounds to believe that
27 the allegations of the petition are true, the court may issue a
28 written order directing a peace officer who has completed crisis
29 intervention training to detain and transport the respondent to a
30 provider for examination by a qualified professional. A respondent
31 detained pursuant to this subsection shall be detained no longer than
32 necessary to complete the examination and in no event longer than 24
33 hours.

34 (7) If the petition involves a person whom the petitioner or
35 behavioral health administrative services organization knows, or has
36 reason to know, is an American Indian or Alaska Native who receives
37 medical or behavioral health services from a tribe within this state,
38 the behavioral health administrative services organization shall
39 notify the tribe and Indian health care provider. Notification shall
40 be made in person or by telephonic or electronic communication to the

1 tribal contact listed in the authority's tribal crisis coordination
2 plan as soon as possible.

3 (8) A petition for assisted outpatient treatment filed under this
4 section shall be adjudicated under RCW 71.05.240.

5 (9) (~~(After January 1, 2023, a)~~) A petition for assisted
6 outpatient treatment must be filed on forms developed by the
7 administrative office of the courts.

8 **Sec. 2.** RCW 71.05.365 and 2022 c 210 s 19 are each amended to
9 read as follows:

10 When a person has been involuntarily committed for treatment to a
11 hospital for a period of 90 or 180 days, and the superintendent or
12 professional person in charge of the hospital determines that the
13 person no longer requires active psychiatric treatment at an
14 inpatient level of care, the behavioral health administrative
15 services organization, managed care organization, or agency providing
16 oversight of long-term care or developmental disability services that
17 is responsible for resource management services for the person must
18 work with the hospital to develop an individualized discharge plan(~~(7~~
19 ~~including whether a petition should be filed for less restrictive~~
20 ~~alternative treatment on the basis that the person is in need of~~
21 ~~assisted outpatient treatment,)~~) and arrange for a transition to the
22 community in accordance with the person's individualized discharge
23 plan within 14 days of the determination.

24 **Sec. 3.** RCW 71.05.590 and 2022 c 210 s 23 are each amended to
25 read as follows:

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

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

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

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

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

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

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

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

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

28 (d) To detain the person for up to 12 hours for evaluation at an
29 agency, facility providing services under the court order, triage
30 facility, crisis stabilization unit, emergency department, evaluation
31 and treatment facility, secure withdrawal management and
32 stabilization facility with available space, or an approved substance
33 use disorder treatment program with available space. The purpose of
34 the evaluation is to determine whether modification, revocation, or
35 commitment proceedings are necessary and appropriate to stabilize the
36 person and prevent decompensation, deterioration, or physical harm.
37 Temporary detention for evaluation under this subsection is intended
38 to occur only following a pattern of noncompliance or the failure of
39 reasonable attempts at outreach and engagement, and may occur only
40 when, based on clinical judgment, temporary detention is appropriate.

1 The agency, facility, or designated crisis responder may request
2 assistance from a peace officer for the purposes of temporary
3 detention under this subsection (2)(d). This subsection does not
4 limit the ability or obligation of the agency, facility, or
5 designated crisis responder to pursue revocation procedures under
6 subsection (5) of this section in appropriate circumstances; and

7 (e) To initiate revocation procedures under subsection (5) of
8 this section.

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

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

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

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

24 (5)(a) A designated crisis responder or the secretary of the
25 department of social and health services may, upon their own motion
26 or upon request of the facility or agency designated to provide
27 outpatient care, cause a person to be detained in an evaluation and
28 treatment facility, available secure withdrawal management and
29 stabilization facility with adequate space, or available approved
30 substance use disorder treatment program with adequate space in or
31 near the county in which he or she is receiving outpatient treatment
32 for the purpose of a hearing for revocation of a less restrictive
33 alternative treatment order or conditional release order under this
34 chapter. The designated crisis responder or secretary of the
35 department of social and health services shall file a petition for
36 revocation within 24 hours and serve the person, their guardian, if
37 any, and their attorney. A hearing for revocation of a less
38 restrictive alternative treatment order or conditional release order
39 may be scheduled without detention of the person.

1 (b) A person detained under this subsection (5) must be held
2 until such time, not exceeding five days, as a hearing can be
3 scheduled to determine whether or not the order for less restrictive
4 alternative treatment or conditional release should be revoked,
5 modified, or retained. If the person is not detained, the hearing
6 must be scheduled within five days of service on the person. The
7 designated crisis responder or the secretary of the department of
8 social and health services may withdraw its petition for revocation
9 at any time before the court hearing.

10 (c) A person detained under this subsection (5) has the same
11 rights with respect to notice, hearing, and counsel as in any
12 involuntary treatment proceeding, except as specifically set forth in
13 this section. There is no right to jury trial. The venue for
14 proceedings is the county where the petition is filed. Notice of the
15 filing must be provided to the court that originally ordered
16 commitment, if different from the court where the petition for
17 revocation is filed, within two judicial days of the person's
18 detention.

19 (d) The issues for the court to determine are whether: (i) The
20 person adhered to the terms and conditions of the order or
21 conditional release; (ii) substantial deterioration in the person's
22 functioning has occurred; (iii) there is evidence of substantial
23 decompensation with a reasonable probability that the decompensation
24 can be reversed by further inpatient treatment; or (iv) there is a
25 likelihood of serious harm; and, if any of the above conditions
26 apply, whether it is appropriate for the court to reinstate or modify
27 the person's less restrictive alternative treatment order or
28 conditional release (~~order~~) or order the person's detention for
29 inpatient treatment. The person may waive the court hearing and allow
30 the court to enter a stipulated order upon the agreement of all
31 parties. If the court orders detention for inpatient treatment, the
32 treatment period must be for 14 days from the revocation hearing if
33 the less restrictive alternative treatment order or conditional
34 release (~~order~~) was based on a petition under RCW 71.05.148,
35 71.05.160, or 71.05.230. The person must return to less restrictive
36 alternative treatment under the order at the end of the 14-day period
37 unless a petition for further treatment is filed under RCW 71.05.320
38 or the person accepts voluntary treatment. If the court orders
39 detention for inpatient treatment and the less restrictive
40 alternative treatment order or conditional release (~~order~~) was

1 based on a petition under RCW 71.05.290 or 71.05.320, the number of
2 days remaining on the order must be converted to days of inpatient
3 treatment. A court may not detain a person for inpatient treatment to
4 a secure withdrawal management and stabilization facility or approved
5 substance use disorder treatment program under this subsection unless
6 there is a facility or program available with adequate space for the
7 person.

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

14 **Sec. 4.** RCW 71.05.590 and 2022 c 210 s 24 are each amended to
15 read as follows:

16 (1) (~~(Either an)~~) An agency or facility designated to monitor or
17 provide less restrictive alternative treatment services under a
18 (~~(less restrictive alternative)~~) court order or conditional release,
19 or a designated crisis responder, may take action to enforce, modify,
20 or revoke (~~(a)~~) the less restrictive alternative treatment order or
21 conditional release (~~(order. The)~~) if the agency, facility, or
22 designated crisis responder (~~(must determine)~~) determines that:

23 (a) The person is failing to adhere to the terms and conditions
24 of the order;

25 (b) Substantial deterioration in the person's functioning has
26 occurred;

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

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

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

37 (a) To counsel or advise the person as to their rights and
38 responsibilities under the court order, and to offer incentives to
39 motivate compliance;

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

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

15 (d) To detain the person for up to 12 hours for evaluation at an
16 agency, facility providing services under the court order, triage
17 facility, crisis stabilization unit, emergency department, evaluation
18 and treatment facility, secure withdrawal management and
19 stabilization facility, or an approved substance use disorder
20 treatment program. The purpose of the evaluation is to determine
21 whether modification, revocation, or commitment proceedings are
22 necessary and appropriate to stabilize the person and prevent
23 decompensation, deterioration, or physical harm. Temporary detention
24 for evaluation under this subsection is intended to occur only
25 following a pattern of noncompliance or the failure of reasonable
26 attempts at outreach and engagement, and may occur only when, based
27 on clinical judgment, temporary detention is appropriate. The agency,
28 facility, or designated crisis responder may request assistance from
29 a peace officer for the purposes of temporary detention under this
30 subsection (2)(d). This subsection does not limit the ability or
31 obligation of the agency, facility, or designated crisis responder to
32 pursue revocation procedures under subsection (5) of this section in
33 appropriate circumstances; and

34 (e) To initiate revocation procedures under subsection (5) of
35 this section.

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

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

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

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

12 (5)(a) A designated crisis responder or the secretary of the
13 department of social and health services may, upon their own motion
14 or upon request of the facility or agency designated to provide
15 outpatient care, cause a person to be detained in an evaluation and
16 treatment facility, secure withdrawal management and stabilization
17 facility, or approved substance use disorder treatment program in or
18 near the county in which he or she is receiving outpatient treatment
19 for the purpose of a hearing for revocation of a less restrictive
20 alternative treatment order or conditional release (~~order~~) under
21 this chapter. The designated crisis responder or secretary of the
22 department of social and health services shall file a petition for
23 revocation within 24 hours and serve the person, their guardian, if
24 any, and their attorney. A hearing for revocation of a less
25 restrictive alternative treatment order or conditional release
26 (~~order~~) may be scheduled without detention of the person.

27 (b) A person detained under this subsection (5) must be held
28 until such time, not exceeding five days, as a hearing can be
29 scheduled to determine whether or not the order for less restrictive
30 alternative treatment or conditional release should be revoked,
31 modified, or retained. If the person is not detained, the hearing
32 must be scheduled within five days of service on the person. The
33 designated crisis responder or the secretary of the department of
34 social and health services may withdraw its petition for revocation
35 at any time before the court hearing.

36 (c) A person detained under this subsection (5) has the same
37 rights with respect to notice, hearing, and counsel as in any
38 involuntary treatment proceeding, except as specifically set forth in
39 this section. There is no right to jury trial. The venue for
40 proceedings is the county where the petition is filed. Notice of the

1 filing must be provided to the court that originally ordered
2 commitment, if different from the court where the petition for
3 revocation is filed, within two judicial days of the person's
4 detention.

5 (d) The issues for the court to determine are whether: (i) The
6 person adhered to the terms and conditions of the order or
7 conditional release; (ii) substantial deterioration in the person's
8 functioning has occurred; (iii) there is evidence of substantial
9 decompensation with a reasonable probability that the decompensation
10 can be reversed by further inpatient treatment; or (iv) there is a
11 likelihood of serious harm; and, if any of the above conditions
12 apply, whether it is appropriate for the court to reinstate or modify
13 the person's less restrictive alternative treatment order or
14 conditional release (~~order~~) or order the person's detention for
15 inpatient treatment. The person may waive the court hearing and allow
16 the court to enter a stipulated order upon the agreement of all
17 parties. If the court orders detention for inpatient treatment, the
18 treatment period must be for 14 days from the revocation hearing if
19 the less restrictive alternative treatment order or conditional
20 release (~~order~~) was based on a petition under RCW 71.05.148,
21 71.05.160, or 71.05.230. The person must return to less restrictive
22 alternative treatment under the order at the end of the 14-day period
23 unless a petition for further treatment is filed under RCW 71.05.320
24 or the person accepts voluntary treatment. If the court orders
25 detention for inpatient treatment and the less restrictive
26 alternative treatment order or conditional release (~~order~~) was
27 based on a petition under RCW 71.05.290 or 71.05.320, the number of
28 days remaining on the order must be converted to days of inpatient
29 treatment.

30 (6) In determining whether or not to take action under this
31 section the designated crisis responder, agency, or facility must
32 consider the factors specified under RCW 71.05.212 and the court must
33 consider the factors specified under RCW 71.05.245 as they apply to
34 the question of whether to enforce, modify, or revoke a court order
35 for involuntary treatment.

36 **Sec. 5.** RCW 71.34.020 and 2021 c 264 s 26 are each amended to
37 read as follows:

38 Unless the context clearly requires otherwise, the definitions in
39 this section apply throughout this chapter.

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

5 (2) "Adolescent" means a minor thirteen years of age or older.

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

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

16 (5) "Approved substance use disorder treatment program" means a
17 program for minors with substance use disorders provided by a
18 treatment program licensed or certified by the department of health
19 as meeting standards adopted under chapter 71.24 RCW.

20 (6) "Attending staff" means any person on the staff of a public
21 or private agency having responsibility for the care and treatment of
22 a minor patient.

23 (7) "Authority" means the Washington state health care authority.

24 (8) "Behavioral health administrative services organization" has
25 the same meaning as provided in RCW 71.24.025.

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

30 (10) "Child psychiatrist" means a person having a license as a
31 physician and surgeon in this state, who has had graduate training in
32 child psychiatry in a program approved by the American Medical
33 Association or the American Osteopathic Association, and who is board
34 eligible or board certified in child psychiatry.

35 (11) "Children's mental health specialist" means:

36 (a) A mental health professional who has completed a minimum of
37 one hundred actual hours, not quarter or semester hours, of
38 specialized training devoted to the study of child development and
39 the treatment of children; and

1 (b) A mental health professional who has the equivalent of one
2 year of full-time experience in the treatment of children under the
3 supervision of a children's mental health specialist.

4 (12) "Commitment" means a determination by a judge or court
5 commissioner, made after a commitment hearing, that the minor is in
6 need of inpatient diagnosis, evaluation, or treatment or that the
7 minor is in need of less restrictive alternative treatment.

8 (13) "Conditional release" means a revocable modification of a
9 commitment, which may be revoked upon violation of any of its terms.

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

15 (15) "Crisis stabilization unit" means a short-term facility or a
16 portion of a facility licensed or certified by the department of
17 health under RCW 71.24.035, such as a residential treatment facility
18 or a hospital, which has been designed to assess, diagnose, and treat
19 individuals experiencing an acute crisis without the use of long-term
20 hospitalization.

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

25 (17) "Department" means the department of social and health
26 services.

27 (18) "Designated crisis responder" has the same meaning as
28 provided in RCW 71.05.020.

29 (19) "Detention" or "detain" means the lawful confinement of a
30 person, under the provisions of this chapter.

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

39 (21) "Developmental disability" has the same meaning as defined
40 in RCW 71A.10.020.

1 (22) "Director" means the director of the authority.

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

5 (24) "Evaluation and treatment facility" means a public or
6 private facility or unit that is licensed or certified by the
7 department of health to provide emergency, inpatient, residential, or
8 outpatient mental health evaluation and treatment services for
9 minors. A physically separate and separately operated portion of a
10 state hospital may be designated as an evaluation and treatment
11 facility for minors. A facility which is part of or operated by the
12 state or federal agency does not require licensure or certification.
13 No correctional institution or facility, juvenile court detention
14 facility, or jail may be an evaluation and treatment facility within
15 the meaning of this chapter.

16 (25) "Evaluation and treatment program" means the total system of
17 services and facilities coordinated and approved by a county or
18 combination of counties for the evaluation and treatment of minors
19 under this chapter.

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

27 (27) "Habilitative services" means those services provided by
28 program personnel to assist minors in acquiring and maintaining life
29 skills and in raising their levels of physical, behavioral, social,
30 and vocational functioning. Habilitative services include education,
31 training for employment, and therapy.

32 (28) "Hearing" means any proceeding conducted in open court that
33 conforms to the requirements of RCW 71.34.910.

34 (29) "History of one or more violent acts" refers to the period
35 of time five years prior to the filing of a petition under this
36 chapter, excluding any time spent, but not any violent acts
37 committed, in a mental health facility, a long-term substance use
38 disorder treatment facility, or in confinement as a result of a
39 criminal conviction.

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

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

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

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

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

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

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

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

20 (31)(a) "Inpatient treatment" means twenty-four-hour-per-day
21 mental health care provided within a general hospital, psychiatric
22 hospital, residential treatment facility licensed or certified by the
23 department of health as an evaluation and treatment facility for
24 minors, secure withdrawal management and stabilization facility for
25 minors, or approved substance use disorder treatment program for
26 minors.

27 (b) For purposes of family-initiated treatment under RCW
28 71.34.600 through 71.34.670, "inpatient treatment" has the meaning
29 included in (a) of this subsection and any other residential
30 treatment facility licensed under chapter 71.12 RCW.

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

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

36 (34) "Kinship caregiver" has the same meaning as in RCW
37 74.13.031(19)(a).

38 (35) "Legal counsel" means attorneys and staff employed by county
39 prosecutor offices or the state attorney general acting in their

1 capacity as legal representatives of public behavioral health service
2 providers under RCW 71.05.130.

3 (36) "Less restrictive alternative" or "less restrictive setting"
4 means outpatient treatment provided to a minor as a program of
5 individualized treatment in a less restrictive setting than inpatient
6 treatment (~~that~~). This term includes the services described in RCW
7 71.34.755, including residential treatment, and treatment pursuant to
8 an assisted outpatient treatment order under RCW 71.34.815.

9 (37) "Licensed physician" means a person licensed to practice
10 medicine or osteopathic medicine and surgery in the state of
11 Washington.

12 (38) "Likelihood of serious harm" means:

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

22 (b) The minor has threatened the physical safety of another and
23 has a history of one or more violent acts.

24 (39) "Managed care organization" has the same meaning as provided
25 in RCW 71.24.025.

26 (40) "Medical clearance" means a physician or other health care
27 provider has determined that a person is medically stable and ready
28 for referral to the designated crisis responder.

29 (41) "Medical necessity" for inpatient care means a requested
30 service which is reasonably calculated to: (a) Diagnose, correct,
31 cure, or alleviate a mental disorder or substance use disorder; or
32 (b) prevent the progression of a mental disorder or substance use
33 disorder that endangers life or causes suffering and pain, or results
34 in illness or infirmity or threatens to cause or aggravate a
35 disability, or causes physical deformity or malfunction, and there is
36 no adequate less restrictive alternative available.

37 (42) "Mental disorder" means any organic, mental, or emotional
38 impairment that has substantial adverse effects on an individual's
39 cognitive or volitional functions. The presence of alcohol abuse,
40 drug abuse, juvenile criminal history, antisocial behavior, or

1 intellectual disabilities alone is insufficient to justify a finding
2 of "mental disorder" within the meaning of this section.

3 (43) "Mental health professional" means a psychiatrist,
4 psychiatric advanced registered nurse practitioner, physician
5 assistant working with a supervising psychiatrist, psychologist,
6 psychiatric nurse, social worker, and such other mental health
7 professionals as defined by rules adopted by the secretary of the
8 department of health under this chapter.

9 (44) "Minor" means any person under the age of eighteen years.

10 (45) "Outpatient treatment" means any of the nonresidential
11 services mandated under chapter 71.24 RCW and provided by licensed or
12 certified behavioral health agencies as identified by RCW 71.24.025.

13 (46) (a) "Parent" has the same meaning as defined in RCW
14 26.26A.010, including either parent if custody is shared under a
15 joint custody agreement, or a person or agency judicially appointed
16 as legal guardian or custodian of the child.

17 (b) For purposes of family-initiated treatment under RCW
18 71.34.600 through 71.34.670, "parent" also includes a person to whom
19 a parent defined in (a) of this subsection has given a signed
20 authorization to make health care decisions for the adolescent, a
21 stepparent who is involved in caring for the adolescent, a kinship
22 caregiver who is involved in caring for the adolescent, or another
23 relative who is responsible for the health care of the adolescent,
24 who may be required to provide a declaration under penalty of perjury
25 stating that he or she is a relative responsible for the health care
26 of the adolescent pursuant to chapter 5.50 RCW. If a dispute arises
27 between individuals authorized to act as a parent for the purpose of
28 RCW 71.34.600 through 71.34.670, the disagreement must be resolved
29 according to the priority established under RCW 7.70.065(2) (a).

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

34 (48) "Physician assistant" means a person licensed as a physician
35 assistant under chapter 18.71A RCW.

36 (49) "Private agency" means any person, partnership, corporation,
37 or association that is not a public agency, whether or not financed
38 in whole or in part by public funds, that constitutes an evaluation
39 and treatment facility or private institution, or hospital, or
40 approved substance use disorder treatment program, that is conducted

1 for, or includes a distinct unit, floor, or ward conducted for, the
2 care and treatment of persons with mental illness, substance use
3 disorders, or both mental illness and substance use disorders.

4 (50) "Professional person in charge" or "professional person"
5 means a physician, other mental health professional, or other person
6 empowered by an evaluation and treatment facility, secure withdrawal
7 management and stabilization facility, or approved substance use
8 disorder treatment program with authority to make admission and
9 discharge decisions on behalf of that facility.

10 (51) "Psychiatric nurse" means a registered nurse who has
11 experience in the direct treatment of persons who have a mental
12 illness or who are emotionally disturbed, such experience gained
13 under the supervision of a mental health professional.

14 (52) "Psychiatrist" means a person having a license as a
15 physician in this state who has completed residency training in
16 psychiatry in a program approved by the American Medical Association
17 or the American Osteopathic Association, and is board eligible or
18 board certified in psychiatry.

19 (53) "Psychologist" means a person licensed as a psychologist
20 under chapter 18.83 RCW.

21 (54) "Public agency" means any evaluation and treatment facility
22 or institution, or hospital, or approved substance use disorder
23 treatment program that is conducted for, or includes a distinct unit,
24 floor, or ward conducted for, the care and treatment of persons with
25 mental illness, substance use disorders, or both mental illness and
26 substance use disorders if the agency is operated directly by
27 federal, state, county, or municipal government, or a combination of
28 such governments.

29 (55) "Release" means legal termination of the commitment under
30 the provisions of this chapter.

31 (56) "Resource management services" has the meaning given in
32 chapter 71.24 RCW.

33 (57) "Responsible other" means the minor, the minor's parent or
34 estate, or any other person legally responsible for support of the
35 minor.

36 (58) "Secretary" means the secretary of the department or
37 secretary's designee.

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

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

5 (a) Provide the following services:

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

8 (ii) Clinical stabilization services;

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

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

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

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

19 (60) "Social worker" means a person with a master's or further
20 advanced degree from a social work educational program accredited and
21 approved as provided in RCW 18.320.010.

22 (61) "Start of initial detention" means the time of arrival of
23 the minor at the first evaluation and treatment facility, secure
24 withdrawal management and stabilization facility, or approved
25 substance use disorder treatment program offering inpatient treatment
26 if the minor is being involuntarily detained at the time. With regard
27 to voluntary patients, "start of initial detention" means the time at
28 which the minor gives notice of intent to leave under the provisions
29 of this chapter.

30 (62) "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 (63) "Substance use disorder" means a cluster of cognitive,
35 behavioral, and physiological symptoms indicating that an individual
36 continues using the substance despite significant substance-related
37 problems. The diagnosis of a substance use disorder is based on a
38 pathological pattern of behaviors related to the use of the
39 substances.

1 (64) "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 (65) "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 (66) "Treatment records" include registration and all other
11 records concerning persons who are receiving or who at any time have
12 received services for mental illness, which are maintained by the
13 department, the department of health, the authority, behavioral
14 health organizations and their staffs, and by treatment facilities.
15 Treatment records include mental health information contained in a
16 medical bill including but not limited to mental health drugs, a
17 mental health diagnosis, provider name, and dates of service stemming
18 from a medical service. Treatment records do not include notes or
19 records maintained for personal use by a person providing treatment
20 services for the department, the department of health, the authority,
21 behavioral health organizations, or a treatment facility if the notes
22 or records are not available to others.

23 (67) "Triage facility" means a short-term facility or a portion
24 of a facility licensed or certified by the department of health under
25 RCW 71.24.035, which is designed as a facility to assess and
26 stabilize an individual or determine the need for involuntary
27 commitment of an individual, and must meet department of health
28 residential treatment facility standards. A triage facility may be
29 structured as a voluntary or involuntary placement facility.

30 (68) "Video" means the delivery of behavioral health services
31 through the use of interactive audio and video technology, permitting
32 real-time communication between a person and a designated crisis
33 responder, for the purpose of evaluation. "Video" does not include
34 the use of audio-only telephone, facsimile, email, or store and
35 forward technology.

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

38 (70) "In need of assisted outpatient treatment" refers to a minor
39 who meets the criteria for assisted outpatient treatment established
40 under RCW 71.34.815.

1 **Sec. 6.** RCW 71.34.020 and 2021 c 264 s 28 are each amended to
2 read as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

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

9 (2) "Adolescent" means a minor thirteen years of age or older.

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

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

20 (5) "Approved substance use disorder treatment program" means a
21 program for minors with substance use disorders provided by a
22 treatment program licensed or certified by the department of health
23 as meeting standards adopted under chapter 71.24 RCW.

24 (6) "Attending staff" means any person on the staff of a public
25 or private agency having responsibility for the care and treatment of
26 a minor patient.

27 (7) "Authority" means the Washington state health care authority.

28 (8) "Behavioral health administrative services organization" has
29 the same meaning as provided in RCW 71.24.025.

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

34 (10) "Child psychiatrist" means a person having a license as a
35 physician and surgeon in this state, who has had graduate training in
36 child psychiatry in a program approved by the American Medical
37 Association or the American Osteopathic Association, and who is board
38 eligible or board certified in child psychiatry.

39 (11) "Children's mental health specialist" means:

1 (a) A mental health professional who has completed a minimum of
2 one hundred actual hours, not quarter or semester hours, of
3 specialized training devoted to the study of child development and
4 the treatment of children; and

5 (b) A mental health professional who has the equivalent of one
6 year of full-time experience in the treatment of children under the
7 supervision of a children's mental health specialist.

8 (12) "Commitment" means a determination by a judge or court
9 commissioner, made after a commitment hearing, that the minor is in
10 need of inpatient diagnosis, evaluation, or treatment or that the
11 minor is in need of less restrictive alternative treatment.

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

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

19 (15) "Crisis stabilization unit" means a short-term facility or a
20 portion of a facility licensed or certified by the department of
21 health under RCW 71.24.035, such as a residential treatment facility
22 or a hospital, which has been designed to assess, diagnose, and treat
23 individuals experiencing an acute crisis without the use of long-term
24 hospitalization.

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

29 (17) "Department" means the department of social and health
30 services.

31 (18) "Designated crisis responder" has the same meaning as
32 provided in RCW 71.05.020.

33 (19) "Detention" or "detain" means the lawful confinement of a
34 person, under the provisions of this chapter.

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

1 disabilities professionals as may be defined by rules adopted by the
2 secretary of the department.

3 (21) "Developmental disability" has the same meaning as defined
4 in RCW 71A.10.020.

5 (22) "Director" means the director of the authority.

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

9 (24) "Evaluation and treatment facility" means a public or
10 private facility or unit that is licensed or certified by the
11 department of health to provide emergency, inpatient, residential, or
12 outpatient mental health evaluation and treatment services for
13 minors. A physically separate and separately operated portion of a
14 state hospital may be designated as an evaluation and treatment
15 facility for minors. A facility which is part of or operated by the
16 state or federal agency does not require licensure or certification.
17 No correctional institution or facility, juvenile court detention
18 facility, or jail may be an evaluation and treatment facility within
19 the meaning of this chapter.

20 (25) "Evaluation and treatment program" means the total system of
21 services and facilities coordinated and approved by a county or
22 combination of counties for the evaluation and treatment of minors
23 under this chapter.

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

31 (27) "Habilitative services" means those services provided by
32 program personnel to assist minors in acquiring and maintaining life
33 skills and in raising their levels of physical, behavioral, social,
34 and vocational functioning. Habilitative services include education,
35 training for employment, and therapy.

36 (28) "Hearing" means any proceeding conducted in open court that
37 conforms to the requirements of RCW 71.34.910.

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

1 committed, in a mental health facility, a long-term substance use
2 disorder treatment facility, or in confinement as a result of a
3 criminal conviction.

4 (30) "Individualized service plan" means a plan prepared by a
5 developmental disabilities professional with other professionals as a
6 team, for a person with developmental disabilities, which states:

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
19 discharge or release, and a projected possible date for discharge or
20 release; and

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

23 (31)(a) "Inpatient treatment" means twenty-four-hour-per-day
24 mental health care provided within a general hospital, psychiatric
25 hospital, residential treatment facility licensed or certified by the
26 department of health as an evaluation and treatment facility for
27 minors, secure withdrawal management and stabilization facility for
28 minors, or approved substance use disorder treatment program for
29 minors.

30 (b) For purposes of family-initiated treatment under RCW
31 71.34.600 through 71.34.670, "inpatient treatment" has the meaning
32 included in (a) of this subsection and any other residential
33 treatment facility licensed under chapter 71.12 RCW.

34 (32) "Intoxicated minor" means a minor whose mental or physical
35 functioning is substantially impaired as a result of the use of
36 alcohol or other psychoactive chemicals.

37 (33) "Judicial commitment" means a commitment by a court pursuant
38 to the provisions of this chapter.

39 (34) "Kinship caregiver" has the same meaning as in RCW
40 74.13.031(19)(a).

1 (35) "Legal counsel" means attorneys and staff employed by county
2 prosecutor offices or the state attorney general acting in their
3 capacity as legal representatives of public behavioral health service
4 providers under RCW 71.05.130.

5 (36) "Less restrictive alternative" or "less restrictive setting"
6 means outpatient treatment provided to a minor as a program of
7 individualized treatment in a less restrictive setting than inpatient
8 treatment (~~that~~). This term includes the services described in RCW
9 71.34.755, including residential treatment, and treatment pursuant to
10 an assisted outpatient treatment order under RCW 71.34.815.

11 (37) "Licensed physician" means a person licensed to practice
12 medicine or osteopathic medicine and surgery in the state of
13 Washington.

14 (38) "Likelihood of serious harm" means:

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

24 (b) The minor has threatened the physical safety of another and
25 has a history of one or more violent acts.

26 (39) "Managed care organization" has the same meaning as provided
27 in RCW 71.24.025.

28 (40) "Medical clearance" means a physician or other health care
29 provider has determined that a person is medically stable and ready
30 for referral to the designated crisis responder.

31 (41) "Medical necessity" for inpatient care means a requested
32 service which is reasonably calculated to: (a) Diagnose, correct,
33 cure, or alleviate a mental disorder or substance use disorder; or
34 (b) prevent the progression of a mental disorder or substance use
35 disorder that endangers life or causes suffering and pain, or results
36 in illness or infirmity or threatens to cause or aggravate a
37 disability, or causes physical deformity or malfunction, and there is
38 no adequate less restrictive alternative available.

39 (42) "Mental disorder" means any organic, mental, or emotional
40 impairment that has substantial adverse effects on an individual's

1 cognitive or volitional functions. The presence of alcohol abuse,
2 drug abuse, juvenile criminal history, antisocial behavior, or
3 intellectual disabilities alone is insufficient to justify a finding
4 of "mental disorder" within the meaning of this section.

5 (43) "Mental health professional" means a psychiatrist,
6 psychiatric advanced registered nurse practitioner, physician
7 assistant working with a supervising psychiatrist, psychologist,
8 psychiatric nurse, social worker, and such other mental health
9 professionals as defined by rules adopted by the secretary of the
10 department of health under this chapter.

11 (44) "Minor" means any person under the age of eighteen years.

12 (45) "Outpatient treatment" means any of the nonresidential
13 services mandated under chapter 71.24 RCW and provided by licensed or
14 certified behavioral health agencies as identified by RCW 71.24.025.

15 (46)(a) "Parent" has the same meaning as defined in RCW
16 26.26A.010, including either parent if custody is shared under a
17 joint custody agreement, or a person or agency judicially appointed
18 as legal guardian or custodian of the child.

19 (b) For purposes of family-initiated treatment under RCW
20 71.34.600 through 71.34.670, "parent" also includes a person to whom
21 a parent defined in (a) of this subsection has given a signed
22 authorization to make health care decisions for the adolescent, a
23 stepparent who is involved in caring for the adolescent, a kinship
24 caregiver who is involved in caring for the adolescent, or another
25 relative who is responsible for the health care of the adolescent,
26 who may be required to provide a declaration under penalty of perjury
27 stating that he or she is a relative responsible for the health care
28 of the adolescent pursuant to chapter 5.50 RCW. If a dispute arises
29 between individuals authorized to act as a parent for the purpose of
30 RCW 71.34.600 through 71.34.670, the disagreement must be resolved
31 according to the priority established under RCW 7.70.065(2)(a).

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

36 (48) "Physician assistant" means a person licensed as a physician
37 assistant under chapter 18.71A RCW.

38 (49) "Private agency" means any person, partnership, corporation,
39 or association that is not a public agency, whether or not financed
40 in whole or in part by public funds, that constitutes an evaluation

1 and treatment facility or private institution, or hospital, or
2 approved substance use disorder treatment program, that is conducted
3 for, or includes a distinct unit, floor, or ward conducted for, the
4 care and treatment of persons with mental illness, substance use
5 disorders, or both mental illness and substance use disorders.

6 (50) "Professional person in charge" or "professional person"
7 means a physician, other mental health professional, or other person
8 empowered by an evaluation and treatment facility, secure withdrawal
9 management and stabilization facility, or approved substance use
10 disorder treatment program with authority to make admission and
11 discharge decisions on behalf of that facility.

12 (51) "Psychiatric nurse" means a registered nurse who has
13 experience in the direct treatment of persons who have a mental
14 illness or who are emotionally disturbed, such experience gained
15 under the supervision of a mental health professional.

16 (52) "Psychiatrist" means a person having a license as a
17 physician in this state who has completed residency training in
18 psychiatry in a program approved by the American Medical Association
19 or the American Osteopathic Association, and is board eligible or
20 board certified in psychiatry.

21 (53) "Psychologist" means a person licensed as a psychologist
22 under chapter 18.83 RCW.

23 (54) "Public agency" means any evaluation and treatment facility
24 or institution, or hospital, or approved substance use disorder
25 treatment program that is conducted for, or includes a distinct unit,
26 floor, or ward conducted for, the care and treatment of persons with
27 mental illness, substance use disorders, or both mental illness and
28 substance use disorders if the agency is operated directly by
29 federal, state, county, or municipal government, or a combination of
30 such governments.

31 (55) "Release" means legal termination of the commitment under
32 the provisions of this chapter.

33 (56) "Resource management services" has the meaning given in
34 chapter 71.24 RCW.

35 (57) "Responsible other" means the minor, the minor's parent or
36 estate, or any other person legally responsible for support of the
37 minor.

38 (58) "Secretary" means the secretary of the department or
39 secretary's designee.

1 (59) "Secure withdrawal management and stabilization facility"
2 means a facility operated by either a public or private agency or by
3 the program of an agency which provides care to voluntary individuals
4 and individuals involuntarily detained and committed under this
5 chapter for whom there is a likelihood of serious harm or who are
6 gravely disabled due to the presence of a substance use disorder.
7 Secure withdrawal management and stabilization facilities must:

8 (a) Provide the following services:

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

11 (ii) Clinical stabilization services;

12 (iii) Acute or subacute detoxification services for intoxicated
13 individuals; and

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

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

21 (c) Be licensed or certified as such by the department of health.

22 (60) "Severe deterioration from safe behavior" means that a
23 person will, if not treated, suffer or continue to suffer severe and
24 abnormal mental, emotional, or physical distress, and this distress
25 is associated with significant impairment of judgment, reason, or
26 behavior.

27 (61) "Social worker" means a person with a master's or further
28 advanced degree from a social work educational program accredited and
29 approved as provided in RCW 18.320.010.

30 (62) "Start of initial detention" means the time of arrival of
31 the minor at the first evaluation and treatment facility, secure
32 withdrawal management and stabilization facility, or approved
33 substance use disorder treatment program offering inpatient treatment
34 if the minor is being involuntarily detained at the time. With regard
35 to voluntary patients, "start of initial detention" means the time at
36 which the minor gives notice of intent to leave under the provisions
37 of this chapter.

38 (63) "Store and forward technology" means use of an asynchronous
39 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 (64) "Substance use disorder" means a cluster of cognitive,
4 behavioral, and physiological symptoms indicating that an individual
5 continues using the substance despite significant substance-related
6 problems. The diagnosis of a substance use disorder is based on a
7 pathological pattern of behaviors related to the use of the
8 substances.

9 (65) "Substance use disorder professional" means a person
10 certified as a substance use disorder professional by the department
11 of health under chapter 18.205 RCW.

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

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

31 (68) "Triage facility" means a short-term facility or a portion
32 of a facility licensed or certified by the department of health under
33 RCW 71.24.035, which is designed as a facility to assess and
34 stabilize an individual or determine the need for involuntary
35 commitment of an individual, and must meet department of health
36 residential treatment facility standards. A triage facility may be
37 structured as a voluntary or involuntary placement facility.

38 (69) "Video" means the delivery of behavioral health services
39 through the use of interactive audio and video technology, permitting
40 real-time communication between a person and a designated crisis

1 responder, for the purpose of evaluation. "Video" does not include
2 the use of audio-only telephone, facsimile, email, or store and
3 forward technology.

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

6 (71) "In need of assisted outpatient treatment" refers to a minor
7 who meets the criteria for assisted outpatient treatment established
8 under RCW 71.34.815.

9 **Sec. 7.** RCW 71.34.740 and 2020 c 302 s 92 are each amended to
10 read as follows:

11 (1) A (~~(commitment)~~) hearing shall be held within (~~(one hundred~~
12 ~~twenty)~~) 120 hours of the minor's admission, excluding Saturday,
13 Sunday, and holidays, or if the hearing is held on a petition filed
14 under RCW 71.34.815, the hearing shall be held at a time scheduled
15 under that section, unless a continuance is ordered under RCW
16 71.34.735.

17 (2) The (~~(commitment)~~) hearing shall be conducted at the superior
18 court or an appropriate place at the facility in which the minor is
19 being detained.

20 (3) At the (~~(commitment)~~) hearing, the evidence in support of the
21 petition shall be presented by the county prosecutor.

22 (4) The minor shall be present at the (~~(commitment)~~) hearing
23 unless the minor, with the assistance of the minor's attorney, waives
24 the right to be present at the hearing.

25 (5) If the parents are opposed to the petition, they may be
26 represented at the hearing and shall be entitled to court-appointed
27 counsel if they are indigent.

28 (6) At the (~~(commitment)~~) hearing, the minor shall have the
29 following rights:

30 (a) To be represented by an attorney;

31 (b) To present evidence on his or her own behalf;

32 (c) To question persons testifying in support of the petition.

33 (7) If the (~~(hearing)~~) petition is (~~(for commitment)~~) for mental
34 health treatment, the court at the time of the (~~(commitment)~~) hearing
35 and before an order (~~(of commitment)~~) making findings is entered
36 shall inform the minor both orally and in writing that the failure to
37 make a good faith effort to seek voluntary treatment as provided in
38 RCW 71.34.730 will result in the loss of his or her firearm rights if

1 the minor is subsequently (~~(detained for)~~) ordered to receive
2 involuntary treatment under this section.

3 (8) If the minor has received medication within (~~(twenty-four)~~)
4 24 hours of the hearing, the court shall be informed of that fact and
5 of the probable effects of the medication.

6 (9) For a (~~(fourteen-day)~~) 14-day commitment, the court must find
7 by a preponderance of the evidence that:

8 (a) The minor has a behavioral health disorder and presents a
9 likelihood of serious harm or is gravely disabled;

10 (b) The minor is in need of evaluation and treatment of the type
11 provided by the inpatient evaluation and treatment facility, secure
12 withdrawal management and stabilization facility, or approved
13 substance use disorder treatment program to which continued inpatient
14 care is sought or is in need of less restrictive alternative
15 treatment found to be in the best interests of the minor or others;

16 (c) The minor is unwilling or unable in good faith to consent to
17 voluntary treatment; and

18 (d) If commitment is for a substance use disorder, there is an
19 available secure withdrawal management and stabilization facility or
20 approved substance use disorder treatment program with adequate space
21 for the minor.

22 (10)(a) If the court finds that the minor meets the criteria for
23 a (~~(fourteen-day)~~) 14-day commitment, the court shall either
24 authorize commitment of the minor for inpatient treatment or for less
25 restrictive alternative treatment upon such conditions as are
26 necessary. If the court determines that the minor does not meet the
27 criteria for a (~~(fourteen-day)~~) 14-day commitment, the minor shall be
28 released.

29 (b) If the court finds by clear, cogent, and convincing evidence
30 that the minor is in need of assisted outpatient treatment pursuant
31 to a petition filed under RCW 71.34.815, the court shall order an
32 appropriate less restrictive course of treatment for up to 18 months.

33 (11)(a) Nothing in this section prohibits the professional person
34 in charge of the facility from releasing the minor at any time, when,
35 in the opinion of the professional person in charge of the facility,
36 further inpatient treatment is no longer necessary. The release may
37 be subject to reasonable conditions if appropriate.

38 (b) Whenever a minor is released under this section, the
39 professional person in charge shall within three days, notify the
40 court in writing of the release.

1 (12) A minor who has been committed for fourteen days shall be
2 released at the end of that period unless a petition for ~~((one~~
3 ~~hundred eighty-day))~~ 180-day commitment is pending before the court.

4 **Sec. 8.** RCW 71.34.740 and 2020 c 302 s 93 are each amended to
5 read as follows:

6 (1) A ~~((commitment))~~ hearing shall be held within ~~((one hundred~~
7 ~~twenty))~~ 120 hours of the minor's admission, excluding Saturday,
8 Sunday, and holidays, or if the hearing is held on a petition filed
9 under RCW 71.34.815, the hearing shall be held at a time scheduled
10 under that section, unless a continuance is ordered under RCW
11 71.34.735.

12 (2) The ~~((commitment))~~ hearing shall be conducted at the superior
13 court or an appropriate place at the facility in which the minor is
14 being detained.

15 (3) At the ~~((commitment))~~ hearing, the evidence in support of the
16 petition shall be presented by the county prosecutor.

17 (4) The minor shall be present at the ~~((commitment))~~ hearing
18 unless the minor, with the assistance of the minor's attorney, waives
19 the right to be present at the hearing.

20 (5) If the parents are opposed to the petition, they may be
21 represented at the hearing and shall be entitled to court-appointed
22 counsel if they are indigent.

23 (6) At the ~~((commitment))~~ hearing, the minor shall have the
24 following rights:

25 (a) To be represented by an attorney;

26 (b) To present evidence on his or her own behalf;

27 (c) To question persons testifying in support of the petition.

28 (7) If the ~~((hearing))~~ petition is for ~~((commitment-for))~~ mental
29 health treatment, the court at the time of the ~~((commitment))~~ hearing
30 and before an order ~~((of-commitment))~~ making findings is entered
31 shall inform the minor both orally and in writing that the failure to
32 make a good faith effort to seek voluntary treatment as provided in
33 RCW 71.34.730 will result in the loss of his or her firearm rights if
34 the minor is subsequently ~~((detained-for))~~ ordered to receive
35 involuntary treatment under this section.

36 (8) If the minor has received medication within ~~((twenty-four))~~
37 24 hours of the hearing, the court shall be informed of that fact and
38 of the probable effects of the medication.

1 (9) For a (~~fourteen-day~~) 14-day commitment, the court must find
2 by a preponderance of the evidence that:

3 (a) The minor has a behavioral health disorder and presents a
4 likelihood of serious harm or is gravely disabled;

5 (b) The minor is in need of evaluation and treatment of the type
6 provided by the inpatient evaluation and treatment facility, secure
7 withdrawal management and stabilization facility, or approved
8 substance use disorder treatment program to which continued inpatient
9 care is sought or is in need of less restrictive alternative
10 treatment found to be in the best interests of the minor or others;
11 and

12 (c) The minor is unwilling or unable in good faith to consent to
13 voluntary treatment.

14 (10)(a) If the court finds that the minor meets the criteria for
15 a (~~fourteen-day~~) 14-day commitment, the court shall either
16 authorize commitment of the minor for inpatient treatment or for less
17 restrictive alternative treatment upon such conditions as are
18 necessary. If the court determines that the minor does not meet the
19 criteria for a (~~fourteen-day~~) 14-day commitment, the minor shall be
20 released.

21 (b) If the court finds by clear, cogent, and convincing evidence
22 that the minor is in need of assisted outpatient treatment pursuant
23 to a petition filed under RCW 71.34.815, the court shall order an
24 appropriate less restrictive course of treatment for up to 18 months.

25 (11)(a) Nothing in this section prohibits the professional person
26 in charge of the facility from releasing the minor at any time, when,
27 in the opinion of the professional person in charge of the facility,
28 further inpatient treatment is no longer necessary. The release may
29 be subject to reasonable conditions if appropriate.

30 (b) Whenever a minor is released under this section, the
31 professional person in charge shall within three days, notify the
32 court in writing of the release.

33 (12) A minor who has been committed for fourteen days shall be
34 released at the end of that period unless a petition for (~~one~~
35 ~~hundred eighty-day~~) 180-day commitment is pending before the court.

36 **Sec. 9.** RCW 71.34.780 and 2020 c 302 s 97 are each amended to
37 read as follows:

38 (1) An agency or facility designated to monitor or provide less
39 restrictive alternative treatment services to a minor under a court

1 order or conditional release may take a range of actions to enforce
2 the terms of the order or conditional release in the event the minor
3 is not adhering to the terms or is experiencing substantial
4 deterioration, decompensation, or a likelihood of serious harm. Such
5 actions may include:

6 (a) Counseling the minor and offering incentives for compliance;

7 (b) Increasing the intensity of services;

8 (c) Petitioning the court to review the minor's compliance and
9 optionally modify the terms of the order or conditional release while
10 the minor remains in outpatient treatment;

11 (d) To request assistance from a peace officer for temporarily
12 detaining the minor for up to 12 hours for evaluation at a crisis
13 stabilization unit, evaluation and treatment facility, secure
14 withdrawal management and stabilization facility, facility providing
15 services under a court order, or emergency department to determine if
16 revocation or enforcement proceedings under this section are
17 necessary and appropriate to stabilize the minor, if there has been a
18 pattern of noncompliance or failure of reasonable attempts at
19 outreach and engagement; or

20 (e) Initiation of revocation proceedings under subsection (2) of
21 this section.

22 (2) If the professional person in charge of an outpatient
23 treatment program, a designated crisis responder, or the director or
24 secretary, as appropriate, determines that a minor is failing to
25 adhere to the conditions of ((the)) a court order for less
26 restrictive alternative treatment or the conditions ((for the)) of a
27 conditional release, or that substantial deterioration in the minor's
28 functioning has occurred, the designated crisis responder, or the
29 director or secretary, as appropriate, may order that the minor be
30 taken into custody and transported to an inpatient evaluation and
31 treatment facility, a secure withdrawal management and stabilization
32 facility, or an approved substance use disorder treatment program. A
33 secure withdrawal management and stabilization facility or approved
34 substance use disorder treatment program that has adequate space for
35 the minor must be available.

36 ((+2)) (3)(a) The designated crisis responder, director, or
37 secretary, as appropriate, shall file the order of apprehension and
38 detention and serve it upon the minor and notify the minor's parent
39 and the minor's attorney, if any, of the detention within two days of
40 return. At the time of service the minor shall be informed of the

1 right to a hearing and to representation by an attorney. The
2 designated crisis responder or the director or secretary, as
3 appropriate, may modify or rescind the order of apprehension and
4 detention at any time prior to the hearing.

5 (b) If the minor is involuntarily detained for revocation at an
6 evaluation and treatment facility, secure withdrawal management and
7 stabilization facility, or approved substance use disorder treatment
8 program in a different county from where the minor was initially
9 detained, the facility or program may file the order of apprehension,
10 serve it on the minor and notify the minor's parents and the minor's
11 attorney at the request of the designated crisis responder.

12 ~~((+3))~~ (4) A petition for revocation of less restrictive
13 alternative treatment shall be filed by the designated crisis
14 responder or the director, secretary, or facility, as appropriate,
15 with the court in the county where the minor is detained. The court
16 shall conduct the hearing in that county. A petition for revocation
17 of conditional release must be filed in the county where the minor is
18 detained. A petition shall describe the behavior of the minor
19 indicating violation of the conditions or deterioration of routine
20 functioning and a dispositional recommendation. The hearing shall be
21 held within seven days of the minor's return. The issues to be
22 determined are whether the minor did or did not adhere to the
23 conditions of the less restrictive alternative treatment or
24 conditional release, or whether the minor's routine functioning has
25 substantially deteriorated, and, if so, whether the conditions of
26 less restrictive alternative treatment or conditional release should
27 be modified or, subject to subsection ~~((+4))~~ (5) of this section,
28 whether the ~~((minor))~~ court should ~~((be returned to))~~ order the
29 minor's detention for inpatient treatment. Pursuant to the
30 determination of the court, the minor shall be returned to less
31 restrictive alternative treatment or conditional release on the same
32 or modified conditions or shall be ~~((returned to))~~ detained for
33 inpatient treatment. If the minor is ~~((returned to))~~ detained for
34 inpatient treatment, RCW 71.34.760 regarding the director's placement
35 responsibility shall apply. The hearing may be waived by the minor
36 and the minor ~~((returned to))~~ detained for inpatient treatment or
37 returned to less restrictive alternative treatment or conditional
38 release on the same or modified conditions. If the court orders
39 detention for inpatient treatment, the treatment period must be for
40 14 days from the revocation hearing if the less restrictive

1 alternative treatment order was based on a petition under RCW
2 71.34.740 or 71.34.815. The minor must return to less restrictive
3 alternative treatment under the order at the end of the 14-day period
4 unless a petition for further treatment is filed under RCW 71.34.750
5 or the minor accepts voluntary treatment. If the court orders
6 detention for inpatient treatment and the less restrictive
7 alternative treatment order or conditional release was based on a
8 petition under RCW 71.34.750, the number of days remaining on the
9 less restrictive alternative treatment order or conditional release
10 must be converted to days of inpatient treatment.

11 ((4)) (5) A court may not order the ((return)) placement of a
12 minor to inpatient treatment in a secure withdrawal management and
13 stabilization facility or approved substance use disorder treatment
14 program unless there is a secure withdrawal management and
15 stabilization facility or approved substance use disorder treatment
16 program available with adequate space for the minor.

17 **Sec. 10.** RCW 71.34.780 and 2020 c 302 s 98 are each amended to
18 read as follows:

19 (1) An agency or facility designated to monitor or provide less
20 restrictive alternative treatment services to a minor under a court
21 order or conditional release may take a range of actions to enforce
22 the terms of the order or conditional release in the event the minor
23 is not adhering to the terms or is experiencing substantial
24 deterioration, decompensation, or a likelihood of serious harm. Such
25 actions may include:

26 (a) Counseling the minor and offering incentives for compliance;

27 (b) Increasing the intensity of services;

28 (c) Petitioning the court to review the minor's compliance and
29 optionally modify the terms of the order or conditional release while
30 the minor remains in outpatient treatment;

31 (d) To request assistance from a peace officer for temporarily
32 detaining the minor for up to 12 hours for evaluation at a crisis
33 stabilization unit, evaluation and treatment facility, secure
34 withdrawal management and stabilization facility, facility providing
35 services under a court order, or emergency department to determine if
36 revocation or enforcement proceedings under this section are
37 necessary and appropriate to stabilize the minor, if there has been a
38 pattern of noncompliance or failure of reasonable attempts at
39 outreach and engagement; or

1 (e) Initiation of revocation proceedings under subsection (2) of
2 this section.

3 (2) If the professional person in charge of an outpatient
4 treatment program, a designated crisis responder, or the director or
5 secretary, as appropriate, determines that a minor is failing to
6 adhere to the conditions of ~~((the))~~ a court order for less
7 restrictive alternative treatment or the conditions ~~((for—the))~~ of
8 conditional release, or that substantial deterioration in the minor's
9 functioning has occurred, the designated crisis responder, or the
10 director or secretary, as appropriate, may order that the minor be
11 taken into custody and transported to an inpatient evaluation and
12 treatment facility, a secure withdrawal management and stabilization
13 facility, or an approved substance use disorder treatment program.

14 ~~((+2))~~ (3)(a) The designated crisis responder, director, or
15 secretary, as appropriate, shall file the order of apprehension and
16 detention and serve it upon the minor and notify the minor's parent
17 and the minor's attorney, if any, of the detention within two days of
18 return. At the time of service the minor shall be informed of the
19 right to a hearing and to representation by an attorney. The
20 designated crisis responder or the director or secretary, as
21 appropriate, may modify or rescind the order of apprehension and
22 detention at any time prior to the hearing.

23 (b) If the minor is involuntarily detained for revocation at an
24 evaluation and treatment facility, secure withdrawal management and
25 stabilization facility, or approved substance use disorder treatment
26 program in a different county from where the minor was initially
27 detained, the facility or program may file the order of apprehension,
28 serve it on the minor and notify the minor's parents and the minor's
29 attorney at the request of the designated crisis responder.

30 ~~((+3))~~ (4) A petition for revocation of less restrictive
31 alternative treatment shall be filed by the designated crisis
32 responder or the director, secretary, or facility, as appropriate,
33 with the court in the county where the minor is detained. The court
34 shall conduct the hearing in that county. A petition for revocation
35 of conditional release must be filed in the county where the minor is
36 detained. A petition shall describe the behavior of the minor
37 indicating violation of the conditions or deterioration of routine
38 functioning and a dispositional recommendation. The hearing shall be
39 held within seven days of the minor's return. The issues to be
40 determined are whether the minor did or did not adhere to the

1 conditions of the less restrictive alternative treatment or
2 conditional release, or whether the minor's routine functioning has
3 substantially deteriorated, and, if so, whether the conditions of
4 less restrictive alternative treatment or conditional release should
5 be modified or whether the ((minor)) court should ((be returned to))
6 order the minor's detention for inpatient treatment. Pursuant to the
7 determination of the court, the minor shall be returned to less
8 restrictive alternative treatment or conditional release on the same
9 or modified conditions or shall be ((returned to)) detained for
10 inpatient treatment. If the minor is ((returned to)) detained for
11 inpatient treatment, RCW 71.34.760 regarding the director's placement
12 responsibility shall apply. The hearing may be waived by the minor
13 and the minor ((returned to)) detained for inpatient treatment or
14 returned to less restrictive alternative treatment or conditional
15 release on the same or modified conditions. If the court orders
16 detention for inpatient treatment, the treatment period must be for
17 14 days from the revocation hearing if the less restrictive
18 alternative treatment order was based on a petition under RCW
19 71.34.740 or 71.34.815. The minor must return to less restrictive
20 alternative treatment under the order at the end of the 14-day period
21 unless a petition for further treatment is filed under RCW 71.34.750
22 or the minor accepts voluntary treatment. If the court orders
23 detention for inpatient treatment and the less restrictive
24 alternative treatment order or conditional release was based on a
25 petition under RCW 71.34.750, the number of days remaining on the
26 less restrictive alternative treatment order or conditional release
27 must be converted to days of inpatient treatment.

28 **Sec. 11.** RCW 71.34.815 and 2022 c 210 s 4 are each amended to
29 read as follows:

30 (1) An adolescent is in need of assisted outpatient treatment if
31 the court finds by clear, cogent, and convincing evidence in response
32 to a petition filed under this section that:

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

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

37 (i) The adolescent is unlikely to survive safely in the community
38 without supervision and the adolescent's condition is substantially
39 deteriorating; or

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

5 (c) The adolescent has a history of lack of compliance with
6 treatment for his or her behavioral health disorder that has:

7 (i) At least twice within the 36 months prior to the filing of
8 the petition been a significant factor in necessitating
9 hospitalization of the adolescent, or the adolescent's receipt of
10 services in a forensic or other mental health unit of a state
11 (~~correctional~~) juvenile rehabilitation facility or local
12 (~~correctional~~) juvenile detention facility, provided that the 36-
13 month period shall be extended by the length of any hospitalization
14 or incarceration of the adolescent that occurred within the 36-month
15 period;

16 (ii) At least twice within the 36 months prior to the filing of
17 the petition been a significant factor in necessitating emergency
18 medical care or hospitalization for behavioral health-related medical
19 conditions including overdose, infected abscesses, sepsis,
20 endocarditis, or other maladies, or a significant factor in behavior
21 which resulted in the adolescent's incarceration in a state or local
22 correctional facility; or

23 (iii) Resulted in one or more violent acts, threats, or attempts
24 to cause serious physical harm to the adolescent or another within
25 the 48 months prior to the filing of the petition, provided that the
26 48-month period shall be extended by the length of any
27 hospitalization or incarceration of the person that occurred during
28 the 48-month period;

29 (d) Participation in an assisted outpatient treatment program
30 would be the least restrictive alternative necessary to ensure the
31 adolescent's recovery and stability; and

32 (e) The adolescent will benefit from assisted outpatient
33 treatment.

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

37 (a) The director of a hospital where the adolescent is
38 hospitalized or the director's designee;

1 (b) The director of a behavioral health service provider
2 providing behavioral health care or residential services to the
3 adolescent or the director's designee;

4 (c) The adolescent's treating mental health professional or
5 substance use disorder professional or one who has evaluated the
6 person;

7 (d) A designated crisis responder;

8 (e) A release planner from a juvenile detention or rehabilitation
9 facility; or

10 (f) An emergency room physician.

11 (3) A court order for less restrictive alternative treatment on
12 the basis that the adolescent is in need of assisted outpatient
13 treatment may be effective for up to 18 months, unless the adolescent
14 is currently detained for inpatient treatment for 14 days or more
15 under RCW 71.34.740 or 71.34.750, in which case the order may be
16 effective for 180 days. The petitioner must personally interview the
17 adolescent, unless the adolescent refuses an interview, to determine
18 whether the adolescent will voluntarily receive appropriate
19 treatment.

20 (4) The petitioner must allege specific facts based on personal
21 observation, evaluation, or investigation, and must consider the
22 reliability or credibility of any person providing information
23 material to the petition.

24 (5) The petition must include:

25 (a) A statement of the circumstances under which the adolescent's
26 condition was made known and the basis for the opinion, from personal
27 observation or investigation, that the adolescent is in need of
28 assisted outpatient treatment. The petitioner must state which
29 specific facts come from personal observation and specify what other
30 sources of information the petitioner has relied upon to form this
31 belief;

32 (b) A declaration from a physician, physician assistant, or
33 advanced registered nurse practitioner, ~~((or))~~ the adolescent's
34 treating mental health professional or substance use disorder
35 professional, or in the case of a person enrolled in treatment in a
36 behavioral health agency, the person's behavioral health case
37 manager, who has examined the adolescent no more than 10 days prior
38 to the submission of the petition and who is willing to testify in
39 support of the petition, or who alternatively has made appropriate
40 attempts to examine the adolescent within the same period but has not

1 been successful in obtaining the adolescent's cooperation, and who is
2 willing to testify to the reasons they believe that the adolescent
3 meets the criteria for assisted outpatient treatment(~~(. If the~~
4 ~~declaration is provided by the adolescent's treating mental health~~
5 ~~professional or substance use disorder professional, it must be~~
6 ~~cosigned by a supervising physician, physician assistant, or advanced~~
7 ~~registered nurse practitioner who certifies that they have reviewed~~
8 ~~the declaration))~~);

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

11 (d) The name of an agency, provider, or facility that agrees to
12 provide less restrictive alternative treatment if the petition is
13 granted by the court; and

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

19 (6) (a) Upon receipt of a petition meeting all requirements of
20 this section, the court shall fix a date for a hearing:

21 (i) No sooner than three days or later than seven days after the
22 date of service or as stipulated by the parties or, upon a showing of
23 good cause, no later than 30 days after the date of service; or

24 (ii) If the adolescent is hospitalized at the time of filing of
25 the petition, before discharge of the adolescent and in sufficient
26 time to arrange for a continuous transition from inpatient treatment
27 to assisted outpatient treatment.

28 (b) A copy of the petition and notice of hearing shall be served,
29 in the same manner as a summons, on the petitioner, the adolescent,
30 the qualified professional whose affidavit accompanied the petition,
31 a current provider, if any, and a surrogate decision maker or agent
32 under chapter 71.32 RCW, if any.

33 (c) If the adolescent has a surrogate decision maker or agent
34 under chapter 71.32 RCW who wishes to provide testimony at the
35 hearing, the court shall afford the surrogate decision maker or agent
36 an opportunity to testify.

37 (d) The adolescent shall be represented by counsel at all stages
38 of the proceedings.

1 (e) If the adolescent fails to appear at the hearing after
2 notice, the court may conduct the hearing in the adolescent's
3 absence; provided that the adolescent's counsel is present.

4 (f) If the adolescent has refused to be examined by the qualified
5 professional whose affidavit accompanied the petition, the court may
6 order a mental examination of the adolescent. The examination of the
7 adolescent may be performed by the qualified professional whose
8 affidavit accompanied the petition. If the examination is performed
9 by another qualified professional, the examining qualified
10 professional shall be authorized to consult with the qualified
11 professional whose affidavit accompanied the petition.

12 (g) If the adolescent has refused to be examined by a qualified
13 professional and the court finds reasonable grounds to believe that
14 the allegations of the petition are true, the court may issue a
15 written order directing a peace officer who has completed crisis
16 intervention training to detain and transport the adolescent to a
17 provider for examination by a qualified professional. An adolescent
18 detained pursuant to this subsection shall be detained no longer than
19 necessary to complete the examination and in no event longer than 24
20 hours. All papers in the court file must be provided to the
21 adolescent's designated attorney.

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

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

33 (9) (~~(After January 1, 2023, a)~~) A petition for assisted
34 outpatient treatment must be filed on forms developed by the
35 administrative office of the courts.

36 NEW SECTION. **Sec. 12.** Sections 3, 7, and 9 of this act expire
37 July 1, 2026.

1 NEW SECTION. **Sec. 13.** Sections 4, 8, and 10 of this act take
2 effect July 1, 2026.

3 **Sec. 14.** 2021 c 264 s 29 (uncodified) is amended to read as
4 follows:

5 (1) Sections 64 and 81, chapter 302, Laws of 2020 (~~and, until~~
6 ~~July 1, 2022, section 27, chapter 264, Laws of 2021 and, beginning~~
7 ~~July 1, 2022~~), section 28, chapter 264, Laws of 2021, and section 6,
8 chapter . . ., Laws of 2023 (section 6 of this act) take effect when
9 the average wait time for children's long-term inpatient placement
10 admission is 30 days or less for two consecutive quarters.

11 (2) The health care authority must provide written notice of the
12 effective date of sections 64 and 81, chapter 302, Laws of 2020
13 (~~and~~), section(~~s 27 and~~) 28, chapter 264, Laws of 2021, and
14 section 6, chapter . . ., Laws of 2023 (section 6 of this act) to
15 affected parties, the chief clerk of the house of representatives,
16 the secretary of the senate, the office of the code reviser, and
17 others as deemed appropriate by the authority.

18 NEW SECTION. **Sec. 15.** If specific funding for the purposes of
19 this act, referencing this act by bill or chapter number, is not
20 provided by June 30, 2023, in the omnibus appropriations act, this
21 act is null and void."

22 Correct the title.

EFFECT: Retains current law that the burden of proof for finding
an adult or juvenile in need of assisted outpatient treatment is
clear, cogent, and convincing evidence.

A null and void clause is added, making the bill null and void
unless funded in the budget.

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