

RCW 71.09.070 Annual examinations of persons committed under chapter—Suspension of section. (1) Each person committed under this chapter shall have a current examination of his or her mental condition made by the department at least once every year.

(2) The evaluator must prepare a report that includes consideration of whether:

(a) The committed person currently meets the definition of a sexually violent predator;

(b) Conditional release to a less restrictive alternative is in the best interest of the person; and

(c) Conditions can be imposed that would adequately protect the community.

(3) The department, on request of the committed person, shall allow a record of the annual review interview to be preserved by audio recording and made available to the committed person.

(4) The evaluator must indicate in the report whether the committed person participated in the interview and examination.

(5) The department shall file the report with the court that committed the person under this chapter. The report shall be in the form of a declaration or certification in compliance with the requirements of chapter 5.50 RCW and shall be prepared by a professionally qualified person as defined by rules adopted by the secretary. A copy of the report shall be served on the prosecuting agency involved in the initial commitment and upon the committed person and his or her counsel.

(6) (a) The committed person may retain, or if he or she is indigent and so requests, the court may appoint a qualified expert or a professional person to examine him or her, and such expert or professional person shall have access to all records concerning the person.

(b) Any report prepared by the expert or professional person and any expert testimony on the committed person's behalf is not admissible in a proceeding pursuant to RCW 71.09.090, unless the committed person participated in the most recent interview and evaluation completed by the department.

(7) If an unconditional release trial is ordered pursuant to RCW 71.09.090, this section is suspended until the completion of that trial. If the individual is found either by jury or the court to continue to meet the definition of a sexually violent predator, the department must conduct an examination pursuant to this section no later than one year after the date of the order finding that the individual continues to be a sexually violent predator. The examination must comply with the requirements of this section.

(8) During any period of confinement pursuant to a criminal conviction, or for any period of detention awaiting trial on criminal charges, this section is suspended. Upon the return of the person committed under this chapter to the custody of the department, the department shall initiate an examination of the person's mental condition. The examination must comply with the requirements of subsection (1) of this section. [2019 c 232 § 25; 2015 c 278 § 1; 2011 2nd sp.s. c 7 § 1; 2001 c 286 § 8; 1995 c 216 § 7; 1990 c 3 § 1007.]

Effective date—2015 c 278 §§ 1 and 2: "Sections 1 and 2 of this act are necessary for the immediate preservation of the public peace,

health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2015." [2015 c 278 § 4.]

Effective date—2011 2nd sp.s. c 7: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [December 20, 2011]." [2011 2nd sp.s. c 7 § 3.]

Recommendations—Application—Effective date—2001 c 286: See notes following RCW 71.09.015.