WSR 26-15-040
PERMANENT RULES
HEALTH CARE AUTHORITY
[Filed July 8, 2026, 10:29 a.m., effective August 8, 2026]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The health care authority (HCA) is creating a new behavioral health rule to implement the requirements of RCW 71.05.110(2) and 71.05.620(2), regarding appointed counsel and access to closed Involuntary Treatment Act court files and records. Newly enacted legislation (ESSB [E2SSB] 5745, 2025) amended RCW 71.05.110 to provide that, under certain circumstances, HCA may contract with the office of public defense (OPD) to provide legal counsel for persons involuntarily detained at state-operated behavioral health facilities. OPD also provides appellate counsel in these cases. OPD needs express legal authority granted by HCA rule to timely access court files and records, enter an appearance before the court, and provide legal representation to the detained person.

Citation of Rules Affected by this Order: New WAC 182-155-0050, 182-155-0100, 182-155-0200, and 182-155-0300.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, and 71.05.620(2).

Adopted under notice filed as WSR 26-12-021 on May 26, 2026.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 4, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 0, Repealed 0.

Date Adopted: July 8, 2026.

Wendy Barcus
Rules Coordinator

RDS-7105.4

Chapter 182-155 WAC
INVOLUNTARY TREATMENT—LEGAL REPRESENTATION PROVIDED BY THE OFFICE OF PUBLIC DEFENSE

NEW SECTION

WAC 182-155-0050 Authority and purpose. This chapter implements the requirements of RCW 71.05.110 and 71.05.620 regarding appointed

counsel and access to court records related to long-term and short-term civil commitment proceedings governed by chapters 71.05 and 71.34 RCW, and RCW 2.70.020.

NEW SECTION

WAC 182-155-0100 Definitions. **"Authority"** - See RCW 41.05.011.

"Attorney of the person" - The defense attorney assigned to represent a person subject to a petition under chapters 71.05 and 71.34 RCW as well as the office of public defense when it exercises its authority to assign the defense attorney who represents the person.

"Director" - The director of the authority.

"Office of public defense" or **"OPD"** - See RCW 2.70.005.

"State facility" - See RCW 71.05.020.

NEW SECTION

WAC 182-155-0200 Appointing the office of public defense as trial counsel. (1) The county where the individual is detained administers appointed counsel under RCW 71.05.110. When a county governing body decides to request the office of public defense (OPD) contract with the authority to provide representation for an individual detained at a state facility, it must send written notice to the director.

(2) The director, or designee, will notify OPD of the opportunity to contract for representation services.

(3) OPD will inform the authority in writing whether it will agree to contract with the authority to provide representation services in the county requested.

(4) The director, or designee, will respond to the county's request within 30 days of receiving a response from OPD.

(5) As of January 1, 2026, OPD provides representation services under RCW 71.05.110 in the following counties for individuals detained at a state facility: King County.

(6) When OPD provides representation under this section, OPD is considered an attorney of the person under RCW 71.05.620.

NEW SECTION

WAC 182-155-0300 Role of the office of public defense as legal appellate counsel. (1) Individuals detained under chapter 71.05 or 71.34 RCW have the right to appointed counsel at every stage of civil commitment proceedings. The right to counsel extends to appeals of trial court decisions per *In re Grove*, 127 Wn.2d 221 (1995).

(2) The office of public defense (OPD) administers appointed appellate counsel statewide for indigent persons under RCW 2.70.020. OPD provides appellate representation through contracted counsel under RCW 2.70.023.

(3) When OPD provides representation under this section, OPD is considered an attorney of the person under RCW 71.05.620.