

ESHB 1713 - S COMM AMD

By Committee on Human Services, Mental Health & Housing

NOT CONSIDERED 4/15/2015

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

3 "PART I

4 CHEMICAL DEPENDENCY INVOLUNTARY TREATMENT PROVISIONS

5 **Sec. 101.** RCW 70.96A.020 and 2001 c 13 s 1 are each amended to
6 read as follows:

7 For the purposes of this chapter the following words and phrases
8 shall have the following meanings unless the context clearly requires
9 otherwise:

10 (1) "Alcoholic" means a person who suffers from the disease of
11 alcoholism.

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

18 (3) "Approved treatment program" means a discrete program of
19 chemical dependency treatment provided by a treatment program
20 certified by the department of social and health services as meeting
21 standards adopted under this chapter.

22 (4) "Chemical dependency" means:

23 (a) Alcoholism; (b) drug addiction; or (c) dependence on alcohol
24 and one or more other psychoactive chemicals, as the context
25 requires.

26 (5) "Chemical dependency program" means expenditures and
27 activities of the department designed and conducted to prevent or
28 treat alcoholism and other drug addiction, including reasonable
29 administration and overhead.

30 (6) "Department" means the department of social and health
31 services.

1 (7) "Designated chemical dependency specialist" or "specialist"
2 means a person designated by the county alcoholism and other drug
3 addiction program coordinator designated under RCW 70.96A.310 to
4 perform the commitment duties described in RCW 70.96A.140 and
5 qualified to do so by meeting standards adopted by the department.

6 (8) "Director" means the person administering the chemical
7 dependency program within the department.

8 (9) "Drug addict" means a person who suffers from the disease of
9 drug addiction.

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

16 (11) "Emergency service patrol" means a patrol established under
17 RCW 70.96A.170.

18 (12) "Gravely disabled by alcohol or other psychoactive
19 chemicals" or "gravely disabled" means that a person, as a result of
20 the use of alcohol or other psychoactive chemicals: (a) Is in danger
21 of serious physical harm resulting from a failure to provide for his
22 or her essential human needs of health or safety; or (b) manifests
23 severe deterioration in routine functioning evidenced by a repeated
24 and escalating loss of cognition or volitional control over his or
25 her actions and is not receiving care as essential for his or her
26 health or safety.

27 (13) "History of one or more violent acts" refers to the period
28 of time ten years prior to the filing of a petition under this
29 chapter, excluding any time spent, but not any violent acts
30 committed, in a mental health facility, or a long-term alcoholism or
31 drug treatment facility, or in confinement.

32 (14) "Incapacitated by alcohol or other psychoactive chemicals"
33 means that a person, as a result of the use of alcohol or other
34 psychoactive chemicals, is gravely disabled or presents a likelihood
35 of serious harm to himself or herself, to any other person, or to
36 property.

37 (15) "Incompetent person" means a person who has been adjudged
38 incompetent by the superior court.

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

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

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

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

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

19 (19) "Medical necessity" for inpatient care of a minor means a
20 requested certified inpatient service that is reasonably calculated
21 to: (a) Diagnose, arrest, or alleviate a chemical dependency; or (b)
22 prevent the worsening of chemical dependency conditions that endanger
23 life or cause suffering and pain, or result in illness or infirmity
24 or threaten to cause or aggravate a handicap, or cause physical
25 deformity or malfunction, and there is no adequate less restrictive
26 alternative available.

27 (20) "Minor" means a person less than eighteen years of age.

28 (21) "Parent" means the parent or parents who have the legal
29 right to custody of the child. Parent includes custodian or guardian.

30 (22) "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 (23) "Person" means an individual, including a minor.

35 (24) "Professional person in charge" or "professional person"
36 means a physician or chemical dependency counselor as defined in rule
37 by the department, who is empowered by a certified treatment program
38 with authority to make assessment, admission, continuing care, and
39 discharge decisions on behalf of the certified program.

1 (25) "Secretary" means the secretary of the department of social
2 and health services.

3 (26) "Treatment" means the broad range of emergency,
4 detoxification, residential, and outpatient services and care,
5 including diagnostic evaluation, chemical dependency education and
6 counseling, medical, psychiatric, psychological, and social service
7 care, vocational rehabilitation and career counseling, which may be
8 extended to alcoholics and other drug addicts and their families,
9 persons incapacitated by alcohol or other psychoactive chemicals, and
10 intoxicated persons.

11 (27) "Treatment program" means an organization, institution, or
12 corporation, public or private, engaged in the care, treatment, or
13 rehabilitation of alcoholics or other drug addicts.

14 (28) "Violent act" means behavior that resulted in homicide,
15 attempted suicide, nonfatal injuries, or substantial damage to
16 property.

17 (29) "Commitment" means the determination by a court that a
18 person should be detained for a period of either evaluation or
19 treatment, or both, in an inpatient or a less restrictive setting.

20 (30) "Mental health professional" means a psychiatrist,
21 psychologist, psychiatric advanced registered nurse practitioner,
22 psychiatric nurse, or social worker, and such other mental health
23 professionals as may be defined by rules adopted by the secretary
24 pursuant to the provisions of chapter 71.05 RCW.

25 (31) "Physician assistant" means a person who is licensed as a
26 physician assistant pursuant to chapter 18.57A or 18.71A RCW and is
27 working with a licensed mental health physician as indicated by their
28 delegation agreement.

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

33 **Sec. 102.** RCW 70.96A.020 and 2014 c 225 s 20 are each reenacted
34 and amended to read as follows:

35 For the purposes of this chapter the following words and phrases
36 shall have the following meanings unless the context clearly requires
37 otherwise:

38 (1) "Alcoholism" means a disease, characterized by a dependency
39 on alcoholic beverages, loss of control over the amount and

1 circumstances of use, symptoms of tolerance, physiological or
2 psychological withdrawal, or both, if use is reduced or discontinued,
3 and impairment of health or disruption of social or economic
4 functioning.

5 (2) "Approved treatment program" means a program for persons with
6 a substance use disorder provided by a treatment program certified by
7 the department of social and health services as meeting standards
8 adopted under this chapter.

9 (3) "Behavioral health organization" means a county authority or
10 group of county authorities or other entity recognized by the
11 secretary in contract in a defined regional service area.

12 (4) "Behavioral health services" means mental health services as
13 described in chapters 71.24 and 71.36 RCW and chemical dependency
14 treatment services as described in this chapter.

15 (5) "Chemical dependency" means: (a) Alcoholism; (b) drug
16 addiction; or (c) dependence on alcohol and one or more other
17 psychoactive chemicals, as the context requires.

18 (6) "Chemical dependency program" means expenditures and
19 activities of the department designed and conducted to prevent or
20 treat alcoholism and other drug addiction, including reasonable
21 administration and overhead.

22 (7) "Department" means the department of social and health
23 services.

24 (8) "Designated chemical dependency specialist" or "specialist"
25 means a person designated by the behavioral health organization or by
26 the county alcoholism and other drug addiction program coordinator
27 designated under RCW 70.96A.310 to perform the commitment duties
28 described in RCW 70.96A.140 and qualified to do so by meeting
29 standards adopted by the department.

30 (9) "Director" means the person administering the substance use
31 disorder program within the department.

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

38 (11) "Emergency service patrol" means a patrol established under
39 RCW 70.96A.170.

1 (12) "Gravely disabled by alcohol or other psychoactive
2 chemicals" or "gravely disabled" means that a person, as a result of
3 the use of alcohol or other psychoactive chemicals: (a) Is in danger
4 of serious physical harm resulting from a failure to provide for his
5 or her essential human needs of health or safety; or (b) manifests
6 severe deterioration in routine functioning evidenced by a repeated
7 and escalating loss of cognition or volitional control over his or
8 her actions and is not receiving care as essential for his or her
9 health or safety.

10 (13) "History of one or more violent acts" refers to the period
11 of time ten years prior to the filing of a petition under this
12 chapter, excluding any time spent, but not any violent acts
13 committed, in a mental health facility, or a long-term alcoholism or
14 drug treatment facility, or in confinement.

15 (14) "Incapacitated by alcohol or other psychoactive chemicals"
16 means that a person, as a result of the use of alcohol or other
17 psychoactive chemicals, is gravely disabled or presents a likelihood
18 of serious harm to himself or herself, to any other person, or to
19 property.

20 (15) "Incompetent person" means a person who has been adjudged
21 incompetent by the superior court.

22 (16) "Intoxicated person" means a person whose mental or physical
23 functioning is substantially impaired as a result of the use of
24 alcohol or other psychoactive chemicals.

25 (17) "Licensed physician" means a person licensed to practice
26 medicine or osteopathic medicine and surgery in the state of
27 Washington.

28 (18) "Likelihood of serious harm" means:

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

38 (b) The individual has threatened the physical safety of another
39 and has a history of one or more violent acts.

1 (19) "Medical necessity" for inpatient care of a minor means a
2 requested certified inpatient service that is reasonably calculated
3 to: (a) Diagnose, arrest, or alleviate a chemical dependency; or (b)
4 prevent the progression of substance use disorders that endanger life
5 or cause suffering and pain, or result in illness or infirmity or
6 threaten to cause or aggravate a handicap, or cause physical
7 deformity or malfunction, and there is no adequate less restrictive
8 alternative available.

9 (20) "Minor" means a person less than eighteen years of age.

10 (21) "Parent" means the parent or parents who have the legal
11 right to custody of the child. Parent includes custodian or guardian.

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

16 (23) "Person" means an individual, including a minor.

17 (24) "Professional person in charge" or "professional person"
18 means a physician or chemical dependency counselor as defined in rule
19 by the department, who is empowered by a certified treatment program
20 with authority to make assessment, admission, continuing care, and
21 discharge decisions on behalf of the certified program.

22 (25) "Secretary" means the secretary of the department of social
23 and health services.

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

30 (27) "Treatment" means the broad range of emergency, withdrawal
31 management, residential, and outpatient services and care, including
32 diagnostic evaluation, chemical dependency education and counseling,
33 medical, psychiatric, psychological, and social service care,
34 vocational rehabilitation and career counseling, which may be
35 extended to persons with substance use disorders and their families,
36 persons incapacitated by alcohol or other psychoactive chemicals, and
37 intoxicated persons.

38 (28) "Treatment program" means an organization, institution, or
39 corporation, public or private, engaged in the care, treatment, or

1 rehabilitation of persons with substance use ((disorder[s+]))
2 disorders.

3 (29) "Violent act" means behavior that resulted in homicide,
4 attempted suicide, nonfatal injuries, or substantial damage to
5 property.

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

9 (31) "Mental health professional" means a psychiatrist,
10 psychologist, psychiatric advanced registered nurse practitioner,
11 psychiatric nurse, or social worker, and such other mental health
12 professionals as may be defined by rules adopted by the secretary
13 pursuant to the provisions of chapter 71.05 RCW.

14 (32) "Physician assistant" means a person who is licensed as a
15 physician assistant pursuant to chapter 18.57A or 18.71A RCW and is
16 working with a licensed mental health physician as indicated by their
17 delegation agreement.

18 (33) "Psychiatric advanced registered nurse practitioner" means a
19 person who is licensed as an advanced registered nurse practitioner
20 pursuant to chapter 18.79 RCW; and who is board certified in advanced
21 practice psychiatric and mental health nursing.

22 **Sec. 103.** RCW 70.96A.140 and 2001 c 13 s 3 are each amended to
23 read as follows:

24 (1)(a) When a designated chemical dependency specialist receives
25 information alleging that a person presents a likelihood of serious
26 harm or is gravely disabled as a result of chemical dependency, the
27 designated chemical dependency specialist, after investigation and
28 evaluation of the specific facts alleged and of the reliability and
29 credibility of the information, may file a petition for commitment of
30 such person with the superior court, district court, or in another
31 court permitted by court rule.

32 If a petition for commitment is not filed in the case of a minor,
33 the parent, guardian, or custodian who has custody of the minor may
34 seek review of that decision made by the designated chemical
35 dependency specialist in superior or district court. The parent,
36 guardian, or custodian shall file notice with the court and provide a
37 copy of the designated chemical dependency specialist's report.

38 If the designated chemical dependency specialist finds that the
39 initial needs of such person would be better served by placement

1 within the mental health system, the person shall be referred to
2 either a ((county)) designated mental health professional or an
3 evaluation and treatment facility as defined in RCW 71.05.020 or
4 71.34.020.

5 (b) If placement in a chemical dependency program is available
6 and deemed appropriate, the petition shall allege that: The person is
7 chemically dependent and presents a likelihood of serious harm or is
8 gravely disabled by alcohol or drug addiction, or that the person has
9 twice before in the preceding twelve months been admitted for
10 detoxification, sobering services, or chemical dependency treatment
11 pursuant to RCW 70.96A.110 or 70.96A.120, and is in need of a more
12 sustained treatment program, or that the person is chemically
13 dependent and has threatened, attempted, or inflicted physical harm
14 on another and is likely to inflict physical harm on another unless
15 committed. A refusal to undergo treatment, by itself, does not
16 constitute evidence of lack of judgment as to the need for treatment.

17 ~~((The petition shall be accompanied by a certificate of a licensed
18 physician who has examined the person within five days before
19 submission of the petition, unless the person whose commitment is
20 sought has refused to submit to a medical examination, in which case
21 the fact of refusal shall be alleged in the petition. The certificate
22 shall set forth the licensed physician's findings in support of the
23 allegations of the petition. A physician employed by the petitioning
24 program or the department is eligible to be the certifying
25 physician.))~~

26 (c) If involuntary detention is sought, the petition must state
27 facts that support a finding of the grounds identified in (b) of this
28 subsection and that there are no less restrictive alternatives to
29 detention in the best interest of such person or others. The petition
30 must state specifically that less restrictive alternative treatment
31 was considered and specify why treatment less restrictive than
32 detention is not appropriate. If an involuntary less restrictive
33 alternative is sought, the petition must state facts that support a
34 finding of the grounds for commitment identified in (b) of this
35 subsection and set forth the proposed less restrictive alternative.

36 (d)(i) The petition must be signed by:

37 (A) Two licensed physicians;

38 (B) One licensed physician and a mental health professional;

39 (C) Two psychiatric advanced registered nurse practitioners;

40 (D) Two physician assistants;

1 (E) One mental health professional and either a psychiatric
2 advanced registered nurse practitioner or a physician assistant; or

3 (F) One licensed physician and either a psychiatric advanced
4 registered nurse practitioner or physician assistant.

5 (ii) The persons signing the petition must have examined the
6 person.

7 (2) Upon filing the petition, the court shall fix a date for a
8 hearing no less than two and no more than seven days after the date
9 the petition was filed unless the person petitioned against is
10 presently being detained in a program, pursuant to RCW 70.96A.120,
11 71.05.210, or ((71.34.050)) 71.34.710, in which case the hearing
12 shall be held within seventy-two hours of the filing of the petition:
13 PROVIDED, HOWEVER, That the above specified seventy-two hours shall
14 be computed by excluding Saturdays, Sundays, and holidays: PROVIDED
15 FURTHER, That, the court may, upon motion of the person whose
16 commitment is sought, or upon motion of petitioner with written
17 permission of the person whose commitment is sought, or his or her
18 counsel and, upon good cause shown, extend the date for the hearing.
19 A copy of the petition and of the notice of the hearing, including
20 the date fixed by the court, shall be served by the designated
21 chemical dependency specialist on the person whose commitment is
22 sought, his or her next of kin, a parent or his or her legal guardian
23 if he or she is a minor, and any other person the court believes
24 advisable. A copy of the petition and certificate shall be delivered
25 to each person notified.

26 (3) At the hearing the court shall hear all relevant
27 testimony((τ)) including, if possible, the testimony, which may be
28 telephonic, of at least one licensed physician, psychiatric advanced
29 registered nurse practitioner, physician assistant, or mental health
30 professional who has examined the person whose commitment is sought.
31 Communications otherwise deemed privileged under the laws of this
32 state are deemed to be waived in proceedings under this chapter when
33 a court of competent jurisdiction in its discretion determines that
34 the waiver is necessary to protect either the detained person or the
35 public. The waiver of a privilege under this section is limited to
36 records or testimony relevant to evaluation of the detained person
37 for purposes of a proceeding under this chapter. Upon motion by the
38 detained person, or on its own motion, the court shall examine a
39 record or testimony sought by a petitioner to determine whether it is
40 within the scope of the waiver.

1 The record maker shall not be required to testify in order to
2 introduce medical, nursing, or psychological records of detained
3 persons so long as the requirements of RCW 5.45.020 are met, except
4 that portions of the record that contain opinions as to whether the
5 detained person is chemically dependent shall be deleted from the
6 records unless the person offering the opinions is available for
7 cross-examination. The person shall be present unless the court
8 believes that his or her presence is likely to be injurious to him or
9 her; in this event the court may deem it appropriate to appoint a
10 guardian ad litem to represent him or her throughout the proceeding.
11 If deemed advisable, the court may examine the person out of
12 courtroom. If the person has refused to be examined by a licensed
13 physician, psychiatric advanced registered nurse practitioner,
14 physician assistant, or mental health professional, he or she shall
15 be given an opportunity to be examined by a court appointed licensed
16 physician, psychiatric advanced registered nurse practitioner,
17 physician assistant, or other professional person qualified to
18 provide such services. If he or she refuses and there is sufficient
19 evidence to believe that the allegations of the petition are true, or
20 if the court believes that more medical evidence is necessary, the
21 court may make a temporary order committing him or her to the
22 department for a period of not more than five days for purposes of a
23 diagnostic examination.

24 (4)(a) If after hearing all relevant evidence, including the
25 results of any diagnostic examination, the court finds that grounds
26 for involuntary commitment have been established by ~~((clear, cogent,~~
27 ~~and convincing proof))~~ a preponderance of the evidence and, after
28 considering less restrictive alternatives to involuntary detention
29 and treatment, finds that no such alternatives are in the best
30 interest of the person or others, it shall make an order of
31 commitment to an approved treatment program. It shall not order
32 commitment of a person unless it determines that an approved
33 treatment program is available and able to provide adequate and
34 appropriate treatment for him or her.

35 (b) If the court finds that the grounds for commitment have been
36 established by a preponderance of the evidence, but that treatment in
37 a less restrictive setting than detention is in the best interest of
38 such person or others, the court shall order an appropriate less
39 restrictive course of treatment. The less restrictive order may
40 impose treatment conditions and other conditions that are in the best

1 interest of the respondent and others. A copy of the less restrictive
2 order must be given to the respondent, the designated chemical
3 dependency specialist, and any program designated to provide less
4 restrictive treatment. If the program designated to provide the less
5 restrictive treatment is other than the program providing the initial
6 involuntary treatment, the program so designated must agree in
7 writing to assume such responsibility. The court may not order
8 commitment of a person to a less restrictive course of treatment
9 unless it determines that an approved treatment program is available
10 and able to provide adequate and appropriate treatment for him or
11 her.

12 (5) A person committed to inpatient treatment under this section
13 shall remain in the program for treatment for a period of (~~sixty~~)
14 fourteen days unless sooner discharged. A person committed to a less
15 restrictive course of treatment under this section shall remain in
16 the program of treatment for a period of ninety days unless sooner
17 discharged. At the end of the (~~sixty~~) fourteen-day period, or
18 ninety-day period in the case of a less restrictive alternative to
19 inpatient treatment, he or she shall be discharged automatically
20 unless the program or the designated chemical dependency specialist,
21 before expiration of the period, files a petition for his or her
22 recommitment upon the grounds set forth in subsection (1) of this
23 section for a further period of ninety days of inpatient treatment or
24 ninety days of less restrictive alternative treatment unless sooner
25 discharged. The petition for ninety-day inpatient or less restrictive
26 alternative treatment must be filed with the clerk of the court at
27 least three days before expiration of the fourteen-day period of
28 intensive treatment.

29 If a petition for recommitment is not filed in the case of a
30 minor, the parent, guardian, or custodian who has custody of the
31 minor may seek review of that decision made by the designated
32 chemical dependency specialist in superior or district court. The
33 parent, guardian, or custodian shall file notice with the court and
34 provide a copy of the treatment progress report.

35 If a person has been committed because he or she is chemically
36 dependent and likely to inflict physical harm on another, the program
37 or designated chemical dependency specialist shall apply for
38 recommitment if after examination it is determined that the
39 likelihood still exists.

1 (6) Upon the filing of a petition for recommitment under
2 subsection (5) of this section, the court shall fix a date for
3 hearing no less than two and no more than seven days after the date
4 the petition was filed: PROVIDED, That, the court may, upon motion of
5 the person whose commitment is sought and upon good cause shown,
6 extend the date for the hearing. A copy of the petition and of the
7 notice of hearing, including the date fixed by the court, shall be
8 served by the treatment program on the person whose commitment is
9 sought, his or her next of kin, the original petitioner under
10 subsection (1) of this section if different from the petitioner for
11 recommitment, one of his or her parents or his or her legal guardian
12 if he or she is a minor, and his or her attorney and any other person
13 the court believes advisable. At the hearing the court shall proceed
14 as provided in subsections (3) and (4) of this section, except that
15 the burden of proof upon a hearing for recommitment must be proof by
16 clear, cogent, and convincing evidence.

17 (7) The approved treatment program shall provide for adequate and
18 appropriate treatment of a person committed to its custody on an
19 inpatient or outpatient basis. A person committed under this section
20 may be transferred from one approved public treatment program to
21 another if transfer is medically advisable.

22 (8) A person committed to (~~the custody of~~) a program for
23 treatment shall be discharged at any time before the end of the
24 period for which he or she has been committed and he or she shall be
25 discharged by order of the court if either of the following
26 conditions are met:

27 (a) In case of a chemically dependent person committed on the
28 grounds of likelihood of infliction of physical harm upon himself,
29 herself, or another, the likelihood no longer exists; or further
30 treatment will not be likely to bring about significant improvement
31 in the person's condition, or treatment is no longer adequate or
32 appropriate.

33 (b) In case of a chemically dependent person committed on the
34 grounds of the need of treatment and incapacity, that the incapacity
35 no longer exists.

36 (9) The court shall inform the person whose commitment or
37 recommitment is sought of his or her right to contest the
38 application, be represented by counsel at every stage of any
39 proceedings relating to his or her commitment and recommitment, and
40 have counsel appointed by the court or provided by the court, if he

1 or she wants the assistance of counsel and is unable to obtain
2 counsel. If the court believes that the person needs the assistance
3 of counsel, the court shall require, by appointment if necessary,
4 counsel for him or her regardless of his or her wishes. The person
5 shall, if he or she is financially able, bear the costs of such legal
6 service; otherwise such legal service shall be at public expense. The
7 person whose commitment or recommitment is sought shall be informed
8 of his or her right to be examined by ((a)) his or her choice of
9 licensed physician ((of his or her choice)), psychiatric advanced
10 registered nurse practitioner, physician assistant, or other
11 professional person to conduct an examination and testify on behalf
12 of the person. If the person is unable to obtain a licensed physician
13 and requests examination by a physician, the court shall employ a
14 licensed physician.

15 (10) A person committed under this chapter may at any time seek
16 to be discharged from commitment by writ of habeas corpus in a court
17 of competent jurisdiction.

18 (11) The venue for proceedings under this section is the county
19 in which person to be committed resides or is present.

20 (12) When in the opinion of the professional person in charge of
21 the program providing involuntary inpatient treatment under this
22 chapter, the committed patient can be appropriately served by less
23 restrictive treatment before expiration of the period of commitment,
24 then the less restrictive care may be required as a condition for
25 early release for a period which, when added to the initial treatment
26 period, does not exceed the period of commitment. If the program
27 designated to provide the less restrictive treatment is other than
28 the program providing the initial involuntary treatment, the program
29 so designated must agree in writing to assume such responsibility. A
30 copy of the conditions for early release shall be given to the
31 patient, the designated chemical dependency specialist of original
32 commitment, and the court of original commitment. The program
33 designated to provide less restrictive care may modify the conditions
34 for continued release when the modifications are in the best
35 interests of the patient. If the program providing less restrictive
36 care and the designated chemical dependency specialist determine that
37 a conditionally released patient is failing to adhere to the terms
38 and conditions of his or her release, or that substantial
39 deterioration in the patient's functioning has occurred, then the
40 designated chemical dependency specialist shall notify the court of

1 original commitment and request a hearing to be held no less than two
2 and no more than seven days after the date of the request to
3 determine whether or not the person should be returned to more
4 restrictive care. The designated chemical dependency specialist shall
5 file a petition with the court stating the facts substantiating the
6 need for the hearing along with the treatment recommendations. The
7 patient shall have the same rights with respect to notice, hearing,
8 and counsel as for the original involuntary treatment proceedings.
9 The issues to be determined at the hearing are whether the
10 conditionally released patient did or did not adhere to the terms and
11 conditions of his or her release to less restrictive care or that
12 substantial deterioration of the patient's functioning has occurred
13 and whether the conditions of release should be modified or the
14 person should be returned to a more restrictive program. The hearing
15 may be waived by the patient and his or her counsel and his or her
16 guardian or conservator, if any, but may not be waived unless all
17 such persons agree to the waiver. Upon waiver, the person may be
18 returned for involuntary treatment or continued on conditional
19 release on the same or modified conditions. The grounds and
20 procedures for revocation of less restrictive alternative treatment
21 ordered by the court must be the same as those set forth in this
22 section for less restrictive care arranged by an approved treatment
23 program as a condition for early release.

24 **Sec. 104.** RCW 70.96A.145 and 1993 c 137 s 1 are each amended to
25 read as follows:

26 The prosecuting attorney of the county in which such action is
27 taken (~~(may, at the discretion of the prosecuting attorney,)~~) shall
28 represent the designated chemical dependency specialist or treatment
29 program in judicial proceedings under RCW 70.96A.140 for the
30 involuntary commitment or recommitment of an individual, including
31 any judicial proceeding where the individual sought to be committed
32 or recommitted challenges the action.

33 **PART II**
34 **INTEGRATED SYSTEM**

35 NEW SECTION. **Sec. 201.** A new section is added to chapter 71.05
36 RCW to read as follows:

1 (1) By April 1, 2017, the department, by rule, must combine the
2 functions of a designated mental health professional and designated
3 chemical dependency specialist by establishing a designated crisis
4 responder who is authorized to conduct investigations, detain persons
5 up to seventy-two hours to the proper facility, and carry out the
6 other functions identified in this chapter and chapter 71.34 RCW. The
7 behavioral health organizations shall provide training to the
8 designated crisis responders as required by the department.

9 (2)(a) To qualify as a designated crisis responder, a person must
10 have received chemical dependency training as determined by the
11 department and be a:

12 (i) Psychiatrist, psychologist, psychiatric advanced registered
13 nurse practitioner, or social worker;

14 (ii) Person with a master's degree or further advanced degree in
15 counseling or one of the social sciences from an accredited college
16 or university and who have, in addition, at least two years of
17 experience in direct treatment of persons with mental illness or
18 emotional disturbance, such experience gained under the direction of
19 a mental health professional;

20 (iii) Person who meets the waiver criteria of RCW 71.24.260,
21 which waiver was granted before 1986;

22 (iv) Person who had an approved waiver to perform the duties of a
23 mental health professional that was requested by the regional support
24 network and granted by the department before July 1, 2001; or

25 (v) Person who has been granted an exception of the minimum
26 requirements of a mental health professional by the department
27 consistent with rules adopted by the secretary.

28 (b) Training must include chemical dependency training specific
29 to the duties of a designated crisis responder, including diagnosis
30 of substance abuse and dependence and assessment of risk associated
31 with substance use.

32 (3) The department must develop a transition process for any
33 person who has been designated as a designated mental health
34 professional or a designated chemical dependency specialist before
35 April 1, 2017, to be converted to a designated crisis responder. The
36 behavioral health organizations shall provide training, as required
37 by the department, to persons converting to designated crisis
38 responders, which must include both mental health and chemical
39 dependency training applicable to the designated crisis responder
40 role.

1 NEW SECTION. **Sec. 202.** A new section is added to chapter 71.05
2 RCW to read as follows:

3 (1) The Washington state institute for public policy shall
4 evaluate the effect of the integration of the involuntary treatment
5 systems for substance use disorders and mental health and make
6 preliminary reports to appropriate committees of the legislature by
7 December 1, 2019, and June 30, 2020, and a final report by June 30,
8 2022.

9 (2) The evaluation must include an assessment of whether the
10 integrated system:

11 (a) Has increased efficiency of evaluation and treatment of
12 persons involuntarily detained for substance use disorders;

13 (b) Is cost-effective, including impacts on health care, housing,
14 employment, and criminal justice costs;

15 (c) Results in better outcomes for persons involuntarily
16 detained;

17 (d) Increases the effectiveness of the crisis response system
18 statewide;

19 (e) Has an impact on commitments based upon mental disorders;

20 (f) Has been sufficiently resourced with enough involuntary
21 treatment beds, less restrictive alternative treatment options, and
22 state funds to provide timely and appropriate treatment for all
23 individuals interacting with the integrated involuntary treatment
24 system; and

25 (g) Has diverted from the mental health involuntary treatment
26 system a significant number of individuals whose risk results from
27 substance abuse, including an estimate of the net savings from
28 serving these clients into the appropriate substance abuse treatment
29 system.

30 (3) This section expires August 1, 2022.

31 **Sec. 203.** RCW 71.05.020 and 2014 c 225 s 79 are each reenacted
32 and amended to read as follows:

33 The definitions in this section apply throughout this chapter
34 unless the context clearly requires otherwise.

35 (1) "Admission" or "admit" means a decision by a physician or
36 psychiatric advanced registered nurse practitioner that a person
37 should be examined or treated as a patient in a hospital;

38 (2) "Antipsychotic medications" means that class of drugs
39 primarily used to treat serious manifestations of mental illness

1 associated with thought disorders, which includes, but is not limited
2 to atypical antipsychotic medications;

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

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

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

11 (6) "Crisis stabilization unit" means a short-term facility or a
12 portion of a facility licensed by the department of health and
13 certified by the department of social and health services under RCW
14 71.24.035, such as an evaluation and treatment facility or a
15 hospital, which has been designed to assess, diagnose, and treat
16 individuals experiencing an acute crisis without the use of long-term
17 hospitalization;

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

22 (8) "Department" means the department of social and health
23 services;

24 (9) (~~"Designated chemical dependency specialist" means a person~~
25 ~~designated by the county alcoholism and other drug addiction program~~
26 ~~coordinator designated under RCW 70.96A.310 to perform the commitment~~
27 ~~duties described in chapters 70.96A and 70.96B RCW;~~

28 (+10)) "Designated crisis responder" means a mental health
29 professional appointed by ((~~the county or~~)) the behavioral health
30 organization to perform the duties specified in this chapter;

31 ((~~11~~)) "~~Designated mental health professional" means a mental~~
32 ~~health professional designated by the county or other authority~~
33 ~~authorized in rule to perform the duties specified in this chapter;~~

34 (+12)) (10) "Detention" or "detain" means the lawful confinement
35 of a person, under the provisions of this chapter;

36 ((+13)) (11) "Developmental disabilities professional" means a
37 person who has specialized training and three years of experience in
38 directly treating or working with persons with developmental
39 disabilities and is a psychiatrist, psychologist, psychiatric
40 advanced registered nurse practitioner, or social worker, and such

1 other developmental disabilities professionals as may be defined by
2 rules adopted by the secretary;

3 ~~((14))~~ (12) "Developmental disability" means that condition
4 defined in RCW 71A.10.020~~((4))~~ (5);

5 ~~((15))~~ (13) "Discharge" means the termination of hospital
6 medical authority. The commitment may remain in place, be terminated,
7 or be amended by court order;

8 ~~((16))~~ (14) "Evaluation and treatment facility" means any
9 facility which can provide directly, or by direct arrangement with
10 other public or private agencies, emergency evaluation and treatment,
11 outpatient care, and timely and appropriate inpatient care to persons
12 suffering from a mental disorder, and which is certified as such by
13 the department. A physically separate and separately operated portion
14 of a state hospital may be designated as an evaluation and treatment
15 facility. A facility which is part of, or operated by, the department
16 or any federal agency will not require certification. No correctional
17 institution or facility, or jail, shall be an evaluation and
18 treatment facility within the meaning of this chapter;

19 ~~((17))~~ (15) "Gravely disabled" means a condition in which a
20 person, as a result of a mental disorder, or as a result of the use
21 of alcohol or other psychoactive chemicals: (a) Is in danger of
22 serious physical harm resulting from a failure to provide for his or
23 her essential human needs of health or safety; or (b) manifests
24 severe deterioration in routine functioning evidenced by repeated and
25 escalating loss of cognitive or volitional control over his or her
26 actions and is not receiving such care as is essential for his or her
27 health or safety;

28 ~~((18))~~ (16) "Habilitative services" means those services
29 provided by program personnel to assist persons in acquiring and
30 maintaining life skills and in raising their levels of physical,
31 mental, social, and vocational functioning. Habilitative services
32 include education, training for employment, and therapy. The
33 habilitative process shall be undertaken with recognition of the risk
34 to the public safety presented by the person being assisted as
35 manifested by prior charged criminal conduct;

36 ~~((19))~~ (17) "History of one or more violent acts" refers to the
37 period of time ten years prior to the filing of a petition under this
38 chapter, excluding any time spent, but not any violent acts
39 committed, in a mental health facility, a long-term alcoholism or

1 drug treatment facility, or in confinement as a result of a criminal
2 conviction;

3 ~~((+20+))~~ (18) "Imminent" means the state or condition of being
4 likely to occur at any moment or near at hand, rather than distant or
5 remote;

6 ~~((+21+))~~ (19) "Individualized service plan" means a plan prepared
7 by a developmental disabilities professional with other professionals
8 as a team, for a person with developmental disabilities, which shall
9 state:

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

12 (b) The conditions and strategies necessary to achieve the
13 purposes of habilitation;

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

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

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

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

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

26 ~~((+22+))~~ (20) "Information related to mental health services"
27 means all information and records compiled, obtained, or maintained
28 in the course of providing services to either voluntary or
29 involuntary recipients of services by a mental health service
30 provider. This may include documents of legal proceedings under this
31 chapter or chapter 71.34 or 10.77 RCW, or somatic health care
32 information;

33 ~~((+23+))~~ (21) "Judicial commitment" means a commitment by a court
34 pursuant to the provisions of this chapter;

35 ~~((+24+))~~ (22) "Legal counsel" means attorneys and staff employed
36 by county prosecutor offices or the state attorney general acting in
37 their capacity as legal representatives of public mental health and
38 substance use disorder service providers under RCW 71.05.130;

39 ~~((+25+))~~ (23) "Likelihood of serious harm" means:

1 (a) A substantial risk that: (i) Physical harm will be inflicted
2 by a person upon his or her own person, as evidenced by threats or
3 attempts to commit suicide or inflict physical harm on oneself; (ii)
4 physical harm will be inflicted by a person upon another, as
5 evidenced by behavior which has caused such harm or which places
6 another person or persons in reasonable fear of sustaining such harm;
7 or (iii) physical harm will be inflicted by a person upon the
8 property of others, as evidenced by behavior which has caused
9 substantial loss or damage to the property of others; or

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

12 ~~((+26+))~~ (24) "Mental disorder" means any organic, mental, or
13 emotional impairment which has substantial adverse effects on a
14 person's cognitive or volitional functions;

15 ~~((+27+))~~ (25) "Mental health professional" means a psychiatrist,
16 psychologist, psychiatric advanced registered nurse practitioner,
17 psychiatric nurse, or social worker, and such other mental health
18 professionals as may be defined by rules adopted by the secretary
19 pursuant to the provisions of this chapter;

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

32 ~~((+29+))~~ (27) "Peace officer" means a law enforcement official of
33 a public agency or governmental unit, and includes persons
34 specifically given peace officer powers by any state law, local
35 ordinance, or judicial order of appointment;

36 ~~((+30+))~~ (28) "Private agency" means any person, partnership,
37 corporation, or association that is not a public agency, whether or
38 not financed in whole or in part by public funds, which constitutes
39 an evaluation and treatment facility or private institution, or
40 hospital, or approved substance use disorder treatment program, which

1 is conducted for, or includes a department or ward conducted for, the
2 care and treatment of persons (~~(who are mentally ill)~~) with mental
3 illness, substance use disorders, or both mental illness and
4 substance use disorders;

5 ~~((+31+))~~ (29) "Professional person" means a mental health
6 professional or designated crisis responder and shall also mean a
7 physician, psychiatric advanced registered nurse practitioner,
8 registered nurse, and such others as may be defined by rules adopted
9 by the secretary pursuant to the provisions of this chapter;

10 ~~((+32+))~~ (30) "Psychiatric advanced registered nurse
11 practitioner" means a person who is licensed as an advanced
12 registered nurse practitioner pursuant to chapter 18.79 RCW; and who
13 is board certified in advanced practice psychiatric and mental health
14 nursing;

15 ~~((+33+))~~ (31) "Psychiatrist" means a person having a license as a
16 physician and surgeon in this state who has in addition completed
17 three years of graduate training in psychiatry in a program approved
18 by the American medical association or the American osteopathic
19 association and is certified or eligible to be certified by the
20 American board of psychiatry and neurology;

21 ~~((+34+))~~ (32) "Psychologist" means a person who has been licensed
22 as a psychologist pursuant to chapter 18.83 RCW;

23 ~~((+35+))~~ (33) "Public agency" means any evaluation and treatment
24 facility or institution, secure detoxification facility, approved
25 substance use disorder treatment program, or hospital which is
26 conducted for, or includes a department or ward conducted for, the
27 care and treatment of persons with mental illness, substance use
28 disorders, or both mental illness and substance use disorders, if the
29 agency is operated directly by(~~(7)~~) federal, state, county, or
30 municipal government, or a combination of such governments;

31 ~~((+36+))~~ (34) "Registration records" include all the records of
32 the department, behavioral health organizations, treatment
33 facilities, and other persons providing services to the department,
34 county departments, or facilities which identify persons who are
35 receiving or who at any time have received services for mental
36 illness or substance use disorders;

37 ~~((+37+))~~ (35) "Release" means legal termination of the commitment
38 under the provisions of this chapter;

39 ~~((+38+))~~ (36) "Resource management services" has the meaning
40 given in chapter 71.24 RCW;

1 ~~((39))~~ (37) "Secretary" means the secretary of the department
2 of social and health services, or his or her designee;

3 ~~((40))~~ (38) "Serious violent offense" has the same meaning as
4 provided in RCW 9.94A.030;

5 ~~((41))~~ (39) "Social worker" means a person with a master's or
6 further advanced degree from a social work educational program
7 accredited and approved as provided in RCW 18.320.010;

8 ~~((42))~~ (40) "Therapeutic court personnel" means the staff of a
9 mental health court or other therapeutic court which has jurisdiction
10 over defendants who are dually diagnosed with mental disorders,
11 including court personnel, probation officers, a court monitor,
12 prosecuting attorney, or defense counsel acting within the scope of
13 therapeutic court duties;

14 ~~((43))~~ (41) "Treatment records" include registration and all
15 other records concerning persons who are receiving or who at any time
16 have received services for mental illness, which are maintained by
17 the department, by behavioral health organizations and their staffs,
18 and by treatment facilities. Treatment records include mental health
19 information contained in a medical bill including but not limited to
20 mental health drugs, a mental health diagnosis, provider name, and
21 dates of service stemming from a medical service. Treatment records
22 do not include notes or records maintained for personal use by a
23 person providing treatment services for the department, behavioral
24 health organizations, or a treatment facility if the notes or records
25 are not available to others;

26 ~~((44))~~ (42) "Triage facility" means a short-term facility or a
27 portion of a facility licensed by the department of health and
28 certified by the department of social and health services under RCW
29 71.24.035, which is designed as a facility to assess and stabilize an
30 individual or determine the need for involuntary commitment of an
31 individual, and must meet department of health residential treatment
32 facility standards. A triage facility may be structured as a
33 voluntary or involuntary placement facility;

34 ~~((45))~~ (43) "Violent act" means behavior that resulted in
35 homicide, attempted suicide, nonfatal injuries, or substantial damage
36 to property;

37 (44) "Alcoholism" means a disease, characterized by a dependency
38 on alcoholic beverages, loss of control over the amount and
39 circumstances of use, symptoms of tolerance, physiological or
40 psychological withdrawal, or both, if use is reduced or discontinued,

1 and impairment of health or disruption of social or economic
2 functioning;

3 (45) "Approved substance use disorder treatment program" means a
4 program for persons with a substance use disorder provided by a
5 treatment program certified by the department as meeting standards
6 adopted under chapter 70.96A RCW;

7 (46) "Chemical dependency" means:

8 (a) Alcoholism;

9 (b) Drug addiction; or

10 (c) Dependence on alcohol and one or more psychoactive chemicals,
11 as the context requires;

12 (47) "Chemical dependency professional" means a person certified
13 as a chemical dependency professional by the department of health
14 under chapter 18.205 RCW;

15 (48) "Controlled substance" has the same meaning as under the
16 federal controlled substances act, 21 U.S.C. Sec. 802;

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

23 (50) "Intoxicated person" means a person whose mental or physical
24 functioning is substantially impaired as a result of the use of
25 alcohol or other psychoactive chemicals;

26 (51) "Licensed physician" means a person licensed to practice
27 medicine or osteopathic medicine and surgery in the state of
28 Washington;

29 (52) "Physician assistant" means a person who is licensed as a
30 physician assistant pursuant to chapter 18.57A or 18.71A RCW and is
31 working with a licensed mental health physician as indicated by their
32 delegation agreement;

33 (53) "Secure detoxification facility" means a facility operated
34 by either a public or private agency or by the program of an agency
35 that:

36 (a) Provides for intoxicated persons:

37 (i) Evaluation and assessment, provided by certified chemical
38 dependency professionals;

39 (ii) Acute or subacute detoxification services; and

1 (iii) Discharge assistance provided by certified chemical
2 dependency professionals, including facilitating transitions to
3 appropriate voluntary or involuntary inpatient services or to less
4 restrictive alternatives as appropriate for the individual;

5 (b) Includes security measures sufficient to protect the
6 patients, staff, and community; and

7 (c) Is certified as such by the department;

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

14 **Sec. 204.** RCW 71.05.025 and 2014 c 225 s 80 are each amended to
15 read as follows:

16 The legislature intends that the procedures and services
17 authorized in this chapter be integrated with those in chapter 71.24
18 RCW to the maximum extent necessary to assure a continuum of care to
19 persons with mental illness or who have mental disorders or substance
20 use disorders, as defined in either or both this chapter and chapter
21 71.24 RCW. To this end, behavioral health organizations established
22 in accordance with chapter 71.24 RCW shall institute procedures which
23 require timely consultation with resource management services by
24 designated (~~mental health professionals and~~) crisis responders,
25 evaluation and treatment facilities, secure detoxification
26 facilities, and approved substance use disorder treatment programs to
27 assure that determinations to admit, detain, commit, treat,
28 discharge, or release persons with mental disorders or substance use
29 disorders under this chapter are made only after appropriate
30 information regarding such person's treatment history and current
31 treatment plan has been sought from resource management services.

32 **Sec. 205.** RCW 71.05.026 and 2014 c 225 s 81 are each amended to
33 read as follows:

34 (1) Except for monetary damage claims which have been reduced to
35 final judgment by a superior court, this section applies to all
36 claims against the state, state agencies, state officials, or state
37 employees that exist on or arise after March 29, 2006.

1 (2) Except as expressly provided in contracts entered into
2 between the department and the behavioral health organizations after
3 March 29, 2006, the entities identified in subsection (3) of this
4 section shall have no claim for declaratory relief, injunctive
5 relief, judicial review under chapter 34.05 RCW, or civil liability
6 against the state or state agencies for actions or inactions
7 performed pursuant to the administration of this chapter with regard
8 to the following: (a) The allocation or payment of federal or state
9 funds; (b) the use or allocation of state hospital beds; or (c)
10 financial responsibility for the provision of inpatient mental health
11 care or inpatient substance use disorder treatment.

12 (3) This section applies to counties, behavioral health
13 organizations, and entities which contract to provide behavioral
14 health organization services and their subcontractors, agents, or
15 employees.

16 **Sec. 206.** RCW 71.05.050 and 2000 c 94 s 3 are each amended to
17 read as follows:

18 Nothing in this chapter shall be construed to limit the right of
19 any person to apply voluntarily to any public or private agency or
20 practitioner for treatment of a mental disorder or substance use
21 disorder, either by direct application or by referral. Any person
22 voluntarily admitted for inpatient treatment to any public or private
23 agency shall be released immediately upon his or her request. Any
24 person voluntarily admitted for inpatient treatment to any public or
25 private agency shall orally be advised of the right to immediate
26 discharge, and further advised of such rights in writing as are
27 secured to them pursuant to this chapter and their rights of access
28 to attorneys, courts, and other legal redress. Their condition and
29 status shall be reviewed at least once each one hundred eighty days
30 for evaluation as to the need for further treatment or possible
31 discharge, at which time they shall again be advised of their right
32 to discharge upon request: PROVIDED HOWEVER, That if the professional
33 staff of any public or private agency or hospital regards a person
34 voluntarily admitted who requests discharge as presenting, as a
35 result of a mental disorder or substance use disorder, an imminent
36 likelihood of serious harm, or is gravely disabled, they may detain
37 such person for sufficient time to notify the ((~~county~~)) designated
38 ((~~mental health professional~~)) crisis responder of such person's
39 condition to enable the ((~~county~~)) designated ((~~mental health~~

1 ~~professional~~) crisis responder to authorize such person being
2 further held in custody or transported to an evaluation and treatment
3 center, secure detoxification facility, or approved substance use
4 disorder treatment program pursuant to the provisions of this
5 chapter, which shall in ordinary circumstances be no later than the
6 next judicial day: PROVIDED FURTHER, That if a person is brought to
7 the emergency room of a public or private agency or hospital for
8 observation or treatment, the person refuses voluntary admission, and
9 the professional staff of the public or private agency or hospital
10 regard such person as presenting as a result of a mental disorder or
11 substance use disorder an imminent likelihood of serious harm, or as
12 presenting an imminent danger because of grave disability, they may
13 detain such person for sufficient time to notify the ((~~county~~))
14 designated ((~~mental health professional~~)) crisis responder of such
15 person's condition to enable the ((~~county~~)) designated ((~~mental~~
16 ~~health professional~~)) crisis responder to authorize such person being
17 further held in custody or transported to an evaluation treatment
18 center, secure detoxification facility, or approved substance use
19 disorder treatment program pursuant to the conditions in this
20 chapter, but which time shall be no more than six hours from the time
21 the professional staff determine that an evaluation by the ((~~county~~))
22 designated ((~~mental health professional~~)) crisis responder is
23 necessary.

24 **Sec. 207.** RCW 71.05.120 and 2000 c 94 s 4 are each amended to
25 read as follows:

26 (1) No officer of a public or private agency, nor the
27 superintendent, professional person in charge, his or her
28 professional designee, or attending staff of any such agency, nor any
29 public official performing functions necessary to the administration
30 of this chapter, nor peace officer responsible for detaining a person
31 pursuant to this chapter, nor any ((~~county~~)) designated ((~~mental~~
32 ~~health professional~~)) crisis responder, nor the state, a unit of
33 local government, ((~~or~~)) an evaluation and treatment facility, a
34 secure detoxification facility, or an approved substance use disorder
35 treatment program shall be civilly or criminally liable for
36 performing duties pursuant to this chapter with regard to the
37 decision of whether to admit, discharge, release, administer
38 antipsychotic medications, or detain a person for evaluation and

1 treatment: PROVIDED, That such duties were performed in good faith
2 and without gross negligence.

3 (2) This section does not relieve a person from giving the
4 required notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the
5 duty to warn or to take reasonable precautions to provide protection
6 from violent behavior where the patient has communicated an actual
7 threat of physical violence against a reasonably identifiable victim
8 or victims. The duty to warn or to take reasonable precautions to
9 provide protection from violent behavior is discharged if reasonable
10 efforts are made to communicate the threat to the victim or victims
11 and to law enforcement personnel.

12 **Sec. 208.** RCW 71.05.132 and 2004 c 166 s 12 are each amended to
13 read as follows:

14 When any court orders a person to receive treatment under this
15 chapter, the order shall include a statement that if the person is,
16 or becomes, subject to supervision by the department of corrections,
17 the person must notify the treatment provider and the person's mental
18 health treatment information and substance use disorder treatment
19 information must be shared with the department of corrections for the
20 duration of the offender's incarceration and supervision, under RCW
21 71.05.445. Upon a petition by a person who does not have a history of
22 one or more violent acts, the court may, for good cause, find that
23 public safety would not be enhanced by the sharing of this person's
24 information.

25 **Sec. 209.** RCW 71.05.150 and 2011 c 148 s 5 are each amended to
26 read as follows:

27 (1) When a designated (~~mental health professional~~) crisis
28 responder receives information alleging that a person, as a result of
29 a mental disorder, substance use disorder, or both: (i) Presents a
30 likelihood of serious harm; or (ii) is gravely disabled; the
31 designated (~~mental health professional~~) crisis responder may, after
32 investigation and evaluation of the specific facts alleged and of the
33 reliability and credibility of any person providing information to
34 initiate detention, if satisfied that the allegations are true and
35 that the person will not voluntarily seek appropriate treatment, file
36 a petition for initial detention. Before filing the petition, the
37 designated (~~mental health professional~~) crisis responder must
38 personally interview the person, unless the person refuses an

1 interview, and determine whether the person will voluntarily receive
2 appropriate evaluation and treatment at an evaluation and treatment
3 facility, crisis stabilization unit, (~~(or)~~) triage facility, or
4 approved substance use disorder treatment program.

5 (2)(a) An order to detain (~~(to)~~) a person with a mental disorder
6 to a designated evaluation and treatment facility, or to detain a
7 person with a substance use disorder to a secure detoxification
8 facility or approved substance use disorder treatment program, for
9 not more than a seventy-two-hour evaluation and treatment period may
10 be issued by a judge of the superior court upon request of a
11 designated (~~(mental health professional)~~) crisis responder, subject
12 to (d) of this subsection, whenever it appears to the satisfaction of
13 a judge of the superior court:

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

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

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

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

25 (d) A court may not issue an order to detain a person to a secure
26 detoxification facility or approved substance use disorder treatment
27 program unless there is available space at the facility or program.

28 (3) The designated (~~(mental health professional)~~) crisis
29 responder shall then serve or cause to be served on such person, his
30 or her guardian, and conservator, if any, a copy of the order
31 together with a notice of rights, and a petition for initial
32 detention. After service on such person the designated (~~(mental~~
33 ~~health professional)~~) crisis responder shall file the return of
34 service in court and provide copies of all papers in the court file
35 to the evaluation and treatment facility, secure detoxification
36 facility, or approved substance use disorder treatment program, and
37 the designated attorney. The designated (~~(mental health~~
38 ~~professional)~~) crisis responder shall notify the court and the
39 prosecuting attorney that a probable cause hearing will be held
40 within seventy-two hours of the date and time of outpatient

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

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

21 **Sec. 210.** RCW 71.05.150 and 2015 c ... s 209 (section 209 of
22 this act) are each amended to read as follows:

23 (1) When a designated crisis responder receives information
24 alleging that a person, as a result of a mental disorder, substance
25 use disorder, or both: (i) Presents a likelihood of serious harm; or
26 (ii) is gravely disabled; the designated crisis responder may, after
27 investigation and evaluation of the specific facts alleged and of the
28 reliability and credibility of any person providing information to
29 initiate detention, if satisfied that the allegations are true and
30 that the person will not voluntarily seek appropriate treatment, file
31 a petition for initial detention. Before filing the petition, the
32 designated crisis responder must personally interview the person,
33 unless the person refuses an interview, and determine whether the
34 person will voluntarily receive appropriate evaluation and treatment
35 at an evaluation and treatment facility, crisis stabilization unit,
36 triage facility, or approved substance use disorder treatment
37 program.

38 (2)(a) An order to detain to a (~~person with a mental disorder to~~
39 ~~a~~) designated evaluation and treatment facility, (~~or to detain a~~

1 ~~person with a substance use disorder to a~~) secure detoxification
2 facility, or approved substance use disorder treatment program((~~7~~))
3 for not more than a seventy-two-hour evaluation and treatment period
4 may be issued by a judge of the superior court upon request of a
5 designated crisis responder(~~(, subject to (d) of this subsection~~)),
6 whenever it appears to the satisfaction of a judge of the superior
7 court:

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

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

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

19 ~~((d) A court may not issue an order to detain a person to a
20 secure detoxification facility or approved substance use disorder
21 treatment program unless there is available space at the facility or
22 program.))~~

23 (3) The designated crisis responder shall then serve or cause to
24 be served on such person, his or her guardian, and conservator, if
25 any, a copy of the order together with a notice of rights, and a
26 petition for initial detention. After service on such person the
27 designated crisis responder shall file the return of service in court
28 and provide copies of all papers in the court file to the evaluation
29 and treatment facility, secure detoxification facility, or approved
30 substance use disorder treatment program, and the designated
31 attorney. The designated crisis responder shall notify the court and
32 the prosecuting attorney that a probable cause hearing will be held
33 within seventy-two hours of the date and time of outpatient
34 evaluation or admission to the evaluation and treatment facility,
35 secure detoxification facility, or approved substance use disorder
36 treatment program. The person shall be permitted to be accompanied by
37 one or more of his or her relatives, friends, an attorney, a personal
38 physician, or other professional or religious advisor to the place of
39 evaluation. An attorney accompanying the person to the place of
40 evaluation shall be permitted to be present during the admission

1 evaluation. Any other individual accompanying the person may be
2 present during the admission evaluation. The facility may exclude the
3 individual if his or her presence would present a safety risk, delay
4 the proceedings, or otherwise interfere with the evaluation.

5 (4) The designated crisis responder may notify a peace officer to
6 take such person or cause such person to be taken into custody and
7 placed in an evaluation and treatment facility, secure detoxification
8 facility, or approved substance use disorder treatment program. At
9 the time such person is taken into custody there shall commence to be
10 served on such person, his or her guardian, and conservator, if any,
11 a copy of the original order together with a notice of rights and a
12 petition for initial detention.

13 **Sec. 211.** RCW 71.05.153 and 2011 c 305 s 8 and 2011 c 148 s 2
14 are each reenacted and amended to read as follows:

15 (1) When a designated (~~mental health professional~~) crisis
16 responder receives information alleging that a person, as the result
17 of a mental disorder, presents an imminent likelihood of serious
18 harm, or is in imminent danger because of being gravely disabled,
19 after investigation and evaluation of the specific facts alleged and
20 of the reliability and credibility of the person or persons providing
21 the information if any, the designated (~~mental health professional~~)
22 crisis responder may take such person, or cause by oral or written
23 order such person to be taken into emergency custody in an evaluation
24 and treatment facility for not more than seventy-two hours as
25 described in RCW 71.05.180.

26 (2) When a designated crisis responder receives information
27 alleging that a person, as the result of substance use disorder,
28 presents an imminent likelihood of serious harm, or is in imminent
29 danger because of being gravely disabled, after investigation and
30 evaluation of the specific facts alleged and of the reliability and
31 credibility of the person or persons providing the information if
32 any, the designated crisis responder may take the person, or cause by
33 oral or written order the person to be taken, into emergency custody
34 in a secure detoxification facility or approved substance use
35 disorder treatment program, if space is available in the facility or
36 program, for not more than seventy-two hours as described in RCW
37 71.05.180.

38 (3)(a) Subject to (b) of this subsection, a peace officer may
39 take or cause such person to be taken into custody and immediately

1 delivered to a triage facility, crisis stabilization unit, evaluation
2 and treatment facility, secure detoxification facility, approved
3 substance use disorder treatment program, or the emergency department
4 of a local hospital under the following circumstances:

5 ((+a)) (i) Pursuant to subsection (1) or (2) of this section; or

6 ((+b)) (ii) When he or she has reasonable cause to believe that
7 such person is suffering from a mental disorder or substance use
8 disorder and presents an imminent likelihood of serious harm or is in
9 imminent danger because of being gravely disabled.

10 ((+3)) (b) A peace officer may not deliver a person to a secure
11 detoxification facility or approved substance use disorder treatment
12 program unless space is available at the facility or program.

13 (4) Persons delivered to a crisis stabilization unit, evaluation
14 and treatment facility, emergency department of a local hospital,
15 ((~~or~~)) triage facility that has elected to operate as an involuntary
16 facility, secure detoxification facility, or approved substance use
17 disorder treatment program by peace officers pursuant to subsection
18 ((+2)) (3) of this section may be held by the facility for a period
19 of up to twelve hours.

20 ((+4)) (5) Within three hours of arrival, the person must be
21 examined by a mental health professional. Within twelve hours of
22 arrival, the designated ((~~mental health professional~~)) crisis
23 responder must determine whether the individual meets detention
24 criteria. If the individual is detained, the designated ((~~mental~~
25 ~~health professional~~)) crisis responder shall file a petition for
26 detention or a supplemental petition as appropriate and commence
27 service on the designated attorney for the detained person. If the
28 individual is released to the community, the mental health service
29 provider shall inform the peace officer of the release within a
30 reasonable period of time after the release if the peace officer has
31 specifically requested notification and provided contact information
32 to the provider.

33 **Sec. 212.** RCW 71.05.153 and 2015 c ... s 211 (section 211 of
34 this act) are each amended to read as follows:

35 (1) When a designated crisis responder receives information
36 alleging that a person, as the result of a mental disorder, presents
37 an imminent likelihood of serious harm, or is in imminent danger
38 because of being gravely disabled, after investigation and evaluation
39 of the specific facts alleged and of the reliability and credibility

1 of the person or persons providing the information if any, the
2 designated crisis responder may take such person, or cause by oral or
3 written order such person to be taken into emergency custody in an
4 evaluation and treatment facility for not more than seventy-two hours
5 as described in RCW 71.05.180.

6 (2) When a designated crisis responder receives information
7 alleging that a person, as the result of substance use disorder,
8 presents an imminent likelihood of serious harm, or is in imminent
9 danger because of being gravely disabled, after investigation and
10 evaluation of the specific facts alleged and of the reliability and
11 credibility of the person or persons providing the information if
12 any, the designated crisis responder may take the person, or cause by
13 oral or written order the person to be taken, into emergency custody
14 in a secure detoxification facility or approved substance use
15 disorder treatment program(~~(, if space is available in the facility~~
16 ~~or program,)) for not more than seventy-two hours as described in RCW
17 71.05.180.~~

18 (3)(~~((a) Subject to (b) of this subsection,))~~ A peace officer may
19 take or cause such person to be taken into custody and immediately
20 delivered to a triage facility, crisis stabilization unit, evaluation
21 and treatment facility, secure detoxification facility, approved
22 substance use disorder treatment program, or the emergency department
23 of a local hospital under the following circumstances:

24 ~~((i))~~ (a) Pursuant to subsection (1) or (2) of this section; or
25 ~~((ii))~~ (b) When he or she has reasonable cause to believe that
26 such person is suffering from a mental disorder or substance use
27 disorder and presents an imminent likelihood of serious harm or is in
28 imminent danger because of being gravely disabled.

29 ~~((b) A peace officer may not deliver a person to a secure~~
30 ~~detoxification facility or approved substance use disorder treatment~~
31 ~~program unless space is available at the facility or program.))~~

32 (4) Persons delivered to a crisis stabilization unit, evaluation
33 and treatment facility, emergency department of a local hospital,
34 triage facility that has elected to operate as an involuntary
35 facility, secure detoxification facility, or approved substance use
36 disorder treatment program by peace officers pursuant to subsection
37 (3) of this section may be held by the facility for a period of up to
38 twelve hours.

39 (5) Within three hours of arrival, the person must be examined by
40 a mental health professional. Within twelve hours of arrival, the

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

11 **Sec. 213.** RCW 71.05.154 and 2013 c 334 s 1 are each amended to
12 read as follows:

13 A designated (~~mental health professional~~) crisis responder
14 conducting an evaluation of a person under RCW 71.05.150 or 71.05.153
15 must consult with any examining emergency room physician regarding
16 the physician's observations and opinions relating to the person's
17 condition, and whether, in the view of the physician, detention is
18 appropriate. The designated (~~mental health professional~~) crisis
19 responder shall take serious consideration of observations and
20 opinions by examining emergency room physicians in determining
21 whether detention under this chapter is appropriate. The designated
22 (~~mental health professional~~) crisis responder must document the
23 consultation with an examining emergency room physician, including
24 the physician's observations or opinions regarding whether detention
25 of the person is appropriate.

26 **Sec. 214.** RCW 71.05.156 and 2013 c 334 s 2 are each amended to
27 read as follows:

28 A designated (~~mental health professional~~) crisis responder who
29 conducts an evaluation for imminent likelihood of serious harm or
30 imminent danger because of being gravely disabled under RCW 71.05.153
31 must also evaluate the person under RCW 71.05.150 for likelihood of
32 serious harm or grave disability that does not meet the imminent
33 standard for emergency detention.

34 **Sec. 215.** RCW 71.05.157 and 2007 c 375 s 9 are each amended to
35 read as follows:

36 (1) When a designated (~~mental health professional~~) crisis
37 responder is notified by a jail that a defendant or offender who was

1 subject to a discharge review under RCW 71.05.232 is to be released
2 to the community, the designated ((~~mental health professional~~))
3 crisis responder shall evaluate the person within seventy-two hours
4 of release.

5 (2) When an offender is under court-ordered treatment in the
6 community and the supervision of the department of corrections, and
7 the treatment provider becomes aware that the person is in violation
8 of the terms of the court order, the treatment provider shall notify
9 the designated ((~~mental health professional~~)) crisis responder and
10 the department of corrections of the violation and request an
11 evaluation for purposes of revocation of the less restrictive
12 alternative.

13 (3) When a designated ((~~mental health professional~~)) crisis
14 responder becomes aware that an offender who is under court-ordered
15 treatment in the community and the supervision of the department of
16 corrections is in violation of a treatment order or a condition of
17 supervision that relates to public safety, or the designated ((~~mental~~
18 ~~health professional~~)) crisis responder detains a person under this
19 chapter, the designated ((~~mental health professional~~)) crisis
20 responder shall notify the person's treatment provider and the
21 department of corrections.

22 (4) When an offender who is confined in a state correctional
23 facility or is under supervision of the department of corrections in
24 the community is subject to a petition for involuntary treatment
25 under this chapter, the petitioner shall notify the department of
26 corrections and the department of corrections shall provide
27 documentation of its risk assessment or other concerns to the
28 petitioner and the court if the department of corrections classified
29 the offender as a high risk or high needs offender.

30 (5) Nothing in this section creates a duty on any treatment
31 provider or designated ((~~mental health professional~~)) crisis
32 responder to provide offender supervision.

33 (6) No jail or state correctional facility may be considered a
34 less restrictive alternative to an evaluation and treatment facility,
35 secure detoxification facility, or approved substance use disorder
36 treatment program.

37 **Sec. 216.** RCW 71.05.160 and 2007 c 375 s 13 are each amended to
38 read as follows:

1 Any facility receiving a person pursuant to RCW 71.05.150 or
2 71.05.153 shall require the designated (~~(mental health professional)~~)
3 crisis responder to prepare a petition for initial detention stating
4 the circumstances under which the person's condition was made known
5 and stating that there is evidence, as a result of his or her
6 personal observation or investigation, that the actions of the person
7 for which application is made constitute a likelihood of serious
8 harm, or that he or she is gravely disabled, and stating the specific
9 facts known to him or her as a result of his or her personal
10 observation or investigation, upon which he or she bases the belief
11 that such person should be detained for the purposes and under the
12 authority of this chapter.

13 If a person is involuntarily placed in an evaluation and
14 treatment facility, secure detoxification facility, or approved
15 substance use disorder treatment program pursuant to RCW 71.05.150 or
16 71.05.153, on the next judicial day following the initial detention,
17 the designated (~~(mental health professional)~~) crisis responder shall
18 file with the court and serve the designated attorney of the detained
19 person the petition or supplemental petition for initial detention,
20 proof of service of notice, and a copy of a notice of emergency
21 detention.

22 **Sec. 217.** RCW 71.05.170 and 2000 c 94 s 5 are each amended to
23 read as follows:

24 Whenever the (~~(county)~~) designated (~~(mental health professional)~~)
25 crisis responder petitions for detention of a person whose actions
26 constitute a likelihood of serious harm, or who is gravely disabled,
27 the facility providing seventy-two hour evaluation and treatment must
28 immediately accept on a provisional basis the petition and the
29 person. The facility shall then evaluate the person's condition and
30 admit, detain, transfer, or discharge such person in accordance with
31 RCW 71.05.210. The facility shall notify in writing the court and the
32 (~~(county)~~) designated (~~(mental health professional)~~) crisis responder
33 of the date and time of the initial detention of each person
34 involuntarily detained in order that a probable cause hearing shall
35 be held no later than seventy-two hours after detention.

36 The duty of a state hospital to accept persons for evaluation and
37 treatment under this section shall be limited by chapter 71.24 RCW.

1 **Sec. 218.** RCW 71.05.180 and 1997 c 112 s 12 are each amended to
2 read as follows:

3 If the evaluation and treatment facility, secure detoxification
4 facility, or approved substance use disorder treatment program admits
5 the person, it may detain him or her for evaluation and treatment for
6 a period not to exceed seventy-two hours from the time of acceptance
7 as set forth in RCW 71.05.170. The computation of such seventy-two
8 hour period shall exclude Saturdays, Sundays and holidays.

9 **Sec. 219.** RCW 71.05.190 and 2011 c 305 s 3 are each amended to
10 read as follows:

11 If the person is not approved for admission by a facility
12 providing seventy-two hour evaluation and treatment, and the
13 individual has not been arrested, the facility shall furnish
14 transportation, if not otherwise available, for the person to his or
15 her place of residence or other appropriate place. If the individual
16 has been arrested, the evaluation and treatment facility, secure
17 detoxification facility, or approved substance use disorder treatment
18 program shall detain the individual for not more than eight hours at
19 the request of the peace officer. The facility shall make reasonable
20 attempts to contact the requesting peace officer during this time to
21 inform the peace officer that the person is not approved for
22 admission in order to enable a peace officer to return to the
23 facility and take the individual back into custody.

24 **Sec. 220.** RCW 71.05.195 and 2010 c 208 s 1 are each amended to
25 read as follows:

26 (1) A civil commitment may be initiated under the procedures
27 described in RCW 71.05.150 or 71.05.153 for a person who has been
28 found not guilty by reason of insanity in a state other than
29 Washington and who has fled from detention, commitment, or
30 conditional release in that state, on the basis of a request by the
31 state in which the person was found not guilty by reason of insanity
32 for the person to be detained and transferred back to the custody or
33 care of the requesting state. A finding of likelihood of serious harm
34 or grave disability is not required for a commitment under this
35 section. The detention may occur at either an evaluation and
36 treatment facility or a state hospital. The petition for seventy-two
37 hour detention filed by the designated (~~(mental health professional)~~)
38 crisis responder must be accompanied by the following documents:

1 (a) A copy of an order for detention, commitment, or conditional
2 release of the person in a state other than Washington on the basis
3 of a judgment of not guilty by reason of insanity;

4 (b) A warrant issued by a magistrate in the state in which the
5 person was found not guilty by reason of insanity indicating that the
6 person has fled from detention, commitment, or conditional release in
7 that state and authorizing the detention of the person within the
8 state in which the person was found not guilty by reason of insanity;

9 (c) A statement from the executive authority of the state in
10 which the person was found not guilty by reason of insanity
11 requesting that the person be returned to the requesting state and
12 agreeing to facilitate the transfer of the person to the requesting
13 state.

14 (2) The person shall be entitled to a probable cause hearing
15 within the time limits applicable to other detentions under this
16 chapter and shall be afforded the rights described in this chapter
17 including the right to counsel. At the probable cause hearing, the
18 court shall determine the identity of the person and whether the
19 other requirements of this section are met. If the court so finds,
20 the court may order continued detention in a treatment facility for
21 up to thirty days for the purpose of the transfer of the person to
22 the custody or care of the requesting state. The court may order a
23 less restrictive alternative to detention only under conditions which
24 ensure the person's safe transfer to the custody or care of the
25 requesting state within thirty days without undue risk to the safety
26 of the person or others.

27 (3) For the purposes of this section, "not guilty by reason of
28 insanity" shall be construed to include any provision of law which is
29 generally equivalent to a finding of criminal insanity within the
30 state of Washington; and "state" shall be construed to mean any
31 state, district, or territory of the United States.

32 **Sec. 221.** RCW 71.05.210 and 2009 c 217 s 1 are each amended to
33 read as follows:

34 Each person involuntarily detained and accepted or admitted at an
35 evaluation and treatment facility, secure detoxification facility, or
36 approved substance use disorder treatment program (1) shall, within
37 twenty-four hours of his or her admission or acceptance at the
38 facility, be examined and evaluated by (a) a licensed physician who
39 may be assisted by a physician assistant according to chapter 18.71A

1 RCW and a mental health professional, (b) an advanced registered
2 nurse practitioner according to chapter 18.79 RCW and a mental health
3 professional, or (c) a licensed physician and a psychiatric advanced
4 registered nurse practitioner and (2) shall receive such treatment
5 and care as his or her condition requires including treatment on an
6 outpatient basis for the period that he or she is detained, except
7 that, beginning twenty-four hours prior to a trial or hearing
8 pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320,
9 71.05.340, or 71.05.217, the individual may refuse psychiatric
10 medications, but may not refuse: (a) Any other medication previously
11 prescribed by a person licensed under Title 18 RCW; or (b) emergency
12 lifesaving treatment, and the individual shall be informed at an
13 appropriate time of his or her right of such refusal. The person
14 shall be detained up to seventy-two hours, if, in the opinion of the
15 professional person in charge of the facility, or his or her
16 professional designee, the person presents a likelihood of serious
17 harm, or is gravely disabled. A person who has been detained for
18 seventy-two hours shall no later than the end of such period be
19 released, unless referred for further care on a voluntary basis, or
20 detained pursuant to court order for further treatment as provided in
21 this chapter.

22 If, after examination and evaluation, the mental health
23 professional and licensed physician or psychiatric advanced
24 registered nurse practitioner determine that the initial needs of the
25 person, if detained to an evaluation and treatment facility, would be
26 better served by placement in a (~~chemical dependency~~) substance use
27 disorder treatment facility, or, if detained to a secure
28 detoxification facility or approved substance use disorder treatment
29 program, would be better served in an evaluation and treatment
30 facility then the person shall be referred to (~~an approved treatment~~
31 ~~program defined under RCW 70.96A.020~~) the more appropriate
32 placement; however, a person may only be referred to a secure
33 detoxification facility or approved substance use disorder treatment
34 program if space is available in the facility or program.

35 An evaluation and treatment center, secure detoxification
36 facility, or approved substance use disorder treatment program
37 admitting or accepting any person pursuant to this chapter whose
38 physical condition reveals the need for hospitalization shall assure
39 that such person is transferred to an appropriate hospital for
40 evaluation or admission for treatment. Notice of such fact shall be

1 given to the court, the designated attorney, and the designated
2 (~~mental health professional~~) crisis responder and the court shall
3 order such continuance in proceedings under this chapter as may be
4 necessary, but in no event may this continuance be more than fourteen
5 days.

6 **Sec. 222.** RCW 71.05.210 and 2015 c ... s 221 (section 221 of
7 this act) are each amended to read as follows:

8 Each person involuntarily detained and accepted or admitted at an
9 evaluation and treatment facility, secure detoxification facility, or
10 approved substance use disorder treatment program (1) shall, within
11 twenty-four hours of his or her admission or acceptance at the
12 facility, be examined and evaluated by (a) a licensed physician who
13 may be assisted by a physician assistant according to chapter 18.71A
14 RCW and a mental health professional, (b) an advanced registered
15 nurse practitioner according to chapter 18.79 RCW and a mental health
16 professional, or (c) a licensed physician and a psychiatric advanced
17 registered nurse practitioner and (2) shall receive such treatment
18 and care as his or her condition requires including treatment on an
19 outpatient basis for the period that he or she is detained, except
20 that, beginning twenty-four hours prior to a trial or hearing
21 pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320,
22 71.05.340, or 71.05.217, the individual may refuse psychiatric
23 medications, but may not refuse: (a) Any other medication previously
24 prescribed by a person licensed under Title 18 RCW; or (b) emergency
25 lifesaving treatment, and the individual shall be informed at an
26 appropriate time of his or her right of such refusal. The person
27 shall be detained up to seventy-two hours, if, in the opinion of the
28 professional person in charge of the facility, or his or her
29 professional designee, the person presents a likelihood of serious
30 harm, or is gravely disabled. A person who has been detained for
31 seventy-two hours shall no later than the end of such period be
32 released, unless referred for further care on a voluntary basis, or
33 detained pursuant to court order for further treatment as provided in
34 this chapter.

35 If, after examination and evaluation, the mental health
36 professional and licensed physician or psychiatric advanced
37 registered nurse practitioner determine that the initial needs of the
38 person, if detained to an evaluation and treatment facility, would be
39 better served by placement in a substance use disorder treatment

1 facility, or, if detained to a secure detoxification facility or
2 approved substance use disorder treatment program, would be better
3 served in an evaluation and treatment facility than the person shall
4 be referred to the more appropriate placement(~~(; however, a person~~
5 ~~may only be referred to a secure detoxification facility or approved~~
6 ~~substance use disorder treatment program if space is available in the~~
7 ~~facility or program)~~).

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

18 **Sec. 223.** RCW 71.05.212 and 2010 c 280 s 2 are each amended to
19 read as follows:

20 (1) Whenever a designated (~~mental health professional~~) crisis
21 responder or professional person is conducting an evaluation under
22 this chapter, consideration shall include all reasonably available
23 information from credible witnesses and records regarding:

24 (a) Prior recommendations for evaluation of the need for civil
25 commitments when the recommendation is made pursuant to an evaluation
26 conducted under chapter 10.77 RCW;

27 (b) Historical behavior, including history of one or more violent
28 acts;

29 (c) Prior determinations of incompetency or insanity under
30 chapter 10.77 RCW; and

31 (d) Prior commitments under this chapter.

32 (2) Credible witnesses may include family members, landlords,
33 neighbors, or others with significant contact and history of
34 involvement with the person. If the designated (~~mental health~~
35 ~~professional~~) crisis responder relies upon information from a
36 credible witness in reaching his or her decision to detain the
37 individual, then he or she must provide contact information for any
38 such witness to the prosecutor. The designated (~~mental health~~
39 ~~professional~~) crisis responder or prosecutor shall provide notice of

1 the date, time, and location of the probable cause hearing to such a
2 witness.

3 (3) Symptoms and behavior of the respondent which standing alone
4 would not justify civil commitment may support a finding of grave
5 disability or likelihood of serious harm when:

6 (a) Such symptoms or behavior are closely associated with
7 symptoms or behavior which preceded and led to a past incident of
8 involuntary hospitalization, severe deterioration, or one or more
9 violent acts;

10 (b) These symptoms or behavior represent a marked and concerning
11 change in the baseline behavior of the respondent; and

12 (c) Without treatment, the continued deterioration of the
13 respondent is probable.

14 (4) When conducting an evaluation for offenders identified under
15 RCW 72.09.370, the designated (~~mental health professional~~) crisis
16 responder or professional person shall consider an offender's history
17 of judicially required or administratively ordered antipsychotic
18 medication while in confinement.

19 **Sec. 224.** RCW 71.05.214 and 1998 c 297 s 26 are each amended to
20 read as follows:

21 The department shall develop statewide protocols to be utilized
22 by professional persons and (~~county~~) designated (~~mental health~~
23 ~~professionals~~) crisis responders in administration of this chapter
24 and chapter 10.77 RCW. The protocols shall be updated at least every
25 three years. The protocols shall provide uniform development and
26 application of criteria in evaluation and commitment recommendations,
27 of persons who have, or are alleged to have, mental disorders or
28 substance use disorders and are subject to this chapter.

29 The initial protocols shall be developed not later than September
30 1, 1999. The department shall develop and update the protocols in
31 consultation with representatives of (~~county~~) designated (~~mental~~
32 ~~health professionals~~) crisis responders, local government, law
33 enforcement, county and city prosecutors, public defenders, and
34 groups concerned with mental illness and substance use disorders. The
35 protocols shall be submitted to the governor and legislature upon
36 adoption by the department.

37 **Sec. 225.** RCW 71.05.215 and 2008 c 156 s 2 are each amended to
38 read as follows:

1 (1) A person found to be gravely disabled or presents a
2 likelihood of serious harm as a result of a mental disorder or
3 substance use disorder has a right to refuse antipsychotic medication
4 unless it is determined that the failure to medicate may result in a
5 likelihood of serious harm or substantial deterioration or
6 substantially prolong the length of involuntary commitment and there
7 is no less intrusive course of treatment than medication in the best
8 interest of that person.

9 (2) The department shall adopt rules to carry out the purposes of
10 this chapter. These rules shall include:

11 (a) An attempt to obtain the informed consent of the person prior
12 to administration of antipsychotic medication.

13 (b) For short-term treatment up to thirty days, the right to
14 refuse antipsychotic medications unless there is an additional
15 concurring medical opinion approving medication by a psychiatrist,
16 psychiatric advanced registered nurse practitioner, or physician in
17 consultation with a mental health professional with prescriptive
18 authority.

19 (c) For continued treatment beyond thirty days through the
20 hearing on any petition filed under RCW 71.05.217, the right to
21 periodic review of the decision to medicate by the medical director
22 or designee.

23 (d) Administration of antipsychotic medication in an emergency
24 and review of this decision within twenty-four hours. An emergency
25 exists if the person presents an imminent likelihood of serious harm,
26 and medically acceptable alternatives to administration of
27 antipsychotic medications are not available or are unlikely to be
28 successful; and in the opinion of the physician or psychiatric
29 advanced registered nurse practitioner, the person's condition
30 constitutes an emergency requiring the treatment be instituted prior
31 to obtaining a second medical opinion.

32 (e) Documentation in the medical record of the attempt by the
33 physician or psychiatric advanced registered nurse practitioner to
34 obtain informed consent and the reasons why antipsychotic medication
35 is being administered over the person's objection or lack of consent.

36 **Sec. 226.** RCW 71.05.220 and 1997 c 112 s 17 are each amended to
37 read as follows:

38 At the time a person is involuntarily admitted to an evaluation
39 and treatment facility, secure detoxification facility, or approved

1 substance use disorder treatment program, the professional person in
2 charge or his or her designee shall take reasonable precautions to
3 inventory and safeguard the personal property of the person detained.
4 A copy of the inventory, signed by the staff member making it, shall
5 be given to the person detained and shall, in addition, be open to
6 inspection to any responsible relative, subject to limitations, if
7 any, specifically imposed by the detained person. For purposes of
8 this section, "responsible relative" includes the guardian,
9 conservator, attorney, spouse, parent, adult child, or adult brother
10 or sister of the person. The facility shall not disclose the contents
11 of the inventory to any other person without the consent of the
12 patient or order of the court.

13 **Sec. 227.** RCW 71.05.230 and 2011 c 343 s 9 are each amended to
14 read as follows:

15 A person detained for seventy-two hour evaluation and treatment
16 may be detained for not more than fourteen additional days of
17 involuntary intensive treatment or ninety additional days of a less
18 restrictive alternative to involuntary intensive treatment. A
19 petition may only be filed if the following conditions are met:

20 (1) The professional staff of the agency or facility providing
21 evaluation services has analyzed the person's condition and finds
22 that the condition is caused by mental disorder or substance use
23 disorder and either results in a likelihood of serious harm, or
24 results in the detained person being gravely disabled and are
25 prepared to testify those conditions are met; and

26 (2) The person has been advised of the need for voluntary
27 treatment and the professional staff of the facility has evidence
28 that he or she has not in good faith volunteered; and

29 (3) The facility providing intensive treatment is certified to
30 provide such treatment by the department; and

31 (4) The professional staff of the agency or facility or the
32 designated (~~mental health professional~~) crisis responder has filed
33 a petition for fourteen day involuntary detention or a ninety day
34 less restrictive alternative with the court. The petition must be
35 signed either by:

- 36 (a) Two physicians;
37 (b) One physician and a mental health professional;
38 (c) Two psychiatric advanced registered nurse practitioners;
39 (d) Two physician assistants;

1 (e) One mental health professional and either a psychiatric
2 advanced registered nurse practitioner ((and a mental health
3 professional)) or a physician assistant; or

4 ~~((e) A)~~ (f) One physician and either a psychiatric advanced
5 registered nurse practitioner or physician assistant. The persons
6 signing the petition must have examined the person. If involuntary
7 detention is sought the petition shall state facts that support the
8 finding that such person, as a result of a mental disorder or
9 substance use disorder, presents a likelihood of serious harm, or is
10 gravely disabled and that there are no less restrictive alternatives
11 to detention in the best interest of such person or others. The
12 petition shall state specifically that less restrictive alternative
13 treatment was considered and specify why treatment less restrictive
14 than detention is not appropriate. If an involuntary less restrictive
15 alternative is sought, the petition shall state facts that support
16 the finding that such person, as a result of a mental disorder or as
17 a result of a substance use disorder, presents a likelihood of
18 serious harm, or is gravely disabled and shall set forth the less
19 restrictive alternative proposed by the facility; and

20 (5) A copy of the petition has been served on the detained
21 person, his or her attorney and his or her guardian or conservator,
22 if any, prior to the probable cause hearing; and

23 (6) The court at the time the petition was filed and before the
24 probable cause hearing has appointed counsel to represent such person
25 if no other counsel has appeared; and

26 (7) The petition reflects that the person was informed of the
27 loss of firearm rights if involuntarily committed for mental health
28 treatment; and

29 (8) At the conclusion of the initial commitment period, the
30 professional staff of the agency or facility or the designated
31 ~~((mental health professional))~~ crisis responder may petition for an
32 additional period of either ninety days of less restrictive
33 alternative treatment or ninety days of involuntary intensive
34 treatment as provided in RCW 71.05.290; and

35 (9) If the hospital or facility designated to provide outpatient
36 treatment is other than the facility providing involuntary treatment,
37 the outpatient facility so designated has agreed to assume such
38 responsibility.

1 **Sec. 228.** RCW 71.05.235 and 2008 c 213 s 5 are each amended to
2 read as follows:

3 (1) If an individual is referred to a designated (~~mental health~~
4 ~~professional~~) crisis responder under RCW 10.77.088(1)(b)(i), the
5 designated (~~mental health professional~~) crisis responder shall
6 examine the individual within forty-eight hours. If the designated
7 (~~mental health professional~~) crisis responder determines it is not
8 appropriate to detain the individual or petition for a ninety-day
9 less restrictive alternative under RCW 71.05.230(4), that decision
10 shall be immediately presented to the superior court for hearing. The
11 court shall hold a hearing to consider the decision of the designated
12 (~~mental health professional~~) crisis responder not later than the
13 next judicial day. At the hearing the superior court shall review the
14 determination of the designated (~~mental health professional~~) crisis
15 responder and determine whether an order should be entered requiring
16 the person to be evaluated at an evaluation and treatment facility.
17 No person referred to an evaluation and treatment facility may be
18 held at the facility longer than seventy-two hours.

19 (2) If an individual is placed in an evaluation and treatment
20 facility under RCW 10.77.088(1)(b)(ii), a professional person shall
21 evaluate the individual for purposes of determining whether to file a
22 ninety-day inpatient or outpatient petition under chapter 71.05 RCW.
23 Before expiration of the seventy-two hour evaluation period
24 authorized under RCW 10.77.088(1)(b)(ii), the professional person
25 shall file a petition or, if the recommendation of the professional
26 person is to release the individual, present his or her
27 recommendation to the superior court of the county in which the
28 criminal charge was dismissed. The superior court shall review the
29 recommendation not later than forty-eight hours, excluding Saturdays,
30 Sundays, and holidays, after the recommendation is presented. If the
31 court rejects the recommendation to unconditionally release the
32 individual, the court may order the individual detained at a
33 designated evaluation and treatment facility for not more than a
34 seventy-two hour evaluation and treatment period and direct the
35 individual to appear at a surety hearing before that court within
36 seventy-two hours, or the court may release the individual but direct
37 the individual to appear at a surety hearing set before that court
38 within eleven days, at which time the prosecutor may file a petition
39 under this chapter for ninety-day inpatient or outpatient treatment.
40 If a petition is filed by the prosecutor, the court may order that

1 the person named in the petition be detained at the evaluation and
2 treatment facility that performed the evaluation under this
3 subsection or order the respondent to be in outpatient treatment. If
4 a petition is filed but the individual fails to appear in court for
5 the surety hearing, the court shall order that a mental health
6 professional or peace officer shall take such person or cause such
7 person to be taken into custody and placed in an evaluation and
8 treatment facility to be brought before the court the next judicial
9 day after detention. Upon the individual's first appearance in court
10 after a petition has been filed, proceedings under RCW 71.05.310 and
11 71.05.320 shall commence. For an individual subject to this
12 subsection, the prosecutor or professional person may directly file a
13 petition for ninety-day inpatient or outpatient treatment and no
14 petition for initial detention or fourteen-day detention is required
15 before such a petition may be filed.

16 The court shall conduct the hearing on the petition filed under
17 this subsection within five judicial days of the date the petition is
18 filed. The court may continue the hearing upon the written request of
19 the person named in the petition or the person's attorney, for good
20 cause shown, which continuance shall not exceed five additional
21 judicial days. If the person named in the petition requests a jury
22 trial, the trial shall commence within ten judicial days of the date
23 of the filing of the petition. The burden of proof shall be by clear,
24 cogent, and convincing evidence and shall be upon the petitioner. The
25 person shall be present at such proceeding, which shall in all
26 respects accord with the constitutional guarantees of due process of
27 law and the rules of evidence pursuant to RCW 71.05.360 (8) and (9).

28 During the proceeding the person named in the petition shall
29 continue to be detained and treated until released by order of the
30 court. If no order has been made within thirty days after the filing
31 of the petition, not including any extensions of time requested by
32 the detained person or his or her attorney, the detained person shall
33 be released.

34 (3) If a designated (~~mental health professional~~) crisis
35 responder or the professional person and prosecuting attorney for the
36 county in which the criminal charge was dismissed or attorney
37 general, as appropriate, stipulate that the individual does not
38 present a likelihood of serious harm or is not gravely disabled, the
39 hearing under this section is not required and the individual, if in
40 custody, shall be released.

1 (4) The individual shall have the rights specified in RCW
2 71.05.360 (8) and (9).

3 **Sec. 229.** RCW 71.05.240 and 2009 c 293 s 4 are each amended to
4 read as follows:

5 (1) If a petition is filed for fourteen day involuntary treatment
6 or ninety days of less restrictive alternative treatment, the court
7 shall hold a probable cause hearing within seventy-two hours of the
8 initial detention of such person as determined in RCW 71.05.180. If
9 requested by the detained person or his or her attorney, the hearing
10 may be postponed for a period not to exceed forty-eight hours. The
11 hearing may also be continued subject to the conditions set forth in
12 RCW 71.05.210 or subject to the petitioner's showing of good cause
13 for a period not to exceed twenty-four hours.

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

21 (3)(a) Subject to (b) of this subsection, at the conclusion of
22 the probable cause hearing, if the court finds by a preponderance of
23 the evidence that such person, as the result of a mental disorder or
24 a substance use disorder, presents a likelihood of serious harm, or
25 is gravely disabled, and, after considering less restrictive
26 alternatives to involuntary detention and treatment, finds that no
27 such alternatives are in the best interests of such person or others,
28 the court shall order that such person be detained for involuntary
29 treatment not to exceed fourteen days in a facility certified to
30 provide treatment by the department.

31 (b) Commitment for up to fourteen days based on a substance use
32 disorder must be to either a secure detoxification facility or an
33 approved substance use disorder treatment program. A court may only
34 commit a person to a secure detoxification facility or approved
35 substance use disorder treatment program if space is available at the
36 facility or program.

37 (c) At the conclusion of the probable cause hearing, if the court
38 finds by a preponderance of the evidence that such person, as the
39 result of a mental disorder or substance use disorder, presents a

1 likelihood of serious harm, or is gravely disabled, but that
2 treatment in a less restrictive setting than detention is in the best
3 interest of such person or others, the court shall order an
4 appropriate less restrictive course of treatment for not to exceed
5 ninety days.

6 (4) The court shall specifically state to such person and give
7 such person notice in writing that if involuntary treatment beyond
8 the fourteen day period or beyond the ninety days of less restrictive
9 treatment is to be sought, such person will have the right to a full
10 hearing or jury trial as required by RCW 71.05.310. If the commitment
11 is for mental health treatment, the court shall also state to the
12 person and provide written notice that the person is barred from the
13 possession of firearms and that the prohibition remains in effect
14 until a court restores his or her right to possess a firearm under
15 RCW 9.41.047.

16 **Sec. 230.** RCW 71.05.240 and 2015 c ... s 229 (section 229 of
17 this act) are each amended to read as follows:

18 (1) If a petition is filed for fourteen day involuntary treatment
19 or ninety days of less restrictive alternative treatment, the court
20 shall hold a probable cause hearing within seventy-two hours of the
21 initial detention of such person as determined in RCW 71.05.180. If
22 requested by the detained person or his or her attorney, the hearing
23 may be postponed for a period not to exceed forty-eight hours. The
24 hearing may also be continued subject to the conditions set forth in
25 RCW 71.05.210 or subject to the petitioner's showing of good cause
26 for a period not to exceed twenty-four hours.

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

34 (3) ~~((a) Subject to (b) of this subsection,))~~ At the conclusion
35 of the probable cause hearing, if the court finds by a preponderance
36 of the evidence that such person, as the result of a mental disorder
37 or a substance use disorder, presents a likelihood of serious harm,
38 or is gravely disabled, and, after considering less restrictive
39 alternatives to involuntary detention and treatment, finds that no

1 such alternatives are in the best interests of such person or others,
2 the court shall order that such person be detained for involuntary
3 treatment not to exceed fourteen days in a facility certified to
4 provide treatment by the department.

5 ~~((b))~~ Commitment for up to fourteen days based on a substance
6 use disorder must be to either a secure detoxification facility or an
7 approved substance use disorder treatment program. ~~((A court may only
8 commit a person to a secure detoxification facility or approved
9 substance use disorder treatment program if space is available at the
10 facility or program.~~

11 ~~(c) At the conclusion of the probable cause hearing,~~) If the
12 court finds ~~((by a preponderance of the evidence))~~ that such person,
13 as the result of a mental disorder or substance use disorder,
14 presents a likelihood of serious harm, or is gravely disabled, but
15 that treatment in a less restrictive setting than detention is in the
16 best interest of such person or others, the court shall order an
17 appropriate less restrictive course of treatment for not to exceed
18 ninety days.

19 (4) The court shall specifically state to such person and give
20 such person notice in writing that if involuntary treatment beyond
21 the fourteen day period or beyond the ninety days of less restrictive
22 treatment is to be sought, such person will have the right to a full
23 hearing or jury trial as required by RCW 71.05.310. If the commitment
24 is for mental health treatment, the court shall also state to the
25 person and provide written notice that the person is barred from the
26 possession of firearms and that the prohibition remains in effect
27 until a court restores his or her right to possess a firearm under
28 RCW 9.41.047.

29 **Sec. 231.** RCW 71.05.280 and 2013 c 289 s 4 are each amended to
30 read as follows:

31 At the expiration of the fourteen-day period of intensive
32 treatment, a person may be confined for further treatment pursuant to
33 RCW 71.05.320 if:

34 (1) Such person after having been taken into custody for
35 evaluation and treatment has threatened, attempted, or inflicted: (a)
36 Physical harm upon the person of another or himself or herself, or
37 substantial damage upon the property of another, and (b) as a result
38 of mental disorder or substance use disorder presents a likelihood of
39 serious harm; or

1 (2) Such person was taken into custody as a result of conduct in
2 which he or she attempted or inflicted physical harm upon the person
3 of another or himself or herself, or substantial damage upon the
4 property of others, and continues to present, as a result of mental
5 disorder or substance use disorder, a likelihood of serious harm; or

6 (3) Such person has been determined to be incompetent and
7 criminal charges have been dismissed pursuant to RCW 10.77.086(4),
8 and has committed acts constituting a felony, and as a result of a
9 mental disorder, presents a substantial likelihood of repeating
10 similar acts.

11 (a) In any proceeding pursuant to this subsection it shall not be
12 necessary to show intent, willfulness, or state of mind as an element
13 of the crime;

14 (b) For any person subject to commitment under this subsection
15 where the charge underlying the finding of incompetence is for a
16 felony classified as violent under RCW 9.94A.030, the court shall
17 determine whether the acts the person committed constitute a violent
18 offense under RCW 9.94A.030; or

19 (4) Such person is gravely disabled.

20 **Sec. 232.** RCW 71.05.290 and 2009 c 217 s 3 are each amended to
21 read as follows:

22 (1) At any time during a person's fourteen day intensive
23 treatment period, the professional person in charge of a treatment
24 facility or his or her professional designee or the designated
25 (~~mental health professional~~) crisis responder may petition the
26 superior court for an order requiring such person to undergo an
27 additional period of treatment. Such petition must be based on one or
28 more of the grounds set forth in RCW 71.05.280.

29 (2) The petition shall summarize the facts which support the need
30 for further confinement and shall be supported by affidavits signed
31 by:

32 (a) Two examining physicians;

33 (b) One examining physician and an examining mental health
34 professional;

35 (c) Two examining psychiatric advanced registered nurse
36 practitioners;

37 (d) Two examining physician assistants;

1 (e) One examining mental health professional and either an
2 examining psychiatric advanced registered nurse practitioner ((and a
3 mental health professional)) or an examining physician assistant; or

4 ~~((e) An))~~ (f) One examining physician and either an examining
5 psychiatric advanced registered nurse practitioner or an examining
6 physician assistant. The affidavits shall describe in detail the
7 behavior of the detained person which supports the petition and shall
8 explain what, if any, less restrictive treatments which are
9 alternatives to detention are available to such person, and shall
10 state the willingness of the affiant to testify to such facts in
11 subsequent judicial proceedings under this chapter.

12 (3) If a person has been determined to be incompetent pursuant to
13 RCW 10.77.086(4), then the professional person in charge of the
14 treatment facility or his or her professional designee or the
15 designated ~~((mental health professional))~~ crisis responder may
16 directly file a petition for one hundred eighty day treatment under
17 RCW 71.05.280(3). No petition for initial detention or fourteen day
18 detention is required before such a petition may be filed.

19 **Sec. 233.** RCW 71.05.300 and 2014 c 225 s 84 are each amended to
20 read as follows:

21 (1) The petition for ninety day treatment shall be filed with the
22 clerk of the superior court at least three days before expiration of
23 the fourteen-day period of intensive treatment. At the time of filing
24 such petition, the clerk shall set a time for the person to come
25 before the court on the next judicial day after the day of filing
26 unless such appearance is waived by the person's attorney, and the
27 clerk shall notify the designated ~~((mental health professional))~~
28 crisis responder. The designated ~~((mental health professional))~~
29 crisis responder shall immediately notify the person detained, his or
30 her attorney, if any, and his or her guardian or conservator, if any,
31 the prosecuting attorney, and the behavioral health organization
32 administrator, and provide a copy of the petition to such persons as
33 soon as possible. The behavioral health organization administrator or
34 designee may review the petition and may appear and testify at the
35 full hearing on the petition.

36 (2) At the time set for appearance the detained person shall be
37 brought before the court, unless such appearance has been waived and
38 the court shall advise him or her of his or her right to be
39 represented by an attorney, his or her right to a jury trial, and, if

1 the petition is for commitment for mental health treatment, his or
2 her loss of firearm rights if involuntarily committed. If the
3 detained person is not represented by an attorney, or is indigent or
4 is unwilling to retain an attorney, the court shall immediately
5 appoint an attorney to represent him or her. The court shall, if
6 requested, appoint a reasonably available licensed physician,
7 psychiatric advanced registered nurse practitioner, physician
8 assistant, psychologist, or psychiatrist, designated by the detained
9 person to examine and testify on behalf of the detained person.

10 (3) The court may, if requested, also appoint a professional
11 person as defined in RCW 71.05.020 to seek less restrictive
12 alternative courses of treatment and to testify on behalf of the
13 detained person. In the case of a person with a developmental
14 disability who has been determined to be incompetent pursuant to RCW
15 10.77.086(4), then the appointed professional person under this
16 section shall be a developmental disabilities professional.

17 (4) The court shall also set a date for a full hearing on the
18 petition as provided in RCW 71.05.310.

19 **Sec. 234.** RCW 71.05.320 and 2013 c 289 s 5 are each amended to
20 read as follows:

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

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

34 (c) If the grounds set forth in RCW 71.05.280(3) are the basis of
35 commitment, then the period of treatment may be up to but not exceed
36 one hundred eighty days from the date of judgment in a facility
37 certified for one hundred eighty day treatment by the department.

38 (2) If the court or jury finds that grounds set forth in RCW
39 71.05.280 have been proven, but finds that treatment less restrictive

1 than detention will be in the best interest of the person or others,
2 then the court shall remand him or her to the custody of the
3 department or to a facility certified for ninety day treatment by the
4 department or to a less restrictive alternative for a further period
5 of less restrictive treatment not to exceed ninety days from the date
6 of judgment. If the order for less restrictive treatment is based on
7 substance use disorder, treatment must be provided by an approved
8 substance use disorder treatment program. If the grounds set forth in
9 RCW 71.05.280(3) are the basis of commitment, then the period of
10 treatment may be up to but not exceed one hundred eighty days from
11 the date of judgment.

12 (3) The person shall be released from involuntary treatment at
13 the expiration of the period of commitment imposed under subsection
14 (1) or (2) of this section unless the superintendent or professional
15 person in charge of the facility in which he or she is confined, or
16 in the event of a less restrictive alternative, the designated
17 (~~mental health professional~~) crisis responder, files a new petition
18 for involuntary treatment on the grounds that the committed person:

19 (a) During the current period of court ordered treatment: (i) Has
20 threatened, attempted, or inflicted physical harm upon the person of
21 another, or substantial damage upon the property of another, and (ii)
22 as a result of a mental disorder, substance use disorder, or
23 developmental disability presents a likelihood of serious harm; or

24 (b) Was taken into custody as a result of conduct in which he or
25 she attempted or inflicted serious physical harm upon the person of
26 another, and continues to present, as a result of mental disorder,
27 substance use disorder, or developmental disability a likelihood of
28 serious harm; or

29 (c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result
30 of mental disorder or developmental disability continues to present a
31 substantial likelihood of repeating acts similar to the charged
32 criminal behavior, when considering the person's life history,
33 progress in treatment, and the public safety.

34 (ii) In cases under this subsection where the court has made an
35 affirmative special finding under RCW 71.05.280(3)(b), the commitment
36 shall continue for up to an additional one hundred eighty day period
37 whenever the petition presents prima facie evidence that the person
38 continues to suffer from a mental disorder or developmental
39 disability that results in a substantial likelihood of committing
40 acts similar to the charged criminal behavior, unless the person

1 presents proof through an admissible expert opinion that the person's
2 condition has so changed such that the mental disorder or
3 developmental disability no longer presents a substantial likelihood
4 of the person committing acts similar to the charged criminal
5 behavior. The initial or additional commitment period may include
6 transfer to a specialized program of intensive support and treatment,
7 which may be initiated prior to or after discharge from the state
8 hospital; or

9 (d) Continues to be gravely disabled.

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

13 (4) For a person committed under subsection (2) of this section
14 who has been remanded to a period of less restrictive treatment, in
15 addition to the grounds specified in subsection (3) of this section,
16 the designated (~~mental health professional~~) crisis responder may
17 file a new petition for continued less restrictive treatment if:

18 (a) The person was previously committed by a court to detention
19 for involuntary mental health treatment or involuntary substance use
20 disorder treatment during the thirty-six months that preceded the
21 person's initial detention date during the current involuntary
22 commitment cycle, excluding any time spent in a mental health
23 facility, in long-term alcoholism or drug treatment facility, or in
24 confinement as a result of a criminal conviction;

25 (b) In view of the person's treatment history or current
26 behavior, the person is unlikely to voluntarily participate in
27 outpatient treatment without an order for less restrictive treatment;
28 and

29 (c) Outpatient treatment that would be provided under a less
30 restrictive treatment order is necessary to prevent a relapse,
31 decompensation, or deterioration that is likely to result in the
32 person presenting a likelihood of serious harm or the person becoming
33 gravely disabled within a reasonably short period of time.

34 (5) A new petition for involuntary treatment filed under
35 subsection (3) or (4) of this section shall be filed and heard in the
36 superior court of the county of the facility which is filing the new
37 petition for involuntary treatment unless good cause is shown for a
38 change of venue. The cost of the proceedings shall be borne by the
39 state.

1 (6) The hearing shall be held as provided in RCW 71.05.310, and
2 if the court or jury finds that the grounds for additional
3 confinement as set forth in this section are present, subject to
4 subsection (1)(b) of this section, the court may order the committed
5 person returned for an additional period of treatment not to exceed
6 one hundred eighty days from the date of judgment. At the end of the
7 one hundred eighty day period of commitment, the committed person
8 shall be released unless a petition for another one hundred eighty
9 day period of continued treatment is filed and heard in the same
10 manner as provided in this section. Successive one hundred eighty day
11 commitments are permissible on the same grounds and pursuant to the
12 same procedures as the original one hundred eighty day commitment.
13 However, a commitment is not permissible under subsection (4) of this
14 section if thirty-six months have passed since the last date of
15 discharge from detention for inpatient treatment that preceded the
16 current less restrictive alternative order, nor shall a commitment
17 under subsection (4) of this section be permissible if the likelihood
18 of serious harm in subsection (4)(c) of this section is based solely
19 on harm to the property of others.

20 (7) No person committed as provided in this section may be
21 detained unless a valid order of commitment is in effect. No order of
22 commitment can exceed one hundred eighty days in length.

23 **Sec. 235.** RCW 71.05.320 and 2015 c ... s 234 (section 234 of
24 this act) are each amended to read as follows:

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

33 (~~(b)~~) If the order for inpatient treatment is based on
34 substance use disorder, treatment must take place at an approved
35 substance use disorder treatment program. (~~The court may only order~~
36 ~~the person's commitment to an approved substance use disorder~~
37 ~~treatment program if there is space available at the program.~~

38 (~~(c)~~) If the grounds set forth in RCW 71.05.280(3) are the basis
39 of commitment, then the period of treatment may be up to but not

1 exceed one hundred eighty days from the date of judgment in a
2 facility certified for one hundred eighty day treatment by the
3 department.

4 (2) If the court or jury finds that grounds set forth in RCW
5 71.05.280 have been proven, but finds that treatment less restrictive
6 than detention will be in the best interest of the person or others,
7 then the court shall remand him or her to the custody of the
8 department or to a facility certified for ninety day treatment by the
9 department or to a less restrictive alternative for a further period
10 of less restrictive treatment not to exceed ninety days from the date
11 of judgment. If the order for less restrictive treatment is based on
12 substance use disorder, treatment must be provided by an approved
13 substance use disorder treatment program. If the grounds set forth in
14 RCW 71.05.280(3) are the basis of commitment, then the period of
15 treatment may be up to but not exceed one hundred eighty days from
16 the date of judgment.

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

24 (a) During the current period of court ordered treatment: (i) Has
25 threatened, attempted, or inflicted physical harm upon the person of
26 another, or substantial damage upon the property of another, and (ii)
27 as a result of a mental disorder, substance use disorder, or
28 developmental disability presents a likelihood of serious harm; or

29 (b) Was taken into custody as a result of conduct in which he or
30 she attempted or inflicted serious physical harm upon the person of
31 another, and continues to present, as a result of mental disorder,
32 substance use disorder, or developmental disability a likelihood of
33 serious harm; or

34 (c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result
35 of mental disorder or developmental disability continues to present a
36 substantial likelihood of repeating acts similar to the charged
37 criminal behavior, when considering the person's life history,
38 progress in treatment, and the public safety.

39 (ii) In cases under this subsection where the court has made an
40 affirmative special finding under RCW 71.05.280(3)(b), the commitment

1 shall continue for up to an additional one hundred eighty day period
2 whenever the petition presents prima facie evidence that the person
3 continues to suffer from a mental disorder or developmental
4 disability that results in a substantial likelihood of committing
5 acts similar to the charged criminal behavior, unless the person
6 presents proof through an admissible expert opinion that the person's
7 condition has so changed such that the mental disorder or
8 developmental disability no longer presents a substantial likelihood
9 of the person committing acts similar to the charged criminal
10 behavior. The initial or additional commitment period may include
11 transfer to a specialized program of intensive support and treatment,
12 which may be initiated prior to or after discharge from the state
13 hospital; or

14 (d) Continues to be gravely disabled.

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

18 (4) For a person committed under subsection (2) of this section
19 who has been remanded to a period of less restrictive treatment, in
20 addition to the grounds specified in subsection (3) of this section,
21 the designated crisis responder may file a new petition for continued
22 less restrictive treatment if:

23 (a) The person was previously committed by a court to detention
24 for involuntary mental health treatment or involuntary substance use
25 disorder treatment during the thirty-six months that preceded the
26 person's initial detention date during the current involuntary
27 commitment cycle, excluding any time spent in a mental health
28 facility, in long-term alcoholism or drug treatment facility, or in
29 confinement as a result of a criminal conviction;

30 (b) In view of the person's treatment history or current
31 behavior, the person is unlikely to voluntarily participate in
32 outpatient treatment without an order for less restrictive treatment;
33 and

34 (c) Outpatient treatment that would be provided under a less
35 restrictive treatment order is necessary to prevent a relapse,
36 decompensation, or deterioration that is likely to result in the
37 person presenting a likelihood of serious harm or the person becoming
38 gravely disabled within a reasonably short period of time.

39 (5) A new petition for involuntary treatment filed under
40 subsection (3) or (4) of this section shall be filed and heard in the

1 superior court of the county of the facility which is filing the new
2 petition for involuntary treatment unless good cause is shown for a
3 change of venue. The cost of the proceedings shall be borne by the
4 state.

5 (6) The hearing shall be held as provided in RCW 71.05.310, and
6 if the court or jury finds that the grounds for additional
7 confinement as set forth in this section are present, (~~subject to~~
8 ~~subsection (1)(b) of this section,~~) the court may order the
9 committed person returned for an additional period of treatment not
10 to exceed one hundred eighty days from the date of judgment. At the
11 end of the one hundred eighty day period of commitment, the committed
12 person shall be released unless a petition for another one hundred
13 eighty day period of continued treatment is filed and heard in the
14 same manner as provided in this section. Successive one hundred
15 eighty day commitments are permissible on the same grounds and
16 pursuant to the same procedures as the original one hundred eighty
17 day commitment. However, a commitment is not permissible under
18 subsection (4) of this section if thirty-six months have passed since
19 the last date of discharge from detention for inpatient treatment
20 that preceded the current less restrictive alternative order, nor
21 shall a commitment under subsection (4) of this section be
22 permissible if the likelihood of serious harm in subsection (4)(c) of
23 this section is based solely on harm to the property of others.

24 (7) No person committed as provided in this section may be
25 detained unless a valid order of commitment is in effect. No order of
26 commitment can exceed one hundred eighty days in length.

27 **Sec. 236.** RCW 71.05.325 and 2000 c 94 s 7 are each amended to
28 read as follows:

29 (1) Before a person committed under grounds set forth in RCW
30 71.05.280(3) is released because a new petition for involuntary
31 treatment has not been filed under RCW 71.05.320(~~(+2)~~) (3), the
32 superintendent, professional person, or designated (~~mental health~~
33 ~~professional~~) crisis responder responsible for the decision whether
34 to file a new petition shall in writing notify the prosecuting
35 attorney of the county in which the criminal charges against the
36 committed person were dismissed, of the decision not to file a new
37 petition for involuntary treatment. Notice shall be provided at least
38 forty-five days before the period of commitment expires.

1 (2)(a) Before a person committed under grounds set forth in RCW
2 71.05.280(3) is permitted temporarily to leave a treatment facility
3 pursuant to RCW 71.05.270 for any period of time without constant
4 accompaniment by facility staff, the superintendent, professional
5 person in charge of a treatment facility, or his or her professional
6 designee shall in writing notify the prosecuting attorney of any
7 county of the person's destination and the prosecuting attorney of
8 the county in which the criminal charges against the committed person
9 were dismissed. The notice shall be provided at least forty-five days
10 before the anticipated leave and shall describe the conditions under
11 which the leave is to occur.

12 (b) The provisions of RCW 71.05.330(2) apply to proposed leaves,
13 and either or both prosecuting attorneys receiving notice under this
14 subsection may petition the court under RCW 71.05.330(2).

15 (3) Nothing in this section shall be construed to authorize
16 detention of a person unless a valid order of commitment is in
17 effect.

18 (4) The existence of the notice requirements in this section will
19 not require any extension of the leave date in the event the leave
20 plan changes after notification.

21 (5) The notice requirements contained in this section shall not
22 apply to emergency medical transfers.

23 (6) The notice provisions of this section are in addition to
24 those provided in RCW 71.05.425.

25 **Sec. 237.** RCW 71.05.340 and 2009 c 322 s 1 are each amended to
26 read as follows:

27 (1)(a) When, in the opinion of the superintendent or the
28 professional person in charge of the hospital or facility providing
29 involuntary treatment, the committed person can be appropriately
30 served by outpatient treatment prior to or at the expiration of the
31 period of commitment, then such outpatient care may be required as a
32 term of conditional release for a period which, when added to the
33 inpatient treatment period, shall not exceed the period of
34 commitment. If the hospital or facility designated to provide
35 outpatient treatment is other than the facility providing involuntary
36 treatment, the outpatient facility so designated must agree in
37 writing to assume such responsibility. A copy of the terms of
38 conditional release shall be given to the patient, the designated
39 (~~mental health professional~~) crisis responder in the county in

1 which the patient is to receive outpatient treatment, and to the
2 court of original commitment.

3 (b) Before a person committed under grounds set forth in RCW
4 71.05.280(3) or 71.05.320(3)(c) is conditionally released under (a)
5 of this subsection, the superintendent or professional person in
6 charge of the hospital or facility providing involuntary treatment
7 shall in writing notify the prosecuting attorney of the county in
8 which the criminal charges against the committed person were
9 dismissed, of the decision to conditionally release the person.
10 Notice and a copy of the terms of conditional release shall be
11 provided at least thirty days before the person is released from
12 inpatient care. Within twenty days after receiving notice, the
13 prosecuting attorney may petition the court in the county that issued
14 the commitment order to hold a hearing to determine whether the
15 person may be conditionally released and the terms of the conditional
16 release. The prosecuting attorney shall provide a copy of the
17 petition to the superintendent or professional person in charge of
18 the hospital or facility providing involuntary treatment, the
19 attorney, if any, and guardian or conservator of the committed
20 person, and the court of original commitment. If the county in which
21 the committed person is to receive outpatient treatment is the same
22 county in which the criminal charges against the committed person
23 were dismissed, then the court shall, upon the motion of the
24 prosecuting attorney, transfer the proceeding to the court in that
25 county. The court shall conduct a hearing on the petition within ten
26 days of the filing of the petition. The committed person shall have
27 the same rights with respect to notice, hearing, and counsel as for
28 an involuntary treatment proceeding, except as set forth in this
29 subsection and except that there shall be no right to jury trial. The
30 issue to be determined at the hearing is whether or not the person
31 may be conditionally released without substantial danger to other
32 persons, or substantial likelihood of committing criminal acts
33 jeopardizing public safety or security. If the court disapproves of
34 the conditional release, it may do so only on the basis of
35 substantial evidence. Pursuant to the determination of the court upon
36 the hearing, the conditional release of the person shall be approved
37 by the court on the same or modified conditions or the person shall
38 be returned for involuntary treatment on an inpatient basis subject
39 to release at the end of the period for which he or she was

1 committed, or otherwise in accordance with the provisions of this
2 chapter.

3 (2) The hospital or facility designated to provide outpatient
4 care or the secretary may modify the conditions for continued release
5 when such modification is in the best interest of the person.
6 Notification of such changes shall be sent to all persons receiving a
7 copy of the original conditions.

8 (3)(a) If the hospital or facility designated to provide
9 outpatient care, the designated (~~(mental health professional)~~) crisis
10 responder, or the secretary determines that:

11 (i) A conditionally released person is failing to adhere to the
12 terms and conditions of his or her release;

13 (ii) Substantial deterioration in a conditionally released
14 person's functioning has occurred;

15 (iii) There is evidence of substantial decompensation with a
16 reasonable probability that the decompensation can be reversed by
17 further inpatient treatment; or

18 (iv) The person poses a likelihood of serious harm(~~(-)~~);

19 Upon notification by the hospital or facility designated to
20 provide outpatient care, or on his or her own motion, the designated
21 (~~(mental health professional)~~) crisis responder or the secretary may
22 order that the conditionally released person be apprehended and taken
23 into custody and temporarily detained in an evaluation and treatment
24 facility in or near the county in which he or she is receiving
25 outpatient treatment if the person is committed for mental health
26 treatment, or, if the person is committed for substance use disorder
27 treatment, in a secure detoxification facility or approved substance
28 use disorder treatment program with available space in or near the
29 county in which he or she is receiving outpatient treatment. A person
30 may not be detained to a secure detoxification facility or approved
31 substance use disorder treatment program unless there is available
32 space in the facility or program.

33 (b) The hospital or facility designated to provide outpatient
34 treatment shall notify the secretary or designated (~~(mental health~~
35 ~~professional)~~) crisis responder when a conditionally released person
36 fails to adhere to terms and conditions of his or her conditional
37 release or experiences substantial deterioration in his or her
38 condition and, as a result, presents an increased likelihood of
39 serious harm. The designated (~~(mental health professional)~~) crisis
40 responder or secretary shall order the person apprehended and

1 temporarily detained in an evaluation and treatment facility in or
2 near the county in which he or she is receiving outpatient treatment
3 if the person is committed for mental health treatment, or, if the
4 person is committed for substance use disorder treatment, in a secure
5 detoxification facility or approved substance use disorder treatment
6 program with available space in or near the county in which he or she
7 is receiving outpatient treatment. A person may not be detained to a
8 secure detoxification facility or approved substance use disorder
9 treatment program unless there is available space in the facility or
10 program.

11 (c) A person detained under this subsection (3) shall be held
12 until such time, not exceeding five days, as a hearing can be
13 scheduled to determine whether or not the person should be returned
14 to the hospital or facility from which he or she had been
15 conditionally released. The designated (~~mental health professional~~)
16 crisis responder or the secretary may modify or rescind such order at
17 any time prior to commencement of the court hearing.

18 (d) The court that originally ordered commitment shall be
19 notified within two judicial days of a person's detention under the
20 provisions of this section, and the designated (~~mental health~~
21 ~~professional~~) crisis responder or the secretary shall file his or
22 her petition and order of apprehension and detention with the court
23 that originally ordered commitment or with the court in the county in
24 which the person is detained and serve them upon the person detained.
25 His or her attorney, if any, and his or her guardian or conservator,
26 if any, shall receive a copy of such papers as soon as possible. Such
27 person shall have the same rights with respect to notice, hearing,
28 and counsel as for an involuntary treatment proceeding, except as
29 specifically set forth in this section and except that there shall be
30 no right to jury trial. The venue for proceedings regarding a
31 petition for modification or revocation of an order for conditional
32 release shall be in the county in which the petition was filed. The
33 issues to be determined shall be: (i) Whether the conditionally
34 released person did or did not adhere to the terms and conditions of
35 his or her conditional release; (ii) that substantial deterioration
36 in the person's functioning has occurred; (iii) there is evidence of
37 substantial decompensation with a reasonable probability that the
38 decompensation can be reversed by further inpatient treatment; or
39 (iv) there is a likelihood of serious harm; and, if any of the
40 conditions listed in this subsection (3)(d) have occurred, whether

1 the terms of conditional release should be modified or the person
2 should be returned to the facility.

3 (e) Pursuant to the determination of the court upon such hearing,
4 the conditionally released person shall either continue to be
5 conditionally released on the same or modified conditions or shall be
6 returned for involuntary treatment on an inpatient basis subject to
7 release at the end of the period for which he or she was committed
8 for involuntary treatment, or otherwise in accordance with the
9 provisions of this chapter. Such hearing may be waived by the person
10 and his or her counsel and his or her guardian or conservator, if
11 any, but shall not be waivable unless all such persons agree to
12 waive, and upon such waiver the person may be returned for
13 involuntary treatment or continued on conditional release on the same
14 or modified conditions. A person must not be returned for involuntary
15 treatment in a secure detoxification facility or approved substance
16 use disorder treatment program under this subsection unless there is
17 available space in the facility or program.

18 (4) The proceedings set forth in subsection (3) of this section
19 may be initiated by the designated (~~mental health professional~~)
20 crisis responder or the secretary on the same basis set forth therein
21 without requiring or ordering the apprehension and detention of the
22 conditionally released person, in which case the court hearing shall
23 take place in not less than five days from the date of service of the
24 petition upon the conditionally released person. The petition may be
25 filed in the court that originally ordered commitment or with the
26 court in the county in which the person is present. The venue for the
27 proceedings regarding the petition for modification or revocation of
28 an order for conditional release shall be in the county in which the
29 petition was filed.

30 Upon expiration of the period of commitment, or when the person
31 is released from outpatient care, notice in writing to the court
32 which committed the person for treatment shall be provided.

33 (5) The grounds and procedures for revocation of less restrictive
34 alternative treatment shall be the same as those set forth in this
35 section for conditional releases.

36 (6) In the event of a revocation of a conditional release, the
37 subsequent treatment period may be for no longer than the actual
38 period authorized in the original court order.

1 **Sec. 238.** RCW 71.05.340 and 2015 c ... s 237 (section 237 of
2 this act) are each amended to read as follows:

3 (1)(a) When, in the opinion of the superintendent or the
4 professional person in charge of the hospital or facility providing
5 involuntary treatment, the committed person can be appropriately
6 served by outpatient treatment prior to or at the expiration of the
7 period of commitment, then such outpatient care may be required as a
8 term of conditional release for a period which, when added to the
9 inpatient treatment period, shall not exceed the period of
10 commitment. If the hospital or facility designated to provide
11 outpatient treatment is other than the facility providing involuntary
12 treatment, the outpatient facility so designated must agree in
13 writing to assume such responsibility. A copy of the terms of
14 conditional release shall be given to the patient, the designated
15 crisis responder in the county in which the patient is to receive
16 outpatient treatment, and to the court of original commitment.

17 (b) Before a person committed under grounds set forth in RCW
18 71.05.280(3) or 71.05.320(3)(c) is conditionally released under (a)
19 of this subsection, the superintendent or professional person in
20 charge of the hospital or facility providing involuntary treatment
21 shall in writing notify the prosecuting attorney of the county in
22 which the criminal charges against the committed person were
23 dismissed, of the decision to conditionally release the person.
24 Notice and a copy of the terms of conditional release shall be
25 provided at least thirty days before the person is released from
26 inpatient care. Within twenty days after receiving notice, the
27 prosecuting attorney may petition the court in the county that issued
28 the commitment order to hold a hearing to determine whether the
29 person may be conditionally released and the terms of the conditional
30 release. The prosecuting attorney shall provide a copy of the
31 petition to the superintendent or professional person in charge of
32 the hospital or facility providing involuntary treatment, the
33 attorney, if any, and guardian or conservator of the committed
34 person, and the court of original commitment. If the county in which
35 the committed person is to receive outpatient treatment is the same
36 county in which the criminal charges against the committed person
37 were dismissed, then the court shall, upon the motion of the
38 prosecuting attorney, transfer the proceeding to the court in that
39 county. The court shall conduct a hearing on the petition within ten
40 days of the filing of the petition. The committed person shall have

1 the same rights with respect to notice, hearing, and counsel as for
2 an involuntary treatment proceeding, except as set forth in this
3 subsection and except that there shall be no right to jury trial. The
4 issue to be determined at the hearing is whether or not the person
5 may be conditionally released without substantial danger to other
6 persons, or substantial likelihood of committing criminal acts
7 jeopardizing public safety or security. If the court disapproves of
8 the conditional release, it may do so only on the basis of
9 substantial evidence. Pursuant to the determination of the court upon
10 the hearing, the conditional release of the person shall be approved
11 by the court on the same or modified conditions or the person shall
12 be returned for involuntary treatment on an inpatient basis subject
13 to release at the end of the period for which he or she was
14 committed, or otherwise in accordance with the provisions of this
15 chapter.

16 (2) The hospital or facility designated to provide outpatient
17 care or the secretary may modify the conditions for continued release
18 when such modification is in the best interest of the person.
19 Notification of such changes shall be sent to all persons receiving a
20 copy of the original conditions.

21 (3)(a) If the hospital or facility designated to provide
22 outpatient care, the designated crisis responder, or the secretary
23 determines that:

24 (i) A conditionally released person is failing to adhere to the
25 terms and conditions of his or her release;

26 (ii) Substantial deterioration in a conditionally released
27 person's functioning has occurred;

28 (iii) There is evidence of substantial decompensation with a
29 reasonable probability that the decompensation can be reversed by
30 further inpatient treatment; or

31 (iv) The person poses a likelihood of serious harm;

32 Upon notification by the hospital or facility designated to
33 provide outpatient care, or on his or her own motion, the designated
34 crisis responder or the secretary may order that the conditionally
35 released person be apprehended and taken into custody and temporarily
36 detained in an evaluation and treatment facility in or near the
37 county in which he or she is receiving outpatient treatment if the
38 person is committed for mental health treatment, or, if the person is
39 committed for substance use disorder treatment, in a secure
40 detoxification facility or approved substance use disorder treatment

1 program (~~(with available space)~~) in or near the county in which he or
2 she is receiving outpatient treatment. (~~(A person may not be detained~~
3 ~~to a secure detoxification facility or approved substance use~~
4 ~~disorder treatment program unless there is available space in the~~
5 ~~facility or program.)~~)

6 (b) The hospital or facility designated to provide outpatient
7 treatment shall notify the secretary or designated crisis responder
8 when a conditionally released person fails to adhere to terms and
9 conditions of his or her conditional release or experiences
10 substantial deterioration in his or her condition and, as a result,
11 presents an increased likelihood of serious harm. The designated
12 crisis responder or secretary shall order the person apprehended and
13 temporarily detained in an evaluation and treatment facility in or
14 near the county in which he or she is receiving outpatient treatment
15 if the person is committed for mental health treatment, or, if the
16 person is committed for substance use disorder treatment, in a secure
17 detoxification facility or approved substance use disorder treatment
18 program (~~(with available space)~~) in or near the county in which he or
19 she is receiving outpatient treatment. (~~(A person may not be detained~~
20 ~~to a secure detoxification facility or approved substance use~~
21 ~~disorder treatment program unless there is available space in the~~
22 ~~facility or program.)~~)

23 (c) A person detained under this subsection (3) shall be held
24 until such time, not exceeding five days, as a hearing can be
25 scheduled to determine whether or not the person should be returned
26 to the hospital or facility from which he or she had been
27 conditionally released. The designated crisis responder or the
28 secretary may modify or rescind such order at any time prior to
29 commencement of the court hearing.

30 (d) The court that originally ordered commitment shall be
31 notified within two judicial days of a person's detention under the
32 provisions of this section, and the designated crisis responder or
33 the secretary shall file his or her petition and order of
34 apprehension and detention with the court that originally ordered
35 commitment or with the court in the county in which the person is
36 detained and serve them upon the person detained. His or her
37 attorney, if any, and his or her guardian or conservator, if any,
38 shall receive a copy of such papers as soon as possible. Such person
39 shall have the same rights with respect to notice, hearing, and
40 counsel as for an involuntary treatment proceeding, except as

1 specifically set forth in this section and except that there shall be
2 no right to jury trial. The venue for proceedings regarding a
3 petition for modification or revocation of an order for conditional
4 release shall be in the county in which the petition was filed. The
5 issues to be determined shall be: (i) Whether the conditionally
6 released person did or did not adhere to the terms and conditions of
7 his or her conditional release; (ii) that substantial deterioration
8 in the person's functioning has occurred; (iii) there is evidence of
9 substantial decompensation with a reasonable probability that the
10 decompensation can be reversed by further inpatient treatment; or
11 (iv) there is a likelihood of serious harm; and, if any of the
12 conditions listed in this subsection (3)(d) have occurred, whether
13 the terms of conditional release should be modified or the person
14 should be returned to the facility.

15 (e) Pursuant to the determination of the court upon such hearing,
16 the conditionally released person shall either continue to be
17 conditionally released on the same or modified conditions or shall be
18 returned for involuntary treatment on an inpatient basis subject to
19 release at the end of the period for which he or she was committed
20 for involuntary treatment, or otherwise in accordance with the
21 provisions of this chapter. Such hearing may be waived by the person
22 and his or her counsel and his or her guardian or conservator, if
23 any, but shall not be waivable unless all such persons agree to
24 waive, and upon such waiver the person may be returned for
25 involuntary treatment or continued on conditional release on the same
26 or modified conditions. (~~(A person must not be returned for~~
27 ~~involuntary treatment in a secure detoxification facility or approved~~
28 ~~substance use disorder treatment program under this subsection unless~~
29 ~~there is available space in the facility or program.))~~

30 (4) The proceedings set forth in subsection (3) of this section
31 may be initiated by the designated crisis responder or the secretary
32 on the same basis set forth therein without requiring or ordering the
33 apprehension and detention of the conditionally released person, in
34 which case the court hearing shall take place in not less than five
35 days from the date of service of the petition upon the conditionally
36 released person. The petition may be filed in the court that
37 originally ordered commitment or with the court in the county in
38 which the person is present. The venue for the proceedings regarding
39 the petition for modification or revocation of an order for

1 conditional release shall be in the county in which the petition was
2 filed.

3 Upon expiration of the period of commitment, or when the person
4 is released from outpatient care, notice in writing to the court
5 which committed the person for treatment shall be provided.

6 (5) The grounds and procedures for revocation of less restrictive
7 alternative treatment shall be the same as those set forth in this
8 section for conditional releases.

9 (6) In the event of a revocation of a conditional release, the
10 subsequent treatment period may be for no longer than the actual
11 period authorized in the original court order.

12 **Sec. 239.** RCW 71.05.360 and 2009 c 217 s 5 are each amended to
13 read as follows:

14 (1)(a) Every person involuntarily detained or committed under the
15 provisions of this chapter shall be entitled to all the rights set
16 forth in this chapter, which shall be prominently posted in the
17 facility, and shall retain all rights not denied him or her under
18 this chapter except as chapter 9.41 RCW may limit the right of a
19 person to purchase or possess a firearm or to qualify for a concealed
20 pistol license if the person is committed under RCW 71.05.240 or
21 71.05.320 for mental health treatment.

22 (b) No person shall be presumed incompetent as a consequence of
23 receiving an evaluation or voluntary or involuntary treatment for a
24 mental disorder or substance use disorders, under this chapter or any
25 prior laws of this state dealing with mental illness or substance use
26 disorders. Competency shall not be determined or withdrawn except
27 under the provisions of chapter 10.77 or 11.88 RCW.

28 (c) Any person who leaves a public or private agency following
29 evaluation or treatment for a mental disorder or substance use
30 disorder shall be given a written statement setting forth the
31 substance of this section.

32 (2) Each person involuntarily detained or committed pursuant to
33 this chapter shall have the right to adequate care and individualized
34 treatment.

35 (3) The provisions of this chapter shall not be construed to deny
36 to any person treatment by spiritual means through prayer in
37 accordance with the tenets and practices of a church or religious
38 denomination.

1 (4) Persons receiving evaluation or treatment under this chapter
2 shall be given a reasonable choice of an available physician,
3 psychiatric advanced registered nurse practitioner, physician
4 assistant, or other professional person qualified to provide such
5 services.

6 (5) Whenever any person is detained for evaluation and treatment
7 pursuant to this chapter, both the person and, if possible, a
8 responsible member of his or her immediate family, personal
9 representative, guardian, or conservator, if any, shall be advised as
10 soon as possible in writing or orally, by the officer or person
11 taking him or her into custody or by personnel of the evaluation and
12 treatment facility, secure detoxification facility, or approved
13 substance use disorder treatment program where the person is detained
14 that unless the person is released or voluntarily admits himself or
15 herself for treatment within seventy-two hours of the initial
16 detention:

17 (a) A judicial hearing in a superior court, either by a judge or
18 court commissioner thereof, shall be held not more than seventy-two
19 hours after the initial detention to determine whether there is
20 probable cause to detain the person after the seventy-two hours have
21 expired for up to an additional fourteen days without further
22 automatic hearing for the reason that the person is a person whose
23 mental disorder or substance use disorder presents a likelihood of
24 serious harm or that the person is gravely disabled;

25 (b) The person has a right to communicate immediately with an
26 attorney; has a right to have an attorney appointed to represent him
27 or her before and at the probable cause hearing if he or she is
28 indigent; and has the right to be told the name and address of the
29 attorney that the mental health professional has designated pursuant
30 to this chapter;

31 (c) The person has the right to remain silent and that any
32 statement he or she makes may be used against him or her;

33 (d) The person has the right to present evidence and to cross-
34 examine witnesses who testify against him or her at the probable
35 cause hearing; and

36 (e) The person has the right to refuse psychiatric medications,
37 including antipsychotic medication beginning twenty-four hours prior
38 to the probable cause hearing.

39 (6) When proceedings are initiated under RCW 71.05.153, no later
40 than twelve hours after such person is admitted to the evaluation and

1 treatment facility, secure detoxification facility, or approved
2 substance use disorder treatment program the personnel of the
3 ((~~evaluation and treatment~~)) facility or the designated ((~~mental~~
4 ~~health professional~~)) crisis responder shall serve on such person a
5 copy of the petition for initial detention and the name, business
6 address, and phone number of the designated attorney and shall
7 forthwith commence service of a copy of the petition for initial
8 detention on the designated attorney.

9 (7) The judicial hearing described in subsection (5) of this
10 section is hereby authorized, and shall be held according to the
11 provisions of subsection (5) of this section and rules promulgated by
12 the supreme court.

13 (8) At the probable cause hearing the detained person shall have
14 the following rights in addition to the rights previously specified:

15 (a) To present evidence on his or her behalf;

16 (b) To cross-examine witnesses who testify against him or her;

17 (c) To be proceeded against by the rules of evidence;

18 (d) To remain silent;

19 (e) To view and copy all petitions and reports in the court file.

20 (9) Privileges between patients and physicians, psychologists,
21 physician assistants, or psychiatric advanced registered nurse
22 practitioners are deemed waived in proceedings under this chapter
23 relating to the administration of antipsychotic medications. As to
24 other proceedings under this chapter, the privileges shall be waived
25 when a court of competent jurisdiction in its discretion determines
26 that such waiver is necessary to protect either the detained person
27 or the public.

28 The waiver of a privilege under this section is limited to
29 records or testimony relevant to evaluation of the detained person
30 for purposes of a proceeding under this chapter. Upon motion by the
31 detained person or on its own motion, the court shall examine a
32 record or testimony sought by a petitioner to determine whether it is
33 within the scope of the waiver.

34 The record maker shall not be required to testify in order to
35 introduce medical or psychological records of the detained person so
36 long as the requirements of RCW 5.45.020 are met except that portions
37 of the record which contain opinions as to the detained person's
38 mental state must be deleted from such records unless the person
39 making such conclusions is available for cross-examination.

1 (10) Insofar as danger to the person or others is not created,
2 each person involuntarily detained, treated in a less restrictive
3 alternative course of treatment, or committed for treatment and
4 evaluation pursuant to this chapter shall have, in addition to other
5 rights not specifically withheld by law, the following rights:

6 (a) To wear his or her own clothes and to keep and use his or her
7 own personal possessions, except when deprivation of same is
8 essential to protect the safety of the resident or other persons;

9 (b) To keep and be allowed to spend a reasonable sum of his or
10 her own money for canteen expenses and small purchases;

11 (c) To have access to individual storage space for his or her
12 private use;

13 (d) To have visitors at reasonable times;

14 (e) To have reasonable access to a telephone, both to make and
15 receive confidential calls, consistent with an effective treatment
16 program;

17 (f) To have ready access to letter writing materials, including
18 stamps, and to send and receive uncensored correspondence through the
19 mails;

20 (g) To discuss treatment plans and decisions with professional
21 persons;

22 (h) Not to consent to the administration of antipsychotic
23 medications and not to thereafter be administered antipsychotic
24 medications unless ordered by a court under RCW 71.05.217 or pursuant
25 to an administrative hearing under RCW 71.05.215;

26 (i) Not to consent to the performance of electroconvulsant
27 therapy or surgery, except emergency lifesaving surgery, unless
28 ordered by a court under RCW 71.05.217;

29 (j) Not to have psychosurgery performed on him or her under any
30 circumstances;

31 (k) To dispose of property and sign contracts unless such person
32 has been adjudicated an incompetent in a court proceeding directed to
33 that particular issue.

34 (11) Every person involuntarily detained shall immediately be
35 informed of his or her right to a hearing to review the legality of
36 his or her detention and of his or her right to counsel, by the
37 professional person in charge of the facility providing evaluation
38 and treatment, or his or her designee, and, when appropriate, by the
39 court. If the person so elects, the court shall immediately appoint
40 an attorney to assist him or her.

1 (12) A person challenging his or her detention or his or her
2 attorney shall have the right to designate and have the court appoint
3 a reasonably available independent physician, psychiatric advanced
4 registered nurse practitioner, physician assistant, or licensed
5 mental health professional to examine the person detained, the
6 results of which examination may be used in the proceeding. The
7 person shall, if he or she is financially able, bear the cost of such
8 expert examination, otherwise such expert examination shall be at
9 public expense.

10 (13) Nothing contained in this chapter shall prohibit the patient
11 from petitioning by writ of habeas corpus for release.

12 (14) Nothing in this chapter shall prohibit a person committed on
13 or prior to January 1, 1974, from exercising a right available to him
14 or her at or prior to January 1, 1974, for obtaining release from
15 confinement.

16 (15) Nothing in this section permits any person to knowingly
17 violate a no-contact order or a condition of an active judgment and
18 sentence or an active condition of supervision by the department of
19 corrections.

20 **Sec. 240.** RCW 71.05.380 and 1973 1st ex.s. c 142 s 43 are each
21 amended to read as follows:

22 All persons voluntarily entering or remaining in any facility,
23 institution, or hospital providing evaluation and treatment for
24 mental disorders or substance use disorders shall have no less than
25 all rights secured to involuntarily detained persons by RCW 71.05.360
26 and ~~((71.05.370))~~ 71.05.217.

27 **Sec. 241.** RCW 71.05.435 and 2010 c 280 s 4 are each amended to
28 read as follows:

29 (1) Whenever a person who is the subject of an involuntary
30 commitment order under this chapter is discharged from an evaluation
31 and treatment facility ~~((or))~~, state hospital, ~~((the evaluation and
32 treatment facility or state hospital shall provide notice of the
33 person's discharge to the designated mental health professional))~~
34 secure detoxification facility, or approved substance use disorder
35 treatment program providing involuntary treatment services, the
36 entity discharging the person shall provide notice of the person's
37 discharge to the designated crisis responder office responsible for
38 the initial commitment and the designated ~~((mental health~~

1 ~~professional~~) crisis responder office that serves the county in
2 which the person is expected to reside. The (~~evaluation and~~
3 ~~treatment facility or state hospital~~) entity discharging the person
4 must also provide these offices with a copy of any less restrictive
5 order or conditional release order entered in conjunction with the
6 discharge of the person, unless the (~~evaluation and treatment~~
7 ~~facility or state hospital~~) entity discharging the person has
8 entered into a memorandum of understanding obligating another entity
9 to provide these documents.

10 (2) The notice and documents referred to in subsection (1) of
11 this section shall be provided as soon as possible and no later than
12 one business day following the discharge of the person. Notice is not
13 required under this section if the discharge is for the purpose of
14 transferring the person for continued detention and treatment under
15 this chapter at another treatment facility.

16 (3) The department shall maintain and make available an updated
17 list of contact information for designated (~~mental health~~
18 ~~professional~~) crisis responder offices around the state.

19 **Sec. 242.** RCW 71.05.530 and 1998 c 297 s 23 are each amended to
20 read as follows:

21 Evaluation and treatment facilities and secure detoxification
22 facilities authorized pursuant to this chapter may be part of the
23 comprehensive community mental health services program conducted in
24 counties pursuant to chapter 71.24 RCW, and may receive funding
25 pursuant to the provisions thereof.

26 **Sec. 243.** RCW 71.05.560 and 1998 c 297 s 24 are each amended to
27 read as follows:

28 The department shall adopt such rules as may be necessary to
29 effectuate the intent and purposes of this chapter, which shall
30 include but not be limited to evaluation of the quality of the
31 program and facilities operating pursuant to this chapter, evaluation
32 of the effectiveness and cost effectiveness of such programs and
33 facilities, and procedures and standards for certification and other
34 action relevant to evaluation and treatment facilities, secure
35 detoxification facilities, and approved substance use disorder
36 treatment programs.

1 **Sec. 244.** RCW 71.05.620 and 2013 c 200 s 23 are each amended to
2 read as follows:

3 (1) The files and records of court proceedings under this chapter
4 and chapter(~~(s 70.96A,)~~) 71.34(~~(, and 70.96B)~~) RCW shall be closed
5 but shall be accessible to:

6 (a) The department;

7 (b) The state hospitals as defined in RCW 72.23.010;

8 (c) Any person who is the subject of a petition (~~and to~~);

9 (d) The (~~person's~~) attorney(~~(,)~~) or guardian ad litem(~~(,)~~) of
10 the person;

11 (e) Resource management services(~~(, or)~~) for that person; and

12 (f) Service providers authorized to receive such information by
13 resource management services.

14 (2) The department shall adopt rules to implement this section.

15 **Sec. 245.** RCW 71.05.700 and 2007 c 360 s 2 are each amended to
16 read as follows:

17 No designated (~~(mental health professional)~~) crisis responder or
18 crisis intervention worker shall be required to respond to a private
19 home or other private location to stabilize or treat a person in
20 crisis, or to evaluate a person for potential detention under the
21 state's involuntary treatment act, unless a second trained
22 individual, determined by the clinical team supervisor, on-call
23 supervisor, or individual professional acting alone based on a risk
24 assessment for potential violence, accompanies them. The second
25 individual may be a law enforcement officer, a mental health
26 professional, a mental health paraprofessional who has received
27 training under RCW 71.05.715, or other first responder, such as fire
28 or ambulance personnel. No retaliation may be taken against a worker
29 who, following consultation with the clinical team, refuses to go on
30 a home visit alone.

31 **Sec. 246.** RCW 71.05.705 and 2007 c 360 s 3 are each amended to
32 read as follows:

33 Each provider of designated (~~(mental health professional)~~) crisis
34 responder or crisis outreach services shall maintain a written policy
35 that, at a minimum, describes the organization's plan for training,
36 staff backup, information sharing, and communication for crisis
37 outreach staff who respond to private homes or nonpublic settings.

1 **Sec. 247.** RCW 71.34.020 and 2011 c 89 s 16 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) "Child psychiatrist" means a person having a license as a
6 physician and surgeon in this state, who has had graduate training in
7 child psychiatry in a program approved by the American Medical
8 Association or the American Osteopathic Association, and who is board
9 eligible or board certified in child psychiatry.

10 (2) "Children's mental health specialist" means:

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

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

18 (3) "Commitment" means a determination by a judge or court
19 commissioner, made after a commitment hearing, that the minor is in
20 need of inpatient diagnosis, evaluation, or treatment or that the
21 minor is in need of less restrictive alternative treatment.

22 (4) "Department" means the department of social and health
23 services.

24 (5) (~~"Designated mental health professional" means a mental~~
25 ~~health professional designated by one or more counties to perform the~~
26 ~~functions of a designated mental health professional described in~~
27 ~~this chapter.~~

28 ~~(6))~~ "Evaluation and treatment facility" means a public or
29 private facility or unit that is certified by the department to
30 provide emergency, inpatient, residential, or outpatient mental
31 health evaluation and treatment services for minors. A physically
32 separate and separately-operated portion of a state hospital may be
33 designated as an evaluation and treatment facility for minors. A
34 facility which is part of or operated by the department or federal
35 agency does not require certification. No correctional institution or
36 facility, juvenile court detention facility, or jail may be an
37 evaluation and treatment facility within the meaning of this chapter.

38 ~~((7))~~ (6) "Evaluation and treatment program" means the total
39 system of services and facilities coordinated and approved by a

1 county or combination of counties for the evaluation and treatment of
2 minors under this chapter.

3 ~~((+8))~~ (7) "Gravely disabled minor" means a minor who, as a
4 result of a mental disorder, or as a result of the use of alcohol or
5 other psychoactive chemicals, is in danger of serious physical harm
6 resulting from a failure to provide for his or her essential human
7 needs of health or safety, or manifests severe deterioration in
8 routine functioning evidenced by repeated and escalating loss of
9 cognitive or volitional control over his or her actions and is not
10 receiving such care as is essential for his or her health or safety.

11 ~~((+9))~~ (8) "Inpatient treatment" means twenty-four-hour-per-day
12 mental health care provided within a general hospital, psychiatric
13 hospital, ~~((or))~~ residential treatment facility certified by the
14 department as an evaluation and treatment facility for minors, secure
15 detoxification facility for minors, or approved substance use
16 disorder treatment program for minors.

17 ~~((+10))~~ (9) "Less restrictive alternative" or "less restrictive
18 setting" means outpatient treatment provided to a minor who is not
19 residing in a facility providing inpatient treatment as defined in
20 this chapter.

21 ~~((+11))~~ (10) "Likelihood of serious harm" means either: (a) A
22 substantial risk that physical harm will be inflicted by an
23 individual upon his or her own person, as evidenced by threats or
24 attempts to commit suicide or inflict physical harm on oneself; (b) a
25 substantial risk that physical harm will be inflicted by an
26 individual upon another, as evidenced by behavior which has caused
27 such harm or which places another person or persons in reasonable
28 fear of sustaining such harm; or (c) a substantial risk that physical
29 harm will be inflicted by an individual upon the property of others,
30 as evidenced by behavior which has caused substantial loss or damage
31 to the property of others.

32 ~~((+12))~~ (11) "Medical necessity" for inpatient care means a
33 requested service which is reasonably calculated to: (a) Diagnose,
34 correct, cure, or alleviate a mental disorder or substance use
35 disorder; or (b) prevent the ~~((worsening of mental conditions))~~
36 progression of a substance use disorder that endangers life or causes
37 suffering and pain, or results in illness or infirmity or threatens
38 to cause or aggravate a handicap, or causes physical deformity or
39 malfunction, and there is no adequate less restrictive alternative
40 available.

1 (~~(13)~~) (12) "Mental disorder" means any organic, mental, or
2 emotional impairment that has substantial adverse effects on an
3 individual's cognitive or volitional functions. The presence of
4 alcohol abuse, drug abuse, juvenile criminal history, antisocial
5 behavior, or intellectual disabilities alone is insufficient to
6 justify a finding of "mental disorder" within the meaning of this
7 section.

8 (~~(14)~~) (13) "Mental health professional" means a psychiatrist,
9 psychologist, psychiatric nurse, or social worker, and such other
10 mental health professionals as may be defined by rules adopted by the
11 secretary under this chapter.

12 (~~(15)~~) (14) "Minor" means any person under the age of eighteen
13 years.

14 (~~(16)~~) (15) "Outpatient treatment" means any of the
15 nonresidential services mandated under chapter 71.24 RCW and provided
16 by licensed services providers as identified by RCW 71.24.025.

17 (~~(17)~~) (16) "Parent" means:

18 (a) A biological or adoptive parent who has legal custody of the
19 child, including either parent if custody is shared under a joint
20 custody agreement; or

21 (b) A person or agency judicially appointed as legal guardian or
22 custodian of the child.

23 (~~(18)~~) (17) "Professional person in charge" or "professional
24 person" means a physician (~~(or)~~) other mental health professional,
25 or other person empowered by an evaluation and treatment facility,
26 secure detoxification facility, or approved substance use disorder
27 treatment program with authority to make admission and discharge
28 decisions on behalf of that facility.

29 (~~(19)~~) (18) "Psychiatric nurse" means a registered nurse who
30 has a bachelor's degree from an accredited college or university, and
31 who has had, in addition, at least two years' experience in the
32 direct treatment of persons who have a mental illness or who are
33 emotionally disturbed, such experience gained under the supervision
34 of a mental health professional. "Psychiatric nurse" shall also mean
35 any other registered nurse who has three years of such experience.

36 (~~(20)~~) (19) "Psychiatrist" means a person having a license as a
37 physician in this state who has completed residency training in
38 psychiatry in a program approved by the American Medical Association
39 or the American Osteopathic Association, and is board eligible or
40 board certified in psychiatry.

1 ~~((+21+))~~ (20) "Psychologist" means a person licensed as a
2 psychologist under chapter 18.83 RCW.

3 ~~((+22+))~~ (21) "Responsible other" means the minor, the minor's
4 parent or estate, or any other person legally responsible for support
5 of the minor.

6 ~~((+23+))~~ (22) "Secretary" means the secretary of the department
7 or secretary's designee.

8 ~~((+24+))~~ (23) "Social worker" means a person with a master's or
9 further advanced degree from a social work educational program
10 accredited and approved as provided in RCW 18.320.010.

11 ~~((+25+))~~ (24) "Start of initial detention" means the time of
12 arrival of the minor at the first evaluation and treatment facility,
13 secure detoxification facility, or approved substance use disorder
14 treatment program offering inpatient treatment if the minor is being
15 involuntarily detained at the time. With regard to voluntary
16 patients, "start of initial detention" means the time at which the
17 minor gives notice of intent to leave under the provisions of this
18 chapter.

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

25 (26) "Approved substance use disorder treatment program" means a
26 program for minors with substance use disorders provided by a
27 treatment program certified by the department as meeting standards
28 adopted under chapter 70.96A RCW.

29 (27) "Chemical dependency" means:

30 (a) Alcoholism;

31 (b) Drug addiction; or

32 (c) Dependence on alcohol and one or more other psychoactive
33 chemicals, as the context requires.

34 (28) "Chemical dependency professional" means a person certified
35 as a chemical dependency professional by the department of health
36 under chapter 18.205 RCW.

37 (29) "Controlled substance" has the same meaning as under the
38 federal controlled substances act, 21 U.S.C. Sec. 802.

1 (30) "Designated crisis responder" means a person designated by a
2 behavioral health organization to perform the duties specified in
3 this chapter.

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

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

13 (33) "Physician assistant" means a person who is licensed as a
14 physician assistant pursuant to chapter 18.57A or 18.71A RCW and is
15 working with a licensed mental health physician as indicated by their
16 delegation agreement.

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

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

33 (36) "Secure detoxification facility" means a facility operated
34 by either a public or private agency or by the program of an agency
35 that:

36 (a) Provides for intoxicated minors:

37 (i) Evaluation and assessment, provided by certified chemical
38 dependency professionals;

39 (ii) Acute or subacute detoxification services; and

1 (iii) Discharge assistance provided by certified chemical
2 dependency professionals, including facilitating transitions to
3 appropriate voluntary or involuntary inpatient services or to less
4 restrictive alternatives as appropriate for the minor;

5 (b) Includes security measures sufficient to protect the
6 patients, staff, and community; and

7 (c) Is certified as such by the department.

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

14 **Sec. 248.** RCW 71.34.305 and 1996 c 133 s 6 are each amended to
15 read as follows:

16 School district personnel who contact a mental health or
17 substance use disorder inpatient treatment program or provider for
18 the purpose of referring a student to inpatient treatment shall
19 provide the parents with notice of the contact within forty-eight
20 hours.

21 **Sec. 249.** RCW 71.34.375 and 2011 c 302 s 1 are each amended to
22 read as follows:

23 (1) If a parent or guardian, for the purpose of mental health
24 treatment, substance use disorder treatment, or evaluation, brings
25 his or her minor child to an evaluation and treatment facility, a
26 hospital emergency room, an inpatient facility licensed under chapter
27 72.23 RCW, ~~((or))~~ an inpatient facility licensed under chapter 70.41
28 or 71.12 RCW operating inpatient psychiatric beds for minors, a
29 secure detoxification facility, or an approved substance use disorder
30 treatment program, the facility is required to promptly provide
31 written and verbal notice of all statutorily available treatment
32 options contained in this chapter. The notice need not be given more
33 than once if written and verbal notice has already been provided and
34 documented by the facility.

35 (2) The provision of notice must be documented by the facilities
36 required to give notice under subsection (1) of this section and must
37 be accompanied by a signed acknowledgment of receipt by the parent or
38 guardian. The notice must contain the following information:

1 (a) All current statutorily available treatment options including
2 but not limited to those provided in this chapter; and

3 (b) The procedures to be followed to utilize the treatment
4 options described in this chapter.

5 (3) The department shall produce, and make available, the written
6 notification that must include, at a minimum, the information
7 contained in subsection (2) of this section. The department must
8 revise the written notification as necessary to reflect changes in
9 the law.

10 **Sec. 250.** RCW 71.34.385 and 1992 c 205 s 304 are each amended to
11 read as follows:

12 The department shall ensure that the provisions of this chapter
13 are applied by the counties in a consistent and uniform manner. The
14 department shall also ensure that, to the extent possible within
15 available funds, the ~~((county designated mental health~~
16 ~~professionals))~~ designated crisis responders are specifically trained
17 in adolescent mental health issues, the mental health and substance
18 use disorder civil commitment laws, and the criteria for civil
19 commitment.

20 **Sec. 251.** RCW 71.34.400 and 1998 c 296 s 11 are each amended to
21 read as follows:

22 For purposes of eligibility for medical assistance under chapter
23 74.09 RCW, minors in inpatient mental health or inpatient substance
24 use disorder treatment shall be considered to be part of their
25 parent's or legal guardian's household, unless the minor has been
26 assessed by the department or its designee as likely to require such
27 treatment for at least ninety consecutive days, or is in out-of-home
28 care in accordance with chapter 13.34 RCW, or the parents are found
29 to not be exercising responsibility for care and control of the
30 minor. Payment for such care by the department shall be made only in
31 accordance with rules, guidelines, and clinical criteria applicable
32 to inpatient treatment of minors established by the department.

33 **Sec. 252.** RCW 71.34.410 and 2005 c 371 s 5 are each amended to
34 read as follows:

35 No public or private agency or governmental entity, nor officer
36 of a public or private agency, nor the superintendent, or
37 professional person in charge, his or her professional designee or

1 attending staff of any such agency, nor any public official
2 performing functions necessary to the administration of this chapter,
3 nor peace officer responsible for detaining a person under this
4 chapter, nor any ((county)) designated ((~~mental health professional~~))
5 crisis responder, nor professional person, nor evaluation and
6 treatment facility, nor secure detoxification facility, nor approved
7 substance use disorder treatment program shall be civilly or
8 criminally liable for performing actions authorized in this chapter
9 with regard to the decision of whether to admit, release, or detain a
10 person for evaluation and treatment: PROVIDED, That such duties were
11 performed in good faith and without gross negligence.

12 **Sec. 253.** RCW 71.34.500 and 2006 c 93 s 3 are each amended to
13 read as follows:

14 (1) A minor thirteen years or older may admit himself or herself
15 to an evaluation and treatment facility for inpatient mental health
16 treatment or an approved substance use disorder treatment program for
17 inpatient ((~~mental~~)) substance use disorder treatment((~~τ~~)) without
18 parental consent. The admission shall occur only if the professional
19 person in charge of the facility concurs with the need for inpatient
20 treatment. Parental authorization, or authorization from a person who
21 may consent on behalf of the minor pursuant to RCW 7.70.065, is
22 required for inpatient treatment of a minor under the age of
23 thirteen.

24 (2) When, in the judgment of the professional person in charge of
25 an evaluation and treatment facility or approved substance use
26 disorder treatment program, there is reason to believe that a minor
27 is in need of inpatient treatment because of a mental disorder or
28 substance use disorder, and the facility provides the type of
29 evaluation and treatment needed by the minor, and it is not feasible
30 to treat the minor in any less restrictive setting or the minor's
31 home, the minor may be admitted to ((~~an evaluation and treatment~~))
32 the facility.

33 (3) Written renewal of voluntary consent must be obtained from
34 the applicant no less than once every twelve months. The minor's need
35 for continued inpatient treatments shall be reviewed and documented
36 no less than every one hundred eighty days.

37 **Sec. 254.** RCW 71.34.520 and 2003 c 106 s 1 are each amended to
38 read as follows:

1 (1) Any minor thirteen years or older voluntarily admitted to an
2 evaluation and treatment facility or approved substance use disorder
3 treatment program under RCW 71.34.500 may give notice of intent to
4 leave at any time. The notice need not follow any specific form so
5 long as it is written and the intent of the minor can be discerned.

6 (2) The staff member receiving the notice shall date it
7 immediately, record its existence in the minor's clinical record, and
8 send copies of it to the minor's attorney, if any, the (~~county-~~
9 ~~designated mental health professional~~) designated crisis responders,
10 and the parent.

11 (3) The professional person shall discharge the minor, thirteen
12 years or older, from the facility by the second judicial day
13 following receipt of the minor's notice of intent to leave.

14 **Sec. 255.** RCW 71.34.600 and 2007 c 375 s 11 are each amended to
15 read as follows:

16 (1) A parent may bring, or authorize the bringing of, his or her
17 minor child to:

18 (a) An evaluation and treatment facility or an inpatient facility
19 licensed under chapter 70.41, 71.12, or 72.23 RCW and request that
20 the professional person examine the minor to determine whether the
21 minor has a mental disorder and is in need of inpatient treatment; or

22 (b) A secure detoxification facility or approved substance use
23 disorder treatment program and request that a substance use disorder
24 assessment be conducted by a professional person to determine whether
25 the minor has a substance use disorder and is in need of inpatient
26 treatment.

27 (2) The consent of the minor is not required for admission,
28 evaluation, and treatment if the parent brings the minor to the
29 facility.

30 (3) An appropriately trained professional person may evaluate
31 whether the minor has a mental disorder or has a substance use
32 disorder. The evaluation shall be completed within twenty-four hours
33 of the time the minor was brought to the facility, unless the
34 professional person determines that the condition of the minor
35 necessitates additional time for evaluation. In no event shall a
36 minor be held longer than seventy-two hours for evaluation. If, in
37 the judgment of the professional person, it is determined it is a
38 medical necessity for the minor to receive inpatient treatment, the
39 minor may be held for treatment. The facility shall limit treatment

1 to that which the professional person determines is medically
2 necessary to stabilize the minor's condition until the evaluation has
3 been completed. Within twenty-four hours of completion of the
4 evaluation, the professional person shall notify the department if
5 the child is held for treatment and of the date of admission.

6 (4) No provider is obligated to provide treatment to a minor
7 under the provisions of this section except that no provider may
8 refuse to treat a minor under the provisions of this section solely
9 on the basis that the minor has not consented to the treatment. No
10 provider may admit a minor to treatment under this section unless it
11 is medically necessary.

12 (5) No minor receiving inpatient treatment under this section may
13 be discharged from the facility based solely on his or her request.

14 (6) Prior to the review conducted under RCW 71.34.610, the
15 professional person shall notify the minor of his or her right to
16 petition superior court for release from the facility.

17 (7) For the purposes of this section "professional person" means
18 "professional person" as defined in RCW 71.05.020.

19 **Sec. 256.** RCW 71.34.630 and 1998 c 296 s 20 are each amended to
20 read as follows:

21 If the minor is not released as a result of the petition filed
22 under RCW 71.34.620, he or she shall be released not later than
23 thirty days following the later of: (1) The date of the department's
24 determination under RCW 71.34.610(2); or (2) the filing of a petition
25 for judicial review under RCW 71.34.620, unless a professional person
26 or the ((county)) designated ((~~mental health professional~~)) crisis
27 responder initiates proceedings under this chapter.

28 **Sec. 257.** RCW 71.34.650 and 1998 c 296 s 18 are each amended to
29 read as follows:

30 (1) A parent may bring, or authorize the bringing of, his or her
31 minor child to:

32 (a) A provider of outpatient mental health treatment and request
33 that an appropriately trained professional person examine the minor
34 to determine whether the minor has a mental disorder and is in need
35 of outpatient treatment; or

36 (b) A provider of outpatient substance use disorder treatment and
37 request that an appropriately trained professional person examine the

1 minor to determine whether the minor has a substance use disorder and
2 is in need of outpatient treatment.

3 (2) The consent of the minor is not required for evaluation if
4 the parent brings the minor to the provider.

5 (3) The professional person may evaluate whether the minor has a
6 mental disorder or substance use disorder and is in need of
7 outpatient treatment.

8 (4) Any minor admitted to inpatient treatment under RCW 71.34.500
9 or 71.34.600 shall be discharged immediately from inpatient treatment
10 upon written request of the parent.

11 **Sec. 258.** RCW 71.34.660 and 2005 c 371 s 3 are each amended to
12 read as follows:

13 A minor child shall have no cause of action against an evaluation
14 and treatment facility, secure detoxification facility, approved
15 substance use disorder treatment program, inpatient facility, or
16 provider of outpatient mental health treatment or outpatient
17 substance use disorder treatment for admitting or accepting the minor
18 in good faith for evaluation or treatment under RCW 71.34.600 or
19 71.34.650 based solely upon the fact that the minor did not consent
20 to evaluation or treatment if the minor's parent has consented to the
21 evaluation or treatment.

22 **Sec. 259.** RCW 71.34.700 and 1985 c 354 s 4 are each amended to
23 read as follows:

24 (1) If a minor, thirteen years or older, is brought to an
25 evaluation and treatment facility or hospital emergency room for
26 immediate mental health services, the professional person in charge
27 of the facility shall evaluate the minor's mental condition,
28 determine whether the minor suffers from a mental disorder, and
29 whether the minor is in need of immediate inpatient treatment.

30 (2) If a minor, thirteen years or older, is brought to a secure
31 detoxification facility with available space, or a hospital emergency
32 room for immediate substance use disorder treatment, the professional
33 person in charge of the facility shall evaluate the minor's
34 condition, determine whether the minor suffers from substance use
35 disorder, and whether the minor is in need of immediate inpatient
36 treatment.

37 (3) If it is determined under subsection (1) or (2) of this
38 section that the minor suffers from a mental disorder or substance

1 use disorder, inpatient treatment is required, the minor is unwilling
2 to consent to voluntary admission, and the professional person
3 believes that the minor meets the criteria for initial detention set
4 forth herein, the facility may detain or arrange for the detention of
5 the minor for up to twelve hours in order to enable a (~~county-~~
6 ~~designated mental health professional~~) designated crisis responder
7 to evaluate the minor and commence initial detention proceedings
8 under the provisions of this chapter.

9 **Sec. 260.** RCW 71.34.700 and 2015 c ... s 259 (section 259 of
10 this act) are each amended to read as follows:

11 (1) If a minor, thirteen years or older, is brought to an
12 evaluation and treatment facility or hospital emergency room for
13 immediate mental health services, the professional person in charge
14 of the facility shall evaluate the minor's mental condition,
15 determine whether the minor suffers from a mental disorder, and
16 whether the minor is in need of immediate inpatient treatment.

17 (2) If a minor, thirteen years or older, is brought to a secure
18 detoxification facility (~~with available space~~), or a hospital
19 emergency room for immediate substance use disorder treatment, the
20 professional person in charge of the facility shall evaluate the
21 minor's condition, determine whether the minor suffers from substance
22 use disorder, and whether the minor is in need of immediate inpatient
23 treatment.

24 (3) If it is determined under subsection (1) or (2) of this
25 section that the minor suffers from a mental disorder or substance
26 use disorder, inpatient treatment is required, the minor is unwilling
27 to consent to voluntary admission, and the professional person
28 believes that the minor meets the criteria for initial detention set
29 forth herein, the facility may detain or arrange for the detention of
30 the minor for up to twelve hours in order to enable a designated
31 crisis responder to evaluate the minor and commence initial detention
32 proceedings under the provisions of this chapter.

33 **Sec. 261.** RCW 71.34.710 and 1995 c 312 s 53 are each amended to
34 read as follows:

35 (1)(a)(i) When a (~~county-designated mental health professional~~)
36 designated crisis responder receives information that a minor,
37 thirteen years or older, as a result of a mental disorder presents a
38 likelihood of serious harm or is gravely disabled, has investigated

1 the specific facts alleged and of the credibility of the person or
2 persons providing the information, and has determined that voluntary
3 admission for inpatient treatment is not possible, the ((~~county-~~
4 ~~designated mental health professional~~)) designated crisis responder
5 may take the minor, or cause the minor to be taken, into custody and
6 transported to an evaluation and treatment facility providing
7 inpatient treatment.

8 (ii) When a designated crisis responder receives information that
9 a minor, thirteen years or older, as a result of substance use
10 disorder presents a likelihood of serious harm or is gravely
11 disabled, has investigated the specific facts alleged and of the
12 credibility of the person or persons providing the information, and
13 has determined that voluntary admission for inpatient treatment is
14 not possible, the designated crisis responder may take the minor, or
15 cause the minor to be taken, into custody and transported to a secure
16 detoxification facility or approved substance use disorder treatment
17 program, if space is available in the facility or program.

18 (b) If the minor is not taken into custody for evaluation and
19 treatment, the parent who has custody of the minor may seek review of
20 that decision made by the ((~~county-designated mental health~~
21 ~~professional~~)) designated crisis responder in court. The parent shall
22 file notice with the court and provide a copy of the ((~~county~~
23 ~~designated mental health professional's~~)) designated crisis
24 responder's report or notes.

25 (2) Within twelve hours of the minor's arrival at the evaluation
26 and treatment facility, secure detoxification facility, or approved
27 substance use disorder treatment program, the ((~~county-designated~~
28 ~~mental health professional~~)) designated crisis responder shall serve
29 on the minor a copy of the petition for initial detention, notice of
30 initial detention, and statement of rights. The ((~~county-designated~~
31 ~~mental health professional~~)) designated crisis responder shall file
32 with the court on the next judicial day following the initial
33 detention the original petition for initial detention, notice of
34 initial detention, and statement of rights along with an affidavit of
35 service. The ((~~county-designated mental health professional~~))
36 designated crisis responder shall commence service of the petition
37 for initial detention and notice of the initial detention on the
38 minor's parent and the minor's attorney as soon as possible following
39 the initial detention.

1 (3) At the time of initial detention, the (~~county-designated~~
2 ~~mental health professional~~) designated crisis responder shall advise
3 the minor both orally and in writing that if admitted to the
4 evaluation and treatment facility, secure detoxification facility, or
5 approved substance use disorder treatment program for inpatient
6 treatment, a commitment hearing shall be held within seventy-two
7 hours of the minor's provisional acceptance to determine whether
8 probable cause exists to commit the minor for further (~~mental~~
9 ~~health~~) treatment.

10 The minor shall be advised that he or she has a right to
11 communicate immediately with an attorney and that he or she has a
12 right to have an attorney appointed to represent him or her before
13 and at the hearing if the minor is indigent.

14 (4) Subject to subsection (5) of this section, whenever the
15 (~~county-designated mental health professional~~) designated crisis
16 responder petitions for detention of a minor under this chapter, an
17 evaluation and treatment facility, secure detoxification facility, or
18 approved substance use disorder treatment program providing seventy-
19 two hour evaluation and treatment must immediately accept on a
20 provisional basis the petition and the person. Within twenty-four
21 hours of the minor's arrival, the facility must evaluate the minor's
22 condition and either admit or release the minor in accordance with
23 this chapter.

24 (5) A designated crisis responder may not petition for detention
25 of a minor to a secure detoxification facility or approved substance
26 use disorder treatment program unless there is space available in the
27 facility or program.

28 (6) If a minor is not approved for admission by the inpatient
29 evaluation and treatment facility, secure detoxification facility, or
30 approved substance use disorder treatment program, the facility shall
31 make such recommendations and referrals for further care and
32 treatment of the minor as necessary.

33 **Sec. 262.** RCW 71.34.710 and 2015 c ... s 261 (section 261 of
34 this act) are each amended to read as follows:

35 (1)(a)(i) When a designated crisis responder receives information
36 that a minor, thirteen years or older, as a result of a mental
37 disorder presents a likelihood of serious harm or is gravely
38 disabled, has investigated the specific facts alleged and of the
39 credibility of the person or persons providing the information, and

1 has determined that voluntary admission for inpatient treatment is
2 not possible, the designated crisis responder may take the minor, or
3 cause the minor to be taken, into custody and transported to an
4 evaluation and treatment facility providing inpatient treatment.

5 (ii) When a designated crisis responder receives information that
6 a minor, thirteen years or older, as a result of substance use
7 disorder presents a likelihood of serious harm or is gravely
8 disabled, has investigated the specific facts alleged and of the
9 credibility of the person or persons providing the information, and
10 has determined that voluntary admission for inpatient treatment is
11 not possible, the designated crisis responder may take the minor, or
12 cause the minor to be taken, into custody and transported to a secure
13 detoxification facility or approved substance use disorder treatment
14 program(~~(, if space is available in the facility or program)~~).

15 (b) If the minor is not taken into custody for evaluation and
16 treatment, the parent who has custody of the minor may seek review of
17 that decision made by the designated crisis responder in court. The
18 parent shall file notice with the court and provide a copy of the
19 designated crisis responder's report or notes.

20 (2) Within twelve hours of the minor's arrival at the evaluation
21 and treatment facility, secure detoxification facility, or approved
22 substance use disorder treatment program, the designated crisis
23 responder shall serve on the minor a copy of the petition for initial
24 detention, notice of initial detention, and statement of rights. The
25 designated crisis responder shall file with the court on the next
26 judicial day following the initial detention the original petition
27 for initial detention, notice of initial detention, and statement of
28 rights along with an affidavit of service. The designated crisis
29 responder shall commence service of the petition for initial
30 detention and notice of the initial detention on the minor's parent
31 and the minor's attorney as soon as possible following the initial
32 detention.

33 (3) At the time of initial detention, the designated crisis
34 responder shall advise the minor both orally and in writing that if
35 admitted to the evaluation and treatment facility, secure
36 detoxification facility, or approved substance use disorder treatment
37 program for inpatient treatment, a commitment hearing shall be held
38 within seventy-two hours of the minor's provisional acceptance to
39 determine whether probable cause exists to commit the minor for
40 further treatment.

1 The minor shall be advised that he or she has a right to
2 communicate immediately with an attorney and that he or she has a
3 right to have an attorney appointed to represent him or her before
4 and at the hearing if the minor is indigent.

5 ~~(4) ((Subject to subsection (5) of this section,))~~ Whenever the
6 designated crisis responder petitions for detention of a minor under
7 this chapter, an evaluation and treatment facility, secure
8 detoxification facility, or approved substance use disorder treatment
9 program providing seventy-two hour evaluation and treatment must
10 immediately accept on a provisional basis the petition and the
11 person. Within twenty-four hours of the minor's arrival, the facility
12 must evaluate the minor's condition and either admit or release the
13 minor in accordance with this chapter.

14 ~~(5) ((A designated crisis responder may not petition for~~
15 ~~detention of a minor to a secure detoxification facility or approved~~
16 ~~substance use disorder treatment program unless there is space~~
17 ~~available in the facility or program.~~

18 ~~(6))~~ If a minor is not approved for admission by the inpatient
19 evaluation and treatment facility, secure detoxification facility, or
20 approved substance use disorder treatment program, the facility shall
21 make such recommendations and referrals for further care and
22 treatment of the minor as necessary.

23 **Sec. 263.** RCW 71.34.720 and 2009 c 217 s 16 are each amended to
24 read as follows:

25 (1) Each minor approved by the facility for inpatient admission
26 shall be examined and evaluated by a children's mental health
27 specialist, for minors admitted as a result of a mental disorder, or
28 by a chemical dependency professional, for minors admitted as a
29 result of a substance use disorder, as to the child's mental
30 condition and by a physician, physician assistant, or psychiatric
31 advanced registered nurse practitioner as to the child's physical
32 condition within twenty-four hours of admission. Reasonable measures
33 shall be taken to ensure medical treatment is provided for any
34 condition requiring immediate medical attention.

35 (2) If, after examination and evaluation, the children's mental
36 health specialist or substance use disorder specialist and the
37 physician, physician assistant, or psychiatric advanced registered
38 nurse practitioner determine that the initial needs of the minor, if
39 detained to an evaluation and treatment facility, would be better

1 served by placement in a (~~chemical dependency~~) substance use
2 disorder treatment facility or, if detained to a secure
3 detoxification facility or approved substance use disorder treatment
4 program, would be better served in an evaluation and treatment
5 facility, then the minor shall be referred to (~~an approved treatment~~
6 program defined under RCW 70.96A.020)) the more appropriate
7 placement; however a minor may only be referred to a secure
8 detoxification facility or approved substance use disorder treatment
9 program if space is available in the facility or program.

10 (3) The admitting facility shall take reasonable steps to notify
11 immediately the minor's parent of the admission.

12 (4) During the initial seventy-two hour treatment period, the
13 minor has a right to associate or receive communications from parents
14 or others unless the professional person in charge determines that
15 such communication would be seriously detrimental to the minor's
16 condition or treatment and so indicates in the minor's clinical
17 record, and notifies the minor's parents of this determination. In no
18 event may the minor be denied the opportunity to consult an attorney.

19 (5) If the evaluation and treatment facility, secure
20 detoxification facility, or approved substance use disorder treatment
21 program admits the minor, it may detain the minor for evaluation and
22 treatment for a period not to exceed seventy-two hours from the time
23 of provisional acceptance. The computation of such seventy-two hour
24 period shall exclude Saturdays, Sundays, and holidays. This initial
25 treatment period shall not exceed seventy-two hours except when an
26 application for voluntary inpatient treatment is received or a
27 petition for fourteen-day commitment is filed.

28 (6) Within twelve hours of the admission, the facility shall
29 advise the minor of his or her rights as set forth in this chapter.

30 **Sec. 264.** RCW 71.34.720 and 2015 c ... s 263 (section 263 of
31 this act) are each amended to read as follows:

32 (1) Each minor approved by the facility for inpatient admission
33 shall be examined and evaluated by a children's mental health
34 specialist, for minors admitted as a result of a mental disorder, or
35 by a chemical dependency professional, for minors admitted as a
36 result of a substance use disorder, as to the child's mental
37 condition and by a physician, physician assistant, or psychiatric
38 advanced registered nurse practitioner as to the child's physical
39 condition within twenty-four hours of admission. Reasonable measures

1 shall be taken to ensure medical treatment is provided for any
2 condition requiring immediate medical attention.

3 (2) If, after examination and evaluation, the children's mental
4 health specialist or substance use disorder specialist and the
5 physician, physician assistant, or psychiatric advanced registered
6 nurse practitioner determine that the initial needs of the minor, if
7 detained to an evaluation and treatment facility, would be better
8 served by placement in a substance use disorder treatment facility
9 or, if detained to a secure detoxification facility or approved
10 substance use disorder treatment program, would be better served in
11 an evaluation and treatment facility, then the minor shall be
12 referred to the more appropriate placement(~~(; however a minor may~~
13 ~~only be referred to a secure detoxification facility or approved~~
14 ~~substance use disorder treatment program if space is available in the~~
15 ~~facility or program)).~~

16 (3) The admitting facility shall take reasonable steps to notify
17 immediately the minor's parent of the admission.

18 (4) During the initial seventy-two hour treatment period, the
19 minor has a right to associate or receive communications from parents
20 or others unless the professional person in charge determines that
21 such communication would be seriously detrimental to the minor's
22 condition or treatment and so indicates in the minor's clinical
23 record, and notifies the minor's parents of this determination. In no
24 event may the minor be denied the opportunity to consult an attorney.

25 (5) If the evaluation and treatment facility, secure
26 detoxification facility, or approved substance use disorder treatment
27 program admits the minor, it may detain the minor for evaluation and
28 treatment for a period not to exceed seventy-two hours from the time
29 of provisional acceptance. The computation of such seventy-two hour
30 period shall exclude Saturdays, Sundays, and holidays. This initial
31 treatment period shall not exceed seventy-two hours except when an
32 application for voluntary inpatient treatment is received or a
33 petition for fourteen-day commitment is filed.

34 (6) Within twelve hours of the admission, the facility shall
35 advise the minor of his or her rights as set forth in this chapter.

36 **Sec. 265.** RCW 71.34.730 and 2009 c 293 s 6 and 2009 c 217 s 17
37 are each reenacted and amended to read as follows:

38 (1) The professional person in charge of an evaluation and
39 treatment facility, secure detoxification facility, or approved

1 substance use disorder treatment program where a minor has been
2 admitted involuntarily for the initial seventy-two hour treatment
3 period under this chapter may petition to have a minor committed to
4 an evaluation and treatment facility or, in the case of a minor with
5 a substance use disorder, to a secure detoxification facility or
6 approved substance use disorder treatment program for fourteen-day
7 diagnosis, evaluation, and treatment.

8 If the professional person in charge of the (~~treatment and~~
9 ~~evaluation~~) facility does not petition to have the minor committed,
10 the parent who has custody of the minor may seek review of that
11 decision in court. The parent shall file notice with the court and
12 provide a copy of the treatment and evaluation facility's report.

13 (2) A petition for commitment of a minor under this section shall
14 be filed with the superior court in the county where the minor is
15 residing or being detained.

16 (a) A petition for a fourteen-day commitment shall be signed by
17 (i) two physicians, (ii) two psychiatric advanced registered nurse
18 practitioners, (iii) ~~((a))~~ two physician assistants, (iv) one mental
19 health professional and either a (A) physician, (B) physician
20 assistant, or ~~((a))~~ (C) psychiatric advanced registered nurse
21 practitioner, or ~~((iv)—a))~~ (v) one physician and either a
22 psychiatric advanced registered nurse practitioner or physician
23 assistant. The person signing the petition must have examined the
24 minor, and the petition must contain the following:

25 (A) The name and address of the petitioner;

26 (B) The name of the minor alleged to meet the criteria for
27 fourteen-day commitment;

28 (C) The name, telephone number, and address if known of every
29 person believed by the petitioner to be legally responsible for the
30 minor;

31 (D) A statement that the petitioner has examined the minor and
32 finds that the minor's condition meets required criteria for
33 fourteen-day commitment and the supporting facts therefor;

34 (E) A statement that the minor has been advised of the need for
35 voluntary treatment but has been unwilling or unable to consent to
36 necessary treatment;

37 (F) If the petition is for mental health treatment, a statement
38 that the minor has been advised of the loss of firearm rights if
39 involuntarily committed;

1 (G) A statement recommending the appropriate facility or
2 facilities to provide the necessary treatment; and

3 (H) A statement concerning whether a less restrictive alternative
4 to inpatient treatment is in the best interests of the minor.

5 (b) A copy of the petition shall be personally delivered to the
6 minor by the petitioner or petitioner's designee. A copy of the
7 petition shall be sent to the minor's attorney and the minor's
8 parent.

9 **Sec. 266.** RCW 71.34.740 and 2009 c 293 s 7 are each amended to
10 read as follows:

11 (1) A commitment hearing shall be held within seventy-two hours
12 of the minor's admission, excluding Saturday, Sunday, and holidays,
13 unless a continuance is requested by the minor or the minor's
14 attorney.

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

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

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

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

26 (6) At the commitment hearing, the minor shall have the following
27 rights:

28 (a) To be represented by an attorney;

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

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

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

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

4 (9) Rules of evidence shall not apply in fourteen-day commitment
5 hearings.

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

8 (a) The minor has a mental disorder or substance use disorder and
9 presents a ~~((=))~~likelihood of serious harm~~((=))~~ or is ~~((=))~~gravely
10 disabled~~((=))~~;

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

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

19 (d) If commitment is to a secure detoxification facility or
20 approved substance use disorder treatment program for inpatient
21 treatment, there is available space at the facility or program.

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

28 (12) Nothing in this section prohibits the professional person in
29 charge of the ~~((evaluation and treatment))~~ facility from releasing
30 the minor at any time, when, in the opinion of the professional
31 person in charge of the facility, further inpatient treatment is no
32 longer necessary. The release may be subject to reasonable conditions
33 if appropriate.

34 Whenever a minor is released under this section, the professional
35 person in charge shall within three days, notify the court in writing
36 of the release.

37 (13) A minor who has been committed for fourteen days shall be
38 released at the end of that period unless a petition for one hundred
39 eighty-day commitment is pending before the court.

1 **Sec. 267.** RCW 71.34.740 and 2015 c ... s 266 (section 266 of
2 this act) are each amended to read as follows:

3 (1) A commitment hearing shall be held within seventy-two hours
4 of the minor's admission, excluding Saturday, Sunday, and holidays,
5 unless a continuance is requested by the minor or the minor's
6 attorney.

7 (2) The commitment hearing shall be conducted at the superior
8 court or an appropriate place at the facility in which the minor is
9 being detained.

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

12 (4) The minor shall be present at the commitment hearing unless
13 the minor, with the assistance of the minor's attorney, waives the
14 right to be present at the hearing.

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

18 (6) At the commitment hearing, the minor shall have the following
19 rights:

20 (a) To be represented by an attorney;

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

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

23 (7) If the hearing is for commitment for mental health treatment,
24 the court at the time of the commitment hearing and before an order
25 of commitment is entered shall inform the minor both orally and in
26 writing that the failure to make a good faith effort to seek
27 voluntary treatment as provided in RCW 71.34.730 will result in the
28 loss of his or her firearm rights if the minor is subsequently
29 detained for involuntary treatment under this section.

30 (8) If the minor has received medication within twenty-four hours
31 of the hearing, the court shall be informed of that fact and of the
32 probable effects of the medication.

33 (9) Rules of evidence shall not apply in fourteen-day commitment
34 hearings.

35 (10) For a fourteen-day commitment, the court must find by a
36 preponderance of the evidence that:

37 (a) The minor has a mental disorder or substance use disorder and
38 presents a likelihood of serious harm or is gravely disabled;

39 (b) The minor is in need of evaluation and treatment of the type
40 provided by the inpatient evaluation and treatment facility, secure

1 detoxification facility, or approved substance use disorder treatment
2 program to which continued inpatient care is sought or is in need of
3 less restrictive alternative treatment found to be in the best
4 interests of the minor; and

5 (c) The minor is unwilling or unable in good faith to consent to
6 voluntary treatment(~~(; and~~

7 ~~(d) If commitment is to a secure detoxification facility or~~
8 ~~approved substance use disorder treatment program for inpatient~~
9 ~~treatment, there is available space at the facility or program)).~~

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

16 (12) Nothing in this section prohibits the professional person in
17 charge of the facility from releasing the minor at any time, when, in
18 the opinion of the professional person in charge of the facility,
19 further inpatient treatment is no longer necessary. The release may
20 be subject to reasonable conditions if appropriate.

21 Whenever a minor is released under this section, the professional
22 person in charge shall within three days, notify the court in writing
23 of the release.

24 (13) A minor who has been committed for fourteen days shall be
25 released at the end of that period unless a petition for one hundred
26 eighty-day commitment is pending before the court.

27 **Sec. 268.** RCW 71.34.750 and 2009 c 217 s 18 are each amended to
28 read as follows:

29 (1) At any time during the minor's period of fourteen-day
30 commitment, the professional person in charge may petition the court
31 for an order requiring the minor to undergo an additional one hundred
32 eighty-day period of treatment. The evidence in support of the
33 petition shall be presented by the county prosecutor unless the
34 petition is filed by the professional person in charge of a state-
35 operated facility in which case the evidence shall be presented by
36 the attorney general.

37 (2) The petition for one hundred eighty-day commitment shall
38 contain the following:

39 (a) The name and address of the petitioner or petitioners;

1 (b) The name of the minor alleged to meet the criteria for one
2 hundred eighty-day commitment;

3 (c) A statement that the petitioner is the professional person in
4 charge of the evaluation and treatment facility, secure
5 detoxification facility, or approved substance use disorder treatment
6 program responsible for the treatment of the minor;

7 (d) The date of the fourteen-day commitment order; and

8 (e) A summary of the facts supporting the petition.

9 (3) The petition shall be supported by accompanying affidavits
10 signed by (a) two examining physicians or physician assistants
11 working under the license of an examining physician, one of whom
12 shall be a child psychiatrist, or two psychiatric advanced registered
13 nurse practitioners, one of whom shall be a child and adolescent or
14 family psychiatric advanced registered nurse practitioner, (b) one
15 children's mental health specialist and either: (i) An examining
16 physician, (ii) a physician assistant, or (iii) a psychiatric
17 advanced registered nurse practitioner, or (c) (~~an~~) one examining
18 physician and either a psychiatric advanced registered nurse
19 practitioner or physician assistant, one of which under this
20 subsection (3)(c) needs to be a child psychiatrist or a child and
21 adolescent psychiatric nurse practitioner. The affidavits shall
22 describe in detail the behavior of the detained minor which supports
23 the petition and shall state whether a less restrictive alternative
24 to inpatient treatment is in the best interests of the minor.

25 (4) The petition for one hundred eighty-day commitment shall be
26 filed with the clerk of the court at least three days before the
27 expiration of the fourteen-day commitment period. The petitioner or
28 the petitioner's designee shall within twenty-four hours of filing
29 serve a copy of the petition on the minor and notify the minor's
30 attorney and the minor's parent. A copy of the petition shall be
31 provided to such persons at least twenty-four hours prior to the
32 hearing.

33 (5) At the time of filing, the court shall set a date within
34 seven days for the hearing on the petition. The court may continue
35 the hearing upon the written request of the minor or the minor's
36 attorney for not more than ten days. The minor or the parents shall
37 be afforded the same rights as in a fourteen-day commitment hearing.
38 Treatment of the minor shall continue pending the proceeding.

39 (6) For one hundred eighty-day commitment(~~(7)~~):

1 (a) The court must find by clear, cogent, and convincing evidence
2 that the minor:

3 ~~((a))~~ (i) Is suffering from a mental disorder;

4 ~~((b))~~ (ii) Presents a likelihood of serious harm or is gravely
5 disabled; and

6 ~~((c))~~ (iii) Is in need of further treatment that only can be
7 provided in a one hundred eighty-day commitment.

8 (b) If commitment is to an approved substance use disorder
9 treatment program for inpatient treatment, the court must find that
10 there is available space at the program.

11 (7) If the court finds that the criteria for commitment are met
12 and that less restrictive treatment in a community setting is not
13 appropriate or available, the court shall order the minor committed
14 to the custody of the secretary for further inpatient mental health
15 treatment ~~((to the custody of the secretary)), to an approved~~
16 substance use disorder treatment program for further substance use
17 disorder treatment, or to a private treatment and evaluation facility
18 for the inpatient mental health or substance use disorder treatment
19 if the minor's parents have assumed responsibility for payment for
20 the treatment. If the court finds that a less restrictive alternative
21 is in the best interest of the minor, the court shall order less
22 restrictive alternative treatment upon such conditions as necessary.

23 If the court determines that the minor does not meet the criteria
24 for one hundred eighty-day commitment, the minor shall be released.

25 (8) Successive one hundred eighty-day commitments are permissible
26 on the same grounds and under the same procedures as the original one
27 hundred eighty-day commitment. Such petitions shall be filed at least
28 five days prior to the expiration of the previous one hundred eighty-
29 day commitment order.

30 **Sec. 269.** RCW 71.34.750 and 2015 c ... s 268 (section 268 of
31 this act) are each amended to read as follows:

32 (1) At any time during the minor's period of fourteen-day
33 commitment, the professional person in charge may petition the court
34 for an order requiring the minor to undergo an additional one hundred
35 eighty-day period of treatment. The evidence in support of the
36 petition shall be presented by the county prosecutor unless the
37 petition is filed by the professional person in charge of a state-
38 operated facility in which case the evidence shall be presented by
39 the attorney general.

1 (2) The petition for one hundred eighty-day commitment shall
2 contain the following:

3 (a) The name and address of the petitioner or petitioners;

4 (b) The name of the minor alleged to meet the criteria for one
5 hundred eighty-day commitment;

6 (c) A statement that the petitioner is the professional person in
7 charge of the evaluation and treatment facility, secure
8 detoxification facility, or approved substance use disorder treatment
9 program responsible for the treatment of the minor;

10 (d) The date of the fourteen-day commitment order; and

11 (e) A summary of the facts supporting the petition.

12 (3) The petition shall be supported by accompanying affidavits
13 signed by (a) two examining physicians or physician assistants
14 working under the license of an examining physician, one of whom
15 shall be a child psychiatrist, or two psychiatric advanced registered
16 nurse practitioners, one of whom shall be a child and adolescent or
17 family psychiatric advanced registered nurse practitioner, (b) one
18 children's mental health specialist and either: (i) An examining
19 physician, (ii) a physician assistant, or (iii) a psychiatric
20 advanced registered nurse practitioner, or (c) one examining
21 physician and either a psychiatric advanced registered nurse
22 practitioner or physician assistant, one of which under this
23 subsection (3)(c) needs to be a child psychiatrist or a child and
24 adolescent psychiatric nurse practitioner. The affidavits shall
25 describe in detail the behavior of the detained minor which supports
26 the petition and shall state whether a less restrictive alternative
27 to inpatient treatment is in the best interests of the minor.

28 (4) The petition for one hundred eighty-day commitment shall be
29 filed with the clerk of the court at least three days before the
30 expiration of the fourteen-day commitment period. The petitioner or
31 the petitioner's designee shall within twenty-four hours of filing
32 serve a copy of the petition on the minor and notify the minor's
33 attorney and the minor's parent. A copy of the petition shall be
34 provided to such persons at least twenty-four hours prior to the
35 hearing.

36 (5) At the time of filing, the court shall set a date within
37 seven days for the hearing on the petition. The court may continue
38 the hearing upon the written request of the minor or the minor's
39 attorney for not more than ten days. The minor or the parents shall

1 be afforded the same rights as in a fourteen-day commitment hearing.
2 Treatment of the minor shall continue pending the proceeding.

3 (6) For one hundred eighty-day commitment(~~(+~~
4 ~~(a))~~), the court must find by clear, cogent, and convincing
5 evidence that the minor:

6 ~~((i))~~ (a) Is suffering from a mental disorder;

7 ~~((ii))~~ (b) Presents a likelihood of serious harm or is gravely
8 disabled; and

9 ~~((iii))~~ (c) Is in need of further treatment that only can be
10 provided in a one hundred eighty-day commitment.

11 ~~((b) If commitment is to an approved substance use disorder~~
12 ~~treatment program for inpatient treatment, the court must find that~~
13 ~~there is available space at the program.))~~

14 (7) If the court finds that the criteria for commitment are met
15 and that less restrictive treatment in a community setting is not
16 appropriate or available, the court shall order the minor committed
17 to the custody of the secretary for further inpatient mental health
18 treatment, to an approved substance use disorder treatment program
19 for further substance use disorder treatment, or to a private
20 treatment and evaluation facility for the inpatient mental health or
21 substance use disorder treatment if the minor's parents have assumed
22 responsibility for payment for the treatment. If the court finds that
23 a less restrictive alternative is in the best interest of the minor,
24 the court shall order less restrictive alternative treatment upon
25 such conditions as necessary.

26 If the court determines that the minor does not meet the criteria
27 for one hundred eighty-day commitment, the minor shall be released.

28 (8) Successive one hundred eighty-day commitments are permissible
29 on the same grounds and under the same procedures as the original one
30 hundred eighty-day commitment. Such petitions shall be filed at least
31 five days prior to the expiration of the previous one hundred eighty-
32 day commitment order.

33 **Sec. 270.** RCW 71.34.760 and 1985 c 354 s 10 are each amended to
34 read as follows:

35 (1) If a minor is committed for one hundred eighty-day inpatient
36 treatment and is to be placed in a state-supported program, the
37 secretary shall accept immediately and place the minor in a state-
38 funded long-term evaluation and treatment facility or state-funded
39 approved substance use disorder treatment program.

1 (2) The secretary's placement authority shall be exercised
2 through a designated placement committee appointed by the secretary
3 and composed of children's mental health specialists and chemical
4 dependency professionals, including at least one child psychiatrist
5 who represents the state-funded, long-term, evaluation and treatment
6 facility for minors and one chemical dependency professional who
7 represents the state-funded approved substance use disorder treatment
8 program. The responsibility of the placement committee will be to:

9 (a) Make the long-term placement of the minor in the most
10 appropriate, available state-funded evaluation and treatment facility
11 or approved substance use disorder treatment program, having
12 carefully considered factors including the treatment needs of the
13 minor, the most appropriate facility able to respond to the minor's
14 identified treatment needs, the geographic proximity of the facility
15 to the minor's family, the immediate availability of bed space, and
16 the probable impact of the placement on other residents of the
17 facility;

18 (b) Approve or deny requests from treatment facilities for
19 transfer of a minor to another facility;

20 (c) Receive and monitor reports required under this section;

21 (d) Receive and monitor reports of all discharges.

22 (3) The secretary may authorize transfer of minors among
23 treatment facilities if the transfer is in the best interests of the
24 minor or due to treatment priorities.

25 (4) The responsible state-funded evaluation and treatment
26 facility or approved substance use disorder treatment program shall
27 submit a report to the department's designated placement committee
28 within ninety days of admission and no less than every one hundred
29 eighty days thereafter, setting forth such facts as the department
30 requires, including the minor's individual treatment plan and
31 progress, recommendations for future treatment, and possible less
32 restrictive treatment.

33 **Sec. 271.** RCW 71.34.780 and 1985 c 354 s 11 are each amended to
34 read as follows:

35 (1) If the professional person in charge of an outpatient
36 treatment program, a (~~county-designated mental health professional~~)
37 designated crisis responder, or the secretary determines that a minor
38 is failing to adhere to the conditions of the court order for less
39 restrictive alternative treatment or the conditions for the

1 conditional release, or that substantial deterioration in the minor's
2 functioning has occurred, the (~~county designated mental health~~
3 ~~professional~~) designated crisis responder, or the secretary may
4 order that the minor, if committed for mental health treatment, be
5 taken into custody and transported to an inpatient evaluation and
6 treatment facility or, if committed for substance use disorder
7 treatment, be taken into custody and transported to a secure
8 detoxification facility or approved substance use disorder treatment
9 program if there is available space in the secure detoxification
10 facility or approved substance use disorder treatment program.

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

21 (3) A petition for revocation of less restrictive alternative
22 treatment shall be filed by the (~~county designated mental health~~
23 ~~professional~~) designated crisis responder or the secretary with the
24 court in the county ordering the less restrictive alternative
25 treatment. The court shall conduct the hearing in that county. A
26 petition for revocation of conditional release may be filed with the
27 court in the county ordering inpatient treatment or the county where
28 the minor on conditional release is residing. A petition shall
29 describe the behavior of the minor indicating violation of the
30 conditions or deterioration of routine functioning and a
31 dispositional recommendation. Upon motion for good cause, the hearing
32 may be transferred to the county of the minor's residence or to the
33 county in which the alleged violations occurred. The hearing shall be
34 held within seven days of the minor's return. The issues to be
35 determined are whether the minor did or did not adhere to the
36 conditions of the less restrictive alternative treatment or
37 conditional release, or whether the minor's routine functioning has
38 substantially deteriorated, and, if so, whether the conditions of
39 less restrictive alternative treatment or conditional release should
40 be modified or, subject to subsection (4) of this section, whether

1 the minor should be returned to inpatient treatment. Pursuant to the
2 determination of the court, the minor shall be returned to less
3 restrictive alternative treatment or conditional release on the same
4 or modified conditions or shall be returned to inpatient treatment.
5 If the minor is returned to inpatient treatment, RCW 71.34.760
6 regarding the secretary's placement responsibility shall apply. The
7 hearing may be waived by the minor and the minor returned to
8 inpatient treatment or to less restrictive alternative treatment or
9 conditional release on the same or modified conditions.

10 (4) A court may not order the return of a minor to inpatient
11 treatment in a secure detoxification facility or approved treatment
12 program unless there is available space in the facility or program.

13 **Sec. 272.** RCW 71.34.780 and 2015 c ... s 271 (section 271 of
14 this act) are each amended to read as follows:

15 (1) If the professional person in charge of an outpatient
16 treatment program, a designated crisis responder, or the secretary
17 determines that a minor is failing to adhere to the conditions of the
18 court order for less restrictive alternative treatment or the
19 conditions for the conditional release, or that substantial
20 deterioration in the minor's functioning has occurred, the designated
21 crisis responder, or the secretary may order that the minor, if
22 committed for mental health treatment, be taken into custody and
23 transported to an inpatient evaluation and treatment facility or, if
24 committed for substance use disorder treatment, be taken into custody
25 and transported to a secure detoxification facility or approved
26 substance use disorder treatment program (~~(if there is available~~
27 ~~space in the secure detoxification facility or approved substance use~~
28 ~~disorder treatment program)~~).

29 (2) The designated crisis responder or the secretary shall file
30 the order of apprehension and detention and serve it upon the minor
31 and notify the minor's parent and the minor's attorney, if any, of
32 the detention within two days of return. At the time of service the
33 minor shall be informed of the right to a hearing and to
34 representation by an attorney. The designated crisis responder or the
35 secretary may modify or rescind the order of apprehension and
36 detention at any time prior to the hearing.

37 (3) A petition for revocation of less restrictive alternative
38 treatment shall be filed by the designated crisis responder or the
39 secretary with the court in the county ordering the less restrictive

1 alternative treatment. The court shall conduct the hearing in that
2 county. A petition for revocation of conditional release may be filed
3 with the court in the county ordering inpatient treatment or the
4 county where the minor on conditional release is residing. A petition
5 shall describe the behavior of the minor indicating violation of the
6 conditions or deterioration of routine functioning and a
7 dispositional recommendation. Upon motion for good cause, the hearing
8 may be transferred to the county of the minor's residence or to the
9 county in which the alleged violations occurred. The hearing shall be
10 held within seven days of the minor's return. The issues to be
11 determined are whether the minor did or did not adhere to the
12 conditions of the less restrictive alternative treatment or
13 conditional release, or whether the minor's routine functioning has
14 substantially deteriorated, and, if so, whether the conditions of
15 less restrictive alternative treatment or conditional release should
16 be modified or (~~(, subject to subsection (4) of this section,~~)
17 whether the minor should be returned to inpatient treatment. Pursuant
18 to the determination of the court, the minor shall be returned to
19 less restrictive alternative treatment or conditional release on the
20 same or modified conditions or shall be returned to inpatient
21 treatment. If the minor is returned to inpatient treatment, RCW
22 71.34.760 regarding the secretary's placement responsibility shall
23 apply. The hearing may be waived by the minor and the minor returned
24 to inpatient treatment or to less restrictive alternative treatment
25 or conditional release on the same or modified conditions.

26 ~~((4) A court may not order the return of a minor to inpatient
27 treatment in a secure detoxification facility or approved treatment
28 program unless there is available space in the facility or program.))~~

29 NEW SECTION. **Sec. 273.** A new section is added to chapter 71.34
30 RCW to read as follows:

31 The limitation on firearm rights based on involuntary commitment
32 for treatment of a substance use disorder shall be strictly construed
33 to apply only if the person would otherwise have his or her firearm
34 rights limited under federal law.

35 **Sec. 274.** RCW 9.41.098 and 2003 c 39 s 5 are each amended to
36 read as follows:

37 (1) The superior courts and the courts of limited jurisdiction of
38 the state may order forfeiture of a firearm which is proven to be:

1 (a) Found concealed on a person not authorized by RCW 9.41.060 or
2 9.41.070 to carry a concealed pistol: PROVIDED, That it is an
3 absolute defense to forfeiture if the person possessed a valid
4 Washington concealed pistol license within the preceding two years
5 and has not become ineligible for a concealed pistol license in the
6 interim. Before the firearm may be returned, the person must pay the
7 past due renewal fee and the current renewal fee;

8 (b) Commercially sold to any person without an application as
9 required by RCW 9.41.090;

10 (c) In the possession of a person prohibited from possessing the
11 firearm under RCW 9.41.040 or 9.41.045;

12 (d) In the possession or under the control of a person at the
13 time the person committed or was arrested for committing a felony or
14 committing a nonfelony crime in which a firearm was used or
15 displayed;

16 (e) In the possession of a person who is in any place in which a
17 concealed pistol license is required, and who is under the influence
18 of any drug or under the influence of intoxicating liquor, as defined
19 in chapter 46.61 RCW;

20 (f) In the possession of a person free on bail or personal
21 recognizance pending trial, appeal, or sentencing for a felony or for
22 a nonfelony crime in which a firearm was used or displayed, except
23 that violations of Title 77 RCW shall not result in forfeiture under
24 this section;

25 (g) In the possession of a person found to have been mentally
26 incompetent while in possession of a firearm when apprehended or who
27 is thereafter committed pursuant to chapter 10.77 RCW or committed
28 for mental health treatment under chapter 71.05 RCW;

29 (h) Used or displayed by a person in the violation of a proper
30 written order of a court of general jurisdiction; or

31 (i) Used in the commission of a felony or of a nonfelony crime in
32 which a firearm was used or displayed.

33 (2) Upon order of forfeiture, the court in its discretion may
34 order destruction of any forfeited firearm. A court may temporarily
35 retain forfeited firearms needed for evidence.

36 (a) Except as provided in (b), (c), and (d) of this subsection,
37 firearms that are: (i) Judicially forfeited and no longer needed for
38 evidence; or (ii) forfeited due to a failure to make a claim under
39 RCW 63.32.010 or 63.40.010; may be disposed of in any manner
40 determined by the local legislative authority. Any proceeds of an

1 auction or trade may be retained by the legislative authority. This
2 subsection (2)(a) applies only to firearms that come into the
3 possession of the law enforcement agency after June 30, 1993.

4 By midnight, June 30, 1993, every law enforcement agency shall
5 prepare an inventory, under oath, of every firearm that has been
6 judicially forfeited, has been seized and may be subject to judicial
7 forfeiture, or that has been, or may be, forfeited due to a failure
8 to make a claim under RCW 63.32.010 or 63.40.010.

9 (b) Except as provided in (c) of this subsection, of the
10 inventoried firearms a law enforcement agency shall destroy illegal
11 firearms, may retain a maximum of ten percent of legal forfeited
12 firearms for agency use, and shall either:

13 (i) Comply with the provisions for the auction of firearms in RCW
14 9.41.098 that were in effect immediately preceding May 7, 1993; or

15 (ii) Trade, auction, or arrange for the auction of, rifles and
16 shotguns. In addition, the law enforcement agency shall either trade,
17 auction, or arrange for the auction of, short firearms, or shall pay
18 a fee of twenty-five dollars to the state treasurer for every short
19 firearm neither auctioned nor traded, to a maximum of fifty thousand
20 dollars. The fees shall be accompanied by an inventory, under oath,
21 of every short firearm listed in the inventory required by (a) of
22 this subsection, that has been neither traded nor auctioned. The
23 state treasurer shall credit the fees to the firearms range account
24 established in RCW 79A.25.210. All trades or auctions of firearms
25 under this subsection shall be to licensed dealers. Proceeds of any
26 auction less costs, including actual costs of storage and sale, shall
27 be forwarded to the firearms range account established in RCW
28 79A.25.210.

29 (c) Antique firearms and firearms recognized as curios, relics,
30 and firearms of particular historical significance by the United
31 States treasury department bureau of alcohol, tobacco, (~~and~~)
32 firearms, and explosives are exempt from destruction and shall be
33 disposed of by auction or trade to licensed dealers.

34 (d) Firearms in the possession of the Washington state patrol on
35 or after May 7, 1993, that are judicially forfeited and no longer
36 needed for evidence, or forfeited due to a failure to make a claim
37 under RCW 63.35.020, must be disposed of as follows: (i) Firearms
38 illegal for any person to possess must be destroyed; (ii) the
39 Washington state patrol may retain a maximum of ten percent of legal
40 firearms for agency use; and (iii) all other legal firearms must be

1 auctioned or traded to licensed dealers. The Washington state patrol
2 may retain any proceeds of an auction or trade.

3 (3) The court shall order the firearm returned to the owner upon
4 a showing that there is no probable cause to believe a violation of
5 subsection (1) of this section existed or the firearm was stolen from
6 the owner or the owner neither had knowledge of nor consented to the
7 act or omission involving the firearm which resulted in its
8 forfeiture.

9 (4) A law enforcement officer of the state or of any county or
10 municipality may confiscate a firearm found to be in the possession
11 of a person under circumstances specified in subsection (1) of this
12 section. After confiscation, the firearm shall not be surrendered
13 except: (a) To the prosecuting attorney for use in subsequent legal
14 proceedings; (b) for disposition according to an order of a court
15 having jurisdiction as provided in subsection (1) of this section; or
16 (c) to the owner if the proceedings are dismissed or as directed in
17 subsection (3) of this section.

18
19

PART III
REPEALERS

20 NEW SECTION. **Sec. 301.** The following acts or parts of acts, as
21 now existing or hereafter amended, are each repealed, effective April
22 1, 2017:

23 (1) RCW 70.96A.095 (Age of consent—Outpatient treatment of minors
24 for chemical dependency) and 1998 c 296 s 23, 1996 c 133 s 34, 1995 c
25 312 s 47, 1991 c 364 s 9, & 1989 c 270 s 24;

26 (2) RCW 70.96A.096 (Notice to parents, school contacts for
27 referring students to inpatient treatment) and 1996 c 133 s 5;

28 (3) RCW 70.96A.097 (Review of admission and inpatient treatment
29 of minors—Determination of medical necessity—Department review—
30 Minor declines necessary treatment—At-risk youth petition—Costs—
31 Public funds) and 1998 c 296 s 28 & 1995 c 312 s 48;

32 (4) RCW 70.96A.110 (Voluntary treatment of individuals with a
33 substance use disorder) and 2014 c 225 s 28, 1990 c 151 s 7, 1989 c
34 270 s 25, & 1972 ex.s. c 122 s 11;

35 (5) RCW 70.96A.120 (Treatment programs and facilities—Admissions
36 —Peace officer duties—Protective custody) and 1991 c 290 s 6, 1990 c

1 151 s 8, 1989 c 271 s 306, 1987 c 439 s 13, 1977 ex.s. c 62 s 1, 1974
2 ex.s. c 175 s 1, & 1972 ex.s. c 122 s 12;

3 (6) RCW 70.96A.140 (Involuntary commitment) and 2015 c ... s 103
4 (section 103 of this act), 2014 c 225 s 29, 2001 c 13 s 3, 1995 c 312
5 s 49, 1993 c 362 s 1, 1991 c 364 s 10, 1990 c 151 s 3, 1989 c 271 s
6 307, 1987 c 439 s 14, 1977 ex.s. c 129 s 1, 1974 ex.s. c 175 s 2, &
7 1972 ex.s. c 122 s 14;

8 (7) RCW 70.96A.141 (Joinder of petitions for commitment) and 2005
9 c 504 s 304;

10 (8) RCW 70.96A.142 (Evaluation by designated chemical dependency
11 specialist—When required—Required notifications) and 2004 c 166 s
12 15;

13 (9) RCW 70.96A.145 (Involuntary commitment proceedings—
14 Prosecuting attorney may represent specialist or program) and 2015
15 c ... s 104 (section 104 of this act) & 1993 c 137 s 1;

16 (10) RCW 70.96A.148 (Detention, commitment duties—Designation of
17 county designated mental health professional) and 2001 c 13 s 4;

18 (11) RCW 70.96A.155 (Court-ordered treatment—Required
19 notifications) and 2004 c 166 s 13;

20 (12) RCW 70.96A.157 (Persons subject to court-ordered treatment
21 or supervision—Documentation) and 2005 c 504 s 508;

22 (13) RCW 70.96A.160 (Visitation and communication with patients)
23 and 1989 c 270 s 29 & 1972 ex.s. c 122 s 16;

24 (14) RCW 70.96A.180 (Payment for treatment—Financial ability of
25 patients) and 2012 c 117 s 413, 1990 c 151 s 6, 1989 c 270 s 31, &
26 1972 ex.s. c 122 s 18;

27 (15) RCW 70.96A.230 (Minor—When outpatient treatment provider
28 must give notice to parents) and 1998 c 296 s 24;

29 (16) RCW 70.96A.235 (Minor—Parental consent for inpatient
30 treatment—Exception) and 1998 c 296 s 25;

31 (17) RCW 70.96A.240 (Minor—Parent not liable for payment unless
32 consented to treatment—No right to public funds) and 1998 c 296 s 26;

33 (18) RCW 70.96A.245 (Minor—Parent may request determination
34 whether minor has chemical dependency requiring inpatient treatment—
35 Minor consent not required—Duties and obligations of professional
36 person and facility) and 1998 c 296 s 27;

37 (19) RCW 70.96A.250 (Minor—Parent may request determination
38 whether minor has chemical dependency requiring outpatient treatment—

1 Consent of minor not required—Discharge of minor) and 1998 c 296 s
2 29;

3 (20) RCW 70.96A.255 (Minor—Petition to superior court for release
4 from facility) and 1998 c 296 s 30;

5 (21) RCW 70.96A.260 (Minor—Not released by petition under RCW
6 70.96A.255—Release within thirty days—Professional may initiate
7 proceedings to stop release) and 1998 c 296 s 31;

8 (22) RCW 70.96A.265 (Minor—Eligibility for medical assistance
9 under chapter 74.09 RCW—Payment by department) and 1998 c 296 s 32;

10 (23) RCW 70.96B.010 (Definitions) and 2014 c 225 s 74, 2011 c 89
11 s 10, 2008 c 320 s 3, & 2005 c 504 s 202;

12 (24) RCW 70.96B.020 (Selection of areas for pilot programs—Pilot
13 program requirements) and 2014 c 225 s 75 & 2005 c 504 s 203;

14 (25) RCW 70.96B.030 (Designated crisis responder—Qualifications)
15 and 2014 c 225 s 76 & 2005 c 504 s 204;

16 (26) RCW 70.96B.040 (Powers of designated crisis responder) and
17 2005 c 504 s 205;

18 (27) RCW 70.96B.045 (Emergency custody—Procedure) and 2007 c 120
19 s 2;

20 (28) RCW 70.96B.050 (Petition for initial detention—Order to
21 detain for evaluation and treatment period—Procedure) and 2008 c 320
22 s 5, 2007 c 120 s 1, & 2005 c 504 s 206;

23 (29) RCW 70.96B.060 (Exemption from liability) and 2005 c 504 s
24 207;

25 (30) RCW 70.96B.070 (Detention period for evaluation and
26 treatment) and 2005 c 504 s 208;

27 (31) RCW 70.96B.080 (Detention for evaluation and treatment of
28 mental disorder—Chapter 71.05 RCW applies) and 2005 c 504 s 209;

29 (32) RCW 70.96B.090 (Procedures for additional chemical
30 dependency treatment) and 2005 c 504 s 210;

31 (33) RCW 70.96B.100 (Detention for involuntary chemical
32 dependency treatment—Petition for less restrictive treatment—
33 Appearance before court—Representation—Hearing—Less restrictive
34 order—Failure to adhere to terms of less restrictive order) and 2008
35 c 320 s 6 & 2005 c 504 s 211;

36 (34) RCW 70.96B.110 (Involuntary chemical dependency treatment
37 proceedings—Prosecuting attorney shall represent petitioner) and 2005
38 c 504 s 212;

1 (35) RCW 70.96B.120 (Rights of involuntarily detained persons)
2 and 2005 c 504 s 213;
3 (36) RCW 70.96B.130 (Evaluation by designated crisis responder—
4 When required—Required notifications) and 2005 c 504 s 214;
5 (37) RCW 70.96B.140 (Secretary may adopt rules) and 2005 c 504 s
6 215;
7 (38) RCW 70.96B.150 (Application of RCW 71.05.550) and 2005 c 504
8 s 216;
9 (39) RCW 70.96B.800 (Evaluation of pilot programs—Reports) and
10 2008 c 320 s 2 & 2005 c 504 s 217; and
11 (40) RCW 71.05.032 (Joinder of petitions for commitment) and 2005
12 c 504 s 115.

13 **PART IV**
14 **CORRECTIONS TO REFERENCES**

15 **Sec. 401.** RCW 4.24.558 and 2004 c 166 s 21 are each amended to
16 read as follows:

17 Information shared and actions taken without gross negligence and
18 in good faith compliance with RCW 71.05.445, 72.09.585,
19 ((70.96A.142,)) 71.05.157, or 72.09.315 are not a basis for any
20 private civil cause of action.

21 **Sec. 402.** RCW 5.60.060 and 2012 c 29 s 12 are each amended to
22 read as follows:

23 (1) A spouse or domestic partner shall not be examined for or
24 against his or her spouse or domestic partner, without the consent of
25 the spouse or domestic partner; nor can either during marriage or
26 during the domestic partnership or afterward, be without the consent
27 of the other, examined as to any communication made by one to the
28 other during the marriage or the domestic partnership. But this
29 exception shall not apply to a civil action or proceeding by one
30 against the other, nor to a criminal action or proceeding for a crime
31 committed by one against the other, nor to a criminal action or
32 proceeding against a spouse or domestic partner if the marriage or
33 the domestic partnership occurred subsequent to the filing of formal
34 charges against the defendant, nor to a criminal action or proceeding
35 for a crime committed by said spouse or domestic partner against any
36 child of whom said spouse or domestic partner is the parent or

1 guardian, nor to a proceeding under chapter ((70.96A, 70.96B,))
2 71.05((7)) or 71.09 RCW: PROVIDED, That the spouse or the domestic
3 partner of a person sought to be detained under chapter ((70.96A,
4 70.96B,)) 71.05((7)) or 71.09 RCW may not be compelled to testify and
5 shall be so informed by the court prior to being called as a witness.

6 (2)(a) An attorney or counselor shall not, without the consent of
7 his or her client, be examined as to any communication made by the
8 client to him or her, or his or her advice given thereon in the
9 course of professional employment.

10 (b) A parent or guardian of a minor child arrested on a criminal
11 charge may not be examined as to a communication between the child
12 and his or her attorney if the communication was made in the presence
13 of the parent or guardian. This privilege does not extend to
14 communications made prior to the arrest.

15 (3) A member of the clergy, a Christian Science practitioner
16 listed in the Christian Science Journal, or a priest shall not,
17 without the consent of a person making the confession or sacred
18 confidence, be examined as to any confession or sacred confidence
19 made to him or her in his or her professional character, in the
20 course of discipline enjoined by the church to which he or she
21 belongs.

22 (4) Subject to the limitations under RCW ((70.96A.140—~~or~~))
23 71.05.360 (8) and (9), a physician or surgeon or osteopathic
24 physician or surgeon or podiatric physician or surgeon shall not,
25 without the consent of his or her patient, be examined in a civil
26 action as to any information acquired in attending such patient,
27 which was necessary to enable him or her to prescribe or act for the
28 patient, except as follows:

29 (a) In any judicial proceedings regarding a child's injury,
30 neglect, or sexual abuse or the cause thereof; and

31 (b) Ninety days after filing an action for personal injuries or
32 wrongful death, the claimant shall be deemed to waive the physician-
33 patient privilege. Waiver of the physician-patient privilege for any
34 one physician or condition constitutes a waiver of the privilege as
35 to all physicians or conditions, subject to such limitations as a
36 court may impose pursuant to court rules.

37 (5) A public officer shall not be examined as a witness as to
38 communications made to him or her in official confidence, when the
39 public interest would suffer by the disclosure.

1 (6)(a) A peer support group counselor shall not, without consent
2 of the law enforcement officer or firefighter making the
3 communication, be compelled to testify about any communication made
4 to the counselor by the officer or firefighter while receiving
5 counseling. The counselor must be designated as such by the sheriff,
6 police chief, fire chief, or chief of the Washington state patrol,
7 prior to the incident that results in counseling. The privilege only
8 applies when the communication was made to the counselor while acting
9 in his or her capacity as a peer support group counselor. The
10 privilege does not apply if the counselor was an initial responding
11 officer or firefighter, a witness, or a party to the incident which
12 prompted the delivery of peer support group counseling services to
13 the law enforcement officer or firefighter.

14 (b) For purposes of this section, "peer support group counselor"
15 means a:

16 (i) Law enforcement officer, firefighter, civilian employee of a
17 law enforcement agency, or civilian employee of a fire department,
18 who has received training to provide emotional and moral support and
19 counseling to an officer or firefighter who needs those services as a
20 result of an incident in which the officer or firefighter was
21 involved while acting in his or her official capacity; or

22 (ii) Nonemployee counselor who has been designated by the
23 sheriff, police chief, fire chief, or chief of the Washington state
24 patrol to provide emotional and moral support and counseling to an
25 officer or firefighter who needs those services as a result of an
26 incident in which the officer or firefighter was involved while
27 acting in his or her official capacity.

28 (7) A sexual assault advocate may not, without the consent of the
29 victim, be examined as to any communication made between the victim
30 and the sexual assault advocate.

31 (a) For purposes of this section, "sexual assault advocate" means
32 the employee or volunteer from a community sexual assault program or
33 underserved populations provider, victim assistance unit, program, or
34 association, that provides information, medical or legal advocacy,
35 counseling, or support to victims of sexual assault, who is
36 designated by the victim to accompany the victim to the hospital or
37 other health care facility and to proceedings concerning the alleged
38 assault, including police and prosecution interviews and court
39 proceedings.

1 (b) A sexual assault advocate may disclose a confidential
2 communication without the consent of the victim if failure to
3 disclose is likely to result in a clear, imminent risk of serious
4 physical injury or death of the victim or another person. Any sexual
5 assault advocate participating in good faith in the disclosing of
6 records and communications under this section shall have immunity
7 from any liability, civil, criminal, or otherwise, that might result
8 from the action. In any proceeding, civil or criminal, arising out of
9 a disclosure under this section, the good faith of the sexual assault
10 advocate who disclosed the confidential communication shall be
11 presumed.

12 (8) A domestic violence advocate may not, without the consent of
13 the victim, be examined as to any communication between the victim
14 and the domestic violence advocate.

15 (a) For purposes of this section, "domestic violence advocate"
16 means an employee or supervised volunteer from a community-based
17 domestic violence program or human services program that provides
18 information, advocacy, counseling, crisis intervention, emergency
19 shelter, or support to victims of domestic violence and who is not
20 employed by, or under the direct supervision of, a law enforcement
21 agency, a prosecutor's office, or the child protective services
22 section of the department of social and health services as defined in
23 RCW 26.44.020.

24 (b) A domestic violence advocate may disclose a confidential
25 communication without the consent of the victim if failure to
26 disclose is likely to result in a clear, imminent risk of serious
27 physical injury or death of the victim or another person. This
28 section does not relieve a domestic violence advocate from the
29 requirement to report or cause to be reported an incident under RCW
30 26.44.030(1) or to disclose relevant records relating to a child as
31 required by RCW 26.44.030(~~(+12)~~) (14). Any domestic violence
32 advocate participating in good faith in the disclosing of
33 communications under this subsection is immune from liability, civil,
34 criminal, or otherwise, that might result from the action. In any
35 proceeding, civil or criminal, arising out of a disclosure under this
36 subsection, the good faith of the domestic violence advocate who
37 disclosed the confidential communication shall be presumed.

38 (9) A mental health counselor, independent clinical social
39 worker, or marriage and family therapist licensed under chapter
40 18.225 RCW may not disclose, or be compelled to testify about, any

1 information acquired from persons consulting the individual in a
2 professional capacity when the information was necessary to enable
3 the individual to render professional services to those persons
4 except:

5 (a) With the written authorization of that person or, in the case
6 of death or disability, the person's personal representative;

7 (b) If the person waives the privilege by bringing charges
8 against the mental health counselor licensed under chapter 18.225
9 RCW;

10 (c) In response to a subpoena from the secretary of health. The
11 secretary may subpoena only records related to a complaint or report
12 under RCW 18.130.050;

13 (d) As required under chapter 26.44 or 74.34 RCW or RCW 71.05.360
14 (8) and (9); or

15 (e) To any individual if the mental health counselor, independent
16 clinical social worker, or marriage and family therapist licensed
17 under chapter 18.225 RCW reasonably believes that disclosure will
18 avoid or minimize an imminent danger to the health or safety of the
19 individual or any other individual; however, there is no obligation
20 on the part of the provider to so disclose.

21 **Sec. 403.** RCW 9.41.280 and 2014 c 225 s 56 are each amended to
22 read as follows:

23 (1) It is unlawful for a person to carry onto, or to possess on,
24 public or private elementary or secondary school premises, school-
25 provided transportation, or areas of facilities while being used
26 exclusively by public or private schools:

27 (a) Any firearm;

28 (b) Any other dangerous weapon as defined in RCW 9.41.250;

29 (c) Any device commonly known as "nun-chu-ka sticks," consisting
30 of two or more lengths of wood, metal, plastic, or similar substance
31 connected with wire, rope, or other means;

32 (d) Any device, commonly known as "throwing stars," which are
33 multipointed, metal objects designed to embed upon impact from any
34 aspect;

35 (e) Any air gun, including any air pistol or air rifle, designed
36 to propel a BB, pellet, or other projectile by the discharge of
37 compressed air, carbon dioxide, or other gas; or

38 (f)(i) Any portable device manufactured to function as a weapon
39 and which is commonly known as a stun gun, including a projectile

1 stun gun which projects wired probes that are attached to the device
2 that emit an electrical charge designed to administer to a person or
3 an animal an electric shock, charge, or impulse; or

4 (ii) Any device, object, or instrument which is used or intended
5 to be used as a weapon with the intent to injure a person by an
6 electric shock, charge, or impulse.

7 (2) Any such person violating subsection (1) of this section is
8 guilty of a gross misdemeanor. If any person is convicted of a
9 violation of subsection (1)(a) of this section, the person shall have
10 his or her concealed pistol license, if any revoked for a period of
11 three years. Anyone convicted under this subsection is prohibited
12 from applying for a concealed pistol license for a period of three
13 years. The court shall send notice of the revocation to the
14 department of licensing, and the city, town, or county which issued
15 the license.

16 Any violation of subsection (1) of this section by elementary or
17 secondary school students constitutes grounds for expulsion from the
18 state's public schools in accordance with RCW 28A.600.010. An
19 appropriate school authority shall promptly notify law enforcement
20 and the student's parent or guardian regarding any allegation or
21 indication of such violation.

22 Upon the arrest of a person at least twelve years of age and not
23 more than twenty-one years of age for violating subsection (1)(a) of
24 this section, the person shall be detained or confined in a juvenile
25 or adult facility for up to seventy-two hours. The person shall not
26 be released within the seventy-two hours until after the person has
27 been examined and evaluated by the designated (~~mental health~~
28 ~~professional~~) crisis responder unless the court in its discretion
29 releases the person sooner after a determination regarding probable
30 cause or on probation bond or bail.

31 Within twenty-four hours of the arrest, the arresting law
32 enforcement agency shall refer the person to the designated (~~mental~~
33 ~~health professional~~) crisis responder for examination and evaluation
34 under chapter 71.05 or 71.34 RCW and inform a parent or guardian of
35 the person of the arrest, detention, and examination. The designated
36 (~~mental health professional~~) crisis responder shall examine and
37 evaluate the person subject to the provisions of chapter 71.05 or
38 71.34 RCW. The examination shall occur at the facility in which the
39 person is detained or confined. If the person has been released on

1 probation, bond, or bail, the examination shall occur wherever is
2 appropriate.

3 ~~((The designated mental health professional may determine whether
4 to refer the person to the county designated chemical dependency
5 specialist for examination and evaluation in accordance with chapter
6 70.96A RCW. The county designated chemical dependency specialist
7 shall examine the person subject to the provisions of chapter 70.96A
8 RCW. The examination shall occur at the facility in which the person
9 is detained or confined. If the person has been released on
10 probation, bond, or bail, the examination shall occur wherever is
11 appropriate.))~~

12 Upon completion of any examination by the designated ~~((mental
13 health professional or the county designated chemical dependency
14 specialist))~~ crisis responder, the results of the examination shall
15 be sent to the court, and the court shall consider those results in
16 making any determination about the person.

17 The designated ~~((mental health professional and county designated
18 chemical dependency specialist))~~ crisis responder shall, to the
19 extent permitted by law, notify a parent or guardian of the person
20 that an examination and evaluation has taken place and the results of
21 the examination. Nothing in this subsection prohibits the delivery of
22 additional, appropriate mental health examinations to the person
23 while the person is detained or confined.

24 If the designated ~~((mental health professional))~~ crisis responder
25 determines it is appropriate, the designated ~~((mental health
26 professional))~~ crisis responder may refer the person to the local
27 behavioral health organization for follow-up services or the
28 department of social and health services or other community providers
29 for other services to the family and individual.

30 (3) Subsection (1) of this section does not apply to:

31 (a) Any student or employee of a private military academy when on
32 the property of the academy;

33 (b) Any person engaged in military, law enforcement, or school
34 district security activities. However, a person who is not a
35 commissioned law enforcement officer and who provides school security
36 services under the direction of a school administrator may not
37 possess a device listed in subsection (1)(f) of this section unless
38 he or she has successfully completed training in the use of such
39 devices that is equivalent to the training received by commissioned
40 law enforcement officers;

1 (c) Any person who is involved in a convention, showing,
2 demonstration, lecture, or firearms safety course authorized by
3 school authorities in which the firearms of collectors or instructors
4 are handled or displayed;

5 (d) Any person while the person is participating in a firearms or
6 air gun competition approved by the school or school district;

7 (e) Any person in possession of a pistol who has been issued a
8 license under RCW 9.41.070, or is exempt from the licensing
9 requirement by RCW 9.41.060, while picking up or dropping off a
10 student;

11 (f) Any nonstudent at least eighteen years of age legally in
12 possession of a firearm or dangerous weapon that is secured within an
13 attended vehicle or concealed from view within a locked unattended
14 vehicle while conducting legitimate business at the school;

15 (g) Any nonstudent at least eighteen years of age who is in
16 lawful possession of an unloaded firearm, secured in a vehicle while
17 conducting legitimate business at the school; or

18 (h) Any law enforcement officer of the federal, state, or local
19 government agency.

20 (4) Subsections (1)(c) and (d) of this section do not apply to
21 any person who possesses nun-chu-ka sticks, throwing stars, or other
22 dangerous weapons to be used in martial arts classes authorized to be
23 conducted on the school premises.

24 (5) Subsection (1)(f)(i) of this section does not apply to any
25 person who possesses a device listed in subsection (1)(f)(i) of this
26 section, if the device is possessed and used solely for the purpose
27 approved by a school for use in a school authorized event, lecture,
28 or activity conducted on the school premises.

29 (6) Except as provided in subsection (3)(b), (c), (f), and (h) of
30 this section, firearms are not permitted in a public or private
31 school building.

32 (7) "GUN-FREE ZONE" signs shall be posted around school
33 facilities giving warning of the prohibition of the possession of
34 firearms on school grounds.

35 **Sec. 404.** RCW 9.95.143 and 2004 c 166 s 10 are each amended to
36 read as follows:

37 When an offender receiving court-ordered mental health or
38 chemical dependency treatment or treatment ordered by the department
39 of corrections presents for treatment from a mental health or

1 chemical dependency treatment provider, the offender must disclose to
2 the mental health or chemical dependency treatment provider whether
3 he or she is subject to supervision by the department of corrections.
4 If an offender has received relief from disclosure pursuant to RCW
5 9.94A.562(~~(, 70.96A.155,)~~) or 71.05.132, the offender must provide
6 the mental health or chemical dependency treatment provider with a
7 copy of the order granting the relief.

8 **Sec. 405.** RCW 10.77.010 and 2014 c 225 s 58 are each amended to
9 read as follows:

10 As used in this chapter:

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

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

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

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

24 (5) "Department" means the state department of social and health
25 services.

26 (6) "Designated (~~(mental health professional)~~) crisis responder"
27 has the same meaning as provided in RCW 71.05.020.

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

30 (8) "Developmental disabilities professional" means a person who
31 has specialized training and three years of experience in directly
32 treating or working with persons with developmental disabilities and
33 is a psychiatrist or psychologist, or a social worker, and such other
34 developmental disabilities professionals as may be defined by rules
35 adopted by the secretary.

36 (9) "Developmental disability" means the condition as defined in
37 RCW 71A.10.020(~~(+4)~~) (5).

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

4 (11) "Furlough" means an authorized leave of absence for a
5 resident of a state institution operated by the department designated
6 for the custody, care, and treatment of the criminally insane,
7 consistent with an order of conditional release from the court under
8 this chapter, without any requirement that the resident be
9 accompanied by, or be in the custody of, any law enforcement or
10 institutional staff, while on such unescorted leave.

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

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

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

26 (15) "Incompetency" means a person lacks the capacity to
27 understand the nature of the proceedings against him or her or to
28 assist in his or her own defense as a result of mental disease or
29 defect.

30 (16) "Indigent" means any person who is financially unable to
31 obtain counsel or other necessary expert or professional services
32 without causing substantial hardship to the person or his or her
33 family.

34 (17) "Individualized service plan" means a plan prepared by a
35 developmental disabilities professional with other professionals as a
36 team, for an individual with developmental disabilities, which shall
37 state:

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

1 (b) The conditions and strategies necessary to achieve the
2 purposes of habilitation;

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

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

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

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

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

14 (18) "Professional person" means:

15 (a) A psychiatrist licensed as a physician and surgeon in this
16 state who has, in addition, completed three years of graduate
17 training in psychiatry in a program approved by the American medical
18 association or the American osteopathic association and is certified
19 or eligible to be certified by the American board of psychiatry and
20 neurology or the American osteopathic board of neurology and
21 psychiatry;

22 (b) A psychologist licensed as a psychologist pursuant to chapter
23 18.83 RCW; or

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

27 (19) "Registration records" include all the records of the
28 department, behavioral health organizations, treatment facilities,
29 and other persons providing services to the department, county
30 departments, or facilities which identify persons who are receiving
31 or who at any time have received services for mental illness.

32 (20) "Release" means legal termination of the court-ordered
33 commitment under the provisions of this chapter.

34 (21) "Secretary" means the secretary of the department of social
35 and health services or his or her designee.

36 (22) "Treatment" means any currently standardized medical or
37 mental health procedure including medication.

38 (23) "Treatment records" include registration and all other
39 records concerning persons who are receiving or who at any time have
40 received services for mental illness, which are maintained by the

1 department, by behavioral health organizations and their staffs, and
2 by treatment facilities. Treatment records do not include notes or
3 records maintained for personal use by a person providing treatment
4 services for the department, behavioral health organizations, or a
5 treatment facility if the notes or records are not available to
6 others.

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

17 **Sec. 406.** RCW 10.77.025 and 2000 c 94 s 13 are each amended to
18 read as follows:

19 (1) Whenever any person has been: (a) Committed to a correctional
20 facility or inpatient treatment under any provision of this chapter;
21 or (b) ordered to undergo alternative treatment following his or her
22 acquittal by reason of insanity of a crime charged, such commitment
23 or treatment cannot exceed the maximum possible penal sentence for
24 any offense charged for which the person was committed, or was
25 acquitted by reason of insanity.

26 (2) Whenever any person committed under any provision of this
27 chapter has not been released within seven days of the maximum
28 possible penal sentence under subsection (1) of this section, and the
29 professional person in charge of the facility believes that the
30 person presents a likelihood of serious harm or is gravely disabled
31 due to a mental disorder, the professional person shall, prior to the
32 expiration of the maximum penal sentence, notify the appropriate
33 ((county)) designated ((~~mental health professional~~)) crisis responder
34 of the impending expiration and provide a copy of all relevant
35 information regarding the person, including the likely release date
36 and shall indicate why the person should not be released.

37 (3) A ((county)) designated ((~~mental health professional~~)) crisis
38 responder who receives notice and records under subsection (2) of
39 this section shall, prior to the date of the expiration of the

1 maximum sentence, determine whether to initiate proceedings under
2 chapter 71.05 RCW.

3 **Sec. 407.** RCW 10.77.027 and 2004 c 166 s 3 are each amended to
4 read as follows:

5 When a ((county)) designated ((~~mental health professional~~))
6 crisis responder or a professional person has determined that a
7 person has a mental disorder, and is otherwise committable, the cause
8 of the person's mental disorder shall not make the person ineligible
9 for commitment under chapter 71.05 RCW.

10 **Sec. 408.** RCW 10.77.060 and 2012 c 256 s 3 are each amended to
11 read as follows:

12 (1)(a) Whenever a defendant has pleaded not guilty by reason of
13 insanity, or there is reason to doubt his or her competency, the
14 court on its own motion or on the motion of any party shall either
15 appoint or request the secretary to designate a qualified expert or
16 professional person, who shall be approved by the prosecuting
17 attorney, to evaluate and report upon the mental condition of the
18 defendant.

19 (b) The signed order of the court shall serve as authority for
20 the evaluator to be given access to all records held by any mental
21 health, medical, educational, or correctional facility that relate to
22 the present or past mental, emotional, or physical condition of the
23 defendant. If the court is advised by any party that the defendant
24 may have a developmental disability, the evaluation must be performed
25 by a developmental disabilities professional.

26 (c) The evaluator shall assess the defendant in a jail, detention
27 facility, in the community, or in court to determine whether a period
28 of inpatient commitment will be necessary to complete an accurate
29 evaluation. If inpatient commitment is needed, the signed order of
30 the court shall serve as authority for the evaluator to request the
31 jail or detention facility to transport the defendant to a hospital
32 or secure mental health facility for a period of commitment not to
33 exceed fifteen days from the time of admission to the facility.
34 Otherwise, the evaluator shall complete the evaluation.

35 (d) The court may commit the defendant for evaluation to a
36 hospital or secure mental health facility without an assessment if:
37 (i) The defendant is charged with murder in the first or second
38 degree; (ii) the court finds that it is more likely than not that an

1 evaluation in the jail will be inadequate to complete an accurate
2 evaluation; or (iii) the court finds that an evaluation outside the
3 jail setting is necessary for the health, safety, or welfare of the
4 defendant. The court shall not order an initial inpatient evaluation
5 for any purpose other than a competency evaluation.

6 (e) The order shall indicate whether, in the event the defendant
7 is committed to a hospital or secure mental health facility for
8 evaluation, all parties agree to waive the presence of the defendant
9 or to the defendant's remote participation at a subsequent competency
10 hearing or presentation of an agreed order if the recommendation of
11 the evaluator is for continuation of the stay of criminal
12 proceedings, or if the opinion of the evaluator is that the defendant
13 remains incompetent and there is no remaining restoration period, and
14 the hearing is held prior to the expiration of the authorized
15 commitment period.

16 (f) When a defendant is ordered to be committed for inpatient
17 evaluation under this subsection (1), the court may delay granting
18 bail until the defendant has been evaluated for competency or sanity
19 and appears before the court. Following the evaluation, in
20 determining bail the court shall consider: (i) Recommendations of the
21 evaluator regarding the defendant's competency, sanity, or diminished
22 capacity; (ii) whether the defendant has a recent history of one or
23 more violent acts; (iii) whether the defendant has previously been
24 acquitted by reason of insanity or found incompetent; (iv) whether it
25 is reasonably likely the defendant will fail to appear for a future
26 court hearing; and (v) whether the defendant is a threat to public
27 safety.

28 (2) The court may direct that a qualified expert or professional
29 person retained by or appointed for the defendant be permitted to
30 witness the evaluation authorized by subsection (1) of this section,
31 and that the defendant shall have access to all information obtained
32 by the court appointed experts or professional persons. The
33 defendant's expert or professional person shall have the right to
34 file his or her own report following the guidelines of subsection (3)
35 of this section. If the defendant is indigent, the court shall upon
36 the request of the defendant assist him or her in obtaining an expert
37 or professional person.

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

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

1 (b) A diagnosis or description of the current mental status of
2 the defendant;

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

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

17 (e) When directed by the court, if an evaluation and report by an
18 expert or professional person has been provided concluding that the
19 defendant lacked the capacity at the time of the offense to form the
20 mental state necessary to commit the charged offense, an opinion as
21 to the capacity of the defendant to have a particular state of mind
22 which is an element of the offense charged;

23 (f) An opinion as to whether the defendant should be evaluated by
24 a designated (~~mental health professional~~) crisis responder under
25 chapter 71.05 RCW.

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

29 **Sec. 409.** RCW 10.77.065 and 2014 c 225 s 59 and 2014 c 10 s 3
30 are each reenacted and amended to read as follows:

31 (1)(a)(i) The expert conducting the evaluation shall provide his
32 or her report and recommendation to the court in which the criminal
33 proceeding is pending. For a competency evaluation of a defendant who
34 is released from custody, if the evaluation cannot be completed
35 within twenty-one days due to a lack of cooperation by the defendant,
36 the evaluator shall notify the court that he or she is unable to
37 complete the evaluation because of such lack of cooperation.

38 (ii) A copy of the report and recommendation shall be provided to
39 the designated (~~mental health professional~~) crisis responder, the

1 prosecuting attorney, the defense attorney, and the professional
2 person at the local correctional facility where the defendant is
3 being held, or if there is no professional person, to the person
4 designated under (a)(iv) of this subsection. Upon request, the
5 evaluator shall also provide copies of any source documents relevant
6 to the evaluation to the designated (~~mental health professional~~)
7 crisis responder.

8 (iii) Any facility providing inpatient services related to
9 competency shall discharge the defendant as soon as the facility
10 determines that the defendant is competent to stand trial. Discharge
11 shall not be postponed during the writing and distribution of the
12 evaluation report. Distribution of an evaluation report by a facility
13 providing inpatient services shall ordinarily be accomplished within
14 two working days or less following the final evaluation of the
15 defendant. If the defendant is discharged to the custody of a local
16 correctional facility, the local correctional facility must continue
17 the medication regimen prescribed by the facility, when clinically
18 appropriate, unless the defendant refuses to cooperate with
19 medication and an involuntary medication order by the court has not
20 been entered.

21 (iv) If there is no professional person at the local correctional
22 facility, the local correctional facility shall designate a
23 professional person as defined in RCW 71.05.020 or, in cooperation
24 with the behavioral health organization, a professional person at the
25 behavioral health organization to receive the report and
26 recommendation.

27 (v) Upon commencement of a defendant's evaluation in the local
28 correctional facility, the local correctional facility must notify
29 the evaluator of the name of the professional person, or person
30 designated under (a)(iv) of this subsection, to receive the report
31 and recommendation.

32 (b) If the evaluator concludes, under RCW 10.77.060(3)(f), the
33 person should be evaluated by a designated (~~mental health~~
34 ~~professional~~) crisis responder under chapter 71.05 RCW, the court
35 shall order such evaluation be conducted prior to release from
36 confinement when the person is acquitted or convicted and sentenced
37 to confinement for twenty-four months or less, or when charges are
38 dismissed pursuant to a finding of incompetent to stand trial.

39 (2) The designated (~~mental health professional~~) crisis
40 responder shall provide written notification within twenty-four hours

1 of the results of the determination whether to commence proceedings
2 under chapter 71.05 RCW. The notification shall be provided to the
3 persons identified in subsection (1)(a) of this section.

4 (3) The prosecuting attorney shall provide a copy of the results
5 of any proceedings commenced by the designated (~~mental health~~
6 ~~professional~~) crisis responder under subsection (2) of this section
7 to the secretary.

8 (4) A facility conducting a civil commitment evaluation under RCW
9 10.77.086(4) or 10.77.088(1)(b)(ii) that makes a determination to
10 release the person instead of filing a civil commitment petition must
11 provide written notice to the prosecutor and defense attorney at
12 least twenty-four hours prior to release. The notice may be given by
13 electronic mail, facsimile, or other means reasonably likely to
14 communicate the information immediately.

15 (5) The fact of admission and all information and records
16 compiled, obtained, or maintained in the course of providing services
17 under this chapter may also be disclosed to the courts solely to
18 prevent the entry of any evaluation or treatment order that is
19 inconsistent with any order entered under chapter 71.05 RCW.

20 **Sec. 410.** RCW 10.77.084 and 2012 c 256 s 5 are each amended to
21 read as follows:

22 (1)(a) If at any time during the pendency of an action and prior
23 to judgment the court finds, following a report as provided in RCW
24 10.77.060, a defendant is incompetent, the court shall order the
25 proceedings against the defendant be stayed except as provided in
26 subsection (4) of this section.

27 (b) At the end of the mental health treatment and restoration
28 period, if any, or at any time a professional person determines
29 competency has been, or is unlikely to be, restored, the defendant
30 shall be returned to court for a hearing. The parties may agree to
31 waive the defendant's presence or to remote participation by the
32 defendant at a hearing or presentation of an agreed order if the
33 recommendation of the evaluator is for the continuation of the stay
34 of criminal proceedings, or if the opinion of the evaluator is that
35 the defendant remains incompetent and there is no remaining
36 restoration period, and the hearing is held prior to expiration of
37 the defendant's authorized period of commitment, in which case the
38 department shall promptly notify the court and parties of the date of
39 the defendant's admission and expiration of commitment so that a

1 timely hearing date may be scheduled. If, after notice and hearing,
2 competency has been restored, the stay entered under (a) of this
3 subsection shall be lifted. If competency has not been restored, the
4 proceedings shall be dismissed without prejudice. If the court
5 concludes that competency has not been restored, but that further
6 treatment within the time limits established by RCW 10.77.086 or
7 10.77.088 is likely to restore competency, the court may order that
8 treatment for purposes of competency restoration be continued. Such
9 treatment may not extend beyond the combination of time provided for
10 in RCW 10.77.086 or 10.77.088.

11 (c) If at any time during the proceeding the court finds,
12 following notice and hearing, a defendant is not likely to regain
13 competency, the proceedings shall be dismissed without prejudice and
14 the defendant shall be evaluated for civil commitment proceedings.

15 (2) If the defendant is referred for evaluation by a designated
16 (~~(mental health professional)~~) crisis responder under this chapter,
17 the designated (~~(mental health professional)~~) crisis responder shall
18 provide prompt written notification of the results of the evaluation
19 and whether the person was detained. The notification shall be
20 provided to the court in which the criminal action was pending, the
21 prosecutor, the defense attorney in the criminal action, and the
22 facility that evaluated the defendant for competency.

23 (3) The fact that the defendant is unfit to proceed does not
24 preclude any pretrial proceedings which do not require the personal
25 participation of the defendant.

26 (4) A defendant receiving medication for either physical or
27 mental problems shall not be prohibited from standing trial, if the
28 medication either enables the defendant to understand the proceedings
29 against him or her and to assist in his or her own defense, or does
30 not disable him or her from so understanding and assisting in his or
31 her own defense.

32 (5) At or before the conclusion of any commitment period provided
33 for by this section, the facility providing evaluation and treatment
34 shall provide to the court a written report of evaluation which meets
35 the requirements of RCW 10.77.060(3). For defendants charged with a
36 felony, the report following the second competency restoration period
37 or first competency restoration period if the defendant's
38 incompetence is determined to be solely due to a developmental
39 disability or the evaluator concludes that the defendant is not
40 likely to regain competency must include an assessment of the

1 defendant's future dangerousness which is evidence-based regarding
2 predictive validity.

3 **Sec. 411.** RCW 10.77.088 and 2007 c 375 s 5 are each amended to
4 read as follows:

5 (1)(a) If the defendant is charged with a nonfelony crime which
6 is a serious offense as identified in RCW 10.77.092 and found by the
7 court to be not competent, then the court shall order the secretary
8 to place the defendant:

9 (i) At a secure mental health facility in the custody of the
10 department or an agency designated by the department for mental
11 health treatment and restoration of competency. The placement shall
12 not exceed fourteen days in addition to any unused time of the
13 evaluation under RCW 10.77.060. The court shall compute this total
14 period and include its computation in the order. The fourteen-day
15 period plus any unused time of the evaluation under RCW 10.77.060
16 shall be considered to include only the time the defendant is
17 actually at the facility and shall be in addition to reasonable time
18 for transport to or from the facility;

19 (ii) On conditional release for up to ninety days for mental
20 health treatment and restoration of competency; or

21 (iii) Any combination of this subsection.

22 (b)(i) If the proceedings are dismissed under RCW 10.77.084 and
23 the defendant was on conditional release at the time of dismissal,
24 the court shall order the designated (~~mental health professional~~)
25 crisis responder within that county to evaluate the defendant
26 pursuant to chapter 71.05 RCW. The evaluation may be conducted in any
27 location chosen by the professional.

28 (ii) If the defendant was in custody and not on conditional
29 release at the time of dismissal, the defendant shall be detained and
30 sent to an evaluation and treatment facility for up to seventy-two
31 hours, excluding Saturdays, Sundays, and holidays, for evaluation for
32 purposes of filing a petition under chapter 71.05 RCW. The seventy-
33 two-hour period shall commence upon the next nonholiday weekday
34 following the court order and shall run to the end of the last
35 nonholiday weekday within the seventy-two-hour period.

36 (2) If the defendant is charged with a nonfelony crime that is
37 not a serious offense as defined in RCW 10.77.092:

38 The court may stay or dismiss proceedings and detain the
39 defendant for sufficient time to allow the designated (~~mental health~~

1 ~~professional~~) crisis responder to evaluate the defendant and
2 consider initial detention proceedings under chapter 71.05 RCW. The
3 court must give notice to all parties at least twenty-four hours
4 before the dismissal of any proceeding under this subsection, and
5 provide an opportunity for a hearing on whether to dismiss the
6 proceedings.

7 **Sec. 412.** RCW 11.92.190 and 1996 c 249 s 11 are each amended to
8 read as follows:

9 No residential treatment facility which provides nursing or other
10 care may detain a person within such facility against their will. Any
11 court order, other than an order issued in accordance with the
12 involuntary treatment provisions of chapters 10.77, 71.05, and 72.23
13 RCW, which purports to authorize such involuntary detention or
14 purports to authorize a guardian or limited guardian to consent to
15 such involuntary detention on behalf of an incapacitated person shall
16 be void and of no force or effect. This section does not apply to the
17 detention of a minor as provided in chapter (~~(70.96A or)~~) 71.34 RCW.

18 Nothing in this section shall be construed to require a court
19 order authorizing placement of an incapacitated person in a
20 residential treatment facility if such order is not otherwise
21 required by law: PROVIDED, That notice of any residential placement
22 of an incapacitated person shall be served, either before or after
23 placement, by the guardian or limited guardian on such person, the
24 guardian ad litem of record, and any attorney of record.

25 **Sec. 413.** RCW 13.32A.044 and 2000 c 123 s 5 are each amended to
26 read as follows:

27 (1) The purpose of the multidisciplinary team is to assist in a
28 coordinated referral of the family to available social and health-
29 related services.

30 (2) The team shall have the authority to evaluate the juvenile,
31 and family members, if appropriate and agreed to by the parent, and
32 shall:

33 (a) With parental input, develop a plan of appropriate available
34 services and assist the family in obtaining those services;

35 (b) Make a referral to the designated (~~(chemical dependency~~
36 ~~specialist or the county designated mental health professional)~~)
37 crisis responder, if appropriate;

1 (c) Recommend no further intervention because the juvenile and
2 his or her family have resolved the problem causing the family
3 conflict; or

4 (d) With the parent's consent, work with them to achieve
5 reconciliation of the child and family.

6 (3) At the first meeting of the multidisciplinary team, it shall
7 choose a member to coordinate the team's efforts. The parent member
8 of the multidisciplinary team must agree with the choice of
9 coordinator. The team shall meet or communicate as often as necessary
10 to assist the family.

11 (4) The coordinator of the multidisciplinary team may assist in
12 filing a child in need of services petition when requested by the
13 parent or child or an at-risk youth petition when requested by the
14 parent. The multidisciplinary team shall have no standing as a party
15 in any action under this title.

16 (5) If the administrator is unable to contact the child's parent,
17 the multidisciplinary team may be used for assistance. If the parent
18 has not been contacted within five days the administrator shall
19 contact the department and request the case be reviewed for a
20 dependency filing under chapter 13.34 RCW.

21 **Sec. 414.** RCW 18.83.110 and 2005 c 504 s 706 are each amended to
22 read as follows:

23 Confidential communications between a client and a psychologist
24 shall be privileged against compulsory disclosure to the same extent
25 and subject to the same conditions as confidential communications
26 between attorney and client, but this exception is subject to the
27 limitations under RCW (~~(70.96A.140 and)~~) 71.05.360 (8) and (9).

28 **Sec. 415.** RCW 43.20A.025 and 1998 c 296 s 34 are each amended to
29 read as follows:

30 The department of social and health services shall adopt rules
31 defining "appropriately trained professional person" for the purposes
32 of conducting mental health and chemical dependency evaluations under
33 RCW (~~((71.34.052(3), 71.34.054(1), 70.96A.245(3), and 70.96A.250(1))~~)
34 71.34.600(3) and 71.34.650(1)).

35 **Sec. 416.** RCW 70.02.010 and 2014 c 225 s 70 and 2014 c 220 s 4
36 are each reenacted and amended to read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1) "Admission" has the same meaning as in RCW 71.05.020.

4 (2) "Audit" means an assessment, evaluation, determination, or
5 investigation of a health care provider by a person not employed by
6 or affiliated with the provider to determine compliance with:

7 (a) Statutory, regulatory, fiscal, medical, or scientific
8 standards;

9 (b) A private or public program of payments to a health care
10 provider; or

11 (c) Requirements for licensing, accreditation, or certification.

12 (3) "Commitment" has the same meaning as in RCW 71.05.020.

13 (4) "Custody" has the same meaning as in RCW 71.05.020.

14 (5) "Deidentified" means health information that does not
15 identify an individual and with respect to which there is no
16 reasonable basis to believe that the information can be used to
17 identify an individual.

18 (6) "Department" means the department of social and health
19 services.

20 (7) "Designated (~~(mental health professional)~~) crisis responder"
21 has the same meaning as in RCW 71.05.020 or 71.34.020, as applicable.

22 (8) "Detention" or "detain" has the same meaning as in RCW
23 71.05.020.

24 (9) "Directory information" means information disclosing the
25 presence, and for the purpose of identification, the name, location
26 within a health care facility, and the general health condition of a
27 particular patient who is a patient in a health care facility or who
28 is currently receiving emergency health care in a health care
29 facility.

30 (10) "Discharge" has the same meaning as in RCW 71.05.020.

31 (11) "Evaluation and treatment facility" has the same meaning as
32 in RCW 71.05.020 or 71.34.020, as applicable.

33 (12) "Federal, state, or local law enforcement authorities" means
34 an officer of any agency or authority in the United States, a state,
35 a tribe, a territory, or a political subdivision of a state, a tribe,
36 or a territory who is empowered by law to: (a) Investigate or conduct
37 an official inquiry into a potential criminal violation of law; or
38 (b) prosecute or otherwise conduct a criminal proceeding arising from
39 an alleged violation of law.

1 (13) "General health condition" means the patient's health status
2 described in terms of "critical," "poor," "fair," "good,"
3 "excellent," or terms denoting similar conditions.

4 (14) "Health care" means any care, service, or procedure provided
5 by a health care provider:

6 (a) To diagnose, treat, or maintain a patient's physical or
7 mental condition; or

8 (b) That affects the structure or any function of the human body.

9 (15) "Health care facility" means a hospital, clinic, nursing
10 home, laboratory, office, or similar place where a health care
11 provider provides health care to patients.

12 (16) "Health care information" means any information, whether
13 oral or recorded in any form or medium, that identifies or can
14 readily be associated with the identity of a patient and directly
15 relates to the patient's health care, including a patient's
16 deoxyribonucleic acid and identified sequence of chemical base pairs.
17 The term includes any required accounting of disclosures of health
18 care information.

19 (17) "Health care operations" means any of the following
20 activities of a health care provider, health care facility, or third-
21 party payor to the extent that the activities are related to
22 functions that make an entity a health care provider, a health care
23 facility, or a third-party payor:

24 (a) Conducting: Quality assessment and improvement activities,
25 including outcomes evaluation and development of clinical guidelines,
26 if the obtaining of generalizable knowledge is not the primary
27 purpose of any studies resulting from such activities; population-
28 based activities relating to improving health or reducing health care
29 costs, protocol development, case management and care coordination,
30 contacting of health care providers and patients with information
31 about treatment alternatives; and related functions that do not
32 include treatment;

33 (b) Reviewing the competence or qualifications of health care
34 professionals, evaluating practitioner and provider performance and
35 third-party payor performance, conducting training programs in which
36 students, trainees, or practitioners in areas of health care learn
37 under supervision to practice or improve their skills as health care
38 providers, training of nonhealth care professionals, accreditation,
39 certification, licensing, or credentialing activities;

1 (c) Underwriting, premium rating, and other activities relating
2 to the creation, renewal, or replacement of a contract of health
3 insurance or health benefits, and ceding, securing, or placing a
4 contract for reinsurance of risk relating to claims for health care,
5 including stop-loss insurance and excess of loss insurance, if any
6 applicable legal requirements are met;

7 (d) Conducting or arranging for medical review, legal services,
8 and auditing functions, including fraud and abuse detection and
9 compliance programs;

10 (e) Business planning and development, such as conducting cost-
11 management and planning-related analyses related to managing and
12 operating the health care facility or third-party payor, including
13 formulary development and administration, development, or improvement
14 of methods of payment or coverage policies; and

15 (f) Business management and general administrative activities of
16 the health care facility, health care provider, or third-party payor
17 including, but not limited to:

18 (i) Management activities relating to implementation of and
19 compliance with the requirements of this chapter;

20 (ii) Customer service, including the provision of data analyses
21 for policy holders, plan sponsors, or other customers, provided that
22 health care information is not disclosed to such policy holder, plan
23 sponsor, or customer;

24 (iii) Resolution of internal grievances;

25 (iv) The sale, transfer, merger, or consolidation of all or part
26 of a health care provider, health care facility, or third-party payor
27 with another health care provider, health care facility, or third-
28 party payor or an entity that following such activity will become a
29 health care provider, health care facility, or third-party payor, and
30 due diligence related to such activity; and

31 (v) Consistent with applicable legal requirements, creating
32 deidentified health care information or a limited dataset for the
33 benefit of the health care provider, health care facility, or third-
34 party payor.

35 (18) "Health care provider" means a person who is licensed,
36 certified, registered, or otherwise authorized by the law of this
37 state to provide health care in the ordinary course of business or
38 practice of a profession.

39 (19) "Human immunodeficiency virus" or "HIV" has the same meaning
40 as in RCW 70.24.017.

1 (20) "Imminent" has the same meaning as in RCW 71.05.020.

2 (21) "Information and records related to mental health services"
3 means a type of health care information that relates to all
4 information and records compiled, obtained, or maintained in the
5 course of providing services by a mental health service agency or
6 mental health professional to persons who are receiving or have
7 received services for mental illness. The term includes mental health
8 information contained in a medical bill, registration records, as
9 defined in RCW 71.05.020, and all other records regarding the person
10 maintained by the department, by regional support networks and their
11 staff, and by treatment facilities. The term further includes
12 documents of legal proceedings under chapter 71.05, 71.34, or 10.77
13 RCW, or somatic health care information. For health care information
14 maintained by a hospital as defined in RCW 70.41.020 or a health care
15 facility or health care provider that participates with a hospital in
16 an organized health care arrangement defined under federal law,
17 "information and records related to mental health services" is
18 limited to information and records of services provided by a mental
19 health professional or information and records of services created by
20 a hospital-operated community mental health program as defined in RCW
21 71.24.025(6). The term does not include psychotherapy notes.

22 (22) "Information and records related to sexually transmitted
23 diseases" means a type of health care information that relates to the
24 identity of any person upon whom an HIV antibody test or other
25 sexually transmitted infection test is performed, the results of such
26 tests, and any information relating to diagnosis of or treatment for
27 any confirmed sexually transmitted infections.

28 (23) "Institutional review board" means any board, committee, or
29 other group formally designated by an institution, or authorized
30 under federal or state law, to review, approve the initiation of, or
31 conduct periodic review of research programs to assure the protection
32 of the rights and welfare of human research subjects.

33 (24) "Legal counsel" has the same meaning as in RCW 71.05.020.

34 (25) "Local public health officer" has the same meaning as in RCW
35 70.24.017.

36 (26) "Maintain," as related to health care information, means to
37 hold, possess, preserve, retain, store, or control that information.

38 (27) "Mental health professional" means a psychiatrist,
39 psychologist, psychiatric advanced registered nurse practitioner,
40 psychiatric nurse, or social worker, and such other mental health

1 professionals as may be defined by rules adopted by the secretary of
2 social and health services under chapter 71.05 RCW, whether that
3 person works in a private or public setting.

4 (28) "Mental health service agency" means a public or private
5 agency that provides services to persons with mental disorders as
6 defined under RCW 71.05.020 or 71.34.020 and receives funding from
7 public sources. This includes evaluation and treatment facilities as
8 defined in RCW 71.34.020, community mental health service delivery
9 systems, or community mental health programs, as defined in RCW
10 71.24.025, and facilities conducting competency evaluations and
11 restoration under chapter 10.77 RCW.

12 (29) "Minor" has the same meaning as in RCW 71.34.020.

13 (30) "Parent" has the same meaning as in RCW 71.34.020.

14 (31) "Patient" means an individual who receives or has received
15 health care. The term includes a deceased individual who has received
16 health care.

17 (32) "Payment" means:

18 (a) The activities undertaken by:

19 (i) A third-party payor to obtain premiums or to determine or
20 fulfill its responsibility for coverage and provision of benefits by
21 the third-party payor; or

22 (ii) A health care provider, health care facility, or third-party
23 payor, to obtain or provide reimbursement for the provision of health
24 care; and

25 (b) The activities in (a) of this subsection that relate to the
26 patient to whom health care is provided and that include, but are not
27 limited to:

28 (i) Determinations of eligibility or coverage, including
29 coordination of benefits or the determination of cost-sharing
30 amounts, and adjudication or subrogation of health benefit claims;

31 (ii) Risk adjusting amounts due based on enrollee health status
32 and demographic characteristics;

33 (iii) Billing, claims management, collection activities,
34 obtaining payment under a contract for reinsurance, including stop-
35 loss insurance and excess of loss insurance, and related health care
36 data processing;

37 (iv) Review of health care services with respect to medical
38 necessity, coverage under a health plan, appropriateness of care, or
39 justification of charges;

1 (v) Utilization review activities, including precertification and
2 preauthorization of services, and concurrent and retrospective review
3 of services; and

4 (vi) Disclosure to consumer reporting agencies of any of the
5 following health care information relating to collection of premiums
6 or reimbursement:

7 (A) Name and address;

8 (B) Date of birth;

9 (C) Social security number;

10 (D) Payment history;

11 (E) Account number; and

12 (F) Name and address of the health care provider, health care
13 facility, and/or third-party payor.

14 (33) "Person" means an individual, corporation, business trust,
15 estate, trust, partnership, association, joint venture, government,
16 governmental subdivision or agency, or any other legal or commercial
17 entity.

18 (34) "Professional person" has the same meaning as in RCW
19 71.05.020.

20 (35) "Psychiatric advanced registered nurse practitioner" has the
21 same meaning as in RCW 71.05.020.

22 (36) "Psychotherapy notes" means notes recorded, in any medium,
23 by a mental health professional documenting or analyzing the contents
24 of conversations during a private counseling session or group, joint,
25 or family counseling session, and that are separated from the rest of
26 the individual's medical record. The term excludes mediation
27 prescription and monitoring, counseling session start and stop times,
28 the modalities and frequencies of treatment furnished, results of
29 clinical tests, and any summary of the following items: Diagnosis,
30 functional status, the treatment plan, symptoms, prognosis, and
31 progress to date.

32 (37) "Reasonable fee" means the charges for duplicating or
33 searching the record, but shall not exceed sixty-five cents per page
34 for the first thirty pages and fifty cents per page for all other
35 pages. In addition, a clerical fee for searching and handling may be
36 charged not to exceed fifteen dollars. These amounts shall be
37 adjusted biennially in accordance with changes in the consumer price
38 index, all consumers, for Seattle-Tacoma metropolitan statistical
39 area as determined by the secretary of health. However, where editing
40 of records by a health care provider is required by statute and is

1 done by the provider personally, the fee may be the usual and
2 customary charge for a basic office visit.

3 (38) "Release" has the same meaning as in RCW 71.05.020.

4 (39) "Resource management services" has the same meaning as in
5 RCW 71.05.020.

6 (40) "Serious violent offense" has the same meaning as in RCW
7 71.05.020.

8 (41) "Sexually transmitted infection" or "sexually transmitted
9 disease" has the same meaning as "sexually transmitted disease" in
10 RCW 70.24.017.

11 (42) "Test for a sexually transmitted disease" has the same
12 meaning as in RCW 70.24.017.

13 (43) "Third-party payor" means an insurer regulated under Title
14 48 RCW authorized to transact business in this state or other
15 jurisdiction, including a health care service contractor, and health
16 maintenance organization; or an employee welfare benefit plan,
17 excluding fitness or wellness plans; or a state or federal health
18 benefit program.

19 (44) "Treatment" means the provision, coordination, or management
20 of health care and related services by one or more health care
21 providers or health care facilities, including the coordination or
22 management of health care by a health care provider or health care
23 facility with a third party; consultation between health care
24 providers or health care facilities relating to a patient; or the
25 referral of a patient for health care from one health care provider
26 or health care facility to another.

27 **Sec. 417.** RCW 70.02.230 and 2014 c 225 s 71 and 2014 c 220 s 9
28 are each reenacted and amended to read as follows:

29 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
30 70.96A.150, 74.09.295, 70.02.210, 70.02.240, 70.02.250, and
31 70.02.260, or pursuant to a valid authorization under RCW 70.02.030,
32 the fact of admission to a provider for mental health services and
33 all information and records compiled, obtained, or maintained in the
34 course of providing mental health services to either voluntary or
35 involuntary recipients of services at public or private agencies must
36 be confidential.

37 (2) Information and records related to mental health services,
38 other than those obtained through treatment under chapter 71.34 RCW,
39 may be disclosed only:

1 (a) In communications between qualified professional persons to
2 meet the requirements of chapter 71.05 RCW, in the provision of
3 services or appropriate referrals, or in the course of guardianship
4 proceedings if provided to a professional person:

5 (i) Employed by the facility;

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

7 (iii) Who is a designated (~~mental health professional~~) crisis
8 responder;

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

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

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

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

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

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

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

27 (B) A statement evaluating the mental and physical condition of
28 the patient, and a statement of the probable duration of the
29 patient's confinement, if such information is requested by the next
30 of kin, attorney, personal representative, guardian, or conservator;
31 and

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

35 (d)(i) To the courts as necessary to the administration of
36 chapter 71.05 RCW or to a court ordering an evaluation or treatment
37 under chapter 10.77 RCW solely for the purpose of preventing the
38 entry of any evaluation or treatment order that is inconsistent with
39 any order entered under chapter 71.05 RCW.

1 (ii) To a court or its designee in which a motion under chapter
2 10.77 RCW has been made for involuntary medication of a defendant for
3 the purpose of competency restoration.

4 (iii) Disclosure under this subsection is mandatory for the
5 purpose of the federal health insurance portability and
6 accountability act;

7 (e)(i) When a mental health professional or designated crisis
8 responder is requested by a representative of a law enforcement or
9 corrections agency, including a police officer, sheriff, community
10 corrections officer, a municipal attorney, or prosecuting attorney to
11 undertake an investigation or provide treatment under RCW 71.05.150,
12 10.31.110, or 71.05.153, the mental health professional or designated
13 crisis responder shall, if requested to do so, advise the
14 representative in writing of the results of the investigation
15 including a statement of reasons for the decision to detain or
16 release the person investigated. The written report must be submitted
17 within seventy-two hours of the completion of the investigation or
18 the request from the law enforcement or corrections representative,
19 whichever occurs later.

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

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

24 (g) To the prosecuting attorney as necessary to carry out the
25 responsibilities of the office under RCW 71.05.330(2),
26 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
27 access to records regarding the committed person's treatment and
28 prognosis, medication, behavior problems, and other records relevant
29 to the issue of whether treatment less restrictive than inpatient
30 treatment is in the best interest of the committed person or others.
31 Information must be disclosed only after giving notice to the
32 committed person and the person's counsel;

33 (h)(i) To appropriate law enforcement agencies and to a person,
34 when the identity of the person is known to the public or private
35 agency, whose health and safety has been threatened, or who is known
36 to have been repeatedly harassed, by the patient. The person may
37 designate a representative to receive the disclosure. The disclosure
38 must be made by the professional person in charge of the public or
39 private agency or his or her designee and must include the dates of
40 commitment, admission, discharge, or release, authorized or

1 unauthorized absence from the agency's facility, and only any other
2 information that is pertinent to the threat or harassment. The agency
3 or its employees are not civilly liable for the decision to disclose
4 or not, so long as the decision was reached in good faith and without
5 gross negligence.

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

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

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

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

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

27 (l) To mark headstones or otherwise memorialize patients interred
28 at state hospital cemeteries. The department of social and health
29 services shall make available the name, date of birth, and date of
30 death of patients buried in state hospital cemeteries fifty years
31 after the death of a patient;

32 (m) To law enforcement officers and to prosecuting attorneys as
33 are necessary to enforce RCW 9.41.040(2)(a)((~~ii~~)) (iii). The extent
34 of information that may be released is limited as follows:

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

1 (ii) The law enforcement and prosecuting attorneys may only
2 release the information obtained to the person's attorney as required
3 by court rule and to a jury or judge, if a jury is waived, that
4 presides over any trial at which the person is charged with violating
5 RCW 9.41.040(2)(a)(~~(ii)~~) (iii);

6 (iii) Disclosure under this subsection is mandatory for the
7 purposes of the federal health insurance portability and
8 accountability act;

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

20 (o) Pursuant to lawful order of a court;

21 (p) To qualified staff members of the department, to the director
22 of behavioral health organizations, to resource management services
23 responsible for serving a patient, or to service providers designated
24 by resource management services as necessary to determine the
25 progress and adequacy of treatment and to determine whether the
26 person should be transferred to a less restrictive or more
27 appropriate treatment modality or facility;

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

33 (r) Within the department as necessary to coordinate treatment
34 for mental illness, developmental disabilities, alcoholism, or drug
35 abuse of persons who are under the supervision of the department;

36 (s) To a licensed physician or psychiatric advanced registered
37 nurse practitioner who has determined that the life or health of the
38 person is in danger and that treatment without the information and
39 records related to mental health services could be injurious to the

1 patient's health. Disclosure must be limited to the portions of the
2 records necessary to meet the medical emergency;

3 (t) Consistent with the requirements of the federal health
4 information portability and accountability act, to a licensed mental
5 health professional or a health care professional licensed under
6 chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is
7 providing care to a person, or to whom a person has been referred for
8 evaluation or treatment, to assure coordinated care and treatment of
9 that person. Psychotherapy notes may not be released without
10 authorization of the person who is the subject of the request for
11 release of information;

12 (u) To administrative and office support staff designated to
13 obtain medical records for those licensed professionals listed in (t)
14 of this subsection;

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

25 (w) To the person's counsel or guardian ad litem, without
26 modification, at any time in order to prepare for involuntary
27 commitment or recommitment proceedings, reexaminations, appeals, or
28 other actions relating to detention, admission, commitment, or
29 patient's rights under chapter 71.05 RCW;

30 (x) To staff members of the protection and advocacy agency or to
31 staff members of a private, nonprofit corporation for the purpose of
32 protecting and advocating the rights of persons with mental disorders
33 or developmental disabilities. Resource management services may limit
34 the release of information to the name, birthdate, and county of
35 residence of the patient, information regarding whether the patient
36 was voluntarily admitted, or involuntarily committed, the date and
37 place of admission, placement, or commitment, the name and address of
38 a guardian of the patient, and the date and place of the guardian's
39 appointment. Any staff member who wishes to obtain additional
40 information must notify the patient's resource management services in

1 writing of the request and of the resource management services' right
2 to object. The staff member shall send the notice by mail to the
3 guardian's address. If the guardian does not object in writing within
4 fifteen days after the notice is mailed, the staff member may obtain
5 the additional information. If the guardian objects in writing within
6 fifteen days after the notice is mailed, the staff member may not
7 obtain the additional information;

8 (y) To all current treating providers of the patient with
9 prescriptive authority who have written a prescription for the
10 patient within the last twelve months. For purposes of coordinating
11 health care, the department may release without written authorization
12 of the patient, information acquired for billing and collection
13 purposes as described in RCW 70.02.050(1)(d). The department shall
14 notify the patient that billing and collection information has been
15 released to named providers, and provide the substance of the
16 information released and the dates of such release. The department
17 may not release counseling, inpatient psychiatric hospitalization, or
18 drug and alcohol treatment information without a signed written
19 release from the client;

20 (z)(i) To the secretary of social and health services for either
21 program evaluation or research, or both so long as the secretary
22 adopts rules for the conduct of the evaluation or research, or both.
23 Such rules must include, but need not be limited to, the requirement
24 that all evaluators and researchers sign an oath of confidentiality
25 substantially as follows:

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

33 I recognize that unauthorized release of confidential information
34 may subject me to civil liability under the provisions of state law.
35 /s/"

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

1 (3) Whenever federal law or federal regulations restrict the
2 release of information contained in the information and records
3 related to mental health services of any patient who receives
4 treatment for chemical dependency, the department may restrict the
5 release of the information as necessary to comply with federal law
6 and regulations.

7 (4) Civil liability and immunity for the release of information
8 about a particular person who is committed to the department of
9 social and health services under RCW 71.05.280(3) and 71.05.320(3)(c)
10 after dismissal of a sex offense as defined in RCW 9.94A.030, is
11 governed by RCW 4.24.550.

12 (5) The fact of admission to a provider of mental health
13 services, as well as all records, files, evidence, findings, or
14 orders made, prepared, collected, or maintained pursuant to chapter
15 71.05 RCW are not admissible as evidence in any legal proceeding
16 outside that chapter without the written authorization of the person
17 who was the subject of the proceeding except as provided in RCW
18 70.02.260, in a subsequent criminal prosecution of a person committed
19 pursuant to RCW 71.05.280(3) or 71.05.320(3)(c) on charges that were
20 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand
21 trial, in a civil commitment proceeding pursuant to chapter 71.09
22 RCW, or, in the case of a minor, a guardianship or dependency
23 proceeding. The records and files maintained in any court proceeding
24 pursuant to chapter 71.05 RCW must be confidential and available
25 subsequent to such proceedings only to the person who was the subject
26 of the proceeding or his or her attorney. In addition, the court may
27 order the subsequent release or use of such records or files only
28 upon good cause shown if the court finds that appropriate safeguards
29 for strict confidentiality are and will be maintained.

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

35 (i) One thousand dollars; or

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

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

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

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

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

10 **Sec. 418.** RCW 70.48.475 and 2004 c 166 s 14 are each amended to
11 read as follows:

12 (1) A person having charge of a jail, or that person's designee,
13 shall notify the (~~county designated mental health professional or~~
14 ~~the designated chemical dependency specialist~~) designated crisis
15 responder seventy-two hours prior to the release to the community of
16 an offender or defendant who was subject to a discharge review under
17 RCW 71.05.232. If the person having charge of the jail does not
18 receive seventy-two hours notice of the release, the notification to
19 the (~~county designated mental health professional or the designated~~
20 ~~chemical dependency specialist~~) designated crisis responder shall be
21 made as soon as reasonably possible, but not later than the actual
22 release to the community of the defendant or offender.

23 (2) When a person having charge of a jail, or that person's
24 designee, releases an offender or defendant who was the subject of a
25 discharge review under RCW 71.05.232, the person having charge of a
26 jail, or that person's designee, shall notify the state hospital from
27 which the offender or defendant was released.

28 **Sec. 419.** RCW 70.97.010 and 2014 c 225 s 78 are each amended to
29 read as follows:

30 The definitions in this section apply throughout this chapter
31 unless the context clearly requires otherwise.

32 (1) "Antipsychotic medications" means that class of drugs
33 primarily used to treat serious manifestations of mental illness
34 associated with thought disorders, which includes but is not limited
35 to atypical antipsychotic medications.

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

1 (3) "Chemical dependency" means alcoholism, drug addiction, or
2 dependence on alcohol and one or more other psychoactive chemicals,
3 as the context requires and as those terms are defined in chapter
4 (~~(70.96A)~~) 71.05 RCW.

5 (4) "Chemical dependency professional" means a person certified
6 as a chemical dependency professional by the department of health
7 under chapter 18.205 RCW.

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

11 (6) "Conditional release" means a modification of a commitment
12 that may be revoked upon violation of any of its terms.

13 (7) "Custody" means involuntary detention under chapter 71.05
14 (~~(or 70.96A)~~) RCW, uninterrupted by any period of unconditional
15 release from commitment from a facility providing involuntary care
16 and treatment.

17 (8) "Department" means the department of social and health
18 services.

19 (9) "Designated crisis responder" (~~(means a designated mental~~
20 ~~health professional, a designated chemical dependency specialist, or~~
21 ~~a designated crisis responder as those terms are defined in chapter~~
22 ~~70.96A, 71.05, or 70.96B RCW)~~) has the same meaning as in chapter
23 71.05 RCW.

24 (10) "Detention" or "detain" means the lawful confinement of an
25 individual under chapter (~~(70.96A or)~~) 71.05 RCW.

26 (11) "Discharge" means the termination of facility authority. The
27 commitment may remain in place, be terminated, or be amended by court
28 order.

29 (12) "Enhanced services facility" means a facility that provides
30 treatment and services to persons for whom acute inpatient treatment
31 is not medically necessary and who have been determined by the
32 department to be inappropriate for placement in other licensed
33 facilities due to the complex needs that result in behavioral and
34 security issues.

35 (13) "Expanded community services program" means a nonsecure
36 program of enhanced behavioral and residential support provided to
37 long-term and residential care providers serving specifically
38 eligible clients who would otherwise be at risk for hospitalization
39 at state hospital geriatric units.

40 (14) "Facility" means an enhanced services facility.

1 (15) "Gravely disabled" means a condition in which an individual,
2 as a result of a mental disorder, as a result of the use of alcohol
3 or other psychoactive chemicals, or both:

4 (a) Is in danger of serious physical harm resulting from a
5 failure to provide for his or her essential human needs of health or
6 safety; or

7 (b) Manifests severe deterioration in routine functioning
8 evidenced by repeated and escalating loss of cognitive or volitional
9 control over his or her actions and is not receiving such care as is
10 essential for his or her health or safety.

11 (16) "History of one or more violent acts" refers to the period
12 of time ten years before the filing of a petition under this
13 chapter((7)) or chapter ((70.96A-07)) 71.05 RCW, excluding any time
14 spent, but not any violent acts committed, in a mental health
15 facility or a long-term alcoholism or drug treatment facility, or in
16 confinement as a result of a criminal conviction.

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

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

21 (a) A substantial risk that:

22 (i) Physical harm will be inflicted by an individual upon his or
23 her own person, as evidenced by threats or attempts to commit suicide
24 or inflict physical harm on oneself;

25 (ii) Physical harm will be inflicted by an individual upon
26 another, as evidenced by behavior that has caused such harm or that
27 places another person or persons in reasonable fear of sustaining
28 such harm; or

29 (iii) Physical harm will be inflicted by an individual upon the
30 property of others, as evidenced by behavior that has caused
31 substantial loss or damage to the property of others; or

32 (b) The individual has threatened the physical safety of another
33 and has a history of one or more violent acts.

34 (19) "Mental disorder" means any organic, mental, or emotional
35 impairment that has substantial adverse effects on an individual's
36 cognitive or volitional functions.

37 (20) "Mental health professional" means a psychiatrist,
38 psychologist, psychiatric nurse, or social worker, and such other
39 mental health professionals as may be defined by rules adopted by the
40 secretary under the authority of chapter 71.05 RCW.

1 (21) "Professional person" means a mental health professional and
2 also means a physician, registered nurse, and such others as may be
3 defined in rules adopted by the secretary pursuant to the provisions
4 of this chapter.

5 (22) "Psychiatrist" means a person having a license as a
6 physician and surgeon in this state who has in addition completed
7 three years of graduate training in psychiatry in a program approved
8 by the American medical association or the American osteopathic
9 association and is certified or eligible to be certified by the
10 American board of psychiatry and neurology.

11 (23) "Psychologist" means a person who has been licensed as a
12 psychologist under chapter 18.83 RCW.

13 (24) "Registration records" include all the records of the
14 department, behavioral health organizations, treatment facilities,
15 and other persons providing services to the department, county
16 departments, or facilities which identify individuals who are
17 receiving or who at any time have received services for mental
18 illness.

19 (25) "Release" means legal termination of the commitment under
20 chapter 70.96A or 71.05 RCW.

21 (26) "Resident" means a person admitted to an enhanced services
22 facility.

23 (27) "Secretary" means the secretary of the department or the
24 secretary's designee.

25 (28) "Significant change" means:

26 (a) A deterioration in a resident's physical, mental, or
27 psychosocial condition that has caused or is likely to cause clinical
28 complications or life-threatening conditions; or

29 (b) An improvement in the resident's physical, mental, or
30 psychosocial condition that may make the resident eligible for
31 release or for treatment in a less intensive or less secure setting.

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

35 (30) "Treatment" means the broad range of emergency,
36 detoxification, residential, inpatient, and outpatient services and
37 care, including diagnostic evaluation, mental health or chemical
38 dependency education and counseling, medical, psychiatric,
39 psychological, and social service care, vocational rehabilitation,
40 and career counseling, which may be extended to persons with mental

1 disorders, chemical dependency disorders, or both, and their
2 families.

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

12 (32) "Violent act" means behavior that resulted in homicide,
13 attempted suicide, nonfatal injuries, or substantial damage to
14 property.

15 **Sec. 420.** RCW 71.05.660 and 2013 c 200 s 21 are each amended to
16 read as follows:

17 Nothing in this chapter or chapter 70.02(~~(, 70.96A,)~~) or 71.34(~~(, 70.96B)~~)
18 ~~or 70.96B~~) RCW shall be construed to interfere with communications
19 between physicians, psychiatric advanced registered nurse
20 practitioners, or psychologists and patients and attorneys and
21 clients.

22 **Sec. 421.** RCW 71.24.025 and 2014 c 225 s 10 are each reenacted
23 and amended to read as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter.

26 (1) "Acutely mentally ill" means a condition which is limited to
27 a short-term severe crisis episode of:

28 (a) A mental disorder as defined in RCW 71.05.020 or, in the case
29 of a child, as defined in RCW 71.34.020;

30 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
31 case of a child, a gravely disabled minor as defined in RCW
32 71.34.020; or

33 (c) Presenting a likelihood of serious harm as defined in RCW
34 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

35 (2) "Available resources" means funds appropriated for the
36 purpose of providing community mental health programs, federal funds,
37 except those provided according to Title XIX of the Social Security
38 Act, and state funds appropriated under this chapter or chapter 71.05

1 RCW by the legislature during any biennium for the purpose of
2 providing residential services, resource management services,
3 community support services, and other mental health services. This
4 does not include funds appropriated for the purpose of operating and
5 administering the state psychiatric hospitals.

6 (3) "Behavioral health organization" means any county authority
7 or group of county authorities or other entity recognized by the
8 secretary in contract in a defined region.

9 (4) "Behavioral health services" means mental health services as
10 described in this chapter and chapter 71.36 RCW and chemical
11 dependency treatment services as described in chapter 70.96A RCW.

12 (5) "Child" means a person under the age of eighteen years.

13 (6) "Chronically mentally ill adult" or "adult who is chronically
14 mentally ill" means an adult who has a mental disorder and meets at
15 least one of the following criteria:

16 (a) Has undergone two or more episodes of hospital care for a
17 mental disorder within the preceding two years; or

18 (b) Has experienced a continuous psychiatric hospitalization or
19 residential treatment exceeding six months' duration within the
20 preceding year; or

21 (c) Has been unable to engage in any substantial gainful activity
22 by reason of any mental disorder which has lasted for a continuous
23 period of not less than twelve months. "Substantial gainful activity"
24 shall be defined by the department by rule consistent with Public Law
25 92-603, as amended.

26 (7) "Clubhouse" means a community-based program that provides
27 rehabilitation services and is certified by the department of social
28 and health services.

29 (8) "Community mental health program" means all mental health
30 services, activities, or programs using available resources.

31 (9) "Community mental health service delivery system" means
32 public, private, or tribal agencies that provide services
33 specifically to persons with mental disorders as defined under RCW
34 71.05.020 and receive funding from public sources.

35 (10) "Community support services" means services authorized,
36 planned, and coordinated through resource management services
37 including, at a minimum, assessment, diagnosis, emergency crisis
38 intervention available twenty-four hours, seven days a week,
39 prescreening determinations for persons who are mentally ill being
40 considered for placement in nursing homes as required by federal law,

1 screening for patients being considered for admission to residential
2 services, diagnosis and treatment for children who are acutely
3 mentally ill or severely emotionally disturbed discovered under
4 screening through the federal Title XIX early and periodic screening,
5 diagnosis, and treatment program, investigation, legal, and other
6 nonresidential services under chapter 71.05 RCW, case management
7 services, psychiatric treatment including medication supervision,
8 counseling, psychotherapy, assuring transfer of relevant patient
9 information between service providers, recovery services, and other
10 services determined by behavioral health organizations.

11 (11) "Consensus-based" means a program or practice that has
12 general support among treatment providers and experts, based on
13 experience or professional literature, and may have anecdotal or case
14 study support, or that is agreed but not possible to perform studies
15 with random assignment and controlled groups.

16 (12) "County authority" means the board of county commissioners,
17 county council, or county executive having authority to establish a
18 community mental health program, or two or more of the county
19 authorities specified in this subsection which have entered into an
20 agreement to provide a community mental health program.

21 (13) "Department" means the department of social and health
22 services.

23 (14) "Designated (~~(mental health professional)~~) crisis responder"
24 means a mental health professional designated by the county or other
25 authority authorized in rule to perform the duties specified in this
26 chapter.

27 (15) "Emerging best practice" or "promising practice" means a
28 program or practice that, based on statistical analyses or a well
29 established theory of change, shows potential for meeting the
30 evidence-based or research-based criteria, which may include the use
31 of a program that is evidence-based for outcomes other than those
32 listed in subsection (16) of this section.

33 (16) "Evidence-based" means a program or practice that has been
34 tested in heterogeneous or intended populations with multiple
35 randomized, or statistically controlled evaluations, or both; or one
36 large multiple site randomized, or statistically controlled
37 evaluation, or both, where the weight of the evidence from a systemic
38 review demonstrates sustained improvements in at least one outcome.
39 "Evidence-based" also means a program or practice that can be
40 implemented with a set of procedures to allow successful replication

1 in Washington and, when possible, is determined to be cost-
2 beneficial.

3 (17) "Licensed service provider" means an entity licensed
4 according to this chapter or chapter 71.05 (~~or 70.96A~~) RCW or an
5 entity deemed to meet state minimum standards as a result of
6 accreditation by a recognized behavioral health accrediting body
7 recognized and having a current agreement with the department, or
8 tribal attestation that meets state minimum standards, or persons
9 licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it
10 applies to registered nurses and advanced registered nurse
11 practitioners.

12 (18) "Long-term inpatient care" means inpatient services for
13 persons committed for, or voluntarily receiving intensive treatment
14 for, periods of ninety days or greater under chapter 71.05 RCW.
15 "Long-term inpatient care" as used in this chapter does not include:
16 (a) Services for individuals committed under chapter 71.05 RCW who
17 are receiving services pursuant to a conditional release or a court-
18 ordered less restrictive alternative to detention; or (b) services
19 for individuals voluntarily receiving less restrictive alternative
20 treatment on the grounds of the state hospital.

21 (19) "Mental health services" means all services provided by
22 behavioral health organizations and other services provided by the
23 state for persons who are mentally ill.

24 (20) "Mentally ill persons," "persons who are mentally ill," and
25 "the mentally ill" mean persons and conditions defined in subsections
26 (1), (6), (28), and (29) of this section.

27 (21) "Recovery" means the process in which people are able to
28 live, work, learn, and participate fully in their communities.

29 (22) "Registration records" include all the records of the
30 department, behavioral health organizations, treatment facilities,
31 and other persons providing services to the department, county
32 departments, or facilities which identify persons who are receiving
33 or who at any time have received services for mental illness.

34 (23) "Research-based" means a program or practice that has been
35 tested with a single randomized, or statistically controlled
36 evaluation, or both, demonstrating sustained desirable outcomes; or
37 where the weight of the evidence from a systemic review supports
38 sustained outcomes as described in subsection (16) of this section
39 but does not meet the full criteria for evidence-based.

1 (24) "Residential services" means a complete range of residences
2 and supports authorized by resource management services and which may
3 involve a facility, a distinct part thereof, or services which
4 support community living, for persons who are acutely mentally ill,
5 adults who are chronically mentally ill, children who are severely
6 emotionally disturbed, or adults who are seriously disturbed and
7 determined by the behavioral health organization to be at risk of
8 becoming acutely or chronically mentally ill. The services shall
9 include at least evaluation and treatment services as defined in
10 chapter 71.05 RCW, acute crisis respite care, long-term adaptive and
11 rehabilitative care, and supervised and supported living services,
12 and shall also include any residential services developed to service
13 persons who are mentally ill in nursing homes, assisted living
14 facilities, and adult family homes, and may include outpatient
15 services provided as an element in a package of services in a
16 supported housing model. Residential services for children in out-of-
17 home placements related to their mental disorder shall not include
18 the costs of food and shelter, except for children's long-term
19 residential facilities existing prior to January 1, 1991.

20 (25) "Resilience" means the personal and community qualities that
21 enable individuals to rebound from adversity, trauma, tragedy,
22 threats, or other stresses, and to live productive lives.

23 (26) "Resource management services" mean the planning,
24 coordination, and authorization of residential services and community
25 support services administered pursuant to an individual service plan
26 for: (a) Adults and children who are acutely mentally ill; (b) adults
27 who are chronically mentally ill; (c) children who are severely
28 emotionally disturbed; or (d) adults who are seriously disturbed and
29 determined solely by a behavioral health organization to be at risk
30 of becoming acutely or chronically mentally ill. Such planning,
31 coordination, and authorization shall include mental health screening
32 for children eligible under the federal Title XIX early and periodic
33 screening, diagnosis, and treatment program. Resource management
34 services include seven day a week, twenty-four hour a day
35 availability of information regarding enrollment of adults and
36 children who are mentally ill in services and their individual
37 service plan to designated (~~mental health professionals~~) crisis
38 responders, evaluation and treatment facilities, and others as
39 determined by the behavioral health organization.

1 (27) "Secretary" means the secretary of social and health
2 services.

3 (28) "Seriously disturbed person" means a person who:

4 (a) Is gravely disabled or presents a likelihood of serious harm
5 to himself or herself or others, or to the property of others, as a
6 result of a mental disorder as defined in chapter 71.05 RCW;

7 (b) Has been on conditional release status, or under a less
8 restrictive alternative order, at some time during the preceding two
9 years from an evaluation and treatment facility or a state mental
10 health hospital;

11 (c) Has a mental disorder which causes major impairment in
12 several areas of daily living;

13 (d) Exhibits suicidal preoccupation or attempts; or

14 (e) Is a child diagnosed by a mental health professional, as
15 defined in chapter 71.34 RCW, as experiencing a mental disorder which
16 is clearly interfering with the child's functioning in family or
17 school or with peers or is clearly interfering with the child's
18 personality development and learning.

19 (29) "Severely emotionally disturbed child" or "child who is
20 severely emotionally disturbed" means a child who has been determined
21 by the behavioral health organization to be experiencing a mental
22 disorder as defined in chapter 71.34 RCW, including those mental
23 disorders that result in a behavioral or conduct disorder, that is
24 clearly interfering with the child's functioning in family or school
25 or with peers and who meets at least one of the following criteria:

26 (a) Has undergone inpatient treatment or placement outside of the
27 home related to a mental disorder within the last two years;

28 (b) Has undergone involuntary treatment under chapter 71.34 RCW
29 within the last two years;

30 (c) Is currently served by at least one of the following child-
31 serving systems: Juvenile justice, child-protection/welfare, special
32 education, or developmental disabilities;

33 (d) Is at risk of escalating maladjustment due to:

34 (i) Chronic family dysfunction involving a caretaker who is
35 mentally ill or inadequate;

36 (ii) Changes in custodial adult;

37 (iii) Going to, residing in, or returning from any placement
38 outside of the home, for example, psychiatric hospital, short-term
39 inpatient, residential treatment, group or foster home, or a
40 correctional facility;

1 (iv) Subject to repeated physical abuse or neglect;

2 (v) Drug or alcohol abuse; or

3 (vi) Homelessness.

4 (30) "State minimum standards" means minimum requirements
5 established by rules adopted by the secretary and necessary to
6 implement this chapter for: (a) Delivery of mental health services;
7 (b) licensed service providers for the provision of mental health
8 services; (c) residential services; and (d) community support
9 services and resource management services.

10 (31) "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, by behavioral health organizations and their staffs, and
14 by treatment facilities. Treatment records do not include notes or
15 records maintained for personal use by a person providing treatment
16 services for the department, behavioral health organizations, or a
17 treatment facility if the notes or records are not available to
18 others.

19 (32) "Tribal authority," for the purposes of this section and RCW
20 71.24.300 only, means: The federally recognized Indian tribes and the
21 major Indian organizations recognized by the secretary insofar as
22 these organizations do not have a financial relationship with any
23 behavioral health organization that would present a conflict of
24 interest.

25 **Sec. 422.** RCW 71.24.045 and 2014 c 225 s 13 are each amended to
26 read as follows:

27 The behavioral health organization shall:

28 (1) Contract as needed with licensed service providers. The
29 behavioral health organization may, in the absence of a licensed
30 service provider entity, become a licensed service provider entity
31 pursuant to minimum standards required for licensing by the
32 department for the purpose of providing services not available from
33 licensed service providers;

34 (2) Operate as a licensed service provider if it deems that doing
35 so is more efficient and cost effective than contracting for
36 services. When doing so, the behavioral health organization shall
37 comply with rules promulgated by the secretary that shall provide
38 measurements to determine when a behavioral health organization
39 provided service is more efficient and cost effective;

1 (3) Monitor and perform biennial fiscal audits of licensed
2 service providers who have contracted with the behavioral health
3 organization to provide services required by this chapter. The
4 monitoring and audits shall be performed by means of a formal process
5 which insures that the licensed service providers and professionals
6 designated in this subsection meet the terms of their contracts;

7 (4) Establish reasonable limitations on administrative costs for
8 agencies that contract with the behavioral health organization;

9 (5) Assure that the special needs of minorities, older adults,
10 individuals with disabilities, children, and low-income persons are
11 met within the priorities established in this chapter;

12 (6) Maintain patient tracking information in a central location
13 as required for resource management services and the department's
14 information system;

15 (7) Collaborate to ensure that policies do not result in an
16 adverse shift of persons with mental illness into state and local
17 correctional facilities;

18 (8) Work with the department to expedite the enrollment or
19 reenrollment of eligible persons leaving state or local correctional
20 facilities and institutions for mental diseases;

21 (9) Work closely with the (~~county designated mental health~~
22 ~~professional or county~~) designated crisis responder to maximize
23 appropriate placement of persons into community services; and

24 (10) Coordinate services for individuals who have received
25 services through the community mental health system and who become
26 patients at a state psychiatric hospital to ensure they are
27 transitioned into the community in accordance with mutually agreed
28 upon discharge plans and upon determination by the medical director
29 of the state psychiatric hospital that they no longer need intensive
30 inpatient care.

31 **Sec. 423.** RCW 71.24.330 and 2014 c 225 s 51 are each amended to
32 read as follows:

33 (1)(a) Contracts between a behavioral health organization and the
34 department shall include mechanisms for monitoring performance under
35 the contract and remedies for failure to substantially comply with
36 the requirements of the contract including, but not limited to,
37 financial penalties, termination of the contract, and reprocurement
38 of the contract.

1 (b) The department shall incorporate the criteria to measure the
2 performance of service coordination organizations into contracts with
3 behavioral health organizations as provided in chapter 70.320 RCW.

4 (2) The behavioral health organization procurement processes
5 shall encourage the preservation of infrastructure previously
6 purchased by the community mental health service delivery system, the
7 maintenance of linkages between other services and delivery systems,
8 and maximization of the use of available funds for services versus
9 profits. However, a behavioral health organization selected through
10 the procurement process is not required to contract for services with
11 any county-owned or operated facility. The behavioral health
12 organization procurement process shall provide that public funds
13 appropriated by the legislature shall not be used to promote or
14 deter, encourage, or discourage employees from exercising their
15 rights under Title 29, chapter 7, subchapter II, United States Code
16 or chapter 41.56 RCW.

17 (3) In addition to the requirements of RCW 71.24.035, contracts
18 shall:

19 (a) Define administrative costs and ensure that the behavioral
20 health organization does not exceed an administrative cost of ten
21 percent of available funds;

22 (b) Require effective collaboration with law enforcement,
23 criminal justice agencies, and the chemical dependency treatment
24 system;

25 (c) Require substantial implementation of department adopted
26 integrated screening and assessment process and matrix of best
27 practices;

28 (d) Maintain the decision-making independence of designated
29 (~~mental health professionals~~) crisis responders;

30 (e) Except at the discretion of the secretary or as specified in
31 the biennial budget, require behavioral health organizations to pay
32 the state for the costs associated with individuals who are being
33 served on the grounds of the state hospitals and who are not
34 receiving long-term inpatient care as defined in RCW 71.24.025;

35 (f) Include a negotiated alternative dispute resolution clause;
36 and

37 (g) Include a provision requiring either party to provide one
38 hundred eighty days' notice of any issue that may cause either party
39 to voluntarily terminate, refuse to renew, or refuse to sign a
40 mandatory amendment to the contract to act as a behavioral health

1 organization. If either party decides to voluntarily terminate,
2 refuse to renew, or refuse to sign a mandatory amendment to the
3 contract to serve as a behavioral health organization they shall
4 provide ninety days' advance notice in writing to the other party.

5 **Sec. 424.** RCW 71.32.080 and 2006 c 108 s 5 are each amended to
6 read as follows:

7 (1)(a) A principal with capacity may, by written statement by the
8 principal or at the principal's direction in the principal's
9 presence, revoke a directive in whole or in part.

10 (b) An incapacitated principal may revoke a directive only if he
11 or she elected at the time of executing the directive to be able to
12 revoke when incapacitated.

13 (2) The revocation need not follow any specific form so long as
14 it is written and the intent of the principal can be discerned. In
15 the case of a directive that is stored in the health care
16 declarations registry created by RCW 70.122.130, the revocation may
17 be by an online method established by the department of health.
18 Failure to use the online method of revocation for a directive that
19 is stored in the registry does not invalidate a revocation that is
20 made by another method described under this section.

21 (3) The principal shall provide a copy of his or her written
22 statement of revocation to his or her agent, if any, and to each
23 health care provider, professional person, or health care facility
24 that received a copy of the directive from the principal.

25 (4) The written statement of revocation is effective:

26 (a) As to a health care provider, professional person, or health
27 care facility, upon receipt. The professional person, health care
28 provider, or health care facility, or persons acting under their
29 direction shall make the statement of revocation part of the
30 principal's medical record; and

31 (b) As to the principal's agent, upon receipt. The principal's
32 agent shall notify the principal's health care provider, professional
33 person, or health care facility of the revocation and provide them
34 with a copy of the written statement of revocation.

35 (5) A directive also may:

36 (a) Be revoked, in whole or in part, expressly or to the extent
37 of any inconsistency, by a subsequent directive; or

38 (b) Be superseded or revoked by a court order, including any
39 order entered in a criminal matter. A directive may be superseded by

1 a court order regardless of whether the order contains an explicit
2 reference to the directive. To the extent a directive is not in
3 conflict with a court order, the directive remains effective, subject
4 to the provisions of RCW 71.32.150. A directive shall not be
5 interpreted in a manner that interferes with: (i) Incarceration or
6 detention by the department of corrections, in a city or county jail,
7 or by the department of social and health services; or (ii) treatment
8 of a principal who is subject to involuntary treatment pursuant to
9 chapter 10.77, (~~(70.96A,)~~) 71.05, 71.09, or 71.34 RCW.

10 (6) A directive that would have otherwise expired but is
11 effective because the principal is incapacitated remains effective
12 until the principal is no longer incapacitated unless the principal
13 has elected to be able to revoke while incapacitated and has revoked
14 the directive.

15 (7) When a principal with capacity consents to treatment that
16 differs from, or refuses treatment consented to in, the provisions of
17 his or her directive, the consent or refusal constitutes a waiver of
18 that provision and does not constitute a revocation of the provision
19 or directive unless the principal also revokes the directive or
20 provision.

21 **Sec. 425.** RCW 71.32.140 and 2009 c 217 s 12 are each amended to
22 read as follows:

23 (1) A principal who:

24 (a) Chose not to be able to revoke his or her directive during
25 any period of incapacity;

26 (b) Consented to voluntary admission to inpatient mental health
27 treatment, or authorized an agent to consent on the principal's
28 behalf; and

29 (c) At the time of admission to inpatient treatment, refuses to
30 be admitted,
31 may only be admitted into inpatient mental health treatment under
32 subsection (2) of this section.

33 (2) A principal may only be admitted to inpatient mental health
34 treatment under his or her directive if, prior to admission, a member
35 of the treating facility's professional staff who is a physician or
36 psychiatric advanced registered nurse practitioner:

37 (a) Evaluates the principal's mental condition, including a
38 review of reasonably available psychiatric and psychological history,
39 diagnosis, and treatment needs, and determines, in conjunction with

1 another health care provider or mental health professional, that the
2 principal is incapacitated;

3 (b) Obtains the informed consent of the agent, if any, designated
4 in the directive;

5 (c) Makes a written determination that the principal needs an
6 inpatient evaluation or is in need of inpatient treatment and that
7 the evaluation or treatment cannot be accomplished in a less
8 restrictive setting; and

9 (d) Documents in the principal's medical record a summary of the
10 physician's or psychiatric advanced registered nurse practitioner's
11 findings and recommendations for treatment or evaluation.

12 (3) In the event the admitting physician is not a psychiatrist,
13 or the advanced registered nurse practitioner is not a psychiatric
14 advanced registered nurse practitioner, the principal shall receive a
15 complete psychological assessment by a mental health professional
16 within twenty-four hours of admission to determine the continued need
17 for inpatient evaluation or treatment.

18 (4)(a) If it is determined that the principal has capacity, then
19 the principal may only be admitted to, or remain in, inpatient
20 treatment if he or she consents at the time or is detained under the
21 involuntary treatment provisions of chapter ((70.96A,)) 71.05((7)) or
22 71.34 RCW.

23 (b) If a principal who is determined by two health care providers
24 or one mental health professional and one health care provider to be
25 incapacitated continues to refuse inpatient treatment, the principal
26 may immediately seek injunctive relief for release from the facility.

27 (5) If, at the end of the period of time that the principal or
28 the principal's agent, if any, has consented to voluntary inpatient
29 treatment, but no more than fourteen days after admission, the
30 principal has not regained capacity or has regained capacity but
31 refuses to consent to remain for additional treatment, the principal
32 must be released during reasonable daylight hours, unless detained
33 under chapter ((70.96A,)) 71.05((7)) or 71.34 RCW.

34 (6)(a) Except as provided in (b) of this subsection, any
35 principal who is voluntarily admitted to inpatient mental health
36 treatment under this chapter shall have all the rights provided to
37 individuals who are voluntarily admitted to inpatient treatment under
38 chapter 71.05, 71.34, or 72.23 RCW.

39 (b) Notwithstanding RCW 71.05.050 regarding consent to inpatient
40 treatment for a specified length of time, the choices an

1 incapacitated principal expressed in his or her directive shall
2 control, provided, however, that a principal who takes action
3 demonstrating a desire to be discharged, in addition to making
4 statements requesting to be discharged, shall be discharged, and no
5 principal shall be restrained in any way in order to prevent his or
6 her discharge. Nothing in this subsection shall be construed to
7 prevent detention and evaluation for civil commitment under chapter
8 71.05 RCW.

9 (7) Consent to inpatient admission in a directive is effective
10 only while the professional person, health care provider, and health
11 care facility are in substantial compliance with the material
12 provisions of the directive related to inpatient treatment.

13 **Sec. 426.** RCW 71.32.150 and 2003 c 283 s 15 are each amended to
14 read as follows:

15 (1) Upon receiving a directive, a health care provider,
16 professional person, or health care facility providing treatment to
17 the principal, or persons acting under the direction of the health
18 care provider, professional person, or health care facility, shall
19 make the directive a part of the principal's medical record and shall
20 be deemed to have actual knowledge of the directive's contents.

21 (2) When acting under authority of a directive, a health care
22 provider, professional person, or health care facility shall act in
23 accordance with the provisions of the directive to the fullest extent
24 possible, unless in the determination of the health care provider,
25 professional person, or health care facility:

26 (a) Compliance with the provision would violate the accepted
27 standard of care established in RCW 7.70.040;

28 (b) The requested treatment is not available;

29 (c) Compliance with the provision would violate applicable law;
30 or

31 (d) It is an emergency situation and compliance would endanger
32 any person's life or health.

33 (3)(a) In the case of a principal committed or detained under the
34 involuntary treatment provisions of chapter 10.77, (~~(70.96A,)~~) 71.05,
35 71.09, or 71.34 RCW, those provisions of a principal's directive
36 that, in the determination of the health care provider, professional
37 person, or health care facility, are inconsistent with the purpose of
38 the commitment or with any order of the court relating to the
39 commitment are invalid during the commitment.

1 (b) Remaining provisions of a principal's directive are advisory
2 while the principal is committed or detained.

3 The treatment provider is encouraged to follow the remaining
4 provisions of the directive, except as provided in (a) of this
5 subsection or subsection (2) of this section.

6 (4) In the case of a principal who is incarcerated or committed
7 in a state or local correctional facility, provisions of the
8 principal's directive that are inconsistent with reasonable
9 penological objectives or administrative hearings regarding
10 involuntary medication are invalid during the period of incarceration
11 or commitment. In addition, treatment may be given despite refusal of
12 the principal or the provisions of the directive: (a) For any reason
13 under subsection (2) of this section; or (b) if, without the benefit
14 of the specific treatment measure, there is a significant possibility
15 that the person will harm self or others before an improvement of the
16 person's condition occurs.

17 (5)(a) If the health care provider, professional person, or
18 health care facility is, at the time of receiving the directive,
19 unable or unwilling to comply with any part or parts of the directive
20 for any reason, the health care provider, professional person, or
21 health care facility shall promptly notify the principal and, if
22 applicable, his or her agent and shall document the reason in the
23 principal's medical record.

24 (b) If the health care provider, professional person, or health
25 care facility is acting under authority of a directive and is unable
26 to comply with any part or parts of the directive for the reasons
27 listed in subsection (2) or (3) of this section, the health care
28 provider, professional person, or health care facility shall promptly
29 notify the principal and if applicable, his or her agent, and shall
30 document the reason in the principal's medical record.

31 (6) In the event that one or more parts of the directive are not
32 followed because of one or more of the reasons set forth in
33 subsection (2) or (4) of this section, all other parts of the
34 directive shall be followed.

35 (7) If no provider-patient relationship has previously been
36 established, nothing in this chapter requires the establishment of a
37 provider-patient relationship.

38 **Sec. 427.** RCW 72.09.315 and 2004 c 166 s 17 are each amended to
39 read as follows:

1 (1) When an offender is under court-ordered mental health or
2 chemical dependency treatment in the community and the supervision of
3 the department of corrections, and the community corrections officer
4 becomes aware that the person is in violation of the terms of the
5 court's treatment order, the community corrections officer shall
6 notify the (~~county designated mental health professional or the~~
7 ~~designated chemical dependency specialist~~) designated crisis
8 responder, as appropriate, of the violation and request an evaluation
9 for purposes of revocation of the less restrictive alternative or
10 conditional release.

11 (2) When a (~~county designated mental health professional or the~~
12 ~~designated chemical dependency specialist~~) designated crisis
13 responder notifies the department that an offender in a state
14 correctional facility is the subject of a petition for involuntary
15 treatment under chapter 71.05 (~~or 70.96A~~) RCW, the department shall
16 provide documentation of its risk assessment or other concerns to the
17 petitioner and the court if the department classified the offender as
18 a high risk or high needs offender.

19 **Sec. 428.** RCW 72.09.370 and 2014 c 225 s 95 are each amended to
20 read as follows:

21 (1) The offender reentry community safety program is established
22 to provide intensive services to offenders identified under this
23 subsection and to thereby promote public safety. The secretary shall
24 identify offenders in confinement or partial confinement who: (a) Are
25 reasonably believed to be dangerous to themselves or others; and (b)
26 have a mental disorder. In determining an offender's dangerousness,
27 the secretary shall consider behavior known to the department and
28 factors, based on research, that are linked to an increased risk for
29 dangerousness of offenders with mental illnesses and shall include
30 consideration of an offender's chemical dependency or abuse.

31 (2) Prior to release of an offender identified under this
32 section, a team consisting of representatives of the department of
33 corrections, the division of mental health, and, as necessary, the
34 indeterminate sentence review board, other divisions or
35 administrations within the department of social and health services,
36 specifically including the division of alcohol and substance abuse
37 and the division of developmental disabilities, the appropriate
38 behavioral health organization, and the providers, as appropriate,
39 shall develop a plan, as determined necessary by the team, for

1 delivery of treatment and support services to the offender upon
2 release. In developing the plan, the offender shall be offered
3 assistance in executing a mental health directive under chapter 71.32
4 RCW, after being fully informed of the benefits, scope, and purposes
5 of such directive. The team may include a school district
6 representative for offenders under the age of twenty-one. The team
7 shall consult with the offender's counsel, if any, and, as
8 appropriate, the offender's family and community. The team shall
9 notify the crime victim/witness program, which shall provide notice
10 to all people registered to receive notice under RCW 72.09.712 of the
11 proposed release plan developed by the team. Victims, witnesses, and
12 other interested people notified by the department may provide
13 information and comments to the department on potential safety risk
14 to specific individuals or classes of individuals posed by the
15 specific offender. The team may recommend: (a) That the offender be
16 evaluated by the designated (~~mental health professional~~) crisis
17 responder, as defined in chapter 71.05 RCW; (b) department-supervised
18 community treatment; or (c) voluntary community mental health or
19 chemical dependency or abuse treatment.

20 (3) Prior to release of an offender identified under this
21 section, the team shall determine whether or not an evaluation by a
22 designated (~~mental health professional~~) crisis responder is needed.
23 If an evaluation is recommended, the supporting documentation shall
24 be immediately forwarded to the appropriate designated (~~mental~~
25 ~~health professional~~) crisis responder. The supporting documentation
26 shall include the offender's criminal history, history of judicially
27 required or administratively ordered involuntary antipsychotic
28 medication while in confinement, and any known history of involuntary
29 civil commitment.

30 (4) If an evaluation by a designated (~~mental health~~
31 ~~professional~~) crisis responder is recommended by the team, such
32 evaluation shall occur not more than ten days, nor less than five
33 days, prior to release.

34 (5) A second evaluation by a designated (~~mental health~~
35 ~~professional~~) crisis responder shall occur on the day of release if
36 requested by the team, based upon new information or a change in the
37 offender's mental condition, and the initial evaluation did not
38 result in an emergency detention or a summons under chapter 71.05
39 RCW.

1 (6) If the designated (~~mental health professional~~) crisis
2 responder determines an emergency detention under chapter 71.05 RCW
3 is necessary, the department shall release the offender only to a
4 state hospital or to a consenting evaluation and treatment facility.
5 The department shall arrange transportation of the offender to the
6 hospital or facility.

7 (7) If the designated (~~mental health professional~~) crisis
8 responder believes that a less restrictive alternative treatment is
9 appropriate, he or she shall seek a summons, pursuant to the
10 provisions of chapter 71.05 RCW, to require the offender to appear at
11 an evaluation and treatment facility. If a summons is issued, the
12 offender shall remain within the corrections facility until
13 completion of his or her term of confinement and be transported, by
14 corrections personnel on the day of completion, directly to the
15 identified evaluation and treatment facility.

16 (8) The secretary shall adopt rules to implement this section.

17 **Sec. 429.** RCW 74.13.033 and 2009 c 569 s 3 are each amended to
18 read as follows:

19 (1) If a resident of a crisis residential center becomes by his
20 or her behavior disruptive to the facility's program, such resident
21 may be immediately removed to a separate area within the facility and
22 counseled on an individual basis until such time as the child regains
23 his or her composure. The department may set rules and regulations
24 establishing additional procedures for dealing with severely
25 disruptive children on the premises.

26 (2) When the juvenile resides in this facility, all services
27 deemed necessary to the juvenile's reentry to normal family life
28 shall be made available to the juvenile as required by chapter 13.32A
29 RCW. In assessing the child and providing these services, the
30 facility staff shall:

31 (a) Interview the juvenile as soon as possible;

32 (b) Contact the juvenile's parents and arrange for a counseling
33 interview with the juvenile and his or her parents as soon as
34 possible;

35 (c) Conduct counseling interviews with the juvenile and his or
36 her parents, to the end that resolution of the child/parent conflict
37 is attained and the child is returned home as soon as possible;

38 (d) Provide additional crisis counseling as needed, to the end
39 that placement of the child in the crisis residential center will be

1 required for the shortest time possible, but not to exceed fifteen
2 consecutive days; and

3 (e) Convene, when appropriate, a multidisciplinary team.

4 (3) Based on the assessments done under subsection (2) of this
5 section the center staff may refer any child who, as the result of a
6 mental or emotional disorder, or intoxication by alcohol or other
7 drugs, is suicidal, seriously assaultive, or seriously destructive
8 toward others, or otherwise similarly evidences an immediate need for
9 emergency medical evaluation and possible care, for evaluation
10 pursuant to chapter 71.34 RCW(~~(7)~~) or to a (~~mental health~~
11 ~~professional~~) designated crisis responder pursuant to chapter 71.05
12 RCW(~~(, or to a chemical dependency specialist pursuant to chapter~~
13 ~~70.96A—RCW)~~) whenever such action is deemed appropriate and
14 consistent with law.

15 (4) A juvenile taking unauthorized leave from a facility shall be
16 apprehended and returned to it by law enforcement officers or other
17 persons designated as having this authority as provided in RCW
18 13.32A.050. If returned to the facility after having taken
19 unauthorized leave for a period of more than twenty-four hours a
20 juvenile shall be supervised by such a facility for a period,
21 pursuant to this chapter, which, unless where otherwise provided, may
22 not exceed fifteen consecutive days. Costs of housing juveniles
23 admitted to crisis residential centers shall be assumed by the
24 department for a period not to exceed fifteen consecutive days.

25 **Sec. 430.** RCW 74.50.070 and 1987 c 406 s 8 are each amended to
26 read as follows:

27 (1) If a county elects to establish a multipurpose diagnostic
28 center or detention center, the alcoholism and drug addiction
29 assessment service under RCW 74.50.040 may be integrated into the
30 services provided by such a center.

31 (2) The center may be financed from funds made available by the
32 department for alcoholism and drug addiction assessments under this
33 chapter and funds contained in the department's budget for
34 detoxification, involuntary detention, and involuntary treatment
35 under chapter(~~s—70.96A—and~~) 71.05 RCW. The center may be operated
36 by the county or pursuant to contract between the county and a
37 qualified organization.

38

PART V

MISCELLANEOUS

NEW SECTION. Sec. 501. This act may be known and cited as Ricky Garcia's act.

NEW SECTION. Sec. 502. (1) Section 102 of this act takes effect April 1, 2016.

(2) Sections 202 through 209, 211, 213 through 221, 223 through 229, 231 through 234, 236, 237, 239 through 259, 261, 263, 265, 266, 268, 270, 271, 274, and 401 through 430 of this act take effect April 1, 2017.

(3) Sections 210, 212, 222, 230, 235, 238, 260, 262, 264, 267, 269, and 272 of this act take effect July 1, 2019.

NEW SECTION. Sec. 503. Section 101 of this act expires April 1, 2016.

NEW SECTION. Sec. 504. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2015, in the omnibus appropriations act, this act is null and void."

ESHB 1713 - S COMM AMD

By Committee on Human Services, Mental Health & Housing

NOT CONSIDERED 4/15/2015

On page 1, line 2 of the title, after "dependency;" strike the remainder of the title and insert "amending RCW 70.96A.020, 70.96A.140, 70.96A.145, 71.05.025, 71.05.026, 71.05.050, 71.05.120, 71.05.132, 71.05.150, 71.05.150, 71.05.153, 71.05.154, 71.05.156, 71.05.157, 71.05.160, 71.05.170, 71.05.180, 71.05.190, 71.05.195, 71.05.210, 71.05.210, 71.05.212, 71.05.214, 71.05.215, 71.05.220, 71.05.230, 71.05.235, 71.05.240, 71.05.240, 71.05.280, 71.05.290, 71.05.300, 71.05.320, 71.05.320, 71.05.325, 71.05.340, 71.05.340, 71.05.360, 71.05.380, 71.05.435, 71.05.530, 71.05.560, 71.05.620, 71.05.700, 71.05.705, 71.34.020, 71.34.305, 71.34.375, 71.34.385, 71.34.400, 71.34.410, 71.34.500, 71.34.520, 71.34.600, 71.34.630, 71.34.650, 71.34.660, 71.34.700, 71.34.700, 71.34.710, 71.34.710, 71.34.720, 71.34.720, 71.34.740, 71.34.740, 71.34.750, 71.34.750, 71.34.760, 71.34.780, 71.34.780, 9.41.098, 4.24.558, 5.60.060,

1 9.41.280, 9.95.143, 10.77.010, 10.77.025, 10.77.027, 10.77.060,
2 10.77.084, 10.77.088, 11.92.190, 13.32A.044, 18.83.110, 43.20A.025,
3 70.48.475, 70.97.010, 71.05.660, 71.24.045, 71.24.330, 71.32.080,
4 71.32.140, 71.32.150, 72.09.315, 72.09.370, 74.13.033, and 74.50.070;
5 reenacting and amending RCW 70.96A.020, 71.05.020, 71.05.153,
6 71.34.730, 10.77.065, 70.02.010, 70.02.230, and 71.24.025; adding new
7 sections to chapter 71.05 RCW; adding a new section to chapter 71.34
8 RCW; adding a new section to chapter 9.41 RCW; creating new sections;
9 repealing RCW 70.96A.095, 70.96A.096, 70.96A.097, 70.96A.110,
10 70.96A.120, 70.96A.140, 70.96A.141, 70.96A.142, 70.96A.145,
11 70.96A.148, 70.96A.155, 70.96A.157, 70.96A.160, 70.96A.180,
12 70.96A.230, 70.96A.235, 70.96A.240, 70.96A.245, 70.96A.250,
13 70.96A.255, 70.96A.260, 70.96A.265, 70.96B.010, 70.96B.020,
14 70.96B.030, 70.96B.040, 70.96B.045, 70.96B.050, 70.96B.060,
15 70.96B.070, 70.96B.080, 70.96B.090, 70.96B.100, 70.96B.110,
16 70.96B.120, 70.96B.130, 70.96B.140, 70.96B.150, 70.96B.800, and
17 71.05.032; providing effective dates; providing a contingent
18 effective date; and providing an expiration date."

EFFECT: Removes provisions requiring loss of firearm rights for a person court committed for involuntary treatment of a substance use disorder that is based on the use of a controlled substance.

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