

2SHB 1450 - H AMD 216

By Representative Jenkins

ADOPTED 3/9/2015

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

3 "Sec. 1. RCW 71.05.020 and 2011 c 148 s 1 and 2011 c 89 s 14 are
4 each reenacted and amended to read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

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

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

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

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

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

22 (6) "Crisis stabilization unit" means a short-term facility or a
23 portion of a facility licensed by the department of health and
24 certified by the department of social and health services under RCW
25 71.24.035, such as an evaluation and treatment facility or a
26 hospital, which has been designed to assess, diagnose, and treat
27 individuals experiencing an acute crisis without the use of long-term
28 hospitalization;

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

- 1 (8) "Department" means the department of social and health
2 services;
- 3 (9) "Designated chemical dependency specialist" means a person
4 designated by the county alcoholism and other drug addiction program
5 coordinator designated under RCW 70.96A.310 to perform the commitment
6 duties described in chapters 70.96A and 70.96B RCW;
- 7 (10) "Designated crisis responder" means a mental health
8 professional appointed by the county or the regional support network
9 to perform the duties specified in this chapter;
- 10 (11) "Designated mental health professional" means a mental
11 health professional designated by the county or other authority
12 authorized in rule to perform the duties specified in this chapter;
- 13 (12) "Detention" or "detain" means the lawful confinement of a
14 person, under the provisions of this chapter;
- 15 (13) "Developmental disabilities professional" means a person who
16 has specialized training and three years of experience in directly
17 treating or working with persons with developmental disabilities and
18 is a psychiatrist, psychologist, psychiatric advanced registered
19 nurse practitioner, or social worker, and such other developmental
20 disabilities professionals as may be defined by rules adopted by the
21 secretary;
- 22 (14) "Developmental disability" means that condition defined in
23 RCW 71A.10.020(~~((+3))~~) (5);
- 24 (15) "Discharge" means the termination of hospital medical
25 authority. The commitment may remain in place, be terminated, or be
26 amended by court order;
- 27 (16) "Evaluation and treatment facility" means any facility which
28 can provide directly, or by direct arrangement with other public or
29 private agencies, emergency evaluation and treatment, outpatient
30 care, and timely and appropriate inpatient care to persons suffering
31 from a mental disorder, and which is certified as such by the
32 department. A physically separate and separately operated portion of
33 a state hospital may be designated as an evaluation and treatment
34 facility. A facility which is part of, or operated by, the department
35 or any federal agency will not require certification. No correctional
36 institution or facility, or jail, shall be an evaluation and
37 treatment facility within the meaning of this chapter;
- 38 (17) "Gravely disabled" means a condition in which a person, as a
39 result of a mental disorder: (a) Is in danger of serious physical
40 harm resulting from a failure to provide for his or her essential

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

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

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

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

21 (21) "Individualized service plan" means a plan prepared by a
22 developmental disabilities professional with other professionals as a
23 team, for a person with developmental disabilities, which shall
24 state:

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

27 (b) The conditions and strategies necessary to achieve the
28 purposes of habilitation;

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

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

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

34 (f) Where relevant in light of past criminal behavior and due
35 consideration for public safety, the criteria for proposed movement
36 to less-restrictive settings, criteria for proposed eventual
37 discharge or release, and a projected possible date for discharge or
38 release; and

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

1 (22) "Information related to mental health services" means all
2 information and records compiled, obtained, or maintained in the
3 course of providing services to either voluntary or involuntary
4 recipients of services by a mental health service provider. This may
5 include documents of legal proceedings under this chapter or chapter
6 71.34 or 10.77 RCW, or somatic health care information;

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

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

13 (25) "Likelihood of serious harm" means:

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

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

25 (26) "Mental disorder" means any organic, mental, or emotional
26 impairment which has substantial adverse effects on a person's
27 cognitive or volitional functions;

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

33 (28) "Mental health service provider" means a public or private
34 agency that provides mental health services to persons with mental
35 disorders as defined under this section and receives funding from
36 public sources. This includes, but is not limited to, hospitals
37 licensed under chapter 70.41 RCW, evaluation and treatment facilities
38 as defined in this section, community mental health service delivery
39 systems or community mental health programs as defined in RCW
40 71.24.025, facilities conducting competency evaluations and

1 restoration under chapter 10.77 RCW, and correctional facilities
2 operated by state and local governments;

3 (29) "Peace officer" means a law enforcement official of a public
4 agency or governmental unit, and includes persons specifically given
5 peace officer powers by any state law, local ordinance, or judicial
6 order of appointment;

7 (30) "Private agency" means any person, partnership, corporation,
8 or association that is not a public agency, whether or not financed
9 in whole or in part by public funds, which constitutes an evaluation
10 and treatment facility or private institution, or hospital, which is
11 conducted for, or includes a department or ward conducted for, the
12 care and treatment of persons who are mentally ill;

13 (31) "Professional person" means a mental health professional and
14 shall also mean a physician, psychiatric advanced registered nurse
15 practitioner, registered nurse, and such others as may be defined by
16 rules adopted by the secretary pursuant to the provisions of this
17 chapter;

18 (32) "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 (33) "Psychiatrist" means a person having a license as a
23 physician and surgeon in this state who has in addition completed
24 three years of graduate training in psychiatry in a program approved
25 by the American medical association or the American osteopathic
26 association and is certified or eligible to be certified by the
27 American board of psychiatry and neurology;

28 (34) "Psychologist" means a person who has been licensed as a
29 psychologist pursuant to chapter 18.83 RCW;

30 (35) "Public agency" means any evaluation and treatment facility
31 or institution, or hospital which is conducted for, or includes a
32 department or ward conducted for, the care and treatment of persons
33 with mental illness, if the agency is operated directly by, federal,
34 state, county, or municipal government, or a combination of such
35 governments;

36 (36) "Registration records" include all the records of the
37 department, regional support networks, treatment facilities, and
38 other persons providing services to the department, county
39 departments, or facilities which identify persons who are receiving
40 or who at any time have received services for mental illness;

1 (37) "Release" means legal termination of the commitment under
2 the provisions of this chapter;

3 (38) "Resource management services" has the meaning given in
4 chapter 71.24 RCW;

5 (39) "Secretary" means the secretary of the department of social
6 and health services, or his or her designee;

7 (40) "Serious violent offense" has the same meaning as provided
8 in RCW 9.94A.030;

9 (41) "Social worker" means a person with a master's or further
10 advanced degree from a social work educational program accredited and
11 approved as provided in RCW 18.320.010;

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

18 (43) "Triage facility" means a short-term facility or a portion
19 of a facility licensed by the department of health and certified by
20 the department of social and health services under RCW 71.24.035,
21 which is designed as a facility to assess and stabilize an individual
22 or determine the need for involuntary commitment of an individual,
23 and must meet department of health residential treatment facility
24 standards. A triage facility may be structured as a voluntary or
25 involuntary placement facility;

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

38 (45) "Violent act" means behavior that resulted in homicide,
39 attempted suicide, nonfatal injuries, or substantial damage to
40 property.

1 (46) "In need of assisted outpatient mental health treatment"
2 means that a person, as a result of a mental disorder: (a) Has been
3 committed by a court to detention for involuntary mental health
4 treatment at least twice during the preceding thirty-six months, or,
5 if the person is currently committed for involuntary mental health
6 treatment, the person has been committed to detention for involuntary
7 mental health treatment at least once during the thirty-six months
8 preceding the date of initial detention of the current commitment
9 cycle; (b) is unlikely to voluntarily participate in outpatient
10 treatment without an order for less restrictive alternative
11 treatment, in view of the person's treatment history or current
12 behavior; (c) is unlikely to survive safely in the community without
13 supervision; (d) is likely to benefit from less restrictive
14 alternative treatment; and (e) requires outpatient treatment that
15 would be provided under a less restrictive alternative treatment
16 order to prevent a relapse, decompensation, or deterioration that is
17 likely to result in the person presenting a likelihood of serious
18 harm or the person becoming gravely disabled within a reasonably
19 short period of time. For purposes of (a) of this subsection, time
20 spent in a mental health facility or in confinement as a result of a
21 criminal conviction is excluded from the thirty-six month
22 calculation.

23 (47) "Less restrictive alternative treatment" means a program of
24 individualized treatment in a less restrictive setting that includes
25 the services described in section 15 of this act.

26 **Sec. 2.** RCW 71.05.020 and 2014 c 225 s 79 are each reenacted and
27 amended to read as follows:

28 The definitions in this section apply throughout this chapter
29 unless the context clearly requires otherwise.

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

33 (2) "Antipsychotic medications" means that class of drugs
34 primarily used to treat serious manifestations of mental illness
35 associated with thought disorders, which includes, but is not limited
36 to atypical antipsychotic medications;

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

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

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

6 (6) "Crisis stabilization unit" means a short-term facility or a
7 portion of a facility licensed by the department of health and
8 certified by the department of social and health services under RCW
9 71.24.035, such as an evaluation and treatment facility or a
10 hospital, which has been designed to assess, diagnose, and treat
11 individuals experiencing an acute crisis without the use of long-term
12 hospitalization;

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

17 (8) "Department" means the department of social and health
18 services;

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

23 (10) "Designated crisis responder" means a mental health
24 professional appointed by the county or the behavioral health
25 organization to perform the duties specified in this chapter;

26 (11) "Designated mental health professional" means a mental
27 health professional designated by the county or other authority
28 authorized in rule to perform the duties specified in this chapter;

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

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

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

1 (15) "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 (16) "Evaluation and treatment facility" means any facility which
5 can provide directly, or by direct arrangement with other public or
6 private agencies, emergency evaluation and treatment, outpatient
7 care, and timely and appropriate inpatient care to persons suffering
8 from a mental disorder, and which is certified as such by the
9 department. A physically separate and separately operated portion of
10 a state hospital may be designated as an evaluation and treatment
11 facility. A facility which is part of, or operated by, the department
12 or any federal agency will not require certification. No correctional
13 institution or facility, or jail, shall be an evaluation and
14 treatment facility within the meaning of this chapter;

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

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

31 (19) "History of one or more violent acts" refers to the period
32 of time ten years prior to the filing of a petition under this
33 chapter, excluding any time spent, but not any violent acts
34 committed, in a mental health facility or in confinement as a result
35 of a criminal conviction;

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

38 (21) "Individualized service plan" means a plan prepared by a
39 developmental disabilities professional with other professionals as a

1 team, for a person with developmental disabilities, which shall
2 state:

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

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

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

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

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

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

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

19 (22) "Information related to mental health services" means all
20 information and records compiled, obtained, or maintained in the
21 course of providing services to either voluntary or involuntary
22 recipients of services by a mental health service provider. This may
23 include documents of legal proceedings under this chapter or chapter
24 71.34 or 10.77 RCW, or somatic health care information;

25 (23) "Judicial commitment" means a commitment by a court pursuant
26 to the provisions of this chapter;

27 (24) "Legal counsel" means attorneys and staff employed by county
28 prosecutor offices or the state attorney general acting in their
29 capacity as legal representatives of public mental health service
30 providers under RCW 71.05.130;

31 (25) "Likelihood of serious harm" means:

32 (a) A substantial risk that: (i) Physical harm will be inflicted
33 by a person upon his or her own person, as evidenced by threats or
34 attempts to commit suicide or inflict physical harm on oneself; (ii)
35 physical harm will be inflicted by a person upon another, as
36 evidenced by behavior which has caused such harm or which places
37 another person or persons in reasonable fear of sustaining such harm;
38 or (iii) physical harm will be inflicted by a person upon the
39 property of others, as evidenced by behavior which has caused
40 substantial loss or damage to the property of others; or

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

3 (26) "Mental disorder" means any organic, mental, or emotional
4 impairment which has substantial adverse effects on a person's
5 cognitive or volitional functions;

6 (27) "Mental health professional" means a psychiatrist,
7 psychologist, psychiatric advanced registered nurse practitioner,
8 psychiatric nurse, or social worker, and such other mental health
9 professionals as may be defined by rules adopted by the secretary
10 pursuant to the provisions of this chapter;

11 (28) "Mental health service provider" means a public or private
12 agency that provides mental health services to persons with mental
13 disorders as defined under this section and receives funding from
14 public sources. This includes, but is not limited to, hospitals
15 licensed under chapter 70.41 RCW, evaluation and treatment facilities
16 as defined in this section, community mental health service delivery
17 systems or community mental health programs as defined in RCW
18 71.24.025, facilities conducting competency evaluations and
19 restoration under chapter 10.77 RCW, and correctional facilities
20 operated by state and local governments;

21 (29) "Peace officer" means a law enforcement official of a public
22 agency or governmental unit, and includes persons specifically given
23 peace officer powers by any state law, local ordinance, or judicial
24 order of appointment;

25 (30) "Private agency" means any person, partnership, corporation,
26 or association that is not a public agency, whether or not financed
27 in whole or in part by public funds, which constitutes an evaluation
28 and treatment facility or private institution, or hospital, which is
29 conducted for, or includes a department or ward conducted for, the
30 care and treatment of persons who are mentally ill;

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

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

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

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

9 (35) "Public agency" means any evaluation and treatment facility
10 or institution, or hospital which is conducted for, or includes a
11 department or ward conducted for, the care and treatment of persons
12 with mental illness, if the agency is operated directly by, federal,
13 state, county, or municipal government, or a combination of such
14 governments;

15 (36) "Registration records" include all the records of the
16 department, behavioral health organizations, treatment facilities,
17 and other persons providing services to the department, county
18 departments, or facilities which identify persons who are receiving
19 or who at any time have received services for mental illness;

20 (37) "Release" means legal termination of the commitment under
21 the provisions of this chapter;

22 (38) "Resource management services" has the meaning given in
23 chapter 71.24 RCW;

24 (39) "Secretary" means the secretary of the department of social
25 and health services, or his or her designee;

26 (40) "Serious violent offense" has the same meaning as provided
27 in RCW 9.94A.030;

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

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

37 (43) "Treatment records" include registration and all other
38 records concerning persons who are receiving or who at any time have
39 received services for mental illness, which are maintained by the
40 department, by behavioral health organizations and their staffs, and

1 by treatment facilities. Treatment records include mental health
2 information contained in a medical bill including but not limited to
3 mental health drugs, a mental health diagnosis, provider name, and
4 dates of service stemming from a medical service. Treatment records
5 do not include notes or records maintained for personal use by a
6 person providing treatment services for the department, behavioral
7 health organizations, or a treatment facility if the notes or records
8 are not available to others;

9 (44) "Triage facility" means a short-term facility or a portion
10 of a facility licensed by the department of health and certified by
11 the department of social and health services under RCW 71.24.035,
12 which is designed as a facility to assess and stabilize an individual
13 or determine the need for involuntary commitment of an individual,
14 and must meet department of health residential treatment facility
15 standards. A triage facility may be structured as a voluntary or
16 involuntary placement facility;

17 (45) "Violent act" means behavior that resulted in homicide,
18 attempted suicide, nonfatal injuries, or substantial damage to
19 property.

20 (46) "In need of assisted outpatient mental health treatment"
21 means that a person, as a result of a mental disorder: (a) Has been
22 committed by a court to detention for involuntary mental health
23 treatment at least twice during the preceding thirty-six months, or,
24 if the person is currently committed for involuntary mental health
25 treatment, the person has been committed to detention for involuntary
26 mental health treatment at least once during the thirty-six months
27 preceding the date of initial detention of the current commitment
28 cycle; (b) is unlikely to voluntarily participate in outpatient
29 treatment without an order for less restrictive alternative
30 treatment, in view of the person's treatment history or current
31 behavior; (c) is unlikely to survive safely in the community without
32 supervision; (d) is likely to benefit from less restrictive
33 alternative treatment; and (e) requires outpatient treatment that
34 would be provided under a less restrictive alternative treatment
35 order to prevent a relapse, decompensation, or deterioration that is
36 likely to result in the person presenting a likelihood of serious
37 harm or the person becoming gravely disabled within a reasonably
38 short period of time. For purposes of (a) of this subsection, time
39 spent in a mental health facility or in confinement as a result of a

1 criminal conviction is excluded from the thirty-six month
2 calculation.

3 (47) "Less restrictive alternative treatment" means a program of
4 individualized treatment in a less restrictive setting than inpatient
5 treatment that includes the services described in section 15 of this
6 act.

7 **Sec. 3.** RCW 71.05.150 and 2011 c 148 s 5 are each amended to
8 read as follows:

9 (1)(a) When a designated mental health professional receives
10 information alleging that a person, as a result of a mental disorder:
11 (i) Presents a likelihood of serious harm; ~~((e))~~ (ii) is gravely
12 disabled; or (iii) is in need of assisted outpatient mental health
13 treatment; the designated mental health professional may, after
14 investigation and evaluation of the specific facts alleged and of the
15 reliability and credibility of any person providing information to
16 initiate detention or outpatient evaluation, if satisfied that the
17 allegations are true and that the person will not voluntarily seek
18 appropriate treatment, file a petition for initial detention or
19 outpatient evaluation. If the petition is filed solely on the grounds
20 that the person is in need of assisted outpatient mental health
21 treatment, the petition may only be for an outpatient evaluation. If
22 the petition is for an outpatient evaluation and the person is being
23 held in a hospital emergency department, the person may be released
24 once the hospital has satisfied federal and state legal requirements
25 for appropriate screening and stabilization of patients.

26 (b) Before filing the petition, the designated mental health
27 professional must personally interview the person, unless the person
28 refuses an interview, and determine whether the person will
29 voluntarily receive appropriate evaluation and treatment at an
30 evaluation and treatment facility, crisis stabilization unit, or
31 triage facility.

32 (2)(a) An order to detain to a designated evaluation and
33 treatment facility for not more than a seventy-two-hour evaluation
34 and treatment period, or an order for an outpatient evaluation, may
35 be issued by a judge of the superior court upon request of a
36 designated mental health professional, whenever it appears to the
37 satisfaction of a judge of the superior court:

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

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

3 (b) The petition for initial detention or outpatient evaluation,
4 signed under penalty of perjury, or sworn telephonic testimony may be
5 considered by the court in determining whether there are sufficient
6 grounds for issuing the order.

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

11 (3) The designated mental health professional shall then serve or
12 cause to be served on such person, his or her guardian, and
13 conservator, if any, a copy of the order together with a notice of
14 rights, and a petition for initial detention or outpatient
15 evaluation. After service on such person the designated mental health
16 professional shall file the return of service in court and provide
17 copies of all papers in the court file to the evaluation and
18 treatment facility and the designated attorney. The designated mental
19 health professional shall notify the court and the prosecuting
20 attorney that a probable cause hearing will be held within seventy-
21 two hours of the date and time of outpatient evaluation or admission
22 to the evaluation and treatment facility. The person shall be
23 permitted to be accompanied by one or more of his or her relatives,
24 friends, an attorney, a personal physician, or other professional or
25 religious advisor to the place of evaluation. An attorney
26 accompanying the person to the place of evaluation shall be permitted
27 to be present during the admission evaluation. Any other individual
28 accompanying the person may be present during the admission
29 evaluation. The facility may exclude the individual if his or her
30 presence would present a safety risk, delay the proceedings, or
31 otherwise interfere with the evaluation.

32 (4) The designated mental health professional may notify a peace
33 officer to take such person or cause such person to be taken into
34 custody and placed in an evaluation and treatment facility. At the
35 time such person is taken into custody there shall commence to be
36 served on such person, his or her guardian, and conservator, if any,
37 a copy of the original order together with a notice of rights and a
38 petition for initial detention.

1 **Sec. 4.** RCW 71.05.156 and 2013 c 334 s 2 are each amended to
2 read as follows:

3 A designated mental health professional who conducts an
4 evaluation for imminent likelihood of serious harm or imminent danger
5 because of being gravely disabled under RCW 71.05.153 must also
6 evaluate the person under RCW 71.05.150 for likelihood of serious
7 harm or grave disability that does not meet the imminent standard for
8 emergency detention, and to determine whether the person is in need
9 of assisted outpatient mental health treatment.

10 **Sec. 5.** RCW 71.05.212 and 2010 c 280 s 2 are each amended to
11 read as follows:

12 (1) Whenever a designated mental health professional or
13 professional person is conducting an evaluation under this chapter,
14 consideration shall include all reasonably available information from
15 credible witnesses and records regarding:

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

19 (b) Historical behavior, including history of one or more violent
20 acts;

21 (c) Prior determinations of incompetency or insanity under
22 chapter 10.77 RCW; and

23 (d) Prior commitments under this chapter.

24 (2) Credible witnesses may include family members, landlords,
25 neighbors, or others with significant contact and history of
26 involvement with the person. If the designated mental health
27 professional relies upon information from a credible witness in
28 reaching his or her decision to detain the individual, then he or she
29 must provide contact information for any such witness to the
30 prosecutor. The designated mental health professional or prosecutor
31 shall provide notice of the date, time, and location of the probable
32 cause hearing to such a witness.

33 (3) Symptoms and behavior of the respondent which standing alone
34 would not justify civil commitment may support a finding of grave
35 disability or likelihood of serious harm, or a finding that the
36 person is in need of assisted outpatient mental health treatment,
37 when:

38 (a) Such symptoms or behavior are closely associated with
39 symptoms or behavior which preceded and led to a past incident of

1 involuntary hospitalization, severe deterioration, or one or more
2 violent acts;

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

5 (c) Without treatment, the continued deterioration of the
6 respondent is probable.

7 (4) When conducting an evaluation for offenders identified under
8 RCW 72.09.370, the designated mental health professional or
9 professional person shall consider an offender's history of
10 judicially required or administratively ordered antipsychotic
11 medication while in confinement.

12 **Sec. 6.** RCW 71.05.230 and 2011 c 343 s 9 are each amended to
13 read as follows:

14 A person detained or committed for seventy-two hour evaluation
15 and treatment may be (~~detained~~) committed for not more than
16 fourteen additional days of involuntary intensive treatment or ninety
17 additional days of a less restrictive alternative to involuntary
18 intensive treatment. A petition may only be filed if the following
19 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 and (~~either~~)
23 results in a likelihood of serious harm, (~~or~~) results in the
24 (~~detained~~) person being gravely disabled, or results in the person
25 being in need of assisted outpatient mental health treatment, and are
26 prepared to testify those conditions are met; and

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

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

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

37 (a) Two physicians;

38 (b) One physician and a mental health professional;

39 (c) Two psychiatric advanced registered nurse practitioners;

1 (d) One psychiatric advanced registered nurse practitioner and a
2 mental health professional; or

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

20 (5) A copy of the petition has been served on the detained or
21 committed person, his or her attorney and his or her guardian or
22 conservator, 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; and

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

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

38 **Sec. 7.** RCW 71.05.240 and 2009 c 293 s 4 are each amended to
39 read as follows:

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

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

17 (3) At the conclusion of the probable cause hearing(~~(, if the~~
18 ~~court finds by a preponderance of the evidence that)~~):

19 (a) If the court finds by a preponderance of the evidence that
20 such person, as the result of mental disorder, presents a likelihood
21 of serious harm, or is gravely disabled, and, after considering less
22 restrictive alternatives to involuntary detention and treatment,
23 finds that no such alternatives are in the best interests of such
24 person or others, the court shall order that such person be detained
25 for involuntary treatment not to exceed fourteen days in a facility
26 certified to provide treatment by the department. If the court finds
27 that such person, as the result of a mental disorder, presents a
28 likelihood of serious harm, or is gravely disabled, but that
29 treatment in a less restrictive setting than detention is in the best
30 interest of such person or others, the court shall order an
31 appropriate less restrictive alternative course of treatment for not
32 to exceed ninety days;

33 (b) If the court finds by a preponderance of the evidence that
34 such person, as the result of a mental disorder, is in need of
35 assisted outpatient mental health treatment, and that the person does
36 not present a likelihood of serious harm or grave disability, the
37 court shall order an appropriate less restrictive alternative course
38 of treatment not to exceed ninety days, and may not order inpatient
39 treatment.

1 (c) An order for less restrictive alternative treatment must
2 identify the services the person will receive, in accordance with
3 section 15 of this act. If the petitioner did not set forth a
4 proposed less restrictive alternative treatment plan, the court may
5 postpone the issuance of the order for up to five judicial days and
6 require the petitioner to submit a proposal for less restrictive
7 alternative treatment services. The court may order additional
8 evaluation of the person if necessary to identify appropriate
9 services.

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

19 **Sec. 8.** RCW 71.05.245 and 2010 c 280 s 3 are each amended to
20 read as follows:

21 (1) In making a determination of whether a person is gravely
22 disabled (~~(or)~~), presents a likelihood of serious harm, or is in need
23 of assisted outpatient mental health treatment in a hearing conducted
24 under RCW 71.05.240 or 71.05.320, the court must consider the
25 symptoms and behavior of the respondent in light of all available
26 evidence concerning the respondent's historical behavior.

27 (2) Symptoms or behavior which standing alone would not justify
28 civil commitment may support a finding of grave disability or
29 likelihood of serious harm, or a finding that the person is in need
30 of assisted outpatient mental health treatment, when: (a) Such
31 symptoms or behavior are closely associated with symptoms or behavior
32 which preceded and led to a past incident of involuntary
33 hospitalization, severe deterioration, or one or more violent acts;
34 (b) these symptoms or behavior represent a marked and concerning
35 change in the baseline behavior of the respondent; and (c) without
36 treatment, the continued deterioration of the respondent is probable.

37 (3) In making a determination of whether there is a likelihood of
38 serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320,
39 the court shall give great weight to any evidence before the court

1 regarding whether the person has: (a) A recent history of one or more
2 violent acts; or (b) a recent history of one or more commitments
3 under this chapter or its equivalent provisions under the laws of
4 another state which were based on a likelihood of serious harm. The
5 existence of prior violent acts or commitments under this chapter or
6 its equivalent shall not be the sole basis for determining whether a
7 person presents a likelihood of serious harm.

8 For the purposes of this subsection "recent" refers to the period
9 of time not exceeding three years prior to the current hearing.

10 **Sec. 9.** RCW 71.05.280 and 2013 c 289 s 4 are each amended to
11 read as follows:

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

15 (1) Such person after having been taken into custody for
16 evaluation and treatment has threatened, attempted, or inflicted: (a)
17 Physical harm upon the person of another or himself or herself, or
18 substantial damage upon the property of another, and (b) as a result
19 of mental disorder presents a likelihood of serious harm; or

20 (2) Such person was taken into custody as a result of conduct in
21 which he or she attempted or inflicted physical harm upon the person
22 of another or himself or herself, or substantial damage upon the
23 property of others, and continues to present, as a result of mental
24 disorder, a likelihood of serious harm; or

25 (3) Such person has been determined to be incompetent and
26 criminal charges have been dismissed pursuant to RCW 10.77.086(4),
27 and has committed acts constituting a felony, and as a result of a
28 mental disorder, presents a substantial likelihood of repeating
29 similar acts.

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

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

38 (4) Such person is gravely disabled; or

1 (5) Such person is in need of assisted outpatient mental health
2 treatment.

3 **Sec. 10.** RCW 71.05.290 and 2009 c 217 s 3 are each amended to
4 read as follows:

5 (1) At any time during a person's fourteen day intensive
6 treatment period, the professional person in charge of a treatment
7 facility or his or her professional designee or the designated mental
8 health professional may petition the superior court for an order
9 requiring such person to undergo an additional period of treatment.
10 Such petition must be based on one or more of the grounds set forth
11 in RCW 71.05.280.

12 (2) The petition shall summarize the facts which support the need
13 for further confinement and shall be supported by affidavits signed
14 by:

15 (a) Two examining physicians;

16 (b) One examining physician and examining mental health
17 professional;

18 (c) Two psychiatric advanced registered nurse practitioners;

19 (d) One psychiatric advanced registered nurse practitioner and a
20 mental health professional; or

21 (e) An examining physician and an examining psychiatric advanced
22 registered nurse practitioner. The affidavits shall describe in
23 detail the behavior of the detained person which supports the
24 petition and shall explain what, if any, less restrictive treatments
25 which are alternatives to detention are available to such person, and
26 shall state the willingness of the affiant to testify to such facts
27 in subsequent judicial proceedings under this chapter. If less
28 restrictive alternative treatment is sought, the petition shall set
29 forth a proposed plan for less restrictive alternative treatment in
30 accordance with section 15 of this act.

31 (3) If a person has been determined to be incompetent pursuant to
32 RCW 10.77.086(4), then the professional person in charge of the
33 treatment facility or his or her professional designee or the
34 designated mental health professional may directly file a petition
35 for one hundred eighty day treatment under RCW 71.05.280(3). No
36 petition for initial detention or fourteen day detention is required
37 before such a petition may be filed.

1 **Sec. 11.** RCW 71.05.320 and 2013 c 289 s 5 are each amended to
2 read as follows:

3 (1) If the court or jury finds that grounds set forth in RCW
4 71.05.280 have been proven and that the best interests of the person
5 or others will not be served by a less restrictive treatment which is
6 an alternative to detention, the court shall remand him or her to the
7 custody of the department or to a facility certified for ninety day
8 treatment by the department for a further period of intensive
9 treatment not to exceed ninety days from the date of judgment. If the
10 grounds set forth in RCW 71.05.280(3) are the basis of commitment,
11 then the period of treatment may be up to but not exceed one hundred
12 eighty days from the date of judgment in a facility certified for one
13 hundred eighty day treatment by the department.

14 (2) If the court or jury finds that grounds set forth in RCW
15 71.05.280 have been proven, but finds that treatment less restrictive
16 than detention will be in the best interest of the person or others,
17 then the court shall remand him or her to the custody of the
18 department or to a facility certified for ninety day treatment by the
19 department or to a less restrictive alternative for a further period
20 of less restrictive treatment not to exceed ninety days from the date
21 of judgment. If the grounds set forth in RCW 71.05.280(3) are the
22 basis of commitment, then the period of treatment may be up to but
23 not exceed one hundred eighty days from the date of judgment. If the
24 court or jury finds that the grounds set forth in RCW 71.05.280(5)
25 have been proven, and provide the only basis for commitment, the
26 court must enter an order for less restrictive alternative treatment
27 for up to ninety days from the date of judgment and may not order
28 inpatient treatment.

29 (3) An order for less restrictive alternative treatment entered
30 under subsection (2) of this section must identify the services the
31 person will receive, in accordance with section 15 of this act. If
32 the petitioner did not set forth a proposed plan for less restrictive
33 alternative services, the court may postpone the issuance of the
34 order for up to five judicial days and require the petitioner to
35 submit a proposal for less restrictive alternative services. The
36 court may order additional evaluation of the person if necessary to
37 identify appropriate services.

38 (4) The person shall be released from involuntary treatment at
39 the expiration of the period of commitment imposed under subsection
40 (1) or (2) of this section unless the superintendent or professional

1 person in charge of the facility in which he or she is confined, or
2 in the event of a less restrictive alternative, the designated mental
3 health professional, files a new petition for involuntary treatment
4 on the grounds that the committed person:

5 (a) During the current period of court ordered treatment: (i) Has
6 threatened, attempted, or inflicted physical harm upon the person of
7 another, or substantial damage upon the property of another, and (ii)
8 as a result of mental disorder or developmental disability presents a
9 likelihood of serious harm; or

10 (b) Was taken into custody as a result of conduct in which he or
11 she attempted or inflicted serious physical harm upon the person of
12 another, and continues to present, as a result of mental disorder or
13 developmental disability a likelihood of serious harm; or

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

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

34 (d) Continues to be gravely disabled; or

35 (e) Is in need of assisted outpatient mental health treatment.

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

39 ~~((4) For a person committed under subsection (2) of this section~~
40 ~~who has been remanded to a period of less restrictive treatment, in~~

1 ~~addition to the grounds specified in subsection (3) of this section,~~
2 ~~the designated mental health professional may file a new petition for~~
3 ~~continued less restrictive treatment if:~~

4 ~~(a) The person was previously committed by a court to detention~~
5 ~~for involuntary mental health treatment during the thirty-six months~~
6 ~~that preceded the person's initial detention date during the current~~
7 ~~involuntary commitment cycle, excluding any time spent in a mental~~
8 ~~health facility or in confinement as a result of a criminal~~
9 ~~conviction;~~

10 ~~(b) In view of the person's treatment history or current~~
11 ~~behavior, the person is unlikely to voluntarily participate in~~
12 ~~outpatient treatment without an order for less restrictive treatment;~~
13 ~~and~~

14 ~~(c) Outpatient treatment that would be provided under a less~~
15 ~~restrictive treatment order is necessary to prevent a relapse,~~
16 ~~decompensation, or deterioration that is likely to result in the~~
17 ~~person presenting a likelihood of serious harm or the person becoming~~
18 ~~gravely disabled within a reasonably short period of time.) If less~~
19 ~~restrictive alternative treatment is sought, the petition shall set~~
20 ~~forth a proposed plan for less restrictive alternative services in~~
21 ~~accordance with section 15 of this act.~~

22 (5) A new petition for involuntary treatment filed under
23 subsection (~~((3) or~~) (4) of this section shall be filed and heard in
24 the superior court of the county of the facility which is filing the
25 new petition for involuntary treatment unless good cause is shown for
26 a change of venue. The cost of the proceedings shall be borne by the
27 state.

28 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
29 and if the court or jury finds that the grounds for additional
30 confinement as set forth in this section are present, the court may
31 order the committed person returned for an additional period of
32 treatment not to exceed one hundred eighty days from the date of
33 judgment, except as provided in subsection (7) of this section. If
34 the court's order is based solely on the grounds identified in
35 subsection (4)(e) of this section, the court may enter an order for
36 less restrictive alternative treatment not to exceed one hundred
37 eighty days from the date of judgment, and may not enter an order for
38 inpatient treatment. An order for less restrictive alternative
39 treatment must identify the services the person will receive, in
40 accordance with section 15 of this act. If the petitioner did not set

1 forth a proposed plan for less restrictive alternative services, the
2 court may postpone the issuance of the order for up to five judicial
3 days and require the petitioner to submit a proposal for less
4 restrictive alternative services. The court may order additional
5 evaluation of the person if necessary to identify appropriate
6 services.

7 (b) At the end of the one hundred eighty day period of
8 commitment, or one-year period of commitment if subsection (7) of
9 this section applies, the committed person shall be released unless a
10 petition for ((another)) an additional one hundred eighty day period
11 of continued treatment is filed and heard in the same manner as
12 provided in this section. Successive one hundred eighty day
13 commitments are permissible on the same grounds and pursuant to the
14 same procedures as the original one hundred eighty day commitment.
15 However, a commitment solely on the grounds identified in subsection
16 (4)(e) of this section is not permissible under this subsection ((4)
17 of this section)) if ((~~thirty-six months have passed since the last~~
18 date of discharge from detention for inpatient treatment that
19 preceded the current less restrictive alternative order, nor shall a
20 commitment under subsection (4) of this section be permissible if))
21 the likelihood of serious harm ((in subsection (4)(c) of this
22 section)) as described in RCW 71.05.020(46)(e) is based solely on
23 harm to the property of others.

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

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

32 **Sec. 12.** RCW 71.05.340 and 2009 c 322 s 1 are each amended to
33 read as follows:

34 (1)(a) When, in the opinion of the superintendent or the
35 professional person in charge of the hospital or facility providing
36 involuntary treatment, the committed person can be appropriately
37 served by outpatient treatment prior to or at the expiration of the
38 period of commitment, then such outpatient care may be required as a
39 term of conditional release for a period which, when added to the

1 inpatient treatment period, shall not exceed the period of
2 commitment. If the hospital or facility designated to provide
3 outpatient treatment is other than the facility providing involuntary
4 treatment, the outpatient facility so designated must agree in
5 writing to assume such responsibility. A copy of the terms of
6 conditional release shall be given to the patient, the designated
7 mental health professional in the county in which the patient is to
8 receive outpatient treatment, and to the court of original
9 commitment.

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

1 the conditional release, it may do so only on the basis of
2 substantial evidence. Pursuant to the determination of the court upon
3 the hearing, the conditional release of the person shall be approved
4 by the court on the same or modified conditions or the person shall
5 be returned for involuntary treatment on an inpatient basis subject
6 to release at the end of the period for which he or she was
7 committed, or otherwise in accordance with the provisions of this
8 chapter.

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

14 (3)(a) If the hospital or facility designated to provide
15 outpatient care, the designated mental health professional, or the
16 secretary determines that:

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

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

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

24 (iv) The person poses a likelihood of serious harm.

25 Upon notification by the hospital or facility designated to
26 provide outpatient care, or on his or her own motion, the designated
27 mental health professional or the secretary may order that the
28 conditionally released person be apprehended and taken into custody
29 and temporarily detained in an evaluation and treatment facility in
30 or near the county in which he or she is receiving outpatient
31 treatment.

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

1 facility in or near the county in which he or she is receiving
2 outpatient treatment.

3 (c) A person detained under this subsection (3) shall be held
4 until such time, not exceeding five days, as a hearing can be
5 scheduled to determine whether or not the person should be returned
6 to the hospital or facility from which he or she had been
7 conditionally released. The designated mental health professional or
8 the secretary may modify or rescind such order at any time prior to
9 commencement of the court hearing.

10 (d) The court that originally ordered commitment shall be
11 notified within two judicial days of a person's detention under the
12 provisions of this section, and the designated mental health
13 professional or the secretary shall file his or her petition and
14 order of apprehension and detention with the court that originally
15 ordered commitment or with the court in the county in which the
16 person is detained and serve them upon the person detained. His or
17 her attorney, if any, and his or her guardian or conservator, if any,
18 shall receive a copy of such papers as soon as possible. Such person
19 shall have the same rights with respect to notice, hearing, and
20 counsel as for an involuntary treatment proceeding, except as
21 specifically set forth in this section and except that there shall be
22 no right to jury trial. The venue for proceedings regarding a
23 petition for modification or revocation of an order for conditional
24 release shall be in the county in which the petition was filed. The
25 issues to be determined shall be: (i) Whether the conditionally
26 released person did or did not adhere to the terms and conditions of
27 his or her conditional release; (ii) that substantial deterioration
28 in the person's functioning has occurred; (iii) there is evidence of
29 substantial decompensation with a reasonable probability that the
30 decompensation can be reversed by further inpatient treatment; or
31 (iv) there is a likelihood of serious harm; and, if any of the
32 conditions listed in this subsection (3)(d) have occurred, whether
33 the terms of conditional release should be modified or the person
34 should be returned to the facility. If any of the conditions listed
35 in this subsection (3)(d) have occurred and the person is committed
36 solely based on being in need of assisted outpatient mental health
37 treatment, the court shall determine whether the terms of the order
38 should be modified or if proceedings should be initiated under RCW
39 71.05.150.

1 (e) In determining whether or not to modify the terms of
2 conditional release or return the person to the facility:

3 (i) The court must consider the symptoms and behavior of the
4 person in light of all available evidence concerning the person's
5 historical behavior, which may include information provided by
6 credible witnesses as defined in RCW 71.05.212(2); and

7 (ii) If the petition is based on the person's failure to adhere
8 to the terms or conditions of his or her release, the court must give
9 great weight to information regarding symptoms or behavior that: (A)
10 Are closely associated with symptoms or behavior which preceded and
11 led to a past incident of involuntary hospitalization, severe
12 deterioration, or one or more violent acts; (B) represent a marked
13 and concerning change in the baseline behavior of the person; and (C)
14 indicate that without modified terms or return of the person to the
15 facility, continued deterioration is probable.

16 (f) Pursuant to the determination of the court upon such hearing,
17 the conditionally released person shall either continue to be
18 conditionally released on the same or modified conditions or shall be
19 returned for involuntary treatment on an inpatient basis subject to
20 release at the end of the period for which he or she was committed
21 for involuntary treatment, or otherwise in accordance with the
22 provisions of this chapter. Such hearing may be waived by the person
23 and his or her counsel and his or her guardian or conservator, if
24 any, but shall not be waivable unless all such persons agree to
25 waive, and upon such waiver the person may be returned for
26 involuntary treatment or continued on conditional release on the same
27 or modified conditions.

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

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

4 (5) The grounds and procedures for revocation of less restrictive
5 alternative treatment shall be the same as those set forth in this
6 section for conditional releases, except that if inpatient treatment
7 is sought for a person committed based solely on being in need of
8 assisted outpatient mental health treatment, such treatment must be
9 initiated under a new petition for involuntary treatment under RCW
10 71.05.150.

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

14 **Sec. 13.** RCW 71.05.730 and 2011 c 343 s 2 are each amended to
15 read as follows:

16 (1) A county may apply to its regional support network on a
17 quarterly basis for reimbursement of its direct costs in providing
18 judicial services for civil commitment cases under this chapter and
19 chapter 71.34 RCW. The regional support network shall in turn be
20 entitled to reimbursement from the regional support network that
21 serves the county of residence of the individual who is the subject
22 of the civil commitment case. Reimbursements under this section shall
23 be paid out of the regional support network's nonmedicaid
24 appropriation.

25 (2) Reimbursement for judicial services shall be provided per
26 civil commitment case at a rate to be determined based on an
27 independent assessment of the county's actual direct costs. This
28 assessment must be based on an average of the expenditures for
29 judicial services within the county over the past three years. In the
30 event that a baseline cannot be established because there is no
31 significant history of similar cases within the county, the
32 reimbursement rate shall be equal to eighty percent of the median
33 reimbursement rate of counties included in the independent
34 assessment.

35 (3) For the purposes of this section:

36 (a) "Civil commitment case" includes all judicial hearings
37 related to a single episode of hospitalization((~~τ~~)) or less
38 restrictive alternative ((~~detention in lieu of hospitalization~~))
39 treatment, except that the filing of a petition for a one hundred

1 eighty-day commitment under this chapter or a petition for a
2 successive one hundred eighty-day commitment under chapter 71.34 RCW
3 shall be considered to be a new case regardless of whether there has
4 been a break in detention. "Civil commitment case" does not include
5 the filing of a petition for a one hundred eighty-day commitment
6 under this chapter on behalf of a patient at a state psychiatric
7 hospital.

8 (b) "Judicial services" means a county's reasonable direct costs
9 in providing prosecutor services, assigned counsel and defense
10 services, court services, and court clerk services for civil
11 commitment cases under this chapter and chapter 71.34 RCW.

12 (4) To the extent that resources have shared purpose, the
13 regional support network may only reimburse counties to the extent
14 such resources are necessary for and devoted to judicial services as
15 described in this section.

16 (5) No filing fee may be charged or collected for any civil
17 commitment case subject to reimbursement under this section.

18 **Sec. 14.** RCW 71.05.730 and 2014 c 225 s 87 are each amended to
19 read as follows:

20 (1) A county may apply to its behavioral health organization on a
21 quarterly basis for reimbursement of its direct costs in providing
22 judicial services for civil commitment cases under this chapter and
23 chapter 71.34 RCW. The behavioral health organization shall in turn
24 be entitled to reimbursement from the behavioral health organization
25 that serves the county of residence of the individual who is the
26 subject of the civil commitment case. Reimbursements under this
27 section shall be paid out of the behavioral health organization's
28 nonmedicaid appropriation.

29 (2) Reimbursement for judicial services shall be provided per
30 civil commitment case at a rate to be determined based on an
31 independent assessment of the county's actual direct costs. This
32 assessment must be based on an average of the expenditures for
33 judicial services within the county over the past three years. In the
34 event that a baseline cannot be established because there is no
35 significant history of similar cases within the county, the
36 reimbursement rate shall be equal to eighty percent of the median
37 reimbursement rate of counties included in the independent
38 assessment.

39 (3) For the purposes of this section:

1 (a) "Civil commitment case" includes all judicial hearings
2 related to a single episode of hospitalization((τ)) or less
3 restrictive alternative ((~~detention in lieu of hospitalization~~))
4 treatment, except that the filing of a petition for a one hundred
5 eighty-day commitment under this chapter or a petition for a
6 successive one hundred eighty-day commitment under chapter 71.34 RCW
7 shall be considered to be a new case regardless of whether there has
8 been a break in detention. "Civil commitment case" does not include
9 the filing of a petition for a one hundred eighty-day commitment
10 under this chapter on behalf of a patient at a state psychiatric
11 hospital.

12 (b) "Judicial services" means a county's reasonable direct costs
13 in providing prosecutor services, assigned counsel and defense
14 services, court services, and court clerk services for civil
15 commitment cases under this chapter and chapter 71.34 RCW.

16 (4) To the extent that resources have shared purpose, the
17 behavioral health organization may only reimburse counties to the
18 extent such resources are necessary for and devoted to judicial
19 services as described in this section.

20 (5) No filing fee may be charged or collected for any civil
21 commitment case subject to reimbursement under this section.

22 NEW SECTION. **Sec. 15.** A new section is added to chapter 71.05
23 RCW to read as follows:

24 (1) Less restrictive alternative treatment, at a minimum,
25 includes the following services:

26 (a) Assignment of a care coordinator;

27 (b) An intake evaluation with the provider of the less
28 restrictive alternative treatment;

29 (c) A psychiatric evaluation;

30 (d) Medication management;

31 (e) A schedule of regular contacts with the provider of the less
32 restrictive alternative treatment services for the duration of the
33 order;

34 (f) A transition plan addressing access to continued services at
35 the expiration of the order; and

36 (g) An individual crisis plan.

37 (2) Less restrictive alternative treatment may additionally
38 include the following services:

39 (a) Psychotherapy;

- 1 (b) Nursing;
- 2 (c) Substance abuse counseling; and
- 3 (d) Support for housing, benefits, education, and employment.

4 NEW SECTION. **Sec. 16.** A new section is added to chapter 71.05
5 RCW to read as follows:

6 A court order for less restrictive alternative treatment for a
7 person found to be in need of assisted outpatient mental health
8 treatment must be terminated prior to the expiration of the order
9 when, in the opinion of the professional person in charge of the less
10 restrictive alternative treatment provider, (1) the person is
11 prepared to accept voluntary treatment, or (2) the outpatient
12 treatment ordered is no longer necessary to prevent a relapse,
13 decompensation, or deterioration that is likely to result in the
14 person presenting a likelihood of serious harm or the person becoming
15 gravely disabled within a reasonably short period of time.

16 **Sec. 17.** RCW 71.24.330 and 2013 c 320 s 9 are each amended to
17 read as follows:

18 (1)(a) Contracts between a regional support network and the
19 department shall include mechanisms for monitoring performance under
20 the contract and remedies for failure to substantially comply with
21 the requirements of the contract including, but not limited to,
22 financial penalties, termination of the contract, and reprocurement
23 of the contract.

24 (b) The department shall incorporate the criteria to measure the
25 performance of service coordination organizations into contracts with
26 regional support networks as provided in chapter 70.320 RCW.

27 (2) The regional support network procurement processes shall
28 encourage the preservation of infrastructure previously purchased by
29 the community mental health service delivery system, the maintenance
30 of linkages between other services and delivery systems, and
31 maximization of the use of available funds for services versus
32 profits. However, a regional support network selected through the
33 procurement process is not required to contract for services with any
34 county-owned or operated facility. The regional support network
35 procurement process shall provide that public funds appropriated by
36 the legislature shall not be used to promote or deter, encourage, or
37 discourage employees from exercising their rights under Title 29,
38 chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

1 (3) In addition to the requirements of RCW 71.24.035, contracts
2 shall:

3 (a) Define administrative costs and ensure that the regional
4 support network does not exceed an administrative cost of ten percent
5 of available funds;

6 (b) Require effective collaboration with law enforcement,
7 criminal justice agencies, and the chemical dependency treatment
8 system;

9 (c) Require substantial implementation of department adopted
10 integrated screening and assessment process and matrix of best
11 practices;

12 (d) Maintain the decision-making independence of designated
13 mental health professionals;

14 (e) Except at the discretion of the secretary or as specified in
15 the biennial budget, require regional support networks to pay the
16 state for the costs associated with individuals who are being served
17 on the grounds of the state hospitals and who are not receiving long-
18 term inpatient care as defined in RCW 71.24.025;

19 (f) Include a negotiated alternative dispute resolution clause;
20 ((and))

21 (g) Include a provision requiring either party to provide one
22 hundred eighty days' notice of any issue that may cause either party
23 to voluntarily terminate, refuse to renew, or refuse to sign a
24 mandatory amendment to the contract to act as a regional support
25 network. If either party decides to voluntarily terminate, refuse to
26 renew, or refuse to sign a mandatory amendment to the contract to
27 serve as a regional support network they shall provide ninety days'
28 advance notice in writing to the other party; and

29 (h) Require regional support networks to provide services as
30 identified in section 15 of this act to individuals committed for
31 involuntary commitment under less restrictive alternative court
32 orders when:

33 (i) The individual is enrolled in the medicaid program and meets
34 regional support network access to care standards; or

35 (ii) The individual is not enrolled in medicaid, does not have
36 other insurance which can pay for the services, and the regional
37 support network has adequate available resources to provide the
38 services.

1 **Sec. 18.** RCW 71.24.330 and 2014 c 225 s 51 are each amended to
2 read as follows:

3 (1)(a) Contracts between a behavioral health organization and the
4 department shall include mechanisms for monitoring performance under
5 the contract and remedies for failure to substantially comply with
6 the requirements of the contract including, but not limited to,
7 financial penalties, termination of the contract, and reprourement
8 of the contract.

9 (b) The department shall incorporate the criteria to measure the
10 performance of service coordination organizations into contracts with
11 behavioral health organizations as provided in chapter 70.320 RCW.

12 (2) The behavioral health organization procurement processes
13 shall encourage the preservation of infrastructure previously
14 purchased by the community mental health service delivery system, the
15 maintenance of linkages between other services and delivery systems,
16 and maximization of the use of available funds for services versus
17 profits. However, a behavioral health organization selected through
18 the procurement process is not required to contract for services with
19 any county-owned or operated facility. The behavioral health
20 organization procurement process shall provide that public funds
21 appropriated by the legislature shall not be used to promote or
22 deter, encourage, or discourage employees from exercising their
23 rights under Title 29, chapter 7, subchapter II, United States Code
24 or chapter 41.56 RCW.

25 (3) In addition to the requirements of RCW 71.24.035, contracts
26 shall:

27 (a) Define administrative costs and ensure that the behavioral
28 health organization does not exceed an administrative cost of ten
29 percent of available funds;

30 (b) Require effective collaboration with law enforcement,
31 criminal justice agencies, and the chemical dependency treatment
32 system;

33 (c) Require substantial implementation of department adopted
34 integrated screening and assessment process and matrix of best
35 practices;

36 (d) Maintain the decision-making independence of designated
37 mental health professionals;

38 (e) Except at the discretion of the secretary or as specified in
39 the biennial budget, require behavioral health organizations to pay
40 the state for the costs associated with individuals who are being

1 served on the grounds of the state hospitals and who are not
2 receiving long-term inpatient care as defined in RCW 71.24.025;

3 (f) Include a negotiated alternative dispute resolution clause;
4 (~~and~~)

5 (g) Include a provision requiring either party to provide one
6 hundred eighty days' notice of any issue that may cause either party
7 to voluntarily terminate, refuse to renew, or refuse to sign a
8 mandatory amendment to the contract to act as a behavioral health
9 organization. If either party decides to voluntarily terminate,
10 refuse to renew, or refuse to sign a mandatory amendment to the
11 contract to serve as a behavioral health organization they shall
12 provide ninety days' advance notice in writing to the other party;
13 and

14 (h) Require behavioral health organizations to provide services
15 as identified in section 15 of this act to individuals committed for
16 involuntary commitment under less restrictive alternative court
17 orders when:

18 (i) The individual is enrolled in the medicaid program and meets
19 behavioral health organization access to care standards; or

20 (ii) The individual is not enrolled in medicaid, does not have
21 other insurance which can pay for the services, and the behavioral
22 health organization has adequate available resources to provide the
23 services.

24 NEW SECTION. Sec. 19. Sections 1, 13, and 17 of this act expire
25 April 1, 2016.

26 NEW SECTION. Sec. 20. Sections 2, 14, and 18 of this act take
27 effect April 1, 2016.

28 NEW SECTION. Sec. 21. If specific funding for the purposes of
29 this act, referencing this act by bill or chapter number, is not
30 provided by June 30, 2015, in the omnibus appropriations act, this
31 act is null and void."

32 Correct the title.

EFFECT: The striking amendment makes the following changes:

1. Provides that a person committed solely on the basis of being
"in need of assisted outpatient mental health treatment" is committed

to less restrictive alternative treatment, rather than a program of "assisted outpatient mental health treatment."

2. Defines the services that must and may be provided to persons committed to less restrictive alternative treatment, regardless of the standard on which the person was committed.

3. Requires any petition for less restrictive treatment to include a proposal for the services the order should include, rather than only petitions for persons alleged to meet the "in need of assisted outpatient treatment" standard.

4. Provides that regional support network contracts must require that the regional support network provide statutorily identified services to persons court ordered to less restrictive alternative treatment under specified circumstances.

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