

2SSB 5649 - S AMD 98

By Senators O'Ban, Darneille

ADOPTED 3/4/2015

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

3 "PART I: INITIAL DETENTION

4 **Sec. 101.** RCW 71.05.010 and 1998 c 297 s 2 are each amended to
5 read as follows:

6 (1) The provisions of this chapter are intended by the
7 legislature:

8 ~~((+1))~~ (a) To protect the health and safety of persons suffering
9 from mental disorders and to protect public safety through use of the
10 parens patriae and police powers of the state;

11 (b) To prevent inappropriate, indefinite commitment of mentally
12 disordered persons and to eliminate legal disabilities that arise
13 from such commitment;

14 ~~((+2))~~ (c) To provide prompt evaluation and timely and
15 appropriate treatment of persons with serious mental disorders;

16 ~~((+3))~~ (d) To safeguard individual rights;

17 ~~((+4))~~ (e) To provide continuity of care for persons with
18 serious mental disorders;

19 ~~((+5))~~ (f) To encourage the full use of all existing agencies,
20 professional personnel, and public funds to prevent duplication of
21 services and unnecessary expenditures; and

22 ~~((+6))~~ (g) To encourage, whenever appropriate, that services be
23 provided within the community(~~(+~~

24 ~~(7) To protect the public safety))~~.

25 (2) When construing the requirements of this chapter the court
26 must focus on the merits of the petition, except where requirements
27 have been totally disregarded, as provided in *In re C.W.*, 147 Wn.2d
28 259, 281 (2002). A presumption in favor of deciding petitions on
29 their merits furthers both public and private interests because the
30 mental and physical well-being of individuals as well as public
31 safety may be implicated by the decision to release an individual and
32 discontinue his or her treatment.

1 NEW SECTION. **Sec. 102.** A new section is added to chapter 71.05
2 RCW to read as follows:

3 (1) The department may use a single bed certification process to
4 provide additional treatment capacity for a person suffering from a
5 mental disorder for whom an evaluation and treatment bed is not
6 available. The facility that is the proposed site of the single bed
7 certification must be a facility that is willing and able to provide
8 the person with timely and appropriate treatment either directly or
9 by arrangement with other public or private agencies. Appropriate
10 settings for single bed certifications may include, but are not
11 limited to, any of the following settings where the facility is
12 willing and able to provide timely and appropriate treatment to the
13 person:

14 (a) A hospital with or without a psychiatric unit;

15 (b) A psychiatric hospital;

16 (c) A hospital that is willing and able to provide timely and
17 appropriate mental health treatment or medical treatment to a person
18 with a co-occurring mental disorder and medical condition such that
19 it prevents transfer to an evaluation and treatment facility or state
20 hospital; or

21 (d) A residential treatment facility.

22 (2) A single bed certification must be specific to the patient
23 receiving treatment.

24 (3) A designated mental health professional who submits an
25 application for a single bed certification for treatment at a
26 facility which is willing and able to provide timely and appropriate
27 mental health treatment, or medical treatment to an individual with a
28 co-occurring mental disorder and medical condition, in good faith
29 belief that the single bed certification is appropriate may presume
30 that the single bed certification will be approved for the purpose of
31 completing the detention process and responding to other emergency
32 calls.

33 (4) The department may adopt rules implementing this section and
34 continue to enforce rules it has already adopted except where
35 inconsistent with this section.

36 NEW SECTION. **Sec. 103.** A new section is added to chapter 71.05
37 RCW to read as follows:

38 (1) A designated mental health professional shall make a report
39 to the department when he or she determines a person meets detention

1 criteria under RCW 71.05.150, 71.05.153, 71.34.700, or 71.34.710 and
2 there are not any beds available at an evaluation and treatment
3 facility, the person has not been provisionally accepted for
4 admission by a facility, and the person cannot be served on a single
5 bed certification or less restrictive alternative. Starting at the
6 time when the designated mental health professional determines a
7 person meets detention criteria and the investigation has been
8 completed, the designated mental health professional has twenty-four
9 hours to submit a completed report to the department.

10 (2) The report required under subsection (1) of this section must
11 contain at a minimum:

12 (a) The date and time that the investigation was completed;

13 (b) The identity of the responsible regional support network or
14 behavioral health organization;

15 (c) The county in which the person met detention criteria;

16 (d) A list of facilities which refused to admit the person; and

17 (e) Identifying information for the person, including age or date
18 of birth.

19 (3) The department shall develop a standardized reporting form or
20 modify the current form used for single bed certifications for the
21 report required under subsection (2) of this section and may require
22 additional reporting elements as it determines are necessary or
23 supportive. The department shall also determine the method for the
24 transmission of the completed report from the designated mental
25 health professional to the department.

26 (4) The department shall create quarterly reports displayed on
27 its web site that summarize the information reported under subsection
28 (2) of this section. At a minimum, the reports must display data by
29 county and by month. The reports must also include the number of
30 single bed certifications granted by category. The categories must
31 include all of the reasons that the department recognizes for issuing
32 a single bed certification, as identified in rule.

33 (5) The reports provided according to this section may not
34 display "protected health information" as that term is used in the
35 federal health insurance portability and accountability act of 1996,
36 nor information contained in "mental health treatment records" as
37 that term is used in chapter 70.02 RCW or elsewhere in state law, and
38 must otherwise be compliant with state and federal privacy laws.

39 (6) For purposes of this section, the term "single bed
40 certification" means a situation in which an adult on a seventy-two

1 hour detention, fourteen-day commitment, ninety-day commitment, or
2 one hundred eighty-day commitment is detained to a facility that is:

3 (a) Not certified as an inpatient evaluation and treatment
4 facility; or

5 (b) A certified inpatient evaluation and treatment facility that
6 is already at capacity.

7 NEW SECTION. **Sec. 104.** A new section is added to chapter 71.05
8 RCW to read as follows:

9 (1) Submission of a report as provided in section 103 of this act
10 constitutes prima facie evidence that the responsible regional
11 support network or behavioral health organization is in breach of its
12 duty under RCW 71.24.300(6)(b) and 43.20A.894(1)(d) to provide for
13 adequate network of evaluation and treatment services within its
14 regional service area.

15 (2) The department shall promptly share reports it receives under
16 section 103 of this act with the responsible regional support network
17 or behavioral health organization. The regional support network or
18 behavioral health organization receiving this notification must
19 attempt to engage the person in appropriate services for which the
20 person is eligible and report back within seven days to the
21 department.

22 (3) The department shall track and analyze reports submitted
23 under section 103 of this act. The department must initiate
24 corrective action when appropriate to ensure that each regional
25 support network or behavioral health organization has implemented an
26 adequate plan to provide evaluation and treatment services.
27 Corrective actions may include remedies under RCW 71.24.330 and
28 43.20A.894, including requiring expenditure of reserve funds. An
29 adequate plan may include development of less restrictive
30 alternatives to involuntary commitment such as crisis triage, crisis
31 diversion, voluntary treatment, or prevention programs reasonably
32 calculated to reduce demand for evaluation and treatment under this
33 chapter.

34 **Sec. 105.** RCW 71.05.050 and 2000 c 94 s 3 are each amended to
35 read as follows:

36 (1) Nothing in this chapter shall be construed to limit the right
37 of any person to apply voluntarily to any public or private agency or
38 practitioner for treatment of a mental disorder, either by direct

1 application or by referral. Any person voluntarily admitted for
2 inpatient treatment to any public or private agency shall be released
3 immediately upon his or her request. Any person voluntarily admitted
4 for inpatient treatment to any public or private agency shall orally
5 be advised of the right to immediate discharge, and further advised
6 of such rights in writing as are secured to them pursuant to this
7 chapter and their rights of access to attorneys, courts, and other
8 legal redress. Their condition and status shall be reviewed at least
9 once each one hundred eighty days for evaluation as to the need for
10 further treatment or possible discharge, at which time they shall
11 again be advised of their right to discharge upon request(~~(+PROVIDED~~
12 ~~HOWEVER, That)~~).

13 (2) If the professional staff of any public or private agency or
14 hospital regards a person voluntarily admitted who requests discharge
15 as presenting, as a result of a mental disorder, an imminent
16 likelihood of serious harm, or is gravely disabled, they may detain
17 such person for sufficient time to notify the ((~~county~~)) designated
18 mental health professional of such person's condition to enable the
19 ((~~county~~)) designated mental health professional to authorize such
20 person being further held in custody or transported to an evaluation
21 and treatment center pursuant to the provisions of this chapter,
22 which shall in ordinary circumstances be no later than the next
23 judicial day(~~(+PROVIDED FURTHER, That)~~).

24 (3) If a person is brought to the emergency room of a public or
25 private agency or hospital for observation or treatment, the person
26 refuses voluntary admission, and the professional staff of the public
27 or private agency or hospital regard such person as presenting as a
28 result of a mental disorder an imminent likelihood of serious harm,
29 or as presenting an imminent danger because of grave disability, they
30 may detain such person for sufficient time to notify the ((~~county~~))
31 designated mental health professional of such person's condition to
32 enable the ((~~county~~)) designated mental health professional to
33 authorize such person being further held in custody or transported to
34 an evaluation treatment center pursuant to the conditions in this
35 chapter, but which time shall be no more than six hours from the time
36 the professional staff ((~~determine that an evaluation by~~)) notify the
37 ((~~county~~)) designated mental health professional ((~~is necessary~~)) of
38 the need for evaluation, not counting time periods prior to medical
39 clearance.

1 (4) Dismissal of a commitment petition is not the appropriate
2 remedy for a violation of the timeliness requirements of this section
3 based on the intent of this chapter under RCW 71.05.010 except in the
4 few cases where the facility staff or designated mental health
5 professional has totally disregarded the requirements of this
6 section.

7 **Sec. 106.** RCW 71.05.153 and 2011 c 305 s 8 and 2011 c 148 s 2
8 are each reenacted and amended to read as follows:

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

19 (2) A peace officer may take or cause such person to be taken
20 into custody and immediately delivered to a triage facility, crisis
21 stabilization unit, evaluation and treatment facility, or the
22 emergency department of a local hospital under the following
23 circumstances:

24 (a) Pursuant to subsection (1) of this section; or

25 (b) When he or she has reasonable cause to believe that such
26 person is suffering from a mental disorder and presents an imminent
27 likelihood of serious harm or is in imminent danger because of being
28 gravely disabled.

29 (3) Persons delivered to a crisis stabilization unit, evaluation
30 and treatment facility, emergency department of a local hospital, or
31 triage facility that has elected to operate as an involuntary
32 facility by peace officers pursuant to subsection (2) of this section
33 may be held by the facility for a period of up to twelve hours, not
34 counting time periods prior to medical clearance.

35 (4) Within three hours (~~of~~) after arrival, not counting time
36 periods prior to medical clearance, the person must be examined by a
37 mental health professional. Within twelve hours of (~~arrival~~) notice
38 of the need for evaluation, not counting time periods prior to
39 medical clearance, the designated mental health professional must

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

10 (5) Dismissal of a commitment petition is not the appropriate
11 remedy for a violation of the timeliness requirements of this section
12 based on the intent of this chapter under RCW 71.05.010 except in the
13 few cases where the facility staff or designated mental health
14 professional has totally disregarded the requirements of this
15 section.

16 **Sec. 107.** RCW 71.05.210 and 2009 c 217 s 1 are each amended to
17 read as follows:

18 Each person involuntarily detained and accepted or admitted at an
19 evaluation and treatment facility (1) shall, within twenty-four hours
20 of his or her admission or acceptance at the facility, not counting
21 time periods prior to medical clearance, be examined and evaluated by

22 (a) a licensed physician who may be assisted by a physician assistant
23 according to chapter 18.71A RCW and a mental health professional, (b)
24 an advanced registered nurse practitioner according to chapter 18.79
25 RCW and a mental health professional, or (c) a licensed physician and
26 a psychiatric advanced registered nurse practitioner and (2) shall
27 receive such treatment and care as his or her condition requires
28 including treatment on an outpatient basis for the period that he or
29 she is detained, except that, beginning twenty-four hours prior to a
30 trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310,
31 71.05.320, 71.05.340, or 71.05.217, the individual may refuse
32 psychiatric medications, but may not refuse: (a) Any other medication
33 previously prescribed by a person licensed under Title 18 RCW; or (b)
34 emergency lifesaving treatment, and the individual shall be informed
35 at an appropriate time of his or her right of such refusal. The
36 person shall be detained up to seventy-two hours, if, in the opinion
37 of the professional person in charge of the facility, or his or her
38 professional designee, the person presents a likelihood of serious
39 harm, or is gravely disabled. A person who has been detained for

1 seventy-two hours shall no later than the end of such period be
2 released, unless referred for further care on a voluntary basis, or
3 detained pursuant to court order for further treatment as provided in
4 this chapter.

5 If, after examination and evaluation, the mental health
6 professional and licensed physician or psychiatric advanced
7 registered nurse practitioner determine that the initial needs of the
8 person would be better served by placement in a chemical dependency
9 treatment facility, then the person shall be referred to an approved
10 treatment program defined under RCW 70.96A.020.

11 An evaluation and treatment center admitting or accepting any
12 person pursuant to this chapter whose physical condition reveals the
13 need for hospitalization shall assure that such person is transferred
14 to an appropriate hospital for evaluation or admission for treatment.
15 Notice of such fact shall be given to the court, the designated
16 attorney, and the designated mental health professional and the court
17 shall order such continuance in proceedings under this chapter as may
18 be necessary, but in no event may this continuance be more than
19 fourteen days.

20 **Sec. 108.** RCW 71.24.035 and 2014 c 225 s 11 are each amended to
21 read as follows:

22 (1) The department is designated as the state mental health
23 authority.

24 (2) The secretary shall provide for public, client, tribal, and
25 licensed service provider participation in developing the state
26 mental health program, developing contracts with behavioral health
27 organizations, and any waiver request to the federal government under
28 medicaid.

29 (3) The secretary shall provide for participation in developing
30 the state mental health program for children and other underserved
31 populations, by including representatives on any committee
32 established to provide oversight to the state mental health program.

33 (4) The secretary shall be designated as the behavioral health
34 organization if the behavioral health organization fails to meet
35 state minimum standards or refuses to exercise responsibilities under
36 its contract or RCW 71.24.045, until such time as a new behavioral
37 health organization is designated.

38 (5) The secretary shall:

1 (a) Develop a biennial state mental health program that
2 incorporates regional biennial needs assessments and regional mental
3 health service plans and state services for adults and children with
4 mental illness;

5 (b) Assure that any behavioral health organization or county
6 community mental health program provides medically necessary services
7 to medicaid recipients consistent with the state's medicaid state
8 plan or federal waiver authorities, and nonmedicaid services
9 consistent with priorities established by the department;

10 (c) Develop and adopt rules establishing state minimum standards
11 for the delivery of mental health services pursuant to RCW 71.24.037
12 including, but not limited to:

13 (i) Licensed service providers. These rules shall permit a
14 county-operated mental health program to be licensed as a service
15 provider subject to compliance with applicable statutes and rules.
16 The secretary shall provide for deeming of compliance with state
17 minimum standards for those entities accredited by recognized
18 behavioral health accrediting bodies recognized and having a current
19 agreement with the department;

20 (ii) Inpatient services, an adequate network of evaluation and
21 treatment services and facilities under chapter 71.05 RCW to ensure
22 access to treatment, resource management services, and community
23 support services;

24 (d) Assure that the special needs of persons who are minorities,
25 elderly, disabled, children, low-income, and parents who are
26 respondents in dependency cases are met within the priorities
27 established in this section;

28 (e) Establish a standard contract or contracts, consistent with
29 state minimum standards which shall be used in contracting with
30 behavioral health organizations. The standard contract shall include
31 a maximum fund balance, which shall be consistent with that required
32 by federal regulations or waiver stipulations;

33 (f) Establish, to the extent possible, a standardized auditing
34 procedure which is designed to assure compliance with contractual
35 agreements authorized by this chapter and minimizes paperwork
36 requirements of behavioral health organizations and licensed service
37 providers. The audit procedure shall focus on the outcomes of service
38 as provided in RCW 43.20A.895, 70.320.020, and 71.36.025;

39 (g) Develop and maintain an information system to be used by the
40 state and behavioral health organizations that includes a tracking

1 method which allows the department and behavioral health
2 organizations to identify mental health clients' participation in any
3 mental health service or public program on an immediate basis. The
4 information system shall not include individual patient's case
5 history files. Confidentiality of client information and records
6 shall be maintained as provided in this chapter and chapter 70.02
7 RCW;

8 (h) License service providers who meet state minimum standards;

9 (i) Periodically monitor the compliance of behavioral health
10 organizations and their network of licensed service providers for
11 compliance with the contract between the department, the behavioral
12 health organization, and federal and state rules at reasonable times
13 and in a reasonable manner;

14 (j) Fix fees to be paid by evaluation and treatment centers to
15 the secretary for the required inspections;

16 (k) Monitor and audit behavioral health organizations and
17 licensed service providers as needed to assure compliance with
18 contractual agreements authorized by this chapter;

19 (l) Adopt such rules as are necessary to implement the
20 department's responsibilities under this chapter;

21 (m) License or certify crisis stabilization units that meet state
22 minimum standards;

23 (n) License or certify clubhouses that meet state minimum
24 standards; and

25 (o) License or certify triage facilities that meet state minimum
26 standards.

27 (6) The secretary shall use available resources only for
28 behavioral health organizations, except:

29 (a) To the extent authorized, and in accordance with any
30 priorities or conditions specified, in the biennial appropriations
31 act; or

32 (b) To incentivize improved performance with respect to the
33 client outcomes established in RCW 43.20A.895, 70.320.020, and
34 71.36.025, integration of behavioral health and medical services at
35 the clinical level, and improved care coordination for individuals
36 with complex care needs.

37 (7) Each behavioral health organization and licensed service
38 provider shall file with the secretary, on request, such data,
39 statistics, schedules, and information as the secretary reasonably
40 requires. A behavioral health organization or licensed service

1 provider which, without good cause, fails to furnish any data,
2 statistics, schedules, or information as requested, or files
3 fraudulent reports thereof, may be subject to the behavioral health
4 organization contractual remedies in RCW 43.20A.894 or may have its
5 service provider certification or license revoked or suspended.

6 (8) The secretary may suspend, revoke, limit, or restrict a
7 certification or license, or refuse to grant a certification or
8 license for failure to conform to: (a) The law; (b) applicable rules
9 and regulations; (c) applicable standards; or (d) state minimum
10 standards.

11 (9) The superior court may restrain any behavioral health
12 organization or service provider from operating without a contract,
13 certification, or a license or any other violation of this section.
14 The court may also review, pursuant to procedures contained in
15 chapter 34.05 RCW, any denial, suspension, limitation, restriction,
16 or revocation of certification or license, and grant other relief
17 required to enforce the provisions of this chapter.

18 (10) Upon petition by the secretary, and after hearing held upon
19 reasonable notice to the facility, the superior court may issue a
20 warrant to an officer or employee of the secretary authorizing him or
21 her to enter at reasonable times, and examine the records, books, and
22 accounts of any behavioral health organization(~~(s-[organization])~~) or
23 service provider refusing to consent to inspection or examination by
24 the authority.

25 (11) Notwithstanding the existence or pursuit of any other
26 remedy, the secretary may file an action for an injunction or other
27 process against any person or governmental unit to restrain or
28 prevent the establishment, conduct, or operation of a behavioral
29 health organization or service provider without a contract,
30 certification, or a license under this chapter.

31 (12) The standards for certification or licensure of evaluation
32 and treatment facilities shall include standards relating to
33 maintenance of good physical and mental health and other services to
34 be afforded persons pursuant to this chapter and chapters 71.05 and
35 71.34 RCW, and shall otherwise assure the effectuation of the
36 purposes of these chapters.

37 (13) The standards for certification or licensure of crisis
38 stabilization units shall include standards that:

39 (a) Permit location of the units at a jail facility if the unit
40 is physically separate from the general population of the jail;

1 (b) Require administration of the unit by mental health
2 professionals who direct the stabilization and rehabilitation
3 efforts; and

4 (c) Provide an environment affording security appropriate with
5 the alleged criminal behavior and necessary to protect the public
6 safety.

7 (14) The standards for certification or licensure of a clubhouse
8 shall at a minimum include:

9 (a) The facilities may be peer-operated and must be
10 recovery-focused;

11 (b) Members and employees must work together;

12 (c) Members must have the opportunity to participate in all the
13 work of the clubhouse, including administration, research, intake and
14 orientation, outreach, hiring, training and evaluation of staff,
15 public relations, advocacy, and evaluation of clubhouse
16 effectiveness;

17 (d) Members and staff and ultimately the clubhouse director must
18 be responsible for the operation of the clubhouse, central to this
19 responsibility is the engagement of members and staff in all aspects
20 of clubhouse operations;

21 (e) Clubhouse programs must be comprised of structured activities
22 including but not limited to social skills training, vocational
23 rehabilitation, employment training and job placement, and community
24 resource development;

25 (f) Clubhouse programs must provide in-house educational programs
26 that significantly utilize the teaching and tutoring skills of
27 members and assist members by helping them to take advantage of adult
28 education opportunities in the community;

29 (g) Clubhouse programs must focus on strengths, talents, and
30 abilities of its members;

31 (h) The work-ordered day may not include medication clinics, day
32 treatment, or other therapy programs within the clubhouse.

33 (15) The department shall distribute appropriated state and
34 federal funds in accordance with any priorities, terms, or conditions
35 specified in the appropriations act.

36 (16) The secretary shall assume all duties assigned to the
37 nonparticipating behavioral health organizations under chapters 71.05
38 and 71.34 RCW and this chapter. Such responsibilities shall include
39 those which would have been assigned to the nonparticipating counties

1 in regions where there are not participating behavioral health
2 organizations.

3 The behavioral health organizations, or the secretary's
4 assumption of all responsibilities under chapters 71.05 and 71.34 RCW
5 and this chapter, shall be included in all state and federal plans
6 affecting the state mental health program including at least those
7 required by this chapter, the medicaid program, and P.L. 99-660.
8 Nothing in these plans shall be inconsistent with the intent and
9 requirements of this chapter.

10 (17) The secretary shall:

11 (a) Disburse funds for the behavioral health organizations within
12 sixty days of approval of the biennial contract. The department must
13 either approve or reject the biennial contract within sixty days of
14 receipt.

15 (b) Enter into biennial contracts with behavioral health
16 organizations. The contracts shall be consistent with available
17 resources. No contract shall be approved that does not include
18 progress toward meeting the goals of this chapter by taking
19 responsibility for: (i) Short-term commitments; (ii) residential
20 care; and (iii) emergency response systems.

21 (c) Notify behavioral health organizations of their allocation of
22 available resources at least sixty days prior to the start of a new
23 biennial contract period.

24 (d) Deny all or part of the funding allocations to behavioral
25 health organizations based solely upon formal findings of
26 noncompliance with the terms of the behavioral health organization's
27 contract with the department. Behavioral health organizations
28 disputing the decision of the secretary to withhold funding
29 allocations are limited to the remedies provided in the department's
30 contracts with the behavioral health organizations.

31 (18) The department, in cooperation with the state congressional
32 delegation, shall actively seek waivers of federal requirements and
33 such modifications of federal regulations as are necessary to allow
34 federal medicaid reimbursement for services provided by freestanding
35 evaluation and treatment facilities certified under chapter 71.05
36 RCW. The department shall periodically report its efforts to the
37 appropriate committees of the senate and the house of
38 representatives.

1 **Sec. 109.** RCW 71.24.300 and 2008 c 261 s 4 are each amended to
2 read as follows:

3 (1) Upon the request of a tribal authority or authorities within
4 a regional support network the joint operating agreement or the
5 county authority shall allow for the inclusion of the tribal
6 authority to be represented as a party to the regional support
7 network.

8 (2) The roles and responsibilities of the county and tribal
9 authorities shall be determined by the terms of that agreement
10 including a determination of membership on the governing board and
11 advisory committees, the number of tribal representatives to be party
12 to the agreement, and the provisions of law and shall assure the
13 provision of culturally competent services to the tribes served.

14 (3) The state mental health authority may not determine the roles
15 and responsibilities of county authorities as to each other under
16 regional support networks by rule, except to assure that all duties
17 required of regional support networks are assigned and that counties
18 and the regional support network do not duplicate functions and that
19 a single authority has final responsibility for all available
20 resources and performance under the regional support network's
21 contract with the secretary.

22 (4) If a regional support network is a private entity, the
23 department shall allow for the inclusion of the tribal authority to
24 be represented as a party to the regional support network.

25 (5) The roles and responsibilities of the private entity and the
26 tribal authorities shall be determined by the department, through
27 negotiation with the tribal authority.

28 (6) Regional support networks shall submit an overall six-year
29 operating and capital plan, timeline, and budget and submit progress
30 reports and an updated two-year plan biennially thereafter, to assume
31 within available resources all of the following duties:

32 (a) Administer and provide for the availability of all resource
33 management services, residential services, and community support
34 services.

35 (b) Administer and provide for the availability of an adequate
36 network of evaluation and treatment services to ensure access to
37 treatment, all investigation, transportation, court-related, and
38 other services provided by the state or counties pursuant to chapter
39 71.05 RCW.

1 (c) Provide within the boundaries of each regional support
2 network evaluation and treatment services for at least ninety percent
3 of persons detained or committed for periods up to seventeen days
4 according to chapter 71.05 RCW. Regional support networks may
5 contract to purchase evaluation and treatment services from other
6 networks if they are unable to provide for appropriate resources
7 within their boundaries. Insofar as the original intent of serving
8 persons in the community is maintained, the secretary is authorized
9 to approve exceptions on a case-by-case basis to the requirement to
10 provide evaluation and treatment services within the boundaries of
11 each regional support network. Such exceptions are limited to:

- 12 (i) Contracts with neighboring or contiguous regions; or
13 (ii) Individuals detained or committed for periods up to
14 seventeen days at the state hospitals at the discretion of the
15 secretary.

16 (d) Administer and provide for the availability of all other
17 mental health services, which shall include patient counseling, day
18 treatment, consultation, education services, employment services as
19 (~~defined~~) described in RCW 71.24.035, and mental health services to
20 children.

21 (e) Establish standards and procedures for reviewing individual
22 service plans and determining when that person may be discharged from
23 resource management services.

24 (7) A regional support network may request that any state-owned
25 land, building, facility, or other capital asset which was ever
26 purchased, deeded, given, or placed in trust for the care of the
27 persons with mental illness and which is within the boundaries of a
28 regional support network be made available to support the operations
29 of the regional support network. State agencies managing such capital
30 assets shall give first priority to requests for their use pursuant
31 to this chapter.

32 (8) Each regional support network shall appoint a mental health
33 advisory board which shall review and provide comments on plans and
34 policies developed under this chapter, provide local oversight
35 regarding the activities of the regional support network, and work
36 with the regional support network to resolve significant concerns
37 regarding service delivery and outcomes. The department shall
38 establish statewide procedures for the operation of regional advisory
39 committees including mechanisms for advisory board feedback to the
40 department regarding regional support network performance. The

1 composition of the board shall be broadly representative of the
2 demographic character of the region and shall include, but not be
3 limited to, representatives of consumers and families, law
4 enforcement, and where the county is not the regional support
5 network, county elected officials. Composition and length of terms of
6 board members may differ between regional support networks but shall
7 be included in each regional support network's contract and approved
8 by the secretary.

9 (9) Regional support networks shall assume all duties specified
10 in their plans and joint operating agreements through biennial
11 contractual agreements with the secretary.

12 (10) Regional support networks may receive technical assistance
13 from the housing trust fund and may identify and submit projects for
14 housing and housing support services to the housing trust fund
15 established under chapter 43.185 RCW. Projects identified or
16 submitted under this subsection must be fully integrated with the
17 regional support network six-year operating and capital plan,
18 timeline, and budget required by subsection (6) of this section.

19 **Sec. 110.** RCW 71.24.300 and 2014 c 225 s 39 are each amended to
20 read as follows:

21 (1) Upon the request of a tribal authority or authorities within
22 a behavioral health organization the joint operating agreement or the
23 county authority shall allow for the inclusion of the tribal
24 authority to be represented as a party to the behavioral health
25 organization.

26 (2) The roles and responsibilities of the county and tribal
27 authorities shall be determined by the terms of that agreement
28 including a determination of membership on the governing board and
29 advisory committees, the number of tribal representatives to be party
30 to the agreement, and the provisions of law and shall assure the
31 provision of culturally competent services to the tribes served.

32 (3) The state mental health authority may not determine the roles
33 and responsibilities of county authorities as to each other under
34 behavioral health organizations by rule, except to assure that all
35 duties required of behavioral health organizations are assigned and
36 that counties and the behavioral health organization do not duplicate
37 functions and that a single authority has final responsibility for
38 all available resources and performance under the behavioral health
39 organization's contract with the secretary.

1 (4) If a behavioral health organization is a private entity, the
2 department shall allow for the inclusion of the tribal authority to
3 be represented as a party to the behavioral health organization.

4 (5) The roles and responsibilities of the private entity and the
5 tribal authorities shall be determined by the department, through
6 negotiation with the tribal authority.

7 (6) Behavioral health organizations shall submit an overall six-
8 year operating and capital plan, timeline, and budget and submit
9 progress reports and an updated two-year plan biennially thereafter,
10 to assume within available resources all of the following duties:

11 (a) Administer and provide for the availability of all resource
12 management services, residential services, and community support
13 services.

14 (b) Administer and provide for the availability of an adequate
15 network of evaluation and treatment services to ensure access to
16 treatment, all investigation, transportation, court-related, and
17 other services provided by the state or counties pursuant to chapter
18 71.05 RCW.

19 (c) Provide within the boundaries of each behavioral health
20 organization evaluation and treatment services for at least ninety
21 percent of persons detained or committed for periods up to seventeen
22 days according to chapter 71.05 RCW. Behavioral health organizations
23 may contract to purchase evaluation and treatment services from other
24 organizations if they are unable to provide for appropriate resources
25 within their boundaries. Insofar as the original intent of serving
26 persons in the community is maintained, the secretary is authorized
27 to approve exceptions on a case-by-case basis to the requirement to
28 provide evaluation and treatment services within the boundaries of
29 each behavioral health organization. Such exceptions are limited to:

30 (i) Contracts with neighboring or contiguous regions; or

31 (ii) Individuals detained or committed for periods up to
32 seventeen days at the state hospitals at the discretion of the
33 secretary.

34 (d) Administer and provide for the availability of all other
35 mental health services, which shall include patient counseling, day
36 treatment, consultation, education services, employment services as
37 described in RCW 71.24.035, and mental health services to children.

38 (e) Establish standards and procedures for reviewing individual
39 service plans and determining when that person may be discharged from
40 resource management services.

1 (7) A behavioral health organization may request that any state-
2 owned land, building, facility, or other capital asset which was ever
3 purchased, deeded, given, or placed in trust for the care of the
4 persons with mental illness and which is within the boundaries of a
5 behavioral health organization be made available to support the
6 operations of the behavioral health organization. State agencies
7 managing such capital assets shall give first priority to requests
8 for their use pursuant to this chapter.

9 (8) Each behavioral health organization shall appoint a mental
10 health advisory board which shall review and provide comments on
11 plans and policies developed under this chapter, provide local
12 oversight regarding the activities of the behavioral health
13 organization, and work with the behavioral health organization to
14 resolve significant concerns regarding service delivery and outcomes.
15 The department shall establish statewide procedures for the operation
16 of regional advisory committees including mechanisms for advisory
17 board feedback to the department regarding behavioral health
18 organization performance. The composition of the board shall be
19 broadly representative of the demographic character of the region and
20 shall include, but not be limited to, representatives of consumers
21 and families, law enforcement, and where the county is not the
22 behavioral health organization, county elected officials. Composition
23 and length of terms of board members may differ between behavioral
24 health organizations but shall be included in each behavioral health
25 organization's contract and approved by the secretary.

26 (9) Behavioral health organizations shall assume all duties
27 specified in their plans and joint operating agreements through
28 biennial contractual agreements with the secretary.

29 (10) Behavioral health organizations may receive technical
30 assistance from the housing trust fund and may identify and submit
31 projects for housing and housing support services to the housing
32 trust fund established under chapter 43.185 RCW. Projects identified
33 or submitted under this subsection must be fully integrated with the
34 behavioral health organization six-year operating and capital plan,
35 timeline, and budget required by subsection (6) of this section.

36 NEW SECTION. **Sec. 111.** A new section is added to chapter 71.24
37 RCW to read as follows:

38 The department must collaborate with regional support networks or
39 behavioral health organizations and the Washington state institute

1 for public policy to estimate the capacity needs for evaluation and
2 treatment services within each regional service area. Estimated
3 capacity needs shall include consideration of the average occupancy
4 rates needed to provide an adequate network of evaluation and
5 treatment services to ensure access to treatment. A regional service
6 network or behavioral health organization must develop and maintain
7 an adequate plan to provide for evaluation and treatment needs.

8 NEW SECTION. **Sec. 112.** A new section is added to chapter 71.34
9 RCW to read as follows:

10 (1) The department may use a single bed certification process to
11 provide additional treatment capacity for a minor suffering from a
12 mental disorder for whom an evaluation and treatment bed is not
13 available. The facility that is the proposed site of the single bed
14 certification must be a facility that is willing and able to provide
15 the person with timely and appropriate treatment either directly or
16 by arrangement with other public or private agencies. Appropriate
17 settings for single bed certifications may include, but are not
18 limited to, any of the following settings where the facility is
19 willing and able to provide timely and appropriate treatment to the
20 person:

21 (a) A hospital with or without a psychiatric unit;

22 (b) A psychiatric hospital;

23 (c) A hospital that is willing and able to provide timely and
24 appropriate mental health treatment or medical treatment to a minor
25 with a co-occurring mental disorder and medical condition such that
26 it prevents transfer to an evaluation and treatment facility or state
27 hospital; or

28 (d) A residential treatment facility.

29 (2) A single bed certification must be specific to the minor
30 receiving treatment.

31 (3) A designated mental health professional who submits an
32 application for a single bed certification for treatment at a
33 facility which is willing and able to provide timely and appropriate
34 mental health treatment, or medical treatment to an individual with a
35 co-occurring mental disorder and medical condition, in good faith
36 belief that the single bed certification is appropriate may presume
37 that the single bed certification will be approved for the purpose of
38 completing the detention process and responding to other emergency
39 calls.

1 (4) The department may adopt rules implementing this section and
2 continue to enforce rules it has already adopted except where
3 inconsistent with this section.

4 **PART II: ASSISTED OUTPATIENT TREATMENT**

5 **Sec. 201.** RCW 71.05.020 and 2011 c 148 s 1 and 2011 c 89 s 14
6 are each reenacted and amended to read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

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

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

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

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

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

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

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

35 (8) "Department" means the department of social and health
36 services;

37 (9) "Designated chemical dependency specialist" means a person
38 designated by the county alcoholism and other drug addiction program

1 coordinator designated under RCW 70.96A.310 to perform the commitment
2 duties described in chapters 70.96A and 70.96B RCW;

3 (10) "Designated crisis responder" means a mental health
4 professional appointed by the county or the regional support network
5 to perform the duties specified in this chapter;

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

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

11 (13) "Developmental disabilities professional" means a person who
12 has specialized training and three years of experience in directly
13 treating or working with persons with developmental disabilities and
14 is a psychiatrist, psychologist, psychiatric advanced registered
15 nurse practitioner, or social worker, and such other developmental
16 disabilities professionals as may be defined by rules adopted by the
17 secretary;

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

20 (15) "Discharge" means the termination of hospital medical
21 authority. The commitment may remain in place, be terminated, or be
22 amended by court order;

23 (16) "Evaluation and treatment facility" means any facility which
24 can provide directly, or by direct arrangement with other public or
25 private agencies, emergency evaluation and treatment, outpatient
26 care, and timely and appropriate inpatient care to persons suffering
27 from a mental disorder, and which is certified as such by the
28 department. The department may certify single beds as temporary
29 evaluation and treatment beds under section 102 of this act. A
30 physically separate and separately operated portion of a state
31 hospital may be designated as an evaluation and treatment facility. A
32 facility which is part of, or operated by, the department or any
33 federal agency will not require certification. No correctional
34 institution or facility, or jail, shall be an evaluation and
35 treatment facility within the meaning of this chapter;

36 (17) "Gravely disabled" means a condition in which a person, as a
37 result of a mental disorder: (a) Is in danger of serious physical
38 harm resulting from a failure to provide for his or her essential
39 human needs of health or safety; or (b) manifests severe
40 deterioration in routine functioning evidenced by repeated and

1 escalating loss of cognitive or volitional control over his or her
2 actions and is not receiving such care as is essential for his or her
3 health or safety;

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

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

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

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

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

25 (b) The conditions and strategies necessary to achieve the
26 purposes of habilitation;

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

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

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

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

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

39 (22) "Information related to mental health services" means all
40 information and records compiled, obtained, or maintained in the

1 course of providing services to either voluntary or involuntary
2 recipients of services by a mental health service provider. This may
3 include documents of legal proceedings under this chapter or chapter
4 71.34 or 10.77 RCW, or somatic health care information;

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

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

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

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

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

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

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

31 (28) "Mental health service provider" means a public or private
32 agency that provides mental health services to persons with mental
33 disorders as defined under this section and receives funding from
34 public sources. This includes, but is not limited to, hospitals
35 licensed under chapter 70.41 RCW, evaluation and treatment facilities
36 as defined in this section, community mental health service delivery
37 systems or community mental health programs as defined in RCW
38 71.24.025, facilities conducting competency evaluations and
39 restoration under chapter 10.77 RCW, and correctional facilities
40 operated by state and local governments;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (46) "In need of assisted outpatient treatment" means that a
40 person, as a result of a mental disorder: (a) Has been committed by a

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

18 (47) "Medical clearance" means a physician or other health care
19 provider has determined that a person is medically stable and ready
20 for referral to the designated mental health professional.

21 **Sec. 202.** RCW 71.05.020 and 2014 c 225 s 79 are each reenacted
22 and amended to read as follows:

23 The definitions in this section apply throughout this chapter
24 unless the context clearly requires otherwise.

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

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

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

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

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

1 (6) "Crisis stabilization unit" means a short-term facility or a
2 portion of a facility licensed by the department of health and
3 certified by the department of social and health services under RCW
4 71.24.035, such as an evaluation and treatment facility or a
5 hospital, which has been designed to assess, diagnose, and treat
6 individuals experiencing an acute crisis without the use of long-term
7 hospitalization;

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

12 (8) "Department" means the department of social and health
13 services;

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

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

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

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

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

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

35 (15) "Discharge" means the termination of hospital medical
36 authority. The commitment may remain in place, be terminated, or be
37 amended by court order;

38 (16) "Evaluation and treatment facility" means any facility which
39 can provide directly, or by direct arrangement with other public or
40 private agencies, emergency evaluation and treatment, outpatient

1 care, and timely and appropriate inpatient care to persons suffering
2 from a mental disorder, and which is certified as such by the
3 department. The department may certify single beds as temporary
4 evaluation and treatment beds under section 102 of this act. A
5 physically separate and separately operated portion of a state
6 hospital may be designated as an evaluation and treatment facility. A
7 facility which is part of, or operated by, the department or any
8 federal agency will not require certification. No correctional
9 institution or facility, or jail, shall be an evaluation and
10 treatment facility within the meaning of this chapter;

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

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

27 (19) "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 in confinement as a result
31 of a criminal conviction;

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

34 (21) "Individualized service plan" means a plan prepared by a
35 developmental disabilities professional with other professionals as a
36 team, for a person 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
11 discharge or release, and a projected possible date for discharge or
12 release; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (33) "Psychiatrist" means a person having a license as a
39 physician and surgeon in this state who has in addition completed
40 three years of graduate training in psychiatry in a program approved

1 by the American medical association or the American osteopathic
2 association and is certified or eligible to be certified by the
3 American board of psychiatry and neurology;

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

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

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

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

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

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

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

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

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

34 (43) "Treatment records" include registration and all other
35 records concerning persons who are receiving or who at any time have
36 received services for mental illness, which are maintained by the
37 department, by behavioral health organizations and their staffs, and
38 by treatment facilities. Treatment records include mental health
39 information contained in a medical bill including but not limited to
40 mental health drugs, a mental health diagnosis, provider name, and

1 dates of service stemming from a medical service. Treatment records
2 do not include notes or records maintained for personal use by a
3 person providing treatment services for the department, behavioral
4 health organizations, or a treatment facility if the notes or records
5 are not available to others;

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

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

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

36 (47) "Medical clearance" means a physician or other health care
37 provider has determined that a person is medically stable and ready
38 for referral to the designated mental health professional.

1 **Sec. 203.** RCW 71.05.150 and 2011 c 148 s 5 are each amended to
2 read as follows:

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

20 (b) Before filing the petition, the designated mental health
21 professional must personally interview the person, unless the person
22 refuses an interview, and determine whether the person will
23 voluntarily receive appropriate evaluation and treatment at an
24 evaluation and treatment facility, crisis stabilization unit, or
25 triage facility.

26 (2)(a) An order to detain to a designated evaluation and
27 treatment facility for not more than a seventy-two-hour evaluation
28 and treatment period, or for an outpatient evaluation, may be issued
29 by a judge of the superior court upon request of a designated mental
30 health professional, whenever it appears to the satisfaction of a
31 judge of the superior court:

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

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

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

39 (c) The order shall designate retained counsel or, if counsel is
40 appointed from a list provided by the court, the name, business

1 address, and telephone number of the attorney appointed to represent
2 the person.

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

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

31 **Sec. 204.** RCW 71.05.156 and 2013 c 334 s 2 are each amended to
32 read as follows:

33 A designated mental health professional who conducts an
34 evaluation for imminent likelihood of serious harm or imminent danger
35 because of being gravely disabled under RCW 71.05.153 must also
36 evaluate the person under RCW 71.05.150 for likelihood of serious
37 harm or grave disability that does not meet the imminent standard for
38 emergency detention, and determine whether the person is in need of
39 assisted outpatient treatment.

1 **Sec. 205.** RCW 71.05.212 and 2010 c 280 s 2 are each amended to
2 read as follows:

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

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

10 (b) Historical behavior, including history of one or more violent
11 acts;

12 (c) Prior determinations of incompetency or insanity under
13 chapter 10.77 RCW; and

14 (d) Prior commitments under this chapter.

15 (2) Credible witnesses may include family members, landlords,
16 neighbors, or others with significant contact and history of
17 involvement with the person. If the designated mental health
18 professional relies upon information from a credible witness in
19 reaching his or her decision to detain the individual, then he or she
20 must provide contact information for any such witness to the
21 prosecutor. The designated mental health professional or prosecutor
22 shall provide notice of the date, time, and location of the probable
23 cause hearing to such a witness.

24 (3) Symptoms and behavior of the respondent which standing alone
25 would not justify civil commitment may support a finding of grave
26 disability or likelihood of serious harm, or a finding that the
27 person is in need of assisted outpatient treatment, when:

28 (a) Such symptoms or behavior are closely associated with
29 symptoms or behavior which preceded and led to a past incident of
30 involuntary hospitalization, severe deterioration, or one or more
31 violent acts;

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

34 (c) Without treatment, the continued deterioration of the
35 respondent is probable.

36 (4) When conducting an evaluation for offenders identified under
37 RCW 72.09.370, the designated mental health professional or
38 professional person shall consider an offender's history of
39 judicially required or administratively ordered antipsychotic
40 medication while in confinement.

1 **Sec. 206.** RCW 71.05.230 and 2011 c 343 s 9 are each amended to
2 read as follows:

3 A person detained or committed for seventy-two hour evaluation
4 and treatment may be (~~detained~~) committed for not more than
5 fourteen additional days of involuntary intensive treatment or ninety
6 additional days of a less restrictive alternative to involuntary
7 intensive treatment. A petition may only be filed if the following
8 conditions are met:

9 (1) The professional staff of the agency or facility providing
10 evaluation services has analyzed the person's condition and finds
11 that the condition is caused by mental disorder and (~~either~~)
12 results in a likelihood of serious harm, (~~or~~) results in the
13 (~~detained~~) person being gravely disabled, or results in the person
14 being in need of assisted outpatient treatment, and are prepared to
15 testify those conditions are met; and

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

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

21 (4) The professional staff of the agency or facility or the
22 designated mental health professional has filed a petition for
23 fourteen day involuntary detention or a ninety day less restrictive
24 alternative with the court. The petition must be signed either by:

25 (a) Two physicians;

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

27 (c) Two psychiatric advanced registered nurse practitioners;

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

30 (e) A physician and a psychiatric advanced registered nurse
31 practitioner. The persons signing the petition must have examined the
32 person. If involuntary detention is sought the petition shall state
33 facts that support the finding that such person, as a result of
34 mental disorder, presents a likelihood of serious harm, or is gravely
35 disabled and that there are no less restrictive alternatives to
36 detention in the best interest of such person or others. The petition
37 shall state specifically that less restrictive alternative treatment
38 was considered and specify why treatment less restrictive than
39 detention is not appropriate. If an involuntary less restrictive
40 alternative is sought, the petition shall state facts that support

1 the finding that such person, as a result of mental disorder,
2 presents a likelihood of serious harm, (~~(or)~~) is gravely disabled, or
3 is in need of assisted outpatient treatment, and shall set forth the
4 less restrictive alternative proposed by the facility; and

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

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

11 (7) The petition reflects that the person was informed of the
12 loss of firearm rights if involuntarily committed; and

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

18 (9) If the hospital or facility designated to provide outpatient
19 treatment is other than the facility providing involuntary treatment,
20 the outpatient facility so designated has agreed to assume such
21 responsibility.

22 **Sec. 207.** RCW 71.05.240 and 2009 c 293 s 4 are each amended to
23 read as follows:

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

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

1 (3) At the conclusion of the probable cause hearing(~~(, if the~~
2 ~~court finds by a preponderance of the evidence that)~~);

3 (a) If the court finds by a preponderance of the evidence that
4 such person, as the result of mental disorder, presents a likelihood
5 of serious harm, or is gravely disabled, and, after considering less
6 restrictive alternatives to involuntary detention and treatment,
7 finds that no such alternatives are in the best interests of such
8 person or others, the court shall order that such person be detained
9 for involuntary treatment not to exceed fourteen days in a facility
10 certified to provide treatment by the department. If the court finds
11 that such person, as the result of a mental disorder, presents a
12 likelihood of serious harm, or is gravely disabled, but that
13 treatment in a less restrictive setting than detention is in the best
14 interest of such person or others, the court shall order an
15 appropriate less restrictive course of treatment for not to exceed
16 ninety days;

17 (b) If the court finds by a preponderance of the evidence that
18 such person, as the result of a mental disorder, is in need of
19 assisted outpatient treatment, and that the person does not present a
20 likelihood of serious harm or grave disability, the court shall order
21 an appropriate less restrictive course of treatment not to exceed
22 ninety days, and may not order inpatient treatment.

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

32 **Sec. 208.** RCW 71.05.245 and 2010 c 280 s 3 are each amended to
33 read as follows:

34 (1) In making a determination of whether a person is gravely
35 disabled (~~(or)~~), presents a likelihood of serious harm, or is in need
36 of assisted outpatient treatment in a hearing conducted under RCW
37 71.05.240 or 71.05.320, the court must consider the symptoms and
38 behavior of the respondent in light of all available evidence
39 concerning the respondent's historical behavior.

1 (2) Symptoms or behavior which standing alone would not justify
2 civil commitment may support a finding of grave disability or
3 likelihood of serious harm, or a finding that the person is in need
4 of assisted outpatient treatment, when: (a) Such symptoms or behavior
5 are closely associated with symptoms or behavior which preceded and
6 led to a past incident of involuntary hospitalization, severe
7 deterioration, or one or more violent acts; (b) these symptoms or
8 behavior represent a marked and concerning change in the baseline
9 behavior of the respondent; and (c) without treatment, the continued
10 deterioration of the respondent is probable.

11 (3) In making a determination of whether there is a likelihood of
12 serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320,
13 the court shall give great weight to any evidence before the court
14 regarding whether the person has: (a) A recent history of one or more
15 violent acts; or (b) a recent history of one or more commitments
16 under this chapter or its equivalent provisions under the laws of
17 another state which were based on a likelihood of serious harm. The
18 existence of prior violent acts or commitments under this chapter or
19 its equivalent shall not be the sole basis for determining whether a
20 person presents a likelihood of serious harm.

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

23 **Sec. 209.** RCW 71.05.280 and 2013 c 289 s 4 are each amended to
24 read as follows:

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

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

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

38 (3) Such person has been determined to be incompetent and
39 criminal charges have been dismissed pursuant to RCW 10.77.086(4),

1 and has committed acts constituting a felony, and as a result of a
2 mental disorder, presents a substantial likelihood of repeating
3 similar acts.

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

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

12 (4) Such person is gravely disabled; or

13 (5) Such person is in need of assisted outpatient treatment.

14 **Sec. 210.** RCW 71.05.320 and 2013 c 289 s 5 are each amended to
15 read as follows:

16 (1) If the court or jury finds that grounds set forth in RCW
17 71.05.280 have been proven and that the best interests of the person
18 or others will not be served by a less restrictive treatment which is
19 an alternative to detention, the court shall remand him or her to the
20 custody of the department or to a facility certified for ninety day
21 treatment by the department for a further period of intensive
22 treatment not to exceed ninety days from the date of judgment. If the
23 grounds set forth in RCW 71.05.280(3) are the basis of commitment,
24 then the period of treatment may be up to but not exceed one hundred
25 eighty days from the date of judgment in a facility certified for one
26 hundred eighty day treatment by the department.

27 (2) If the court or jury finds that grounds set forth in RCW
28 71.05.280 have been proven, but finds that treatment less restrictive
29 than detention will be in the best interest of the person or others,
30 then the court shall remand him or her to the custody of the
31 department or to a facility certified for ninety day treatment by the
32 department or to a less restrictive alternative for a further period
33 of less restrictive treatment not to exceed ninety days from the date
34 of judgment. If the grounds set forth in RCW 71.05.280(3) are the
35 basis of commitment, then the period of treatment may be up to but
36 not exceed one hundred eighty days from the date of judgment. If the
37 grounds set forth in RCW 71.05.280(5) provide the only basis for
38 commitment, the court must order an appropriate less restrictive

1 course of treatment not to exceed ninety days, and may not order
2 inpatient treatment.

3 (3) The person shall be released from involuntary treatment at
4 the expiration of the period of commitment imposed under subsection
5 (1) or (2) of this section unless the superintendent or professional
6 person in charge of the facility in which he or she is confined, or
7 in the event of a less restrictive alternative, the designated mental
8 health professional, files a new petition for involuntary treatment
9 on the grounds that the committed person:

10 (a) During the current period of court ordered treatment: (i) Has
11 threatened, attempted, or inflicted physical harm upon the person of
12 another, or substantial damage upon the property of another, and (ii)
13 as a result of mental disorder or developmental disability presents a
14 likelihood of serious harm; or

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

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

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

39 (d) Continues to be gravely disabled; or

40 (e) Is in need of assisted outpatient treatment.

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

4 ~~(4) ((For a person committed under subsection (2) of this section
5 who has been remanded to a period of less restrictive treatment, in
6 addition to the grounds specified in subsection (3) of this section,
7 the designated mental health professional may file a new petition for
8 continued less restrictive treatment if:~~

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

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

19 ~~(c) Outpatient treatment that would be provided under a less
20 restrictive treatment order is necessary to prevent a relapse,
21 decompensation, or deterioration that is likely to result in the
22 person presenting a likelihood of serious harm or the person becoming
23 gravely disabled within a reasonably short period of time.~~

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

30 ~~((+6))~~ (5) The hearing shall be held as provided in RCW
31 71.05.310, and if the court or jury finds that the grounds for
32 additional confinement as set forth in this section are present, the
33 court may order the committed person returned for an additional
34 period of treatment not to exceed one hundred eighty days from the
35 date of judgment. If the court's order is based solely on the grounds
36 identified in subsection (3)(e) of this section, the court may enter
37 an order for less restrictive alternative treatment not to exceed one
38 hundred eighty days, and may not enter an order for inpatient
39 treatment. At the end of the one hundred eighty day period of
40 commitment, the committed person shall be released unless a petition

1 for another one hundred eighty day period of continued treatment is
2 filed and heard in the same manner as provided in this section.
3 Successive one hundred eighty day commitments are permissible on the
4 same grounds and pursuant to the same procedures as the original one
5 hundred eighty day commitment. However, a commitment solely on the
6 grounds identified in subsection (3)(e) of this section is not
7 permissible under subsection ~~((4))~~ (3) of this section if: (i)
8 Thirty-six months have passed since the last date of discharge from
9 detention for inpatient treatment that preceded the current less
10 restrictive alternative order, ((nor shall a commitment under
11 subsection (4) of this section be permissible if)) or (ii) the
12 likelihood of serious harm ((in subsection (4)(c) of this section))
13 as described in RCW 71.05.020(46)(c) is based solely on harm to the
14 property of others.

15 ~~((7))~~ (6) No person committed as provided in this section may
16 be detained unless a valid order of commitment is in effect. No order
17 of commitment can exceed one hundred eighty days in length.

18 **PART III: MISCELLANEOUS**

19 NEW SECTION. Sec. 301. If specific funding for the purposes of
20 sections 201 through 210 of this act, referencing this act by bill or
21 chapter number, is not provided by June 30, 2015, in the omnibus
22 appropriations act, sections 201 through 210 of this act are null and
23 void.

24 NEW SECTION. Sec. 302. Sections 109 and 201 of this act expire
25 April 1, 2016.

26 NEW SECTION. Sec. 303. Sections 110 and 202 of this act take
27 effect April 1, 2016.

28 NEW SECTION. Sec. 304. Sections 101 through 109, 111, and 112
29 of this act are necessary for the immediate preservation of the
30 public peace, health, or safety, or support of the state government
31 and its existing public institutions, and take effect immediately."

2SSB 5649 - S AMD 98

By Senators O'Ban, Darneille

ADOPTED 3/4/2015

1 On page 1, line 1 of the title, after "Relating to" strike the
2 remainder of the title and insert "the involuntary treatment act;
3 amending RCW 71.05.010, 71.05.050, 71.05.210, 71.24.035, 71.24.300,
4 71.24.300, 71.05.020, 71.05.150, 71.05.156, 71.05.212, 71.05.230,
5 71.05.240, 71.05.245, 71.05.280, and 71.05.320; reenacting and
6 amending RCW 71.05.153 and 71.05.020; adding new sections to chapter
7 71.05 RCW; adding a new section to chapter 71.24 RCW; adding a new
8 section to chapter 71.34 RCW; creating a new section; providing an
9 effective date; providing an expiration date; and declaring an
10 emergency."

EFFECT: Adds the provisions of SSB 5644 to the bill (requiring RSNs to provide an adequate network of E&T services to ensure access to treatment; allowing DSHS to authorize single bed certifications to facilities that are willing and able to provide timely and appropriate mental health treatment; requiring DMHPs to report to DSHS within 24 hours when the DMHP cannot find a bed for a person who meets ITA detention criteria and requiring DSHS to publicly report this data; requiring DSHS to take corrective action with RSNs to ensure an adequate network of E&T services; and modifying time limits for initial detention). Amends the title.

--- END ---