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**THIRD SUBSTITUTE HOUSE BILL 1713**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Cody, Harris, Jinkins, Moeller, Tharinger, Appleton, Ortiz-Self, and Pollet)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to integrating the treatment systems for mental  
2 health and chemical dependency; amending RCW 70.96A.140, 70.96A.145,  
3 71.05.010, 71.05.025, 71.05.026, 71.05.050, 71.05.120, 71.05.132,  
4 71.05.150, 71.05.150, 71.05.153, 71.05.153, 71.05.154, 71.05.156,  
5 71.05.157, 71.05.160, 71.05.170, 71.05.180, 71.05.190, 71.05.195,  
6 71.05.201, 71.05.203, 71.05.210, 71.05.212, 71.05.214, 71.05.215,  
7 71.05.220, 71.05.230, 71.05.235, 71.05.240, 71.05.240, 71.05.280,  
8 71.05.290, 71.05.300, 71.05.320, 71.05.320, 71.05.325, 71.05.340,  
9 71.05.585, 71.05.590, 71.05.590, 71.05.360, 71.05.380, 71.05.435,  
10 71.05.530, 71.05.560, 71.05.620, 71.05.700, 71.05.705, 71.05.745,  
11 71.05.750, 71.34.020, 71.34.305, 71.34.375, 71.34.385, 71.34.400,  
12 71.34.410, 71.34.420, 71.34.500, 71.34.520, 71.34.600, 71.34.630,  
13 71.34.650, 71.34.660, 71.34.700, 71.34.700, 71.34.710, 71.34.710,  
14 71.34.720, 71.34.720, 71.34.740, 71.34.740, 71.34.750, 71.34.750,  
15 71.34.760, 71.34.780, 71.34.780, 9.41.098, 4.24.558, 5.60.060,  
16 9.41.280, 9.95.143, 10.77.010, 10.77.025, 10.77.027, 10.77.060,  
17 10.77.065, 10.77.084, 10.77.088, 11.92.190, 43.185C.255, 18.83.110,  
18 43.20A.025, 70.48.475, 70.97.010, 71.05.660, 71.24.045, 71.24.330,  
19 71.32.080, 71.32.140, 71.32.150, 72.09.315, 72.09.370, 43.185C.305,  
20 74.50.070, 71.24.025, 71.24.035, 70.96A.050, 71.24.037, 70.96A.090,  
21 71.24.385, 70.96A.035, 70.96C.010, 70.96A.037, 70.96A.047,  
22 70.96A.055, 70.96A.087, 70.96A.170, 70.96A.400, 70.96A.800,  
23 70.96A.905, 71.24.300, 71.24.350, 9.94A.660, 10.05.020, 10.05.030,

1 10.05.150, 70.96C.020, 46.61.5055, 46.61.5056, and 82.04.4277;  
2 reenacting and amending RCW 70.96A.020, 71.05.020, 71.05.210,  
3 71.34.730, 70.02.010, 70.02.230, 71.24.025, and 70.96A.350; adding  
4 new sections to chapter 71.05 RCW; adding new sections to chapter  
5 71.24 RCW; adding a new section to chapter 72.09 RCW; creating new  
6 sections; recodifying RCW 70.96A.035, 70.96A.037, 70.96A.040,  
7 70.96A.043, 70.96A.047, 70.96A.050, 70.96A.055, 70.96A.080,  
8 70.96A.085, 70.96A.087, 70.96A.090, 70.96A.100, 70.96A.170,  
9 70.96A.190, 70.96A.350, 70.96A.400, 70.96A.410, 70.96A.420,  
10 70.96A.430, 70.96A.500, 70.96A.510, 70.96A.520, 70.96A.800,  
11 70.96A.905, 70.96C.010, and 70.96C.020; decodifying RCW 43.135.03901;  
12 repealing RCW 70.96A.011, 70.96A.020, 70.96A.095, 70.96A.096,  
13 70.96A.097, 70.96A.110, 70.96A.120, 70.96A.140, 70.96A.141,  
14 70.96A.142, 70.96A.145, 70.96A.148, 70.96A.155, 70.96A.157,  
15 70.96A.160, 70.96A.180, 70.96A.230, 70.96A.235, 70.96A.240,  
16 70.96A.245, 70.96A.250, 70.96A.255, 70.96A.260, 70.96A.265,  
17 70.96A.910, 70.96A.915, 70.96A.920, 70.96A.930, 70.96B.010,  
18 70.96B.020, 70.96B.030, 70.96B.040, 70.96B.045, 70.96B.050,  
19 70.96B.060, 70.96B.070, 70.96B.080, 70.96B.090, 70.96B.100,  
20 70.96B.110, 70.96B.120, 70.96B.130, 70.96B.140, 70.96B.150,  
21 70.96B.800, 71.05.032, 70.96A.010, 70.96A.030, 70.96A.045,  
22 70.96A.060, 70.96A.150, 70.96A.300, 70.96A.310, 70.96A.320, and  
23 70.96A.325; providing effective dates; providing expiration dates;  
24 and declaring an emergency.

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

26 **PART I**  
27 **CHEMICAL DEPENDENCY INVOLUNTARY TREATMENT PROVISIONS**

28 **Sec. 101.** RCW 70.96A.020 and 2014 c 225 s 20 are each reenacted  
29 and amended to read as follows:

30 For the purposes of this chapter the following words and phrases  
31 shall have the following meanings unless the context clearly requires  
32 otherwise:

33 (1) "Alcoholism" means a disease, characterized by a dependency  
34 on alcoholic beverages, loss of control over the amount and  
35 circumstances of use, symptoms of tolerance, physiological or  
36 psychological withdrawal, or both, if use is reduced or discontinued,

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

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

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

10 (4) "Behavioral health program" has the same meaning as in RCW  
11 71.24.025.

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

15 ~~((5))~~ (6) "Chemical dependency" means: (a) Alcoholism; (b) drug  
16 addiction; or (c) dependence on alcohol and one or more other  
17 psychoactive chemicals, as the context requires.

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

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

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

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

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

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

1       ~~(12)~~) (10) "Gravely disabled by alcohol or other psychoactive  
2 chemicals" or "gravely disabled" means that a person, as a result of  
3 the use of alcohol or other psychoactive chemicals: (a) Is in danger  
4 of serious physical harm resulting from a failure to provide for his  
5 or her essential human needs of health or safety; or (b) manifests  
6 severe deterioration in routine functioning evidenced by a repeated  
7 and escalating loss of cognition or volitional control over his or  
8 her actions and is not receiving care as essential for his or her  
9 health or safety.

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

15       ~~((14))~~) (12) "Incapacitated by alcohol or other psychoactive  
16 chemicals" means that a person, as a result of the use of alcohol or  
17 other psychoactive chemicals, is gravely disabled or presents a  
18 likelihood of serious harm to himself or herself, to any other  
19 person, or to property.

20       ~~((15))~~) (13) "Incompetent person" means a person who has been  
21 adjudged incompetent by the superior court.

22       ~~((16))~~) (14) "Intoxicated person" means a person whose mental or  
23 physical functioning is substantially impaired as a result of the use  
24 of alcohol or other psychoactive chemicals.

25       ~~((17))~~) (15) "Licensed physician" means a person licensed to  
26 practice medicine or osteopathic medicine and surgery in the state of  
27 Washington.

28       ~~((18))~~) (16) "Likelihood of serious harm" means:

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

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

1       ((+19+)) (17) "Medical necessity" for inpatient care of a minor  
2 means a requested certified inpatient service that is reasonably  
3 calculated to: (a) Diagnose, arrest, or alleviate a chemical  
4 dependency; or (b) prevent the progression of substance use disorders  
5 that endanger life or cause suffering and pain, or result in illness  
6 or infirmity or threaten to cause or aggravate a handicap, or cause  
7 physical deformity or malfunction, and there is no adequate less  
8 restrictive alternative available.

9       ((+20+)) (18) "Minor" means a person less than eighteen years of  
10 age.

11       ((+21+)) (19) "Parent" means the parent or parents who have the  
12 legal right to custody of the child. Parent includes custodian or  
13 guardian.

14       ((+22+)) (20) "Peace officer" means a law enforcement official of  
15 a public agency or governmental unit, and includes persons  
16 specifically given peace officer powers by any state law, local  
17 ordinance, or judicial order of appointment.

18       ((+23+)) (21) "Person" means an individual, including a minor.

19       ((+24+)) (22) "Professional person in charge" or "professional  
20 person" means a physician or chemical dependency counselor as defined  
21 in rule by the department, who is empowered by a certified treatment  
22 program with authority to make assessment, admission, continuing  
23 care, and discharge decisions on behalf of the certified program.

24       ((+25+)) (23) "Secretary" means the secretary of the department  
25 of social and health services.

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

32       ((+27+)) (25) "Treatment" means the broad range of emergency,  
33 withdrawal management, residential, and outpatient services and care,  
34 including diagnostic evaluation, (~~chemical dependency~~) substance  
35 use disorder education and counseling, medical, psychiatric,  
36 psychological, and social service care, vocational rehabilitation and  
37 career counseling, which may be extended to persons with substance  
38 use disorders and their families, persons incapacitated by alcohol or  
39 other psychoactive chemicals, and intoxicated persons.

1        ~~((28))~~ (26) "Substance use disorder treatment program" means an  
2 organization, institution, or corporation, public or private, engaged  
3 in the care, treatment, or rehabilitation of persons with substance  
4 use ~~((disorder[s]))~~ disorders.

5        ~~((29))~~ (27) "Violent act" means behavior that resulted in  
6 homicide, attempted suicide, nonfatal injuries, or substantial damage  
7 to property.

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

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

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

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

24        **Sec. 102.** RCW 70.96A.140 and 2014 c 225 s 29 are each amended to  
25 read as follows:

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

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

1 If the designated chemical dependency specialist finds that the  
2 initial needs of such person would be better served by placement  
3 within the mental health system, the person shall be referred to  
4 either a designated mental health professional or an evaluation and  
5 treatment facility as defined in RCW 71.05.020 or 71.34.020.

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

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

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

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

38 (A) Two licensed physicians;

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

40 (C) Two psychiatric advanced registered nurse practitioners;

1 (D) Two physician assistants;

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

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

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

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

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



1 record or testimony sought by a petitioner to determine whether it is  
2 within the scope of the waiver.

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

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

37 (b) If the court finds that the grounds for commitment have been  
38 established by a preponderance of the evidence, but that treatment in  
39 a less restrictive setting than detention is in the best interest of  
40 such person or others, the court shall order an appropriate less

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

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

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

37 If a person has been committed because he or she is chemically  
38 dependent and likely to inflict physical harm on another, the program  
39 or designated chemical dependency specialist shall apply for

1 recommitment if after examination it is determined that the  
2 likelihood still exists.

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

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

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

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

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

39 (9) The court shall inform the person whose commitment or  
40 recommitment is sought of his or her right to contest the

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

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

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

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

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

29 **Sec. 103.** RCW 70.96A.145 and 1993 c 137 s 1 are each amended to  
30 read as follows:

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

**PART II**  
**INTEGRATED SYSTEM**

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

(1) By April 1, 2018, the department, by rule, must combine the functions of a designated mental health professional and designated chemical dependency specialist by establishing a designated crisis responder who is authorized to conduct investigations, detain persons up to seventy-two hours to the proper facility, and carry out the other functions identified in this chapter and chapter 71.34 RCW. The behavioral health organizations shall provide training to the designated crisis responders as required by the department.

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

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

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

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

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

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

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

(3) The department must develop a transition process for any person who has been designated as a designated mental health professional or a designated chemical dependency specialist before April 1, 2018, to be converted to a designated crisis responder. The

1 behavioral health organizations shall provide training, as required  
2 by the department, to persons converting to designated crisis  
3 responders, which must include both mental health and chemical  
4 dependency training applicable to the designated crisis responder  
5 role.

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

8 (1) The Washington state institute for public policy shall  
9 evaluate the effect of the integration of the involuntary treatment  
10 systems for substance use disorders and mental health and make  
11 preliminary reports to appropriate committees of the legislature by  
12 December 1, 2020, and June 30, 2021, and a final report by June 30,  
13 2023.

14 (2) The evaluation must include an assessment of whether the  
15 integrated system:

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

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

20 (c) Results in better outcomes for persons involuntarily  
21 detained;

22 (d) Increases the effectiveness of the crisis response system  
23 statewide;

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

25 (f) Has been sufficiently resourced with enough involuntary  
26 treatment beds, less restrictive alternative treatment options, and  
27 state funds to provide timely and appropriate treatment for all  
28 individuals interacting with the integrated involuntary treatment  
29 system; and

30 (g) Has diverted from the mental health involuntary treatment  
31 system a significant number of individuals whose risk results from  
32 substance abuse, including an estimate of the net savings from  
33 serving these clients into the appropriate substance abuse treatment  
34 system.

35 (3) This section expires August 1, 2023.

36 **Sec. 203.** RCW 71.05.010 and 2015 c 269 s 1 are each amended to  
37 read as follows:

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

3 (a) To protect the health and safety of persons suffering from  
4 mental disorders and substance use disorders and to protect public  
5 safety through use of the parens patriae and police powers of the  
6 state;

7 (b) To prevent inappropriate, indefinite commitment of mentally  
8 disordered persons and persons with substance use disorders and to  
9 eliminate legal disabilities that arise from such commitment;

10 (c) To provide prompt evaluation and timely and appropriate  
11 treatment of persons with serious mental disorders and substance use  
12 disorders;

13 (d) To safeguard individual rights;

14 (e) To provide continuity of care for persons with serious mental  
15 disorders and substance use disorders;

16 (f) To encourage the full use of all existing agencies,  
17 professional personnel, and public funds to prevent duplication of  
18 services and unnecessary expenditures; and

19 (g) To encourage, whenever appropriate, that services be provided  
20 within the community.

21 (2) When construing the requirements of this chapter the court  
22 must focus on the merits of the petition, except where requirements  
23 have been totally disregarded, as provided in *In re C.W.*, 147 Wn.2d  
24 259, 281 (2002). A presumption in favor of deciding petitions on  
25 their merits furthers both public and private interests because the  
26 mental and physical well-being of individuals as well as public  
27 safety may be implicated by the decision to release an individual and  
28 discontinue his or her treatment.

29 **Sec. 204.** RCW 71.05.020 and 2015 c 269 s 14 and 2015 c 250 s 2  
30 are each reenacted and amended to read as follows:

31 The definitions in this section apply throughout this chapter  
32 unless the context clearly requires otherwise.

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

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



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

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

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

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

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

20 (8) "Department" means the department of social and health  
21 services;

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

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

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

32 ~~(12))~~ (10) "Detention" or "detain" means the lawful confinement  
33 of a person, under the provisions of this chapter;

34 ~~((13))~~ (11) "Developmental disabilities professional" means a  
35 person who has specialized training and three years of experience in  
36 directly treating or working with persons with developmental  
37 disabilities and is a psychiatrist, psychologist, psychiatric  
38 advanced registered nurse practitioner, or social worker, and such  
39 other developmental disabilities professionals as may be defined by  
40 rules adopted by the secretary;

1       (~~(14)~~) (12) "Developmental disability" means that condition  
2 defined in RCW 71A.10.020(5);

3       (~~(15)~~) (13) "Discharge" means the termination of hospital  
4 medical authority. The commitment may remain in place, be terminated,  
5 or be amended by court order;

6       (~~(16)~~) (14) "Evaluation and treatment facility" means any  
7 facility which can provide directly, or by direct arrangement with  
8 other public or private agencies, emergency evaluation and treatment,  
9 outpatient care, and timely and appropriate inpatient care to persons  
10 suffering from a mental disorder, and which is certified as such by  
11 the department. The department may certify single beds as temporary  
12 evaluation and treatment beds under RCW 71.05.745. A physically  
13 separate and separately operated portion of a state hospital may be  
14 designated as an evaluation and treatment facility. A facility which  
15 is part of, or operated by, the department or any federal agency will  
16 not require certification. No correctional institution or facility,  
17 or jail, shall be an evaluation and treatment facility within the  
18 meaning of this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 ~~((+23+))~~ (21) "In need of assisted outpatient mental health  
34 treatment" means that a person, as a result of a mental disorder: (a)  
35 Has been committed by a court to detention for involuntary mental  
36 health treatment at least twice during the preceding thirty-six  
37 months, or, if the person is currently committed for involuntary  
38 mental health treatment, the person has been committed to detention  
39 for involuntary mental health treatment at least once during the  
40 thirty-six months preceding the date of initial detention of the

1 current commitment cycle; (b) is unlikely to voluntarily participate  
2 in outpatient treatment without an order for less restrictive  
3 alternative treatment, in view of the person's treatment history or  
4 current behavior; (c) is unlikely to survive safely in the community  
5 without supervision; (d) is likely to benefit from less restrictive  
6 alternative treatment; and (e) requires less restrictive alternative  
7 treatment to prevent a relapse, decompensation, or deterioration that  
8 is likely to result in the person presenting a likelihood of serious  
9 harm or the person becoming gravely disabled within a reasonably  
10 short period of time. For purposes of (a) of this subsection, time  
11 spent in a mental health facility or in confinement as a result of a  
12 criminal conviction is excluded from the thirty-six month  
13 calculation;

14 ~~((+24))~~ (22) "Judicial commitment" means a commitment by a court  
15 pursuant to the provisions of this chapter;

16 ~~((+25))~~ (23) "Legal counsel" means attorneys and staff employed  
17 by county prosecutor offices or the state attorney general acting in  
18 their capacity as legal representatives of public mental health and  
19 substance use disorder service providers under RCW 71.05.130;

20 ~~((+26))~~ (24) "Less restrictive alternative treatment" means a  
21 program of individualized treatment in a less restrictive setting  
22 than inpatient treatment that includes the services described in RCW  
23 71.05.585;

24 ~~((+27))~~ (25) "Likelihood of serious harm" means:

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

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

36 ~~((+28))~~ (26) "Medical clearance" means a physician or other  
37 health care provider has determined that a person is medically stable  
38 and ready for referral to the designated ~~((mental—health~~  
39 ~~professional))~~ crisis responder;

1        ~~((+29+))~~ (27) "Mental disorder" means any organic, mental, or  
2 emotional impairment which has substantial adverse effects on a  
3 person's cognitive or volitional functions;

4        ~~((+30+))~~ (28) "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        ~~((+31+))~~ (29) "Mental health service provider" means a public or  
10 private agency that provides mental health services to persons with  
11 mental disorders or substance use disorders as defined under this  
12 section and receives funding from public sources. This includes, but  
13 is not limited to, hospitals licensed under chapter 70.41 RCW,  
14 evaluation and treatment facilities as defined in this section,  
15 community mental health service delivery systems or ~~((community~~  
16 ~~mental))~~ behavioral health programs as defined in RCW 71.24.025,  
17 facilities conducting competency evaluations and restoration under  
18 chapter 10.77 RCW, approved substance use disorder treatment programs  
19 as defined in this section, secure detoxification facilities as  
20 defined in this section, and correctional facilities operated by  
21 state and local governments;

22        ~~((+32+))~~ (30) "Peace officer" means a law enforcement official of  
23 a public agency or governmental unit, and includes persons  
24 specifically given peace officer powers by any state law, local  
25 ordinance, or judicial order of appointment;

26        ~~((+33+))~~ (31) "Private agency" means any person, partnership,  
27 corporation, or association that is not a public agency, whether or  
28 not financed in whole or in part by public funds, which constitutes  
29 an evaluation and treatment facility or private institution, or  
30 hospital, or approved substance use disorder treatment program, which  
31 is conducted for, or includes a department or ward conducted for, the  
32 care and treatment of persons ~~((who are mentally ill))~~ with mental  
33 illness, substance use disorders, or both mental illness and  
34 substance use disorders;

35        ~~((+34+))~~ (32) "Professional person" means a mental health  
36 professional or designated crisis responder and shall also mean a  
37 physician, psychiatric advanced registered nurse practitioner,  
38 registered nurse, and such others as may be defined by rules adopted  
39 by the secretary pursuant to the provisions of this chapter;

1       ~~((35))~~     (33)     "Psychiatric advanced registered nurse  
2 practitioner" means a person who is licensed as an advanced  
3 registered nurse practitioner pursuant to chapter 18.79 RCW; and who  
4 is board certified in advanced practice psychiatric and mental health  
5 nursing;

6       ~~((36))~~     (34)     "Psychiatrist" means a person having a license as a  
7 physician and surgeon in this state who has in addition completed  
8 three years of graduate training in psychiatry in a program approved  
9 by the American medical association or the American osteopathic  
10 association and is certified or eligible to be certified by the  
11 American board of psychiatry and neurology;

12       ~~((37))~~     (35)     "Psychologist" means a person who has been licensed  
13 as a psychologist pursuant to chapter 18.83 RCW;

14       ~~((38))~~     (36)     "Public agency" means any evaluation and treatment  
15 facility or institution, secure detoxification facility, approved  
16 substance use disorder treatment program, or hospital which is  
17 conducted for, or includes a department or ward conducted for, the  
18 care and treatment of persons with mental illness, substance use  
19 disorders, or both mental illness and substance use disorders, if the  
20 agency is operated directly by~~((7))~~ federal, state, county, or  
21 municipal government, or a combination of such governments;

22       ~~((39))~~     (37)     "Registration records" include all the records of  
23 the department, behavioral health organizations, treatment  
24 facilities, and other persons providing services to the department,  
25 county departments, or facilities which identify persons who are  
26 receiving or who at any time have received services for mental  
27 illness or substance use disorders;

28       ~~((40))~~     (38)     "Release" means legal termination of the commitment  
29 under the provisions of this chapter;

30       ~~((41))~~     (39)     "Resource management services" has the meaning  
31 given in chapter 71.24 RCW;

32       ~~((42))~~     (40)     "Secretary" means the secretary of the department  
33 of social and health services, or his or her designee;

34       ~~((43))~~     (41)     "Serious violent offense" has the same meaning as  
35 provided in RCW 9.94A.030;

36       ~~((44))~~     (42)     "Social worker" means a person with a master's or  
37 further advanced degree from a social work educational program  
38 accredited and approved as provided in RCW 18.320.010;

39       ~~((45))~~     (43)     "Therapeutic court personnel" means the staff of a  
40 mental health court or other therapeutic court which has jurisdiction

1 over defendants who are dually diagnosed with mental disorders,  
2 including court personnel, probation officers, a court monitor,  
3 prosecuting attorney, or defense counsel acting within the scope of  
4 therapeutic court duties;

5 ~~((46))~~ (44) "Treatment records" include registration and all  
6 other records concerning persons who are receiving or who at any time  
7 have received services for mental illness, which are maintained by  
8 the department, by behavioral health organizations and their staffs,  
9 and by treatment facilities. Treatment records include mental health  
10 information contained in a medical bill including but not limited to  
11 mental health drugs, a mental health diagnosis, provider name, and  
12 dates of service stemming from a medical service. Treatment records  
13 do not include notes or records maintained for personal use by a  
14 person providing treatment services for the department, behavioral  
15 health organizations, or a treatment facility if the notes or records  
16 are not available to others;

17 ~~((47))~~ (45) "Triage facility" means a short-term facility or a  
18 portion of a facility licensed by the department of health and  
19 certified by the department of social and health services under RCW  
20 71.24.035, which is designed as a facility to assess and stabilize an  
21 individual or determine the need for involuntary commitment of an  
22 individual, and must meet department of health residential treatment  
23 facility standards. A triage facility may be structured as a  
24 voluntary or involuntary placement facility;

25 ~~((48))~~ (46) "Violent act" means behavior that resulted in  
26 homicide, attempted suicide, nonfatal injuries, or substantial damage  
27 to property;

28 (47) "Alcoholism" means a disease, characterized by a dependency  
29 on alcoholic beverages, loss of control over the amount and  
30 circumstances of use, symptoms of tolerance, physiological or  
31 psychological withdrawal, or both, if use is reduced or discontinued,  
32 and impairment of health or disruption of social or economic  
33 functioning;

34 (48) "Approved substance use disorder treatment program" means a  
35 program for persons with a substance use disorder provided by a  
36 treatment program certified by the department as meeting standards  
37 adopted under chapter 71.24 RCW;

38 (49) "Chemical dependency" means:

39 (a) Alcoholism;

40 (b) Drug addiction; or

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

3 (50) "Chemical dependency professional" means a person certified  
4 as a chemical dependency professional by the department of health  
5 under chapter 18.205 RCW;

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

12 (52) "Intoxicated person" means a person whose mental or physical  
13 functioning is substantially impaired as a result of the use of  
14 alcohol or other psychoactive chemicals;

15 (53) "Licensed physician" means a person licensed to practice  
16 medicine or osteopathic medicine and surgery in the state of  
17 Washington;

18 (54) "Physician assistant" means a person who is licensed as a  
19 physician assistant pursuant to chapter 18.57A or 18.71A RCW and is  
20 working with a licensed mental health physician as indicated by their  
21 delegation agreement;

22 (55) "Secure detoxification facility" means a facility operated  
23 by either a public or private agency or by the program of an agency  
24 that:

25 (a) Provides for intoxicated persons:

26 (i) Evaluation and assessment, provided by certified chemical  
27 dependency professionals;

28 (ii) Acute or subacute detoxification services; and

29 (iii) Discharge assistance provided by certified chemical  
30 dependency professionals, including facilitating transitions to  
31 appropriate voluntary or involuntary inpatient services or to less  
32 restrictive alternatives as appropriate for the individual;

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

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

36 (56) "Substance use disorder" means a cluster of cognitive,  
37 behavioral, and physiological symptoms indicating that an individual  
38 continues using the substance despite significant substance-related  
39 problems. The diagnosis of a substance use disorder is based on a



1 pathological pattern of behaviors related to the use of the  
2 substances.

3 **Sec. 205.** RCW 71.05.025 and 2014 c 225 s 80 are each amended to  
4 read as follows:

5 The legislature intends that the procedures and services  
6 authorized in this chapter be integrated with those in chapter 71.24  
7 RCW to the maximum extent necessary to assure a continuum of care to  
8 persons with mental illness or who have mental disorders or substance  
9 use disorders, as defined in either or both this chapter and chapter  
10 71.24 RCW. To this end, behavioral health organizations established  
11 in accordance with chapter 71.24 RCW shall institute procedures which  
12 require timely consultation with resource management services by  
13 designated (~~mental health professionals and~~) crisis responders,  
14 evaluation and treatment facilities, secure detoxification  
15 facilities, and approved substance use disorder treatment programs to  
16 assure that determinations to admit, detain, commit, treat,  
17 discharge, or release persons with mental disorders or substance use  
18 disorders under this chapter are made only after appropriate  
19 information regarding such person's treatment history and current  
20 treatment plan has been sought from resource management services.

21 **Sec. 206.** RCW 71.05.026 and 2014 c 225 s 81 are each amended to  
22 read as follows:

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

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

1 (3) This section applies to counties, behavioral health  
2 organizations, and entities which contract to provide behavioral  
3 health organization services and their subcontractors, agents, or  
4 employees.

5 **Sec. 207.** RCW 71.05.050 and 2015 c 269 s 5 are each amended to  
6 read as follows:

7 (1) Nothing in this chapter shall be construed to limit the right  
8 of any person to apply voluntarily to any public or private agency or  
9 practitioner for treatment of a mental disorder or substance use  
10 disorder, either by direct application or by referral. Any person  
11 voluntarily admitted for inpatient treatment to any public or private  
12 agency shall be released immediately upon his or her request. Any  
13 person voluntarily admitted for inpatient treatment to any public or  
14 private agency shall orally be advised of the right to immediate  
15 discharge, and further advised of such rights in writing as are  
16 secured to them pursuant to this chapter and their rights of access  
17 to attorneys, courts, and other legal redress. Their condition and  
18 status shall be reviewed at least once each one hundred eighty days  
19 for evaluation as to the need for further treatment or possible  
20 discharge, at which time they shall again be advised of their right  
21 to discharge upon request.

22 (2) If the professional staff of any public or private agency or  
23 hospital regards a person voluntarily admitted who requests discharge  
24 as presenting, as a result of a mental disorder or substance use  
25 disorder, an imminent likelihood of serious harm, or is gravely  
26 disabled, they may detain such person for sufficient time to notify  
27 the designated ((~~mental health professional~~)) crisis responder of  
28 such person's condition to enable the designated ((~~mental health~~  
29 ~~professional~~)) crisis responder to authorize such person being  
30 further held in custody or transported to an evaluation and treatment  
31 center, secure detoxification facility, or approved substance use  
32 disorder treatment program pursuant to the provisions of this  
33 chapter, which shall in ordinary circumstances be no later than the  
34 next judicial day.

35 (3) If a person is brought to the emergency room of a public or  
36 private agency or hospital for observation or treatment, the person  
37 refuses voluntary admission, and the professional staff of the public  
38 or private agency or hospital regard such person as presenting as a  
39 result of a mental disorder or substance use disorder an imminent

1 likelihood of serious harm, or as presenting an imminent danger  
2 because of grave disability, they may detain such person for  
3 sufficient time to notify the designated (~~mental health~~  
4 ~~professional~~) crisis responder of such person's condition to enable  
5 the designated (~~mental health professional~~) crisis responder to  
6 authorize such person being further held in custody or transported to  
7 an evaluation treatment center, secure detoxification facility, or  
8 approved substance use disorder treatment program pursuant to the  
9 conditions in this chapter, but which time shall be no more than six  
10 hours from the time the professional staff notify the designated  
11 (~~mental health professional~~) crisis responder of the need for  
12 evaluation, not counting time periods prior to medical clearance.

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

19 **Sec. 208.** RCW 71.05.120 and 2000 c 94 s 4 are each amended to  
20 read as follows:

21 (1) No officer of a public or private agency, nor the  
22 superintendent, professional person in charge, his or her  
23 professional designee, or attending staff of any such agency, nor any  
24 public official performing functions necessary to the administration  
25 of this chapter, nor peace officer responsible for detaining a person  
26 pursuant to this chapter, nor any (~~county~~) designated (~~mental~~  
27 ~~health professional~~) crisis responder, nor the state, a unit of  
28 local government, (~~or~~) an evaluation and treatment facility, a  
29 secure detoxification facility, or an approved substance use disorder  
30 treatment program shall be civilly or criminally liable for  
31 performing duties pursuant to this chapter with regard to the  
32 decision of whether to admit, discharge, release, administer  
33 antipsychotic medications, or detain a person for evaluation and  
34 treatment: PROVIDED, That such duties were performed in good faith  
35 and without gross negligence.

36 (2) This section does not relieve a person from giving the  
37 required notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the  
38 duty to warn or to take reasonable precautions to provide protection  
39 from violent behavior where the patient has communicated an actual

1 threat of physical violence against a reasonably identifiable victim  
2 or victims. The duty to warn or to take reasonable precautions to  
3 provide protection from violent behavior is discharged if reasonable  
4 efforts are made to communicate the threat to the victim or victims  
5 and to law enforcement personnel.

6 **Sec. 209.** RCW 71.05.132 and 2004 c 166 s 12 are each amended to  
7 read as follows:

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

19 **Sec. 210.** RCW 71.05.150 and 2015 c 250 s 3 are each amended to  
20 read as follows:

21 (1)(a) When a designated (~~(mental health professional)~~) crisis  
22 responder receives information alleging that a person, as a result of  
23 a mental disorder(~~(+-(i))~~), substance use disorder, or both presents  
24 a likelihood of serious harm(~~(+-(ii))~~) or is gravely disabled(~~(+)~~)  
25 or (~~(+iii)~~) that a person is in need of assisted outpatient mental  
26 health treatment; the designated (~~(mental health professional)~~)  
27 crisis responder may, after investigation and evaluation of the  
28 specific facts alleged and of the reliability and credibility of any  
29 person providing information to initiate detention or involuntary  
30 outpatient evaluation, if satisfied that the allegations are true and  
31 that the person will not voluntarily seek appropriate treatment, file  
32 a petition for initial detention or involuntary outpatient  
33 evaluation. If the petition is filed solely on the grounds that the  
34 person is in need of assisted outpatient mental health treatment, the  
35 petition may only be for an involuntary outpatient evaluation. An  
36 involuntary outpatient evaluation may be conducted by any combination  
37 of licensed professionals authorized to petition for involuntary  
38 commitment under RCW 71.05.230 and must include involvement or

1 consultation with the agency or facility which will provide  
2 monitoring or services under the proposed less restrictive  
3 alternative treatment order. If the petition is for an involuntary  
4 outpatient evaluation and the person is being held in a hospital  
5 emergency department, the person may be released once the hospital  
6 has satisfied federal and state legal requirements for appropriate  
7 screening and stabilization of patients.

8 (b) Before filing the petition, the designated (~~(mental health~~  
9 ~~professional)) crisis responder must personally interview the person,  
10 unless the person refuses an interview, and determine whether the  
11 person will voluntarily receive appropriate evaluation and treatment  
12 at an evaluation and treatment facility, crisis stabilization unit,  
13 (~~(or)) triage facility, or approved substance use disorder treatment  
14 program.~~~~

15 (2)(a) An order to detain (~~(to)) a person with a mental disorder  
16 to a designated evaluation and treatment facility, or to detain a  
17 person with a substance use disorder to a secure detoxification  
18 facility or approved substance use disorder treatment program, for  
19 not more than a seventy-two-hour evaluation and treatment period, or  
20 an order for an involuntary outpatient evaluation, may be issued by a  
21 judge of the superior court upon request of a designated (~~(mental~~  
22 ~~health professional)) crisis responder, subject to (d) of this  
23 subsection, whenever it appears to the satisfaction of a judge of the  
24 superior court:~~~~

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

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

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

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

36 (d) A court may not issue an order to detain a person to a secure  
37 detoxification facility or approved substance use disorder treatment  
38 program unless there is an available secure detoxification facility  
39 or approved substance use disorder treatment program that has  
40 adequate space for the person.

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

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

34           **Sec. 211.** RCW 71.05.150 and 2016 c ... s 210 (section 210 of  
35 this act) are each amended to read as follows:

36           (1)(a) When a designated crisis responder receives information  
37 alleging that a person, as a result of a mental disorder, substance  
38 use disorder, or both presents a likelihood of serious harm or is  
39 gravely disabled, or that a person is in need of assisted outpatient

1 mental health treatment; the designated crisis responder may, after  
2 investigation and evaluation of the specific facts alleged and of the  
3 reliability and credibility of any person providing information to  
4 initiate detention or involuntary outpatient evaluation, if satisfied  
5 that the allegations are true and that the person will not  
6 voluntarily seek appropriate treatment, file a petition for initial  
7 detention or involuntary outpatient evaluation. If the petition is  
8 filed solely on the grounds that the person is in need of assisted  
9 outpatient mental health treatment, the petition may only be for an  
10 involuntary outpatient evaluation. An involuntary outpatient  
11 evaluation may be conducted by any combination of licensed  
12 professionals authorized to petition for involuntary commitment under  
13 RCW 71.05.230 and must include involvement or consultation with the  
14 agency or facility which will provide monitoring or services under  
15 the proposed less restrictive alternative treatment order. If the  
16 petition is for an involuntary outpatient evaluation and the person  
17 is being held in a hospital emergency department, the person may be  
18 released once the hospital has satisfied federal and state legal  
19 requirements for appropriate screening and stabilization of patients.

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

26 (2)(a) An order to detain a person with a mental disorder to a  
27 designated evaluation and treatment facility, or to detain a person  
28 with a substance use disorder to a secure detoxification facility or  
29 approved substance use disorder treatment program, for not more than  
30 a seventy-two-hour evaluation and treatment period, or an order for  
31 an involuntary outpatient evaluation, may be issued by a judge of the  
32 superior court upon request of a designated crisis responder(~~(7~~  
33 ~~subject to (d) of this subsection,~~) whenever it appears to the  
34 satisfaction of a judge of the superior court:

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

38 (b) The petition for initial detention or involuntary outpatient  
39 evaluation, signed under penalty of perjury, or sworn telephonic

1 testimony may be considered by the court in determining whether there  
2 are sufficient grounds for issuing the order.

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

7 ~~((d) A court may not issue an order to detain a person to a  
8 secure detoxification facility or approved substance use disorder  
9 treatment program unless there is an available secure detoxification  
10 facility or approved substance use disorder treatment program that  
11 has adequate space for the person.))~~

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

35 (4) The designated crisis responder may notify a peace officer to  
36 take such person or cause such person to be taken into custody and  
37 placed in an evaluation and treatment facility, secure detoxification  
38 facility, or approved substance use disorder treatment program. At  
39 the time such person is taken into custody there shall commence to be  
40 served on such person, his or her guardian, and conservator, if any,



1 a copy of the original order together with a notice of rights and a  
2 petition for initial detention.

3 **Sec. 212.** RCW 71.05.153 and 2015 c 269 s 6 are each amended to  
4 read as follows:

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

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

29 (3)(a) Subject to (b) of this subsection, a peace officer may  
30 take or cause such person to be taken into custody and immediately  
31 delivered to a triage facility, crisis stabilization unit, evaluation  
32 and treatment facility, secure detoxification facility, approved  
33 substance use disorder treatment program, or the emergency department  
34 of a local hospital under the following circumstances:

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

1        ~~((+3))~~ (b) A peace officer's delivery of a person, based on a  
2 substance use disorder, to a secure detoxification facility or  
3 approved substance use disorder treatment program is subject to the  
4 availability of a secure detoxification facility or approved  
5 substance use disorder treatment program with adequate space for the  
6 person.

7        (4) Persons delivered to a crisis stabilization unit, evaluation  
8 and treatment facility, emergency department of a local hospital,  
9 ~~((+))~~ triage facility that has elected to operate as an involuntary  
10 facility, secure detoxification facility, or approved substance use  
11 disorder treatment program by peace officers pursuant to subsection  
12 ~~((+2))~~ (3) of this section may be held by the facility for a period  
13 of up to twelve hours, not counting time periods prior to medical  
14 clearance.

15        ~~((+4))~~ (5) Within three hours after arrival, not counting time  
16 periods prior to medical clearance, the person must be examined by a  
17 mental health professional. Within twelve hours of notice of the need  
18 for evaluation, not counting time periods prior to medical clearance,  
19 the designated (~~mental health professional~~) crisis responder must  
20 determine whether the individual meets detention criteria. If the  
21 individual is detained, the designated (~~mental health professional~~)  
22 crisis responder shall file a petition for detention or a  
23 supplemental petition as appropriate and commence service on the  
24 designated attorney for the detained person. If the individual is  
25 released to the community, the mental health service provider shall  
26 inform the peace officer of the release within a reasonable period of  
27 time after the release if the peace officer has specifically  
28 requested notification and provided contact information to the  
29 provider.

30        ~~((+5))~~ (6) Dismissal of a commitment petition is not the  
31 appropriate remedy for a violation of the timeliness requirements of  
32 this section based on the intent of this chapter under RCW 71.05.010  
33 except in the few cases where the facility staff or designated mental  
34 health professional has totally disregarded the requirements of this  
35 section.

36        **Sec. 213.** RCW 71.05.153 and 2016 c ... s 212 (section 212 of  
37 this act) are each amended to read as follows:

38        (1) When a designated crisis responder receives information  
39 alleging that a person, as the result of a mental disorder, presents

1 an imminent likelihood of serious harm, or is in imminent danger  
2 because of being gravely disabled, after investigation and evaluation  
3 of the specific facts alleged and of the reliability and credibility  
4 of the person or persons providing the information if any, the  
5 designated crisis responder may take such person, or cause by oral or  
6 written order such person to be taken into emergency custody in an  
7 evaluation and treatment facility for not more than seventy-two hours  
8 as described in RCW 71.05.180.

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

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

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

33 (~~((b) A peace officer's delivery of a person, based on a~~  
34 ~~substance use disorder, to a secure detoxification facility or~~  
35 ~~approved substance use disorder treatment program is subject to the~~  
36 ~~availability of a secure detoxification facility or approved~~  
37 ~~substance use disorder treatment program with adequate space for the~~  
38 ~~person.))~~

39 (4) Persons delivered to a crisis stabilization unit, evaluation  
40 and treatment facility, emergency department of a local hospital,

1 triage facility that has elected to operate as an involuntary  
2 facility, secure detoxification facility, or approved substance use  
3 disorder treatment program by peace officers pursuant to subsection  
4 (3) of this section may be held by the facility for a period of up to  
5 twelve hours, not counting time periods prior to medical clearance.

6 (5) Within three hours after arrival, not counting time periods  
7 prior to medical clearance, the person must be examined by a mental  
8 health professional. Within twelve hours of notice of the need for  
9 evaluation, not counting time periods prior to medical clearance, the  
10 designated crisis responder must determine whether the individual  
11 meets detention criteria. If the individual is detained, the  
12 designated crisis responder shall file a petition for detention or a  
13 supplemental petition as appropriate and commence service on the  
14 designated attorney for the detained person. If the individual is  
15 released to the community, the mental health service provider shall  
16 inform the peace officer of the release within a reasonable period of  
17 time after the release if the peace officer has specifically  
18 requested notification and provided contact information to the  
19 provider.

20 (6) Dismissal of a commitment petition is not the appropriate  
21 remedy for a violation of the timeliness requirements of this section  
22 based on the intent of this chapter under RCW 71.05.010 except in the  
23 few cases where the facility staff or designated mental health  
24 professional has totally disregarded the requirements of this  
25 section.

26 **Sec. 214.** RCW 71.05.154 and 2013 c 334 s 1 are each amended to  
27 read as follows:

28 A designated (~~mental health professional~~) crisis responder  
29 conducting an evaluation of a person under RCW 71.05.150 or 71.05.153  
30 must consult with any examining emergency room physician regarding  
31 the physician's observations and opinions relating to the person's  
32 condition, and whether, in the view of the physician, detention is  
33 appropriate. The designated (~~mental health professional~~) crisis  
34 responder shall take serious consideration of observations and  
35 opinions by examining emergency room physicians in determining  
36 whether detention under this chapter is appropriate. The designated  
37 (~~mental health professional~~) crisis responder must document the  
38 consultation with an examining emergency room physician, including

1 the physician's observations or opinions regarding whether detention  
2 of the person is appropriate.

3 **Sec. 215.** RCW 71.05.156 and 2015 c 250 s 4 are each amended to  
4 read as follows:

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

12 **Sec. 216.** RCW 71.05.157 and 2007 c 375 s 9 are each amended to  
13 read as follows:

14 (1) When a designated ((~~mental health professional~~)) crisis  
15 responder is notified by a jail that a defendant or offender who was  
16 subject to a discharge review under RCW 71.05.232 is to be released  
17 to the community, the designated ((~~mental health professional~~))  
18 crisis responder shall evaluate the person within seventy-two hours  
19 of release.

20 (2) When an offender is under court-ordered treatment in the  
21 community and the supervision of the department of corrections, and  
22 the treatment provider becomes aware that the person is in violation  
23 of the terms of the court order, the treatment provider shall notify  
24 the designated ((~~mental health professional~~)) crisis responder and  
25 the department of corrections of the violation and request an  
26 evaluation for purposes of revocation of the less restrictive  
27 alternative.

28 (3) When a designated ((~~mental health professional~~)) crisis  
29 responder becomes aware that an offender who is under court-ordered  
30 treatment in the community and the supervision of the department of  
31 corrections is in violation of a treatment order or a condition of  
32 supervision that relates to public safety, or the designated ((~~mental~~  
33 ~~health professional~~)) crisis responder detains a person under this  
34 chapter, the designated ((~~mental health professional~~)) crisis  
35 responder shall notify the person's treatment provider and the  
36 department of corrections.

37 (4) When an offender who is confined in a state correctional  
38 facility or is under supervision of the department of corrections in

1 the community is subject to a petition for involuntary treatment  
2 under this chapter, the petitioner shall notify the department of  
3 corrections and the department of corrections shall provide  
4 documentation of its risk assessment or other concerns to the  
5 petitioner and the court if the department of corrections classified  
6 the offender as a high risk or high needs offender.

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

10 (6) No jail or state correctional facility may be considered a  
11 less restrictive alternative to an evaluation and treatment facility,  
12 secure detoxification facility, or approved substance use disorder  
13 treatment program.

14 **Sec. 217.** RCW 71.05.160 and 2007 c 375 s 13 are each amended to  
15 read as follows:

16 Any facility receiving a person pursuant to RCW 71.05.150 or  
17 71.05.153 shall require the designated (~~mental health professional~~)  
18 crisis responder to prepare a petition for initial detention stating  
19 the circumstances under which the person's condition was made known  
20 and stating that there is evidence, as a result of his or her  
21 personal observation or investigation, that the actions of the person  
22 for which application is made constitute a likelihood of serious  
23 harm, or that he or she is gravely disabled, and stating the specific  
24 facts known to him or her as a result of his or her personal  
25 observation or investigation, upon which he or she bases the belief  
26 that such person should be detained for the purposes and under the  
27 authority of this chapter.

28 If a person is involuntarily placed in an evaluation and  
29 treatment facility, secure detoxification facility, or approved  
30 substance use disorder treatment program pursuant to RCW 71.05.150 or  
31 71.05.153, on the next judicial day following the initial detention,  
32 the designated (~~mental health professional~~) crisis responder shall  
33 file with the court and serve the designated attorney of the detained  
34 person the petition or supplemental petition for initial detention,  
35 proof of service of notice, and a copy of a notice of emergency  
36 detention.

37 **Sec. 218.** RCW 71.05.170 and 2000 c 94 s 5 are each amended to  
38 read as follows:

1           Whenever the ((~~county~~)) designated ((~~mental health professional~~))  
2 crisis responder petitions for detention of a person whose actions  
3 constitute a likelihood of serious harm, or who is gravely disabled,  
4 the facility providing seventy-two hour evaluation and treatment must  
5 immediately accept on a provisional basis the petition and the  
6 person. The facility shall then evaluate the person's condition and  
7 admit, detain, transfer, or discharge such person in accordance with  
8 RCW 71.05.210. The facility shall notify in writing the court and the  
9 ((~~county~~)) designated ((~~mental health professional~~)) crisis responder  
10 of the date and time of the initial detention of each person  
11 involuntarily detained in order that a probable cause hearing shall  
12 be held no later than seventy-two hours after detention.

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

15           **Sec. 219.** RCW 71.05.180 and 1997 c 112 s 12 are each amended to  
16 read as follows:

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

23           **Sec. 220.** RCW 71.05.190 and 2011 c 305 s 3 are each amended to  
24 read as follows:

25           If the person is not approved for admission by a facility  
26 providing seventy-two hour evaluation and treatment, and the  
27 individual has not been arrested, the facility shall furnish  
28 transportation, if not otherwise available, for the person to his or  
29 her place of residence or other appropriate place. If the individual  
30 has been arrested, the evaluation and treatment facility, secure  
31 detoxification facility, or approved substance use disorder treatment  
32 program shall detain the individual for not more than eight hours at  
33 the request of the peace officer. The facility shall make reasonable  
34 attempts to contact the requesting peace officer during this time to  
35 inform the peace officer that the person is not approved for  
36 admission in order to enable a peace officer to return to the  
37 facility and take the individual back into custody.

1       **Sec. 221.** RCW 71.05.195 and 2010 c 208 s 1 are each amended to  
2 read as follows:

3       (1) A civil commitment may be initiated under the procedures  
4 described in RCW 71.05.150 or 71.05.153 for a person who has been  
5 found not guilty by reason of insanity in a state other than  
6 Washington and who has fled from detention, commitment, or  
7 conditional release in that state, on the basis of a request by the  
8 state in which the person was found not guilty by reason of insanity  
9 for the person to be detained and transferred back to the custody or  
10 care of the requesting state. A finding of likelihood of serious harm  
11 or grave disability is not required for a commitment under this  
12 section. The detention may occur at either an evaluation and  
13 treatment facility or a state hospital. The petition for seventy-two  
14 hour detention filed by the designated (~~mental health professional~~)  
15 crisis responder must be accompanied by the following documents:

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

19       (b) A warrant issued by a magistrate in the state in which the  
20 person was found not guilty by reason of insanity indicating that the  
21 person has fled from detention, commitment, or conditional release in  
22 that state and authorizing the detention of the person within the  
23 state in which the person was found not guilty by reason of insanity;

24       (c) A statement from the executive authority of the state in  
25 which the person was found not guilty by reason of insanity  
26 requesting that the person be returned to the requesting state and  
27 agreeing to facilitate the transfer of the person to the requesting  
28 state.

29       (2) The person shall be entitled to a probable cause hearing  
30 within the time limits applicable to other detentions under this  
31 chapter and shall be afforded the rights described in this chapter  
32 including the right to counsel. At the probable cause hearing, the  
33 court shall determine the identity of the person and whether the  
34 other requirements of this section are met. If the court so finds,  
35 the court may order continued detention in a treatment facility for  
36 up to thirty days for the purpose of the transfer of the person to  
37 the custody or care of the requesting state. The court may order a  
38 less restrictive alternative to detention only under conditions which  
39 ensure the person's safe transfer to the custody or care of the



1 requesting state within thirty days without undue risk to the safety  
2 of the person or others.

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

8 **Sec. 222.** RCW 71.05.201 and 2015 c 258 s 2 are each amended to  
9 read as follows:

10 (1) If a designated (~~mental health professional~~) crisis  
11 responder decides not to detain a person for evaluation and treatment  
12 under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed  
13 since a designated (~~mental health professional~~) crisis responder  
14 received a request for investigation and the designated (~~mental~~  
15 ~~health professional~~) crisis responder has not taken action to have  
16 the person detained, an immediate family member or guardian or  
17 conservator of the person may petition the superior court for the  
18 person's initial detention.

19 (2)(a) The petition must be submitted on forms developed by the  
20 administrative office of the courts for this purpose. The petition  
21 must be accompanied by a sworn declaration from the petitioner, and  
22 other witnesses if desired, describing why the person should be  
23 detained for evaluation and treatment. The description of why the  
24 person should be detained may contain, but is not limited to, the  
25 information identified in RCW 71.05.212.

26 (b) The petition must contain:

27 (i) A description of the relationship between the petitioner and  
28 the person; and

29 (ii) The date on which an investigation was requested from the  
30 designated (~~mental health professional~~) crisis responder.

31 (3) The court shall, within one judicial day, review the petition  
32 to determine whether the petition raises sufficient evidence to  
33 support the allegation. If the court so finds, it shall provide a  
34 copy of the petition to the designated (~~mental health professional~~)  
35 crisis responder agency with an order for the agency to provide the  
36 court, within one judicial day, with a written sworn statement  
37 describing the basis for the decision not to seek initial detention  
38 and a copy of all information material to the designated (~~mental~~  
39 ~~health professional's~~) crisis responder's current decision.

1 (4) Following the filing of the petition and before the court  
2 reaches a decision, any person, including a mental health  
3 professional, may submit a sworn declaration to the court in support  
4 of or in opposition to initial detention.

5 (5) The court shall dismiss the petition at any time if it finds  
6 that a designated (~~mental health professional~~) crisis responder has  
7 filed a petition for the person's initial detention under RCW  
8 71.05.150 or 71.05.153 or that the person has voluntarily accepted  
9 appropriate treatment.

10 (6) The court must issue a final ruling on the petition within  
11 five judicial days after it is filed. After reviewing all of the  
12 information provided to the court, the court may enter an order for  
13 initial detention if the court finds that: (a) There is probable  
14 cause to support a petition for detention; and (b) the person has  
15 refused or failed to accept appropriate evaluation and treatment  
16 voluntarily. The court shall transmit its final decision to the  
17 petitioner.

18 (7) If the court enters an order for initial detention, it shall  
19 provide the order to the designated (~~mental health professional~~)  
20 crisis responder agency, which shall execute the order without delay.  
21 An order for initial detention under this section expires one hundred  
22 eighty days from issuance.

23 (8) Except as otherwise expressly stated in this chapter, all  
24 procedures must be followed as if the order had been entered under  
25 RCW 71.05.150. RCW 71.05.160 does not apply if detention was  
26 initiated under the process set forth in this section.

27 (9) For purposes of this section, "immediate family member" means  
28 a spouse, domestic partner, child, stepchild, parent, stepparent,  
29 grandparent, or sibling.

30 **Sec. 223.** RCW 71.05.203 and 2015 c 258 s 3 are each amended to  
31 read as follows:

32 (1) The department and each (~~regional support network~~)  
33 behavioral health organization or agency employing designated  
34 (~~mental health professionals~~) crisis responders shall publish  
35 information in an easily accessible format describing the process for  
36 an immediate family member, guardian, or conservator to petition for  
37 court review of a detention decision under RCW 71.05.201.

38 (2) A designated (~~mental health professional~~) crisis responder  
39 or designated (~~mental health professional~~) crisis responder agency

1 that receives a request for investigation for possible detention  
2 under this chapter must inquire whether the request comes from an  
3 immediate family member, guardian, or conservator who would be  
4 eligible to petition under RCW 71.05.201. If the designated (~~mental~~  
5 ~~health professional~~) crisis responder decides not to detain the  
6 person for evaluation and treatment under RCW 71.05.150 or 71.05.153  
7 or forty-eight hours have elapsed since the request for investigation  
8 was received and the designated (~~mental health professional~~) crisis  
9 responder has not taken action to have the person detained, the  
10 designated (~~mental health professional~~) crisis responder or  
11 designated (~~mental health professional~~) crisis responder agency  
12 must inform the immediate family member, guardian, or conservator who  
13 made the request for investigation about the process to petition for  
14 court review under RCW 71.05.201.

15 **Sec. 224.** RCW 71.05.210 and 2015 c 269 s 7 and 2015 c 250 s 20  
16 are each reenacted and amended to read as follows:

17 Each person involuntarily detained and accepted or admitted at an  
18 evaluation and treatment facility, secure detoxification facility, or  
19 approved substance use disorder treatment program (1) shall, within  
20 twenty-four hours of his or her admission or acceptance at the  
21 facility, not counting time periods prior to medical clearance, be  
22 examined and evaluated by (a) a licensed physician who may be  
23 assisted by a physician assistant according to chapter 18.71A RCW and  
24 a mental health professional, (b) an advanced registered nurse  
25 practitioner according to chapter 18.79 RCW and a mental health  
26 professional, or (c) a licensed physician and a psychiatric advanced  
27 registered nurse practitioner and (2) shall receive such treatment  
28 and care as his or her condition requires including treatment on an  
29 outpatient basis for the period that he or she is detained, except  
30 that, beginning twenty-four hours prior to a trial or hearing  
31 pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320,  
32 71.05.590, or 71.05.217, the individual may refuse psychiatric  
33 medications, but may not refuse: (a) Any other medication previously  
34 prescribed by a person licensed under Title 18 RCW; or (b) emergency  
35 lifesaving treatment, and the individual shall be informed at an  
36 appropriate time of his or her right of such refusal. The person  
37 shall be detained up to seventy-two hours, if, in the opinion of the  
38 professional person in charge of the facility, or his or her  
39 professional designee, the person presents a likelihood of serious

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

6 If, after examination and evaluation, the mental health  
7 professional and licensed physician or psychiatric advanced  
8 registered nurse practitioner determine that the initial needs of the  
9 person, if detained to an evaluation and treatment facility, would be  
10 better served by placement in a (~~chemical dependency~~) substance use  
11 disorder treatment facility, or, if detained to a secure  
12 detoxification facility or approved substance use disorder treatment  
13 program, would be better served in an evaluation and treatment  
14 facility then the person shall be referred to (~~an approved treatment~~  
15 ~~program defined under RCW 70.96A.020~~) the more appropriate  
16 placement; however, a person may only be referred to a secure  
17 detoxification facility or approved substance use disorder treatment  
18 program if there is an available secure detoxification facility or  
19 approved substance use disorder treatment program with adequate space  
20 for the person.

21 An evaluation and treatment center, secure detoxification  
22 facility, or approved substance use disorder treatment program  
23 admitting or accepting any person pursuant to this chapter whose  
24 physical condition reveals the need for hospitalization shall assure  
25 that such person is transferred to an appropriate hospital for  
26 evaluation or admission for treatment. Notice of such fact shall be  
27 given to the court, the designated attorney, and the designated  
28 (~~mental health professional~~) crisis responder and the court shall  
29 order such continuance in proceedings under this chapter as may be  
30 necessary, but in no event may this continuance be more than fourteen  
31 days.

32 **Sec. 225.** RCW 71.05.210 and 2016 c ... s 224 (section 224 of  
33 this act) are each amended to read as follows:

34 Each person involuntarily detained and accepted or admitted at an  
35 evaluation and treatment facility, secure detoxification facility, or  
36 approved substance use disorder treatment program (1) shall, within  
37 twenty-four hours of his or her admission or acceptance at the  
38 facility, not counting time periods prior to medical clearance, be  
39 examined and evaluated by (a) a licensed physician who may be

1 assisted by a physician assistant according to chapter 18.71A RCW and  
2 a mental health professional, (b) an advanced registered nurse  
3 practitioner according to chapter 18.79 RCW and a mental health  
4 professional, or (c) a licensed physician and a psychiatric advanced  
5 registered nurse practitioner and (2) shall receive such treatment  
6 and care as his or her condition requires including treatment on an  
7 outpatient basis for the period that he or she is detained, except  
8 that, beginning twenty-four hours prior to a trial or hearing  
9 pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320,  
10 71.05.590, or 71.05.217, the individual may refuse psychiatric  
11 medications, but may not refuse: (a) Any other medication previously  
12 prescribed by a person licensed under Title 18 RCW; or (b) emergency  
13 lifesaving treatment, and the individual shall be informed at an  
14 appropriate time of his or her right of such refusal. The person  
15 shall be detained up to seventy-two hours, if, in the opinion of the  
16 professional person in charge of the facility, or his or her  
17 professional designee, the person presents a likelihood of serious  
18 harm, or is gravely disabled. A person who has been detained for  
19 seventy-two hours shall no later than the end of such period be  
20 released, unless referred for further care on a voluntary basis, or  
21 detained pursuant to court order for further treatment as provided in  
22 this chapter.

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

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

1 evaluation or admission for treatment. Notice of such fact shall be  
2 given to the court, the designated attorney, and the designated  
3 crisis responder and the court shall order such continuance in  
4 proceedings under this chapter as may be necessary, but in no event  
5 may this continuance be more than fourteen days.

6 **Sec. 226.** RCW 71.05.212 and 2015 c 250 s 5 are each amended to  
7 read as follows:

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

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

15 (b) Historical behavior, including history of one or more violent  
16 acts;

17 (c) Prior determinations of incompetency or insanity under  
18 chapter 10.77 RCW; and

19 (d) Prior commitments under this chapter.

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

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

35 (a) Such symptoms or behavior are closely associated with  
36 symptoms or behavior which preceded and led to a past incident of  
37 involuntary hospitalization, severe deterioration, or one or more  
38 violent acts;

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

3 (c) Without treatment, the continued deterioration of the  
4 respondent is probable.

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

10 **Sec. 227.** RCW 71.05.214 and 1998 c 297 s 26 are each amended to  
11 read as follows:

12 The department shall develop statewide protocols to be utilized  
13 by professional persons and (~~(county)~~) designated (~~(mental health~~  
14 ~~professionals)~~) crisis responders in administration of this chapter  
15 and chapter 10.77 RCW. The protocols shall be updated at least every  
16 three years. The protocols shall provide uniform development and  
17 application of criteria in evaluation and commitment recommendations,  
18 of persons who have, or are alleged to have, mental disorders or  
19 substance use disorders and are subject to this chapter.

20 The initial protocols shall be developed not later than September  
21 1, 1999. The department shall develop and update the protocols in  
22 consultation with representatives of (~~(county)~~) designated (~~(mental~~  
23 ~~health professionals)~~) crisis responders, local government, law  
24 enforcement, county and city prosecutors, public defenders, and  
25 groups concerned with mental illness and substance use disorders. The  
26 protocols shall be submitted to the governor and legislature upon  
27 adoption by the department.

28 **Sec. 228.** RCW 71.05.215 and 2008 c 156 s 2 are each amended to  
29 read as follows:

30 (1) A person found to be gravely disabled or presents a  
31 likelihood of serious harm as a result of a mental disorder or  
32 substance use disorder has a right to refuse antipsychotic medication  
33 unless it is determined that the failure to medicate may result in a  
34 likelihood of serious harm or substantial deterioration or  
35 substantially prolong the length of involuntary commitment and there  
36 is no less intrusive course of treatment than medication in the best  
37 interest of that person.

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

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

5 (b) For short-term treatment up to thirty days, the right to  
6 refuse antipsychotic medications unless there is an additional  
7 concurring medical opinion approving medication by a psychiatrist,  
8 psychiatric advanced registered nurse practitioner, or physician in  
9 consultation with a mental health professional with prescriptive  
10 authority.

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

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

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

28 **Sec. 229.** RCW 71.05.220 and 1997 c 112 s 17 are each amended to  
29 read as follows:

30 At the time a person is involuntarily admitted to an evaluation  
31 and treatment facility, secure detoxification facility, or approved  
32 substance use disorder treatment program, the professional person in  
33 charge or his or her designee shall take reasonable precautions to  
34 inventory and safeguard the personal property of the person detained.  
35 A copy of the inventory, signed by the staff member making it, shall  
36 be given to the person detained and shall, in addition, be open to  
37 inspection to any responsible relative, subject to limitations, if  
38 any, specifically imposed by the detained person. For purposes of  
39 this section, "responsible relative" includes the guardian,



1 conservator, attorney, spouse, parent, adult child, or adult brother  
2 or sister of the person. The facility shall not disclose the contents  
3 of the inventory to any other person without the consent of the  
4 patient or order of the court.

5 **Sec. 230.** RCW 71.05.230 and 2015 c 250 s 6 are each amended to  
6 read as follows:

7 A person detained or committed for seventy-two hour evaluation  
8 and treatment or for an outpatient evaluation for the purpose of  
9 filing a petition for a less restrictive alternative treatment order  
10 may be committed for not more than fourteen additional days of  
11 involuntary intensive treatment or ninety additional days of a less  
12 restrictive alternative to involuntary intensive treatment. A  
13 petition may only be filed if the following conditions are met:

14 (1) The professional staff of the agency or facility providing  
15 evaluation services has analyzed the person's condition and finds  
16 that the condition is caused by mental disorder or substance use  
17 disorder and results in a likelihood of serious harm, results in the  
18 person being gravely disabled, or results in the person being in need  
19 of assisted outpatient mental health treatment, and are prepared to  
20 testify those conditions are met; and

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

24 (3) The agency or facility providing intensive treatment or which  
25 proposes to supervise the less restrictive alternative is certified  
26 to provide such treatment by the department; and

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

32 (a) Two physicians;

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

34 (c) Two psychiatric advanced registered nurse practitioners;

35 (d) Two physician assistants;

36 (e) One mental health professional and either a psychiatric  
37 advanced registered nurse practitioner (~~and a mental health~~  
38 ~~professional~~) or a physician assistant; or

1        ~~((e)A)~~ (f) One physician and either a psychiatric advanced  
2 registered nurse practitioner or a physician assistant. The persons  
3 signing the petition must have examined the person. If involuntary  
4 detention is sought the petition shall state facts that support the  
5 finding that such person, as a result of a mental disorder or  
6 substance use disorder, presents a likelihood of serious harm, or is  
7 gravely disabled and that there are no less restrictive alternatives  
8 to detention in the best interest of such person or others. The  
9 petition shall state specifically that less restrictive alternative  
10 treatment was considered and specify why treatment less restrictive  
11 than detention is not appropriate. If an involuntary less restrictive  
12 alternative is sought, the petition shall state facts that support  
13 the finding that such person, as a result of a mental disorder or as  
14 a result of a substance use disorder, presents a likelihood of  
15 serious harm, is gravely disabled, or is in need of assisted  
16 outpatient mental health treatment, and shall set forth a plan for  
17 the less restrictive alternative treatment proposed by the facility  
18 in accordance with RCW 71.05.585; and

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

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

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

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

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

1       **Sec. 231.** RCW 71.05.235 and 2015 1st sp.s. c 7 s 14 are each  
2 amended to read as follows:

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

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

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

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

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

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

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

3 **Sec. 232.** RCW 71.05.240 and 2015 c 250 s 7 are each amended to  
4 read as follows:

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

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

21 (3)(a) Subject to (b) of this subsection, at the conclusion of  
22 the probable cause hearing(~~(~~

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

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

38 (c) At the conclusion of the probable cause hearing, if the court  
39 finds by a preponderance of the evidence that such person, as the

1 result of a mental disorder or substance use disorder, presents a  
2 likelihood of serious harm, or is gravely disabled, but that  
3 treatment in a less restrictive setting than detention is in the best  
4 interest of such person or others, the court shall order an  
5 appropriate less restrictive alternative course of treatment for not  
6 to exceed ninety days((+)).

7 ((+b)) (d) If the court finds by a preponderance of the evidence  
8 that such person, as the result of a mental disorder, is in need of  
9 assisted outpatient mental health treatment, and that the person does  
10 not present a likelihood of serious harm or grave disability, the  
11 court shall order an appropriate less restrictive alternative course  
12 of treatment not to exceed ninety days, and may not order inpatient  
13 treatment.

14 ((+e)) (e) An order for less restrictive alternative treatment  
15 must identify the services the person will receive, in accordance  
16 with RCW 71.05.585. The court may order additional evaluation of the  
17 person if necessary to identify appropriate services.

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

28 **Sec. 233.** RCW 71.05.240 and 2016 c ... s 232 (section 232 of  
29 this act) are each amended to read as follows:

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

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

8 (3)(a) Subject to (b) of this subsection, at the conclusion of  
9 the probable cause hearing, if the court finds by a preponderance of  
10 the evidence that such person, as the result of a mental disorder or  
11 substance use disorder, presents a likelihood of serious harm, or is  
12 gravely disabled, and, after considering less restrictive  
13 alternatives to involuntary detention and treatment, finds that no  
14 such alternatives are in the best interests of such person or others,  
15 the court shall order that such person be detained for involuntary  
16 treatment not to exceed fourteen days in a facility certified to  
17 provide treatment by the department.

18 (b) Commitment for up to fourteen days based on a substance use  
19 disorder must be to either a secure detoxification facility or an  
20 approved substance use disorder treatment program. (~~A court may only  
21 enter a commitment order based on a substance use disorder if there  
22 is an available secure detoxification facility or approved substance  
23 use disorder treatment program with adequate space for the person.~~)

24 (c) At the conclusion of the probable cause hearing, if the court  
25 finds by a preponderance of the evidence that such person, as the  
26 result of a mental disorder or substance use disorder, presents a  
27 likelihood of serious harm, or is gravely disabled, but that  
28 treatment in a less restrictive setting than detention is in the best  
29 interest of such person or others, the court shall order an  
30 appropriate less restrictive alternative course of treatment for not  
31 to exceed ninety days.

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

39 (e) An order for less restrictive alternative treatment must  
40 identify the services the person will receive, in accordance with RCW

1 71.05.585 The court may order additional evaluation of the person if  
2 necessary to identify appropriate services.

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

13 **Sec. 234.** RCW 71.05.280 and 2015 c 250 s 9 are each amended to  
14 read as follows:

15 At the expiration of the fourteen-day period of intensive  
16 treatment, a person may be committed for further treatment pursuant  
17 to RCW 71.05.320 if:

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

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

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

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

37 (b) For any person subject to commitment under this subsection  
38 where the charge underlying the finding of incompetence is for a  
39 felony classified as violent under RCW 9.94A.030, the court shall



1 determine whether the acts the person committed constitute a violent  
2 offense under RCW 9.94A.030; or

3 (4) Such person is gravely disabled; or

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

6 **Sec. 235.** RCW 71.05.290 and 2015 c 250 s 10 are each amended to  
7 read as follows:

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

15 (2) The petition shall summarize the facts which support the need  
16 for further commitment and shall be supported by affidavits signed  
17 by:

18 (a) Two examining physicians;

19 (b) One examining physician and examining mental health  
20 professional;

21 (c) Two examining psychiatric advanced registered nurse  
22 practitioners;

23 (d) Two examining physician assistants;

24 (e) One examining mental health professional and either an  
25 examining psychiatric advanced registered nurse practitioner (~~and a~~  
26 ~~mental health professional~~) or an examining physician assistant; or

27 (~~(e) An~~) (f) One examining physician and either an examining  
28 psychiatric advanced registered nurse practitioner or an examining  
29 physician assistant. The affidavits shall describe in detail the  
30 behavior of the detained person which supports the petition and shall  
31 explain what, if any, less restrictive treatments which are  
32 alternatives to detention are available to such person, and shall  
33 state the willingness of the affiant to testify to such facts in  
34 subsequent judicial proceedings under this chapter. If less  
35 restrictive alternative treatment is sought, the petition shall set  
36 forth a proposed plan for less restrictive alternative treatment in  
37 accordance with RCW 71.05.585.

38 (3) If a person has been determined to be incompetent pursuant to  
39 RCW 10.77.086(4), then the professional person in charge of the

1 treatment facility or his or her professional designee or the  
2 designated ((~~mental health professional~~)) crisis responder may  
3 directly file a petition for one hundred eighty day treatment under  
4 RCW 71.05.280(3). No petition for initial detention or fourteen day  
5 detention is required before such a petition may be filed.

6 **Sec. 236.** RCW 71.05.300 and 2014 c 225 s 84 are each amended to  
7 read as follows:

8 (1) The petition for ninety day treatment shall be filed with the  
9 clerk of the superior court at least three days before expiration of  
10 the fourteen-day period of intensive treatment. At the time of filing  
11 such petition, the clerk shall set a time for the person to come  
12 before the court on the next judicial day after the day of filing  
13 unless such appearance is waived by the person's attorney, and the  
14 clerk shall notify the designated ((~~mental health professional~~))  
15 crisis responder. The designated ((~~mental health professional~~))  
16 crisis responder shall immediately notify the person detained, his or  
17 her attorney, if any, and his or her guardian or conservator, if any,  
18 the prosecuting attorney, and the behavioral health organization  
19 administrator, and provide a copy of the petition to such persons as  
20 soon as possible. The behavioral health organization administrator or  
21 designee may review the petition and may appear and testify at the  
22 full hearing on the petition.

23 (2) At the time set for appearance the detained person shall be  
24 brought before the court, unless such appearance has been waived and  
25 the court shall advise him or her of his or her right to be  
26 represented by an attorney, his or her right to a jury trial, and, if  
27 the petition is for commitment for mental health treatment, his or  
28 her loss of firearm rights if involuntarily committed. If the  
29 detained person is not represented by an attorney, or is indigent or  
30 is unwilling to retain an attorney, the court shall immediately  
31 appoint an attorney to represent him or her. The court shall, if  
32 requested, appoint a reasonably available licensed physician,  
33 psychiatric advanced registered nurse practitioner, physician  
34 assistant, psychologist, or psychiatrist, designated by the detained  
35 person to examine and testify on behalf of the detained person.

36 (3) The court may, if requested, also appoint a professional  
37 person as defined in RCW 71.05.020 to seek less restrictive  
38 alternative courses of treatment and to testify on behalf of the  
39 detained person. In the case of a person with a developmental

1 disability who has been determined to be incompetent pursuant to RCW  
2 10.77.086(4), then the appointed professional person under this  
3 section shall be a developmental disabilities professional.

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

6 **Sec. 237.** RCW 71.05.320 and 2015 c 250 s 11 are each amended to  
7 read as follows:

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

16 (b) If the order for inpatient treatment is based on a substance  
17 use disorder, treatment must take place at an approved substance use  
18 disorder treatment program. The court may only enter an order for  
19 commitment based on a substance use disorder if there is an available  
20 approved substance use disorder treatment program with adequate space  
21 for the person.

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

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

1 basis for commitment, the court must enter an order for less  
2 restrictive alternative treatment for up to ninety days from the date  
3 of judgment and may not order inpatient treatment.

4 (3) An order for less restrictive alternative treatment entered  
5 under subsection (2) of this section must identify the services the  
6 person will receive, in accordance with RCW 71.05.585. The court may  
7 order additional evaluation of the person if necessary to identify  
8 appropriate services.

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

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

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

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

31 (ii) In cases under this subsection where the court has made an  
32 affirmative special finding under RCW 71.05.280(3)(b), the commitment  
33 shall continue for up to an additional one hundred eighty day period  
34 whenever the petition presents prima facie evidence that the person  
35 continues to suffer from a mental disorder or developmental  
36 disability that results in a substantial likelihood of committing  
37 acts similar to the charged criminal behavior, unless the person  
38 presents proof through an admissible expert opinion that the person's  
39 condition has so changed such that the mental disorder or  
40 developmental disability no longer presents a substantial likelihood

1 of the person committing acts similar to the charged criminal  
2 behavior. The initial or additional commitment period may include  
3 transfer to a specialized program of intensive support and treatment,  
4 which may be initiated prior to or after discharge from the state  
5 hospital; or

6 (d) Continues to be gravely disabled; or

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

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

11 If less restrictive alternative treatment is sought, the petition  
12 shall set forth a proposed plan for less restrictive alternative  
13 services in accordance with RCW 71.05.585.

14 (5) A new petition for involuntary treatment filed under  
15 subsection (4) of this section shall be filed and heard in the  
16 superior court of the county of the facility which is filing the new  
17 petition for involuntary treatment unless good cause is shown for a  
18 change of venue. The cost of the proceedings shall be borne by the  
19 state.

20 (6)(a) The hearing shall be held as provided in RCW 71.05.310,  
21 and if the court or jury finds that the grounds for additional  
22 confinement as set forth in this section are present, subject to  
23 subsection (1)(b) of this section, the court may order the committed  
24 person returned for an additional period of treatment not to exceed  
25 one hundred eighty days from the date of judgment, except as provided  
26 in subsection (7) of this section. If the court's order is based  
27 solely on the grounds identified in subsection (4)(e) of this  
28 section, the court may enter an order for less restrictive  
29 alternative treatment not to exceed one hundred eighty days from the  
30 date of judgment, and may not enter an order for inpatient treatment.  
31 An order for less restrictive alternative treatment must identify the  
32 services the person will receive, in accordance with RCW 71.05.585.  
33 The court may order additional evaluation of the person if necessary  
34 to identify appropriate services.

35 (b) At the end of the one hundred eighty day period of  
36 commitment, or one-year period of commitment if subsection (7) of  
37 this section applies, the committed person shall be released unless a  
38 petition for an additional one hundred eighty day period of continued  
39 treatment is filed and heard in the same manner as provided in this  
40 section. Successive one hundred eighty day commitments are

1 permissible on the same grounds and pursuant to the same procedures  
2 as the original one hundred eighty day commitment.

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

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

11 **Sec. 238.** RCW 71.05.320 and 2016 c ... s 237 (section 237 of  
12 this act) are each amended to read as follows:

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

21 ((~~(b)~~)) If the order for inpatient treatment is based on a  
22 substance use disorder, treatment must take place at an approved  
23 substance use disorder treatment program. ((~~The court may only enter  
24 an order for commitment based on a substance use disorder if there is  
25 an available approved substance use disorder treatment program with  
26 adequate space for the person.~~

27 (~~(e)~~)) If the grounds set forth in RCW 71.05.280(3) are the basis  
28 of commitment, then the period of treatment may be up to but not  
29 exceed one hundred eighty days from the date of judgment in a  
30 facility certified for one hundred eighty day treatment by the  
31 department.

32 (2) If the court or jury finds that grounds set forth in RCW  
33 71.05.280 have been proven, but finds that treatment less restrictive  
34 than detention will be in the best interest of the person or others,  
35 then the court shall remand him or her to the custody of the  
36 department or to a facility certified for ninety day treatment by the  
37 department or to a less restrictive alternative for a further period  
38 of less restrictive treatment not to exceed ninety days from the date  
39 of judgment. If the order for less restrictive treatment is based on

1 a substance use disorder, treatment must be provided by an approved  
2 substance use disorder treatment program. If the grounds set forth in  
3 RCW 71.05.280(3) are the basis of commitment, then the period of  
4 treatment may be up to but not exceed one hundred eighty days from  
5 the date of judgment. If the court or jury finds that the grounds set  
6 forth in RCW 71.05.280(5) have been proven, and provide the only  
7 basis for commitment, the court must enter an order for less  
8 restrictive alternative treatment for up to ninety days from the date  
9 of judgment and may not order inpatient treatment.

10 (3) An order for less restrictive alternative treatment entered  
11 under subsection (2) of this section must identify the services the  
12 person will receive, in accordance with RCW 71.05.585. The court may  
13 order additional evaluation of the person if necessary to identify  
14 appropriate services.

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

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

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

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

37 (ii) In cases under this subsection where the court has made an  
38 affirmative special finding under RCW 71.05.280(3)(b), the commitment  
39 shall continue for up to an additional one hundred eighty day period  
40 whenever the petition presents prima facie evidence that the person

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

12 (d) Continues to be gravely disabled; or

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

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

17 If less restrictive alternative treatment is sought, the petition  
18 shall set forth a proposed plan for less restrictive alternative  
19 services in accordance with RCW 71.05.585.

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

26 (6)(a) The hearing shall be held as provided in RCW 71.05.310,  
27 and if the court or jury finds that the grounds for additional  
28 confinement as set forth in this section are present, (~~subject to~~  
29 ~~subsection (1)(b) of this section,~~) the court may order the  
30 committed person returned for an additional period of treatment not  
31 to exceed one hundred eighty days from the date of judgment, except  
32 as provided in subsection (7) of this section. If the court's order  
33 is based solely on the grounds identified in subsection (4)(e) of  
34 this section, the court may enter an order for less restrictive  
35 alternative treatment not to exceed one hundred eighty days from the  
36 date of judgment, and may not enter an order for inpatient treatment.  
37 An order for less restrictive alternative treatment must identify the  
38 services the person will receive, in accordance with RCW 71.05.585.  
39 The court may order additional evaluation of the person if necessary  
40 to identify appropriate services.



1 (b) At the end of the one hundred eighty day period of  
2 commitment, or one-year period of commitment if subsection (7) of  
3 this section applies, the committed person shall be released unless a  
4 petition for an additional one hundred eighty day period of continued  
5 treatment is filed and heard in the same manner as provided in this  
6 section. Successive one hundred eighty day commitments are  
7 permissible on the same grounds and pursuant to the same procedures  
8 as the original one hundred eighty day commitment.

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

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

17 **Sec. 239.** RCW 71.05.325 and 2000 c 94 s 7 are each amended to  
18 read as follows:

19 (1) Before a person committed under grounds set forth in RCW  
20 71.05.280(3) is released because a new petition for involuntary  
21 treatment has not been filed under RCW 71.05.320(~~(+2)~~) (3), the  
22 superintendent, professional person, or designated (~~(mental health~~  
23 ~~professional)~~) crisis responder responsible for the decision whether  
24 to file a new petition shall in writing notify the prosecuting  
25 attorney of the county in which the criminal charges against the  
26 committed person were dismissed, of the decision not to file a new  
27 petition for involuntary treatment. Notice shall be provided at least  
28 forty-five days before the period of commitment expires.

29 (2)(a) Before a person committed under grounds set forth in RCW  
30 71.05.280(3) is permitted temporarily to leave a treatment facility  
31 pursuant to RCW 71.05.270 for any period of time without constant  
32 accompaniment by facility staff, the superintendent, professional  
33 person in charge of a treatment facility, or his or her professional  
34 designee shall in writing notify the prosecuting attorney of any  
35 county of the person's destination and the prosecuting attorney of  
36 the county in which the criminal charges against the committed person  
37 were dismissed. The notice shall be provided at least forty-five days  
38 before the anticipated leave and shall describe the conditions under  
39 which the leave is to occur.

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

4 (3) Nothing in this section shall be construed to authorize  
5 detention of a person unless a valid order of commitment is in  
6 effect.

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

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

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

14 **Sec. 240.** RCW 71.05.340 and 2015 c 250 s 12 are each amended to  
15 read as follows:

16 (1)(a) When, in the opinion of the superintendent or the  
17 professional person in charge of the hospital or facility providing  
18 involuntary treatment, the committed person can be appropriately  
19 served by outpatient treatment prior to or at the expiration of the  
20 period of commitment, then such outpatient care may be required as a  
21 term of conditional release for a period which, when added to the  
22 inpatient treatment period, shall not exceed the period of  
23 commitment. If the facility or agency designated to provide  
24 outpatient treatment is other than the facility providing involuntary  
25 treatment, the outpatient facility so designated must agree in  
26 writing to assume such responsibility. A copy of the terms of  
27 conditional release shall be given to the patient, the designated  
28 (~~mental health professional~~) crisis responder in the county in  
29 which the patient is to receive outpatient treatment, and to the  
30 court of original commitment.

31 (b) Before a person committed under grounds set forth in RCW  
32 71.05.280(3) or 71.05.320(4)(c) is conditionally released under (a)  
33 of this subsection, the superintendent or professional person in  
34 charge of the hospital or facility providing involuntary treatment  
35 shall in writing notify the prosecuting attorney of the county in  
36 which the criminal charges against the committed person were  
37 dismissed, of the decision to conditionally release the person.  
38 Notice and a copy of the terms of conditional release shall be  
39 provided at least thirty days before the person is released from

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

31 (2) The facility or agency designated to provide outpatient care  
32 or the secretary may modify the conditions for continued release when  
33 such modification is in the best interest of the person. Notification  
34 of such changes shall be sent to all persons receiving a copy of the  
35 original conditions. Enforcement or revocation proceedings related to  
36 a conditional release order may occur as provided under RCW  
37 71.05.590.

38 **Sec. 241.** RCW 71.05.585 and 2015 c 250 s 16 are each amended to  
39 read as follows:

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

3 (a) Assignment of a care coordinator;

4 (b) An intake evaluation with the provider of the less  
5 restrictive alternative treatment;

6 (c) A psychiatric evaluation;

7 (d) Medication management;

8 (e) A schedule of regular contacts with the provider of the less  
9 restrictive alternative treatment services for the duration of the  
10 order;

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

13 (g) An individual crisis plan.

14 (2) Less restrictive alternative treatment may additionally  
15 include requirements to participate in the following services:

16 (a) Psychotherapy;

17 (b) Nursing;

18 (c) Substance abuse counseling;

19 (d) Residential treatment; and

20 (e) Support for housing, benefits, education, and employment.

21 (3) Less restrictive alternative treatment must be administered  
22 by a provider that is certified or licensed to provide or coordinate  
23 the full scope of services required under the less restrictive  
24 alternative order and that has agreed to assume this responsibility.

25 (4) For the purpose of this section, "care coordinator" means a  
26 clinical practitioner who coordinates the activities of less  
27 restrictive alternative treatment. The care coordinator coordinates  
28 activities with the designated (~~mental health professionals~~) crisis  
29 responders that are necessary for enforcement and continuation of  
30 less restrictive alternative orders and is responsible for  
31 coordinating service activities with other agencies and establishing  
32 and maintaining a therapeutic relationship with the individual on a  
33 continuing basis.

34 **Sec. 242.** RCW 71.05.590 and 2015 c 250 s 13 are each amended to  
35 read as follows:

36 (1) An agency or facility designated to monitor or provide  
37 services under a less restrictive alternative or conditional release  
38 order or a designated (~~mental health professional~~) crisis responder  
39 may take action to enforce, modify, or revoke a less restrictive

1 alternative or conditional release order if the agency, facility, or  
2 designated (~~(mental health professional)~~) crisis responder determines  
3 that:

4 (a) The person is failing to adhere to the terms and conditions  
5 of the court order;

6 (b) Substantial deterioration in the person's functioning has  
7 occurred;

8 (c) There is evidence of substantial decompensation with a  
9 reasonable probability that the decompensation can be reversed by  
10 further evaluation, intervention, or treatment; or

11 (d) The person poses a likelihood of serious harm.

12 (2) Actions taken under this section must include a flexible  
13 range of responses of varying levels of intensity appropriate to the  
14 circumstances and consistent with the interests of the individual and  
15 the public in personal autonomy, safety, recovery, and compliance.  
16 Available actions may include, but are not limited to, any of the  
17 following:

18 (a) To counsel, advise, or admonish the person as to their rights  
19 and responsibilities under the court order, and to offer appropriate  
20 incentives to motivate compliance;

21 (b) To increase the intensity of outpatient services provided to  
22 the person by increasing the frequency of contacts with the provider,  
23 referring the person for an assessment for assertive community  
24 services, or by other means;

25 (c) To request a court hearing for review and modification of the  
26 court order. The request must be made to the court with jurisdiction  
27 over the order and specify the circumstances that give rise to the  
28 request and what modification is being sought. The county prosecutor  
29 shall assist the agency or facility in requesting this hearing and  
30 issuing an appropriate summons to the person. This subsection does  
31 not limit the inherent authority of a treatment provider to alter  
32 conditions of treatment for clinical reasons, and is intended to be  
33 used only when court intervention is necessary or advisable to secure  
34 the person's compliance and prevent decompensation or deterioration;

35 (d) To cause the person to be transported by a peace officer,  
36 designated (~~(mental health professional)~~) crisis responder, or other  
37 means to the agency or facility monitoring or providing services  
38 under the court order, or to a triage facility, crisis stabilization  
39 unit, emergency department, or to an evaluation and treatment  
40 facility if the person is committed for mental health treatment, or

1 to a secure detoxification facility with available space or an  
2 approved substance use disorder treatment program with available  
3 space if the person is committed for substance use disorder  
4 treatment. The person may be detained at the facility for up to  
5 twelve hours for the purpose of an evaluation to determine whether  
6 modification, revocation, or commitment proceedings are necessary and  
7 appropriate to stabilize the person and prevent decompensation,  
8 deterioration, or physical harm. Temporary detention for evaluation  
9 under this subsection is intended to occur only following a pattern  
10 of noncompliance or the failure of reasonable attempts at outreach  
11 and engagement, and may occur only when in the clinical judgment of a  
12 designated ((~~mental health professional~~)) crisis responder or the  
13 professional person in charge of an agency or facility designated to  
14 monitor less restrictive alternative services temporary detention is  
15 appropriate. This subsection does not limit the ability or obligation  
16 to pursue revocation procedures under subsection (4) of this section  
17 in appropriate circumstances; and

18 (e) To initiate revocation procedures under subsection (4) of  
19 this section.

20 (3) The facility or agency designated to provide outpatient  
21 treatment shall notify the secretary or designated ((~~mental health~~  
22 ~~professional~~)) crisis responder when a person fails to adhere to  
23 terms and conditions of court ordered treatment or experiences  
24 substantial deterioration in his or her condition and, as a result,  
25 presents an increased likelihood of serious harm.

26 (4)(a) A designated ((~~mental health professional~~)) crisis  
27 responder or the secretary may upon their own motion or notification  
28 by the facility or agency designated to provide outpatient care order  
29 a person subject to a court order under this ((~~section~~)) chapter to  
30 be apprehended and taken into custody and temporary detention in an  
31 evaluation and treatment facility in or near the county in which he  
32 or she is receiving outpatient treatment((, ~~or initiate~~)) if the  
33 person is committed for mental health treatment, or, if the person is  
34 committed for substance use disorder treatment, in a secure  
35 detoxification facility or approved substance use disorder treatment  
36 program if either is available in or near the county in which he or  
37 she is receiving outpatient treatment and has adequate space.  
38 Proceedings under this subsection (4) may be initiated without  
39 ordering the apprehension and detention of the person.

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

10 (c) The designated (~~mental health professional~~) crisis  
11 responder or secretary shall notify the court that originally ordered  
12 commitment within two judicial days of a person's detention and file  
13 a revocation petition and order of apprehension and detention with  
14 the court and serve the person and their attorney, guardian, and  
15 conservator, if any. The person has the same rights with respect to  
16 notice, hearing, and counsel as in any involuntary treatment  
17 proceeding, except as specifically set forth in this section. There  
18 is no right to jury trial. The venue for proceedings regarding a  
19 petition for modification or revocation must be in the county in  
20 which the petition was filed.

21 (d) The issues for the court to determine are whether: (i) The  
22 person adhered to the terms and conditions of the court order; (ii)  
23 substantial deterioration in the person's functioning has occurred;  
24 (iii) there is evidence of substantial decompensation with a  
25 reasonable probability that the decompensation can be reversed by  
26 further inpatient treatment; or (iv) there is a likelihood of serious  
27 harm; and, if any of the above conditions apply, whether the court  
28 should reinstate or modify the person's less restrictive alternative  
29 or conditional release order or order the person's detention for  
30 inpatient treatment. The person may waive the court hearing and allow  
31 the court to enter a stipulated order upon the agreement of all  
32 parties. If the court orders detention for inpatient treatment, the  
33 treatment period may be for no longer than the period authorized in  
34 the original court order. A court may not issue an order to detain a  
35 person for inpatient treatment in a secure detoxification facility or  
36 approved substance use disorder treatment program under this  
37 subsection unless there is a secure detoxification facility or  
38 approved substance use disorder treatment program available and with  
39 adequate space for the person.

1 (e) Revocation proceedings under this subsection (4) are not  
2 allowable if the current commitment is solely based on the person  
3 being in need of assisted outpatient mental health treatment. In  
4 order to obtain a court order for detention for inpatient treatment  
5 under this circumstance, a petition must be filed under RCW 71.05.150  
6 or 71.05.153.

7 (5) In determining whether or not to take action under this  
8 section the designated (~~mental health professional~~) crisis  
9 responder, agency, or facility must consider the factors specified  
10 under RCW 71.05.212 and the court must consider the factors specified  
11 under RCW 71.05.245 as they apply to the question of whether to  
12 enforce, modify, or revoke a court order for involuntary treatment.

13 **Sec. 243.** RCW 71.05.590 and 2016 c ... s 242 (section 242 of  
14 this act) are each amended to read as follows:

15 (1) An agency or facility designated to monitor or provide  
16 services under a less restrictive alternative or conditional release  
17 order or a designated crisis responder may take action to enforce,  
18 modify, or revoke a less restrictive alternative or conditional  
19 release order if the agency, facility, or designated crisis responder  
20 determines that:

21 (a) The person is failing to adhere to the terms and conditions  
22 of the court order;

23 (b) Substantial deterioration in the person's functioning has  
24 occurred;

25 (c) There is evidence of substantial decompensation with a  
26 reasonable probability that the decompensation can be reversed by  
27 further evaluation, intervention, or treatment; or

28 (d) The person poses a likelihood of serious harm.

29 (2) Actions taken under this section must include a flexible  
30 range of responses of varying levels of intensity appropriate to the  
31 circumstances and consistent with the interests of the individual and  
32 the public in personal autonomy, safety, recovery, and compliance.  
33 Available actions may include, but are not limited to, any of the  
34 following:

35 (a) To counsel, advise, or admonish the person as to their rights  
36 and responsibilities under the court order, and to offer appropriate  
37 incentives to motivate compliance;

38 (b) To increase the intensity of outpatient services provided to  
39 the person by increasing the frequency of contacts with the provider,



1 referring the person for an assessment for assertive community  
2 services, or by other means;

3 (c) To request a court hearing for review and modification of the  
4 court order. The request must be made to the court with jurisdiction  
5 over the order and specify the circumstances that give rise to the  
6 request and what modification is being sought. The county prosecutor  
7 shall assist the agency or facility in requesting this hearing and  
8 issuing an appropriate summons to the person. This subsection does  
9 not limit the inherent authority of a treatment provider to alter  
10 conditions of treatment for clinical reasons, and is intended to be  
11 used only when court intervention is necessary or advisable to secure  
12 the person's compliance and prevent decompensation or deterioration;

13 (d) To cause the person to be transported by a peace officer,  
14 designated crisis responder, or other means to the agency or facility  
15 monitoring or providing services under the court order, or to a  
16 triage facility, crisis stabilization unit, emergency department, or  
17 to an evaluation and treatment facility if the person is committed  
18 for mental health treatment, or to a secure detoxification facility  
19 (~~with available space~~) or an approved substance use disorder  
20 treatment program (~~with available space~~) if the person is committed  
21 for substance use disorder treatment. The person may be detained at  
22 the facility for up to twelve hours for the purpose of an evaluation  
23 to determine whether modification, revocation, or commitment  
24 proceedings are necessary and appropriate to stabilize the person and  
25 prevent decompensation, deterioration, or physical harm. Temporary  
26 detention for evaluation under this subsection is intended to occur  
27 only following a pattern of noncompliance or the failure of  
28 reasonable attempts at outreach and engagement, and may occur only  
29 when in the clinical judgment of a designated crisis responder or the  
30 professional person in charge of an agency or facility designated to  
31 monitor less restrictive alternative services temporary detention is  
32 appropriate. This subsection does not limit the ability or obligation  
33 to pursue revocation procedures under subsection (4) of this section  
34 in appropriate circumstances; and

35 (e) To initiate revocation procedures under subsection (4) of  
36 this section.

37 (3) The facility or agency designated to provide outpatient  
38 treatment shall notify the secretary or designated crisis responder  
39 when a person fails to adhere to terms and conditions of court  
40 ordered treatment or experiences substantial deterioration in his or

1 her condition and, as a result, presents an increased likelihood of  
2 serious harm.

3 (4)(a) A designated crisis responder or the secretary may upon  
4 their own motion or notification by the facility or agency designated  
5 to provide outpatient care order a person subject to a court order  
6 under this chapter to be apprehended and taken into custody and  
7 temporary detention in an evaluation and treatment facility in or  
8 near the county in which he or she is receiving outpatient treatment  
9 if the person is committed for mental health treatment, or, if the  
10 person is committed for substance use disorder treatment, in a secure  
11 detoxification facility or approved substance use disorder treatment  
12 program if either is available in or near the county in which he or  
13 she is receiving outpatient treatment (~~and has adequate space~~).  
14 Proceedings under this subsection (4) may be initiated without  
15 ordering the apprehension and detention of the person.

16 (b) A person detained under this subsection (4) must be held  
17 until such time, not exceeding five days, as a hearing can be  
18 scheduled to determine whether or not the person should be returned  
19 to the hospital or facility from which he or she had been released.  
20 If the person is not detained, the hearing must be scheduled within  
21 five days of service on the person. The designated crisis responder  
22 or the secretary may modify or rescind the order at any time prior to  
23 commencement of the court hearing.

24 (c) The designated crisis responder or secretary shall notify the  
25 court that originally ordered commitment within two judicial days of  
26 a person's detention and file a revocation petition and order of  
27 apprehension and detention with the court and serve the person and  
28 their attorney, guardian, and conservator, if any. The person has the  
29 same rights with respect to notice, hearing, and counsel as in any  
30 involuntary treatment proceeding, except as specifically set forth in  
31 this section. There is no right to jury trial. The venue for  
32 proceedings regarding a petition for modification or revocation must  
33 be in the county in which the petition was filed.

34 (d) The issues for the court to determine are whether: (i) The  
35 person adhered to the terms and conditions of the court order; (ii)  
36 substantial deterioration in the person's functioning has occurred;  
37 (iii) there is evidence of substantial decompensation with a  
38 reasonable probability that the decompensation can be reversed by  
39 further inpatient treatment; or (iv) there is a likelihood of serious  
40 harm; and, if any of the above conditions apply, whether the court

1 should reinstate or modify the person's less restrictive alternative  
2 or conditional release order or order the person's detention for  
3 inpatient treatment. The person may waive the court hearing and allow  
4 the court to enter a stipulated order upon the agreement of all  
5 parties. If the court orders detention for inpatient treatment, the  
6 treatment period may be for no longer than the period authorized in  
7 the original court order. (~~A court may not issue an order to detain  
8 a person for inpatient treatment in a secure detoxification facility  
9 or approved substance use disorder treatment program under this  
10 subsection unless there is a secure detoxification facility or  
11 approved substance use disorder treatment program available and with  
12 adequate space for the person.~~)

13 (e) Revocation proceedings under this subsection (4) are not  
14 allowable if the current commitment is solely based on the person  
15 being in need of assisted outpatient mental health treatment. In  
16 order to obtain a court order for detention for inpatient treatment  
17 under this circumstance, a petition must be filed under RCW 71.05.150  
18 or 71.05.153.

19 (5) In determining whether or not to take action under this  
20 section the designated crisis responder, agency, or facility must  
21 consider the factors specified under RCW 71.05.212 and the court must  
22 consider the factors specified under RCW 71.05.245 as they apply to  
23 the question of whether to enforce, modify, or revoke a court order  
24 for involuntary treatment.

25 **Sec. 244.** RCW 71.05.360 and 2009 c 217 s 5 are each amended to  
26 read as follows:

27 (1)(a) Every person involuntarily detained or committed under the  
28 provisions of this chapter shall be entitled to all the rights set  
29 forth in this chapter, which shall be prominently posted in the  
30 facility, and shall retain all rights not denied him or her under  
31 this chapter except as chapter 9.41 RCW may limit the right of a  
32 person to purchase or possess a firearm or to qualify for a concealed  
33 pistol license if the person is committed under RCW 71.05.240 or  
34 71.05.320 for mental health treatment.

35 (b) No person shall be presumed incompetent as a consequence of  
36 receiving an evaluation or voluntary or involuntary treatment for a  
37 mental disorder or substance use disorder, under this chapter or any  
38 prior laws of this state dealing with mental illness or substance use

1 disorders. Competency shall not be determined or withdrawn except  
2 under the provisions of chapter 10.77 or 11.88 RCW.

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

7 (2) Each person involuntarily detained or committed pursuant to  
8 this chapter shall have the right to adequate care and individualized  
9 treatment.

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

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

19 (5) Whenever any person is detained for evaluation and treatment  
20 pursuant to this chapter, both the person and, if possible, a  
21 responsible member of his or her immediate family, personal  
22 representative, guardian, or conservator, if any, shall be advised as  
23 soon as possible in writing or orally, by the officer or person  
24 taking him or her into custody or by personnel of the evaluation and  
25 treatment facility, secure detoxification facility, or approved  
26 substance use disorder treatment program where the person is detained  
27 that unless the person is released or voluntarily admits himself or  
28 herself for treatment within seventy-two hours of the initial  
29 detention:

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

38 (b) The person has a right to communicate immediately with an  
39 attorney; has a right to have an attorney appointed to represent him  
40 or her before and at the probable cause hearing if he or she is

1 indigent; and has the right to be told the name and address of the  
2 attorney that the mental health professional has designated pursuant  
3 to this chapter;

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

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

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

12 (6) When proceedings are initiated under RCW 71.05.153, no later  
13 than twelve hours after such person is admitted to the evaluation and  
14 treatment facility, secure detoxification facility, or approved  
15 substance use disorder treatment program the personnel of the  
16 ((evaluation and treatment)) facility or the designated ((mental  
17 health professional)) crisis responder shall serve on such person a  
18 copy of the petition for initial detention and the name, business  
19 address, and phone number of the designated attorney and shall  
20 forthwith commence service of a copy of the petition for initial  
21 detention on the designated attorney.

22 (7) The judicial hearing described in subsection (5) of this  
23 section is hereby authorized, and shall be held according to the  
24 provisions of subsection (5) of this section and rules promulgated by  
25 the supreme court.

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

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

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

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

31 (d) To remain silent;

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

33 (9) Privileges between patients and physicians, psychologists,  
34 physician assistants, or psychiatric advanced registered nurse  
35 practitioners are deemed waived in proceedings under this chapter  
36 relating to the administration of antipsychotic medications. As to  
37 other proceedings under this chapter, the privileges shall be waived  
38 when a court of competent jurisdiction in its discretion determines  
39 that such waiver is necessary to protect either the detained person  
40 or the public.

1 The waiver of a privilege under this section is limited to  
2 records or testimony relevant to evaluation of the detained person  
3 for purposes of a proceeding under this chapter. Upon motion by the  
4 detained person or on its own motion, the court shall examine a  
5 record or testimony sought by a petitioner to determine whether it is  
6 within the scope of the waiver.

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

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

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

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

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

25 (d) To have visitors at reasonable times;

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

29 (f) To have ready access to letter writing materials, including  
30 stamps, and to send and receive uncensored correspondence through the  
31 mails;

32 (g) To discuss treatment plans and decisions with professional  
33 persons;

34 (h) Not to consent to the administration of antipsychotic  
35 medications and not to thereafter be administered antipsychotic  
36 medications unless ordered by a court under RCW 71.05.217 or pursuant  
37 to an administrative hearing under RCW 71.05.215;

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

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

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

6 (11) Every person involuntarily detained shall immediately be  
7 informed of his or her right to a hearing to review the legality of  
8 his or her detention and of his or her right to counsel, by the  
9 professional person in charge of the facility providing evaluation  
10 and treatment, or his or her designee, and, when appropriate, by the  
11 court. If the person so elects, the court shall immediately appoint  
12 an attorney to assist him or her.

13 (12) A person challenging his or her detention or his or her  
14 attorney shall have the right to designate and have the court appoint  
15 a reasonably available independent physician, psychiatric advanced  
16 registered nurse practitioner, physician assistant, or licensed  
17 mental health professional to examine the person detained, the  
18 results of which examination may be used in the proceeding. The  
19 person shall, if he or she is financially able, bear the cost of such  
20 expert examination, otherwise such expert examination shall be at  
21 public expense.

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

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

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

32 **Sec. 245.** RCW 71.05.380 and 1973 1st ex.s. c 142 s 43 are each  
33 amended to read as follows:

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

1       **Sec. 246.** RCW 71.05.435 and 2010 c 280 s 4 are each amended to  
2 read as follows:

3       (1) Whenever a person who is the subject of an involuntary  
4 commitment order under this chapter is discharged from an evaluation  
5 and treatment facility ~~((or))~~, state hospital, ~~((the evaluation and  
6 treatment facility or state hospital shall provide notice of the  
7 person's discharge to the designated mental health professional))~~  
8 secure detoxification facility, or approved substance use disorder  
9 treatment program providing involuntary treatment services, the  
10 entity discharging the person shall provide notice of the person's  
11 discharge to the designated crisis responder office responsible for  
12 the initial commitment and the designated ~~((mental—health  
13 professional))~~ crisis responder office that serves the county in  
14 which the person is expected to reside. The ~~((evaluation—and  
15 treatment facility or state hospital))~~ entity discharging the person  
16 must also provide these offices with a copy of any less restrictive  
17 order or conditional release order entered in conjunction with the  
18 discharge of the person, unless the ~~((evaluation—and—treatment  
19 facility—or—state—hospital))~~ entity discharging the person has  
20 entered into a memorandum of understanding obligating another entity  
21 to provide these documents.

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

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

31       **Sec. 247.** RCW 71.05.530 and 1998 c 297 s 23 are each amended to  
32 read as follows:

33       Evaluation and treatment facilities and secure detoxification  
34 facilities authorized pursuant to this chapter may be part of the  
35 comprehensive community mental health services program conducted in  
36 counties pursuant to chapter 71.24 RCW, and may receive funding  
37 pursuant to the provisions thereof.



1       **Sec. 248.** RCW 71.05.560 and 1998 c 297 s 24 are each amended to  
2 read as follows:

3       The department shall adopt such rules as may be necessary to  
4 effectuate the intent and purposes of this chapter, which shall  
5 include but not be limited to evaluation of the quality of the  
6 program and facilities operating pursuant to this chapter, evaluation  
7 of the effectiveness and cost effectiveness of such programs and  
8 facilities, and procedures and standards for certification and other  
9 action relevant to evaluation and treatment facilities, secure  
10 detoxification facilities, and approved substance use disorder  
11 treatment programs.

12       **Sec. 249.** RCW 71.05.620 and 2015 c 269 s 16 are each amended to  
13 read as follows:

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

- 17       (a) The department;  
18       (b) The state hospitals as defined in RCW 72.23.010;  
19       (c) Any person who is the subject of a petition;  
20       (d) The (~~person's~~) attorney or guardian of the person;  
21       (e) Resource management services for that person; and  
22       (f) Service providers authorized to receive such information by  
23 resource management services.

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

25       **Sec. 250.** RCW 71.05.700 and 2007 c 360 s 2 are each amended to  
26 read as follows:

27       No designated (~~mental health professional~~) crisis responder or  
28 crisis intervention worker shall be required to respond to a private  
29 home or other private location to stabilize or treat a person in  
30 crisis, or to evaluate a person for potential detention under the  
31 state's involuntary treatment act, unless a second trained  
32 individual, determined by the clinical team supervisor, on-call  
33 supervisor, or individual professional acting alone based on a risk  
34 assessment for potential violence, accompanies them. The second  
35 individual may be a law enforcement officer, a mental health  
36 professional, a mental health paraprofessional who has received  
37 training under RCW 71.05.715, or other first responder, such as fire  
38 or ambulance personnel. No retaliation may be taken against a worker

1 who, following consultation with the clinical team, refuses to go on  
2 a home visit alone.

3 **Sec. 251.** RCW 71.05.705 and 2007 c 360 s 3 are each amended to  
4 read as follows:

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

10 **Sec. 252.** RCW 71.05.745 and 2015 c 269 s 2 are each amended to  
11 read as follows:

12 (1) The department may use a single bed certification process as  
13 outlined in rule to provide additional treatment capacity for a  
14 person suffering from a mental disorder for whom an evaluation and  
15 treatment bed is not available. The facility that is the proposed  
16 site of the single bed certification must be a facility that is  
17 willing and able to provide the person with timely and appropriate  
18 treatment either directly or by arrangement with other public or  
19 private agencies.

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

22 (3) A designated (~~(mental health professional)~~) crisis responder  
23 who submits an application for a single bed certification for  
24 treatment at a facility that is willing and able to provide timely  
25 and appropriate mental health treatment in good faith belief that the  
26 single bed certification is appropriate may presume that the single  
27 bed certification will be approved for the purpose of completing the  
28 detention process and responding to other emergency calls.

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

32 **Sec. 253.** RCW 71.05.750 and 2015 c 269 s 3 are each amended to  
33 read as follows:

34 (1) A designated (~~(mental health professional)~~) crisis responder  
35 shall make a report to the department when he or she determines a  
36 person meets detention criteria under RCW 71.05.150, 71.05.153,  
37 71.34.700, or 71.34.710 and there are not any beds available at an

1 evaluation and treatment facility, the person has not been  
2 provisionally accepted for admission by a facility, and the person  
3 cannot be served on a single bed certification or less restrictive  
4 alternative. Starting at the time when the designated (~~mental health~~  
5 ~~professional~~) crisis responder determines a person meets detention  
6 criteria and the investigation has been completed, the designated  
7 (~~mental health professional~~) crisis responder has twenty-four hours  
8 to submit a completed report to the department.

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

- 11 (a) The date and time that the investigation was completed;
- 12 (b) The identity of the responsible (~~regional support network~~  
13 ~~or~~) behavioral health organization;
- 14 (c) The county in which the person met detention criteria;
- 15 (d) A list of facilities which refused to admit the person; and
- 16 (e) Identifying information for the person, including age or date  
17 of birth.

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

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

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

38 (6) For purposes of this section, the term "single bed  
39 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 **Sec. 254.** RCW 71.34.020 and 2011 c 89 s 16 are each amended to  
8 read as follows:

9 Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout this chapter.

11 (1) "Child psychiatrist" means a person having a license as a  
12 physician and surgeon in this state, who has had graduate training in  
13 child psychiatry in a program approved by the American Medical  
14 Association or the American Osteopathic Association, and who is board  
15 eligible or board certified in child psychiatry.

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

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

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

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

28 (4) "Department" means the department of social and health  
29 services.

30 ~~(5) ("Designated mental health professional" means a mental  
31 health professional designated by one or more counties to perform the  
32 functions of a designated mental health professional described in  
33 this chapter.~~

34 ~~(6))~~ "Evaluation and treatment facility" means a public or  
35 private facility or unit that is certified by the department to  
36 provide emergency, inpatient, residential, or outpatient mental  
37 health evaluation and treatment services for minors. A physically  
38 separate and separately-operated portion of a state hospital may be  
39 designated as an evaluation and treatment facility for minors. A

1 facility which is part of or operated by the department or federal  
2 agency does not require certification. No correctional institution or  
3 facility, juvenile court detention facility, or jail may be an  
4 evaluation and treatment facility within the meaning of this chapter.

5 ~~((7))~~ (6) "Evaluation and treatment program" means the total  
6 system of services and facilities coordinated and approved by a  
7 county or combination of counties for the evaluation and treatment of  
8 minors under this chapter.

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

17 ~~((9))~~ (8) "Inpatient treatment" means twenty-four-hour-per-day  
18 mental health care provided within a general hospital, psychiatric  
19 hospital, ~~((or))~~ residential treatment facility certified by the  
20 department as an evaluation and treatment facility for minors, secure  
21 detoxification facility for minors, or approved substance use  
22 disorder treatment program for minors.

23 ~~((10))~~ (9) "Less restrictive alternative" or "less restrictive  
24 setting" means outpatient treatment provided to a minor who is not  
25 residing in a facility providing inpatient treatment as defined in  
26 this chapter.

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

38 ~~((12))~~ (11) "Medical necessity" for inpatient care means a  
39 requested service which is reasonably calculated to: (a) Diagnose,  
40 correct, cure, or alleviate a mental disorder or substance use

1 disorder; or (b) prevent the (~~worsening of mental conditions~~)  
2 progression of a substance use disorder that endangers life or causes  
3 suffering and pain, or results in illness or infirmity or threatens  
4 to cause or aggravate a handicap, or causes physical deformity or  
5 malfunction, and there is no adequate less restrictive alternative  
6 available.

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

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

18 (~~(15)~~) (14) "Minor" means any person under the age of eighteen  
19 years.

20 (~~(16)~~) (15) "Outpatient treatment" means any of the  
21 nonresidential services mandated under chapter 71.24 RCW and provided  
22 by licensed service(~~s~~) providers as identified by RCW 71.24.025.

23 (~~(17)~~) (16) "Parent" means:

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

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

29 (~~(18)~~) (17) "Professional person in charge" or "professional  
30 person" means a physician (~~or~~), other mental health professional,  
31 or other person empowered by an evaluation and treatment facility,  
32 secure detoxification facility, or approved substance use disorder  
33 treatment program with authority to make admission and discharge  
34 decisions on behalf of that facility.

35 (~~(19)~~) (18) "Psychiatric nurse" means a registered nurse who  
36 has a bachelor's degree from an accredited college or university, and  
37 who has had, in addition, at least two years' experience in the  
38 direct treatment of persons who have a mental illness or who are  
39 emotionally disturbed, such experience gained under the supervision

1 of a mental health professional. "Psychiatric nurse" shall also mean  
2 any other registered nurse who has three years of such experience.

3 ~~((+20))~~ (19) "Psychiatrist" means a person having a license as a  
4 physician in this state who has completed residency training in  
5 psychiatry in a program approved by the American Medical Association  
6 or the American Osteopathic Association, and is board eligible or  
7 board certified in psychiatry.

8 ~~((+21))~~ (20) "Psychologist" means a person licensed as a  
9 psychologist under chapter 18.83 RCW.

10 ~~((+22))~~ (21) "Responsible other" means the minor, the minor's  
11 parent or estate, or any other person legally responsible for support  
12 of the minor.

13 ~~((+23))~~ (22) "Secretary" means the secretary of the department  
14 or secretary's designee.

15 ~~((+24))~~ (23) "Social worker" means a person with a master's or  
16 further advanced degree from a social work educational program  
17 accredited and approved as provided in RCW 18.320.010.

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

26 (25) "Alcoholism" means a disease, characterized by a dependency  
27 on alcoholic beverages, loss of control over the amount and  
28 circumstances of use, symptoms of tolerance, physiological or  
29 psychological withdrawal, or both, if use is reduced or discontinued,  
30 and impairment of health or disruption of social or economic  
31 functioning.

32 (26) "Approved substance use disorder treatment program" means a  
33 program for minors with substance use disorders provided by a  
34 treatment program certified by the department as meeting standards  
35 adopted under chapter 71.24 RCW.

36 (27) "Chemical dependency" means:

37 (a) Alcoholism;

38 (b) Drug addiction; or

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

1       (28) "Chemical dependency professional" means a person certified  
2 as a chemical dependency professional by the department of health  
3 under chapter 18.205 RCW.

4       (29) "Designated crisis responder" means a person designated by a  
5 behavioral health organization to perform the duties specified in  
6 this chapter.

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

13       (31) "Intoxicated minor" means a minor whose mental or physical  
14 functioning is substantially impaired as a result of the use of  
15 alcohol or other psychoactive chemicals.

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

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

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

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

39       (a) Provides for intoxicated minors:



1 (i) Evaluation and assessment, provided by certified chemical  
2 dependency professionals;

3 (ii) Acute or subacute detoxification services; and

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

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

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

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

17 **Sec. 255.** RCW 71.34.305 and 1996 c 133 s 6 are each amended to  
18 read as follows:

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

24 **Sec. 256.** RCW 71.34.375 and 2011 c 302 s 1 are each amended to  
25 read as follows:

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

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

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

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

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

14 **Sec. 257.** RCW 71.34.385 and 1992 c 205 s 304 are each amended to  
15 read as follows:

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

24 **Sec. 258.** RCW 71.34.400 and 1998 c 296 s 11 are each amended to  
25 read as follows:

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

1       **Sec. 259.** RCW 71.34.410 and 2005 c 371 s 5 are each amended to  
2 read as follows:

3       No public or private agency or governmental entity, nor officer  
4 of a public or private agency, nor the superintendent, or  
5 professional person in charge, his or her professional designee or  
6 attending staff of any such agency, nor any public official  
7 performing functions necessary to the administration of this chapter,  
8 nor peace officer responsible for detaining a person under this  
9 chapter, nor any ((~~county~~)) designated ((~~mental health professional~~))  
10 crisis responder, nor professional person, nor evaluation and  
11 treatment facility, nor secure detoxification facility, nor approved  
12 substance use disorder treatment program shall be civilly or  
13 criminally liable for performing actions authorized in this chapter  
14 with regard to the decision of whether to admit, release, or detain a  
15 person for evaluation and treatment: PROVIDED, That such duties were  
16 performed in good faith and without gross negligence.

17       **Sec. 260.** RCW 71.34.420 and 2015 c 269 s 12 are each amended to  
18 read as follows:

19       (1) The department may use a single bed certification process as  
20 outlined in rule to provide additional treatment capacity for a minor  
21 suffering from a mental disorder for whom an evaluation and treatment  
22 bed is not available. The facility that is the proposed site of the  
23 single bed certification must be a facility that is willing and able  
24 to provide the person with timely and appropriate treatment either  
25 directly or by arrangement with other public or private agencies.

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

28       (3) A designated ((~~mental health professional~~)) crisis responder  
29 who submits an application for a single bed certification for  
30 treatment at a facility that is willing and able to provide timely  
31 and appropriate mental health treatment in good faith belief that the  
32 single bed certification is appropriate may presume that the single  
33 bed certification will be approved for the purpose of completing the  
34 detention process and responding to other emergency calls.

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

1       **Sec. 261.** RCW 71.34.500 and 2006 c 93 s 3 are each amended to  
2 read as follows:

3       (1) A minor thirteen years or older may admit himself or herself  
4 to an evaluation and treatment facility for inpatient mental health  
5 treatment or an approved substance use disorder treatment program for  
6 inpatient (~~(mental)~~) substance use disorder treatment(~~(τ)~~) without  
7 parental consent. The admission shall occur only if the professional  
8 person in charge of the facility concurs with the need for inpatient  
9 treatment. Parental authorization, or authorization from a person who  
10 may consent on behalf of the minor pursuant to RCW 7.70.065, is  
11 required for inpatient treatment of a minor under the age of  
12 thirteen.

13       (2) When, in the judgment of the professional person in charge of  
14 an evaluation and treatment facility or approved substance use  
15 disorder treatment program, there is reason to believe that a minor  
16 is in need of inpatient treatment because of a mental disorder or  
17 substance use disorder, and the facility provides the type of  
18 evaluation and treatment needed by the minor, and it is not feasible  
19 to treat the minor in any less restrictive setting or the minor's  
20 home, the minor may be admitted to (~~(an evaluation and treatment)~~)  
21 the facility.

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

26       **Sec. 262.** RCW 71.34.520 and 2003 c 106 s 1 are each amended to  
27 read as follows:

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

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

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

4 **Sec. 263.** RCW 71.34.600 and 2007 c 375 s 11 are each amended to  
5 read as follows:

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

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

12 (b) A secure detoxification facility or approved substance use  
13 disorder treatment program and request that a substance use disorder  
14 assessment be conducted by a professional person to determine whether  
15 the minor has a substance use disorder and is in need of inpatient  
16 treatment.

17 (2) The consent of the minor is not required for admission,  
18 evaluation, and treatment if the parent brings the minor to the  
19 facility.

20 (3) An appropriately trained professional person may evaluate  
21 whether the minor has a mental disorder or has a substance use  
22 disorder. The evaluation shall be completed within twenty-four hours  
23 of the time the minor was brought to the facility, unless the  
24 professional person determines that the condition of the minor  
25 necessitates additional time for evaluation. In no event shall a  
26 minor be held longer than seventy-two hours for evaluation. If, in  
27 the judgment of the professional person, it is determined it is a  
28 medical necessity for the minor to receive inpatient treatment, the  
29 minor may be held for treatment. The facility shall limit treatment  
30 to that which the professional person determines is medically  
31 necessary to stabilize the minor's condition until the evaluation has  
32 been completed. Within twenty-four hours of completion of the  
33 evaluation, the professional person shall notify the department if  
34 the child is held for treatment and of the date of admission.

35 (4) No provider is obligated to provide treatment to a minor  
36 under the provisions of this section except that no provider may  
37 refuse to treat a minor under the provisions of this section solely  
38 on the basis that the minor has not consented to the treatment. No

1 provider may admit a minor to treatment under this section unless it  
2 is medically necessary.

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

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

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

10 **Sec. 264.** RCW 71.34.630 and 1998 c 296 s 20 are each amended to  
11 read as follows:

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

19 **Sec. 265.** RCW 71.34.650 and 1998 c 296 s 18 are each amended to  
20 read as follows:

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

23 (a) A provider of outpatient mental health treatment and request  
24 that an appropriately trained professional person examine the minor  
25 to determine whether the minor has a mental disorder and is in need  
26 of outpatient treatment; or

27 (b) A provider of outpatient substance use disorder treatment and  
28 request that an appropriately trained professional person examine the  
29 minor to determine whether the minor has a substance use disorder and  
30 is in need of outpatient treatment.

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

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

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

1       **Sec. 266.** RCW 71.34.660 and 2005 c 371 s 3 are each amended to  
2 read as follows:

3       A minor child shall have no cause of action against an evaluation  
4 and treatment facility, secure detoxification facility, approved  
5 substance use disorder treatment program, inpatient facility, or  
6 provider of outpatient mental health treatment or outpatient  
7 substance use disorder treatment for admitting or accepting the minor  
8 in good faith for evaluation or treatment under RCW 71.34.600 or  
9 71.34.650 based solely upon the fact that the minor did not consent  
10 to evaluation or treatment if the minor's parent has consented to the  
11 evaluation or treatment.

12       **Sec. 267.** RCW 71.34.700 and 1985 c 354 s 4 are each amended to  
13 read as follows:

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

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

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

37       **Sec. 268.** RCW 71.34.700 and 2016 c ... s 267 (section 267 of  
38 this act) are each amended to read as follows:

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

7 (2) If a minor, thirteen years or older, is brought to a secure  
8 detoxification facility (~~((with available space,))~~) or a hospital  
9 emergency room for immediate substance use disorder treatment, the  
10 professional person in charge of the facility shall evaluate the  
11 minor's condition, determine whether the minor suffers from substance  
12 use disorder, and whether the minor is in need of immediate inpatient  
13 treatment.

14 (3) If it is determined under subsection (1) or (2) of this  
15 section that the minor suffers from a mental disorder or substance  
16 use disorder, inpatient treatment is required, the minor is unwilling  
17 to consent to voluntary admission, and the professional person  
18 believes that the minor meets the criteria for initial detention set  
19 forth herein, the facility may detain or arrange for the detention of  
20 the minor for up to twelve hours in order to enable a designated  
21 crisis responder to evaluate the minor and commence initial detention  
22 proceedings under the provisions of this chapter.

23 **Sec. 269.** RCW 71.34.710 and 1995 c 312 s 53 are each amended to  
24 read as follows:

25 (1)(a)(i) When a (~~(county designated mental health professional))~~  
26 designated crisis responder receives information that a minor,  
27 thirteen years or older, as a result of a mental disorder presents a  
28 likelihood of serious harm or is gravely disabled, has investigated  
29 the specific facts alleged and of the credibility of the person or  
30 persons providing the information, and has determined that voluntary  
31 admission for inpatient treatment is not possible, the (~~(county-~~  
32 ~~designated mental health professional)) designated crisis responder  
33 may take the minor, or cause the minor to be taken, into custody and  
34 transported to an evaluation and treatment facility providing  
35 inpatient treatment.~~

36 (ii) When a designated crisis responder receives information that  
37 a minor, thirteen years or older, as a result of substance use  
38 disorder presents a likelihood of serious harm or is gravely  
39 disabled, has investigated the specific facts alleged and of the



1 credibility of the person or persons providing the information, and  
2 has determined that voluntary admission for inpatient treatment is  
3 not possible, the designated crisis responder may take the minor, or  
4 cause the minor to be taken, into custody and transported to a secure  
5 detoxification facility or approved substance use disorder treatment  
6 program, if a secure detoxification facility or approved substance  
7 use disorder treatment program is available and has adequate space  
8 for the minor.

9 (b) If the minor is not taken into custody for evaluation and  
10 treatment, the parent who has custody of the minor may seek review of  
11 that decision made by the (~~county-designated-mental-health~~  
12 ~~professional~~) designated crisis responder in court. The parent shall  
13 file notice with the court and provide a copy of the (~~county~~  
14 ~~designated-mental-health-professional's~~) designated crisis  
15 responder's report or notes.

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

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

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

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

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

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

25 **Sec. 270.** RCW 71.34.710 and 2016 c ... s 269 (section 269 of  
26 this act) are each amended to read as follows:

27 (1)(a)(i) When a designated crisis responder receives information  
28 that a minor, thirteen years or older, as a result of a mental  
29 disorder presents a likelihood of serious harm or is gravely  
30 disabled, has investigated the specific facts alleged and of the  
31 credibility of the person or persons providing the information, and  
32 has determined that voluntary admission for inpatient treatment is  
33 not possible, the designated crisis responder may take the minor, or  
34 cause the minor to be taken, into custody and transported to an  
35 evaluation and treatment facility providing inpatient treatment.

36 (ii) When a designated crisis responder receives information that  
37 a minor, thirteen years or older, as a result of substance use  
38 disorder presents a likelihood of serious harm or is gravely  
39 disabled, has investigated the specific facts alleged and of the

1 credibility of the person or persons providing the information, and  
2 has determined that voluntary admission for inpatient treatment is  
3 not possible, the designated crisis responder may take the minor, or  
4 cause the minor to be taken, into custody and transported to a secure  
5 detoxification facility or approved substance use disorder treatment  
6 program(~~(, if a secure detoxification facility or approved substance~~  
7 ~~use disorder treatment program is available and has adequate space~~  
8 ~~for the minor)~~).

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

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

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

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

39 (4) (~~Subject to subsection (5) of this section,~~) Whenever the  
40 designated crisis responder petitions for detention of a minor under

1 this chapter, an evaluation and treatment facility, secure  
2 detoxification facility, or approved substance use disorder treatment  
3 program providing seventy-two hour evaluation and treatment must  
4 immediately accept on a provisional basis the petition and the  
5 person. Within twenty-four hours of the minor's arrival, the facility  
6 must evaluate the minor's condition and either admit or release the  
7 minor in accordance with this chapter.

8 ~~(5) ((A designated crisis responder may not petition for  
9 detention of a minor to a secure detoxification facility or approved  
10 substance use disorder treatment program unless there is a secure  
11 detoxification facility or approved substance use disorder treatment  
12 program available and that has adequate space for the minor.~~

13 ~~(6))~~ If a minor is not approved for admission by the inpatient  
14 evaluation and treatment facility, secure detoxification facility, or  
15 approved substance use disorder treatment program, the facility shall  
16 make such recommendations and referrals for further care and  
17 treatment of the minor as necessary.

18 **Sec. 271.** RCW 71.34.720 and 2009 c 217 s 16 are each amended to  
19 read as follows:

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

30 (2) If, after examination and evaluation, the children's mental  
31 health specialist or substance use disorder specialist and the  
32 physician, physician assistant, or psychiatric advanced registered  
33 nurse practitioner determine that the initial needs of the minor, if  
34 detained to an evaluation and treatment facility, would be better  
35 served by placement in a ~~((chemical dependency))~~ substance use  
36 disorder treatment facility or, if detained to a secure  
37 detoxification facility or approved substance use disorder treatment  
38 program, would be better served in an evaluation and treatment  
39 facility, then the minor shall be referred to ~~((an approved treatment~~

1 ~~program defined under RCW 70.96A.020))~~ the more appropriate  
2 placement; however a minor may only be referred to a secure  
3 detoxification facility or approved substance use disorder treatment  
4 program if there is a secure detoxification facility or approved  
5 substance use disorder treatment program available and that has  
6 adequate space for the minor.

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

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

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

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

27 **Sec. 272.** RCW 71.34.720 and 2016 c ... s 271 (section 271 of  
28 this act) are each amended to read as follows:

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

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

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

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

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

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

35 **Sec. 273.** RCW 71.34.730 and 2009 c 293 s 6 and 2009 c 217 s 17  
36 are each reenacted and amended to read as follows:

37 (1) The professional person in charge of an evaluation and  
38 treatment facility, secure detoxification facility, or approved  
39 substance use disorder treatment program where a minor has been

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

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

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

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

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

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

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

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

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

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

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

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

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

7 **Sec. 274.** RCW 71.34.740 and 2009 c 293 s 7 are each amended to  
8 read as follows:

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

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

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

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

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

24 (6) At the commitment hearing, the minor shall have the following  
25 rights:

26 (a) To be represented by an attorney;

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

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

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

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



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

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

5 (a) The minor has a mental disorder or substance use disorder and  
6 presents a ~~((=))~~likelihood of serious harm~~((=))~~ or is ~~((=))~~gravely  
7 disabled~~((=))~~;

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

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

16 (d) If commitment is for a substance use disorder, there is an  
17 available secure detoxification facility or approved substance use  
18 disorder treatment program with adequate space for the minor.

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

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

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

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

37 **Sec. 275.** RCW 71.34.740 and 2016 c ... s 274 (section 274 of  
38 this act) are each amended to read as follows:

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

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

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

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

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

16 (6) At the commitment hearing, the minor shall have the following  
17 rights:

18 (a) To be represented by an attorney;

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

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

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

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

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

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

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

37 (b) The minor is in need of evaluation and treatment of the type  
38 provided by the inpatient evaluation and treatment facility, secure  
39 detoxification facility, or approved substance use disorder treatment  
40 program to which continued inpatient care is sought or is in need of

1 less restrictive alternative treatment found to be in the best  
2 interests of the minor; and

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

5 ~~(d) If commitment is for a substance use disorder, there is an~~  
6 ~~available secure detoxification facility or approved substance use~~  
7 ~~disorder treatment program with adequate space for the minor)).~~

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

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

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

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

25 **Sec. 276.** RCW 71.34.750 and 2009 c 217 s 18 are each amended to  
26 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

1        ~~((a))~~ (i) Is suffering from a mental disorder or substance use  
2 disorder;

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

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

7        (b) If commitment is for a substance use disorder, the court must  
8 find that there is an available approved substance use disorder  
9 treatment program that has adequate space for the minor.

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

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

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

29        **Sec. 277.** RCW 71.34.750 and 2016 c ... s 276 (section 276 of  
30 this act) are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

6 ~~((i))~~ (a) Is suffering from a mental disorder or substance use  
7 disorder;

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

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

12 ~~((b) If commitment is for a substance use disorder, the court  
13 must find that there is an available approved substance use disorder  
14 treatment program that has adequate space for the minor.))~~

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

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

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

34 **Sec. 278.** RCW 71.34.760 and 1985 c 354 s 10 are each amended to  
35 read as follows:

36 (1) If a minor is committed for one hundred eighty-day inpatient  
37 treatment and is to be placed in a state-supported program, the  
38 secretary shall accept immediately and place the minor in a state-

1 funded long-term evaluation and treatment facility or state-funded  
2 approved substance use disorder treatment program.

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

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

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

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

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

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

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

35 **Sec. 279.** RCW 71.34.780 and 1985 c 354 s 11 are each amended to  
36 read as follows:

37 (1) If the professional person in charge of an outpatient  
38 treatment program, a (~~county-designated mental health professional~~)  
39 designated crisis responder, or the secretary determines that a minor



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

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

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

1 substantially deteriorated, and, if so, whether the conditions of  
2 less restrictive alternative treatment or conditional release should  
3 be modified or, subject to subsection (4) of this section, whether  
4 the minor should be returned to inpatient treatment. Pursuant to the  
5 determination of the court, the minor shall be returned to less  
6 restrictive alternative treatment or conditional release on the same  
7 or modified conditions or shall be returned to inpatient treatment.  
8 If the minor is returned to inpatient treatment, RCW 71.34.760  
9 regarding the secretary's placement responsibility shall apply. The  
10 hearing may be waived by the minor and the minor returned to  
11 inpatient treatment or to less restrictive alternative treatment or  
12 conditional release on the same or modified conditions.

13 (4) A court may not order the return of a minor to inpatient  
14 treatment in a secure detoxification facility or approved substance  
15 use disorder treatment program unless there is a secure  
16 detoxification facility or approved substance use disorder treatment  
17 program available with adequate space for the minor.

18 **Sec. 280.** RCW 71.34.780 and 2016 c ... s 279 (section 279 of  
19 this act) are each amended to read as follows:

20 (1) If the professional person in charge of an outpatient  
21 treatment program, a designated crisis responder, or the secretary  
22 determines that a minor is failing to adhere to the conditions of the  
23 court order for less restrictive alternative treatment or the  
24 conditions for the conditional release, or that substantial  
25 deterioration in the minor's functioning has occurred, the designated  
26 crisis responder, or the secretary may order that the minor, if  
27 committed for mental health treatment, be taken into custody and  
28 transported to an inpatient evaluation and treatment facility or, if  
29 committed for substance use disorder treatment, be taken into custody  
30 and transported to a secure detoxification facility or approved  
31 substance use disorder treatment program (~~((if there is an available~~  
32 ~~secure detoxification facility or approved substance use disorder~~  
33 ~~treatment program that has adequate space for the minor))).~~

34 (2) The designated crisis responder or the secretary shall file  
35 the order of apprehension and detention and serve it upon the minor  
36 and notify the minor's parent and the minor's attorney, if any, of  
37 the detention within two days of return. At the time of service the  
38 minor shall be informed of the right to a hearing and to  
39 representation by an attorney. The designated crisis responder or the

1 secretary may modify or rescind the order of apprehension and  
2 detention at any time prior to the hearing.

3 (3) A petition for revocation of less restrictive alternative  
4 treatment shall be filed by the designated crisis responder or the  
5 secretary with the court in the county ordering the less restrictive  
6 alternative treatment. The court shall conduct the hearing in that  
7 county. A petition for revocation of conditional release may be filed  
8 with the court in the county ordering inpatient treatment or the  
9 county where the minor on conditional release is residing. A petition  
10 shall describe the behavior of the minor indicating violation of the  
11 conditions or deterioration of routine functioning and a  
12 dispositional recommendation. Upon motion for good cause, the hearing  
13 may be transferred to the county of the minor's residence or to the  
14 county in which the alleged violations occurred. The hearing shall be  
15 held within seven days of the minor's return. The issues to be  
16 determined are whether the minor did or did not adhere to the  
17 conditions of the less restrictive alternative treatment or  
18 conditional release, or whether the minor's routine functioning has  
19 substantially deteriorated, and, if so, whether the conditions of  
20 less restrictive alternative treatment or conditional release should  
21 be modified or(~~(, subject to subsection (4) of this section,~~)  
22 whether the minor should be returned to inpatient treatment. Pursuant  
23 to the determination of the court, the minor shall be returned to  
24 less restrictive alternative treatment or conditional release on the  
25 same or modified conditions or shall be returned to inpatient  
26 treatment. If the minor is returned to inpatient treatment, RCW  
27 71.34.760 regarding the secretary's placement responsibility shall  
28 apply. The hearing may be waived by the minor and the minor returned  
29 to inpatient treatment or to less restrictive alternative treatment  
30 or conditional release on the same or modified conditions.

31 ~~((4) A court may not order the return of a minor to inpatient  
32 treatment in a secure detoxification facility or approved substance  
33 use disorder treatment program unless there is a secure  
34 detoxification facility or approved substance use disorder treatment  
35 program available with adequate space for the minor.))~~

36 **Sec. 281.** RCW 9.41.098 and 2003 c 39 s 5 are each amended to  
37 read as follows:

38 (1) The superior courts and the courts of limited jurisdiction of  
39 the state may order forfeiture of a firearm which is proven to be:

1 (a) Found concealed on a person not authorized by RCW 9.41.060 or  
2 9.41.070 to carry a concealed pistol: PROVIDED, That it is an  
3 absolute defense to forfeiture if the person possessed a valid  
4 Washington concealed pistol license within the preceding two years  
5 and has not become ineligible for a concealed pistol license in the  
6 interim. Before the firearm may be returned, the person must pay the  
7 past due renewal fee and the current renewal fee;

8 (b) Commercially sold to any person without an application as  
9 required by RCW 9.41.090;

10 (c) In the possession of a person prohibited from possessing the  
11 firearm under RCW 9.41.040 or 9.41.045;

12 (d) In the possession or under the control of a person at the  
13 time the person committed or was arrested for committing a felony or  
14 committing a nonfelony crime in which a firearm was used or  
15 displayed;

16 (e) In the possession of a person who is in any place in which a  
17 concealed pistol license is required, and who is under the influence  
18 of any drug or under the influence of intoxicating liquor, as defined  
19 in chapter 46.61 RCW;

20 (f) In the possession of a person free on bail or personal  
21 recognizance pending trial, appeal, or sentencing for a felony or for  
22 a nonfelony crime in which a firearm was used or displayed, except  
23 that violations of Title 77 RCW shall not result in forfeiture under  
24 this section;

25 (g) In the possession of a person found to have been mentally  
26 incompetent while in possession of a firearm when apprehended or who  
27 is thereafter committed pursuant to chapter 10.77 RCW or committed  
28 for mental health treatment under chapter 71.05 RCW;

29 (h) Used or displayed by a person in the violation of a proper  
30 written order of a court of general jurisdiction; or

31 (i) Used in the commission of a felony or of a nonfelony crime in  
32 which a firearm was used or displayed.

33 (2) Upon order of forfeiture, the court in its discretion may  
34 order destruction of any forfeited firearm. A court may temporarily  
35 retain forfeited firearms needed for evidence.

36 (a) Except as provided in (b), (c), and (d) of this subsection,  
37 firearms that are: (i) Judicially forfeited and no longer needed for  
38 evidence; or (ii) forfeited due to a failure to make a claim under  
39 RCW 63.32.010 or 63.40.010; may be disposed of in any manner  
40 determined by the local legislative authority. Any proceeds of an

1 auction or trade may be retained by the legislative authority. This  
2 subsection (2)(a) applies only to firearms that come into the  
3 possession of the law enforcement agency after June 30, 1993.

4 By midnight, June 30, 1993, every law enforcement agency shall  
5 prepare an inventory, under oath, of every firearm that has been  
6 judicially forfeited, has been seized and may be subject to judicial  
7 forfeiture, or that has been, or may be, forfeited due to a failure  
8 to make a claim under RCW 63.32.010 or 63.40.010.

9 (b) Except as provided in (c) of this subsection, of the  
10 inventoried firearms a law enforcement agency shall destroy illegal  
11 firearms, may retain a maximum of ten percent of legal forfeited  
12 firearms for agency use, and shall either:

13 (i) Comply with the provisions for the auction of firearms in RCW  
14 9.41.098 that were in effect immediately preceding May 7, 1993; or

15 (ii) Trade, auction, or arrange for the auction of, rifles and  
16 shotguns. In addition, the law enforcement agency shall either trade,  
17 auction, or arrange for the auction of, short firearms, or shall pay  
18 a fee of twenty-five dollars to the state treasurer for every short  
19 firearm neither auctioned nor traded, to a maximum of fifty thousand  
20 dollars. The fees shall be accompanied by an inventory, under oath,  
21 of every short firearm listed in the inventory required by (a) of  
22 this subsection, that has been neither traded nor auctioned. The  
23 state treasurer shall credit the fees to the firearms range account  
24 established in RCW 79A.25.210. All trades or auctions of firearms  
25 under this subsection shall be to licensed dealers. Proceeds of any  
26 auction less costs, including actual costs of storage and sale, shall  
27 be forwarded to the firearms range account established in RCW  
28 79A.25.210.

29 (c) Antique firearms and firearms recognized as curios, relics,  
30 and firearms of particular historical significance by the United  
31 States treasury department bureau of alcohol, tobacco, (~~and~~)  
32 firearms, and explosives are exempt from destruction and shall be  
33 disposed of by auction or trade to licensed dealers.

34 (d) Firearms in the possession of the Washington state patrol on  
35 or after May 7, 1993, that are judicially forfeited and no longer  
36 needed for evidence, or forfeited due to a failure to make a claim  
37 under RCW 63.35.020, must be disposed of as follows: (i) Firearms  
38 illegal for any person to possess must be destroyed; (ii) the  
39 Washington state patrol may retain a maximum of ten percent of legal  
40 firearms for agency use; and (iii) all other legal firearms must be

1 auctioned or traded to licensed dealers. The Washington state patrol  
2 may retain any proceeds of an auction or trade.

3 (3) The court shall order the firearm returned to the owner upon  
4 a showing that there is no probable cause to believe a violation of  
5 subsection (1) of this section existed or the firearm was stolen from  
6 the owner or the owner neither had knowledge of nor consented to the  
7 act or omission involving the firearm which resulted in its  
8 forfeiture.

9 (4) A law enforcement officer of the state or of any county or  
10 municipality may confiscate a firearm found to be in the possession  
11 of a person under circumstances specified in subsection (1) of this  
12 section. After confiscation, the firearm shall not be surrendered  
13 except: (a) To the prosecuting attorney for use in subsequent legal  
14 proceedings; (b) for disposition according to an order of a court  
15 having jurisdiction as provided in subsection (1) of this section; or  
16 (c) to the owner if the proceedings are dismissed or as directed in  
17 subsection (3) of this section.

### 18 PART III

#### 19 REPEALERS FOR INTEGRATED SYSTEM

20 NEW SECTION. **Sec. 301.** The following acts or parts of acts, as  
21 now existing or hereafter amended, are each repealed, effective April  
22 1, 2018:

23 (1) RCW 70.96A.011 (Legislative finding and intent—Purpose of  
24 chapter) and 2014 c 225 s 19 & 1989 c 270 s 1;

25 (2) RCW 70.96A.020 (Definitions) and 2016 c . . . s 101 (section  
26 101 of this act), 2014 c 225 s 20, 2001 c 13 s 1, & 1998 c 296 s 22;

27 (3) RCW 70.96A.095 (Age of consent—Outpatient treatment of minors  
28 for chemical dependency) and 1998 c 296 s 23, 1996 c 133 s 34, 1995 c  
29 312 s 47, 1991 c 364 s 9, & 1989 c 270 s 24;

30 (4) RCW 70.96A.096 (Notice to parents, school contacts for  
31 referring students to inpatient treatment) and 1996 c 133 s 5;

32 (5) RCW 70.96A.097 (Review of admission and inpatient treatment  
33 of minors—Determination of medical necessity—Department review—  
34 Minor declines necessary treatment—At-risk youth petition—Costs—  
35 Public funds) and 1998 c 296 s 28, & 1995 c 312 s 48;

1 (6) RCW 70.96A.110 (Voluntary treatment of individuals with a  
2 substance use disorder) and 2014 c 225 s 28, 1990 c 151 s 7, 1989 c  
3 270 s 25, & 1972 ex.s. c 122 s 11;

4 (7) RCW 70.96A.120 (Treatment programs and facilities—Admissions  
5 —Peace officer duties—Protective custody) and 1991 c 290 s 6, 1990 c  
6 151 s 8, 1989 c 271 s 306, 1987 c 439 s 13, 1977 ex.s. c 62 s 1, 1974  
7 ex.s. c 175 s 1, & 1972 ex.s. c 122 s 12;

8 (8) RCW 70.96A.140 (Involuntary commitment) and 2016 c . . . s  
9 102 (section 102 of this act), 2014 c 225 s 29, 2001 c 13 s 3, 1995 c  
10 312 s 49, 1993 c 362 s 1, 1991 c 364 s 10, 1990 c 151 s 3, 1989 c 271  
11 s 307, 1987 c 439 s 14, 1977 ex.s. c 129 s 1, 1974 ex.s. c 175 s 2, &  
12 1972 ex.s. c 122 s 14;

13 (9) RCW 70.96A.141 (Joinder of petitions for commitment) and 2005  
14 c 504 s 304;

15 (10) RCW 70.96A.142 (Evaluation by designated chemical dependency  
16 specialist—When required—Required notifications) and 2004 c 166 s  
17 15;

18 (11) RCW 70.96A.145 (Involuntary commitment proceedings—  
19 Prosecuting attorney may represent specialist or program) and 2016  
20 c . . . s 103 (section 103 of this act) & 1993 c 137 s 1;

21 (12) RCW 70.96A.148 (Detention, commitment duties—Designation of  
22 county designated mental health professional) and 2001 c 13 s 4;

23 (13) RCW 70.96A.155 (Court-ordered treatment—Required  
24 notifications) and 2004 c 166 s 13;

25 (14) RCW 70.96A.157 (Persons subject to court-ordered treatment  
26 or supervision—Documentation) and 2005 c 504 s 508;

27 (15) RCW 70.96A.160 (Visitation and communication with patients)  
28 and 1989 c 270 s 29 & 1972 ex.s. c 122 s 16;

29 (16) RCW 70.96A.180 (Payment for treatment—Financial ability of  
30 patients) and 2012 c 117 s 413, 1990 c 151 s 6, 1989 c 270 s 31, &  
31 1972 ex.s. c 122 s 18;

32 (17) RCW 70.96A.230 (Minor—When outpatient treatment provider  
33 must give notice to parents) and 1998 c 296 s 24;

34 (18) RCW 70.96A.235 (Minor—Parental consent for inpatient  
35 treatment—Exception) and 1998 c 296 s 25;

36 (19) RCW 70.96A.240 (Minor—Parent not liable for payment unless  
37 consented to treatment—No right to public funds) and 1998 c 296 s 26;

38 (20) RCW 70.96A.245 (Minor—Parent may request determination  
39 whether minor has chemical dependency requiring inpatient treatment—

1 Minor consent not required—Duties and obligations of professional  
2 person and facility) and 1998 c 296 s 27;

3 (21) RCW 70.96A.250 (Minor—Parent may request determination  
4 whether minor has chemical dependency requiring outpatient treatment—  
5 Consent of minor not required—Discharge of minor) and 1998 c 296 s  
6 29;

7 (22) RCW 70.96A.255 (Minor—Petition to superior court for release  
8 from facility) and 1998 c 296 s 30;

9 (23) RCW 70.96A.260 (Minor—Not released by petition under RCW  
10 70.96A.255—Release within thirty days—Professional may initiate  
11 proceedings to stop release) and 1998 c 296 s 31;

12 (24) RCW 70.96A.265 (Minor—Eligibility for medical assistance  
13 under chapter 74.09 RCW—Payment by department) and 1998 c 296 s 32;

14 (25) RCW 70.96A.910 (Application—Construction—1972 ex.s. c 122)  
15 and 1972 ex.s. c 122 s 22;

16 (26) RCW 70.96A.915 (Department allocation of funds—Construction)  
17 and 1989 c 271 s 309;

18 (27) RCW 70.96A.920 (Severability—1972 ex.s. c 122) and 1972  
19 ex.s. c 122 s 20;

20 (28) RCW 70.96A.930 (Section, subsection headings not part of  
21 law) and 1972 ex.s. c 122 s 27;

22 (29) RCW 70.96B.010 (Definitions) and 2014 c 225 s 74, 2011 c 89  
23 s 10, 2008 c 320 s 3, & 2005 c 504 s 202;

24 (30) RCW 70.96B.020 (Selection of areas for pilot programs—Pilot  
25 program requirements) and 2014 c 225 s 75 & 2005 c 504 s 203;

26 (31) RCW 70.96B.030 (Designated crisis responder—Qualifications)  
27 and 2014 c 225 s 76 & 2005 c 504 s 204;

28 (32) RCW 70.96B.040 (Powers of designated crisis responder) and  
29 2005 c 504 s 205;

30 (33) RCW 70.96B.045 (Emergency custody—Procedure) and 2007 c 120  
31 s 2;

32 (34) RCW 70.96B.050 (Petition for initial detention—Order to  
33 detain for evaluation and treatment period—Procedure) and 2008 c 320  
34 s 5, 2007 c 120 s 1, & 2005 c 504 s 206;

35 (35) RCW 70.96B.060 (Exemption from liability) and 2005 c 504 s  
36 207;

37 (36) RCW 70.96B.070 (Detention period for evaluation and  
38 treatment) and 2005 c 504 s 208;



1 (37) RCW 70.96B.080 (Detention for evaluation and treatment of  
2 mental disorder—Chapter 71.05 RCW applies) and 2005 c 504 s 209;  
3 (38) RCW 70.96B.090 (Procedures for additional chemical  
4 dependency treatment) and 2005 c 504 s 210;  
5 (39) RCW 70.96B.100 (Detention for involuntary chemical  
6 dependency treatment—Petition for less restrictive treatment—  
7 Appearance before court—Representation—Hearing—Less restrictive  
8 order—Failure to adhere to terms of less restrictive order) and 2008  
9 c 320 s 6 & 2005 c 504 s 211;  
10 (40) RCW 70.96B.110 (Involuntary chemical dependency treatment  
11 proceedings—Prosecuting attorney shall represent petitioner) and 2005  
12 c 504 s 212;  
13 (41) RCW 70.96B.120 (Rights of involuntarily detained persons)  
14 and 2005 c 504 s 213;  
15 (42) RCW 70.96B.130 (Evaluation by designated crisis responder—  
16 When required—Required notifications) and 2005 c 504 s 214;  
17 (43) RCW 70.96B.140 (Secretary may adopt rules) and 2005 c 504 s  
18 215;  
19 (44) RCW 70.96B.150 (Application of RCW 71.05.550) and 2005 c 504  
20 s 216;  
21 (45) RCW 70.96B.800 (Evaluation of pilot programs—Reports) and  
22 2008 c 320 s 2 & 2005 c 504 s 217; and  
23 (46) RCW 71.05.032 (Joinder of petitions for commitment) and 2005  
24 c 504 s 115.

25 **PART IV**

26 **CORRECTIONS TO REFERENCES FOR INTEGRATED SYSTEM**

27 **Sec. 401.** RCW 4.24.558 and 2004 c 166 s 21 are each amended to  
28 read as follows:

29 Information shared and actions taken without gross negligence and  
30 in good faith compliance with RCW 71.05.445, 72.09.585,  
31 (~~(70.96A.142,)~~) 71.05.157, or 72.09.315 are not a basis for any  
32 private civil cause of action.

33 **Sec. 402.** RCW 5.60.060 and 2012 c 29 s 12 are each amended to  
34 read as follows:

35 (1) A spouse or domestic partner shall not be examined for or  
36 against his or her spouse or domestic partner, without the consent of

1 the spouse or domestic partner; nor can either during marriage or  
2 during the domestic partnership or afterward, be without the consent  
3 of the other, examined as to any communication made by one to the  
4 other during the marriage or the domestic partnership. But this  
5 exception shall not apply to a civil action or proceeding by one  
6 against the other, nor to a criminal action or proceeding for a crime  
7 committed by one against the other, nor to a criminal action or  
8 proceeding against a spouse or domestic partner if the marriage or  
9 the domestic partnership occurred subsequent to the filing of formal  
10 charges against the defendant, nor to a criminal action or proceeding  
11 for a crime committed by said spouse or domestic partner against any  
12 child of whom said spouse or domestic partner is the parent or  
13 guardian, nor to a proceeding under chapter ((70.96A, 70.96B,))  
14 71.05((7)) or 71.09 RCW: PROVIDED, That the spouse or the domestic  
15 partner of a person sought to be detained under chapter ((70.96A,  
16 70.96B,)) 71.05((7)) or 71.09 RCW may not be compelled to testify and  
17 shall be so informed by the court prior to being called as a witness.

18 (2)(a) An attorney or counselor shall not, without the consent of  
19 his or her client, be examined as to any communication made by the  
20 client to him or her, or his or her advice given thereon in the  
21 course of professional employment.

22 (b) A parent or guardian of a minor child arrested on a criminal  
23 charge may not be examined as to a communication between the child  
24 and his or her attorney if the communication was made in the presence  
25 of the parent or guardian. This privilege does not extend to  
26 communications made prior to the arrest.

27 (3) A member of the clergy, a Christian Science practitioner  
28 listed in the Christian Science Journal, or a priest shall not,  
29 without the consent of a person making the confession or sacred  
30 confidence, be examined as to any confession or sacred confidence  
31 made to him or her in his or her professional character, in the  
32 course of discipline enjoined by the church to which he or she  
33 belongs.

34 (4) Subject to the limitations under RCW ((70.96A.140—~~or~~))  
35 71.05.360 (8) and (9), a physician or surgeon or osteopathic  
36 physician or surgeon or podiatric physician or surgeon shall not,  
37 without the consent of his or her patient, be examined in a civil  
38 action as to any information acquired in attending such patient,  
39 which was necessary to enable him or her to prescribe or act for the  
40 patient, except as follows:

1 (a) In any judicial proceedings regarding a child's injury,  
2 neglect, or sexual abuse or the cause thereof; and

3 (b) Ninety days after filing an action for personal injuries or  
4 wrongful death, the claimant shall be deemed to waive the physician-  
5 patient privilege. Waiver of the physician-patient privilege for any  
6 one physician or condition constitutes a waiver of the privilege as  
7 to all physicians or conditions, subject to such limitations as a  
8 court may impose pursuant to court rules.

9 (5) A public officer shall not be examined as a witness as to  
10 communications made to him or her in official confidence, when the  
11 public interest would suffer by the disclosure.

12 (6)(a) A peer support group counselor shall not, without consent  
13 of the law enforcement officer or firefighter making the  
14 communication, be compelled to testify about any communication made  
15 to the counselor by the officer or firefighter while receiving  
16 counseling. The counselor must be designated as such by the sheriff,  
17 police chief, fire chief, or chief of the Washington state patrol,  
18 prior to the incident that results in counseling. The privilege only  
19 applies when the communication was made to the counselor while acting  
20 in his or her capacity as a peer support group counselor. The  
21 privilege does not apply if the counselor was an initial responding  
22 officer or firefighter, a witness, or a party to the incident which  
23 prompted the delivery of peer support group counseling services to  
24 the law enforcement officer or firefighter.

25 (b) For purposes of this section, "peer support group counselor"  
26 means a:

27 (i) Law enforcement officer, firefighter, civilian employee of a  
28 law enforcement agency, or civilian employee of a fire department,  
29 who has received training to provide emotional and moral support and  
30 counseling to an officer or firefighter who needs those services as a  
31 result of an incident in which the officer or firefighter was  
32 involved while acting in his or her official capacity; or

33 (ii) Nonemployee counselor who has been designated by the  
34 sheriff, police chief, fire chief, or chief of the Washington state  
35 patrol to provide emotional and moral support and counseling to an  
36 officer or firefighter who needs those services as a result of an  
37 incident in which the officer or firefighter was involved while  
38 acting in his or her official capacity.

1 (7) A sexual assault advocate may not, without the consent of the  
2 victim, be examined as to any communication made between the victim  
3 and the sexual assault advocate.

4 (a) For purposes of this section, "sexual assault advocate" means  
5 the employee or volunteer from a community sexual assault program or  
6 underserved populations provider, victim assistance unit, program, or  
7 association, that provides information, medical or legal advocacy,  
8 counseling, or support to victims of sexual assault, who is  
9 designated by the victim to accompany the victim to the hospital or  
10 other health care facility and to proceedings concerning the alleged  
11 assault, including police and prosecution interviews and court  
12 proceedings.

13 (b) A sexual assault advocate may disclose a confidential  
14 communication without the consent of the victim if failure to  
15 disclose is likely to result in a clear, imminent risk of serious  
16 physical injury or death of the victim or another person. Any sexual  
17 assault advocate participating in good faith in the disclosing of  
18 records and communications under this section shall have immunity  
19 from any liability, civil, criminal, or otherwise, that might result  
20 from the action. In any proceeding, civil or criminal, arising out of  
21 a disclosure under this section, the good faith of the sexual assault  
22 advocate who disclosed the confidential communication shall be  
23 presumed.

24 (8) A domestic violence advocate may not, without the consent of  
25 the victim, be examined as to any communication between the victim  
26 and the domestic violence advocate.

27 (a) For purposes of this section, "domestic violence advocate"  
28 means an employee or supervised volunteer from a community-based  
29 domestic violence program or human services program that provides  
30 information, advocacy, counseling, crisis intervention, emergency  
31 shelter, or support to victims of domestic violence and who is not  
32 employed by, or under the direct supervision of, a law enforcement  
33 agency, a prosecutor's office, or the child protective services  
34 section of the department of social and health services as defined in  
35 RCW 26.44.020.

36 (b) A domestic violence advocate may disclose a confidential  
37 communication without the consent of the victim if failure to  
38 disclose is likely to result in a clear, imminent risk of serious  
39 physical injury or death of the victim or another person. This  
40 section does not relieve a domestic violence advocate from the

1 requirement to report or cause to be reported an incident under RCW  
2 26.44.030(1) or to disclose relevant records relating to a child as  
3 required by RCW 26.44.030(~~(12)~~) (14). Any domestic violence  
4 advocate participating in good faith in the disclosing of  
5 communications under this subsection is immune from liability, civil,  
6 criminal, or otherwise, that might result from the action. In any  
7 proceeding, civil or criminal, arising out of a disclosure under this  
8 subsection, the good faith of the domestic violence advocate who  
9 disclosed the confidential communication shall be presumed.

10 (9) A mental health counselor, independent clinical social  
11 worker, or marriage and family therapist licensed under chapter  
12 18.225 RCW may not disclose, or be compelled to testify about, any  
13 information acquired from persons consulting the individual in a  
14 professional capacity when the information was necessary to enable  
15 the individual to render professional services to those persons  
16 except:

17 (a) With the written authorization of that person or, in the case  
18 of death or disability, the person's personal representative;

19 (b) If the person waives the privilege by bringing charges  
20 against the mental health counselor licensed under chapter 18.225  
21 RCW;

22 (c) In response to a subpoena from the secretary of health. The  
23 secretary may subpoena only records related to a complaint or report  
24 under RCW 18.130.050;

25 (d) As required under chapter 26.44 or 74.34 RCW or RCW 71.05.360  
26 (8) and (9); or

27 (e) To any individual if the mental health counselor, independent  
28 clinical social worker, or marriage and family therapist licensed  
29 under chapter 18.225 RCW reasonably believes that disclosure will  
30 avoid or minimize an imminent danger to the health or safety of the  
31 individual or any other individual; however, there is no obligation  
32 on the part of the provider to so disclose.

33 **Sec. 403.** RCW 9.41.280 and 2014 c 225 s 56 are each amended to  
34 read as follows:

35 (1) It is unlawful for a person to carry onto, or to possess on,  
36 public or private elementary or secondary school premises, school-  
37 provided transportation, or areas of facilities while being used  
38 exclusively by public or private schools:

39 (a) Any firearm;

1 (b) Any other dangerous weapon as defined in RCW 9.41.250;

2 (c) Any device commonly known as "nun-chu-ka sticks," consisting  
3 of two or more lengths of wood, metal, plastic, or similar substance  
4 connected with wire, rope, or other means;

5 (d) Any device, commonly known as "throwing stars," which are  
6 multipointed, metal objects designed to embed upon impact from any  
7 aspect;

8 (e) Any air gun, including any air pistol or air rifle, designed  
9 to propel a BB, pellet, or other projectile by the discharge of  
10 compressed air, carbon dioxide, or other gas; or

11 (f)(i) Any portable device manufactured to function as a weapon  
12 and which is commonly known as a stun gun, including a projectile  
13 stun gun which projects wired probes that are attached to the device  
14 that emit an electrical charge designed to administer to a person or  
15 an animal an electric shock, charge, or impulse; or

16 (ii) Any device, object, or instrument which is used or intended  
17 to be used as a weapon with the intent to injure a person by an  
18 electric shock, charge, or impulse.

19 (2) Any such person violating subsection (1) of this section is  
20 guilty of a gross misdemeanor. If any person is convicted of a  
21 violation of subsection (1)(a) of this section, the person shall have  
22 his or her concealed pistol license, if any revoked for a period of  
23 three years. Anyone convicted under this subsection is prohibited  
24 from applying for a concealed pistol license for a period of three  
25 years. The court shall send notice of the revocation to the  
26 department of licensing, and the city, town, or county which issued  
27 the license.

28 Any violation of subsection (1) of this section by elementary or  
29 secondary school students constitutes grounds for expulsion from the  
30 state's public schools in accordance with RCW 28A.600.010. An  
31 appropriate school authority shall promptly notify law enforcement  
32 and the student's parent or guardian regarding any allegation or  
33 indication of such violation.

34 Upon the arrest of a person at least twelve years of age and not  
35 more than twenty-one years of age for violating subsection (1)(a) of  
36 this section, the person shall be detained or confined in a juvenile  
37 or adult facility for up to seventy-two hours. The person shall not  
38 be released within the seventy-two hours until after the person has  
39 been examined and evaluated by the designated (~~mental health~~  
40 ~~professional~~) crisis responder unless the court in its discretion

1 releases the person sooner after a determination regarding probable  
2 cause or on probation bond or bail.

3 Within twenty-four hours of the arrest, the arresting law  
4 enforcement agency shall refer the person to the designated (~~mental~~  
5 ~~health professional~~) crisis responder for examination and evaluation  
6 under chapter 71.05 or 71.34 RCW and inform a parent or guardian of  
7 the person of the arrest, detention, and examination. The designated  
8 (~~mental health professional~~) crisis responder shall examine and  
9 evaluate the person subject to the provisions of chapter 71.05 or  
10 71.34 RCW. The examination shall occur at the facility in which the  
11 person is detained or confined. If the person has been released on  
12 probation, bond, or bail, the examination shall occur wherever is  
13 appropriate.

14 (~~The designated mental health professional may determine whether~~  
15 ~~to refer the person to the county designated chemical dependency~~  
16 ~~specialist for examination and evaluation in accordance with chapter~~  
17 ~~70.96A RCW. The county designated chemical dependency specialist~~  
18 ~~shall examine the person subject to the provisions of chapter 70.96A~~  
19 ~~RCW. The examination shall occur at the facility in which the person~~  
20 ~~is detained or confined. If the person has been released on~~  
21 ~~probation, bond, or bail, the examination shall occur wherever is~~  
22 ~~appropriate.~~)

23 Upon completion of any examination by the designated (~~mental~~  
24 ~~health professional or the county designated chemical dependency~~  
25 ~~specialist~~) crisis responder, the results of the examination shall  
26 be sent to the court, and the court shall consider those results in  
27 making any determination about the person.

28 The designated (~~mental health professional and county designated~~  
29 ~~chemical dependency specialist~~) crisis responder shall, to the  
30 extent permitted by law, notify a parent or guardian of the person  
31 that an examination and evaluation has taken place and the results of  
32 the examination. Nothing in this subsection prohibits the delivery of  
33 additional, appropriate mental health examinations to the person  
34 while the person is detained or confined.

35 If the designated (~~mental health professional~~) crisis responder  
36 determines it is appropriate, the designated (~~mental health~~  
37 ~~professional~~) crisis responder may refer the person to the local  
38 behavioral health organization for follow-up services or the  
39 department of social and health services or other community providers  
40 for other services to the family and individual.

1 (3) Subsection (1) of this section does not apply to:  
2 (a) Any student or employee of a private military academy when on  
3 the property of the academy;  
4 (b) Any person engaged in military, law enforcement, or school  
5 district security activities. However, a person who is not a  
6 commissioned law enforcement officer and who provides school security  
7 services under the direction of a school administrator may not  
8 possess a device listed in subsection (1)(f) of this section unless  
9 he or she has successfully completed training in the use of such  
10 devices that is equivalent to the training received by commissioned  
11 law enforcement officers;  
12 (c) Any person who is involved in a convention, showing,  
13 demonstration, lecture, or firearms safety course authorized by  
14 school authorities in which the firearms of collectors or instructors  
15 are handled or displayed;  
16 (d) Any person while the person is participating in a firearms or  
17 air gun competition approved by the school or school district;  
18 (e) Any person in possession of a pistol who has been issued a  
19 license under RCW 9.41.070, or is exempt from the licensing  
20 requirement by RCW 9.41.060, while picking up or dropping off a  
21 student;  
22 (f) Any nonstudent at least eighteen years of age legally in  
23 possession of a firearm or dangerous weapon that is secured within an  
24 attended vehicle or concealed from view within a locked unattended  
25 vehicle while conducting legitimate business at the school;  
26 (g) Any nonstudent at least eighteen years of age who is in  
27 lawful possession of an unloaded firearm, secured in a vehicle while  
28 conducting legitimate business at the school; or  
29 (h) Any law enforcement officer of the federal, state, or local  
30 government agency.  
31 (4) Subsections (1)(c) and (d) of this section do not apply to  
32 any person who possesses nun-chu-ka sticks, throwing stars, or other  
33 dangerous weapons to be used in martial arts classes authorized to be  
34 conducted on the school premises.  
35 (5) Subsection (1)(f)(i) of this section does not apply to any  
36 person who possesses a device listed in subsection (1)(f)(i) of this  
37 section, if the device is possessed and used solely for the purpose  
38 approved by a school for use in a school authorized event, lecture,  
39 or activity conducted on the school premises.



1 (6) Except as provided in subsection (3)(b), (c), (f), and (h) of  
2 this section, firearms are not permitted in a public or private  
3 school building.

4 (7) "GUN-FREE ZONE" signs shall be posted around school  
5 facilities giving warning of the prohibition of the possession of  
6 firearms on school grounds.

7 **Sec. 404.** RCW 9.95.143 and 2004 c 166 s 10 are each amended to  
8 read as follows:

9 When an offender receiving court-ordered mental health or  
10 chemical dependency treatment or treatment ordered by the department  
11 of corrections presents for treatment from a mental health or  
12 chemical dependency treatment provider, the offender must disclose to  
13 the mental health or chemical dependency treatment provider whether  
14 he or she is subject to supervision by the department of corrections.  
15 If an offender has received relief from disclosure pursuant to RCW  
16 9.94A.562(~~(, 70.96A.155,)~~) or 71.05.132, the offender must provide  
17 the mental health or chemical dependency treatment provider with a  
18 copy of the order granting the relief.

19 **Sec. 405.** RCW 10.77.010 and 2014 c 225 s 58 are each amended to  
20 read as follows:

21 As used in this chapter:

22 (1) "Admission" means acceptance based on medical necessity, of a  
23 person as a patient.

24 (2) "Commitment" means the determination by a court that a person  
25 should be detained for a period of either evaluation or treatment, or  
26 both, in an inpatient or a less-restrictive setting.

27 (3) "Conditional release" means modification of a court-ordered  
28 commitment, which may be revoked upon violation of any of its terms.

29 (4) A "criminally insane" person means any person who has been  
30 acquitted of a crime charged by reason of insanity, and thereupon  
31 found to be a substantial danger to other persons or to present a  
32 substantial likelihood of committing criminal acts jeopardizing  
33 public safety or security unless kept under further control by the  
34 court or other persons or institutions.

35 (5) "Department" means the state department of social and health  
36 services.

37 (6) "Designated (~~(mental health professional)~~) crisis responder"  
38 has the same meaning as provided in RCW 71.05.020.

1 (7) "Detention" or "detain" means the lawful confinement of a  
2 person, under the provisions of this chapter, pending evaluation.

3 (8) "Developmental disabilities professional" means a person who  
4 has specialized training and three years of experience in directly  
5 treating or working with persons with developmental disabilities and  
6 is a psychiatrist or psychologist, or a social worker, and such other  
7 developmental disabilities professionals as may be defined by rules  
8 adopted by the secretary.

9 (9) "Developmental disability" means the condition as defined in  
10 RCW 71A.10.020(~~(4)~~) (5).

11 (10) "Discharge" means the termination of hospital medical  
12 authority. The commitment may remain in place, be terminated, or be  
13 amended by court order.

14 (11) "Furlough" means an authorized leave of absence for a  
15 resident of a state institution operated by the department designated  
16 for the custody, care, and treatment of the criminally insane,  
17 consistent with an order of conditional release from the court under  
18 this chapter, without any requirement that the resident be  
19 accompanied by, or be in the custody of, any law enforcement or  
20 institutional staff, while on such unescorted leave.

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

29 (13) "History of one or more violent acts" means violent acts  
30 committed during: (a) The ten-year period of time prior to the filing  
31 of criminal charges; plus (b) the amount of time equal to time spent  
32 during the ten-year period in a mental health facility or in  
33 confinement as a result of a criminal conviction.

34 (14) "Immediate family member" means a spouse, child, stepchild,  
35 parent, stepparent, grandparent, sibling, or domestic partner.

36 (15) "Incompetency" means a person lacks the capacity to  
37 understand the nature of the proceedings against him or her or to  
38 assist in his or her own defense as a result of mental disease or  
39 defect.

1 (16) "Indigent" means any person who is financially unable to  
2 obtain counsel or other necessary expert or professional services  
3 without causing substantial hardship to the person or his or her  
4 family.

5 (17) "Individualized service plan" means a plan prepared by a  
6 developmental disabilities professional with other professionals as a  
7 team, for an individual with developmental disabilities, which shall  
8 state:

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

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

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

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

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

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

22 (g) The type of residence immediately anticipated for the person  
23 and possible future types of residences.

24 (18) "Professional person" means:

25 (a) A psychiatrist licensed as a physician and surgeon in this  
26 state who has, in addition, completed three years of graduate  
27 training in psychiatry in a program approved by the American medical  
28 association or the American osteopathic association and is certified  
29 or eligible to be certified by the American board of psychiatry and  
30 neurology or the American osteopathic board of neurology and  
31 psychiatry;

32 (b) A psychologist licensed as a psychologist pursuant to chapter  
33 18.83 RCW; or

34 (c) A social worker with a master's or further advanced degree  
35 from a social work educational program accredited and approved as  
36 provided in RCW 18.320.010.

37 (19) "Registration records" include all the records of the  
38 department, behavioral health organizations, treatment facilities,  
39 and other persons providing services to the department, county

1 departments, or facilities which identify persons who are receiving  
2 or who at any time have received services for mental illness.

3 (20) "Release" means legal termination of the court-ordered  
4 commitment under the provisions of this chapter.

5 (21) "Secretary" means the secretary of the department of social  
6 and health services or his or her designee.

7 (22) "Treatment" means any currently standardized medical or  
8 mental health procedure including medication.

9 (23) "Treatment records" include registration and all other  
10 records concerning persons who are receiving or who at any time have  
11 received services for mental illness, which are maintained by the  
12 department, by behavioral health organizations and their staffs, and  
13 by treatment facilities. Treatment records do not include notes or  
14 records maintained for personal use by a person providing treatment  
15 services for the department, behavioral health organizations, or a  
16 treatment facility if the notes or records are not available to  
17 others.

18 (24) "Violent act" means behavior that: (a)(i) Resulted in; (ii)  
19 if completed as intended would have resulted in; or (iii) was  
20 threatened to be carried out by a person who had the intent and  
21 opportunity to carry out the threat and would have resulted in,  
22 homicide, nonfatal injuries, or substantial damage to property; or  
23 (b) recklessly creates an immediate risk of serious physical injury  
24 to another person. As used in this subsection, "nonfatal injuries"  
25 means physical pain or injury, illness, or an impairment of physical  
26 condition. "Nonfatal injuries" shall be construed to be consistent  
27 with the definition of "bodily injury," as defined in RCW 9A.04.110.

28 **Sec. 406.** RCW 10.77.025 and 2000 c 94 s 13 are each amended to  
29 read as follows:

30 (1) Whenever any person has been: (a) Committed to a correctional  
31 facility or inpatient treatment under any provision of this chapter;  
32 or (b) ordered to undergo alternative treatment following his or her  
33 acquittal by reason of insanity of a crime charged, such commitment  
34 or treatment cannot exceed the maximum possible penal sentence for  
35 any offense charged for which the person was committed, or was  
36 acquitted by reason of insanity.

37 (2) Whenever any person committed under any provision of this  
38 chapter has not been released within seven days of the maximum  
39 possible penal sentence under subsection (1) of this section, and the

1 professional person in charge of the facility believes that the  
2 person presents a likelihood of serious harm or is gravely disabled  
3 due to a mental disorder, the professional person shall, prior to the  
4 expiration of the maximum penal sentence, notify the appropriate  
5 ((county)) designated ((~~mental health professional~~)) crisis responder  
6 of the impending expiration and provide a copy of all relevant  
7 information regarding the person, including the likely release date  
8 and shall indicate why the person should not be released.

9 (3) A ((county)) designated ((~~mental health professional~~)) crisis  
10 responder who receives notice and records under subsection (2) of  
11 this section shall, prior to the date of the expiration of the  
12 maximum sentence, determine whether to initiate proceedings under  
13 chapter 71.05 RCW.

14 **Sec. 407.** RCW 10.77.027 and 2004 c 166 s 3 are each amended to  
15 read as follows:

16 When a ((county)) designated ((~~mental health professional~~))  
17 crisis responder or a professional person has determined that a  
18 person has a mental disorder, and is otherwise committable, the cause  
19 of the person's mental disorder shall not make the person ineligible  
20 for commitment under chapter 71.05 RCW.

21 **Sec. 408.** RCW 10.77.060 and 2012 c 256 s 3 are each amended to  
22 read as follows:

23 (1)(a) Whenever a defendant has pleaded not guilty by reason of  
24 insanity, or there is reason to doubt his or her competency, the  
25 court on its own motion or on the motion of any party shall either  
26 appoint or request the secretary to designate a qualified expert or  
27 professional person, who shall be approved by the prosecuting  
28 attorney, to evaluate and report upon the mental condition of the  
29 defendant.

30 (b) The signed order of the court shall serve as authority for  
31 the evaluator to be given access to all records held by any mental  
32 health, medical, educational, or correctional facility that relate to  
33 the present or past mental, emotional, or physical condition of the  
34 defendant. If the court is advised by any party that the defendant  
35 may have a developmental disability, the evaluation must be performed  
36 by a developmental disabilities professional.

37 (c) The evaluator shall assess the defendant in a jail, detention  
38 facility, in the community, or in court to determine whether a period

1 of inpatient commitment will be necessary to complete an accurate  
2 evaluation. If inpatient commitment is needed, the signed order of  
3 the court shall serve as authority for the evaluator to request the  
4 jail or detention facility to transport the defendant to a hospital  
5 or secure mental health facility for a period of commitment not to  
6 exceed fifteen days from the time of admission to the facility.  
7 Otherwise, the evaluator shall complete the evaluation.

8 (d) The court may commit the defendant for evaluation to a  
9 hospital or secure mental health facility without an assessment if:

10 (i) The defendant is charged with murder in the first or second  
11 degree; (ii) the court finds that it is more likely than not that an  
12 evaluation in the jail will be inadequate to complete an accurate  
13 evaluation; or (iii) the court finds that an evaluation outside the  
14 jail setting is necessary for the health, safety, or welfare of the  
15 defendant. The court shall not order an initial inpatient evaluation  
16 for any purpose other than a competency evaluation.

17 (e) The order shall indicate whether, in the event the defendant  
18 is committed to a hospital or secure mental health facility for  
19 evaluation, all parties agree to waive the presence of the defendant  
20 or to the defendant's remote participation at a subsequent competency  
21 hearing or presentation of an agreed order if the recommendation of  
22 the evaluator is for continuation of the stay of criminal  
23 proceedings, or if the opinion of the evaluator is that the defendant  
24 remains incompetent and there is no remaining restoration period, and  
25 the hearing is held prior to the expiration of the authorized  
26 commitment period.

27 (f) When a defendant is ordered to be committed for inpatient  
28 evaluation under this subsection (1), the court may delay granting  
29 bail until the defendant has been evaluated for competency or sanity  
30 and appears before the court. Following the evaluation, in  
31 determining bail the court shall consider: (i) Recommendations of the  
32 evaluator regarding the defendant's competency, sanity, or diminished  
33 capacity; (ii) whether the defendant has a recent history of one or  
34 more violent acts; (iii) whether the defendant has previously been  
35 acquitted by reason of insanity or found incompetent; (iv) whether it  
36 is reasonably likely the defendant will fail to appear for a future  
37 court hearing; and (v) whether the defendant is a threat to public  
38 safety.

39 (2) The court may direct that a qualified expert or professional  
40 person retained by or appointed for the defendant be permitted to

1 witness the evaluation authorized by subsection (1) of this section,  
2 and that the defendant shall have access to all information obtained  
3 by the court appointed experts or professional persons. The  
4 defendant's expert or professional person shall have the right to  
5 file his or her own report following the guidelines of subsection (3)  
6 of this section. If the defendant is indigent, the court shall upon  
7 the request of the defendant assist him or her in obtaining an expert  
8 or professional person.

9 (3) The report of the evaluation shall include the following:

10 (a) A description of the nature of the evaluation;

11 (b) A diagnosis or description of the current mental status of  
12 the defendant;

13 (c) If the defendant suffers from a mental disease or defect, or  
14 has a developmental disability, an opinion as to competency;

15 (d) If the defendant has indicated his or her intention to rely  
16 on the defense of insanity pursuant to RCW 10.77.030, and an  
17 evaluation and report by an expert or professional person has been  
18 provided concluding that the defendant was criminally insane at the  
19 time of the alleged offense, an opinion as to the defendant's sanity  
20 at the time of the act, and an opinion as to whether the defendant  
21 presents a substantial danger to other persons, or presents a  
22 substantial likelihood of committing criminal acts jeopardizing  
23 public safety or security, unless kept under further control by the  
24 court or other persons or institutions, provided that no opinion  
25 shall be rendered under this subsection (3)(d) unless the evaluator  
26 or court determines that the defendant is competent to stand trial;

27 (e) When directed by the court, if an evaluation and report by an  
28 expert or professional person has been provided concluding that the  
29 defendant lacked the capacity at the time of the offense to form the  
30 mental state necessary to commit the charged offense, an opinion as  
31 to the capacity of the defendant to have a particular state of mind  
32 which is an element of the offense charged;

33 (f) An opinion as to whether the defendant should be evaluated by  
34 a designated (~~mental health professional~~) crisis responder under  
35 chapter 71.05 RCW.

36 (4) The secretary may execute such agreements as appropriate and  
37 necessary to implement this section and may choose to designate more  
38 than one evaluator.

1       **Sec. 409.** RCW 10.77.065 and 2015 1st sp.s. c 7 s 16 are each  
2 amended to read as follows:

3       (1)(a)(i) The expert conducting the evaluation shall provide his  
4 or her report and recommendation to the court in which the criminal  
5 proceeding is pending. For a competency evaluation of a defendant who  
6 is released from custody, if the evaluation cannot be completed  
7 within twenty-one days due to a lack of cooperation by the defendant,  
8 the evaluator shall notify the court that he or she is unable to  
9 complete the evaluation because of such lack of cooperation.

10       (ii) A copy of the report and recommendation shall be provided to  
11 the designated (~~mental health professional~~) crisis responder, the  
12 prosecuting attorney, the defense attorney, and the professional  
13 person at the local correctional facility where the defendant is  
14 being held, or if there is no professional person, to the person  
15 designated under (a)(iv) of this subsection. Upon request, the  
16 evaluator shall also provide copies of any source documents relevant  
17 to the evaluation to the designated (~~mental health professional~~)  
18 crisis responder.

19       (iii) Any facility providing inpatient services related to  
20 competency shall discharge the defendant as soon as the facility  
21 determines that the defendant is competent to stand trial. Discharge  
22 shall not be postponed during the writing and distribution of the  
23 evaluation report. Distribution of an evaluation report by a facility  
24 providing inpatient services shall ordinarily be accomplished within  
25 two working days or less following the final evaluation of the  
26 defendant. If the defendant is discharged to the custody of a local  
27 correctional facility, the local correctional facility must continue  
28 the medication regimen prescribed by the facility, when clinically  
29 appropriate, unless the defendant refuses to cooperate with  
30 medication and an involuntary medication order by the court has not  
31 been entered.

32       (iv) If there is no professional person at the local correctional  
33 facility, the local correctional facility shall designate a  
34 professional person as defined in RCW 71.05.020 or, in cooperation  
35 with the behavioral health organization, a professional person at the  
36 behavioral health organization to receive the report and  
37 recommendation.

38       (v) Upon commencement of a defendant's evaluation in the local  
39 correctional facility, the local correctional facility must notify  
40 the evaluator of the name of the professional person, or person



1 designated under (a)(iv) of this subsection, to receive the report  
2 and recommendation.

3 (b) If the evaluator concludes, under RCW 10.77.060(3)(f), the  
4 person should be evaluated by a designated (~~mental—health~~  
5 ~~professional~~) crisis responder under chapter 71.05 RCW, the court  
6 shall order such evaluation be conducted prior to release from  
7 confinement when the person is acquitted or convicted and sentenced  
8 to confinement for twenty-four months or less, or when charges are  
9 dismissed pursuant to a finding of incompetent to stand trial.

10 (2) The designated (~~mental—health—professional~~) crisis  
11 responder shall provide written notification within twenty-four hours  
12 of the results of the determination whether to commence proceedings  
13 under chapter 71.05 RCW. The notification shall be provided to the  
14 persons identified in subsection (1)(a) of this section.

15 (3) The prosecuting attorney shall provide a copy of the results  
16 of any proceedings commenced by the designated (~~mental—health~~  
17 ~~professional~~) crisis responder under subsection (2) of this section  
18 to the secretary.

19 (4) A facility conducting a civil commitment evaluation under RCW  
20 10.77.086(4) or 10.77.088(1)(~~(b)~~) (c)(ii) that makes a  
21 determination to release the person instead of filing a civil  
22 commitment petition must provide written notice to the prosecutor and  
23 defense attorney at least twenty-four hours prior to release. The  
24 notice may be given by (~~electronic mail~~) email, facsimile, or other  
25 means reasonably likely to communicate the information immediately.

26 (5) The fact of admission and all information and records  
27 compiled, obtained, or maintained in the course of providing services  
28 under this chapter may also be disclosed to the courts solely to  
29 prevent the entry of any evaluation or treatment order that is  
30 inconsistent with any order entered under chapter 71.05 RCW.

31 **Sec. 410.** RCW 10.77.084 and 2015 1st sp.s. c 7 s 4 are each  
32 amended to read as follows:

33 (1)(a) If at any time during the pendency of an action and prior  
34 to judgment the court finds, following a report as provided in RCW  
35 10.77.060, a defendant is incompetent, the court shall order the  
36 proceedings against the defendant be stayed except as provided in  
37 subsection (4) of this section.

38 (b) The court may order a defendant who has been found to be  
39 incompetent to undergo competency restoration treatment at a facility

1 designated by the department if the defendant is eligible under RCW  
2 10.77.086 or 10.77.088. At the end of each competency restoration  
3 period or at any time a professional person determines competency has  
4 been, or is unlikely to be, restored, the defendant shall be returned  
5 to court for a hearing, except that if the opinion of the  
6 professional person is that the defendant remains incompetent and the  
7 hearing is held before the expiration of the current competency  
8 restoration period, the parties may agree to waive the defendant's  
9 presence, to remote participation by the defendant at a hearing, or  
10 to presentation of an agreed order in lieu of a hearing. The facility  
11 shall promptly notify the court and all parties of the date on which  
12 the competency restoration period commences and expires so that a  
13 timely hearing date may be scheduled.

14 (c) If, following notice and hearing or entry of an agreed order  
15 under (b) of this subsection, the court finds that competency has  
16 been restored, the court shall lift the stay entered under (a) of  
17 this subsection. If the court finds that competency has not been  
18 restored, the court shall dismiss the proceedings without prejudice,  
19 except that the court may order a further period of competency  
20 restoration treatment if it finds that further treatment within the  
21 time limits established by RCW 10.77.086 or 10.77.088 is likely to  
22 restore competency, and a further period of treatment is allowed  
23 under RCW 10.77.086 or 10.77.088.

24 (d) If at any time during the proceeding the court finds,  
25 following notice and hearing, a defendant is not likely to regain  
26 competency, the court shall dismiss the proceedings without prejudice  
27 and refer the defendant for civil commitment evaluation or  
28 proceedings if appropriate under RCW 10.77.065, 10.77.086, or  
29 10.77.088.

30 (2) If the defendant is referred for evaluation by a designated  
31 (~~mental health professional~~) crisis responder under this chapter,  
32 the designated (~~mental health professional~~) crisis responder shall  
33 provide prompt written notification of the results of the evaluation  
34 and whether the person was detained. The notification shall be  
35 provided to the court in which the criminal action was pending, the  
36 prosecutor, the defense attorney in the criminal action, and the  
37 facility that evaluated the defendant for competency.

38 (3) The fact that the defendant is unfit to proceed does not  
39 preclude any pretrial proceedings which do not require the personal  
40 participation of the defendant.

1 (4) A defendant receiving medication for either physical or  
2 mental problems shall not be prohibited from standing trial, if the  
3 medication either enables the defendant to understand the proceedings  
4 against him or her and to assist in his or her own defense, or does  
5 not disable him or her from so understanding and assisting in his or  
6 her own defense.

7 (5) At or before the conclusion of any commitment period provided  
8 for by this section, the facility providing evaluation and treatment  
9 shall provide to the court a written report of evaluation which meets  
10 the requirements of RCW 10.77.060(3). For defendants charged with a  
11 felony, the report following the second competency restoration period  
12 or first competency restoration period if the defendant's  
13 incompetence is determined to be solely due to a developmental  
14 disability or the evaluator concludes that the defendant is not  
15 likely to regain competency must include an assessment of the  
16 defendant's future dangerousness which is evidence-based regarding  
17 predictive validity.

18 **Sec. 411.** RCW 10.77.088 and 2015 1st sp.s. c 7 s 6 are each  
19 amended to read as follows:

20 (1)(a) If the defendant is charged with a nonfelony crime which  
21 is a serious offense as identified in RCW 10.77.092 and found by the  
22 court to be not competent, then the court:

23 (i) Shall commit the defendant to the custody of the secretary  
24 who shall place such defendant in an appropriate facility of the  
25 department for evaluation and treatment;

26 (ii) May alternatively order the defendant to undergo evaluation  
27 and treatment at some other facility or provider as determined by the  
28 department, or under the guidance and control of a professional  
29 person. The facilities or providers may include community mental  
30 health providers or other local facilities that contract with the  
31 department and are willing and able to provide treatment under this  
32 section. During the 2015-2017 fiscal biennium, the department may  
33 contract with one or more cities or counties to provide competency  
34 restoration services in a city or county jail if the city or county  
35 jail is willing and able to serve as a location for competency  
36 restoration services and if the secretary determines that there is an  
37 emergent need for beds and documents the justification, including a  
38 plan to address the emergency. Patients receiving competency  
39 restoration services in a city or county jail must be physically

1 separated from other populations at the jail and restoration  
2 treatment services must be provided as much as possible within a  
3 therapeutic environment. The placement under (a)(i) and (ii) of this  
4 subsection shall not exceed fourteen days in addition to any unused  
5 time of the evaluation under RCW 10.77.060. The court shall compute  
6 this total period and include its computation in the order. The  
7 fourteen-day period plus any unused time of the evaluation under RCW  
8 10.77.060 shall be considered to include only the time the defendant  
9 is actually at the facility and shall be in addition to reasonable  
10 time for transport to or from the facility;

11 (iii) May alternatively order that the defendant be placed on  
12 conditional release for up to ninety days for mental health treatment  
13 and restoration of competency; or

14 (iv) May order any combination of this subsection.

15 (b) If the court has determined or the parties agree that the  
16 defendant is unlikely to regain competency, the court may dismiss the  
17 charges without prejudice without ordering the defendant to undergo  
18 restoration treatment, in which case the court shall order that the  
19 defendant be referred for evaluation for civil commitment in the  
20 manner provided in (c) of this subsection.

21 (c)(i) If the proceedings are dismissed under RCW 10.77.084 and  
22 the defendant was on conditional release at the time of dismissal,  
23 the court shall order the designated (~~mental health professional~~)  
24 crisis responder within that county to evaluate the defendant  
25 pursuant to chapter 71.05 RCW. The evaluation may be conducted in any  
26 location chosen by the professional.

27 (ii) If the defendant was in custody and not on conditional  
28 release at the time of dismissal, the defendant shall be detained and  
29 sent to an evaluation and treatment facility for up to seventy-two  
30 hours, excluding Saturdays, Sundays, and holidays, for evaluation for  
31 purposes of filing a petition under chapter 71.05 RCW. The seventy-  
32 two-hour period shall commence upon the next nonholiday weekday  
33 following the court order and shall run to the end of the last  
34 nonholiday weekday within the seventy-two-hour period.

35 (2) If the defendant is charged with a nonfelony crime that is  
36 not a serious offense as defined in RCW 10.77.092:

37 The court may stay or dismiss proceedings and detain the  
38 defendant for sufficient time to allow the designated (~~mental health  
39 professional~~) crisis responder to evaluate the defendant and  
40 consider initial detention proceedings under chapter 71.05 RCW. The

1 court must give notice to all parties at least twenty-four hours  
2 before the dismissal of any proceeding under this subsection, and  
3 provide an opportunity for a hearing on whether to dismiss the  
4 proceedings.

5 **Sec. 412.** RCW 11.92.190 and 1996 c 249 s 11 are each amended to  
6 read as follows:

7 No residential treatment facility which provides nursing or other  
8 care may detain a person within such facility against their will. Any  
9 court order, other than an order issued in accordance with the  
10 involuntary treatment provisions of chapters 10.77, 71.05, and 72.23  
11 RCW, which purports to authorize such involuntary detention or  
12 purports to authorize a guardian or limited guardian to consent to  
13 such involuntary detention on behalf of an incapacitated person shall  
14 be void and of no force or effect. This section does not apply to the  
15 detention of a minor as provided in chapter (~~(70.96A or)~~) 71.34 RCW.

16 Nothing in this section shall be construed to require a court  
17 order authorizing placement of an incapacitated person in a  
18 residential treatment facility if such order is not otherwise  
19 required by law: PROVIDED, That notice of any residential placement  
20 of an incapacitated person shall be served, either before or after  
21 placement, by the guardian or limited guardian on such person, the  
22 guardian ad litem of record, and any attorney of record.

23 **Sec. 413.** RCW 43.185C.255 and 2015 c 69 s 12 are each amended to  
24 read as follows:

25 (1) The purpose of the multidisciplinary team is to assist in a  
26 coordinated referral of the family to available social and health-  
27 related services.

28 (2) The team shall have the authority to evaluate the juvenile,  
29 and family members, if appropriate and agreed to by the parent, and  
30 shall:

31 (a) With parental input, develop a plan of appropriate available  
32 services and assist the family in obtaining those services;

33 (b) Make a referral to the designated(~~(—chemical—dependency~~  
34 ~~specialist or the county designated mental health professional)~~)  
35 crisis responder, if appropriate;

36 (c) Recommend no further intervention because the juvenile and  
37 his or her family have resolved the problem causing the family  
38 conflict; or

1 (d) With the parent's consent, work with them to achieve  
2 reconciliation of the child and family.

3 (3) At the first meeting of the multidisciplinary team, it shall  
4 choose a member to coordinate the team's efforts. The parent member  
5 of the multidisciplinary team must agree with the choice of  
6 coordinator. The team shall meet or communicate as often as necessary  
7 to assist the family.

8 (4) The coordinator of the multidisciplinary team may assist in  
9 filing a child in need of services petition when requested by the  
10 parent or child or an at-risk youth petition when requested by the  
11 parent. The multidisciplinary team shall have no standing as a party  
12 in any action under this title.

13 (5) If the administrator is unable to contact the child's parent,  
14 the multidisciplinary team may be used for assistance. If the parent  
15 has not been contacted within five days the administrator shall  
16 contact the department of social and health services and request the  
17 case be reviewed for a dependency filing under chapter 13.34 RCW.

18 **Sec. 414.** RCW 18.83.110 and 2005 c 504 s 706 are each amended to  
19 read as follows:

20 Confidential communications between a client and a psychologist  
21 shall be privileged against compulsory disclosure to the same extent  
22 and subject to the same conditions as confidential communications  
23 between attorney and client, but this exception is subject to the  
24 limitations under RCW (~~((70.96A.140 and))~~) 71.05.360 (8) and (9).

25 **Sec. 415.** RCW 43.20A.025 and 1998 c 296 s 34 are each amended to  
26 read as follows:

27 The department of social and health services shall adopt rules  
28 defining "appropriately trained professional person" for the purposes  
29 of conducting mental health and chemical dependency evaluations under  
30 RCW (~~((71.34.052(3), 71.34.054(1), 70.96A.245(3), and 70.96A.250(1))~~)  
31 71.34.600(3) and 71.34.650(1)).

32 **Sec. 416.** RCW 70.02.010 and 2014 c 225 s 70 and 2014 c 220 s 4  
33 are each reenacted and amended to read as follows:

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

36 (1) "Admission" has the same meaning as in RCW 71.05.020.

1 (2) "Audit" means an assessment, evaluation, determination, or  
2 investigation of a health care provider by a person not employed by  
3 or affiliated with the provider to determine compliance with:

4 (a) Statutory, regulatory, fiscal, medical, or scientific  
5 standards;

6 (b) A private or public program of payments to a health care  
7 provider; or

8 (c) Requirements for licensing, accreditation, or certification.

9 (3) "Commitment" has the same meaning as in RCW 71.05.020.

10 (4) "Custody" has the same meaning as in RCW 71.05.020.

11 (5) "Deidentified" means health information that does not  
12 identify an individual and with respect to which there is no  
13 reasonable basis to believe that the information can be used to  
14 identify an individual.

15 (6) "Department" means the department of social and health  
16 services.

17 (7) "Designated (~~mental health professional~~) crisis responder"  
18 has the same meaning as in RCW 71.05.020 or 71.34.020, as applicable.

19 (8) "Detention" or "detain" has the same meaning as in RCW  
20 71.05.020.

21 (9) "Directory information" means information disclosing the  
22 presence, and for the purpose of identification, the name, location  
23 within a health care facility, and the general health condition of a  
24 particular patient who is a patient in a health care facility or who  
25 is currently receiving emergency health care in a health care  
26 facility.

27 (10) "Discharge" has the same meaning as in RCW 71.05.020.

28 (11) "Evaluation and treatment facility" has the same meaning as  
29 in RCW 71.05.020 or 71.34.020, as applicable.

30 (12) "Federal, state, or local law enforcement authorities" means  
31 an officer of any agency or authority in the United States, a state,  
32 a tribe, a territory, or a political subdivision of a state, a tribe,  
33 or a territory who is empowered by law to: (a) Investigate or conduct  
34 an official inquiry into a potential criminal violation of law; or  
35 (b) prosecute or otherwise conduct a criminal proceeding arising from  
36 an alleged violation of law.

37 (13) "General health condition" means the patient's health status  
38 described in terms of "critical," "poor," "fair," "good,"  
39 "excellent," or terms denoting similar conditions.

1 (14) "Health care" means any care, service, or procedure provided  
2 by a health care provider:

3 (a) To diagnose, treat, or maintain a patient's physical or  
4 mental condition; or

5 (b) That affects the structure or any function of the human body.

6 (15) "Health care facility" means a hospital, clinic, nursing  
7 home, laboratory, office, or similar place where a health care  
8 provider provides health care to patients.

9 (16) "Health care information" means any information, whether  
10 oral or recorded in any form or medium, that identifies or can  
11 readily be associated with the identity of a patient and directly  
12 relates to the patient's health care, including a patient's  
13 deoxyribonucleic acid and identified sequence of chemical base pairs.  
14 The term includes any required accounting of disclosures of health  
15 care information.

16 (17) "Health care operations" means any of the following  
17 activities of a health care provider, health care facility, or third-  
18 party payor to the extent that the activities are related to  
19 functions that make an entity a health care provider, a health care  
20 facility, or a third-party payor:

21 (a) Conducting: Quality assessment and improvement activities,  
22 including outcomes evaluation and development of clinical guidelines,  
23 if the obtaining of generalizable knowledge is not the primary  
24 purpose of any studies resulting from such activities; population-  
25 based activities relating to improving health or reducing health care  
26 costs, protocol development, case management and care coordination,  
27 contacting of health care providers and patients with information  
28 about treatment alternatives; and related functions that do not  
29 include treatment;

30 (b) Reviewing the competence or qualifications of health care  
31 professionals, evaluating practitioner and provider performance and  
32 third-party payor performance, conducting training programs in which  
33 students, trainees, or practitioners in areas of health care learn  
34 under supervision to practice or improve their skills as health care  
35 providers, training of nonhealth care professionals, accreditation,  
36 certification, licensing, or credentialing activities;

37 (c) Underwriting, premium rating, and other activities relating  
38 to the creation, renewal, or replacement of a contract of health  
39 insurance or health benefits, and ceding, securing, or placing a  
40 contract for reinsurance of risk relating to claims for health care,



1 including stop-loss insurance and excess of loss insurance, if any  
2 applicable legal requirements are met;

3 (d) Conducting or arranging for medical review, legal services,  
4 and auditing functions, including fraud and abuse detection and  
5 compliance programs;

6 (e) Business planning and development, such as conducting cost-  
7 management and planning-related analyses related to managing and  
8 operating the health care facility or third-party payor, including  
9 formulary development and administration, development, or improvement  
10 of methods of payment or coverage policies; and

11 (f) Business management and general administrative activities of  
12 the health care facility, health care provider, or third-party payor  
13 including, but not limited to:

14 (i) Management activities relating to implementation of and  
15 compliance with the requirements of this chapter;

16 (ii) Customer service, including the provision of data analyses  
17 for policy holders, plan sponsors, or other customers, provided that  
18 health care information is not disclosed to such policy holder, plan  
19 sponsor, or customer;

20 (iii) Resolution of internal grievances;

21 (iv) The sale, transfer, merger, or consolidation of all or part  
22 of a health care provider, health care facility, or third-party payor  
23 with another health care provider, health care facility, or third-  
24 party payor or an entity that following such activity will become a  
25 health care provider, health care facility, or third-party payor, and  
26 due diligence related to such activity; and

27 (v) Consistent with applicable legal requirements, creating  
28 deidentified health care information or a limited dataset for the  
29 benefit of the health care provider, health care facility, or third-  
30 party payor.

31 (18) "Health care provider" means a person who is licensed,  
32 certified, registered, or otherwise authorized by the law of this  
33 state to provide health care in the ordinary course of business or  
34 practice of a profession.

35 (19) "Human immunodeficiency virus" or "HIV" has the same meaning  
36 as in RCW 70.24.017.

37 (20) "Imminent" has the same meaning as in RCW 71.05.020.

38 (21) "Information and records related to mental health services"  
39 means a type of health care information that relates to all  
40 information and records compiled, obtained, or maintained in the

1 course of providing services by a mental health service agency or  
2 mental health professional to persons who are receiving or have  
3 received services for mental illness. The term includes mental health  
4 information contained in a medical bill, registration records, as  
5 defined in RCW 71.05.020, and all other records regarding the person  
6 maintained by the department, by regional support networks and their  
7 staff, and by treatment facilities. The term further includes  
8 documents of legal proceedings under chapter 71.05, 71.34, or 10.77  
9 RCW, or somatic health care information. For health care information  
10 maintained by a hospital as defined in RCW 70.41.020 or a health care  
11 facility or health care provider that participates with a hospital in  
12 an organized health care arrangement defined under federal law,  
13 "information and records related to mental health services" is  
14 limited to information and records of services provided by a mental  
15 health professional or information and records of services created by  
16 a hospital-operated (~~community mental~~) behavioral health program as  
17 defined in RCW 71.24.025(~~(+6)~~). The term does not include  
18 psychotherapy notes.

19 (22) "Information and records related to sexually transmitted  
20 diseases" means a type of health care information that relates to the  
21 identity of any person upon whom an HIV antibody test or other  
22 sexually transmitted infection test is performed, the results of such  
23 tests, and any information relating to diagnosis of or treatment for  
24 any confirmed sexually transmitted infections.

25 (23) "Institutional review board" means any board, committee, or  
26 other group formally designated by an institution, or authorized  
27 under federal or state law, to review, approve the initiation of, or  
28 conduct periodic review of research programs to assure the protection  
29 of the rights and welfare of human research subjects.

30 (24) "Legal counsel" has the same meaning as in RCW 71.05.020.

31 (25) "Local public health officer" has the same meaning as in RCW  
32 70.24.017.

33 (26) "Maintain," as related to health care information, means to  
34 hold, possess, preserve, retain, store, or control that information.

35 (27) "Mental health professional" means a psychiatrist,  
36 psychologist, psychiatric advanced registered nurse practitioner,  
37 psychiatric nurse, or social worker, and such other mental health  
38 professionals as may be defined by rules adopted by the secretary of  
39 social and health services under chapter 71.05 RCW, whether that  
40 person works in a private or public setting.

1 (28) "Mental health service agency" means a public or private  
2 agency that provides services to persons with mental disorders as  
3 defined under RCW 71.05.020 or 71.34.020 and receives funding from  
4 public sources. This includes evaluation and treatment facilities as  
5 defined in RCW 71.34.020, community mental health service delivery  
6 systems, or (~~community mental~~) behavioral health programs, as  
7 defined in RCW 71.24.025, and facilities conducting competency  
8 evaluations and restoration under chapter 10.77 RCW.

9 (29) "Minor" has the same meaning as in RCW 71.34.020.

10 (30) "Parent" has the same meaning as in RCW 71.34.020.

11 (31) "Patient" means an individual who receives or has received  
12 health care. The term includes a deceased individual who has received  
13 health care.

14 (32) "Payment" means:

15 (a) The activities undertaken by:

16 (i) A third-party payor to obtain premiums or to determine or  
17 fulfill its responsibility for coverage and provision of benefits by  
18 the third-party payor; or

19 (ii) A health care provider, health care facility, or third-party  
20 payor, to obtain or provide reimbursement for the provision of health  
21 care; and

22 (b) The activities in (a) of this subsection that relate to the  
23 patient to whom health care is provided and that include, but are not  
24 limited to:

25 (i) Determinations of eligibility or coverage, including  
26 coordination of benefits or the determination of cost-sharing  
27 amounts, and adjudication or subrogation of health benefit claims;

28 (ii) Risk adjusting amounts due based on enrollee health status  
29 and demographic characteristics;

30 (iii) Billing, claims management, collection activities,  
31 obtaining payment under a contract for reinsurance, including stop-  
32 loss insurance and excess of loss insurance, and related health care  
33 data processing;

34 (iv) Review of health care services with respect to medical  
35 necessity, coverage under a health plan, appropriateness of care, or  
36 justification of charges;

37 (v) Utilization review activities, including precertification and  
38 preauthorization of services, and concurrent and retrospective review  
39 of services; and

1 (vi) Disclosure to consumer reporting agencies of any of the  
2 following health care information relating to collection of premiums  
3 or reimbursement:

4 (A) Name and address;

5 (B) Date of birth;

6 (C) Social security number;

7 (D) Payment history;

8 (E) Account number; and

9 (F) Name and address of the health care provider, health care  
10 facility, and/or third-party payor.

11 (33) "Person" means an individual, corporation, business trust,  
12 estate, trust, partnership, association, joint venture, government,  
13 governmental subdivision or agency, or any other legal or commercial  
14 entity.

15 (34) "Professional person" has the same meaning as in RCW  
16 71.05.020.

17 (35) "Psychiatric advanced registered nurse practitioner" has the  
18 same meaning as in RCW 71.05.020.

19 (36) "Psychotherapy notes" means notes recorded, in any medium,  
20 by a mental health professional documenting or analyzing the contents  
21 of conversations during a private counseling session or group, joint,  
22 or family counseling session, and that are separated from the rest of  
23 the individual's medical record. The term excludes mediation  
24 prescription and monitoring, counseling session start and stop times,  
25 the modalities and frequencies of treatment furnished, results of  
26 clinical tests, and any summary of the following items: Diagnosis,  
27 functional status, the treatment plan, symptoms, prognosis, and  
28 progress to date.

29 (37) "Reasonable fee" means the charges for duplicating or  
30 searching the record, but shall not exceed sixty-five cents per page  
31 for the first thirty pages and fifty cents per page for all other  
32 pages. In addition, a clerical fee for searching and handling may be  
33 charged not to exceed fifteen dollars. These amounts shall be  
34 adjusted biennially in accordance with changes in the consumer price  
35 index, all consumers, for Seattle-Tacoma metropolitan statistical  
36 area as determined by the secretary of health. However, where editing  
37 of records by a health care provider is required by statute and is  
38 done by the provider personally, the fee may be the usual and  
39 customary charge for a basic office visit.

40 (38) "Release" has the same meaning as in RCW 71.05.020.

1 (39) "Resource management services" has the same meaning as in  
2 RCW 71.05.020.

3 (40) "Serious violent offense" has the same meaning as in RCW  
4 71.05.020.

5 (41) "Sexually transmitted infection" or "sexually transmitted  
6 disease" has the same meaning as "sexually transmitted disease" in  
7 RCW 70.24.017.

8 (42) "Test for a sexually transmitted disease" has the same  
9 meaning as in RCW 70.24.017.

10 (43) "Third-party payor" means an insurer regulated under Title  
11 48 RCW authorized to transact business in this state or other  
12 jurisdiction, including a health care service contractor, and health  
13 maintenance organization; or an employee welfare benefit plan,  
14 excluding fitness or wellness plans; or a state or federal health  
15 benefit program.

16 (44) "Treatment" means the provision, coordination, or management  
17 of health care and related services by one or more health care  
18 providers or health care facilities, including the coordination or  
19 management of health care by a health care provider or health care  
20 facility with a third party; consultation between health care  
21 providers or health care facilities relating to a patient; or the  
22 referral of a patient for health care from one health care provider  
23 or health care facility to another.

24 **Sec. 417.** RCW 70.02.230 and 2014 c 225 s 71 and 2014 c 220 s 9  
25 are each reenacted and amended to read as follows:

26 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,  
27 (~~(70.96A.150,)~~) 74.09.295, 70.02.210, 70.02.240, 70.02.250, and  
28 70.02.260, or pursuant to a valid authorization under RCW 70.02.030,  
29 the fact of admission to a provider for mental health services and  
30 all information and records compiled, obtained, or maintained in the  
31 course of providing mental health services to either voluntary or  
32 involuntary recipients of services at public or private agencies must  
33 be confidential.

34 (2) Information and records related to mental health services,  
35 other than those obtained through treatment under chapter 71.34 RCW,  
36 may be disclosed only:

37 (a) In communications between qualified professional persons to  
38 meet the requirements of chapter 71.05 RCW, in the provision of

1 services or appropriate referrals, or in the course of guardianship  
2 proceedings if provided to a professional person:

3 (i) Employed by the facility;

4 (ii) Who has medical responsibility for the patient's care;

5 (iii) Who is a designated (~~mental health professional~~) crisis  
6 responder;

7 (iv) Who is providing services under chapter 71.24 RCW;

8 (v) Who is employed by a state or local correctional facility  
9 where the person is confined or supervised; or

10 (vi) Who is providing evaluation, treatment, or follow-up  
11 services under chapter 10.77 RCW;

12 (b) When the communications regard the special needs of a patient  
13 and the necessary circumstances giving rise to such needs and the  
14 disclosure is made by a facility providing services to the operator  
15 of a facility in which the patient resides or will reside;

16 (c)(i) When the person receiving services, or his or her  
17 guardian, designates persons to whom information or records may be  
18 released, or if the person is a minor, when his or her parents make  
19 such a designation;

20 (ii) A public or private agency shall release to a person's next  
21 of kin, attorney, personal representative, guardian, or conservator,  
22 if any:

23 (A) The information that the person is presently a patient in the  
24 facility or that the person is seriously physically ill;

25 (B) A statement evaluating the mental and physical condition of  
26 the patient, and a statement of the probable duration of the  
27 patient's confinement, if such information is requested by the next  
28 of kin, attorney, personal representative, guardian, or conservator;  
29 and

30 (iii) Other information requested by the next of kin or attorney  
31 as may be necessary to decide whether or not proceedings should be  
32 instituted to appoint a guardian or conservator;

33 (d)(i) To the courts as necessary to the administration of  
34 chapter 71.05 RCW or to a court ordering an evaluation or treatment  
35 under chapter 10.77 RCW solely for the purpose of preventing the  
36 entry of any evaluation or treatment order that is inconsistent with  
37 any order entered under chapter 71.05 RCW.

38 (ii) To a court or its designee in which a motion under chapter  
39 10.77 RCW has been made for involuntary medication of a defendant for  
40 the purpose of competency restoration.

1 (iii) Disclosure under this subsection is mandatory for the  
2 purpose of the federal health insurance portability and  
3 accountability act;

4 (e)(i) When a mental health professional or designated crisis  
5 responder is requested by a representative of a law enforcement or  
6 corrections agency, including a police officer, sheriff, community  
7 corrections officer, a municipal attorney, or prosecuting attorney to  
8 undertake an investigation or provide treatment under RCW 71.05.150,  
9 10.31.110, or 71.05.153, the mental health professional or designated  
10 crisis responder shall, if requested to do so, advise the  
11 representative in writing of the results of the investigation  
12 including a statement of reasons for the decision to detain or  
13 release the person investigated. The written report must be submitted  
14 within seventy-two hours of the completion of the investigation or  
15 the request from the law enforcement or corrections representative,  
16 whichever occurs later.

17 (ii) Disclosure under this subsection is mandatory for the  
18 purposes of the federal health insurance portability and  
19 accountability act;

20 (f) To the attorney of the detained person;

21 (g) To the prosecuting attorney as necessary to carry out the  
22 responsibilities of the office under RCW 71.05.330(2),  
23 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided  
24 access to records regarding the committed person's treatment and  
25 prognosis, medication, behavior problems, and other records relevant  
26 to the issue of whether treatment less restrictive than inpatient  
27 treatment is in the best interest of the committed person or others.  
28 Information must be disclosed only after giving notice to the  
29 committed person and the person's counsel;

30 (h)(i) To appropriate law enforcement agencies and to a person,  
31 when the identity of the person is known to the public or private  
32 agency, whose health and safety has been threatened, or who is known  
33 to have been repeatedly harassed, by the patient. The person may  
34 designate a representative to receive the disclosure. The disclosure  
35 must be made by the professional person in charge of the public or  
36 private agency or his or her designee and must include the dates of  
37 commitment, admission, discharge, or release, authorized or  
38 unauthorized absence from the agency's facility, and only any other  
39 information that is pertinent to the threat or harassment. The agency  
40 or its employees are not civilly liable for the decision to disclose

1 or not, so long as the decision was reached in good faith and without  
2 gross negligence.

3 (ii) Disclosure under this subsection is mandatory for the  
4 purposes of the federal health insurance portability and  
5 accountability act;

6 (i)(i) To appropriate corrections and law enforcement agencies  
7 all necessary and relevant information in the event of a crisis or  
8 emergent situation that poses a significant and imminent risk to the  
9 public. The mental health service agency or its employees are not  
10 civilly liable for the decision to disclose or not so long as the  
11 decision was reached in good faith and without gross negligence.

12 (ii) Disclosure under this subsection is mandatory for the  
13 purposes of the health insurance portability and accountability act;

14 (j) To the persons designated in RCW 71.05.425 for the purposes  
15 described in those sections;

16 (k) Upon the death of a person. The person's next of kin,  
17 personal representative, guardian, or conservator, if any, must be  
18 notified. Next of kin who are of legal age and competent must be  
19 notified under this section in the following order: Spouse, parents,  
20 children, brothers and sisters, and other relatives according to the  
21 degree of relation. Access to all records and information compiled,  
22 obtained, or maintained in the course of providing services to a  
23 deceased patient are governed by RCW 70.02.140;

24 (l) To mark headstones or otherwise memorialize patients interred  
25 at state hospital cemeteries. The department of social and health  
26 services shall make available the name, date of birth, and date of  
27 death of patients buried in state hospital cemeteries fifty years  
28 after the death of a patient;

29 (m) To law enforcement officers and to prosecuting attorneys as  
30 are necessary to enforce RCW 9.41.040(2)(a)(~~(ii)~~) (iii). The extent  
31 of information that may be released is limited as follows:

32 (i) Only the fact, place, and date of involuntary commitment, an  
33 official copy of any order or orders of commitment, and an official  
34 copy of any written or oral notice of ineligibility to possess a  
35 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
36 must be disclosed upon request;

37 (ii) The law enforcement and prosecuting attorneys may only  
38 release the information obtained to the person's attorney as required  
39 by court rule and to a jury or judge, if a jury is waived, that



1 presides over any trial at which the person is charged with violating  
2 RCW 9.41.040(2)(a)((~~ii~~)) (iii);

3 (iii) Disclosure under this subsection is mandatory for the  
4 purposes of the federal health insurance portability and  
5 accountability act;

6 (n) When a patient would otherwise be subject to the provisions  
7 of this section and disclosure is necessary for the protection of the  
8 patient or others due to his or her unauthorized disappearance from  
9 the facility, and his or her whereabouts is unknown, notice of the  
10 disappearance, along with relevant information, may be made to  
11 relatives, the department of corrections when the person is under the  
12 supervision of the department, and governmental law enforcement  
13 agencies designated by the physician or psychiatric advanced  
14 registered nurse practitioner in charge of the patient or the  
15 professional person in charge of the facility, or his or her  
16 professional designee;

17 (o) Pursuant to lawful order of a court;

18 (p) To qualified staff members of the department, to the director  
19 of behavioral health organizations, to resource management services  
20 responsible for serving a patient, or to service providers designated  
21 by resource management services as necessary to determine the  
22 progress and adequacy of treatment and to determine whether the  
23 person should be transferred to a less restrictive or more  
24 appropriate treatment modality or facility;

25 (q) Within the mental health service agency where the patient is  
26 receiving treatment, confidential information may be disclosed to  
27 persons employed, serving in bona fide training programs, or  
28 participating in supervised volunteer programs, at the facility when  
29 it is necessary to perform their duties;

30 (r) Within the department as necessary to coordinate treatment  
31 for mental illness, developmental disabilities, alcoholism, or drug  
32 abuse of persons who are under the supervision of the department;

33 (s) To a licensed physician or psychiatric advanced registered  
34 nurse practitioner who has determined that the life or health of the  
35 person is in danger and that treatment without the information and  
36 records related to mental health services could be injurious to the  
37 patient's health. Disclosure must be limited to the portions of the  
38 records necessary to meet the medical emergency;

39 (t) Consistent with the requirements of the federal health  
40 information portability and accountability act, to a licensed mental

1 health professional or a health care professional licensed under  
2 chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is  
3 providing care to a person, or to whom a person has been referred for  
4 evaluation or treatment, to assure coordinated care and treatment of  
5 that person. Psychotherapy notes may not be released without  
6 authorization of the person who is the subject of the request for  
7 release of information;

8 (u) To administrative and office support staff designated to  
9 obtain medical records for those licensed professionals listed in (t)  
10 of this subsection;

11 (v) To a facility that is to receive a person who is  
12 involuntarily committed under chapter 71.05 RCW, or upon transfer of  
13 the person from one evaluation and treatment facility to another. The  
14 release of records under this subsection is limited to the  
15 information and records related to mental health services required by  
16 law, a record or summary of all somatic treatments, and a discharge  
17 summary. The discharge summary may include a statement of the  
18 patient's problem, the treatment goals, the type of treatment which  
19 has been provided, and recommendation for future treatment, but may  
20 not include the patient's complete treatment record;

21 (w) To the person's counsel or guardian ad litem, without  
22 modification, at any time in order to prepare for involuntary  
23 commitment or recommitment proceedings, reexaminations, appeals, or  
24 other actions relating to detention, admission, commitment, or  
25 patient's rights under chapter 71.05 RCW;

26 (x) To staff members of the protection and advocacy agency or to  
27 staff members of a private, nonprofit corporation for the purpose of  
28 protecting and advocating the rights of persons with mental disorders  
29 or developmental disabilities. Resource management services may limit  
30 the release of information to the name, birthdate, and county of  
31 residence of the patient, information regarding whether the patient  
32 was voluntarily admitted, or involuntarily committed, the date and  
33 place of admission, placement, or commitment, the name and address of  
34 a guardian of the patient, and the date and place of the guardian's  
35 appointment. Any staff member who wishes to obtain additional  
36 information must notify the patient's resource management services in  
37 writing of the request and of the resource management services' right  
38 to object. The staff member shall send the notice by mail to the  
39 guardian's address. If the guardian does not object in writing within  
40 fifteen days after the notice is mailed, the staff member may obtain

1 the additional information. If the guardian objects in writing within  
2 fifteen days after the notice is mailed, the staff member may not  
3 obtain the additional information;

4 (y) To all current treating providers of the patient with  
5 prescriptive authority who have written a prescription for the  
6 patient within the last twelve months. For purposes of coordinating  
7 health care, the department may release without written authorization  
8 of the patient, information acquired for billing and collection  
9 purposes as described in RCW 70.02.050(1)(d). The department shall  
10 notify the patient that billing and collection information has been  
11 released to named providers, and provide the substance of the  
12 information released and the dates of such release. The department  
13 may not release counseling, inpatient psychiatric hospitalization, or  
14 drug and alcohol treatment information without a signed written  
15 release from the client;

16 (z)(i) To the secretary of social and health services for either  
17 program evaluation or research, or both so long as the secretary  
18 adopts rules for the conduct of the evaluation or research, or both.  
19 Such rules must include, but need not be limited to, the requirement  
20 that all evaluators and researchers sign an oath of confidentiality  
21 substantially as follows:

22 "As a condition of conducting evaluation or research concerning  
23 persons who have received services from (fill in the facility,  
24 agency, or person) I, . . . . ., agree not to divulge, publish, or  
25 otherwise make known to unauthorized persons or the public any  
26 information obtained in the course of such evaluation or research  
27 regarding persons who have received services such that the person who  
28 received such services is identifiable.

29 I recognize that unauthorized release of confidential information  
30 may subject me to civil liability under the provisions of state law.

31 /s/ . . . . ."

32 (ii) Nothing in this chapter may be construed to prohibit the  
33 compilation and publication of statistical data for use by government  
34 or researchers under standards, including standards to assure  
35 maintenance of confidentiality, set forth by the secretary.

36 (3) Whenever federal law or federal regulations restrict the  
37 release of information contained in the information and records  
38 related to mental health services of any patient who receives  
39 treatment for chemical dependency, the department may restrict the

1 release of the information as necessary to comply with federal law  
2 and regulations.

3 (4) Civil liability and immunity for the release of information  
4 about a particular person who is committed to the department of  
5 social and health services under RCW 71.05.280(3) and  
6 71.05.320(~~(+3)~~) (4)(c) after dismissal of a sex offense as defined  
7 in RCW 9.94A.030, is governed by RCW 4.24.550.

8 (5) The fact of admission to a provider of mental health  
9 services, as well as all records, files, evidence, findings, or  
10 orders made, prepared, collected, or maintained pursuant to chapter  
11 71.05 RCW are not admissible as evidence in any legal proceeding  
12 outside that chapter without the written authorization of the person  
13 who was the subject of the proceeding except as provided in RCW  
14 70.02.260, in a subsequent criminal prosecution of a person committed  
15 pursuant to RCW 71.05.280(3) or 71.05.320(~~(+3)~~) (4)(c) on charges  
16 that were dismissed pursuant to chapter 10.77 RCW due to incompetency  
17 to stand trial, in a civil commitment proceeding pursuant to chapter  
18 71.09 RCW, or, in the case of a minor, a guardianship or dependency  
19 proceeding. The records and files maintained in any court proceeding  
20 pursuant to chapter 71.05 RCW must be confidential and available  
21 subsequent to such proceedings only to the person who was the subject  
22 of the proceeding or his or her attorney. In addition, the court may  
23 order the subsequent release or use of such records or files only  
24 upon good cause shown if the court finds that appropriate safeguards  
25 for strict confidentiality are and will be maintained.

26 (6)(a) Except as provided in RCW 4.24.550, any person may bring  
27 an action against an individual who has willfully released  
28 confidential information or records concerning him or her in  
29 violation of the provisions of this section, for the greater of the  
30 following amounts:

31 (i) One thousand dollars; or

32 (ii) Three times the amount of actual damages sustained, if any.

33 (b) It is not a prerequisite to recovery under this subsection  
34 that the plaintiff suffered or was threatened with special, as  
35 contrasted with general, damages.

36 (c) Any person may bring an action to enjoin the release of  
37 confidential information or records concerning him or her or his or  
38 her ward, in violation of the provisions of this section, and may in  
39 the same action seek damages as provided in this subsection.

1 (d) The court may award to the plaintiff, should he or she  
2 prevail in any action authorized by this subsection, reasonable  
3 attorney fees in addition to those otherwise provided by law.

4 (e) If an action is brought under this subsection, no action may  
5 be brought under RCW 70.02.170.

6 **Sec. 418.** RCW 70.48.475 and 2004 c 166 s 14 are each amended to  
7 read as follows:

8 (1) A person having charge of a jail, or that person's designee,  
9 shall notify the (~~county designated mental health professional or~~  
10 ~~the designated chemical dependency specialist~~) designated crisis  
11 responder seventy-two hours prior to the release to the community of  
12 an offender or defendant who was subject to a discharge review under  
13 RCW 71.05.232. If the person having charge of the jail does not  
14 receive seventy-two hours notice of the release, the notification to  
15 the (~~county designated mental health professional or the designated~~  
16 ~~chemical dependency specialist~~) designated crisis responder shall be  
17 made as soon as reasonably possible, but not later than the actual  
18 release to the community of the defendant or offender.

19 (2) When a person having charge of a jail, or that person's  
20 designee, releases an offender or defendant who was the subject of a  
21 discharge review under RCW 71.05.232, the person having charge of a  
22 jail, or that person's designee, shall notify the state hospital from  
23 which the offender or defendant was released.

24 **Sec. 419.** RCW 70.97.010 and 2014 c 225 s 78 are each amended to  
25 read as follows:

26 The definitions in this section apply throughout this chapter  
27 unless the context clearly requires otherwise.

28 (1) "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 (2) "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 (3) "Chemical dependency" means alcoholism, drug addiction, or  
36 dependence on alcohol and one or more other psychoactive chemicals,  
37 as the context requires and as those terms are defined in chapter  
38 (~~(70.96A)~~) 71.05 RCW.

1 (4) "Chemical dependency professional" means a person certified  
2 as a chemical dependency professional by the department of health  
3 under chapter 18.205 RCW.

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

7 (6) "Conditional release" means a modification of a commitment  
8 that may be revoked upon violation of any of its terms.

9 (7) "Custody" means involuntary detention under chapter 71.05  
10 (~~or 70.96A~~) RCW, uninterrupted by any period of unconditional  
11 release from commitment from a facility providing involuntary care  
12 and treatment.

13 (8) "Department" means the department of social and health  
14 services.

15 (9) "Designated crisis responder" (~~means a designated mental~~  
16 ~~health professional, a designated chemical dependency specialist, or~~  
17 ~~a designated crisis responder as those terms are defined in chapter~~  
18 ~~70.96A, 71.05, or 70.96B RCW~~) has the same meaning as in chapter  
19 71.05 RCW.

20 (10) "Detention" or "detain" means the lawful confinement of an  
21 individual under chapter (~~70.96A or~~) 71.05 RCW.

22 (11) "Discharge" means the termination of facility authority. The  
23 commitment may remain in place, be terminated, or be amended by court  
24 order.

25 (12) "Enhanced services facility" means a facility that provides  
26 treatment and services to persons for whom acute inpatient treatment  
27 is not medically necessary and who have been determined by the  
28 department to be inappropriate for placement in other licensed  
29 facilities due to the complex needs that result in behavioral and  
30 security issues.

31 (13) "Expanded community services program" means a nonsecure  
32 program of enhanced behavioral and residential support provided to  
33 long-term and residential care providers serving specifically  
34 eligible clients who would otherwise be at risk for hospitalization  
35 at state hospital geriatric units.

36 (14) "Facility" means an enhanced services facility.

37 (15) "Gravely disabled" means a condition in which an individual,  
38 as a result of a mental disorder, as a result of the use of alcohol  
39 or other psychoactive chemicals, or both:

1 (a) Is in danger of serious physical harm resulting from a  
2 failure to provide for his or her essential human needs of health or  
3 safety; or

4 (b) Manifests severe deterioration in routine functioning  
5 evidenced by repeated and escalating loss of cognitive or volitional  
6 control over his or her actions and is not receiving such care as is  
7 essential for his or her health or safety.

8 (16) "History of one or more violent acts" refers to the period  
9 of time ten years before the filing of a petition under this  
10 chapter((~~7~~)) or chapter ((~~70.96A-01~~)) 71.05 RCW, excluding any time  
11 spent, but not any violent acts committed, in a mental health  
12 facility or a long-term alcoholism or drug treatment facility, or in  
13 confinement as a result of a criminal conviction.

14 (17) "Licensed physician" means a person licensed to practice  
15 medicine or osteopathic medicine and surgery in the state of  
16 Washington.

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

18 (a) A substantial risk that:

19 (i) Physical harm will be inflicted by an individual upon his or  
20 her own person, as evidenced by threats or attempts to commit suicide  
21 or inflict physical harm on oneself;

22 (ii) Physical harm will be inflicted by an individual upon  
23 another, as evidenced by behavior that has caused such harm or that  
24 places another person or persons in reasonable fear of sustaining  
25 such harm; or

26 (iii) Physical harm will be inflicted by an individual upon the  
27 property of others, as evidenced by behavior that has caused  
28 substantial loss or damage to the property of others; or

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

31 (19) "Mental disorder" means any organic, mental, or emotional  
32 impairment that has substantial adverse effects on an individual's  
33 cognitive or volitional functions.

34 (20) "Mental health professional" means a psychiatrist,  
35 psychologist, psychiatric nurse, or social worker, and such other  
36 mental health professionals as may be defined by rules adopted by the  
37 secretary under the authority of chapter 71.05 RCW.

38 (21) "Professional person" means a mental health professional and  
39 also means a physician, registered nurse, and such others as may be

1 defined in rules adopted by the secretary pursuant to the provisions  
2 of this chapter.

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

9 (23) "Psychologist" means a person who has been licensed as a  
10 psychologist under chapter 18.83 RCW.

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

17 (25) "Release" means legal termination of the commitment under  
18 chapter ((70.96A or)) 71.05 RCW.

19 (26) "Resident" means a person admitted to an enhanced services  
20 facility.

21 (27) "Secretary" means the secretary of the department or the  
22 secretary's designee.

23 (28) "Significant change" means:

24 (a) A deterioration in a resident's physical, mental, or  
25 psychosocial condition that has caused or is likely to cause clinical  
26 complications or life-threatening conditions; or

27 (b) An improvement in the resident's physical, mental, or  
28 psychosocial condition that may make the resident eligible for  
29 release or for treatment in a less intensive or less secure setting.

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

33 (30) "Treatment" means the broad range of emergency,  
34 detoxification, residential, inpatient, and outpatient services and  
35 care, including diagnostic evaluation, mental health or chemical  
36 dependency education and counseling, medical, psychiatric,  
37 psychological, and social service care, vocational rehabilitation,  
38 and career counseling, which may be extended to persons with mental  
39 disorders, chemical dependency disorders, or both, and their  
40 families.



1 (31) "Treatment records" include registration and all other  
2 records concerning individuals who are receiving or who at any time  
3 have received services for mental illness, which are maintained by  
4 the department, by behavioral health organizations and their staffs,  
5 and by treatment facilities. "Treatment records" do not include notes  
6 or records maintained for personal use by an individual providing  
7 treatment services for the department, behavioral health  
8 organizations, or a treatment facility if the notes or records are  
9 not available to others.

10 (32) "Violent act" means behavior that resulted in homicide,  
11 attempted suicide, nonfatal injuries, or substantial damage to  
12 property.

13 **Sec. 420.** RCW 71.05.660 and 2013 c 200 s 21 are each amended to  
14 read as follows:

15 Nothing in this chapter or chapter 70.02(~~(, 70.96A, )~~) or 71.34(~~(, 70.96B)~~)  
16 ~~or 70.96B~~) RCW shall be construed to interfere with communications  
17 between physicians, psychiatric advanced registered nurse  
18 practitioners, or psychologists and patients and attorneys and  
19 clients.

20 **Sec. 421.** RCW 71.24.045 and 2014 c 225 s 13 are each amended to  
21 read as follows:

22 The behavioral health organization shall:

23 (1) Contract as needed with licensed service providers. The  
24 behavioral health organization may, in the absence of a licensed  
25 service provider entity, become a licensed service provider entity  
26 pursuant to minimum standards required for licensing by the  
27 department for the purpose of providing services not available from  
28 licensed service providers;

29 (2) Operate as a licensed service provider if it deems that doing  
30 so is more efficient and cost effective than contracting for  
31 services. When doing so, the behavioral health organization shall  
32 comply with rules promulgated by the secretary that shall provide  
33 measurements to determine when a behavioral health organization  
34 provided service is more efficient and cost effective;

35 (3) Monitor and perform biennial fiscal audits of licensed  
36 service providers who have contracted with the behavioral health  
37 organization to provide services required by this chapter. The  
38 monitoring and audits shall be performed by means of a formal process

1 which insures that the licensed service providers and professionals  
2 designated in this subsection meet the terms of their contracts;

3 (4) Establish reasonable limitations on administrative costs for  
4 agencies that contract with the behavioral health organization;

5 (5) Assure that the special needs of minorities, older adults,  
6 individuals with disabilities, children, and low-income persons are  
7 met within the priorities established in this chapter;

8 (6) Maintain patient tracking information in a central location  
9 as required for resource management services and the department's  
10 information system;

11 (7) Collaborate to ensure that policies do not result in an  
12 adverse shift of persons with mental illness into state and local  
13 correctional facilities;

14 (8) Work with the department to expedite the enrollment or  
15 reenrollment of eligible persons leaving state or local correctional  
16 facilities and institutions for mental diseases;

17 (9) Work closely with the (~~county designated mental health~~  
18 ~~professional or county~~) designated crisis responder to maximize  
19 appropriate placement of persons into community services; and

20 (10) Coordinate services for individuals who have received  
21 services through the community mental health system and who become  
22 patients at a state psychiatric hospital to ensure they are  
23 transitioned into the community in accordance with mutually agreed  
24 upon discharge plans and upon determination by the medical director  
25 of the state psychiatric hospital that they no longer need intensive  
26 inpatient care.

27 **Sec. 422.** RCW 71.24.330 and 2015 c 250 s 19 are each amended to  
28 read as follows:

29 (1)(a) Contracts between a behavioral health organization and the  
30 department shall include mechanisms for monitoring performance under  
31 the contract and remedies for failure to substantially comply with  
32 the requirements of the contract including, but not limited to,  
33 financial penalties, termination of the contract, and reprocurement  
34 of the contract.

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

38 (2) The behavioral health organization procurement processes  
39 shall encourage the preservation of infrastructure previously

1 purchased by the community mental health service delivery system, the  
2 maintenance of linkages between other services and delivery systems,  
3 and maximization of the use of available funds for services versus  
4 profits. However, a behavioral health organization selected through  
5 the procurement process is not required to contract for services with  
6 any county-owned or operated facility. The behavioral health  
7 organization procurement process shall provide that public funds  
8 appropriated by the legislature shall not be used to promote or  
9 deter, encourage, or discourage employees from exercising their  
10 rights under Title 29, chapter 7, subchapter II, United States Code  
11 or chapter 41.56 RCW.

12 (3) In addition to the requirements of RCW 71.24.035, contracts  
13 shall:

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

17 (b) Require effective collaboration with law enforcement,  
18 criminal justice agencies, and the chemical dependency treatment  
19 system;

20 (c) Require substantial implementation of department adopted  
21 integrated screening and assessment process and matrix of best  
22 practices;

23 (d) Maintain the decision-making independence of designated  
24 (~~(mental health professionals)~~) crisis responders;

25 (e) Except at the discretion of the secretary or as specified in  
26 the biennial budget, require behavioral health organizations to pay  
27 the state for the costs associated with individuals who are being  
28 served on the grounds of the state hospitals and who are not  
29 receiving long-term inpatient care as defined in RCW 71.24.025;

30 (f) Include a negotiated alternative dispute resolution clause;

31 (g) Include a provision requiring either party to provide one  
32 hundred eighty days' notice of any issue that may cause either party  
33 to voluntarily terminate, refuse to renew, or refuse to sign a  
34 mandatory amendment to the contract to act as a behavioral health  
35 organization. If either party decides to voluntarily terminate,  
36 refuse to renew, or refuse to sign a mandatory amendment to the  
37 contract to serve as a behavioral health organization they shall  
38 provide ninety days' advance notice in writing to the other party;

39 (h) Require behavioral health organizations to provide services  
40 as identified in RCW 71.05.585 to individuals committed for

1 involuntary commitment under less restrictive alternative court  
2 orders when:

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

5 (ii) The individual is not enrolled in medicaid, does not have  
6 other insurance which can pay for the services, and the behavioral  
7 health organization has adequate available resources to provide the  
8 services; and

9 (i) Establish caseload guidelines for care coordinators who  
10 supervise less restrictive alternative orders and guidelines for  
11 response times during and immediately following periods of  
12 hospitalization or incarceration.

13 **Sec. 423.** RCW 71.32.080 and 2006 c 108 s 5 are each amended to  
14 read as follows:

15 (1)(a) A principal with capacity may, by written statement by the  
16 principal or at the principal's direction in the principal's  
17 presence, revoke a directive in whole or in part.

18 (b) An incapacitated principal may revoke a directive only if he  
19 or she elected at the time of executing the directive to be able to  
20 revoke when incapacitated.

21 (2) The revocation need not follow any specific form so long as  
22 it is written and the intent of the principal can be discerned. In  
23 the case of a directive that is stored in the health care  
24 declarations registry created by RCW 70.122.130, the revocation may  
25 be by an online method established by the department of health.  
26 Failure to use the online method of revocation for a directive that  
27 is stored in the registry does not invalidate a revocation that is  
28 made by another method described under this section.

29 (3) The principal shall provide a copy of his or her written  
30 statement of revocation to his or her agent, if any, and to each  
31 health care provider, professional person, or health care facility  
32 that received a copy of the directive from the principal.

33 (4) The written statement of revocation is effective:

34 (a) As to a health care provider, professional person, or health  
35 care facility, upon receipt. The professional person, health care  
36 provider, or health care facility, or persons acting under their  
37 direction shall make the statement of revocation part of the  
38 principal's medical record; and

1 (b) As to the principal's agent, upon receipt. The principal's  
2 agent shall notify the principal's health care provider, professional  
3 person, or health care facility of the revocation and provide them  
4 with a copy of the written statement of revocation.

5 (5) A directive also may:

6 (a) Be revoked, in whole or in part, expressly or to the extent  
7 of any inconsistency, by a subsequent directive; or

8 (b) Be superseded or revoked by a court order, including any  
9 order entered in a criminal matter. A directive may be superseded by  
10 a court order regardless of whether the order contains an explicit  
11 reference to the directive. To the extent a directive is not in  
12 conflict with a court order, the directive remains effective, subject  
13 to the provisions of RCW 71.32.150. A directive shall not be  
14 interpreted in a manner that interferes with: (i) Incarceration or  
15 detention by the department of corrections, in a city or county jail,  
16 or by the department of social and health services; or (ii) treatment  
17 of a principal who is subject to involuntary treatment pursuant to  
18 chapter 10.77, (~~(70.96A,)~~) 71.05, 71.09, or 71.34 RCW.

19 (6) A directive that would have otherwise expired but is  
20 effective because the principal is incapacitated remains effective  
21 until the principal is no longer incapacitated unless the principal  
22 has elected to be able to revoke while incapacitated and has revoked  
23 the directive.

24 (7) When a principal with capacity consents to treatment that  
25 differs from, or refuses treatment consented to in, the provisions of  
26 his or her directive, the consent or refusal constitutes a waiver of  
27 that provision and does not constitute a revocation of the provision  
28 or directive unless the principal also revokes the directive or  
29 provision.

30 **Sec. 424.** RCW 71.32.140 and 2009 c 217 s 12 are each amended to  
31 read as follows:

32 (1) A principal who:

33 (a) Chose not to be able to revoke his or her directive during  
34 any period of incapacity;

35 (b) Consented to voluntary admission to inpatient mental health  
36 treatment, or authorized an agent to consent on the principal's  
37 behalf; and

38 (c) At the time of admission to inpatient treatment, refuses to  
39 be admitted,

1 may only be admitted into inpatient mental health treatment under  
2 subsection (2) of this section.

3 (2) A principal may only be admitted to inpatient mental health  
4 treatment under his or her directive if, prior to admission, a member  
5 of the treating facility's professional staff who is a physician or  
6 psychiatric advanced registered nurse practitioner:

7 (a) Evaluates the principal's mental condition, including a  
8 review of reasonably available psychiatric and psychological history,  
9 diagnosis, and treatment needs, and determines, in conjunction with  
10 another health care provider or mental health professional, that the  
11 principal is incapacitated;

12 (b) Obtains the informed consent of the agent, if any, designated  
13 in the directive;

14 (c) Makes a written determination that the principal needs an  
15 inpatient evaluation or is in need of inpatient treatment and that  
16 the evaluation or treatment cannot be accomplished in a less  
17 restrictive setting; and

18 (d) Documents in the principal's medical record a summary of the  
19 physician's or psychiatric advanced registered nurse practitioner's  
20 findings and recommendations for treatment or evaluation.

21 (3) In the event the admitting physician is not a psychiatrist,  
22 or the advanced registered nurse practitioner is not a psychiatric  
23 advanced registered nurse practitioner, the principal shall receive a  
24 complete psychological assessment by a mental health professional  
25 within twenty-four hours of admission to determine the continued need  
26 for inpatient evaluation or treatment.

27 (4)(a) If it is determined that the principal has capacity, then  
28 the principal may only be admitted to, or remain in, inpatient  
29 treatment if he or she consents at the time or is detained under the  
30 involuntary treatment provisions of chapter ((70.96A,)) 71.05((7)) or  
31 71.34 RCW.

32 (b) If a principal who is determined by two health care providers  
33 or one mental health professional and one health care provider to be  
34 incapacitated continues to refuse inpatient treatment, the principal  
35 may immediately seek injunctive relief for release from the facility.

36 (5) If, at the end of the period of time that the principal or  
37 the principal's agent, if any, has consented to voluntary inpatient  
38 treatment, but no more than fourteen days after admission, the  
39 principal has not regained capacity or has regained capacity but  
40 refuses to consent to remain for additional treatment, the principal

1 must be released during reasonable daylight hours, unless detained  
2 under chapter ((70.96A,)) 71.05((7)) or 71.34 RCW.

3 (6)(a) Except as provided in (b) of this subsection, any  
4 principal who is voluntarily admitted to inpatient mental health  
5 treatment under this chapter shall have all the rights provided to  
6 individuals who are voluntarily admitted to inpatient treatment under  
7 chapter 71.05, 71.34, or 72.23 RCW.

8 (b) Notwithstanding RCW 71.05.050 regarding consent to inpatient  
9 treatment for a specified length of time, the choices an  
10 incapacitated principal expressed in his or her directive shall  
11 control, provided, however, that a principal who takes action  
12 demonstrating a desire to be discharged, in addition to making  
13 statements requesting to be discharged, shall be discharged, and no  
14 principal shall be restrained in any way in order to prevent his or  
15 her discharge. Nothing in this subsection shall be construed to  
16 prevent detention and evaluation for civil commitment under chapter  
17 71.05 RCW.

18 (7) Consent to inpatient admission in a directive is effective  
19 only while the professional person, health care provider, and health  
20 care facility are in substantial compliance with the material  
21 provisions of the directive related to inpatient treatment.

22 **Sec. 425.** RCW 71.32.150 and 2003 c 283 s 15 are each amended to  
23 read as follows:

24 (1) Upon receiving a directive, a health care provider,  
25 professional person, or health care facility providing treatment to  
26 the principal, or persons acting under the direction of the health  
27 care provider, professional person, or health care facility, shall  
28 make the directive a part of the principal's medical record and shall  
29 be deemed to have actual knowledge of the directive's contents.

30 (2) When acting under authority of a directive, a health care  
31 provider, professional person, or health care facility shall act in  
32 accordance with the provisions of the directive to the fullest extent  
33 possible, unless in the determination of the health care provider,  
34 professional person, or health care facility:

35 (a) Compliance with the provision would violate the accepted  
36 standard of care established in RCW 7.70.040;

37 (b) The requested treatment is not available;

38 (c) Compliance with the provision would violate applicable law;

39 or

1 (d) It is an emergency situation and compliance would endanger  
2 any person's life or health.

3 (3)(a) In the case of a principal committed or detained under the  
4 involuntary treatment provisions of chapter 10.77, (~~(70.96A,)~~) 71.05,  
5 71.09, or 71.34 RCW, those provisions of a principal's directive  
6 that, in the determination of the health care provider, professional  
7 person, or health care facility, are inconsistent with the purpose of  
8 the commitment or with any order of the court relating to the  
9 commitment are invalid during the commitment.

10 (b) Remaining provisions of a principal's directive are advisory  
11 while the principal is committed or detained.

12 The treatment provider is encouraged to follow the remaining  
13 provisions of the directive, except as provided in (a) of this  
14 subsection or subsection (2) of this section.

15 (4) In the case of a principal who is incarcerated or committed  
16 in a state or local correctional facility, provisions of the  
17 principal's directive that are inconsistent with reasonable  
18 penological objectives or administrative hearings regarding  
19 involuntary medication are invalid during the period of incarceration  
20 or commitment. In addition, treatment may be given despite refusal of  
21 the principal or the provisions of the directive: (a) For any reason  
22 under subsection (2) of this section; or (b) if, without the benefit  
23 of the specific treatment measure, there is a significant possibility  
24 that the person will harm self or others before an improvement of the  
25 person's condition occurs.

26 (5)(a) If the health care provider, professional person, or  
27 health care facility is, at the time of receiving the directive,  
28 unable or unwilling to comply with any part or parts of the directive  
29 for any reason, the health care provider, professional person, or  
30 health care facility shall promptly notify the principal and, if  
31 applicable, his or her agent and shall document the reason in the  
32 principal's medical record.

33 (b) If the health care provider, professional person, or health  
34 care facility is acting under authority of a directive and is unable  
35 to comply with any part or parts of the directive for the reasons  
36 listed in subsection (2) or (3) of this section, the health care  
37 provider, professional person, or health care facility shall promptly  
38 notify the principal and if applicable, his or her agent, and shall  
39 document the reason in the principal's medical record.



1 (6) In the event that one or more parts of the directive are not  
2 followed because of one or more of the reasons set forth in  
3 subsection (2) or (4) of this section, all other parts of the  
4 directive shall be followed.

5 (7) If no provider-patient relationship has previously been  
6 established, nothing in this chapter requires the establishment of a  
7 provider-patient relationship.

8 **Sec. 426.** RCW 72.09.315 and 2004 c 166 s 17 are each amended to  
9 read as follows:

10 (1) When an offender is under court-ordered mental health or  
11 chemical dependency treatment in the community and the supervision of  
12 the department of corrections, and the community corrections officer  
13 becomes aware that the person is in violation of the terms of the  
14 court's treatment order, the community corrections officer shall  
15 notify the (~~county designated mental health professional or the~~  
16 ~~designated chemical dependency specialist~~) designated crisis  
17 responder, as appropriate, of the violation and request an evaluation  
18 for purposes of revocation of the less restrictive alternative or  
19 conditional release.

20 (2) When a (~~county designated mental health professional or the~~  
21 ~~designated chemical dependency specialist~~) designated crisis  
22 responder notifies the department that an offender in a state  
23 correctional facility is the subject of a petition for involuntary  
24 treatment under chapter 71.05 (~~or 70.96A~~) RCW, the department shall  
25 provide documentation of its risk assessment or other concerns to the  
26 petitioner and the court if the department classified the offender as  
27 a high risk or high needs offender.

28 **Sec. 427.** RCW 72.09.370 and 2014 c 225 s 95 are each amended to  
29 read as follows:

30 (1) The offender reentry community safety program is established  
31 to provide intensive services to offenders identified under this  
32 subsection and to thereby promote public safety. The secretary shall  
33 identify offenders in confinement or partial confinement who: (a) Are  
34 reasonably believed to be dangerous to themselves or others; and (b)  
35 have a mental disorder. In determining an offender's dangerousness,  
36 the secretary shall consider behavior known to the department and  
37 factors, based on research, that are linked to an increased risk for

1 dangerousness of offenders with mental illnesses and shall include  
2 consideration of an offender's chemical dependency or abuse.

3 (2) Prior to release of an offender identified under this  
4 section, a team consisting of representatives of the department of  
5 corrections, the division of mental health, and, as necessary, the  
6 indeterminate sentence review board, other divisions or  
7 administrations within the department of social and health services,  
8 specifically including the division of alcohol and substance abuse  
9 and the division of developmental disabilities, the appropriate  
10 behavioral health organization, and the providers, as appropriate,  
11 shall develop a plan, as determined necessary by the team, for  
12 delivery of treatment and support services to the offender upon  
13 release. In developing the plan, the offender shall be offered  
14 assistance in executing a mental health directive under chapter 71.32  
15 RCW, after being fully informed of the benefits, scope, and purposes  
16 of such directive. The team may include a school district  
17 representative for offenders under the age of twenty-one. The team  
18 shall consult with the offender's counsel, if any, and, as  
19 appropriate, the offender's family and community. The team shall  
20 notify the crime victim/witness program, which shall provide notice  
21 to all people registered to receive notice under RCW 72.09.712 of the  
22 proposed release plan developed by the team. Victims, witnesses, and  
23 other interested people notified by the department may provide  
24 information and comments to the department on potential safety risk  
25 to specific individuals or classes of individuals posed by the  
26 specific offender. The team may recommend: (a) That the offender be  
27 evaluated by the designated (~~mental health professional~~) crisis  
28 responder, as defined in chapter 71.05 RCW; (b) department-supervised  
29 community treatment; or (c) voluntary community mental health or  
30 chemical dependency or abuse treatment.

31 (3) Prior to release of an offender identified under this  
32 section, the team shall determine whether or not an evaluation by a  
33 designated (~~mental health professional~~) crisis responder is needed.  
34 If an evaluation is recommended, the supporting documentation shall  
35 be immediately forwarded to the appropriate designated (~~mental~~  
36 ~~health professional~~) crisis responder. The supporting documentation  
37 shall include the offender's criminal history, history of judicially  
38 required or administratively ordered involuntary antipsychotic  
39 medication while in confinement, and any known history of involuntary  
40 civil commitment.

1 (4) If an evaluation by a designated (~~mental—health~~  
2 ~~professional~~) crisis responder is recommended by the team, such  
3 evaluation shall occur not more than ten days, nor less than five  
4 days, prior to release.

5 (5) A second evaluation by a designated (~~mental—health~~  
6 ~~professional~~) crisis responder shall occur on the day of release if  
7 requested by the team, based upon new information or a change in the  
8 offender's mental condition, and the initial evaluation did not  
9 result in an emergency detention or a summons under chapter 71.05  
10 RCW.

11 (6) If the designated (~~mental—health—professional~~) crisis  
12 responder determines an emergency detention under chapter 71.05 RCW  
13 is necessary, the department shall release the offender only to a  
14 state hospital or to a consenting evaluation and treatment facility.  
15 The department shall arrange transportation of the offender to the  
16 hospital or facility.

17 (7) If the designated (~~mental—health—professional~~) crisis  
18 responder believes that a less restrictive alternative treatment is  
19 appropriate, he or she shall seek a summons, pursuant to the  
20 provisions of chapter 71.05 RCW, to require the offender to appear at  
21 an evaluation and treatment facility. If a summons is issued, the  
22 offender shall remain within the corrections facility until  
23 completion of his or her term of confinement and be transported, by  
24 corrections personnel on the day of completion, directly to the  
25 identified evaluation and treatment facility.

26 (8) The secretary shall adopt rules to implement this section.

27 **Sec. 428.** RCW 43.185C.305 and 2015 c 69 s 20 are each amended to  
28 read as follows:

29 (1) If a resident of a crisis residential center becomes by his  
30 or her behavior disruptive to the facility's program, such resident  
31 may be immediately removed to a separate area within the facility and  
32 counseled on an individual basis until such time as the child regains  
33 his or her composure. The department may set rules and regulations  
34 establishing additional procedures for dealing with severely  
35 disruptive children on the premises.

36 (2) When the juvenile resides in this facility, all services  
37 deemed necessary to the juvenile's reentry to normal family life  
38 shall be made available to the juvenile as required by chapter 13.32A

1 RCW. In assessing the child and providing these services, the  
2 facility staff shall:

3 (a) Interview the juvenile as soon as possible;

4 (b) Contact the juvenile's parents and arrange for a counseling  
5 interview with the juvenile and his or her parents as soon as  
6 possible;

7 (c) Conduct counseling interviews with the juvenile and his or  
8 her parents, to the end that resolution of the child/parent conflict  
9 is attained and the child is returned home as soon as possible;

10 (d) Provide additional crisis counseling as needed, to the end  
11 that placement of the child in the crisis residential center will be  
12 required for the shortest time possible, but not to exceed fifteen  
13 consecutive days; and

14 (e) Convene, when appropriate, a multidisciplinary team.

15 (3) Based on the assessments done under subsection (2) of this  
16 section the center staff may refer any child who, as the result of a  
17 mental or emotional disorder, or intoxication by alcohol or other  
18 drugs, is suicidal, seriously assaultive, or seriously destructive  
19 toward others, or otherwise similarly evidences an immediate need for  
20 emergency medical evaluation and possible care, for evaluation  
21 pursuant to chapter 71.34 RCW((7)) or to a ((~~mental health~~  
22 ~~professional~~)) designated crisis responder pursuant to chapter 71.05  
23 RCW((~~, or to a chemical dependency specialist pursuant to chapter~~  
24 ~~70.96A RCW~~)) whenever such action is deemed appropriate and  
25 consistent with law.

26 (4) A juvenile taking unauthorized leave from a facility shall be  
27 apprehended and returned to it by law enforcement officers or other  
28 persons designated as having this authority as provided in RCW  
29 43.185C.260. If returned to the facility after having taken  
30 unauthorized leave for a period of more than twenty-four hours a  
31 juvenile shall be supervised by such a facility for a period,  
32 pursuant to this chapter, which, unless where otherwise provided, may  
33 not exceed fifteen consecutive days. Costs of housing juveniles  
34 admitted to crisis residential centers shall be assumed by the  
35 department for a period not to exceed fifteen consecutive days.

36 **Sec. 429.** RCW 74.50.070 and 1987 c 406 s 8 are each amended to  
37 read as follows:

38 (1) If a county elects to establish a multipurpose diagnostic  
39 center or detention center, the alcoholism and drug addiction

1 assessment service under RCW 74.50.040 may be integrated into the  
2 services provided by such a center.

3 (2) The center may be financed from funds made available by the  
4 department for alcoholism and drug addiction assessments under this  
5 chapter and funds contained in the department's budget for  
6 detoxification, involuntary detention, and involuntary treatment  
7 under chapter(~~s 70.96A and~~) 71.05 RCW. The center may be operated  
8 by the county or pursuant to contract between the county and a  
9 qualified organization.

10 **PART V**

11 **INTEGRATION OF CHEMICAL DEPENDENCY AND MENTAL HEALTH ADMINISTRATIVE**  
12 **PROVISIONS**

13 **Sec. 501.** RCW 71.24.025 and 2014 c 225 s 10 are each reenacted  
14 and amended to read as follows:

15 Unless the context clearly requires otherwise, the definitions in  
16 this section apply throughout this chapter.

17 (1) "Acutely mentally ill" means a condition which is limited to  
18 a short-term severe crisis episode of:

19 (a) A mental disorder as defined in RCW 71.05.020 or, in the case  
20 of a child, as defined in RCW 71.34.020;

21 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the  
22 case of a child, a gravely disabled minor as defined in RCW  
23 71.34.020; or

24 (c) Presenting a likelihood of serious harm as defined in RCW  
25 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

26 (2) "Available resources" means funds appropriated for the  
27 purpose of providing community mental health programs, federal funds,  
28 except those provided according to Title XIX of the Social Security  
29 Act, and state funds appropriated under this chapter or chapter 71.05  
30 RCW by the legislature during any biennium for the purpose of  
31 providing residential services, resource management services,  
32 community support services, and other mental health services. This  
33 does not include funds appropriated for the purpose of operating and  
34 administering the state psychiatric hospitals.

35 (3) "Behavioral health organization" means any county authority  
36 or group of county authorities or other entity recognized by the  
37 secretary in contract in a defined region.

1 (4) "Behavioral health services" means mental health services as  
2 described in this chapter and chapter 71.36 RCW and ~~((chemical~~  
3 ~~dependency))~~ substance use disorder treatment services as described  
4 in this chapter and chapter 70.96A RCW.

5 (5) "Child" means a person under the age of eighteen years.

6 (6) "Chronically mentally ill adult" or "adult who is chronically  
7 mentally ill" means an adult who has a mental disorder and meets at  
8 least one of the following criteria:

9 (a) Has undergone two or more episodes of hospital care for a  
10 mental disorder within the preceding two years; or

11 (b) Has experienced a continuous psychiatric hospitalization or  
12 residential treatment exceeding six months' duration within the  
13 preceding year; or

14 (c) Has been unable to engage in any substantial gainful activity  
15 by reason of any mental disorder which has lasted for a continuous  
16 period of not less than twelve months. "Substantial gainful activity"  
17 shall be defined by the department by rule consistent with Public Law  
18 92-603, as amended.

19 (7) "Clubhouse" means a community-based program that provides  
20 rehabilitation services and is certified by the department of social  
21 and health services.

22 (8) ~~(( "Community mental health program" means all mental health  
23 services, activities, or programs using available resources.~~

24 ~~(9))~~ "Community mental health service delivery system" means  
25 public, private, or tribal agencies that provide services  
26 specifically to persons with mental disorders as defined under RCW  
27 71.05.020 and receive funding from public sources.

28 ~~((10))~~ (9) "Community support services" means services  
29 authorized, planned, and coordinated through resource management  
30 services including, at a minimum, assessment, diagnosis, emergency  
31 crisis intervention available twenty-four hours, seven days a week,  
32 prescreening determinations for persons who are mentally ill being  
33 considered for placement in nursing homes as required by federal law,  
34 screening for patients being considered for admission to residential  
35 services, diagnosis and treatment for children who are acutely  
36 mentally ill or severely emotionally disturbed discovered under  
37 screening through the federal Title XIX early and periodic screening,  
38 diagnosis, and treatment program, investigation, legal, and other  
39 nonresidential services under chapter 71.05 RCW, case management  
40 services, psychiatric treatment including medication supervision,

1 counseling, psychotherapy, assuring transfer of relevant patient  
2 information between service providers, recovery services, and other  
3 services determined by behavioral health organizations.

4 ~~((11))~~ (10) "Consensus-based" means a program or practice that  
5 has general support among treatment providers and experts, based on  
6 experience or professional literature, and may have anecdotal or case  
7 study support, or that is agreed but not possible to perform studies  
8 with random assignment and controlled groups.

9 ~~((12))~~ (11) "County authority" means the board of county  
10 commissioners, county council, or county executive having authority  
11 to establish a community mental health program, or two or more of the  
12 county authorities specified in this subsection which have entered  
13 into an agreement to provide a community mental health program.

14 ~~((13))~~ (12) "Department" means the department of social and  
15 health services.

16 ~~((14))~~ (13) "Designated mental health professional" means a  
17 mental health professional designated by the county or other  
18 authority authorized in rule to perform the duties specified in this  
19 chapter.

20 ~~((15))~~ (14) "Emerging best practice" or "promising practice"  
21 means a program or practice that, based on statistical analyses or a  
22 well established theory of change, shows potential for meeting the  
23 evidence-based or research-based criteria, which may include the use  
24 of a program that is evidence-based for outcomes other than those  
25 listed in subsection ~~((16))~~ (15) of this section.

26 ~~((16))~~ (15) "Evidence-based" means a program or practice that  
27 has been tested in heterogeneous or intended populations with  
28 multiple randomized, or statistically controlled evaluations, or  
29 both; or one large multiple site randomized, or statistically  
30 controlled evaluation, or both, where the weight of the evidence from  
31 a systemic review demonstrates sustained improvements in at least one  
32 outcome. "Evidence-based" also means a program or practice that can  
33 be implemented with a set of procedures to allow successful  
34 replication in Washington and, when possible, is determined to be  
35 cost-beneficial.

36 ~~((17))~~ (16) "Licensed service provider" means an entity  
37 licensed according to this chapter or chapter 71.05 or 70.96A RCW or  
38 an entity deemed to meet state minimum standards as a result of  
39 accreditation by a recognized behavioral health accrediting body  
40 recognized and having a current agreement with the department, or

1 tribal attestation that meets state minimum standards, or persons  
2 licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it  
3 applies to registered nurses and advanced registered nurse  
4 practitioners.

5 ~~((+18))~~ (17) "Long-term inpatient care" means inpatient services  
6 for persons committed for, or voluntarily receiving intensive  
7 treatment for, periods of ninety days or greater under chapter 71.05  
8 RCW. "Long-term inpatient care" as used in this chapter does not  
9 include: (a) Services for individuals committed under chapter 71.05  
10 RCW who are receiving services pursuant to a conditional release or a  
11 court-ordered less restrictive alternative to detention; or (b)  
12 services for individuals voluntarily receiving less restrictive  
13 alternative treatment on the grounds of the state hospital.

14 ~~((+19))~~ (18) "Mental health services" means all services  
15 provided by behavioral health organizations and other services  
16 provided by the state for persons who are mentally ill.

17 ~~((+20))~~ (19) "Mentally ill persons," "persons who are mentally  
18 ill," and "the mentally ill" mean persons and conditions defined in  
19 subsections (1), (6), (27), and (28)~~((, and (29))~~ of this section.

20 ~~((+21))~~ (20) "Recovery" means the process in which people are  
21 able to live, work, learn, and participate fully in their  
22 communities.

23 ~~((+22))~~ (21) "Registration records" include all the records of  
24 the department, behavioral health organizations, treatment  
25 facilities, and other persons providing services to the department,  
26 county departments, or facilities which identify persons who are  
27 receiving or who at any time have received services for mental  
28 illness.

29 ~~((+23))~~ (22) "Research-based" means a program or practice that  
30 has been tested with a single randomized, or statistically controlled  
31 evaluation, or both, demonstrating sustained desirable outcomes; or  
32 where the weight of the evidence from a systemic review supports  
33 sustained outcomes as described in subsection ~~((+16))~~ (15) of this  
34 section but does not meet the full criteria for evidence-based.

35 ~~((+24))~~ (23) "Residential services" means a complete range of  
36 residences and supports authorized by resource management services  
37 and which may involve a facility, a distinct part thereof, or  
38 services which support community living, for persons who are acutely  
39 mentally ill, adults who are chronically mentally ill, children who  
40 are severely emotionally disturbed, or adults who are seriously



1 disturbed and determined by the behavioral health organization to be  
2 at risk of becoming acutely or chronically mentally ill. The services  
3 shall include at least evaluation and treatment services as defined  
4 in chapter 71.05 RCW, acute crisis respite care, long-term adaptive  
5 and rehabilitative care, and supervised and supported living  
6 services, and shall also include any residential services developed  
7 to service persons who are mentally ill in nursing homes, assisted  
8 living facilities, and adult family homes, and may include outpatient  
9 services provided as an element in a package of services in a  
10 supported housing model. Residential services for children in out-of-  
11 home placements related to their mental disorder shall not include  
12 the costs of food and shelter, except for children's long-term  
13 residential facilities existing prior to January 1, 1991.

14 ~~((+25))~~ (24) "Resilience" means the personal and community  
15 qualities that enable individuals to rebound from adversity, trauma,  
16 tragedy, threats, or other stresses, and to live productive lives.

17 ~~((+26))~~ (25) "Resource management services" mean the planning,  
18 coordination, and authorization of residential services and community  
19 support services administered pursuant to an individual service plan  
20 for: (a) Adults and children who are acutely mentally ill; (b) adults  
21 who are chronically mentally ill; (c) children who are severely  
22 emotionally disturbed; or (d) adults who are seriously disturbed and  
23 determined solely by a behavioral health organization to be at risk  
24 of becoming acutely or chronically mentally ill. Such planning,  
25 coordination, and authorization shall include mental health screening  
26 for children eligible under the federal Title XIX early and periodic  
27 screening, diagnosis, and treatment program. Resource management  
28 services include seven day a week, twenty-four hour a day  
29 availability of information regarding enrollment of adults and  
30 children who are mentally ill in services and their individual  
31 service plan to designated mental health professionals, evaluation  
32 and treatment facilities, and others as determined by the behavioral  
33 health organization.

34 ~~((+27))~~ (26) "Secretary" means the secretary of social and  
35 health services.

36 ~~((+28))~~ (27) "Seriously disturbed person" means a person who:

37 (a) Is gravely disabled or presents a likelihood of serious harm  
38 to himself or herself or others, or to the property of others, as a  
39 result of a mental disorder as defined in chapter 71.05 RCW;

1 (b) Has been on conditional release status, or under a less  
2 restrictive alternative order, at some time during the preceding two  
3 years from an evaluation and treatment facility or a state mental  
4 health hospital;

5 (c) Has a mental disorder which causes major impairment in  
6 several areas of daily living;

7 (d) Exhibits suicidal preoccupation or attempts; or

8 (e) Is a child diagnosed by a mental health professional, as  
9 defined in chapter 71.34 RCW, as experiencing a mental disorder which  
10 is clearly interfering with the child's functioning in family or  
11 school or with peers or is clearly interfering with the child's  
12 personality development and learning.

13 ((+29)) (28) "Severely emotionally disturbed child" or "child  
14 who is severely emotionally disturbed" means a child who has been  
15 determined by the behavioral health organization to be experiencing a  
16 mental disorder as defined in chapter 71.34 RCW, including those  
17 mental disorders that result in a behavioral or conduct disorder,  
18 that is clearly interfering with the child's functioning in family or  
19 school or with peers and who meets at least one of the following  
20 criteria:

21 (a) Has undergone inpatient treatment or placement outside of the  
22 home related to a mental disorder within the last two years;

23 (b) Has undergone involuntary treatment under chapter 71.34 RCW  
24 within the last two years;

25 (c) Is currently served by at least one of the following child-  
26 serving systems: Juvenile justice, child-protection/welfare, special  
27 education, or developmental disabilities;

28 (d) Is at risk of escalating maladjustment due to:

29 (i) Chronic family dysfunction involving a caretaker who is  
30 mentally ill or inadequate;

31 (ii) Changes in custodial adult;

32 (iii) Going to, residing in, or returning from any placement  
33 outside of the home, for example, psychiatric hospital, short-term  
34 inpatient, residential treatment, group or foster home, or a  
35 correctional facility;

36 (iv) Subject to repeated physical abuse or neglect;

37 (v) Drug or alcohol abuse; or

38 (vi) Homelessness.

39 ((+30)) (29) "State minimum standards" means minimum  
40 requirements established by rules adopted by the secretary and

1 necessary to implement this chapter for: (a) Delivery of mental  
2 health services; (b) licensed service providers for the provision of  
3 mental health services; (c) residential services; and (d) community  
4 support services and resource management services.

5 ~~((31))~~ (30) Mental health "treatment records" include  
6 registration and all other records concerning persons who are  
7 receiving or who at any time have received services for mental  
8 illness, which are maintained by the department, by behavioral health  
9 organizations and their staffs, and by treatment facilities.  
10 Treatment records do not include notes or records maintained for  
11 personal use by a person providing treatment services for the  
12 department, behavioral health organizations, or a treatment facility  
13 if the notes or records are not available to others.

14 ~~((32))~~ (31) "Tribal authority," for the purposes of this  
15 section and RCW 71.24.300 only, means: The federally recognized  
16 Indian tribes and the major Indian organizations recognized by the  
17 secretary insofar as these organizations do not have a financial  
18 relationship with any behavioral health organization that would  
19 present a conflict of interest.

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

26 (33) "Approved substance use disorder treatment program" means a  
27 program for persons with a substance use disorder provided by a  
28 treatment program certified by the department of social and health  
29 services as meeting standards adopted under this chapter.

30 (34) "Behavioral health program" means all expenditures,  
31 services, activities, or programs, including reasonable  
32 administration and overhead, designed and conducted to prevent or  
33 treat chemical dependency and mental illness.

34 (35) "Substance use disorder" means a cluster of cognitive,  
35 behavioral, and physiological symptoms indicating that an individual  
36 continues using the substance despite significant substance-related  
37 problems. The diagnosis of a substance use disorder is based on a  
38 pathological pattern of behaviors related to the use of the  
39 substances.

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

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

13       (38) "Early adopter" means a regional service area for which all  
14 of the county authorities have requested that the department and the  
15 health care authority jointly purchase medical and behavioral health  
16 services through a managed care health system as defined under RCW  
17 71.24.380(6).

18       (39) "Licensed physician" means a person licensed to practice  
19 medicine or osteopathic medicine and surgery in the state of  
20 Washington.

21       **Sec. 502.** RCW 71.24.025 and 2016 c ... s 501 (section 501 of  
22 this act) are each amended to read as follows:

23       Unless the context clearly requires otherwise, the definitions in  
24 this section apply throughout this chapter.

25       (1) "Acutely mentally ill" means a condition which is limited to  
26 a short-term severe crisis episode of:

27       (a) A mental disorder as defined in RCW 71.05.020 or, in the case  
28 of a child, as defined in RCW 71.34.020;

29       (b) Being gravely disabled as defined in RCW 71.05.020 or, in the  
30 case of a child, a gravely disabled minor as defined in RCW  
31 71.34.020; or

32       (c) Presenting a likelihood of serious harm as defined in RCW  
33 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

34       (2) "Available resources" means funds appropriated for the  
35 purpose of providing community mental health programs, federal funds,  
36 except those provided according to Title XIX of the Social Security  
37 Act, and state funds appropriated under this chapter or chapter 71.05  
38 RCW by the legislature during any biennium for the purpose of  
39 providing residential services, resource management services,

1 community support services, and other mental health services. This  
2 does not include funds appropriated for the purpose of operating and  
3 administering the state psychiatric hospitals.

4 (3) "Behavioral health organization" means any county authority  
5 or group of county authorities or other entity recognized by the  
6 secretary in contract in a defined region.

7 (4) "Behavioral health services" means mental health services as  
8 described in this chapter and chapter 71.36 RCW and substance use  
9 disorder treatment services as described in this chapter (~~and~~  
10 ~~chapter 70.96A RCW~~).

11 (5) "Child" means a person under the age of eighteen years.

12 (6) "Chronically mentally ill adult" or "adult who is chronically  
13 mentally ill" means an adult who has a mental disorder and meets at  
14 least one of the following criteria:

15 (a) Has undergone two or more episodes of hospital care for a  
16 mental disorder within the preceding two years; or

17 (b) Has experienced a continuous psychiatric hospitalization or  
18 residential treatment exceeding six months' duration within the  
19 preceding year; or

20 (c) Has been unable to engage in any substantial gainful activity  
21 by reason of any mental disorder which has lasted for a continuous  
22 period of not less than twelve months. "Substantial gainful activity"  
23 shall be defined by the department by rule consistent with Public Law  
24 92-603, as amended.

25 (7) "Clubhouse" means a community-based program that provides  
26 rehabilitation services and is certified by the department of social  
27 and health services.

28 (8) "Community mental health service delivery system" means  
29 public, private, or tribal agencies that provide services  
30 specifically to persons with mental disorders as defined under RCW  
31 71.05.020 and receive funding from public sources.

32 (9) "Community support services" means services authorized,  
33 planned, and coordinated through resource management services  
34 including, at a minimum, assessment, diagnosis, emergency crisis  
35 intervention available twenty-four hours, seven days a week,  
36 prescreening determinations for persons who are mentally ill being  
37 considered for placement in nursing homes as required by federal law,  
38 screening for patients being considered for admission to residential  
39 services, diagnosis and treatment for children who are acutely  
40 mentally ill or severely emotionally disturbed discovered under

1 screening through the federal Title XIX early and periodic screening,  
2 diagnosis, and treatment program, investigation, legal, and other  
3 nonresidential services under chapter 71.05 RCW, case management  
4 services, psychiatric treatment including medication supervision,  
5 counseling, psychotherapy, assuring transfer of relevant patient  
6 information between service providers, recovery services, and other  
7 services determined by behavioral health organizations.

8 (10) "Consensus-based" means a program or practice that has  
9 general support among treatment providers and experts, based on  
10 experience or professional literature, and may have anecdotal or case  
11 study support, or that is agreed but not possible to perform studies  
12 with random assignment and controlled groups.

13 (11) "County authority" means the board of county commissioners,  
14 county council, or county executive having authority to establish a  
15 community mental health program, or two or more of the county  
16 authorities specified in this subsection which have entered into an  
17 agreement to provide a community mental health program.

18 (12) "Department" means the department of social and health  
19 services.

20 (13) "Designated (~~(mental health professional)~~) crisis responder"  
21 means a mental health professional designated by the county or other  
22 authority authorized in rule to perform the duties specified in this  
23 chapter.

24 (14) "Emerging best practice" or "promising practice" means a  
25 program or practice that, based on statistical analyses or a well  
26 established theory of change, shows potential for meeting the  
27 evidence-based or research-based criteria, which may include the use  
28 of a program that is evidence-based for outcomes other than those  
29 listed in subsection (15) of this section.

30 (15) "Evidence-based" means a program or practice that has been  
31 tested in heterogeneous or intended populations with multiple  
32 randomized, or statistically controlled evaluations, or both; or one  
33 large multiple site randomized, or statistically controlled  
34 evaluation, or both, where the weight of the evidence from a systemic  
35 review demonstrates sustained improvements in at least one outcome.  
36 "Evidence-based" also means a program or practice that can be  
37 implemented with a set of procedures to allow successful replication  
38 in Washington and, when possible, is determined to be cost-  
39 beneficial.

1 (16) "Licensed service provider" means an entity licensed  
2 according to this chapter or chapter 71.05 (~~or 70.96A~~) RCW or an  
3 entity deemed to meet state minimum standards as a result of  
4 accreditation by a recognized behavioral health accrediting body  
5 recognized and having a current agreement with the department, or  
6 tribal attestation that meets state minimum standards, or persons  
7 licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it  
8 applies to registered nurses and advanced registered nurse  
9 practitioners.

10 (17) "Long-term inpatient care" means inpatient services for  
11 persons committed for, or voluntarily receiving intensive treatment  
12 for, periods of ninety days or greater under chapter 71.05 RCW.  
13 "Long-term inpatient care" as used in this chapter does not include:  
14 (a) Services for individuals committed under chapter 71.05 RCW who  
15 are receiving services pursuant to a conditional release or a court-  
16 ordered less restrictive alternative to detention; or (b) services  
17 for individuals voluntarily receiving less restrictive alternative  
18 treatment on the grounds of the state hospital.

19 (18) "Mental health services" means all services provided by  
20 behavioral health organizations and other services provided by the  
21 state for persons who are mentally ill.

22 (19) "Mentally ill persons," "persons who are mentally ill," and  
23 "the mentally ill" mean persons and conditions defined in subsections  
24 (1), (6), (27), and (28) of this section.

25 (20) "Recovery" means the process in which people are able to  
26 live, work, learn, and participate fully in their communities.

27 (21) "Registration records" include all the records of the  
28 department, behavioral health organizations, treatment facilities,  
29 and other persons providing services to the department, county  
30 departments, or facilities which identify persons who are receiving  
31 or who at any time have received services for mental illness.

32 (22) "Research-based" means a program or practice that has been  
33 tested with a single randomized, or statistically controlled  
34 evaluation, or both, demonstrating sustained desirable outcomes; or  
35 where the weight of the evidence from a systemic review supports  
36 sustained outcomes as described in subsection (15) of this section  
37 but does not meet the full criteria for evidence-based.

38 (23) "Residential services" means a complete range of residences  
39 and supports authorized by resource management services and which may  
40 involve a facility, a distinct part thereof, or services which

1 support community living, for persons who are acutely mentally ill,  
2 adults who are chronically mentally ill, children who are severely  
3 emotionally disturbed, or adults who are seriously disturbed and  
4 determined by the behavioral health organization to be at risk of  
5 becoming acutely or chronically mentally ill. The services shall  
6 include at least evaluation and treatment services as defined in  
7 chapter 71.05 RCW, acute crisis respite care, long-term adaptive and  
8 rehabilitative care, and supervised and supported living services,  
9 and shall also include any residential services developed to service  
10 persons who are mentally ill in nursing homes, assisted living  
11 facilities, and adult family homes, and may include outpatient  
12 services provided as an element in a package of services in a  
13 supported housing model. Residential services for children in out-of-  
14 home placements related to their mental disorder shall not include  
15 the costs of food and shelter, except for children's long-term  
16 residential facilities existing prior to January 1, 1991.

17 (24) "Resilience" means the personal and community qualities that  
18 enable individuals to rebound from adversity, trauma, tragedy,  
19 threats, or other stresses, and to live productive lives.

20 (25) "Resource management services" mean the planning,  
21 coordination, and authorization of residential services and community  
22 support services administered pursuant to an individual service plan  
23 for: (a) Adults and children who are acutely mentally ill; (b) adults  
24 who are chronically mentally ill; (c) children who are severely  
25 emotionally disturbed; or (d) adults who are seriously disturbed and  
26 determined solely by a behavioral health organization to be at risk  
27 of becoming acutely or chronically mentally ill. Such planning,  
28 coordination, and authorization shall include mental health screening  
29 for children eligible under the federal Title XIX early and periodic  
30 screening, diagnosis, and treatment program. Resource management  
31 services include seven day a week, twenty-four hour a day  
32 availability of information regarding enrollment of adults and  
33 children who are mentally ill in services and their individual  
34 service plan to designated (~~mental health professionals~~) crisis  
35 responders, evaluation and treatment facilities, and others as  
36 determined by the behavioral health organization.

37 (26) "Secretary" means the secretary of social and health  
38 services.

39 (27) "Seriously disturbed person" means a person who:



1 (a) Is gravely disabled or presents a likelihood of serious harm  
2 to himself or herself or others, or to the property of others, as a  
3 result of a mental disorder as defined in chapter 71.05 RCW;

4 (b) Has been on conditional release status, or under a less  
5 restrictive alternative order, at some time during the preceding two  
6 years from an evaluation and treatment facility or a state mental  
7 health hospital;

8 (c) Has a mental disorder which causes major impairment in  
9 several areas of daily living;

10 (d) Exhibits suicidal preoccupation or attempts; or

11 (e) Is a child diagnosed by a mental health professional, as  
12 defined in chapter 71.34 RCW, as experiencing a mental disorder which  
13 is clearly interfering with the child's functioning in family or  
14 school or with peers or is clearly interfering with the child's  
15 personality development and learning.

16 (28) "Severely emotionally disturbed child" or "child who is  
17 severely emotionally disturbed" means a child who has been determined  
18 by the behavioral health organization to be experiencing a mental  
19 disorder as defined in chapter 71.34 RCW, including those mental  
20 disorders that result in a behavioral or conduct disorder, that is  
21 clearly interfering with the child's functioning in family or school  
22 or with peers and who meets at least one of the following criteria:

23 (a) Has undergone inpatient treatment or placement outside of the  
24 home related to a mental disorder within the last two years;

25 (b) Has undergone involuntary treatment under chapter 71.34 RCW  
26 within the last two years;

27 (c) Is currently served by at least one of the following child-  
28 serving systems: Juvenile justice, child-protection/welfare, special  
29 education, or developmental disabilities;

30 (d) Is at risk of escalating maladjustment due to:

31 (i) Chronic family dysfunction involving a caretaker who is  
32 mentally ill or inadequate;

33 (ii) Changes in custodial adult;

34 (iii) Going to, residing in, or returning from any placement  
35 outside of the home, for example, psychiatric hospital, short-term  
36 inpatient, residential treatment, group or foster home, or a  
37 correctional facility;

38 (iv) Subject to repeated physical abuse or neglect;

39 (v) Drug or alcohol abuse; or

40 (vi) Homelessness.

1 (29) "State minimum standards" means minimum requirements  
2 established by rules adopted by the secretary and necessary to  
3 implement this chapter for: (a) Delivery of mental health services;  
4 (b) licensed service providers for the provision of mental health  
5 services; (c) residential services; and (d) community support  
6 services and resource management services.

7 (30) Mental health "treatment records" include registration and  
8 all other records concerning persons who are receiving or who at any  
9 time have received services for mental illness, which are maintained  
10 by the department, by behavioral health organizations and their  
11 staffs, and by treatment facilities. Treatment records do not include  
12 notes or records maintained for personal use by a person providing  
13 treatment services for the department, behavioral health  
14 organizations, or a treatment facility if the notes or records are  
15 not available to others.

16 (31) "Tribal authority," for the purposes of this section and RCW  
17 71.24.300 only, means: The federally recognized Indian tribes and the  
18 major Indian organizations recognized by the secretary insofar as  
19 these organizations do not have a financial relationship with any  
20 behavioral health organization that would present a conflict of  
21 interest.

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

28 (33) "Approved substance use disorder treatment program" means a  
29 program for persons with a substance use disorder provided by a  
30 treatment program certified by the department of social and health  
31 services as meeting standards adopted under this chapter.

32 (34) "Behavioral health program" means all expenditures,  
33 services, activities, or programs, including reasonable  
34 administration and overhead, designed and conducted to prevent or  
35 treat chemical dependency and mental illness.

36 (35) "Substance use disorder" means a cluster of cognitive,  
37 behavioral, and physiological symptoms indicating that an individual  
38 continues using the substance despite significant substance-related  
39 problems. The diagnosis of a substance use disorder is based on a

1 pathological pattern of behaviors related to the use of the  
2 substances.

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

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

15 (~~(38)~~) (37) "Early adopter" means a regional service area for  
16 which all of the county authorities have requested that the  
17 department and the health care authority jointly purchase medical and  
18 behavioral health services through a managed care health system as  
19 defined under RCW 71.24.380(6).

20 (~~(39)~~) (38) "Licensed physician" means a person licensed to  
21 practice medicine or osteopathic medicine and surgery in the state of  
22 Washington.

23 **Sec. 503.** RCW 71.24.035 and 2015 c 269 s 8 are each amended to  
24 read as follows:

25 (1) The department is designated as the state (~~(mental)~~)  
26 behavioral health authority which includes recognition as the single  
27 state authority for substance use disorders and state mental health  
28 authority.

29 (2) The secretary shall provide for public, client, tribal, and  
30 licensed service provider participation in developing the state  
31 (~~(mental)~~) behavioral health program, developing contracts with  
32 behavioral health organizations, and any waiver request to the  
33 federal government under medicaid.

34 (3) The secretary shall provide for participation in developing  
35 the state (~~(mental)~~) behavioral health program for children and other  
36 underserved populations, by including representatives on any  
37 committee established to provide oversight to the state (~~(mental)~~)  
38 behavioral health program.

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

6 (5) The secretary shall:

7 (a) Develop a biennial state (~~(mental)~~) behavioral health program  
8 that incorporates regional biennial needs assessments and regional  
9 mental health service plans and state services for adults and  
10 children with mental (~~(illness)~~) disorders or substance use disorders  
11 or both;

12 (b) Assure that any behavioral health organization or county  
13 community (~~(mental)~~) behavioral health program provides medically  
14 necessary services to medicaid recipients consistent with the state's  
15 medicaid state plan or federal waiver authorities, and nonmedicaid  
16 services consistent with priorities established by the department;

17 (c) Develop and adopt rules establishing state minimum standards  
18 for the delivery of (~~(mental)~~) behavioral health services pursuant to  
19 RCW 71.24.037 including, but not limited to:

20 (i) Licensed service providers. These rules shall permit a  
21 county-operated (~~(mental)~~) behavioral health program to be licensed  
22 as a service provider subject to compliance with applicable statutes  
23 and rules. The secretary shall provide for deeming of compliance with  
24 state minimum standards for those entities accredited by recognized  
25 behavioral health accrediting bodies recognized and having a current  
26 agreement with the department;

27 (ii) Inpatient services, an adequate network of evaluation and  
28 treatment services and facilities under chapter 71.05 RCW to ensure  
29 access to treatment, resource management services, and community  
30 support services;

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

35 (e) Establish a standard contract or contracts, consistent with  
36 state minimum standards which shall be used in contracting with  
37 behavioral health organizations. The standard contract shall include  
38 a maximum fund balance, which shall be consistent with that required  
39 by federal regulations or waiver stipulations;

1       (f) Make contracts necessary or incidental to the performance of  
2 its duties and the execution of its powers, including managed care  
3 contracts for behavioral health services, contracts entered into  
4 under RCW 74.09.522, and contracts with public and private agencies,  
5 organizations, and individuals to pay them for behavioral health  
6 services;

7       (g) Establish, to the extent possible, a standardized auditing  
8 procedure which is designed to assure compliance with contractual  
9 agreements authorized by this chapter and minimizes paperwork  
10 requirements of behavioral health organizations and licensed service  
11 providers. The audit procedure shall focus on the outcomes of service  
12 as provided in RCW 43.20A.895, 70.320.020, and 71.36.025;

13       ~~((g))~~ (h) Develop and maintain an information system to be used  
14 by the state and behavioral health organizations that includes a  
15 tracking method which allows the department and behavioral health  
16 organizations to identify ~~((mental))~~ behavioral health clients'  
17 participation in any ~~((mental))~~ behavioral health service or public  
18 program on an immediate basis. The information system shall not  
19 include individual patient's case history files. Confidentiality of  
20 client information and records shall be maintained as provided in  
21 this chapter and chapter 70.02 RCW;

22       ~~((h))~~ (i) License service providers who meet state minimum  
23 standards;

24       ~~((i))~~ (j) Periodically monitor the compliance of behavioral  
25 health organizations and their network of licensed service providers  
26 for compliance with the contract between the department, the  
27 behavioral health organization, and federal and state rules at  
28 reasonable times and in a reasonable manner;

29       ~~((j))~~ (k) Fix fees to be paid by evaluation and treatment  
30 centers to the secretary for the required inspections;

31       ~~((k))~~ (l) Monitor and audit behavioral health organizations and  
32 licensed service providers as needed to assure compliance with  
33 contractual agreements authorized by this chapter;

34       ~~((l))~~ (m) Adopt such rules as are necessary to implement the  
35 department's responsibilities under this chapter;

36       ~~((m))~~ (n) License or certify crisis stabilization units that  
37 meet state minimum standards;

38       ~~((n))~~ (o) License or certify clubhouses that meet state minimum  
39 standards; ~~((and~~

1       ~~(e)~~) (p) License or certify triage facilities that meet state  
2 minimum standards; and

3       (q) Administer or supervise the administration of the provisions  
4 relating to persons with substance use disorders and intoxicated  
5 persons of any state plan submitted for federal funding pursuant to  
6 federal health, welfare, or treatment legislation.

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

9       (a) To the extent authorized, and in accordance with any  
10 priorities or conditions specified, in the biennial appropriations  
11 act; or

12       (b) To incentivize improved performance with respect to the  
13 client outcomes established in RCW 43.20A.895, 70.320.020, and  
14 71.36.025, integration of behavioral health and medical services at  
15 the clinical level, and improved care coordination for individuals  
16 with complex care needs.

17       (7) Each behavioral health organization and licensed service  
18 provider shall file with the secretary, on request, such data,  
19 statistics, schedules, and information as the secretary reasonably  
20 requires. A behavioral health organization or licensed service  
21 provider which, without good cause, fails to furnish any data,  
22 statistics, schedules, or information as requested, or files  
23 fraudulent reports thereof, may be subject to the behavioral health  
24 organization contractual remedies in RCW 43.20A.894 or may have its  
25 service provider certification or license revoked or suspended.

26       (8) The secretary may suspend, revoke, limit, or restrict a  
27 certification or license, or refuse to grant a certification or  
28 license for failure to conform to: (a) The law; (b) applicable rules  
29 and regulations; (c) applicable standards; or (d) state minimum  
30 standards.

31       (9) The superior court may restrain any behavioral health  
32 organization or service provider from operating without a contract,  
33 certification, or a license or any other violation of this section.  
34 The court may also review, pursuant to procedures contained in  
35 chapter 34.05 RCW, any denial, suspension, limitation, restriction,  
36 or revocation of certification or license, and grant other relief  
37 required to enforce the provisions of this chapter.

38       (10) Upon petition by the secretary, and after hearing held upon  
39 reasonable notice to the facility, the superior court may issue a  
40 warrant to an officer or employee of the secretary authorizing him or

1 her to enter at reasonable times, and examine the records, books, and  
2 accounts of any behavioral health organization or service provider  
3 refusing to consent to inspection or examination by the authority.

4 (11) Notwithstanding the existence or pursuit of any other  
5 remedy, the secretary may file an action for an injunction or other  
6 process against any person or governmental unit to restrain or  
7 prevent the establishment, conduct, or operation of a behavioral  
8 health organization or service provider without a contract,  
9 certification, or a license under this chapter.

10 ~~(12) ((The standards for certification or licensure of evaluation~~  
11 ~~and treatment facilities shall include standards relating to~~  
12 ~~maintenance of good physical and mental health and other services to~~  
13 ~~be afforded persons pursuant to this chapter and chapters 71.05 and~~  
14 ~~71.34 RCW, and shall otherwise assure the effectuation of the~~  
15 ~~purposes of these chapters.~~

16 ~~(13) The standards for certification or licensure of crisis~~  
17 ~~stabilization units shall include standards that:~~

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

20 ~~(b) Require administration of the unit by mental health~~  
21 ~~professionals who direct the stabilization and rehabilitation~~  
22 ~~efforts; and~~

23 ~~(c) Provide an environment affording security appropriate with~~  
24 ~~the alleged criminal behavior and necessary to protect the public~~  
25 ~~safety.~~

26 ~~(14) The standards for certification or licensure of a clubhouse~~  
27 ~~shall at a minimum include:~~

28 ~~(a) The facilities may be peer-operated and must be recovery-~~  
29 ~~focused;~~

30 ~~(b) Members and employees must work together;~~

31 ~~(c) Members must have the opportunity to participate in all the~~  
32 ~~work of the clubhouse, including administration, research, intake and~~  
33 ~~orientation, outreach, hiring, training and evaluation of staff,~~  
34 ~~public relations, advocacy, and evaluation of clubhouse~~  
35 ~~effectiveness;~~

36 ~~(d) Members and staff and ultimately the clubhouse director must~~  
37 ~~be responsible for the operation of the clubhouse, central to this~~  
38 ~~responsibility is the engagement of members and staff in all aspects~~  
39 ~~of clubhouse operations;~~

1       ~~(e) Clubhouse programs must be comprised of structured activities~~  
2 ~~including but not limited to social skills training, vocational~~  
3 ~~rehabilitation, employment training and job placement, and community~~  
4 ~~resource development;~~

5       ~~(f) Clubhouse programs must provide in-house educational programs~~  
6 ~~that significantly utilize the teaching and tutoring skills of~~  
7 ~~members and assist members by helping them to take advantage of adult~~  
8 ~~education opportunities in the community;~~

9       ~~(g) Clubhouse programs must focus on strengths, talents, and~~  
10 ~~abilities of its members;~~

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

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

16       ~~((16))~~ (13) The secretary shall assume all duties assigned to  
17 the nonparticipating behavioral health organizations under chapters  
18 71.05 and 71.34 RCW and this chapter. Such responsibilities shall  
19 include those which would have been assigned to the nonparticipating  
20 counties in regions where there are not participating behavioral  
21 health organizations.

22       The behavioral health organizations, or the secretary's  
23 assumption of all responsibilities under chapters 71.05 and 71.34 RCW  
24 and this chapter, shall be included in all state and federal plans  
25 affecting the state ~~((mental))~~ behavioral health program including at  
26 least those required by this chapter, the medicaid program, and P.L.  
27 99-660. Nothing in these plans shall be inconsistent with the intent  
28 and requirements of this chapter.

29       ~~((17))~~ (14) The secretary shall:

30       (a) Disburse funds for the behavioral health organizations within  
31 sixty days of approval of the biennial contract. The department must  
32 either approve or reject the biennial contract within sixty days of  
33 receipt.

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



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

4 (d) Deny all or part of the funding allocations to behavioral  
5 health organizations based solely upon formal findings of  
6 noncompliance with the terms of the behavioral health organization's  
7 contract with the department. Behavioral health organizations  
8 disputing the decision of the secretary to withhold funding  
9 allocations are limited to the remedies provided in the department's  
10 contracts with the behavioral health organizations.

11 ~~((18))~~ (15) The department, in cooperation with the state  
12 congressional delegation, shall actively seek waivers of federal  
13 requirements and such modifications of federal regulations as are  
14 necessary to allow federal medicaid reimbursement for services  
15 provided by freestanding evaluation and treatment facilities  
16 certified under chapter 71.05 RCW. The department shall periodically  
17 report its efforts to the appropriate committees of the senate and  
18 the house of representatives.

19 (16) The department may:

20 (a) Plan, establish, and maintain substance use disorder  
21 prevention and substance use disorder treatment programs as necessary  
22 or desirable;

23 (b) Coordinate its activities and cooperate with behavioral  
24 programs in this and other states, and make contracts and other joint  
25 or cooperative arrangements with state, local, or private agencies in  
26 this and other states for behavioral health services and for the  
27 common advancement of substance use disorder programs;

28 (c) Solicit and accept for use any gift of money or property made  
29 by will or otherwise, and any grant of money, services, or property  
30 from the federal government, the state, or any political subdivision  
31 thereof or any private source, and do all things necessary to  
32 cooperate with the federal government or any of its agencies in  
33 making an application for any grant;

34 (d) Keep records and engage in research and the gathering of  
35 relevant statistics; and

36 (e) Acquire, hold, or dispose of real property or any interest  
37 therein, and construct, lease, or otherwise provide substance use  
38 disorder treatment programs.

1       **Sec. 504.** RCW 70.96A.050 and 2014 c 225 s 23 are each amended to  
2 read as follows:

3       The department shall:

4       (1) Develop, encourage, and foster statewide, regional, and local  
5 plans and programs for the prevention of alcoholism and other drug  
6 addiction, treatment of persons with substance use disorders and  
7 their families, persons incapacitated by alcohol or other  
8 psychoactive chemicals, and intoxicated persons in cooperation with  
9 public and private agencies, organizations, and individuals and  
10 provide technical assistance and consultation services for these  
11 purposes;

12       (2) Assure that any behavioral health organization managed care  
13 contract, or managed care contract under RCW 74.09.522 for behavioral  
14 health services or programs for the treatment of persons with  
15 substance use disorders and their families, persons incapacitated by  
16 alcohol or other psychoactive chemicals, and intoxicated persons  
17 provides medically necessary services to medicaid recipients. This  
18 must include a continuum of mental health and (~~chemical dependency~~)  
19 substance use disorder services consistent with the state's medicaid  
20 plan or federal waiver authorities, and nonmedicaid services  
21 consistent with priorities established by the department;

22       (3) Coordinate the efforts and enlist the assistance of all  
23 public and private agencies, organizations, and individuals  
24 interested in prevention of alcoholism and drug addiction, and  
25 treatment of persons with substance use disorders and their families,  
26 persons incapacitated by alcohol or other psychoactive chemicals, and  
27 intoxicated persons;

28       (4) Cooperate with public and private agencies in establishing  
29 and conducting programs to provide treatment for persons with  
30 substance use disorders and their families, persons incapacitated by  
31 alcohol or other psychoactive chemicals, and intoxicated persons who  
32 are clients of the correctional system;

33       (5) Cooperate with the superintendent of public instruction,  
34 state board of education, schools, police departments, courts, and  
35 other public and private agencies, organizations and individuals in  
36 establishing programs for the prevention of (~~alcoholism and other~~  
37 ~~drug addiction~~) substance use disorders, treatment of persons with  
38 substance use disorders and their families, persons incapacitated by  
39 alcohol or other psychoactive chemicals, and intoxicated persons, and

1 preparing curriculum materials thereon for use at all levels of  
2 school education;

3 (6) Prepare, publish, evaluate, and disseminate educational  
4 material dealing with the nature and effects of alcohol and other  
5 psychoactive chemicals and the consequences of their use;

6 (7) Develop and implement, as an integral part of substance use  
7 disorder treatment programs, an educational program for use in the  
8 treatment of persons with substance use disorders, persons  
9 incapacitated by alcohol or other psychoactive chemicals, and  
10 intoxicated persons, which program shall include the dissemination of  
11 information concerning the nature and effects of alcohol and other  
12 psychoactive chemicals, the consequences of their use, the principles  
13 of recovery, and HIV and AIDS;

14 (8) Organize and foster training programs for persons engaged in  
15 treatment of persons with substance use disorders, persons  
16 incapacitated by alcohol or other psychoactive chemicals, and  
17 intoxicated persons;

18 (9) Sponsor and encourage research into the causes and nature of  
19 (~~alcoholism and other drug addiction~~) substance use disorders,  
20 treatment of persons with substance use disorders, persons  
21 incapacitated by alcohol or other psychoactive chemicals, and  
22 intoxicated persons, and serve as a clearinghouse for information  
23 relating to (~~alcoholism or other drug addiction~~) substance use  
24 disorders;

25 (10) Specify uniform methods for keeping statistical information  
26 by public and private agencies, organizations, and individuals, and  
27 collect and make available relevant statistical information,  
28 including number of persons treated, frequency of admission and  
29 readmission, and frequency and duration of treatment;

30 (11) Advise the governor in the preparation of a comprehensive  
31 plan for treatment of persons with substance use disorders, persons  
32 incapacitated by alcohol or other psychoactive chemicals, and  
33 intoxicated persons for inclusion in the state's comprehensive health  
34 plan;

35 (12) Review all state health, welfare, and treatment plans to be  
36 submitted for federal funding under federal legislation, and advise  
37 the governor on provisions to be included relating to substance use  
38 disorders;

39 (13) Assist in the development of, and cooperate with, programs  
40 for alcohol and other psychoactive chemical education and treatment

1 for employees of state and local governments and businesses and  
2 industries in the state;

3 (14) Use the support and assistance of interested persons in the  
4 community to encourage persons with substance use disorders  
5 voluntarily to undergo treatment;

6 (15) Cooperate with public and private agencies in establishing  
7 and conducting programs designed to deal with the problem of persons  
8 operating motor vehicles while intoxicated;

9 (16) Encourage general hospitals and other appropriate health  
10 facilities to admit without discrimination persons with substance use  
11 disorders, persons incapacitated by alcohol or other psychoactive  
12 chemicals, and intoxicated persons and to provide them with adequate  
13 and appropriate treatment;

14 (17) Encourage all health and disability insurance programs to  
15 include (~~alcoholism and other drug addiction~~) substance use  
16 disorders as a covered illness; and

17 (18) Organize and sponsor a statewide program to help court  
18 personnel, including judges, better understand (~~the disease of~~  
19 ~~alcoholism and other drug addiction~~) substance use disorders and the  
20 uses of (~~chemical dependency~~) substance use disorder treatment  
21 programs.

22 **Sec. 505.** RCW 71.24.037 and 2001 c 323 s 11 are each amended to  
23 read as follows:

24 (1) The secretary shall by rule establish state minimum standards  
25 for licensed behavioral health service providers and services,  
26 whether those service providers and services are licensed to provide  
27 solely mental health services, substance use disorder treatment  
28 services, or services to persons with co-occurring disorders.

29 (2) Minimum standards for licensed behavioral health service  
30 providers shall, at a minimum, establish: Qualifications for staff  
31 providing services directly to (~~mentally ill~~) persons with mental  
32 disorders, substance use disorders, or both, the intended result of  
33 each service, and the rights and responsibilities of persons  
34 receiving (~~mental~~) behavioral health services pursuant to this  
35 chapter. The secretary shall provide for deeming of licensed  
36 behavioral health service providers as meeting state minimum  
37 standards as a result of accreditation by a recognized behavioral  
38 health accrediting body recognized and having a current agreement  
39 with the department.

1 (3) Minimum standards for community support services and resource  
2 management services shall include at least qualifications for  
3 resource management services, client tracking systems, and the  
4 transfer of patient information between behavioral health service  
5 providers.

6 (4) The department may suspend, revoke, limit, restrict, or  
7 modify an approval, or refuse to grant approval, for failure to meet  
8 the provisions of this chapter, or the standards adopted under this  
9 chapter. RCW 43.20A.205 governs notice of a license denial,  
10 revocation, suspension, or modification and provides the right to an  
11 adjudicative proceeding.

12 (5) No licensed behavioral health service provider may advertise  
13 or represent itself as a licensed behavioral health service provider  
14 if approval has not been granted, has been denied, suspended,  
15 revoked, or canceled.

16 (6) Licensure as a behavioral health service provider is  
17 effective for one calendar year from the date of issuance of the  
18 license. The license must specify the types of services provided by  
19 the behavioral health service provider that meet the standards  
20 adopted under this chapter. Renewal of a license must be made in  
21 accordance with this section for initial approval and in accordance  
22 with the standards set forth in rules adopted by the secretary.

23 (7) Licensure as a licensed behavioral health service provider  
24 must specify the types of services provided that meet the standards  
25 adopted under this chapter. Renewal of a license must be made in  
26 accordance with this section for initial approval and in accordance  
27 with the standards set forth in rules adopted by the secretary.

28 (8) Licensed behavioral health service providers may not provide  
29 types of services for which the licensed behavioral health service  
30 provider has not been certified. Licensed behavioral health service  
31 providers may provide services for which approval has been sought and  
32 is pending, if approval for the services has not been previously  
33 revoked or denied.

34 (9) The department periodically shall inspect licensed behavioral  
35 health service providers at reasonable times and in a reasonable  
36 manner.

37 (10) Upon petition of the department and after a hearing held  
38 upon reasonable notice to the facility, the superior court may issue  
39 a warrant to an officer or employee of the department authorizing him  
40 or her to enter and inspect at reasonable times, and examine the

1 books and accounts of, any licensed behavioral health service  
2 provider refusing to consent to inspection or examination by the  
3 department or which the department has reasonable cause to believe is  
4 operating in violation of this chapter.

5 (11) The department shall maintain and periodically publish a  
6 current list of licensed behavioral health service providers.

7 (12) Each licensed behavioral health service provider shall file  
8 with the department upon request, data, statistics, schedules, and  
9 information the department reasonably requires. A licensed behavioral  
10 health service provider that without good cause fails to furnish any  
11 data, statistics, schedules, or information as requested, or files  
12 fraudulent returns thereof, may have its license revoked or  
13 suspended.

14 (13) The department shall use the data provided in subsection  
15 (12) of this section to evaluate each program that admits children to  
16 inpatient substance use disorder treatment upon application of their  
17 parents. The evaluation must be done at least once every twelve  
18 months. In addition, the department shall randomly select and review  
19 the information on individual children who are admitted on  
20 application of the child's parent for the purpose of determining  
21 whether the child was appropriately placed into substance use  
22 disorder treatment based on an objective evaluation of the child's  
23 condition and the outcome of the child's treatment.

24 **Sec. 506.** RCW 70.96A.090 and 2005 c 70 s 2 are each amended to  
25 read as follows:

26 ~~(1) ((The department shall adopt rules establishing standards for~~  
27 ~~approved treatment programs, the process for the review and~~  
28 ~~inspection program applying to the department for certification as an~~  
29 ~~approved treatment program, and fixing the fees to be charged by the~~  
30 ~~department for the required inspections. The standards may concern~~  
31 ~~the health standards to be met and standards of services and~~  
32 ~~treatment to be afforded patients.~~

33 ~~(2) The department may suspend, revoke, limit, restrict, or~~  
34 ~~modify an approval, or refuse to grant approval, for failure to meet~~  
35 ~~the provisions of this chapter, or the standards adopted under this~~  
36 ~~chapter. RCW 43.20A.205 governs notice of a license denial,~~  
37 ~~revocation, suspension, or modification and provides the right to an~~  
38 ~~adjudicative proceeding.~~

1       ~~(3) No treatment program may advertise or represent itself as an~~  
2 ~~approved treatment program if approval has not been granted, has been~~  
3 ~~denied, suspended, revoked, or canceled.~~

4       ~~(4) Certification as an approved treatment program is effective~~  
5 ~~for one calendar year from the date of issuance of the certificate.~~  
6 ~~The certification shall specify the types of services provided by the~~  
7 ~~approved treatment program that meet the standards adopted under this~~  
8 ~~chapter. Renewal of certification shall be made in accordance with~~  
9 ~~this section for initial approval and in accordance with the~~  
10 ~~standards set forth in rules adopted by the secretary.~~

11       ~~(5) Approved treatment programs shall not provide alcoholism or~~  
12 ~~other drug addiction treatment services for which the approved~~  
13 ~~treatment program has not been certified. Approved treatment programs~~  
14 ~~may provide services for which approval has been sought and is~~  
15 ~~pending, if approval for the services has not been previously revoked~~  
16 ~~or denied.~~

17       ~~(6) The department periodically shall inspect approved public and~~  
18 ~~private treatment programs at reasonable times and in a reasonable~~  
19 ~~manner.~~

20       ~~(7) The department shall maintain and periodically publish a~~  
21 ~~current list of approved treatment programs.~~

22       ~~(8) Each approved treatment program shall file with the~~  
23 ~~department on request, data, statistics, schedules, and information~~  
24 ~~the department reasonably requires. An approved treatment program~~  
25 ~~that without good cause fails to furnish any data, statistics,~~  
26 ~~schedules, or information as requested, or files fraudulent returns~~  
27 ~~thereof, may be removed from the list of approved treatment programs,~~  
28 ~~and its certification revoked or suspended.~~

29       ~~(9) The department shall use the data provided in subsection (8)~~  
30 ~~of this section to evaluate each program that admits children to~~  
31 ~~inpatient treatment upon application of their parents. The evaluation~~  
32 ~~shall be done at least once every twelve months. In addition, the~~  
33 ~~department shall randomly select and review the information on~~  
34 ~~individual children who are admitted on application of the child's~~  
35 ~~parent for the purpose of determining whether the child was~~  
36 ~~appropriately placed into treatment based on an objective evaluation~~  
37 ~~of the child's condition and the outcome of the child's treatment.~~

38       ~~(10) Upon petition of the department and after a hearing held~~  
39 ~~upon reasonable notice to the facility, the superior court may issue~~  
40 ~~a warrant to an officer or employee of the department authorizing him~~

1 ~~or her to enter and inspect at reasonable times, and examine the~~  
2 ~~books and accounts of, any approved public or private treatment~~  
3 ~~program refusing to consent to inspection or examination by the~~  
4 ~~department or which the department has reasonable cause to believe is~~  
5 ~~operating in violation of this chapter.~~

6 ~~(11)(a))~~ All approved opiate substitution treatment programs  
7 that provide services to women who are pregnant are required to  
8 disseminate up-to-date and accurate health education information to  
9 all their pregnant clients concerning the possible addiction and  
10 health risks that their opiate substitution treatment may have on  
11 their baby. All pregnant clients must also be advised of the risks to  
12 both them and their baby associated with not remaining on the opiate  
13 substitute program. The information must be provided to these clients  
14 both verbally and in writing. The health education information  
15 provided to the pregnant clients must include referral options for  
16 the addicted baby.

17 ~~((b))~~ (2) The department shall adopt rules that require all  
18 opiate treatment programs to educate all pregnant women in their  
19 program on the benefits and risks of methadone treatment to their  
20 fetus before they are provided these medications, as part of their  
21 addiction treatment. The department shall meet the requirements under  
22 this subsection within the appropriations provided for opiate  
23 treatment programs. The department, working with treatment providers  
24 and medical experts, shall develop and disseminate the educational  
25 materials to all certified opiate treatment programs.

26 NEW SECTION. Sec. 507. A new section is added to chapter 71.24  
27 RCW to read as follows:

28 The standards for certification or licensure of evaluation and  
29 treatment facilities must include standards relating to maintenance  
30 of good physical and mental health and other services to be afforded  
31 persons pursuant to this chapter and chapters 71.05 and 71.34 RCW,  
32 and must otherwise assure the effectuation of the purposes of these  
33 chapters.

34 NEW SECTION. Sec. 508. A new section is added to chapter 71.24  
35 RCW to read as follows:

36 The standards for certification or licensure of crisis  
37 stabilization units must include standards that:



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

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

6 (3) Provide an environment affording security appropriate with  
7 the alleged criminal behavior and necessary to protect the public  
8 safety.

9 NEW SECTION. **Sec. 509.** A new section is added to chapter 71.24  
10 RCW to read as follows:

11 The standards for certification or licensure of a clubhouse must  
12 at a minimum include:

13 (1) The facilities may be peer-operated and must be  
14 recovery-focused;

15 (2) Members and employees must work together;

16 (3) Members must have the opportunity to participate in all the  
17 work of the clubhouse, including administration, research, intake and  
18 orientation, outreach, hiring, training and evaluation of staff,  
19 public relations, advocacy, and evaluation of clubhouse  
20 effectiveness;

21 (4) Members and staff and ultimately the clubhouse director must  
22 be responsible for the operation of the clubhouse, central to this  
23 responsibility is the engagement of members and staff in all aspects  
24 of clubhouse operations;

25 (5) Clubhouse programs must be comprised of structured activities  
26 including but not limited to social skills training, vocational  
27 rehabilitation, employment training and job placement, and community  
28 resource development;

29 (6) Clubhouse programs must provide in-house educational programs  
30 that significantly utilize the teaching and tutoring skills of  
31 members and assist members by helping them to take advantage of adult  
32 education opportunities in the community;

33 (7) Clubhouse programs must focus on strengths, talents, and  
34 abilities of its members;

35 (8) The work-ordered day may not include medication clinics, day  
36 treatment, or other therapy programs within the clubhouse.

37 **Sec. 510.** RCW 71.24.385 and 2014 c 225 s 9 are each amended to  
38 read as follows:

1 (1) Within funds appropriated by the legislature for this  
2 purpose, behavioral health organizations shall develop the means to  
3 serve the needs of people:

4 (a) With mental disorders residing within the boundaries of their  
5 regional service area. Elements of the program may include:

6 ~~((a))~~ (i) Crisis diversion services;

7 ~~((b))~~ (ii) Evaluation and treatment and community hospital  
8 beds;

9 ~~((c))~~ (iii) Residential treatment;

10 ~~((d))~~ (iv) Programs for intensive community treatment;

11 ~~((e))~~ (v) Outpatient services;

12 ~~((f))~~ (vi) Peer support services;

13 ~~((g))~~ (vii) Community support services;

14 ~~((h))~~ (viii) Resource management services; and

15 ~~((i))~~ (ix) Supported housing and supported employment services.

16 (b) With substance use disorders and their families, people  
17 incapacitated by alcohol or other psychoactive chemicals, and  
18 intoxicated people.

19 (i) Elements of the program shall include, but not necessarily be  
20 limited to, a continuum of substance use disorder treatment services  
21 that includes:

22 (A) Withdrawal management;

23 (B) Residential treatment; and

24 (C) Outpatient treatment.

25 (ii) The program may include peer support, supported housing,  
26 supported employment, crisis diversion, or recovery support services.

27 (iii) The department may contract for the use of an approved  
28 substance use disorder treatment program or other individual or  
29 organization if the secretary considers this to be an effective and  
30 economical course to follow.

31 (2) The behavioral health organization shall have the  
32 flexibility, within the funds appropriated by the legislature for  
33 this purpose and the terms of their contract, to design the mix of  
34 services that will be most effective within their service area of  
35 meeting the needs of people with ~~((mental))~~ behavioral health  
36 disorders and avoiding placement of such individuals at the state  
37 mental hospital. Behavioral health organizations are encouraged to  
38 maximize the use of evidence-based practices and alternative  
39 resources with the goal of substantially reducing and potentially  
40 eliminating the use of institutions for mental diseases.

1 (3)(a) Treatment provided under this chapter must be purchased  
2 primarily through managed care contracts.

3 (b) Consistent with RCW 70.96A.350 (as recodified by this act),  
4 services and funding provided through the criminal justice treatment  
5 account are intended to be exempted from managed care contracting.

6 **Sec. 511.** RCW 70.96A.350 and 2015 3rd sp.s. c 4 s 968 and 2015 c  
7 291 s 10 are each reenacted and amended to read as follows:

8 (1) The criminal justice treatment account is created in the  
9 state treasury. Moneys in the account may be expended solely for: (a)  
10 Substance (~~abuse~~) use disorder treatment and treatment support  
11 services for offenders with (~~an addiction or a substance abuse~~  
12 ~~problem~~) a substance use disorder that, if not treated, would result  
13 in addiction, against whom charges are filed by a prosecuting  
14 attorney in Washington state; (b) the provision of (~~drug and~~  
15 ~~alcohol~~) substance use disorder treatment services and treatment  
16 support services for nonviolent offenders within a drug court  
17 program; and (c) the administrative and overhead costs associated  
18 with the operation of a drug court. (~~This amount is not subject to~~  
19 ~~the requirements of subsections (5) through (9) of this section.~~  
20 ~~During the 2013-2015 fiscal biennium, the legislature may transfer~~  
21 ~~from the criminal justice treatment account to the state general fund~~  
22 ~~amounts as reflect the state savings associated with the~~  
23 ~~implementation of the medicaid expansion of the federal affordable~~  
24 ~~care act.)) During the 2015-2017 fiscal biennium, the legislature may~~  
25 transfer from the criminal justice treatment account to the state  
26 general fund amounts as reflect the state savings associated with the  
27 implementation of the medicaid expansion of the federal affordable  
28 care act and the excess fund balance of the account. Moneys in the  
29 account may be spent only after appropriation.

30 (2) For purposes of this section:

31 (a) "Treatment" means services that are critical to a  
32 participant's successful completion of his or her substance (~~abuse~~)  
33 use disorder treatment program, but does not include the following  
34 services: Housing other than that provided as part of an inpatient  
35 substance (~~abuse~~) use disorder treatment program, vocational  
36 training, and mental health counseling; and

37 (b) "Treatment support" means transportation to or from inpatient  
38 or outpatient treatment services when no viable alternative exists,

1 and child care services that are necessary to ensure a participant's  
2 ability to attend outpatient treatment sessions.

3 (3) Revenues to the criminal justice treatment account consist  
4 of: (a) Funds transferred to the account pursuant to this section;  
5 and (b) any other revenues appropriated to or deposited in the  
6 account.

7 (4)(a) (~~For the fiscal biennium beginning July 1, 2003, the~~  
8 ~~state treasurer shall transfer eight million nine hundred fifty~~  
9 ~~thousand dollars from the general fund into the criminal justice~~  
10 ~~treatment account, divided into eight equal quarterly payments. For~~  
11 ~~the fiscal year beginning July 1, 2005, and each subsequent fiscal~~  
12 ~~year, the state treasurer shall transfer eight million two hundred~~  
13 ~~fifty thousand dollars from the general fund to the criminal justice~~  
14 ~~treatment account, divided into four equal quarterly payments.)) For  
15 the fiscal year beginning July 1, 2006, and each subsequent fiscal  
16 year, the amount transferred shall be increased on an annual basis by  
17 the implicit price deflator as published by the federal bureau of  
18 labor statistics.~~

19 (b) In each odd-numbered year, the legislature shall appropriate  
20 the amount transferred to the criminal justice treatment account in  
21 (a) of this subsection to the (~~division of alcohol and substance~~  
22 ~~abuse~~) department for the purposes of subsection (5) of this  
23 section.

24 (5) Moneys appropriated to the (~~division of alcohol and~~  
25 ~~substance abuse~~) department from the criminal justice treatment  
26 account shall be distributed as specified in this subsection. The  
27 department (~~shall serve as the fiscal agent for purposes of~~  
28 ~~distribution. Until July 1, 2004, the department may not use moneys~~  
29 ~~appropriated from the criminal justice treatment account for~~  
30 ~~administrative expenses and shall distribute all amounts appropriated~~  
31 ~~under subsection (4)(b) of this section in accordance with this~~  
32 ~~subsection. Beginning in July 1, 2004, the department)) may retain up  
33 to three percent of the amount appropriated under subsection (4)(b)  
34 of this section for its administrative costs.~~

35 (a) Seventy percent of amounts appropriated to the (~~division~~)  
36 department from the account shall be distributed to counties pursuant  
37 to the distribution formula adopted under this section. The division  
38 of alcohol and substance abuse, in consultation with the department  
39 of corrections, the Washington state association of counties, the  
40 Washington state association of drug court professionals, the

1 superior court judges' association, the Washington association of  
2 prosecuting attorneys, representatives of the criminal defense bar,  
3 representatives of substance ((~~abuse~~)) use disorder treatment  
4 providers, and any other person deemed by the ((~~division~~)) department  
5 to be necessary, shall establish a fair and reasonable methodology  
6 for distribution to counties of moneys in the criminal justice  
7 treatment account. County or regional plans submitted for the  
8 expenditure of formula funds must be approved by the panel  
9 established in (b) of this subsection.

10 (b) Thirty percent of the amounts appropriated to the  
11 ((~~division~~)) department from the account shall be distributed as  
12 grants for purposes of treating offenders against whom charges are  
13 filed by a county prosecuting attorney. The ((~~division~~)) department  
14 shall appoint a panel of representatives from the Washington  
15 association of prosecuting attorneys, the Washington association of  
16 sheriffs and police chiefs, the superior court judges' association,  
17 the Washington state association of counties, the Washington  
18 defender's association or the Washington association of criminal  
19 defense lawyers, the department of corrections, the Washington state  
20 association of drug court professionals, substance ((~~abuse~~)) use  
21 disorder treatment providers, and the division. The panel shall  
22 review county or regional plans for funding under (a) of this  
23 subsection and grants approved under this subsection. The panel shall  
24 attempt to ensure that treatment as funded by the grants is available  
25 to offenders statewide.

26 (6) The county alcohol and drug coordinator, county prosecutor,  
27 county sheriff, county superior court, a substance abuse treatment  
28 provider appointed by the county legislative authority, a member of  
29 the criminal defense bar appointed by the county legislative  
30 authority, and, in counties with a drug court, a representative of  
31 the drug court shall jointly submit a plan, approved by the county  
32 legislative authority or authorities, to the panel established in  
33 subsection (5)(b) of this section, for disposition of all the funds  
34 provided from the criminal justice treatment account within that  
35 county. The funds shall be used solely to provide approved alcohol  
36 and substance abuse treatment pursuant to RCW 70.96A.090 (as  
37 recodified by this act), treatment support services, and for the  
38 administrative and overhead costs associated with the operation of a  
39 drug court.

1 (a) No more than ten percent of the total moneys received under  
2 subsections (4) and (5) of this section by a county or group of  
3 counties participating in a regional agreement shall be spent on the  
4 administrative and overhead costs associated with the operation of a  
5 drug court.

6 (b) No more than ten percent of the total moneys received under  
7 subsections (4) and (5) of this section by a county or group of  
8 counties participating in a regional agreement shall be spent for  
9 treatment support services.

10 (7) Counties are encouraged to consider regional agreements and  
11 submit regional plans for the efficient delivery of treatment under  
12 this section.

13 (8) Moneys allocated under this section shall be used to  
14 supplement, not supplant, other federal, state, and local funds used  
15 for substance abuse treatment.

16 (9) Counties must meet the criteria established in RCW  
17 2.30.030(3).

18 (10) The authority under this section to use funds from the  
19 criminal justice treatment account for the administrative and  
20 overhead costs associated with the operation of a drug court expires  
21 June 30, 2015.

22 **Sec. 512.** RCW 70.96A.035 and 2005 c 504 s 302 are each amended  
23 to read as follows:

24 (1) (~~Not later than January 1, 2007,~~) All persons providing  
25 treatment under this chapter shall also implement the integrated  
26 comprehensive screening and assessment process for ((chemical  
27 dependency)) substance use and mental disorders adopted pursuant to  
28 RCW 70.96C.010 (as recodified by this act) and shall document the  
29 numbers of clients with co-occurring mental and substance ((~~abuse~~))  
30 use disorders based on a quadrant system of low and high needs.

31 (2) Treatment providers contracted to provide treatment under  
32 this chapter who fail to implement the integrated comprehensive  
33 screening and assessment process for ((~~chemical—dependency~~))  
34 substance use and mental disorders ((~~by July 1, 2007,~~)) are subject  
35 to contractual penalties established under RCW 70.96C.010 (as  
36 recodified by this act).

37 **Sec. 513.** RCW 70.96C.010 and 2014 c 225 s 77 are each amended to  
38 read as follows:

1 (1) The department of social and health services(~~(, in~~  
2 ~~consultation with the members of the team charged with developing the~~  
3 ~~state plan for co-occurring mental and substance abuse disorders,~~  
4 ~~shall adopt, not later than January 1, 2006,)) shall maintain an  
5 integrated and comprehensive screening and assessment process for  
6 (~~chemical dependency~~) substance use and mental disorders and co-  
7 occurring (~~chemical dependency~~) substance use and mental disorders.~~

8 (a) The process adopted shall include, at a minimum:

9 (i) An initial screening tool that can be used by intake  
10 personnel system-wide and which will identify the most common types  
11 of co-occurring disorders;

12 (ii) An assessment process for those cases in which assessment is  
13 indicated that provides an appropriate degree of assessment for most  
14 situations, which can be expanded for complex situations;

15 (iii) Identification of triggers in the screening that indicate  
16 the need to begin an assessment;

17 (iv) Identification of triggers after or outside the screening  
18 that indicate a need to begin or resume an assessment;

19 (v) The components of an assessment process and a protocol for  
20 determining whether part or all of the assessment is necessary, and  
21 at what point; and

22 (vi) Emphasis that the process adopted under this section is to  
23 replace and not to duplicate existing intake, screening, and  
24 assessment tools and processes.

25 (b) The department shall consider existing models, including  
26 those already adopted by other states, and to the extent possible,  
27 adopt an established, proven model.

28 (c) The integrated, comprehensive screening and assessment  
29 process shall be implemented statewide by all (~~chemical dependency~~)  
30 substance use disorder and mental health treatment providers as well  
31 as all designated mental health professionals, designated chemical  
32 dependency specialists, and designated crisis responders (~~not later~~  
33 ~~than January 1, 2007~~)).

34 (2) The department shall provide adequate training to effect  
35 statewide implementation by the dates designated in this section and  
36 shall report the rates of co-occurring disorders and the stage of  
37 screening or assessment at which the co-occurring disorder was  
38 identified to the appropriate committees of the legislature.

39 (3) The department shall establish contractual penalties to  
40 contracted treatment providers, the behavioral health organizations,

1 and their contracted providers for failure to implement the  
2 integrated screening and assessment process ((~~by July 1, 2007~~)).

3 **Sec. 514.** RCW 70.96A.037 and 2011 c 89 s 9 are each amended to  
4 read as follows:

5 (1) The department of social and health services shall contract  
6 for chemical dependency specialist services at division of children  
7 and family services offices to enhance the timeliness and quality of  
8 child protective services assessments and to better connect families  
9 to needed treatment services.

10 (2) The chemical dependency specialist's duties may include, but  
11 are not limited to: Conducting on-site ((~~chemical dependency~~))  
12 substance use disorder screening and assessment, facilitating  
13 progress reports to department employees, in-service training of  
14 department employees and staff on substance ((~~abuse~~)) use disorder  
15 issues, referring clients from the department to treatment providers,  
16 and providing consultation on cases to department employees.

17 (3) The department of social and health services shall provide  
18 training in and ensure that each case-carrying employee is trained in  
19 uniform screening for mental health and ((~~chemical dependency~~))  
20 substance use disorder.

21 **Sec. 515.** RCW 70.96A.047 and 1989 c 270 s 11 are each amended to  
22 read as follows:

23 Except as provided in this chapter, the secretary shall not  
24 approve any substance use disorder facility, plan, or program for  
25 financial assistance under RCW 70.96A.040 (as recodified by this act)  
26 unless at least ten percent of the amount spent for the facility,  
27 plan, or program is provided from local public or private sources.  
28 When deemed necessary to maintain public standards of care in the  
29 substance use disorder facility, plan, or program, the secretary may  
30 require the substance use disorder facility, plan, or program to  
31 provide up to fifty percent of the total spent for the program  
32 through fees, gifts, contributions, or volunteer services. The  
33 secretary shall determine the value of the gifts, contributions, and  
34 volunteer services.

35 **Sec. 516.** RCW 70.96A.055 and 1999 c 197 s 10 are each amended to  
36 read as follows:



1 The department shall contract with counties operating drug courts  
2 and counties in the process of implementing new drug courts for the  
3 provision of (~~drug and alcohol~~) substance use disorder treatment  
4 services.

5 **Sec. 517.** RCW 70.96A.087 and 1989 c 270 s 13 are each amended to  
6 read as follows:

7 To be eligible to receive its share of liquor taxes and profits,  
8 each city and county shall devote no less than two percent of its  
9 share of liquor taxes and profits to the support of a substance use  
10 disorder program (~~(of alcoholism and other drug addiction)~~) approved  
11 by the (~~(alcoholism and other drug addiction board authorized by RCW~~  
12 ~~70.96A.300)~~) behavioral health organization and the secretary.

13 **Sec. 518.** RCW 70.96A.170 and 1989 c 270 s 30 are each amended to  
14 read as follows:

15 (1) The state and counties, cities, and other municipalities may  
16 establish or contract for emergency service patrols which are to be  
17 under the administration of the appropriate jurisdiction. A patrol  
18 consists of persons trained to give assistance in the streets and in  
19 other public places to persons who are intoxicated. Members of an  
20 emergency service patrol shall be capable of providing first aid in  
21 emergency situations and may transport intoxicated persons to their  
22 homes and to and from substance use disorder treatment programs.

23 (2) The secretary shall adopt rules pursuant to chapter 34.05 RCW  
24 for the establishment, training, and conduct of emergency service  
25 patrols.

26 **Sec. 519.** RCW 70.96A.400 and 2001 c 242 s 1 are each amended to  
27 read as follows:

28 The state of Washington declares that there is no fundamental  
29 right to opiate substitution treatment. The state of Washington  
30 further declares that while opiate substitution drugs used in the  
31 treatment of opiate dependency are addictive substances, that they  
32 nevertheless have several legal, important, and justified uses and  
33 that one of their appropriate and legal uses is, in conjunction with  
34 other required therapeutic procedures, in the treatment of persons  
35 addicted to or habituated to opioids. Opiate substitution treatment  
36 should only be used for participants who are deemed appropriate to

1 need this level of intervention and should not be the first treatment  
2 intervention for all opiate addicts.

3 Because opiate substitution drugs, used in the treatment of  
4 opiate dependency are addictive and are listed as a schedule II  
5 controlled substance in chapter 69.50 RCW, the state of Washington  
6 has the legal obligation and right to regulate the use of opiate  
7 substitution treatment. The state of Washington declares its  
8 authority to control and regulate carefully, in consultation with  
9 counties and cities, all clinical uses of opiate substitution drugs  
10 used in the treatment of opiate addiction.

11 Further, the state declares that the primary goal of opiate  
12 substitution treatment is total abstinence from ~~((chemical  
13 dependency))~~ substance use for the individuals who participate in the  
14 treatment program. The state recognizes that a small percentage of  
15 persons who participate in opiate substitution treatment programs  
16 require treatment for an extended period of time. Opiate substitution  
17 treatment programs shall provide a comprehensive transition program  
18 to eliminate ~~((chemical-dependency))~~ substance use, including opiate  
19 and opiate substitute addiction of program participants.

20 **Sec. 520.** RCW 70.96A.800 and 2014 c 225 s 33 are each amended to  
21 read as follows:

22 (1) Subject to funds appropriated for this specific purpose, the  
23 secretary shall select and contract with ~~((counties))~~ behavioral  
24 health organizations to provide intensive case management for  
25 ~~((chemically-dependent))~~ persons with substance use disorders and  
26 histories of high utilization of crisis services at two sites. In  
27 selecting the two sites, the secretary shall endeavor to site one in  
28 an urban county, and one in a rural county; and to site them in  
29 counties other than those selected pursuant to RCW 70.96B.020, to the  
30 extent necessary to facilitate evaluation of pilot project results.  
31 Subject to funds appropriated for this specific purpose, the  
32 secretary may contract with additional counties to provide intensive  
33 case management.

34 (2) The contracted sites shall implement the pilot programs by  
35 providing intensive case management to persons with a primary  
36 ~~((chemical-dependency))~~ substance use disorder diagnosis or dual  
37 primary ~~((chemical-dependency))~~ substance use disorder and mental  
38 health diagnoses, through the employment of ~~((chemical-dependency))~~

1 substance use disorder case managers. The ((~~chemical dependency~~))  
2 substance use disorder case managers shall:

3 (a) Be trained in and use the integrated, comprehensive screening  
4 and assessment process adopted under RCW 70.96C.010 (as recodified by  
5 this act);

6 (b) Reduce the use of crisis medical, ((~~chemical dependency~~))  
7 substance use disorder treatment and mental health services,  
8 including but not limited to, emergency room admissions,  
9 hospitalizations, withdrawal management programs, inpatient  
10 psychiatric admissions, involuntary treatment petitions, emergency  
11 medical services, and ambulance services;

12 (c) Reduce the use of emergency first responder services  
13 including police, fire, emergency medical, and ambulance services;

14 (d) Reduce the number of criminal justice interventions including  
15 arrests, violations of conditions of supervision, bookings, jail  
16 days, prison sanction day for violations, court appearances, and  
17 prosecutor and defense costs;

18 (e) Where appropriate and available, work with therapeutic courts  
19 including drug courts and mental health courts to maximize the  
20 outcomes for the individual and reduce the likelihood of reoffense;

21 (f) Coordinate with local offices of the economic services  
22 administration to assist the person in accessing and remaining  
23 enrolled in those programs to which the person may be entitled;

24 (g) Where appropriate and available, coordinate with primary care  
25 and other programs operated through the federal government including  
26 federally qualified health centers, Indian health programs, and  
27 veterans' health programs for which the person is eligible to reduce  
28 duplication of services and conflicts in case approach;

29 (h) Where appropriate, advocate for the client's needs to assist  
30 the person in achieving and maintaining stability and progress toward  
31 recovery;

32 (i) Document the numbers of persons with co-occurring mental and  
33 substance ((~~abuse~~)) use disorders and the point of determination of  
34 the co-occurring disorder by quadrant of intensity of need; and

35 (j) Where a program participant is under supervision by the  
36 department of corrections, collaborate with the department of  
37 corrections to maximize treatment outcomes and reduce the likelihood  
38 of reoffense.

39 (3) The pilot programs established by this section shall begin  
40 providing services by March 1, 2006.

1       **Sec. 521.** RCW 70.96A.905 and 1992 c 205 s 306 are each amended  
2 to read as follows:

3       The department shall ensure that the provisions of this chapter  
4 are applied by the ~~((counties))~~ behavioral health organizations in a  
5 consistent and uniform manner. The department shall also ensure that,  
6 to the extent possible within available funds, the ~~((county-~~  
7 ~~designated))~~ behavioral health organization-designated chemical  
8 dependency specialists are specifically trained in adolescent  
9 chemical dependency issues, the chemical dependency commitment laws,  
10 and the criteria for commitment, as specified in this chapter and  
11 chapter 70.96A RCW.

12       **Sec. 522.** RCW 71.24.300 and 2015 c 269 s 10 are each amended to  
13 read as follows:

14       (1) Upon the request of a tribal authority or authorities within  
15 a behavioral health organization the joint operating agreement or the  
16 county authority shall allow for the inclusion of the tribal  
17 authority to be represented as a party to the behavioral health  
18 organization.

19       (2) The roles and responsibilities of the county and tribal  
20 authorities shall be determined by the terms of that agreement  
21 including a determination of membership on the governing board and  
22 advisory committees, the number of tribal representatives to be party  
23 to the agreement, and the provisions of law and shall assure the  
24 provision of culturally competent services to the tribes served.

25       (3) The state ~~((mental))~~ behavioral health authority may not  
26 determine the roles and responsibilities of county authorities as to  
27 each other under behavioral health organizations by rule, except to  
28 assure that all duties required of behavioral health organizations  
29 are assigned and that counties and the behavioral health organization  
30 do not duplicate functions and that a single authority has final  
31 responsibility for all available resources and performance under the  
32 behavioral health organization's contract with the secretary.

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

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

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

5 (a) Administer and provide for the availability of all resource  
6 management services, residential services, and community support  
7 services.

8 (b) Administer and provide for the availability of an adequate  
9 network of evaluation and treatment services to ensure access to  
10 treatment, all investigation, transportation, court-related, and  
11 other services provided by the state or counties pursuant to chapter  
12 71.05 RCW.

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

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

25 (ii) Individuals detained or committed for periods up to  
26 seventeen days at the state hospitals at the discretion of the  
27 secretary.

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

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

35 (7) A behavioral health organization may request that any state-  
36 owned land, building, facility, or other capital asset which was ever  
37 purchased, deeded, given, or placed in trust for the care of the  
38 persons with mental illness and which is within the boundaries of a  
39 behavioral health organization be made available to support the  
40 operations of the behavioral health organization. State agencies

1 managing such capital assets shall give first priority to requests  
2 for their use pursuant to this chapter.

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

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

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

31 **Sec. 523.** RCW 71.24.350 and 2014 c 225 s 41 are each amended to  
32 read as follows:

33 The department shall require each behavioral health organization  
34 to provide for a separately funded (~~mental~~) behavioral health  
35 ombuds office in each behavioral health organization that is  
36 independent of the behavioral health organization. The ombuds office  
37 shall maximize the use of consumer advocates.

1       **Sec. 524.** RCW 9.94A.660 and 2009 c 389 s 3 are each amended to  
2 read as follows:

3       (1) An offender is eligible for the special drug offender  
4 sentencing alternative if:

5       (a) The offender is convicted of a felony that is not a violent  
6 offense or sex offense and the violation does not involve a sentence  
7 enhancement under RCW 9.94A.533 (3) or (4);

8       (b) The offender is convicted of a felony that is not a felony  
9 driving while under the influence of intoxicating liquor or any drug  
10 under RCW 46.61.502(6) or felony physical control of a vehicle while  
11 under the influence of intoxicating liquor or any drug under RCW  
12 46.61.504(6);

13       (c) The offender has no current or prior convictions for a sex  
14 offense at any time or violent offense within ten years before  
15 conviction of the current offense, in this state, another state, or  
16 the United States;

17       (d) For a violation of the Uniform Controlled Substances Act  
18 under chapter 69.50 RCW or a criminal solicitation to commit such a  
19 violation under chapter 9A.28 RCW, the offense involved only a small  
20 quantity of the particular controlled substance as determined by the  
21 judge upon consideration of such factors as the weight, purity,  
22 packaging, sale price, and street value of the controlled substance;

23       (e) The offender has not been found by the United States attorney  
24 general to be subject to a deportation detainer or order and does not  
25 become subject to a deportation order during the period of the  
26 sentence;

27       (f) The end of the standard sentence range for the current  
28 offense is greater than one year; and

29       (g) The offender has not received a drug offender sentencing  
30 alternative more than once in the prior ten years before the current  
31 offense.

32       (2) A motion for a special drug offender sentencing alternative  
33 may be made by the court, the offender, or the state.

34       (3) If the sentencing court determines that the offender is  
35 eligible for an alternative sentence under this section and that the  
36 alternative sentence is appropriate, the court shall waive imposition  
37 of a sentence within the standard sentence range and impose a  
38 sentence consisting of either a prison-based alternative under RCW  
39 9.94A.662 or a residential chemical dependency treatment-based  
40 alternative under RCW 9.94A.664. The residential chemical dependency

1 treatment-based alternative is only available if the midpoint of the  
2 standard range is twenty-four months or less.

3 (4) To assist the court in making its determination, the court  
4 may order the department to complete either or both a risk assessment  
5 report and a chemical dependency screening report as provided in RCW  
6 9.94A.500.

7 (5)(a) If the court is considering imposing a sentence under the  
8 residential chemical dependency treatment-based alternative, the  
9 court may order an examination of the offender by the department. The  
10 examination shall, at a minimum, address the following issues:

11 (i) Whether the offender suffers from drug addiction;

12 (ii) Whether the addiction is such that there is a probability  
13 that criminal behavior will occur in the future;

14 (iii) Whether effective treatment for the offender's addiction is  
15 available from a provider that has been licensed or certified by the  
16 (~~division of alcohol and substance abuse of the~~) department of  
17 social and health services; and

18 (iv) Whether the offender and the community will benefit from the  
19 use of the alternative.

20 (b) The examination report must contain:

21 (i) A proposed monitoring plan, including any requirements  
22 regarding living conditions, lifestyle requirements, and monitoring  
23 by family members and others; and

24 (ii) Recommended crime-related prohibitions and affirmative  
25 conditions.

26 (6) When a court imposes a sentence of community custody under  
27 this section:

28 (a) The court may impose conditions as provided in RCW 9.94A.703  
29 and may impose other affirmative conditions as the court considers  
30 appropriate. In addition, an offender may be required to pay thirty  
31 dollars per month while on community custody to offset the cost of  
32 monitoring for alcohol or controlled substances.

33 (b) The department may impose conditions and sanctions as  
34 authorized in RCW 9.94A.704 and 9.94A.737.

35 (7)(a) The court may bring any offender sentenced under this  
36 section back into court at any time on its own initiative to evaluate  
37 the offender's progress in treatment or to determine if any  
38 violations of the conditions of the sentence have occurred.



1 (b) If the offender is brought back to court, the court may  
2 modify the conditions of the community custody or impose sanctions  
3 under (c) of this subsection.

4 (c) The court may order the offender to serve a term of total  
5 confinement within the standard range of the offender's current  
6 offense at any time during the period of community custody if the  
7 offender violates the conditions or requirements of the sentence or  
8 if the offender is failing to make satisfactory progress in  
9 treatment.

10 (d) An offender ordered to serve a term of total confinement  
11 under (c) of this subsection shall receive credit for any time  
12 previously served under this section.

13 (8) In serving a term of community custody imposed upon failure  
14 to complete, or administrative termination from, the special drug  
15 offender sentencing alternative program, the offender shall receive  
16 no credit for time served in community custody prior to termination  
17 of the offender's participation in the program.

18 (9) An offender sentenced under this section shall be subject to  
19 all rules relating to earned release time with respect to any period  
20 served in total confinement.

21 (10) Costs of examinations and preparing treatment plans under a  
22 special drug offender sentencing alternative may be paid, at the  
23 option of the county, from funds provided to the county from the  
24 criminal justice treatment account under RCW 70.96A.350 (as  
25 recodified by this act).

26 **Sec. 525.** RCW 10.05.020 and 2010 c 269 s 9 are each amended to  
27 read as follows:

28 (1) Except as provided in subsection (2) of this section, the  
29 petitioner shall allege under oath in the petition that the wrongful  
30 conduct charged is the result of or caused by ~~((alcoholism, drug~~  
31 ~~addiction,)) substance use disorders or mental problems for which the~~  
32 person is in need of treatment and unless treated the probability of  
33 future recurrence is great, along with a statement that the person  
34 agrees to pay the cost of a diagnosis and treatment of the alleged  
35 problem or problems if financially able to do so. The petition shall  
36 also contain a case history and written assessment prepared by an  
37 approved ~~((alcoholism)) substance use disorder treatment program as~~  
38 designated in chapter ~~((70.96A)) 71.24 RCW if the petition alleges~~  
39 ~~((alcoholism, an approved drug program as designated in chapter 71.24~~

1 ~~RCW if the petition alleges drug addiction,~~) a substance use  
2 disorder or by an approved mental health center if the petition  
3 alleges a mental problem.

4 (2) In the case of a petitioner charged with a misdemeanor or  
5 gross misdemeanor under chapter 9A.42 RCW, the petitioner shall  
6 allege under oath in the petition that the petitioner is the natural  
7 or adoptive parent of the alleged victim; that the wrongful conduct  
8 charged is the result of parenting problems for which the petitioner  
9 is in need of services; that the petitioner is in need of child  
10 welfare services under chapter 74.13 RCW to improve his or her  
11 parenting skills in order to better provide his or her child or  
12 children with the basic necessities of life; that the petitioner  
13 wants to correct his or her conduct to reduce the likelihood of harm  
14 to his or her minor children; that in the absence of child welfare  
15 services the petitioner may be unable to reduce the likelihood of  
16 harm to his or her minor children; and that the petitioner has  
17 cooperated with the department of social and health services to  
18 develop a plan to receive appropriate child welfare services; along  
19 with a statement that the person agrees to pay the cost of the  
20 services if he or she is financially able to do so. The petition  
21 shall also contain a case history and a written service plan from the  
22 department of social and health services.

23 (3) Before entry of an order deferring prosecution, a petitioner  
24 shall be advised of his or her rights as an accused and execute, as a  
25 condition of receiving treatment, a statement that contains: (a) An  
26 acknowledgment of his or her rights; (b) an acknowledgment and waiver  
27 of the right to testify, the right to a speedy trial, the right to  
28 call witnesses to testify, the right to present evidence in his or  
29 her defense, and the right to a jury trial; (c) a stipulation to the  
30 admissibility and sufficiency of the facts contained in the written  
31 police report; and (d) an acknowledgment that the statement will be  
32 entered and used to support a finding of guilty if the court finds  
33 cause to revoke the order granting deferred prosecution. The  
34 petitioner shall also be advised that he or she may, if he or she  
35 proceeds to trial and is found guilty, be allowed to seek suspension  
36 of some or all of the fines and incarceration that may be ordered  
37 upon the condition that he or she seek treatment and, further, that  
38 he or she may seek treatment from public and private agencies at any  
39 time without regard to whether or not he or she is found guilty of  
40 the offense charged. He or she shall also be advised that the court

1 will not accept a petition for deferred prosecution from a person  
2 who: (i) Sincerely believes that he or she is innocent of the  
3 charges; (ii) sincerely believes that he or she does not, in fact,  
4 suffer from alcoholism, drug addiction, or mental problems; or (iii)  
5 in the case of a petitioner charged under chapter 9A.42 RCW,  
6 sincerely believes that he or she does not need child welfare  
7 services.

8 (4) Before entering an order deferring prosecution, the court  
9 shall make specific findings that: (a) The petitioner has stipulated  
10 to the admissibility and sufficiency of the facts as contained in the  
11 written police report; (b) the petitioner has acknowledged the  
12 admissibility of the stipulated facts in any criminal hearing on the  
13 underlying offense or offenses held subsequent to revocation of the  
14 order granting deferred prosecution; (c) the petitioner has  
15 acknowledged and waived the right to testify, the right to a speedy  
16 trial, the right to call witnesses to testify, the right to present  
17 evidence in his or her defense, and the right to a jury trial; and  
18 (d) the petitioner's statements were made knowingly and voluntarily.  
19 Such findings shall be included in the order granting deferred  
20 prosecution.

21 **Sec. 526.** RCW 10.05.030 and 2002 c 219 s 8 are each amended to  
22 read as follows:

23 The arraigining judge upon consideration of the petition and with  
24 the concurrence of the prosecuting attorney may continue the  
25 arraignment and refer such person for a diagnostic investigation and  
26 evaluation to an approved ((alcoholism)) substance use disorder  
27 treatment program as designated in chapter ((70.96A)) 71.24 RCW, if  
28 the petition alleges ((an alcohol problem, an approved drug treatment  
29 center as designated in chapter 71.24 RCW, if the petition alleges a  
30 drug problem)) a substance use disorder, to an approved mental health  
31 center, if the petition alleges a mental problem, or the department  
32 of social and health services if the petition is brought under RCW  
33 10.05.020(2).

34 **Sec. 527.** RCW 10.05.150 and 1999 c 143 s 43 are each amended to  
35 read as follows:

36 A deferred prosecution program for alcoholism shall be for a two-  
37 year period and shall include, but not be limited to, the following  
38 requirements:

1 (1) Total abstinence from alcohol and all other nonprescribed  
2 mind-altering drugs;

3 (2) Participation in an intensive inpatient or intensive  
4 outpatient program in a state-approved (~~alcoholism~~) substance use  
5 disorder treatment program;

6 (3) Participation in a minimum of two meetings per week of an  
7 alcoholism self-help recovery support group, as determined by the  
8 assessing agency, for the duration of the treatment program;

9 (4) Participation in an alcoholism self-help recovery support  
10 group, as determined by the assessing agency, from the date of court  
11 approval of the plan to entry into intensive treatment;

12 (5) Not less than weekly approved outpatient counseling, group or  
13 individual, for a minimum of six months following the intensive phase  
14 of treatment;

15 (6) Not less than monthly outpatient contact, group or  
16 individual, for the remainder of the two-year deferred prosecution  
17 period;

18 (7) The decision to include the use of prescribed drugs,  
19 including disulfiram, as a condition of treatment shall be reserved  
20 to the treating facility and the petitioner's physician;

21 (8) All treatment within the purview of this section shall occur  
22 within or be approved by a state-approved (~~alcoholism~~) substance  
23 use disorder treatment program as described in chapter 70.96A RCW;

24 (9) Signature of the petitioner agreeing to the terms and  
25 conditions of the treatment program.

26 **Sec. 528.** RCW 70.96C.020 and 2005 c 504 s 602 are each amended  
27 to read as follows:

28 The department of corrections shall, to the extent that resources  
29 are available for this purpose, utilize the integrated, comprehensive  
30 screening and assessment process for chemical dependency and mental  
31 disorders developed under RCW 70.96C.010 (as recodified by this act).

32 NEW SECTION. **Sec. 529.** RCW 43.135.03901 is decodified.

33 **Sec. 530.** RCW 46.61.5055 and 2015 2nd sp.s. c 3 s 9 are each  
34 amended to read as follows:

35 (1) **No prior offenses in seven years.** Except as provided in RCW  
36 46.61.502(6) or 46.61.504(6), a person who is convicted of a

1 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense  
2 within seven years shall be punished as follows:

3 (a) **Penalty for alcohol concentration less than 0.15.** In the case  
4 of a person whose alcohol concentration was less than 0.15, or for  
5 whom for reasons other than the person's refusal to take a test  
6 offered pursuant to RCW 46.20.308 there is no test result indicating  
7 the person's alcohol concentration:

8 (i) By imprisonment for not less than one day nor more than three  
9 hundred sixty-four days. Twenty-four consecutive hours of the  
10 imprisonment may not be suspended unless the court finds that the  
11 imposition of this mandatory minimum sentence would impose a  
12 substantial risk to the offender's physical or mental well-being.  
13 Whenever the mandatory minimum sentence is suspended, the court shall  
14 state in writing the reason for granting the suspension and the facts  
15 upon which the suspension is based. In lieu of the mandatory minimum  
16 term of imprisonment required under this subsection (1)(a)(i), the  
17 court may order not less than fifteen days of electronic home  
18 monitoring. The offender shall pay the cost of electronic home  
19 monitoring. The county or municipality in which the penalty is being  
20 imposed shall determine the cost. The court may also require the  
21 offender's electronic home monitoring device or other separate  
22 alcohol monitoring device to include an alcohol detection  
23 breathalyzer, and the court may restrict the amount of alcohol the  
24 offender may consume during the time the offender is on electronic  
25 home monitoring; and

26 (ii) By a fine of not less than three hundred fifty dollars nor  
27 more than five thousand dollars. Three hundred fifty dollars of the  
28 fine may not be suspended unless the court finds the offender to be  
29 indigent; or

30 (b) **Penalty for alcohol concentration at least 0.15.** In the case  
31 of a person whose alcohol concentration was at least 0.15, or for  
32 whom by reason of the person's refusal to take a test offered  
33 pursuant to RCW 46.20.308 there is no test result indicating the  
34 person's alcohol concentration:

35 (i) By imprisonment for not less than two days nor more than  
36 three hundred sixty-four days. Forty-eight consecutive hours of the  
37 imprisonment may not be suspended unless the court finds that the  
38 imposition of this mandatory minimum sentence would impose a  
39 substantial risk to the offender's physical or mental well-being.  
40 Whenever the mandatory minimum sentence is suspended, the court shall

1 state in writing the reason for granting the suspension and the facts  
2 upon which the suspension is based. In lieu of the mandatory minimum  
3 term of imprisonment required under this subsection (1)(b)(i), the  
4 court may order not less than thirty days of electronic home  
5 monitoring. The offender shall pay the cost of electronic home  
6 monitoring. The county or municipality in which the penalty is being  
7 imposed shall determine the cost. The court may also require the  
8 offender's electronic home monitoring device to include an alcohol  
9 detection breathalyzer or other separate alcohol monitoring device,  
10 and the court may restrict the amount of alcohol the offender may  
11 consume during the time the offender is on electronic home  
12 monitoring; and

13 (ii) By a fine of not less than five hundred dollars nor more  
14 than five thousand dollars. Five hundred dollars of the fine may not  
15 be suspended unless the court finds the offender to be indigent.

16 (2) **One prior offense in seven years.** Except as provided in RCW  
17 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
18 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense  
19 within seven years shall be punished as follows:

20 (a) **Penalty for alcohol concentration less than 0.15.** In the case  
21 of a person whose alcohol concentration was less than 0.15, or for  
22 whom for reasons other than the person's refusal to take a test  
23 offered pursuant to RCW 46.20.308 there is no test result indicating  
24 the person's alcohol concentration:

25 (i) By imprisonment for not less than thirty days nor more than  
26 three hundred sixty-four days and sixty days of electronic home  
27 monitoring. In lieu of the mandatory minimum term of sixty days  
28 electronic home monitoring, the court may order at least an  
29 additional four days in jail or, if available in that county or city,  
30 a six-month period of 24/7 sobriety program monitoring pursuant to  
31 RCW 36.28A.300 through 36.28A.390, and the court shall order an  
32 expanded alcohol assessment and treatment, if deemed appropriate by  
33 the assessment. The offender shall pay for the cost of the electronic  
34 monitoring. The county or municipality where the penalty is being  
35 imposed shall determine the cost. The court may also require the  
36 offender's electronic home monitoring device include an alcohol  
37 detection breathalyzer or other separate alcohol monitoring device,  
38 and may restrict the amount of alcohol the offender may consume  
39 during the time the offender is on electronic home monitoring. Thirty  
40 days of imprisonment and sixty days of electronic home monitoring may

1 not be suspended unless the court finds that the imposition of this  
2 mandatory minimum sentence would impose a substantial risk to the  
3 offender's physical or mental well-being. Whenever the mandatory  
4 minimum sentence is suspended, the court shall state in writing the  
5 reason for granting the suspension and the facts upon which the  
6 suspension is based; and

7 (ii) By a fine of not less than five hundred dollars nor more  
8 than five thousand dollars. Five hundred dollars of the fine may not  
9 be suspended unless the court finds the offender to be indigent; or

10 (b) **Penalty for alcohol concentration at least 0.15.** In the case  
11 of a person whose alcohol concentration was at least 0.15, or for  
12 whom by reason of the person's refusal to take a test offered  
13 pursuant to RCW 46.20.308 there is no test result indicating the  
14 person's alcohol concentration:

15 (i) By imprisonment for not less than forty-five days nor more  
16 than three hundred sixty-four days and ninety days of electronic home  
17 monitoring. In lieu of the mandatory minimum term of ninety days  
18 electronic home monitoring, the court may order at least an  
19 additional six days in jail or, if available in that county or city,  
20 a six-month period of 24/7 sobriety program monitoring pursuant to  
21 RCW 36.28A.300 through 36.28A.390, and the court shall order an  
22 expanded alcohol assessment and treatment, if deemed appropriate by  
23 the assessment. The offender shall pay for the cost of the electronic  
24 monitoring. The county or municipality where the penalty is being  
25 imposed shall determine the cost. The court may also require the  
26 offender's electronic home monitoring device include an alcohol  
27 detection breathalyzer or other separate alcohol monitoring device,  
28 and may restrict the amount of alcohol the offender may consume  
29 during the time the offender is on electronic home monitoring. Forty-  
30 five days of imprisonment and ninety days of electronic home  
31 monitoring may not be suspended unless the court finds that the  
32 imposition of this mandatory minimum sentence would impose a  
33 substantial risk to the offender's physical or mental well-being.  
34 Whenever the mandatory minimum sentence is suspended, the court shall  
35 state in writing the reason for granting the suspension and the facts  
36 upon which the suspension is based; and

37 (ii) By a fine of not less than seven hundred fifty dollars nor  
38 more than five thousand dollars. Seven hundred fifty dollars of the  
39 fine may not be suspended unless the court finds the offender to be  
40 indigent.

1           (3) **Two or three prior offenses in seven years.** Except as  
2 provided in RCW 46.61.502(6) or 46.61.504(6), a person who is  
3 convicted of a violation of RCW 46.61.502 or 46.61.504 and who has  
4 two or three prior offenses within seven years shall be punished as  
5 follows:

6           (a) **Penalty for alcohol concentration less than 0.15.** In the case  
7 of a person whose alcohol concentration was less than 0.15, or for  
8 whom for reasons other than the person's refusal to take a test  
9 offered pursuant to RCW 46.20.308 there is no test result indicating  
10 the person's alcohol concentration:

11           (i) By imprisonment for not less than ninety days nor more than  
12 three hundred sixty-four days, if available in that county or city, a  
13 six-month period of 24/7 sobriety program monitoring pursuant to RCW  
14 36.28A.300 through 36.28A.390, and one hundred twenty days of  
15 electronic home monitoring. In lieu of the mandatory minimum term of  
16 one hundred twenty days of electronic home monitoring, the court may  
17 order at least an additional eight days in jail. The court shall  
18 order an expanded alcohol assessment and treatment, if deemed  
19 appropriate by the assessment. The offender shall pay for the cost of  
20 the electronic monitoring. The county or municipality where the  
21 penalty is being imposed shall determine the cost. The court may also  
22 require the offender's electronic home monitoring device include an  
23 alcohol detection breathalyzer or other separate alcohol monitoring  
24 device, and may restrict the amount of alcohol the offender may  
25 consume during the time the offender is on electronic home  
26 monitoring. Ninety days of imprisonment and one hundred twenty days  
27 of electronic home monitoring may not be suspended unless the court  
28 finds that the imposition of this mandatory minimum sentence would  
29 impose a substantial risk to the offender's physical or mental well-  
30 being. Whenever the mandatory minimum sentence is suspended, the  
31 court shall state in writing the reason for granting the suspension  
32 and the facts upon which the suspension is based; and

33           (ii) By a fine of not less than one thousand dollars nor more  
34 than five thousand dollars. One thousand dollars of the fine may not  
35 be suspended unless the court finds the offender to be indigent; or

36           (b) **Penalty for alcohol concentration at least 0.15.** In the case  
37 of a person whose alcohol concentration was at least 0.15, or for  
38 whom by reason of the person's refusal to take a test offered  
39 pursuant to RCW 46.20.308 there is no test result indicating the  
40 person's alcohol concentration:



1 (i) By imprisonment for not less than one hundred twenty days nor  
2 more than three hundred sixty-four days, if available in that county  
3 or city, a six-month period of 24/7 sobriety program monitoring  
4 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty  
5 days of electronic home monitoring. In lieu of the mandatory minimum  
6 term of one hundred fifty days of electronic home monitoring, the  
7 court may order at least an additional ten days in jail. The offender  
8 shall pay for the cost of the electronic monitoring. The court shall  
9 order an expanded alcohol assessment and treatment, if deemed  
10 appropriate by the assessment. The county or municipality where the  
11 penalty is being imposed shall determine the cost. The court may also  
12 require the offender's electronic home monitoring device include an  
13 alcohol detection breathalyzer or other separate alcohol monitoring  
14 device, and may restrict the amount of alcohol the offender may  
15 consume during the time the offender is on electronic home  
16 monitoring. One hundred twenty days of imprisonment and one hundred  
17 fifty days of electronic home monitoring may not be suspended unless  
18 the court finds that the imposition of this mandatory minimum  
19 sentence would impose a substantial risk to the offender's physical  
20 or mental well-being. Whenever the mandatory minimum sentence is  
21 suspended, the court shall state in writing the reason for granting  
22 the suspension and the facts upon which the suspension is based; and

23 (ii) By a fine of not less than one thousand five hundred dollars  
24 nor more than five thousand dollars. One thousand five hundred  
25 dollars of the fine may not be suspended unless the court finds the  
26 offender to be indigent.

27 (4) **Four or more prior offenses in ten years.** A person who is  
28 convicted of a violation of RCW 46.61.502 or 46.61.504 shall be  
29 punished under chapter 9.94A RCW if:

30 (a) The person has four or more prior offenses within ten years;  
31 or

32 (b) The person has ever previously been convicted of:

33 (i) A violation of RCW 46.61.520 committed while under the  
34 influence of intoxicating liquor or any drug;

35 (ii) A violation of RCW 46.61.522 committed while under the  
36 influence of intoxicating liquor or any drug;

37 (iii) An out-of-state offense comparable to the offense specified  
38 in (b)(i) or (ii) of this subsection; or

39 (iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

40 (5) **Monitoring.**

1 (a) **Ignition interlock device.** The court shall require any person  
2 convicted of a violation of RCW 46.61.502 or 46.61.504 or an  
3 equivalent local ordinance to comply with the rules and requirements  
4 of the department regarding the installation and use of a functioning  
5 ignition interlock device installed on all motor vehicles operated by  
6 the person.

7 (b) **Monitoring devices.** If the court orders that a person refrain  
8 from consuming any alcohol, the court may order the person to submit  
9 to alcohol monitoring through an alcohol detection breathalyzer  
10 device, transdermal sensor device, or other technology designed to  
11 detect alcohol in a person's system. The person shall pay for the  
12 cost of the monitoring, unless the court specifies that the cost of  
13 monitoring will be paid with funds that are available from an  
14 alternative source identified by the court. The county or  
15 municipality where the penalty is being imposed shall determine the  
16 cost.

17 (c) **Ignition interlock device substituted for 24/7 sobriety**  
18 **program monitoring.** In any county or city where a 24/7 sobriety  
19 program is available and verified by the Washington association of  
20 sheriffs and police chiefs, the court shall:

21 (i) Order the person to install and use a functioning ignition  
22 interlock or other device in lieu of such period of 24/7 sobriety  
23 program monitoring;

24 (ii) Order the person to a period of 24/7 sobriety program  
25 monitoring pursuant to subsections (1) through (3) of this section;  
26 or

27 (iii) Order the person to install and use a functioning ignition  
28 interlock or other device in addition to a period of 24/7 sobriety  
29 program monitoring pursuant to subsections (1) through (3) of this  
30 section.

31 (6) **Penalty for having a minor passenger in vehicle.** If a person  
32 who is convicted of a violation of RCW 46.61.502 or 46.61.504  
33 committed the offense while a passenger under the age of sixteen was  
34 in the vehicle, the court shall:

35 (a) Order the use of an ignition interlock or other device for an  
36 additional six months;

37 (b) In any case in which the person has no prior offenses within  
38 seven years, and except as provided in RCW 46.61.502(6) or  
39 46.61.504(6), order an additional twenty-four hours of imprisonment  
40 and a fine of not less than one thousand dollars and not more than

1 five thousand dollars. One thousand dollars of the fine may not be  
2 suspended unless the court finds the offender to be indigent;

3 (c) In any case in which the person has one prior offense within  
4 seven years, and except as provided in RCW 46.61.502(6) or  
5 46.61.504(6), order an additional five days of imprisonment and a  
6 fine of not less than two thousand dollars and not more than five  
7 thousand dollars. One thousand dollars of the fine may not be  
8 suspended unless the court finds the offender to be indigent;

9 (d) In any case in which the person has two or three prior  
10 offenses within seven years, and except as provided in RCW  
11 46.61.502(6) or 46.61.504(6), order an additional ten days of  
12 imprisonment and a fine of not less than three thousand dollars and  
13 not more than ten thousand dollars. One thousand dollars of the fine  
14 may not be suspended unless the court finds the offender to be  
15 indigent.

16 (7) **Other items courts must consider while setting penalties.** In  
17 exercising its discretion in setting penalties within the limits  
18 allowed by this section, the court shall particularly consider the  
19 following:

20 (a) Whether the person's driving at the time of the offense was  
21 responsible for injury or damage to another or another's property;

22 (b) Whether at the time of the offense the person was driving or  
23 in physical control of a vehicle with one or more passengers;

24 (c) Whether the driver was driving in the opposite direction of  
25 the normal flow of traffic on a multiple lane highway, as defined by  
26 RCW 46.04.350, with a posted speed limit of forty-five miles per hour  
27 or greater; and

28 (d) Whether a child passenger under the age of sixteen was an  
29 occupant in the driver's vehicle.

30 (8) **Treatment and information school.** An offender punishable  
31 under this section is subject to the alcohol assessment and treatment  
32 provisions of RCW 46.61.5056.

33 (9) **Driver's license privileges of the defendant.** The license,  
34 permit, or nonresident privilege of a person convicted of driving or  
35 being in physical control of a motor vehicle while under the  
36 influence of intoxicating liquor or drugs must:

37 (a) **Penalty for alcohol concentration less than 0.15.** If the  
38 person's alcohol concentration was less than 0.15, or if for reasons  
39 other than the person's refusal to take a test offered under RCW

1 46.20.308 there is no test result indicating the person's alcohol  
2 concentration:

3 (i) Where there has been no prior offense within seven years, be  
4 suspended or denied by the department for ninety days;

5 (ii) Where there has been one prior offense within seven years,  
6 be revoked or denied by the department for two years; or

7 (iii) Where there have been two or more prior offenses within  
8 seven years, be revoked or denied by the department for three years;

9 (b) **Penalty for alcohol concentration at least 0.15.** If the  
10 person's alcohol concentration was at least 0.15:

11 (i) Where there has been no prior offense within seven years, be  
12 revoked or denied by the department for one year;

13 (ii) Where there has been one prior offense within seven years,  
14 be revoked or denied by the department for nine hundred days; or

15 (iii) Where there have been two or more prior offenses within  
16 seven years, be revoked or denied by the department for four years;  
17 or

18 (c) **Penalty for refusing to take test.** If by reason of the  
19 person's refusal to take a test offered under RCW 46.20.308, there is  
20 no test result indicating the person's alcohol concentration:

21 (i) Where there have been no prior offenses within seven years,  
22 be revoked or denied by the department for two years;

23 (ii) Where there has been one prior offense within seven years,  
24 be revoked or denied by the department for three years; or

25 (iii) Where there have been two or more previous offenses within  
26 seven years, be revoked or denied by the department for four years.

27 The department shall grant credit on a day-for-day basis for any  
28 portion of a suspension, revocation, or denial already served under  
29 this subsection for a suspension, revocation, or denial imposed under  
30 RCW 46.20.3101 arising out of the same incident.

31 Upon its own motion or upon motion by a person, a court may find,  
32 on the record, that notice to the department under RCW 46.20.270 has  
33 been delayed for three years or more as a result of a clerical or  
34 court error. If so, the court may order that the person's license,  
35 permit, or nonresident privilege shall not be revoked, suspended, or  
36 denied for that offense. The court shall send notice of the finding  
37 and order to the department and to the person. Upon receipt of the  
38 notice from the court, the department shall not revoke, suspend, or  
39 deny the license, permit, or nonresident privilege of the person for  
40 that offense.

1 For purposes of this subsection (9), the department shall refer  
2 to the driver's record maintained under RCW 46.52.120 when  
3 determining the existence of prior offenses.

4 (10) **Probation of driving privilege.** After expiration of any  
5 period of suspension, revocation, or denial of the offender's  
6 license, permit, or privilege to drive required by this section, the  
7 department shall place the offender's driving privilege in  
8 probationary status pursuant to RCW 46.20.355.

9 (11) **Conditions of probation.** (a) In addition to any  
10 nonsuspendable and nondeferrable jail sentence required by this  
11 section, whenever the court imposes up to three hundred sixty-four  
12 days in jail, the court shall also suspend but shall not defer a  
13 period of confinement for a period not exceeding five years. The  
14 court shall impose conditions of probation that include: (i) Not  
15 driving a motor vehicle within this state without a valid license to  
16 drive; (ii) not driving a motor vehicle within this state without  
17 proof of liability insurance or other financial responsibility for  
18 the future pursuant to RCW 46.30.020; (iii) not driving or being in  
19 physical control of a motor vehicle within this state while having an  
20 alcohol concentration of 0.08 or more or a THC concentration of 5.00  
21 nanograms per milliliter of whole blood or higher, within two hours  
22 after driving; (iv) not refusing to submit to a test of his or her  
23 breath or blood to determine alcohol or drug concentration upon  
24 request of a law enforcement officer who has reasonable grounds to  
25 believe the person was driving or was in actual physical control of a  
26 motor vehicle within this state while under the influence of  
27 intoxicating liquor or drug; and (v) not driving a motor vehicle in  
28 this state without a functioning ignition interlock device as  
29 required by the department under RCW 46.20.720(3). The court may  
30 impose conditions of probation that include nonrepetition,  
31 installation of an ignition interlock device on the probationer's  
32 motor vehicle, alcohol or drug treatment, supervised probation, or  
33 other conditions that may be appropriate. The sentence may be imposed  
34 in whole or in part upon violation of a condition of probation during  
35 the suspension period.

36 (b) For each violation of mandatory conditions of probation under  
37 (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall  
38 order the convicted person to be confined for thirty days, which  
39 shall not be suspended or deferred.

1 (c) For each incident involving a violation of a mandatory  
2 condition of probation imposed under this subsection, the license,  
3 permit, or privilege to drive of the person shall be suspended by the  
4 court for thirty days or, if such license, permit, or privilege to  
5 drive already is suspended, revoked, or denied at the time the  
6 finding of probation violation is made, the suspension, revocation,  
7 or denial then in effect shall be extended by thirty days. The court  
8 shall notify the department of any suspension, revocation, or denial  
9 or any extension of a suspension, revocation, or denial imposed under  
10 this subsection.

11 (12) **Waiver of electronic home monitoring.** A court may waive the  
12 electronic home monitoring requirements of this chapter when:

13 (a) The offender does not have a dwelling, telephone service, or  
14 any other necessity to operate an electronic home monitoring system.  
15 However, if a court determines that an alcohol monitoring device  
16 utilizing wireless reporting technology is reasonably available, the  
17 court may require the person to obtain such a device during the  
18 period of required electronic home monitoring;

19 (b) The offender does not reside in the state of Washington; or

20 (c) The court determines that there is reason to believe that the  
21 offender would violate the conditions of the electronic home  
22 monitoring penalty.

23 Whenever the mandatory minimum term of electronic home monitoring  
24 is waived, the court shall state in writing the reason for granting  
25 the waiver and the facts upon which the waiver is based, and shall  
26 impose an alternative sentence with similar punitive consequences.  
27 The alternative sentence may include, but is not limited to, use of  
28 an ignition interlock device, the 24/7 sobriety program monitoring,  
29 additional jail time, work crew, or work camp.

30 Whenever the combination of jail time and electronic home  
31 monitoring or alternative sentence would exceed three hundred sixty-  
32 four days, the offender shall serve the jail portion of the sentence  
33 first, and the electronic home monitoring or alternative portion of  
34 the sentence shall be reduced so that the combination does not exceed  
35 three hundred sixty-four days.

36 (13) **Extraordinary medical placement.** An offender serving a  
37 sentence under this section, whether or not a mandatory minimum term  
38 has expired, may be granted an extraordinary medical placement by the  
39 jail administrator subject to the standards and limitations set forth  
40 in RCW 9.94A.728(1)(c).

1 (14) **Definitions.** For purposes of this section and RCW 46.61.502  
2 and 46.61.504:

3 (a) A "prior offense" means any of the following:

4 (i) A conviction for a violation of RCW 46.61.502 or an  
5 equivalent local ordinance;

6 (ii) A conviction for a violation of RCW 46.61.504 or an  
7 equivalent local ordinance;

8 (iii) A conviction for a violation of RCW 46.25.110 or an  
9 equivalent local ordinance;

10 (iv) A conviction for a violation of RCW 79A.60.040(2) or an  
11 equivalent local ordinance;

12 (v) A conviction for a violation of RCW 79A.60.040(1) or an  
13 equivalent local ordinance committed in a reckless manner if the  
14 conviction is the result of a charge that was originally filed as a  
15 violation of RCW 79A.60.040(2) or an equivalent local ordinance;

16 (vi) A conviction for a violation of RCW 47.68.220 or an  
17 equivalent local ordinance committed while under the influence of  
18 intoxicating liquor or any drug;

19 (vii) A conviction for a violation of RCW 47.68.220 or an  
20 equivalent local ordinance committed in a careless or reckless manner  
21 if the conviction is the result of a charge that was originally filed  
22 as a violation of RCW 47.68.220 or an equivalent local ordinance  
23 while under the influence of intoxicating liquor or any drug;

24 (viii) A conviction for a violation of RCW 46.09.470(2) or an  
25 equivalent local ordinance;

26 (ix) A conviction for a violation of RCW 46.10.490(2) or an  
27 equivalent local ordinance;

28 (x) A conviction for a violation of RCW 46.61.520 committed while  
29 under the influence of intoxicating liquor or any drug, or a  
30 conviction for a violation of RCW 46.61.520 committed in a reckless  
31 manner or with the disregard for the safety of others if the  
32 conviction is the result of a charge that was originally filed as a  
33 violation of RCW 46.61.520 committed while under the influence of  
34 intoxicating liquor or any drug;

35 (xi) A conviction for a violation of RCW 46.61.522 committed  
36 while under the influence of intoxicating liquor or any drug, or a  
37 conviction for a violation of RCW 46.61.522 committed in a reckless  
38 manner or with the disregard for the safety of others if the  
39 conviction is the result of a charge that was originally filed as a

1 violation of RCW 46.61.522 committed while under the influence of  
2 intoxicating liquor or any drug;

3 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,  
4 or 9A.36.050 or an equivalent local ordinance, if the conviction is  
5 the result of a charge that was originally filed as a violation of  
6 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of  
7 RCW 46.61.520 or 46.61.522;

8 (xiii) An out-of-state conviction for a violation that would have  
9 been a violation of (a)(i), (ii), (x), (xi), or (xii) of this  
10 subsection if committed in this state;

11 (xiv) A deferred prosecution under chapter 10.05 RCW granted in a  
12 prosecution for a violation of RCW 46.61.502, 46.61.504, or an  
13 equivalent local ordinance;

14 (xv) A deferred prosecution under chapter 10.05 RCW granted in a  
15 prosecution for a violation of RCW 46.61.5249, or an equivalent local  
16 ordinance, if the charge under which the deferred prosecution was  
17 granted was originally filed as a violation of RCW 46.61.502 or  
18 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or  
19 46.61.522;

20 (xvi) A deferred prosecution granted in another state for a  
21 violation of driving or having physical control of a vehicle while  
22 under the influence of intoxicating liquor or any drug if the out-of-  
23 state deferred prosecution is equivalent to the deferred prosecution  
24 under chapter 10.05 RCW, including a requirement that the defendant  
25 participate in a chemical dependency treatment program; or

26 (xvii) A deferred sentence imposed in a prosecution for a  
27 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an  
28 equivalent local ordinance, if the charge under which the deferred  
29 sentence was imposed was originally filed as a violation of RCW  
30 46.61.502 or 46.61.504, or an equivalent local ordinance, or a  
31 violation of RCW 46.61.520 or 46.61.522;

32 If a deferred prosecution is revoked based on a subsequent  
33 conviction for an offense listed in this subsection (14)(a), the  
34 subsequent conviction shall not be treated as a prior offense of the  
35 revoked deferred prosecution for the purposes of sentencing;

36 (b) "Treatment" means (~~(alcohol or drug)~~) substance use disorder  
37 treatment approved by the department of social and health services;

38 (c) "Within seven years" means that the arrest for a prior  
39 offense occurred within seven years before or after the arrest for  
40 the current offense; and



1 (d) "Within ten years" means that the arrest for a prior offense  
2 occurred within ten years before or after the arrest for the current  
3 offense.

4 (15) All fines imposed by this section apply to adult offenders  
5 only.

6 **Sec. 531.** RCW 46.61.5056 and 2011 c 293 s 13 are each amended to  
7 read as follows:

8 (1) A person subject to alcohol assessment and treatment under  
9 RCW 46.61.5055 shall be required by the court to complete a course in  
10 an alcohol information school approved by the department of social  
11 and health services or to complete more intensive treatment in a  
12 substance use disorder treatment program approved by the department  
13 of social and health services, as determined by the court. The court  
14 shall notify the department of licensing whenever it orders a person  
15 to complete a course or treatment program under this section.

16 (2) A diagnostic evaluation and treatment recommendation shall be  
17 prepared under the direction of the court by an alcoholism agency  
18 approved by the department of social and health services or a  
19 qualified probation department approved by the department of social  
20 and health services. A copy of the report shall be forwarded to the  
21 court and the department of licensing. Based on the diagnostic  
22 evaluation, the court shall determine whether the person shall be  
23 required to complete a course in an alcohol information school  
24 approved by the department of social and health services or more  
25 intensive treatment in a substance use disorder treatment program  
26 approved by the department of social and health services.

27 (3) Standards for approval for alcohol treatment programs shall  
28 be prescribed by the department of social and health services. The  
29 department of social and health services shall periodically review  
30 the costs of alcohol information schools and treatment programs.

31 (4) Any agency that provides treatment ordered under RCW  
32 46.61.5055, shall immediately report to the appropriate probation  
33 department where applicable, otherwise to the court, and to the  
34 department of licensing any noncompliance by a person with the  
35 conditions of his or her ordered treatment. The court shall notify  
36 the department of licensing and the department of social and health  
37 services of any failure by an agency to so report noncompliance. Any  
38 agency with knowledge of noncompliance that fails to so report shall  
39 be fined two hundred fifty dollars by the department of social and

1 health services. Upon three such failures by an agency within one  
2 year, the department of social and health services shall revoke the  
3 agency's approval under this section.

4 (5) The department of licensing and the department of social and  
5 health services may adopt such rules as are necessary to carry out  
6 this section.

7 **Sec. 532.** RCW 82.04.4277 and 2014 c 225 s 104 are each amended  
8 to read as follows:

9 (1) A health or social welfare organization may deduct from the  
10 measure of tax amounts received as compensation for providing mental  
11 health services or chemical dependency services under a government-  
12 funded program.

13 (2) A behavioral health organization may deduct from the measure  
14 of tax amounts received from the state of Washington for distribution  
15 to a health or social welfare organization that is eligible to deduct  
16 the distribution under subsection (1) of this section.

17 (3) A person claiming a deduction under this section must file a  
18 complete annual report with the department under RCW 82.32.534.

19 (4) The definitions in this subsection apply ~~((to this section))~~  
20 throughout this section unless the context clearly requires  
21 otherwise.

22 (a) "Chemical dependency" has the same meaning as provided in RCW  
23 70.96A.020.

24 (b) "Health or social welfare organization" has the meaning  
25 provided in RCW 82.04.431.

26 ~~((b))~~ (c) "Mental health services" and "behavioral health  
27 organization" have the meanings provided in RCW 71.24.025.

28 (5) This section expires ~~((August 1, 2016))~~ January 1, 2020.

29 **PART VI**  
30 **REPEALERS FOR ADMINISTRATIVE PROVISIONS**

31 NEW SECTION. **Sec. 601.** The following acts or parts of acts, as  
32 now existing or hereafter amended, are each repealed, effective April  
33 1, 2016:

34 (1) RCW 70.96A.010 (Declaration of policy) and 2014 c 225 s 18,  
35 1989 c 271 s 304, & 1972 ex.s. c 122 s 1;

36 (2) RCW 70.96A.030 (Substance use disorder program) and 2014 c  
37 225 s 21, 1989 c 270 s 4, & 1972 ex.s. c 122 s 3;

1 (3) RCW 70.96A.045 (Funding prerequisites, facilities, plans, or  
2 programs receiving financial assistance) and 1989 c 270 s 10;

3 (4) RCW 70.96A.060 (Interdepartmental coordinating committee) and  
4 2014 c 225 s 24, 1989 c 270 s 8, 1979 c 158 s 220, & 1972 ex.s. c 122  
5 s 6;

6 (5) RCW 70.96A.150 (Records of persons treated for alcoholism and  
7 drug addiction) and 1990 c 151 s 1, 1989 c 162 s 1, & 1972 ex.s. c  
8 122 s 15;

9 (6) RCW 70.96A.300 (Counties may create alcoholism and other drug  
10 addiction board—Generally) and 2014 c 225 s 31 & 1989 c 270 s 15;

11 (7) RCW 70.96A.310 (County alcoholism and other drug addiction  
12 program—Chief executive officer of program to be program coordinator)  
13 and 1989 c 270 s 16;

14 (8) RCW 70.96A.320 (Alcoholism and other drug addiction program—  
15 Generally) and 2014 c 225 s 32, 2013 c 320 s 8, 1990 c 151 s 9, &  
16 1989 c 270 s 17; and

17 (9) RCW 70.96A.325 (Methamphetamine addiction programs—Counties  
18 authorized to seek state funding) and 2006 c 339 s 101.

19 **PART VII**  
20 **RECODIFICATION**

21 NEW SECTION. **Sec. 701.** (1) RCW 70.96A.035, 70.96A.037,  
22 70.96A.040, 70.96A.043, 70.96A.047, 70.96A.050, 70.96A.055,  
23 70.96A.080, 70.96A.085, 70.96A.087, 70.96A.090, 70.96A.100,  
24 70.96A.170, 70.96A.190, 70.96A.350, 70.96A.400, 70.96A.410,  
25 70.96A.420, 70.96A.430, 70.96A.500, 70.96A.510, 70.96A.520,  
26 70.96A.800, 70.96A.905, and 70.96C.010 are each recodified as  
27 sections in chapter 71.24 RCW.

28 (2) RCW 70.96C.020 is recodified as a section in chapter 72.09  
29 RCW.

30 **PART VIII**  
31 **MISCELLANEOUS**

32 NEW SECTION. **Sec. 801.** This act may be known and cited as Ricky  
33 Garcia's act.

1        NEW SECTION.    **Sec. 802.**    (1) Sections 501, 503 through 532, and  
2 701 of this act are necessary for the immediate preservation of the  
3 public peace, health, or safety, or support of the state government  
4 and its existing public institutions, and take effect April 1, 2016.

5        (2) Sections 201 through 210, 212, 214 through 224, 226 through  
6 232, 234 through 237, 239 through 242, 244 through 267, 269, 271,  
7 273, 274, 276, 278, 279, 281, 401 through 429, and 502 of this act  
8 take effect April 1, 2018.

9        (3) Sections 211, 213, 225, 233, 238, 243, 268, 270, 272, 275,  
10 277, and 280 of this act take effect July 1, 2026.

11        NEW SECTION.    **Sec. 803.**    If specific funding for the purposes of  
12 this act, referencing this act by bill or chapter number, is not  
13 provided by June 30, 2016, in the omnibus appropriations act, this  
14 act is null and void.

--- END ---