

---

**HOUSE BILL 1713**

---

**State of Washington****64th Legislature****2015 Regular Session****By** Representatives Cody, Harris, Jenkins, Moeller, Tharinger, Appleton, Ortiz-Self, and Pollet

Read first time 01/27/15. Referred to Committee on Judiciary.

1 AN ACT Relating to integrating the treatment systems for mental  
2 health and chemical dependency; amending RCW 70.96A.020, 70.96A.140,  
3 70.96A.145, 71.05.025, 71.05.026, 71.05.050, 71.05.120, 71.05.132,  
4 71.05.150, 71.05.154, 71.05.156, 71.05.157, 71.05.160, 71.05.170,  
5 71.05.180, 71.05.190, 71.05.195, 71.05.210, 71.05.212, 71.05.214,  
6 71.05.215, 71.05.220, 71.05.230, 71.05.235, 71.05.240, 71.05.280,  
7 71.05.290, 71.05.300, 71.05.320, 71.05.325, 71.05.340, 71.05.360,  
8 71.05.380, 71.05.435, 71.05.530, 71.05.560, 71.05.700, 71.05.705,  
9 71.34.020, 71.34.305, 71.34.375, 71.34.385, 71.34.400, 71.34.410,  
10 71.34.500, 71.34.520, 71.34.600, 71.34.630, 71.34.650, 71.34.660,  
11 71.34.700, 71.34.710, 71.34.720, 71.34.740, 71.34.750, 71.34.760,  
12 71.34.780, 9.41.040, 9.41.047, 4.24.558, 5.60.060, 9.41.280,  
13 9.95.143, 10.77.010, 10.77.025, 10.77.027, 10.77.060, 10.77.084,  
14 10.77.088, 11.92.190, 13.32A.044, 18.83.110, 43.20A.025, 70.48.475,  
15 70.97.010, 71.05.620, 71.05.660, 71.24.045, 71.24.330, 71.32.080,  
16 71.32.140, 71.32.150, 72.09.315, 72.09.370, 74.13.033, and 74.50.070;  
17 reenacting and amending RCW 71.05.020, 71.05.153, 71.34.730,  
18 10.77.065, 70.02.010, 70.02.230, and 71.24.025; adding new sections  
19 to chapter 71.05 RCW; repealing RCW 70.96A.095, 70.96A.096,  
20 70.96A.097, 70.96A.110, 70.96A.120, 70.96A.140, 70.96A.141,  
21 70.96A.142, 70.96A.145, 70.96A.148, 70.96A.155, 70.96A.157,  
22 70.96A.160, 70.96A.180, 70.96A.230, 70.96A.235, 70.96A.240,  
23 70.96A.245, 70.96A.250, 70.96A.255, 70.96A.260, 70.96A.265,

1 70.96B.010, 70.96B.020, 70.96B.030, 70.96B.040, 70.96B.045,  
2 70.96B.050, 70.96B.060, 70.96B.070, 70.96B.080, 70.96B.090,  
3 70.96B.100, 70.96B.110, 70.96B.120, 70.96B.130, 70.96B.140,  
4 70.96B.150, 70.96B.800, and 71.05.032; providing effective dates; and  
5 providing expiration dates.

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

7 **PART I**

8 **CHEMICAL DEPENDENCY INVOLUNTARY TREATMENT PROVISIONS**

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

11 For the purposes of this chapter the following words and phrases  
12 shall have the following meanings unless the context clearly requires  
13 otherwise:

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

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

22 (3) "Approved treatment program" means a discrete program of  
23 chemical dependency treatment provided by a treatment program  
24 certified by the department of social and health services as meeting  
25 standards adopted under this chapter.

26 (4) "Chemical dependency" means:

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

30 (5) "Chemical dependency program" means expenditures and  
31 activities of the department designed and conducted to prevent or  
32 treat alcoholism and other drug addiction, including reasonable  
33 administration and overhead.

34 (6) "Department" means the department of social and health  
35 services.

36 (7) "Designated chemical dependency specialist" or "specialist"  
37 means a person designated by the county alcoholism and other drug

1 addiction program coordinator designated under RCW 70.96A.310 to  
2 perform the commitment duties described in RCW 70.96A.140 and  
3 qualified to do so by meeting standards adopted by the department.

4 (8) "Director" means the person administering the chemical  
5 dependency program within the department.

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

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

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

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

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

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

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

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

1 (17) "Licensed physician" means a person licensed to practice  
2 medicine or osteopathic medicine and surgery in the state of  
3 Washington.

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

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

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

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

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

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

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

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

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

37 (25) "Secretary" means the secretary of the department of social  
38 and health services.

39 (26) "Treatment" means the broad range of emergency,  
40 detoxification, residential, and outpatient services and care,

1 including diagnostic evaluation, chemical dependency education and  
2 counseling, medical, psychiatric, psychological, and social service  
3 care, vocational rehabilitation and career counseling, which may be  
4 extended to alcoholics and other drug addicts and their families,  
5 persons incapacitated by alcohol or other psychoactive chemicals, and  
6 intoxicated persons.

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

10 (28) "Violent act" means behavior that resulted in homicide,  
11 attempted suicide, nonfatal injuries, or substantial damage to  
12 property.

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

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

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

25 **Sec. 102.** RCW 70.96A.140 and 2001 c 13 s 3 are each amended to  
26 read as follows:

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

35 If a petition for commitment is not filed in the case of a minor,  
36 the parent, guardian, or custodian who has custody of the minor may  
37 seek review of that decision made by the designated chemical  
38 dependency specialist in superior or district court. The parent,

1 guardian, or custodian shall file notice with the court and provide a  
2 copy of the designated chemical dependency specialist's report.

3 If the designated chemical dependency specialist finds that the  
4 initial needs of such person would be better served by placement  
5 within the mental health system, the person shall be referred to  
6 either a ((county)) designated mental health professional or an  
7 evaluation and treatment facility as defined in RCW 71.05.020 or  
8 71.34.020.

9 (b) If placement in a chemical dependency program is available  
10 and deemed appropriate, the petition shall allege that: The person is  
11 chemically dependent and presents a likelihood of serious harm or is  
12 gravely disabled by alcohol or drug addiction, or that the person has  
13 twice before in the preceding twelve months been admitted for  
14 detoxification, sobering services, or chemical dependency treatment  
15 pursuant to RCW 70.96A.110 or 70.96A.120, and is in need of a more  
16 sustained treatment program, or that the person is chemically  
17 dependent and has threatened, attempted, or inflicted physical harm  
18 on another and is likely to inflict physical harm on another unless  
19 committed. A refusal to undergo treatment, by itself, does not  
20 constitute evidence of lack of judgment as to the need for treatment.  
21 ~~((The petition shall be accompanied by a certificate of a licensed  
22 physician who has examined the person within five days before  
23 submission of the petition, unless the person whose commitment is  
24 sought has refused to submit to a medical examination, in which case  
25 the fact of refusal shall be alleged in the petition. The certificate  
26 shall set forth the licensed physician's findings in support of the  
27 allegations of the petition. A physician employed by the petitioning  
28 program or the department is eligible to be the certifying  
29 physician.))~~

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

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

1 (A) Two licensed physicians;

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

3 (C) Two psychiatric advanced registered nurse practitioners;

4 (D) One psychiatric advanced registered nurse practitioner and a  
5 mental health professional; or

6 (E) A licensed physician and a psychiatric advanced registered  
7 nurse practitioner.

8 (ii) The persons signing the petition must have examined the  
9 person.

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

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

1 person, or on its own motion, the court shall examine a record or  
2 testimony sought by a petitioner to determine whether it is within  
3 the scope of the waiver.

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

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

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

39 (6) Upon the filing of a petition for recommitment under  
40 subsection (5) of this section, the court shall fix a date for

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

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

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

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

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

34 (9) The court shall inform the person whose commitment or  
35 recommitment is sought of his or her right to contest the  
36 application, be represented by counsel at every stage of any  
37 proceedings relating to his or her commitment and recommitment, and  
38 have counsel appointed by the court or provided by the court, if he  
39 or she wants the assistance of counsel and is unable to obtain  
40 counsel. If the court believes that the person needs the assistance

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

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

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

18 (12) When in the opinion of the professional person in charge of  
19 the program providing involuntary inpatient treatment under this  
20 chapter, the committed patient can be appropriately served by less  
21 restrictive treatment before expiration of the period of commitment,  
22 then the less restrictive care may be required as a condition for  
23 early release for a period which, when added to the initial treatment  
24 period, does not exceed the period of commitment. If the program  
25 designated to provide the less restrictive treatment is other than  
26 the program providing the initial involuntary treatment, the program  
27 so designated must agree in writing to assume such responsibility. A  
28 copy of the conditions for early release shall be given to the  
29 patient, the designated chemical dependency specialist of original  
30 commitment, and the court of original commitment. The program  
31 designated to provide less restrictive care may modify the conditions  
32 for continued release when the modifications are in the best  
33 interests of the patient. If the program providing less restrictive  
34 care and the designated chemical dependency specialist determine that  
35 a conditionally released patient is failing to adhere to the terms  
36 and conditions of his or her release, or that substantial  
37 deterioration in the patient's functioning has occurred, then the  
38 designated chemical dependency specialist shall notify the court of  
39 original commitment and request a hearing to be held no less than two  
40 and no more than seven days after the date of the request to

1 determine whether or not the person should be returned to more  
2 restrictive care. The designated chemical dependency specialist shall  
3 file a petition with the court stating the facts substantiating the  
4 need for the hearing along with the treatment recommendations. The  
5 patient shall have the same rights with respect to notice, hearing,  
6 and counsel as for the original involuntary treatment proceedings.  
7 The issues to be determined at the hearing are whether the  
8 conditionally released patient did or did not adhere to the terms and  
9 conditions of his or her release to less restrictive care or that  
10 substantial deterioration of the patient's functioning has occurred  
11 and whether the conditions of release should be modified or the  
12 person should be returned to a more restrictive program. The hearing  
13 may be waived by the patient and his or her counsel and his or her  
14 guardian or conservator, if any, but may not be waived unless all  
15 such persons agree to the waiver. Upon waiver, the person may be  
16 returned for involuntary treatment or continued on conditional  
17 release on the same or modified conditions. The grounds and  
18 procedures for revocation of less restrictive alternative treatment  
19 ordered by the court must be the same as those set forth in this  
20 section for less restrictive care arranged by an approved treatment  
21 program as a condition for early release.

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

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

31 **PART II**  
32 **INTEGRATED SYSTEM**

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

35 (1) By April 1, 2016, the secretary, by rule, must combine the  
36 functions of a designated mental health professional and designated  
37 chemical dependency specialist by establishing a designated crisis

1 responder who is authorized to conduct investigations, detain persons  
2 up to seventy-two hours to the proper facility, and carry out the  
3 other functions identified in this chapter and chapter 71.34 RCW. The  
4 behavioral health organizations shall provide training to the  
5 designated crisis responders as required by the department.

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

9 (a) Psychiatrist, psychologist, psychiatric nurse, or social  
10 worker;

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

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

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

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

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

27 (1) The Washington state institute for public policy shall  
28 evaluate the effect of the integration of the involuntary treatment  
29 systems for chemical dependency and mental health and make  
30 preliminary reports to appropriate committees of the legislature by  
31 December 1, 2018, and June 30, 2019, and a final report by June 30,  
32 2021.

33 (2) The evaluation must include an assessment of whether the  
34 integrated system:

35 (a) Has increased efficiency of evaluation and treatment of  
36 persons involuntarily detained for chemical dependency;

37 (b) Is cost-effective;

38 (c) Results in better outcomes for persons involuntarily  
39 detained; and

1 (d) Increases the effectiveness of the crisis response system  
2 statewide.

3 (3) This section expires August 1, 2021.

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

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

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

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

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

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

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

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

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

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

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

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

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

7       ~~(12))~~ (10) "Detention" or "detain" means the lawful confinement  
8 of a person, under the provisions of this chapter;

9       ~~((13))~~ (11) "Developmental disabilities professional" means a  
10 person who has specialized training and three years of experience in  
11 directly treating or working with persons with developmental  
12 disabilities and is a psychiatrist, psychologist, psychiatric  
13 advanced registered nurse practitioner, or social worker, and such  
14 other developmental disabilities professionals as may be defined by  
15 rules adopted by the secretary;

16       ~~((14))~~ (12) "Developmental disability" means that condition  
17 defined in RCW 71A.10.020~~((4))~~ (5);

18       ~~((15))~~ (13) "Discharge" means the termination of hospital  
19 medical authority. The commitment may remain in place, be terminated,  
20 or be amended by court order;

21       ~~((16))~~ (14) "Evaluation and treatment facility" means any  
22 facility which can provide directly, or by direct arrangement with  
23 other public or private agencies, emergency evaluation and treatment,  
24 outpatient care, and timely and appropriate inpatient care to persons  
25 suffering from a mental disorder, and which is certified as such by  
26 the department. A physically separate and separately operated portion  
27 of a state hospital may be designated as an evaluation and treatment  
28 facility. A facility which is part of, or operated by, the department  
29 or any federal agency will not require certification. No correctional  
30 institution or facility, or jail, shall be an evaluation and  
31 treatment facility within the meaning of this chapter;

32       ~~((17))~~ (15) "Gravely disabled" means a condition in which a  
33 person, as a result of a mental disorder, or as a result of the use  
34 of alcohol or other psychoactive chemicals: (a) Is in danger of  
35 serious physical harm resulting from a failure to provide for his or  
36 her essential human needs of health or safety; or (b) manifests  
37 severe deterioration in routine functioning evidenced by repeated and  
38 escalating loss of cognitive or volitional control over his or her  
39 actions and is not receiving such care as is essential for his or her  
40 health or safety;

1       (~~(18)~~) (16) "Habilitative services" means those services  
2 provided by program personnel to assist persons in acquiring and  
3 maintaining life skills and in raising their levels of physical,  
4 mental, social, and vocational functioning. Habilitative services  
5 include education, training for employment, and therapy. The  
6 habilitative process shall be undertaken with recognition of the risk  
7 to the public safety presented by the person being assisted as  
8 manifested by prior charged criminal conduct;

9       (~~(19)~~) (17) "History of one or more violent acts" refers to the  
10 period of time ten years prior to the filing of a petition under this  
11 chapter, excluding any time spent, but not any violent acts  
12 committed, in a mental health facility, a long-term alcoholism or  
13 drug treatment facility, or in confinement as a result of a criminal  
14 conviction;

15       (~~(20)~~) (18) "Imminent" means the state or condition of being  
16 likely to occur at any moment or near at hand, rather than distant or  
17 remote;

18       (~~(21)~~) (19) "Individualized service plan" means a plan prepared  
19 by a developmental disabilities professional with other professionals  
20 as a team, for a person with developmental disabilities, which shall  
21 state:

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

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

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

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

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

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

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

38       (~~(22)~~) (20) "Information related to mental health services"  
39 means all information and records compiled, obtained, or maintained  
40 in the course of providing services to either voluntary or



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

5 ~~((+23+))~~ (21) "Judicial commitment" means a commitment by a court  
6 pursuant to the provisions of this chapter;

7 ~~((+24+))~~ (22) "Legal counsel" means attorneys and staff employed  
8 by county prosecutor offices or the state attorney general acting in  
9 their capacity as legal representatives of public mental health and  
10 chemical dependency service providers under RCW 71.05.130;

11 ~~((+25+))~~ (23) "Likelihood of serious harm" means:

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

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

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

26 ~~((+27+))~~ (25) "Mental health professional" means a psychiatrist,  
27 psychologist, psychiatric advanced registered nurse practitioner,  
28 psychiatric nurse, or social worker, and such other mental health  
29 professionals as may be defined by rules adopted by the secretary  
30 pursuant to the provisions of this chapter;

31 ~~((+28+))~~ (26) "Mental health service provider" means a public or  
32 private agency that provides mental health services to persons with  
33 mental disorders or chemical dependency as defined under this section  
34 and receives funding from public sources. This includes, but is not  
35 limited to, hospitals licensed under chapter 70.41 RCW, evaluation  
36 and treatment facilities as defined in this section, community mental  
37 health service delivery systems or community mental health programs  
38 as defined in RCW 71.24.025, facilities conducting competency  
39 evaluations and restoration under chapter 10.77 RCW, approved  
40 treatment programs as defined in this section, secure detoxification

1 facilities as defined in this section, and correctional facilities  
2 operated by state and local governments;

3 ~~((+29))~~ (27) "Peace officer" means a law enforcement official of  
4 a public agency or governmental unit, and includes persons  
5 specifically given peace officer powers by any state law, local  
6 ordinance, or judicial order of appointment;

7 ~~((+30))~~ (28) "Private agency" means any person, partnership,  
8 corporation, or association that is not a public agency, whether or  
9 not financed in whole or in part by public funds, which constitutes  
10 an evaluation and treatment facility or private institution, or  
11 hospital, or approved treatment program, which is conducted for, or  
12 includes a department or ward conducted for, the care and treatment  
13 of persons who are mentally ill, chemically dependent, or both  
14 mentally ill and chemically dependent;

15 ~~((+31))~~ (29) "Professional person" means a mental health  
16 professional or designated crisis responder and shall also mean a  
17 physician, psychiatric advanced registered nurse practitioner,  
18 registered nurse, and such others as may be defined by rules adopted  
19 by the secretary pursuant to the provisions of this chapter;

20 ~~((+32))~~ (30) "Psychiatric advanced registered nurse  
21 practitioner" means a person who is licensed as an advanced  
22 registered nurse practitioner pursuant to chapter 18.79 RCW; and who  
23 is board certified in advanced practice psychiatric and mental health  
24 nursing;

25 ~~((+33))~~ (31) "Psychiatrist" means a person having a license as a  
26 physician and surgeon in this state who has in addition completed  
27 three years of graduate training in psychiatry in a program approved  
28 by the American medical association or the American osteopathic  
29 association and is certified or eligible to be certified by the  
30 American board of psychiatry and neurology;

31 ~~((+34))~~ (32) "Psychologist" means a person who has been licensed  
32 as a psychologist pursuant to chapter 18.83 RCW;

33 ~~((+35))~~ (33) "Public agency" means any evaluation and treatment  
34 facility or institution, secure detoxification facility, approved  
35 treatment program, or hospital which is conducted for, or includes a  
36 department or ward conducted for, the care and treatment of persons  
37 with mental illness, chemical dependency, or both mental illness and  
38 chemical dependency, if the agency is operated directly by~~((τ))~~  
39 federal, state, county, or municipal government, or a combination of  
40 such governments;

1        ~~((36))~~ (34) "Registration records" include all the records of  
2 the department, behavioral health organizations, treatment  
3 facilities, and other persons providing services to the department,  
4 county departments, or facilities which identify persons who are  
5 receiving or who at any time have received services for mental  
6 illness or chemical dependency;

7        ~~((37))~~ (35) "Release" means legal termination of the commitment  
8 under the provisions of this chapter;

9        ~~((38))~~ (36) "Resource management services" has the meaning  
10 given in chapter 71.24 RCW;

11        ~~((39))~~ (37) "Secretary" means the secretary of the department  
12 of social and health services, or his or her designee;

13        ~~((40))~~ (38) "Serious violent offense" has the same meaning as  
14 provided in RCW 9.94A.030;

15        ~~((41))~~ (39) "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        ~~((42))~~ (40) "Therapeutic court personnel" means the staff of a  
19 mental health court or other therapeutic court which has jurisdiction  
20 over defendants who are dually diagnosed with mental disorders,  
21 including court personnel, probation officers, a court monitor,  
22 prosecuting attorney, or defense counsel acting within the scope of  
23 therapeutic court duties;

24        ~~((43))~~ (41) "Treatment records" include registration and all  
25 other records concerning persons who are receiving or who at any time  
26 have received services for mental illness, which are maintained by  
27 the department, by behavioral health organizations and their staffs,  
28 and by treatment facilities. Treatment records include mental health  
29 information contained in a medical bill including but not limited to  
30 mental health drugs, a mental health diagnosis, provider name, and  
31 dates of service stemming from a medical service. Treatment records  
32 do not include notes or records maintained for personal use by a  
33 person providing treatment services for the department, behavioral  
34 health organizations, or a treatment facility if the notes or records  
35 are not available to others;

36        ~~((44))~~ (42) "Triage facility" means a short-term facility or a  
37 portion of a facility licensed by the department of health and  
38 certified by the department of social and health services under RCW  
39 71.24.035, which is designed as a facility to assess and stabilize an  
40 individual or determine the need for involuntary commitment of an

1 individual, and must meet department of health residential treatment  
2 facility standards. A triage facility may be structured as a  
3 voluntary or involuntary placement facility;

4 ~~((45))~~ (43) "Violent act" means behavior that resulted in  
5 homicide, attempted suicide, nonfatal injuries, or substantial damage  
6 to property;

7 (44) "Approved treatment program" means a discrete program of  
8 chemical dependency treatment certified by the department as meeting  
9 standards adopted under chapter 70.96A RCW;

10 (45) "Chemical dependency" means:

11 (a) Alcoholism;

12 (b) Drug addiction; or

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

15 (46) "Chemical dependency professional" means a person certified  
16 as a chemical dependency professional by the department of health  
17 under chapter 18.205 RCW;

18 (47) "Intoxicated person" means a person whose mental or physical  
19 functioning is substantially impaired as a result of the use of  
20 alcohol or other psychoactive chemicals;

21 (48) "Licensed physician" means a person licensed to practice  
22 medicine or osteopathic medicine and surgery in the state of  
23 Washington;

24 (49) "Secure detoxification facility" means a facility operated  
25 by either a public or private agency or by the program of an agency  
26 that serves the purpose of providing evaluation and assessment, and  
27 acute or subacute detoxification services for intoxicated persons and  
28 includes security measures sufficient to protect the patients, staff,  
29 and community, and that is certified as such by the department.

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

32 The legislature intends that the procedures and services  
33 authorized in this chapter be integrated with those in chapter 71.24  
34 RCW to the maximum extent necessary to assure a continuum of care to  
35 persons with mental illness or who have mental disorders or chemical  
36 dependency, as defined in either or both this chapter and chapter  
37 71.24 RCW. To this end, behavioral health organizations established  
38 in accordance with chapter 71.24 RCW shall institute procedures which  
39 require timely consultation with resource management services by

1 designated (~~mental health professionals and~~) crisis responders,  
2 evaluation and treatment facilities, and secure detoxification  
3 facilities to assure that determinations to admit, detain, commit,  
4 treat, discharge, or release persons with mental disorders or  
5 chemical dependency under this chapter are made only after  
6 appropriate information regarding such person's treatment history and  
7 current treatment plan has been sought from resource management  
8 services.

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

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

15       (2) Except as expressly provided in contracts entered into  
16 between the department and the behavioral health organizations after  
17 March 29, 2006, the entities identified in subsection (3) of this  
18 section shall have no claim for declaratory relief, injunctive  
19 relief, judicial review under chapter 34.05 RCW, or civil liability  
20 against the state or state agencies for actions or inactions  
21 performed pursuant to the administration of this chapter with regard  
22 to the following: (a) The allocation or payment of federal or state  
23 funds; (b) the use or allocation of state hospital beds; or (c)  
24 financial responsibility for the provision of inpatient mental health  
25 care or inpatient chemical dependency treatment.

26       (3) This section applies to counties, behavioral health  
27 organizations, and entities which contract to provide behavioral  
28 health organization services and their subcontractors, agents, or  
29 employees.

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

32       Nothing in this chapter shall be construed to limit the right of  
33 any person to apply voluntarily to any public or private agency or  
34 practitioner for treatment of a mental disorder or chemical  
35 dependency, either by direct application or by referral. Any person  
36 voluntarily admitted for inpatient treatment to any public or private  
37 agency shall be released immediately upon his or her request. Any  
38 person voluntarily admitted for inpatient treatment to any public or

1 private agency shall orally be advised of the right to immediate  
2 discharge, and further advised of such rights in writing as are  
3 secured to them pursuant to this chapter and their rights of access  
4 to attorneys, courts, and other legal redress. Their condition and  
5 status shall be reviewed at least once each one hundred eighty days  
6 for evaluation as to the need for further treatment or possible  
7 discharge, at which time they shall again be advised of their right  
8 to discharge upon request: PROVIDED HOWEVER, That if the professional  
9 staff of any public or private agency or hospital regards a person  
10 voluntarily admitted who requests discharge as presenting, as a  
11 result of a mental disorder or chemical dependency, an imminent  
12 likelihood of serious harm, or is gravely disabled, they may detain  
13 such person for sufficient time to notify the ((~~county~~)) designated  
14 ((~~mental health professional~~)) crisis responder of such person's  
15 condition to enable the ((~~county~~)) designated ((~~mental health~~  
16 ~~professional~~)) crisis responder to authorize such person being  
17 further held in custody or transported to an evaluation and treatment  
18 center pursuant to the provisions of this chapter, which shall in  
19 ordinary circumstances be no later than the next judicial day:  
20 PROVIDED FURTHER, That if a person is brought to the emergency room  
21 of a public or private agency or hospital for observation or  
22 treatment, the person refuses voluntary admission, and the  
23 professional staff of the public or private agency or hospital regard  
24 such person as presenting as a result of a mental disorder or  
25 chemical dependency an imminent likelihood of serious harm, or as  
26 presenting an imminent danger because of grave disability, they may  
27 detain such person for sufficient time to notify the ((~~county~~))  
28 designated ((~~mental health professional~~)) crisis responder of such  
29 person's condition to enable the ((~~county~~)) designated ((~~mental~~  
30 ~~health professional~~)) crisis responder to authorize such person being  
31 further held in custody or transported to an evaluation treatment  
32 center or secure detoxification facility pursuant to the conditions  
33 in this chapter, but which time shall be no more than six hours from  
34 the time the professional staff determine that an evaluation by the  
35 ((~~county~~)) designated ((~~mental health professional~~)) crisis responder  
36 is necessary.

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

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

15 (2) This section does not relieve a person from giving the  
16 required notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the  
17 duty to warn or to take reasonable precautions to provide protection  
18 from violent behavior where the patient has communicated an actual  
19 threat of physical violence against a reasonably identifiable victim  
20 or victims. The duty to warn or to take reasonable precautions to  
21 provide protection from violent behavior is discharged if reasonable  
22 efforts are made to communicate the threat to the victim or victims  
23 and to law enforcement personnel.

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

26 When any court orders a person to receive treatment under this  
27 chapter, the order shall include a statement that if the person is,  
28 or becomes, subject to supervision by the department of corrections,  
29 the person must notify the treatment provider and the person's mental  
30 health treatment information and chemical dependency treatment  
31 information must be shared with the department of corrections for the  
32 duration of the offender's incarceration and supervision, under RCW  
33 71.05.445. Upon a petition by a person who does not have a history of  
34 one or more violent acts, the court may, for good cause, find that  
35 public safety would not be enhanced by the sharing of this person's  
36 information.

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

1 (1) When a designated (~~mental health professional~~) crisis  
2 responder receives information alleging that a person, as a result of  
3 a mental disorder, chemical dependency disorder, or both: (i)  
4 Presents a likelihood of serious harm; or (ii) is gravely disabled;  
5 the designated (~~mental health professional~~) crisis responder may,  
6 after investigation and evaluation of the specific facts alleged and  
7 of the reliability and credibility of any person providing  
8 information to initiate detention, if satisfied that the allegations  
9 are true and that the person will not voluntarily seek appropriate  
10 treatment, file a petition for initial detention. Before filing the  
11 petition, the designated (~~mental health professional~~) crisis  
12 responder must personally interview the person, unless the person  
13 refuses an interview, and determine whether the person will  
14 voluntarily receive appropriate evaluation and treatment at an  
15 evaluation and treatment facility, crisis stabilization unit, (~~or~~)  
16 triage facility, or secure detoxification facility.

17 (2)(a) An order to detain to a designated evaluation and  
18 treatment facility or secure detoxification facility for not more  
19 than a seventy-two-hour evaluation and treatment period may be issued  
20 by a judge of the superior court upon request of a designated  
21 (~~mental health professional~~) crisis responder, whenever it appears  
22 to the satisfaction of a judge of the superior court:

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

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

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

34 (3) The designated (~~mental health professional~~) crisis  
35 responder shall then serve or cause to be served on such person, his  
36 or her guardian, and conservator, if any, a copy of the order  
37 together with a notice of rights, and a petition for initial  
38 detention. After service on such person the designated (~~mental~~  
39 ~~health professional~~) crisis responder shall file the return of  
40 service in court and provide copies of all papers in the court file



1 to the evaluation and treatment facility or secure detoxification  
2 facility and the designated attorney. The designated (~~mental health~~  
3 ~~professional~~) crisis responder shall notify the court and the  
4 prosecuting attorney that a probable cause hearing will be held  
5 within seventy-two hours of the date and time of outpatient  
6 evaluation or admission to the evaluation and treatment facility or  
7 secure detoxification facility. The person shall be permitted to be  
8 accompanied by one or more of his or her relatives, friends, an  
9 attorney, a personal physician, or other professional or religious  
10 advisor to the place of evaluation. An attorney accompanying the  
11 person to the place of evaluation shall be permitted to be present  
12 during the admission evaluation. Any other individual accompanying  
13 the person may be present during the admission evaluation. The  
14 facility may exclude the individual if his or her presence would  
15 present a safety risk, delay the proceedings, or otherwise interfere  
16 with the evaluation.

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

25 **Sec. 210.** RCW 71.05.153 and 2011 c 305 s 8 and 2011 c 148 s 2  
26 are each reenacted and amended to read as follows:

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

38 (2) When a designated crisis responder receives information  
39 alleging that a person, as the result of chemical dependency,

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

9 (3) A peace officer may take or cause such person to be taken  
10 into custody and immediately delivered to a triage facility, crisis  
11 stabilization unit, evaluation and treatment facility, secure  
12 detoxification facility, or the emergency department of a local  
13 hospital under the following circumstances:

14 (a) Pursuant to subsection (1) or (2) of this section; or

15 (b) When he or she has reasonable cause to believe that such  
16 person is suffering from a mental disorder or chemical dependency and  
17 presents an imminent likelihood of serious harm or is in imminent  
18 danger because of being gravely disabled.

19 ~~((+3))~~ (4) Persons delivered to a crisis stabilization unit,  
20 evaluation and treatment facility, emergency department of a local  
21 hospital, ~~((or))~~ triage facility that has elected to operate as an  
22 involuntary facility, or secure detoxification facility by peace  
23 officers pursuant to subsection ~~((+2))~~ (3) of this section may be  
24 held by the facility for a period of up to twelve hours.

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

38 **Sec. 211.** RCW 71.05.154 and 2013 c 334 s 1 are each amended to  
39 read as follows:

1 A designated (~~mental health professional~~) crisis responder  
2 conducting an evaluation of a person under RCW 71.05.150 or 71.05.153  
3 must consult with any examining emergency room physician regarding  
4 the physician's observations and opinions relating to the person's  
5 condition, and whether, in the view of the physician, detention is  
6 appropriate. The designated (~~mental health professional~~) crisis  
7 responder shall take serious consideration of observations and  
8 opinions by examining emergency room physicians in determining  
9 whether detention under this chapter is appropriate. The designated  
10 (~~mental health professional~~) crisis responder must document the  
11 consultation with an examining emergency room physician, including  
12 the physician's observations or opinions regarding whether detention  
13 of the person is appropriate.

14 **Sec. 212.** RCW 71.05.156 and 2013 c 334 s 2 are each amended to  
15 read as follows:

16 A designated (~~mental health professional~~) crisis responder who  
17 conducts an evaluation for imminent likelihood of serious harm or  
18 imminent danger because of being gravely disabled under RCW 71.05.153  
19 must also evaluate the person under RCW 71.05.150 for likelihood of  
20 serious harm or grave disability that does not meet the imminent  
21 standard for emergency detention.

22 **Sec. 213.** RCW 71.05.157 and 2007 c 375 s 9 are each amended to  
23 read as follows:

24 (1) When a designated (~~mental health professional~~) crisis  
25 responder is notified by a jail that a defendant or offender who was  
26 subject to a discharge review under RCW 71.05.232 is to be released  
27 to the community, the designated (~~mental health professional~~)  
28 crisis responder shall evaluate the person within seventy-two hours  
29 of release.

30 (2) When an offender is under court-ordered treatment in the  
31 community and the supervision of the department of corrections, and  
32 the treatment provider becomes aware that the person is in violation  
33 of the terms of the court order, the treatment provider shall notify  
34 the designated (~~mental health professional~~) crisis responder and  
35 the department of corrections of the violation and request an  
36 evaluation for purposes of revocation of the less restrictive  
37 alternative.

1 (3) When a designated (~~mental health professional~~) crisis  
2 responder becomes aware that an offender who is under court-ordered  
3 treatment in the community and the supervision of the department of  
4 corrections is in violation of a treatment order or a condition of  
5 supervision that relates to public safety, or the designated (~~mental~~  
6 ~~health professional~~) crisis responder detains a person under this  
7 chapter, the designated (~~mental health professional~~) crisis  
8 responder shall notify the person's treatment provider and the  
9 department of corrections.

10 (4) When an offender who is confined in a state correctional  
11 facility or is under supervision of the department of corrections in  
12 the community is subject to a petition for involuntary treatment  
13 under this chapter, the petitioner shall notify the department of  
14 corrections and the department of corrections shall provide  
15 documentation of its risk assessment or other concerns to the  
16 petitioner and the court if the department of corrections classified  
17 the offender as a high risk or high needs offender.

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

21 (6) No jail or state correctional facility may be considered a  
22 less restrictive alternative to an evaluation and treatment facility  
23 or secure detoxification facility.

24 **Sec. 214.** RCW 71.05.160 and 2007 c 375 s 13 are each amended to  
25 read as follows:

26 Any facility receiving a person pursuant to RCW 71.05.150 or  
27 71.05.153 shall require the designated (~~mental health professional~~)  
28 crisis responder to prepare a petition for initial detention stating  
29 the circumstances under which the person's condition was made known  
30 and stating that there is evidence, as a result of his or her  
31 personal observation or investigation, that the actions of the person  
32 for which application is made constitute a likelihood of serious  
33 harm, or that he or she is gravely disabled, and stating the specific  
34 facts known to him or her as a result of his or her personal  
35 observation or investigation, upon which he or she bases the belief  
36 that such person should be detained for the purposes and under the  
37 authority of this chapter.

38 If a person is involuntarily placed in an evaluation and  
39 treatment facility or secure detoxification facility pursuant to RCW

1 71.05.150 or 71.05.153, on the next judicial day following the  
2 initial detention, the designated (~~mental health professional~~)  
3 crisis responder shall file with the court and serve the designated  
4 attorney of the detained person the petition or supplemental petition  
5 for initial detention, proof of service of notice, and a copy of a  
6 notice of emergency detention.

7 **Sec. 215.** RCW 71.05.170 and 2000 c 94 s 5 are each amended to  
8 read as follows:

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

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

23 **Sec. 216.** RCW 71.05.180 and 1997 c 112 s 12 are each amended to  
24 read as follows:

25 If the evaluation and treatment facility admits the person, it  
26 may detain him or her for evaluation and treatment for a period not  
27 to exceed seventy-two hours from the time of acceptance as set forth  
28 in RCW 71.05.170. The computation of such seventy-two hour period  
29 shall exclude Saturdays, Sundays and holidays.

30 **Sec. 217.** RCW 71.05.190 and 2011 c 305 s 3 are each amended to  
31 read as follows:

32 If the person is not approved for admission by a facility  
33 providing seventy-two hour evaluation and treatment, and the  
34 individual has not been arrested, the facility shall furnish  
35 transportation, if not otherwise available, for the person to his or  
36 her place of residence or other appropriate place. If the individual  
37 has been arrested, the evaluation and treatment facility or secure

1 detoxification facility shall detain the individual for not more than  
2 eight hours at the request of the peace officer. The facility shall  
3 make reasonable attempts to contact the requesting peace officer  
4 during this time to inform the peace officer that the person is not  
5 approved for admission in order to enable a peace officer to return  
6 to the facility and take the individual back into custody.

7 **Sec. 218.** RCW 71.05.195 and 2010 c 208 s 1 are each amended to  
8 read as follows:

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

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

25 (b) A warrant issued by a magistrate in the state in which the  
26 person was found not guilty by reason of insanity indicating that the  
27 person has fled from detention, commitment, or conditional release in  
28 that state and authorizing the detention of the person within the  
29 state in which the person was found not guilty by reason of insanity;

30 (c) A statement from the executive authority of the state in  
31 which the person was found not guilty by reason of insanity  
32 requesting that the person be returned to the requesting state and  
33 agreeing to facilitate the transfer of the person to the requesting  
34 state.

35 (2) The person shall be entitled to a probable cause hearing  
36 within the time limits applicable to other detentions under this  
37 chapter and shall be afforded the rights described in this chapter  
38 including the right to counsel. At the probable cause hearing, the  
39 court shall determine the identity of the person and whether the

1 other requirements of this section are met. If the court so finds,  
2 the court may order continued detention in a treatment facility for  
3 up to thirty days for the purpose of the transfer of the person to  
4 the custody or care of the requesting state. The court may order a  
5 less restrictive alternative to detention only under conditions which  
6 ensure the person's safe transfer to the custody or care of the  
7 requesting state within thirty days without undue risk to the safety  
8 of the person or others.

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

14 **Sec. 219.** RCW 71.05.210 and 2009 c 217 s 1 are each amended to  
15 read as follows:

16 Each person involuntarily detained and accepted or admitted at an  
17 evaluation and treatment facility or secure detoxification facility

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

1 detained pursuant to court order for further treatment as provided in  
2 this chapter.

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

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

22 **Sec. 220.** RCW 71.05.212 and 2010 c 280 s 2 are each amended to  
23 read as follows:

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

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

31 (b) Historical behavior, including history of one or more violent  
32 acts;

33 (c) Prior determinations of incompetency or insanity under  
34 chapter 10.77 RCW; and

35 (d) Prior commitments under this chapter.

36 (2) Credible witnesses may include family members, landlords,  
37 neighbors, or others with significant contact and history of  
38 involvement with the person. If the designated ~~((mental health~~  
39 ~~professional))~~ crisis responder relies upon information from a



1 credible witness in reaching his or her decision to detain the  
2 individual, then he or she must provide contact information for any  
3 such witness to the prosecutor. The designated (~~mental health~~  
4 ~~professional~~) crisis responder or prosecutor shall provide notice of  
5 the date, time, and location of the probable cause hearing to such a  
6 witness.

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

10 (a) Such symptoms or behavior are closely associated with  
11 symptoms or behavior which preceded and led to a past incident of  
12 involuntary hospitalization, severe deterioration, or one or more  
13 violent acts;

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

16 (c) Without treatment, the continued deterioration of the  
17 respondent is probable.

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

23 **Sec. 221.** RCW 71.05.214 and 1998 c 297 s 26 are each amended to  
24 read as follows:

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

33 The initial protocols shall be developed not later than September  
34 1, 1999. The department shall develop and update the protocols in  
35 consultation with representatives of (~~county~~) designated (~~mental~~  
36 ~~health professionals~~) crisis responders, local government, law  
37 enforcement, county and city prosecutors, public defenders, and  
38 groups concerned with mental illness and chemical dependency. The

1 protocols shall be submitted to the governor and legislature upon  
2 adoption by the department.

3 **Sec. 222.** RCW 71.05.215 and 2008 c 156 s 2 are each amended to  
4 read as follows:

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

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

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

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

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

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

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

1       **Sec. 223.** RCW 71.05.220 and 1997 c 112 s 17 are each amended to  
2 read as follows:

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

16       **Sec. 224.** RCW 71.05.230 and 2011 c 343 s 9 are each amended to  
17 read as follows:

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

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

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

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

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

39       (a) Two physicians;

1 (b) One physician and a mental health professional;  
2 (c) Two psychiatric advanced registered nurse practitioners;  
3 (d) One psychiatric advanced registered nurse practitioner and a  
4 mental health professional; or

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

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

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

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

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

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

1           **Sec. 225.** RCW 71.05.235 and 2008 c 213 s 5 are each amended to  
2 read as follows:

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

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

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

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

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

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

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

3 **Sec. 226.** RCW 71.05.240 and 2009 c 293 s 4 are each amended to  
4 read as follows:

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

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

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

35 (4) The court shall specifically state to such person and give  
36 such person notice in writing that if involuntary treatment beyond  
37 the fourteen day period or beyond the ninety days of less restrictive  
38 treatment is to be sought, such person will have the right to a full  
39 hearing or jury trial as required by RCW 71.05.310. The court shall

1 also state to the person and provide written notice that the person  
2 is barred from the possession of firearms and that the prohibition  
3 remains in effect until a court restores his or her right to possess  
4 a firearm under RCW 9.41.047.

5 **Sec. 227.** RCW 71.05.280 and 2013 c 289 s 4 are each amended to  
6 read as follows:

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

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

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

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

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

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

34 (4) Such person is gravely disabled.

35 **Sec. 228.** RCW 71.05.290 and 2009 c 217 s 3 are each amended to  
36 read as follows:

37 (1) At any time during a person's fourteen day intensive  
38 treatment period, the professional person in charge of a treatment



1 facility or his or her professional designee or the designated  
2 (~~mental health professional~~) crisis responder may petition the  
3 superior court for an order requiring such person to undergo an  
4 additional period of treatment. Such petition must be based on one or  
5 more of the grounds set forth in RCW 71.05.280.

6 (2) The petition shall summarize the facts which support the need  
7 for further confinement and shall be supported by affidavits signed  
8 by:

9 (a) Two examining physicians;

10 (b) One examining physician and examining mental health  
11 professional;

12 (c) Two psychiatric advanced registered nurse practitioners;

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

15 (e) An examining physician and an examining psychiatric advanced  
16 registered nurse practitioner. The affidavits shall describe in  
17 detail the behavior of the detained person which supports the  
18 petition and shall explain what, if any, less restrictive treatments  
19 which are alternatives to detention are available to such person, and  
20 shall state the willingness of the affiant to testify to such facts  
21 in subsequent judicial proceedings under this chapter.

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

29 **Sec. 229.** RCW 71.05.300 and 2014 c 225 s 84 are each amended to  
30 read as follows:

31 (1) The petition for ninety day treatment shall be filed with the  
32 clerk of the superior court at least three days before expiration of  
33 the fourteen-day period of intensive treatment. At the time of filing  
34 such petition, the clerk shall set a time for the person to come  
35 before the court on the next judicial day after the day of filing  
36 unless such appearance is waived by the person's attorney, and the  
37 clerk shall notify the designated (~~mental health professional~~)  
38 crisis responder. The designated (~~mental health professional~~)  
39 crisis responder shall immediately notify the person detained, his or

1 her attorney, if any, and his or her guardian or conservator, if any,  
2 the prosecuting attorney, and the behavioral health organization  
3 administrator, and provide a copy of the petition to such persons as  
4 soon as possible. The behavioral health organization administrator or  
5 designee may review the petition and may appear and testify at the  
6 full hearing on the petition.

7 (2) At the time set for appearance the detained person shall be  
8 brought before the court, unless such appearance has been waived and  
9 the court shall advise him or her of his or her right to be  
10 represented by an attorney, his or her right to a jury trial, and his  
11 or her loss of firearm rights if involuntarily committed. If the  
12 detained person is not represented by an attorney, or is indigent or  
13 is unwilling to retain an attorney, the court shall immediately  
14 appoint an attorney to represent him or her. The court shall, if  
15 requested, appoint a reasonably available licensed physician,  
16 psychiatric advanced registered nurse practitioner, psychologist, or  
17 psychiatrist, designated by the detained person to examine and  
18 testify on behalf of the detained person.

19 (3) The court may, if requested, also appoint a professional  
20 person as defined in RCW 71.05.020 to seek less restrictive  
21 alternative courses of treatment and to testify on behalf of the  
22 detained person. In the case of a person with a developmental  
23 disability who has been determined to be incompetent pursuant to RCW  
24 10.77.086(4), then the appointed professional person under this  
25 section shall be a developmental disabilities professional.

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

28 **Sec. 230.** RCW 71.05.320 and 2013 c 289 s 5 are each amended to  
29 read as follows:

30 (1) If the court or jury finds that grounds set forth in RCW  
31 71.05.280 have been proven and that the best interests of the person  
32 or others will not be served by a less restrictive treatment which is  
33 an alternative to detention, the court shall remand him or her to the  
34 custody of the department or to a facility certified for ninety day  
35 treatment by the department for a further period of intensive  
36 treatment not to exceed ninety days from the date of judgment. If the  
37 order for inpatient treatment is based on chemical dependency,  
38 treatment must take place at an approved treatment program. If the  
39 grounds set forth in RCW 71.05.280(3) are the basis of commitment,

1 then the period of treatment may be up to but not exceed one hundred  
2 eighty days from the date of judgment in a facility certified for one  
3 hundred eighty day treatment by the department.

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

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

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

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

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

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

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

13 (d) Continues to be gravely disabled.

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

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

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

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

38 (5) A new petition for involuntary treatment filed under  
39 subsection (3) or (4) of this section shall be filed and heard in the  
40 superior court of the county of the facility which is filing the new

1 petition for involuntary treatment unless good cause is shown for a  
2 change of venue. The cost of the proceedings shall be borne by the  
3 state.

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

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

26 **Sec. 231.** RCW 71.05.325 and 2000 c 94 s 7 are each amended to  
27 read as follows:

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

38 (2)(a) Before a person committed under grounds set forth in RCW  
39 71.05.280(3) is permitted temporarily to leave a treatment facility

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

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

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

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

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

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

23 **Sec. 232.** RCW 71.05.340 and 2009 c 322 s 1 are each amended to  
24 read as follows:

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

1 (b) Before a person committed under grounds set forth in RCW  
2 71.05.280(3) or 71.05.320(3)(c) is conditionally released under (a)  
3 of this subsection, the superintendent or professional person in  
4 charge of the hospital or facility providing involuntary treatment  
5 shall in writing notify the prosecuting attorney of the county in  
6 which the criminal charges against the committed person were  
7 dismissed, of the decision to conditionally release the person.  
8 Notice and a copy of the terms of conditional release shall be  
9 provided at least thirty days before the person is released from  
10 inpatient care. Within twenty days after receiving notice, the  
11 prosecuting attorney may petition the court in the county that issued  
12 the commitment order to hold a hearing to determine whether the  
13 person may be conditionally released and the terms of the conditional  
14 release. The prosecuting attorney shall provide a copy of the  
15 petition to the superintendent or professional person in charge of  
16 the hospital or facility providing involuntary treatment, the  
17 attorney, if any, and guardian or conservator of the committed  
18 person, and the court of original commitment. If the county in which  
19 the committed person is to receive outpatient treatment is the same  
20 county in which the criminal charges against the committed person  
21 were dismissed, then the court shall, upon the motion of the  
22 prosecuting attorney, transfer the proceeding to the court in that  
23 county. The court shall conduct a hearing on the petition within ten  
24 days of the filing of the petition. The committed person shall have  
25 the same rights with respect to notice, hearing, and counsel as for  
26 an involuntary treatment proceeding, except as set forth in this  
27 subsection and except that there shall be no right to jury trial. The  
28 issue to be determined at the hearing is whether or not the person  
29 may be conditionally released without substantial danger to other  
30 persons, or substantial likelihood of committing criminal acts  
31 jeopardizing public safety or security. If the court disapproves of  
32 the conditional release, it may do so only on the basis of  
33 substantial evidence. Pursuant to the determination of the court upon  
34 the hearing, the conditional release of the person shall be approved  
35 by the court on the same or modified conditions or the person shall  
36 be returned for involuntary treatment on an inpatient basis subject  
37 to release at the end of the period for which he or she was  
38 committed, or otherwise in accordance with the provisions of this  
39 chapter.

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

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

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

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

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

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

17 Upon notification by the hospital or facility designated to  
18 provide outpatient care, or on his or her own motion, the designated  
19 (~~(mental health professional)~~) crisis responder or the secretary may  
20 order that the conditionally released person be apprehended and taken  
21 into custody and temporarily detained in an evaluation and treatment  
22 facility in or near the county in which he or she is receiving  
23 outpatient treatment.

24 (b) The hospital or facility designated to provide outpatient  
25 treatment shall notify the secretary or designated (~~(mental health~~  
26 ~~professional)~~) crisis responder when a conditionally released person  
27 fails to adhere to terms and conditions of his or her conditional  
28 release or experiences substantial deterioration in his or her  
29 condition and, as a result, presents an increased likelihood of  
30 serious harm. The designated (~~(mental health professional)~~) crisis  
31 responder or secretary shall order the person apprehended and  
32 temporarily detained in an evaluation and treatment facility or  
33 secure detoxification facility in or near the county in which he or  
34 she is receiving outpatient treatment.

35 (c) A person detained under this subsection (3) shall be held  
36 until such time, not exceeding five days, as a hearing can be  
37 scheduled to determine whether or not the person should be returned  
38 to the hospital or facility from which he or she had been  
39 conditionally released. The designated (~~(mental health professional)~~)



1 crisis responder or the secretary may modify or rescind such order at  
2 any time prior to commencement of the court hearing.

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

28 (e) Pursuant to the determination of the court upon such hearing,  
29 the conditionally released person shall either continue to be  
30 conditionally released on the same or modified conditions or shall be  
31 returned for involuntary treatment on an inpatient basis subject to  
32 release at the end of the period for which he or she was committed  
33 for involuntary treatment, or otherwise in accordance with the  
34 provisions of this chapter. Such hearing may be waived by the person  
35 and his or her counsel and his or her guardian or conservator, if  
36 any, but shall not be waivable unless all such persons agree to  
37 waive, and upon such waiver the person may be returned for  
38 involuntary treatment or continued on conditional release on the same  
39 or modified conditions.

1 (4) The proceedings set forth in subsection (3) of this section  
2 may be initiated by the designated (~~mental health professional~~)  
3 crisis responder or the secretary on the same basis set forth therein  
4 without requiring or ordering the apprehension and detention of the  
5 conditionally released person, in which case the court hearing shall  
6 take place in not less than five days from the date of service of the  
7 petition upon the conditionally released person. The petition may be  
8 filed in the court that originally ordered commitment or with the  
9 court in the county in which the person is present. The venue for the  
10 proceedings regarding the petition for modification or revocation of  
11 an order for conditional release shall be in the county in which the  
12 petition was filed.

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

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

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

22 **Sec. 233.** RCW 71.05.360 and 2009 c 217 s 5 are each amended to  
23 read as follows:

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

31 (b) No person shall be presumed incompetent as a consequence of  
32 receiving an evaluation or voluntary or involuntary treatment for a  
33 mental disorder or chemical dependency, under this chapter or any  
34 prior laws of this state dealing with mental illness or chemical  
35 dependency. Competency shall not be determined or withdrawn except  
36 under the provisions of chapter 10.77 or 11.88 RCW.

37 (c) Any person who leaves a public or private agency following  
38 evaluation or treatment for mental disorder or chemical dependency

1 shall be given a written statement setting forth the substance of  
2 this section.

3 (2) Each person involuntarily detained or committed pursuant to  
4 this chapter shall have the right to adequate care and individualized  
5 treatment.

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

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

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

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

32 (b) The person has a right to communicate immediately with an  
33 attorney; has a right to have an attorney appointed to represent him  
34 or her before and at the probable cause hearing if he or she is  
35 indigent; and has the right to be told the name and address of the  
36 attorney that the mental health professional has designated pursuant  
37 to this chapter;

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

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

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

7 (6) When proceedings are initiated under RCW 71.05.153, no later  
8 than twelve hours after such person is admitted to the evaluation and  
9 treatment facility the personnel of the evaluation and treatment  
10 facility or secure detoxification facility or the designated (~~mental~~  
11 ~~health professional~~) crisis responder shall serve on such person a  
12 copy of the petition for initial detention and the name, business  
13 address, and phone number of the designated attorney and shall  
14 forthwith commence service of a copy of the petition for initial  
15 detention on the designated attorney.

16 (7) The judicial hearing described in subsection (5) of this  
17 section is hereby authorized, and shall be held according to the  
18 provisions of subsection (5) of this section and rules promulgated by  
19 the supreme court.

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

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

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

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

25 (d) To remain silent;

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

27 (9) Privileges between patients and physicians, psychologists, or  
28 psychiatric advanced registered nurse practitioners are deemed waived  
29 in proceedings under this chapter relating to the administration of  
30 antipsychotic medications. As to other proceedings under this  
31 chapter, the privileges shall be waived when a court of competent  
32 jurisdiction in its discretion determines that such waiver is  
33 necessary to protect either the detained person or the public.

34 The waiver of a privilege under this section is limited to  
35 records or testimony relevant to evaluation of the detained person  
36 for purposes of a proceeding under this chapter. Upon motion by the  
37 detained person or on its own motion, the court shall examine a  
38 record or testimony sought by a petitioner to determine whether it is  
39 within the scope of the waiver.

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

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

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

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

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

19       (d) To have visitors at reasonable times;

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

23       (f) To have ready access to letter writing materials, including  
24 stamps, and to send and receive uncensored correspondence through the  
25 mails;

26       (g) To discuss treatment plans and decisions with professional  
27 persons;

28       (h) Not to consent to the administration of antipsychotic  
29 medications and not to thereafter be administered antipsychotic  
30 medications unless ordered by a court under RCW 71.05.217 or pursuant  
31 to an administrative hearing under RCW 71.05.215;

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

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

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

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

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

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

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

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

26 **Sec. 234.** RCW 71.05.380 and 1973 1st ex.s. c 142 s 43 are each  
27 amended to read as follows:

28 All persons voluntarily entering or remaining in any facility,  
29 institution, or hospital providing evaluation and treatment for  
30 mental disorder or chemical dependency shall have no less than all  
31 rights secured to involuntarily detained persons by RCW 71.05.360 and  
32 ~~((71.05.370))~~ 71.05.217.

33 **Sec. 235.** RCW 71.05.435 and 2010 c 280 s 4 are each amended to  
34 read as follows:

35 (1) Whenever a person who is the subject of an involuntary  
36 commitment order under this chapter is discharged from ~~((an  
37 evaluation and treatment facility or))~~ a state hospital or other  
38 facility, the ~~((evaluation and treatment facility or))~~ state hospital

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

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

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

21 **Sec. 236.** RCW 71.05.530 and 1998 c 297 s 23 are each amended to  
22 read as follows:

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

28 **Sec. 237.** RCW 71.05.560 and 1998 c 297 s 24 are each amended to  
29 read as follows:

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

1       **Sec. 238.** RCW 71.05.700 and 2007 c 360 s 2 are each amended to  
2 read as follows:

3       No designated (~~mental health professional~~) crisis responder or  
4 crisis intervention worker shall be required to respond to a private  
5 home or other private location to stabilize or treat a person in  
6 crisis, or to evaluate a person for potential detention under the  
7 state's involuntary treatment act, unless a second trained  
8 individual, determined by the clinical team supervisor, on-call  
9 supervisor, or individual professional acting alone based on a risk  
10 assessment for potential violence, accompanies them. The second  
11 individual may be a law enforcement officer, a mental health  
12 professional, a mental health paraprofessional who has received  
13 training under RCW 71.05.715, or other first responder, such as fire  
14 or ambulance personnel. No retaliation may be taken against a worker  
15 who, following consultation with the clinical team, refuses to go on  
16 a home visit alone.

17       **Sec. 239.** RCW 71.05.705 and 2007 c 360 s 3 are each amended to  
18 read as follows:

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

24       **Sec. 240.** RCW 71.34.020 and 2011 c 89 s 16 are each amended to  
25 read as follows:

26       Unless the context clearly requires otherwise, the definitions in  
27 this section apply throughout this chapter.

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

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

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



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

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

8 (4) "Department" means the department of social and health  
9 services.

10 (5) (~~("Designated mental health professional" means a mental~~  
11 ~~health professional designated by one or more counties to perform the~~  
12 ~~functions of a designated mental health professional described in~~  
13 ~~this chapter.~~

14 ~~(6))~~ "Evaluation and treatment facility" means a public or  
15 private facility or unit that is certified by the department to  
16 provide emergency, inpatient, residential, or outpatient mental  
17 health evaluation and treatment services for minors. A physically  
18 separate and separately-operated portion of a state hospital may be  
19 designated as an evaluation and treatment facility for minors. A  
20 facility which is part of or operated by the department or federal  
21 agency does not require certification. No correctional institution or  
22 facility, juvenile court detention facility, or jail may be an  
23 evaluation and treatment facility within the meaning of this chapter.

24 ~~((7))~~ (6) "Evaluation and treatment program" means the total  
25 system of services and facilities coordinated and approved by a  
26 county or combination of counties for the evaluation and treatment of  
27 minors under this chapter.

28 ~~((8))~~ (7) "Gravely disabled minor" means a minor who, as a  
29 result of a mental disorder, or as a result of the use of alcohol or  
30 other psychoactive chemicals, is in danger of serious physical harm  
31 resulting from a failure to provide for his or her essential human  
32 needs of health or safety, or manifests severe deterioration in  
33 routine functioning evidenced by repeated and escalating loss of  
34 cognitive or volitional control over his or her actions and is not  
35 receiving such care as is essential for his or her health or safety.

36 ~~((9))~~ (8) "Inpatient treatment" means twenty-four-hour-per-day  
37 mental health care provided within a general hospital, psychiatric  
38 hospital, ~~((or))~~ residential treatment facility certified by the  
39 department as an evaluation and treatment facility for minors, secure

1 detoxification facility for minors, or approved treatment program for  
2 minors.

3 ~~((10))~~ (9) "Less restrictive alternative" or "less restrictive  
4 setting" means outpatient treatment provided to a minor who is not  
5 residing in a facility providing inpatient treatment as defined in  
6 this chapter.

7 ~~((11))~~ (10) "Likelihood of serious harm" means either: (a) A  
8 substantial risk that physical harm will be inflicted by an  
9 individual upon his or her own person, as evidenced by threats or  
10 attempts to commit suicide or inflict physical harm on oneself; (b) a  
11 substantial risk that physical harm will be inflicted by an  
12 individual upon another, as evidenced by behavior which has caused  
13 such harm or which places another person or persons in reasonable  
14 fear of sustaining such harm; or (c) a substantial risk that physical  
15 harm will be inflicted by an individual upon the property of others,  
16 as evidenced by behavior which has caused substantial loss or damage  
17 to the property of others.

18 ~~((12))~~ (11) "Medical necessity" for inpatient care means a  
19 requested service which is reasonably calculated to: (a) Diagnose,  
20 correct, cure, or alleviate a mental disorder or chemical dependency;  
21 or (b) prevent the worsening of mental or chemical dependency  
22 conditions that endanger life or cause suffering and pain, or result  
23 in illness or infirmity or threaten to cause or aggravate a handicap,  
24 or cause physical deformity or malfunction, and there is no adequate  
25 less restrictive alternative available.

26 ~~((13))~~ (12) "Mental disorder" means any organic, mental, or  
27 emotional impairment that has substantial adverse effects on an  
28 individual's cognitive or volitional functions. The presence of  
29 alcohol abuse, drug abuse, juvenile criminal history, antisocial  
30 behavior, or intellectual disabilities alone is insufficient to  
31 justify a finding of "mental disorder" within the meaning of this  
32 section.

33 ~~((14))~~ (13) "Mental health professional" means a psychiatrist,  
34 psychologist, psychiatric nurse, or social worker, and such other  
35 mental health professionals as may be defined by rules adopted by the  
36 secretary under this chapter.

37 ~~((15))~~ (14) "Minor" means any person under the age of eighteen  
38 years.

1       ~~((16))~~ (15) "Outpatient treatment" means any of the  
2 nonresidential services mandated under chapter 71.24 RCW and provided  
3 by licensed services providers as identified by RCW 71.24.025.

4       ~~((17))~~ (16) "Parent" means:

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

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

10       ~~((18))~~ (17) "Professional person in charge" or "professional  
11 person" means a physician ~~((or))~~ other mental health professional,  
12 or other person empowered by an evaluation and treatment facility,  
13 secure detoxification facility, or approved treatment program with  
14 authority to make admission and discharge decisions on behalf of that  
15 facility.

16       ~~((19))~~ (18) "Psychiatric nurse" means a registered nurse who  
17 has a bachelor's degree from an accredited college or university, and  
18 who has had, in addition, at least two years' experience in the  
19 direct treatment of persons who have a mental illness or who are  
20 emotionally disturbed, such experience gained under the supervision  
21 of a mental health professional. "Psychiatric nurse" shall also mean  
22 any other registered nurse who has three years of such experience.

23       ~~((20))~~ (19) "Psychiatrist" means a person having a license as a  
24 physician in this state who has completed residency training in  
25 psychiatry in a program approved by the American Medical Association  
26 or the American Osteopathic Association, and is board eligible or  
27 board certified in psychiatry.

28       ~~((21))~~ (20) "Psychologist" means a person licensed as a  
29 psychologist under chapter 18.83 RCW.

30       ~~((22))~~ (21) "Responsible other" means the minor, the minor's  
31 parent or estate, or any other person legally responsible for support  
32 of the minor.

33       ~~((23))~~ (22) "Secretary" means the secretary of the department  
34 or secretary's designee.

35       ~~((24))~~ (23) "Social worker" means a person with a master's or  
36 further advanced degree from a social work educational program  
37 accredited and approved as provided in RCW 18.320.010.

38       ~~((25))~~ (24) "Start of initial detention" means the time of  
39 arrival of the minor at the first evaluation and treatment facility  
40 or secure detoxification facility offering inpatient treatment if the

1 minor is being involuntarily detained at the time. With regard to  
2 voluntary patients, "start of initial detention" means the time at  
3 which the minor gives notice of intent to leave under the provisions  
4 of this chapter.

5 (25) "Approved treatment program" means a discrete program of  
6 chemical dependency treatment provided by a treatment program  
7 certified by the department as meeting standards adopted under  
8 chapter 70.96A RCW.

9 (26) "Chemical dependency" means:

10 (a) Alcoholism;

11 (b) Drug addiction; or

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

14 (27) "Chemical dependency professional" means a person certified  
15 as a chemical dependency professional by the department of health  
16 under chapter 18.205 RCW.

17 (28) "Designated crisis responder" means a person designated by a  
18 behavioral health organization to perform the duties specified in  
19 this chapter.

20 (29) "Intoxicated minor" means a minor whose mental or physical  
21 functioning is substantially impaired as a result of the use of  
22 alcohol or other psychoactive chemicals.

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

31 (31) "Public agency" means any evaluation and treatment facility  
32 or institution, or hospital, or approved treatment program that is  
33 conducted for, or includes a department or ward conducted for, the  
34 care and treatment of persons who are either mentally ill or  
35 chemically dependent, or both, if the agency is operated directly by  
36 federal, state, county, or municipal government, or a combination of  
37 such governments.

38 (32) "Secure detoxification facility" means a facility operated  
39 by either a public or private agency or by the program of an agency  
40 that serves the purpose of providing evaluation and assessment, and

1 acute or subacute detoxification services for intoxicated minors and  
2 includes security measures sufficient to protect the patients, staff,  
3 and community.

4 **Sec. 241.** RCW 71.34.305 and 1996 c 133 s 6 are each amended to  
5 read as follows:

6 School district personnel who contact a mental health or chemical  
7 dependency inpatient treatment program or provider for the purpose of  
8 referring a student to inpatient treatment shall provide the parents  
9 with notice of the contact within forty-eight hours.

10 **Sec. 242.** RCW 71.34.375 and 2011 c 302 s 1 are each amended to  
11 read as follows:

12 (1) If a parent or guardian, for the purpose of mental health  
13 treatment, chemical dependency treatment, or evaluation, brings his  
14 or her minor child to an evaluation and treatment facility, a  
15 hospital emergency room, an inpatient facility licensed under chapter  
16 72.23 RCW, (~~(or)~~) an inpatient facility licensed under chapter 70.41  
17 or 71.12 RCW operating inpatient psychiatric beds for minors, or a  
18 secure detoxification facility, the facility is required to promptly  
19 provide written and verbal notice of all statutorily available  
20 treatment options contained in this chapter. The notice need not be  
21 given more than once if written and verbal notice has already been  
22 provided and documented by the facility.

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

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

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

31 (3) The department shall produce, and make available, the written  
32 notification that must include, at a minimum, the information  
33 contained in subsection (2) of this section. The department must  
34 revise the written notification as necessary to reflect changes in  
35 the law.

36 **Sec. 243.** RCW 71.34.385 and 1992 c 205 s 304 are each amended to  
37 read as follows:

1 The department shall ensure that the provisions of this chapter  
2 are applied by the counties in a consistent and uniform manner. The  
3 department shall also ensure that, to the extent possible within  
4 available funds, the ~~((county designated mental health~~  
5 ~~professionals))~~ designated crisis responders are specifically trained  
6 in adolescent mental health issues, the mental health and chemical  
7 dependency civil commitment laws, and the criteria for civil  
8 commitment.

9 **Sec. 244.** RCW 71.34.400 and 1998 c 296 s 11 are each amended to  
10 read as follows:

11 For purposes of eligibility for medical assistance under chapter  
12 74.09 RCW, minors in inpatient mental health or inpatient chemical  
13 dependency treatment shall be considered to be part of their parent's  
14 or legal guardian's household, unless the minor has been assessed by  
15 the department or its designee as likely to require such treatment  
16 for at least ninety consecutive days, or is in out-of-home care in  
17 accordance with chapter 13.34 RCW, or the parents are found to not be  
18 exercising responsibility for care and control of the minor. Payment  
19 for such care by the department shall be made only in accordance with  
20 rules, guidelines, and clinical criteria applicable to inpatient  
21 treatment of minors established by the department.

22 **Sec. 245.** RCW 71.34.410 and 2005 c 371 s 5 are each amended to  
23 read as follows:

24 No public or private agency or governmental entity, nor officer  
25 of a public or private agency, nor the superintendent, or  
26 professional person in charge, his or her professional designee or  
27 attending staff of any such agency, nor any public official  
28 performing functions necessary to the administration of this chapter,  
29 nor peace officer responsible for detaining a person under this  
30 chapter, nor any ~~((county))~~ designated ~~((mental health professional))~~  
31 crisis responder, nor professional person, nor evaluation and  
32 treatment facility, nor secure detoxification facility, nor approved  
33 treatment program shall be civilly or criminally liable for  
34 performing actions authorized in this chapter with regard to the  
35 decision of whether to admit, release, or detain a person for  
36 evaluation and treatment: PROVIDED, That such duties were performed  
37 in good faith and without gross negligence.

1       **Sec. 246.** 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, secure detoxification  
5 facility, or approved treatment program for inpatient mental  
6 treatment or chemical dependency treatment, without parental consent.  
7 The admission shall occur only if the professional person in charge  
8 of the facility concurs with the need for inpatient treatment.  
9 Parental authorization, or authorization from a person who may  
10 consent on behalf of the minor pursuant to RCW 7.70.065, is required  
11 for inpatient treatment of a minor under the age of thirteen.

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

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

25       **Sec. 247.** RCW 71.34.520 and 2003 c 106 s 1 are each amended to  
26 read as follows:

27       (1) Any minor thirteen years or older voluntarily admitted to an  
28 evaluation and treatment facility, secure detoxification facility, or  
29 approved treatment program under RCW 71.34.500 may give notice of  
30 intent to leave at any time. The notice need not follow any specific  
31 form so long as it is written and the intent of the minor can be  
32 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. 248.** 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 and request that a chemical  
13 dependency assessment be conducted by a professional person to  
14 determine whether the minor is chemically dependent and in need of  
15 inpatient treatment.

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

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

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



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

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

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

8 **Sec. 249.** RCW 71.34.630 and 1998 c 296 s 20 are each amended to  
9 read as follows:

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

17 **Sec. 250.** RCW 71.34.650 and 1998 c 296 s 18 are each amended to  
18 read as follows:

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

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

25 (b) A provider of outpatient chemical dependency treatment and  
26 request that an appropriately trained professional person examine the  
27 minor to determine whether the minor has a chemical dependency and is  
28 in need of outpatient treatment.

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

31 (3) The professional person may evaluate whether the minor has a  
32 mental disorder or chemical dependency and is in need of outpatient  
33 treatment.

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

1       **Sec. 251.** 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, inpatient  
5 facility, or provider of outpatient mental health treatment or  
6 outpatient chemical dependency treatment for admitting or accepting  
7 the minor in good faith for evaluation or treatment under RCW  
8 71.34.600 or 71.34.650 based solely upon the fact that the minor did  
9 not consent to evaluation or treatment if the minor's parent has  
10 consented to the evaluation or treatment.

11       **Sec. 252.** RCW 71.34.700 and 1985 c 354 s 4 are each amended to  
12 read as follows:

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

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

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

35       **Sec. 253.** RCW 71.34.710 and 1995 c 312 s 53 are each amended to  
36 read as follows:

37       (1)(a)(i) When a ((~~county-designated mental health professional~~))  
38 designated crisis responder receives information that a minor,

1 thirteen years or older, as a result of a mental disorder presents a  
2 likelihood of serious harm or is gravely disabled, has investigated  
3 the specific facts alleged and of the credibility of the person or  
4 persons providing the information, and has determined that voluntary  
5 admission for inpatient treatment is not possible, the ((~~county-~~  
6 ~~designated mental health professional~~)) designated crisis responder  
7 may take the minor, or cause the minor to be taken, into custody and  
8 transported to an evaluation and treatment facility providing  
9 inpatient treatment.

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

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

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

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

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

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

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

25 **Sec. 254.** RCW 71.34.720 and 2009 c 217 s 16 are each amended to  
26 read as follows:

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

34 (2) If, after examination and evaluation, the children's mental  
35 health specialist and the physician or psychiatric advanced  
36 registered nurse practitioner determine that the initial needs of the  
37 minor, if detained to a secure detoxification facility, would be  
38 better served by placement in a chemical dependency treatment  
39 facility or, if detained to a secure detoxification facility, would

1 be better served in an evaluation and treatment facility, then the  
2 minor shall be referred to ~~((an approved treatment program defined~~  
3 ~~under RCW 70.96A.020))~~ the more appropriate placement.

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

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

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

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

23 **Sec. 255.** RCW 71.34.730 and 2009 c 293 s 6 and 2009 c 217 s 17  
24 are each reenacted and amended to read as follows:

25 (1) The professional person in charge of an evaluation and  
26 treatment facility or secure detoxification facility where a minor  
27 has been admitted involuntarily for the initial seventy-two hour  
28 treatment period under this chapter may petition to have a minor  
29 committed to an evaluation and treatment facility or, in the case of  
30 a minor with chemical dependency, to a secure detoxification facility  
31 for fourteen-day diagnosis, evaluation, and treatment.

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

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

1 (a) A petition for a fourteen-day commitment shall be signed by  
2 (i) two physicians, (ii) two psychiatric advanced registered nurse  
3 practitioners, (iii) a mental health professional and either a  
4 physician or a psychiatric advanced registered nurse practitioner, or  
5 (iv) a physician and a psychiatric advanced registered nurse  
6 practitioner. The person signing the petition must have examined the  
7 minor, and the petition must contain the following:

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

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

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

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

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

20 (F) A statement that the minor has been advised of the loss of  
21 firearm rights if involuntarily committed;

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

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

26 (b) A copy of the petition shall be personally delivered to the  
27 minor by the petitioner or petitioner's designee. A copy of the  
28 petition shall be sent to the minor's attorney and the minor's  
29 parent.

30 **Sec. 256.** RCW 71.34.740 and 2009 c 293 s 7 are each amended to  
31 read as follows:

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

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

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

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

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

9 (6) At the commitment hearing, the minor shall have the following  
10 rights:

11 (a) To be represented by an attorney;

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

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

14 (7) The court at the time of the commitment hearing and before an  
15 order of commitment is entered shall inform the minor both orally and  
16 in writing that the failure to make a good faith effort to seek  
17 voluntary treatment as provided in RCW 71.34.730 will result in the  
18 loss of his or her firearm rights if the minor is subsequently  
19 detained for involuntary treatment under this section.

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

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

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

27 (a) The minor has a mental disorder or chemical dependency and  
28 presents a ((♣))likelihood of serious harm((♣)) or is ((♣))gravely  
29 disabled((♣));

30 (b) The minor is in need of evaluation and treatment of the type  
31 provided by the inpatient evaluation and treatment facility or secure  
32 detoxification facility to which continued inpatient care is sought  
33 or is in need of less restrictive alternative treatment found to be  
34 in the best interests of the minor; and

35 (c) The minor is unwilling or unable in good faith to consent to  
36 voluntary treatment.

37 (11) If the court finds that the minor meets the criteria for a  
38 fourteen-day commitment, the court shall either authorize commitment  
39 of the minor for inpatient treatment or for less restrictive  
40 alternative treatment upon such conditions as are necessary. If the

1 court determines that the minor does not meet the criteria for a  
2 fourteen-day commitment, the minor shall be released.

3 (12) Nothing in this section prohibits the professional person in  
4 charge of the ((~~evaluation and treatment~~)) facility from releasing  
5 the minor at any time, when, in the opinion of the professional  
6 person in charge of the facility, further inpatient treatment is no  
7 longer necessary. The release may be subject to reasonable conditions  
8 if appropriate.

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

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

15 **Sec. 257.** RCW 71.34.750 and 2009 c 217 s 18 are each amended to  
16 read as follows:

17 (1) At any time during the minor's period of fourteen-day  
18 commitment, the professional person in charge may petition the court  
19 for an order requiring the minor to undergo an additional one hundred  
20 eighty-day period of treatment. The evidence in support of the  
21 petition shall be presented by the county prosecutor unless the  
22 petition is filed by the professional person in charge of a state-  
23 operated facility in which case the evidence shall be presented by  
24 the attorney general.

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

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

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

30 (c) A statement that the petitioner is the professional person in  
31 charge of the evaluation and treatment facility or secure  
32 detoxification facility responsible for the treatment of the minor;

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

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

35 (3) The petition shall be supported by accompanying affidavits  
36 signed by (a) two examining physicians, one of whom shall be a child  
37 psychiatrist, or two psychiatric advanced registered nurse  
38 practitioners, one of whom shall be a child and adolescent or family  
39 psychiatric advanced registered nurse practitioner, (b) one



1 children's mental health specialist and either an examining physician  
2 or a psychiatric advanced registered nurse practitioner, or (c) an  
3 examining physician and a psychiatric advanced registered nurse  
4 practitioner, one of which needs to be a child psychiatrist or a  
5 child and adolescent psychiatric nurse practitioner. The affidavits  
6 shall describe in detail the behavior of the detained minor which  
7 supports the petition and shall state whether a less restrictive  
8 alternative to inpatient treatment is in the best interests of the  
9 minor.

10 (4) The petition for one hundred eighty-day commitment shall be  
11 filed with the clerk of the court at least three days before the  
12 expiration of the fourteen-day commitment period. The petitioner or  
13 the petitioner's designee shall within twenty-four hours of filing  
14 serve a copy of the petition on the minor and notify the minor's  
15 attorney and the minor's parent. A copy of the petition shall be  
16 provided to such persons at least twenty-four hours prior to the  
17 hearing.

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

24 (6) For one hundred eighty-day commitment, the court must find by  
25 clear, cogent, and convincing evidence that the minor:

26 (a) Is suffering from a mental disorder;

27 (b) Presents a likelihood of serious harm or is gravely disabled;

28 and

29 (c) Is in need of further treatment that only can be provided in  
30 a one hundred eighty-day commitment.

31 (7) If the court finds that the criteria for commitment are met  
32 and that less restrictive treatment in a community setting is not  
33 appropriate or available, the court shall order the minor committed  
34 to the custody of the secretary for further inpatient mental health  
35 treatment ((to the custody of the secretary)), to an approved  
36 treatment program for further chemical treatment, or to a private  
37 treatment and evaluation facility for the inpatient mental health or  
38 chemical dependency treatment if the minor's parents have assumed  
39 responsibility for payment for the treatment. If the court finds that  
40 a less restrictive alternative is in the best interest of the minor,

1 the court shall order less restrictive alternative treatment upon  
2 such conditions as necessary.

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

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

10 **Sec. 258.** RCW 71.34.760 and 1985 c 354 s 10 are each amended to  
11 read as follows:

12 (1) If a minor is committed for one hundred eighty-day inpatient  
13 treatment and is to be placed in a state-supported program, the  
14 secretary shall accept immediately and place the minor in a state-  
15 funded long-term evaluation and treatment facility or state-funded  
16 approved treatment program.

17 (2) The secretary's placement authority shall be exercised  
18 through a designated placement committee appointed by the secretary  
19 and composed of children's mental health specialists, including at  
20 least one child psychiatrist who represents the state-funded, long-  
21 term, evaluation and treatment facility for minors and one child  
22 psychiatrist who represents the state-funded approved treatment  
23 program. The responsibility of the placement committee will be to:

24 (a) Make the long-term placement of the minor in the most  
25 appropriate, available state-funded evaluation and treatment facility  
26 or approved treatment program, having carefully considered factors  
27 including the treatment needs of the minor, the most appropriate  
28 facility able to respond to the minor's identified treatment needs,  
29 the geographic proximity of the facility to the minor's family, the  
30 immediate availability of bed space, and the probable impact of the  
31 placement on other residents of the facility;

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

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

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

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

1 (4) The responsible state-funded evaluation and treatment  
2 facility or approved treatment program shall submit a report to the  
3 department's designated placement committee within ninety days of  
4 admission and no less than every one hundred eighty days thereafter,  
5 setting forth such facts as the department requires, including the  
6 minor's individual treatment plan and progress, recommendations for  
7 future treatment, and possible less restrictive treatment.

8 **Sec. 259.** RCW 71.34.780 and 1985 c 354 s 11 are each amended to  
9 read as follows:

10 (1) If the professional person in charge of an outpatient  
11 treatment program, a (~~county-designated mental health professional~~)  
12 designated crisis responder, or the secretary determines that a minor  
13 is failing to adhere to the conditions of the court order for less  
14 restrictive alternative treatment or the conditions for the  
15 conditional release, or that substantial deterioration in the minor's  
16 functioning has occurred, the (~~county-designated mental health~~  
17 ~~professional~~) designated crisis responder, or the secretary may  
18 order that the minor, if committed for mental health treatment, be  
19 taken into custody and transported to an inpatient evaluation and  
20 treatment facility or, if committed for chemical dependency  
21 treatment, be taken into custody and transported to a secure  
22 detoxification facility.

23 (2) The (~~county-designated mental health professional~~)  
24 designated crisis responder or the secretary shall file the order of  
25 apprehension and detention and serve it upon the minor and notify the  
26 minor's parent and the minor's attorney, if any, of the detention  
27 within two days of return. At the time of service the minor shall be  
28 informed of the right to a hearing and to representation by an  
29 attorney. The (~~county-designated mental health professional~~)  
30 designated crisis responder or the secretary may modify or rescind  
31 the order of apprehension and detention at any time prior to the  
32 hearing.

33 (3) A petition for revocation of less restrictive alternative  
34 treatment shall be filed by the (~~county-designated mental health~~  
35 ~~professional~~) designated crisis responder or the secretary with the  
36 court in the county ordering the less restrictive alternative  
37 treatment. The court shall conduct the hearing in that county. A  
38 petition for revocation of conditional release may be filed with the  
39 court in the county ordering inpatient treatment or the county where

1 the minor on conditional release is residing. A petition shall  
2 describe the behavior of the minor indicating violation of the  
3 conditions or deterioration of routine functioning and a  
4 dispositional recommendation. Upon motion for good cause, the hearing  
5 may be transferred to the county of the minor's residence or to the  
6 county in which the alleged violations occurred. The hearing shall be  
7 held within seven days of the minor's return. The issues to be  
8 determined are whether the minor did or did not adhere to the  
9 conditions of the less restrictive alternative treatment or  
10 conditional release, or whether the minor's routine functioning has  
11 substantially deteriorated, and, if so, whether the conditions of  
12 less restrictive alternative treatment or conditional release should  
13 be modified or whether the minor should be returned to inpatient  
14 treatment. Pursuant to the determination of the court, the minor  
15 shall be returned to less restrictive alternative treatment or  
16 conditional release on the same or modified conditions or shall be  
17 returned to inpatient treatment. If the minor is returned to  
18 inpatient treatment, RCW 71.34.760 regarding the secretary's  
19 placement responsibility shall apply. The hearing may be waived by  
20 the minor and the minor returned to inpatient treatment or to less  
21 restrictive alternative treatment or conditional release on the same  
22 or modified conditions.

23 **Sec. 260.** RCW 9.41.040 and 2014 c 111 s 1 are each amended to  
24 read as follows:

25 (1)(a) A person, whether an adult or juvenile, is guilty of the  
26 crime of unlawful possession of a firearm in the first degree, if the  
27 person owns, has in his or her possession, or has in his or her  
28 control any firearm after having previously been convicted or found  
29 not guilty by reason of insanity in this state or elsewhere of any  
30 serious offense as defined in this chapter.

31 (b) Unlawful possession of a firearm in the first degree is a  
32 class B felony punishable according to chapter 9A.20 RCW.

33 (2)(a) A person, whether an adult or juvenile, is guilty of the  
34 crime of unlawful possession of a firearm in the second degree, if  
35 the person does not qualify under subsection (1) of this section for  
36 the crime of unlawful possession of a firearm in the first degree and  
37 the person owns, has in his or her possession, or has in his or her  
38 control any firearm:

1 (i) After having previously been convicted or found not guilty by  
2 reason of insanity in this state or elsewhere of any felony not  
3 specifically listed as prohibiting firearm possession under  
4 subsection (1) of this section, or any of the following crimes when  
5 committed by one family or household member against another,  
6 committed on or after July 1, 1993: Assault in the fourth degree,  
7 coercion, stalking, reckless endangerment, criminal trespass in the  
8 first degree, or violation of the provisions of a protection order or  
9 no-contact order restraining the person or excluding the person from  
10 a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

11 (ii) During any period of time that the person is subject to a  
12 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,  
13 26.09, 26.10, 26.26, or 26.50 RCW that:

14 (A) Was issued after a hearing of which the person received  
15 actual notice, and at which the person had an opportunity to  
16 participate;

17 (B) Restrains the person from harassing, stalking, or threatening  
18 an intimate partner of the person or child of the intimate partner or  
19 person, or engaging in other conduct that would place an intimate  
20 partner in reasonable fear of bodily injury to the partner or child;  
21 and

22 (C)(I) Includes a finding that the person represents a credible  
23 threat to the physical safety of the intimate partner or child; and

24 (II) By its terms, explicitly prohibits the use, attempted use,  
25 or threatened use of physical force against the intimate partner or  
26 child that would reasonably be expected to cause bodily injury;

27 (iii) After having previously been involuntarily committed for  
28 mental health or chemical dependency treatment under RCW 71.05.240,  
29 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent  
30 statutes of another jurisdiction, unless his or her right to possess  
31 a firearm has been restored as provided in RCW 9.41.047;

32 (iv) If the person is under eighteen years of age, except as  
33 provided in RCW 9.41.042; and/or

34 (v) If the person is free on bond or personal recognizance  
35 pending trial, appeal, or sentencing for a serious offense as defined  
36 in RCW 9.41.010.

37 (b) Unlawful possession of a firearm in the second degree is a  
38 class C felony punishable according to chapter 9A.20 RCW.

39 (3) Notwithstanding RCW 9.41.047 or any other provisions of law,  
40 as used in this chapter, a person has been "convicted", whether in an

1 adult court or adjudicated in a juvenile court, at such time as a  
2 plea of guilty has been accepted, or a verdict of guilty has been  
3 filed, notwithstanding the pendency of any future proceedings  
4 including but not limited to sentencing or disposition, post-trial or  
5 post-fact-finding motions, and appeals. Conviction includes a  
6 dismissal entered after a period of probation, suspension or deferral  
7 of sentence, and also includes equivalent dispositions by courts in  
8 jurisdictions other than Washington state. A person shall not be  
9 precluded from possession of a firearm if the conviction has been the  
10 subject of a pardon, annulment, certificate of rehabilitation, or  
11 other equivalent procedure based on a finding of the rehabilitation  
12 of the person convicted or the conviction or disposition has been the  
13 subject of a pardon, annulment, or other equivalent procedure based  
14 on a finding of innocence. Where no record of the court's disposition  
15 of the charges can be found, there shall be a rebuttable presumption  
16 that the person was not convicted of the charge.

17 (4)(a) Notwithstanding subsection (1) or (2) of this section, a  
18 person convicted or found not guilty by reason of insanity of an  
19 offense prohibiting the possession of a firearm under this section  
20 other than murder, manslaughter, robbery, rape, indecent liberties,  
21 arson, assault, kidnapping, extortion, burglary, or violations with  
22 respect to controlled substances under RCW 69.50.401 and 69.50.410,  
23 who received a probationary sentence under RCW 9.95.200, and who  
24 received a dismissal of the charge under RCW 9.95.240, shall not be  
25 precluded from possession of a firearm as a result of the conviction  
26 or finding of not guilty by reason of insanity. Notwithstanding any  
27 other provisions of this section, if a person is prohibited from  
28 possession of a firearm under subsection (1) or (2) of this section  
29 and has not previously been convicted or found not guilty by reason  
30 of insanity of a sex offense prohibiting firearm ownership under  
31 subsection (1) or (2) of this section and/or any felony defined under  
32 any law as a class A felony or with a maximum sentence of at least  
33 twenty years, or both, the individual may petition a court of record  
34 to have his or her right to possess a firearm restored:

35 (i) Under RCW 9.41.047; and/or

36 (ii)(A) If the conviction or finding of not guilty by reason of  
37 insanity was for a felony offense, after five or more consecutive  
38 years in the community without being convicted or found not guilty by  
39 reason of insanity or currently charged with any felony, gross  
40 misdemeanor, or misdemeanor crimes, if the individual has no prior

1 felony convictions that prohibit the possession of a firearm counted  
2 as part of the offender score under RCW 9.94A.525; or

3 (B) If the conviction or finding of not guilty by reason of  
4 insanity was for a nonfelony offense, after three or more consecutive  
5 years in the community without being convicted or found not guilty by  
6 reason of insanity or currently charged with any felony, gross  
7 misdemeanor, or misdemeanor crimes, if the individual has no prior  
8 felony convictions that prohibit the possession of a firearm counted  
9 as part of the offender score under RCW 9.94A.525 and the individual  
10 has completed all conditions of the sentence.

11 (b) An individual may petition a court of record to have his or  
12 her right to possess a firearm restored under (a) of this subsection  
13 (4) only at:

14 (i) The court of record that ordered the petitioner's prohibition  
15 on possession of a firearm; or

16 (ii) The superior court in the county in which the petitioner  
17 resides.

18 (5) In addition to any other penalty provided for by law, if a  
19 person under the age of eighteen years is found by a court to have  
20 possessed a firearm in a vehicle in violation of subsection (1) or  
21 (2) of this section or to have committed an offense while armed with  
22 a firearm during which offense a motor vehicle served an integral  
23 function, the court shall notify the department of licensing within  
24 twenty-four hours and the person's privilege to drive shall be  
25 revoked under RCW 46.20.265.

26 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed  
27 or interpreted as preventing an offender from being charged and  
28 subsequently convicted for the separate felony crimes of theft of a  
29 firearm or possession of a stolen firearm, or both, in addition to  
30 being charged and subsequently convicted under this section for  
31 unlawful possession of a firearm in the first or second degree.  
32 Notwithstanding any other law, if the offender is convicted under  
33 this section for unlawful possession of a firearm in the first or  
34 second degree and for the felony crimes of theft of a firearm or  
35 possession of a stolen firearm, or both, then the offender shall  
36 serve consecutive sentences for each of the felony crimes of  
37 conviction listed in this subsection.

38 (7) Each firearm unlawfully possessed under this section shall be  
39 a separate offense.

1 (8) For purposes of this section, "intimate partner" includes: A  
2 spouse, a domestic partner, a former spouse, a former domestic  
3 partner, a person with whom the restrained person has a child in  
4 common, or a person with whom the restrained person has cohabitated  
5 or is cohabitating as part of a dating relationship.

6 **Sec. 261.** RCW 9.41.047 and 2011 c 193 s 2 are each amended to  
7 read as follows:

8 (1)(a) At the time a person is convicted or found not guilty by  
9 reason of insanity of an offense making the person ineligible to  
10 possess a firearm, or at the time a person is committed by court  
11 order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or  
12 chapter 10.77 RCW for mental health or chemical dependency treatment,  
13 the convicting or committing court shall notify the person, orally  
14 and in writing, that the person must immediately surrender any  
15 concealed pistol license and that the person may not possess a  
16 firearm unless his or her right to do so is restored by a court of  
17 record. For purposes of this section a convicting court includes a  
18 court in which a person has been found not guilty by reason of  
19 insanity.

20 (b) The convicting or committing court shall forward within three  
21 judicial days after conviction or entry of the commitment order a  
22 copy of the person's driver's license or identicard, or comparable  
23 information, along with the date of conviction or commitment, to the  
24 department of licensing. When a person is committed by court order  
25 under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter  
26 10.77 RCW, for mental health treatment, the committing court also  
27 shall forward, within three judicial days after entry of the  
28 commitment order, a copy of the person's driver's license, or  
29 comparable information, along with the date of commitment, to the  
30 national instant criminal background check system index, denied  
31 persons file, created by the federal Brady handgun violence  
32 prevention act (P.L. 103-159).

33 (2) Upon receipt of the information provided for by subsection  
34 (1) of this section, the department of licensing shall determine if  
35 the convicted or committed person has a concealed pistol license. If  
36 the person does have a concealed pistol license, the department of  
37 licensing shall immediately notify the license-issuing authority  
38 which, upon receipt of such notification, shall immediately revoke  
39 the license.



1 (3)(a) A person who is prohibited from possessing a firearm, by  
2 reason of having been involuntarily committed for mental health  
3 treatment or chemical dependency treatment under RCW 71.05.240,  
4 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent  
5 statutes of another jurisdiction may, upon discharge, petition the  
6 superior court to have his or her right to possess a firearm  
7 restored.

8 (b) The petition must be brought in the superior court that  
9 ordered the involuntary commitment or the superior court of the  
10 county in which the petitioner resides.

11 (c) Except as provided in (d) of this subsection, the court shall  
12 restore the petitioner's right to possess a firearm if the petitioner  
13 proves by a preponderance of the evidence that:

14 (i) The petitioner is no longer required to participate in court-  
15 ordered inpatient or outpatient treatment;

16 (ii) The petitioner has successfully managed the condition  
17 related to the commitment;

18 (iii) The petitioner no longer presents a substantial danger to  
19 himself or herself, or the public; and

20 (iv) The symptoms related to the commitment are not reasonably  
21 likely to recur.

22 (d) If a preponderance of the evidence in the record supports a  
23 finding that the person petitioning the court has engaged in violence  
24 and that it is more likely than not that the person will engage in  
25 violence after his or her right to possess a firearm is restored, the  
26 person shall bear the burden of proving by clear, cogent, and  
27 convincing evidence that he or she does not present a substantial  
28 danger to the safety of others.

29 (e) When a person's right to possess a firearm has been restored  
30 under this subsection, the court shall forward, within three judicial  
31 days after entry of the restoration order, notification that the  
32 person's right to possess a firearm has been restored to the  
33 department of licensing, the department of social and health  
34 services, and the national instant criminal background check system  
35 index, denied persons file.

36 (4) No person who has been found not guilty by reason of insanity  
37 may petition a court for restoration of the right to possess a  
38 firearm unless the person meets the requirements for the restoration  
39 of the right to possess a firearm under RCW 9.41.040(4).

**PART III**  
**REPEALERS**

1  
2  
3       NEW SECTION.   **Sec. 301.**   The following acts or parts of acts, as  
4 now existing or hereafter amended, are each repealed, effective April  
5 1, 2016:

6       (1) RCW 70.96A.095 (Age of consent—Outpatient treatment of minors  
7 for chemical dependency) and 1998 c 296 s 23, 1996 c 133 s 34, 1995 c  
8 312 s 47, 1991 c 364 s 9, & 1989 c 270 s 24;

9       (2) RCW 70.96A.096 (Notice to parents, school contacts for  
10 referring students to inpatient treatment) and 1996 c 133 s 5;

11       (3) RCW 70.96A.097 (Review of admission and inpatient treatment  
12 of minors—Determination of medical necessity—Department review—  
13 Minor declines necessary treatment—At-risk youth petition—Costs—  
14 Public funds) and 1998 c 296 s 28 & 1995 c 312 s 48;

15       (4) RCW 70.96A.110 (Voluntary treatment of individuals with a  
16 substance use disorder) and 2014 c 225 s 28, 1990 c 151 s 7, 1989 c  
17 270 s 25, & 1972 ex.s. c 122 s 11;

18       (5) RCW 70.96A.120 (Treatment programs and facilities—Admissions  
19 —Peace officer duties—Protective custody) and 1991 c 290 s 6, 1990 c  
20 151 s 8, 1989 c 271 s 306, 1987 c 439 s 13, 1977 ex.s. c 62 s 1, 1974  
21 ex.s. c 175 s 1, & 1972 ex.s. c 122 s 12;

22       (6) RCW 70.96A.140 (Involuntary commitment) and 2015 c ... s 102  
23 (section 102 of this act), 2014 c 225 s 29, 2001 c 13 s 3, 1995 c 312  
24 s 49, 1993 c 362 s 1, 1991 c 364 s 10, 1990 c 151 s 3, 1989 c 271 s  
25 307, 1987 c 439 s 14, 1977 ex.s. c 129 s 1, 1974 ex.s. c 175 s 2, &  
26 1972 ex.s. c 122 s 14;

27       (7) RCW 70.96A.141 (Joinder of petitions for commitment) and 2005  
28 c 504 s 304;

29       (8) RCW 70.96A.142 (Evaluation by designated chemical dependency  
30 specialist—When required—Required notifications) and 2004 c 166 s  
31 15;

32       (9) RCW 70.96A.145 (Involuntary commitment proceedings—  
33 Prosecuting attorney may represent specialist or program) and 2015  
34 c ... s 103 (section 103 of this act) & 1993 c 137 s 1;

35       (10) RCW 70.96A.148 (Detention, commitment duties—Designation of  
36 county designated mental health professional) and 2001 c 13 s 4;

37       (11) RCW 70.96A.155 (Court-ordered treatment—Required  
38 notifications) and 2004 c 166 s 13;

1 (12) RCW 70.96A.157 (Persons subject to court-ordered treatment  
2 or supervision—Documentation) and 2005 c 504 s 508;

3 (13) RCW 70.96A.160 (Visitation and communication with patients)  
4 and 1989 c 270 s 29 & 1972 ex.s. c 122 s 16;

5 (14) RCW 70.96A.180 (Payment for treatment—Financial ability of  
6 patients) and 2012 c 117 s 413, 1990 c 151 s 6, 1989 c 270 s 31, &  
7 1972 ex.s. c 122 s 18;

8 (15) RCW 70.96A.230 (Minor—When outpatient treatment provider  
9 must give notice to parents) and 1998 c 296 s 24;

10 (16) RCW 70.96A.235 (Minor—Parental consent for inpatient  
11 treatment—Exception) and 1998 c 296 s 25;

12 (17) RCW 70.96A.240 (Minor—Parent not liable for payment unless  
13 consented to treatment—No right to public funds) and 1998 c 296 s 26;

14 (18) RCW 70.96A.245 (Minor—Parent may request determination  
15 whether minor has chemical dependency requiring inpatient treatment—  
16 Minor consent not required—Duties and obligations of professional  
17 person and facility) and 1998 c 296 s 27;

18 (19) RCW 70.96A.250 (Minor—Parent may request determination  
19 whether minor has chemical dependency requiring outpatient treatment—  
20 Consent of minor not required—Discharge of minor) and 1998 c 296 s  
21 29;

22 (20) RCW 70.96A.255 (Minor—Petition to superior court for release  
23 from facility) and 1998 c 296 s 30;

24 (21) RCW 70.96A.260 (Minor—Not released by petition under RCW  
25 70.96A.255—Release within thirty days—Professional may initiate  
26 proceedings to stop release) and 1998 c 296 s 31;

27 (22) RCW 70.96A.265 (Minor—Eligibility for medical assistance  
28 under chapter 74.09 RCW—Payment by department) and 1998 c 296 s 32;

29 (23) RCW 70.96B.010 (Definitions) and 2014 c 225 s 74, 2011 c 89  
30 s 10, 2008 c 320 s 3, & 2005 c 504 s 202;

31 (24) RCW 70.96B.020 (Selection of areas for pilot programs—Pilot  
32 program requirements) and 2014 c 225 s 75 & 2005 c 504 s 203;

33 (25) RCW 70.96B.030 (Designated crisis responder—Qualifications)  
34 and 2014 c 225 s 76 & 2005 c 504 s 204;

35 (26) RCW 70.96B.040 (Powers of designated crisis responder) and  
36 2005 c 504 s 205;

37 (27) RCW 70.96B.045 (Emergency custody—Procedure) and 2007 c 120  
38 s 2;

1 (28) RCW 70.96B.050 (Petition for initial detention—Order to  
2 detain for evaluation and treatment period—Procedure) and 2008 c 320  
3 s 5, 2007 c 120 s 1, & 2005 c 504 s 206;

4 (29) RCW 70.96B.060 (Exemption from liability) and 2005 c 504 s  
5 207;

6 (30) RCW 70.96B.070 (Detention period for evaluation and  
7 treatment) and 2005 c 504 s 208;

8 (31) RCW 70.96B.080 (Detention for evaluation and treatment of  
9 mental disorder—Chapter 71.05 RCW applies) and 2005 c 504 s 209;

10 (32) RCW 70.96B.090 (Procedures for additional chemical  
11 dependency treatment) and 2005 c 504 s 210;

12 (33) RCW 70.96B.100 (Detention for involuntary chemical  
13 dependency treatment—Petition for less restrictive treatment—  
14 Appearance before court—Representation—Hearing—Less restrictive  
15 order—Failure to adhere to terms of less restrictive order) and 2008  
16 c 320 s 6 & 2005 c 504 s 211;

17 (34) RCW 70.96B.110 (Involuntary chemical dependency treatment  
18 proceedings—Prosecuting attorney shall represent petitioner) and 2005  
19 c 504 s 212;

20 (35) RCW 70.96B.120 (Rights of involuntarily detained persons)  
21 and 2005 c 504 s 213;

22 (36) RCW 70.96B.130 (Evaluation by designated crisis responder—  
23 When required—Required notifications) and 2005 c 504 s 214;

24 (37) RCW 70.96B.140 (Secretary may adopt rules) and 2005 c 504 s  
25 215;

26 (38) RCW 70.96B.150 (Application of RCW 71.05.550) and 2005 c 504  
27 s 216;

28 (39) RCW 70.96B.800 (Evaluation of pilot programs—Reports) and  
29 2008 c 320 s 2 & 2005 c 504 s 217; and

30 (40) RCW 71.05.032 (Joinder of petitions for commitment) and 2005  
31 c 504 s 115.

32 **PART IV**  
33 **CORRECTIONS TO REFERENCES**

34 **Sec. 401.** RCW 4.24.558 and 2004 c 166 s 21 are each amended to  
35 read as follows:

36 Information shared and actions taken without gross negligence and  
37 in good faith compliance with RCW 71.05.445, 72.09.585,

1 ((~~70.96A.142,~~)) 71.05.157, or 72.09.315 are not a basis for any  
2 private civil cause of action.

3 **Sec. 402.** RCW 5.60.060 and 2012 c 29 s 12 are each amended to  
4 read as follows:

5 (1) A spouse or domestic partner shall not be examined for or  
6 against his or her spouse or domestic partner, without the consent of  
7 the spouse or domestic partner; nor can either during marriage or  
8 during the domestic partnership or afterward, be without the consent  
9 of the other, examined as to any communication made by one to the  
10 other during the marriage or the domestic partnership. But this  
11 exception shall not apply to a civil action or proceeding by one  
12 against the other, nor to a criminal action or proceeding for a crime  
13 committed by one against the other, nor to a criminal action or  
14 proceeding against a spouse or domestic partner if the marriage or  
15 the domestic partnership occurred subsequent to the filing of formal  
16 charges against the defendant, nor to a criminal action or proceeding  
17 for a crime committed by said spouse or domestic partner against any  
18 child of whom said spouse or domestic partner is the parent or  
19 guardian, nor to a proceeding under chapter ((~~70.96A, 70.96B,~~))  
20 71.05((~~7~~)) or 71.09 RCW: PROVIDED, That the spouse or the domestic  
21 partner of a person sought to be detained under chapter ((~~70.96A,~~  
22 ~~70.96B,~~)) 71.05((~~7~~)) or 71.09 RCW may not be compelled to testify and  
23 shall be so informed by the court prior to being called as a witness.

24 (2)(a) An attorney or counselor shall not, without the consent of  
25 his or her client, be examined as to any communication made by the  
26 client to him or her, or his or her advice given thereon in the  
27 course of professional employment.

28 (b) A parent or guardian of a minor child arrested on a criminal  
29 charge may not be examined as to a communication between the child  
30 and his or her attorney if the communication was made in the presence  
31 of the parent or guardian. This privilege does not extend to  
32 communications made prior to the arrest.

33 (3) A member of the clergy, a Christian Science practitioner  
34 listed in the Christian Science Journal, or a priest shall not,  
35 without the consent of a person making the confession or sacred  
36 confidence, be examined as to any confession or sacred confidence  
37 made to him or her in his or her professional character, in the  
38 course of discipline enjoined by the church to which he or she  
39 belongs.

1 (4) Subject to the limitations under RCW (~~(70.96A.140 or)~~)  
2 71.05.360 (8) and (9), a physician or surgeon or osteopathic  
3 physician or surgeon or podiatric physician or surgeon shall not,  
4 without the consent of his or her patient, be examined in a civil  
5 action as to any information acquired in attending such patient,  
6 which was necessary to enable him or her to prescribe or act for the  
7 patient, except as follows:

8 (a) In any judicial proceedings regarding a child's injury,  
9 neglect, or sexual abuse or the cause thereof; and

10 (b) Ninety days after filing an action for personal injuries or  
11 wrongful death, the claimant shall be deemed to waive the physician-  
12 patient privilege. Waiver of the physician-patient privilege for any  
13 one physician or condition constitutes a waiver of the privilege as  
14 to all physicians or conditions, subject to such limitations as a  
15 court may impose pursuant to court rules.

16 (5) A public officer shall not be examined as a witness as to  
17 communications made to him or her in official confidence, when the  
18 public interest would suffer by the disclosure.

19 (6)(a) A peer support group counselor shall not, without consent  
20 of the law enforcement officer or firefighter making the  
21 communication, be compelled to testify about any communication made  
22 to the counselor by the officer or firefighter while receiving  
23 counseling. The counselor must be designated as such by the sheriff,  
24 police chief, fire chief, or chief of the Washington state patrol,  
25 prior to the incident that results in counseling. The privilege only  
26 applies when the communication was made to the counselor while acting  
27 in his or her capacity as a peer support group counselor. The  
28 privilege does not apply if the counselor was an initial responding  
29 officer or firefighter, a witness, or a party to the incident which  
30 prompted the delivery of peer support group counseling services to  
31 the law enforcement officer or firefighter.

32 (b) For purposes of this section, "peer support group counselor"  
33 means a:

34 (i) Law enforcement officer, firefighter, civilian employee of a  
35 law enforcement agency, or civilian employee of a fire department,  
36 who has received training to provide emotional and moral support and  
37 counseling to an officer or firefighter who needs those services as a  
38 result of an incident in which the officer or firefighter was  
39 involved while acting in his or her official capacity; or

1 (ii) Nonemployee counselor who has been designated by the  
2 sheriff, police chief, fire chief, or chief of the Washington state  
3 patrol to provide emotional and moral support and counseling to an  
4 officer or firefighter who needs those services as a result of an  
5 incident in which the officer or firefighter was involved while  
6 acting in his or her official capacity.

7 (7) A sexual assault advocate may not, without the consent of the  
8 victim, be examined as to any communication made between the victim  
9 and the sexual assault advocate.

10 (a) For purposes of this section, "sexual assault advocate" means  
11 the employee or volunteer from a community sexual assault program or  
12 underserved populations provider, victim assistance unit, program, or  
13 association, that provides information, medical or legal advocacy,  
14 counseling, or support to victims of sexual assault, who is  
15 designated by the victim to accompany the victim to the hospital or  
16 other health care facility and to proceedings concerning the alleged  
17 assault, including police and prosecution interviews and court  
18 proceedings.

19 (b) A sexual assault advocate may disclose a confidential  
20 communication without the consent of the victim if failure to  
21 disclose is likely to result in a clear, imminent risk of serious  
22 physical injury or death of the victim or another person. Any sexual  
23 assault advocate participating in good faith in the disclosing of  
24 records and communications under this section shall have immunity  
25 from any liability, civil, criminal, or otherwise, that might result  
26 from the action. In any proceeding, civil or criminal, arising out of  
27 a disclosure under this section, the good faith of the sexual assault  
28 advocate who disclosed the confidential communication shall be  
29 presumed.

30 (8) A domestic violence advocate may not, without the consent of  
31 the victim, be examined as to any communication between the victim  
32 and the domestic violence advocate.

33 (a) For purposes of this section, "domestic violence advocate"  
34 means an employee or supervised volunteer from a community-based  
35 domestic violence program or human services program that provides  
36 information, advocacy, counseling, crisis intervention, emergency  
37 shelter, or support to victims of domestic violence and who is not  
38 employed by, or under the direct supervision of, a law enforcement  
39 agency, a prosecutor's office, or the child protective services

1 section of the department of social and health services as defined in  
2 RCW 26.44.020.

3 (b) A domestic violence advocate may disclose a confidential  
4 communication without the consent of the victim if failure to  
5 disclose is likely to result in a clear, imminent risk of serious  
6 physical injury or death of the victim or another person. This  
7 section does not relieve a domestic violence advocate from the  
8 requirement to report or cause to be reported an incident under RCW  
9 26.44.030(1) or to disclose relevant records relating to a child as  
10 required by RCW 26.44.030(~~(12)~~) (14). Any domestic violence  
11 advocate participating in good faith in the disclosing of  
12 communications under this subsection is immune from liability, civil,  
13 criminal, or otherwise, that might result from the action. In any  
14 proceeding, civil or criminal, arising out of a disclosure under this  
15 subsection, the good faith of the domestic violence advocate who  
16 disclosed the confidential communication shall be presumed.

17 (9) A mental health counselor, independent clinical social  
18 worker, or marriage and family therapist licensed under chapter  
19 18.225 RCW may not disclose, or be compelled to testify about, any  
20 information acquired from persons consulting the individual in a  
21 professional capacity when the information was necessary to enable  
22 the individual to render professional services to those persons  
23 except:

24 (a) With the written authorization of that person or, in the case  
25 of death or disability, the person's personal representative;

26 (b) If the person waives the privilege by bringing charges  
27 against the mental health counselor licensed under chapter 18.225  
28 RCW;

29 (c) In response to a subpoena from the secretary of health. The  
30 secretary may subpoena only records related to a complaint or report  
31 under RCW 18.130.050;

32 (d) As required under chapter 26.44 or 74.34 RCW or RCW 71.05.360  
33 (8) and (9); or

34 (e) To any individual if the mental health counselor, independent  
35 clinical social worker, or marriage and family therapist licensed  
36 under chapter 18.225 RCW reasonably believes that disclosure will  
37 avoid or minimize an imminent danger to the health or safety of the  
38 individual or any other individual; however, there is no obligation  
39 on the part of the provider to so disclose.



1       **Sec. 403.** RCW 9.41.280 and 2014 c 225 s 56 are each amended to  
2 read as follows:

3       (1) It is unlawful for a person to carry onto, or to possess on,  
4 public or private elementary or secondary school premises, school-  
5 provided transportation, or areas of facilities while being used  
6 exclusively by public or private schools:

7       (a) Any firearm;

8       (b) Any other dangerous weapon as defined in RCW 9.41.250;

9       (c) Any device commonly known as "nun-chu-ka sticks," consisting  
10 of two or more lengths of wood, metal, plastic, or similar substance  
11 connected with wire, rope, or other means;

12       (d) Any device, commonly known as "throwing stars," which are  
13 multipointed, metal objects designed to embed upon impact from any  
14 aspect;

15       (e) Any air gun, including any air pistol or air rifle, designed  
16 to propel a BB, pellet, or other projectile by the discharge of  
17 compressed air, carbon dioxide, or other gas; or

18       (f)(i) Any portable device manufactured to function as a weapon  
19 and which is commonly known as a stun gun, including a projectile  
20 stun gun which projects wired probes that are attached to the device  
21 that emit an electrical charge designed to administer to a person or  
22 an animal an electric shock, charge, or impulse; or

23       (ii) Any device, object, or instrument which is used or intended  
24 to be used as a weapon with the intent to injure a person by an  
25 electric shock, charge, or impulse.

26       (2) Any such person violating subsection (1) of this section is  
27 guilty of a gross misdemeanor. If any person is convicted of a  
28 violation of subsection (1)(a) of this section, the person shall have  
29 his or her concealed pistol license, if any revoked for a period of  
30 three years. Anyone convicted under this subsection is prohibited  
31 from applying for a concealed pistol license for a period of three  
32 years. The court shall send notice of the revocation to the  
33 department of licensing, and the city, town, or county which issued  
34 the license.

35       Any violation of subsection (1) of this section by elementary or  
36 secondary school students constitutes grounds for expulsion from the  
37 state's public schools in accordance with RCW 28A.600.010. An  
38 appropriate school authority shall promptly notify law enforcement  
39 and the student's parent or guardian regarding any allegation or  
40 indication of such violation.

1       Upon the arrest of a person at least twelve years of age and not  
2 more than twenty-one years of age for violating subsection (1)(a) of  
3 this section, the person shall be detained or confined in a juvenile  
4 or adult facility for up to seventy-two hours. The person shall not  
5 be released within the seventy-two hours until after the person has  
6 been examined and evaluated by the designated (~~mental health~~  
7 ~~professional~~) crisis responder unless the court in its discretion  
8 releases the person sooner after a determination regarding probable  
9 cause or on probation bond or bail.

10       Within twenty-four hours of the arrest, the arresting law  
11 enforcement agency shall refer the person to the designated (~~mental~~  
12 ~~health professional~~) crisis responder for examination and evaluation  
13 under chapter 71.05 or 71.34 RCW and inform a parent or guardian of  
14 the person of the arrest, detention, and examination. The designated  
15 (~~mental health professional~~) crisis responder shall examine and  
16 evaluate the person subject to the provisions of chapter 71.05 or  
17 71.34 RCW. The examination shall occur at the facility in which the  
18 person is detained or confined. If the person has been released on  
19 probation, bond, or bail, the examination shall occur wherever is  
20 appropriate.

21       (~~The designated mental health professional may determine whether~~  
22 ~~to refer the person to the county designated chemical dependency~~  
23 ~~specialist for examination and evaluation in accordance with chapter~~  
24 ~~70.96A RCW. The county designated chemical dependency specialist~~  
25 ~~shall examine the person subject to the provisions of chapter 70.96A~~  
26 ~~RCW. The examination shall occur at the facility in which the person~~  
27 ~~is detained or confined. If the person has been released on~~  
28 ~~probation, bond, or bail, the examination shall occur wherever is~~  
29 ~~appropriate.~~)

30       Upon completion of any examination by the designated (~~mental~~  
31 ~~health professional or the county designated chemical dependency~~  
32 ~~specialist~~) crisis responder, the results of the examination shall  
33 be sent to the court, and the court shall consider those results in  
34 making any determination about the person.

35       The designated (~~mental health professional and county designated~~  
36 ~~chemical dependency specialist~~) crisis responder shall, to the  
37 extent permitted by law, notify a parent or guardian of the person  
38 that an examination and evaluation has taken place and the results of  
39 the examination. Nothing in this subsection prohibits the delivery of

1 additional, appropriate mental health examinations to the person  
2 while the person is detained or confined.

3 If the designated (~~mental health professional~~) crisis responder  
4 determines it is appropriate, the designated (~~mental health~~  
5 ~~professional~~) crisis responder may refer the person to the local  
6 behavioral health organization for follow-up services or the  
7 department of social and health services or other community providers  
8 for other services to the family and individual.

9 (3) Subsection (1) of this section does not apply to:

10 (a) Any student or employee of a private military academy when on  
11 the property of the academy;

12 (b) Any person engaged in military, law enforcement, or school  
13 district security activities. However, a person who is not a  
14 commissioned law enforcement officer and who provides school security  
15 services under the direction of a school administrator may not  
16 possess a device listed in subsection (1)(f) of this section unless  
17 he or she has successfully completed training in the use of such  
18 devices that is equivalent to the training received by commissioned  
19 law enforcement officers;

20 (c) Any person who is involved in a convention, showing,  
21 demonstration, lecture, or firearms safety course authorized by  
22 school authorities in which the firearms of collectors or instructors  
23 are handled or displayed;

24 (d) Any person while the person is participating in a firearms or  
25 air gun competition approved by the school or school district;

26 (e) Any person in possession of a pistol who has been issued a  
27 license under RCW 9.41.070, or is exempt from the licensing  
28 requirement by RCW 9.41.060, while picking up or dropping off a  
29 student;

30 (f) Any nonstudent at least eighteen years of age legally in  
31 possession of a firearm or dangerous weapon that is secured within an  
32 attended vehicle or concealed from view within a locked unattended  
33 vehicle while conducting legitimate business at the school;

34 (g) Any nonstudent at least eighteen years of age who is in  
35 lawful possession of an unloaded firearm, secured in a vehicle while  
36 conducting legitimate business at the school; or

37 (h) Any law enforcement officer of the federal, state, or local  
38 government agency.

39 (4) Subsections (1)(c) and (d) of this section do not apply to  
40 any person who possesses nun-chu-ka sticks, throwing stars, or other

1 dangerous weapons to be used in martial arts classes authorized to be  
2 conducted on the school premises.

3 (5) Subsection (1)(f)(i) of this section does not apply to any  
4 person who possesses a device listed in subsection (1)(f)(i) of this  
5 section, if the device is possessed and used solely for the purpose  
6 approved by a school for use in a school authorized event, lecture,  
7 or activity conducted on the school premises.

8 (6) Except as provided in subsection (3)(b), (c), (f), and (h) of  
9 this section, firearms are not permitted in a public or private  
10 school building.

11 (7) "GUN-FREE ZONE" signs shall be posted around school  
12 facilities giving warning of the prohibition of the possession of  
13 firearms on school grounds.

14 **Sec. 404.** RCW 9.95.143 and 2004 c 166 s 10 are each amended to  
15 read as follows:

16 When an offender receiving court-ordered mental health or  
17 chemical dependency treatment or treatment ordered by the department  
18 of corrections presents for treatment from a mental health or  
19 chemical dependency treatment provider, the offender must disclose to  
20 the mental health or chemical dependency treatment provider whether  
21 he or she is subject to supervision by the department of corrections.  
22 If an offender has received relief from disclosure pursuant to RCW  
23 9.94A.562(~~(, 70.96A.155,)~~) or 71.05.132, the offender must provide  
24 the mental health or chemical dependency treatment provider with a  
25 copy of the order granting the relief.

26 **Sec. 405.** RCW 10.77.010 and 2014 c 225 s 58 are each amended to  
27 read as follows:

28 As used in this chapter:

29 (1) "Admission" means acceptance based on medical necessity, of a  
30 person as a patient.

31 (2) "Commitment" means the determination by a court that a person  
32 should be detained for a period of either evaluation or treatment, or  
33 both, in an inpatient or a less-restrictive setting.

34 (3) "Conditional release" means modification of a court-ordered  
35 commitment, which may be revoked upon violation of any of its terms.

36 (4) A "criminally insane" person means any person who has been  
37 acquitted of a crime charged by reason of insanity, and thereupon  
38 found to be a substantial danger to other persons or to present a

1 substantial likelihood of committing criminal acts jeopardizing  
2 public safety or security unless kept under further control by the  
3 court or other persons or institutions.

4 (5) "Department" means the state department of social and health  
5 services.

6 (6) "Designated (~~(mental health professional)~~) crisis responder"  
7 has the same meaning as provided in RCW 71.05.020.

8 (7) "Detention" or "detain" means the lawful confinement of a  
9 person, under the provisions of this chapter, pending evaluation.

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

16 (9) "Developmental disability" means the condition as defined in  
17 RCW 71A.10.020(~~(+4)~~) (5).

18 (10) "Discharge" means the termination of hospital medical  
19 authority. The commitment may remain in place, be terminated, or be  
20 amended by court order.

21 (11) "Furlough" means an authorized leave of absence for a  
22 resident of a state institution operated by the department designated  
23 for the custody, care, and treatment of the criminally insane,  
24 consistent with an order of conditional release from the court under  
25 this chapter, without any requirement that the resident be  
26 accompanied by, or be in the custody of, any law enforcement or  
27 institutional staff, while on such unescorted leave.

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

36 (13) "History of one or more violent acts" means violent acts  
37 committed during: (a) The ten-year period of time prior to the filing  
38 of criminal charges; plus (b) the amount of time equal to time spent  
39 during the ten-year period in a mental health facility or in  
40 confinement as a result of a criminal conviction.

1 (14) "Immediate family member" means a spouse, child, stepchild,  
2 parent, stepparent, grandparent, sibling, or domestic partner.

3 (15) "Incompetency" means a person lacks the capacity to  
4 understand the nature of the proceedings against him or her or to  
5 assist in his or her own defense as a result of mental disease or  
6 defect.

7 (16) "Indigent" means any person who is financially unable to  
8 obtain counsel or other necessary expert or professional services  
9 without causing substantial hardship to the person or his or her  
10 family.

11 (17) "Individualized service plan" means a plan prepared by a  
12 developmental disabilities professional with other professionals as a  
13 team, for an individual with developmental disabilities, which shall  
14 state:

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

17 (b) The conditions and strategies necessary to achieve the  
18 purposes of habilitation;

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

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

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

24 (f) Where relevant in light of past criminal behavior and due  
25 consideration for public safety, the criteria for proposed movement  
26 to less-restrictive settings, criteria for proposed eventual release,  
27 and a projected possible date for release; and

28 (g) The type of residence immediately anticipated for the person  
29 and possible future types of residences.

30 (18) "Professional person" means:

31 (a) A psychiatrist licensed as a physician and surgeon in this  
32 state who has, in addition, completed three years of graduate  
33 training in psychiatry in a program approved by the American medical  
34 association or the American osteopathic association and is certified  
35 or eligible to be certified by the American board of psychiatry and  
36 neurology or the American osteopathic board of neurology and  
37 psychiatry;

38 (b) A psychologist licensed as a psychologist pursuant to chapter  
39 18.83 RCW; or

1 (c) A social worker with a master's or further advanced degree  
2 from a social work educational program accredited and approved as  
3 provided in RCW 18.320.010.

4 (19) "Registration records" include all the records of the  
5 department, behavioral health organizations, treatment facilities,  
6 and other persons providing services to the department, county  
7 departments, or facilities which identify persons who are receiving  
8 or who at any time have received services for mental illness.

9 (20) "Release" means legal termination of the court-ordered  
10 commitment under the provisions of this chapter.

11 (21) "Secretary" means the secretary of the department of social  
12 and health services or his or her designee.

13 (22) "Treatment" means any currently standardized medical or  
14 mental health procedure including medication.

15 (23) "Treatment records" include registration and all other  
16 records concerning persons who are receiving or who at any time have  
17 received services for mental illness, which are maintained by the  
18 department, by behavioral health organizations and their staffs, and  
19 by treatment facilities. Treatment records do not include notes or  
20 records maintained for personal use by a person providing treatment  
21 services for the department, behavioral health organizations, or a  
22 treatment facility if the notes or records are not available to  
23 others.

24 (24) "Violent act" means behavior that: (a)(i) Resulted in; (ii)  
25 if completed as intended would have resulted in; or (iii) was  
26 threatened to be carried out by a person who had the intent and  
27 opportunity to carry out the threat and would have resulted in,  
28 homicide, nonfatal injuries, or substantial damage to property; or  
29 (b) recklessly creates an immediate risk of serious physical injury  
30 to another person. As used in this subsection, "nonfatal injuries"  
31 means physical pain or injury, illness, or an impairment of physical  
32 condition. "Nonfatal injuries" shall be construed to be consistent  
33 with the definition of "bodily injury," as defined in RCW 9A.04.110.

34 **Sec. 406.** RCW 10.77.025 and 2000 c 94 s 13 are each amended to  
35 read as follows:

36 (1) Whenever any person has been: (a) Committed to a correctional  
37 facility or inpatient treatment under any provision of this chapter;  
38 or (b) ordered to undergo alternative treatment following his or her  
39 acquittal by reason of insanity of a crime charged, such commitment

1 or treatment cannot exceed the maximum possible penal sentence for  
2 any offense charged for which the person was committed, or was  
3 acquitted by reason of insanity.

4 (2) Whenever any person committed under any provision of this  
5 chapter has not been released within seven days of the maximum  
6 possible penal sentence under subsection (1) of this section, and the  
7 professional person in charge of the facility believes that the  
8 person presents a likelihood of serious harm or is gravely disabled  
9 due to a mental disorder, the professional person shall, prior to the  
10 expiration of the maximum penal sentence, notify the appropriate  
11 ((county)) designated ((~~mental health professional~~)) crisis responder  
12 of the impending expiration and provide a copy of all relevant  
13 information regarding the person, including the likely release date  
14 and shall indicate why the person should not be released.

15 (3) A ((county)) designated ((~~mental health professional~~)) crisis  
16 responder who receives notice and records under subsection (2) of  
17 this section shall, prior to the date of the expiration of the  
18 maximum sentence, determine whether to initiate proceedings under  
19 chapter 71.05 RCW.

20 **Sec. 407.** RCW 10.77.027 and 2004 c 166 s 3 are each amended to  
21 read as follows:

22 When a ((county)) designated ((~~mental health professional~~))  
23 crisis responder or a professional person has determined that a  
24 person has a mental disorder, and is otherwise committable, the cause  
25 of the person's mental disorder shall not make the person ineligible  
26 for commitment under chapter 71.05 RCW.

27 **Sec. 408.** RCW 10.77.060 and 2012 c 256 s 3 are each amended to  
28 read as follows:

29 (1)(a) Whenever a defendant has pleaded not guilty by reason of  
30 insanity, or there is reason to doubt his or her competency, the  
31 court on its own motion or on the motion of any party shall either  
32 appoint or request the secretary to designate a qualified expert or  
33 professional person, who shall be approved by the prosecuting  
34 attorney, to evaluate and report upon the mental condition of the  
35 defendant.

36 (b) The signed order of the court shall serve as authority for  
37 the evaluator to be given access to all records held by any mental  
38 health, medical, educational, or correctional facility that relate to



1 the present or past mental, emotional, or physical condition of the  
2 defendant. If the court is advised by any party that the defendant  
3 may have a developmental disability, the evaluation must be performed  
4 by a developmental disabilities professional.

5 (c) The evaluator shall assess the defendant in a jail, detention  
6 facility, in the community, or in court to determine whether a period  
7 of inpatient commitment will be necessary to complete an accurate  
8 evaluation. If inpatient commitment is needed, the signed order of  
9 the court shall serve as authority for the evaluator to request the  
10 jail or detention facility to transport the defendant to a hospital  
11 or secure mental health facility for a period of commitment not to  
12 exceed fifteen days from the time of admission to the facility.  
13 Otherwise, the evaluator shall complete the evaluation.

14 (d) The court may commit the defendant for evaluation to a  
15 hospital or secure mental health facility without an assessment if:  
16 (i) The defendant is charged with murder in the first or second  
17 degree; (ii) the court finds that it is more likely than not that an  
18 evaluation in the jail will be inadequate to complete an accurate  
19 evaluation; or (iii) the court finds that an evaluation outside the  
20 jail setting is necessary for the health, safety, or welfare of the  
21 defendant. The court shall not order an initial inpatient evaluation  
22 for any purpose other than a competency evaluation.

23 (e) The order shall indicate whether, in the event the defendant  
24 is committed to a hospital or secure mental health facility for  
25 evaluation, all parties agree to waive the presence of the defendant  
26 or to the defendant's remote participation at a subsequent competency  
27 hearing or presentation of an agreed order if the recommendation of  
28 the evaluator is for continuation of the stay of criminal  
29 proceedings, or if the opinion of the evaluator is that the defendant  
30 remains incompetent and there is no remaining restoration period, and  
31 the hearing is held prior to the expiration of the authorized  
32 commitment period.

33 (f) When a defendant is ordered to be committed for inpatient  
34 evaluation under this subsection (1), the court may delay granting  
35 bail until the defendant has been evaluated for competency or sanity  
36 and appears before the court. Following the evaluation, in  
37 determining bail the court shall consider: (i) Recommendations of the  
38 evaluator regarding the defendant's competency, sanity, or diminished  
39 capacity; (ii) whether the defendant has a recent history of one or  
40 more violent acts; (iii) whether the defendant has previously been

1 acquitted by reason of insanity or found incompetent; (iv) whether it  
2 is reasonably likely the defendant will fail to appear for a future  
3 court hearing; and (v) whether the defendant is a threat to public  
4 safety.

5 (2) The court may direct that a qualified expert or professional  
6 person retained by or appointed for the defendant be permitted to  
7 witness the evaluation authorized by subsection (1) of this section,  
8 and that the defendant shall have access to all information obtained  
9 by the court appointed experts or professional persons. The  
10 defendant's expert or professional person shall have the right to  
11 file his or her own report following the guidelines of subsection (3)  
12 of this section. If the defendant is indigent, the court shall upon  
13 the request of the defendant assist him or her in obtaining an expert  
14 or professional person.

15 (3) The report of the evaluation shall include the following:

16 (a) A description of the nature of the evaluation;

17 (b) A diagnosis or description of the current mental status of  
18 the defendant;

19 (c) If the defendant suffers from a mental disease or defect, or  
20 has a developmental disability, an opinion as to competency;

21 (d) If the defendant has indicated his or her intention to rely  
22 on the defense of insanity pursuant to RCW 10.77.030, and an  
23 evaluation and report by an expert or professional person has been  
24 provided concluding that the defendant was criminally insane at the  
25 time of the alleged offense, an opinion as to the defendant's sanity  
26 at the time of the act, and an opinion as to whether the defendant  
27 presents a substantial danger to other persons, or presents a  
28 substantial likelihood of committing criminal acts jeopardizing  
29 public safety or security, unless kept under further control by the  
30 court or other persons or institutions, provided that no opinion  
31 shall be rendered under this subsection (3)(d) unless the evaluator  
32 or court determines that the defendant is competent to stand trial;

33 (e) When directed by the court, if an evaluation and report by an  
34 expert or professional person has been provided concluding that the  
35 defendant lacked the capacity at the time of the offense to form the  
36 mental state necessary to commit the charged offense, an opinion as  
37 to the capacity of the defendant to have a particular state of mind  
38 which is an element of the offense charged;

1 (f) An opinion as to whether the defendant should be evaluated by  
2 a designated (~~mental health professional~~) crisis responder under  
3 chapter 71.05 RCW.

4 (4) The secretary may execute such agreements as appropriate and  
5 necessary to implement this section and may choose to designate more  
6 than one evaluator.

7 **Sec. 409.** RCW 10.77.065 and 2014 c 225 s 59 and 2014 c 10 s 3  
8 are each reenacted and amended to read as follows:

9 (1)(a)(i) The expert conducting the evaluation shall provide his  
10 or her report and recommendation to the court in which the criminal  
11 proceeding is pending. For a competency evaluation of a defendant who  
12 is released from custody, if the evaluation cannot be completed  
13 within twenty-one days due to a lack of cooperation by the defendant,  
14 the evaluator shall notify the court that he or she is unable to  
15 complete the evaluation because of such lack of cooperation.

16 (ii) A copy of the report and recommendation shall be provided to  
17 the designated (~~mental health professional~~) crisis responder, the  
18 prosecuting attorney, the defense attorney, and the professional  
19 person at the local correctional facility where the defendant is  
20 being held, or if there is no professional person, to the person  
21 designated under (a)(iv) of this subsection. Upon request, the  
22 evaluator shall also provide copies of any source documents relevant  
23 to the evaluation to the designated (~~mental health professional~~)  
24 crisis responder.

25 (iii) Any facility providing inpatient services related to  
26 competency shall discharge the defendant as soon as the facility  
27 determines that the defendant is competent to stand trial. Discharge  
28 shall not be postponed during the writing and distribution of the  
29 evaluation report. Distribution of an evaluation report by a facility  
30 providing inpatient services shall ordinarily be accomplished within  
31 two working days or less following the final evaluation of the  
32 defendant. If the defendant is discharged to the custody of a local  
33 correctional facility, the local correctional facility must continue  
34 the medication regimen prescribed by the facility, when clinically  
35 appropriate, unless the defendant refuses to cooperate with  
36 medication and an involuntary medication order by the court has not  
37 been entered.

38 (iv) If there is no professional person at the local correctional  
39 facility, the local correctional facility shall designate a

1 professional person as defined in RCW 71.05.020 or, in cooperation  
2 with the behavioral health organization, a professional person at the  
3 behavioral health organization to receive the report and  
4 recommendation.

5 (v) Upon commencement of a defendant's evaluation in the local  
6 correctional facility, the local correctional facility must notify  
7 the evaluator of the name of the professional person, or person  
8 designated under (a)(iv) of this subsection, to receive the report  
9 and recommendation.

10 (b) If the evaluator concludes, under RCW 10.77.060(3)(f), the  
11 person should be evaluated by a designated (~~mental—health~~  
12 ~~professional~~) crisis responder under chapter 71.05 RCW, the court  
13 shall order such evaluation be conducted prior to release from  
14 confinement when the person is acquitted or convicted and sentenced  
15 to confinement for twenty-four months or less, or when charges are  
16 dismissed pursuant to a finding of incompetent to stand trial.

17 (2) The designated (~~mental—health—professional~~) crisis  
18 responder shall provide written notification within twenty-four hours  
19 of the results of the determination whether to commence proceedings  
20 under chapter 71.05 RCW. The notification shall be provided to the  
21 persons identified in subsection (1)(a) of this section.

22 (3) The prosecuting attorney shall provide a copy of the results  
23 of any proceedings commenced by the designated (~~mental—health~~  
24 ~~professional~~) crisis responder under subsection (2) of this section  
25 to the secretary.

26 (4) A facility conducting a civil commitment evaluation under RCW  
27 10.77.086(4) or 10.77.088(1)(b)(ii) that makes a determination to  
28 release the person instead of filing a civil commitment petition must  
29 provide written notice to the prosecutor and defense attorney at  
30 least twenty-four hours prior to release. The notice may be given by  
31 electronic mail, facsimile, or other means reasonably likely to  
32 communicate the information immediately.

33 (5) The fact of admission and all information and records  
34 compiled, obtained, or maintained in the course of providing services  
35 under this chapter may also be disclosed to the courts solely to  
36 prevent the entry of any evaluation or treatment order that is  
37 inconsistent with any order entered under chapter 71.05 RCW.

38 **Sec. 410.** RCW 10.77.084 and 2012 c 256 s 5 are each amended to  
39 read as follows:

1 (1)(a) If at any time during the pendency of an action and prior  
2 to judgment the court finds, following a report as provided in RCW  
3 10.77.060, a defendant is incompetent, the court shall order the  
4 proceedings against the defendant be stayed except as provided in  
5 subsection (4) of this section.

6 (b) At the end of the mental health treatment and restoration  
7 period, if any, or at any time a professional person determines  
8 competency has been, or is unlikely to be, restored, the defendant  
9 shall be returned to court for a hearing. The parties may agree to  
10 waive the defendant's presence or to remote participation by the  
11 defendant at a hearing or presentation of an agreed order if the  
12 recommendation of the evaluator is for the continuation of the stay  
13 of criminal proceedings, or if the opinion of the evaluator is that  
14 the defendant remains incompetent and there is no remaining  
15 restoration period, and the hearing is held prior to expiration of  
16 the defendant's authorized period of commitment, in which case the  
17 department shall promptly notify the court and parties of the date of  
18 the defendant's admission and expiration of commitment so that a  
19 timely hearing date may be scheduled. If, after notice and hearing,  
20 competency has been restored, the stay entered under (a) of this  
21 subsection shall be lifted. If competency has not been restored, the  
22 proceedings shall be dismissed without prejudice. If the court  
23 concludes that competency has not been restored, but that further  
24 treatment within the time limits established by RCW 10.77.086 or  
25 10.77.088 is likely to restore competency, the court may order that  
26 treatment for purposes of competency restoration be continued. Such  
27 treatment may not extend beyond the combination of time provided for  
28 in RCW 10.77.086 or 10.77.088.

29 (c) If at any time during the proceeding the court finds,  
30 following notice and hearing, a defendant is not likely to regain  
31 competency, the proceedings shall be dismissed without prejudice and  
32 the defendant shall be evaluated for civil commitment proceedings.

33 (2) If the defendant is referred for evaluation by a designated  
34 (~~mental health professional~~) crisis responder under this chapter,  
35 the designated (~~mental health professional~~) crisis responder shall  
36 provide prompt written notification of the results of the evaluation  
37 and whether the person was detained. The notification shall be  
38 provided to the court in which the criminal action was pending, the  
39 prosecutor, the defense attorney in the criminal action, and the  
40 facility that evaluated the defendant for competency.

1 (3) The fact that the defendant is unfit to proceed does not  
2 preclude any pretrial proceedings which do not require the personal  
3 participation of the defendant.

4 (4) A defendant receiving medication for either physical or  
5 mental problems shall not be prohibited from standing trial, if the  
6 medication either enables the defendant to understand the proceedings  
7 against him or her and to assist in his or her own defense, or does  
8 not disable him or her from so understanding and assisting in his or  
9 her own defense.

10 (5) At or before the conclusion of any commitment period provided  
11 for by this section, the facility providing evaluation and treatment  
12 shall provide to the court a written report of evaluation which meets  
13 the requirements of RCW 10.77.060(3). For defendants charged with a  
14 felony, the report following the second competency restoration period  
15 or first competency restoration period if the defendant's  
16 incompetence is determined to be solely due to a developmental  
17 disability or the evaluator concludes that the defendant is not  
18 likely to regain competency must include an assessment of the  
19 defendant's future dangerousness which is evidence-based regarding  
20 predictive validity.

21 **Sec. 411.** RCW 10.77.088 and 2007 c 375 s 5 are each amended to  
22 read as follows:

23 (1)(a) If the defendant is charged with a nonfelony crime which  
24 is a serious offense as identified in RCW 10.77.092 and found by the  
25 court to be not competent, then the court shall order the secretary  
26 to place the defendant:

27 (i) At a secure mental health facility in the custody of the  
28 department or an agency designated by the department for mental  
29 health treatment and restoration of competency. The placement shall  
30 not exceed fourteen days in addition to any unused time of the  
31 evaluation under RCW 10.77.060. The court shall compute this total  
32 period and include its computation in the order. The fourteen-day  
33 period plus any unused time of the evaluation under RCW 10.77.060  
34 shall be considered to include only the time the defendant is  
35 actually at the facility and shall be in addition to reasonable time  
36 for transport to or from the facility;

37 (ii) On conditional release for up to ninety days for mental  
38 health treatment and restoration of competency; or

39 (iii) Any combination of this subsection.

1 (b)(i) If the proceedings are dismissed under RCW 10.77.084 and  
2 the defendant was on conditional release at the time of dismissal,  
3 the court shall order the designated (~~(mental health professional)~~)  
4 crisis responder within that county to evaluate the defendant  
5 pursuant to chapter 71.05 RCW. The evaluation may be conducted in any  
6 location chosen by the professional.

7 (ii) If the defendant was in custody and not on conditional  
8 release at the time of dismissal, the defendant shall be detained and  
9 sent to an evaluation and treatment facility for up to seventy-two  
10 hours, excluding Saturdays, Sundays, and holidays, for evaluation for  
11 purposes of filing a petition under chapter 71.05 RCW. The seventy-  
12 two-hour period shall commence upon the next nonholiday weekday  
13 following the court order and shall run to the end of the last  
14 nonholiday weekday within the seventy-two-hour period.

15 (2) If the defendant is charged with a nonfelony crime that is  
16 not a serious offense as defined in RCW 10.77.092:

17 The court may stay or dismiss proceedings and detain the  
18 defendant for sufficient time to allow the designated (~~(mental health~~  
19 ~~professional)~~) crisis responder to evaluate the defendant and  
20 consider initial detention proceedings under chapter 71.05 RCW. The  
21 court must give notice to all parties at least twenty-four hours  
22 before the dismissal of any proceeding under this subsection, and  
23 provide an opportunity for a hearing on whether to dismiss the  
24 proceedings.

25 **Sec. 412.** RCW 11.92.190 and 1996 c 249 s 11 are each amended to  
26 read as follows:

27 No residential treatment facility which provides nursing or other  
28 care may detain a person within such facility against their will. Any  
29 court order, other than an order issued in accordance with the  
30 involuntary treatment provisions of chapters 10.77, 71.05, and 72.23  
31 RCW, which purports to authorize such involuntary detention or  
32 purports to authorize a guardian or limited guardian to consent to  
33 such involuntary detention on behalf of an incapacitated person shall  
34 be void and of no force or effect. This section does not apply to the  
35 detention of a minor as provided in chapter (~~(70.96A or)~~) 71.34 RCW.

36 Nothing in this section shall be construed to require a court  
37 order authorizing placement of an incapacitated person in a  
38 residential treatment facility if such order is not otherwise  
39 required by law: PROVIDED, That notice of any residential placement

1 of an incapacitated person shall be served, either before or after  
2 placement, by the guardian or limited guardian on such person, the  
3 guardian ad litem of record, and any attorney of record.

4 **Sec. 413.** RCW 13.32A.044 and 2000 c 123 s 5 are each amended to  
5 read as follows:

6 (1) The purpose of the multidisciplinary team is to assist in a  
7 coordinated referral of the family to available social and health-  
8 related services.

9 (2) The team shall have the authority to evaluate the juvenile,  
10 and family members, if appropriate and agreed to by the parent, and  
11 shall:

12 (a) With parental input, develop a plan of appropriate available  
13 services and assist the family in obtaining those services;

14 (b) Make a referral to the designated (~~chemical dependency~~  
15 ~~specialist or the county designated mental health professional~~)  
16 crisis responder, if appropriate;

17 (c) Recommend no further intervention because the juvenile and  
18 his or her family have resolved the problem causing the family  
19 conflict; or

20 (d) With the parent's consent, work with them to achieve  
21 reconciliation of the child and family.

22 (3) At the first meeting of the multidisciplinary team, it shall  
23 choose a member to coordinate the team's efforts. The parent member  
24 of the multidisciplinary team must agree with the choice of  
25 coordinator. The team shall meet or communicate as often as necessary  
26 to assist the family.

27 (4) The coordinator of the multidisciplinary team may assist in  
28 filing a child in need of services petition when requested by the  
29 parent or child or an at-risk youth petition when requested by the  
30 parent. The multidisciplinary team shall have no standing as a party  
31 in any action under this title.

32 (5) If the administrator is unable to contact the child's parent,  
33 the multidisciplinary team may be used for assistance. If the parent  
34 has not been contacted within five days the administrator shall  
35 contact the department and request the case be reviewed for a  
36 dependency filing under chapter 13.34 RCW.

37 **Sec. 414.** RCW 18.83.110 and 2005 c 504 s 706 are each amended to  
38 read as follows:



1 Confidential communications between a client and a psychologist  
2 shall be privileged against compulsory disclosure to the same extent  
3 and subject to the same conditions as confidential communications  
4 between attorney and client, but this exception is subject to the  
5 limitations under RCW (~~(70.96A.140 and)~~) 71.05.360 (8) and (9).

6 **Sec. 415.** RCW 43.20A.025 and 1998 c 296 s 34 are each amended to  
7 read as follows:

8 The department of social and health services shall adopt rules  
9 defining "appropriately trained professional person" for the purposes  
10 of conducting mental health and chemical dependency evaluations under  
11 RCW (~~(71.34.052(3), 71.34.054(1), 70.96A.245(3), and 70.96A.250(1))~~)  
12 71.34.600(3) and 71.34.650(1).

13 **Sec. 416.** RCW 70.02.010 and 2014 c 225 s 70 and 2014 c 220 s 4  
14 are each reenacted and amended to read as follows:

15 The definitions in this section apply throughout this chapter  
16 unless the context clearly requires otherwise.

17 (1) "Admission" has the same meaning as in RCW 71.05.020.

18 (2) "Audit" means an assessment, evaluation, determination, or  
19 investigation of a health care provider by a person not employed by  
20 or affiliated with the provider to determine compliance with:

21 (a) Statutory, regulatory, fiscal, medical, or scientific  
22 standards;

23 (b) A private or public program of payments to a health care  
24 provider; or

25 (c) Requirements for licensing, accreditation, or certification.

26 (3) "Commitment" has the same meaning as in RCW 71.05.020.

27 (4) "Custody" has the same meaning as in RCW 71.05.020.

28 (5) "Deidentified" means health information that does not  
29 identify an individual and with respect to which there is no  
30 reasonable basis to believe that the information can be used to  
31 identify an individual.

32 (6) "Department" means the department of social and health  
33 services.

34 (7) "Designated (~~(mental health professional)~~) crisis responder"  
35 has the same meaning as in RCW 71.05.020 or 71.34.020, as applicable.

36 (8) "Detention" or "detain" has the same meaning as in RCW  
37 71.05.020.

1 (9) "Directory information" means information disclosing the  
2 presence, and for the purpose of identification, the name, location  
3 within a health care facility, and the general health condition of a  
4 particular patient who is a patient in a health care facility or who  
5 is currently receiving emergency health care in a health care  
6 facility.

7 (10) "Discharge" has the same meaning as in RCW 71.05.020.

8 (11) "Evaluation and treatment facility" has the same meaning as  
9 in RCW 71.05.020 or 71.34.020, as applicable.

10 (12) "Federal, state, or local law enforcement authorities" means  
11 an officer of any agency or authority in the United States, a state,  
12 a tribe, a territory, or a political subdivision of a state, a tribe,  
13 or a territory who is empowered by law to: (a) Investigate or conduct  
14 an official inquiry into a potential criminal violation of law; or  
15 (b) prosecute or otherwise conduct a criminal proceeding arising from  
16 an alleged violation of law.

17 (13) "General health condition" means the patient's health status  
18 described in terms of "critical," "poor," "fair," "good,"  
19 "excellent," or terms denoting similar conditions.

20 (14) "Health care" means any care, service, or procedure provided  
21 by a health care provider:

22 (a) To diagnose, treat, or maintain a patient's physical or  
23 mental condition; or

24 (b) That affects the structure or any function of the human body.

25 (15) "Health care facility" means a hospital, clinic, nursing  
26 home, laboratory, office, or similar place where a health care  
27 provider provides health care to patients.

28 (16) "Health care information" means any information, whether  
29 oral or recorded in any form or medium, that identifies or can  
30 readily be associated with the identity of a patient and directly  
31 relates to the patient's health care, including a patient's  
32 deoxyribonucleic acid and identified sequence of chemical base pairs.  
33 The term includes any required accounting of disclosures of health  
34 care information.

35 (17) "Health care operations" means any of the following  
36 activities of a health care provider, health care facility, or third-  
37 party payor to the extent that the activities are related to  
38 functions that make an entity a health care provider, a health care  
39 facility, or a third-party payor:

1 (a) Conducting: Quality assessment and improvement activities,  
2 including outcomes evaluation and development of clinical guidelines,  
3 if the obtaining of generalizable knowledge is not the primary  
4 purpose of any studies resulting from such activities; population-  
5 based activities relating to improving health or reducing health care  
6 costs, protocol development, case management and care coordination,  
7 contacting of health care providers and patients with information  
8 about treatment alternatives; and related functions that do not  
9 include treatment;

10 (b) Reviewing the competence or qualifications of health care  
11 professionals, evaluating practitioner and provider performance and  
12 third-party payor performance, conducting training programs in which  
13 students, trainees, or practitioners in areas of health care learn  
14 under supervision to practice or improve their skills as health care  
15 providers, training of nonhealth care professionals, accreditation,  
16 certification, licensing, or credentialing activities;

17 (c) Underwriting, premium rating, and other activities relating  
18 to the creation, renewal, or replacement of a contract of health  
19 insurance or health benefits, and ceding, securing, or placing a  
20 contract for reinsurance of risk relating to claims for health care,  
21 including stop-loss insurance and excess of loss insurance, if any  
22 applicable legal requirements are met;

23 (d) Conducting or arranging for medical review, legal services,  
24 and auditing functions, including fraud and abuse detection and  
25 compliance programs;

26 (e) Business planning and development, such as conducting cost-  
27 management and planning-related analyses related to managing and  
28 operating the health care facility or third-party payor, including  
29 formulary development and administration, development, or improvement  
30 of methods of payment or coverage policies; and

31 (f) Business management and general administrative activities of  
32 the health care facility, health care provider, or third-party payor  
33 including, but not limited to:

34 (i) Management activities relating to implementation of and  
35 compliance with the requirements of this chapter;

36 (ii) Customer service, including the provision of data analyses  
37 for policy holders, plan sponsors, or other customers, provided that  
38 health care information is not disclosed to such policy holder, plan  
39 sponsor, or customer;

40 (iii) Resolution of internal grievances;

1 (iv) The sale, transfer, merger, or consolidation of all or part  
2 of a health care provider, health care facility, or third-party payor  
3 with another health care provider, health care facility, or third-  
4 party payor or an entity that following such activity will become a  
5 health care provider, health care facility, or third-party payor, and  
6 due diligence related to such activity; and

7 (v) Consistent with applicable legal requirements, creating  
8 deidentified health care information or a limited dataset for the  
9 benefit of the health care provider, health care facility, or third-  
10 party payor.

11 (18) "Health care provider" means a person who is licensed,  
12 certified, registered, or otherwise authorized by the law of this  
13 state to provide health care in the ordinary course of business or  
14 practice of a profession.

15 (19) "Human immunodeficiency virus" or "HIV" has the same meaning  
16 as in RCW 70.24.017.

17 (20) "Imminent" has the same meaning as in RCW 71.05.020.

18 (21) "Information and records related to mental health services"  
19 means a type of health care information that relates to all  
20 information and records compiled, obtained, or maintained in the  
21 course of providing services by a mental health service agency or  
22 mental health professional to persons who are receiving or have  
23 received services for mental illness. The term includes mental health  
24 information contained in a medical bill, registration records, as  
25 defined in RCW 71.05.020, and all other records regarding the person  
26 maintained by the department, by regional support networks and their  
27 staff, and by treatment facilities. The term further includes  
28 documents of legal proceedings under chapter 71.05, 71.34, or 10.77  
29 RCW, or somatic health care information. For health care information  
30 maintained by a hospital as defined in RCW 70.41.020 or a health care  
31 facility or health care provider that participates with a hospital in  
32 an organized health care arrangement defined under federal law,  
33 "information and records related to mental health services" is  
34 limited to information and records of services provided by a mental  
35 health professional or information and records of services created by  
36 a hospital-operated community mental health program as defined in RCW  
37 71.24.025(6). The term does not include psychotherapy notes.

38 (22) "Information and records related to sexually transmitted  
39 diseases" means a type of health care information that relates to the  
40 identity of any person upon whom an HIV antibody test or other

1 sexually transmitted infection test is performed, the results of such  
2 tests, and any information relating to diagnosis of or treatment for  
3 any confirmed sexually transmitted infections.

4 (23) "Institutional review board" means any board, committee, or  
5 other group formally designated by an institution, or authorized  
6 under federal or state law, to review, approve the initiation of, or  
7 conduct periodic review of research programs to assure the protection  
8 of the rights and welfare of human research subjects.

9 (24) "Legal counsel" has the same meaning as in RCW 71.05.020.

10 (25) "Local public health officer" has the same meaning as in RCW  
11 70.24.017.

12 (26) "Maintain," as related to health care information, means to  
13 hold, possess, preserve, retain, store, or control that information.

14 (27) "Mental health professional" means a psychiatrist,  
15 psychologist, psychiatric advanced registered nurse practitioner,  
16 psychiatric nurse, or social worker, and such other mental health  
17 professionals as may be defined by rules adopted by the secretary of  
18 social and health services under chapter 71.05 RCW, whether that  
19 person works in a private or public setting.

20 (28) "Mental health service agency" means a public or private  
21 agency that provides services to persons with mental disorders as  
22 defined under RCW 71.05.020 or 71.34.020 and receives funding from  
23 public sources. This includes evaluation and treatment facilities as  
24 defined in RCW 71.34.020, community mental health service delivery  
25 systems, or community mental health programs, as defined in RCW  
26 71.24.025, and facilities conducting competency evaluations and  
27 restoration under chapter 10.77 RCW.

28 (29) "Minor" has the same meaning as in RCW 71.34.020.

29 (30) "Parent" has the same meaning as in RCW 71.34.020.

30 (31) "Patient" means an individual who receives or has received  
31 health care. The term includes a deceased individual who has received  
32 health care.

33 (32) "Payment" means:

34 (a) The activities undertaken by:

35 (i) A third-party payor to obtain premiums or to determine or  
36 fulfill its responsibility for coverage and provision of benefits by  
37 the third-party payor; or

38 (ii) A health care provider, health care facility, or third-party  
39 payor, to obtain or provide reimbursement for the provision of health  
40 care; and

1 (b) The activities in (a) of this subsection that relate to the  
2 patient to whom health care is provided and that include, but are not  
3 limited to:

4 (i) Determinations of eligibility or coverage, including  
5 coordination of benefits or the determination of cost-sharing  
6 amounts, and adjudication or subrogation of health benefit claims;

7 (ii) Risk adjusting amounts due based on enrollee health status  
8 and demographic characteristics;

9 (iii) Billing, claims management, collection activities,  
10 obtaining payment under a contract for reinsurance, including stop-  
11 loss insurance and excess of loss insurance, and related health care  
12 data processing;

13 (iv) Review of health care services with respect to medical  
14 necessity, coverage under a health plan, appropriateness of care, or  
15 justification of charges;

16 (v) Utilization review activities, including precertification and  
17 preauthorization of services, and concurrent and retrospective review  
18 of services; and

19 (vi) Disclosure to consumer reporting agencies of any of the  
20 following health care information relating to collection of premiums  
21 or reimbursement:

22 (A) Name and address;

23 (B) Date of birth;

24 (C) Social security number;

25 (D) Payment history;

26 (E) Account number; and

27 (F) Name and address of the health care provider, health care  
28 facility, and/or third-party payor.

29 (33) "Person" means an individual, corporation, business trust,  
30 estate, trust, partnership, association, joint venture, government,  
31 governmental subdivision or agency, or any other legal or commercial  
32 entity.

33 (34) "Professional person" has the same meaning as in RCW  
34 71.05.020.

35 (35) "Psychiatric advanced registered nurse practitioner" has the  
36 same meaning as in RCW 71.05.020.

37 (36) "Psychotherapy notes" means notes recorded, in any medium,  
38 by a mental health professional documenting or analyzing the contents  
39 of conversations during a private counseling session or group, joint,  
40 or family counseling session, and that are separated from the rest of

1 the individual's medical record. The term excludes mediation  
2 prescription and monitoring, counseling session start and stop times,  
3 the modalities and frequencies of treatment furnished, results of  
4 clinical tests, and any summary of the following items: Diagnosis,  
5 functional status, the treatment plan, symptoms, prognosis, and  
6 progress to date.

7 (37) "Reasonable fee" means the charges for duplicating or  
8 searching the record, but shall not exceed sixty-five cents per page  
9 for the first thirty pages and fifty cents per page for all other  
10 pages. In addition, a clerical fee for searching and handling may be  
11 charged not to exceed fifteen dollars. These amounts shall be  
12 adjusted biennially in accordance with changes in the consumer price  
13 index, all consumers, for Seattle-Tacoma metropolitan statistical  
14 area as determined by the secretary of health. However, where editing  
15 of records by a health care provider is required by statute and is  
16 done by the provider personally, the fee may be the usual and  
17 customary charge for a basic office visit.

18 (38) "Release" has the same meaning as in RCW 71.05.020.

19 (39) "Resource management services" has the same meaning as in  
20 RCW 71.05.020.

21 (40) "Serious violent offense" has the same meaning as in RCW  
22 71.05.020.

23 (41) "Sexually transmitted infection" or "sexually transmitted  
24 disease" has the same meaning as "sexually transmitted disease" in  
25 RCW 70.24.017.

26 (42) "Test for a sexually transmitted disease" has the same  
27 meaning as in RCW 70.24.017.

28 (43) "Third-party payor" means an insurer regulated under Title  
29 48 RCW authorized to transact business in this state or other  
30 jurisdiction, including a health care service contractor, and health  
31 maintenance organization; or an employee welfare benefit plan,  
32 excluding fitness or wellness plans; or a state or federal health  
33 benefit program.

34 (44) "Treatment" means the provision, coordination, or management  
35 of health care and related services by one or more health care  
36 providers or health care facilities, including the coordination or  
37 management of health care by a health care provider or health care  
38 facility with a third party; consultation between health care  
39 providers or health care facilities relating to a patient; or the

1 referral of a patient for health care from one health care provider  
2 or health care facility to another.

3 **Sec. 417.** RCW 70.02.230 and 2014 c 225 s 71 and 2014 c 220 s 9  
4 are each reenacted and amended to read as follows:

5 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,  
6 70.96A.150, 74.09.295, 70.02.210, 70.02.240, 70.02.250, and  
7 70.02.260, or pursuant to a valid authorization under RCW 70.02.030,  
8 the fact of admission to a provider for mental health services and  
9 all information and records compiled, obtained, or maintained in the  
10 course of providing mental health services to either voluntary or  
11 involuntary recipients of services at public or private agencies must  
12 be confidential.

13 (2) Information and records related to mental health services,  
14 other than those obtained through treatment under chapter 71.34 RCW,  
15 may be disclosed only:

16 (a) In communications between qualified professional persons to  
17 meet the requirements of chapter 71.05 RCW, in the provision of  
18 services or appropriate referrals, or in the course of guardianship  
19 proceedings if provided to a professional person:

- 20 (i) Employed by the facility;
- 21 (ii) Who has medical responsibility for the patient's care;
- 22 (iii) Who is a designated (~~mental health professional~~) crisis  
23 responder;
- 24 (iv) Who is providing services under chapter 71.24 RCW;
- 25 (v) Who is employed by a state or local correctional facility  
26 where the person is confined or supervised; or
- 27 (vi) Who is providing evaluation, treatment, or follow-up  
28 services under chapter 10.77 RCW;

29 (b) When the communications regard the special needs of a patient  
30 and the necessary circumstances giving rise to such needs and the  
31 disclosure is made by a facility providing services to the operator  
32 of a facility in which the patient resides or will reside;

33 (c)(i) When the person receiving services, or his or her  
34 guardian, designates persons to whom information or records may be  
35 released, or if the person is a minor, when his or her parents make  
36 such a designation;

37 (ii) A public or private agency shall release to a person's next  
38 of kin, attorney, personal representative, guardian, or conservator,  
39 if any:



1 (A) The information that the person is presently a patient in the  
2 facility or that the person is seriously physically ill;

3 (B) A statement evaluating the mental and physical condition of  
4 the patient, and a statement of the probable duration of the  
5 patient's confinement, if such information is requested by the next  
6 of kin, attorney, personal representative, guardian, or conservator;  
7 and

8 (iii) Other information requested by the next of kin or attorney  
9 as may be necessary to decide whether or not proceedings should be  
10 instituted to appoint a guardian or conservator;

11 (d)(i) To the courts as necessary to the administration of  
12 chapter 71.05 RCW or to a court ordering an evaluation or treatment  
13 under chapter 10.77 RCW solely for the purpose of preventing the  
14 entry of any evaluation or treatment order that is inconsistent with  
15 any order entered under chapter 71.05 RCW.

16 (ii) To a court or its designee in which a motion under chapter  
17 10.77 RCW has been made for involuntary medication of a defendant for  
18 the purpose of competency restoration.

19 (iii) Disclosure under this subsection is mandatory for the  
20 purpose of the federal health insurance portability and  
21 accountability act;

22 (e)(i) When a mental health professional or designated crisis  
23 responder is requested by a representative of a law enforcement or  
24 corrections agency, including a police officer, sheriff, community  
25 corrections officer, a municipal attorney, or prosecuting attorney to  
26 undertake an investigation or provide treatment under RCW 71.05.150,  
27 10.31.110, or 71.05.153, the mental health professional or designated  
28 crisis responder shall, if requested to do so, advise the  
29 representative in writing of the results of the investigation  
30 including a statement of reasons for the decision to detain or  
31 release the person investigated. The written report must be submitted  
32 within seventy-two hours of the completion of the investigation or  
33 the request from the law enforcement or corrections representative,  
34 whichever occurs later.

35 (ii) Disclosure under this subsection is mandatory for the  
36 purposes of the federal health insurance portability and  
37 accountability act;

38 (f) To the attorney of the detained person;

39 (g) To the prosecuting attorney as necessary to carry out the  
40 responsibilities of the office under RCW 71.05.330(2),

1 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided  
2 access to records regarding the committed person's treatment and  
3 prognosis, medication, behavior problems, and other records relevant  
4 to the issue of whether treatment less restrictive than inpatient  
5 treatment is in the best interest of the committed person or others.  
6 Information must be disclosed only after giving notice to the  
7 committed person and the person's counsel;

8 (h)(i) To appropriate law enforcement agencies and to a person,  
9 when the identity of the person is known to the public or private  
10 agency, whose health and safety has been threatened, or who is known  
11 to have been repeatedly harassed, by the patient. The person may  
12 designate a representative to receive the disclosure. The disclosure  
13 must be made by the professional person in charge of the public or  
14 private agency or his or her designee and must include the dates of  
15 commitment, admission, discharge, or release, authorized or  
16 unauthorized absence from the agency's facility, and only any other  
17 information that is pertinent to the threat or harassment. The agency  
18 or its employees are not civilly liable for the decision to disclose  
19 or not, so long as the decision was reached in good faith and without  
20 gross negligence.

21 (ii) Disclosure under this subsection is mandatory for the  
22 purposes of the federal health insurance portability and  
23 accountability act;

24 (i)(i) To appropriate corrections and law enforcement agencies  
25 all necessary and relevant information in the event of a crisis or  
26 emergent situation that poses a significant and imminent risk to the  
27 public. The mental health service agency or its employees are not  
28 civilly liable for the decision to disclose or not so long as the  
29 decision was reached in good faith and without gross negligence.

30 (ii) Disclosure under this subsection is mandatory for the  
31 purposes of the health insurance portability and accountability act;

32 (j) To the persons designated in RCW 71.05.425 for the purposes  
33 described in those sections;

34 (k) Upon the death of a person. The person's next of kin,  
35 personal representative, guardian, or conservator, if any, must be  
36 notified. Next of kin who are of legal age and competent must be  
37 notified under this section in the following order: Spouse, parents,  
38 children, brothers and sisters, and other relatives according to the  
39 degree of relation. Access to all records and information compiled,

1 obtained, or maintained in the course of providing services to a  
2 deceased patient are governed by RCW 70.02.140;

3 (l) To mark headstones or otherwise memorialize patients interred  
4 at state hospital cemeteries. The department of social and health  
5 services shall make available the name, date of birth, and date of  
6 death of patients buried in state hospital cemeteries fifty years  
7 after the death of a patient;

8 (m) To law enforcement officers and to prosecuting attorneys as  
9 are necessary to enforce RCW 9.41.040(2)(a)(~~(ii)~~) (iii). The extent  
10 of information that may be released is limited as follows:

11 (i) Only the fact, place, and date of involuntary commitment, an  
12 official copy of any order or orders of commitment, and an official  
13 copy of any written or oral notice of ineligibility to possess a  
14 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
15 must be disclosed upon request;

16 (ii) The law enforcement and prosecuting attorneys may only  
17 release the information obtained to the person's attorney as required  
18 by court rule and to a jury or judge, if a jury is waived, that  
19 presides over any trial at which the person is charged with violating  
20 RCW 9.41.040(2)(a)(~~(ii)~~) (iii);

21 (iii) Disclosure under this subsection is mandatory for the  
22 purposes of the federal health insurance portability and  
23 accountability act;

24 (n) When a patient would otherwise be subject to the provisions  
25 of this section and disclosure is necessary for the protection of the  
26 patient or others due to his or her unauthorized disappearance from  
27 the facility, and his or her whereabouts is unknown, notice of the  
28 disappearance, along with relevant information, may be made to  
29 relatives, the department of corrections when the person is under the  
30 supervision of the department, and governmental law enforcement  
31 agencies designated by the physician or psychiatric advanced  
32 registered nurse practitioner in charge of the patient or the  
33 professional person in charge of the facility, or his or her  
34 professional designee;

35 (o) Pursuant to lawful order of a court;

36 (p) To qualified staff members of the department, to the director  
37 of behavioral health organizations, to resource management services  
38 responsible for serving a patient, or to service providers designated  
39 by resource management services as necessary to determine the  
40 progress and adequacy of treatment and to determine whether the

1 person should be transferred to a less restrictive or more  
2 appropriate treatment modality or facility;

3 (q) Within the mental health service agency where the patient is  
4 receiving treatment, confidential information may be disclosed to  
5 persons employed, serving in bona fide training programs, or  
6 participating in supervised volunteer programs, at the facility when  
7 it is necessary to perform their duties;

8 (r) Within the department as necessary to coordinate treatment  
9 for mental illness, developmental disabilities, alcoholism, or drug  
10 abuse of persons who are under the supervision of the department;

11 (s) To a licensed physician or psychiatric advanced registered  
12 nurse practitioner who has determined that the life or health of the  
13 person is in danger and that treatment without the information and  
14 records related to mental health services could be injurious to the  
15 patient's health. Disclosure must be limited to the portions of the  
16 records necessary to meet the medical emergency;

17 (t) Consistent with the requirements of the federal health  
18 information portability and accountability act, to a licensed mental  
19 health professional or a health care professional licensed under  
20 chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is  
21 providing care to a person, or to whom a person has been referred for  
22 evaluation or treatment, to assure coordinated care and treatment of  
23 that person. Psychotherapy notes may not be released without  
24 authorization of the person who is the subject of the request for  
25 release of information;

26 (u) To administrative and office support staff designated to  
27 obtain medical records for those licensed professionals listed in (t)  
28 of this subsection;

29 (v) To a facility that is to receive a person who is  
30 involuntarily committed under chapter 71.05 RCW, or upon transfer of  
31 the person from one evaluation and treatment facility to another. The  
32 release of records under this subsection is limited to the  
33 information and records related to mental health services required by  
34 law, a record or summary of all somatic treatments, and a discharge  
35 summary. The discharge summary may include a statement of the  
36 patient's problem, the treatment goals, the type of treatment which  
37 has been provided, and recommendation for future treatment, but may  
38 not include the patient's complete treatment record;

39 (w) To the person's counsel or guardian ad litem, without  
40 modification, at any time in order to prepare for involuntary

1 commitment or recommitment proceedings, reexaminations, appeals, or  
2 other actions relating to detention, admission, commitment, or  
3 patient's rights under chapter 71.05 RCW;

4 (x) To staff members of the protection and advocacy agency or to  
5 staff members of a private, nonprofit corporation for the purpose of  
6 protecting and advocating the rights of persons with mental disorders  
7 or developmental disabilities. Resource management services may limit  
8 the release of information to the name, birthdate, and county of  
9 residence of the patient, information regarding whether the patient  
10 was voluntarily admitted, or involuntarily committed, the date and  
11 place of admission, placement, or commitment, the name and address of  
12 a guardian of the patient, and the date and place of the guardian's  
13 appointment. Any staff member who wishes to obtain additional  
14 information must notify the patient's resource management services in  
15 writing of the request and of the resource management services' right  
16 to object. The staff member shall send the notice by mail to the  
17 guardian's address. If the guardian does not object in writing within  
18 fifteen days after the notice is mailed, the staff member may obtain  
19 the additional information. If the guardian objects in writing within  
20 fifteen days after the notice is mailed, the staff member may not  
21 obtain the additional information;

22 (y) To all current treating providers of the patient with  
23 prescriptive authority who have written a prescription for the  
24 patient within the last twelve months. For purposes of coordinating  
25 health care, the department may release without written authorization  
26 of the patient, information acquired for billing and collection  
27 purposes as described in RCW 70.02.050(1)(d). The department shall  
28 notify the patient that billing and collection information has been  
29 released to named providers, and provide the substance of the  
30 information released and the dates of such release. The department  
31 may not release counseling, inpatient psychiatric hospitalization, or  
32 drug and alcohol treatment information without a signed written  
33 release from the client;

34 (z)(i) To the secretary of social and health services for either  
35 program evaluation or research, or both so long as the secretary  
36 adopts rules for the conduct of the evaluation or research, or both.  
37 Such rules must include, but need not be limited to, the requirement  
38 that all evaluators and researchers sign an oath of confidentiality  
39 substantially as follows:

1 "As a condition of conducting evaluation or research concerning  
2 persons who have received services from (fill in the facility,  
3 agency, or person) I, . . . . ., agree not to divulge, publish, or  
4 otherwise make known to unauthorized persons or the public any  
5 information obtained in the course of such evaluation or research  
6 regarding persons who have received services such that the person who  
7 received such services is identifiable.

8 I recognize that unauthorized release of confidential information  
9 may subject me to civil liability under the provisions of state law.

10 /s/ . . . . ."

11 (ii) Nothing in this chapter may be construed to prohibit the  
12 compilation and publication of statistical data for use by government  
13 or researchers under standards, including standards to assure  
14 maintenance of confidentiality, set forth by the secretary.

15 (3) Whenever federal law or federal regulations restrict the  
16 release of information contained in the information and records  
17 related to mental health services of any patient who receives  
18 treatment for chemical dependency, the department may restrict the  
19 release of the information as necessary to comply with federal law  
20 and regulations.

21 (4) Civil liability and immunity for the release of information  
22 about a particular person who is committed to the department of  
23 social and health services under RCW 71.05.280(3) and 71.05.320(3)(c)  
24 after dismissal of a sex offense as defined in RCW 9.94A.030, is  
25 governed by RCW 4.24.550.

26 (5) The fact of admission to a provider of mental health  
27 services, as well as all records, files, evidence, findings, or  
28 orders made, prepared, collected, or maintained pursuant to chapter  
29 71.05 RCW are not admissible as evidence in any legal proceeding  
30 outside that chapter without the written authorization of the person  
31 who was the subject of the proceeding except as provided in RCW  
32 70.02.260, in a subsequent criminal prosecution of a person committed  
33 pursuant to RCW 71.05.280(3) or 71.05.320(3)(c) on charges that were  
34 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand  
35 trial, in a civil commitment proceeding pursuant to chapter 71.09  
36 RCW, or, in the case of a minor, a guardianship or dependency  
37 proceeding. The records and files maintained in any court proceeding  
38 pursuant to chapter 71.05 RCW must be confidential and available  
39 subsequent to such proceedings only to the person who was the subject

1 of the proceeding or his or her attorney. In addition, the court may  
2 order the subsequent release or use of such records or files only  
3 upon good cause shown if the court finds that appropriate safeguards  
4 for strict confidentiality are and will be maintained.

5 (6)(a) Except as provided in RCW 4.24.550, any person may bring  
6 an action against an individual who has willfully released  
7 confidential information or records concerning him or her in  
8 violation of the provisions of this section, for the greater of the  
9 following amounts:

10 (i) One thousand dollars; or

11 (ii) Three times the amount of actual damages sustained, if any.

12 (b) It is not a prerequisite to recovery under this subsection  
13 that the plaintiff suffered or was threatened with special, as  
14 contrasted with general, damages.

15 (c) Any person may bring an action to enjoin the release of  
16 confidential information or records concerning him or her or his or  
17 her ward, in violation of the provisions of this section, and may in  
18 the same action seek damages as provided in this subsection.

19 (d) The court may award to the plaintiff, should he or she  
20 prevail in any action authorized by this subsection, reasonable  
21 attorney fees in addition to those otherwise provided by law.

22 (e) If an action is brought under this subsection, no action may  
23 be brought under RCW 70.02.170.

24 **Sec. 418.** RCW 70.48.475 and 2004 c 166 s 14 are each amended to  
25 read as follows:

26 (1) A person having charge of a jail, or that person's designee,  
27 shall notify the (~~county designated mental health professional or~~  
28 ~~the designated chemical dependency specialist~~) designated crisis  
29 responder seventy-two hours prior to the release to the community of  
30 an offender or defendant who was subject to a discharge review under  
31 RCW 71.05.232. If the person having charge of the jail does not  
32 receive seventy-two hours notice of the release, the notification to  
33 the (~~county designated mental health professional or the designated~~  
34 ~~chemical dependency specialist~~) designated crisis responder shall be  
35 made as soon as reasonably possible, but not later than the actual  
36 release to the community of the defendant or offender.

37 (2) When a person having charge of a jail, or that person's  
38 designee, releases an offender or defendant who was the subject of a  
39 discharge review under RCW 71.05.232, the person having charge of a

1 jail, or that person's designee, shall notify the state hospital from  
2 which the offender or defendant was released.

3 **Sec. 419.** RCW 70.97.010 and 2014 c 225 s 78 are each amended to  
4 read as follows:

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

7 (1) "Antipsychotic medications" means that class of drugs  
8 primarily used to treat serious manifestations of mental illness  
9 associated with thought disorders, which includes but is not limited  
10 to atypical antipsychotic medications.

11 (2) "Attending staff" means any person on the staff of a public  
12 or private agency having responsibility for the care and treatment of  
13 a patient.

14 (3) "Chemical dependency" means alcoholism, drug addiction, or  
15 dependence on alcohol and one or more other psychoactive chemicals,  
16 as the context requires and as those terms are defined in chapter  
17 ~~((70.96A))~~ 71.05 RCW.

18 (4) "Chemical dependency professional" means a person certified  
19 as a chemical dependency professional by the department of health  
20 under chapter 18.205 RCW.

21 (5) "Commitment" means the determination by a court that an  
22 individual should be detained for a period of either evaluation or  
23 treatment, or both, in an inpatient or a less restrictive setting.

24 (6) "Conditional release" means a modification of a commitment  
25 that may be revoked upon violation of any of its terms.

26 (7) "Custody" means involuntary detention under chapter 71.05  
27 ~~((or 70.96A))~~ RCW, uninterrupted by any period of unconditional  
28 release from commitment from a facility providing involuntary care  
29 and treatment.

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

32 (9) "Designated crisis responder" ~~((means a designated mental  
33 health professional, a designated chemical dependency specialist, or  
34 a designated crisis responder as those terms are defined in chapter  
35 70.96A, 71.05, or 70.96B RCW))~~ has the same meaning as in chapter  
36 71.05 RCW.

37 (10) "Detention" or "detain" means the lawful confinement of an  
38 individual under chapter ~~((70.96A or))~~ 71.05 RCW.



1 (11) "Discharge" means the termination of facility authority. The  
2 commitment may remain in place, be terminated, or be amended by court  
3 order.

4 (12) "Enhanced services facility" means a facility that provides  
5 treatment and services to persons for whom acute inpatient treatment  
6 is not medically necessary and who have been determined by the  
7 department to be inappropriate for placement in other licensed  
8 facilities due to the complex needs that result in behavioral and  
9 security issues.

10 (13) "Expanded community services program" means a nonsecure  
11 program of enhanced behavioral and residential support provided to  
12 long-term and residential care providers serving specifically  
13 eligible clients who would otherwise be at risk for hospitalization  
14 at state hospital geriatric units.

15 (14) "Facility" means an enhanced services facility.

16 (15) "Gravely disabled" means a condition in which an individual,  
17 as a result of a mental disorder, as a result of the use of alcohol  
18 or other psychoactive chemicals, or both:

19 (a) Is in danger of serious physical harm resulting from a  
20 failure to provide for his or her essential human needs of health or  
21 safety; or

22 (b) Manifests severe deterioration in routine functioning  
23 evidenced by repeated and escalating loss of cognitive or volitional  
24 control over his or her actions and is not receiving such care as is  
25 essential for his or her health or safety.

26 (16) "History of one or more violent acts" refers to the period  
27 of time ten years before the filing of a petition under this  
28 chapter((7)) or chapter ((~~70.96A-07~~)) 71.05 RCW, excluding any time  
29 spent, but not any violent acts committed, in a mental health  
30 facility or a long-term alcoholism or drug treatment facility, or in  
31 confinement as a result of a criminal conviction.

32 (17) "Licensed physician" means a person licensed to practice  
33 medicine or osteopathic medicine and surgery in the state of  
34 Washington.

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

36 (a) A substantial risk that:

37 (i) Physical harm will be inflicted by an individual upon his or  
38 her own person, as evidenced by threats or attempts to commit suicide  
39 or inflict physical harm on oneself;

1 (ii) Physical harm will be inflicted by an individual upon  
2 another, as evidenced by behavior that has caused such harm or that  
3 places another person or persons in reasonable fear of sustaining  
4 such harm; or

5 (iii) Physical harm will be inflicted by an individual upon the  
6 property of others, as evidenced by behavior that has caused  
7 substantial loss or damage to the property of others; or

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

10 (19) "Mental disorder" means any organic, mental, or emotional  
11 impairment that has substantial adverse effects on an individual's  
12 cognitive or volitional functions.

13 (20) "Mental health professional" means a psychiatrist,  
14 psychologist, psychiatric nurse, or social worker, and such other  
15 mental health professionals as may be defined by rules adopted by the  
16 secretary under the authority of chapter 71.05 RCW.

17 (21) "Professional person" means a mental health professional and  
18 also means a physician, registered nurse, and such others as may be  
19 defined in rules adopted by the secretary pursuant to the provisions  
20 of this chapter.

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

27 (23) "Psychologist" means a person who has been licensed as a  
28 psychologist under chapter 18.83 RCW.

29 (24) "Registration records" include all the records of the  
30 department, behavioral health organizations, treatment facilities,  
31 and other persons providing services to the department, county  
32 departments, or facilities which identify individuals who are  
33 receiving or who at any time have received services for mental  
34 illness.

35 (25) "Release" means legal termination of the commitment under  
36 chapter 70.96A or 71.05 RCW.

37 (26) "Resident" means a person admitted to an enhanced services  
38 facility.

39 (27) "Secretary" means the secretary of the department or the  
40 secretary's designee.

1 (28) "Significant change" means:

2 (a) A deterioration in a resident's physical, mental, or  
3 psychosocial condition that has caused or is likely to cause clinical  
4 complications or life-threatening conditions; or

5 (b) An improvement in the resident's physical, mental, or  
6 psychosocial condition that may make the resident eligible for  
7 release or for treatment in a less intensive or less secure setting.

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

11 (30) "Treatment" means the broad range of emergency,  
12 detoxification, residential, inpatient, and outpatient services and  
13 care, including diagnostic evaluation, mental health or chemical  
14 dependency education and counseling, medical, psychiatric,  
15 psychological, and social service care, vocational rehabilitation,  
16 and career counseling, which may be extended to persons with mental  
17 disorders, chemical dependency disorders, or both, and their  
18 families.

19 (31) "Treatment records" include registration and all other  
20 records concerning individuals who are receiving or who at any time  
21 have received services for mental illness, which are maintained by  
22 the department, by behavioral health organizations and their staffs,  
23 and by treatment facilities. "Treatment records" do not include notes  
24 or records maintained for personal use by an individual providing  
25 treatment services for the department, behavioral health  
26 organizations, or a treatment facility if the notes or records are  
27 not available to others.

28 (32) "Violent act" means behavior that resulted in homicide,  
29 attempted suicide, nonfatal injuries, or substantial damage to  
30 property.

31 **Sec. 420.** RCW 71.05.620 and 2013 c 200 s 23 are each amended to  
32 read as follows:

33 (1) The files and records of court proceedings under this chapter  
34 and chapter(~~(s 70.96A,)~~) 71.34(~~(, and 70.96B)~~) RCW shall be closed  
35 but shall be accessible to any person who is the subject of a  
36 petition and to the person's attorney, guardian ad litem, resource  
37 management services, or service providers authorized to receive such  
38 information by resource management services.

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

1       **Sec. 421.** RCW 71.05.660 and 2013 c 200 s 21 are each amended to  
2 read as follows:

3       Nothing in this chapter or chapter 70.02(~~(, 70.96A, )~~) or 71.34(~~(, 70.96B)~~)  
4 ~~or 70.96B~~) RCW shall be construed to interfere with communications  
5 between physicians, psychiatric advanced registered nurse  
6 practitioners, or psychologists and patients and attorneys and  
7 clients.

8       **Sec. 422.** RCW 71.24.025 and 2014 c 225 s 10 are each reenacted  
9 and amended to read as follows:

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

12       (1) "Acutely mentally ill" means a condition which is limited to  
13 a short-term severe crisis episode of:

14       (a) A mental disorder as defined in RCW 71.05.020 or, in the case  
15 of a child, as defined in RCW 71.34.020;

16       (b) Being gravely disabled as defined in RCW 71.05.020 or, in the  
17 case of a child, a gravely disabled minor as defined in RCW  
18 71.34.020; or

19       (c) Presenting a likelihood of serious harm as defined in RCW  
20 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

21       (2) "Available resources" means funds appropriated for the  
22 purpose of providing community mental health programs, federal funds,  
23 except those provided according to Title XIX of the Social Security  
24 Act, and state funds appropriated under this chapter or chapter 71.05  
25 RCW by the legislature during any biennium for the purpose of  
26 providing residential services, resource management services,  
27 community support services, and other mental health services. This  
28 does not include funds appropriated for the purpose of operating and  
29 administering the state psychiatric hospitals.

30       (3) "Behavioral health organization" means any county authority  
31 or group of county authorities or other entity recognized by the  
32 secretary in contract in a defined region.

33       (4) "Behavioral health services" means mental health services as  
34 described in this chapter and chapter 71.36 RCW and chemical  
35 dependency treatment services as described in chapter 70.96A RCW.

36       (5) "Child" means a person under the age of eighteen years.

37       (6) "Chronically mentally ill adult" or "adult who is chronically  
38 mentally ill" means an adult who has a mental disorder and meets at  
39 least one of the following criteria:

1 (a) Has undergone two or more episodes of hospital care for a  
2 mental disorder within the preceding two years; or  
3 (b) Has experienced a continuous psychiatric hospitalization or  
4 residential treatment exceeding six months' duration within the  
5 preceding year; or  
6 (c) Has been unable to engage in any substantial gainful activity  
7 by reason of any mental disorder which has lasted for a continuous  
8 period of not less than twelve months. "Substantial gainful activity"  
9 shall be defined by the department by rule consistent with Public Law  
10 92-603, as amended.

11 (7) "Clubhouse" means a community-based program that provides  
12 rehabilitation services and is certified by the department of social  
13 and health services.

14 (8) "Community mental health program" means all mental health  
15 services, activities, or programs using available resources.

16 (9) "Community mental health service delivery system" means  
17 public, private, or tribal agencies that provide services  
18 specifically to persons with mental disorders as defined under RCW  
19 71.05.020 and receive funding from public sources.

20 (10) "Community support services" means services authorized,  
21 planned, and coordinated through resource management services  
22 including, at a minimum, assessment, diagnosis, emergency crisis  
23 intervention available twenty-four hours, seven days a week,  
24 prescreening determinations for persons who are mentally ill being  
25 considered for placement in nursing homes as required by federal law,  
26 screening for patients being considered for admission to residential  
27 services, diagnosis and treatment for children who are acutely  
28 mentally ill or severely emotionally disturbed discovered under  
29 screening through the federal Title XIX early and periodic screening,  
30 diagnosis, and treatment program, investigation, legal, and other  
31 nonresidential services under chapter 71.05 RCW, case management  
32 services, psychiatric treatment including medication supervision,  
33 counseling, psychotherapy, assuring transfer of relevant patient  
34 information between service providers, recovery services, and other  
35 services determined by behavioral health organizations.

36 (11) "Consensus-based" means a program or practice that has  
37 general support among treatment providers and experts, based on  
38 experience or professional literature, and may have anecdotal or case  
39 study support, or that is agreed but not possible to perform studies  
40 with random assignment and controlled groups.

1 (12) "County authority" means the board of county commissioners,  
2 county council, or county executive having authority to establish a  
3 community mental health program, or two or more of the county  
4 authorities specified in this subsection which have entered into an  
5 agreement to provide a community mental health program.

6 (13) "Department" means the department of social and health  
7 services.

8 (14) "Designated (~~(mental health professional)~~) crisis responder"  
9 means a mental health professional designated by the county or other  
10 authority authorized in rule to perform the duties specified in this  
11 chapter.

12 (15) "Emerging best practice" or "promising practice" means a  
13 program or practice that, based on statistical analyses or a well  
14 established theory of change, shows potential for meeting the  
15 evidence-based or research-based criteria, which may include the use  
16 of a program that is evidence-based for outcomes other than those  
17 listed in subsection (16) of this section.

18 (16) "Evidence-based" means a program or practice that has been  
19 tested in heterogeneous or intended populations with multiple  
20 randomized, or statistically controlled evaluations, or both; or one  
21 large multiple site randomized, or statistically controlled  
22 evaluation, or both, where the weight of the evidence from a systemic  
23 review demonstrates sustained improvements in at least one outcome.  
24 "Evidence-based" also means a program or practice that can be  
25 implemented with a set of procedures to allow successful replication  
26 in Washington and, when possible, is determined to be cost-  
27 beneficial.

28 (17) "Licensed service provider" means an entity licensed  
29 according to this chapter or chapter 71.05 (~~(or 70.96A)~~) RCW or an  
30 entity deemed to meet state minimum standards as a result of  
31 accreditation by a recognized behavioral health accrediting body  
32 recognized and having a current agreement with the department, or  
33 tribal attestation that meets state minimum standards, or persons  
34 licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it  
35 applies to registered nurses and advanced registered nurse  
36 practitioners.

37 (18) "Long-term inpatient care" means inpatient services for  
38 persons committed for, or voluntarily receiving intensive treatment  
39 for, periods of ninety days or greater under chapter 71.05 RCW.  
40 "Long-term inpatient care" as used in this chapter does not include:

1 (a) Services for individuals committed under chapter 71.05 RCW who  
2 are receiving services pursuant to a conditional release or a court-  
3 ordered less restrictive alternative to detention; or (b) services  
4 for individuals voluntarily receiving less restrictive alternative  
5 treatment on the grounds of the state hospital.

6 (19) "Mental health services" means all services provided by  
7 behavioral health organizations and other services provided by the  
8 state for persons who are mentally ill.

9 (20) "Mentally ill persons," "persons who are mentally ill," and  
10 "the mentally ill" mean persons and conditions defined in subsections  
11 (1), (6), (28), and (29) of this section.

12 (21) "Recovery" means the process in which people are able to  
13 live, work, learn, and participate fully in their communities.

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

19 (23) "Research-based" means a program or practice that has been  
20 tested with a single randomized, or statistically controlled  
21 evaluation, or both, demonstrating sustained desirable outcomes; or  
22 where the weight of the evidence from a systemic review supports  
23 sustained outcomes as described in subsection (16) of this section  
24 but does not meet the full criteria for evidence-based.

25 (24) "Residential services" means a complete range of residences  
26 and supports authorized by resource management services and which may  
27 involve a facility, a distinct part thereof, or services which  
28 support community living, for persons who are acutely mentally ill,  
29 adults who are chronically mentally ill, children who are severely  
30 emotionally disturbed, or adults who are seriously disturbed and  
31 determined by the behavioral health organization to be at risk of  
32 becoming acutely or chronically mentally ill. The services shall  
33 include at least evaluation and treatment services as defined in  
34 chapter 71.05 RCW, acute crisis respite care, long-term adaptive and  
35 rehabilitative care, and supervised and supported living services,  
36 and shall also include any residential services developed to service  
37 persons who are mentally ill in nursing homes, assisted living  
38 facilities, and adult family homes, and may include outpatient  
39 services provided as an element in a package of services in a  
40 supported housing model. Residential services for children in out-of-

1 home placements related to their mental disorder shall not include  
2 the costs of food and shelter, except for children's long-term  
3 residential facilities existing prior to January 1, 1991.

4 (25) "Resilience" means the personal and community qualities that  
5 enable individuals to rebound from adversity, trauma, tragedy,  
6 threats, or other stresses, and to live productive lives.

7 (26) "Resource management services" mean the planning,  
8 coordination, and authorization of residential services and community  
9 support services administered pursuant to an individual service plan  
10 for: (a) Adults and children who are acutely mentally ill; (b) adults  
11 who are chronically mentally ill; (c) children who are severely  
12 emotionally disturbed; or (d) adults who are seriously disturbed and  
13 determined solely by a behavioral health organization to be at risk  
14 of becoming acutely or chronically mentally ill. Such planning,  
15 coordination, and authorization shall include mental health screening  
16 for children eligible under the federal Title XIX early and periodic  
17 screening, diagnosis, and treatment program. Resource management  
18 services include seven day a week, twenty-four hour a day  
19 availability of information regarding enrollment of adults and  
20 children who are mentally ill in services and their individual  
21 service plan to designated (~~mental health professionals~~) crisis  
22 responders, evaluation and treatment facilities, and others as  
23 determined by the behavioral health organization.

24 (27) "Secretary" means the secretary of social and health  
25 services.

26 (28) "Seriously disturbed person" means a person who:

27 (a) Is gravely disabled or presents a likelihood of serious harm  
28 to himself or herself or others, or to the property of others, as a  
29 result of a mental disorder as defined in chapter 71.05 RCW;

30 (b) Has been on conditional release status, or under a less  
31 restrictive alternative order, at some time during the preceding two  
32 years from an evaluation and treatment facility or a state mental  
33 health hospital;

34 (c) Has a mental disorder which causes major impairment in  
35 several areas of daily living;

36 (d) Exhibits suicidal preoccupation or attempts; or

37 (e) Is a child diagnosed by a mental health professional, as  
38 defined in chapter 71.34 RCW, as experiencing a mental disorder which  
39 is clearly interfering with the child's functioning in family or



1 school or with peers or is clearly interfering with the child's  
2 personality development and learning.

3 (29) "Severely emotionally disturbed child" or "child who is  
4 severely emotionally disturbed" means a child who has been determined  
5 by the behavioral health organization to be experiencing a mental  
6 disorder as defined in chapter 71.34 RCW, including those mental  
7 disorders that result in a behavioral or conduct disorder, that is  
8 clearly interfering with the child's functioning in family or school  
9 or with peers and who meets at least one of the following criteria:

10 (a) Has undergone inpatient treatment or placement outside of the  
11 home related to a mental disorder within the last two years;

12 (b) Has undergone involuntary treatment under chapter 71.34 RCW  
13 within the last two years;

14 (c) Is currently served by at least one of the following child-  
15 serving systems: Juvenile justice, child-protection/welfare, special  
16 education, or developmental disabilities;

17 (d) Is at risk of escalating maladjustment due to:

18 (i) Chronic family dysfunction involving a caretaker who is  
19 mentally ill or inadequate;

20 (ii) Changes in custodial adult;

21 (iii) Going to, residing in, or returning from any placement  
22 outside of the home, for example, psychiatric hospital, short-term  
23 inpatient, residential treatment, group or foster home, or a  
24 correctional facility;

25 (iv) Subject to repeated physical abuse or neglect;

26 (v) Drug or alcohol abuse; or

27 (vi) Homelessness.

28 (30) "State minimum standards" means minimum requirements  
29 established by rules adopted by the secretary and necessary to  
30 implement this chapter for: (a) Delivery of mental health services;  
31 (b) licensed service providers for the provision of mental health  
32 services; (c) residential services; and (d) community support  
33 services and resource management services.

34 (31) "Treatment records" include registration and all other  
35 records concerning persons who are receiving or who at any time have  
36 received services for mental illness, which are maintained by the  
37 department, by behavioral health organizations and their staffs, and  
38 by treatment facilities. Treatment records do not include notes or  
39 records maintained for personal use by a person providing treatment  
40 services for the department, behavioral health organizations, or a

1 treatment facility if the notes or records are not available to  
2 others.

3 (32) "Tribal authority," for the purposes of this section and RCW  
4 71.24.300 only, means: The federally recognized Indian tribes and the  
5 major Indian organizations recognized by the secretary insofar as  
6 these organizations do not have a financial relationship with any  
7 behavioral health organization that would present a conflict of  
8 interest.

9 **Sec. 423.** RCW 71.24.045 and 2014 c 225 s 13 are each amended to  
10 read as follows:

11 The behavioral health organization shall:

12 (1) Contract as needed with licensed service providers. The  
13 behavioral health organization may, in the absence of a licensed  
14 service provider entity, become a licensed service provider entity  
15 pursuant to minimum standards required for licensing by the  
16 department for the purpose of providing services not available from  
17 licensed service providers;

18 (2) Operate as a licensed service provider if it deems that doing  
19 so is more efficient and cost effective than contracting for  
20 services. When doing so, the behavioral health organization shall  
21 comply with rules promulgated by the secretary that shall provide  
22 measurements to determine when a behavioral health organization  
23 provided service is more efficient and cost effective;

24 (3) Monitor and perform biennial fiscal audits of licensed  
25 service providers who have contracted with the behavioral health  
26 organization to provide services required by this chapter. The  
27 monitoring and audits shall be performed by means of a formal process  
28 which insures that the licensed service providers and professionals  
29 designated in this subsection meet the terms of their contracts;

30 (4) Establish reasonable limitations on administrative costs for  
31 agencies that contract with the behavioral health organization;

32 (5) Assure that the special needs of minorities, older adults,  
33 individuals with disabilities, children, and low-income persons are  
34 met within the priorities established in this chapter;

35 (6) Maintain patient tracking information in a central location  
36 as required for resource management services and the department's  
37 information system;

1 (7) Collaborate to ensure that policies do not result in an  
2 adverse shift of persons with mental illness into state and local  
3 correctional facilities;

4 (8) Work with the department to expedite the enrollment or  
5 reenrollment of eligible persons leaving state or local correctional  
6 facilities and institutions for mental diseases;

7 (9) Work closely with the (~~county designated mental health~~  
8 ~~professional or county~~) designated crisis responder to maximize  
9 appropriate placement of persons into community services; and

10 (10) Coordinate services for individuals who have received  
11 services through the community mental health system and who become  
12 patients at a state psychiatric hospital to ensure they are  
13 transitioned into the community in accordance with mutually agreed  
14 upon discharge plans and upon determination by the medical director  
15 of the state psychiatric hospital that they no longer need intensive  
16 inpatient care.

17 **Sec. 424.** RCW 71.24.330 and 2014 c 225 s 51 are each amended to  
18 read as follows:

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

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

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

1 rights under Title 29, chapter 7, subchapter II, United States Code  
2 or chapter 41.56 RCW.

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

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

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

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

14 (d) Maintain the decision-making independence of designated  
15 (~~mental health professionals~~) crisis responders;

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

21 (f) Include a negotiated alternative dispute resolution clause;  
22 and

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

31 **Sec. 425.** RCW 71.32.080 and 2006 c 108 s 5 are each amended to  
32 read as follows:

33 (1)(a) A principal with capacity may, by written statement by the  
34 principal or at the principal's direction in the principal's  
35 presence, revoke a directive in whole or in part.

36 (b) An incapacitated principal may revoke a directive only if he  
37 or she elected at the time of executing the directive to be able to  
38 revoke when incapacitated.

1 (2) The revocation need not follow any specific form so long as  
2 it is written and the intent of the principal can be discerned. In  
3 the case of a directive that is stored in the health care  
4 declarations registry created by RCW 70.122.130, the revocation may  
5 be by an online method established by the department of health.  
6 Failure to use the online method of revocation for a directive that  
7 is stored in the registry does not invalidate a revocation that is  
8 made by another method described under this section.

9 (3) The principal shall provide a copy of his or her written  
10 statement of revocation to his or her agent, if any, and to each  
11 health care provider, professional person, or health care facility  
12 that received a copy of the directive from the principal.

13 (4) The written statement of revocation is effective:

14 (a) As to a health care provider, professional person, or health  
15 care facility, upon receipt. The professional person, health care  
16 provider, or health care facility, or persons acting under their  
17 direction shall make the statement of revocation part of the  
18 principal's medical record; and

19 (b) As to the principal's agent, upon receipt. The principal's  
20 agent shall notify the principal's health care provider, professional  
21 person, or health care facility of the revocation and provide them  
22 with a copy of the written statement of revocation.

23 (5) A directive also may:

24 (a) Be revoked, in whole or in part, expressly or to the extent  
25 of any inconsistency, by a subsequent directive; or

26 (b) Be superseded or revoked by a court order, including any  
27 order entered in a criminal matter. A directive may be superseded by  
28 a court order regardless of whether the order contains an explicit  
29 reference to the directive. To the extent a directive is not in  
30 conflict with a court order, the directive remains effective, subject  
31 to the provisions of RCW 71.32.150. A directive shall not be  
32 interpreted in a manner that interferes with: (i) Incarceration or  
33 detention by the department of corrections, in a city or county jail,  
34 or by the department of social and health services; or (ii) treatment  
35 of a principal who is subject to involuntary treatment pursuant to  
36 chapter 10.77, (~~(70.96A,)~~) 71.05, 71.09, or 71.34 RCW.

37 (6) A directive that would have otherwise expired but is  
38 effective because the principal is incapacitated remains effective  
39 until the principal is no longer incapacitated unless the principal

1 has elected to be able to revoke while incapacitated and has revoked  
2 the directive.

3 (7) When a principal with capacity consents to treatment that  
4 differs from, or refuses treatment consented to in, the provisions of  
5 his or her directive, the consent or refusal constitutes a waiver of  
6 that provision and does not constitute a revocation of the provision  
7 or directive unless the principal also revokes the directive or  
8 provision.

9 **Sec. 426.** RCW 71.32.140 and 2009 c 217 s 12 are each amended to  
10 read as follows:

11 (1) A principal who:

12 (a) Chose not to be able to revoke his or her directive during  
13 any period of incapacity;

14 (b) Consented to voluntary admission to inpatient mental health  
15 treatment, or authorized an agent to consent on the principal's  
16 behalf; and

17 (c) At the time of admission to inpatient treatment, refuses to  
18 be admitted,  
19 may only be admitted into inpatient mental health treatment under  
20 subsection (2) of this section.

21 (2) A principal may only be admitted to inpatient mental health  
22 treatment under his or her directive if, prior to admission, a member  
23 of the treating facility's professional staff who is a physician or  
24 psychiatric advanced registered nurse practitioner:

25 (a) Evaluates the principal's mental condition, including a  
26 review of reasonably available psychiatric and psychological history,  
27 diagnosis, and treatment needs, and determines, in conjunction with  
28 another health care provider or mental health professional, that the  
29 principal is incapacitated;

30 (b) Obtains the informed consent of the agent, if any, designated  
31 in the directive;

32 (c) Makes a written determination that the principal needs an  
33 inpatient evaluation or is in need of inpatient treatment and that  
34 the evaluation or treatment cannot be accomplished in a less  
35 restrictive setting; and

36 (d) Documents in the principal's medical record a summary of the  
37 physician's or psychiatric advanced registered nurse practitioner's  
38 findings and recommendations for treatment or evaluation.

1 (3) In the event the admitting physician is not a psychiatrist,  
2 or the advanced registered nurse practitioner is not a psychiatric  
3 advanced registered nurse practitioner, the principal shall receive a  
4 complete psychological assessment by a mental health professional  
5 within twenty-four hours of admission to determine the continued need  
6 for inpatient evaluation or treatment.

7 (4)(a) If it is determined that the principal has capacity, then  
8 the principal may only be admitted to, or remain in, inpatient  
9 treatment if he or she consents at the time or is detained under the  
10 involuntary treatment provisions of chapter ((70.96A,)) 71.05((7)) or  
11 71.34 RCW.

12 (b) If a principal who is determined by two health care providers  
13 or one mental health professional and one health care provider to be  
14 incapacitated continues to refuse inpatient treatment, the principal  
15 may immediately seek injunctive relief for release from the facility.

16 (5) If, at the end of the period of time that the principal or  
17 the principal's agent, if any, has consented to voluntary inpatient  
18 treatment, but no more than fourteen days after admission, the  
19 principal has not regained capacity or has regained capacity but  
20 refuses to consent to remain for additional treatment, the principal  
21 must be released during reasonable daylight hours, unless detained  
22 under chapter ((70.96A,)) 71.05((7)) or 71.34 RCW.

23 (6)(a) Except as provided in (b) of this subsection, any  
24 principal who is voluntarily admitted to inpatient mental health  
25 treatment under this chapter shall have all the rights provided to  
26 individuals who are voluntarily admitted to inpatient treatment under  
27 chapter 71.05, 71.34, or 72.23 RCW.

28 (b) Notwithstanding RCW 71.05.050 regarding consent to inpatient  
29 treatment for a specified length of time, the choices an  
30 incapacitated principal expressed in his or her directive shall  
31 control, provided, however, that a principal who takes action  
32 demonstrating a desire to be discharged, in addition to making  
33 statements requesting to be discharged, shall be discharged, and no  
34 principal shall be restrained in any way in order to prevent his or  
35 her discharge. Nothing in this subsection shall be construed to  
36 prevent detention and evaluation for civil commitment under chapter  
37 71.05 RCW.

38 (7) Consent to inpatient admission in a directive is effective  
39 only while the professional person, health care provider, and health

1 care facility are in substantial compliance with the material  
2 provisions of the directive related to inpatient treatment.

3 **Sec. 427.** RCW 71.32.150 and 2003 c 283 s 15 are each amended to  
4 read as follows:

5 (1) Upon receiving a directive, a health care provider,  
6 professional person, or health care facility providing treatment to  
7 the principal, or persons acting under the direction of the health  
8 care provider, professional person, or health care facility, shall  
9 make the directive a part of the principal's medical record and shall  
10 be deemed to have actual knowledge of the directive's contents.

11 (2) When acting under authority of a directive, a health care  
12 provider, professional person, or health care facility shall act in  
13 accordance with the provisions of the directive to the fullest extent  
14 possible, unless in the determination of the health care provider,  
15 professional person, or health care facility:

16 (a) Compliance with the provision would violate the accepted  
17 standard of care established in RCW 7.70.040;

18 (b) The requested treatment is not available;

19 (c) Compliance with the provision would violate applicable law;  
20 or

21 (d) It is an emergency situation and compliance would endanger  
22 any person's life or health.

23 (3)(a) In the case of a principal committed or detained under the  
24 involuntary treatment provisions of chapter 10.77, (~~(70.96A,)~~) 71.05,  
25 71.09, or 71.34 RCW, those provisions of a principal's directive  
26 that, in the determination of the health care provider, professional  
27 person, or health care facility, are inconsistent with the purpose of  
28 the commitment or with any order of the court relating to the  
29 commitment are invalid during the commitment.

30 (b) Remaining provisions of a principal's directive are advisory  
31 while the principal is committed or detained.

32 The treatment provider is encouraged to follow the remaining  
33 provisions of the directive, except as provided in (a) of this  
34 subsection or subsection (2) of this section.

35 (4) In the case of a principal who is incarcerated or committed  
36 in a state or local correctional facility, provisions of the  
37 principal's directive that are inconsistent with reasonable  
38 penological objectives or administrative hearings regarding  
39 involuntary medication are invalid during the period of incarceration



1 or commitment. In addition, treatment may be given despite refusal of  
2 the principal or the provisions of the directive: (a) For any reason  
3 under subsection (2) of this section; or (b) if, without the benefit  
4 of the specific treatment measure, there is a significant possibility  
5 that the person will harm self or others before an improvement of the  
6 person's condition occurs.

7 (5)(a) If the health care provider, professional person, or  
8 health care facility is, at the time of receiving the directive,  
9 unable or unwilling to comply with any part or parts of the directive  
10 for any reason, the health care provider, professional person, or  
11 health care facility shall promptly notify the principal and, if  
12 applicable, his or her agent and shall document the reason in the  
13 principal's medical record.

14 (b) If the health care provider, professional person, or health  
15 care facility is acting under authority of a directive and is unable  
16 to comply with any part or parts of the directive for the reasons  
17 listed in subsection (2) or (3) of this section, the health care  
18 provider, professional person, or health care facility shall promptly  
19 notify the principal and if applicable, his or her agent, and shall  
20 document the reason in the principal's medical record.

21 (6) In the event that one or more parts of the directive are not  
22 followed because of one or more of the reasons set forth in  
23 subsection (2) or (4) of this section, all other parts of the  
24 directive shall be followed.

25 (7) If no provider-patient relationship has previously been  
26 established, nothing in this chapter requires the establishment of a  
27 provider-patient relationship.

28 **Sec. 428.** RCW 72.09.315 and 2004 c 166 s 17 are each amended to  
29 read as follows:

30 (1) When an offender is under court-ordered mental health or  
31 chemical dependency treatment in the community and the supervision of  
32 the department of corrections, and the community corrections officer  
33 becomes aware that the person is in violation of the terms of the  
34 court's treatment order, the community corrections officer shall  
35 notify the (~~county designated mental health professional or the~~  
36 ~~designated chemical dependency specialist~~) designated crisis  
37 responder, as appropriate, of the violation and request an evaluation  
38 for purposes of revocation of the less restrictive alternative or  
39 conditional release.

1 (2) When a (~~county designated mental health professional or the~~  
2 ~~designated chemical dependency specialist~~) designated crisis  
3 responder notifies the department that an offender in a state  
4 correctional facility is the subject of a petition for involuntary  
5 treatment under chapter 71.05 (~~or 70.96A~~) RCW, the department shall  
6 provide documentation of its risk assessment or other concerns to the  
7 petitioner and the court if the department classified the offender as  
8 a high risk or high needs offender.

9 **Sec. 429.** RCW 72.09.370 and 2014 c 225 s 95 are each amended to  
10 read as follows:

11 (1) The offender reentry community safety program is established  
12 to provide intensive services to offenders identified under this  
13 subsection and to thereby promote public safety. The secretary shall  
14 identify offenders in confinement or partial confinement who: (a) Are  
15 reasonably believed to be dangerous to themselves or others; and (b)  
16 have a mental disorder. In determining an offender's dangerousness,  
17 the secretary shall consider behavior known to the department and  
18 factors, based on research, that are linked to an increased risk for  
19 dangerousness of offenders with mental illnesses and shall include  
20 consideration of an offender's chemical dependency or abuse.

21 (2) Prior to release of an offender identified under this  
22 section, a team consisting of representatives of the department of  
23 corrections, the division of mental health, and, as necessary, the  
24 indeterminate sentence review board, other divisions or  
25 administrations within the department of social and health services,  
26 specifically including the division of alcohol and substance abuse  
27 and the division of developmental disabilities, the appropriate  
28 behavioral health organization, and the providers, as appropriate,  
29 shall develop a plan, as determined necessary by the team, for  
30 delivery of treatment and support services to the offender upon  
31 release. In developing the plan, the offender shall be offered  
32 assistance in executing a mental health directive under chapter 71.32  
33 RCW, after being fully informed of the benefits, scope, and purposes  
34 of such directive. The team may include a school district  
35 representative for offenders under the age of twenty-one. The team  
36 shall consult with the offender's counsel, if any, and, as  
37 appropriate, the offender's family and community. The team shall  
38 notify the crime victim/witness program, which shall provide notice  
39 to all people registered to receive notice under RCW 72.09.712 of the

1 proposed release plan developed by the team. Victims, witnesses, and  
2 other interested people notified by the department may provide  
3 information and comments to the department on potential safety risk  
4 to specific individuals or classes of individuals posed by the  
5 specific offender. The team may recommend: (a) That the offender be  
6 evaluated by the designated (~~mental health professional~~) crisis  
7 responder, as defined in chapter 71.05 RCW; (b) department-supervised  
8 community treatment; or (c) voluntary community mental health or  
9 chemical dependency or abuse treatment.

10 (3) Prior to release of an offender identified under this  
11 section, the team shall determine whether or not an evaluation by a  
12 designated (~~mental health professional~~) crisis responder is needed.  
13 If an evaluation is recommended, the supporting documentation shall  
14 be immediately forwarded to the appropriate designated (~~mental~~  
15 ~~health professional~~) crisis responder. The supporting documentation  
16 shall include the offender's criminal history, history of judicially  
17 required or administratively ordered involuntary antipsychotic  
18 medication while in confinement, and any known history of involuntary  
19 civil commitment.

20 (4) If an evaluation by a designated (~~mental health~~  
21 ~~professional~~) crisis responder is recommended by the team, such  
22 evaluation shall occur not more than ten days, nor less than five  
23 days, prior to release.

24 (5) A second evaluation by a designated (~~mental health~~  
25 ~~professional~~) crisis responder shall occur on the day of release if  
26 requested by the team, based upon new information or a change in the  
27 offender's mental condition, and the initial evaluation did not  
28 result in an emergency detention or a summons under chapter 71.05  
29 RCW.

30 (6) If the designated (~~mental health professional~~) crisis  
31 responder determines an emergency detention under chapter 71.05 RCW  
32 is necessary, the department shall release the offender only to a  
33 state hospital or to a consenting evaluation and treatment facility.  
34 The department shall arrange transportation of the offender to the  
35 hospital or facility.

36 (7) If the designated (~~mental health professional~~) crisis  
37 responder believes that a less restrictive alternative treatment is  
38 appropriate, he or she shall seek a summons, pursuant to the  
39 provisions of chapter 71.05 RCW, to require the offender to appear at  
40 an evaluation and treatment facility. If a summons is issued, the

1 offender shall remain within the corrections facility until  
2 completion of his or her term of confinement and be transported, by  
3 corrections personnel on the day of completion, directly to the  
4 identified evaluation and treatment facility.

5 (8) The secretary shall adopt rules to implement this section.

6 **Sec. 430.** RCW 74.13.033 and 2009 c 569 s 3 are each amended to  
7 read as follows:

8 (1) If a resident of a crisis residential center becomes by his  
9 or her behavior disruptive to the facility's program, such resident  
10 may be immediately removed to a separate area within the facility and  
11 counseled on an individual basis until such time as the child regains  
12 his or her composure. The department may set rules and regulations  
13 establishing additional procedures for dealing with severely  
14 disruptive children on the premises.

15 (2) When the juvenile resides in this facility, all services  
16 deemed necessary to the juvenile's reentry to normal family life  
17 shall be made available to the juvenile as required by chapter 13.32A  
18 RCW. In assessing the child and providing these services, the  
19 facility staff shall:

20 (a) Interview the juvenile as soon as possible;

21 (b) Contact the juvenile's parents and arrange for a counseling  
22 interview with the juvenile and his or her parents as soon as  
23 possible;

24 (c) Conduct counseling interviews with the juvenile and his or  
25 her parents, to the end that resolution of the child/parent conflict  
26 is attained and the child is returned home as soon as possible;

27 (d) Provide additional crisis counseling as needed, to the end  
28 that placement of the child in the crisis residential center will be  
29 required for the shortest time possible, but not to exceed fifteen  
30 consecutive days; and

31 (e) Convene, when appropriate, a multidisciplinary team.

32 (3) Based on the assessments done under subsection (2) of this  
33 section the center staff may refer any child who, as the result of a  
34 mental or emotional disorder, or intoxication by alcohol or other  
35 drugs, is suicidal, seriously assaultive, or seriously destructive  
36 toward others, or otherwise similarly evidences an immediate need for  
37 emergency medical evaluation and possible care, for evaluation  
38 pursuant to chapter 71.34 RCW((7)) or to a (~~mental health~~  
39 ~~professional~~) designated crisis responder pursuant to chapter 71.05

1 RCW(~~(, or to a chemical dependency specialist pursuant to chapter~~  
2 ~~70.96A~~ RCW)) whenever such action is deemed appropriate and  
3 consistent with law.

4 (4) A juvenile taking unauthorized leave from a facility shall be  
5 apprehended and returned to it by law enforcement officers or other  
6 persons designated as having this authority as provided in RCW  
7 13.32A.050. If returned to the facility after having taken  
8 unauthorized leave for a period of more than twenty-four hours a  
9 juvenile shall be supervised by such a facility for a period,  
10 pursuant to this chapter, which, unless where otherwise provided, may  
11 not exceed fifteen consecutive days. Costs of housing juveniles  
12 admitted to crisis residential centers shall be assumed by the  
13 department for a period not to exceed fifteen consecutive days.

14 **Sec. 431.** RCW 74.50.070 and 1987 c 406 s 8 are each amended to  
15 read as follows:

16 (1) If a county elects to establish a multipurpose diagnostic  
17 center or detention center, the alcoholism and drug addiction  
18 assessment service under RCW 74.50.040 may be integrated into the  
19 services provided by such a center.

20 (2) The center may be financed from funds made available by the  
21 department for alcoholism and drug addiction assessments under this  
22 chapter and funds contained in the department's budget for  
23 detoxification, involuntary detention, and involuntary treatment  
24 under chapter(~~s 70.96A and~~) 71.05 RCW. The center may be operated  
25 by the county or pursuant to contract between the county and a  
26 qualified organization.

27 **PART V**  
28 **EFFECTIVE DATE**

29 NEW SECTION. **Sec. 501.** Sections 202 through 261 and 401 through  
30 431 of this act take effect April 1, 2016.

31 NEW SECTION. **Sec. 502.** Section 101 of this act expires April 1,  
32 2016.

--- END ---