

**ESSB 5106** - H COMM AMD  
By Committee on Judiciary

NOT ADOPTED 04/11/2017

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

3 **"Part One - Joel's Law Amendments**

4 **Sec. 1.** RCW 71.05.201 and 2016 c 107 s 1 are each amended to  
5 read as follows:

6 (1) If a designated mental health professional decides not to  
7 detain a person for evaluation and treatment under RCW 71.05.150 or  
8 71.05.153 or forty-eight hours have elapsed since a designated mental  
9 health professional received a request for investigation and the  
10 designated mental health professional has not taken action to have  
11 the person detained, an immediate family member or guardian or  
12 conservator of the person may petition the superior court for the  
13 person's initial detention.

14 (2) A petition under this section must be filed within ten  
15 calendar days following the designated mental health professional  
16 investigation or the request for a designated mental health  
17 professional investigation. If more than ten days have elapsed, the  
18 immediate family member, guardian, or conservator may request a new  
19 designated mental health professional investigation.

20 (3)(a) The petition must be filed in the county in which the  
21 designated mental health professional investigation occurred or was  
22 requested to occur and must be submitted on forms developed by the  
23 administrative office of the courts for this purpose. The petition  
24 must be accompanied by a sworn declaration from the petitioner, and  
25 other witnesses if desired, describing why the person should be  
26 detained for evaluation and treatment. The description of why the  
27 person should be detained may contain, but is not limited to, the  
28 information identified in RCW 71.05.212.

29 (b) The petition must contain:

1 (i) A description of the relationship between the petitioner and  
2 the person; and

3 (ii) The date on which an investigation was requested from the  
4 designated mental health professional.

5 ~~((3))~~ (4) The court shall, within one judicial day, review the  
6 petition to determine whether the petition raises sufficient evidence  
7 to support the allegation. If the court so finds, it shall provide a  
8 copy of the petition to the designated mental health professional  
9 agency with an order for the agency to provide the court, within one  
10 judicial day, with a written sworn statement describing the basis for  
11 the decision not to seek initial detention and a copy of all  
12 information material to the designated mental health professional's  
13 current decision.

14 ~~((4))~~ (5) Following the filing of the petition and before the  
15 court reaches a decision, any person, including a mental health  
16 professional, may submit a sworn declaration to the court in support  
17 of or in opposition to initial detention.

18 ~~((5))~~ (6) The court shall dismiss the petition at any time if  
19 it finds that a designated mental health professional has filed a  
20 petition for the person's initial detention under RCW 71.05.150 or  
21 71.05.153 or that the person has voluntarily accepted appropriate  
22 treatment.

23 ~~((6))~~ (7) The court must issue a final ruling on the petition  
24 within five judicial days after it is filed. After reviewing all of  
25 the information provided to the court, the court may enter an order  
26 for initial detention if the court finds that: (a) There is probable  
27 cause to support a petition for detention; and (b) the person has  
28 refused or failed to accept appropriate evaluation and treatment  
29 voluntarily. The court shall transmit its final decision to the  
30 petitioner.

31 ~~((7))~~ (8) If the court enters an order for initial detention,  
32 it shall provide the order to the designated mental health  
33 professional agency(~~(, which shall execute the order without delay)~~)  
34 and issue a written order for apprehension of the person by a peace  
35 officer for delivery of the person to a facility or emergency room  
36 determined by the designated mental health professional. The  
37 designated mental health agency serving the jurisdiction of the court  
38 must collaborate and coordinate with law enforcement regarding  
39 apprehensions and detentions under this subsection, including sharing  
40 of information relating to risk and which would assist in locating

1 the person. A person may not be detained to jail pursuant to a  
2 written order issued under this subsection. An order for detention  
3 under this section should contain the advisement of rights which the  
4 person would receive if the person were detained by a designated  
5 mental health professional. An order for initial detention under this  
6 section expires one hundred eighty days from issuance.

7 ((+8)) (9) Except as otherwise expressly stated in this chapter,  
8 all procedures must be followed as if the order had been entered  
9 under RCW 71.05.150. RCW 71.05.160 does not apply if detention was  
10 initiated under the process set forth in this section.

11 ((+9)) (10) For purposes of this section, "immediate family  
12 member" means a spouse, domestic partner, child, stepchild, parent,  
13 stepparent, grandparent, or sibling.

14 **Sec. 2.** RCW 71.05.201 and 2016 sp.s. c 29 s 222 and 2016 c 107 s  
15 1 are each reenacted and amended to read as follows:

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

23 (2) A petition under this section must be filed within ten  
24 calendar days following the designated crisis responder investigation  
25 or the request for a designated crisis responder investigation. If  
26 more than ten days have elapsed, the immediate family member,  
27 guardian, or conservator may request a new designated crisis  
28 responder investigation.

29 (3)(a) The petition must be filed in the county in which the  
30 designated ((~~mental—health—professional~~)) crisis responder  
31 investigation occurred or was requested to occur and must be  
32 submitted on forms developed by the administrative office of the  
33 courts for this purpose. The petition must be accompanied by a sworn  
34 declaration from the petitioner, and other witnesses if desired,  
35 describing why the person should be detained for evaluation and  
36 treatment. The description of why the person should be detained may  
37 contain, but is not limited to, the information identified in RCW  
38 71.05.212.

39 (b) The petition must contain:

1 (i) A description of the relationship between the petitioner and  
2 the person; and

3 (ii) The date on which an investigation was requested from the  
4 designated crisis responder.

5 ~~((+3))~~ (4) The court shall, within one judicial day, review the  
6 petition to determine whether the petition raises sufficient evidence  
7 to support the allegation. If the court so finds, it shall provide a  
8 copy of the petition to the designated crisis responder agency with  
9 an order for the agency to provide the court, within one judicial  
10 day, with a written sworn statement describing the basis for the  
11 decision not to seek initial detention and a copy of all information  
12 material to the designated crisis responder's current decision.

13 ~~((+4))~~ (5) Following the filing of the petition and before the  
14 court reaches a decision, any person, including a mental health  
15 professional, may submit a sworn declaration to the court in support  
16 of or in opposition to initial detention.

17 ~~((+5))~~ (6) The court shall dismiss the petition at any time if  
18 it finds that a designated crisis responder has filed a petition for  
19 the person's initial detention under RCW 71.05.150 or 71.05.153 or  
20 that the person has voluntarily accepted appropriate treatment.

21 ~~((+6))~~ (7) The court must issue a final ruling on the petition  
22 within five judicial days after it is filed. After reviewing all of  
23 the information provided to the court, the court may enter an order  
24 for initial detention if the court finds that: (a) There is probable  
25 cause to support a petition for detention; and (b) the person has  
26 refused or failed to accept appropriate evaluation and treatment  
27 voluntarily. The court shall transmit its final decision to the  
28 petitioner.

29 ~~((+7))~~ (8) If the court enters an order for initial detention,  
30 it shall provide the order to the designated crisis responder  
31 agency(~~(, which shall execute the order without delay)~~) and issue a  
32 written order for apprehension of the person by a peace officer for  
33 delivery of the person to a facility or emergency room determined by  
34 the designated crisis responder. The designated crisis responder  
35 agency serving the jurisdiction of the court must collaborate and  
36 coordinate with law enforcement regarding apprehensions and  
37 detentions under this subsection, including sharing of information  
38 relating to risk and which would assist in locating the person. A  
39 person may not be detained to jail pursuant to a written order issued  
40 under this subsection. An order for detention under this section

1 should contain the advisement of rights which the person would  
2 receive if the person were detained by a designated crisis responder.  
3 An order for initial detention under this section expires one hundred  
4 eighty days from issuance.

5 ((+8)) (9) Except as otherwise expressly stated in this chapter,  
6 all procedures must be followed as if the order had been entered  
7 under RCW 71.05.150. RCW 71.05.160 does not apply if detention was  
8 initiated under the process set forth in this section.

9 ((+9)) (10) For purposes of this section, "immediate family  
10 member" means a spouse, domestic partner, child, stepchild, parent,  
11 stepparent, grandparent, or sibling.

12 **Sec. 3.** RCW 71.05.203 and 2015 c 258 s 3 are each amended to  
13 read as follows:

14 (1) The department and each ((~~regional support network~~))  
15 behavioral health organization or agency employing designated mental  
16 health professionals shall publish information in an easily  
17 accessible format describing the process for an immediate family  
18 member, guardian, or conservator to petition for court review of a  
19 detention decision under RCW 71.05.201.

20 (2) A designated mental health professional or designated mental  
21 health professional agency that receives a request for investigation  
22 for possible detention under this chapter must inquire whether the  
23 request comes from an immediate family member, guardian, or  
24 conservator who would be eligible to petition under RCW 71.05.201. If  
25 the designated mental health professional decides not to detain the  
26 person for evaluation and treatment under RCW 71.05.150 or 71.05.153  
27 or forty-eight hours have elapsed since the request for investigation  
28 was received and the designated mental health professional has not  
29 taken action to have the person detained, the designated mental  
30 health professional or designated mental health professional agency  
31 must inform the immediate family member, guardian, or conservator who  
32 made the request for investigation about the process to petition for  
33 court review under RCW 71.05.201.

34 (3) A designated mental health professional or designated mental  
35 health professional agency must, upon request, disclose the date of a  
36 designated mental health professional investigation under this  
37 chapter to an immediate family member, guardian, or conservator of a  
38 person to assist in the preparation of a petition under RCW  
39 71.05.201.

1       **Sec. 4.** RCW 71.05.203 and 2016 sp.s. c 29 s 223 are each amended  
2 to read as follows:

3       (1) The department and each behavioral health organization or  
4 agency employing designated crisis responders shall publish  
5 information in an easily accessible format describing the process for  
6 an immediate family member, guardian, or conservator to petition for  
7 court review of a detention decision under RCW 71.05.201.

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

21       (3) A designated crisis responder or designated crisis responder  
22 agency must, upon request, disclose the date of a designated crisis  
23 responder investigation under this chapter to an immediate family  
24 member, guardian, or conservator of a person to assist in the  
25 preparation of a petition under RCW 71.05.201.

26       NEW SECTION. **Sec. 5.** By December 15, 2017, the administrative  
27 office of the courts, in collaboration with stakeholders, including  
28 but not limited to judges, prosecutors, defense attorneys, the  
29 department of social and health services, behavioral health  
30 advocates, and families, shall: (1) Develop a user's guide to assist  
31 pro se litigants in the preparation and filing of a petition under  
32 RCW 71.05.201; and (2) develop a model order of detention under RCW  
33 71.05.201 which contains an advisement of rights for the detained  
34 person.

35       NEW SECTION. **Sec. 6.** Sections 1 and 3 of this act expire April  
36 1, 2018.

1        NEW SECTION.    **Sec. 7.**    Sections 2 and 4 of this act take effect  
2    April 1, 2018.

3                    **Part Two - Less Restrictive Alternative Revocations**

4        **Sec. 8.**    RCW 71.05.590 and 2015 c 250 s 13 are each amended to  
5    read as follows:

6        (1) Either an agency or facility designated to monitor or provide  
7    services under a less restrictive alternative order or conditional  
8    release order, or a designated mental health professional, may take  
9    action to enforce, modify, or revoke a less restrictive alternative  
10   order or conditional release order ~~((if))~~. The agency, facility, or  
11   designated mental health professional ~~((determines))~~ must determine  
12   that:

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

15        (b) Substantial deterioration in the person's functioning has  
16   occurred;

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

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

21        (2) Actions taken under this section must include a flexible  
22   range of responses of varying levels of intensity appropriate to the  
23   circumstances and consistent with the interests of the individual and  
24   the public in personal autonomy, safety, recovery, and compliance.  
25   Available actions may include, but are not limited to, any of the  
26   following:

27        (a) To counsel~~((r))~~ or advise~~((, or admonish))~~ the person as to  
28   their rights and responsibilities under the court order, and to offer  
29   appropriate incentives to motivate compliance;

30        (b) To increase the intensity of outpatient services provided to  
31   the person by increasing the frequency of contacts with the provider,  
32   referring the person for an assessment for assertive community  
33   services, or by other means;

34        (c) ~~((To request a court hearing for review and modification of  
35   the court order. The request must be made to the court with  
36   jurisdiction over the order and specify the circumstances that give  
37   rise to the request and what modification is being sought. The county  
38   prosecutor shall assist the agency or facility in requesting this~~

1 ~~hearing and issuing an appropriate summons to the person. This~~  
2 ~~subsection does not limit the inherent authority of a treatment~~  
3 ~~provider to alter conditions of treatment for clinical reasons, and~~  
4 ~~is intended to be used only when court intervention is necessary or~~  
5 ~~advisable to secure the person's compliance and prevent~~  
6 ~~decompensation or deterioration;~~

7 ~~(d))~~ To cause the person to be transported by a peace officer,  
8 designated mental health professional, or other means to the agency  
9 or facility monitoring or providing services under the court order,  
10 or to a triage facility, crisis stabilization unit, emergency  
11 department, or evaluation and treatment facility for up to twelve  
12 hours for the purpose of an evaluation to determine whether  
13 modification, revocation, or commitment proceedings are necessary and  
14 appropriate to stabilize the person and prevent decompensation,  
15 deterioration, or physical harm. Temporary detention for evaluation  
16 under this subsection is intended to occur only following a pattern  
17 of noncompliance or the failure of reasonable attempts at outreach  
18 and engagement, and may occur only when in the clinical judgment of a  
19 designated mental health professional or the professional person in  
20 charge of an agency or facility designated to monitor less  
21 restrictive alternative services temporary detention is appropriate.  
22 This subsection does not limit the ability or obligation to pursue  
23 revocation or modification procedures under ~~((subsection (4) of))~~  
24 this section in appropriate circumstances; and

25 ~~((e))~~ (d) To initiate revocation or modification procedures  
26 under ~~((subsection (4) of))~~ this section. This subsection does not  
27 limit the inherent authority of a treatment provider to alter  
28 conditions of treatment for clinical reasons, and is intended to be  
29 used only when court intervention is necessary or advisable to secure  
30 the person's compliance and prevent decompensation or deterioration.

31 (3) The facility or agency designated to provide outpatient  
32 treatment shall notify the secretary or designated mental health  
33 professional when a person fails to adhere to terms and conditions of  
34 court ordered treatment or experiences substantial deterioration in  
35 his or her condition and, as a result, presents an increased  
36 likelihood of serious harm.

37 (4)(a) A designated mental health professional or the secretary  
38 may upon their own motion or notification by the facility or agency  
39 designated to provide outpatient care order a person subject to a  
40 court order under this section to be apprehended and taken into



1 custody and temporary detention in an evaluation and treatment  
2 facility in or near the county in which he or she is receiving  
3 outpatient treatment, or initiate proceedings under ~~((this))~~  
4 subsection ~~((4))~~ (5) of this section without ordering the  
5 apprehension and detention of the person.

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

14 ~~((c))~~ (5)(a) The designated mental health professional or  
15 secretary shall ~~((notify the court that originally ordered commitment~~  
16 ~~within two judicial days of a person's detention and))~~ file a  
17 petition for revocation ~~((petition))~~ or modification and an order of  
18 apprehension and detention, if applicable, with the court ~~((and))~~ of  
19 the county where the person is currently located or being detained.  
20 The designated mental health professional shall serve the person and  
21 their attorney, guardian, and conservator, if any. The person has the  
22 same rights with respect to notice, hearing, and counsel as in any  
23 involuntary treatment proceeding, except as specifically set forth in  
24 this section. There is no right to jury trial. The venue for  
25 proceedings ~~((regarding a petition for modification or revocation~~  
26 ~~must be in))~~ is the county ~~((in which))~~ where the petition ~~((was))~~ is  
27 filed. Notice of the filing must be provided to the court that  
28 originally ordered commitment, if different from the court where the  
29 petition for revocation or modification is filed, within two judicial  
30 days of the person's detention.

31 ~~((d))~~ (b) The issues for the court to determine are whether:  
32 (i) The person adhered to the terms and conditions of the court  
33 order; (ii) substantial deterioration in the person's functioning has  
34 occurred; (iii) there is evidence of substantial decompensation with  
35 a reasonable probability that the decompensation can be reversed by  
36 further inpatient treatment; or (iv) there is a likelihood of serious  
37 harm; and, if any of the above conditions apply, whether the court  
38 should reinstate or modify the person's less restrictive alternative  
39 or conditional release order or order the person's detention for  
40 inpatient treatment. The person may waive the court hearing and allow

1 the court to enter a stipulated order upon the agreement of all  
2 parties. If the court orders detention for inpatient treatment, the  
3 treatment period may be for no longer than the period authorized in  
4 the original court order.

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

11 ~~((5))~~ (6) In determining whether or not to take action under  
12 this section the designated mental health professional, agency, or  
13 facility must consider the factors specified under RCW 71.05.212 and  
14 the court must consider the factors specified under RCW 71.05.245 as  
15 they apply to the question of whether to enforce, modify, or revoke a  
16 court order for involuntary treatment.

17 **Sec. 9.** RCW 71.05.590 and 2016 sp.s. c 29 s 242 are each amended  
18 to read as follows:

19 (1) Either an agency or facility designated to monitor or provide  
20 services under a less restrictive alternative order or conditional  
21 release order, or a designated crisis responder, may take action to  
22 enforce, modify, or revoke a less restrictive alternative order or  
23 conditional release order ~~((if))~~. The agency, facility, or designated  
24 crisis responder ~~((determines))~~ must determine that:

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

27 (b) Substantial deterioration in the person's functioning has  
28 occurred;

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

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

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

1 (a) To counsel(~~(7)~~) or advise(~~(7, or admonish)~~) the person as to  
2 their rights and responsibilities under the court order, and to offer  
3 appropriate incentives to motivate compliance;

4 (b) To increase the intensity of outpatient services provided to  
5 the person by increasing the frequency of contacts with the provider,  
6 referring the person for an assessment for assertive community  
7 services, or by other means;

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

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

1        ~~((e))~~ (d) To initiate revocation or modification procedures  
2 under ~~((subsection (4) of))~~ this section. This subsection does not  
3 limit the inherent authority of a treatment provider to alter  
4 conditions of treatment for clinical reasons, and is intended to be  
5 used only when court intervention is necessary or advisable to secure  
6 the person's compliance and prevent decompensation or deterioration.

7        (3) The facility or agency designated to provide outpatient  
8 treatment shall notify the secretary or designated crisis responder  
9 when a person fails to adhere to terms and conditions of court  
10 ordered treatment or experiences substantial deterioration in his or  
11 her condition and, as a result, presents an increased likelihood of  
12 serious harm.

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

27        (b) A person detained under this subsection (4) must be held  
28 until such time, not exceeding five days, as a hearing can be  
29 scheduled to determine whether or not the person should be returned  
30 to the hospital or facility from which he or she had been released.  
31 If the person is not detained, the hearing must be scheduled within  
32 five days of service on the person. The designated crisis responder  
33 or the secretary may modify or rescind the order at any time prior to  
34 commencement of the court hearing.

35        ~~((e))~~ (5)(a) The designated crisis responder or secretary shall  
36 ~~((notify the court that originally ordered commitment within two~~  
37 ~~judicial days of a person's detention and))~~ file a petition for  
38 revocation ~~((petition))~~ or modification and an order of apprehension  
39 and detention, if applicable, with the court ~~((and))~~ of the county  
40 where the person is currently located or being detained. The

1 designated crisis responder shall serve the person and their  
2 attorney, guardian, and conservator, if any. The person has the same  
3 rights with respect to notice, hearing, and counsel as in any  
4 involuntary treatment proceeding, except as specifically set forth in  
5 this section. There is no right to jury trial. The venue for  
6 proceedings (~~(regarding a petition for modification or revocation~~  
7 ~~must be in)) is the county (~~(in which))~~ where the petition (~~(was))~~ is  
8 filed. Notice of the filing must be provided to the court that  
9 originally ordered commitment, if different from the court where the  
10 petition for revocation or modification is filed, within two judicial  
11 days of the person's detention.~~

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

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

37 (~~(5))~~) (6) In determining whether or not to take action under  
38 this section the designated crisis responder, agency, or facility  
39 must consider the factors specified under RCW 71.05.212 and the court  
40 must consider the factors specified under RCW 71.05.245 as they apply

1 to the question of whether to enforce, modify, or revoke a court  
2 order for involuntary treatment.

3 **Sec. 10.** RCW 71.05.590 and 2016 sp.s. c 29 s 243 are each  
4 amended to read as follows:

5 (1) Either an agency or facility designated to monitor or provide  
6 services under a less restrictive alternative order or conditional  
7 release order, or a designated crisis responder, may take action to  
8 enforce, modify, or revoke a less restrictive alternative order or  
9 conditional release order ~~((if))~~. The agency, facility, or designated  
10 crisis responder ~~((determines))~~ must determine that:

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

13 (b) Substantial deterioration in the person's functioning has  
14 occurred;

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

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

19 (2) Actions taken under this section must include a flexible  
20 range of responses of varying levels of intensity appropriate to the  
21 circumstances and consistent with the interests of the individual and  
22 the public in personal autonomy, safety, recovery, and compliance.  
23 Available actions may include, but are not limited to, any of the  
24 following:

25 (a) To counsel~~((r))~~ or advise~~((, or admonish))~~ the person as to  
26 their rights and responsibilities under the court order, and to offer  
27 appropriate incentives to motivate compliance;

28 (b) To increase the intensity of outpatient services provided to  
29 the person by increasing the frequency of contacts with the provider,  
30 referring the person for an assessment for assertive community  
31 services, or by other means;

32 ~~((To request a court hearing for review and modification of  
33 the court order. The request must be made to the court with  
34 jurisdiction over the order and specify the circumstances that give  
35 rise to the request and what modification is being sought. The county  
36 prosecutor shall assist the agency or facility in requesting this  
37 hearing and issuing an appropriate summons to the person. This  
38 subsection does not limit the inherent authority of a treatment  
39 provider to alter conditions of treatment for clinical reasons, and~~

1 ~~is intended to be used only when court intervention is necessary or~~  
2 ~~advisable to secure the person's compliance and prevent~~  
3 ~~decompensation or deterioration;~~

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

25 ~~((e))~~ (d) To initiate revocation or modification procedures  
26 under ~~((subsection (4) of))~~ this section. This subsection does not  
27 limit the inherent authority of a treatment provider to alter  
28 conditions of treatment for clinical reasons, and is intended to be  
29 used only when court intervention is necessary or advisable to secure  
30 the person's compliance and prevent decompensation or deterioration.

31 (3) The facility or agency designated to provide outpatient  
32 treatment shall notify the secretary or designated crisis responder  
33 when a person fails to adhere to terms and conditions of court  
34 ordered treatment or experiences substantial deterioration in his or  
35 her condition and, as a result, presents an increased likelihood of  
36 serious harm.

37 (4)(a) A designated crisis responder or the secretary may upon  
38 their own motion or notification by the facility or agency designated  
39 to provide outpatient care order a person subject to a court order  
40 under this chapter to be apprehended and taken into custody and

1 temporary detention in an evaluation and treatment facility in or  
2 near the county in which he or she is receiving outpatient treatment  
3 if the person is committed for mental health treatment, or, if the  
4 person is committed for substance use disorder treatment, in a secure  
5 detoxification facility or approved substance use disorder treatment  
6 program if either is available in or near the county in which he or  
7 she is receiving outpatient treatment. Proceedings under ~~((this))~~  
8 subsection ~~((4))~~ (5) of this section may be initiated without  
9 ordering the apprehension and detention of the person.

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

18 ~~((c))~~ (5)(a) The designated crisis responder or secretary shall  
19 ~~((notify the court that originally ordered commitment within two~~  
20 ~~judicial days of a person's detention and))~~ file a petition for  
21 revocation ~~((petition))~~ or modification and an order of apprehension  
22 and detention, if applicable, with the court ~~((and))~~ of the county  
23 where the person is currently located or being detained. The  
24 designated crisis responder shall serve the person and their  
25 attorney, guardian, and conservator, if any. The person has the same  
26 rights with respect to notice, hearing, and counsel as in any  
27 involuntary treatment proceeding, except as specifically set forth in  
28 this section. There is no right to jury trial. The venue for  
29 proceedings ~~((regarding a petition for modification or revocation~~  
30 ~~must be in))~~ is the county ~~((in which))~~ where the petition ~~((was))~~ is  
31 filed. Notice of the filing must be provided to the court that  
32 originally ordered commitment, if different from the court where the  
33 petition for revocation or modification is filed, within two judicial  
34 days of the person's detention.

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



1 harm; and, if any of the above conditions apply, whether the court  
2 should reinstate or modify the person's less restrictive alternative  
3 or conditional release order or order the person's detention for  
4 inpatient treatment. The person may waive the court hearing and allow  
5 the court to enter a stipulated order upon the agreement of all  
6 parties. If the court orders detention for inpatient treatment, the  
7 treatment period may be for no longer than the period authorized in  
8 the original court order.

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

15 ~~((5))~~ (6) In determining whether or not to take action under  
16 this section the designated crisis responder, agency, or facility  
17 must consider the factors specified under RCW 71.05.212 and the court  
18 must consider the factors specified under RCW 71.05.245 as they apply  
19 to the question of whether to enforce, modify, or revoke a court  
20 order for involuntary treatment.

### 21 **Part Three - Initial Detention Investigations**

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

24 ~~((A))~~ (1) If a person subject to evaluation under RCW 71.05.150  
25 or 71.05.153 is located in an emergency room at the time of  
26 evaluation, the designated mental health professional conducting  
27 ~~((an))~~ the evaluation ~~((of a person under RCW 71.05.150 or 71.05.153~~  
28 ~~must consult with any examining emergency room physician regarding~~  
29 ~~the physician's observations and opinions relating to the person's~~  
30 ~~condition, and whether, in the view of the physician, detention is~~  
31 ~~appropriate. The designated mental health professional))~~ shall take  
32 serious consideration of observations and opinions by an examining  
33 emergency room physician~~((s))~~, advanced registered nurse  
34 practitioner, or physician assistant in determining whether detention  
35 under this chapter is appropriate. The designated mental health  
36 professional must document ~~((the))~~ his or her consultation with ~~((an~~  
37 ~~examining emergency room physician))~~ this professional, ~~((including))~~  
38 if the professional is available, or his or her review of the

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

3 (2) This section does not create an exception to the general rule  
4 under RCW 71.05.010, which creates a presumption that courts should  
5 decide petitions under this chapter on their merits in light of the  
6 state's parens patriae or police power interest in protecting the  
7 safety of individuals and the public.

8 **Sec. 12.** RCW 71.05.154 and 2016 sp.s. c 29 s 214 are each  
9 amended to read as follows:

10 ((A)) (1) If a person subject to evaluation under RCW 71.05.150  
11 or 71.05.153 is located in an emergency room at the time of  
12 evaluation, the designated crisis responder conducting ((an)) the  
13 evaluation ((of a person under RCW 71.05.150 or 71.05.153 must  
14 consult with any examining emergency room physician regarding the  
15 physician's observations and opinions relating to the person's  
16 condition, and whether, in the view of the physician, detention is  
17 appropriate. The designated crisis responder)) shall take serious  
18 consideration of observations and opinions by an examining emergency  
19 room physician((s)), advanced registered nurse practitioner, or  
20 physician assistant in determining whether detention under this  
21 chapter is appropriate. The designated crisis responder must document  
22 ((the)) his or her consultation with ((an examining emergency room  
23 physician)) this professional, ((including)) if the professional is  
24 available, or his or her review of the ((physician's)) professional's  
25 written observations or opinions regarding whether detention of the  
26 person is appropriate.

27 (2) This section does not create an exception to the general rule  
28 under RCW 71.05.010, which creates a presumption that courts should  
29 decide petitions under this chapter on their merits in light of the  
30 state's parens patriae or police power interest in protecting the  
31 safety of individuals and the public.

32 **Part Four - Evaluation and Petition by Chemical**  
33 **Dependency Professionals**

34 **Sec. 13.** RCW 70.96A.140 and 2016 sp.s. c 29 s 102 are each  
35 amended to read as follows:

36 (1)(a) When a designated chemical dependency specialist receives  
37 information alleging that a person presents a likelihood of serious

1 harm or is gravely disabled as a result of (~~chemical dependency~~) a  
2 substance use disorder, the designated chemical dependency  
3 specialist, after investigation and evaluation of the specific facts  
4 alleged and of the reliability and credibility of the information,  
5 may file a petition for commitment of such person with the superior  
6 court, district court, or in another court permitted by court rule.

7 If a petition for commitment is not filed in the case of a minor,  
8 the parent, guardian, or custodian who has custody of the minor may  
9 seek review of that decision made by the designated chemical  
10 dependency specialist in superior or district court. The parent,  
11 guardian, or custodian shall file notice with the court and provide a  
12 copy of the designated chemical dependency specialist's report.

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

18 (b) If placement in a (~~chemical dependency~~) substance use  
19 disorder treatment program is available and deemed appropriate, the  
20 petition shall allege that: The person is chemically dependent and  
21 presents a likelihood of serious harm or is gravely disabled by  
22 alcohol or drug addiction, or that the person has twice before in the  
23 preceding twelve months been admitted for withdrawal management,  
24 sobering services, or (~~chemical dependency~~) substance use disorder  
25 treatment pursuant to RCW 70.96A.110 or 70.96A.120, and is in need of  
26 a more sustained treatment program, or that the person (~~is~~  
27 ~~chemically dependent~~) has a substance use disorder and has  
28 threatened, attempted, or inflicted physical harm on another and is  
29 likely to inflict physical harm on another unless committed. A  
30 refusal to undergo treatment, by itself, does not constitute evidence  
31 of lack of judgment as to the need for treatment.

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

1 finding of the grounds for commitment identified in (b) of this  
2 subsection and set forth the proposed less restrictive alternative.

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

4 (A) ~~((Two physicians;))~~ One physician, physician assistant, or  
5 psychiatric advanced registered nurse practitioner; and

6 (B) ~~((One physician and a mental health professional;~~

7 ~~(C) One physician assistant and a mental health professional; or~~

8 ~~(D) One psychiatric advanced registered nurse practitioner and a~~  
9 ~~mental health professional.~~

10 ~~(ii) The persons signing the petition must have examined the~~  
11 ~~person))~~ One physician, physician assistant, psychiatric advanced  
12 registered nurse practitioner, or designated chemical dependency  
13 specialist.

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

33 (3) At the hearing the court shall hear all relevant testimony  
34 including, if possible, the testimony, which may be telephonic, of at  
35 least one licensed physician, psychiatric advanced registered nurse  
36 practitioner, physician assistant, or ~~((mental health professional))~~  
37 designated chemical dependency specialist who has examined the person  
38 whose commitment is sought. Communications otherwise deemed  
39 privileged under the laws of this state are deemed to be waived in  
40 proceedings under this chapter when a court of competent jurisdiction

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

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

32 (4)(a) If, after hearing all relevant evidence, including the  
33 results of any diagnostic examination, the court finds that grounds  
34 for involuntary commitment have been established by a preponderance  
35 of the evidence and, after considering less restrictive alternatives  
36 to involuntary detention and treatment, finds that no such  
37 alternatives are in the best interest of the person or others, it  
38 shall make an order of commitment to an approved substance use  
39 disorder treatment program. It shall not order commitment of a person  
40 unless it determines that an approved substance use disorder

1 treatment program is available and able to provide adequate and  
2 appropriate treatment for him or her.

3 (b) If the court finds that the grounds for commitment have been  
4 established by a preponderance of the evidence, but that treatment in  
5 a less restrictive setting than detention is in the best interest of  
6 such person or others, the court shall order an appropriate less  
7 restrictive course of treatment. The less restrictive order may  
8 impose treatment conditions and other conditions that are in the best  
9 interest of the respondent and others. A copy of the less restrictive  
10 order must be given to the respondent, the designated chemical  
11 dependency specialist, and any program designated to provide less  
12 restrictive treatment. If the program designated to provide the less  
13 restrictive treatment is other than the program providing the initial  
14 involuntary treatment, the program so designated must agree in  
15 writing to assume such responsibility. The court may not order  
16 commitment of a person to a less restrictive course of treatment  
17 unless it determines that an approved substance use disorder  
18 treatment program is available and able to provide adequate and  
19 appropriate treatment for him or her.

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

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

1 parent, guardian, or custodian shall file notice with the court and  
2 provide a copy of the treatment progress report.

3 If a person has been committed because he or she (~~is chemically~~  
4 ~~dependent~~) has a substance use disorder and is likely to inflict  
5 physical harm on another, the program or designated chemical  
6 dependency specialist shall apply for recommitment if after  
7 examination it is determined that the likelihood still exists.

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

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

30 (8) A person committed to a program for treatment shall be  
31 discharged at any time before the end of the period for which he or  
32 she has been committed and he or she shall be discharged by order of  
33 the court if either of the following conditions are met:

34 (a) In case of a (~~chemically dependent~~) person with a substance  
35 use disorder committed on the grounds of likelihood of infliction of  
36 physical harm upon himself, herself, or another, the likelihood no  
37 longer exists; or further treatment will not be likely to bring about  
38 significant improvement in the person's condition, or treatment is no  
39 longer adequate or appropriate.

1 (b) In case of a (~~chemically dependent~~) person with a substance  
2 use disorder committed on the grounds of the need of treatment and  
3 incapacity, that the incapacity no longer exists.

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

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

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

31 (12) When in the opinion of the professional person in charge of  
32 the program providing involuntary inpatient treatment under this  
33 chapter, the committed patient can be appropriately served by less  
34 restrictive treatment before expiration of the period of commitment,  
35 then the less restrictive care may be required as a condition for  
36 early release for a period which, when added to the initial treatment  
37 period, does not exceed the period of commitment. If the program  
38 designated to provide the less restrictive treatment is other than  
39 the program providing the initial involuntary treatment, the program  
40 so designated must agree in writing to assume such responsibility. A



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

35 **Sec. 14.** RCW 71.05.020 and 2016 sp.s. c 29 s 204 and 2016 c 155  
36 s 1 are each reenacted and amended to read as follows:

37 The definitions in this section apply throughout this chapter  
38 unless the context clearly requires otherwise.

1 (1) "Admission" or "admit" means a decision by a physician,  
2 physician assistant, or psychiatric advanced registered nurse  
3 practitioner that a person should be examined or treated as a patient  
4 in a hospital;

5 (2) "Alcoholism" means a disease, characterized by a dependency  
6 on alcoholic beverages, loss of control over the amount and  
7 circumstances of use, symptoms of tolerance, physiological or  
8 psychological withdrawal, or both, if use is reduced or discontinued,  
9 and impairment of health or disruption of social or economic  
10 functioning;

11 (3) "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 (4) "Approved substance use disorder treatment program" means a  
16 program for persons with a substance use disorder provided by a  
17 treatment program certified by the department as meeting standards  
18 adopted under chapter 71.24 RCW;

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

22 (6) "Chemical dependency" means:

23 (a) Alcoholism;

24 (b) Drug addiction; or

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

27 (7) "Chemical dependency professional" means a person certified  
28 as a chemical dependency professional by the department of health  
29 under chapter 18.205 RCW;

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

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

35 (10) "Crisis stabilization unit" means a short-term facility or a  
36 portion of a facility licensed by the department of health and  
37 certified by the department of social and health services under RCW  
38 71.24.035, such as an evaluation and treatment facility or a  
39 hospital, which has been designed to assess, diagnose, and treat

1 individuals experiencing an acute crisis without the use of long-term  
2 hospitalization;

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

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

9 (13) "Designated crisis responder" means a mental health  
10 professional appointed by the behavioral health organization to  
11 perform the duties specified in this chapter;

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

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

22 (16) "Developmental disability" means that condition defined in  
23 RCW 71A.10.020(5);

24 (17) "Discharge" means the termination of hospital medical  
25 authority. The commitment may remain in place, be terminated, or be  
26 amended by court order;

27 (18) "Drug addiction" means a disease, characterized by a  
28 dependency on psychoactive chemicals, loss of control over the amount  
29 and circumstances of use, symptoms of tolerance, physiological or  
30 psychological withdrawal, or both, if use is reduced or discontinued,  
31 and impairment of health or disruption of social or economic  
32 functioning;

33 (19) "Evaluation and treatment facility" means any facility which  
34 can provide directly, or by direct arrangement with other public or  
35 private agencies, emergency evaluation and treatment, outpatient  
36 care, and timely and appropriate inpatient care to persons suffering  
37 from a mental disorder, and which is certified as such by the  
38 department. The department may certify single beds as temporary  
39 evaluation and treatment beds under RCW 71.05.745. A physically  
40 separate and separately operated portion of a state hospital may be

1 designated as an evaluation and treatment facility. A facility which  
2 is part of, or operated by, the department or any federal agency will  
3 not require certification. No correctional institution or facility,  
4 or jail, shall be an evaluation and treatment facility within the  
5 meaning of this chapter;

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

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

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

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

31 (24) "Individualized service plan" means a plan prepared by a  
32 developmental disabilities professional with other professionals as a  
33 team, for a person with developmental disabilities, which shall  
34 state:

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

37 (b) The conditions and strategies necessary to achieve the  
38 purposes of habilitation;

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

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

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

4 (f) Where relevant in light of past criminal behavior and due  
5 consideration for public safety, the criteria for proposed movement  
6 to less-restrictive settings, criteria for proposed eventual  
7 discharge or release, and a projected possible date for discharge or  
8 release; and

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

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

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

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

1 (28) "Judicial commitment" means a commitment by a court pursuant  
2 to the provisions of this chapter;

3 (29) "Legal counsel" means attorneys and staff employed by county  
4 prosecutor offices or the state attorney general acting in their  
5 capacity as legal representatives of public mental health and  
6 substance use disorder service providers under RCW 71.05.130;

7 (30) "Less restrictive alternative treatment" means a program of  
8 individualized treatment in a less restrictive setting than inpatient  
9 treatment that includes the services described in RCW 71.05.585;

10 (31) "Licensed physician" means a person licensed to practice  
11 medicine or osteopathic medicine and surgery in the state of  
12 Washington;

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

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

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

25 (33) "Medical clearance" means a physician or other health care  
26 provider has determined that a person is medically stable and ready  
27 for referral to the designated crisis responder;

28 (34) "Mental disorder" means any organic, mental, or emotional  
29 impairment which has substantial adverse effects on a person's  
30 cognitive or volitional functions;

31 (35) "Mental health professional" means a psychiatrist,  
32 psychologist, physician assistant working with a supervising  
33 psychiatrist, psychiatric advanced registered nurse practitioner,  
34 psychiatric nurse, or social worker, and such other mental health  
35 professionals as may be defined by rules adopted by the secretary  
36 pursuant to the provisions of this chapter;

37 (36) "Mental health service provider" means a public or private  
38 agency that provides mental health services to persons with mental  
39 disorders or substance use disorders as defined under this section  
40 and receives funding from public sources. This includes, but is not

1 limited to, hospitals licensed under chapter 70.41 RCW, evaluation  
2 and treatment facilities as defined in this section, community mental  
3 health service delivery systems or behavioral health programs as  
4 defined in RCW 71.24.025, facilities conducting competency  
5 evaluations and restoration under chapter 10.77 RCW, approved  
6 substance use disorder treatment programs as defined in this section,  
7 secure detoxification facilities as defined in this section, and  
8 correctional facilities operated by state and local governments;

9 (37) "Peace officer" means a law enforcement official of a public  
10 agency or governmental unit, and includes persons specifically given  
11 peace officer powers by any state law, local ordinance, or judicial  
12 order of appointment;

13 (38) "Physician assistant" means a person licensed as a physician  
14 assistant under chapter 18.57A or 18.71A RCW;

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

23 (40) "Professional person" means a mental health professional,  
24 chemical dependency professional, or designated crisis responder and  
25 shall also mean a physician, physician assistant, psychiatric  
26 advanced registered nurse practitioner, registered nurse, and such  
27 others as may be defined by rules adopted by the secretary pursuant  
28 to the provisions of this chapter;

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

33 (42) "Psychiatrist" means a person having a license as a  
34 physician and surgeon in this state who has in addition completed  
35 three years of graduate training in psychiatry in a program approved  
36 by the American medical association or the American osteopathic  
37 association and is certified or eligible to be certified by the  
38 American board of psychiatry and neurology;

39 (43) "Psychologist" means a person who has been licensed as a  
40 psychologist pursuant to chapter 18.83 RCW;

1 (44) "Public agency" means any evaluation and treatment facility  
2 or institution, secure detoxification facility, approved substance  
3 use disorder treatment program, or hospital which is conducted for,  
4 or includes a department or ward conducted for, the care and  
5 treatment of persons with mental illness, substance use disorders, or  
6 both mental illness and substance use disorders, if the agency is  
7 operated directly by federal, state, county, or municipal government,  
8 or a combination of such governments;

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

15 (46) "Release" means legal termination of the commitment under  
16 the provisions of this chapter;

17 (47) "Resource management services" has the meaning given in  
18 chapter 71.24 RCW;

19 (48) "Secretary" means the secretary of the department of social  
20 and health services, or his or her designee;

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

24 (a) Provides for intoxicated persons:

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

27 (ii) Acute or subacute detoxification services; and

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

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

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

35 (50) "Serious violent offense" has the same meaning as provided  
36 in RCW 9.94A.030;

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



1 (52) "Substance use disorder" means a cluster of cognitive,  
2 behavioral, and physiological symptoms indicating that an individual  
3 continues using the substance despite significant substance-related  
4 problems. The diagnosis of a substance use disorder is based on a  
5 pathological pattern of behaviors related to the use of the  
6 substances;

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

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

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

33 (56) "Violent act" means behavior that resulted in homicide,  
34 attempted suicide, nonfatal injuries, or substantial damage to  
35 property.

36 **Sec. 15.** RCW 71.05.210 and 2016 sp.s. c 29 s 224 and 2016 c 155  
37 s 2 are each reenacted and amended to read as follows:

1 (1) Each person involuntarily detained and accepted or admitted  
2 at an evaluation and treatment facility, secure detoxification  
3 facility, or approved substance use disorder treatment program:

4 (a) Shall, within twenty-four hours of his or her admission or  
5 acceptance at the facility, not counting time periods prior to  
6 medical clearance, be examined and evaluated by:

7 (i) One physician (~~(and a mental health professional)~~), physician  
8 assistant, or psychiatric advanced registered nurse practitioner; and

9 (ii) One (~~(physician assistant and a)~~) mental health  
10 professional(~~(; or~~

11 ~~(iii) One advanced registered nurse practitioner and a mental~~  
12 ~~health)~~). If the person is detained for substance use disorder  
13 evaluation and treatment, the person may be examined by a chemical  
14 dependency professional instead of a mental health professional; and

15 (b) Shall receive such treatment and care as his or her condition  
16 requires including treatment on an outpatient basis for the period  
17 that he or she is detained, except that, beginning twenty-four hours  
18 prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240,  
19 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may  
20 refuse psychiatric medications, but may not refuse: (i) Any other  
21 medication previously prescribed by a person licensed under Title 18  
22 RCW; or (ii) emergency lifesaving treatment, and the individual shall  
23 be informed at an appropriate time of his or her right of such  
24 refusal. The person shall be detained up to seventy-two hours, if, in  
25 the opinion of the professional person in charge of the facility, or  
26 his or her professional designee, the person presents a likelihood of  
27 serious harm, or is gravely disabled. A person who has been detained  
28 for seventy-two hours shall no later than the end of such period be  
29 released, unless referred for further care on a voluntary basis, or  
30 detained pursuant to court order for further treatment as provided in  
31 this chapter.

32 (2) If, after examination and evaluation, the mental health  
33 professional or chemical dependency professional and licensed  
34 physician, physician assistant, or psychiatric advanced registered  
35 nurse practitioner determine that the initial needs of the person, if  
36 detained to an evaluation and treatment facility, would be better  
37 served by placement in a substance use disorder treatment  
38 (~~(facility)~~) program, or, if detained to a secure detoxification  
39 facility or approved substance use disorder treatment program, would  
40 be better served in an evaluation and treatment facility than the

1 person shall be referred to the more appropriate placement; however,  
2 a person may only be referred to a secure detoxification facility or  
3 approved substance use disorder treatment program if there is an  
4 available secure detoxification facility or approved substance use  
5 disorder treatment program with adequate space for the person.

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

16 **Sec. 16.** RCW 71.05.210 and 2016 sp.s. c 29 s 225 are each  
17 amended to read as follows:

18 (1) Each person involuntarily detained and accepted or admitted  
19 at an evaluation and treatment facility, secure detoxification  
20 facility, or approved substance use disorder treatment program:

21 (a) Shall, within twenty-four hours of his or her admission or  
22 acceptance at the facility, not counting time periods prior to  
23 medical clearance, be examined and evaluated by:

24 (i) One physician (~~(and a mental health professional)~~), physician  
25 assistant, or psychiatric advanced registered nurse practitioner; and

26 (ii) One (~~(physician assistant and a)~~) mental health  
27 professional(~~(; or~~

28 ~~(iii) One advanced registered nurse practitioner and a mental~~  
29 ~~health)). If the person is detained for substance use disorder  
30 evaluation and treatment, the person may be examined by a chemical  
31 dependency professional instead of a mental health professional; and~~

32 (b) Shall receive such treatment and care as his or her condition  
33 requires including treatment on an outpatient basis for the period  
34 that he or she is detained, except that, beginning twenty-four hours  
35 prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240,  
36 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may  
37 refuse psychiatric medications, but may not refuse: (i) Any other  
38 medication previously prescribed by a person licensed under Title 18  
39 RCW; or (ii) emergency lifesaving treatment, and the individual shall

1 be informed at an appropriate time of his or her right of such  
2 refusal. The person shall be detained up to seventy-two hours, if, in  
3 the opinion of the professional person in charge of the facility, or  
4 his or her professional designee, the person presents a likelihood of  
5 serious harm, or is gravely disabled. A person who has been detained  
6 for seventy-two hours shall no later than the end of such period be  
7 released, unless referred for further care on a voluntary basis, or  
8 detained pursuant to court order for further treatment as provided in  
9 this chapter.

10 (2) If, after examination and evaluation, the mental health  
11 professional or chemical dependency professional and licensed  
12 physician, physician assistant, or psychiatric advanced registered  
13 nurse practitioner determine that the initial needs of the person, if  
14 detained to an evaluation and treatment facility, would be better  
15 served by placement in a substance use disorder treatment  
16 ((~~facility~~)) program, or, if detained to a secure detoxification  
17 facility or approved substance use disorder treatment program, would  
18 be better served in an evaluation and treatment facility than the  
19 person shall be referred to the more appropriate placement.

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

30 **Sec. 17.** RCW 71.05.230 and 2016 sp.s. c 29 s 230, 2016 c 155 s  
31 5, and 2016 c 45 s 1 are each reenacted and amended to read as  
32 follows:

33 A person detained or committed for seventy-two hour evaluation  
34 and treatment or for an outpatient evaluation for the purpose of  
35 filing a petition for a less restrictive alternative treatment order  
36 may be committed for not more than fourteen additional days of  
37 involuntary intensive treatment or ninety additional days of a less  
38 restrictive alternative to involuntary intensive treatment. A  
39 petition may only be filed if the following conditions are met:

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

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

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

14 (4) The professional staff of the agency or facility or the  
15 designated crisis responder has filed a petition with the court for a  
16 fourteen day involuntary detention or a ninety day less restrictive  
17 alternative. The petition must be signed (~~either~~) by:

18 (a) (~~Two physicians~~) One physician, physician assistant, or  
19 psychiatric advanced registered nurse practitioner; and

20 (b) One physician (~~and a~~), physician assistant, psychiatric  
21 advanced registered nurse practitioner, or mental health  
22 professional(

23 ~~(c) One physician assistant and a mental health professional; or~~

24 ~~(d) One psychiatric advanced registered nurse practitioner and a~~  
25 ~~mental health professional)). If the petition is for substance use  
26 disorder treatment, the petition may be signed by a chemical  
27 dependency professional instead of a mental health professional. The~~

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

1 assisted outpatient mental health treatment, and shall set forth any  
2 recommendations for less restrictive alternative treatment services;  
3 and

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

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

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

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

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

23 **Sec. 18.** RCW 71.05.290 and 2016 sp.s. c 29 s 235, 2016 c 155 s  
24 6, and 2016 c 45 s 3 are each reenacted and amended to read as  
25 follows:

26 (1) At any time during a person's fourteen day intensive  
27 treatment period, the professional person in charge of a treatment  
28 facility or his or her professional designee or the designated crisis  
29 responder may petition the superior court for an order requiring such  
30 person to undergo an additional period of treatment. Such petition  
31 must be based on one or more of the grounds set forth in RCW  
32 71.05.280.

33 (2) The petition shall summarize the facts which support the need  
34 for further commitment and shall be supported by affidavits based on  
35 an examination of the patient and signed by:

36 (a) (~~Two physicians~~) One physician, physician assistant, or  
37 psychiatric advanced registered nurse practitioner; and

1 (b) One physician (~~and a~~), physician assistant, psychiatric  
2 advanced registered nurse practitioner, or mental health  
3 professional(~~+~~

4 ~~(c) One physician assistant and a mental health professional; or~~

5 ~~(d) One psychiatric advanced registered nurse practitioner and a~~  
6 ~~mental health professional)).~~ If the petition is for substance use

7 disorder treatment, the petition may be signed by a chemical  
8 dependency professional instead of a mental health professional. The

9 affidavits shall describe in detail the behavior of the detained  
10 person which supports the petition and shall explain what, if any,

11 less restrictive treatments which are alternatives to detention are  
12 available to such person, and shall state the willingness of the

13 affiant to testify to such facts in subsequent judicial proceedings  
14 under this chapter. If less restrictive alternative treatment is

15 sought, the petition shall set forth any recommendations for less  
16 restrictive alternative treatment services.

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

19 treatment facility or his or her professional designee or the  
20 designated crisis responder may directly file a petition for one

21 hundred eighty day treatment under RCW 71.05.280(3). No petition for  
22 initial detention or fourteen day detention is required before such a

23 petition may be filed.

24 **Sec. 19.** RCW 71.05.760 and 2016 sp.s. c 29 s 201 are each  
25 amended to read as follows:

26 (1)(a) By April 1, 2018, the department, by rule, must combine  
27 the functions of a designated mental health professional and

28 designated chemical dependency specialist by establishing a  
29 designated crisis responder who is authorized to conduct

30 investigations, detain persons up to seventy-two hours to the proper  
31 facility, and carry out the other functions identified in this

32 chapter and chapter 71.34 RCW. The behavioral health organizations  
33 shall provide training to the designated crisis responders as

34 required by the department.

35 (b)(i) To qualify as a designated crisis responder, a person must  
36 have received chemical dependency training as determined by the

37 department and be a:

1 (A) Psychiatrist, psychologist, physician assistant working with  
2 a supervising psychiatrist, psychiatric advanced registered nurse  
3 practitioner, or social worker;

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

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

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

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

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

22 (c) The department must develop a transition process for any  
23 person who has been designated as a designated mental health  
24 professional or a designated chemical dependency specialist before  
25 April 1, 2018, to be converted to a designated crisis responder. The  
26 behavioral health organizations shall provide training, as required  
27 by the department, to persons converting to designated crisis  
28 responders, which must include both mental health and chemical  
29 dependency training applicable to the designated crisis responder  
30 role.

31 (2)(a) The department must ensure that at least one sixteen-bed  
32 secure detoxification facility is operational by April 1, 2018, and  
33 that at least two sixteen-bed secure detoxification facilities are  
34 operational by April 1, 2019. In addition, the department shall  
35 ensure that an additional sixteen-bed secure detoxification facility  
36 is operational by April 1st of each year beginning in 2020 until  
37 there is adequate capacity to meet the involuntary treatment  
38 requirements for substance use disorder clients.

39 (b) If, at any time during the implementation of secure  
40 detoxification facility capacity, federal funding becomes unavailable



1 for federal match for services provided in secure detoxification  
2 facilities, then the department must cease any expansion of secure  
3 detoxification facilities until further direction is provided by the  
4 legislature.

5 **Part Five - Technical**

6 NEW SECTION. **Sec. 20.** Section 13 of this act is necessary for  
7 the immediate preservation of the public peace, health, or safety, or  
8 support of the state government and its existing public institutions,  
9 and takes effect immediately.

10 NEW SECTION. **Sec. 21.** Sections 8, 11, and 13 of this act expire  
11 April 1, 2018.

12 NEW SECTION. **Sec. 22.** Sections 9, 12, 14, 15, and 17 through 19  
13 of this act take effect April 1, 2018.

14 NEW SECTION. **Sec. 23.** Sections 9 and 15 of this act expire July  
15 1, 2026.

16 NEW SECTION. **Sec. 24.** Sections 10 and 16 of this act take  
17 effect July 1, 2026."

18 Correct the title.

EFFECT: Changes the procedures for revocation or modification of LRA orders by eliminating the provision allowing a treatment facility or agency to directly file a court petition, with the assistance of the prosecuting attorney, for review and modification of a less restrictive alternative order. A facility or agency may instead request the designated mental health professional or Department of Social and Health Services to bring a modification action.

Under the chemical dependency commitment laws in effect until April 1, 2018, replaces chemical dependency professionals with designated chemical dependency specialists in the list of professionals that may examine a person and sign a commitment petition for a person who is in need of substance use disorder treatment.

Removes provisions that replace "psychiatric advanced registered nurse practitioner" with "advanced registered nurse practitioner" in the list of professionals who may examine and sign commitment petitions for persons who may be in need of involuntary treatment.

Clarifies that a chemical dependency professional may evaluate a person and sign a commitment petition only in the case of a person who is being evaluated or detained for substance use disorder treatment.

Amends the statute governing petitions for 90-day involuntary treatment commitments to be consistent with changes made to the statutes governing petitions for 14-day commitments.

Adds physician assistants working with a supervising psychiatrist to a section designating the mental health professionals that may qualify as designated crisis responders for the purposes of the involuntary mental health and substance use disorder treatment systems.

Requires the Department of Social and Health Services to ensure that an additional secure detoxification facility is operational by April 1st of each year beginning in 2020 until there is adequate capacity to meet the involuntary treatment requirements for substance use disorder clients.

--- END ---