

ESSB 6491 - H COMM AMD  
By Committee on Judiciary

ADOPTED 03/01/2018

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

3 "Sec. 1. RCW 71.05.020 and 2017 3rd sp.s. c 14 s 14 are each  
4 amended to read as follows:

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

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

11 (2) "Alcoholism" means a disease, characterized by a dependency  
12 on alcoholic beverages, loss of control over the amount and  
13 circumstances of use, symptoms of tolerance, physiological or  
14 psychological withdrawal, or both, if use is reduced or discontinued,  
15 and impairment of health or disruption of social or economic  
16 functioning;

17 (3) "Antipsychotic medications" means that class of drugs  
18 primarily used to treat serious manifestations of mental illness  
19 associated with thought disorders, which includes, but is not limited  
20 to atypical antipsychotic medications;

21 (4) "Approved substance use disorder treatment program" means a  
22 program for persons with a substance use disorder provided by a  
23 treatment program certified by the department as meeting standards  
24 adopted under chapter 71.24 RCW;

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

28 (6) "Chemical dependency" means:

29 (a) Alcoholism;

30 (b) Drug addiction; or

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

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

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

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

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

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

22 (12) "Department" means the department of social and health  
23 services;

24 (13) "Designated crisis responder" means a mental health  
25 professional appointed by the county, an entity appointed by the  
26 county, or the behavioral health organization to perform the duties  
27 specified in this chapter;

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

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

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

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

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

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

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

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

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

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

9 (24) "Individualized service plan" means a plan prepared by a  
10 developmental disabilities professional with other professionals as a  
11 team, for a person with developmental disabilities, which shall  
12 state:

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

15 (b) The conditions and strategies necessary to achieve the  
16 purposes of habilitation;

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

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

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

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

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

29 (25) "Information related to mental health services" means all  
30 information and records compiled, obtained, or maintained in the  
31 course of providing services to either voluntary or involuntary  
32 recipients of services by a mental health service provider. This may  
33 include documents of legal proceedings under this chapter or chapter  
34 71.34 or 10.77 RCW, or somatic health care information;

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

38 (27) "In need of assisted outpatient (~~mental~~) behavioral health  
39 treatment" means that a person, as a result of a mental disorder or  
40 substance use disorder: (a) (~~Has been committed by a court to~~

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

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

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

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

33 (31) "Licensed physician" means a person licensed to practice  
34 medicine or osteopathic medicine and surgery in the state of  
35 Washington;

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

37 (a) A substantial risk that: (i) Physical harm will be inflicted  
38 by a person upon his or her own person, as evidenced by threats or  
39 attempts to commit suicide or inflict physical harm on oneself; (ii)  
40 physical harm will be inflicted by a person upon another, as

1 evidenced by behavior which has caused such harm or which places  
2 another person or persons in reasonable fear of sustaining such harm;  
3 or (iii) physical harm will be inflicted by a person upon the  
4 property of others, as evidenced by behavior which has caused  
5 substantial loss or damage to the property of others; or

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

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

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

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

20 (36) "Mental health service provider" means a public or private  
21 agency that provides mental health services to persons with mental  
22 disorders or substance use disorders as defined under this section  
23 and receives funding from public sources. This includes, but is not  
24 limited to, hospitals licensed under chapter 70.41 RCW, evaluation  
25 and treatment facilities as defined in this section, community mental  
26 health service delivery systems or behavioral health programs as  
27 defined in RCW 71.24.025, facilities conducting competency  
28 evaluations and restoration under chapter 10.77 RCW, approved  
29 substance use disorder treatment programs as defined in this section,  
30 secure detoxification facilities as defined in this section, and  
31 correctional facilities operated by state and local governments;

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

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

38 (39) "Private agency" means any person, partnership, corporation,  
39 or association that is not a public agency, whether or not financed  
40 in whole or in part by public funds, which constitutes an evaluation

1 and treatment facility or private institution, or hospital, or  
2 approved substance use disorder treatment program, which is conducted  
3 for, or includes a department or ward conducted for, the care and  
4 treatment of persons with mental illness, substance use disorders, or  
5 both mental illness and substance use disorders;

6 (40) "Professional person" means a mental health professional,  
7 chemical dependency professional, or designated crisis responder and  
8 shall also mean a physician, physician assistant, psychiatric  
9 advanced registered nurse practitioner, registered nurse, and such  
10 others as may be defined by rules adopted by the secretary pursuant  
11 to the provisions of this chapter;

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

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

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

24 (44) "Public agency" means any evaluation and treatment facility  
25 or institution, secure detoxification facility, approved substance  
26 use disorder treatment program, or hospital which is conducted for,  
27 or includes a department or ward conducted for, the care and  
28 treatment of persons with mental illness, substance use disorders, or  
29 both mental illness and substance use disorders, if the agency is  
30 operated directly by federal, state, county, or municipal government,  
31 or a combination of such governments;

32 (45) "Registration records" include all the records of the  
33 department, behavioral health organizations, treatment facilities,  
34 and other persons providing services to the department, county  
35 departments, or facilities which identify persons who are receiving  
36 or who at any time have received services for mental illness or  
37 substance use disorders;

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

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

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

5 (49) "Secure detoxification facility" means a facility operated  
6 by either a public or private agency or by the program of an agency  
7 that:

8 (a) Provides for intoxicated persons:

9 (i) Evaluation and assessment, provided by certified chemical  
10 dependency professionals;

11 (ii) Acute or subacute detoxification services; and

12 (iii) Discharge assistance provided by certified chemical  
13 dependency professionals, including facilitating transitions to  
14 appropriate voluntary or involuntary inpatient services or to less  
15 restrictive alternatives as appropriate for the individual;

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

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

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

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

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

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

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



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

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

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

19 **Sec. 2.** RCW 71.05.585 and 2016 sp.s. c 29 s 241 and 2016 c 45 s  
20 5 are each reenacted and amended to read as follows:

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

23 (a) Assignment of a care coordinator;

24 (b) An intake evaluation with the provider of the less  
25 restrictive alternative treatment;

26 (c) A psychiatric evaluation;

27 (d) ~~((Medication management;~~

28 ~~(e))~~ A schedule of regular contacts with the provider of the  
29 less restrictive alternative treatment services for the duration of  
30 the order;

31 ~~((f))~~ (e) A transition plan addressing access to continued  
32 services at the expiration of the order; ~~((and~~

33 ~~(g))~~ (f) An individual crisis plan; and

34 (g) Notification to the care coordinator assigned in (a) of this  
35 subsection if reasonable efforts to engage the client fail to produce  
36 substantial compliance with court-ordered treatment conditions.

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

39 (a) Medication management;

1        (b) Psychotherapy;  
2        ~~((b))~~ (c) Nursing;  
3        ~~((c))~~ (d) Substance abuse counseling;  
4        ~~((d))~~ (e) Residential treatment; and  
5        ~~((e))~~ (f) Support for housing, benefits, education, and  
6 employment.

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

11        (4) The care coordinator assigned to a person ordered to less  
12 restrictive alternative treatment must submit an individualized plan  
13 for the person's treatment services to the court that entered the  
14 order. An initial plan must be submitted as soon as possible  
15 following the intake evaluation and a revised plan must be submitted  
16 upon any subsequent modification in which a type of service is  
17 removed from or added to the treatment plan.

18        (5) For the purpose of this section, "care coordinator" means a  
19 clinical practitioner who coordinates the activities of less  
20 restrictive alternative treatment. The care coordinator coordinates  
21 activities with the designated crisis responders that are necessary  
22 for enforcement and continuation of less restrictive alternative  
23 orders and is responsible for coordinating service activities with  
24 other agencies and establishing and maintaining a therapeutic  
25 relationship with the individual on a continuing basis.

26        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 71.05  
27 RCW to read as follows:

28        This section establishes a process for initial evaluation and  
29 filing of a petition for assisted outpatient behavioral health  
30 treatment, but however does not preclude the filing of a petition for  
31 assisted outpatient behavioral health treatment following a period of  
32 inpatient detention in appropriate circumstances:

33        (1) The designated crisis responder must personally interview the  
34 person, unless the person refuses an interview, and determine whether  
35 the person will voluntarily receive appropriate evaluation and  
36 treatment at a mental health facility, secure detoxification  
37 facility, or approved substance use disorder treatment program.

38        (2) The designated crisis responder must investigate and evaluate  
39 the specific facts alleged and the reliability or credibility of any

1 person providing information. The designated crisis responder may  
2 spend up to forty-eight hours to complete the investigation, provided  
3 that the person may not be held for investigation for any period  
4 except as authorized by RCW 71.05.050 or 71.05.153.

5 (3) If the designated crisis responder finds that the person is  
6 in need of assisted outpatient behavioral health treatment, they may  
7 file a petition requesting the court to enter an order for up to  
8 ninety days less restrictive alternative treatment. The petition must  
9 include:

10 (a) A statement of the circumstances under which the person's  
11 condition was made known and stating that there is evidence, as a  
12 result of the designated crisis responder's personal observation or  
13 investigation, that the person is in need of assisted outpatient  
14 behavioral health treatment, and stating the specific facts known as  
15 a result of personal observation or investigation, upon which the  
16 designated crisis responder bases this belief;

17 (b) The declaration of additional witnesses, if any, supporting  
18 the petition for assisted outpatient behavioral health treatment;

19 (c) A designation of retained counsel for the person or, if  
20 counsel is appointed, the name, business address, and telephone  
21 number of the attorney appointed to represent the person;

22 (d) The name of an agency or facility which agreed to assume the  
23 responsibility of providing less restrictive alternative treatment if  
24 the petition is granted by the court;

25 (e) A summons to appear in court at a specific time and place  
26 within five judicial days for a probable cause hearing, except as  
27 provided in subsection (4) of this section.

28 (4) If the person is in the custody of jail or prison at the time  
29 of the investigation, a petition for assisted outpatient behavioral  
30 health treatment may be used to facilitate continuity of care after  
31 release from custody or the diversion of criminal charges as follows:

32 (a) If the petition is filed in anticipation of the person's  
33 release from custody, the summons may be for a date up to five  
34 judicial days following the person's anticipated release date,  
35 provided that a clear time and place for the hearing is provided; or

36 (b) The hearing may be held prior to the person's release from  
37 custody, provided that (i) the filing of the petition does not extend  
38 the time the person would otherwise spend in the custody of jail or  
39 prison; (ii) the charges or custody of the person is not a pretext to  
40 detain the person for the purpose of the involuntary commitment

1 hearing; and (iii) the person's release from custody must be expected  
2 to swiftly follow the adjudication of the petition. In this  
3 circumstance, the time for hearing is shortened to three judicial  
4 days after the filing of the petition.

5 (5) The petition must be served upon the person and the person's  
6 counsel with a notice of applicable rights. Proof of service must be  
7 filed with the court.

8 (6) A petition for assisted outpatient behavioral health  
9 treatment filed under this section must be adjudicated under RCW  
10 71.05.240.

11 **Sec. 4.** RCW 71.05.150 and 2016 sp.s. c 29 s 210 are each amended  
12 to read as follows:

13 (1)~~((a))~~ When a designated crisis responder receives  
14 information alleging that a person, as a result of a mental disorder,  
15 substance use disorder, or both presents a likelihood of serious harm  
16 or is gravely disabled, or that a person is in need of assisted  
17 outpatient ~~((mental))~~ behavioral health treatment; the designated  
18 crisis responder may, after investigation and evaluation of the  
19 specific facts alleged and of the reliability and credibility of any  
20 person providing information to initiate detention or involuntary  
21 outpatient ~~((evaluation))~~ treatment, if satisfied that the  
22 allegations are true and that the person will not voluntarily seek  
23 appropriate treatment, file a petition for initial detention ~~((or~~  
24 ~~involuntary outpatient evaluation. If the petition is filed solely on~~  
25 ~~the grounds that the person is in need of assisted outpatient mental~~  
26 ~~health treatment, the petition may only be for an involuntary~~  
27 ~~outpatient evaluation. An involuntary outpatient evaluation may be~~  
28 ~~conducted by any combination of licensed professionals authorized to~~  
29 ~~petition for involuntary commitment under RCW 71.05.230 and must~~  
30 ~~include involvement or consultation with the agency or facility which~~  
31 ~~will provide monitoring or services under the proposed less~~  
32 ~~restrictive alternative treatment order. If the petition is for an~~  
33 ~~involuntary outpatient evaluation and the person is being held in a~~  
34 ~~hospital emergency department, the person may be released once the~~  
35 ~~hospital has satisfied federal and state legal requirements for~~  
36 ~~appropriate screening and stabilization of patients.~~

37 ~~(b))~~ under this section or a petition for involuntary outpatient  
38 behavioral health treatment under section 3 of this act. Before  
39 filing the petition, the designated crisis responder must personally

1 interview the person, unless the person refuses an interview, and  
2 determine whether the person will voluntarily receive appropriate  
3 evaluation and treatment at an evaluation and treatment facility,  
4 crisis stabilization unit, triage facility, or approved substance use  
5 disorder treatment program.

6 (2)(a) An order to detain a person with a mental disorder to a  
7 designated evaluation and treatment facility, or to detain a person  
8 with a substance use disorder to a secure detoxification facility or  
9 approved substance use disorder treatment program, for not more than  
10 a seventy-two-hour evaluation and treatment period(~~(, or an order for~~  
11 ~~an involuntary outpatient evaluation,~~) may be issued by a judge of  
12 the superior court upon request of a designated crisis responder,  
13 subject to (d) of this subsection, whenever it appears to the  
14 satisfaction of a judge of the superior court:

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

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

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

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

26 (d) A court may not issue an order to detain a person to a secure  
27 detoxification facility or approved substance use disorder treatment  
28 program unless there is an available secure detoxification facility  
29 or approved substance use disorder treatment program that has  
30 adequate space for the person.

31 (3) The designated crisis responder shall then serve or cause to  
32 be served on such person, his or her guardian, and conservator, if  
33 any, a copy of the order together with a notice of rights, and a  
34 petition for initial detention (~~(or involuntary outpatient~~  
35 ~~evaluation)~~). After service on such person the designated crisis  
36 responder shall file the return of service in court and provide  
37 copies of all papers in the court file to the evaluation and  
38 treatment facility, secure detoxification facility, or approved  
39 substance use disorder treatment program, and the designated  
40 attorney. The designated crisis responder shall notify the court and

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

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

22 **Sec. 5.** RCW 71.05.150 and 2016 sp.s. c 29 s 211 are each amended  
23 to read as follows:

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

1 ~~petition for involuntary commitment under RCW 71.05.230 and must~~  
2 ~~include involvement or consultation with the agency or facility which~~  
3 ~~will provide monitoring or services under the proposed less~~  
4 ~~restrictive alternative treatment order. If the petition is for an~~  
5 ~~involuntary outpatient evaluation and the person is being held in a~~  
6 ~~hospital emergency department, the person may be released once the~~  
7 ~~hospital has satisfied federal and state legal requirements for~~  
8 ~~appropriate screening and stabilization of patients.~~

9 (b)) under this section or a petition for involuntary outpatient  
10 behavioral health treatment under section 3 of this act. Before  
11 filing the petition, the designated crisis responder must personally  
12 interview the person, unless the person refuses an interview, and  
13 determine whether the person will voluntarily receive appropriate  
14 evaluation and treatment at an evaluation and treatment facility,  
15 crisis stabilization unit, triage facility, or approved substance use  
16 disorder treatment program.

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

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

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

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

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

37 (3) The designated crisis responder shall then serve or cause to  
38 be served on such person, his or her guardian, and conservator, if  
39 any, a copy of the order together with a notice of rights, and a  
40 petition for initial detention (~~(or involuntary outpatient~~

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

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

28 **Sec. 6.** RCW 71.05.230 and 2017 3rd sp.s. c 14 s 17 are each  
29 amended to read as follows:

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

38 (1) The professional staff of the ((~~agency or~~)) facility  
39 providing evaluation services has analyzed the person's condition and



1 finds that the condition is caused by mental disorder or substance  
2 use disorder and results in a likelihood of serious harm, results in  
3 the person being gravely disabled, or results in the person being in  
4 need of assisted outpatient (~~mental~~) behavioral health treatment,  
5 and are prepared to testify those conditions are met; and

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

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

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

16 (A) One physician, physician assistant, or psychiatric advanced  
17 registered nurse practitioner; and

18 (B) One physician, physician assistant, psychiatric advanced  
19 registered nurse practitioner, or mental health professional.

20 (ii) If the petition is for substance use disorder treatment, the  
21 petition may be signed by a chemical dependency professional instead  
22 of a mental health professional and by an advanced registered nurse  
23 practitioner instead of a psychiatric advanced registered nurse  
24 practitioner. The persons signing the petition must have examined the  
25 person.

26 (b) If involuntary detention is sought the petition shall state  
27 facts that support the finding that such person, as a result of a  
28 mental disorder or substance use disorder, presents a likelihood of  
29 serious harm, or is gravely disabled and that there are no less  
30 restrictive alternatives to detention in the best interest of such  
31 person or others. The petition shall state specifically that less  
32 restrictive alternative treatment was considered and specify why  
33 treatment less restrictive than detention is not appropriate. If an  
34 involuntary less restrictive alternative is sought, the petition  
35 shall state facts that support the finding that such person, as a  
36 result of a mental disorder or as a result of a substance use  
37 disorder, presents a likelihood of serious harm, is gravely disabled,  
38 or is in need of assisted outpatient (~~mental~~) behavioral health  
39 treatment, and shall set forth any recommendations for less  
40 restrictive alternative treatment services; and

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

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

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

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

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

20 **Sec. 7.** RCW 71.05.240 and 2016 sp.s. c 29 s 232 and 2016 c 45 s  
21 2 are each reenacted and amended to read as follows:

22 (1) If a petition is filed for fourteen day involuntary treatment  
23 or ninety days of less restrictive alternative treatment, the court  
24 shall hold a probable cause hearing within seventy-two hours of the  
25 initial detention (~~or involuntary outpatient evaluation~~) of such  
26 person as determined in RCW 71.05.180, or at a time determined under  
27 section 3 of this act. If requested by the person or his or her  
28 attorney, the hearing may be postponed for a period not to exceed  
29 forty-eight hours. The hearing may also be continued subject to the  
30 conditions set forth in RCW 71.05.210 or subject to the petitioner's  
31 showing of good cause for a period not to exceed twenty-four hours.

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

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

11 (b) Commitment for up to fourteen days based on a substance use  
12 disorder must be to either a secure detoxification facility or an  
13 approved substance use disorder treatment program. A court may only  
14 enter a commitment order based on a substance use disorder if there  
15 is an available secure detoxification facility or approved substance  
16 use disorder treatment program with adequate space for the person.

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

25 (d) If the court finds by a preponderance of the evidence that  
26 such person, as the result of a mental disorder or substance use  
27 disorder, is in need of assisted outpatient (~~(mental)~~) behavioral  
28 health treatment, and that the person does not present a likelihood  
29 of serious harm or grave disability, the court shall order an  
30 appropriate less restrictive alternative course of treatment not to  
31 exceed ninety days(~~(, and may not order inpatient treatment)~~).

32 ~~((e))~~ (4) An order for less restrictive alternative treatment  
33 must name the mental health service provider responsible for  
34 identifying the services the person will receive in accordance with  
35 RCW 71.05.585, and must include a requirement that the person  
36 cooperate with the services planned by the mental health service  
37 provider.

38 ~~((4))~~ (5) The court shall specifically state to such person and  
39 give such person notice in writing that if involuntary treatment  
40 beyond the fourteen day period or beyond the ninety days of less

1 restrictive treatment is to be sought, such person will have the  
2 right to a full hearing or jury trial as required by RCW 71.05.310.  
3 If the commitment is for mental health treatment, the court shall  
4 also state to the person and provide written notice that the person  
5 is barred from the possession of firearms and that the prohibition  
6 remains in effect until a court restores his or her right to possess  
7 a firearm under RCW 9.41.047.

8 **Sec. 8.** RCW 71.05.240 and 2016 sp.s. c 29 s 233 are each amended  
9 to read as follows:

10 (1) If a petition is filed for fourteen day involuntary treatment  
11 or ninety days of less restrictive alternative treatment, the court  
12 shall hold a probable cause hearing within seventy-two hours of the  
13 initial detention (~~(or involuntary outpatient evaluation)~~) of such  
14 person as determined in RCW 71.05.180, or at a time determined under  
15 section 3 of this act. If requested by the person or his or her  
16 attorney, the hearing may be postponed for a period not to exceed  
17 forty-eight hours. The hearing may also be continued subject to the  
18 conditions set forth in RCW 71.05.210 or subject to the petitioner's  
19 showing of good cause for a period not to exceed twenty-four hours.

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

27 (3)(a) Subject to (b) of this subsection, at the conclusion of  
28 the probable cause hearing, if the court finds by a preponderance of  
29 the evidence that such person, as the result of a mental disorder or  
30 substance use disorder, presents a likelihood of serious harm, or is  
31 gravely disabled, and, after considering less restrictive  
32 alternatives to involuntary detention and treatment, finds that no  
33 such alternatives are in the best interests of such person or others,  
34 the court shall order that such person be detained for involuntary  
35 treatment not to exceed fourteen days in a facility certified to  
36 provide treatment by the department.

37 (b) Commitment for up to fourteen days based on a substance use  
38 disorder must be to either a secure detoxification facility or an  
39 approved substance use disorder treatment program.

1 (c) At the conclusion of the probable cause hearing, if the court  
2 finds by a preponderance of the evidence that such person, as the  
3 result of a mental disorder or substance use disorder, presents a  
4 likelihood of serious harm, or is gravely disabled, but that  
5 treatment in a less restrictive setting than detention is in the best  
6 interest of such person or others, the court shall order an  
7 appropriate less restrictive alternative course of treatment for not  
8 to exceed ninety days.

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

16 ~~((e))~~ (4) An order for less restrictive alternative treatment  
17 must name the mental health service provider responsible for  
18 identifying the services the person will receive in accordance with  
19 RCW 71.05.585, and must include a requirement that the person  
20 cooperate with the services planned by the mental health service  
21 provider.

22 ~~((4))~~ (5) The court shall specifically state to such person and  
23 give such person notice in writing that if involuntary treatment  
24 beyond the fourteen day period or beyond the ninety days of less  
25 restrictive treatment is to be sought, such person will have the  
26 right to a full hearing or jury trial as required by RCW 71.05.310.  
27 If the commitment is for mental health treatment, the court shall  
28 also state to the person and provide written notice that the person  
29 is barred from the possession of firearms and that the prohibition  
30 remains in effect until a court restores his or her right to possess  
31 a firearm under RCW 9.41.047.

32 **Sec. 9.** RCW 71.05.590 and 2017 3rd sp.s. c 14 s 9 are each  
33 amended to read as follows:

34 (1) Either an agency or facility designated to monitor or provide  
35 services under a less restrictive alternative order or conditional  
36 release order, or a designated crisis responder, may take action to  
37 enforce, modify, or revoke a less restrictive alternative or  
38 conditional release order. The agency, facility, or designated crisis  
39 responder must determine that:

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

3 (b) Substantial deterioration in the person's functioning has  
4 occurred;

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

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

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

15 (a) To counsel or advise the person as to their rights and  
16 responsibilities under the court order, and to offer appropriate  
17 incentives to motivate compliance;

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

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

32 (d) To cause the person to be transported by a peace officer,  
33 designated crisis responder, or other means to the agency or facility  
34 monitoring or providing services under the court order, or to a  
35 triage facility, crisis stabilization unit, emergency department, or  
36 to an evaluation and treatment facility if the person is committed  
37 for mental health treatment, or to a secure detoxification facility  
38 with available space or an approved substance use disorder treatment  
39 program with available space if the person is committed for substance  
40 use disorder treatment. The person may be detained at the facility

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

14 (e) To initiate revocation procedures under subsection (4) of  
15 this section or, if the current commitment is solely based on the  
16 person being in need of assisted outpatient behavioral health  
17 treatment as defined in RCW 71.05.020, initiate initial inpatient  
18 detention procedures under subsection (6) of this section.

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

25 (4)(a) Except as provided in subsection (6) of this section, a  
26 designated crisis responder or the secretary may upon their own  
27 motion or notification by the facility or agency designated to  
28 provide outpatient care order a person subject to a court order under  
29 this chapter to be apprehended and taken into custody and temporary  
30 detention in an evaluation and treatment facility in or near the  
31 county in which he or she is receiving outpatient treatment if the  
32 person is committed for mental health treatment, or, if the person is  
33 committed for substance use disorder treatment, in a secure  
34 detoxification facility or approved substance use disorder treatment  
35 program if either is available in or near the county in which he or  
36 she is receiving outpatient treatment and has adequate space.  
37 Proceedings under this subsection (4) may be initiated without  
38 ordering the apprehension and detention of the person.

39 (b) Except as provided in subsection (6) of this section, a  
40 person detained under this subsection (4) must be held until such

1 time, not exceeding five days, as a hearing can be scheduled to  
2 determine whether or not the person should be returned to the  
3 hospital or facility from which he or she had been released. If the  
4 person is not detained, the hearing must be scheduled within five  
5 days of service on the person. The designated crisis responder or the  
6 secretary may modify or rescind the order at any time prior to  
7 commencement of the court hearing.

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

21 (d) Except as provided in subsection (6) of this section, the  
22 issues for the court to determine are whether: (i) The person adhered  
23 to the terms and conditions of the court order; (ii) substantial  
24 deterioration in the person's functioning has occurred; (iii) there  
25 is evidence of substantial decompensation with a reasonable  
26 probability that the decompensation can be reversed by further  
27 inpatient treatment; or (iv) there is a likelihood of serious harm;  
28 and, if any of the above conditions apply, whether the court should  
29 reinstate or modify the person's less restrictive alternative or  
30 conditional release order or order the person's detention for  
31 inpatient treatment. The person may waive the court hearing and allow  
32 the court to enter a stipulated order upon the agreement of all  
33 parties. If the court orders detention for inpatient treatment, the  
34 treatment period may be for no longer than the period authorized in  
35 the original court order. A court may not issue an order to detain a  
36 person for inpatient treatment in a secure detoxification facility or  
37 approved substance use disorder treatment program under this  
38 subsection unless there is a secure detoxification facility or  
39 approved substance use disorder treatment program available and with  
40 adequate space for the person.



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

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

13       (6)(a) If the current commitment is solely based on the person  
14 being in need of assisted outpatient behavioral health treatment as  
15 defined in RCW 71.05.020, a designated crisis responder may initiate  
16 inpatient detention procedures under RCW 71.05.150 or 71.05.153 when  
17 appropriate. A designated crisis responder or the secretary may, upon  
18 their own motion or notification by the facility or agency designated  
19 to provide outpatient care to a person subject to a less restrictive  
20 alternative treatment order under RCW 71.05.320 subsequent to an  
21 order for assisted outpatient behavioral health treatment entered  
22 under section 3 of this act, order the person to be apprehended and  
23 taken into custody and temporary detention for inpatient evaluation  
24 in an evaluation and treatment facility in or near the county in  
25 which he or she is receiving outpatient treatment if the person is  
26 committed for mental health treatment, or, if the person is committed  
27 for substance use disorder treatment, in a secure detoxification  
28 facility or approved substance use disorder treatment program if  
29 either is available in or near the county in which he or she is  
30 receiving outpatient treatment. Proceedings under this subsection may  
31 be initiated without ordering the apprehension and detention of the  
32 person.

33       (b) A person detained under this subsection may be held for  
34 evaluation for up to seventy-two hours, excluding weekends and  
35 holidays, pending a court hearing. If the person is not detained, the  
36 hearing must be scheduled within seventy-two hours of service on the  
37 person. The designated crisis responder or the secretary may modify  
38 or rescind the order at any time prior to commencement of the court  
39 hearing.

1       (c) The issues for the court to determine are whether to continue  
2 the detention of the person for inpatient treatment or whether the  
3 court should reinstate or modify the person's less restrictive  
4 alternative order or order the person's detention for inpatient  
5 treatment. To continue detention after the seventy-two hour period,  
6 the court must find that the person, as a result of a mental disorder  
7 or substance use disorder, presents a likelihood of serious harm or  
8 is gravely disabled and, after considering less restrictive  
9 alternatives to involuntary detention and treatment, that no such  
10 alternatives are in the best interest of the person or others.

11       (d) A court may not issue an order to detain a person for  
12 inpatient treatment in a secure detoxification facility or approved  
13 substance use disorder program under this subsection unless there is  
14 a secure detoxification facility or approved substance use disorder  
15 treatment program available and with adequate space for the person.

16       **Sec. 10.** RCW 71.05.590 and 2017 3rd sp.s. c 14 s 10 are each  
17 amended to read as follows:

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

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

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

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

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

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

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

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

39 (e) To initiate revocation procedures under subsection (4) of  
40 this section or, if the current commitment is solely based on the

1 person being in need of assisted outpatient behavioral health  
2 treatment as defined in RCW 71.05.020, initial inpatient detention  
3 procedures under subsection (6) of this section.

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

10 (4)(a) Except as provided in subsection (6) of this section, a  
11 designated crisis responder or the secretary may upon their own  
12 motion or notification by the facility or agency designated to  
13 provide outpatient care order a person subject to a court order under  
14 this chapter to be apprehended and taken into custody and temporary  
15 detention in an evaluation and treatment facility in or near the  
16 county in which he or she is receiving outpatient treatment if the  
17 person is committed for mental health treatment, or, if the person is  
18 committed for substance use disorder treatment, in a secure  
19 detoxification facility or approved substance use disorder treatment  
20 program if either is available in or near the county in which he or  
21 she is receiving outpatient treatment. Proceedings under this  
22 subsection (4) may be initiated without ordering the apprehension and  
23 detention of the person.

24 (b) Except as provided in subsection (6) of this section, a  
25 person detained under this subsection (4) must be held until such  
26 time, not exceeding five days, as a hearing can be scheduled to  
27 determine whether or not the person should be returned to the  
28 hospital or facility from which he or she had been released. If the  
29 person is not detained, the hearing must be scheduled within five  
30 days of service on the person. The designated crisis responder or the  
31 secretary may modify or rescind the order at any time prior to  
32 commencement of the court hearing.

33 (c) The designated crisis responder or secretary shall file a  
34 revocation petition and order of apprehension and detention with the  
35 court of the county where the person is currently located or being  
36 detained. The designated crisis responder shall serve the person and  
37 their attorney, guardian, and conservator, if any. The person has the  
38 same rights with respect to notice, hearing, and counsel as in any  
39 involuntary treatment proceeding, except as specifically set forth in  
40 this section. There is no right to jury trial. The venue for

1 proceedings is the county where the petition is filed. Notice of the  
2 filing must be provided to the court that originally ordered  
3 commitment, if different from the court where the petition for  
4 revocation is filed, within two judicial days of the person's  
5 detention.

6 (d) Except as provided in subsection (6) of this section, the  
7 issues for the court to determine are whether: (i) The person adhered  
8 to the terms and conditions of the court order; (ii) substantial  
9 deterioration in the person's functioning has occurred; (iii) there  
10 is evidence of substantial decompensation with a reasonable  
11 probability that the decompensation can be reversed by further  
12 inpatient treatment; or (iv) there is a likelihood of serious harm;  
13 and, if any of the above conditions apply, whether the court should  
14 reinstate or modify the person's less restrictive alternative or  
15 conditional release order or order the person's detention for  
16 inpatient treatment. The person may waive the court hearing and allow  
17 the court to enter a stipulated order upon the agreement of all  
18 parties. If the court orders detention for inpatient treatment, the  
19 treatment period may be for no longer than the period authorized in  
20 the original court order.

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

27 (5) In determining whether or not to take action under this  
28 section the designated crisis responder, agency, or facility must  
29 consider the factors specified under RCW 71.05.212 and the court must  
30 consider the factors specified under RCW 71.05.245 as they apply to  
31 the question of whether to enforce, modify, or revoke a court order  
32 for involuntary treatment.

33 (6)(a) If the current commitment is solely based on the person  
34 being in need of assisted outpatient behavioral health treatment as  
35 defined in RCW 71.05.020, a designated crisis responder may initiate  
36 inpatient detention procedures under RCW 71.05.150 or 71.05.153 when  
37 appropriate. 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 to a person subject to a less restrictive  
40 alternative treatment order under RCW 71.05.320 subsequent to an

1 order for assisted outpatient behavioral health treatment entered  
2 under section 3 of this act, order the person to be apprehended and  
3 taken into custody and temporary detention for inpatient evaluation  
4 in an evaluation and treatment facility in or near the county in  
5 which he or she is receiving outpatient treatment if the person is  
6 committed for mental health treatment, or, if the person is committed  
7 for substance use disorder treatment, in a secure detoxification  
8 facility or approved substance use disorder treatment program if  
9 either is available in or near the county in which he or she is  
10 receiving outpatient treatment. Proceedings under this subsection may  
11 be initiated without ordering the apprehension and detention of the  
12 person.

13 (b) A person detained under this subsection may be held for  
14 evaluation for up to seventy-two hours, excluding weekends and  
15 holidays, pending a court hearing. The designated crisis responder or  
16 the secretary may modify or rescind the order at any time prior to  
17 commencement of the court hearing.

18 (c) The issues for the court to determine are whether to continue  
19 the detention of the person for inpatient treatment or whether the  
20 court should reinstate or modify the person's less restrictive  
21 alternative order or order the person's detention for inpatient  
22 treatment. To continue detention after the seventy-two hour period,  
23 the court must find that the person, as a result of a mental disorder  
24 or substance use disorder, presents a likelihood of serious harm or  
25 is gravely disabled and, after considering less restrictive  
26 alternatives to involuntary detention and treatment, that no such  
27 alternatives are in the best interest of the person or others.

28 (d) A court may not issue an order to detain a person for  
29 inpatient treatment in a secure detoxification facility or approved  
30 substance use disorder program under this subsection unless there is  
31 a secure detoxification facility or approved substance use disorder  
32 treatment program available and with adequate space for the person.

33 **Sec. 11.** RCW 71.05.201 and 2017 3rd sp.s. c 14 s 2 are each  
34 amended to read as follows:

35 (1) If a designated crisis responder decides not to detain a  
36 person for evaluation and treatment under RCW 71.05.150 or 71.05.153  
37 or forty-eight hours have elapsed since a designated crisis responder  
38 received a request for investigation and the designated crisis  
39 responder has not taken action to have the person detained, an

1 immediate family member or guardian or conservator of the person may  
2 petition the superior court for the person's initial detention.

3 (2) A petition under this section must be filed within ten  
4 calendar days following the designated crisis responder investigation  
5 or the request for a designated crisis responder investigation. If  
6 more than ten days have elapsed, the immediate family member,  
7 guardian, or conservator may request a new designated crisis  
8 responder investigation.

9 (3)(a) The petition must be filed in the county in which the  
10 designated crisis responder investigation occurred or was requested  
11 to occur and must be submitted on forms developed by the  
12 administrative office of the courts for this purpose. The petition  
13 must be accompanied by a sworn declaration from the petitioner, and  
14 other witnesses if desired, describing why the person should be  
15 detained for evaluation and treatment. The description of why the  
16 person should be detained may contain, but is not limited to, the  
17 information identified in RCW 71.05.212.

18 (b) The petition must contain:

19 (i) A description of the relationship between the petitioner and  
20 the person; and

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

23 (4) The court shall, within one judicial day, review the petition  
24 to determine whether the petition raises sufficient evidence to  
25 support the allegation. If the court so finds, it shall provide a  
26 copy of the petition to the designated crisis responder agency with  
27 an order for the agency to provide the court, within one judicial  
28 day, with a written sworn statement describing the basis for the  
29 decision not to seek initial detention and a copy of all information  
30 material to the designated crisis responder's current decision.

31 (5) Following the filing of the petition and before the court  
32 reaches a decision, any person, including a mental health  
33 professional, may submit a sworn declaration to the court in support  
34 of or in opposition to initial detention.

35 (6) The court shall dismiss the petition at any time if it finds  
36 that a designated crisis responder has filed a petition for the  
37 person's initial detention under RCW 71.05.150 or 71.05.153 or that  
38 the person has voluntarily accepted appropriate treatment.

39 (7) The court must issue a final ruling on the petition within  
40 five judicial days after it is filed. After reviewing all of the

1 information provided to the court, the court may enter an order for  
2 initial detention or an order instructing the designated crisis  
3 responder to file a petition for assisted outpatient behavioral  
4 health treatment if the court finds that: (a) There is probable cause  
5 to support a petition for detention or assisted outpatient behavioral  
6 health treatment; and (b) the person has refused or failed to accept  
7 appropriate evaluation and treatment voluntarily. The court shall  
8 transmit its final decision to the petitioner.

9 (8) If the court enters an order for initial detention, it shall  
10 provide the order to the designated crisis responder agency and issue  
11 a written order for apprehension of the person by a peace officer for  
12 delivery of the person to a facility or emergency room determined by  
13 the designated crisis responder. The designated crisis responder  
14 agency serving the jurisdiction of the court must collaborate and  
15 coordinate with law enforcement regarding apprehensions and  
16 detentions under this subsection, including sharing of information  
17 relating to risk and which would assist in locating the person. A  
18 person may not be detained to jail pursuant to a written order issued  
19 under this subsection. An order for detention under this section  
20 should contain the advisement of rights which the person would  
21 receive if the person were detained by a designated crisis responder.  
22 An order for initial detention under this section expires one hundred  
23 eighty days from issuance.

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

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

31 **Sec. 12.** RCW 71.05.156 and 2016 sp.s. c 29 s 215 are each  
32 amended to read as follows:

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



1       **Sec. 13.**     RCW 71.05.212 and 2016 sp.s. c 29 s 226 are each  
2 amended to read as follows:

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

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

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

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

14       (d) Prior commitments under this chapter.

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

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

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

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

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

37       (4) When conducting an evaluation for offenders identified under  
38 RCW 72.09.370, the designated crisis responder or professional person  
39 shall consider an offender's history of judicially required or

1 administratively ordered antipsychotic medication while in  
2 confinement.

3 **Sec. 14.** RCW 71.05.245 and 2015 c 250 s 8 are each amended to  
4 read as follows:

5 (1) In making a determination of whether a person is gravely  
6 disabled, presents a likelihood of serious harm, or is in need of  
7 assisted outpatient (~~mental~~) behavioral health treatment in a  
8 hearing conducted under RCW 71.05.240 or 71.05.320, the court must  
9 consider the symptoms and behavior of the respondent in light of all  
10 available evidence concerning the respondent's historical behavior.

11 (2) Symptoms or behavior which standing alone would not justify  
12 civil commitment may support a finding of grave disability or  
13 likelihood of serious harm, or a finding that the person is in need  
14 of assisted outpatient (~~mental~~) behavioral health treatment, when:

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

18 (b) these symptoms or behavior represent a marked and concerning  
19 change in the baseline behavior of the respondent; and (c) without  
20 treatment, the continued deterioration of the respondent is probable.

21 (3) In making a determination of whether there is a likelihood of  
22 serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320,  
23 the court shall give great weight to any evidence before the court  
24 regarding whether the person has: (a) A recent history of one or more  
25 violent acts; or (b) a recent history of one or more commitments  
26 under this chapter or its equivalent provisions under the laws of  
27 another state which were based on a likelihood of serious harm. The  
28 existence of prior violent acts or commitments under this chapter or  
29 its equivalent shall not be the sole basis for determining whether a  
30 person presents a likelihood of serious harm.

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

33 **Sec. 15.** RCW 71.05.280 and 2016 sp.s. c 29 s 234 are each  
34 amended to read as follows:

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

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

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

12 (3) Such person has been determined to be incompetent and  
13 criminal charges have been dismissed pursuant to RCW 10.77.086(4),  
14 and has committed acts constituting a felony, and as a result of a  
15 mental disorder, presents a substantial likelihood of repeating  
16 similar acts.

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

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

25 (4) Such person is gravely disabled; or

26 (5) Such person is in need of assisted outpatient (~~mental~~)  
27 behavioral health treatment.

28 **Sec. 16.** RCW 71.05.595 and 2015 c 250 s 17 are each amended to  
29 read as follows:

30 A court order for less restrictive alternative treatment for a  
31 person found to be in need of assisted outpatient (~~mental~~)  
32 behavioral health treatment must be terminated prior to the  
33 expiration of the order when, in the opinion of the professional  
34 person in charge of the less restrictive alternative treatment  
35 provider, (1) the person is prepared to accept voluntary treatment,  
36 or (2) the outpatient treatment ordered is no longer necessary to  
37 prevent a relapse, decompensation, or deterioration that is likely to  
38 result in the person presenting a likelihood of serious harm or the

1 person becoming gravely disabled within a reasonably short period of  
2 time.

3 NEW SECTION. **Sec. 17.** If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 18.** Sections 1 through 4, 6, 7, 9, 11, 12,  
8 13, and 15 of this act are necessary for the immediate preservation  
9 of the public peace, health, or safety, or support of the state  
10 government and its existing public institutions, and take effect  
11 April 1, 2018.

12 NEW SECTION. **Sec. 19.** Sections 5, 8, and 10 of this act take  
13 effect July 1, 2026.

14 NEW SECTION. **Sec. 20.** Sections 4, 7, and 9 of this act expire  
15 July 1, 2026."

16 Correct the title.

EFFECT: Requires that a person have a history of one detention in the preceding thirty-six months to meet the commitment standard for assisted outpatient behavioral health treatment. Changes the notification requirement of substantial noncompliance with court ordered treatment to a care coordinator instead of a designated crisis responder. Restores the revocation provisions for less restrictive alternative treatment for commitments entered on the commitment grounds of serious harm or grave disability. Inserts a severability clause. Makes other stylistic and technical changes, and minor substantive revisions.

--- END ---