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SECOND ENGROSSED SUBSTITUTE SENATE BILL 5106

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State of Washington

65th Legislature

2017 Regular Session

By Senate Human Services, Mental Health & Housing (originally sponsored by Senator O'Ban)

READ FIRST TIME 02/01/17.

1 AN ACT Relating to clarifying obligations under the involuntary  
2 treatment act; amending RCW 71.05.201, 71.05.203, 71.05.203,  
3 71.05.590, 71.05.590, 71.05.590, 71.05.154, 71.05.154, 70.96A.140,  
4 71.05.210, and 71.05.760; reenacting and amending RCW 71.05.201,  
5 71.05.020, 71.05.210, 71.05.230, 71.05.290, 71.05.300, and 71.05.360;  
6 creating a new section; providing effective dates; providing  
7 expiration dates; and declaring an emergency.

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

9 **Part One - Joel's Law Amendments**

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

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

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

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

16       (b) The petition must contain:

17       (i) A description of the relationship between the petitioner and  
18 the person; and

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

21       ~~((3))~~ (4) The court shall, within one judicial day, review the  
22 petition to determine whether the petition raises sufficient evidence  
23 to support the allegation. If the court so finds, it shall provide a  
24 copy of the petition to the designated mental health professional  
25 agency with an order for the agency to provide the court, within one  
26 judicial day, with a written sworn statement describing the basis for  
27 the decision not to seek initial detention and a copy of all  
28 information material to the designated mental health professional's  
29 current decision.

30       ~~((4))~~ (5) Following the filing of the petition and before the  
31 court reaches a decision, any person, including a mental health  
32 professional, may submit a sworn declaration to the court in support  
33 of or in opposition to initial detention.

34       ~~((5))~~ (6) The court shall dismiss the petition at any time if  
35 it finds that a designated mental health professional has filed a  
36 petition for the person's initial detention under RCW 71.05.150 or  
37 71.05.153 or that the person has voluntarily accepted appropriate  
38 treatment.

39       ~~((6))~~ (7) The court must issue a final ruling on the petition  
40 within five judicial days after it is filed. After reviewing all of

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

7 ~~((7))~~ (8) If the court enters an order for initial detention,  
8 it shall provide the order to the designated mental health  
9 professional agency(~~(, which shall execute the order without delay)~~)  
10 and issue a written order for apprehension of the person by a peace  
11 officer for delivery of the person to a facility or emergency room  
12 determined by the designated mental health professional. The  
13 designated mental health agency serving the jurisdiction of the court  
14 must collaborate and coordinate with law enforcement regarding  
15 apprehensions and detentions under this subsection, including sharing  
16 of information relating to risk and which would assist in locating  
17 the person. A person may not be detained to jail pursuant to a  
18 written order issued under this subsection. An order for detention  
19 under this section should contain the advisement of rights which the  
20 person would receive if the person were detained by a designated  
21 mental health professional. An order for initial detention under this  
22 section expires one hundred eighty days from issuance.

23 ~~((8))~~ (9) Except as otherwise expressly stated in this chapter,  
24 all procedures must be followed as if the order had been entered  
25 under RCW 71.05.150. RCW 71.05.160 does not apply if detention was  
26 initiated under the process set forth in this section.

27 ~~((9))~~ (10) For purposes of this section, "immediate family  
28 member" means a spouse, domestic partner, child, stepchild, parent,  
29 stepparent, grandparent, or sibling.

30 **Sec. 2.** RCW 71.05.201 and 2016 sp.s. c 29 s 222 and 2016 c 107 s  
31 1 are each reenacted and amended to read as follows:

32 (1) If a designated crisis responder decides not to detain a  
33 person for evaluation and treatment under RCW 71.05.150 or 71.05.153  
34 or forty-eight hours have elapsed since a designated crisis responder  
35 received a request for investigation and the designated crisis  
36 responder has not taken action to have the person detained, an  
37 immediate family member or guardian or conservator of the person may  
38 petition the superior court for the person's initial detention.

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

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

17       (b) The petition must contain:

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

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

22       ~~((+3))~~ (4) The court shall, within one judicial day, review the  
23 petition to determine whether the petition raises sufficient evidence  
24 to support the allegation. If the court so finds, it shall provide a  
25 copy of the petition to the designated crisis responder agency with  
26 an order for the agency to provide the court, within one judicial  
27 day, with a written sworn statement describing the basis for the  
28 decision not to seek initial detention and a copy of all information  
29 material to the designated crisis responder's current decision.

30       ~~((+4))~~ (5) Following the filing of the petition and before the  
31 court reaches a decision, any person, including a mental health  
32 professional, may submit a sworn declaration to the court in support  
33 of or in opposition to initial detention.

34       ~~((+5))~~ (6) The court shall dismiss the petition at any time if  
35 it finds that a designated crisis responder has filed a petition for  
36 the person's initial detention under RCW 71.05.150 or 71.05.153 or  
37 that the person has voluntarily accepted appropriate treatment.

38       ~~((+6))~~ (7) The court must issue a final ruling on the petition  
39 within five judicial days after it is filed. After reviewing all of  
40 the information provided to the court, the court may enter an order

1 for initial detention if the court finds that: (a) There is probable  
2 cause to support a petition for detention; and (b) the person has  
3 refused or failed to accept appropriate evaluation and treatment  
4 voluntarily. The court shall transmit its final decision to the  
5 petitioner.

6 ~~((+7))~~ (8) If the court enters an order for initial detention,  
7 it shall provide the order to the designated crisis responder  
8 agency(~~(, which shall execute the order without delay)~~) and issue a  
9 written order for apprehension of the person by a peace officer for  
10 delivery of the person to a facility or emergency room determined by  
11 the designated crisis responder. The designated crisis responder  
12 agency serving the jurisdiction of the court must collaborate and  
13 coordinate with law enforcement regarding apprehensions and  
14 detentions under this subsection, including sharing of information  
15 relating to risk and which would assist in locating the person. A  
16 person may not be detained to jail pursuant to a written order issued  
17 under this subsection. An order for detention under this section  
18 should contain the advisement of rights which the person would  
19 receive if the person were detained by a designated crisis responder.  
20 An order for initial detention under this section expires one hundred  
21 eighty days from issuance.

22 ~~((+8))~~ (9) Except as otherwise expressly stated in this chapter,  
23 all procedures must be followed as if the order had been entered  
24 under RCW 71.05.150. RCW 71.05.160 does not apply if detention was  
25 initiated under the process set forth in this section.

26 ~~((+9))~~ (10) For purposes of this section, "immediate family  
27 member" means a spouse, domestic partner, child, stepchild, parent,  
28 stepparent, grandparent, or sibling.

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

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

37 (2) A designated mental health professional or designated mental  
38 health professional agency that receives a request for investigation  
39 for possible detention under this chapter must inquire whether the

1 request comes from an immediate family member, guardian, or  
2 conservator who would be eligible to petition under RCW 71.05.201. If  
3 the designated mental health professional decides not to detain the  
4 person for evaluation and treatment under RCW 71.05.150 or 71.05.153  
5 or forty-eight hours have elapsed since the request for investigation  
6 was received and the designated mental health professional has not  
7 taken action to have the person detained, the designated mental  
8 health professional or designated mental health professional agency  
9 must inform the immediate family member, guardian, or conservator who  
10 made the request for investigation about the process to petition for  
11 court review under RCW 71.05.201 and, to the extent feasible, provide  
12 the immediate family member, guardian, or conservator with written or  
13 electronic information about the petition process. If provision of  
14 written or electronic information is not feasible, the designated  
15 mental health professional or designated mental health professional  
16 agency must refer the immediate family member, guardian, or  
17 conservator to a web site where published information on the petition  
18 process may be accessed. The designated mental health professional or  
19 designated mental health professional agency must document the manner  
20 and date on which the information required under this subsection was  
21 provided to the immediate family member, guardian, or conservator.

22 (3) A designated mental health professional or designated mental  
23 health professional agency must, upon request, disclose the date of a  
24 designated mental health professional investigation under this  
25 chapter to an immediate family member, guardian, or conservator of a  
26 person to assist in the preparation of a petition under RCW  
27 71.05.201.

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

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

35 (2) A designated crisis responder or designated crisis responder  
36 agency that receives a request for investigation for possible  
37 detention under this chapter must inquire whether the request comes  
38 from an immediate family member, guardian, or conservator who would  
39 be eligible to petition under RCW 71.05.201. If the designated crisis

1 responder decides not to detain the person for evaluation and  
2 treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have  
3 elapsed since the request for investigation was received and the  
4 designated crisis responder has not taken action to have the person  
5 detained, the designated crisis responder or designated crisis  
6 responder agency must inform the immediate family member, guardian,  
7 or conservator who made the request for investigation about the  
8 process to petition for court review under RCW 71.05.201 and, to the  
9 extent feasible, provide the immediate family member, guardian, or  
10 conservator with written or electronic information about the petition  
11 process. If provision of written or electronic information is not  
12 feasible, the designated crisis responder or designated crisis  
13 responder agency must refer the immediate family member, guardian, or  
14 conservator to a web site where published information on the petition  
15 process may be accessed. The designated crisis responder or  
16 designated crisis responder agency must document the manner and date  
17 on which the information required under this subsection was provided  
18 to the immediate family member, guardian, or conservator.

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

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

33 NEW SECTION. Sec. 6. Sections 1 and 3 of this act expire April  
34 1, 2018.

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

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

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

4           (1) Either an agency or facility designated to monitor or provide  
5 services under a less restrictive alternative order or conditional  
6 release order, or a designated mental health professional, may take  
7 action to enforce, modify, or revoke a less restrictive alternative  
8 or conditional release order ~~((if))~~. The agency, facility, or  
9 designated mental health professional ~~((determines))~~ must determine  
10 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~~((r, 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           (c) To request a court hearing for review and modification of the  
33 court order. The request must be made to the court with jurisdiction  
34 over the order and specify the circumstances that give rise to the  
35 request and what modification is being sought. The county prosecutor  
36 shall assist the agency or facility in requesting this hearing and  
37 issuing an appropriate summons to the person. This subsection does  
38 not limit the inherent authority of a treatment provider to alter  
39 conditions of treatment for clinical reasons, and is intended to be



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

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

21 (e) To initiate revocation procedures under subsection (4) of  
22 this section.

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

29 (4)(a) A designated mental health professional or the secretary  
30 may upon their own motion or notification by the facility or agency  
31 designated to provide outpatient care order a person subject to a  
32 court order under this section to be apprehended and taken into  
33 custody and temporary detention in an evaluation and treatment  
34 facility in or near the county in which he or she is receiving  
35 outpatient treatment, or initiate proceedings under this subsection  
36 (4) without ordering the apprehension and detention of the person.

37 (b) A person detained under this subsection (4) must be held  
38 until such time, not exceeding five days, as a hearing can be  
39 scheduled to determine whether or not the person should be returned  
40 to the hospital or facility from which he or she had been released.

1 If the person is not detained, the hearing must be scheduled within  
2 five days of service on the person. The designated mental health  
3 professional or the secretary may modify or rescind the order at any  
4 time prior to commencement of the court hearing.

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

21 (d) The issues for the court to determine are whether: (i) The  
22 person adhered to the terms and conditions of the court order; (ii)  
23 substantial deterioration in the person's functioning has occurred;  
24 (iii) there is evidence of substantial decompensation with a  
25 reasonable probability that the decompensation can be reversed by  
26 further inpatient treatment; or (iv) there is a likelihood of serious  
27 harm; and, if any of the above conditions apply, whether the court  
28 should reinstate or modify the person's less restrictive alternative  
29 or conditional release order or order the person's detention for  
30 inpatient treatment. The person may waive the court hearing and allow  
31 the court to enter a stipulated order upon the agreement of all  
32 parties. If the court orders detention for inpatient treatment, the  
33 treatment period may be for no longer than the period authorized in  
34 the original court order.

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

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

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

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

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

17 (b) Substantial deterioration in the person's functioning has  
18 occurred;

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

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

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

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

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

36 (c) To request a court hearing for review and modification of the  
37 court order. The request must be made to the court with jurisdiction  
38 over the order and specify the circumstances that give rise to the  
39 request and what modification is being sought. The county prosecutor

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

29 (e) To initiate revocation procedures under subsection (4) of  
30 this section.

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 and has adequate space.  
8 Proceedings under this subsection (4) 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) The designated crisis responder or secretary shall ~~((notify~~  
19 ~~the court that originally ordered commitment within two judicial days~~  
20 ~~of a person's detention and))~~ file a revocation petition and order of  
21 apprehension and detention with the court ~~((and))~~ of the county where  
22 the person is currently located or being detained. The designated  
23 crisis responder shall serve the person and their attorney, guardian,  
24 and conservator, if any. The person has the same rights with respect  
25 to notice, hearing, and counsel as in any involuntary treatment  
26 proceeding, except as specifically set forth in this section. There  
27 is no right to jury trial. The venue for proceedings ~~((regarding a~~  
28 ~~petition for modification or revocation must be in))~~ is the county  
29 ~~((in which))~~ where the petition ~~((was))~~ is filed. Notice of the  
30 filing must be provided to the court that originally ordered  
31 commitment, if different from the court where the petition for  
32 revocation is filed, within two judicial days of the person's  
33 detention.

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

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

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

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

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

27 (1) Either an agency or facility designated to monitor or provide  
28 services under a less restrictive alternative order or conditional  
29 release order, or a designated crisis responder, may take action to  
30 enforce, modify, or revoke a less restrictive alternative or  
31 conditional release order ~~((if))~~. The agency, facility, or designated  
32 crisis responder ((determines)) must determine that:

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

35 (b) Substantial deterioration in the person's functioning has  
36 occurred;

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

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

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

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

11 (b) To increase the intensity of outpatient services provided to  
12 the person by increasing the frequency of contacts with the provider,  
13 referring the person for an assessment for assertive community  
14 services, or by other means;

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

25 (d) To cause the person to be transported by a peace officer,  
26 designated crisis responder, or other means to the agency or facility  
27 monitoring or providing services under the court order, or to a  
28 triage facility, crisis stabilization unit, emergency department, or  
29 to an evaluation and treatment facility if the person is committed  
30 for mental health treatment, or to a secure detoxification facility  
31 or an approved substance use disorder treatment program if the person  
32 is committed for substance use disorder treatment. The person may be  
33 detained at the facility for up to twelve hours for the purpose of an  
34 evaluation to determine whether modification, revocation, or  
35 commitment proceedings are necessary and appropriate to stabilize the  
36 person and prevent decompensation, deterioration, or physical harm.  
37 Temporary detention for evaluation under this subsection is intended  
38 to occur only following a pattern of noncompliance or the failure of  
39 reasonable attempts at outreach and engagement, and may occur only  
40 when in the clinical judgment of a designated crisis responder or the

1 professional person in charge of an agency or facility designated to  
2 monitor less restrictive alternative services temporary detention is  
3 appropriate. This subsection does not limit the ability or obligation  
4 to pursue revocation procedures under subsection (4) of this section  
5 in appropriate circumstances; and

6 (e) To initiate revocation procedures under subsection (4) of  
7 this section.

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

14 (4)(a) A designated crisis responder or the secretary may upon  
15 their own motion or notification by the facility or agency designated  
16 to provide outpatient care order a person subject to a court order  
17 under this chapter to be apprehended and taken into custody and  
18 temporary detention in an evaluation and treatment facility in or  
19 near the county in which he or she is receiving outpatient treatment  
20 if the person is committed for mental health treatment, or, if the  
21 person is committed for substance use disorder treatment, in a secure  
22 detoxification facility or approved substance use disorder treatment  
23 program if either is available in or near the county in which he or  
24 she is receiving outpatient treatment. Proceedings under this  
25 subsection (4) may be initiated without ordering the apprehension and  
26 detention of the 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 (c) The designated crisis responder or secretary shall (~~notify~~  
36 ~~the court that originally ordered commitment within two judicial days~~  
37 ~~of a person's detention and~~) file a revocation petition and order of  
38 apprehension and detention with the court (~~and~~) of the county where  
39 the person is currently located or being detained. The designated  
40 crisis responder shall serve the person and their attorney, guardian,



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

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

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

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

1 **Part Three - Initial Detention Investigations**

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

4 ((A)) If a person subject to evaluation under RCW 71.05.150 or  
5 71.05.153 is located in an emergency room at the time of evaluation,  
6 the designated mental health professional conducting ((an)) the  
7 evaluation ((of a person under RCW 71.05.150 or 71.05.153 must  
8 consult with any examining emergency room physician regarding the  
9 physician's observations and opinions relating to the person's  
10 condition, and whether, in the view of the physician, detention is  
11 appropriate. The designated mental health professional)) shall take  
12 serious consideration of observations and opinions by an examining  
13 emergency room physician((s)), advanced registered nurse  
14 practitioner, or physician assistant in determining whether detention  
15 under this chapter is appropriate. The designated mental health  
16 professional must document ((the)) his or her consultation with ((an  
17 examining emergency room physician)) this professional, ((including))  
18 if the professional is available, or his or her review of the  
19 ((physician's)) professional's written observations or opinions  
20 regarding whether detention of the person is appropriate.

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

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

1 written observations or opinions regarding whether detention of the  
2 person is appropriate.

3 **Part Four - Evaluation and Petition by Chemical**  
4 **Dependency Professionals**

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

7 (1)(a) When a designated chemical dependency specialist receives  
8 information alleging that a person presents a likelihood of serious  
9 harm or is gravely disabled as a result of ((~~chemical dependency~~)) a  
10 substance use disorder, the designated chemical dependency  
11 specialist, after investigation and evaluation of the specific facts  
12 alleged and of the reliability and credibility of the information,  
13 may file a petition for commitment of such person with the superior  
14 court, district court, or in another court permitted by court rule.

15 If a petition for commitment is not filed in the case of a minor,  
16 the parent, guardian, or custodian who has custody of the minor may  
17 seek review of that decision made by the designated chemical  
18 dependency specialist in superior or district court. The parent,  
19 guardian, or custodian shall file notice with the court and provide a  
20 copy of the designated chemical dependency specialist's report.

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

26 (b) If placement in a ((~~chemical dependency~~)) substance use  
27 disorder treatment program is available and deemed appropriate, the  
28 petition shall allege that: The person is chemically dependent and  
29 presents a likelihood of serious harm or is gravely disabled by  
30 alcohol or drug addiction, or that the person has twice before in the  
31 preceding twelve months been admitted for withdrawal management,  
32 sobering services, or ((~~chemical dependency~~)) substance use disorder  
33 treatment pursuant to RCW 70.96A.110 or 70.96A.120, and is in need of  
34 a more sustained treatment program, or that the person ((~~is~~  
35 ~~chemically dependent~~)) has a substance use disorder and has  
36 threatened, attempted, or inflicted physical harm on another and is  
37 likely to inflict physical harm on another unless committed. A

1 refusal to undergo treatment, by itself, does not constitute evidence  
2 of lack of judgment as to the need for treatment.

3 (c) If involuntary detention is sought, the petition must state  
4 facts that support a finding of the grounds identified in (b) of this  
5 subsection and that there are no less restrictive alternatives to  
6 detention in the best interest of such person or others. The petition  
7 must state specifically that less restrictive alternative treatment  
8 was considered and specify why treatment less restrictive than  
9 detention is not appropriate. If an involuntary less restrictive  
10 alternative is sought, the petition must state facts that support a  
11 finding of the grounds for commitment identified in (b) of this  
12 subsection and set forth the proposed less restrictive alternative.

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

14 (A) ~~((Two physicians;))~~ One physician, physician assistant, or  
15 advanced registered nurse practitioner; and

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

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

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

20 ~~(ii) The persons signing the petition must have examined the~~  
21 ~~person))~~ One physician, physician assistant, advanced registered  
22 nurse practitioner, or designated chemical dependency specialist.

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

1 advisable. A copy of the petition and certificate shall be delivered  
2 to each person notified.

3 (3) At the hearing the court shall hear all relevant testimony  
4 including, if possible, the testimony, which may be telephonic, of at  
5 least one licensed physician, psychiatric advanced registered nurse  
6 practitioner, physician assistant, or (~~mental health professional~~)  
7 designated chemical dependency specialist who has examined the person  
8 whose commitment is sought. Communications otherwise deemed  
9 privileged under the laws of this state are deemed to be waived in  
10 proceedings under this chapter when a court of competent jurisdiction  
11 in its discretion determines that the waiver is necessary to protect  
12 either the detained person or the public. The waiver of a privilege  
13 under this section is limited to records or testimony relevant to  
14 evaluation of the detained person for purposes of a proceeding under  
15 this chapter. Upon motion by the detained person, or on its own  
16 motion, the court shall examine a record or testimony sought by a  
17 petitioner to determine whether it is within the scope of the waiver.

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

1 department for a period of not more than five days for purposes of a  
2 diagnostic examination.

3 (4)(a) If, after hearing all relevant evidence, including the  
4 results of any diagnostic examination, the court finds that grounds  
5 for involuntary commitment have been established by a preponderance  
6 of the evidence and, after considering less restrictive alternatives  
7 to involuntary detention and treatment, finds that no such  
8 alternatives are in the best interest of the person or others, it  
9 shall make an order of commitment to an approved substance use  
10 disorder treatment program. It shall not order commitment of a person  
11 unless it determines that an approved substance use disorder  
12 treatment program is available and able to provide adequate and  
13 appropriate treatment for him or her.

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

31 (5) A person committed to inpatient treatment under this section  
32 shall remain in the program for treatment for a period of fourteen  
33 days unless sooner discharged. A person committed to a less  
34 restrictive course of treatment under this section shall remain in  
35 the program of treatment for a period of ninety days unless sooner  
36 discharged. At the end of the fourteen-day period, or ninety-day  
37 period in the case of a less restrictive alternative to inpatient  
38 treatment, he or she shall be discharged automatically unless the  
39 program or the designated chemical dependency specialist, before  
40 expiration of the period, files a petition for his or her

1 recommitment upon the grounds set forth in subsection (1) of this  
2 section for a further period of ninety days of inpatient treatment or  
3 ninety days of less restrictive alternative treatment unless sooner  
4 discharged. The petition for ninety-day inpatient or less restrictive  
5 alternative treatment must be filed with the clerk of the court at  
6 least three days before expiration of the fourteen-day period of  
7 intensive treatment.

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

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

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

35 (7) The approved substance use disorder treatment program shall  
36 provide for adequate and appropriate treatment of a person committed  
37 to its custody on an inpatient or outpatient basis. A person  
38 committed under this section may be transferred from one approved  
39 public treatment program to another if transfer is medically  
40 advisable.

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

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

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

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

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

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



1 (12) When in the opinion of the professional person in charge of  
2 the program providing involuntary inpatient treatment under this  
3 chapter, the committed patient can be appropriately served by less  
4 restrictive treatment before expiration of the period of commitment,  
5 then the less restrictive care may be required as a condition for  
6 early release for a period which, when added to the initial treatment  
7 period, does not exceed the period of commitment. If the program  
8 designated to provide the less restrictive treatment is other than  
9 the program providing the initial involuntary treatment, the program  
10 so designated must agree in writing to assume such responsibility. A  
11 copy of the conditions for early release shall be given to the  
12 patient, the designated chemical dependency specialist of original  
13 commitment, and the court of original commitment. The program  
14 designated to provide less restrictive care may modify the conditions  
15 for continued release when the modifications are in the best  
16 interests of the patient. If the program providing less restrictive  
17 care and the designated chemical dependency specialist determine that  
18 a conditionally released patient is failing to adhere to the terms  
19 and conditions of his or her release, or that substantial  
20 deterioration in the patient's functioning has occurred, then the  
21 designated chemical dependency specialist shall notify the court of  
22 original commitment and request a hearing to be held no less than two  
23 and no more than seven days after the date of the request to  
24 determine whether or not the person should be returned to more  
25 restrictive care. The designated chemical dependency specialist shall  
26 file a petition with the court stating the facts substantiating the  
27 need for the hearing along with the treatment recommendations. The  
28 patient shall have the same rights with respect to notice, hearing,  
29 and counsel as for the original involuntary treatment proceedings.  
30 The issues to be determined at the hearing are whether the  
31 conditionally released patient did or did not adhere to the terms and  
32 conditions of his or her release to less restrictive care or that  
33 substantial deterioration of the patient's functioning has occurred  
34 and whether the conditions of release should be modified or the  
35 person should be returned to a more restrictive program. The hearing  
36 may be waived by the patient and his or her counsel and his or her  
37 guardian or conservator, if any, but may not be waived unless all  
38 such persons agree to the waiver. Upon waiver, the person may be  
39 returned for involuntary treatment or continued on conditional  
40 release on the same or modified conditions. The grounds and

1 procedures for revocation of less restrictive alternative treatment  
2 ordered by the court must be the same as those set forth in this  
3 section for less restrictive care arranged by an approved substance  
4 use disorder treatment program as a condition for early release.

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

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

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

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

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

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

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

30 (6) "Chemical dependency" means:

31 (a) Alcoholism;

32 (b) Drug addiction; or

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

35 (7) "Chemical dependency professional" means a person certified  
36 as a chemical dependency professional by the department of health  
37 under chapter 18.205 RCW;

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

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

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

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

17 (12) "Department" means the department of social and health  
18 services;

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

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

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

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

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

37 (18) "Drug addiction" means a disease, characterized by a  
38 dependency on psychoactive chemicals, loss of control over the amount  
39 and circumstances of use, symptoms of tolerance, physiological or  
40 psychological withdrawal, or both, if use is reduced or discontinued,

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

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

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

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

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

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

1 (24) "Individualized service plan" means a plan prepared by a  
2 developmental disabilities professional with other professionals as a  
3 team, for a person with developmental disabilities, which shall  
4 state:

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

7 (b) The conditions and strategies necessary to achieve the  
8 purposes of habilitation;

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

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

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

14 (f) Where relevant in light of past criminal behavior and due  
15 consideration for public safety, the criteria for proposed movement  
16 to less-restrictive settings, criteria for proposed eventual  
17 discharge or release, and a projected possible date for discharge or  
18 release; and

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

21 (25) "Information related to mental health services" means all  
22 information and records compiled, obtained, or maintained in the  
23 course of providing services to either voluntary or involuntary  
24 recipients of services by a mental health service provider. This may  
25 include documents of legal proceedings under this chapter or chapter  
26 71.34 or 10.77 RCW, or somatic health care information;

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

30 (27) "In need of assisted outpatient mental health treatment"  
31 means that a person, as a result of a mental disorder: (a) Has been  
32 committed by a court to detention for involuntary mental health  
33 treatment at least twice during the preceding thirty-six months, or,  
34 if the person is currently committed for involuntary mental health  
35 treatment, the person has been committed to detention for involuntary  
36 mental health treatment at least once during the thirty-six months  
37 preceding the date of initial detention of the current commitment  
38 cycle; (b) is unlikely to voluntarily participate in outpatient  
39 treatment without an order for less restrictive alternative  
40 treatment, in view of the person's treatment history or current

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (41) "Psychiatric advanced registered nurse practitioner" means a  
40 person who is licensed as an advanced registered nurse practitioner

1 pursuant to chapter 18.79 RCW; and who is board certified in advanced  
2 practice psychiatric and mental health nursing;

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

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

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

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

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

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

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

31 (49) "Secure detoxification facility" means a facility operated  
32 by either a public or private agency or by the program of an agency  
33 that:

34 (a) Provides for intoxicated persons:

35 (i) Evaluation and assessment, provided by certified chemical  
36 dependency professionals;

37 (ii) Acute or subacute detoxification services; and

38 (iii) Discharge assistance provided by certified chemical  
39 dependency professionals, including facilitating transitions to



1 appropriate voluntary or involuntary inpatient services or to less  
2 restrictive alternatives as appropriate for the individual;

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

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

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

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

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

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

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

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

1 standards. A triage facility may be structured as a voluntary or  
2 involuntary placement facility;

3 (56) "Violent act" means behavior that resulted in homicide,  
4 attempted suicide, nonfatal injuries, or substantial damage to  
5 property.

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

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

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

14 (i) One physician (~~(and a mental health professional)~~), physician  
15 assistant, or advanced registered nurse practitioner; and

16 (ii) One (~~(physician assistant and a)~~) mental health  
17 professional(~~(; or~~

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

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

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

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

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

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

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

33 (i) One physician ~~((and a mental health professional))~~, physician  
34 assistant, or advanced registered nurse practitioner; and

35 (ii) One ~~((physician assistant and a))~~ mental health  
36 professional ~~((; or~~

37 ~~((iii) One advanced registered nurse practitioner and a mental~~  
38 health)). If the person is detained for substance use disorder

1 evaluation and treatment, the person may be examined by a chemical  
2 dependency professional instead of a mental health professional; and

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

20 (2) If, after examination and evaluation, the mental health  
21 professional or chemical dependency professional and licensed  
22 physician, physician assistant, or psychiatric advanced registered  
23 nurse practitioner determine that the initial needs of the person, if  
24 detained to an evaluation and treatment facility, would be better  
25 served by placement in a substance use disorder treatment  
26 (~~facility~~) program, or, if detained to a secure detoxification  
27 facility or approved substance use disorder treatment program, would  
28 be better served in an evaluation and treatment facility then the  
29 person shall be referred to the more appropriate placement.

30 (3) An evaluation and treatment center, secure detoxification  
31 facility, or approved substance use disorder treatment program  
32 admitting or accepting any person pursuant to this chapter whose  
33 physical condition reveals the need for hospitalization shall assure  
34 that such person is transferred to an appropriate hospital for  
35 evaluation or admission for treatment. Notice of such fact shall be  
36 given to the court, the designated attorney, and the designated  
37 crisis responder and the court shall order such continuance in  
38 proceedings under this chapter as may be necessary, but in no event  
39 may this continuance be more than fourteen days.

1       **Sec. 17.** RCW 71.05.230 and 2016 sp.s. c 29 s 230, 2016 c 155 s  
2 5, and 2016 c 45 s 1 are each reenacted and amended to read as  
3 follows:

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

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

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

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

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

28       (~~((a) Two physicians))~~ (A) One physician, physician assistant, or  
29 psychiatric advanced registered nurse practitioner; and

30       (~~((b))~~) (B) One physician ((and a)), physician assistant,  
31 psychiatric advanced registered nurse practitioner, or mental health  
32 professional((+)

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

34       ~~(d) One psychiatric advanced registered nurse practitioner and a~~  
35 ~~mental health professional))~~.

36       (ii) If the petition is for substance use disorder treatment, the  
37 petition may be signed by a chemical dependency professional instead  
38 of a mental health professional and by an advanced registered nurse  
39 practitioner instead of a psychiatric advanced registered nurse

1 practitioner. The persons signing the petition must have examined the  
2 person.

3 (b) If involuntary detention is sought the petition shall state  
4 facts that support the finding that such person, as a result of a  
5 mental disorder or substance use disorder, presents a likelihood of  
6 serious harm, or is gravely disabled and that there are no less  
7 restrictive alternatives to detention in the best interest of such  
8 person or others. The petition shall state specifically that less  
9 restrictive alternative treatment was considered and specify why  
10 treatment less restrictive than detention is not appropriate. If an  
11 involuntary less restrictive alternative is sought, the petition  
12 shall state facts that support the finding that such person, as a  
13 result of a mental disorder or as a result of a substance use  
14 disorder, presents a likelihood of serious harm, is gravely disabled,  
15 or is in need of assisted outpatient mental health treatment, and  
16 shall set forth any recommendations for less restrictive alternative  
17 treatment services; and

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

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

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

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

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

37 **Sec. 18.** RCW 71.05.290 and 2016 sp.s. c 29 s 235, 2016 c 155 s  
38 6, and 2016 c 45 s 3 are each reenacted and amended to read as  
39 follows:

1 (1) At any time during a person's fourteen day intensive  
2 treatment period, the professional person in charge of a treatment  
3 facility or his or her professional designee or the designated crisis  
4 responder may petition the superior court for an order requiring such  
5 person to undergo an additional period of treatment. Such petition  
6 must be based on one or more of the grounds set forth in RCW  
7 71.05.280.

8 (2)(a)(i) The petition shall summarize the facts which support  
9 the need for further commitment and shall be supported by affidavits  
10 based on an examination of the patient and signed by:

11 ~~((a) Two physicians))~~ (A) One physician, physician assistant, or  
12 psychiatric advanced registered nurse practitioner; and

13 ~~((b))~~ (B) One physician ((and a)), physician assistant,  
14 psychiatric advanced registered nurse practitioner, or mental health  
15 professional((+

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

17 ~~(d) One psychiatric advanced registered nurse practitioner and a~~  
18 ~~mental health professional))~~.

19 (ii) If the petition is for substance use disorder treatment, the  
20 petition may be signed by a chemical dependency professional instead  
21 of a mental health professional and by an advanced registered nurse  
22 practitioner instead of a psychiatric advanced registered nurse  
23 practitioner.

24 (b) The affidavits shall describe in detail the behavior of the  
25 detained person which supports the petition and shall explain what,  
26 if any, less restrictive treatments which are alternatives to  
27 detention are available to such person, and shall state the  
28 willingness of the affiant to testify to such facts in subsequent  
29 judicial proceedings under this chapter. If less restrictive  
30 alternative treatment is sought, the petition shall set forth any  
31 recommendations for less restrictive alternative treatment services.

32 (3) If a person has been determined to be incompetent pursuant to  
33 RCW 10.77.086(4), then the professional person in charge of the  
34 treatment facility or his or her professional designee or the  
35 designated crisis responder may directly file a petition for one  
36 hundred eighty day treatment under RCW 71.05.280(3). No petition for  
37 initial detention or fourteen day detention is required before such a  
38 petition may be filed.

1       **Sec. 19.** RCW 71.05.300 and 2016 sp.s. c 29 s 236 and 2016 c 155  
2 s 7 are each reenacted and amended to read as follows:

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

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

31       (3) The court may, if requested, also appoint a professional  
32 person as defined in RCW 71.05.020 to seek less restrictive  
33 alternative courses of treatment and to testify on behalf of the  
34 detained person. In the case of a person with a developmental  
35 disability who has been determined to be incompetent pursuant to RCW  
36 10.77.086(4), then the appointed professional person under this  
37 section shall be a developmental disabilities professional.

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



1       **Sec. 20.** RCW 71.05.360 and 2016 sp.s. c 29 s 244 and 2016 c 155  
2 s 8 are each reenacted and amended to read as follows:

3       (1)(a) Every person involuntarily detained or committed under the  
4 provisions of this chapter shall be entitled to all the rights set  
5 forth in this chapter, which shall be prominently posted in the  
6 facility, and shall retain all rights not denied him or her under  
7 this chapter except as chapter 9.41 RCW may limit the right of a  
8 person to purchase or possess a firearm or to qualify for a concealed  
9 pistol license if the person is committed under RCW 71.05.240 or  
10 71.05.320 for mental health treatment.

11       (b) No person shall be presumed incompetent as a consequence of  
12 receiving an evaluation or voluntary or involuntary treatment for a  
13 mental disorder or substance use disorder, under this chapter or any  
14 prior laws of this state dealing with mental illness or substance use  
15 disorders. Competency shall not be determined or withdrawn except  
16 under the provisions of chapter 10.77 or 11.88 RCW.

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

21       (2) Each person involuntarily detained or committed pursuant to  
22 this chapter shall have the right to adequate care and individualized  
23 treatment.

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

28       (4) Persons receiving evaluation or treatment under this chapter  
29 shall be given a reasonable choice of an available physician,  
30 physician assistant, psychiatric advanced registered nurse  
31 practitioner, or other professional person qualified to provide such  
32 services.

33       (5) Whenever any person is detained for evaluation and treatment  
34 pursuant to this chapter, both the person and, if possible, a  
35 responsible member of his or her immediate family, personal  
36 representative, guardian, or conservator, if any, shall be advised as  
37 soon as possible in writing or orally, by the officer or person  
38 taking him or her into custody or by personnel of the evaluation and  
39 treatment facility, secure detoxification facility, or approved  
40 substance use disorder treatment program where the person is detained

1 that unless the person is released or voluntarily admits himself or  
2 herself for treatment within seventy-two hours of the initial  
3 detention:

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

12 (b) The person has a right to communicate immediately with an  
13 attorney; has a right to have an attorney appointed to represent him  
14 or her before and at the probable cause hearing if he or she is  
15 indigent; and has the right to be told the name and address of the  
16 attorney that the mental health professional has designated pursuant  
17 to this chapter;

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

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

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

26 (6) When proceedings are initiated under RCW 71.05.153, no later  
27 than twelve hours after such person is admitted to the evaluation and  
28 treatment facility, secure detoxification facility, or approved  
29 substance use disorder treatment program the personnel of the  
30 facility or the designated crisis responder shall serve on such  
31 person a copy of the petition for initial detention and the name,  
32 business address, and phone number of the designated attorney and  
33 shall forthwith commence service of a copy of the petition for  
34 initial detention on the designated attorney.

35 (7) The judicial hearing described in subsection (5) of this  
36 section is hereby authorized, and shall be held according to the  
37 provisions of subsection (5) of this section and rules promulgated by  
38 the supreme court.

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

- 1 (a) To present evidence on his or her behalf;
- 2 (b) To cross-examine witnesses who testify against him or her;
- 3 (c) To be proceeded against by the rules of evidence;
- 4 (d) To remain silent;
- 5 (e) To view and copy all petitions and reports in the court file.

6 (9) Privileges between patients and physicians, physician  
7 assistants, psychologists, or psychiatric advanced registered nurse  
8 practitioners are deemed waived in proceedings under this chapter  
9 relating to the administration of antipsychotic medications. As to  
10 other proceedings under this chapter, the privileges shall be waived  
11 when a court of competent jurisdiction in its discretion determines  
12 that such waiver is necessary to protect either the detained person  
13 or the public.

14 The waiver of a privilege under this section is limited to  
15 records or testimony relevant to evaluation of the detained person  
16 for purposes of a proceeding under this chapter. Upon motion by the  
17 detained person or on its own motion, the court shall examine a  
18 record or testimony sought by a petitioner to determine whether it is  
19 within the scope of the waiver.

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

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

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

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

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

38 (d) To have visitors at reasonable times;

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

4 (f) To have ready access to letter writing materials, including  
5 stamps, and to send and receive uncensored correspondence through the  
6 mails;

7 (g) To discuss treatment plans and decisions with professional  
8 persons;

9 (h) Not to consent to the administration of antipsychotic  
10 medications and not to thereafter be administered antipsychotic  
11 medications unless ordered by a court under RCW 71.05.217 or pursuant  
12 to an administrative hearing under RCW 71.05.215;

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

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

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

21 (11) Every person involuntarily detained shall immediately be  
22 informed of his or her right to a hearing to review the legality of  
23 his or her detention and of his or her right to counsel, by the  
24 professional person in charge of the facility providing evaluation  
25 and treatment, or his or her designee, and, when appropriate, by the  
26 court. If the person so elects, the court shall immediately appoint  
27 an attorney to assist him or her.

28 (12) A person challenging his or her detention or his or her  
29 attorney shall have the right to designate and have the court appoint  
30 a reasonably available independent physician, physician assistant,  
31 psychiatric advanced registered nurse practitioner, or (~~licensed~~  
32 ~~mental health~~) other professional person to examine the person  
33 detained, the results of which examination may be used in the  
34 proceeding. The person shall, if he or she is financially able, bear  
35 the cost of such expert examination, otherwise such expert  
36 examination shall be at public expense.

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

39 (14) Nothing in this chapter shall prohibit a person committed on  
40 or prior to January 1, 1974, from exercising a right available to him

1 or her at or prior to January 1, 1974, for obtaining release from  
2 confinement.

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

7 **Sec. 21.** RCW 71.05.760 and 2016 sp.s. c 29 s 201 are each  
8 amended to read as follows:

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

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

21 (A) Psychiatrist, psychologist, physician assistant working with  
22 a supervising psychiatrist, psychiatric advanced registered nurse  
23 practitioner, or social worker;

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

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

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

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

38 (ii) Training must include chemical dependency training specific  
39 to the duties of a designated crisis responder, including diagnosis

1 of substance abuse and dependence and assessment of risk associated  
2 with substance use.

3 (c) The department must develop a transition process for any  
4 person who has been designated as a designated mental health  
5 professional or a designated chemical dependency specialist before  
6 April 1, 2018, to be converted to a designated crisis responder. The  
7 behavioral health organizations shall provide training, as required  
8 by the department, to persons converting to designated crisis  
9 responders, which must include both mental health and chemical  
10 dependency training applicable to the designated crisis responder  
11 role.

12 (2)(a) The department must ensure that at least one sixteen-bed  
13 secure detoxification facility is operational by April 1, 2018, and  
14 that at least two sixteen-bed secure detoxification facilities are  
15 operational by April 1, 2019.

16 (b) If, at any time during the implementation of secure  
17 detoxification facility capacity, federal funding becomes unavailable  
18 for federal match for services provided in secure detoxification  
19 facilities, then the department must cease any expansion of secure  
20 detoxification facilities until further direction is provided by the  
21 legislature.

22 **Part Five - Technical**

23 NEW SECTION. **Sec. 22.** Section 13 of this act is necessary for  
24 the immediate preservation of the public peace, health, or safety, or  
25 support of the state government and its existing public institutions,  
26 and takes effect immediately.

27 NEW SECTION. **Sec. 23.** Sections 8, 11, and 13 of this act expire  
28 April 1, 2018.

29 NEW SECTION. **Sec. 24.** Sections 9, 12, 14, 15, and 17 through 21  
30 of this act take effect April 1, 2018.

31 NEW SECTION. **Sec. 25.** Sections 9 and 15 of this act expire July  
32 1, 2026.

1        NEW SECTION.    **Sec. 26.**    Sections 10 and 16 of this act take  
2 effect July 1, 2026.

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