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SENATE BILL 6466

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State of Washington

65th Legislature

2018 Regular Session

By Senators O'Ban and Conway

Read first time 01/18/18. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to standardizing practices relating to the  
2 commitment and release of persons committed to a state institution  
3 after committing acts of felony violence; amending RCW 10.77.084,  
4 10.77.086, 10.77.270, 71.05.280, 71.05.320, 71.05.325, 71.05.330,  
5 71.05.335, 71.05.340, 10.77.152, 71.24.470, 71.24.385, 72.09.370, and  
6 10.77.163; reenacting and amending RCW 71.05.320 and 71.05.425;  
7 adding new sections to chapter 10.77 RCW; adding a new section to  
8 chapter 71.05 RCW; creating a new section; providing an effective  
9 date; and providing expiration dates.

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

11 NEW SECTION. **Sec. 1.** (1) The legislature finds that there is  
12 significant overlap in treatment needs and public safety  
13 considerations related to: (a) Persons civilly committed for  
14 inpatient mental health treatment following dismissal of violent  
15 felony charges based on incompetence to stand trial who are proven to  
16 have committed acts constituting a violent felony; (b) persons  
17 civilly committed for inpatient mental health treatment pursuant to  
18 laws relating to criminal insanity; and (c) offenders convicted of a  
19 violent felony and diagnosed with serious mental illness who receive  
20 mental health treatment services through the offender reentry  
21 community safety program. The legislature finds that both public

1 safety needs and the recovery needs of these individuals would be  
2 better served by consistency in the state programs which serve them.  
3 For example, persons civilly committed following dismissal of violent  
4 felony charges would benefit from the stable commitment terms, case  
5 review provided in the county of commitment, and availability of  
6 long-term community supervision by community corrections officers  
7 provided for patients civilly committed pursuant to criminal insanity  
8 laws. Furthermore, both civil patients committed following dismissal  
9 of a violent felony and civil patients committed pursuant to criminal  
10 insanity laws would benefit from the coordinated release planning,  
11 enhanced case management, and enhanced community monitoring provided  
12 for offenders through the offender reentry community safety program,  
13 which has been evaluated by the Washington state institute for public  
14 policy as one of the state's most effective recidivism abatement  
15 programs, returning benefits almost twice as large as the costs of  
16 the program.

17 (2) The legislature further finds that chapter 71.05 RCW contains  
18 four different sections requiring the superintendent of a state  
19 hospital to notify county prosecutors and other individuals of the  
20 release of a patient committed to a state hospital following the  
21 dismissal of felony charges under RCW 71.05.280(3) or 71.05.320(4),  
22 and three different sections allowing a county prosecutor to petition  
23 the court for a hearing to determine whether such patient should be  
24 released. This act reduces inconsistency and confusion in this  
25 chapter by consolidating these notification requirements under RCW  
26 71.05.425 and consolidating these opportunities to petition the court  
27 under RCW 71.05.330, which are revised and expanded to include city  
28 attorneys.

29 **PART I: TRANSFER OF COMMITMENTS FOLLOWING DISMISSAL OF VIOLENT FELONY**  
30 **CHARGES FROM CHAPTER 71.05 RCW TO CHAPTER 10.77 RCW**

31 **Sec. 101.** RCW 10.77.084 and 2016 sp.s. c 29 s 410 are each  
32 amended to read as follows:

33 (1)(a) If at any time during the pendency of an action and prior  
34 to judgment the court finds, following a report as provided in RCW  
35 10.77.060, a defendant is incompetent, the court shall order the  
36 proceedings against the defendant be stayed except as provided in  
37 subsection (4) of this section.

1 (b) The court may order a defendant who has been found to be  
2 incompetent to undergo competency restoration treatment at a facility  
3 designated by the department if the defendant is eligible under RCW  
4 10.77.086 or 10.77.088. At the end of each competency restoration  
5 period or at any time a professional person determines competency has  
6 been, or is unlikely to be, restored, the defendant shall be returned  
7 to court for a hearing, except that if the opinion of the  
8 professional person is that the defendant remains incompetent and the  
9 hearing is held before the expiration of the current competency  
10 restoration period, the parties may agree to waive the defendant's  
11 presence, to remote participation by the defendant at a hearing, or  
12 to presentation of an agreed order in lieu of a hearing. The facility  
13 shall promptly notify the court and all parties of the date on which  
14 the competency restoration period commences and expires so that a  
15 timely hearing date may be scheduled.

16 (c) If, following notice and hearing or entry of an agreed order  
17 under (b) of this subsection, the court finds that competency has  
18 been restored, the court shall lift the stay entered under (a) of  
19 this subsection. If the court finds that competency has not been  
20 restored, the court shall dismiss the proceedings without prejudice,  
21 except that the court may order a further period of competency  
22 restoration treatment if it finds that further treatment within the  
23 time limits established by RCW 10.77.086 or 10.77.088 is likely to  
24 restore competency, and a further period of treatment is allowed  
25 under RCW 10.77.086 or 10.77.088.

26 (d) If at any time during the proceeding the court finds,  
27 following notice and hearing, a defendant is not likely to regain  
28 competency, the court shall dismiss the proceedings without prejudice  
29 and refer the defendant for civil commitment evaluation or  
30 proceedings if appropriate under RCW 10.77.065, 10.77.086, or  
31 10.77.088.

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

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

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

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

19 (a) An assessment of the defendant's future dangerousness which  
20 is evidence-based regarding predictive validity; and

21 (b) If the defendant is charged with a felony classified as  
22 violent under RCW 9.94A.030, an opinion whether, due to a mental  
23 disorder, the defendant presents:

24 (i) A substantial likelihood of repeating similar acts;

25 (ii) A substantial danger to other persons; or

26 (iii) A substantial likelihood of committing criminal acts  
27 jeopardizing public safety or security.

28 **Sec. 102.** RCW 10.77.086 and 2015 1st sp.s. c 7 s 5 are each  
29 amended to read as follows:

30 (1)(a)(i) If the defendant is charged with a felony and  
31 determined to be incompetent, until he or she has regained the  
32 competency necessary to understand the proceedings against him or her  
33 and assist in his or her own defense, but in any event for a period  
34 of no longer than ninety days, the court:

35 (A) Shall commit the defendant to the custody of the secretary  
36 who shall place such defendant in an appropriate facility of the  
37 department for evaluation and treatment; or

38 (B) May alternatively order the defendant to undergo evaluation  
39 and treatment at some other facility or provider as determined by the

1 department, or under the guidance and control of a professional  
2 person. The facilities or providers may include community mental  
3 health providers or other local facilities that contract with the  
4 department and are willing and able to provide treatment under this  
5 section. (~~During the 2015-2017 fiscal biennium, the department may  
6 contract with one or more cities or counties to provide competency  
7 restoration services in a city or county jail if the city or county  
8 jail is willing and able to serve as a location for competency  
9 restoration services and if the secretary determines that there is an  
10 emergent need for beds and documents the justification, including a  
11 plan to address the emergency. Patients receiving competency  
12 restoration services in a city or county jail must be physically  
13 separated from other populations at the jail and restoration  
14 treatment services must be provided as much as possible within a  
15 therapeutic environment.~~)

16 (ii) The ninety day period for evaluation and treatment under  
17 this subsection (1) includes only the time the defendant is actually  
18 at the facility and is in addition to reasonable time for transport  
19 to or from the facility.

20 (b) For a defendant whose highest charge is a class C felony, or  
21 a class B felony that is not classified as violent under RCW  
22 9.94A.030, the maximum time allowed for the initial period of  
23 commitment for competency restoration is forty-five days. The forty-  
24 five day period includes only the time the defendant is actually at  
25 the facility and is in addition to reasonable time for transport to  
26 or from the facility.

27 (c) If the court determines or the parties agree that the  
28 defendant is unlikely to regain competency, the court may dismiss the  
29 charges without prejudice without ordering the defendant to undergo  
30 restoration treatment, in which case the court shall order that the  
31 defendant be referred for evaluation for civil commitment in the  
32 manner provided in subsection (4) of this section.

33 (2) On or before expiration of the initial period of commitment  
34 under subsection (1) of this section the court shall conduct a  
35 hearing, at which it shall determine whether or not the defendant is  
36 incompetent.

37 (3) If the court finds by a preponderance of the evidence that a  
38 defendant charged with a felony is incompetent, the court shall have  
39 the option of extending the order of commitment or alternative  
40 treatment for an additional period of ninety days, but the court must

1 at the time of extension set a date for a prompt hearing to determine  
2 the defendant's competency before the expiration of the second  
3 restoration period. The defendant, the defendant's attorney, or the  
4 prosecutor has the right to demand that the hearing be before a jury.  
5 No extension shall be ordered for a second or third restoration  
6 period as provided in subsection (4) of this section if the  
7 defendant's incompetence has been determined by the secretary to be  
8 solely the result of a developmental disability which is such that  
9 competence is not reasonably likely to be regained during an  
10 extension. The ninety-day period includes only the time the defendant  
11 is actually at the facility and is in addition to reasonable time for  
12 transport to or from the facility.

13 (4) For persons charged with a felony, at the hearing upon the  
14 expiration of the second restoration period or at the end of the  
15 first restoration period in the case of a defendant with a  
16 developmental disability, if the jury or court finds that the  
17 defendant is incompetent, or if the court or jury at any stage finds  
18 that the defendant is incompetent and the court determines that the  
19 defendant is unlikely to regain competency, the charges shall be  
20 dismissed without prejudice(~~(, and the court shall order the~~  
21 ~~defendant be committed to a state hospital as defined in RCW~~  
22 ~~72.23.010 for up to seventy two hours starting from admission to the~~  
23 ~~facility, excluding Saturdays, Sundays, and holidays, for evaluation~~  
24 ~~for the purpose of filing a civil commitment petition under chapter~~  
25 ~~71.05 RCW)). The criminal charges shall not be dismissed if the court  
26 or jury finds that: (a) The defendant (i) is a substantial danger to  
27 other persons; or (ii) presents a substantial likelihood of  
28 committing criminal acts jeopardizing public safety or security; and  
29 (b) there is a substantial probability that the defendant will regain  
30 competency within a reasonable period of time. In the event that the  
31 court or jury makes such a finding, the court may extend the period  
32 of commitment for up to an additional six months. The six-month  
33 period includes only the time the defendant is actually at the  
34 facility and is in addition to reasonable time for transport to or  
35 from the facility.~~

36 (5) If the court dismisses charges under subsection (4) of this  
37 section:

38 (a) If the defendant's charges include a felony classified as  
39 violent under RCW 9.94A.030, the prosecutor may immediately provide  
40 notice of intent to pursue commitment under this chapter under the

1 grounds provided in RCW 71.05.280(3) with a special allegation that  
2 the defendant committed acts constituting a felony classified as  
3 violent under RCW 9.94A.030 and either (i) presents a substantial  
4 danger to other persons; or (ii) presents a substantial likelihood of  
5 committing criminal acts jeopardizing public safety or security. If  
6 such notice is given, the court shall stay the order of dismissal for  
7 up to fourteen days and continue the proceedings for a commitment  
8 hearing under section 103 of this act. The proceeding may be  
9 continued for a longer period only for good cause. By stipulation of  
10 the parties, the commitment hearing may be held immediately.

11 (b) If the defendant's charges do not include a felony classified  
12 as violent under RCW 9.94A.030, or the prosecutor does not provide  
13 notice under (a) of this subsection, the court shall order the  
14 defendant be committed to a state hospital as defined in RCW  
15 72.23.010 for up to seventy-two hours starting from admission to the  
16 facility, excluding Saturdays, Sundays, and holidays, for evaluation  
17 for the purpose of filing a civil commitment petition under chapter  
18 71.05 RCW.

19 NEW SECTION. Sec. 103. A new section is added to chapter 10.77  
20 RCW to read as follows:

21 (1) Commitment hearings and subsequent proceedings under RCW  
22 10.77.086(5)(a) shall proceed under the provisions of this chapter,  
23 with a maximum commitment term as provided under RCW 10.77.025. To  
24 prove the special allegation, it shall not be necessary to show  
25 intent, willfulness, or state of mind as an element of the crime. The  
26 state shall bear the burden of proof by clear and convincing  
27 evidence. The defendant may demand a jury determination within seven  
28 days. If the court or jury finds in favor of commitment and affirms  
29 the special allegation, the court shall lift the stay on the order of  
30 dismissal and enter an order committing the defendant to treatment at  
31 a state hospital or other facility under the direction and control of  
32 the secretary, unless the court or jury finds that it is in the best  
33 interest of the defendant and others that the defendant be placed in  
34 treatment that is less restrictive than detention in a state mental  
35 hospital. The person shall have the same rights, including the right  
36 to periodic examination and to petition for conditional release or  
37 final release, as provided under RCW 10.77.020, 10.77.140, 10.77.150,  
38 10.77.200, and other provisions of this chapter.

1 (2) A prosecutor who alleges grounds for civil commitment under  
2 RCW 71.05.280(3) with a special allegation pursuant to RCW  
3 10.77.086(5)(a) may additionally allege other grounds for commitment  
4 under RCW 71.05.280. If the court or jury finds the existence of one  
5 or more grounds for commitment under RCW 71.05.280 but does not  
6 affirm the special allegation, the court shall enter an order of one  
7 hundred eighty day commitment under RCW 71.05.320 and remand the  
8 defendant to the custody of the department under chapter 71.05 RCW,  
9 or to one hundred eighty day less restrictive alternative treatment  
10 under chapter 71.05 RCW.

11 (3) The prosecutor may withdraw the special allegation prior to  
12 the commitment hearing, or later by stipulation of the parties, in  
13 which case the court shall enter a commitment order under RCW  
14 10.77.086(5)(b).

15 **Sec. 104.** RCW 10.77.270 and 2013 c 289 s 3 are each amended to  
16 read as follows:

17 (1) The secretary shall establish an independent public safety  
18 review panel for the purpose of advising the secretary and the courts  
19 with respect to persons who have been found not guilty by reason of  
20 insanity(~~(, or persons committed under the involuntary treatment act~~  
21 ~~where the court has made a special finding under RCW~~  
22 ~~71.05.280(3)(b))~~) or committed under section 103(1) of this act. The  
23 panel shall provide advice regarding all recommendations to the  
24 secretary, decisions by the secretary, or actions pending in court:  
25 (a) For a change in commitment status; (b) to allow furloughs or  
26 temporary leaves (~~(accompanied by staff; (c) not to seek further~~  
27 ~~commitment terms under RCW 71.05.320)); or (~~(d))~~) (c) to permit  
28 movement about the unsecured grounds of the treatment facility, with  
29 or without the accompaniment of staff.~~

30 (2) The members of the public safety review panel shall be  
31 appointed by the governor for a renewable term of three years and  
32 shall include the following:

- 33 (a) A psychiatrist;  
34 (b) A licensed clinical psychologist;  
35 (c) A representative of the department of corrections;  
36 (d) A prosecutor or a representative of a prosecutor's  
37 association;  
38 (e) A representative of law enforcement or a law enforcement  
39 association;

1 (f) A consumer and family advocate representative; and

2 (g) A public defender or a representative of a defender's  
3 association.

4 (3) Thirty days prior to issuing a recommendation for conditional  
5 release under RCW 10.77.150 or forty-five days prior to issuing a  
6 recommendation for release under RCW 10.77.200, the secretary shall  
7 submit its recommendation with the committed person's application and  
8 the department's risk assessment to the public safety review panel.  
9 The public safety review panel shall complete an independent  
10 assessment of the public safety risk entailed by the secretary's  
11 proposed conditional release recommendation or release recommendation  
12 and provide this assessment in writing to the secretary. The public  
13 safety review panel may, within funds appropriated for this purpose,  
14 request additional evaluations of the committed person. The public  
15 safety review panel may indicate whether it is in agreement with the  
16 secretary's recommendation, or whether it would issue a different  
17 recommendation. The secretary shall provide the panel's assessment  
18 when it is received along with any supporting documentation,  
19 including all previous reports of evaluations of the committed person  
20 in the person's hospital record, to the court, prosecutor in the  
21 county that ordered the person's commitment, and counsel for the  
22 committed person.

23 (4) The secretary shall notify the public safety review panel at  
24 appropriate intervals concerning any changes in the commitment or  
25 custody status of persons found not guilty by reason of insanity, or  
26 persons committed under ~~((the involuntary treatment act where the  
27 court has made a special finding under RCW 71.05.280(3)(b)))~~ section  
28 103(1) of this act. The panel shall have access, upon request, to a  
29 committed person's complete hospital record, and any other records  
30 deemed necessary by the public safety review panel.

31 (5) The department shall provide administrative and financial  
32 support to the public safety review panel. The department, in  
33 consultation with the public safety review panel, may adopt rules to  
34 implement this section.

35 ~~((6) By December 1, 2014, the public safety review panel shall  
36 report to the appropriate legislative committees the following:~~

37 ~~(a) Whether the public safety review panel has observed a change  
38 in statewide consistency of evaluations and decisions concerning  
39 changes in the commitment status of persons found not guilty by  
40 reason of insanity;~~

1 ~~(b) Whether the public safety review panel should be given the~~  
2 ~~authority to make release decisions and monitor release conditions;~~

3 ~~(c) Whether further changes in the law are necessary to enhance~~  
4 ~~public safety when incompetency prevents operation of the criminal~~  
5 ~~justice system and long-term commitment of the criminally insane; and~~

6 ~~(d) Any other issues the public safety review panel deems~~  
7 ~~relevant.))~~

8 **Sec. 105.** RCW 71.05.280 and 2016 sp.s. c 29 s 234 are each  
9 amended to read as follows:

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

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

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

24 (3) Such person has been determined to be incompetent and  
25 criminal charges have been dismissed pursuant to RCW 10.77.086(4),  
26 and has committed acts constituting a felony, and as a result of a  
27 mental disorder, presents a substantial likelihood of repeating  
28 similar acts. ~~((a))~~ In any proceeding pursuant to this subsection  
29 it shall not be necessary to show intent, willfulness, or state of  
30 mind as an element of the crime~~((÷~~

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

36 (4) Such person is gravely disabled; or

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

1       **Sec. 106.** RCW 71.05.320 and 2016 sp.s. c 29 s 237 and 2016 c 45  
2 s 4 are each reenacted and amended to read as follows:

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

11       (b) If the order for inpatient treatment is based on a substance  
12 use disorder, treatment must take place at an approved substance use  
13 disorder treatment program. The court may only enter an order for  
14 commitment based on a substance use disorder if there is an available  
15 approved substance use disorder treatment program with adequate space  
16 for the person.

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

21       (2) If the court or jury finds that grounds set forth in RCW  
22 71.05.280 have been proven, but finds that treatment less restrictive  
23 than detention will be in the best interest of the person or others,  
24 then the court shall remand him or her to the custody of the  
25 department or to a facility certified for ninety day treatment by the  
26 department or to a less restrictive alternative for a further period  
27 of less restrictive treatment not to exceed ninety days from the date  
28 of judgment. If the order for less restrictive treatment is based on  
29 a substance use disorder, treatment must be provided by an approved  
30 substance use disorder treatment program. If the grounds set forth in  
31 RCW 71.05.280(3) are the basis of commitment, then the period of  
32 treatment may be up to but not exceed one hundred eighty days from  
33 the date of judgment. If the court or jury finds that the grounds set  
34 forth in RCW 71.05.280(5) have been proven, and provide the only  
35 basis for commitment, the court must enter an order for less  
36 restrictive alternative treatment for up to ninety days from the date  
37 of judgment and may not order inpatient treatment.

38       (3) An order for less restrictive alternative treatment entered  
39 under subsection (2) of this section must name the mental health  
40 service provider responsible for identifying the services the person

1 will receive in accordance with RCW 71.05.585, and must include a  
2 requirement that the person cooperate with the services planned by  
3 the mental health service provider.

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

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

16 (b) Was taken into custody as a result of conduct in which he or  
17 she attempted or inflicted serious physical harm upon the person of  
18 another, and continues to present, as a result of mental disorder,  
19 substance use disorder, or developmental disability a likelihood of  
20 serious harm; or

21 (c) ~~((i))~~ Is in custody pursuant to RCW 71.05.280(3) and as a  
22 result of mental disorder or developmental disability continues to  
23 present a substantial likelihood of repeating acts similar to the  
24 charged criminal behavior, when considering the person's life  
25 history, progress in treatment, and the public safety ~~((-~~

26 ~~((ii))~~ ~~In cases under this subsection where the court has made an~~  
27 ~~affirmative special finding under RCW 71.05.280(3)(b), the commitment~~  
28 ~~shall continue for up to an additional one hundred eighty day period~~  
29 ~~whenever the petition presents prima facie evidence that the person~~  
30 ~~continues to suffer from a mental disorder or developmental~~  
31 ~~disability that results in a substantial likelihood of committing~~  
32 ~~acts similar to the charged criminal behavior, unless the person~~  
33 ~~presents proof through an admissible expert opinion that the person's~~  
34 ~~condition has so changed such that the mental disorder or~~  
35 ~~developmental disability no longer presents a substantial likelihood~~  
36 ~~of the person committing acts similar to the charged criminal~~  
37 ~~behavior. The initial or additional commitment period may include~~  
38 ~~transfer to a specialized program of intensive support and treatment,~~  
39 ~~which may be initiated prior to or after discharge from the state~~  
40 ~~hospital)); or~~

1 (d) Continues to be gravely disabled; or

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

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

6 If less restrictive alternative treatment is sought, the petition  
7 shall set forth any recommendations for less restrictive alternative  
8 treatment services.

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

15 (6)(a) The hearing shall be held as provided in RCW 71.05.310,  
16 and if the court or jury finds that the grounds for additional  
17 confinement as set forth in this section are present, subject to  
18 subsection (1)(b) of this section, the court may order the committed  
19 person returned for an additional period of treatment not to exceed  
20 one hundred eighty days from the date of judgment, except as provided  
21 in subsection (7) of this section. If the court's order is based  
22 solely on the grounds identified in subsection (4)(e) of this  
23 section, the court may enter an order for less restrictive  
24 alternative treatment not to exceed one hundred eighty days from the  
25 date of judgment, and may not enter an order for inpatient treatment.  
26 An order for less restrictive alternative treatment must name the  
27 mental health service provider responsible for identifying the  
28 services the person will receive in accordance with RCW 71.05.585,  
29 and must include a requirement that the person cooperate with the  
30 services planned by the mental health service provider.

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

39 (7) An order for less restrictive treatment entered under  
40 subsection (6) of this section may be for up to one year when the

1 person's previous commitment term was for intensive inpatient  
2 treatment in a state hospital.

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

7 **Sec. 107.** RCW 71.05.320 and 2016 sp.s. c 29 s 238 are each  
8 amended to read as follows:

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

16 If the order for inpatient treatment is based on a substance use  
17 disorder, treatment must take place at an approved substance use  
18 disorder treatment program. If the grounds set forth in RCW  
19 71.05.280(3) are the basis of commitment, then the period of  
20 treatment may be up to but not exceed one hundred eighty days from  
21 the date of judgment in a facility certified for one hundred eighty  
22 day treatment by the department.

23 (2) If the court or jury finds that grounds set forth in RCW  
24 71.05.280 have been proven, but finds that treatment less restrictive  
25 than detention will be in the best interest of the person or others,  
26 then the court shall remand him or her to the custody of the  
27 department or to a facility certified for ninety day treatment by the  
28 department or to a less restrictive alternative for a further period  
29 of less restrictive treatment not to exceed ninety days from the date  
30 of judgment. If the order for less restrictive treatment is based on  
31 a substance use disorder, treatment must be provided by an approved  
32 substance use disorder treatment program. If the grounds set forth in  
33 RCW 71.05.280(3) are the basis of commitment, then the period of  
34 treatment may be up to but not exceed one hundred eighty days from  
35 the date of judgment. If the court or jury finds that the grounds set  
36 forth in RCW 71.05.280(5) have been proven, and provide the only  
37 basis for commitment, the court must enter an order for less  
38 restrictive alternative treatment for up to ninety days from the date  
39 of judgment and may not order inpatient treatment.

1 (3) An order for less restrictive alternative treatment entered  
2 under subsection (2) of this section must name the mental health  
3 service provider responsible for identifying the services the person  
4 will receive in accordance with RCW 71.05.585, and must include a  
5 requirement that the person cooperate with the services planned by  
6 the mental health service provider.

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

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

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

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

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

1 ~~transfer to a specialized program of intensive support and treatment,~~  
2 ~~which may be initiated prior to or after discharge from the state~~  
3 ~~hospital)); or~~

4 (d) Continues to be gravely disabled; or

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

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

9 If less restrictive alternative treatment is sought, the petition  
10 shall set forth any recommendations for less restrictive alternative  
11 treatment services.

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

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

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

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

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

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

11 NEW SECTION. **Sec. 108.** A new section is added to chapter 71.05  
12 RCW to read as follows:

13 (1) If an individual is currently committed for inpatient  
14 treatment under RCW 71.05.280(3) with an affirmative special finding  
15 under RCW 71.05280(3)(b), as it existed prior to the effective date  
16 of this section, at the individual's next commitment hearing, the  
17 petitioner may file a petition to convert the individual's commitment  
18 to a commitment under RCW 10.77.086(5)(a). If it has been previously  
19 proven that the individual has committed acts constituting a felony  
20 classified as violent under RCW 9.94A.030 relating to the current  
21 commitment, it is not necessary to prove those facts again; provided  
22 that if such finding was entered by stipulation, the individual must  
23 be permitted to withdraw the stipulation.

24 (2) This section expires January 1, 2020.

25 **PART II: STANDARDIZING TERMS RELATING TO NOTIFICATION OF RELEASE FROM**  
26 **A STATE HOSPITAL AND OPPORTUNITY TO INTERVENE BY THE COUNTY**  
27 **PROSECUTOR OR CITY ATTORNEY**

28 **Sec. 201.** RCW 71.05.325 and 2016 sp.s. c 29 s 239 are each  
29 amended to read as follows:

30 (1) ~~((Before a person committed under grounds set forth in RCW~~  
31 ~~71.05.280(3) is released because a new petition for involuntary~~  
32 ~~treatment has not been filed under RCW 71.05.320(3), the~~  
33 ~~superintendent, professional person, or designated crisis responder~~  
34 ~~responsible for the decision whether to file a new petition shall in~~  
35 ~~writing notify the prosecuting attorney of the county in which the~~  
36 ~~criminal charges against the committed person were dismissed, of the~~  
37 ~~decision not to file a new petition for involuntary treatment. Notice~~

1 shall be provided at least forty five days before the period of  
2 commitment expires.

3 ~~(2))~~(a) Before a person committed under grounds set forth in RCW  
4 71.05.280(3) is permitted temporarily to leave a treatment facility  
5 pursuant to RCW 71.05.270 for any period of time without constant  
6 accompaniment by ~~((facility))~~ staff of the facility, department, or  
7 entity responsible for community treatment under chapter 71.24 RCW,  
8 the superintendent, professional person in charge of a treatment  
9 facility, or his or her professional designee shall in writing notify  
10 the prosecuting attorney of any county of the person's destination  
11 and the prosecuting attorney of the county in which the criminal  
12 charges against the committed person were dismissed. The notice shall  
13 be provided at least forty-five days before the anticipated leave and  
14 shall describe the conditions under which the leave is to occur.

15 (b) The provisions of RCW ~~((71.05.330(2)))~~ 71.05.425 apply to  
16 proposed leaves, and either or both prosecuting attorneys receiving  
17 notice under this subsection may petition the court under RCW  
18 ~~((71.05.330(2)))~~ 71.05.335.

19 ~~((3))~~ (2) Nothing in this section shall be construed to  
20 authorize detention of a person unless a valid order of commitment is  
21 in effect.

22 ~~((4))~~ (3) The existence of the notice requirements in this  
23 section will not require any extension of the leave date in the event  
24 the leave plan changes after notification.

25 ~~((5))~~ (4) The notice requirements contained in this section  
26 shall not apply to emergency medical transfers.

27 ~~((6) The notice provisions of this section are in addition to~~  
28 ~~those provided in RCW 71.05.425.)~~

29 **Sec. 202.** RCW 71.05.330 and 1998 c 297 s 20 are each amended to  
30 read as follows:

31 (1) Nothing in this chapter shall prohibit the superintendent or  
32 professional person in charge of the hospital or facility in which  
33 the person is being involuntarily treated from releasing him or her  
34 prior to the expiration of the commitment period when, in the opinion  
35 of the superintendent or professional person in charge, the person  
36 being involuntarily treated no longer presents a likelihood of  
37 serious harm.

38 (2) Whenever the superintendent or professional person in charge  
39 of a hospital or facility providing involuntary treatment pursuant to

1 this chapter releases a person prior to the expiration of the period  
2 of commitment, the superintendent or professional person in charge  
3 shall in writing notify the court which committed the person for  
4 treatment. If the person is committed under RCW 71.05.280(3) or  
5 71.05.320(4), the superintendent or professional person shall  
6 additionally provide notice under RCW 71.05.425.

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

35 **Sec. 203.** RCW 71.05.335 and 1986 c 67 s 7 are each amended to  
36 read as follows:

37 (1) In any proceeding under this chapter to ~~((modify a commitment~~  
38 ~~order of))~~ release a person committed to inpatient treatment under  
39 grounds set forth in RCW 71.05.280(3) or 71.05.320~~((2))~~ (4)(c) ~~((in~~

1 ~~which the requested relief includes treatment less restrictive than~~  
2 ~~detention)) pursuant to a conditional release under RCW 71.05.340(1),~~  
3 ~~a less restrictive treatment order under RCW 71.05.320(2), or by not~~  
4 ~~filing a new petition for involuntary treatment under RCW~~  
5 ~~71.05.320(4), the prosecuting attorney of the county in which~~  
6 ~~criminal charges were dismissed, the prosecuting attorney in the~~  
7 ~~county where the person will reside, or the city attorney in the city~~  
8 ~~where the person will reside shall be entitled to intervene. ((The~~  
9 ~~party initiating the motion to modify the commitment order shall~~  
10 ~~serve the prosecuting attorney of the county in which the criminal~~  
11 ~~charges against the committed person were dismissed with written~~  
12 ~~notice and copies of the initiating papers.))~~

13 (2) To intervene under subsection (1) of this section, the  
14 intervening party must file a petition in the court of the county of  
15 commitment requesting to review the terms of the proposed release.  
16 The petition must be filed at least ten days prior to the proposed  
17 release. The intervening party must serve the petition upon the  
18 superintendent in charge of the facility and the committed person or  
19 upon their counsel. The court must hold a hearing on the petition  
20 within ten days. At the hearing, it shall be the duty of the  
21 superintendent to present evidence establishing that the committed  
22 person may be released without substantial danger to other persons,  
23 or substantial likelihood of committing criminal acts jeopardizing  
24 public safety or security. The court shall allow the intervening  
25 party to question the witnesses and present argument and evidence on  
26 behalf of its interest in the public safety and security of the  
27 represented community. The committed person shall have the same  
28 rights with respect to notice, hearing, and counsel as in an  
29 involuntary treatment proceeding, except that there shall be no right  
30 to jury trial.

31 **Sec. 204.** RCW 71.05.340 and 2016 sp.s. c 29 s 240 are each  
32 amended to read as follows:

33 (1)(a) When, in the opinion of the superintendent or the  
34 professional person in charge of the hospital or facility providing  
35 involuntary treatment, the committed person can be appropriately  
36 served by outpatient treatment prior to or at the expiration of the  
37 period of commitment, then such outpatient care may be required as a  
38 term of conditional release for a period which, when added to the  
39 inpatient treatment period, shall not exceed the period of

1 commitment. If the facility or agency designated to provide  
2 outpatient treatment is other than the facility providing involuntary  
3 treatment, the outpatient facility so designated must agree in  
4 writing to assume such responsibility. A copy of the terms of  
5 conditional release shall be given to the patient, the designated  
6 crisis responder in the county in which the patient is to receive  
7 outpatient treatment, and to the court of original commitment.

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

1 ~~the hearing, the conditional release of the person shall be approved~~  
2 ~~by the court on the same or modified conditions or the person shall~~  
3 ~~be returned for involuntary treatment on an inpatient basis subject~~  
4 ~~to release at the end of the period for which he or she was~~  
5 ~~committed, or otherwise in accordance with the provisions of this~~  
6 ~~chapter)) provide notice under RCW 71.05.425.~~

7 (2) The facility or agency designated to provide outpatient care  
8 or the secretary may modify the conditions for continued release when  
9 such modification is in the best interest of the person. Notification  
10 of such changes shall be sent to all persons receiving a copy of the  
11 original conditions. Enforcement or revocation proceedings related to  
12 a conditional release order may occur as provided under RCW  
13 71.05.590.

14 **Sec. 205.** RCW 71.05.425 and 2013 c 289 s 6 and 2013 c 200 s 30  
15 are each reenacted and amended to read as follows:

16 (1)~~((a) Except as provided in subsection (2) of this section, at~~  
17 ~~the earliest possible date, and in no event later than thirty days~~  
18 ~~before conditional release, final release, authorized leave under RCW~~  
19 ~~71.05.325(2), or transfer to a facility other than a state mental~~  
20 ~~hospital, the superintendent shall send written notice of conditional~~  
21 ~~release, release, authorized leave, or transfer of a person committed~~  
22 ~~under RCW 71.05.280(3) or 71.05.320(3)(c) following)) Before the  
23 superintendent may attempt to release a person committed under RCW  
24 71.05.280(3) or 71.05.320(4)(c) pursuant to a conditional release  
25 under RCW 71.05.340(1), a petition for less restrictive treatment  
26 order under RCW 71.05.320(2), or by failing to file a new petition  
27 for involuntary treatment under RCW 71.05.320(4), the superintendent  
28 shall in writing notify the prosecuting attorney of the county in  
29 which the criminal charges against the committed person were  
30 dismissed of the decision to release the person. Notice shall be  
31 provided at least forty-five days before the action taken or forty-  
32 five days before the period of commitment expires.~~

33 (2) If the commitment under subsection (1) of this section  
34 relates to the dismissal of a sex, violent, or felony harassment  
35 offense pursuant to RCW 10.77.086(4):

36 (a) The superintendent shall provide notice of the proposed  
37 release and a copy of the terms of conditional release or less  
38 restrictive treatment no later than thirty days before release to the  
39 following:

1 (i) The chief of police of the city, if any, in which the person  
2 will reside;

3 (ii) The sheriff of the county in which the person will reside;  
4 (~~and~~)

5 (iii) The city attorney in the city in which the person will  
6 reside; and

7 (iv) The prosecuting attorney of the county in which the criminal  
8 charges against the committed person were dismissed and the  
9 prosecuting attorney of the county in which the person will reside.

10 (b) (~~The same~~) If notice of release has been requested in  
11 writing with respect to the specific person committed, the  
12 superintendent shall send notice (~~as required by (a) of this~~  
13 subsection shall be sent)) of the release to the following, (~~if such~~  
14 notice has been requested in writing about a specific person  
15 committed under RCW 71.05.280(3) or 71.05.320(3)(c) following  
16 dismissal of a sex, violent, or felony harassment offense pursuant to  
17 RCW 10.77.086(4)) no later than thirty days before the release:

18 (i) The victim of the sex, violent, or felony harassment offense  
19 that was dismissed pursuant to RCW 10.77.086(4) preceding commitment  
20 under RCW 71.05.280(3) or 71.05.320(~~(3))~~) (4)(c) or the victim's  
21 next of kin if the crime was a homicide;

22 (ii) Any witnesses who testified against the person in any court  
23 proceedings;

24 (iii) Any person specified in writing by the prosecuting  
25 attorney. Information regarding victims, next of kin, or witnesses  
26 requesting the notice, information regarding any other person  
27 specified in writing by the prosecuting attorney to receive the  
28 notice, and the notice are confidential and shall not be available to  
29 the person committed under this chapter; and

30 (iv) The chief of police of the city, if any, and the sheriff of  
31 the county, if any, which had jurisdiction of the person on the date  
32 of the applicable offense.

33 (c) Notice provided to a prosecuting attorney or city attorney  
34 under this subsection (2) must inform the attorney of the attorney's  
35 right to intervene by filing a petition under RCW 71.05.335.

36 (d) If the victim, the victim's next of kin, or any witness is  
37 under the age of sixteen, the notice required by this section shall  
38 be sent to the parent or legal guardian of the child.

39 (3) The (~~thirty-day~~) notice requirements contained in this  
40 subsection shall not apply to emergency medical transfers.

1       ~~((d))~~ (4) The existence of the notice requirements in this  
2 subsection will not require any extension of the release date in the  
3 event the release plan changes after notification.

4       ~~((2))~~ (5) If a person committed under RCW 71.05.280(3) or  
5 71.05.320~~((3))~~ (4)(c) following dismissal of a sex, violent, or  
6 felony harassment offense pursuant to RCW 10.77.086(4) escapes, the  
7 superintendent shall immediately notify, by the most reasonable and  
8 expedient means available, the chief of police of the city and the  
9 sheriff of the county in which the person escaped and in which the  
10 person resided immediately before the person's arrest and the  
11 prosecuting attorney of the county in which the criminal charges  
12 against the committed person were dismissed. If previously requested,  
13 the superintendent shall also notify the witnesses and the victim of  
14 the sex, violent, or felony harassment offense that was dismissed  
15 pursuant to RCW 10.77.086(4) preceding commitment under RCW  
16 71.05.280(3) or 71.05.320~~((3))~~ (4) or the victim's next of kin if  
17 the crime was a homicide. In addition, the secretary shall also  
18 notify appropriate parties pursuant to RCW 70.02.230(2)(n). If the  
19 person is recaptured, the superintendent shall send notice to the  
20 persons designated in this subsection as soon as possible but in no  
21 event later than two working days after the department learns of such  
22 recapture.

23       ~~((3) If the victim, the victim's next of kin, or any witness is  
24 under the age of sixteen, the notice required by this section shall  
25 be sent to the parent or legal guardian of the child.~~

26       ~~(4))~~ (6) The superintendent shall send the notices required by  
27 this chapter to the last address provided to the department by the  
28 requesting party. The requesting party shall furnish the department  
29 with a current address.

30       ~~((5))~~ (7) For purposes of this section the following terms have  
31 the following meanings:

32       (a) "Violent offense" means a violent offense under RCW  
33 9.94A.030;

34       (b) "Sex offense" means a sex offense under RCW 9.94A.030;

35       (c) "Next of kin" means a person's spouse, state registered  
36 domestic partner, parents, siblings, and children;

37       (d) "Felony harassment offense" means a crime of harassment as  
38 defined in RCW 9A.46.060 that is a felony.

39                                   **PART III: IMPLEMENTING FAIR SHARE**

1       **Sec. 301.** RCW 10.77.152 and 2011 c 94 s 1 are each amended to  
2 read as follows:

3       (1) In determining whether to support an application for  
4 conditional release on behalf of a person committed as criminally  
5 insane or under RCW 10.77.086(5)(a) which would permit the person to  
6 reside outside of a state hospital, the secretary may not support a  
7 conditional release application to a location outside the person's  
8 county of origin unless it is determined by the secretary that the  
9 person's return to his or her county of origin would be inappropriate  
10 considering any court-issued protection orders, victim safety  
11 concerns, the availability of appropriate treatment, negative  
12 influences on the person, or the location of family or other persons  
13 or organizations offering support to the person. When the department  
14 assists in developing a placement under this section which is outside  
15 of the county of origin, and there are two or more options for  
16 placement, it shall endeavor to develop the placement in a manner  
17 that does not have a disproportionate effect on a single county.

18       (2) If the committed person is not conditionally released to his  
19 or her county of origin, the department shall provide the law and  
20 justice council of the county in which the person is conditionally  
21 released with a written explanation.

22       (3) For purposes of this section, the offender's county of origin  
23 means the county of the court which ordered the person's commitment.

24       NEW SECTION. **Sec. 302.** A new section is added to chapter 10.77  
25 RCW to read as follows:

26       The secretary may not authorize the discharge of a person  
27 committed under RCW 10.77.086(5)(a) to an adult family home.

28                   **PART IV: EXPANSION OF THE REENTRY COMMUNITY SAFETY PROGRAM**

29       **Sec. 401.** RCW 71.24.470 and 2014 c 225 s 44 are each amended to  
30 read as follows:

31       (1) The secretary shall contract, to the extent that funds are  
32 appropriated for this purpose, for case management services and such  
33 other services as the secretary deems necessary to assist offenders  
34 identified under RCW 72.09.370 and individuals committed to inpatient  
35 treatment under chapter 10.77 RCW following acquittal or dismissal of  
36 felony charges for participation in the ((offender)) reentry

1 community safety program. The contracts may be with behavioral health  
2 organizations or any other qualified and appropriate entities.

3 (2) The case manager has the authority to assist these offenders  
4 in obtaining the services, as set forth in the plan created under RCW  
5 72.09.370(2), for up to five years. The services may include  
6 coordination of mental health services, assistance with unfunded  
7 medical expenses, obtaining chemical dependency treatment, housing,  
8 employment services, educational or vocational training, independent  
9 living skills, parenting education, anger management services, and  
10 such other services as the case manager deems necessary.

11 (3) The legislature intends that funds appropriated for the  
12 purposes of RCW 72.09.370, 71.05.145, and 71.05.212, and this section  
13 and distributed to the behavioral health organizations are to  
14 supplement and not to supplant general funding. Funds appropriated to  
15 implement RCW 72.09.370, 71.05.145, and 71.05.212, and this section  
16 are not to be considered available resources as defined in RCW  
17 71.24.025 and are not subject to the priorities, terms, or conditions  
18 in the appropriations act established pursuant to RCW 71.24.035.

19 (4) The (~~offender~~) reentry community safety program was  
20 formerly known as the community integration assistance program.

21 **Sec. 402.** RCW 71.24.385 and 2016 sp.s. c 29 s 510 are each  
22 amended to read as follows:

23 (1) Within funds appropriated by the legislature for this  
24 purpose, behavioral health organizations shall develop the means to  
25 serve the needs of people:

26 (a) With mental disorders residing within the boundaries of their  
27 regional service area. Elements of the program may include:

28 (i) Crisis diversion services;

29 (ii) Evaluation and treatment and community hospital beds;

30 (iii) Residential treatment;

31 (iv) Programs for intensive community treatment;

32 (v) Outpatient services;

33 (vi) Peer support services;

34 (vii) Community support services;

35 (viii) Reentry services;

36 (ix) Resource management services; and

37 (~~(ix)~~) (x) Supported housing and supported employment services.

1 (b) With substance use disorders and their families, people  
2 incapacitated by alcohol or other psychoactive chemicals, and  
3 intoxicated people.

4 (i) Elements of the program shall include, but not necessarily be  
5 limited to, a continuum of substance use disorder treatment services  
6 that includes:

- 7 (A) Withdrawal management;
- 8 (B) Residential treatment; and
- 9 (C) Outpatient treatment.

10 (ii) The program may include peer support, supported housing,  
11 supported employment, crisis diversion, reentry services, or recovery  
12 support services.

13 (iii) The department may contract for the use of an approved  
14 substance use disorder treatment program or other individual or  
15 organization if the secretary considers this to be an effective and  
16 economical course to follow.

17 (2) The behavioral health organization shall have the  
18 flexibility, within the funds appropriated by the legislature for  
19 this purpose and the terms of their contract, to design the mix of  
20 services that will be most effective within their service area of  
21 meeting the needs of people with behavioral health disorders and  
22 avoiding placement of such individuals at the state mental hospital.  
23 Behavioral health organizations are encouraged to maximize the use of  
24 evidence-based practices and alternative resources with the goal of  
25 substantially reducing and potentially eliminating the use of  
26 institutions for mental diseases.

27 (3)(a) Treatment provided under this chapter must be purchased  
28 primarily through managed care contracts.

29 (b) Consistent with RCW 71.24.580, services and funding provided  
30 through the criminal justice treatment account are intended to be  
31 exempted from managed care contracting.

32 (4) The behavioral health organizations or their successor  
33 entities under RCW 71.24.850(2) must ensure that adequate capacity  
34 exists in each regional service area to support the operation of the  
35 reentry community safety program under RCW 72.09.370 and section 404  
36 of this act.

37 **Sec. 403.** RCW 72.09.370 and 2016 sp.s. c 29 s 427 are each  
38 amended to read as follows:

1 (1) The ~~((offender))~~ reentry community safety program is  
2 established to ~~((provide))~~ promote public safety by providing  
3 intensive services to offenders identified under this subsection and  
4 ~~((to thereby promote public safety))~~ individuals committed to  
5 inpatient treatment under chapter 10.77 RCW following acquittal or  
6 dismissal of felony charges. The secretary shall:

7 (a) Identify offenders in confinement or partial confinement who:  
8 ~~((a))~~ (i) Are reasonably believed to be dangerous to themselves or  
9 others; and ~~((b))~~ (ii) have a mental disorder. In determining an  
10 offender's dangerousness, the secretary shall consider behavior known  
11 to the department and factors, based on research, that are linked to  
12 an increased risk for dangerousness of offenders with mental  
13 illnesses and shall include consideration of an offender's chemical  
14 dependency or abuse;

15 (b) Collaborate with the department of social and health services  
16 to provide training, consultation, and support during the  
17 implementation of the expansion of the reentry community safety  
18 program under section 404 of this act; and

19 (c) Ensure that community corrections officers engaged in  
20 supervision of offenders released under this section and of  
21 individuals ordered to receive supervision by a community corrections  
22 officer under RCW 10.77.150(3)(d) receive appropriate training  
23 related to monitoring and engagement of persons with behavioral  
24 health disorders and collaboration with available community  
25 behavioral health and state hospital resources to support the  
26 recovery of the offender or individual, ensure compliance with  
27 conditions of release, and protect the safety of the offender or  
28 individual and the public.

29 (2) Prior to release of an offender identified under this  
30 section, a team consisting of representatives of the department of  
31 corrections, the ~~((division of mental health))~~ behavioral health  
32 administration, and, as necessary, the indeterminate sentence review  
33 board, other divisions or administrations within the department of  
34 social and health services, specifically including the division of  
35 ~~((alcohol and substance abuse))~~ behavioral health and recovery and  
36 the ~~((division of))~~ developmental disabilities administration, the  
37 appropriate behavioral health organization, fully integrated managed  
38 care entity or administrative services organization under RCW  
39 71.24.850(2), and the providers, as appropriate, shall develop a  
40 plan, as determined necessary by the team, for delivery of treatment

1 and support services to the offender upon release. In developing the  
2 plan, the offender shall be offered assistance in executing a mental  
3 health directive under chapter 71.32 RCW, after being fully informed  
4 of the benefits, scope, and purposes of such directive. The team may  
5 include a school district representative for offenders under the age  
6 of twenty-one. The team shall consult with the offender's counsel, if  
7 any, and, as appropriate, the offender's family and community. The  
8 team shall notify the crime victim/witness program, which shall  
9 provide notice to all people registered to receive notice under RCW  
10 72.09.712 of the proposed release plan developed by the team.  
11 Victims, witnesses, and other interested people notified by the  
12 department may provide information and comments to the department on  
13 potential safety risk to specific individuals or classes of  
14 individuals posed by the specific offender. The team may recommend:  
15 (a) That the offender be evaluated by the designated crisis  
16 responder, as defined in chapter 71.05 RCW; (b) department-supervised  
17 community treatment; or (c) voluntary community mental health or  
18 chemical dependency or abuse treatment.

19 (3) Prior to release of an offender identified under this  
20 section, the team shall determine whether or not an evaluation by a  
21 designated crisis responder is needed. If an evaluation is  
22 recommended, the supporting documentation shall be immediately  
23 forwarded to the appropriate designated crisis responder. The  
24 supporting documentation shall include the offender's criminal  
25 history, history of judicially required or administratively ordered  
26 involuntary antipsychotic medication while in confinement, and any  
27 known history of involuntary civil commitment.

28 (4) If an evaluation by a designated crisis responder is  
29 recommended by the team, such evaluation shall occur not more than  
30 ten days, nor less than five days, prior to release.

31 (5) A second evaluation by a designated crisis responder shall  
32 occur on the day of release if requested by the team, based upon new  
33 information or a change in the offender's mental condition, and the  
34 initial evaluation did not result in an emergency detention or a  
35 summons under chapter 71.05 RCW.

36 (6) If the designated crisis responder determines an emergency  
37 detention under chapter 71.05 RCW is necessary, the department shall  
38 release the offender only to a state hospital or to a consenting  
39 evaluation and treatment facility. The department shall arrange  
40 transportation of the offender to the hospital or facility.

1 (7) If the designated crisis responder believes that a less  
2 restrictive alternative treatment is appropriate, he or she shall  
3 seek a summons, pursuant to the provisions of chapter 71.05 RCW, to  
4 require the offender to appear at an evaluation and treatment  
5 facility. If a summons is issued, the offender shall remain within  
6 the corrections facility until completion of his or her term of  
7 confinement and be transported, by corrections personnel on the day  
8 of completion, directly to the identified evaluation and treatment  
9 facility.

10 (8) The secretary shall adopt rules to implement this section.

11 NEW SECTION. **Sec. 404.** A new section is added to chapter 10.77  
12 RCW to read as follows:

13 (1) The reentry community safety program established under RCW  
14 72.09.370 is expanded on the effective date of this section to  
15 include services for individuals committed to inpatient treatment  
16 under this chapter following acquittal or dismissal of felony  
17 charges. The secretary shall:

18 (a) Identify individuals who meet the criteria under this  
19 subsection who have been recommended by their treatment teams as  
20 potentially ready for conditional release to a community placement  
21 within six months if an appropriate community placement and discharge  
22 plan can be established providing appropriate treatment, monitoring,  
23 and supervision if warranted to support the recovery of the  
24 individual and protect the safety of the individual and the public.  
25 An individual is not ready for conditional release unless the  
26 individual may be released conditionally without substantial danger  
27 to other persons, or substantial likelihood of committing criminal  
28 acts jeopardizing public safety or security;

29 (b) Notify the public safety review panel under RCW 10.77.270  
30 when an individual is referred for reentry community safety program  
31 services and provide full placement and discharge plan information  
32 for the individual to the panel when it is available;

33 (c) Ensure that reentry community safety program contracts  
34 require contractors to provide information to the public safety  
35 review panel upon request relating to a proposed conditional release  
36 plan and to provide testimony relating to such a plan to the superior  
37 court charged with reviewing an application for conditional release  
38 made by or on behalf of an individual.

1 (2) The secretary shall model the expansion of the reentry  
2 community safety program off the successful elements of the program  
3 as applied to offenders within the jurisdiction of the department of  
4 corrections, with appropriate adaptations to account for the  
5 differences inherent in commitments under this chapter. The secretary  
6 shall collaborate with the secretary of the department of corrections  
7 to establish procedures including training and consultation necessary  
8 to establish and sustain the program, and including training how to  
9 collaborate effectively and appropriately share information with  
10 corrections personnel and other program partners.

11 (3) Upon the effective date of this section, appropriations made  
12 to support individuals committed under RCW 71.05.280(3)(b) as it  
13 existed prior to the effective date of this section must be  
14 redirected to support the expansion of the reentry community safety  
15 program.

16 **Sec. 405.** RCW 10.77.163 and 2008 c 213 s 4 are each amended to  
17 read as follows:

18 (1) Before a person committed under this chapter is permitted  
19 temporarily to leave a treatment facility for any period of time  
20 without constant accompaniment by (~~facility~~) staff of the facility,  
21 department, or entity responsible for providing services or  
22 supervision under the reentry community safety program, the  
23 superintendent, professional person in charge of a treatment  
24 facility, or his or her professional designee shall in writing notify  
25 the prosecuting attorney of any county to which the person is  
26 released and the prosecuting attorney of the county in which the  
27 criminal charges against the committed person were dismissed, of the  
28 decision conditionally to release the person. The notice shall be  
29 provided at least forty-five days before the anticipated release and  
30 shall describe the conditions under which the release is to occur.

31 (2) In addition to the notice required by subsection (1) of this  
32 section, the superintendent of each state institution designated for  
33 the custody, care, and treatment of persons committed under this  
34 chapter shall notify appropriate law enforcement agencies through the  
35 state patrol communications network of the furloughs of persons  
36 committed under RCW 10.77.086 or 10.77.110. Notification shall be  
37 made at least thirty days before the furlough, and shall include the  
38 name of the person, the place to which the person has permission to

1 go, and the dates and times during which the person will be on  
2 furlough.

3 (3) Upon receiving notice that a person committed under this  
4 chapter is being temporarily released under subsection (1) of this  
5 section, the prosecuting attorney may seek a temporary restraining  
6 order to prevent the release of the person on the grounds that the  
7 person is dangerous to self or others.

8 (4) The notice requirements contained in this section shall not  
9 apply to emergency medical furloughs.

10 (5) The existence of the notice requirements contained in this  
11 section shall not require any extension of the release date in the  
12 event the release plan changes after notification.

13 (6) The notice provisions of this section are in addition to  
14 those provided in RCW 10.77.205.

15 **PART V: MISCELLANEOUS PROVISIONS**

16 NEW SECTION. **Sec. 501.** Section 106 of this act expires July 1,  
17 2026.

18 NEW SECTION. **Sec. 502.** Section 107 of this act takes effect  
19 July 1, 2026.

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