
SENATE BILL 6491

State of Washington

65th Legislature

2018 Regular Session

By Senators O'Ban and Darneille

1 AN ACT Relating to increasing the availability of assisted
2 outpatient behavioral health treatment; amending RCW 71.05.020,
3 71.05.150, 71.05.150, 71.05.230, 71.05.240, 71.05.590, 71.05.590, and
4 71.05.201; reenacting and amending RCW 71.05.585 and 71.05.240;
5 adding a new section to chapter 71.05 RCW; providing effective dates;
6 providing an expiration date; and declaring an emergency.

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

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

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

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

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

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

5 (4) "Approved substance use disorder treatment program" means a
6 program for persons with a substance use disorder provided by a
7 treatment program certified by the department as meeting standards
8 adopted under chapter 71.24 RCW;

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

12 (6) "Chemical dependency" means:

13 (a) Alcoholism;

14 (b) Drug addiction; or

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

17 (7) "Chemical dependency professional" means a person certified
18 as a chemical dependency professional by the department of health
19 under chapter 18.205 RCW;

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

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

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

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

36 (12) "Department" means the department of social and health
37 services;

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

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

3 (15) "Developmental disabilities professional" means a person who
4 has specialized training and three years of experience in directly
5 treating or working with persons with developmental disabilities and
6 is a psychiatrist, physician assistant working with a supervising
7 psychiatrist, psychologist, psychiatric advanced registered nurse
8 practitioner, or social worker, and such other developmental
9 disabilities professionals as may be defined by rules adopted by the
10 secretary;

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

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

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

22 (19) "Evaluation and treatment facility" means any facility which
23 can provide directly, or by direct arrangement with other public or
24 private agencies, emergency evaluation and treatment, outpatient
25 care, and timely and appropriate inpatient care to persons suffering
26 from a mental disorder, and which is certified as such by the
27 department. The department may certify single beds as temporary
28 evaluation and treatment beds under RCW 71.05.745. A physically
29 separate and separately operated portion of a state hospital may be
30 designated as an evaluation and treatment facility. A facility which
31 is part of, or operated by, the department or any federal agency will
32 not require certification. No correctional institution or facility,
33 or jail, shall be an evaluation and treatment facility within the
34 meaning of this chapter;

35 (20) "Gravely disabled" means a condition in which a person, as a
36 result of a mental disorder, or as a result of the use of alcohol or
37 other psychoactive chemicals: (a) Is in danger of serious physical
38 harm resulting from a failure to provide for his or her essential
39 human needs of health or safety; or (b) manifests severe
40 deterioration in routine functioning evidenced by repeated and

1 escalating loss of cognitive or volitional control over his or her
2 actions and is not receiving such care as is essential for his or her
3 health or safety;

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

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

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

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

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

26 (b) The conditions and strategies necessary to achieve the
27 purposes of habilitation;

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

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

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

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

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

1 (25) "Information related to mental health services" means all
2 information and records compiled, obtained, or maintained in the
3 course of providing services to either voluntary or involuntary
4 recipients of services by a mental health service provider. This may
5 include documents of legal proceedings under this chapter or chapter
6 71.34 or 10.77 RCW, or somatic health care information;

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

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

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

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

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

4 (31) "Licensed physician" means a person licensed to practice
5 medicine or osteopathic medicine and surgery in the state of
6 Washington;

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

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

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

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

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

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

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

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

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

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

9 (39) "Private agency" means any person, partnership, corporation,
10 or association that is not a public agency, whether or not financed
11 in whole or in part by public funds, which constitutes an evaluation
12 and treatment facility or private institution, or hospital, or
13 approved substance use disorder treatment program, which is conducted
14 for, 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;

17 (40) "Professional person" means a mental health professional,
18 chemical dependency professional, or designated crisis responder and
19 shall also mean a physician, physician assistant, psychiatric
20 advanced registered nurse practitioner, registered nurse, and such
21 others as may be defined by rules adopted by the secretary pursuant
22 to the provisions of this chapter;

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

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

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

35 (44) "Public agency" means any evaluation and treatment facility
36 or institution, secure detoxification facility, approved substance
37 use disorder treatment program, or hospital which is conducted for,
38 or includes a department or ward conducted for, the care and
39 treatment of persons with mental illness, substance use disorders, or
40 both mental illness and substance use disorders, if the agency is

1 operated directly by federal, state, county, or municipal government,
2 or a combination of such governments;

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

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

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

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

15 (49) "Secure detoxification facility" means a facility operated
16 by either a public or private agency or by the program of an agency
17 that:

18 (a) Provides for intoxicated persons:

19 (i) Evaluation and assessment, provided by certified chemical
20 dependency professionals;

21 (ii) Acute or subacute detoxification services; and

22 (iii) Discharge assistance provided by certified chemical
23 dependency professionals, including facilitating transitions to
24 appropriate voluntary or involuntary inpatient services or to less
25 restrictive alternatives as appropriate for the individual;

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

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

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

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

34 (52) "Substance use disorder" means a cluster of cognitive,
35 behavioral, and physiological symptoms indicating that an individual
36 continues using the substance despite significant substance-related
37 problems. The diagnosis of a substance use disorder is based on a
38 pathological pattern of behaviors related to the use of the
39 substances;

1 (53) "Therapeutic court personnel" means the staff of a mental
2 health court or other therapeutic court which has jurisdiction over
3 defendants who are dually diagnosed with mental disorders, including
4 court personnel, probation officers, a court monitor, prosecuting
5 attorney, or defense counsel acting within the scope of therapeutic
6 court duties;

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

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

27 (56) "Violent act" means behavior that resulted in homicide,
28 attempted suicide, nonfatal injuries, or substantial damage to
29 property.

30 **Sec. 2.** RCW 71.05.585 and 2016 sp.s. c 29 s 241 and 2016 c 45 s
31 5 are each reenacted and amended to read as follows:

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

34 (a) Assignment of a care coordinator;

35 (b) An intake evaluation with the provider of the less
36 restrictive alternative treatment;

37 (c) A psychiatric evaluation;

38 (d) (~~Medication management;~~

1 ~~(e)~~) A schedule of regular contacts with the provider of the
2 less restrictive alternative treatment services for the duration of
3 the order;

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

6 ~~((g))~~ (f) An individual crisis plan.

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

9 (a) Medication management;

10 (b) Psychotherapy;

11 ~~((b))~~ (c) Nursing;

12 ~~((e))~~ (d) Substance abuse counseling;

13 ~~((d))~~ (e) Residential treatment; and

14 ~~((e))~~ (f) Support for housing, benefits, education, and
15 employment.

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

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

27 (5) For the purpose of this section, "care coordinator" means a
28 clinical practitioner who coordinates the activities of less
29 restrictive alternative treatment. The care coordinator coordinates
30 activities with the designated crisis responders that are necessary
31 for enforcement and continuation of less restrictive alternative
32 orders and is responsible for coordinating service activities with
33 other agencies and establishing and maintaining a therapeutic
34 relationship with the individual on a continuing basis.

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

37 This section establishes a process for initial evaluation and
38 filing of a petition for assisted outpatient treatment, but however
39 does not preclude the filing of a petition for assisted outpatient

1 treatment following a period of inpatient detention in appropriate
2 circumstances:

3 (1) The designated crisis responder must personally interview the
4 person, unless the person refuses an interview, and determine whether
5 the person will voluntarily receive appropriate evaluation and
6 treatment at a mental health facility, secure detoxification
7 facility, or approved substance use disorder treatment program.

8 (2) The designated crisis responder must investigate and evaluate
9 the specific facts alleged and the reliability or credibility of any
10 person providing information. The designated crisis responder may
11 spend up to forty-eight hours to complete the investigation, provided
12 that the person may not be held for investigation for any period
13 except as authorized by RCW 71.05.050 or 71.05.153.

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

19 (a) A statement of the circumstances under which the person's
20 condition was made known and stating that there is evidence, as a
21 result of the designated crisis responder's personal observation or
22 investigation, that the person is in need of assisted outpatient
23 behavioral health treatment, and stating the specific facts known as
24 a result of personal observation or investigation, upon which the
25 designated crisis responder bases this belief;

26 (b) The declaration of additional witnesses, if any, supporting
27 the petition for assisted outpatient treatment;

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

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

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

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

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

5 (b) The hearing may be held prior to the person's release from
6 custody, provided that (i) the filing of the petition does not extend
7 the time the person would otherwise spend in the custody of jail or
8 prison; (ii) the charges or custody of the person is not a pretext to
9 detain the person for the purpose of the involuntary commitment
10 hearing; and (iii) the person's release from custody must be expected
11 to swiftly follow the adjudication of the petition. In this
12 circumstance, the time for hearing is shortened to three judicial
13 days after the filing of the petition.

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

17 (6) A petition for assisted outpatient treatment filed under this
18 section must be adjudicated under RCW 71.05.240.

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

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

1 ~~alternative treatment order. If the petition is for an involuntary~~
2 ~~outpatient evaluation and the person is being held in a hospital~~
3 ~~emergency department, the person may be released once the hospital~~
4 ~~has satisfied federal and state legal requirements for appropriate~~
5 ~~screening and stabilization of patients.~~

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

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

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

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

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

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

34 (d) A court may not issue an order to detain a person to a secure
35 detoxification facility or approved substance use disorder treatment
36 program unless there is an available secure detoxification facility
37 or approved substance use disorder treatment program that has
38 adequate space for the person.

39 (3) The designated crisis responder shall then serve or cause to
40 be served on such person, his or her guardian, and conservator, if

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

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

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

32 (1)~~((a))~~ When a designated crisis responder receives
33 information alleging that a person, as a result of a mental disorder,
34 substance use disorder, or both presents a likelihood of serious harm
35 or is gravely disabled, or that a person is in need of assisted
36 outpatient (~~mental~~) behavioral health treatment; the designated
37 crisis responder may, after investigation and evaluation of the
38 specific facts alleged and of the reliability and credibility of any
39 person providing information to initiate detention or involuntary

1 outpatient evaluation, if satisfied that the allegations are true and
2 that the person will not voluntarily seek appropriate treatment, file
3 a petition for initial detention (~~(or involuntary outpatient~~
4 ~~evaluation. If the petition is filed solely on the grounds that the~~
5 ~~person is in need of assisted outpatient mental health treatment, the~~
6 ~~petition may only be for an involuntary outpatient evaluation. An~~
7 ~~involuntary outpatient evaluation may be conducted by any combination~~
8 ~~of licensed professionals authorized to petition for involuntary~~
9 ~~commitment under RCW 71.05.230 and must include involvement or~~
10 ~~consultation with the agency or facility which will provide~~
11 ~~monitoring or services under the proposed less restrictive~~
12 ~~alternative treatment order. If the petition is for an involuntary~~
13 ~~outpatient evaluation and the person is being held in a hospital~~
14 ~~emergency department, the person may be released once the hospital~~
15 ~~has satisfied federal and state legal requirements for appropriate~~
16 ~~screening and stabilization of patients.~~

17 (b)) under this section or a petition for involuntary outpatient
18 treatment under section 3 of this act. Before filing the petition,
19 the designated crisis responder must personally interview the person,
20 unless the person refuses an interview, and determine whether the
21 person will voluntarily receive appropriate evaluation and treatment
22 at an evaluation and treatment facility, crisis stabilization unit,
23 triage facility, or approved substance use disorder treatment
24 program.

25 (2)(a) An order to detain a person with a mental disorder to a
26 designated evaluation and treatment facility, or to detain a person
27 with a substance use disorder to a secure detoxification facility or
28 approved substance use disorder treatment program, for not more than
29 a seventy-two-hour evaluation and treatment period(~~(, or an order for~~
30 ~~an involuntary outpatient evaluation,)) may be issued by a judge of
31 the superior court upon request of a designated crisis responder
32 whenever it appears to the satisfaction of a judge of the superior
33 court:~~

34 (i) That there is probable cause to support the petition; and
35 (ii) That the person has refused or failed to accept appropriate
36 evaluation and treatment voluntarily.

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

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

5 (3) The designated crisis responder shall then serve or cause to
6 be served on such person, his or her guardian, and conservator, if
7 any, a copy of the order together with a notice of rights, and a
8 petition for initial detention (~~(or—involuntary—outpatient~~
9 ~~evaluation)~~). After service on such person the designated crisis
10 responder shall file the return of service in court and provide
11 copies of all papers in the court file to the evaluation and
12 treatment facility, secure detoxification facility, or approved
13 substance use disorder treatment program, and the designated
14 attorney. The designated crisis responder shall notify the court and
15 the prosecuting attorney that a probable cause hearing will be held
16 within seventy-two hours of the date and time of outpatient
17 evaluation or admission to the evaluation and treatment facility,
18 secure detoxification facility, or approved substance use disorder
19 treatment program. The person shall be permitted to be accompanied by
20 one or more of his or her relatives, friends, an attorney, a personal
21 physician, or other professional or religious advisor to the place of
22 evaluation. An attorney accompanying the person to the place of
23 evaluation shall be permitted to be present during the admission
24 evaluation. Any other individual accompanying the person may be
25 present during the admission evaluation. The facility may exclude the
26 individual if his or her presence would present a safety risk, delay
27 the proceedings, or otherwise interfere with the evaluation.

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

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

38 A person detained (~~(or—committed)~~) for seventy-two hour
39 evaluation and treatment (~~(or—for—an-outpatient-evaluation-for-the~~

1 ~~purpose of filing a petition for a less restrictive alternative~~
2 ~~treatment order~~) may be committed for not more than fourteen
3 additional days of involuntary intensive treatment or ninety
4 additional days of a less restrictive alternative (~~to involuntary~~
5 ~~intensive~~) treatment. A petition may only be filed if the following
6 conditions are met:

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

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

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

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

24 (A) One physician, physician assistant, or psychiatric advanced
25 registered nurse practitioner; and

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

28 (ii) If the petition is for substance use disorder treatment, the
29 petition may be signed by a chemical dependency professional instead
30 of a mental health professional and by an advanced registered nurse
31 practitioner instead of a psychiatric advanced registered nurse
32 practitioner. The persons signing the petition must have examined the
33 person.

34 (b) If involuntary detention is sought the petition shall state
35 facts that support the finding that such person, as a result of a
36 mental disorder or substance use disorder, presents a likelihood of
37 serious harm, or is gravely disabled and that there are no less
38 restrictive alternatives to detention in the best interest of such
39 person or others. The petition shall state specifically that less
40 restrictive alternative treatment was considered and specify why

1 treatment less restrictive than detention is not appropriate. If an
2 involuntary less restrictive alternative is sought, the petition
3 shall state facts that support the finding that such person, as a
4 result of a mental disorder or as a result of a substance use
5 disorder, presents a likelihood of serious harm, is gravely disabled,
6 or is in need of assisted outpatient (~~mental~~) behavioral health
7 treatment, and shall set forth any recommendations for less
8 restrictive alternative treatment services; and

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

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

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

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

23 (9) If the hospital or facility designated to provide less
24 restrictive alternative treatment is other than the facility
25 providing involuntary treatment, the outpatient facility so
26 designated to provide less restrictive alternative treatment has
27 agreed to assume such responsibility.

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

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

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

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

18 (b) Commitment for up to fourteen days based on a substance use
19 disorder must be to either a secure detoxification facility or an
20 approved substance use disorder treatment program. A court may only
21 enter a commitment order based on a substance use disorder if there
22 is an available secure detoxification facility or approved substance
23 use disorder treatment program with adequate space for the person.

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

32 (d) If the court finds by a preponderance of the evidence that
33 such person, as the result of a mental disorder, is in need of
34 assisted outpatient ~~((mental))~~ behavioral health treatment, and that
35 the person does not present a likelihood of serious harm or grave
36 disability, the court shall order an appropriate less restrictive
37 alternative course of treatment not to exceed ninety days ~~((, and may
38 not order inpatient treatment))~~.

39 ~~((e))~~ (4) An order for less restrictive alternative treatment
40 must name the mental health service provider responsible for

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

5 ((+4)) (5) The court shall specifically state to such person and
6 give such person notice in writing that if involuntary treatment
7 beyond the fourteen day period or beyond the ninety days of less
8 restrictive treatment is to be sought, such person will have the
9 right to a full hearing or jury trial as required by RCW 71.05.310.
10 If the commitment is for mental health treatment, the court shall
11 also state to the person and provide written notice that the person
12 is barred from the possession of firearms and that the prohibition
13 remains in effect until a court restores his or her right to possess
14 a firearm under RCW 9.41.047.

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

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

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

34 (3)(a) Subject to (b) of this subsection, at the conclusion of
35 the probable cause hearing, if the court finds by a preponderance of
36 the evidence that such person, as the result of a mental disorder or
37 substance use disorder, presents a likelihood of serious harm, or is
38 gravely disabled, and, after considering less restrictive
39 alternatives to involuntary detention and treatment, finds that no

1 such alternatives are in the best interests of such person or others,
2 the court shall order that such person be detained for involuntary
3 treatment not to exceed fourteen days in a facility certified to
4 provide treatment by the department.

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

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

16 (d) If the court finds by a preponderance of the evidence that
17 such person, as the result of a mental disorder, is in need of
18 assisted outpatient (~~(mental)~~) behavioral health treatment, and that
19 the person does not present a likelihood of serious harm or grave
20 disability, the court shall order an appropriate less restrictive
21 alternative course of treatment not to exceed ninety days(~~(, and may~~
22 ~~not order inpatient treatment)~~).

23 ~~((e))~~ (4) An order for less restrictive alternative treatment
24 must name the mental health service provider responsible for
25 identifying the services the person will receive in accordance with
26 RCW 71.05.585, and must include a requirement that the person
27 cooperate with the services planned by the mental health service
28 provider.

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

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

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

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

11 (b) Substantial deterioration in the person's functioning has
12 occurred;

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

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

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

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

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

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

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

23 (e) To initiate revocation procedures under subsection (4) of
24 this section.

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

31 (4)(a) A designated crisis responder or the secretary may upon
32 their own motion or notification by the facility or agency designated
33 to provide outpatient care order a person subject to a court order
34 under this chapter to be apprehended and taken into custody and
35 temporary detention in an evaluation and treatment facility in or
36 near the county in which he or she is receiving outpatient treatment
37 if the person is committed for mental health treatment, or, if the
38 person is committed for substance use disorder treatment, in a secure
39 detoxification facility or approved substance use disorder treatment
40 program if either is available in or near the county in which he or

1 she is receiving outpatient treatment and has adequate space.
2 Proceedings under this subsection (4) may be initiated without
3 ordering the apprehension and detention of the person.

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

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

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

1 subsection unless there is a secure detoxification facility or
2 approved substance use disorder treatment program available and with
3 adequate space for the person.

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (e) To initiate revocation procedures under subsection (4) of
40 this section.

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

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

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

28 (c) The designated crisis responder or secretary shall file a
29 revocation petition and order of apprehension and detention with the
30 court of the county where the person is currently located or being
31 detained. The designated crisis responder shall serve the person and
32 their attorney, guardian, and conservator, if any. The person has the
33 same rights with respect to notice, hearing, and counsel as in any
34 involuntary treatment proceeding, except as specifically set forth in
35 this section. There is no right to jury trial. The venue for
36 proceedings is the county where the petition is filed. Notice of the
37 filing must be provided to the court that originally ordered
38 commitment, if different from the court where the petition for
39 revocation is filed, within two judicial days of the person's
40 detention.

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

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

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

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

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

36 (2) A petition under this section must be filed within ten
37 calendar days following the designated crisis responder investigation
38 or the request for a designated crisis responder investigation. If
39 more than ten days have elapsed, the immediate family member,

1 guardian, or conservator may request a new designated crisis
2 responder investigation.

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

12 (b) The petition must contain:

13 (i) A description of the relationship between the petitioner and
14 the person; and

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

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

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

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

33 (7) The court must issue a final ruling on the petition within
34 five judicial days after it is filed. After reviewing all of the
35 information provided to the court, the court may enter an order for
36 initial detention or an order instructing the designated crisis
37 responder to file a petition for assisted outpatient behavioral
38 health treatment if the court finds that: (a) There is probable cause
39 to support a petition for detention or assisted outpatient behavioral
40 health treatment; and (b) the person has refused or failed to accept

1 appropriate evaluation and treatment voluntarily. The court shall
2 transmit its final decision to the petitioner.

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

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

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

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

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

31 NEW SECTION. **Sec. 14.** Sections 4, 7, and 9 of this act expire
32 July 1, 2026.

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