

CERTIFICATION OF ENROLLMENT

SECOND ENGROSSED SUBSTITUTE SENATE BILL 5106

65th Legislature
2017 3rd Special Session

Passed by the Senate June 30, 2017
Yeas 49 Nays 0

President of the Senate

Passed by the House June 30, 2017
Yeas 91 Nays 2

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND ENGROSSED SUBSTITUTE SENATE BILL 5106** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SECOND ENGROSSED SUBSTITUTE SENATE BILL 5106

Passed Legislature - 2017 3rd Special Session

State of Washington **65th Legislature** **2017 Regular Session**
By Senate Human Services, Mental Health & Housing (originally sponsored by Senator O'Ban)

READ FIRST TIME 02/01/17.

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

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

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

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

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

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

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

16 (b) The petition must contain:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (b) The petition must contain:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **Part Three - Initial Detention Investigations**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (6) "Chemical dependency" means:

31 (a) Alcoholism;

32 (b) Drug addiction; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (a) Provides for intoxicated persons:

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

37 (ii) Acute or subacute detoxification services; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (d) To have visitors at reasonable times;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 **Part Five - Technical**

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

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

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

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

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

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