
ENGROSSED SUBSTITUTE HOUSE BILL 2099

State of Washington

66th Legislature

2019 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Irwin and Jenkins)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to the use of video technology under the
2 involuntary treatment act; amending RCW 71.05.150, 71.05.150,
3 71.05.153, 71.05.153, 71.05.235, and 71.05.310; reenacting and
4 amending RCW 71.05.020; providing an effective date; and providing an
5 expiration date.

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

7 **Sec. 1.** RCW 71.05.020 and 2019 c 446 s 2, 2019 c 444 s 16, and
8 2019 c 325 s 3001 are each reenacted and amended to read as follows:

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

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

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

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

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

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

12 (6) "Authority" means the Washington state health care authority;

13 (7) "Co-occurring disorder specialist" means an individual
14 possessing an enhancement granted by the department of health under
15 chapter 18.205 RCW that certifies the individual to provide substance
16 use disorder counseling subject to the practice limitations under RCW
17 18.205.105;

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

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

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

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

32 (12) "Department" means the department of health;

33 (13) "Designated crisis responder" means a mental health
34 professional appointed by the county or an entity appointed by the
35 county, to perform the duties specified in this chapter;

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

38 (15) "Developmental disabilities professional" means a person who
39 has specialized training and three years of experience in directly
40 treating or working with persons with developmental disabilities and

1 is a psychiatrist, physician assistant working with a supervising
2 psychiatrist, psychologist, psychiatric advanced registered nurse
3 practitioner, or social worker, and such other developmental
4 disabilities professionals as may be defined by rules adopted by the
5 secretary of the department of social and health services;

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

8 (17) "Director" means the director of the authority;

9 (18) "Discharge" means the termination of hospital medical
10 authority. The commitment may remain in place, be terminated, or be
11 amended by court order;

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

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

31 (21) "Gravely disabled" means a condition in which a person, as a
32 result of a mental disorder, or as a result of the use of alcohol or
33 other psychoactive chemicals: (a) Is in danger of serious physical
34 harm resulting from a failure to provide for his or her essential
35 human needs of health or safety; or (b) manifests severe
36 deterioration in routine functioning evidenced by repeated and
37 escalating loss of cognitive or volitional control over his or her
38 actions and is not receiving such care as is essential for his or her
39 health or safety;

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

9 (23) "Hearing" means any proceeding conducted in open court. For
10 purposes of this chapter, at any hearing the petitioner, the
11 respondent, the witnesses, and the presiding judicial officer may be
12 present and participate either in person or by video, as determined
13 by the court. The term "video" as used herein shall include any
14 functional equivalent. At any hearing conducted by video, the
15 technology used must permit the judicial officer, counsel, all
16 parties, and the witnesses to be able to see, hear, and speak, when
17 authorized, during the hearing; to allow attorneys to use exhibits or
18 other materials during the hearing; and to allow respondent's counsel
19 to be in the same location as the respondent unless otherwise
20 requested by the respondent or the respondent's counsel. Witnesses in
21 a proceeding may also appear in court through other means, including
22 telephonically, pursuant to the requirements of superior court civil
23 rule 43. Notwithstanding the foregoing, the court, upon its own
24 motion or upon a motion for good cause by any party, may require all
25 parties and witnesses to participate in the hearing in person rather
26 than by video. In ruling on any such motion, the court may allow in-
27 person or video testimony; and the court may consider, among other
28 things, whether the respondent's alleged mental illness affects the
29 respondent's ability to perceive or participate in the proceeding by
30 video;

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

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

39 (26) "In need of assisted outpatient behavioral health treatment"
40 means that a person, as a result of a mental disorder or substance

1 use disorder: (a) Has been committed by a court to detention for
2 involuntary behavioral health treatment during the preceding thirty-
3 six months; (b) is unlikely to voluntarily participate in outpatient
4 treatment without an order for less restrictive alternative
5 treatment, based on a history of nonadherence with treatment or in
6 view of the person's current behavior; (c) is likely to benefit from
7 less restrictive alternative treatment; and (d) requires less
8 restrictive alternative treatment to prevent a relapse,
9 decompensation, or deterioration that is likely to result in the
10 person presenting a likelihood of serious harm or the person becoming
11 gravely disabled within a reasonably short period of time;

12 (27) "Individualized service plan" means a plan prepared by a
13 developmental disabilities professional with other professionals as a
14 team, for a person with developmental disabilities, which shall
15 state:

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

18 (b) The conditions and strategies necessary to achieve the
19 purposes of habilitation;

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

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

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

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

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

32 (28) "Information related to mental health services" means all
33 information and records compiled, obtained, or maintained in the
34 course of providing services to either voluntary or involuntary
35 recipients of services by a mental health service provider. This may
36 include documents of legal proceedings under this chapter or chapter
37 71.34 or 10.77 RCW, or somatic health care information;

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

1 (30) "Judicial commitment" means a commitment by a court pursuant
2 to the provisions of this chapter;

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

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

10 (33) "Licensed physician" means a person licensed to practice
11 medicine or osteopathic medicine and surgery in the state of
12 Washington;

13 (34) "Likelihood of serious harm" means:

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

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

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

28 (36) "Mental disorder" means any organic, mental, or emotional
29 impairment which has substantial adverse effects on a person's
30 cognitive or volitional functions;

31 (37) "Mental health professional" means a psychiatrist,
32 psychologist, physician assistant working with a supervising
33 psychiatrist, psychiatric advanced registered nurse practitioner,
34 psychiatric nurse, or social worker, and such other mental health
35 professionals as may be defined by rules adopted by the secretary
36 pursuant to the provisions of this chapter;

37 (38) "Mental health service provider" means a public or private
38 agency that provides mental health services to persons with mental
39 disorders or substance use disorders as defined under this section
40 and receives funding from public sources. This includes, but is not

1 limited to, hospitals licensed under chapter 70.41 RCW, evaluation
2 and treatment facilities as defined in this section, community mental
3 health service delivery systems or community behavioral health
4 programs as defined in RCW 71.24.025, facilities conducting
5 competency evaluations and restoration under chapter 10.77 RCW,
6 approved substance use disorder treatment programs as defined in this
7 section, secure withdrawal management and stabilization facilities as
8 defined in this section, and correctional facilities operated by
9 state and local governments;

10 (39) "Peace officer" means a law enforcement official of a public
11 agency or governmental unit, and includes persons specifically given
12 peace officer powers by any state law, local ordinance, or judicial
13 order of appointment;

14 (40) "Physician assistant" means a person licensed as a physician
15 assistant under chapter 18.57A or 18.71A RCW;

16 (41) "Private agency" means any person, partnership, corporation,
17 or association that is not a public agency, whether or not financed
18 in whole or in part by public funds, which constitutes an evaluation
19 and treatment facility or private institution, or hospital, or
20 approved substance use disorder treatment program, which is conducted
21 for, or includes a department or ward conducted for, the care and
22 treatment of persons with mental illness, substance use disorders, or
23 both mental illness and substance use disorders;

24 (42) "Professional person" means a mental health professional,
25 substance use disorder professional, or designated crisis responder
26 and shall also mean a physician, physician assistant, psychiatric
27 advanced registered nurse practitioner, registered nurse, and such
28 others as may be defined by rules adopted by the secretary pursuant
29 to the provisions of this chapter;

30 (43) "Psychiatric advanced registered nurse practitioner" means a
31 person who is licensed as an advanced registered nurse practitioner
32 pursuant to chapter 18.79 RCW; and who is board certified in advanced
33 practice psychiatric and mental health nursing;

34 (44) "Psychiatrist" means a person having a license as a
35 physician and surgeon in this state who has in addition completed
36 three years of graduate training in psychiatry in a program approved
37 by the American medical association or the American osteopathic
38 association and is certified or eligible to be certified by the
39 American board of psychiatry and neurology;

1 (45) "Psychologist" means a person who has been licensed as a
2 psychologist pursuant to chapter 18.83 RCW;

3 (46) "Public agency" means any evaluation and treatment facility
4 or institution, secure withdrawal management and stabilization
5 facility, approved substance use disorder treatment program, or
6 hospital which is conducted for, or includes a department or ward
7 conducted for, the care and treatment of persons with mental illness,
8 substance use disorders, or both mental illness and substance use
9 disorders, if the agency is operated directly by federal, state,
10 county, or municipal government, or a combination of such
11 governments;

12 (47) "Release" means legal termination of the commitment under
13 the provisions of this chapter;

14 (48) "Resource management services" has the meaning given in
15 chapter 71.24 RCW;

16 (49) "Secretary" means the secretary of the department of health,
17 or his or her designee;

18 (50) "Secure withdrawal management and stabilization facility"
19 means a facility operated by either a public or private agency or by
20 the program of an agency which provides care to voluntary individuals
21 and individuals involuntarily detained and committed under this
22 chapter for whom there is a likelihood of serious harm or who are
23 gravely disabled due to the presence of a substance use disorder.
24 Secure withdrawal management and stabilization facilities must:

25 (a) Provide the following services:

26 (i) Assessment and treatment, provided by certified substance use
27 disorder professionals or co-occurring disorder specialists;

28 (ii) Clinical stabilization services;

29 (iii) Acute or subacute detoxification services for intoxicated
30 individuals; and

31 (iv) Discharge assistance provided by certified substance use
32 disorder professionals or co-occurring disorder specialists, including
33 facilitating transitions to appropriate voluntary or involuntary
34 inpatient services or to less restrictive alternatives as appropriate
35 for the individual;

36 (b) Include security measures sufficient to protect the patients,
37 staff, and community; and

38 (c) Be licensed or certified as such by the department of health;

39 (51) "Serious violent offense" has the same meaning as provided
40 in RCW 9.94A.030;

1 (52) "Social worker" means a person with a master's or further
2 advanced degree from a social work educational program accredited and
3 approved as provided in RCW 18.320.010;

4 (53) "Substance use disorder" means a cluster of cognitive,
5 behavioral, and physiological symptoms indicating that an individual
6 continues using the substance despite significant substance-related
7 problems. The diagnosis of a substance use disorder is based on a
8 pathological pattern of behaviors related to the use of the
9 substances;

10 (54) "Substance use disorder professional" means a person
11 certified as a substance use disorder professional by the department
12 of health under chapter 18.205 RCW;

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

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

35 (57) "Triage facility" means a short-term facility or a portion
36 of a facility licensed or certified by the department, which is
37 designed as a facility to assess and stabilize an individual or
38 determine the need for involuntary commitment of an individual, and
39 must meet department residential treatment facility standards. A

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

3 (58) "Video" means the delivery of health care services through
4 the use of interactive audio and video technology, permitting real-
5 time communication between a person and a designated crisis
6 responder, for the purpose of evaluation. "Video" does not include
7 the use of audio-only telephone, facsimile, email, or store and
8 forward technology. "Store and forward technology" means use of an
9 asynchronous transmission of a person's medical information from a
10 mental health service provider to the designated crisis responder
11 which results in medical diagnosis, consultation, or treatment;

12 (59) "Violent act" means behavior that resulted in homicide,
13 attempted suicide, nonfatal injuries, or substantial damage to
14 property.

15 **Sec. 2.** RCW 71.05.150 and 2019 c 446 s 4 are each amended to
16 read as follows:

17 (1) When a designated crisis responder receives information
18 alleging that a person, as a result of a mental disorder, substance
19 use disorder, or both presents a likelihood of serious harm or is
20 gravely disabled, or that a person is in need of assisted outpatient
21 behavioral health treatment; the designated crisis responder may,
22 after investigation and evaluation of the specific facts alleged and
23 of the reliability and credibility of any person providing
24 information to initiate detention or involuntary outpatient
25 treatment, if satisfied that the allegations are true and that the
26 person will not voluntarily seek appropriate treatment, file a
27 petition for initial detention under this section or a petition for
28 involuntary outpatient behavioral health treatment under RCW
29 71.05.148. Before filing the petition, the designated crisis
30 responder must personally interview the person, unless the person
31 refuses an interview, and determine whether the person will
32 voluntarily receive appropriate evaluation and treatment at an
33 evaluation and treatment facility, crisis stabilization unit, triage
34 facility, or approved substance use disorder treatment program. The
35 interview performed by the designated crisis responder may be
36 conducted by video provided that a licensed health care professional
37 or professional person who can adequately and accurately assist with
38 obtaining any necessary information is available at the time of the
39 interview.

1 (2) (a) An order to detain a person with a mental disorder to a
2 designated evaluation and treatment facility, or to detain a person
3 with a substance use disorder to a secure withdrawal management and
4 stabilization facility or approved substance use disorder treatment
5 program, for not more than a seventy-two-hour evaluation and
6 treatment period may be issued by a judge of the superior court upon
7 request of a designated crisis responder, subject to (d) of this
8 subsection, whenever it appears to the satisfaction of a judge of the
9 superior court:

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

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

13 (b) The petition for initial detention, signed under penalty of
14 perjury, or sworn telephonic testimony may be considered by the court
15 in determining whether there are sufficient grounds for issuing the
16 order.

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

21 (d) A court may not issue an order to detain a person to a secure
22 withdrawal management and stabilization facility or approved
23 substance use disorder treatment program unless there is an available
24 secure withdrawal management and stabilization facility or approved
25 substance use disorder treatment program that has adequate space for
26 the person.

27 (3) The designated crisis responder shall then serve or cause to
28 be served on such person, his or her guardian, and conservator, if
29 any, a copy of the order together with a notice of rights, and a
30 petition for initial detention. After service on such person the
31 designated crisis responder shall file the return of service in court
32 and provide copies of all papers in the court file to the evaluation
33 and treatment facility, secure withdrawal management and
34 stabilization facility, or approved substance use disorder treatment
35 program, and the designated attorney. The designated crisis responder
36 shall notify the court and the prosecuting attorney that a probable
37 cause hearing will be held within seventy-two hours of the date and
38 time of outpatient evaluation or admission to the evaluation and
39 treatment facility, secure withdrawal management and stabilization
40 facility, or approved substance use disorder treatment program. The

1 person shall be permitted to be accompanied by one or more of his or
2 her relatives, friends, an attorney, a personal physician, or other
3 professional or religious advisor to the place of evaluation. An
4 attorney accompanying the person to the place of evaluation shall be
5 permitted to be present during the admission evaluation. Any other
6 individual accompanying the person may be present during the
7 admission evaluation. The facility may exclude the individual if his
8 or her presence would present a safety risk, delay the proceedings,
9 or otherwise interfere with the evaluation.

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

19 **Sec. 3.** RCW 71.05.150 and 2019 c 446 s 5 are each amended to
20 read as follows:

21 (1) When a designated crisis responder receives information
22 alleging that a person, as a result of a mental disorder, substance
23 use disorder, or both presents a likelihood of serious harm or is
24 gravely disabled, or that a person is in need of assisted outpatient
25 behavioral health treatment; the designated crisis responder may,
26 after investigation and evaluation of the specific facts alleged and
27 of the reliability and credibility of any person providing
28 information to initiate detention or involuntary outpatient
29 treatment, if satisfied that the allegations are true and that the
30 person will not voluntarily seek appropriate treatment, file a
31 petition for initial detention under this section or a petition for
32 involuntary outpatient behavioral health treatment under RCW
33 71.05.148. Before filing the petition, the designated crisis
34 responder must personally interview the person, unless the person
35 refuses an interview, and determine whether the person will
36 voluntarily receive appropriate evaluation and treatment at an
37 evaluation and treatment facility, crisis stabilization unit, triage
38 facility, or approved substance use disorder treatment program. The
39 interview performed by the designated crisis responder may be

1 conducted by video provided that a licensed health care professional
2 or professional person who can adequately and accurately assist with
3 obtaining any necessary information is available at the time of the
4 interview.

5 (2) (a) An order to detain a person with a mental disorder to a
6 designated evaluation and treatment facility, or to detain a person
7 with a substance use disorder to a secure withdrawal management and
8 stabilization facility or approved substance use disorder treatment
9 program, for not more than a seventy-two-hour evaluation and
10 treatment period may be issued by a judge of the superior court upon
11 request of a designated crisis responder whenever it appears to the
12 satisfaction of a judge of the superior court:

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

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

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

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

24 (3) The designated crisis responder shall then serve or cause to
25 be served on such person, his or her guardian, and conservator, if
26 any, a copy of the order together with a notice of rights, and a
27 petition for initial detention. After service on such person the
28 designated crisis responder shall file the return of service in court
29 and provide copies of all papers in the court file to the evaluation
30 and treatment facility, secure withdrawal management and
31 stabilization facility, or approved substance use disorder treatment
32 program, and the designated attorney. The designated crisis responder
33 shall notify the court and the prosecuting attorney that a probable
34 cause hearing will be held within seventy-two hours of the date and
35 time of outpatient evaluation or admission to the evaluation and
36 treatment facility, secure withdrawal management and stabilization
37 facility, or approved substance use disorder treatment program. The
38 person shall be permitted to be accompanied by one or more of his or
39 her relatives, friends, an attorney, a personal physician, or other
40 professional or religious advisor to the place of evaluation. An

1 attorney accompanying the person to the place of evaluation shall be
2 permitted to be present during the admission evaluation. Any other
3 individual accompanying the person may be present during the
4 admission evaluation. The facility may exclude the individual if his
5 or her presence would present a safety risk, delay the proceedings,
6 or otherwise interfere with the evaluation.

7 (4) The designated crisis responder may notify a peace officer to
8 take such person or cause such person to be taken into custody and
9 placed in an evaluation and treatment facility, secure withdrawal
10 management and stabilization facility, or approved substance use
11 disorder treatment program. At the time such person is taken into
12 custody there shall commence to be served on such person, his or her
13 guardian, and conservator, if any, a copy of the original order
14 together with a notice of rights and a petition for initial
15 detention.

16 **Sec. 4.** RCW 71.05.153 and 2019 c 446 s 6 are each amended to
17 read as follows:

18 (1) When a designated crisis responder receives information
19 alleging that a person, as the result of a mental disorder, presents
20 an imminent likelihood of serious harm, or is in imminent danger
21 because of being gravely disabled, after investigation and evaluation
22 of the specific facts alleged and of the reliability and credibility
23 of the person or persons providing the information if any, the
24 designated crisis responder may take such person, or cause by oral or
25 written order such person to be taken into emergency custody in an
26 evaluation and treatment facility for not more than seventy-two hours
27 as described in RCW 71.05.180.

28 (2) When a designated crisis responder receives information
29 alleging that a person, as the result of substance use disorder,
30 presents an imminent likelihood of serious harm, or is in imminent
31 danger because of being gravely disabled, after investigation and
32 evaluation of the specific facts alleged and of the reliability and
33 credibility of the person or persons providing the information if
34 any, the designated crisis responder may take the person, or cause by
35 oral or written order the person to be taken, into emergency custody
36 in a secure withdrawal management and stabilization facility or
37 approved substance use disorder treatment program for not more than
38 seventy-two hours as described in RCW 71.05.180, if a secure
39 withdrawal management and stabilization facility or approved

1 substance use disorder treatment program is available and has
2 adequate space for the person.

3 (3) (a) Subject to (b) of this subsection, a peace officer may
4 take or cause such person to be taken into custody and immediately
5 delivered to a triage facility, crisis stabilization unit, evaluation
6 and treatment facility, secure withdrawal management and
7 stabilization facility, approved substance use disorder treatment
8 program, or the emergency department of a local hospital under the
9 following circumstances:

10 (i) Pursuant to subsection (1) or (2) of this section; or

11 (ii) When he or she has reasonable cause to believe that such
12 person is suffering from a mental disorder or substance use disorder
13 and presents an imminent likelihood of serious harm or is in imminent
14 danger because of being gravely disabled.

15 (b) A peace officer's delivery of a person, based on a substance
16 use disorder, to a secure withdrawal management and stabilization
17 facility or approved substance use disorder treatment program is
18 subject to the availability of a secure withdrawal management and
19 stabilization facility or approved substance use disorder treatment
20 program with adequate space for the person.

21 (4) Persons delivered to a crisis stabilization unit, evaluation
22 and treatment facility, emergency department of a local hospital,
23 triage facility that has elected to operate as an involuntary
24 facility, secure withdrawal management and stabilization facility, or
25 approved substance use disorder treatment program by peace officers
26 pursuant to subsection (3) of this section may be held by the
27 facility for a period of up to twelve hours, not counting time
28 periods prior to medical clearance.

29 (5) Within three hours after arrival, not counting time periods
30 prior to medical clearance, the person must be examined by a mental
31 health professional. Within twelve hours of notice of the need for
32 evaluation, not counting time periods prior to medical clearance, the
33 designated crisis responder must determine whether the individual
34 meets detention criteria. The interview performed by the designated
35 crisis responder may be conducted by video provided that a licensed
36 health care professional or professional person who can adequately
37 and accurately assist with obtaining any necessary information is
38 present at the time of the interview. If the individual is detained,
39 the designated crisis responder shall file a petition for detention
40 or a supplemental petition as appropriate and commence service on the

1 designated attorney for the detained person. If the individual is
2 released to the community, the mental health service provider shall
3 inform the peace officer of the release within a reasonable period of
4 time after the release if the peace officer has specifically
5 requested notification and provided contact information to the
6 provider.

7 (6) Dismissal of a commitment petition is not the appropriate
8 remedy for a violation of the timeliness requirements of this section
9 based on the intent of this chapter under RCW 71.05.010 except in the
10 few cases where the facility staff or designated mental health
11 professional has totally disregarded the requirements of this
12 section.

13 **Sec. 5.** RCW 71.05.153 and 2019 c 446 s 7 are each amended to
14 read as follows:

15 (1) When a designated crisis responder receives information
16 alleging that a person, as the result of a mental disorder, presents
17 an imminent likelihood of serious harm, or is in imminent danger
18 because of being gravely disabled, after investigation and evaluation
19 of the specific facts alleged and of the reliability and credibility
20 of the person or persons providing the information if any, the
21 designated crisis responder may take such person, or cause by oral or
22 written order such person to be taken into emergency custody in an
23 evaluation and treatment facility for not more than seventy-two hours
24 as described in RCW 71.05.180.

25 (2) When a designated crisis responder receives information
26 alleging that a person, as the result of substance use disorder,
27 presents an imminent likelihood of serious harm, or is in imminent
28 danger because of being gravely disabled, after investigation and
29 evaluation of the specific facts alleged and of the reliability and
30 credibility of the person or persons providing the information if
31 any, the designated crisis responder may take the person, or cause by
32 oral or written order the person to be taken, into emergency custody
33 in a secure withdrawal management and stabilization facility or
34 approved substance use disorder treatment program for not more than
35 seventy-two hours as described in RCW 71.05.180.

36 (3) A peace officer may take or cause such person to be taken
37 into custody and immediately delivered to a triage facility, crisis
38 stabilization unit, evaluation and treatment facility, secure
39 withdrawal management and stabilization facility, approved substance

1 use disorder treatment program, or the emergency department of a
2 local hospital under the following circumstances:

3 (a) Pursuant to subsection (1) or (2) of this section; or

4 (b) When he or she has reasonable cause to believe that such
5 person is suffering from a mental disorder or substance use disorder
6 and presents an imminent likelihood of serious harm or is in imminent
7 danger because of being gravely disabled.

8 (4) Persons delivered to a crisis stabilization unit, evaluation
9 and treatment facility, emergency department of a local hospital,
10 triage facility that has elected to operate as an involuntary
11 facility, secure withdrawal management and stabilization facility, or
12 approved substance use disorder treatment program by peace officers
13 pursuant to subsection (3) of this section may be held by the
14 facility for a period of up to twelve hours, not counting time
15 periods prior to medical clearance.

16 (5) Within three hours after arrival, not counting time periods
17 prior to medical clearance, the person must be examined by a mental
18 health professional. Within twelve hours of notice of the need for
19 evaluation, not counting time periods prior to medical clearance, the
20 designated crisis responder must determine whether the individual
21 meets detention criteria. The interview performed by the designated
22 crisis responder may be conducted by video provided that a licensed
23 health care professional or professional person who can adequately
24 and accurately assist with obtaining any necessary information is
25 present at the time of the interview. If the individual is detained,
26 the designated crisis responder shall file a petition for detention
27 or a supplemental petition as appropriate and commence service on the
28 designated attorney for the detained person. If the individual is
29 released to the community, the mental health service provider shall
30 inform the peace officer of the release within a reasonable period of
31 time after the release if the peace officer has specifically
32 requested notification and provided contact information to the
33 provider.

34 (6) Dismissal of a commitment petition is not the appropriate
35 remedy for a violation of the timeliness requirements of this section
36 based on the intent of this chapter under RCW 71.05.010 except in the
37 few cases where the facility staff or designated mental health
38 professional has totally disregarded the requirements of this
39 section.

1 **Sec. 6.** RCW 71.05.235 and 2016 sp.s. c 29 s 231 are each amended
2 to read as follows:

3 (1) If an individual is referred to a designated crisis responder
4 under RCW 10.77.088(~~((1)(e))~~) (2)(d)(i), the designated crisis
5 responder shall examine the individual within forty-eight hours. If
6 the designated crisis responder determines it is not appropriate to
7 detain the individual or petition for a ninety-day less restrictive
8 alternative under RCW 71.05.230(4), that decision shall be
9 immediately presented to the superior court for hearing. The court
10 shall hold a hearing to consider the decision of the designated
11 crisis responder not later than the next judicial day. At the hearing
12 the superior court shall review the determination of the designated
13 crisis responder and determine whether an order should be entered
14 requiring the person to be evaluated at an evaluation and treatment
15 facility. No person referred to an evaluation and treatment facility
16 may be held at the facility longer than seventy-two hours.

17 (2) If an individual is placed in an evaluation and treatment
18 facility under RCW 10.77.088(~~((1)(e))~~) (2)(d)(ii), a professional
19 person shall evaluate the individual for purposes of determining
20 whether to file a ninety-day inpatient or outpatient petition under
21 this chapter. Before expiration of the seventy-two hour evaluation
22 period authorized under RCW 10.77.088(~~((1)(e))~~) (2)(d)(ii), the
23 professional person shall file a petition or, if the recommendation
24 of the professional person is to release the individual, present his
25 or her recommendation to the superior court of the county in which
26 the criminal charge was dismissed. The superior court shall review
27 the recommendation not later than forty-eight hours, excluding
28 Saturdays, Sundays, and holidays, after the recommendation is
29 presented. If the court rejects the recommendation to unconditionally
30 release the individual, the court may order the individual detained
31 at a designated evaluation and treatment facility for not more than a
32 seventy-two hour evaluation and treatment period and direct the
33 individual to appear at a surety hearing before that court within
34 seventy-two hours, or the court may release the individual but direct
35 the individual to appear at a surety hearing set before that court
36 within eleven days, at which time the prosecutor may file a petition
37 under this chapter for ninety-day inpatient or outpatient treatment.
38 If a petition is filed by the prosecutor, the court may order that
39 the person named in the petition be detained at the evaluation and
40 treatment facility that performed the evaluation under this

1 subsection or order the respondent to be in outpatient treatment. If
2 a petition is filed but the individual fails to appear in court for
3 the surety hearing, the court shall order that a mental health
4 professional or peace officer shall take such person or cause such
5 person to be taken into custody and placed in an evaluation and
6 treatment facility to be brought before the court the next judicial
7 day after detention. Upon the individual's first appearance in court
8 after a petition has been filed, proceedings under RCW 71.05.310 and
9 71.05.320 shall commence. For an individual subject to this
10 subsection, the prosecutor or professional person may directly file a
11 petition for ninety-day inpatient or outpatient treatment and no
12 petition for initial detention or fourteen-day detention is required
13 before such a petition may be filed.

14 The court shall conduct the hearing on the petition filed under
15 this subsection within five judicial days of the date the petition is
16 filed. The court may continue the hearing upon the written request of
17 the person named in the petition or the person's attorney, for good
18 cause shown, which continuance shall not exceed five additional
19 judicial days. If the person named in the petition requests a jury
20 trial, the trial shall commence within ten judicial days of the date
21 of the filing of the petition. The burden of proof shall be by clear,
22 cogent, and convincing evidence and shall be upon the petitioner. The
23 person shall be present at such proceeding, which shall in all
24 respects accord with the constitutional guarantees of due process of
25 law and the rules of evidence pursuant to RCW 71.05.360 (8) and (9).
26 Presence at such proceeding shall mean participation either in person
27 or by video as provided in the definition of "hearing" in RCW
28 71.05.020, as determined by the court.

29 During the proceeding the person named in the petition shall
30 continue to be detained and treated until released by order of the
31 court. If no order has been made within thirty days after the filing
32 of the petition, not including any extensions of time requested by
33 the detained person or his or her attorney, the detained person shall
34 be released.

35 (3) If a designated crisis responder or the professional person
36 and prosecuting attorney for the county in which the criminal charge
37 was dismissed or attorney general, as appropriate, stipulate that the
38 individual does not present a likelihood of serious harm or is not
39 gravely disabled, the hearing under this section is not required and
40 the individual, if in custody, shall be released.

1 (4) The individual shall have the rights specified in RCW
2 71.05.360 (8) and (9).

3 **Sec. 7.** RCW 71.05.310 and 2012 c 256 s 8 are each amended to
4 read as follows:

5 The court shall conduct a hearing on the petition for ninety-day
6 treatment within five judicial days of the first court appearance
7 after the probable cause hearing, or within ten judicial days for a
8 petition filed under RCW 71.05.280(3). The court may continue the
9 hearing for good cause upon the written request of the person named
10 in the petition or the person's attorney. The court may continue for
11 good cause the hearing on a petition filed under RCW 71.05.280(3)
12 upon written request by the person named in the petition, the
13 person's attorney, or the petitioner. If the person named in the
14 petition requests a jury trial, the trial shall commence within ten
15 judicial days of the first court appearance after the probable cause
16 hearing. The burden of proof shall be by clear, cogent, and
17 convincing evidence and shall be upon the petitioner. The person
18 shall be present at such proceeding, which shall in all respects
19 accord with the constitutional guarantees of due process of law and
20 the rules of evidence pursuant to RCW 71.05.360 (8) and (9). Presence
21 at such proceeding shall mean participation either in person or by
22 video as provided in the definition of "hearing" in RCW 71.05.020, as
23 determined by the court.

24 During the proceeding, the person named in the petition shall
25 continue to be treated until released by order of the superior court.
26 If no order has been made within thirty days after the filing of the
27 petition, not including extensions of time requested by the detained
28 person or his or her attorney, or the petitioner in the case of a
29 petition filed under RCW 71.05.280(3), the detained person shall be
30 released.

31 NEW SECTION. **Sec. 8.** Sections 2 and 4 of this act expire July
32 1, 2026.

33 NEW SECTION. **Sec. 9.** Sections 3 and 5 of this act take effect
34 July 1, 2026.

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