
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 2018 c 305 s 1, 2018 c 291 s 1, and
8 2018 c 201 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) "Chemical dependency" means:

14 (a) Alcoholism;

15 (b) Drug addiction; or

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

18 (8) "Chemical dependency professional" means a person certified
19 as a chemical dependency professional by the department under chapter
20 18.205 RCW;

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

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

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

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

36 (13) "Department" means the department of health;

37 (14) "Designated crisis responder" means a mental health
38 professional appointed by the county, an entity appointed by the
39 county, or the behavioral health organization to perform the duties
40 specified in this chapter;

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

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

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

13 (18) "Director" means the director of the authority;

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

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

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

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

1 deterioration in routine functioning evidenced by repeated and
2 escalating loss of cognitive or volitional control over his or her
3 actions and is not receiving such care as is essential for his or her
4 health or safety;

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

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

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

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

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

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

9 (b) The conditions and strategies necessary to achieve the
10 purposes of habilitation;

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

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

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

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

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

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

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

32 (30) "In need of assisted outpatient behavioral health treatment"
33 means that a person, as a result of a mental disorder or substance
34 use disorder: (a) Has been committed by a court to detention for
35 involuntary behavioral health treatment during the preceding thirty-
36 six months; (b) is unlikely to voluntarily participate in outpatient
37 treatment without an order for less restrictive alternative
38 treatment, based on a history of nonadherence with treatment or in
39 view of the person's current behavior; (c) is likely to benefit from
40 less restrictive alternative treatment; and (d) requires less

1 restrictive alternative treatment to prevent a relapse,
2 decompensation, or deterioration that is likely to result in the
3 person presenting a likelihood of serious harm or the person becoming
4 gravely disabled within a reasonably short period of time;

5 (31) "Judicial commitment" means a commitment by a court pursuant
6 to the provisions of this chapter;

7 (32) "Legal counsel" means attorneys and staff employed by county
8 prosecutor offices or the state attorney general acting in their
9 capacity as legal representatives of public mental health and
10 substance use disorder service providers under RCW 71.05.130;

11 (33) "Less restrictive alternative treatment" means a program of
12 individualized treatment in a less restrictive setting than inpatient
13 treatment that includes the services described in RCW 71.05.585;

14 (34) "Licensed physician" means a person licensed to practice
15 medicine or osteopathic medicine and surgery in the state of
16 Washington;

17 (35) "Likelihood of serious harm" means:

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

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

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

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

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

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

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

17 (41) "Physician assistant" means a person licensed as a physician
18 assistant under chapter 18.57A or 18.71A RCW;

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

27 (43) "Professional person" means a mental health professional,
28 chemical dependency professional, or designated crisis responder and
29 shall also mean a physician, physician assistant, psychiatric
30 advanced registered nurse practitioner, registered nurse, and such
31 others as may be defined by rules adopted by the secretary pursuant
32 to the provisions of this chapter;

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

37 (45) "Psychiatrist" means a person having a license as a
38 physician and surgeon in this state who has in addition completed
39 three years of graduate training in psychiatry in a program approved
40 by the American medical association or the American osteopathic

1 association and is certified or eligible to be certified by the
2 American board of psychiatry and neurology;

3 (46) "Psychologist" means a person who has been licensed as a
4 psychologist pursuant to chapter 18.83 RCW;

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

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

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

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

19 (51) "Secure detoxification facility" means a facility operated
20 by either a public or private agency or by the program of an agency
21 that:

22 (a) Provides for intoxicated persons:

23 (i) Evaluation and assessment, provided by certified chemical
24 dependency professionals;

25 (ii) Acute or subacute detoxification services; and

26 (iii) Discharge assistance provided by certified chemical
27 dependency professionals, including facilitating transitions to
28 appropriate voluntary or involuntary inpatient services or to less
29 restrictive alternatives as appropriate for the individual;

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

32 (c) Is licensed or certified as such by the department of health;

33 (52) "Serious violent offense" has the same meaning as provided
34 in RCW 9.94A.030;

35 (53) "Social worker" means a person with a master's or further
36 advanced degree from a social work educational program accredited and
37 approved as provided in RCW 18.320.010;

38 (54) "Substance use disorder" means a cluster of cognitive,
39 behavioral, and physiological symptoms indicating that an individual
40 continues using the substance despite significant substance-related

1 problems. The diagnosis of a substance use disorder is based on a
2 pathological pattern of behaviors related to the use of the
3 substances;

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

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

24 (57) "Triage facility" means a short-term facility or a portion
25 of a facility licensed or certified by the department under RCW
26 71.24.035, which is designed as a facility to assess and stabilize an
27 individual or determine the need for involuntary commitment of an
28 individual, and must meet department residential treatment facility
29 standards. A triage facility may be structured as a voluntary or
30 involuntary placement facility;

31 (58) "Video" means the delivery of health care services through
32 the use of interactive audio and video technology, permitting real-
33 time communication between a person and a designated crisis
34 responder, for the purpose of evaluation. "Video" does not include
35 the use of audio-only telephone, facsimile, email, or store and
36 forward technology. "Store and forward technology" means use of an
37 asynchronous transmission of a person's medical information from a
38 mental health service provider to the designated crisis responder
39 which results in medical diagnosis, consultation, or treatment;

1 (59) "Violent act" means behavior that resulted in homicide,
2 attempted suicide, nonfatal injuries, or substantial damage to
3 property.

4 **Sec. 2.** RCW 71.05.150 and 2018 c 291 s 4 are each amended to
5 read as follows:

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

29 (2) (a) An order to detain a person with a mental disorder to a
30 designated evaluation and treatment facility, or to detain a person
31 with a substance use disorder to a secure detoxification facility or
32 approved substance use disorder treatment program, for not more than
33 a seventy-two-hour evaluation and treatment period may be issued by a
34 judge of the superior court upon request of a designated crisis
35 responder, subject to (d) of this subsection, whenever it appears to
36 the satisfaction of a judge of the superior court:

- 37 (i) That there is probable cause to support the petition; and
38 (ii) That the person has refused or failed to accept appropriate
39 evaluation and treatment voluntarily.

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

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

9 (d) A court may not issue an order to detain a person to a secure
10 detoxification facility or approved substance use disorder treatment
11 program unless there is an available secure detoxification facility
12 or approved substance use disorder treatment program that has
13 adequate space for the person.

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

36 (4) The designated crisis responder may notify a peace officer to
37 take such person or cause such person to be taken into custody and
38 placed in an evaluation and treatment facility, secure detoxification
39 facility, or approved substance use disorder treatment program. At
40 the time such person is taken into custody there shall commence to be

1 served on such person, his or her guardian, and conservator, if any,
2 a copy of the original order together with a notice of rights and a
3 petition for initial detention.

4 **Sec. 3.** RCW 71.05.150 and 2018 c 291 s 5 are each amended to
5 read as follows:

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

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

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

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

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

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

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

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

1 **Sec. 4.** RCW 71.05.153 and 2016 sp.s. c 29 s 212 are each amended
2 to read as follows:

3 (1) When a designated crisis responder receives information
4 alleging that a person, as the result of a mental disorder, presents
5 an imminent likelihood of serious harm, or is in imminent danger
6 because of being gravely disabled, after investigation and evaluation
7 of the specific facts alleged and of the reliability and credibility
8 of the person or persons providing the information if any, the
9 designated crisis responder may take such person, or cause by oral or
10 written order such person to be taken into emergency custody in an
11 evaluation and treatment facility for not more than seventy-two hours
12 as described in RCW 71.05.180.

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

26 (3)(a) Subject to (b) of this subsection, a peace officer may
27 take or cause such person to be taken into custody and immediately
28 delivered to a triage facility, crisis stabilization unit, evaluation
29 and treatment facility, secure detoxification facility, approved
30 substance use disorder treatment program, or the emergency department
31 of a local hospital under the following circumstances:

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

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

37 (b) A peace officer's delivery of a person, based on a substance
38 use disorder, to a secure detoxification facility or approved
39 substance use disorder treatment program is subject to the
40 availability of a secure detoxification facility or approved

1 substance use disorder treatment program with adequate space for the
2 person.

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

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

28 (6) Dismissal of a commitment petition is not the appropriate
29 remedy for a violation of the timeliness requirements of this section
30 based on the intent of this chapter under RCW 71.05.010 except in the
31 few cases where the facility staff or designated mental health
32 professional has totally disregarded the requirements of this
33 section.

34 **Sec. 5.** RCW 71.05.153 and 2016 sp.s. c 29 s 213 are each amended
35 to read as follows:

36 (1) When a designated crisis responder receives information
37 alleging that a person, as the result of a mental disorder, presents
38 an imminent likelihood of serious harm, or is in imminent danger
39 because of being gravely disabled, after investigation and evaluation

1 of the specific facts alleged and of the reliability and credibility
2 of the person or persons providing the information if any, the
3 designated crisis responder may take such person, or cause by oral or
4 written order such person to be taken into emergency custody in an
5 evaluation and treatment facility for not more than seventy-two hours
6 as described in RCW 71.05.180.

7 (2) When a designated crisis responder receives information
8 alleging that a person, as the result of substance use disorder,
9 presents an imminent likelihood of serious harm, or is in imminent
10 danger because of being gravely disabled, after investigation and
11 evaluation of the specific facts alleged and of the reliability and
12 credibility of the person or persons providing the information if
13 any, the designated crisis responder may take the person, or cause by
14 oral or written order the person to be taken, into emergency custody
15 in a secure detoxification facility or approved substance use
16 disorder treatment program for not more than seventy-two hours as
17 described in RCW 71.05.180.

18 (3) A peace officer may take or cause such person to be taken
19 into custody and immediately delivered to a triage facility, crisis
20 stabilization unit, evaluation and treatment facility, secure
21 detoxification facility, approved substance use disorder treatment
22 program, or the emergency department of a local hospital under the
23 following circumstances:

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

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

29 (4) Persons delivered to a crisis stabilization unit, evaluation
30 and treatment facility, emergency department of a local hospital,
31 triage facility that has elected to operate as an involuntary
32 facility, secure detoxification facility, or approved substance use
33 disorder treatment program by peace officers pursuant to subsection
34 (3) of this section may be held by the facility for a period of up to
35 twelve hours, not counting time periods prior to medical clearance.

36 (5) Within three hours after arrival, not counting time periods
37 prior to medical clearance, the person must be examined by a mental
38 health professional. Within twelve hours of notice of the need for
39 evaluation, not counting time periods prior to medical clearance, the
40 designated crisis responder must determine whether the individual

1 meets detention criteria. The interview performed by the designated
2 crisis responder may be conducted by video provided that a licensed
3 health care professional or professional person who can adequately
4 and accurately assist with obtaining any necessary information is
5 available at the time of the interview. If the individual is
6 detained, the designated crisis responder shall file a petition for
7 detention or a supplemental petition as appropriate and commence
8 service on the designated attorney for the detained person. If the
9 individual is released to the community, the mental health service
10 provider shall inform the peace officer of the release within a
11 reasonable period of time after the release if the peace officer has
12 specifically requested notification and provided contact information
13 to the provider.

14 (6) Dismissal of a commitment petition is not the appropriate
15 remedy for a violation of the timeliness requirements of this section
16 based on the intent of this chapter under RCW 71.05.010 except in the
17 few cases where the facility staff or designated mental health
18 professional has totally disregarded the requirements of this
19 section.

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

22 (1) If an individual is referred to a designated crisis responder
23 under RCW 10.77.088(1)(c)(i), the designated crisis responder shall
24 examine the individual within forty-eight hours. If the designated
25 crisis responder determines it is not appropriate to detain the
26 individual or petition for a ninety-day less restrictive alternative
27 under RCW 71.05.230(4), that decision shall be immediately presented
28 to the superior court for hearing. The court shall hold a hearing to
29 consider the decision of the designated crisis responder not later
30 than the next judicial day. At the hearing the superior court shall
31 review the determination of the designated crisis responder and
32 determine whether an order should be entered requiring the person to
33 be evaluated at an evaluation and treatment facility. No person
34 referred to an evaluation and treatment facility may be held at the
35 facility longer than seventy-two hours.

36 (2) If an individual is placed in an evaluation and treatment
37 facility under RCW 10.77.088(1)(c)(ii), a professional person shall
38 evaluate the individual for purposes of determining whether to file a
39 ninety-day inpatient or outpatient petition under this chapter.

1 Before expiration of the seventy-two hour evaluation period
2 authorized under RCW 10.77.088(1)(c)(ii), the professional person
3 shall file a petition or, if the recommendation of the professional
4 person is to release the individual, present his or her
5 recommendation to the superior court of the county in which the
6 criminal charge was dismissed. The superior court shall review the
7 recommendation not later than forty-eight hours, excluding Saturdays,
8 Sundays, and holidays, after the recommendation is presented. If the
9 court rejects the recommendation to unconditionally release the
10 individual, the court may order the individual detained at a
11 designated evaluation and treatment facility for not more than a
12 seventy-two hour evaluation and treatment period and direct the
13 individual to appear at a surety hearing before that court within
14 seventy-two hours, or the court may release the individual but direct
15 the individual to appear at a surety hearing set before that court
16 within eleven days, at which time the prosecutor may file a petition
17 under this chapter for ninety-day inpatient or outpatient treatment.
18 If a petition is filed by the prosecutor, the court may order that
19 the person named in the petition be detained at the evaluation and
20 treatment facility that performed the evaluation under this
21 subsection or order the respondent to be in outpatient treatment. If
22 a petition is filed but the individual fails to appear in court for
23 the surety hearing, the court shall order that a mental health
24 professional or peace officer shall take such person or cause such
25 person to be taken into custody and placed in an evaluation and
26 treatment facility to be brought before the court the next judicial
27 day after detention. Upon the individual's first appearance in court
28 after a petition has been filed, proceedings under RCW 71.05.310 and
29 71.05.320 shall commence. For an individual subject to this
30 subsection, the prosecutor or professional person may directly file a
31 petition for ninety-day inpatient or outpatient treatment and no
32 petition for initial detention or fourteen-day detention is required
33 before such a petition may be filed.

34 The court shall conduct the hearing on the petition filed under
35 this subsection within five judicial days of the date the petition is
36 filed. The court may continue the hearing upon the written request of
37 the person named in the petition or the person's attorney, for good
38 cause shown, which continuance shall not exceed five additional
39 judicial days. If the person named in the petition requests a jury
40 trial, the trial shall commence within ten judicial days of the date

1 of the filing of the petition. The burden of proof shall be by clear,
2 cogent, and convincing evidence and shall be upon the petitioner. The
3 person shall be present at such proceeding, which shall in all
4 respects accord with the constitutional guarantees of due process of
5 law and the rules of evidence pursuant to RCW 71.05.360 (8) and (9).
6 Presence at such proceeding shall mean participation either in person
7 or by video as provided in the definition of "hearing" in RCW
8 71.05.020, as determined by the court.

9 During the proceeding the person named in the petition shall
10 continue to be detained and treated until released by order of the
11 court. If no order has been made within thirty days after the filing
12 of the petition, not including any extensions of time requested by
13 the detained person or his or her attorney, the detained person shall
14 be released.

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

21 (4) The individual shall have the rights specified in RCW
22 71.05.360 (8) and (9).

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

25 The court shall conduct a hearing on the petition for ninety-day
26 treatment within five judicial days of the first court appearance
27 after the probable cause hearing, or within ten judicial days for a
28 petition filed under RCW 71.05.280(3). The court may continue the
29 hearing for good cause upon the written request of the person named
30 in the petition or the person's attorney. The court may continue for
31 good cause the hearing on a petition filed under RCW 71.05.280(3)
32 upon written request by the person named in the petition, the
33 person's attorney, or the petitioner. If the person named in the
34 petition requests a jury trial, the trial shall commence within ten
35 judicial days of the first court appearance after the probable cause
36 hearing. The burden of proof shall be by clear, cogent, and
37 convincing evidence and shall be upon the petitioner. The person
38 shall be present at such proceeding, which shall in all respects
39 accord with the constitutional guarantees of due process of law and

1 the rules of evidence pursuant to RCW 71.05.360 (8) and (9). Presence
2 at such proceeding shall mean participation either in person or by
3 video as provided in the definition of "hearing" in RCW 71.05.020, as
4 determined by the court.

5 During the proceeding, the person named in the petition shall
6 continue to be treated until released by order of the superior court.
7 If no order has been made within thirty days after the filing of the
8 petition, not including extensions of time requested by the detained
9 person or his or her attorney, or the petitioner in the case of a
10 petition filed under RCW 71.05.280(3), the detained person shall be
11 released.

12 NEW SECTION. **Sec. 8.** Sections 2 and 4 of this act expire July
13 1, 2026.

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

--- END ---