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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5071

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State of Washington

67th Legislature

2021 Regular Session

By Senate Ways & Means (originally sponsored by Senators Dhingra, Darneille, Das, Hunt, Kuderer, Nguyen, and Wilson, C.)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to creating transition teams to assist specified  
2 persons under civil commitment; amending RCW 10.77.150, 71.05.320,  
3 71.05.320, 10.77.060, 70.02.230, 70.02.240, 71.24.035, 10.77.010,  
4 10.77.195, 71.05.740, 71.24.035, and 71.24.045; amending 2020 c 302 s  
5 110 (uncodified); reenacting and amending RCW 71.05.020, 71.05.020,  
6 71.05.020, and 71.05.020; adding a new section to chapter 10.77 RCW;  
7 adding a new section to chapter 71.24 RCW; creating new sections;  
8 providing effective dates; providing a contingent effective date; and  
9 providing expiration dates.

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

11 **Sec. 1.** RCW 10.77.150 and 2010 c 263 s 5 are each amended to  
12 read as follows:

13 (1) Persons examined pursuant to RCW 10.77.140 may make  
14 application to the secretary for conditional release. The secretary  
15 shall, after considering the reports of experts or professional  
16 persons conducting the examination pursuant to RCW 10.77.140, forward  
17 to the court of the county which ordered the person's commitment the  
18 person's application for conditional release as well as the  
19 secretary's recommendations concerning the application and any  
20 proposed terms and conditions upon which the secretary reasonably  
21 believes the person can be conditionally released. Conditional

1 release may also contemplate partial release for work, training, or  
2 educational purposes.

3 (2) In instances in which persons examined pursuant to RCW  
4 10.77.140 have not made application to the secretary for conditional  
5 release, but the secretary, after considering the reports of experts  
6 or professional persons conducting the examination pursuant to RCW  
7 10.77.140, reasonably believes the person may be conditionally  
8 released, the secretary may submit a recommendation for release to  
9 the court of the county that ordered the person's commitment. The  
10 secretary's recommendation must include any proposed terms and  
11 conditions upon which the secretary reasonably believes the person  
12 may be conditionally released. Conditional release may also include  
13 partial release for work, training, or educational purposes. Notice  
14 of the secretary's recommendation under this subsection must be  
15 provided to the person for whom the secretary has made the  
16 recommendation for release and to his or her attorney.

17 (3) (a) The court of the county which ordered the person's  
18 commitment, upon receipt of an application or recommendation for  
19 conditional release with the secretary's recommendation for  
20 conditional release terms and conditions, shall within thirty days  
21 schedule a hearing. The court may schedule a hearing on applications  
22 recommended for disapproval by the secretary.

23 (b) The prosecuting attorney shall represent the state at such  
24 hearings and shall have the right to have the ~~((patient))~~ person  
25 examined by an expert or professional person of the prosecuting  
26 attorney's choice. If the committed person is indigent, and he or she  
27 so requests, the court shall appoint a qualified expert or  
28 professional person to examine the person on his or her behalf.

29 (c) The issue to be determined at such a hearing is whether or  
30 not the person may be released conditionally to less restrictive  
31 alternative treatment under the supervision of a multidisciplinary  
32 transition team under conditions imposed by the court, including  
33 access to services under section 4 of this act without substantial  
34 danger to other persons, or substantial likelihood of committing  
35 criminal acts jeopardizing public safety or security.

36 ~~((The court, after the hearing, shall rule on the secretary's~~  
37 ~~recommendations, and if it disapproves of conditional release, may de~~  
38 ~~se)) In cases that come before the court under subsection (1) or (2)  
39 of this section, the court may deny conditional release to a less  
40 restrictive alternative only on the basis of substantial evidence.~~

1 The court may modify the suggested terms and conditions on which the  
2 person is to be conditionally released. Pursuant to the determination  
3 of the court after hearing, the committed person shall thereupon be  
4 released on such conditions as the court determines to be necessary,  
5 or shall be remitted to the custody of the secretary.

6 (4) If the order of conditional release (~~includes a~~) provides  
7 for the conditional release of the person to a less restrictive  
8 alternative, including residential treatment or treatment in the  
9 community, the conditional release order must also include:

10 (a) A requirement for the committed person to (~~report to a~~) be  
11 supervised by a multidisciplinary transition team, including a  
12 specially trained community corrections officer, (~~the order shall~~  
13 also specify that the conditionally released person shall be under  
14 the supervision of the secretary of corrections or such person as the  
15 secretary of corrections may designate and shall follow explicitly  
16 the instructions of the secretary of corrections including)) a  
17 representative of the department of social and health services, and a  
18 representative of the community behavioral health agency providing  
19 treatment to the person under section 4 of this act.

20 (i) The court may omit appointment of the representative of the  
21 community behavioral health agency if the conditional release order  
22 does not require participation in behavioral health treatment;

23 (ii) The court may omit the appointment of a community  
24 corrections officer if it makes a special finding that the  
25 appointment of a community corrections officer would not facilitate  
26 the success of the person, or the safety of the person and the  
27 community;

28 (b) A requirement for the person to comply with conditions of  
29 supervision established by the court which shall include at a minimum  
30 reporting as directed to a (~~community corrections officer~~)  
31 designated member of the transition team, remaining within prescribed  
32 geographical boundaries, and notifying the (~~community corrections~~  
33 officer) transition team prior to making any change in the  
34 (~~offender's~~) person's address or employment. If the (~~order of~~  
35 conditional release includes a requirement for the committed person  
36 to report to a community corrections officer, the community  
37 corrections officer shall notify the secretary or the secretary's  
38 designee, if the) person is not in compliance with the court-ordered  
39 conditions of release(~~-~~), the community corrections officer or

1 another designated transition team member shall notify the secretary  
2 or the secretary's designee; and

3 ~~((4))~~ (c) If the court ~~((determines that receiving regular or~~  
4 ~~periodic medication or other medical treatment shall be a condition~~  
5 ~~of the committed person's release, then the court shall require him~~  
6 ~~or her to report to a physician or other medical or mental health~~  
7 ~~practitioner for the medication or treatment. In addition to~~  
8 ~~submitting any report required by RCW 10.77.160, the physician or~~  
9 ~~other medical or mental health practitioner shall immediately upon~~  
10 ~~the released person's failure to appear for the))~~ requires  
11 participation in behavioral health treatment, the name of the  
12 licensed or certified behavioral health agency responsible for  
13 identifying the services the person will receive under section 4 of  
14 this act, and a requirement that the person cooperate with the  
15 services planned by the licensed or certified behavioral health  
16 agency. The licensed or certified behavioral health agency must  
17 comply with the reporting requirements of RCW 10.77.160, and must  
18 immediately report to the court, prosecutor, and defense counsel any  
19 substantial withdrawal or disengagement from medication or treatment,  
20 or ~~((upon a))~~ any change in the person's mental health condition that  
21 renders ~~((the patient))~~ him or her a potential risk to the public  
22 ~~((report to the court, to the prosecuting attorney of the county in~~  
23 ~~which the released person was committed, to the secretary, and to the~~  
24 ~~supervising community corrections officer))~~ .

25 (5) The role of the transition team appointed under subsection  
26 (4) of this section shall be to facilitate the success of the person  
27 on the conditional release order by monitoring the person's progress  
28 in treatment, compliance with court-ordered conditions, and to  
29 problem solve around extra support the person may need or  
30 circumstances that may arise that threaten the safety of the person  
31 or the community. The transition team may develop a monitoring plan  
32 that may be carried out by any member of the team. The transition  
33 team shall meet according to a schedule developed by the team, and  
34 shall communicate as needed if issues arise that require the  
35 immediate attention of the team.

36 (6) The department of corrections shall collaborate with the  
37 department to develop specialized training for community corrections  
38 officers under this section. The lack of a trained community  
39 corrections officer must not be the cause of delay to entry of a

1 conditional release order. Another community corrections officer may  
2 be appointed if no specially trained officer is available.

3 (7) Any person, whose application for conditional release has  
4 been denied, may reapply after a period of six months from the date  
5 of denial, or sooner with the support of the department.

6 (8) A person examined under RCW 10.77.140 or the department may  
7 make a motion for limited conditional release under this section, on  
8 the grounds that there is insufficient evidence that the person may  
9 be released conditionally to less restrictive alternative treatment  
10 under subsection (3)(c) of this section, but the person would benefit  
11 from the opportunity to exercise increased privileges while remaining  
12 under the custody and supervision of the department and with the  
13 supervision of the department these increased privileges can be  
14 exercised without substantial danger to other persons or substantial  
15 likelihood of committing criminal acts jeopardizing public safety or  
16 security. The department may respond to a person's application for  
17 conditional release by instead supporting limited conditional  
18 release.

19 **Sec. 2.** RCW 71.05.320 and 2020 c 302 s 45 are each amended to  
20 read as follows:

21 (1)(a) Subject to (b) of this subsection, if the court or jury  
22 finds that grounds set forth in RCW 71.05.280 have been proven and  
23 that the best interests of the person or others will not be served by  
24 a less restrictive treatment which is an alternative to detention,  
25 the court shall remand him or her to the custody of the department of  
26 social and health services or to a facility certified for ninety day  
27 treatment by the department for a further period of intensive  
28 treatment not to exceed ninety days from the date of judgment.

29 (b) If the order for inpatient treatment is based on a substance  
30 use disorder, treatment must take place at an approved substance use  
31 disorder treatment program. The court may only enter an order for  
32 commitment based on a substance use disorder if there is an available  
33 approved substance use disorder treatment program with adequate space  
34 for the person.

35 (c) If the grounds set forth in RCW 71.05.280(3) are the basis of  
36 commitment, then the period of treatment may be up to but not exceed  
37 one hundred eighty days from the date of judgment to the custody of  
38 the department of social and health services or to a facility

1 certified for one hundred eighty-day treatment by the department or  
2 under RCW 71.05.745.

3 (2) If the court or jury finds that grounds set forth in RCW  
4 71.05.280 have been proven, but finds that treatment less restrictive  
5 than detention will be in the best interest of the person or others,  
6 then the court shall remand him or her to the custody of the  
7 department of social and health services or to a facility certified  
8 for ninety day treatment by the department or to a less restrictive  
9 alternative for a further period of less restrictive treatment not to  
10 exceed ninety days from the date of judgment. If the grounds set  
11 forth in RCW 71.05.280(3) are the basis of commitment, then the  
12 period of treatment may be up to but not exceed one hundred eighty  
13 days from the date of judgment. If the court has made an affirmative  
14 special finding under RCW 71.05.280(3)(b), the court shall appoint a  
15 multidisciplinary transition team as provided in subsection (6)(a)(i)  
16 of this section. If the court or jury finds that the grounds set  
17 forth in RCW 71.05.280(5) have been proven, and provide the only  
18 basis for commitment, the court must enter an order for less  
19 restrictive alternative treatment for up to ninety days from the date  
20 of judgment and may not order inpatient treatment.

21 (3) An order for less restrictive alternative treatment entered  
22 under subsection (2) of this section must name the behavioral health  
23 service provider responsible for identifying the services the person  
24 will receive in accordance with RCW 71.05.585, and must include a  
25 requirement that the person cooperate with the services planned by  
26 the behavioral health service provider.

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

34 (a) During the current period of court ordered treatment: (i) Has  
35 threatened, attempted, or inflicted physical harm upon the person of  
36 another, or substantial damage upon the property of another, and (ii)  
37 as a result of a behavioral health disorder or developmental  
38 disability presents a likelihood of serious harm; or

39 (b) Was taken into custody as a result of conduct in which he or  
40 she attempted or inflicted serious physical harm upon the person of

1 another, and continues to present, as a result of a behavioral health  
2 disorder or developmental disability, a likelihood of serious harm;  
3 or

4 (c) (i) Is in custody pursuant to RCW 71.05.280(3) and as a result  
5 of a behavioral health disorder or developmental disability continues  
6 to present a substantial likelihood of repeating acts similar to the  
7 charged criminal behavior, when considering the person's life  
8 history, progress in treatment, and the public safety.

9 (ii) In cases under this subsection where the court has made an  
10 affirmative special finding under RCW 71.05.280(3)(b), the commitment  
11 shall continue for up to an additional one hundred eighty-day period  
12 whenever the petition presents prima facie evidence that the person  
13 continues to suffer from a behavioral health disorder or  
14 developmental disability that results in a substantial likelihood of  
15 committing acts similar to the charged criminal behavior, unless the  
16 person presents proof through an admissible expert opinion that the  
17 person's condition has so changed such that the behavioral health  
18 disorder or developmental disability no longer presents a substantial  
19 likelihood of the person committing acts similar to the charged  
20 criminal behavior. The initial or additional commitment period may  
21 include transfer to a specialized program of intensive support and  
22 treatment, which may be initiated prior to or after discharge from  
23 the state hospital; or

24 (d) Continues to be gravely disabled; or

25 (e) Is in need of assisted outpatient behavioral health  
26 treatment.

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

30 If less restrictive alternative treatment is sought, the petition  
31 shall set forth any recommendations for less restrictive alternative  
32 treatment services.

33 (5) A new petition for involuntary treatment filed under  
34 subsection (4) of this section shall be filed and heard in the  
35 superior court of the county of the facility which is filing the new  
36 petition for involuntary treatment unless good cause is shown for a  
37 change of venue. The cost of the proceedings shall be borne by the  
38 state.

39 (6) (a) The hearing shall be held as provided in RCW 71.05.310,  
40 and if the court or jury finds that the grounds for additional

1 confinement as set forth in this section are present, subject to  
2 subsection (1)(b) of this section, the court may order the committed  
3 person returned for an additional period of treatment not to exceed  
4 one hundred eighty days from the date of judgment, except as provided  
5 in subsection (7) of this section. If the court's order is based  
6 solely on the grounds identified in subsection (4)(e) of this  
7 section, the court may enter an order for less restrictive  
8 alternative treatment not to exceed one hundred eighty days from the  
9 date of judgment, and may not enter an order for inpatient treatment.  
10 An order for less restrictive alternative treatment must name the  
11 behavioral health service provider responsible for identifying the  
12 services the person will receive in accordance with RCW 71.05.585,  
13 and must include a requirement that the person cooperate with the  
14 services planned by the behavioral health service provider.

15 (i) In cases where the court has ordered less restrictive  
16 alternative treatment and has previously made an affirmative special  
17 finding under RCW 71.05.280(3)(b), the court shall appoint a  
18 multidisciplinary transition team to supervise and assist the person  
19 on the order for less restrictive treatment, which shall include a  
20 representative of the community behavioral health agency providing  
21 treatment under RCW 71.05.585, and a specially trained supervising  
22 community corrections officer. The court may omit the appointment of  
23 a community corrections officer if it makes a special finding that  
24 the appointment of a community corrections officer would not  
25 facilitate the success of the person, or the safety of the person and  
26 the community under (a)(ii) of this subsection.

27 (ii) The role of the transition team shall be to facilitate the  
28 success of the person on the less restrictive alternative order by  
29 monitoring the person's progress in treatment, compliance with court-  
30 ordered conditions, and to problem solve around extra support the  
31 person may need or circumstances which may arise that threaten the  
32 safety of the person or the community. The transition team may  
33 develop a monitoring plan which may be carried out by any member of  
34 the team. The transition team shall meet according to a schedule  
35 developed by the team, and shall communicate as needed if issues  
36 arise that require the immediate attention of the team.

37 (iii) The department of corrections shall collaborate with the  
38 department to develop specialized training for community corrections  
39 officers under this section. The lack of a trained community



1 corrections officer must not be the cause of delay to entry of a less  
2 restrictive alternative order.

3 (b) At the end of the one hundred eighty-day period of  
4 commitment, or one-year period of commitment if subsection (7) of  
5 this section applies, the committed person shall be released unless a  
6 petition for an additional one hundred eighty-day period of continued  
7 treatment is filed and heard in the same manner as provided in this  
8 section. Successive one hundred eighty-day commitments are  
9 permissible on the same grounds and pursuant to the same procedures  
10 as the original one hundred eighty-day commitment.

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

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

19 **Sec. 3.** RCW 71.05.320 and 2020 c 302 s 46 are each amended to  
20 read as follows:

21 (1) If the court or jury finds that grounds set forth in RCW  
22 71.05.280 have been proven and that the best interests of the person  
23 or others will not be served by a less restrictive treatment which is  
24 an alternative to detention, the court shall remand him or her to the  
25 custody of the department of social and health services or to a  
26 facility certified for ninety day treatment by the department for a  
27 further period of intensive treatment not to exceed ninety days from  
28 the date of judgment.

29 If the order for inpatient treatment is based on a substance use  
30 disorder, treatment must take place at an approved substance use  
31 disorder treatment program. If the grounds set forth in RCW  
32 71.05.280(3) are the basis of commitment, then the period of  
33 treatment may be up to but not exceed one hundred eighty days from  
34 the date of judgment to the custody of the department of social and  
35 health services or to a facility certified for one hundred eighty-day  
36 treatment by the department or under RCW 71.05.745.

37 (2) If the court or jury finds that grounds set forth in RCW  
38 71.05.280 have been proven, but finds that treatment less restrictive  
39 than detention will be in the best interest of the person or others,

1 then the court shall remand him or her to the custody of the  
2 department of social and health services or to a facility certified  
3 for ninety day treatment by the department or to a less restrictive  
4 alternative for a further period of less restrictive treatment not to  
5 exceed ninety days from the date of judgment. If the grounds set  
6 forth in RCW 71.05.280(3) are the basis of commitment, then the  
7 period of treatment may be up to but not exceed one hundred eighty  
8 days from the date of judgment. If the court has made an affirmative  
9 special finding under RCW 71.05.280(3)(b), the court shall appoint a  
10 multidisciplinary transition team as provided in subsection (6)(a)(i)  
11 of this section. If the court or jury finds that the grounds set  
12 forth in RCW 71.05.280(5) have been proven, and provide the only  
13 basis for commitment, the court must enter an order for less  
14 restrictive alternative treatment for up to ninety days from the date  
15 of judgment and may not order inpatient treatment.

16 (3) An order for less restrictive alternative treatment entered  
17 under subsection (2) of this section must name the behavioral health  
18 service provider responsible for identifying the services the person  
19 will receive in accordance with RCW 71.05.585, and must include a  
20 requirement that the person cooperate with the services planned by  
21 the behavioral health service provider.

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

29 (a) During the current period of court ordered treatment: (i) Has  
30 threatened, attempted, or inflicted physical harm upon the person of  
31 another, or substantial damage upon the property of another, and (ii)  
32 as a result of a behavioral health disorder or developmental  
33 disability presents a likelihood of serious harm; or

34 (b) Was taken into custody as a result of conduct in which he or  
35 she attempted or inflicted serious physical harm upon the person of  
36 another, and continues to present, as a result of a behavioral health  
37 disorder or developmental disability, a likelihood of serious harm;  
38 or

39 (c) (i) Is in custody pursuant to RCW 71.05.280(3) and as a result  
40 of a behavioral health disorder or developmental disability continues

1 to present a substantial likelihood of repeating acts similar to the  
2 charged criminal behavior, when considering the person's life  
3 history, progress in treatment, and the public safety.

4 (ii) In cases under this subsection where the court has made an  
5 affirmative special finding under RCW 71.05.280(3)(b), the commitment  
6 shall continue for up to an additional one hundred eighty-day period  
7 whenever the petition presents prima facie evidence that the person  
8 continues to suffer from a behavioral health disorder or  
9 developmental disability that results in a substantial likelihood of  
10 committing acts similar to the charged criminal behavior, unless the  
11 person presents proof through an admissible expert opinion that the  
12 person's condition has so changed such that the behavioral health  
13 disorder or developmental disability no longer presents a substantial  
14 likelihood of the person committing acts similar to the charged  
15 criminal behavior. The initial or additional commitment period may  
16 include transfer to a specialized program of intensive support and  
17 treatment, which may be initiated prior to or after discharge from  
18 the state hospital; or

19 (d) Continues to be gravely disabled; or

20 (e) Is in need of assisted outpatient behavioral health  
21 treatment.

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

25 If less restrictive alternative treatment is sought, the petition  
26 shall set forth any recommendations for less restrictive alternative  
27 treatment services.

28 (5) A new petition for involuntary treatment filed under  
29 subsection (4) of this section shall be filed and heard in the  
30 superior court of the county of the facility which is filing the new  
31 petition for involuntary treatment unless good cause is shown for a  
32 change of venue. The cost of the proceedings shall be borne by the  
33 state.

34 (6)(a) The hearing shall be held as provided in RCW 71.05.310,  
35 and if the court or jury finds that the grounds for additional  
36 confinement as set forth in this section are present, the court may  
37 order the committed person returned for an additional period of  
38 treatment not to exceed one hundred eighty days from the date of  
39 judgment, except as provided in subsection (7) of this section. If  
40 the court's order is based solely on the grounds identified in

1 subsection (4)(e) of this section, the court may enter an order for  
2 less restrictive alternative treatment not to exceed one hundred  
3 eighty days from the date of judgment, and may not enter an order for  
4 inpatient treatment. An order for less restrictive alternative  
5 treatment must name the behavioral health service provider  
6 responsible for identifying the services the person will receive in  
7 accordance with RCW 71.05.585, and must include a requirement that  
8 the person cooperate with the services planned by the behavioral  
9 health service provider.

10 (i) In cases where the court has ordered less restrictive  
11 alternative treatment and has previously made an affirmative special  
12 finding under RCW 71.05.280(3)(b), the court shall appoint a  
13 multidisciplinary transition team to supervise and assist the person  
14 on the order for less restrictive treatment, which shall include a  
15 representative of the community behavioral health agency providing  
16 treatment under RCW 71.05.585, and a specially trained supervising  
17 community corrections officer. The court may omit the appointment of  
18 a community corrections officer if it makes a special finding that  
19 the appointment of a community corrections officer would not  
20 facilitate the success of the person, or the safety of the person and  
21 the community under (a)(ii) of this subsection.

22 (ii) The role of the transition team shall be to facilitate the  
23 success of the person on the less restrictive alternative order by  
24 monitoring the person's progress in treatment, compliance with court-  
25 ordered conditions, and to problem solve around extra support the  
26 person may need or circumstances which may arise that threaten the  
27 safety of the person or the community. The transition team may  
28 develop a monitoring plan which may be carried out by any member of  
29 the team. The transition team shall meet according to a schedule  
30 developed by the team, and shall communicate as needed if issues  
31 arise that require the immediate attention of the team.

32 (iii) The department of corrections shall collaborate with the  
33 department to develop specialized training for community corrections  
34 officers under this section. The lack of a trained community  
35 corrections officer must not be the cause of delay to entry of a less  
36 restrictive alternative order.

37 (b) At the end of the one hundred eighty-day period of  
38 commitment, or one-year period of commitment if subsection (7) of  
39 this section applies, the committed person shall be released unless a  
40 petition for an additional one hundred eighty-day period of continued

1 treatment is filed and heard in the same manner as provided in this  
2 section. Successive one hundred eighty-day commitments are  
3 permissible on the same grounds and pursuant to the same procedures  
4 as the original one hundred eighty-day commitment.

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

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

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 10.77  
14 RCW to read as follows:

15 (1) Conditional release planning should start at admission and  
16 proceed in coordination between the department and the person's  
17 managed care organization, or behavioral health administrative  
18 services organization if the person is not eligible for medical  
19 assistance under chapter 74.09 RCW. If needed, the department shall  
20 assist the person to enroll in medical assistance in suspense status  
21 under RCW 74.09.670. The state hospital liaison for the managed care  
22 organization or behavioral health administrative services  
23 organization shall facilitate conditional release planning in  
24 collaboration with the department.

25 (2) Less restrictive alternative treatment pursuant to a  
26 conditional release order, at a minimum, includes the following  
27 services:

28 (a) Assignment of a care coordinator;

29 (b) An intake evaluation with the provider of the conditional  
30 treatment;

31 (c) A psychiatric evaluation or a substance use disorder  
32 evaluation, or both;

33 (d) A schedule of regular contacts with the provider of the less  
34 restrictive alternative treatment services for the duration of the  
35 order;

36 (e) A transition plan addressing access to continued services at  
37 the expiration of the order;

38 (f) An individual crisis plan;

1 (g) Consultation about the formation of a mental health advance  
2 directive under chapter 71.32 RCW; and

3 (h) Appointment of a transition team under RCW 10.77.150;

4 (i) Notification to the care coordinator assigned in (a) of this  
5 subsection and to the transition team as provided in RCW 10.77.150 if  
6 reasonable efforts to engage the client fail to produce substantial  
7 compliance with court-ordered treatment conditions.

8 (3) Less restrictive alternative treatment pursuant to a  
9 conditional release order may additionally include requirements to  
10 participate in the following services:

11 (a) Medication management;

12 (b) Psychotherapy;

13 (c) Nursing;

14 (d) Substance use disorder counseling;

15 (e) Residential treatment;

16 (f) Support for housing, benefits, education, and employment; and

17 (g) Periodic court review.

18 (4) Nothing in this section prohibits items in subsection (2) of  
19 this section from beginning before the conditional release of the  
20 individual.

21 (5) If the person was provided with involuntary medication under  
22 RCW 10.77.094 or pursuant to a judicial order during the involuntary  
23 commitment period, the less restrictive alternative treatment  
24 pursuant to the conditional release order may authorize the less  
25 restrictive alternative treatment provider or its designee to  
26 administer involuntary antipsychotic medication to the person if the  
27 provider has attempted and failed to obtain the informed consent of  
28 the person and there is a concurring medical opinion approving the  
29 medication by a psychiatrist, physician assistant working with a  
30 supervising psychiatrist, psychiatric advanced registered nurse  
31 practitioner, or physician or physician assistant in consultation  
32 with an independent mental health professional with prescribing  
33 authority.

34 (6) Less restrictive alternative treatment pursuant to a  
35 conditional release order must be administered by a provider that is  
36 certified or licensed to provide or coordinate the full scope of  
37 services required under the less restrictive alternative order and  
38 that has agreed to assume this responsibility.

39 (7) The care coordinator assigned to a person ordered to less  
40 restrictive alternative treatment pursuant to a conditional release

1 order must submit an individualized plan for the person's treatment  
2 services to the court that entered the order. An initial plan must be  
3 submitted as soon as possible following the intake evaluation and a  
4 revised plan must be submitted upon any subsequent modification in  
5 which a type of service is removed from or added to the treatment  
6 plan.

7 (8) A care coordinator may disclose information and records  
8 related to mental health treatment under RCW 70.02.230(2)(k) for  
9 purposes of implementing less restrictive alternative treatment  
10 pursuant to a conditional release order.

11 (9) For the purpose of this section, "care coordinator" means a  
12 clinical practitioner within the community behavioral health agency  
13 providing less restrictive alternative treatment who coordinates the  
14 activities of less restrictive alternative treatment pursuant to a  
15 conditional release order. The care coordinator coordinates  
16 activities with the person's transition team that are necessary for  
17 enforcement and continuation of the conditional release order and is  
18 responsible for coordinating service activities with other agencies  
19 and establishing and maintaining a therapeutic relationship with the  
20 individual on a continuing basis.

21 **Sec. 5.** RCW 10.77.060 and 2016 sp.s. c 29 s 408 are each amended  
22 to read as follows:

23 (1)(a) Whenever a defendant has pleaded not guilty by reason of  
24 insanity, or there is reason to doubt his or her competency, the  
25 court on its own motion or on the motion of any party shall either  
26 appoint or request the secretary to designate a qualified expert or  
27 professional person, who shall be approved by the prosecuting  
28 attorney, to evaluate and report upon the mental condition of the  
29 defendant.

30 (b) The signed order of the court shall serve as authority for  
31 the evaluator to be given access to all records held by any mental  
32 health, medical, educational, or correctional facility that relate to  
33 the present or past mental, emotional, or physical condition of the  
34 defendant. If the court is advised by any party that the defendant  
35 may have a developmental disability, the evaluation must be performed  
36 by a developmental disabilities professional.

37 (c) The evaluator shall assess the defendant in a jail, detention  
38 facility, in the community, or in court to determine whether a period  
39 of inpatient commitment will be necessary to complete an accurate

1 evaluation. If inpatient commitment is needed, the signed order of  
2 the court shall serve as authority for the evaluator to request the  
3 jail or detention facility to transport the defendant to a hospital  
4 or secure mental health facility for a period of commitment not to  
5 exceed fifteen days from the time of admission to the facility.  
6 Otherwise, the evaluator shall complete the evaluation.

7 (d) The court may commit the defendant for evaluation to a  
8 hospital or secure mental health facility without an assessment if:

9 (i) The defendant is charged with murder in the first or second  
10 degree; (ii) the court finds that it is more likely than not that an  
11 evaluation in the jail will be inadequate to complete an accurate  
12 evaluation; or (iii) the court finds that an evaluation outside the  
13 jail setting is necessary for the health, safety, or welfare of the  
14 defendant. The court shall not order an initial inpatient evaluation  
15 for any purpose other than a competency evaluation.

16 (e) The order shall indicate whether, in the event the defendant  
17 is committed to a hospital or secure mental health facility for  
18 evaluation, all parties agree to waive the presence of the defendant  
19 or to the defendant's remote participation at a subsequent competency  
20 hearing or presentation of an agreed order if the recommendation of  
21 the evaluator is for continuation of the stay of criminal  
22 proceedings, or if the opinion of the evaluator is that the defendant  
23 remains incompetent and there is no remaining restoration period, and  
24 the hearing is held prior to the expiration of the authorized  
25 commitment period.

26 (f) When a defendant is ordered to be (~~committed for inpatient~~  
27 ~~evaluation~~)) evaluated under this subsection (1), or when a party or  
28 the court determines at first appearance that an order for evaluation  
29 under this subsection will be requested or ordered if charges are  
30 pursued, the court may delay granting bail until the defendant has  
31 been evaluated for competency or sanity and appears before the court.  
32 Following the evaluation, in determining bail the court shall  
33 consider: (i) Recommendations of the evaluator regarding the  
34 defendant's competency, sanity, or diminished capacity; (ii) whether  
35 the defendant has a recent history of one or more violent acts; (iii)  
36 whether the defendant has previously been acquitted by reason of  
37 insanity or found incompetent; (iv) whether it is reasonably likely  
38 the defendant will fail to appear for a future court hearing; and (v)  
39 whether the defendant is a threat to public safety.



1           (2) The court may direct that a qualified expert or professional  
2 person retained by or appointed for the defendant be permitted to  
3 witness the evaluation authorized by subsection (1) of this section,  
4 and that the defendant shall have access to all information obtained  
5 by the court appointed experts or professional persons. The  
6 defendant's expert or professional person shall have the right to  
7 file his or her own report following the guidelines of subsection (3)  
8 of this section. If the defendant is indigent, the court shall upon  
9 the request of the defendant assist him or her in obtaining an expert  
10 or professional person.

11           (3) The report of the evaluation shall include the following:

12           (a) A description of the nature of the evaluation;

13           (b) A diagnosis or description of the current mental status of  
14 the defendant;

15           (c) If the defendant suffers from a mental disease or defect, or  
16 has a developmental disability, an opinion as to competency;

17           (d) If the defendant has indicated his or her intention to rely  
18 on the defense of insanity pursuant to RCW 10.77.030, and an  
19 evaluation and report by an expert or professional person has been  
20 provided concluding that the defendant was criminally insane at the  
21 time of the alleged offense, an opinion as to the defendant's sanity  
22 at the time of the act, and an opinion as to whether the defendant  
23 presents a substantial danger to other persons, or presents a  
24 substantial likelihood of committing criminal acts jeopardizing  
25 public safety or security, unless kept under further control by the  
26 court or other persons or institutions, provided that no opinion  
27 shall be rendered under this subsection (3)(d) unless the evaluator  
28 or court determines that the defendant is competent to stand trial;

29           (e) When directed by the court, if an evaluation and report by an  
30 expert or professional person has been provided concluding that the  
31 defendant lacked the capacity at the time of the offense to form the  
32 mental state necessary to commit the charged offense, an opinion as  
33 to the capacity of the defendant to have a particular state of mind  
34 which is an element of the offense charged;

35           (f) An opinion as to whether the defendant should be evaluated by  
36 a designated crisis responder under chapter 71.05 RCW.

37           (4) The secretary may execute such agreements as appropriate and  
38 necessary to implement this section and may choose to designate more  
39 than one evaluator.

1       **Sec. 6.** RCW 70.02.230 and 2020 c 256 s 402 are each amended to  
2 read as follows:

3       (1) ~~((Except as provided in this section, RCW 70.02.050,~~  
4 ~~71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and~~  
5 ~~70.02.265, or pursuant to a valid authorization under RCW 70.02.030,~~  
6 ~~the)) The fact of admission to a provider for mental health services  
7 and all information and records compiled, obtained, or maintained in  
8 the course of providing mental health services to either voluntary or  
9 involuntary recipients of services at public or private agencies  
10 ((must be confidential)) may not be disclosed except as provided in  
11 this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210,  
12 70.02.240, 70.02.250, 70.02.260, and 70.02.265, or pursuant to a  
13 valid authorization under RCW 70.02.030.~~

14       (2) Information and records related to mental health services,  
15 other than those obtained through treatment under chapter 71.34 RCW,  
16 may be disclosed ~~((only))~~:

17       (a) In communications between qualified professional persons to  
18 meet the requirements of chapter 71.05 RCW, including Indian health  
19 care providers, in the provision of services or appropriate  
20 referrals, or in the course of guardianship proceedings if provided  
21 to a professional person:

22       (i) Employed by the facility;

23       (ii) Who has medical responsibility for the patient's care;

24       (iii) Who is a designated crisis responder;

25       (iv) Who is providing services under chapter 71.24 RCW;

26       (v) Who is employed by a state or local correctional facility  
27 where the person is confined or supervised; or

28       (vi) Who is providing evaluation, treatment, or follow-up  
29 services under chapter 10.77 RCW;

30       (b) When the communications regard the special needs of a patient  
31 and the necessary circumstances giving rise to such needs and the  
32 disclosure is made by a facility providing services to the operator  
33 of a facility in which the patient resides or will reside;

34       (c) (i) When the person receiving services, or his or her  
35 guardian, designates persons to whom information or records may be  
36 released, or if the person is a minor, when his or her parents make  
37 such a designation;

38       (ii) A public or private agency shall release to a person's next  
39 of kin, attorney, personal representative, guardian, or conservator,  
40 if any:

1 (A) The information that the person is presently a patient in the  
2 facility or that the person is seriously physically ill;

3 (B) A statement evaluating the mental and physical condition of  
4 the patient, and a statement of the probable duration of the  
5 patient's confinement, if such information is requested by the next  
6 of kin, attorney, personal representative, guardian, or conservator;  
7 and

8 (iii) Other information requested by the next of kin or attorney  
9 as may be necessary to decide whether or not proceedings should be  
10 instituted to appoint a guardian or conservator;

11 (d)(i) To the courts, including tribal courts, as necessary to  
12 the administration of chapter 71.05 RCW or to a court ordering an  
13 evaluation or treatment under chapter 10.77 RCW solely for the  
14 purpose of preventing the entry of any evaluation or treatment order  
15 that is inconsistent with any order entered under chapter 71.05 RCW.

16 (ii) To a court or its designee in which a motion under chapter  
17 10.77 RCW has been made for involuntary medication of a defendant for  
18 the purpose of competency restoration.

19 (iii) Disclosure under this subsection is mandatory for the  
20 purpose of the federal health insurance portability and  
21 accountability act;

22 (e)(i) When a mental health professional or designated crisis  
23 responder is requested by a representative of a law enforcement or  
24 corrections agency, including a police officer, sheriff, community  
25 corrections officer, a municipal attorney, or prosecuting attorney to  
26 undertake an investigation or provide treatment under RCW 71.05.150,  
27 10.31.110, or 71.05.153, the mental health professional or designated  
28 crisis responder shall, if requested to do so, advise the  
29 representative in writing of the results of the investigation  
30 including a statement of reasons for the decision to detain or  
31 release the person investigated. The written report must be submitted  
32 within seventy-two hours of the completion of the investigation or  
33 the request from the law enforcement or corrections representative,  
34 whichever occurs later.

35 (ii) Disclosure under this subsection is mandatory for the  
36 purposes of the federal health insurance portability and  
37 accountability act;

38 (f) To the attorney of the detained person;

39 (g) To the prosecuting attorney as necessary to carry out the  
40 responsibilities of the office under RCW 71.05.330(2),

1 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided  
2 access to records regarding the committed person's treatment and  
3 prognosis, medication, behavior problems, and other records relevant  
4 to the issue of whether treatment less restrictive than inpatient  
5 treatment is in the best interest of the committed person or others.  
6 Information must be disclosed only after giving notice to the  
7 committed person and the person's counsel;

8 (h)(i) To appropriate law enforcement agencies and to a person,  
9 when the identity of the person is known to the public or private  
10 agency, whose health and safety has been threatened, or who is known  
11 to have been repeatedly harassed, by the patient. The person may  
12 designate a representative to receive the disclosure. The disclosure  
13 must be made by the professional person in charge of the public or  
14 private agency or his or her designee and must include the dates of  
15 commitment, admission, discharge, or release, authorized or  
16 unauthorized absence from the agency's facility, and only any other  
17 information that is pertinent to the threat or harassment. The agency  
18 or its employees are not civilly liable for the decision to disclose  
19 or not, so long as the decision was reached in good faith and without  
20 gross negligence.

21 (ii) Disclosure under this subsection is mandatory for the  
22 purposes of the federal health insurance portability and  
23 accountability act;

24 (i)(i) To appropriate corrections and law enforcement agencies  
25 all necessary and relevant information in the event of a crisis or  
26 emergent situation that poses a significant and imminent risk to the  
27 public. The mental health service agency or its employees are not  
28 civilly liable for the decision to disclose or not so long as the  
29 decision was reached in good faith and without gross negligence.

30 (ii) Disclosure under this subsection is mandatory for the  
31 purposes of the health insurance portability and accountability act;

32 (j) To the persons designated in RCW 71.05.425 for the purposes  
33 described in those sections;

34 (k) By a care coordinator under RCW 71.05.585 or section 4 of  
35 this act assigned to a person ordered to receive less restrictive  
36 alternative treatment for the purpose of sharing information to  
37 parties necessary for the implementation of proceedings under chapter  
38 71.05 or 10.77 RCW;

39 (l) Upon the death of a person. The person's next of kin,  
40 personal representative, guardian, or conservator, if any, must be

1 notified. Next of kin who are of legal age and competent must be  
2 notified under this section in the following order: Spouse, parents,  
3 children, brothers and sisters, and other relatives according to the  
4 degree of relation. Access to all records and information compiled,  
5 obtained, or maintained in the course of providing services to a  
6 deceased patient are governed by RCW 70.02.140;

7 ~~((l))~~ (m) To mark headstones or otherwise memorialize patients  
8 interred at state hospital cemeteries. The department of social and  
9 health services shall make available the name, date of birth, and  
10 date of death of patients buried in state hospital cemeteries fifty  
11 years after the death of a patient;

12 ~~((m))~~ (n) To law enforcement officers and to prosecuting  
13 attorneys as are necessary to enforce RCW 9.41.040(2)(a)(iv). The  
14 extent of information that may be released is limited as follows:

15 (i) Only the fact, place, and date of involuntary commitment, an  
16 official copy of any order or orders of commitment, and an official  
17 copy of any written or oral notice of ineligibility to possess a  
18 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
19 must be disclosed upon request;

20 (ii) The law enforcement and prosecuting attorneys may only  
21 release the information obtained to the person's attorney as required  
22 by court rule and to a jury or judge, if a jury is waived, that  
23 presides over any trial at which the person is charged with violating  
24 RCW 9.41.040(2)(a)(iv);

25 (iii) Disclosure under this subsection is mandatory for the  
26 purposes of the federal health insurance portability and  
27 accountability act;

28 ~~((n))~~ (o) When a patient would otherwise be subject to the  
29 provisions of this section and disclosure is necessary for the  
30 protection of the patient or others due to his or her unauthorized  
31 disappearance from the facility, and his or her whereabouts is  
32 unknown, notice of the disappearance, along with relevant  
33 information, may be made to relatives, the department of corrections  
34 when the person is under the supervision of the department, and  
35 governmental law enforcement agencies designated by the physician or  
36 psychiatric advanced registered nurse practitioner in charge of the  
37 patient or the professional person in charge of the facility, or his  
38 or her professional designee;

39 ~~((o))~~ (p) Pursuant to lawful order of a court, including a  
40 tribal court;

1       ~~((p))~~ (q) To qualified staff members of the department, to the  
2 authority, to behavioral health administrative services  
3 organizations, to managed care organizations, to resource management  
4 services responsible for serving a patient, or to service providers  
5 designated by resource management services as necessary to determine  
6 the progress and adequacy of treatment and to determine whether the  
7 person should be transferred to a less restrictive or more  
8 appropriate treatment modality or facility;

9       ~~((q))~~ (r) Within the mental health service agency or Indian  
10 health care provider facility where the patient is receiving  
11 treatment, confidential information may be disclosed to persons  
12 employed, serving in bona fide training programs, or participating in  
13 supervised volunteer programs, at the facility when it is necessary  
14 to perform their duties;

15       ~~((r))~~ (s) Within the department and the authority as necessary  
16 to coordinate treatment for mental illness, developmental  
17 disabilities, alcoholism, or substance use disorder of persons who  
18 are under the supervision of the department;

19       ~~((s))~~ (t) Between the department of social and health services,  
20 the department of children, youth, and families, and the health care  
21 authority as necessary to coordinate treatment for mental illness,  
22 developmental disabilities, alcoholism, or drug abuse of persons who  
23 are under the supervision of the department of social and health  
24 services or the department of children, youth, and families;

25       ~~((t))~~ (u) To a licensed physician or psychiatric advanced  
26 registered nurse practitioner who has determined that the life or  
27 health of the person is in danger and that treatment without the  
28 information and records related to mental health services could be  
29 injurious to the patient's health. Disclosure must be limited to the  
30 portions of the records necessary to meet the medical emergency;

31       ~~((u))~~ (v)(i) Consistent with the requirements of the federal  
32 health insurance portability and accountability act, to:

33       (A) A health care provider, including an Indian health care  
34 provider, who is providing care to a patient, or to whom a patient  
35 has been referred for evaluation or treatment; or

36       (B) Any other person who is working in a care coordinator role  
37 for a health care facility, health care provider, or Indian health  
38 care provider, or is under an agreement pursuant to the federal  
39 health insurance portability and accountability act with a health

1 care facility or a health care provider and requires the information  
2 and records to assure coordinated care and treatment of that patient.

3 (ii) A person authorized to use or disclose information and  
4 records related to mental health services under this subsection (2)  
5 (~~((u))~~) (v) must take appropriate steps to protect the information  
6 and records relating to mental health services.

7 (iii) Psychotherapy notes may not be released without  
8 authorization of the patient who is the subject of the request for  
9 release of information;

10 (~~((v))~~) (w) To administrative and office support staff designated  
11 to obtain medical records for those licensed professionals listed in  
12 (~~((u))~~) (v) of this subsection;

13 (~~((w))~~) (x) To a facility that is to receive a person who is  
14 involuntarily committed under chapter 71.05 RCW, or upon transfer of  
15 the person from one evaluation and treatment facility to another. The  
16 release of records under this subsection is limited to the  
17 information and records related to mental health services required by  
18 law, a record or summary of all somatic treatments, and a discharge  
19 summary. The discharge summary may include a statement of the  
20 patient's problem, the treatment goals, the type of treatment which  
21 has been provided, and recommendation for future treatment, but may  
22 not include the patient's complete treatment record;

23 (~~((x))~~) (y) To the person's counsel or guardian ad litem, without  
24 modification, at any time in order to prepare for involuntary  
25 commitment or recommitment proceedings, reexaminations, appeals, or  
26 other actions relating to detention, admission, commitment, or  
27 patient's rights under chapter 71.05 RCW;

28 (~~((y))~~) (z) To staff members of the protection and advocacy  
29 agency or to staff members of a private, nonprofit corporation for  
30 the purpose of protecting and advocating the rights of persons with  
31 mental disorders or developmental disabilities. Resource management  
32 services may limit the release of information to the name, birthdate,  
33 and county of residence of the patient, information regarding whether  
34 the patient was voluntarily admitted, or involuntarily committed, the  
35 date and place of admission, placement, or commitment, the name and  
36 address of a guardian of the patient, and the date and place of the  
37 guardian's appointment. Any staff member who wishes to obtain  
38 additional information must notify the patient's resource management  
39 services in writing of the request and of the resource management  
40 services' right to object. The staff member shall send the notice by

1 mail to the guardian's address. If the guardian does not object in  
2 writing within fifteen days after the notice is mailed, the staff  
3 member may obtain the additional information. If the guardian objects  
4 in writing within fifteen days after the notice is mailed, the staff  
5 member may not obtain the additional information;

6 ~~((z))~~ (aa) To all current treating providers, including Indian  
7 health care providers, of the patient with prescriptive authority who  
8 have written a prescription for the patient within the last twelve  
9 months. For purposes of coordinating health care, the department or  
10 the authority may release without written authorization of the  
11 patient, information acquired for billing and collection purposes as  
12 described in RCW 70.02.050(1)(d). The department, or the authority,  
13 if applicable, shall notify the patient that billing and collection  
14 information has been released to named providers, and provide the  
15 substance of the information released and the dates of such release.  
16 Neither the department nor the authority may release counseling,  
17 inpatient psychiatric hospitalization, or drug and alcohol treatment  
18 information without a signed written release from the client;

19 ~~((aa))~~ (bb)(i) To the secretary of social and health services  
20 and the director of the health care authority for either program  
21 evaluation or research, or both so long as the secretary or director,  
22 where applicable, adopts rules for the conduct of the evaluation or  
23 research, or both. Such rules must include, but need not be limited  
24 to, the requirement that all evaluators and researchers sign an oath  
25 of confidentiality substantially as follows:

26 "As a condition of conducting evaluation or research concerning  
27 persons who have received services from (fill in the facility,  
28 agency, or person) I, . . . . ., agree not to divulge, publish, or  
29 otherwise make known to unauthorized persons or the public any  
30 information obtained in the course of such evaluation or research  
31 regarding persons who have received services such that the person who  
32 received such services is identifiable.

33 I recognize that unauthorized release of confidential information  
34 may subject me to civil liability under the provisions of state law.  
35 /s/ . . . . ."

36 (ii) Nothing in this chapter may be construed to prohibit the  
37 compilation and publication of statistical data for use by government  
38 or researchers under standards, including standards to assure



1 maintenance of confidentiality, set forth by the secretary, or  
2 director, where applicable;

3 ~~((bb))~~ (cc) To any person if the conditions in RCW 70.02.205  
4 are met;

5 ~~((ee))~~ (dd) To the secretary of health for the purposes of the  
6 maternal mortality review panel established in RCW 70.54.450;

7 ~~((dd))~~ (ee) To a tribe or Indian health care provider to carry  
8 out the requirements of RCW 71.05.150(7).

9 (3) Whenever federal law or federal regulations restrict the  
10 release of information contained in the information and records  
11 related to mental health services of any patient who receives  
12 treatment for a substance use disorder, the department or the  
13 authority may restrict the release of the information as necessary to  
14 comply with federal law and regulations.

15 (4) Civil liability and immunity for the release of information  
16 about a particular person who is committed to the department of  
17 social and health services or the authority under RCW 71.05.280(3)  
18 and 71.05.320(4)(c) after dismissal of a sex offense as defined in  
19 RCW 9.94A.030, is governed by RCW 4.24.550.

20 (5) The fact of admission to a provider of mental health  
21 services, as well as all records, files, evidence, findings, or  
22 orders made, prepared, collected, or maintained pursuant to chapter  
23 71.05 RCW are not admissible as evidence in any legal proceeding  
24 outside that chapter without the written authorization of the person  
25 who was the subject of the proceeding except as provided in RCW  
26 70.02.260, in a subsequent criminal prosecution of a person committed  
27 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were  
28 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand  
29 trial, in a civil commitment proceeding pursuant to chapter 71.09  
30 RCW, or, in the case of a minor, a guardianship or dependency  
31 proceeding. The records and files maintained in any court proceeding  
32 pursuant to chapter 71.05 RCW must be confidential and available  
33 subsequent to such proceedings only to the person who was the subject  
34 of the proceeding or his or her attorney. In addition, the court may  
35 order the subsequent release or use of such records or files only  
36 upon good cause shown if the court finds that appropriate safeguards  
37 for strict confidentiality are and will be maintained.

38 (6)(a) Except as provided in RCW 4.24.550, any person may bring  
39 an action against an individual who has willfully released  
40 confidential information or records concerning him or her in

1 violation of the provisions of this section, for the greater of the  
2 following amounts:

3 (i) One thousand dollars; or

4 (ii) Three times the amount of actual damages sustained, if any.

5 (b) It is not a prerequisite to recovery under this subsection  
6 that the plaintiff suffered or was threatened with special, as  
7 contrasted with general, damages.

8 (c) Any person may bring an action to enjoin the release of  
9 confidential information or records concerning him or her or his or  
10 her ward, in violation of the provisions of this section, and may in  
11 the same action seek damages as provided in this subsection.

12 (d) The court may award to the plaintiff, should he or she  
13 prevail in any action authorized by this subsection, reasonable  
14 attorney fees in addition to those otherwise provided by law.

15 (e) If an action is brought under this subsection, no action may  
16 be brought under RCW 70.02.170.

17 **Sec. 7.** RCW 70.02.240 and 2019 c 381 s 20 are each amended to  
18 read as follows:

19 The fact of admission and all information and records related to  
20 mental health services obtained through inpatient or outpatient  
21 treatment of a minor under chapter 71.34 RCW must be kept  
22 confidential, except as authorized by this section or under RCW  
23 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265.  
24 Confidential information under this section may be disclosed only:

25 (1) In communications between mental health professionals to meet  
26 the requirements of chapter 71.34 RCW, in the provision of services  
27 to the minor, or in making appropriate referrals;

28 (2) In the course of guardianship or dependency proceedings;

29 (3) To the minor, the minor's parent, including those acting as a  
30 parent as defined in RCW 71.34.020 for purposes of family-initiated  
31 treatment, and the minor's attorney, subject to RCW 13.50.100;

32 (4) To the courts as necessary to administer chapter 71.34 RCW;

33 (5) By a care coordinator under RCW 71.34.755 or section 4 of  
34 this act assigned to a person ordered to receive less restrictive  
35 alternative treatment for the purpose of sharing information to  
36 parties necessary for the implementation of proceedings under chapter  
37 71.34 or 10.77 RCW;

38 (6) To law enforcement officers or public health officers as  
39 necessary to carry out the responsibilities of their office. However,

1 only the fact and date of admission, and the date of discharge, the  
2 name and address of the treatment provider, if any, and the last  
3 known address must be disclosed upon request;

4 ~~((6))~~ (7) To law enforcement officers, public health officers,  
5 relatives, and other governmental law enforcement agencies, if a  
6 minor has escaped from custody, disappeared from an evaluation and  
7 treatment facility, violated conditions of a less restrictive  
8 treatment order, or failed to return from an authorized leave, and  
9 then only such information as may be necessary to provide for public  
10 safety or to assist in the apprehension of the minor. The officers  
11 are obligated to keep the information confidential in accordance with  
12 this chapter;

13 ~~((7))~~ (8) To the secretary of social and health services and  
14 the director of the health care authority for assistance in data  
15 collection and program evaluation or research so long as the  
16 secretary or director, where applicable, adopts rules for the conduct  
17 of such evaluation and research. The rules must include, but need not  
18 be limited to, the requirement that all evaluators and researchers  
19 sign an oath of confidentiality substantially as follows:

20 "As a condition of conducting evaluation or research concerning  
21 persons who have received services from (fill in the facility,  
22 agency, or person) I, . . . . ., agree not to divulge, publish, or  
23 otherwise make known to unauthorized persons or the public any  
24 information obtained in the course of such evaluation or research  
25 regarding minors who have received services in a manner such that the  
26 minor is identifiable.

27 I recognize that unauthorized release of confidential information  
28 may subject me to civil liability under state law.

29 /s/ . . . . .";

30 ~~((8))~~ (9) To appropriate law enforcement agencies, upon  
31 request, all necessary and relevant information in the event of a  
32 crisis or emergent situation that poses a significant and imminent  
33 risk to the public. The mental health service agency or its employees  
34 are not civilly liable for the decision to disclose or not, so long  
35 as the decision was reached in good faith and without gross  
36 negligence;

37 ~~((9))~~ (10) To appropriate law enforcement agencies and to a  
38 person, when the identity of the person is known to the public or  
39 private agency, whose health and safety has been threatened, or who

1 is known to have been repeatedly harassed, by the patient. The person  
2 may designate a representative to receive the disclosure. The  
3 disclosure must be made by the professional person in charge of the  
4 public or private agency or his or her designee and must include the  
5 dates of admission, discharge, authorized or unauthorized absence  
6 from the agency's facility, and only any other information that is  
7 pertinent to the threat or harassment. The agency or its employees  
8 are not civilly liable for the decision to disclose or not, so long  
9 as the decision was reached in good faith and without gross  
10 negligence;

11 ~~((10))~~ (11) To a minor's next of kin, attorney, guardian, or  
12 conservator, if any, the information that the minor is presently in  
13 the facility or that the minor is seriously physically ill and a  
14 statement evaluating the mental and physical condition of the minor  
15 as well as a statement of the probable duration of the minor's  
16 confinement;

17 ~~((11))~~ (12) Upon the death of a minor, to the minor's next of  
18 kin;

19 ~~((12))~~ (13) To a facility in which the minor resides or will  
20 reside;

21 ~~((13))~~ (14) To law enforcement officers and to prosecuting  
22 attorneys as are necessary to enforce RCW 9.41.040(2)(a)(iv). The  
23 extent of information that may be released is limited as follows:

24 (a) Only the fact, place, and date of involuntary commitment, an  
25 official copy of any order or orders of commitment, and an official  
26 copy of any written or oral notice of ineligibility to possess a  
27 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
28 must be disclosed upon request;

29 (b) The law enforcement and prosecuting attorneys may only  
30 release the information obtained to the person's attorney as required  
31 by court rule and to a jury or judge, if a jury is waived, that  
32 presides over any trial at which the person is charged with violating  
33 RCW 9.41.040(2)(a)(iv);

34 (c) Disclosure under this subsection is mandatory for the  
35 purposes of the federal health insurance portability and  
36 accountability act;

37 ~~((14))~~ (15) This section may not be construed to prohibit the  
38 compilation and publication of statistical data for use by government  
39 or researchers under standards, including standards to assure  
40 maintenance of confidentiality, set forth by the director of the

1 health care authority or the secretary of the department of social  
2 and health services, where applicable. The fact of admission and all  
3 information obtained pursuant to chapter 71.34 RCW are not admissible  
4 as evidence in any legal proceeding outside chapter 71.34 RCW, except  
5 guardianship or dependency, without the written consent of the minor  
6 or the minor's parent;

7 ~~((15))~~ (16) For the purpose of a correctional facility  
8 participating in the postinstitutional medical assistance system  
9 supporting the expedited medical determinations and medical  
10 suspensions as provided in RCW 74.09.555 and 74.09.295;

11 ~~((16))~~ (17) Pursuant to a lawful order of a court.

12 **Sec. 8.** RCW 71.24.035 and 2020 c 256 s 202 are each amended to  
13 read as follows:

14 (1) The authority is designated as the state behavioral health  
15 authority which includes recognition as the single state authority  
16 for substance use disorders and state mental health authority.

17 (2) The director shall provide for public, client, tribal, and  
18 licensed or certified behavioral health agency participation in  
19 developing the state behavioral health program, developing related  
20 contracts, and any waiver request to the federal government under  
21 medicaid.

22 (3) The director shall provide for participation in developing  
23 the state behavioral health program for children and other  
24 underserved populations, by including representatives on any  
25 committee established to provide oversight to the state behavioral  
26 health program.

27 (4) The authority shall be designated as the behavioral health  
28 administrative services organization for a regional service area if a  
29 behavioral health administrative services organization fails to meet  
30 the authority's contracting requirements or refuses to exercise the  
31 responsibilities under its contract or state law, until such time as  
32 a new behavioral health administrative services organization is  
33 designated.

34 (5) The director shall:

35 (a) Assure that any behavioral health administrative services  
36 organization, managed care organization, or community behavioral  
37 health program provides medically necessary services to medicaid  
38 recipients consistent with the state's medicaid state plan or federal

1 waiver authorities, and nonmedicaid services consistent with  
2 priorities established by the authority;

3 (b) Develop contracts in a manner to ensure an adequate network  
4 of inpatient services, evaluation and treatment services, and  
5 facilities under chapter 71.05 RCW to ensure access to treatment,  
6 resource management services, and community support services;

7 (c) Make contracts necessary or incidental to the performance of  
8 its duties and the execution of its powers, including managed care  
9 contracts for behavioral health services, contracts entered into  
10 under RCW 74.09.522, and contracts with public and private agencies,  
11 organizations, and individuals to pay them for behavioral health  
12 services;

13 (d) Define administrative costs and ensure that the behavioral  
14 health administrative services organization does not exceed an  
15 administrative cost of ten percent of available funds;

16 (e) Establish, to the extent possible, a standardized auditing  
17 procedure which is designed to assure compliance with contractual  
18 agreements authorized by this chapter and minimizes paperwork  
19 requirements. The audit procedure shall focus on the outcomes of  
20 service as provided in RCW 71.24.435, 70.320.020, and 71.36.025;

21 (f) Develop and maintain an information system to be used by the  
22 state and behavioral health administrative services organizations and  
23 managed care organizations that includes a tracking method which  
24 allows the authority to identify behavioral health clients'  
25 participation in any behavioral health service or public program on  
26 an immediate basis. The information system shall not include  
27 individual patient's case history files. Confidentiality of client  
28 information and records shall be maintained as provided in this  
29 chapter and chapter 70.02 RCW;

30 (g) Monitor and audit behavioral health administrative services  
31 organizations as needed to assure compliance with contractual  
32 agreements authorized by this chapter;

33 (h) Monitor and audit access to behavioral health services for  
34 individuals eligible for medicaid who are not enrolled in a managed  
35 care organization;

36 (i) Adopt such rules as are necessary to implement the  
37 authority's responsibilities under this chapter;

38 (j) Administer or supervise the administration of the provisions  
39 relating to persons with substance use disorders and intoxicated

1 persons of any state plan submitted for federal funding pursuant to  
2 federal health, welfare, or treatment legislation;

3 (k) Require the behavioral health administrative services  
4 organizations and the managed care organizations to develop  
5 agreements with tribal, city, and county jails and the department of  
6 corrections to accept referrals for enrollment on behalf of a  
7 confined person, prior to the person's release;

8 (l) Require behavioral health administrative services  
9 organizations and managed care organizations, as applicable, to  
10 provide services as identified in RCW 71.05.585 and section 4 of this  
11 act to individuals committed for involuntary (~~commitment~~) treatment  
12 under less restrictive alternative court orders when:

13 (i) The individual is enrolled in the medicaid program; or

14 (ii) The individual is not enrolled in medicaid, does not have  
15 other insurance which can pay for the services, and the behavioral  
16 health administrative services organization has adequate available  
17 resources to provide the services; and

18 (m) Coordinate with the centers for medicare and medicaid  
19 services to provide that behavioral health aide services are eligible  
20 for federal funding of up to one hundred percent.

21 (6) The director shall use available resources only for  
22 behavioral health administrative services organizations and managed  
23 care organizations, except:

24 (a) To the extent authorized, and in accordance with any  
25 priorities or conditions specified, in the biennial appropriations  
26 act; or

27 (b) To incentivize improved performance with respect to the  
28 client outcomes established in RCW 71.24.435, 70.320.020, and  
29 71.36.025, integration of behavioral health and medical services at  
30 the clinical level, and improved care coordination for individuals  
31 with complex care needs.

32 (7) Each behavioral health administrative services organization,  
33 managed care organization, and licensed or certified behavioral  
34 health agency shall file with the secretary of the department of  
35 health or the director, on request, such data, statistics, schedules,  
36 and information as the secretary of the department of health or the  
37 director reasonably requires. A behavioral health administrative  
38 services organization, managed care organization, or licensed or  
39 certified behavioral health agency which, without good cause, fails  
40 to furnish any data, statistics, schedules, or information as

1 requested, or files fraudulent reports thereof, may be subject to the  
2 contractual remedies in RCW 74.09.871 or may have its service  
3 provider certification or license revoked or suspended.

4 (8) The superior court may restrain any behavioral health  
5 administrative services organization, managed care organization, or  
6 service provider from operating without a contract, certification, or  
7 a license or any other violation of this section. The court may also  
8 review, pursuant to procedures contained in chapter 34.05 RCW, any  
9 denial, suspension, limitation, restriction, or revocation of  
10 certification or license, and grant other relief required to enforce  
11 the provisions of this chapter.

12 (9) Upon petition by the secretary of the department of health or  
13 the director, and after hearing held upon reasonable notice to the  
14 facility, the superior court may issue a warrant to an officer or  
15 employee of the secretary of the department of health or the director  
16 authorizing him or her to enter at reasonable times, and examine the  
17 records, books, and accounts of any behavioral health administrative  
18 services organization, managed care organization, or service provider  
19 refusing to consent to inspection or examination by the authority.

20 (10) Notwithstanding the existence or pursuit of any other  
21 remedy, the secretary of the department of health or the director may  
22 file an action for an injunction or other process against any person  
23 or governmental unit to restrain or prevent the establishment,  
24 conduct, or operation of a behavioral health administrative services  
25 organization, managed care organization, or service provider without  
26 a contract, certification, or a license under this chapter.

27 (11) The authority shall distribute appropriated state and  
28 federal funds in accordance with any priorities, terms, or conditions  
29 specified in the appropriations act.

30 (12) The authority, in cooperation with the state congressional  
31 delegation, shall actively seek waivers of federal requirements and  
32 such modifications of federal regulations as are necessary to allow  
33 federal medicaid reimbursement for services provided by freestanding  
34 evaluation and treatment facilities licensed under chapter 71.12 RCW  
35 or certified under chapter 71.05 RCW. The authority shall  
36 periodically share the results of its efforts with the appropriate  
37 committees of the senate and the house of representatives.

38 (13) The authority may:



1 (a) Plan, establish, and maintain substance use disorder  
2 prevention and substance use disorder treatment programs as necessary  
3 or desirable;

4 (b) Coordinate its activities and cooperate with behavioral  
5 programs in this and other states, and make contracts and other joint  
6 or cooperative arrangements with state, tribal, local, or private  
7 agencies in this and other states for behavioral health services and  
8 for the common advancement of substance use disorder programs;

9 (c) Solicit and accept for use any gift of money or property made  
10 by will or otherwise, and any grant of money, services, or property  
11 from the federal government, the state, or any political subdivision  
12 thereof or any private source, and do all things necessary to  
13 cooperate with the federal government or any of its agencies in  
14 making an application for any grant;

15 (d) Keep records and engage in research and the gathering of  
16 relevant statistics; and

17 (e) Acquire, hold, or dispose of real property or any interest  
18 therein, and construct, lease, or otherwise provide substance use  
19 disorder treatment programs.

20 **Sec. 9.** RCW 10.77.010 and 2019 c 325 s 5005 are each amended to  
21 read as follows:

22 As used in this chapter:

23 (1) "Admission" means acceptance based on medical necessity, of a  
24 person as a patient.

25 (2) "Commitment" means the determination by a court that a person  
26 should be detained for a period of either evaluation or treatment, or  
27 both, in an inpatient or a less-restrictive setting.

28 (3) "Conditional release" means modification of a court-ordered  
29 commitment, which may be revoked upon violation of any of its terms.

30 (4) A "criminally insane" person means any person who has been  
31 acquitted of a crime charged by reason of insanity, and thereupon  
32 found to be a substantial danger to other persons or to present a  
33 substantial likelihood of committing criminal acts jeopardizing  
34 public safety or security unless kept under further control by the  
35 court or other persons or institutions.

36 (5) "Department" means the state department of social and health  
37 services.

38 (6) "Designated crisis responder" has the same meaning as  
39 provided in RCW 71.05.020.

1 (7) "Detention" or "detain" means the lawful confinement of a  
2 person, under the provisions of this chapter, pending evaluation.

3 (8) "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 or psychologist, or a social worker, and such other  
7 developmental disabilities professionals as may be defined by rules  
8 adopted by the secretary.

9 (9) "Developmental disability" means the condition as defined in  
10 RCW 71A.10.020(5).

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

14 (11) "Furlough" means an authorized leave of absence for a  
15 resident of a state institution operated by the department designated  
16 for the custody, care, and treatment of the criminally insane,  
17 consistent with an order of conditional release from the court under  
18 this chapter, without any requirement that the resident be  
19 accompanied by, or be in the custody of, any law enforcement or  
20 institutional staff, while on such unescorted leave.

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

29 (13) "History of one or more violent acts" means violent acts  
30 committed during: (a) The ten-year period of time prior to the filing  
31 of criminal charges; plus (b) the amount of time equal to time spent  
32 during the ten-year period in a mental health facility or in  
33 confinement as a result of a criminal conviction.

34 (14) "Immediate family member" means a spouse, child, stepchild,  
35 parent, stepparent, grandparent, sibling, or domestic partner.

36 (15) "Incompetency" means a person lacks the capacity to  
37 understand the nature of the proceedings against him or her or to  
38 assist in his or her own defense as a result of mental disease or  
39 defect.

1 (16) "Indigent" means any person who is financially unable to  
2 obtain counsel or other necessary expert or professional services  
3 without causing substantial hardship to the person or his or her  
4 family.

5 (17) "Individualized service plan" means a plan prepared by a  
6 developmental disabilities professional with other professionals as a  
7 team, for an individual with developmental disabilities, which shall  
8 state:

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

11 (b) The conditions and strategies necessary to achieve the  
12 purposes of habilitation;

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

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

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

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

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

24 (18) "Professional person" means:

25 (a) A psychiatrist licensed as a physician and surgeon in this  
26 state who has, in addition, completed three years of graduate  
27 training in psychiatry in a program approved by the American medical  
28 association or the American osteopathic association and is certified  
29 or eligible to be certified by the American board of psychiatry and  
30 neurology or the American osteopathic board of neurology and  
31 psychiatry;

32 (b) A psychologist licensed as a psychologist pursuant to chapter  
33 18.83 RCW; or

34 (c) A social worker with a master's or further advanced degree  
35 from a social work educational program accredited and approved as  
36 provided in RCW 18.320.010.

37 (19) "Release" means legal termination of the court-ordered  
38 commitment under the provisions of this chapter.

39 (20) "Secretary" means the secretary of the department of social  
40 and health services or his or her designee.

1 (21) "Treatment" means any currently standardized medical or  
2 mental health procedure including medication.

3 (22) "Treatment records" include registration and all other  
4 records concerning persons who are receiving or who at any time have  
5 received services for mental illness, which are maintained by the  
6 department, by behavioral health administrative services  
7 organizations and their staffs, by managed care organizations and  
8 their staffs, and by treatment facilities. Treatment records do not  
9 include notes or records maintained for personal use by a person  
10 providing treatment services for the department, behavioral health  
11 administrative services organizations, managed care organizations, or  
12 a treatment facility if the notes or records are not available to  
13 others.

14 (23) "Violent act" means behavior that: (a) (i) Resulted in; (ii)  
15 if completed as intended would have resulted in; or (iii) was  
16 threatened to be carried out by a person who had the intent and  
17 opportunity to carry out the threat and would have resulted in,  
18 homicide, nonfatal injuries, or substantial damage to property; or  
19 (b) recklessly creates an immediate risk of serious physical injury  
20 to another person. As used in this subsection, "nonfatal injuries"  
21 means physical pain or injury, illness, or an impairment of physical  
22 condition. "Nonfatal injuries" shall be construed to be consistent  
23 with the definition of "bodily injury," as defined in RCW 9A.04.110.

24 (24) "Community behavioral health agency" has the same meaning as  
25 "licensed or certified behavioral health agency" defined in RCW  
26 71.24.025.

27 **Sec. 10.** RCW 10.77.195 and 2010 c 263 s 9 are each amended to  
28 read as follows:

29 For persons who have received court approval for conditional  
30 release, the secretary or the secretary's designee shall supervise  
31 the person's compliance with the court-ordered conditions of release  
32 in coordination with the multidisciplinary transition team appointed  
33 under RCW 10.77.150. The level of supervision provided by the  
34 secretary shall correspond to the level of the person's public safety  
35 risk. In undertaking supervision of persons under this section, the  
36 secretary shall coordinate with any treatment providers (~~designated~~  
37 ~~pursuant to RCW 10.77.150(3), any~~) or department of corrections  
38 staff designated pursuant to RCW 10.77.150(~~(+2)~~), and local law

1 enforcement, if appropriate. The secretary shall adopt rules to  
2 implement this section.

3 **Sec. 11.** RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301, and  
4 2020 c 5 s 1 are each reenacted and amended to read as follows:

5 The definitions in this section apply throughout this chapter  
6 unless the context clearly requires otherwise.

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

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

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

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

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

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

29 (7) "Behavioral health disorder" means either a mental disorder  
30 as defined in this section, a substance use disorder as defined in  
31 this section, or a co-occurring mental disorder and substance use  
32 disorder;

33 (8) "Behavioral health service provider" means a public or  
34 private agency that provides mental health, substance use disorder,  
35 or co-occurring disorder services to persons with behavioral health  
36 disorders as defined under this section and receives funding from  
37 public sources. This includes, but is not limited to, hospitals  
38 licensed under chapter 70.41 RCW, evaluation and treatment facilities  
39 as defined in this section, community mental health service delivery

1 systems or community behavioral health programs as defined in RCW  
2 71.24.025, facilities conducting competency evaluations and  
3 restoration under chapter 10.77 RCW, approved substance use disorder  
4 treatment programs as defined in this section, secure withdrawal  
5 management and stabilization facilities as defined in this section,  
6 and correctional facilities operated by state and local governments;

7 (9) "Co-occurring disorder specialist" means an individual  
8 possessing an enhancement granted by the department of health under  
9 chapter 18.205 RCW that certifies the individual to provide substance  
10 use disorder counseling subject to the practice limitations under RCW  
11 18.205.105;

12 (10) "Commitment" means the determination by a court that a  
13 person should be detained for a period of either evaluation or  
14 treatment, or both, in an inpatient or a less restrictive setting;

15 (11) "Conditional release" means a revocable modification of a  
16 commitment, which may be revoked upon violation of any of its terms;

17 (12) "Crisis stabilization unit" means a short-term facility or a  
18 portion of a facility licensed or certified by the department, such  
19 as an evaluation and treatment facility or a hospital, which has been  
20 designed to assess, diagnose, and treat individuals experiencing an  
21 acute crisis without the use of long-term hospitalization;

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

26 (14) "Department" means the department of health;

27 (15) "Designated crisis responder" means a mental health  
28 professional appointed by the county, by an entity appointed by the  
29 county, or by the authority in consultation with a federally  
30 recognized Indian tribe or after meeting and conferring with an  
31 Indian health care provider, to perform the duties specified in this  
32 chapter;

33 (16) "Detention" or "detain" means the lawful confinement of a  
34 person, under the provisions of this chapter;

35 (17) "Developmental disabilities professional" means a person who  
36 has specialized training and three years of experience in directly  
37 treating or working with persons with developmental disabilities and  
38 is a psychiatrist, physician assistant working with a supervising  
39 psychiatrist, psychologist, psychiatric advanced registered nurse  
40 practitioner, or social worker, and such other developmental

1 disabilities professionals as may be defined by rules adopted by the  
2 secretary of the department of social and health services;

3 (18) "Developmental disability" means that condition defined in  
4 RCW 71A.10.020(5);

5 (19) "Director" means the director of the authority;

6 (20) "Discharge" means the termination of hospital medical  
7 authority. The commitment may remain in place, be terminated, or be  
8 amended by court order;

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

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

28 (23) "Gravely disabled" means a condition in which a person, as a  
29 result of a behavioral health disorder: (a) Is in danger of serious  
30 physical harm resulting from a failure to provide for his or her  
31 essential human needs of health or safety; or (b) manifests severe  
32 deterioration in routine functioning evidenced by repeated and  
33 escalating loss of cognitive or volitional control over his or her  
34 actions and is not receiving such care as is essential for his or her  
35 health or safety;

36 (24) "Habilitative services" means those services provided by  
37 program personnel to assist persons in acquiring and maintaining life  
38 skills and in raising their levels of physical, mental, social, and  
39 vocational functioning. Habilitative services include education,  
40 training for employment, and therapy. The habilitative process shall

1 be undertaken with recognition of the risk to the public safety  
2 presented by the person being assisted as manifested by prior charged  
3 criminal conduct;

4 (25) "Hearing" means any proceeding conducted in open court that  
5 conforms to the requirements of RCW 71.05.820;

6 (26) "History of one or more violent acts" refers to the period  
7 of time ten years prior to the filing of a petition under this  
8 chapter, excluding any time spent, but not any violent acts  
9 committed, in a behavioral health facility, or in confinement as a  
10 result of a criminal conviction;

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

13 (28) "In need of assisted outpatient behavioral health treatment"  
14 means that a person, as a result of a behavioral health disorder: (a)  
15 Has been committed by a court to detention for involuntary behavioral  
16 health treatment during the preceding thirty-six months; (b) is  
17 unlikely to voluntarily participate in outpatient treatment without  
18 an order for less restrictive alternative treatment, based on a  
19 history of nonadherence with treatment or in view of the person's  
20 current behavior; (c) is likely to benefit from less restrictive  
21 alternative treatment; and (d) requires less restrictive alternative  
22 treatment to prevent a relapse, decompensation, or deterioration that  
23 is likely to result in the person presenting a likelihood of serious  
24 harm or the person becoming gravely disabled within a reasonably  
25 short period of time;

26 (29) "Individualized service plan" means a plan prepared by a  
27 developmental disabilities professional with other professionals as a  
28 team, for a person with developmental disabilities, which shall  
29 state:

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

32 (b) The conditions and strategies necessary to achieve the  
33 purposes of habilitation;

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

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

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

39 (f) Where relevant in light of past criminal behavior and due  
40 consideration for public safety, the criteria for proposed movement



1 to less-restrictive settings, criteria for proposed eventual  
2 discharge or release, and a projected possible date for discharge or  
3 release; and

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

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

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

11 (32) "Legal counsel" means attorneys and staff employed by county  
12 prosecutor offices or the state attorney general acting in their  
13 capacity as legal representatives of public behavioral health service  
14 providers under RCW 71.05.130;

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

18 (34) "Licensed physician" means a person licensed to practice  
19 medicine or osteopathic medicine and surgery in the state of  
20 Washington;

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

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

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

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

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

39 (38) "Mental health professional" means a psychiatrist,  
40 psychologist, physician assistant working with a supervising

1 psychiatrist, psychiatric advanced registered nurse practitioner,  
2 psychiatric nurse, or social worker, and such other mental health  
3 professionals as may be defined by rules adopted by the secretary  
4 pursuant to the provisions of this chapter;

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

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

11 (41) "Private agency" means any person, partnership, corporation,  
12 or association that is not a public agency, whether or not financed  
13 in whole or in part by public funds, which constitutes an evaluation  
14 and treatment facility or private institution, or hospital, or  
15 approved substance use disorder treatment program, which is conducted  
16 for, or includes a department or ward conducted for, the care and  
17 treatment of persons with behavioral health disorders;

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

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

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

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

36 (46) "Public agency" means any evaluation and treatment facility  
37 or institution, secure withdrawal management and stabilization  
38 facility, approved substance use disorder treatment program, or  
39 hospital which is conducted for, or includes a department or ward  
40 conducted for, the care and treatment of persons with behavioral

1 health disorders, if the agency is operated directly by federal,  
2 state, county, or municipal government, or a combination of such  
3 governments;

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

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

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

10 (50) "Secure withdrawal management and stabilization facility"  
11 means a facility operated by either a public or private agency or by  
12 the program of an agency which provides care to voluntary individuals  
13 and individuals involuntarily detained and committed under this  
14 chapter for whom there is a likelihood of serious harm or who are  
15 gravely disabled due to the presence of a substance use disorder.  
16 Secure withdrawal management and stabilization facilities must:

17 (a) Provide the following services:

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

20 (ii) Clinical stabilization services;

21 (iii) Acute or subacute detoxification services for intoxicated  
22 individuals; and

23 (iv) Discharge assistance provided by certified substance use  
24 disorder professionals or co-occurring disorder specialists,  
25 including facilitating transitions to appropriate voluntary or  
26 involuntary inpatient services or to less restrictive alternatives as  
27 appropriate for the individual;

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

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

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

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

1 (53) "Substance use disorder professional" means a person  
2 certified as a substance use disorder professional by the department  
3 of health under chapter 18.205 RCW;

4 (54) "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 (55) "Treatment records" include registration and all other  
11 records concerning persons who are receiving or who at any time have  
12 received services for behavioral health disorders, which are  
13 maintained by the department of social and health services, the  
14 department, the authority, behavioral health administrative services  
15 organizations and their staffs, managed care organizations and their  
16 staffs, and by treatment facilities. Treatment records include mental  
17 health information contained in a medical bill including but not  
18 limited to mental health drugs, a mental health diagnosis, provider  
19 name, and dates of service stemming from a medical service. Treatment  
20 records do not include notes or records maintained for personal use  
21 by a person providing treatment services for the department of social  
22 and health services, the department, the authority, behavioral health  
23 administrative services organizations, managed care organizations, or  
24 a treatment facility if the notes or records are not available to  
25 others;

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

33 (57) "Video," unless the context clearly indicates otherwise,  
34 means the delivery of behavioral health services through the use of  
35 interactive audio and video technology, permitting real-time  
36 communication between a person and a designated crisis responder, for  
37 the purpose of evaluation. "Video" does not include the use of audio-  
38 only telephone, facsimile, email, or store and forward technology.  
39 "Store and forward technology" means use of an asynchronous  
40 transmission of a person's medical information from a mental health

1 service provider to the designated crisis responder which results in  
2 medical diagnosis, consultation, or treatment;

3 (58) "Violent act" means behavior that resulted in homicide,  
4 attempted suicide, injury, or substantial loss or damage to property;

5 (59) "Written order of apprehension" means an order of the court  
6 for a peace officer to deliver the named person in the order to a  
7 facility or emergency room as determined by the designated crisis  
8 responder. Such orders shall be entered into the Washington crime  
9 information center database.

10 (60) "Community behavioral health agency" has the same meaning as  
11 "licensed or certified behavioral health agency" defined in RCW  
12 71.24.025.

13 **Sec. 12.** RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301,  
14 2020 c 80 s 51, and 2020 c 5 s 1 are each reenacted and amended to  
15 read as follows:

16 The definitions in this section apply throughout this chapter  
17 unless the context clearly requires otherwise.

18 (1) "Admission" or "admit" means a decision by a physician,  
19 physician assistant, or psychiatric advanced registered nurse  
20 practitioner that a person should be examined or treated as a patient  
21 in a hospital;

22 (2) "Alcoholism" means a disease, characterized by a dependency  
23 on alcoholic beverages, loss of control over the amount and  
24 circumstances of use, symptoms of tolerance, physiological or  
25 psychological withdrawal, or both, if use is reduced or discontinued,  
26 and impairment of health or disruption of social or economic  
27 functioning;

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

32 (4) "Approved substance use disorder treatment program" means a  
33 program for persons with a substance use disorder provided by a  
34 treatment program certified by the department as meeting standards  
35 adopted under chapter 71.24 RCW;

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

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

1 (7) "Behavioral health disorder" means either a mental disorder  
2 as defined in this section, a substance use disorder as defined in  
3 this section, or a co-occurring mental disorder and substance use  
4 disorder;

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

18 (9) "Co-occurring disorder specialist" means an individual  
19 possessing an enhancement granted by the department of health under  
20 chapter 18.205 RCW that certifies the individual to provide substance  
21 use disorder counseling subject to the practice limitations under RCW  
22 18.205.105;

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

26 (11) "Conditional release" means a revocable modification of a  
27 commitment, which may be revoked upon violation of any of its terms;

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

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

37 (14) "Department" means the department of health;

38 (15) "Designated crisis responder" means a mental health  
39 professional appointed by the county, by an entity appointed by the  
40 county, or by the authority in consultation with a federally

1 recognized Indian tribe or after meeting and conferring with an  
2 Indian health care provider, to perform the duties specified in this  
3 chapter;

4 (16) "Detention" or "detain" means the lawful confinement of a  
5 person, under the provisions of this chapter;

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

14 (18) "Developmental disability" means that condition defined in  
15 RCW 71A.10.020(5);

16 (19) "Director" means the director of the authority;

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

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

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

39 (23) "Gravely disabled" means a condition in which a person, as a  
40 result of a behavioral health disorder: (a) Is in danger of serious

1 physical harm resulting from a failure to provide for his or her  
2 essential human needs of health or safety; or (b) manifests severe  
3 deterioration in routine functioning evidenced by repeated and  
4 escalating loss of cognitive or volitional control over his or her  
5 actions and is not receiving such care as is essential for his or her  
6 health or safety;

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

15 (25) "Hearing" means any proceeding conducted in open court that  
16 conforms to the requirements of RCW 71.05.820;

17 (26) "History of one or more violent acts" refers to the period  
18 of time ten years prior to the filing of a petition under this  
19 chapter, excluding any time spent, but not any violent acts  
20 committed, in a behavioral health facility, or in confinement as a  
21 result of a criminal conviction;

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

24 (28) "In need of assisted outpatient behavioral health treatment"  
25 means that a person, as a result of a behavioral health disorder: (a)  
26 Has been committed by a court to detention for involuntary behavioral  
27 health treatment during the preceding thirty-six months; (b) is  
28 unlikely to voluntarily participate in outpatient treatment without  
29 an order for less restrictive alternative treatment, based on a  
30 history of nonadherence with treatment or in view of the person's  
31 current behavior; (c) is likely to benefit from less restrictive  
32 alternative treatment; and (d) requires less restrictive alternative  
33 treatment to prevent a relapse, decompensation, or deterioration that  
34 is likely to result in the person presenting a likelihood of serious  
35 harm or the person becoming gravely disabled within a reasonably  
36 short period of time;

37 (29) "Individualized service plan" means a plan prepared by a  
38 developmental disabilities professional with other professionals as a  
39 team, for a person with developmental disabilities, which shall  
40 state:



- 1 (a) The nature of the person's specific problems, prior charged  
2 criminal behavior, and habilitation needs;
- 3 (b) The conditions and strategies necessary to achieve the  
4 purposes of habilitation;
- 5 (c) The intermediate and long-range goals of the habilitation  
6 program, with a projected timetable for the attainment;
- 7 (d) The rationale for using this plan of habilitation to achieve  
8 those intermediate and long-range goals;
- 9 (e) The staff responsible for carrying out the plan;
- 10 (f) Where relevant in light of past criminal behavior and due  
11 consideration for public safety, the criteria for proposed movement  
12 to less-restrictive settings, criteria for proposed eventual  
13 discharge or release, and a projected possible date for discharge or  
14 release; and
- 15 (g) The type of residence immediately anticipated for the person  
16 and possible future types of residences;
- 17 (30) "Intoxicated person" means a person whose mental or physical  
18 functioning is substantially impaired as a result of the use of  
19 alcohol or other psychoactive chemicals;
- 20 (31) "Judicial commitment" means a commitment by a court pursuant  
21 to the provisions of this chapter;
- 22 (32) "Legal counsel" means attorneys and staff employed by county  
23 prosecutor offices or the state attorney general acting in their  
24 capacity as legal representatives of public behavioral health service  
25 providers under RCW 71.05.130;
- 26 (33) "Less restrictive alternative treatment" means a program of  
27 individualized treatment in a less restrictive setting than inpatient  
28 treatment that includes the services described in RCW 71.05.585;
- 29 (34) "Licensed physician" means a person licensed to practice  
30 medicine or osteopathic medicine and surgery in the state of  
31 Washington;
- 32 (35) "Likelihood of serious harm" means:
- 33 (a) A substantial risk that: (i) Physical harm will be inflicted  
34 by a person upon his or her own person, as evidenced by threats or  
35 attempts to commit suicide or inflict physical harm on oneself; (ii)  
36 physical harm will be inflicted by a person upon another, as  
37 evidenced by behavior which has caused such harm or which places  
38 another person or persons in reasonable fear of sustaining such harm;  
39 or (iii) physical harm will be inflicted by a person upon the

1 property of others, as evidenced by behavior which has caused  
2 substantial loss or damage to the property of others; or

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

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

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

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

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

21 (40) "Physician assistant" means a person licensed as a physician  
22 assistant under chapter 18.71A RCW;

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

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

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

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

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

9 (46) "Public agency" means any evaluation and treatment facility  
10 or institution, secure withdrawal management and stabilization  
11 facility, approved substance use disorder treatment program, or  
12 hospital which is conducted for, or includes a department or ward  
13 conducted for, the care and treatment of persons with behavioral  
14 health disorders, if the agency is operated directly by federal,  
15 state, county, or municipal government, or a combination of such  
16 governments;

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

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

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

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

30 (a) Provide the following services:

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

33 (ii) Clinical stabilization services;

34 (iii) Acute or subacute detoxification services for intoxicated  
35 individuals; and

36 (iv) Discharge assistance provided by certified substance use  
37 disorder professionals or co-occurring disorder specialists,  
38 including facilitating transitions to appropriate voluntary or  
39 involuntary inpatient services or to less restrictive alternatives as  
40 appropriate for the individual;

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

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

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

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

13 (53) "Substance use disorder professional" means a person  
14 certified as a substance use disorder professional by the department  
15 of health under chapter 18.205 RCW;

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

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

38 (56) "Triage facility" means a short-term facility or a portion  
39 of a facility licensed or certified by the department, which is  
40 designed as a facility to assess and stabilize an individual or

1 determine the need for involuntary commitment of an individual, and  
2 must meet department residential treatment facility standards. A  
3 triage facility may be structured as a voluntary or involuntary  
4 placement facility;

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

15 (58) "Violent act" means behavior that resulted in homicide,  
16 attempted suicide, injury, or substantial loss or damage to property;

17 (59) "Written order of apprehension" means an order of the court  
18 for a peace officer to deliver the named person in the order to a  
19 facility or emergency room as determined by the designated crisis  
20 responder. Such orders shall be entered into the Washington crime  
21 information center database.

22 (60) "Community behavioral health agency" has the same meaning as  
23 "licensed or certified behavioral health agency" defined in RCW  
24 71.24.025.

25 **Sec. 13.** RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020  
26 c 256 s 301, and 2020 c 5 s 1 are each reenacted and amended to read  
27 as follows:

28 The definitions in this section apply throughout this chapter  
29 unless the context clearly requires otherwise.

30 (1) "Admission" or "admit" means a decision by a physician,  
31 physician assistant, or psychiatric advanced registered nurse  
32 practitioner that a person should be examined or treated as a patient  
33 in a hospital;

34 (2) "Alcoholism" means a disease, characterized by a dependency  
35 on alcoholic beverages, loss of control over the amount and  
36 circumstances of use, symptoms of tolerance, physiological or  
37 psychological withdrawal, or both, if use is reduced or discontinued,  
38 and impairment of health or disruption of social or economic  
39 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) "Behavioral health disorder" means either a mental disorder  
14 as defined in this section, a substance use disorder as defined in  
15 this section, or a co-occurring mental disorder and substance use  
16 disorder;

17 (8) "Behavioral health service provider" means a public or  
18 private agency that provides mental health, substance use disorder,  
19 or co-occurring disorder services to persons with behavioral health  
20 disorders as defined under this section and receives funding from  
21 public sources. This includes, but is not limited to, hospitals  
22 licensed under chapter 70.41 RCW, evaluation and treatment facilities  
23 as defined in this section, community mental health service delivery  
24 systems or community behavioral health programs as defined in RCW  
25 71.24.025, facilities conducting competency evaluations and  
26 restoration under chapter 10.77 RCW, approved substance use disorder  
27 treatment programs as defined in this section, secure withdrawal  
28 management and stabilization facilities as defined in this section,  
29 and correctional facilities operated by state and local governments;

30 (9) "Co-occurring disorder specialist" means an individual  
31 possessing an enhancement granted by the department of health under  
32 chapter 18.205 RCW that certifies the individual to provide substance  
33 use disorder counseling subject to the practice limitations under RCW  
34 18.205.105;

35 (10) "Commitment" means the determination by a court that a  
36 person should be detained for a period of either evaluation or  
37 treatment, or both, in an inpatient or a less restrictive setting;

38 (11) "Conditional release" means a revocable modification of a  
39 commitment, which may be revoked upon violation of any of its terms;

1 (12) "Crisis stabilization unit" means a short-term facility or a  
2 portion of a facility licensed or certified by the department, such  
3 as an evaluation and treatment facility or a hospital, which has been  
4 designed to assess, diagnose, and treat individuals experiencing an  
5 acute crisis without the use of long-term hospitalization;

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

10 (14) "Department" means the department of health;

11 (15) "Designated crisis responder" means a mental health  
12 professional appointed by the county, by an entity appointed by the  
13 county, or by the authority in consultation with a federally  
14 recognized Indian tribe or after meeting and conferring with an  
15 Indian health care provider, to perform the duties specified in this  
16 chapter;

17 (16) "Detention" or "detain" means the lawful confinement of a  
18 person, under the provisions of this chapter;

19 (17) "Developmental disabilities professional" means a person who  
20 has specialized training and three years of experience in directly  
21 treating or working with persons with developmental disabilities and  
22 is a psychiatrist, physician assistant working with a supervising  
23 psychiatrist, psychologist, psychiatric advanced registered nurse  
24 practitioner, or social worker, and such other developmental  
25 disabilities professionals as may be defined by rules adopted by the  
26 secretary of the department of social and health services;

27 (18) "Developmental disability" means that condition defined in  
28 RCW 71A.10.020(5);

29 (19) "Director" means the director of the authority;

30 (20) "Discharge" means the termination of hospital medical  
31 authority. The commitment may remain in place, be terminated, or be  
32 amended by court order;

33 (21) "Drug addiction" means a disease, characterized by a  
34 dependency on psychoactive chemicals, loss of control over the amount  
35 and circumstances of use, symptoms of tolerance, physiological or  
36 psychological withdrawal, or both, if use is reduced or discontinued,  
37 and impairment of health or disruption of social or economic  
38 functioning;

39 (22) "Evaluation and treatment facility" means any facility which  
40 can provide directly, or by direct arrangement with other public or

1 private agencies, emergency evaluation and treatment, outpatient  
2 care, and timely and appropriate inpatient care to persons suffering  
3 from a mental disorder, and which is licensed or certified as such by  
4 the department. The authority may certify single beds as temporary  
5 evaluation and treatment beds under RCW 71.05.745. A physically  
6 separate and separately operated portion of a state hospital may be  
7 designated as an evaluation and treatment facility. A facility which  
8 is part of, or operated by, the department of social and health  
9 services or any federal agency will not require certification. No  
10 correctional institution or facility, or jail, shall be an evaluation  
11 and treatment facility within the meaning of this chapter;

12 (23) "Gravely disabled" means a condition in which a person, as a  
13 result of a behavioral health disorder: (a) Is in danger of serious  
14 physical harm resulting from a failure to provide for his or her  
15 essential human needs of health or safety; or (b) manifests severe  
16 deterioration from safe behavior evidenced by repeated and escalating  
17 loss of cognitive or volitional control over his or her actions and  
18 is not receiving such care as is essential for his or her health or  
19 safety;

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

28 (25) "Hearing" means any proceeding conducted in open court that  
29 conforms to the requirements of RCW 71.05.820;

30 (26) "History of one or more violent acts" refers to the period  
31 of time ten years prior to the filing of a petition under this  
32 chapter, excluding any time spent, but not any violent acts  
33 committed, in a behavioral health facility, or in confinement as a  
34 result of a criminal conviction;

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

37 (28) "In need of assisted outpatient behavioral health treatment"  
38 means that a person, as a result of a behavioral health disorder: (a)  
39 Has been committed by a court to detention for involuntary behavioral  
40 health treatment during the preceding thirty-six months; (b) is



1 unlikely to voluntarily participate in outpatient treatment without  
2 an order for less restrictive alternative treatment, based on a  
3 history of nonadherence with treatment or in view of the person's  
4 current behavior; (c) is likely to benefit from less restrictive  
5 alternative treatment; and (d) requires less restrictive alternative  
6 treatment to prevent a relapse, decompensation, or deterioration that  
7 is likely to result in the person presenting a likelihood of serious  
8 harm or the person becoming gravely disabled within a reasonably  
9 short period of time;

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

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

16 (b) The conditions and strategies necessary to achieve the  
17 purposes of habilitation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (41) "Private agency" means any person, partnership, corporation,  
38 or association that is not a public agency, whether or not financed  
39 in whole or in part by public funds, which constitutes an evaluation  
40 and treatment facility or private institution, or hospital, or

1 approved substance use disorder treatment program, which is conducted  
2 for, or includes a department or ward conducted for, the care and  
3 treatment of persons with behavioral health disorders;

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

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

14 (44) "Psychiatrist" means a person having a license as a  
15 physician and surgeon in this state who has in addition completed  
16 three years of graduate training in psychiatry in a program approved  
17 by the American medical association or the American osteopathic  
18 association and is certified or eligible to be certified by the  
19 American board of psychiatry and neurology;

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

22 (46) "Public agency" means any evaluation and treatment facility  
23 or institution, secure withdrawal management and stabilization  
24 facility, approved substance use disorder treatment program, or  
25 hospital which is conducted for, or includes a department or ward  
26 conducted for, the care and treatment of persons with behavioral  
27 health disorders, if the agency is operated directly by federal,  
28 state, county, or municipal government, or a combination of such  
29 governments;

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

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

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

36 (50) "Secure withdrawal management and stabilization facility"  
37 means a facility operated by either a public or private agency or by  
38 the program of an agency which provides care to voluntary individuals  
39 and individuals involuntarily detained and committed under this  
40 chapter for whom there is a likelihood of serious harm or who are

1 gravely disabled due to the presence of a substance use disorder.  
2 Secure withdrawal management and stabilization facilities must:

- 3 (a) Provide the following services:
  - 4 (i) Assessment and treatment, provided by certified substance use
  - 5 disorder professionals or co-occurring disorder specialists;
  - 6 (ii) Clinical stabilization services;
  - 7 (iii) Acute or subacute detoxification services for intoxicated
  - 8 individuals; and
  - 9 (iv) Discharge assistance provided by certified substance use
  - 10 disorder professionals or co-occurring disorder specialists,
  - 11 including facilitating transitions to appropriate voluntary or
  - 12 involuntary inpatient services or to less restrictive alternatives as
  - 13 appropriate for the individual;
- 14 (b) Include security measures sufficient to protect the patients,
- 15 staff, and community; and
- 16 (c) Be licensed or certified as such by the department of health;

17 (51) "Severe deterioration from safe behavior" means that a  
18 person will, if not treated, suffer or continue to suffer severe and  
19 abnormal mental, emotional, or physical distress, and this distress  
20 is associated with significant impairment of judgment, reason, or  
21 behavior;

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

25 (53) "Substance use disorder" means a cluster of cognitive,  
26 behavioral, and physiological symptoms indicating that an individual  
27 continues using the substance despite significant substance-related  
28 problems. The diagnosis of a substance use disorder is based on a  
29 pathological pattern of behaviors related to the use of the  
30 substances;

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

34 (55) "Therapeutic court personnel" means the staff of a mental  
35 health court or other therapeutic court which has jurisdiction over  
36 defendants who are dually diagnosed with mental disorders, including  
37 court personnel, probation officers, a court monitor, prosecuting  
38 attorney, or defense counsel acting within the scope of therapeutic  
39 court duties;

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

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

24 (58) "Video," unless the context clearly indicates otherwise,  
25 means the delivery of behavioral health services through the use of  
26 interactive audio and video technology, permitting real-time  
27 communication between a person and a designated crisis responder, for  
28 the purpose of evaluation. "Video" does not include the use of audio-  
29 only telephone, facsimile, email, or store and forward technology.  
30 "Store and forward technology" means use of an asynchronous  
31 transmission of a person's medical information from a mental health  
32 service provider to the designated crisis responder which results in  
33 medical diagnosis, consultation, or treatment;

34 (59) "Violent act" means behavior that resulted in homicide,  
35 attempted suicide, injury, or substantial loss or damage to property;

36 (60) "Written order of apprehension" means an order of the court  
37 for a peace officer to deliver the named person in the order to a  
38 facility or emergency room as determined by the designated crisis  
39 responder. Such orders shall be entered into the Washington crime  
40 information center database.

1       (61) "Community behavioral health agency" has the same meaning as  
2 "licensed or certified behavioral health agency" defined in RCW  
3 71.24.025.

4       **Sec. 14.** RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020  
5 c 256 s 301, 2020 c 80 s 51, and 2020 c 5 s 1 are each reenacted and  
6 amended to read as follows:

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

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

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

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

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

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

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

31       (7) "Behavioral health disorder" means either a mental disorder  
32 as defined in this section, a substance use disorder as defined in  
33 this section, or a co-occurring mental disorder and substance use  
34 disorder;

35       (8) "Behavioral health service provider" means a public or  
36 private agency that provides mental health, substance use disorder,  
37 or co-occurring disorder services to persons with behavioral health  
38 disorders as defined under this section and receives funding from  
39 public sources. This includes, but is not limited to, hospitals

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

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

14 (10) "Commitment" means the determination by a court that a  
15 person should be detained for a period of either evaluation or  
16 treatment, or both, in an inpatient or a less restrictive setting;

17 (11) "Conditional release" means a revocable modification of a  
18 commitment, which may be revoked upon violation of any of its terms;

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

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

28 (14) "Department" means the department of health;

29 (15) "Designated crisis responder" means a mental health  
30 professional appointed by the county, by an entity appointed by the  
31 county, or by the authority in consultation with a federally  
32 recognized Indian tribe or after meeting and conferring with an  
33 Indian health care provider, to perform the duties specified in this  
34 chapter;

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

37 (17) "Developmental disabilities professional" means a person who  
38 has specialized training and three years of experience in directly  
39 treating or working with persons with developmental disabilities and  
40 is a psychiatrist, physician assistant working with a supervising

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

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

7 (19) "Director" means the director of the authority;

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

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

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

30 (23) "Gravely disabled" means a condition in which a person, as a  
31 result of a behavioral health disorder: (a) Is in danger of serious  
32 physical harm resulting from a failure to provide for his or her  
33 essential human needs of health or safety; or (b) manifests severe  
34 deterioration from safe behavior evidenced by repeated and escalating  
35 loss of cognitive or volitional control over his or her actions and  
36 is not receiving such care as is essential for his or her health or  
37 safety;

38 (24) "Habilitative services" means those services provided by  
39 program personnel to assist persons in acquiring and maintaining life  
40 skills and in raising their levels of physical, mental, social, and



1 vocational functioning. Habilitative services include education,  
2 training for employment, and therapy. The habilitative process shall  
3 be undertaken with recognition of the risk to the public safety  
4 presented by the person being assisted as manifested by prior charged  
5 criminal conduct;

6 (25) "Hearing" means any proceeding conducted in open court that  
7 conforms to the requirements of RCW 71.05.820;

8 (26) "History of one or more violent acts" refers to the period  
9 of time ten years prior to the filing of a petition under this  
10 chapter, excluding any time spent, but not any violent acts  
11 committed, in a behavioral health facility, or in confinement as a  
12 result of a criminal conviction;

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

15 (28) "In need of assisted outpatient behavioral health treatment"  
16 means that a person, as a result of a behavioral health disorder: (a)  
17 Has been committed by a court to detention for involuntary behavioral  
18 health treatment during the preceding thirty-six months; (b) is  
19 unlikely to voluntarily participate in outpatient treatment without  
20 an order for less restrictive alternative treatment, based on a  
21 history of nonadherence with treatment or in view of the person's  
22 current behavior; (c) is likely to benefit from less restrictive  
23 alternative treatment; and (d) requires less restrictive alternative  
24 treatment to prevent a relapse, decompensation, or deterioration that  
25 is likely to result in the person presenting a likelihood of serious  
26 harm or the person becoming gravely disabled within a reasonably  
27 short period of time;

28 (29) "Individualized service plan" means a plan prepared by a  
29 developmental disabilities professional with other professionals as a  
30 team, for a person with developmental disabilities, which shall  
31 state:

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

34 (b) The conditions and strategies necessary to achieve the  
35 purposes of habilitation;

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

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

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

1 (f) Where relevant in light of past criminal behavior and due  
2 consideration for public safety, the criteria for proposed movement  
3 to less-restrictive settings, criteria for proposed eventual  
4 discharge or release, and a projected possible date for discharge or  
5 release; and

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (40) "Physician assistant" means a person licensed as a physician  
12 assistant under chapter 18.71A RCW;

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

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

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

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

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

38 (46) "Public agency" means any evaluation and treatment facility  
39 or institution, secure withdrawal management and stabilization  
40 facility, approved substance use disorder treatment program, or

1 hospital which is conducted for, or includes a department or ward  
2 conducted for, the care and treatment of persons with behavioral  
3 health disorders, if the agency is operated directly by federal,  
4 state, county, or municipal government, or a combination of such  
5 governments;

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

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

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

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

19 (a) Provide the following services:

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

22 (ii) Clinical stabilization services;

23 (iii) Acute or subacute detoxification services for intoxicated  
24 individuals; and

25 (iv) Discharge assistance provided by certified substance use  
26 disorder professionals or co-occurring disorder specialists,  
27 including facilitating transitions to appropriate voluntary or  
28 involuntary inpatient services or to less restrictive alternatives as  
29 appropriate for the individual;

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

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

33 (51) "Severe deterioration from safe behavior" means that a  
34 person will, if not treated, suffer or continue to suffer severe and  
35 abnormal mental, emotional, or physical distress, and this distress  
36 is associated with significant impairment of judgment, reason, or  
37 behavior;

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

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

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

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

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

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

39 (58) "Video," unless the context clearly indicates otherwise,  
40 means the delivery of behavioral health services through the use of

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

9 (59) "Violent act" means behavior that resulted in homicide,  
10 attempted suicide, injury, or substantial loss or damage to property;

11 (60) "Written order of apprehension" means an order of the court  
12 for a peace officer to deliver the named person in the order to a  
13 facility or emergency room as determined by the designated crisis  
14 responder. Such orders shall be entered into the Washington crime  
15 information center database.

16 (61) "Community behavioral health agency" has the same meaning as  
17 "licensed or certified behavioral health agency" defined in RCW  
18 71.24.025.

19 **Sec. 15.** RCW 71.05.740 and 2020 c 302 s 58 are each amended to  
20 read as follows:

21 (1) All behavioral health administrative services organizations  
22 in the state of Washington must forward historical behavioral health  
23 involuntary commitment information retained by the organization,  
24 including identifying information and dates of commitment to the  
25 authority. As soon as feasible, the behavioral health administrative  
26 services organizations must arrange to report new commitment data to  
27 the authority within twenty-four hours. Commitment information under  
28 this section does not need to be resent if it is already in the  
29 possession of the authority. Behavioral health administrative  
30 services organizations and the authority shall be immune from  
31 liability related to the sharing of commitment information under this  
32 section.

33 (2) All superior courts must share hearing outcomes in all  
34 hearings under this chapter with the local behavioral health  
35 administrative services organization that serves the region where the  
36 superior court is located, including in cases in which the designated  
37 crisis responder investigation occurred outside the region. The  
38 hearing outcome data must include the name of the facility to which a  
39 person has been committed.

1       **Sec. 16.** RCW 71.24.035 and 2020 c 256 s 202 are each amended to  
2 read as follows:

3       (1) The authority is designated as the state behavioral health  
4 authority which includes recognition as the single state authority  
5 for substance use disorders and state mental health authority.

6       (2) The director shall provide for public, client, tribal, and  
7 licensed or certified behavioral health agency participation in  
8 developing the state behavioral health program, developing related  
9 contracts, and any waiver request to the federal government under  
10 medicaid.

11       (3) The director shall provide for participation in developing  
12 the state behavioral health program for children and other  
13 underserved populations, by including representatives on any  
14 committee established to provide oversight to the state behavioral  
15 health program.

16       (4) The authority shall be designated as the behavioral health  
17 administrative services organization for a regional service area if a  
18 behavioral health administrative services organization fails to meet  
19 the authority's contracting requirements or refuses to exercise the  
20 responsibilities under its contract or state law, until such time as  
21 a new behavioral health administrative services organization is  
22 designated.

23       (5) The director shall:

24       (a) Assure that any behavioral health administrative services  
25 organization, managed care organization, or community behavioral  
26 health program provides medically necessary services to medicaid  
27 recipients consistent with the state's medicaid state plan or federal  
28 waiver authorities, and nonmedicaid services consistent with  
29 priorities established by the authority;

30       (b) Develop contracts in a manner to ensure an adequate network  
31 of inpatient services, evaluation and treatment services, and  
32 facilities under chapter 71.05 RCW to ensure access to treatment,  
33 resource management services, and community support services;

34       (c) Make contracts necessary or incidental to the performance of  
35 its duties and the execution of its powers, including managed care  
36 contracts for behavioral health services, contracts entered into  
37 under RCW 74.09.522, and contracts with public and private agencies,  
38 organizations, and individuals to pay them for behavioral health  
39 services;

1 (d) Define administrative costs and ensure that the behavioral  
2 health administrative services organization does not exceed an  
3 administrative cost of ten percent of available funds;

4 (e) Establish, to the extent possible, a standardized auditing  
5 procedure which is designed to assure compliance with contractual  
6 agreements authorized by this chapter and minimizes paperwork  
7 requirements. The audit procedure shall focus on the outcomes of  
8 service as provided in RCW 71.24.435, 70.320.020, and 71.36.025;

9 (f) Develop and maintain an information system to be used by the  
10 state and behavioral health administrative services organizations and  
11 managed care organizations that includes a tracking method which  
12 allows the authority to identify behavioral health clients'  
13 participation in any behavioral health service or public program on  
14 an immediate basis. The information system shall not include  
15 individual patient's case history files. Confidentiality of client  
16 information and records shall be maintained as provided in this  
17 chapter and chapter 70.02 RCW;

18 (g) Monitor and audit behavioral health administrative services  
19 organizations as needed to assure compliance with contractual  
20 agreements authorized by this chapter;

21 (h) Monitor and audit access to behavioral health services for  
22 individuals eligible for medicaid who are not enrolled in a managed  
23 care organization;

24 (i) Adopt such rules as are necessary to implement the  
25 authority's responsibilities under this chapter;

26 (j) Administer or supervise the administration of the provisions  
27 relating to persons with substance use disorders and intoxicated  
28 persons of any state plan submitted for federal funding pursuant to  
29 federal health, welfare, or treatment legislation;

30 (k) Require the behavioral health administrative services  
31 organizations and the managed care organizations to develop  
32 agreements with tribal, city, and county jails and the department of  
33 corrections to accept referrals for enrollment on behalf of a  
34 confined person, prior to the person's release;

35 (l) Require behavioral health administrative services  
36 organizations and managed care organizations, as applicable, to  
37 provide services as identified in RCW 71.05.585 to individuals  
38 committed for involuntary commitment under less restrictive  
39 alternative court orders when:

40 (i) The individual is enrolled in the medicaid program; or



1 (ii) The individual is not enrolled in medicaid((~~r~~)) and does not  
2 have other insurance which can pay for the services(~~((~~r~~ and the~~  
3 ~~behavioral health administrative services organization has adequate~~  
4 ~~available resources to provide the services))~~); and

5 (m) Coordinate with the centers for medicare and medicaid  
6 services to provide that behavioral health aide services are eligible  
7 for federal funding of up to one hundred percent.

8 (6) The director shall use available resources only for  
9 behavioral health administrative services organizations and managed  
10 care organizations, except:

11 (a) To the extent authorized, and in accordance with any  
12 priorities or conditions specified, in the biennial appropriations  
13 act; or

14 (b) To incentivize improved performance with respect to the  
15 client outcomes established in RCW 71.24.435, 70.320.020, and  
16 71.36.025, integration of behavioral health and medical services at  
17 the clinical level, and improved care coordination for individuals  
18 with complex care needs.

19 (7) Each behavioral health administrative services organization,  
20 managed care organization, and licensed or certified behavioral  
21 health agency shall file with the secretary of the department of  
22 health or the director, on request, such data, statistics, schedules,  
23 and information as the secretary of the department of health or the  
24 director reasonably requires. A behavioral health administrative  
25 services organization, managed care organization, or licensed or  
26 certified behavioral health agency which, without good cause, fails  
27 to furnish any data, statistics, schedules, or information as  
28 requested, or files fraudulent reports thereof, may be subject to the  
29 contractual remedies in RCW 74.09.871 or may have its service  
30 provider certification or license revoked or suspended.

31 (8) The superior court may restrain any behavioral health  
32 administrative services organization, managed care organization, or  
33 service provider from operating without a contract, certification, or  
34 a license or any other violation of this section. The court may also  
35 review, pursuant to procedures contained in chapter 34.05 RCW, any  
36 denial, suspension, limitation, restriction, or revocation of  
37 certification or license, and grant other relief required to enforce  
38 the provisions of this chapter.

39 (9) Upon petition by the secretary of the department of health or  
40 the director, and after hearing held upon reasonable notice to the

1 facility, the superior court may issue a warrant to an officer or  
2 employee of the secretary of the department of health or the director  
3 authorizing him or her to enter at reasonable times, and examine the  
4 records, books, and accounts of any behavioral health administrative  
5 services organization, managed care organization, or service provider  
6 refusing to consent to inspection or examination by the authority.

7 (10) Notwithstanding the existence or pursuit of any other  
8 remedy, the secretary of the department of health or the director may  
9 file an action for an injunction or other process against any person  
10 or governmental unit to restrain or prevent the establishment,  
11 conduct, or operation of a behavioral health administrative services  
12 organization, managed care organization, or service provider without  
13 a contract, certification, or a license under this chapter.

14 (11) The authority shall distribute appropriated state and  
15 federal funds in accordance with any priorities, terms, or conditions  
16 specified in the appropriations act.

17 (12) The authority, in cooperation with the state congressional  
18 delegation, shall actively seek waivers of federal requirements and  
19 such modifications of federal regulations as are necessary to allow  
20 federal medicaid reimbursement for services provided by freestanding  
21 evaluation and treatment facilities licensed under chapter 71.12 RCW  
22 or certified under chapter 71.05 RCW. The authority shall  
23 periodically share the results of its efforts with the appropriate  
24 committees of the senate and the house of representatives.

25 (13) The authority may:

26 (a) Plan, establish, and maintain substance use disorder  
27 prevention and substance use disorder treatment programs as necessary  
28 or desirable;

29 (b) Coordinate its activities and cooperate with behavioral  
30 programs in this and other states, and make contracts and other joint  
31 or cooperative arrangements with state, tribal, local, or private  
32 agencies in this and other states for behavioral health services and  
33 for the common advancement of substance use disorder programs;

34 (c) Solicit and accept for use any gift of money or property made  
35 by will or otherwise, and any grant of money, services, or property  
36 from the federal government, the state, or any political subdivision  
37 thereof or any private source, and do all things necessary to  
38 cooperate with the federal government or any of its agencies in  
39 making an application for any grant;

1 (d) Keep records and engage in research and the gathering of  
2 relevant statistics; and

3 (e) Acquire, hold, or dispose of real property or any interest  
4 therein, and construct, lease, or otherwise provide substance use  
5 disorder treatment programs.

6 **Sec. 17.** RCW 71.24.045 and 2019 c 325 s 1008 are each amended to  
7 read as follows:

8 (1) The behavioral health administrative services organization  
9 contracted with the authority pursuant to RCW 71.24.381 shall:

10 (a) Administer crisis services for the assigned regional service  
11 area. Such services must include:

12 (i) A behavioral health crisis hotline for its assigned regional  
13 service area;

14 (ii) Crisis response services twenty-four hours a day, seven days  
15 a week, three hundred sixty-five days a year;

16 (iii) Services related to involuntary commitments under chapters  
17 71.05 and 71.34 RCW;

18 (iv) Tracking of less restrictive alternative orders issued  
19 within the region by superior courts, and providing notification to a  
20 managed care organization in the region when one of its enrollees  
21 receives a less restrictive alternative order so that the managed  
22 care organization may ensure that the person is connected to services  
23 and that the requirements of RCW 71.05.585 are complied with. If the  
24 person receives a less restrictive alternative order and is returning  
25 to another region, the behavioral health administrative services  
26 organization shall notify the behavioral health administrative  
27 services organization in the home region of the less restrictive  
28 alternative order so that the home behavioral health administrative  
29 services organization may notify the person's managed care  
30 organization or provide services if the person is not enrolled in  
31 medicaid and does not have other insurance which can pay for those  
32 services.

33 (v) Additional noncrisis behavioral health services, within  
34 available resources, to individuals who meet certain criteria set by  
35 the authority in its contracts with the behavioral health  
36 administrative services organization. These services may include  
37 services provided through federal grant funds, provisos, and general  
38 fund state appropriations;

1       (~~(v)~~) (vi) Care coordination, diversion services, and discharge  
2 planning for nonmedicaid individuals transitioning from state  
3 hospitals or inpatient settings to reduce rehospitalization and  
4 utilization of crisis services, as required by the authority in  
5 contract; and

6       (~~(vi)~~) (vii) Regional coordination, cross-system and cross-  
7 jurisdiction coordination with tribal governments, and capacity  
8 building efforts, such as supporting the behavioral health advisory  
9 board, the behavioral health ombuds, and efforts to support access to  
10 services or to improve the behavioral health system;

11       (b) Administer and provide for the availability of an adequate  
12 network of evaluation and treatment services to ensure access to  
13 treatment, investigation, transportation, court-related, and other  
14 services provided as required under chapter 71.05 RCW;

15       (c) Coordinate services for individuals under RCW 71.05.365;

16       (d) Administer and provide for the availability of resource  
17 management services, residential services, and community support  
18 services as required under its contract with the authority;

19       (e) Contract with a sufficient number, as determined by the  
20 authority, of licensed or certified providers for crisis services and  
21 other behavioral health services required by the authority;

22       (f) Maintain adequate reserves or secure a bond as required by  
23 its contract with the authority;

24       (g) Establish and maintain quality assurance processes;

25       (h) Meet established limitations on administrative costs for  
26 agencies that contract with the behavioral health administrative  
27 services organization; and

28       (i) Maintain patient tracking information as required by the  
29 authority.

30       (2) The behavioral health administrative services organization  
31 must collaborate with the authority and its contracted managed care  
32 organizations to develop and implement strategies to coordinate care  
33 with tribes and community behavioral health providers for individuals  
34 with a history of frequent crisis system utilization.

35       (3) The behavioral health administrative services organization  
36 shall:

37       (a) Assure that the special needs of minorities, older adults,  
38 individuals with disabilities, children, and low-income persons are  
39 met;

1 (b) Collaborate with local government entities to ensure that  
2 policies do not result in an adverse shift of persons with mental  
3 illness into state and local correctional facilities; and

4 (c) Work with the authority to expedite the enrollment or  
5 reenrollment of eligible persons leaving state or local correctional  
6 facilities and institutions for mental diseases.

7 NEW SECTION. **Sec. 18.** A new section is added to chapter 71.24  
8 RCW to read as follows:

9 The authority shall coordinate with the department of social and  
10 health services to offer contracts to community behavioral health  
11 agencies to support the nonmedicaid costs entailed in fulfilling the  
12 agencies' role as transition team members for a person recommended  
13 for conditional release to a less restrictive alternative under RCW  
14 10.77.150, or for a person who qualifies for multidisciplinary  
15 transition team services under RCW 71.05.320(6)(a)(i). The authority  
16 may establish requirements, provide technical assistance, and provide  
17 training as appropriate and within available funding.

18 NEW SECTION. **Sec. 19.** The Washington state health care  
19 authority shall revise its behavioral health data system for tracking  
20 involuntary commitment orders to distinguish less restrictive  
21 alternative orders from other types of involuntary commitment orders,  
22 including being able to distinguish between initial orders and  
23 extensions.

24 NEW SECTION. **Sec. 20.** The provisions of this act apply to  
25 persons who are committed for inpatient treatment under chapter 10.77  
26 or 71.05 RCW as of the effective date of this section.

27 **Sec. 21.** 2020 c 302 s 110 (uncodified) is amended to read as  
28 follows:

29 (1) Sections 4 and 28 (~~of this act~~), chapter 302, Laws of 2020  
30 and sections 13 and 14 of this act take effect when monthly single-  
31 bed certifications authorized under RCW 71.05.745 fall below 200  
32 reports for 3 consecutive months.

33 (2) The health care authority must provide written notice of the  
34 effective date of sections 4 and 28 (~~of this act~~), chapter 302,  
35 Laws of 2020 and sections 13 and 14 of this act to affected parties,  
36 the chief clerk of the house of representatives, the secretary of the

1 senate, the office of the code reviser, and others as deemed  
2 appropriate by the authority.

3 NEW SECTION. **Sec. 22.** Section 2 of this act expires July 1,  
4 2026.

5 NEW SECTION. **Sec. 23.** Section 3 of this act takes effect July  
6 1, 2026.

7 NEW SECTION. **Sec. 24.** Sections 11 and 13 of this act expire  
8 July 1, 2022.

9 NEW SECTION. **Sec. 25.** Sections 12 and 14 of this act take  
10 effect July 1, 2022.

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