
SENATE BILL 5397

State of Washington

67th Legislature

2021 Regular Session

By Senators Randall, Dhingra, Kuderer, Lovelett, Nguyen, Nobles, Saldaña, and Wilson, C.

Read first time 02/01/21. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to improving access to behavioral health
2 treatment in certified crisis facilities; amending RCW 71.05.750,
3 71.05.755, 71.24.045, and 71.24.490; amending 2020 c 302 s 110
4 (uncodified); reenacting and amending RCW 71.05.020, 71.05.020,
5 71.05.020, 71.05.020, and 71.24.037; adding new sections to chapter
6 71.05 RCW; creating a new section; providing an effective date;
7 providing a contingent effective date; and providing an expiration
8 date.

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

10 NEW SECTION. **Sec. 1.** The legislature finds that involuntary
11 treatment is a safety net service for adults and children
12 experiencing a behavioral health crisis in Washington, some of whom
13 experience anosognosia, a condition in which a person is unaware of
14 having a brain disease. Washington law requires managed care
15 organizations and behavioral health administrative services
16 organizations to provide an adequate network of involuntary treatment
17 services under RCW 71.24.045 and 71.24.490. This safety net is
18 undermined when facilities decline to admit certain persons despite
19 having certified treatment capacity available. This legislation
20 provides a means to collect information about why persons in crisis
21 who are denied admission into facilities with available capacity and

1 a means to enlist managed care organizations and behavioral health
2 administrative services organizations to support placement efforts
3 for persons in crisis.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 71.05
5 RCW to read as follows:

6 (1) An evaluation and treatment facility or secure withdrawal
7 management and stabilization facility that has treatment capacity
8 available shall admit a person who has been detained for inpatient
9 treatment at the request of the designated crisis responder unless:

10 (a) The person requires medical services not generally available
11 at a facility certified under this chapter;

12 (b) A more appropriate facility exists to serve the specific
13 needs of the person that has agreed to admit the person;

14 (c) Unusual reasons specific to the person or to their prior
15 relationship with the facility exist that make the facility unable to
16 admit the person; or

17 (d) The services offered by the facility are targeted for a
18 specific population and the person is not among that specific
19 population and therefore is not appropriate for admission.

20 (2) An evaluation and treatment facility or secure withdrawal
21 management and stabilization facility that has treatment capacity
22 available shall admit a person who is receiving temporary services
23 under a single bed certification upon application for transfer by the
24 facility when the attending physician considers the person medically
25 stable unless an exception under subsection (1) of this section
26 applies.

27 (3) An evaluation and treatment facility or secure withdrawal
28 management and stabilization facility which declines to admit a
29 person after receiving a request under subsection (1) or (2) of this
30 section shall document receiving the request and the statutorily
31 permitted reason for declining admission with a brief explanation in
32 its records and immediately provide a copy to the designated crisis
33 responder or facility providing services under a single bed
34 certification.

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

37 (1) When a designated crisis responder, or a facility providing
38 services under a single bed certification seeking to transfer the

1 patient to a certified facility, is unable to find a placement for a
2 detained person, and the designated crisis responder or facility has
3 obtained at least two denials of admission under section 2 of this
4 act, the designated crisis responder or facility shall immediately
5 transmit notification to the managed care organization responsible
6 for the cost of the person's care, or if not enrolled in a managed
7 care organization the behavioral health administrative services
8 organization, in the manner prescribed by the organization, of the
9 need for emergency intervention to secure access to crisis services
10 for the person. The designated crisis responder or facility shall
11 forward documentation received from facilities that declined
12 admission to the person under section 2 of this act when such
13 documentation is available.

14 (2) If the person is being held for investigation and evaluation
15 under RCW 71.05.150 or 71.05.153, upon notification under subsection
16 (1) of this section, the person's initial evaluation hold shall be
17 extended for an emergency period of up to 24 hours. The designated
18 crisis responder shall provide notice of the emergency hold to the
19 person. The person must be provided access to a mental health
20 professional during this emergency period.

21 (3) A managed care organization or behavioral health
22 administrative services organization that receives notice under
23 subsection (1) of this section shall obtain a placement or safe
24 discharge for the person within the 24-hour emergency hold period.
25 The managed care organization or behavioral health administrative
26 services organization may share information and coordinate with other
27 public or private entities, if any, that provide coverage to the
28 person. If the managed care organization or behavioral health
29 administrative services organization is unable to obtain a placement
30 or safe discharge for the person during the emergency hold period,
31 the hold shall dissolve, and the managed care organization or
32 behavioral health administrative services organization shall make a
33 report under RCW 71.05.750.

34 (4) The managed care organization or behavioral health
35 administrative services organization is responsible for the cost of
36 care for the person during the 24-hour emergency hold period, unless
37 coverage is provided by another entity.

38 **Sec. 4.** RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301, and
39 2020 c 5 s 1 are each reenacted and amended to read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1) "Admission" or "admit" means a decision by a physician,
4 physician assistant, or psychiatric advanced registered nurse
5 practitioner that a person should be examined or treated as a patient
6 in a hospital;

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

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

17 (4) "Approved substance use disorder treatment program" means a
18 program for persons with a substance use disorder provided by a
19 treatment program certified by the department as meeting standards
20 adopted under chapter 71.24 RCW;

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

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

25 (7) "Behavioral health disorder" means either a mental disorder
26 as defined in this section, a substance use disorder as defined in
27 this section, or a co-occurring mental disorder and substance use
28 disorder;

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

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

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

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

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

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

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

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

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

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

31 (17) "Developmental disabilities professional" means a person who
32 has specialized training and three years of experience in directly
33 treating or working with persons with developmental disabilities and
34 is a psychiatrist, physician assistant working with a supervising
35 psychiatrist, psychologist, psychiatric advanced registered nurse
36 practitioner, or social worker, and such other developmental
37 disabilities professionals as may be defined by rules adopted by the
38 secretary of the department of social and health services;

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

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

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

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

11 (22) "Evaluation and treatment facility" means any facility which
12 can provide directly, or by direct arrangement with other public or
13 private agencies, emergency evaluation and treatment, outpatient
14 care, and timely and appropriate inpatient care to persons suffering
15 from a mental disorder, and which is licensed or certified as such by
16 the department. The authority may certify single beds as temporary
17 evaluation and treatment beds under RCW 71.05.745. Effective July 1,
18 2022, an evaluation and treatment facility must provide medically
19 necessary substance use disorder services to persons with a co-
20 occurring substance use disorder. A physically separate and
21 separately operated portion of a state hospital may be designated as
22 an evaluation and treatment facility. A facility which is part of, or
23 operated by, the department of social and health services or any
24 federal agency will not require certification. No correctional
25 institution or facility, or jail, shall be an evaluation and
26 treatment facility within the meaning of this chapter;

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

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

1 presented by the person being assisted as manifested by prior charged
2 criminal conduct;

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

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

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

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

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

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

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

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

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

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

38 (f) Where relevant in light of past criminal behavior and due
39 consideration for public safety, the criteria for proposed movement
40 to less-restrictive settings, criteria for proposed eventual

1 discharge or release, and a projected possible date for discharge or
2 release; and

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

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

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

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

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

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

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

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

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

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

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

38 (38) "Mental health professional" means a psychiatrist,
39 psychologist, physician assistant working with a supervising
40 psychiatrist, psychiatric advanced registered nurse practitioner,

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

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

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

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

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

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

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

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

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

1 state, county, or municipal government, or a combination of such
2 governments;

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

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

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

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

16 (a) Provide the following services:

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

19 (ii) Clinical stabilization services;

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

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

27 (v) Medically necessary mental health services to persons with a
28 co-occurring mental disorder, effective July 1, 2022;

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

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

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

35 (52) "Substance use disorder" means a cluster of cognitive,
36 behavioral, and physiological symptoms indicating that an individual
37 continues using the substance despite significant substance-related
38 problems. The diagnosis of a substance use disorder is based on a
39 pathological pattern of behaviors related to the use of the
40 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) "Behavioral health administrative services organization"
11 means an entity contracted with the authority to administer
12 behavioral health services and programs under RCW 71.24.381,
13 including crisis services and administration of this chapter, the
14 involuntary treatment act, for all individuals in a defined regional
15 service area.

16 (61) "Managed care organization" means an organization, having a
17 certificate of authority or certificate of registration from the
18 office of the insurance commissioner, that contracts with the
19 authority under a comprehensive risk contract to provide prepaid
20 health care services to enrollees under the authority's managed care
21 programs under chapter 74.09 RCW.

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

25 The definitions in this section apply throughout this chapter
26 unless the context clearly requires otherwise.

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

31 (2) "Alcoholism" means a disease, characterized by a dependency
32 on alcoholic beverages, loss of control over the amount and
33 circumstances of use, symptoms of tolerance, physiological or
34 psychological withdrawal, or both, if use is reduced or discontinued,
35 and impairment of health or disruption of social or economic
36 functioning;

37 (3) "Antipsychotic medications" means that class of drugs
38 primarily used to treat serious manifestations of mental illness

1 associated with thought disorders, which includes, but is not limited
2 to atypical antipsychotic medications;

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

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

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

11 (7) "Behavioral health disorder" means either a mental disorder
12 as defined in this section, a substance use disorder as defined in
13 this section, or a co-occurring mental disorder and substance use
14 disorder;

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

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

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

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

38 (12) "Crisis stabilization unit" means a short-term facility or a
39 portion of a facility licensed or certified by the department, such
40 as an evaluation and treatment facility or a hospital, which has been

1 designed to assess, diagnose, and treat individuals experiencing an
2 acute crisis without the use of long-term hospitalization;

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

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

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

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

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

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

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

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

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

36 (22) "Evaluation and treatment facility" means any facility which
37 can provide directly, or by direct arrangement with other public or
38 private agencies, emergency evaluation and treatment, outpatient
39 care, and timely and appropriate inpatient care to persons suffering
40 from a mental disorder, and which is licensed or certified as such by

1 the department. The authority may certify single beds as temporary
2 evaluation and treatment beds under RCW 71.05.745. Effective July 1,
3 2022, an evaluation and treatment facility must provide medically
4 necessary substance use disorder services to persons with a co-
5 occurring substance use disorder. A physically separate and
6 separately operated portion of a state hospital may be designated as
7 an evaluation and treatment facility. A facility which is part of, or
8 operated by, the department of social and health services or any
9 federal agency will not require certification. No correctional
10 institution or facility, or jail, shall be an evaluation and
11 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 in routine functioning evidenced by repeated and
17 escalating loss of cognitive or volitional control over his or her
18 actions and is not receiving such care as is essential for his or her
19 health or 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 such harm or which places
13 another person or persons in reasonable fear of sustaining such harm;
14 or (iii) physical harm will be inflicted by a person upon the
15 property of others, as evidenced by behavior which has caused
16 substantial loss or damage to the property of others; or

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

19 (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 18.71A 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; and
 - 14 (v) Medically necessary mental health services to persons with a
 - 15 co-occurring mental disorder, effective July 1, 2022;
- 16 (b) Include security measures sufficient to protect the patients,
- 17 staff, and community; and
- 18 (c) Be licensed or certified as such by the department of health;
- 19 (51) "Social worker" means a person with a master's or further
- 20 advanced degree from a social work educational program accredited and
- 21 approved as provided in RCW 18.320.010;
- 22 (52) "Substance use disorder" means a cluster of cognitive,
- 23 behavioral, and physiological symptoms indicating that an individual
- 24 continues using the substance despite significant substance-related
- 25 problems. The diagnosis of a substance use disorder is based on a
- 26 pathological pattern of behaviors related to the use of the
- 27 substances;
- 28 (53) "Substance use disorder professional" means a person
- 29 certified as a substance use disorder professional by the department
- 30 of health under chapter 18.205 RCW;
- 31 (54) "Therapeutic court personnel" means the staff of a mental
- 32 health court or other therapeutic court which has jurisdiction over
- 33 defendants who are dually diagnosed with mental disorders, including
- 34 court personnel, probation officers, a court monitor, prosecuting
- 35 attorney, or defense counsel acting within the scope of therapeutic
- 36 court duties;
- 37 (55) "Treatment records" include registration and all other
- 38 records concerning persons who are receiving or who at any time have
- 39 received services for behavioral health disorders, which are
- 40 maintained by the department of social and health services, the

1 department, the authority, behavioral health administrative services
2 organizations and their staffs, managed care organizations and their
3 staffs, and by treatment facilities. Treatment records include mental
4 health information contained in a medical bill including but not
5 limited to mental health drugs, a mental health diagnosis, provider
6 name, and dates of service stemming from a medical service. Treatment
7 records do not include notes or records maintained for personal use
8 by a person providing treatment services for the department of social
9 and health services, the department, the authority, behavioral health
10 administrative services organizations, managed care organizations, or
11 a treatment facility if the notes or records are not available to
12 others;

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

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

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

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

37 (60) "Behavioral health administrative services organization"
38 means an entity contracted with the authority to administer
39 behavioral health services and programs under RCW 71.24.381,
40 including crisis services and administration of this chapter, the

1 involuntary treatment act, for all individuals in a defined regional
2 service area.

3 (61) "Managed care organization" means an organization, having a
4 certificate of authority or certificate of registration from the
5 office of the insurance commissioner, that contracts with the
6 authority under a comprehensive risk contract to provide prepaid
7 health care services to enrollees under the authority's managed care
8 programs under chapter 74.09 RCW.

9 **Sec. 6.** RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020 c
10 256 s 301, and 2020 c 5 s 1 are each reenacted and amended to read as
11 follows:

12 The definitions in this section apply throughout this chapter
13 unless the context clearly requires otherwise.

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

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

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

28 (4) "Approved substance use disorder treatment program" means a
29 program for persons with a substance use disorder provided by a
30 treatment program certified by the department as meeting standards
31 adopted under chapter 71.24 RCW;

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

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

36 (7) "Behavioral health disorder" means either a mental disorder
37 as defined in this section, a substance use disorder as defined in
38 this section, or a co-occurring mental disorder and substance use
39 disorder;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (22) "Evaluation and treatment facility" means any facility which
24 can provide directly, or by direct arrangement with other public or
25 private agencies, emergency evaluation and treatment, outpatient
26 care, and timely and appropriate inpatient care to persons suffering
27 from a mental disorder, and which is licensed or certified as such by
28 the department. The authority may certify single beds as temporary
29 evaluation and treatment beds under RCW 71.05.745. Effective July 1,
30 2022, an evaluation and treatment facility must provide medically
31 necessary substance use disorder services to persons with a co-
32 occurring substance use disorder. A physically separate and
33 separately operated portion of a state hospital may be designated as
34 an evaluation and treatment facility. A facility which is part of, or
35 operated by, the department of social and health services or any
36 federal agency will not require certification. No correctional
37 institution or facility, or jail, shall be an evaluation and
38 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 from safe behavior evidenced by repeated and escalating
4 loss of cognitive or volitional control over his or her actions and
5 is not receiving such care as is essential for his or her health or
6 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 harm, substantial pain, or
38 which places another person or persons in reasonable fear of harm to
39 themselves or others; or (iii) physical harm will be inflicted by a

1 person upon the property of others, as evidenced by behavior which
2 has caused 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 18.57A or 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; and

1 (v) Medically necessary mental health services to persons with a
2 co-occurring mental disorder, effective July 1, 2022;

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

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

6 (51) "Severe deterioration from safe behavior" means that a
7 person will, if not treated, suffer or continue to suffer severe and
8 abnormal mental, emotional, or physical distress, and this distress
9 is associated with significant impairment of judgment, reason, or
10 behavior;

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

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

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

23 (55) "Therapeutic court personnel" means the staff of a mental
24 health court or other therapeutic court which has jurisdiction over
25 defendants who are dually diagnosed with mental disorders, including
26 court personnel, probation officers, a court monitor, prosecuting
27 attorney, or defense counsel acting within the scope of therapeutic
28 court duties;

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

1 and health services, the department, the authority, behavioral health
2 administrative services organizations, managed care organizations, or
3 a treatment facility if the notes or records are not available to
4 others;

5 (57) "Triage facility" means a short-term facility or a portion
6 of a facility licensed or certified by the department, which is
7 designed as a facility to assess and stabilize an individual or
8 determine the need for involuntary commitment of an individual, and
9 must meet department residential treatment facility standards. A
10 triage facility may be structured as a voluntary or involuntary
11 placement facility;

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

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

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

29 (61) "Behavioral health administrative services organization"
30 means an entity contracted with the authority to administer
31 behavioral health services and programs under RCW 71.24.381,
32 including crisis services and administration of this chapter, the
33 involuntary treatment act, for all individuals in a defined regional
34 service area.

35 (62) "Managed care organization" means an organization, having a
36 certificate of authority or certificate of registration from the
37 office of the insurance commissioner, that contracts with the
38 authority under a comprehensive risk contract to provide prepaid
39 health care services to enrollees under the authority's managed care
40 programs under chapter 74.09 RCW.

1 **Sec. 7.** RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020 c
2 256 s 301, 2020 c 80 s 51, and 2020 c 5 s 1 are each reenacted and
3 amended to read as follows:

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

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

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

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

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

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

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

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

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

1 restoration under chapter 10.77 RCW, approved substance use disorder
2 treatment programs as defined in this section, secure withdrawal
3 management and stabilization facilities as defined in this section,
4 and correctional facilities operated by state and local governments;

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

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

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

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

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

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

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

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

33 (17) "Developmental disabilities professional" means a person who
34 has specialized training and three years of experience in directly
35 treating or working with persons with developmental disabilities and
36 is a psychiatrist, physician assistant working with a supervising
37 psychiatrist, psychologist, psychiatric advanced registered nurse
38 practitioner, or social worker, and such other developmental
39 disabilities professionals as may be defined by rules adopted by the
40 secretary of the department of social and health services;

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

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

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

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

13 (22) "Evaluation and treatment facility" means any facility which
14 can provide directly, or by direct arrangement with other public or
15 private agencies, emergency evaluation and treatment, outpatient
16 care, and timely and appropriate inpatient care to persons suffering
17 from a mental disorder, and which is licensed or certified as such by
18 the department. The authority may certify single beds as temporary
19 evaluation and treatment beds under RCW 71.05.745. Effective July 1,
20 2022, an evaluation and treatment facility must provide medically
21 necessary substance use disorder services to persons with a co-
22 occurring substance use disorder. A physically separate and
23 separately operated portion of a state hospital may be designated as
24 an evaluation and treatment facility. A facility which is part of, or
25 operated by, the department of social and health services or any
26 federal agency will not require certification. No correctional
27 institution or facility, or jail, shall be an evaluation and
28 treatment facility within the meaning of this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

39 (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; and

30 (v) Medically necessary mental health services to persons with a
31 co-occurring mental disorder, effective July 1, 2022;

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (61) "Behavioral health administrative services organization"
21 means an entity contracted with the authority to administer
22 behavioral health services and programs under RCW 71.24.381,
23 including crisis services and administration of this chapter, the
24 involuntary treatment act, for all individuals in a defined regional
25 service area.

26 (62) "Managed care organization" means an organization, having a
27 certificate of authority or certificate of registration from the
28 office of the insurance commissioner, that contracts with the
29 authority under a comprehensive risk contract to provide prepaid
30 health care services to enrollees under the authority's managed care
31 programs under chapter 74.09 RCW.

32 **Sec. 8.** RCW 71.05.750 and 2020 c 302 s 59 are each amended to
33 read as follows:

34 (1) A (~~designated crisis responder~~) managed care organization
35 or behavioral health administrative services organization shall make
36 a report to the authority when (~~he or she determines a person meets~~
37 ~~detention criteria under RCW 71.05.150, 71.05.153, 71.34.700, or~~
38 ~~71.34.710 and~~) after the expiration of a 24-hour emergency hold
39 period under section 3 of this act and despite the efforts of the

1 managed care organization or behavioral health administrative
2 services organization to obtain a placement or safe discharge for the
3 person there are not any beds available at an evaluation and
4 treatment facility(~~(, the person has not been provisionally accepted~~
5 ~~for admission by a facility,~~) or secure withdrawal management and
6 stabilization facility and the person cannot be served on a single
7 bed certification or less restrictive alternative. (~~(Starting at the~~
8 ~~time when the designated crisis responder determines a person meets~~
9 ~~detention criteria and the investigation has been completed,~~ the
10 ~~designated crisis responder has twenty-four hours)) The managed care
11 organization or behavioral health administrative services
12 organization has 24 hours from the expiration of the 24-hour
13 emergency period to submit a completed report to the authority.~~

14 (2) The report required under subsection (1) of this section must
15 contain at a minimum:

16 (a) The date and time that the designated crisis responder
17 investigation was completed;

18 (b) The identity of the responsible behavioral health
19 administrative services organization and managed care organization(~~(,~~
20 ~~if applicable))~~);

21 (c) The county in which the person met detention criteria;

22 (d) A list of facilities which (~~(refused))~~ declined to admit the
23 person; (~~and~~)

24 (e) A summary of the efforts undertaken by the managed care
25 organization or behavioral health administrative services
26 organization; and

27 (f) Identifying information for the person, including age or date
28 of birth.

29 (3) The authority shall develop a standardized reporting form or
30 modify the current form used for single bed certifications for the
31 report required under subsection (2) of this section and may require
32 additional reporting elements as it determines are necessary or
33 supportive. The authority shall also determine the method for the
34 transmission of the completed report (~~(from the designated crisis~~
35 ~~responder))~~ to the authority.

36 (4) The authority shall create quarterly reports displayed on its
37 web site that summarize the information reported under subsection (2)
38 of this section. At a minimum, the reports must display data by
39 county and by month. The reports must also include the number of
40 single bed certifications granted by category. The categories must

1 include all of the reasons that the authority recognizes for issuing
2 a single bed certification, as identified in rule.

3 (5) The reports provided according to this section may not
4 display "protected health information" as that term is used in the
5 federal health insurance portability and accountability act of 1996,
6 nor information (~~contained in "mental health treatment records" as~~
7 ~~that term is used in~~) prohibited from disclosure under chapter 70.02
8 RCW or elsewhere in state law, and must otherwise be compliant with
9 state and federal privacy laws.

10 (6) For purposes of this section, the term "single bed
11 certification" means a situation in which an adult on a one hundred
12 twenty hour detention, fourteen-day commitment, ninety-day
13 commitment, or one hundred eighty-day commitment is detained to a
14 facility that is:

15 (a) Not licensed or certified as an inpatient evaluation and
16 treatment facility; or

17 (b) A licensed or certified inpatient evaluation and treatment
18 facility that is already at capacity.

19 **Sec. 9.** RCW 71.05.755 and 2019 c 325 s 3014 are each amended to
20 read as follows:

21 (~~The authority shall promptly share reports it receives~~
22 ~~under RCW 71.05.750 with the responsible behavioral health~~
23 ~~administrative services organization or managed care organization, if~~
24 ~~applicable. The~~) A behavioral health administrative services
25 organization or managed care organization(~~, if applicable, receiving~~
26 ~~this notification must~~) that files a report under RCW 71.05.750 must
27 continue to attempt to engage the person in appropriate services for
28 which the person is eligible and report back again within seven days
29 to the authority.

30 (2) The authority shall track and analyze reports submitted under
31 RCW 71.05.750. The authority must initiate corrective action when
32 appropriate to ensure that each behavioral health administrative
33 services organization or managed care organization(~~, if~~
34 ~~applicable,~~) has implemented an adequate network and plan to provide
35 evaluation and treatment services. Corrective actions may include
36 remedies under the authority's contract with such entity. An adequate
37 plan may include development of less restrictive alternatives to
38 involuntary commitment such as crisis triage, crisis diversion,

1 voluntary treatment, or prevention programs reasonably calculated to
2 reduce demand for evaluation and treatment under this chapter.

3 **Sec. 10.** RCW 71.24.037 and 2019 c 446 s 23 and 2019 c 325 s 1007
4 are each reenacted and amended to read as follows:

5 (1) The secretary shall license or certify any agency or facility
6 that: (a) Submits payment of the fee established under RCW 43.70.110
7 and 43.70.250; (b) submits a complete application that demonstrates
8 the ability to comply with requirements for operating and maintaining
9 an agency or facility in statute or rule; and (c) successfully
10 completes the prelicensure inspection requirement.

11 (2) The secretary shall establish by rule minimum standards for
12 licensed or certified behavioral health agencies that must, at a
13 minimum, establish: (a) Qualifications for staff providing services
14 directly to persons with mental disorders, substance use disorders,
15 or both; (b) the intended result of each service; and (c) the rights
16 and responsibilities of persons receiving behavioral health services
17 pursuant to this chapter and chapter 71.05 RCW. The secretary shall
18 provide for deeming of licensed or certified behavioral health
19 agencies as meeting state minimum standards as a result of
20 accreditation by a recognized behavioral health accrediting body
21 recognized and having a current agreement with the department.

22 (3) The department shall review reports or other information
23 alleging a failure to comply with this chapter or the standards and
24 rules adopted under this chapter and may initiate investigations and
25 enforcement actions based on those reports.

26 (4) The department shall conduct inspections of agencies and
27 facilities, including reviews of records and documents required to be
28 maintained under this chapter or rules adopted under this chapter. In
29 the case of an evaluation and treatment facility or secure withdrawal
30 management and stabilization facility under chapter 71.05 RCW, the
31 inspection shall include records created under section 2 of this act
32 and an analysis of means available, if any, to improve availability
33 of services for persons in crisis, including the receipt of technical
34 assistance from the department or other entities.

35 (5) The department may suspend, revoke, limit, restrict, or
36 modify an approval, or refuse to grant approval, for failure to meet
37 the provisions of this chapter, or the standards adopted under this
38 chapter. RCW 43.70.115 governs notice of a license or certification

1 denial, revocation, suspension, or modification and provides the
2 right to an adjudicative proceeding.

3 (6) No (~~licensed or certified behavioral health service~~
4 ~~provider~~) entity may advertise or represent itself as a licensed or
5 certified behavioral health (~~service provider~~) agency if approval
6 has not been granted or has been denied, suspended, revoked, or
7 canceled.

8 (7) Licensure or certification as a behavioral health (~~service~~
9 ~~provider~~) agency is effective for one calendar year from the date of
10 issuance of the license or certification. The license or
11 certification must specify the types of services provided by the
12 behavioral health (~~service provider~~) agency that meet the standards
13 adopted under this chapter. Renewal of a license or certification
14 must be made in accordance with this section for initial approval and
15 in accordance with the standards set forth in rules adopted by the
16 secretary.

17 (8) Licensure or certification as a licensed or certified
18 behavioral health (~~service provider~~) agency must specify the types
19 of services provided that meet the standards adopted under this
20 chapter. Renewal of a license or certification must be made in
21 accordance with this section for initial approval and in accordance
22 with the standards set forth in rules adopted by the secretary.

23 (9) The department shall develop a process by which a
24 (~~provider~~) behavioral health agency may obtain dual licensure as an
25 evaluation and treatment facility and secure withdrawal management
26 and stabilization facility.

27 (10) Licensed or certified behavioral health (~~service~~
28 ~~providers~~) agencies may not provide types of services for which a
29 certification exists and the licensed or certified behavioral health
30 (~~service provider~~) agency has not been certified. Licensed or
31 certified behavioral health (~~service providers~~) agencies may
32 provide services for which approval has been sought and is pending,
33 if approval for the services has not been previously revoked or
34 denied.

35 (11) The department periodically shall inspect licensed or
36 certified behavioral health (~~service providers~~) agencies at
37 reasonable times and in a reasonable manner.

38 (12) Upon petition of the department and after a hearing held
39 upon reasonable notice to the facility, the superior court may issue
40 a warrant to an officer or employee of the department authorizing him

1 or her to enter and inspect at reasonable times, and examine the
2 books and accounts of, any licensed or certified behavioral health
3 (~~service provider~~) agency refusing to consent to inspection or
4 examination by the department or which the department has reasonable
5 cause to believe is operating in violation of this chapter.

6 (13) The department shall maintain and periodically publish a
7 current list of licensed or certified behavioral health (~~service
8 providers~~) agencies.

9 (14) Each licensed or certified behavioral health (~~service
10 provider~~) agency shall file with the department or the authority
11 upon request, data, statistics, schedules, and information the
12 department or the authority reasonably requires. A licensed or
13 certified behavioral health (~~service provider~~) agency that without
14 good cause fails to furnish any data, statistics, schedules, or
15 information as requested, or files fraudulent returns thereof, may
16 have its license or certification revoked or suspended.

17 (15) The authority shall use the data provided in subsection (14)
18 of this section to evaluate each program that admits children to
19 inpatient substance use disorder treatment upon application of their
20 parents. The evaluation must be done at least once every twelve
21 months. In addition, the authority shall randomly select and review
22 the information on individual children who are admitted on
23 application of the child's parent for the purpose of determining
24 whether the child was appropriately placed into substance use
25 disorder treatment based on an objective evaluation of the child's
26 condition and the outcome of the child's treatment.

27 (16) Any settlement agreement entered into between the department
28 and a licensed or certified behavioral health (~~service providers~~)
29 agency to resolve administrative complaints, license or certification
30 violations, license or certification suspensions, or license or
31 certification revocations may not reduce the number of violations
32 reported by the department unless the department concludes, based on
33 evidence gathered by inspectors, that the licensed or certified
34 behavioral health (~~service provider~~) agency did not commit one or
35 more of the violations.

36 (17) In cases in which a behavioral health (~~service provider~~)
37 agency that is in violation of licensing or certification standards
38 attempts to transfer or sell the behavioral health (~~service
39 provider~~) agency to a family member, the transfer or sale may only
40 be made for the purpose of remedying license or certification

1 violations and achieving full compliance with the terms of the
2 license or certification. Transfers or sales to family members are
3 prohibited in cases in which the purpose of the transfer or sale is
4 to avoid liability or reset the number of license or certification
5 violations found before the transfer or sale. If the department finds
6 that the owner intends to transfer or sell, or has completed the
7 transfer or sale of, ownership of the behavioral health (~~service
8 provider~~) agency to a family member solely for the purpose of
9 resetting the number of violations found before the transfer or sale,
10 the department may not renew the behavioral health (~~service
11 provider's~~) agency's license or certification or issue a new license
12 or certification to the behavioral health (~~service—provider~~)
13 agency.

14 **Sec. 11.** RCW 71.24.045 and 2019 c 325 s 1008 are each amended to
15 read as follows:

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

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

20 (i) A behavioral health crisis hotline for its assigned regional
21 service area;

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

24 (iii) Services related to involuntary commitments under chapters
25 71.05 and 71.34 RCW;

26 (iv) Additional noncrisis behavioral health services, within
27 available resources, to individuals who meet certain criteria set by
28 the authority in its contracts with the behavioral health
29 administrative services organization. These services may include
30 services provided through federal grant funds, provisos, and general
31 fund state appropriations;

32 (v) Care coordination, diversion services, and discharge planning
33 for nonmedicaid individuals transitioning from state hospitals or
34 inpatient settings to reduce rehospitalization and utilization of
35 crisis services, as required by the authority in contract; and

36 (vi) Regional coordination, cross-system and cross-jurisdiction
37 coordination with tribal governments, and capacity building efforts,
38 such as supporting the behavioral health advisory board, the

1 behavioral health ombuds, and efforts to support access to services
2 or to improve the behavioral health system;

3 (b) Administer and provide for the availability of an adequate
4 network of evaluation and treatment services to ensure access to
5 treatment, investigation, transportation, court-related, and other
6 services provided as required under chapters 71.05 and 71.34 RCW;

7 (c) Provide emergency services and reporting under section 3 of
8 this act and RCW 71.05.750, including providing for and publicizing a
9 suitable means of receiving timely notification under section 3 of
10 this act;

11 (d) Coordinate services for individuals under RCW 71.05.365;

12 (~~(d)~~) (e) Administer and provide for the availability of
13 resource management services, residential services, and community
14 support services as required under its contract with the authority;

15 (~~(e)~~) (f) Contract with a sufficient number, as determined by
16 the authority, of licensed or certified providers for crisis services
17 and other behavioral health services required by the authority;

18 (~~(f)~~) (g) Maintain adequate reserves or secure a bond as
19 required by its contract with the authority;

20 (~~(g)~~) (h) Establish and maintain quality assurance processes;

21 (~~(h)~~) (i) Meet established limitations on administrative costs
22 for agencies that contract with the behavioral health administrative
23 services organization; and

24 (~~(i)~~) (j) Maintain patient tracking information as required by
25 the authority.

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

31 (3) The behavioral health administrative services organization
32 shall:

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

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

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

4 **Sec. 12.** RCW 71.24.490 and 2019 c 325 s 1032 are each amended to
5 read as follows:

6 (1) The authority must collaborate with behavioral health
7 administrative services organizations, managed care organizations,
8 and the Washington state institute for public policy to estimate the
9 capacity needs for evaluation and treatment services within each
10 regional service area. Estimated capacity needs shall include
11 consideration of the average occupancy rates needed to provide an
12 adequate network of evaluation and treatment services to ensure
13 access to treatment. Behavioral health administrative services
14 organizations and managed care organizations must develop and
15 maintain an adequate plan to provide for evaluation and treatment
16 needs.

17 (2) A managed care organization must provide emergency services
18 and reporting under section 3 of this act and RCW 71.05.750,
19 including providing for and publicizing a suitable means of receiving
20 timely notification under section 3 of this act.

21 **Sec. 13.** 2020 c 302 s 110 (uncodified) is amended to read as
22 follows:

23 (1) Sections 4 and 28 (~~of this act~~), chapter 302, Laws of 2020
24 and sections 6 and 7 of this act take effect when monthly single-bed
25 certifications authorized under RCW 71.05.745 fall below 200 reports
26 for 3 consecutive months.

27 (2) The health care authority must provide written notice of the
28 effective date of sections 4 and 28 (~~of this act~~), chapter 302,
29 Laws of 2020 and sections 6 and 7 of this act to affected parties,
30 the chief clerk of the house of representatives, the secretary of the
31 senate, the office of the code reviser, and others as deemed
32 appropriate by the authority.

33 NEW SECTION. **Sec. 14.** Sections 4 and 6 of this act expire July
34 1, 2022.

1 NEW SECTION. **Sec. 15.** Sections 5 and 7 of this act take effect
2 July 1, 2022.

--- END ---