

2SHB 1877 - S COMM AMD
By Committee on Ways & Means

ADOPTED 03/01/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 71.05
4 RCW to read as follows:

5 (1) An attorney representing a tribe has the right to intervene
6 at any point in any court proceeding under this chapter involving a
7 member of the tribe.

8 (a) For purposes of this section, "right to intervene" means the
9 right of a tribal attorney to:

10 (i) Attend court proceedings;

11 (ii) Speak in court;

12 (iii) Request copies of orders issued by the court and petitions
13 filed;

14 (iv) Submit information to the court including, but not limited
15 to, information about available tribal resources to coordinate
16 services; and

17 (v) Petition the court under RCW 71.05.201.

18 (b) Information provided to the tribal attorney under this
19 section is subject to any federal and state laws and regulations
20 including the requirements in RCW 70.02.230 (2)(ee) and (3).

21 (2) Behavioral health service providers shall accept tribal court
22 orders from tribes located within the state on the same basis as
23 state court orders issued under this chapter.

24 (3) The administrative office of the courts, in consultation with
25 the authority, shall develop and update court forms as needed in
26 proceedings under this chapter for use by designated crisis
27 responders and make them available by December 1, 2024. After January
28 1, 2025, superior courts must allow tribal designated crisis
29 responders to use court forms developed by the administrative office
30 of the courts.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 71.34
2 RCW to read as follows:

3 (1) An attorney representing a federally recognized Indian tribe
4 has the right to intervene at any point in any court proceeding under
5 this chapter involving a member of the tribe.

6 (a) For purposes of this section, "right to intervene" means the
7 right of a tribal attorney to:

8 (i) Attend court proceedings;

9 (ii) Speak in court;

10 (iii) Request copies of orders issued by the court and petitions
11 filed;

12 (iv) Submit information to the court including, but not limited
13 to, information about available tribal resources to coordinate
14 services; and

15 (v) Petition the court under RCW 71.05.201.

16 (b) Information provided to the tribal attorney under this
17 section is subject to any federal and state laws and regulations
18 including the requirements in RCW 70.02.240.

19 (2) Behavioral health service providers shall accept tribal court
20 orders from tribes located within the state on the same basis as
21 state court orders issued under this chapter.

22 (3) The administrative office of the courts, in consultation with
23 the authority, shall develop and update court forms as needed in
24 proceedings under this chapter for use by designated crisis
25 responders and make them available by December 1, 2024. After January
26 1, 2025, superior courts must allow tribal designated crisis
27 responders to use court forms developed by the administrative office
28 of the courts.

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

31 Nothing in this chapter may be read as an assertion of state
32 jurisdiction or regulatory authority over a tribe.

33 NEW SECTION. **Sec. 4.** A new section is added to chapter 71.34
34 RCW to read as follows:

35 Nothing in this chapter may be read as an assertion of state
36 jurisdiction or regulatory authority over a tribe.

1 **Sec. 5.** RCW 71.05.020 and 2023 c 433 s 3 and 2023 c 425 s 20 are
2 each reenacted and amended to read as follows:

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

5 (1) "23-hour crisis relief center" has the same meaning as under
6 RCW 71.24.025;

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

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

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

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

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

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

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

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

1 71.24.025; licensed or certified behavioral health agencies under RCW
2 71.24.037; an entity with a tribal attestation that it meets minimum
3 standards or a licensed or certified behavioral health agency as
4 defined in RCW 71.24.025; facilities conducting competency
5 evaluations and restoration under chapter 10.77 RCW; approved
6 substance use disorder treatment programs as defined in this section;
7 secure withdrawal management and stabilization facilities as defined
8 in this section; and correctional facilities operated by state
9 ((and)), local, and tribal governments;

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

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

18 (12) "Community behavioral health agency" has the same meaning as
19 "licensed or certified behavioral health agency" defined in RCW
20 71.24.025;

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

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

29 (15) "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 (16) "Department" means the department of health;

34 (17) "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 (18) "Detention" or "detain" means the lawful confinement of a
2 person, under the provisions of this chapter;

3 (19) "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 (20) "Developmental disability" means that condition defined in
12 RCW 71A.10.020(6);

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

14 (22) "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 (23) "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 (24) "Evaluation and treatment facility" means any facility which
24 can provide directly, or by direct arrangement with other public or
25 private agencies, emergency evaluation and treatment, outpatient
26 care, and timely and appropriate inpatient care to persons suffering
27 from a mental disorder, and which is licensed or certified as such by
28 the department. The authority may certify single beds as temporary
29 evaluation and treatment beds under RCW 71.05.745. A physically
30 separate and separately operated portion of a state hospital may be
31 designated as an evaluation and treatment facility. A facility which
32 is part of, or operated by, the department of social and health
33 services or any federal agency will not require certification. No
34 correctional institution or facility, or jail, shall be an evaluation
35 and treatment facility within the meaning of this chapter;

36 (25) "Gravely disabled" means a condition in which a person, as a
37 result of a behavioral health disorder: (a) Is in danger of serious
38 physical harm resulting from a failure to provide for his or her
39 essential human needs of health or safety; or (b) manifests severe
40 deterioration in routine functioning evidenced by repeated and

1 escalating loss of cognitive or volitional control over his or her
2 actions and is not receiving such care as is essential for his or her
3 health or safety;

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

12 (27) "Hearing" means any proceeding conducted in open court that
13 conforms to the requirements of RCW 71.05.820;

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

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

21 (30) "In need of assisted outpatient treatment" refers to a
22 person who meets the criteria for assisted outpatient treatment
23 established under RCW 71.05.148;

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

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

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

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

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

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

37 (f) Where relevant in light of past criminal behavior and due
38 consideration for public safety, the criteria for proposed movement
39 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 (32) "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 (33) "Judicial commitment" means a commitment by a court pursuant
9 to the provisions of this chapter;

10 (34) "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 (35) "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. This
17 term includes: Treatment pursuant to a less restrictive alternative
18 treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant
19 to a conditional release under RCW 71.05.340; and treatment pursuant
20 to an assisted outpatient treatment order under RCW 71.05.148;

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

24 (37) "Likelihood of serious harm" means:

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

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

36 (38) "Medical clearance" means a physician or other health care
37 provider, including an Indian health care provider, has determined
38 that a person is medically stable and ready for referral to the
39 designated crisis responder or facility. For a person presenting in

1 the community, no medical clearance is required prior to
2 investigation by a designated crisis responder;

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

6 (40) "Mental health professional" means an individual practicing
7 within the mental health professional's statutory scope of practice
8 who is:

9 (a) A psychiatrist, psychologist, physician assistant working
10 with a supervising psychiatrist, psychiatric advanced registered
11 nurse practitioner, psychiatric nurse, or social worker, as defined
12 in this chapter and chapter 71.34 RCW;

13 (b) A mental health counselor, mental health counselor associate,
14 marriage and family therapist, or marriage and family therapist
15 associate, as defined in chapter 18.225 RCW; or

16 (c) A certified or licensed agency affiliated counselor, as
17 defined in chapter 18.19 RCW;

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

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

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

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

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

1 (46) "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 (47) "Psychologist" means a person who has been licensed as a
8 psychologist pursuant to chapter 18.83 RCW;

9 (48) "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 (49) "Release" means legal termination of the commitment under
18 the provisions of this chapter;

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

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

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

30 (a) Provide the following services:

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

33 (ii) Clinical stabilization services;

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

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

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

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

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

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

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

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

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

38 (58) "Tribe" has the same meaning as in RCW 71.24.025;

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

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

9 ~~((59))~~ (60) "Violent act" means behavior that resulted in
10 homicide, attempted suicide, injury, or substantial loss or damage to
11 property.

12 **Sec. 6.** RCW 71.05.020 and 2023 c 433 s 4 and 2023 c 425 s 21 are
13 each reenacted and amended to read as follows:

14 The definitions in this section apply throughout this chapter
15 unless the context clearly requires otherwise.

16 (1) "23-hour crisis relief center" has the same meaning as under
17 RCW 71.24.025;

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

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

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

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

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

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

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

5 (9) "Behavioral health service provider" means a public or
6 private agency that provides mental health, substance use disorder,
7 or co-occurring disorder services to persons with behavioral health
8 disorders as defined under this section and receives funding from
9 public sources. This includes, but is not limited to: Hospitals
10 licensed under chapter 70.41 RCW; evaluation and treatment facilities
11 as defined in this section; community mental health service delivery
12 systems or community behavioral health programs as defined in RCW
13 71.24.025; licensed or certified behavioral health agencies under RCW
14 71.24.037; an entity with a tribal attestation that it meets minimum
15 standards or a licensed or certified behavioral health agency as
16 defined in RCW 71.24.025; facilities conducting competency
17 evaluations and restoration under chapter 10.77 RCW; approved
18 substance use disorder treatment programs as defined in this section;
19 secure withdrawal management and stabilization facilities as defined
20 in this section; and correctional facilities operated by state
21 (~~and~~), local, and tribal governments;

22 (10) "Co-occurring disorder specialist" means an individual
23 possessing an enhancement granted by the department of health under
24 chapter 18.205 RCW that certifies the individual to provide substance
25 use disorder counseling subject to the practice limitations under RCW
26 18.205.105;

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

30 (12) "Community behavioral health agency" has the same meaning as
31 "licensed or certified behavioral health agency" defined in RCW
32 71.24.025;

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

35 (14) "Crisis stabilization unit" means a short-term facility or a
36 portion of a facility licensed or certified by the department, such
37 as an evaluation and treatment facility or a hospital, which has been
38 designed to assess, diagnose, and treat individuals experiencing an
39 acute crisis without the use of long-term hospitalization, or to
40 determine the need for involuntary commitment of an individual;

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

5 (16) "Department" means the department of health;

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

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

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

22 (20) "Developmental disability" means that condition defined in
23 RCW 71A.10.020(6);

24 (21) "Director" means the director of the authority;

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

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

34 (24) "Evaluation and treatment facility" means any facility which
35 can provide directly, or by direct arrangement with other public or
36 private agencies, emergency evaluation and treatment, outpatient
37 care, and timely and appropriate inpatient care to persons suffering
38 from a mental disorder, and which is licensed or certified as such by
39 the department. The authority may certify single beds as temporary
40 evaluation and treatment beds under RCW 71.05.745. A physically

1 separate and separately operated portion of a state hospital may be
2 designated as an evaluation and treatment facility. A facility which
3 is part of, or operated by, the department of social and health
4 services or any federal agency will not require certification. No
5 correctional institution or facility, or jail, shall be an evaluation
6 and treatment facility within the meaning of this chapter;

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

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

23 (27) "Hearing" means any proceeding conducted in open court that
24 conforms to the requirements of RCW 71.05.820;

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

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

32 (30) "In need of assisted outpatient treatment" refers to a
33 person who meets the criteria for assisted outpatient treatment
34 established under RCW 71.05.148;

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

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

1 (b) The conditions and strategies necessary to achieve the
2 purposes of habilitation;

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

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

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

8 (f) Where relevant in light of past criminal behavior and due
9 consideration for public safety, the criteria for proposed movement
10 to less-restrictive settings, criteria for proposed eventual
11 discharge or release, and a projected possible date for discharge or
12 release; and

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

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

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

20 (34) "Legal counsel" means attorneys and staff employed by county
21 prosecutor offices or the state attorney general acting in their
22 capacity as legal representatives of public behavioral health service
23 providers under RCW 71.05.130;

24 (35) "Less restrictive alternative treatment" means a program of
25 individualized treatment in a less restrictive setting than inpatient
26 treatment that includes the services described in RCW 71.05.585. This
27 term includes: Treatment pursuant to a less restrictive alternative
28 treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant
29 to a conditional release under RCW 71.05.340; and treatment pursuant
30 to an assisted outpatient treatment order under RCW 71.05.148;

31 (36) "Licensed physician" means a person licensed to practice
32 medicine or osteopathic medicine and surgery in the state of
33 Washington;

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

35 (a) A substantial risk that: (i) Physical harm will be inflicted
36 by a person upon his or her own person, as evidenced by threats or
37 attempts to commit suicide or inflict physical harm on oneself; (ii)
38 physical harm will be inflicted by a person upon another, as
39 evidenced by behavior which has caused harm, substantial pain, or
40 which places another person or persons in reasonable fear of harm to

1 themselves or others; or (iii) physical harm will be inflicted by a
2 person upon the property of others, as evidenced by behavior which
3 has caused substantial loss or damage to the property of others; or

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

6 (38) "Medical clearance" means a physician or other health care
7 provider, including an Indian health care provider, has determined
8 that a person is medically stable and ready for referral to the
9 designated crisis responder or facility. For a person presenting in
10 the community, no medical clearance is required prior to
11 investigation by a designated crisis responder;

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

15 (40) "Mental health professional" means an individual practicing
16 within the mental health professional's statutory scope of practice
17 who is:

18 (a) A psychiatrist, psychologist, physician assistant working
19 with a supervising psychiatrist, psychiatric advanced registered
20 nurse practitioner, psychiatric nurse, or social worker, as defined
21 in this chapter and chapter 71.34 RCW;

22 (b) A mental health counselor, mental health counselor associate,
23 marriage and family therapist, or marriage and family therapist
24 associate, as defined in chapter 18.225 RCW; or

25 (c) A certified or licensed agency affiliated counselor, as
26 defined in chapter 18.19 RCW;

27 (41) "Peace officer" means a law enforcement official of a public
28 agency or governmental unit, and includes persons specifically given
29 peace officer powers by any state law, local ordinance, or judicial
30 order of appointment;

31 (42) "Physician assistant" means a person licensed as a physician
32 assistant under chapter 18.71A RCW;

33 (43) "Private agency" means any person, partnership, corporation,
34 or association that is not a public agency, whether or not financed
35 in whole or in part by public funds, which constitutes an evaluation
36 and treatment facility or private institution, or hospital, or
37 approved substance use disorder treatment program, which is conducted
38 for, or includes a department or ward conducted for, the care and
39 treatment of persons with behavioral health disorders;

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

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

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

17 (47) "Psychologist" means a person who has been licensed as a
18 psychologist pursuant to chapter 18.83 RCW;

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

27 (49) "Release" means legal termination of the commitment under
28 the provisions of this chapter;

29 (50) "Resource management services" has the meaning given in
30 chapter 71.24 RCW;

31 (51) "Secretary" means the secretary of the department of health,
32 or his or her designee;

33 (52) "Secure withdrawal management and stabilization facility"
34 means a facility operated by either a public or private agency or by
35 the program of an agency which provides care to voluntary individuals
36 and individuals involuntarily detained and committed under this
37 chapter for whom there is a likelihood of serious harm or who are
38 gravely disabled due to the presence of a substance use disorder.
39 Secure withdrawal management and stabilization facilities must:

40 (a) Provide the following services:

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

3 (ii) Clinical stabilization services;

4 (iii) Acute or subacute detoxification services for intoxicated
5 individuals; and

6 (iv) Discharge assistance provided by certified substance use
7 disorder professionals or co-occurring disorder specialists,
8 including facilitating transitions to appropriate voluntary or
9 involuntary inpatient services or to less restrictive alternatives as
10 appropriate for the individual;

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

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

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

19 (54) "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 (55) "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 (56) "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 (57) "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 (58) "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 (59) "Tribe" has the same meaning as in RCW 71.24.025;

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

24 ((+60)) (61) "Violent act" means behavior that resulted in
25 homicide, attempted suicide, injury, or substantial loss or damage to
26 property.

27 **Sec. 7.** RCW 71.34.020 and 2023 c 433 s 12 are each amended to
28 read as follows:

29 Unless the context clearly requires otherwise, the definitions in
30 this section apply throughout this chapter.

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

35 (2) "Adolescent" means a minor thirteen years of age or older.

36 (3) "Alcoholism" means a disease, characterized by a dependency
37 on alcoholic beverages, loss of control over the amount and
38 circumstances of use, symptoms of tolerance, physiological or
39 psychological withdrawal, or both, if use is reduced or discontinued,

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

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

7 (5) "Approved substance use disorder treatment program" means a
8 program for minors with substance use disorders provided by a
9 treatment program licensed or certified by the department of health
10 as meeting standards adopted under chapter 71.24 RCW.

11 (6) "Attending staff" means any person on the staff of a public
12 or private agency having responsibility for the care and treatment of
13 a minor patient.

14 (7) "Authority" means the Washington state health care authority.

15 (8) "Behavioral health administrative services organization" has
16 the same meaning as provided in RCW 71.24.025.

17 (9) "Behavioral health disorder" means either a mental disorder
18 as defined in this section, a substance use disorder as defined in
19 this section, or a co-occurring mental disorder and substance use
20 disorder.

21 (10) "Child psychiatrist" means a person having a license as a
22 physician and surgeon in this state, who has had graduate training in
23 child psychiatry in a program approved by the American Medical
24 Association or the American Osteopathic Association, and who is board
25 eligible or board certified in child psychiatry.

26 (11) "Children's mental health specialist" means:

27 (a) A mental health professional who has completed a minimum of
28 one hundred actual hours, not quarter or semester hours, of
29 specialized training devoted to the study of child development and
30 the treatment of children; and

31 (b) A mental health professional who has the equivalent of one
32 year of full-time experience in the treatment of children under the
33 supervision of a children's mental health specialist.

34 (12) "Commitment" means a determination by a judge or court
35 commissioner, made after a commitment hearing, that the minor is in
36 need of inpatient diagnosis, evaluation, or treatment or that the
37 minor is in need of less restrictive alternative treatment.

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

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

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

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

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

19 (18) "Designated crisis responder" has the same meaning as
20 provided in RCW 71.05.020.

21 (19) "Detention" or "detain" means the lawful confinement of a
22 person, under the provisions of this chapter.

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

31 (21) "Developmental disability" has the same meaning as defined
32 in RCW 71A.10.020.

33 (22) "Director" means the director of the authority.

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

37 (24) "Evaluation and treatment facility" means a public or
38 private facility or unit that is licensed or certified by the
39 department of health to provide emergency, inpatient, residential, or
40 outpatient mental health evaluation and treatment services for

1 minors. A physically separate and separately operated portion of a
2 state hospital may be designated as an evaluation and treatment
3 facility for minors. A facility which is part of or operated by the
4 state or federal agency does not require licensure or certification.
5 No correctional institution or facility, juvenile court detention
6 facility, or jail may be an evaluation and treatment facility within
7 the meaning of this chapter.

8 (25) "Evaluation and treatment program" means the total system of
9 services and facilities coordinated and approved by a county or
10 combination of counties for the evaluation and treatment of minors
11 under this chapter.

12 (26) "Gravely disabled minor" means a minor who, as a result of a
13 behavioral health disorder, (a) is in danger of serious physical harm
14 resulting from a failure to provide for his or her essential human
15 needs of health or safety, or (b) manifests severe deterioration in
16 routine functioning evidenced by repeated and escalating loss of
17 cognitive or volitional control over his or her actions and is not
18 receiving such care as is essential for his or her health or safety.

19 (27) "Habilitative services" means those services provided by
20 program personnel to assist minors in acquiring and maintaining life
21 skills and in raising their levels of physical, behavioral, social,
22 and vocational functioning. Habilitative services include education,
23 training for employment, and therapy.

24 (28) "Hearing" means any proceeding conducted in open court that
25 conforms to the requirements of RCW 71.34.910.

26 (29) "History of one or more violent acts" refers to the period
27 of time five years prior to the filing of a petition under this
28 chapter, excluding any time spent, but not any violent acts
29 committed, in a mental health facility, a long-term substance use
30 disorder treatment facility, or in confinement as a result of a
31 criminal conviction.

32 (30) "Individualized service plan" means a plan prepared by a
33 developmental disabilities professional with other professionals as a
34 team, for a person with developmental disabilities, which states:

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

37 (b) The conditions and strategies necessary to achieve the
38 purposes of habilitation;

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

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

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

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

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

11 (31)(a) "Inpatient treatment" means twenty-four-hour-per-day
12 mental health care provided within a general hospital, psychiatric
13 hospital, residential treatment facility licensed or certified by the
14 department of health as an evaluation and treatment facility for
15 minors, secure withdrawal management and stabilization facility for
16 minors, or approved substance use disorder treatment program for
17 minors.

18 (b) For purposes of family-initiated treatment under RCW
19 71.34.600 through 71.34.670, "inpatient treatment" has the meaning
20 included in (a) of this subsection and any other residential
21 treatment facility licensed under chapter 71.12 RCW.

22 (32) "Intoxicated minor" means a minor whose mental or physical
23 functioning is substantially impaired as a result of the use of
24 alcohol or other psychoactive chemicals.

25 (33) "Judicial commitment" means a commitment by a court pursuant
26 to the provisions of this chapter.

27 (34) "Kinship caregiver" has the same meaning as in RCW
28 74.13.031(~~((19)(a))~~) (22)(a).

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

33 (36) "Less restrictive alternative" or "less restrictive setting"
34 means outpatient treatment provided to a minor as a program of
35 individualized treatment in a less restrictive setting than inpatient
36 treatment that includes the services described in RCW 71.34.755,
37 including residential treatment.

38 (37) "Licensed physician" means a person licensed to practice
39 medicine or osteopathic medicine and surgery in the state of
40 Washington.

1 (38) "Likelihood of serious harm" means:

2 (a) A substantial risk that: (i) Physical harm will be inflicted
3 by a minor upon his or her own person, as evidenced by threats or
4 attempts to commit suicide or inflict physical harm on oneself; (ii)
5 physical harm will be inflicted by a minor upon another individual,
6 as evidenced by behavior which has caused such harm or which places
7 another person or persons in reasonable fear of sustaining such harm;
8 or (iii) physical harm will be inflicted by a minor upon the property
9 of others, as evidenced by behavior which has caused substantial loss
10 or damage to the property of others; or

11 (b) The minor has threatened the physical safety of another and
12 has a history of one or more violent acts.

13 (39) "Managed care organization" has the same meaning as provided
14 in RCW 71.24.025.

15 (40) "Medical clearance" means a physician or other health care
16 provider, including an Indian health care provider, has determined
17 that a person is medically stable and ready for referral to the
18 designated crisis responder or facility. For a person presenting in
19 the community, no medical clearance is required prior to
20 investigation by a designated crisis responder.

21 (41) "Medical necessity" for inpatient care means a requested
22 service which is reasonably calculated to: (a) Diagnose, correct,
23 cure, or alleviate a mental disorder or substance use disorder; or
24 (b) prevent the progression of a mental disorder or substance use
25 disorder that endangers life or causes suffering and pain, or results
26 in illness or infirmity or threatens to cause or aggravate a
27 disability, or causes physical deformity or malfunction, and there is
28 no adequate less restrictive alternative available.

29 (42) "Mental disorder" means any organic, mental, or emotional
30 impairment that has substantial adverse effects on an individual's
31 cognitive or volitional functions. The presence of alcohol abuse,
32 drug abuse, juvenile criminal history, antisocial behavior, or
33 intellectual disabilities alone is insufficient to justify a finding
34 of "mental disorder" within the meaning of this section.

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

1 (44) "Minor" means any person under the age of eighteen years.

2 (45) "Outpatient treatment" means any of the nonresidential
3 services mandated under chapter 71.24 RCW and provided by licensed or
4 certified behavioral health agencies as identified by RCW 71.24.025.

5 (46) (a) "Parent" has the same meaning as defined in RCW
6 26.26A.010, including either parent if custody is shared under a
7 joint custody agreement, or a person or agency judicially appointed
8 as legal guardian or custodian of the child.

9 (b) For purposes of family-initiated treatment under RCW
10 71.34.600 through 71.34.670, "parent" also includes a person to whom
11 a parent defined in (a) of this subsection has given a signed
12 authorization to make health care decisions for the adolescent, a
13 stepparent who is involved in caring for the adolescent, a kinship
14 caregiver who is involved in caring for the adolescent, or another
15 relative who is responsible for the health care of the adolescent,
16 who may be required to provide a declaration under penalty of perjury
17 stating that he or she is a relative responsible for the health care
18 of the adolescent pursuant to chapter 5.50 RCW. If a dispute arises
19 between individuals authorized to act as a parent for the purpose of
20 RCW 71.34.600 through 71.34.670, the disagreement must be resolved
21 according to the priority established under RCW 7.70.065(2) (a).

22 (47) "Peace officer" means a law enforcement official of a public
23 agency or governmental unit, and includes persons specifically given
24 peace officer powers by any state law, local ordinance, or judicial
25 order of appointment.

26 (48) "Physician assistant" means a person licensed as a physician
27 assistant under chapter 18.71A RCW.

28 (49) "Private agency" means any person, partnership, corporation,
29 or association that is not a public agency, whether or not financed
30 in whole or in part by public funds, that constitutes an evaluation
31 and treatment facility or private institution, or hospital, or
32 approved substance use disorder treatment program, that is conducted
33 for, or includes a distinct unit, floor, or ward conducted for, the
34 care and treatment of persons with mental illness, substance use
35 disorders, or both mental illness and substance use disorders.

36 (50) "Professional person in charge" or "professional person"
37 means a physician, other mental health professional, or other person
38 empowered by an evaluation and treatment facility, secure withdrawal
39 management and stabilization facility, or approved substance use

1 disorder treatment program with authority to make admission and
2 discharge decisions on behalf of that facility.

3 (51) "Psychiatric nurse" means a registered nurse who has
4 experience in the direct treatment of persons who have a mental
5 illness or who are emotionally disturbed, such experience gained
6 under the supervision of a mental health professional.

7 (52) "Psychiatrist" means a person having a license as a
8 physician in this state who has completed residency training in
9 psychiatry in a program approved by the American Medical Association
10 or the American Osteopathic Association, and is board eligible or
11 board certified in psychiatry.

12 (53) "Psychologist" means a person licensed as a psychologist
13 under chapter 18.83 RCW.

14 (54) "Public agency" means any evaluation and treatment facility
15 or institution, or hospital, or approved substance use disorder
16 treatment program that is conducted for, or includes a distinct unit,
17 floor, or ward conducted for, the care and treatment of persons with
18 mental illness, substance use disorders, or both mental illness and
19 substance use disorders if the agency is operated directly by
20 federal, state, county, or municipal government, or a combination of
21 such governments.

22 (55) "Release" means legal termination of the commitment under
23 the provisions of this chapter.

24 (56) "Resource management services" has the meaning given in
25 chapter 71.24 RCW.

26 (57) "Responsible other" means the minor, the minor's parent or
27 estate, or any other person legally responsible for support of the
28 minor.

29 (58) "Secretary" means the secretary of the department or
30 secretary's designee.

31 (59) "Secure withdrawal management and stabilization facility"
32 means a facility operated by either a public or private agency or by
33 the program of an agency which provides care to voluntary individuals
34 and individuals involuntarily detained and committed under this
35 chapter for whom there is a likelihood of serious harm or who are
36 gravely disabled due to the presence of a substance use disorder.
37 Secure withdrawal management and stabilization facilities must:

38 (a) Provide the following services:

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

1 (ii) Clinical stabilization services;

2 (iii) Acute or subacute detoxification services for intoxicated
3 individuals; and

4 (iv) Discharge assistance provided by certified substance use
5 disorder professionals or co-occurring disorder specialists,
6 including facilitating transitions to appropriate voluntary or
7 involuntary inpatient services or to less restrictive alternatives as
8 appropriate for the individual;

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

11 (c) Be licensed or certified as such by the department of health.

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

15 (61) "Start of initial detention" means the time of arrival of
16 the minor at the first evaluation and treatment facility, secure
17 withdrawal management and stabilization facility, or approved
18 substance use disorder treatment program offering inpatient treatment
19 if the minor is being involuntarily detained at the time. With regard
20 to voluntary patients, "start of initial detention" means the time at
21 which the minor gives notice of intent to leave under the provisions
22 of this chapter.

23 (62) "Store and forward technology" means use of an asynchronous
24 transmission of a person's medical information from a mental health
25 service provider to the designated crisis responder which results in
26 medical diagnosis, consultation, or treatment.

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

33 (64) "Substance use disorder professional" means a person
34 certified as a substance use disorder professional by the department
35 of health under chapter 18.205 RCW.

36 (65) "Therapeutic court personnel" means the staff of a mental
37 health court or other therapeutic court which has jurisdiction over
38 defendants who are dually diagnosed with mental disorders, including
39 court personnel, probation officers, a court monitor, prosecuting

1 attorney, or defense counsel acting within the scope of therapeutic
2 court duties.

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

16 (67) "Tribe" has the same meaning as in RCW 71.24.025.

17 (68) "Video" means the delivery of behavioral health services
18 through the use of interactive audio and video technology, permitting
19 real-time communication between a person and a designated crisis
20 responder, for the purpose of evaluation. "Video" does not include
21 the use of audio-only telephone, facsimile, email, or store and
22 forward technology.

23 ~~((68))~~ (69) "Violent act" means behavior that resulted in
24 homicide, attempted suicide, injury, or substantial loss or damage to
25 property.

26 **Sec. 8.** RCW 71.34.020 and 2023 c 433 s 13 are each amended to
27 read as follows:

28 Unless the context clearly requires otherwise, the definitions in
29 this section apply throughout this chapter.

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

34 (2) "Adolescent" means a minor thirteen years of age or older.

35 (3) "Alcoholism" means a disease, characterized by a dependency
36 on alcoholic beverages, loss of control over the amount and
37 circumstances of use, symptoms of tolerance, physiological or
38 psychological withdrawal, or both, if use is reduced or discontinued,

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

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

7 (5) "Approved substance use disorder treatment program" means a
8 program for minors with substance use disorders provided by a
9 treatment program licensed or certified by the department of health
10 as meeting standards adopted under chapter 71.24 RCW.

11 (6) "Attending staff" means any person on the staff of a public
12 or private agency having responsibility for the care and treatment of
13 a minor patient.

14 (7) "Authority" means the Washington state health care authority.

15 (8) "Behavioral health administrative services organization" has
16 the same meaning as provided in RCW 71.24.025.

17 (9) "Behavioral health disorder" means either a mental disorder
18 as defined in this section, a substance use disorder as defined in
19 this section, or a co-occurring mental disorder and substance use
20 disorder.

21 (10) "Child psychiatrist" means a person having a license as a
22 physician and surgeon in this state, who has had graduate training in
23 child psychiatry in a program approved by the American Medical
24 Association or the American Osteopathic Association, and who is board
25 eligible or board certified in child psychiatry.

26 (11) "Children's mental health specialist" means:

27 (a) A mental health professional who has completed a minimum of
28 one hundred actual hours, not quarter or semester hours, of
29 specialized training devoted to the study of child development and
30 the treatment of children; and

31 (b) A mental health professional who has the equivalent of one
32 year of full-time experience in the treatment of children under the
33 supervision of a children's mental health specialist.

34 (12) "Commitment" means a determination by a judge or court
35 commissioner, made after a commitment hearing, that the minor is in
36 need of inpatient diagnosis, evaluation, or treatment or that the
37 minor is in need of less restrictive alternative treatment.

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

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

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

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

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

19 (18) "Designated crisis responder" has the same meaning as
20 provided in RCW 71.05.020.

21 (19) "Detention" or "detain" means the lawful confinement of a
22 person, under the provisions of this chapter.

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

31 (21) "Developmental disability" has the same meaning as defined
32 in RCW 71A.10.020.

33 (22) "Director" means the director of the authority.

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

37 (24) "Evaluation and treatment facility" means a public or
38 private facility or unit that is licensed or certified by the
39 department of health to provide emergency, inpatient, residential, or
40 outpatient mental health evaluation and treatment services for

1 minors. A physically separate and separately operated portion of a
2 state hospital may be designated as an evaluation and treatment
3 facility for minors. A facility which is part of or operated by the
4 state or federal agency does not require licensure or certification.
5 No correctional institution or facility, juvenile court detention
6 facility, or jail may be an evaluation and treatment facility within
7 the meaning of this chapter.

8 (25) "Evaluation and treatment program" means the total system of
9 services and facilities coordinated and approved by a county or
10 combination of counties for the evaluation and treatment of minors
11 under this chapter.

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

19 (27) "Habilitative services" means those services provided by
20 program personnel to assist minors in acquiring and maintaining life
21 skills and in raising their levels of physical, behavioral, social,
22 and vocational functioning. Habilitative services include education,
23 training for employment, and therapy.

24 (28) "Hearing" means any proceeding conducted in open court that
25 conforms to the requirements of RCW 71.34.910.

26 (29) "History of one or more violent acts" refers to the period
27 of time five years prior to the filing of a petition under this
28 chapter, excluding any time spent, but not any violent acts
29 committed, in a mental health facility, a long-term substance use
30 disorder treatment facility, or in confinement as a result of a
31 criminal conviction.

32 (30) "Individualized service plan" means a plan prepared by a
33 developmental disabilities professional with other professionals as a
34 team, for a person with developmental disabilities, which states:

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

37 (b) The conditions and strategies necessary to achieve the
38 purposes of habilitation;

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

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

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

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

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

11 (31)(a) "Inpatient treatment" means twenty-four-hour-per-day
12 mental health care provided within a general hospital, psychiatric
13 hospital, residential treatment facility licensed or certified by the
14 department of health as an evaluation and treatment facility for
15 minors, secure withdrawal management and stabilization facility for
16 minors, or approved substance use disorder treatment program for
17 minors.

18 (b) For purposes of family-initiated treatment under RCW
19 71.34.600 through 71.34.670, "inpatient treatment" has the meaning
20 included in (a) of this subsection and any other residential
21 treatment facility licensed under chapter 71.12 RCW.

22 (32) "Intoxicated minor" means a minor whose mental or physical
23 functioning is substantially impaired as a result of the use of
24 alcohol or other psychoactive chemicals.

25 (33) "Judicial commitment" means a commitment by a court pursuant
26 to the provisions of this chapter.

27 (34) "Kinship caregiver" has the same meaning as in RCW
28 74.13.031(~~((19)(a))~~) (22)(a).

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

33 (36) "Less restrictive alternative" or "less restrictive setting"
34 means outpatient treatment provided to a minor as a program of
35 individualized treatment in a less restrictive setting than inpatient
36 treatment that includes the services described in RCW 71.34.755,
37 including residential treatment.

38 (37) "Licensed physician" means a person licensed to practice
39 medicine or osteopathic medicine and surgery in the state of
40 Washington.

1 (38) "Likelihood of serious harm" means:

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

11 (b) The minor has threatened the physical safety of another and
12 has a history of one or more violent acts.

13 (39) "Managed care organization" has the same meaning as provided
14 in RCW 71.24.025.

15 (40) "Medical clearance" means a physician or other health care
16 provider, including an Indian health care provider, has determined
17 that a person is medically stable and ready for referral to the
18 designated crisis responder or facility. For a person presenting in
19 the community, no medical clearance is required prior to
20 investigation by a designated crisis responder.

21 (41) "Medical necessity" for inpatient care means a requested
22 service which is reasonably calculated to: (a) Diagnose, correct,
23 cure, or alleviate a mental disorder or substance use disorder; or
24 (b) prevent the progression of a mental disorder or substance use
25 disorder that endangers life or causes suffering and pain, or results
26 in illness or infirmity or threatens to cause or aggravate a
27 disability, or causes physical deformity or malfunction, and there is
28 no adequate less restrictive alternative available.

29 (42) "Mental disorder" means any organic, mental, or emotional
30 impairment that has substantial adverse effects on an individual's
31 cognitive or volitional functions. The presence of alcohol abuse,
32 drug abuse, juvenile criminal history, antisocial behavior, or
33 intellectual disabilities alone is insufficient to justify a finding
34 of "mental disorder" within the meaning of this section.

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

1 (44) "Minor" means any person under the age of eighteen years.

2 (45) "Outpatient treatment" means any of the nonresidential
3 services mandated under chapter 71.24 RCW and provided by licensed or
4 certified behavioral health agencies as identified by RCW 71.24.025.

5 (46) (a) "Parent" has the same meaning as defined in RCW
6 26.26A.010, including either parent if custody is shared under a
7 joint custody agreement, or a person or agency judicially appointed
8 as legal guardian or custodian of the child.

9 (b) For purposes of family-initiated treatment under RCW
10 71.34.600 through 71.34.670, "parent" also includes a person to whom
11 a parent defined in (a) of this subsection has given a signed
12 authorization to make health care decisions for the adolescent, a
13 stepparent who is involved in caring for the adolescent, a kinship
14 caregiver who is involved in caring for the adolescent, or another
15 relative who is responsible for the health care of the adolescent,
16 who may be required to provide a declaration under penalty of perjury
17 stating that he or she is a relative responsible for the health care
18 of the adolescent pursuant to chapter 5.50 RCW. If a dispute arises
19 between individuals authorized to act as a parent for the purpose of
20 RCW 71.34.600 through 71.34.670, the disagreement must be resolved
21 according to the priority established under RCW 7.70.065(2) (a).

22 (47) "Peace officer" means a law enforcement official of a public
23 agency or governmental unit, and includes persons specifically given
24 peace officer powers by any state law, local ordinance, or judicial
25 order of appointment.

26 (48) "Physician assistant" means a person licensed as a physician
27 assistant under chapter 18.71A RCW.

28 (49) "Private agency" means any person, partnership, corporation,
29 or association that is not a public agency, whether or not financed
30 in whole or in part by public funds, that constitutes an evaluation
31 and treatment facility or private institution, or hospital, or
32 approved substance use disorder treatment program, that is conducted
33 for, or includes a distinct unit, floor, or ward conducted for, the
34 care and treatment of persons with mental illness, substance use
35 disorders, or both mental illness and substance use disorders.

36 (50) "Professional person in charge" or "professional person"
37 means a physician, other mental health professional, or other person
38 empowered by an evaluation and treatment facility, secure withdrawal
39 management and stabilization facility, or approved substance use

1 disorder treatment program with authority to make admission and
2 discharge decisions on behalf of that facility.

3 (51) "Psychiatric nurse" means a registered nurse who has
4 experience in the direct treatment of persons who have a mental
5 illness or who are emotionally disturbed, such experience gained
6 under the supervision of a mental health professional.

7 (52) "Psychiatrist" means a person having a license as a
8 physician in this state who has completed residency training in
9 psychiatry in a program approved by the American Medical Association
10 or the American Osteopathic Association, and is board eligible or
11 board certified in psychiatry.

12 (53) "Psychologist" means a person licensed as a psychologist
13 under chapter 18.83 RCW.

14 (54) "Public agency" means any evaluation and treatment facility
15 or institution, or hospital, or approved substance use disorder
16 treatment program that is conducted for, or includes a distinct unit,
17 floor, or ward conducted for, the care and treatment of persons with
18 mental illness, substance use disorders, or both mental illness and
19 substance use disorders if the agency is operated directly by
20 federal, state, county, or municipal government, or a combination of
21 such governments.

22 (55) "Release" means legal termination of the commitment under
23 the provisions of this chapter.

24 (56) "Resource management services" has the meaning given in
25 chapter 71.24 RCW.

26 (57) "Responsible other" means the minor, the minor's parent or
27 estate, or any other person legally responsible for support of the
28 minor.

29 (58) "Secretary" means the secretary of the department or
30 secretary's designee.

31 (59) "Secure withdrawal management and stabilization facility"
32 means a facility operated by either a public or private agency or by
33 the program of an agency which provides care to voluntary individuals
34 and individuals involuntarily detained and committed under this
35 chapter for whom there is a likelihood of serious harm or who are
36 gravely disabled due to the presence of a substance use disorder.
37 Secure withdrawal management and stabilization facilities must:

38 (a) Provide the following services:

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

1 (ii) Clinical stabilization services;
2 (iii) Acute or subacute detoxification services for intoxicated
3 individuals; and
4 (iv) Discharge assistance provided by certified substance use
5 disorder professionals or co-occurring disorder specialists,
6 including facilitating transitions to appropriate voluntary or
7 involuntary inpatient services or to less restrictive alternatives as
8 appropriate for the individual;

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

11 (c) Be licensed or certified as such by the department of health.

12 (60) "Severe deterioration from safe behavior" means that a
13 person will, if not treated, suffer or continue to suffer severe and
14 abnormal mental, emotional, or physical distress, and this distress
15 is associated with significant impairment of judgment, reason, or
16 behavior.

17 (61) "Social worker" means a person with a master's or further
18 advanced degree from a social work educational program accredited and
19 approved as provided in RCW 18.320.010.

20 (62) "Start of initial detention" means the time of arrival of
21 the minor at the first evaluation and treatment facility, secure
22 withdrawal management and stabilization facility, or approved
23 substance use disorder treatment program offering inpatient treatment
24 if the minor is being involuntarily detained at the time. With regard
25 to voluntary patients, "start of initial detention" means the time at
26 which the minor gives notice of intent to leave under the provisions
27 of this chapter.

28 (63) "Store and forward technology" means use of an asynchronous
29 transmission of a person's medical information from a mental health
30 service provider to the designated crisis responder which results in
31 medical diagnosis, consultation, or treatment.

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

38 (65) "Substance use disorder professional" means a person
39 certified as a substance use disorder professional by the department
40 of health under chapter 18.205 RCW.

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

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

20 (68) "Tribe" has the same meaning as in RCW 71.24.025.

21 (69) "Video" means the delivery of behavioral health services
22 through the use of interactive audio and video technology, permitting
23 real-time communication between a person and a designated crisis
24 responder, for the purpose of evaluation. "Video" does not include
25 the use of audio-only telephone, facsimile, email, or store and
26 forward technology.

27 ~~((69))~~ (70) "Violent act" means behavior that resulted in
28 homicide, attempted suicide, injury, or substantial loss or damage to
29 property.

30 **Sec. 9.** RCW 71.05.148 and 2022 c 210 s 3 are each amended to
31 read as follows:

32 (1) A person is in need of assisted outpatient treatment if the
33 court finds by clear, cogent, and convincing evidence pursuant to a
34 petition filed under this section that:

35 (a) The person has a behavioral health disorder;

36 (b) Based on a clinical determination and in view of the person's
37 treatment history and current behavior, at least one of the following
38 is true:

1 (i) The person is unlikely to survive safely in the community
2 without supervision and the person's condition is substantially
3 deteriorating; or

4 (ii) The person is in need of assisted outpatient treatment in
5 order to prevent a relapse or deterioration that would be likely to
6 result in grave disability or a likelihood of serious harm to the
7 person or to others;

8 (c) The person has a history of lack of compliance with treatment
9 for his or her behavioral health disorder that has:

10 (i) At least twice within the 36 months prior to the filing of
11 the petition been a significant factor in necessitating
12 hospitalization of the person, or the person's receipt of services in
13 a forensic or other mental health unit of a state or tribal
14 correctional facility or local correctional facility, provided that
15 the 36-month period shall be extended by the length of any
16 hospitalization or incarceration of the person that occurred within
17 the 36-month period;

18 (ii) At least twice within the 36 months prior to the filing of
19 the petition been a significant factor in necessitating emergency
20 medical care or hospitalization for behavioral health-related medical
21 conditions including overdose, infected abscesses, sepsis,
22 endocarditis, or other maladies, or a significant factor in behavior
23 which resulted in the person's incarceration in a state, tribal, or
24 local correctional facility; or

25 (iii) Resulted in one or more violent acts, threats, or attempts
26 to cause serious physical harm to the person or another within the 48
27 months prior to the filing of the petition, provided that the 48-
28 month period shall be extended by the length of any hospitalization
29 or incarceration of the person that occurred during the 48-month
30 period;

31 (d) Participation in an assisted outpatient treatment program
32 would be the least restrictive alternative necessary to ensure the
33 person's recovery and stability; and

34 (e) The person will benefit from assisted outpatient treatment.

35 (2) The following individuals may directly file a petition for
36 less restrictive alternative treatment on the basis that a person is
37 in need of assisted outpatient treatment:

38 (a) The director of a hospital where the person is hospitalized
39 or the director's designee;

1 (b) The director of a behavioral health service provider
2 providing behavioral health care or residential services to the
3 person or the director's designee;

4 (c) The person's treating mental health professional or substance
5 use disorder professional or one who has evaluated the person;

6 (d) A designated crisis responder;

7 (e) A release planner from a corrections facility; or

8 (f) An emergency room physician.

9 (3) A court order for less restrictive alternative treatment on
10 the basis that the person is in need of assisted outpatient treatment
11 may be effective for up to 18 months. The petitioner must personally
12 interview the person, unless the person refuses an interview, to
13 determine whether the person will voluntarily receive appropriate
14 treatment.

15 (4) The petitioner must allege specific facts based on personal
16 observation, evaluation, or investigation, and must consider the
17 reliability or credibility of any person providing information
18 material to the petition.

19 (5) The petition must include:

20 (a) A statement of the circumstances under which the person's
21 condition was made known and the basis for the opinion, from personal
22 observation or investigation, that the person is in need of assisted
23 outpatient treatment. The petitioner must state which specific facts
24 come from personal observation and specify what other sources of
25 information the petitioner has relied upon to form this belief;

26 (b) A declaration from a physician, physician assistant, advanced
27 registered nurse practitioner, or the person's treating mental health
28 professional or substance use disorder professional, who has examined
29 the person no more than 10 days prior to the submission of the
30 petition and who is willing to testify in support of the petition, or
31 who alternatively has made appropriate attempts to examine the person
32 within the same period but has not been successful in obtaining the
33 person's cooperation, and who is willing to testify to the reasons
34 they believe that the person meets the criteria for assisted
35 outpatient treatment. If the declaration is provided by the person's
36 treating mental health professional or substance use disorder
37 professional, it must be cosigned by a supervising physician,
38 physician assistant, or advanced registered nurse practitioner who
39 certifies that they have reviewed the declaration;

1 (c) The declarations of additional witnesses, if any, supporting
2 the petition for assisted outpatient treatment;

3 (d) The name of an agency, provider, or facility that agrees to
4 provide less restrictive alternative treatment if the petition is
5 granted by the court; and

6 (e) If the person is detained in a state hospital, inpatient
7 treatment facility, jail, or correctional facility at the time the
8 petition is filed, the anticipated release date of the person and any
9 other details needed to facilitate successful reentry and transition
10 into the community.

11 (6)(a) Upon receipt of a petition meeting all requirements of
12 this section, the court shall fix a date for a hearing:

13 (i) No sooner than three days or later than seven days after the
14 date of service or as stipulated by the parties or, upon a showing of
15 good cause, no later than 30 days after the date of service; or

16 (ii) If the respondent is hospitalized at the time of filing of
17 the petition, before discharge of the respondent and in sufficient
18 time to arrange for a continuous transition from inpatient treatment
19 to assisted outpatient treatment.

20 (b) A copy of the petition and notice of hearing shall be served,
21 in the same manner as a summons, on the petitioner, the respondent,
22 the qualified professional whose affidavit accompanied the petition,
23 a current provider, if any, and a surrogate decision maker or agent
24 under chapter 71.32 RCW, if any.

25 (c) If the respondent has a surrogate decision maker or agent
26 under chapter 71.32 RCW who wishes to provide testimony at the
27 hearing, the court shall afford the surrogate decision maker or agent
28 an opportunity to testify.

29 (d) The respondent shall be represented by counsel at all stages
30 of the proceedings.

31 (e) If the respondent fails to appear at the hearing after
32 notice, the court may conduct the hearing in the respondent's
33 absence; provided that the respondent's counsel is present.

34 (f) If the respondent has refused to be examined by the qualified
35 professional whose affidavit accompanied the petition, the court may
36 order a mental examination of the respondent. The examination of the
37 respondent may be performed by the qualified professional whose
38 affidavit accompanied the petition. If the examination is performed
39 by another qualified professional, the examining qualified

1 professional shall be authorized to consult with the qualified
2 professional whose affidavit accompanied the petition.

3 (g) If the respondent has refused to be examined by a qualified
4 professional and the court finds reasonable grounds to believe that
5 the allegations of the petition are true, the court may issue a
6 written order directing a peace officer who has completed crisis
7 intervention training to detain and transport the respondent to a
8 provider for examination by a qualified professional. A respondent
9 detained pursuant to this subsection shall be detained no longer than
10 necessary to complete the examination and in no event longer than 24
11 hours.

12 (7) If the petition involves a person whom the petitioner or
13 behavioral health administrative services organization knows, or has
14 reason to know, is an American Indian or Alaska Native who receives
15 medical or behavioral health services from a tribe within this state,
16 the petitioner or behavioral health administrative services
17 organization shall notify the tribe and Indian health care provider.
18 Notification shall be made in person or by telephonic or electronic
19 communication to the tribal contact listed in the authority's tribal
20 crisis coordination plan as soon as possible, but before the hearing
21 and no later than 24 hours from the time the petition is served upon
22 the person and the person's guardian. The notice to the tribe or
23 Indian health care provider must include a copy of the petition,
24 together with any orders issued by the court and a notice of the
25 tribe's right to intervene. The court clerk shall provide copies of
26 any court orders necessary for the petitioner or the behavioral
27 health administrative services organization to provide notice to the
28 tribe or Indian health care provider under this section.

29 (8) A petition for assisted outpatient treatment filed under this
30 section shall be adjudicated under RCW 71.05.240.

31 (9) After January 1, 2023, a petition for assisted outpatient
32 treatment must be filed on forms developed by the administrative
33 office of the courts.

34 **Sec. 10.** RCW 71.34.815 and 2022 c 210 s 4 are each amended to
35 read as follows:

36 (1) An adolescent is in need of assisted outpatient treatment if
37 the court finds by clear, cogent, and convincing evidence in response
38 to a petition filed under this section that:

39 (a) The adolescent has a behavioral health disorder;

1 (b) Based on a clinical determination and in view of the
2 adolescent's treatment history and current behavior, at least one of
3 the following is true:

4 (i) The adolescent is unlikely to survive safely in the community
5 without supervision and the adolescent's condition is substantially
6 deteriorating; or

7 (ii) The adolescent is in need of assisted outpatient treatment
8 in order to prevent a relapse or deterioration that would be likely
9 to result in grave disability or a likelihood of serious harm to the
10 adolescent or to others;

11 (c) The adolescent has a history of lack of compliance with
12 treatment for his or her behavioral health disorder that has:

13 (i) At least twice within the 36 months prior to the filing of
14 the petition been a significant factor in necessitating
15 hospitalization of the adolescent, or the adolescent's receipt of
16 services in a forensic or other mental health unit of a state
17 (~~(correctional facility or)~~), local, or tribal correctional facility,
18 provided that the 36-month period shall be extended by the length of
19 any hospitalization or incarceration of the adolescent that occurred
20 within the 36-month period;

21 (ii) At least twice within the 36 months prior to the filing of
22 the petition been a significant factor in necessitating emergency
23 medical care or hospitalization for behavioral health-related medical
24 conditions including overdose, infected abscesses, sepsis,
25 endocarditis, or other maladies, or a significant factor in behavior
26 which resulted in the adolescent's incarceration in a state (~~(or)~~),
27 local, or tribal correctional facility; or

28 (iii) Resulted in one or more violent acts, threats, or attempts
29 to cause serious physical harm to the adolescent or another within
30 the 48 months prior to the filing of the petition, provided that the
31 48-month period shall be extended by the length of any
32 hospitalization or incarceration of the person that occurred during
33 the 48-month period;

34 (d) Participation in an assisted outpatient treatment program
35 would be the least restrictive alternative necessary to ensure the
36 adolescent's recovery and stability; and

37 (e) The adolescent will benefit from assisted outpatient
38 treatment.

1 (2) The following individuals may directly file a petition for
2 less restrictive alternative treatment on the basis that an
3 adolescent is in need of assisted outpatient treatment:

4 (a) The director of a hospital where the adolescent is
5 hospitalized or the director's designee;

6 (b) The director of a behavioral health service provider
7 providing behavioral health care or residential services to the
8 adolescent or the director's designee;

9 (c) The adolescent's treating mental health professional or
10 substance use disorder professional or one who has evaluated the
11 person;

12 (d) A designated crisis responder;

13 (e) A release planner from a juvenile detention or rehabilitation
14 facility; or

15 (f) An emergency room physician.

16 (3) A court order for less restrictive alternative treatment on
17 the basis that the adolescent is in need of assisted outpatient
18 treatment may be effective for up to 18 months. The petitioner must
19 personally interview the adolescent, unless the adolescent refuses an
20 interview, to determine whether the adolescent will voluntarily
21 receive appropriate treatment.

22 (4) The petitioner must allege specific facts based on personal
23 observation, evaluation, or investigation, and must consider the
24 reliability or credibility of any person providing information
25 material to the petition.

26 (5) The petition must include:

27 (a) A statement of the circumstances under which the adolescent's
28 condition was made known and the basis for the opinion, from personal
29 observation or investigation, that the adolescent is in need of
30 assisted outpatient treatment. The petitioner must state which
31 specific facts come from personal observation and specify what other
32 sources of information the petitioner has relied upon to form this
33 belief;

34 (b) A declaration from a physician, physician assistant, or
35 advanced registered nurse practitioner, or the adolescent's treating
36 mental health professional or substance use disorder professional,
37 who has examined the adolescent no more than 10 days prior to the
38 submission of the petition and who is willing to testify in support
39 of the petition, or who alternatively has made appropriate attempts
40 to examine the adolescent within the same period but has not been

1 successful in obtaining the adolescent's cooperation, and who is
2 willing to testify to the reasons they believe that the adolescent
3 meets the criteria for assisted outpatient treatment. If the
4 declaration is provided by the adolescent's treating mental health
5 professional or substance use disorder professional, it must be
6 cosigned by a supervising physician, physician assistant, or advanced
7 registered nurse practitioner who certifies that they have reviewed
8 the declaration;

9 (c) The declarations of additional witnesses, if any, supporting
10 the petition for assisted outpatient treatment;

11 (d) The name of an agency, provider, or facility that agrees to
12 provide less restrictive alternative treatment if the petition is
13 granted by the court; and

14 (e) If the adolescent is detained in a state hospital, inpatient
15 treatment facility, or juvenile detention or rehabilitation facility
16 at the time the petition is filed, the anticipated release date of
17 the adolescent and any other details needed to facilitate successful
18 reentry and transition into the community.

19 (6)(a) Upon receipt of a petition meeting all requirements of
20 this section, the court shall fix a date for a hearing:

21 (i) No sooner than three days or later than seven days after the
22 date of service or as stipulated by the parties or, upon a showing of
23 good cause, no later than 30 days after the date of service; or

24 (ii) If the adolescent is hospitalized at the time of filing of
25 the petition, before discharge of the adolescent and in sufficient
26 time to arrange for a continuous transition from inpatient treatment
27 to assisted outpatient treatment.

28 (b) A copy of the petition and notice of hearing shall be served,
29 in the same manner as a summons, on the petitioner, the adolescent,
30 the qualified professional whose affidavit accompanied the petition,
31 a current provider, if any, and a surrogate decision maker or agent
32 under chapter 71.32 RCW, if any.

33 (c) If the adolescent has a surrogate decision maker or agent
34 under chapter 71.32 RCW who wishes to provide testimony at the
35 hearing, the court shall afford the surrogate decision maker or agent
36 an opportunity to testify.

37 (d) The adolescent shall be represented by counsel at all stages
38 of the proceedings.

1 (e) If the adolescent fails to appear at the hearing after
2 notice, the court may conduct the hearing in the adolescent's
3 absence; provided that the adolescent's counsel is present.

4 (f) If the adolescent has refused to be examined by the qualified
5 professional whose affidavit accompanied the petition, the court may
6 order a mental examination of the adolescent. The examination of the
7 adolescent may be performed by the qualified professional whose
8 affidavit accompanied the petition. If the examination is performed
9 by another qualified professional, the examining qualified
10 professional shall be authorized to consult with the qualified
11 professional whose affidavit accompanied the petition.

12 (g) If the adolescent has refused to be examined by a qualified
13 professional and the court finds reasonable grounds to believe that
14 the allegations of the petition are true, the court may issue a
15 written order directing a peace officer who has completed crisis
16 intervention training to detain and transport the adolescent to a
17 provider for examination by a qualified professional. An adolescent
18 detained pursuant to this subsection shall be detained no longer than
19 necessary to complete the examination and in no event longer than 24
20 hours. All papers in the court file must be provided to the
21 adolescent's designated attorney.

22 (7) If the petition involves an adolescent whom the petitioner or
23 behavioral health administrative services organization knows, or has
24 reason to know, is an American Indian or Alaska Native who receives
25 medical or behavioral health services from a tribe within this state,
26 the petitioner or behavioral health administrative services
27 organization shall notify the tribe and Indian health care provider.
28 Notification shall be made in person or by telephonic or electronic
29 communication to the tribal contact listed in the authority's tribal
30 crisis coordination plan as soon as possible, but before the hearing
31 and no later than 24 hours from the time the petition is served upon
32 the person and the person's guardian. The notice to the tribe or
33 Indian health care provider must include a copy of the petition,
34 together with any orders issued by the court and a notice of the
35 tribe's right to intervene. The court clerk shall provide copies of
36 any court orders necessary for the petitioner or the behavioral
37 health administrative services organization to provide notice to the
38 tribe or Indian health care provider under this section.

39 (8) A petition for assisted outpatient treatment filed under this
40 section shall be adjudicated under RCW 71.34.740.

1 (9) After January 1, 2023, a petition for assisted outpatient
2 treatment must be filed on forms developed by the administrative
3 office of the courts.

4 **Sec. 11.** RCW 71.05.150 and 2023 c 433 s 6 are each amended to
5 read as follows:

6 (1) When a designated crisis responder receives information
7 alleging that a person, as a result of a behavioral health disorder,
8 presents a likelihood of serious harm or is gravely disabled, the
9 designated crisis responder may, after investigation and evaluation
10 of the specific facts alleged and of the reliability and credibility
11 of any person providing information to initiate detention, if
12 satisfied that the allegations are true and that the person will not
13 voluntarily seek appropriate treatment, file a petition for initial
14 detention under this section. Before filing the petition, the
15 designated crisis responder must personally interview the person,
16 unless the person refuses an interview, and determine whether the
17 person will voluntarily receive appropriate evaluation and treatment
18 at an evaluation and treatment facility, crisis stabilization unit,
19 23-hour crisis relief center, secure withdrawal management and
20 stabilization facility, or approved substance use disorder treatment
21 program. As part of the assessment, the designated crisis responder
22 must attempt to ascertain if the person has executed a mental health
23 advance directive under chapter 71.32 RCW. The interview performed by
24 the designated crisis responder may be conducted by video provided
25 that a licensed health care professional or professional person who
26 can adequately and accurately assist with obtaining any necessary
27 information is present with the person at the time of the interview.

28 (2)(a) A superior court judge may issue a warrant to detain a
29 person with a behavioral health disorder to a designated evaluation
30 and treatment facility, a secure withdrawal management and
31 stabilization facility, or an approved substance use disorder
32 treatment program, for a period of not more than (~~one hundred~~
33 ~~twenty~~) 120 hours for evaluation and treatment upon request of a
34 designated crisis responder, subject to (d) of this subsection,
35 whenever it appears to the satisfaction of the judge that:

36 (i) There is probable cause to support the petition; and

37 (ii) The person has refused or failed to accept appropriate
38 evaluation and treatment voluntarily.

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

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

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

15 (e) If the court does not issue an order to detain a person
16 pursuant to this subsection (2), the court shall issue an order to
17 dismiss the initial petition.

18 (3) The designated crisis responder shall then serve or cause to
19 be served on such person and his or her guardian, if any, a copy of
20 the order together with a notice of rights, and a petition for
21 initial detention. After service on such person the designated crisis
22 responder shall file the return of service in court and provide
23 copies of all papers in the court file to the evaluation and
24 treatment facility, secure withdrawal management and stabilization
25 facility, or approved substance use disorder treatment program, and
26 the designated attorney. The designated crisis responder shall notify
27 the court and the prosecuting attorney that a probable cause hearing
28 will be held within (~~one hundred twenty~~) 120 hours of the date and
29 time of outpatient evaluation or admission to the evaluation and
30 treatment facility, secure withdrawal management and stabilization
31 facility, or approved substance use disorder treatment program. The
32 person shall be permitted to be accompanied by one or more of his or
33 her relatives, friends, an attorney, a personal physician, or other
34 professional or religious advisor or traditional cultural healer to
35 the place of evaluation. An attorney accompanying the person to the
36 place of evaluation shall be permitted to be present during the
37 admission evaluation. Any other individual accompanying the person
38 may be present during the admission evaluation. The facility may
39 exclude the individual if his or her presence would present a safety

1 risk, delay the proceedings, or otherwise interfere with the
2 evaluation.

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

12 ~~(5) ((Tribal court orders for involuntary commitment shall be
13 recognized and enforced in accordance with superior court civil rule
14 82.5.~~

15 ~~(6))~~ In any investigation and evaluation of an individual under
16 this section or RCW 71.05.153 in which the designated crisis
17 responder knows, or has reason to know, that the individual is an
18 American Indian or Alaska Native who receives medical or behavioral
19 health services from a tribe within this state, the designated crisis
20 responder shall notify the tribe and Indian health care provider
21 ~~((regarding))~~ whether or not a petition for initial detention or
22 involuntary outpatient treatment will be filed~~((. Notification))~~ as
23 soon as possible, but no later than three hours from the time the
24 decision is made. If a petition for initial detention or involuntary
25 outpatient treatment is filed, the designated crisis responder must
26 provide the tribe and Indian health care provider with a copy of the
27 petition, together with any orders issued by the court and a notice
28 of the tribe's right to intervene as soon as possible, but before the
29 hearing, and no later than 24 hours from the time the petition is
30 served upon the person and the person's guardian. The court clerk
31 shall provide copies of any court orders necessary for the designated
32 crisis responder to provide notice to the tribe or Indian health care
33 provider under this section. Notification under this section is
34 subject to any federal and state laws and regulations including the
35 requirements in RCW 70.02.230 (2)(ee) and (3) and shall be made in
36 person or by telephonic or electronic communication to the tribal
37 contact listed in the authority's tribal crisis coordination plan
38 ~~((as soon as possible but no later than three hours subject to the~~
39 ~~requirements in RCW 70.02.230 (2)(ee) and (3). A designated crisis~~

1 ~~responder may restrict the release of information as necessary to~~
2 ~~comply with 42 C.F.R. Part 2)).~~

3 **Sec. 12.** RCW 71.05.150 and 2023 c 433 s 7 are each amended to
4 read as follows:

5 (1) When a designated crisis responder receives information
6 alleging that a person, as a result of a behavioral health disorder,
7 presents a likelihood of serious harm or is gravely disabled, the
8 designated crisis responder may, after investigation and evaluation
9 of the specific facts alleged and of the reliability and credibility
10 of any person providing information to initiate detention, if
11 satisfied that the allegations are true and that the person will not
12 voluntarily seek appropriate treatment, file a petition for initial
13 detention under this section. Before filing the petition, the
14 designated crisis responder must personally interview the person,
15 unless the person refuses an interview, and determine whether the
16 person will voluntarily receive appropriate evaluation and treatment
17 at an evaluation and treatment facility, crisis stabilization unit,
18 23-hour crisis relief center, secure withdrawal management and
19 stabilization facility, or approved substance use disorder treatment
20 program. As part of the assessment, the designated crisis responder
21 must attempt to ascertain if the person has executed a mental health
22 advance directive under chapter 71.32 RCW. The interview performed by
23 the designated crisis responder may be conducted by video provided
24 that a licensed health care professional or professional person who
25 can adequately and accurately assist with obtaining any necessary
26 information is present with the person at the time of the interview.

27 (2)(a) A superior court judge may issue a warrant to detain a
28 person with a behavioral health disorder to a designated evaluation
29 and treatment facility, a secure withdrawal management and
30 stabilization facility, or an approved substance use disorder
31 treatment program, for a period of not more than (~~one hundred~~
32 ~~twenty~~) 120 hours for evaluation and treatment upon request of a
33 designated crisis responder whenever it appears to the satisfaction
34 of the judge that:

35 (i) There is probable cause to support the petition; and
36 (ii) The person has refused or failed to accept appropriate
37 evaluation and treatment voluntarily.

38 (b) The petition for initial detention, signed under penalty of
39 perjury, or sworn telephonic testimony may be considered by the court

1 in determining whether there are sufficient grounds for issuing the
2 order.

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

7 (d) If the court does not issue an order to detain a person
8 pursuant to this subsection (2), the court shall issue an order to
9 dismiss the initial petition.

10 (3) The designated crisis responder shall then serve or cause to
11 be served on such person and his or her guardian, if any, a copy of
12 the order together with a notice of rights, and a petition for
13 initial detention. After service on such person the designated crisis
14 responder shall file the return of service in court and provide
15 copies of all papers in the court file to the evaluation and
16 treatment facility, secure withdrawal management and stabilization
17 facility, or approved substance use disorder treatment program, and
18 the designated attorney. The designated crisis responder shall notify
19 the court and the prosecuting attorney that a probable cause hearing
20 will be held within (~~one hundred twenty~~) 120 hours of the date and
21 time of outpatient evaluation or admission to the evaluation and
22 treatment facility, secure withdrawal management and stabilization
23 facility, or approved substance use disorder treatment program. The
24 person shall be permitted to be accompanied by one or more of his or
25 her relatives, friends, an attorney, a personal physician, or other
26 professional or religious advisor or traditional cultural healer to
27 the place of evaluation. An attorney accompanying the person to the
28 place of evaluation shall be permitted to be present during the
29 admission evaluation. Any other individual accompanying the person
30 may be present during the admission evaluation. The facility may
31 exclude the individual if his or her presence would present a safety
32 risk, delay the proceedings, or otherwise interfere with the
33 evaluation.

34 (4) The designated crisis responder may notify a peace officer to
35 take such person or cause such person to be taken into custody and
36 placed in an evaluation and treatment facility, secure withdrawal
37 management and stabilization facility, or approved substance use
38 disorder treatment program. At the time such person is taken into
39 custody there shall commence to be served on such person, his or her
40 guardian, and conservator, if any, a copy of the original order

1 together with a notice of rights and a petition for initial
2 detention.

3 ~~(5) ((Tribal court orders for involuntary commitment shall be
4 recognized and enforced in accordance with superior court civil rule
5 82.5.~~

6 ~~(6))~~) In any investigation and evaluation of an individual under
7 this section or RCW 71.05.153 in which the designated crisis
8 responder knows, or has reason to know, that the individual is an
9 American Indian or Alaska Native who receives medical or behavioral
10 health services from a tribe within this state, the designated crisis
11 responder shall notify the tribe and Indian health care provider
12 ~~((regarding))~~ whether or not a petition for initial detention or
13 involuntary outpatient treatment will be filed~~((--Notification))~~ as
14 soon as possible, but no later than three hours from the time the
15 decision is made. If a petition for initial detention or involuntary
16 outpatient treatment is filed, the designated crisis responder must
17 provide the tribe and Indian health care provider with a copy of the
18 petition, together with any orders issued by the court and a notice
19 of the tribe's right to intervene as soon as possible, but before the
20 hearing, and no later than 24 hours from the time the petition is
21 served upon the person and the person's guardian. The court clerk
22 shall provide copies of any court orders necessary for the designated
23 crisis responder to provide notice to the tribe or Indian health care
24 provider under this section. Notification under this section is
25 subject to any federal and state laws and regulations including the
26 requirements in RCW 70.02.230 (2)(ee) and (3) and shall be made in
27 person or by telephonic or electronic communication to the tribal
28 contact listed in the authority's tribal crisis coordination plan
29 ~~((as soon as possible but no later than three hours subject to the~~
30 ~~requirements in RCW 70.02.230 (2)(ee) and (3). A designated crisis~~
31 ~~responder may restrict the release of information as necessary to~~
32 ~~comply with 42 C.F.R. Part 2)).~~

33 **Sec. 13.** RCW 71.34.710 and 2021 c 264 s 31 are each amended to
34 read as follows:

35 (1)(a) When a designated crisis responder receives information
36 that an adolescent as a result of a behavioral health disorder
37 presents a likelihood of serious harm or is gravely disabled, has
38 investigated the specific facts alleged and of the credibility of the
39 person or persons providing the information, and has determined that

1 voluntary admission for inpatient treatment is not possible, the
2 designated crisis responder may take the adolescent, or cause the
3 adolescent to be taken, into custody and transported to an evaluation
4 and treatment facility, secure withdrawal management and
5 stabilization facility, or approved substance use disorder treatment
6 program providing inpatient treatment.

7 A secure withdrawal management and stabilization facility or
8 approved substance use disorder treatment program must be available
9 and have adequate space for the adolescent.

10 (b) If a designated crisis responder decides not to detain an
11 adolescent for evaluation and treatment under RCW 71.34.700(2), or
12 (~~forty-eight~~) 48 hours have elapsed since a designated crisis
13 responder received a request for investigation and the designated
14 crisis responder has not taken action to have the adolescent
15 detained, an immediate family member or guardian or conservator of
16 the adolescent, or a (~~federally-recognized-Indian~~) tribe if the
17 person is a member of such tribe, may petition the superior court for
18 the adolescent's detention using the procedures under RCW 71.05.201
19 and 71.05.203; however, when the court enters an order of initial
20 detention, except as otherwise expressly stated in this chapter, all
21 procedures must be followed as if the order has been entered under
22 (a) of this subsection.

23 (c) The interview performed by the designated crisis responder
24 may be conducted by video provided that a licensed health care
25 professional or professional person who can adequately and accurately
26 assist with obtaining any necessary information is present with the
27 person at the time of the interview.

28 (2)(a) Within (~~twelve~~) 12 hours of the adolescent's arrival at
29 the evaluation and treatment facility, secure withdrawal management
30 and stabilization facility, or approved substance use disorder
31 treatment program, the designated crisis responder shall serve or
32 cause to be served on the adolescent a copy of the petition for
33 initial detention, notice of initial detention, and statement of
34 rights. The designated crisis responder shall file with the court on
35 the next judicial day following the initial detention the original
36 petition for initial detention, notice of initial detention, and
37 statement of rights along with an affidavit of service. The
38 designated crisis responder shall commence service of the petition
39 for initial detention and notice of the initial detention on the

1 adolescent's parent and the adolescent's attorney as soon as possible
2 following the initial detention.

3 (b) The facility or program may serve the adolescent, notify the
4 adolescent's parents and the adolescent's attorney, and file with the
5 court on the next judicial day following the initial detention the
6 original petition for initial detention, notice of initial detention,
7 and statement of rights along with an affidavit of service when
8 filing with the court at the request of the designated crisis
9 responder.

10 (3) (a) At the time of initial detention, the designated crisis
11 responder shall advise the adolescent both orally and in writing that
12 if admitted to the evaluation and treatment facility, secure
13 withdrawal management and stabilization facility, or approved
14 substance use disorder treatment program for inpatient treatment, a
15 commitment hearing shall be held within (~~one hundred twenty~~) 120
16 hours of the adolescent's provisional acceptance to determine whether
17 probable cause exists to commit the adolescent for further treatment.

18 (b) The adolescent shall be advised that he or she has a right to
19 communicate immediately with an attorney and that he or she has a
20 right to have an attorney appointed to represent him or her before
21 and at the hearing if the adolescent is indigent.

22 (4) Subject to subsection (5) of this section, whenever the
23 designated crisis responder petitions for detention of an adolescent
24 under this chapter, an evaluation and treatment facility, secure
25 withdrawal management and stabilization facility, or approved
26 substance use disorder treatment program providing (~~one hundred~~
27 ~~twenty~~) 120-hour evaluation and treatment must immediately accept on
28 a provisional basis the petition and the person. Within (~~twenty-~~
29 ~~four~~) 24 hours of the adolescent's arrival, the facility must
30 evaluate the adolescent's condition and either admit or release the
31 adolescent in accordance with this chapter.

32 (5) A designated crisis responder may not petition for detention
33 of an adolescent to a secure withdrawal management and stabilization
34 facility or approved substance use disorder treatment program unless
35 there is a secure withdrawal management and stabilization facility or
36 approved substance use disorder treatment program available and that
37 has adequate space for the adolescent.

38 (6) If an adolescent is not approved for admission by the
39 inpatient evaluation and treatment facility, secure withdrawal
40 management and stabilization facility, or approved substance use

1 disorder treatment program, the facility shall make such
2 recommendations and referrals for further care and treatment of the
3 adolescent as necessary.

4 (7) Dismissal of a commitment petition is not the appropriate
5 remedy for a violation of the timeliness requirements of this
6 section, based on the purpose of this chapter under RCW 71.34.010,
7 except in the few cases where the facility staff or the designated
8 crisis responder have totally disregarded the requirements of this
9 section.

10 (8) ~~((Tribal court orders for involuntary commitment shall be
11 recognized and enforced in accordance with superior court civil rule
12 82.5.~~

13 ~~(9))~~ In any investigation and evaluation of ~~((a juvenile))~~ an
14 adolescent under this section in which the designated crisis
15 responder knows, or has reason to know, that the ~~((juvenile))~~
16 adolescent is an American Indian or Alaska Native who receives
17 medical or behavioral health services from a tribe within this state,
18 the designated crisis responder shall notify the tribe and the Indian
19 health care provider ~~((regarding))~~ whether or not a petition for
20 initial detention or involuntary outpatient treatment will be
21 filed~~((. Notification))~~ as soon as possible, but no later than three
22 hours from the time the decision is made. If a petition for initial
23 detention or involuntary outpatient treatment is filed, the
24 designated crisis responder must provide the tribe with a copy of the
25 petition, together with any orders issued by the court and a notice
26 of the tribe's right to intervene as soon as possible, but before the
27 hearing, and no later than 24 hours from the time the petition is
28 served upon the person and the person's guardian. The court clerk
29 shall provide copies of any court orders necessary for the designated
30 crisis responder to provide notice to the tribe or Indian health care
31 provider under this section. Notification under this section is
32 subject to any federal and state laws and regulations including the
33 requirements in RCW 70.02.240 and shall be made in person or by
34 telephonic or electronic communication to the tribal contact listed
35 in the authority's tribal crisis coordination plan ~~((as soon as~~
36 possible but no later than three hours subject to the requirements in
37 RCW 70.02.230 (2)(ee) and (3). A designated crisis responder may
38 restrict the release of information as necessary to comply with
39 C.F.R. Part 2).

1 **Sec. 14.** RCW 71.34.710 and 2021 c 264 s 32 are each amended to
2 read as follows:

3 (1)(a) When a designated crisis responder receives information
4 that an adolescent as a result of a behavioral health disorder
5 presents a likelihood of serious harm or is gravely disabled, has
6 investigated the specific facts alleged and of the credibility of the
7 person or persons providing the information, and has determined that
8 voluntary admission for inpatient treatment is not possible, the
9 designated crisis responder may take the adolescent, or cause the
10 adolescent to be taken, into custody and transported to an evaluation
11 and treatment facility, secure withdrawal management and
12 stabilization facility, or approved substance use disorder treatment
13 program providing inpatient treatment.

14 (b) If a designated crisis responder decides not to detain an
15 adolescent for evaluation and treatment under RCW 71.34.700(2), or
16 (~~forty-eight~~) 48 hours have elapsed since a designated crisis
17 responder received a request for investigation and the designated
18 crisis responder has not taken action to have the adolescent
19 detained, an immediate family member or guardian or conservator of
20 the adolescent, or a (~~federally-recognized-Indian~~) tribe if the
21 person is a member of such tribe, may petition the superior court for
22 the adolescent's detention using the procedures under RCW 71.05.201
23 and 71.05.203; however, when the court enters an order of initial
24 detention, except as otherwise expressly stated in this chapter, all
25 procedures must be followed as if the order has been entered under
26 (a) of this subsection.

27 (c) The interview performed by the designated crisis responder
28 may be conducted by video provided that a licensed health care
29 professional or professional person who can adequately and accurately
30 assist with obtaining any necessary information is present with the
31 person at the time of the interview.

32 (2)(a) Within (~~twelve~~) 12 hours of the adolescent's arrival at
33 the evaluation and treatment facility, secure withdrawal management
34 and stabilization facility, or approved substance use disorder
35 treatment program, the designated crisis responder shall serve or
36 cause to be served on the adolescent a copy of the petition for
37 initial detention, notice of initial detention, and statement of
38 rights. The designated crisis responder shall file with the court on
39 the next judicial day following the initial detention the original
40 petition for initial detention, notice of initial detention, and

1 statement of rights along with an affidavit of service. The
2 designated crisis responder shall commence service of the petition
3 for initial detention and notice of the initial detention on the
4 adolescent's parent and the adolescent's attorney as soon as possible
5 following the initial detention.

6 (b) The facility or program may serve the adolescent, notify the
7 adolescent's parents and the adolescent's attorney, and file with the
8 court on the next judicial day following the initial detention the
9 original petition for initial detention, notice of initial detention,
10 and statement of rights along with an affidavit of service when
11 filing with the court at the request of the designated crisis
12 responder.

13 (3) (a) At the time of initial detention, the designated crisis
14 responder shall advise the adolescent both orally and in writing that
15 if admitted to the evaluation and treatment facility, secure
16 withdrawal management and stabilization facility, or approved
17 substance use disorder treatment program for inpatient treatment, a
18 commitment hearing shall be held within (~~one hundred twenty~~) 120
19 hours of the adolescent's provisional acceptance to determine whether
20 probable cause exists to commit the adolescent for further treatment.

21 (b) The adolescent shall be advised that he or she has a right to
22 communicate immediately with an attorney and that he or she has a
23 right to have an attorney appointed to represent him or her before
24 and at the hearing if the adolescent is indigent.

25 (4) Whenever the designated crisis responder petitions for
26 detention of an adolescent under this chapter, an evaluation and
27 treatment facility, secure withdrawal management and stabilization
28 facility, or approved substance use disorder treatment program
29 providing (~~one hundred twenty~~) 120-hour evaluation and treatment
30 must immediately accept on a provisional basis the petition and the
31 person. Within (~~twenty-four~~) 24 hours of the adolescent's arrival,
32 the facility must evaluate the adolescent's condition and either
33 admit or release the adolescent in accordance with this chapter.

34 (5) If an adolescent is not approved for admission by the
35 inpatient evaluation and treatment facility, secure withdrawal
36 management and stabilization facility, or approved substance use
37 disorder treatment program, the facility shall make such
38 recommendations and referrals for further care and treatment of the
39 adolescent as necessary.

1 (6) Dismissal of a commitment petition is not the appropriate
2 remedy for a violation of the timeliness requirements of this
3 section, based on the purpose of this chapter under RCW 71.34.010,
4 except in the few cases where the facility staff or the designated
5 crisis responder have totally disregarded the requirements of this
6 section.

7 ~~((Tribal court orders for involuntary commitment shall be
8 recognized and enforced in accordance with superior court civil rule
9 82.5.~~

10 ~~(8))~~ In any investigation and evaluation of ~~((a juvenile))~~ an
11 adolescent under this section in which the designated crisis
12 responder knows, or has reason to know, that the ~~((juvenile))~~
13 adolescent is an American Indian or Alaska Native who receives
14 medical or behavioral health services from a tribe within this state,
15 the designated crisis responder shall notify the tribe and the Indian
16 health care provider ~~((regarding))~~ whether or not a petition for
17 initial detention or involuntary outpatient treatment will be
18 filed~~((. Notification))~~ as soon as possible, but no later than three
19 hours from the time the decision is made. If a petition for initial
20 detention or involuntary outpatient treatment is filed, the
21 designated crisis responder must provide the tribe with a copy of the
22 petition, together with any orders issued by the court and a notice
23 of the tribe's right to intervene as soon as possible, but before the
24 hearing, and no later than 24 hours from the time the petition is
25 served upon the person and the person's guardian. The court clerk
26 shall provide copies of any court orders necessary for the designated
27 crisis responder to provide notice to the tribe or Indian health care
28 provider under this section. Notification under this section is
29 subject to any federal and state laws and regulations including the
30 requirements in RCW 70.02.240 and shall be made in person or by
31 telephonic or electronic communication to the tribal contact listed
32 in the authority's tribal crisis coordination plan ~~((as seen as~~
33 ~~possible but no later than three hours subject to the requirements in~~
34 ~~RCW 70.02.230 (2)(ee) and (3). A designated crisis responder may~~
35 ~~restrict the release of information as necessary to comply with~~
36 ~~C.F.R. Part 2)).~~

37 **Sec. 15.** RCW 71.05.195 and 2020 c 302 s 23 are each amended to
38 read as follows:

1 (1) A civil commitment may be initiated under the procedures
2 described in RCW 71.05.150 or 71.05.153 for a person who has been
3 found not guilty by reason of insanity in a state other than
4 Washington or a tribe and who has fled from detention, commitment, or
5 conditional release in that state or tribe, on the basis of a request
6 by the state or tribe in which the person was found not guilty by
7 reason of insanity for the person to be detained and transferred back
8 to the custody or care of the requesting state or tribe. A finding of
9 likelihood of serious harm or grave disability is not required for a
10 commitment under this section. The detention may occur at either an
11 evaluation and treatment facility or a state hospital. The petition
12 for (~~one hundred twenty~~) 120-hour detention filed by the designated
13 crisis responder must be accompanied by the following documents:

14 (a) A copy of an order for detention, commitment, or conditional
15 release of the person in a state other than Washington or tribe on
16 the basis of a judgment of not guilty by reason of insanity;

17 (b) A warrant issued by a magistrate in the state or tribe in
18 which the person was found not guilty by reason of insanity
19 indicating that the person has fled from detention, commitment, or
20 conditional release in that state or tribe and authorizing the
21 detention of the person within the state or tribe in which the person
22 was found not guilty by reason of insanity;

23 (c) A statement from the executive authority of the state or
24 tribe in which the person was found not guilty by reason of insanity
25 requesting that the person be returned to the requesting state or
26 tribe and agreeing to facilitate the transfer of the person to the
27 requesting state or tribe.

28 (2) The person shall be entitled to a probable cause hearing
29 within the time limits applicable to other detentions under this
30 chapter and shall be afforded the rights described in this chapter
31 including the right to counsel. At the probable cause hearing, the
32 court shall determine the identity of the person and whether the
33 other requirements of this section are met. If the court so finds,
34 the court may order continued detention in a treatment facility for
35 up to (~~thirty~~) 30 days for the purpose of the transfer of the
36 person to the custody or care of the requesting state or tribe. The
37 court may order a less restrictive alternative to detention only
38 under conditions which ensure the person's safe transfer to the
39 custody or care of the requesting state or tribe within (~~thirty~~) 30
40 days without undue risk to the safety of the person or others.

1 (3) For the purposes of this section, "not guilty by reason of
2 insanity" shall be construed to include any provision of law which is
3 generally equivalent to a finding of criminal insanity within the
4 state of Washington; and "state" shall be construed to mean any
5 state, district, or territory of the United States.

6 **Sec. 16.** RCW 71.05.201 and 2022 c 210 s 8 are each amended to
7 read as follows:

8 (1) If a designated crisis responder decides not to detain a
9 person for evaluation and treatment under RCW 71.05.150 or 71.05.153
10 or (~~forty-eight~~) 48 hours have elapsed since a designated crisis
11 responder received a request for investigation and the designated
12 crisis responder has not taken action to have the person detained, an
13 immediate family member or guardian of the person, or a (~~federally~~
14 ~~recognized Indian~~) tribe if the person is a member of such a tribe,
15 may petition the superior court for the person's initial detention.

16 (2) A petition under this section must be filed within (~~ten~~) 10
17 calendar days following the designated crisis responder investigation
18 or the request for a designated crisis responder investigation. If
19 more than (~~ten~~) 10 days have elapsed, the immediate family member,
20 guardian, (~~or~~) conservator, or a tribe if the person is a member of
21 such a tribe, may request a new designated crisis responder
22 investigation.

23 (3)(a) The petition must be filed in the county in which the
24 designated crisis responder investigation occurred or was requested
25 to occur and must be submitted on forms developed by the
26 administrative office of the courts for this purpose. The petition
27 must be accompanied by a sworn declaration from the petitioner, and
28 other witnesses if desired, describing why the person should be
29 detained for evaluation and treatment. The description of why the
30 person should be detained may contain, but is not limited to, the
31 information identified in RCW 71.05.212.

32 (b) The petition must contain:

33 (i) A description of the relationship between the petitioner and
34 the person; and

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

37 (4) The court shall, within one judicial day, review the petition
38 to determine whether the petition raises sufficient evidence to
39 support the allegation. If the court so finds, it shall provide a

1 copy of the petition to the designated crisis responder agency with
2 an order for the agency to provide the court, within one judicial
3 day, with a written sworn statement describing the basis for the
4 decision not to seek initial detention and a copy of all information
5 material to the designated crisis responder's current decision.

6 (5) Following the filing of the petition and before the court
7 reaches a decision, any person, including a mental health
8 professional, may submit a sworn declaration to the court in support
9 of or in opposition to initial detention.

10 (6) The court shall dismiss the petition at any time if it finds
11 that a designated crisis responder has filed a petition for the
12 person's initial detention under RCW 71.05.150 or 71.05.153 or that
13 the person has voluntarily accepted appropriate treatment.

14 (7) The court must issue a final ruling on the petition within
15 five judicial days after it is filed. After reviewing all of the
16 information provided to the court, the court may enter an order for
17 initial detention if the court finds that: (a) There is probable
18 cause to support a petition for detention; and (b) the person has
19 refused or failed to accept appropriate evaluation and treatment
20 voluntarily. The court shall transmit its final decision to the
21 petitioner.

22 (8) If the court enters an order for initial detention, it shall
23 provide the order to the designated crisis responder agency and issue
24 a warrant. The designated crisis responder agency serving the
25 jurisdiction of the court must collaborate and coordinate with law
26 enforcement, including tribal law enforcement, regarding
27 apprehensions and detentions under this subsection, including sharing
28 of information relating to risk and which would assist in locating
29 the person. A person may not be detained to jail pursuant to a
30 warrant issued under this subsection. An order for detention under
31 this section should contain the advisement of rights which the person
32 would receive if the person were detained by a designated crisis
33 responder. An order for initial detention under this section expires
34 (~~one hundred eighty~~) 180 days from issuance.

35 (9) Except as otherwise expressly stated in this chapter, all
36 procedures must be followed as if the order had been entered under
37 RCW 71.05.150. RCW 71.05.160 does not apply if detention was
38 initiated under the process set forth in this section.

1 (10) For purposes of this section, "immediate family member"
2 means a spouse, domestic partner, child, stepchild, parent,
3 stepparent, grandparent, or sibling.

4 **Sec. 17.** RCW 71.05.212 and 2022 c 210 s 9 are each amended to
5 read as follows:

6 (1) Whenever a designated crisis responder or professional person
7 is conducting an evaluation under this chapter, consideration shall
8 include all reasonably available information from credible witnesses
9 and records regarding:

10 (a) Prior recommendations for evaluation of the need for civil
11 commitments when the recommendation is made pursuant to an evaluation
12 conducted under chapter 10.77 RCW;

13 (b) Historical behavior, including history of one or more violent
14 acts;

15 (c) Prior determinations of incompetency or insanity under
16 chapter 10.77 RCW; and

17 (d) Prior commitments under this chapter.

18 (2) Credible witnesses may include family members, landlords,
19 neighbors, or others with significant contact and history of
20 involvement with the person. If the designated crisis responder
21 relies upon information from a credible witness in reaching his or
22 her decision to detain the individual, then he or she must provide
23 contact information for any such witness to the prosecutor. The
24 designated crisis responder or prosecutor shall provide notice of the
25 date, time, and location of the probable cause hearing to such a
26 witness.

27 (3) Symptoms and behavior of the respondent which standing alone
28 would not justify civil commitment may support a finding of grave
29 disability or likelihood of serious harm, or a finding that the
30 person is in need of assisted outpatient treatment, when:

31 (a) Such symptoms or behavior are closely associated with
32 symptoms or behavior which preceded and led to a past incident of
33 involuntary hospitalization, severe deterioration, or one or more
34 violent acts;

35 (b) These symptoms or behavior represent a marked and concerning
36 change in the baseline behavior of the respondent; and

37 (c) Without treatment, the continued deterioration of the
38 respondent is probable.

1 (4) When conducting an evaluation for offenders identified under
2 RCW 72.09.370, the designated crisis responder or professional person
3 shall consider an offender's history of judicially required or
4 administratively ordered antipsychotic medication while in
5 confinement.

6 (5) The authority, in consultation with tribes and in
7 coordination with Indian health care providers and the American
8 Indian health commission for Washington state, shall establish
9 written guidelines by December 31, 2024, for conducting culturally
10 appropriate evaluations of American Indians or Alaska Natives.

11 **Sec. 18.** RCW 71.05.212 and 2022 c 210 s 10 are each amended to
12 read as follows:

13 (1) Whenever a designated crisis responder or professional person
14 is conducting an evaluation under this chapter, consideration shall
15 include all reasonably available information from credible witnesses
16 and records regarding:

17 (a) Prior recommendations for evaluation of the need for civil
18 commitments when the recommendation is made pursuant to an evaluation
19 conducted under chapter 10.77 RCW;

20 (b) Historical behavior, including history of one or more violent
21 acts;

22 (c) Prior determinations of incompetency or insanity under
23 chapter 10.77 RCW; and

24 (d) Prior commitments under this chapter.

25 (2) Credible witnesses may include family members, landlords,
26 neighbors, or others with significant contact and history of
27 involvement with the person. If the designated crisis responder
28 relies upon information from a credible witness in reaching his or
29 her decision to detain the individual, then he or she must provide
30 contact information for any such witness to the prosecutor. The
31 designated crisis responder or prosecutor shall provide notice of the
32 date, time, and location of the probable cause hearing to such a
33 witness.

34 (3) Symptoms and behavior of the respondent which standing alone
35 would not justify civil commitment may support a finding of grave
36 disability or likelihood of serious harm, or a finding that the
37 person is in need of assisted outpatient treatment, when:

38 (a) Such symptoms or behavior are closely associated with
39 symptoms or behavior which preceded and led to a past incident of

1 involuntary hospitalization, severe deterioration from safe behavior,
2 or one or more violent acts;

3 (b) These symptoms or behavior represent a marked and concerning
4 change in the baseline behavior of the respondent; and

5 (c) Without treatment, the continued deterioration of the
6 respondent is probable.

7 (4) When conducting an evaluation for offenders identified under
8 RCW 72.09.370, the designated crisis responder or professional person
9 shall consider an offender's history of judicially required or
10 administratively ordered antipsychotic medication while in
11 confinement.

12 (5) The authority, in consultation with tribes and in
13 coordination with Indian health care providers and the American
14 Indian health commission for Washington state, shall establish
15 written guidelines by December 31, 2024, for conducting culturally
16 appropriate evaluations of American Indians or Alaska Natives.

17 **Sec. 19.** RCW 71.05.214 and 2020 c 302 s 29 are each amended to
18 read as follows:

19 The authority shall develop statewide protocols to be utilized by
20 professional persons and designated crisis responders in
21 administration of this chapter and chapters 10.77 and 71.34 RCW. The
22 protocols shall be updated at least every three years. The protocols
23 shall provide uniform development and application of criteria in
24 evaluation and commitment recommendations, of persons who have, or
25 are alleged to have, behavioral health disorders and are subject to
26 this chapter.

27 The initial protocols shall be developed not later than September
28 1, 1999. The authority shall develop and update the protocols in
29 consultation with representatives of designated crisis responders,
30 the department of social and health services, tribal government,
31 local government, law enforcement, county and city prosecutors,
32 public defenders, and groups concerned with behavioral health
33 disorders. The protocols shall be submitted to the governor and
34 legislature upon adoption by the authority.

35 **Sec. 20.** RCW 71.05.217 and 2020 c 302 s 32 are each amended to
36 read as follows:

37 (1) Insofar as danger to the individual or others is not created,
38 each person involuntarily detained, treated in a less restrictive

1 alternative course of treatment, or committed for treatment and
2 evaluation pursuant to this chapter shall have, in addition to other
3 rights not specifically withheld by law, the following rights, a list
4 of which shall be prominently posted in all facilities, institutions,
5 and hospitals providing such services:

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

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

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

13 (d) To have visitors at reasonable times;

14 (e) To have reasonable access to a telephone, both to make and
15 receive confidential calls;

16 (f) To have ready access to letter writing materials, including
17 stamps, and to send and receive uncensored correspondence through the
18 mails;

19 (g) To have the right to individualized care and adequate
20 treatment;

21 (h) To discuss treatment plans and decisions with professional
22 persons;

23 (i) To not be denied access to treatment by spiritual means
24 through prayer in accordance with the tenets and practices of a
25 church or religious denomination in addition to the treatment
26 otherwise proposed;

27 (j) Not to consent to the administration of antipsychotic
28 medications beyond the hearing conducted pursuant to RCW 71.05.320(4)
29 or the performance of electroconvulsant therapy or surgery, except
30 emergency lifesaving surgery, unless ordered by a court of competent
31 jurisdiction pursuant to the following standards and procedures:

32 (i) The administration of antipsychotic medication or
33 electroconvulsant therapy shall not be ordered unless the petitioning
34 party proves by clear, cogent, and convincing evidence that there
35 exists a compelling state interest that justifies overriding the
36 patient's lack of consent to the administration of antipsychotic
37 medications or electroconvulsant therapy, that the proposed treatment
38 is necessary and effective, and that medically acceptable alternative
39 forms of treatment are not available, have not been successful, or
40 are not likely to be effective.

1 (ii) The court shall make specific findings of fact concerning:
2 (A) The existence of one or more compelling state interests; (B) the
3 necessity and effectiveness of the treatment; and (C) the person's
4 desires regarding the proposed treatment. If the patient is unable to
5 make a rational and informed decision about consenting to or refusing
6 the proposed treatment, the court shall make a substituted judgment
7 for the patient as if he or she were competent to make such a
8 determination.

9 (iii) The person shall be present at any hearing on a request to
10 administer antipsychotic medication or electroconvulsant therapy
11 filed pursuant to this subsection. The person has the right: (A) To
12 be represented by an attorney; (B) to present evidence; (C) to cross-
13 examine witnesses; (D) to have the rules of evidence enforced; (E) to
14 remain silent; (F) to view and copy all petitions and reports in the
15 court file; and (G) to be given reasonable notice and an opportunity
16 to prepare for the hearing. The court may appoint a psychiatrist,
17 physician assistant working with a supervising psychiatrist,
18 psychiatric advanced registered nurse practitioner, psychologist
19 within their scope of practice, physician assistant, or physician to
20 examine and testify on behalf of such person. The court shall appoint
21 a psychiatrist, physician assistant working with a supervising
22 psychiatrist, psychiatric advanced registered nurse practitioner,
23 psychologist within their scope of practice, physician assistant, or
24 physician designated by such person or the person's counsel to
25 testify on behalf of the person in cases where an order for
26 electroconvulsant therapy is sought.

27 (iv) An order for the administration of antipsychotic medications
28 entered following a hearing conducted pursuant to this section shall
29 be effective for the period of the current involuntary treatment
30 order, and any interim period during which the person is awaiting
31 trial or hearing on a new petition for involuntary treatment or
32 involuntary medication.

33 (v) Any person detained pursuant to RCW 71.05.320(4), who
34 subsequently refuses antipsychotic medication, shall be entitled to
35 the procedures set forth in this subsection.

36 (vi) Antipsychotic medication may be administered to a
37 nonconsenting person detained or committed pursuant to this chapter
38 without a court order pursuant to RCW 71.05.215(2) or under the
39 following circumstances:

40 (A) A person presents an imminent likelihood of serious harm;

1 (B) Medically acceptable alternatives to administration of
2 antipsychotic medications are not available, have not been
3 successful, or are not likely to be effective; and

4 (C) (I) In the opinion of the physician, physician assistant, or
5 psychiatric advanced registered nurse practitioner with
6 responsibility for treatment of the person, or his or her designee,
7 the person's condition constitutes an emergency requiring the
8 treatment be instituted before a judicial hearing as authorized
9 pursuant to this section can be held.

10 (II) If antipsychotic medications are administered over a
11 person's lack of consent pursuant to this subsection, a petition for
12 an order authorizing the administration of antipsychotic medications
13 shall be filed on the next judicial day. The hearing shall be held
14 within two judicial days. If deemed necessary by the physician,
15 physician assistant, or psychiatric advanced registered nurse
16 practitioner with responsibility for the treatment of the person,
17 administration of antipsychotic medications may continue until the
18 hearing is held;

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

22 (l) Not to have psychosurgery performed on him or her under any
23 circumstances;

24 (m) To not be denied access to treatment by cultural or spiritual
25 means through practices that are in accordance with a tribal or
26 cultural tradition in addition to the treatment otherwise proposed.

27 (2) Every person involuntarily detained or committed under the
28 provisions of this chapter is entitled to all the rights set forth in
29 this chapter and retains all rights not denied him or her under this
30 chapter except as limited by chapter 9.41 RCW.

31 (3) No person may be presumed incompetent as a consequence of
32 receiving evaluation or treatment for a behavioral health disorder.
33 Competency may not be determined or withdrawn except under the
34 provisions of chapter 10.77 (~~or 11.88~~) RCW.

35 (4) Subject to RCW 71.05.745 and related regulations, persons
36 receiving evaluation or treatment under this chapter must be given a
37 reasonable choice of an available physician, physician assistant,
38 psychiatric advanced registered nurse practitioner, or other
39 professional person qualified to provide such services.

1 (5) Whenever any person is detained under this chapter, the
2 person must be advised that unless the person is released or
3 voluntarily admits himself or herself for treatment within (~~one~~
4 ~~hundred-twenty~~) 120 hours of the initial detention, a judicial
5 hearing must be held in a superior court within (~~one-hundred~~
6 ~~twenty~~) 120 hours to determine whether there is probable cause to
7 detain the person for up to an additional (~~fourteen~~) 14 days based
8 on an allegation that because of a behavioral health disorder the
9 person presents a likelihood of serious harm or is gravely disabled,
10 and that at the probable cause hearing the person has the following
11 rights:

12 (a) To communicate immediately with an attorney; to have an
13 attorney appointed if the person is indigent; and to be told the name
14 and address of the attorney that has been designated;

15 (b) To remain silent, and to know that any statement the person
16 makes may be used against him or her;

17 (c) To present evidence on the person's behalf;

18 (d) To cross-examine witnesses who testify against him or her;

19 (e) To be proceeded against by the rules of evidence;

20 (f) To have the court appoint a reasonably available independent
21 professional person to examine the person and testify in the hearing,
22 at public expense unless the person is able to bear the cost;

23 (g) To view and copy all petitions and reports in the court file;
24 and

25 (h) To refuse psychiatric medications, including antipsychotic
26 medication beginning (~~twenty-four~~) 24 hours prior to the probable
27 cause hearing.

28 (6) The judicial hearing described in subsection (5) of this
29 section must be held according to the provisions of subsection (5) of
30 this section and rules promulgated by the supreme court.

31 (7)(a) Privileges between patients and physicians, physician
32 assistants, psychologists, or psychiatric advanced registered nurse
33 practitioners are deemed waived in proceedings under this chapter
34 relating to the administration of antipsychotic medications. As to
35 other proceedings under this chapter, the privileges are waived when
36 a court of competent jurisdiction in its discretion determines that
37 such waiver is necessary to protect either the detained person or the
38 public.

39 (b) The waiver of a privilege under this section is limited to
40 records or testimony relevant to evaluation of the detained person

1 for purposes of a proceeding under this chapter. Upon motion by the
2 detained person or on its own motion, the court shall examine a
3 record or testimony sought by a petitioner to determine whether it is
4 within the scope of the waiver.

5 (c) The record maker may not be required to testify in order to
6 introduce medical or psychological records of the detained person so
7 long as the requirements of RCW 5.45.020 are met except that portions
8 of the record which contain opinions as to the detained person's
9 mental state must be deleted from such records unless the person
10 making such conclusions is available for cross-examination.

11 (8) Nothing contained in this chapter prohibits the patient from
12 petitioning by writ of habeas corpus for release.

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

17 (10) The rights set forth under this section apply equally to
18 (~~ninety-day~~) 90-day or (~~one hundred eighty-day~~) 180-day hearings
19 under RCW 71.05.310.

20 **Sec. 21.** RCW 71.05.435 and 2020 c 256 s 306 are each amended to
21 read as follows:

22 (1) Whenever a person who is the subject of an involuntary
23 commitment order under this chapter is discharged from an evaluation
24 and treatment facility, state hospital, secure withdrawal management
25 and stabilization facility, or approved substance use disorder
26 treatment program providing involuntary treatment services, the
27 entity discharging the person shall provide notice of the person's
28 discharge, subject to federal laws and regulations, to the designated
29 crisis responder office responsible for the initial commitment, which
30 may be a (~~federally recognized Indian~~) tribe or other Indian health
31 care provider if the designated crisis responder is appointed by the
32 authority, and the designated crisis responder office that serves the
33 county in which the person is expected to reside or to the tribal
34 contact listed in the authority's tribal crisis coordination plan if
35 the entity discharging the person knows, or has reason to know, that
36 the person is an American Indian or Alaska Native who receives
37 medical or behavioral health services from a tribe within this state.
38 The entity discharging the person must also provide these offices
39 with a copy of any less restrictive order or conditional release

1 order entered in conjunction with the discharge of the person, unless
2 the entity discharging the person has entered into a memorandum of
3 understanding obligating another entity to provide these documents.

4 (2) The notice and documents referred to in subsection (1) of
5 this section shall be provided as soon as possible and no later than
6 one business day following the discharge of the person. Notice is not
7 required under this section if the discharge is for the purpose of
8 transferring the person for continued detention and treatment under
9 this chapter at another treatment facility.

10 (3) The authority shall maintain and make available an updated
11 list of contact information for designated crisis responder offices
12 around the state.

13 (4) A facility providing substance use disorder services must
14 attempt to obtain a release of information before discharge to meet
15 the notification requirements of subsection (1) of this section.

16 **Sec. 22.** RCW 71.05.458 and 2019 c 325 s 3010 are each amended to
17 read as follows:

18 As soon as possible, but no later than (~~twenty-four~~) 24 hours
19 from receiving a referral from a law enforcement officer or law
20 enforcement agency, including a tribal law enforcement officer or
21 tribal law enforcement agency, excluding Saturdays, Sundays, and
22 holidays, a mental health professional contacted by the designated
23 crisis responder agency must attempt to contact the referred person
24 to determine whether additional mental health intervention is
25 necessary, including, if needed, an assessment by a designated crisis
26 responder for initial detention under RCW 71.05.150 or 71.05.153.
27 Documentation of the mental health professional's attempt to contact
28 and assess the person must be maintained by the designated crisis
29 responder agency.

30 **Sec. 23.** RCW 71.05.590 and 2023 c 433 s 10 are each amended to
31 read as follows:

32 (1) Either an agency or facility designated to monitor or provide
33 services under a less restrictive alternative order or conditional
34 release, or a designated crisis responder, may take action to
35 enforce, modify, or revoke a less restrictive alternative treatment
36 order or conditional release order. The agency, facility, or
37 designated crisis responder must determine that:

1 (a) The person is failing to adhere to the terms and conditions
2 of the order;

3 (b) Substantial deterioration in the person's functioning has
4 occurred;

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

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

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

15 (a) To counsel or advise the person as to their rights and
16 responsibilities under the court order, and to offer incentives to
17 motivate compliance;

18 (b) To increase the intensity of outpatient services provided to
19 the person by increasing the frequency of contacts with the provider,
20 referring the person for an assessment for assertive community
21 services, or by other means;

22 (c) To request a court hearing for review and modification of the
23 court order. The request must be directed to the court with
24 jurisdiction over the order and specify the circumstances that give
25 rise to the request and what modification is being sought. The county
26 prosecutor shall assist the entity requesting the hearing and issue
27 an appropriate summons to the person. This subsection does not limit
28 the inherent authority of a treatment provider to alter conditions of
29 treatment for clinical reasons, and is intended to be used only when
30 court intervention is necessary or advisable to secure the person's
31 compliance and prevent decompensation or deterioration;

32 (d) To detain the person for up to 12 hours for evaluation at an
33 agency, facility providing services under the court order, crisis
34 stabilization unit, 23-hour crisis relief center, emergency
35 department, evaluation and treatment facility, secure withdrawal
36 management and stabilization facility with available space, or an
37 approved substance use disorder treatment program with available
38 space. The purpose of the evaluation is to determine whether
39 modification, revocation, or commitment proceedings are necessary and
40 appropriate to stabilize the person and prevent decompensation,

1 deterioration, or physical harm. Temporary detention for evaluation
2 under this subsection is intended to occur only following a pattern
3 of noncompliance or the failure of reasonable attempts at outreach
4 and engagement, and may occur only when, based on clinical judgment,
5 temporary detention is appropriate. The agency, facility, or
6 designated crisis responder may request assistance from a peace
7 officer for the purposes of temporary detention under this subsection
8 (2)(d). This subsection does not limit the ability or obligation of
9 the agency, facility, or designated crisis responder to pursue
10 revocation procedures under subsection (5) of this section in
11 appropriate circumstances; and

12 (e) To initiate revocation procedures under subsection (5) of
13 this section.

14 (3) A court may supervise a person on an order for less
15 restrictive alternative treatment or a conditional release. While the
16 person is under the order, the court may:

17 (a) Require appearance in court for periodic reviews; and

18 (b) Modify the order after considering input from the agency or
19 facility designated to provide or facilitate services. The court may
20 not remand the person into inpatient treatment except as provided
21 under subsection (5) of this section, but may take actions under
22 subsection (2)(a) through (d) of this section.

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

29 (5)(a) A designated crisis responder or the secretary of the
30 department of social and health services may, upon their own motion
31 or upon request of the facility or agency designated to provide
32 outpatient care, cause a person to be detained in an evaluation and
33 treatment facility, available secure withdrawal management and
34 stabilization facility with adequate space, or available approved
35 substance use disorder treatment program with adequate space in or
36 near the county in which he or she is receiving outpatient treatment
37 for the purpose of a hearing for revocation of a less restrictive
38 alternative treatment order or conditional release order under this
39 chapter. The designated crisis responder or secretary of the
40 department of social and health services shall file a petition for

1 revocation within 24 hours and serve the person, their guardian, if
2 any, and their attorney. A hearing for revocation of a less
3 restrictive alternative treatment order or conditional release order
4 may be scheduled without detention of the person.

5 (b) A person detained under this subsection (5) must be held
6 until such time, not exceeding five days, as a hearing can be
7 scheduled to determine whether or not the order for less restrictive
8 alternative treatment or conditional release should be revoked,
9 modified, or retained. If the person is not detained, the hearing
10 must be scheduled within five days of service on the person. The
11 designated crisis responder or the secretary of the department of
12 social and health services may withdraw its petition for revocation
13 at any time before the court hearing.

14 (c) A person detained under this subsection (5) has the same
15 rights with respect to notice, hearing, and counsel as in any
16 involuntary treatment proceeding, except as specifically set forth in
17 this section. There is no right to jury trial. The venue for
18 proceedings is the county where the petition is filed. Notice of the
19 filing must be provided to the court that originally ordered
20 commitment, if different from the court where the petition for
21 revocation is filed, within two judicial days of the person's
22 detention.

23 (d) The issues for the court to determine are whether: (i) The
24 person adhered to the terms and conditions of the order; (ii)
25 substantial deterioration in the person's functioning has occurred;
26 (iii) there is evidence of substantial decompensation with a
27 reasonable probability that the decompensation can be reversed by
28 further inpatient treatment; or (iv) there is a likelihood of serious
29 harm; and, if any of the above conditions apply, whether it is
30 appropriate for the court to reinstate or modify the person's less
31 restrictive alternative treatment order or conditional release order
32 or order the person's detention for inpatient treatment. The person
33 may waive the court hearing and allow the court to enter a stipulated
34 order upon the agreement of all parties. If the court orders
35 detention for inpatient treatment, the treatment period must be for
36 14 days from the revocation hearing if the less restrictive
37 alternative treatment order or conditional release order was based on
38 a petition under RCW 71.05.148, 71.05.160, or 71.05.230. If the court
39 orders detention for inpatient treatment and the less restrictive
40 alternative treatment order or conditional release order was based on

1 a petition under RCW 71.05.290 or 71.05.320, the number of days
2 remaining on the order must be converted to days of inpatient
3 treatment. A court may not detain a person for inpatient treatment to
4 a secure withdrawal management and stabilization facility or approved
5 substance use disorder treatment program under this subsection unless
6 there is a facility or program available with adequate space for the
7 person.

8 (6) In determining whether or not to take action under this
9 section the designated crisis responder, agency, or facility must
10 consider the factors specified under RCW 71.05.212 and the court must
11 consider the factors specified under RCW 71.05.245 as they apply to
12 the question of whether to enforce, modify, or revoke a court order
13 for involuntary treatment.

14 (7) Prior to taking any action to enforce, modify, or revoke a
15 less restrictive alternative treatment order or conditional release
16 order in which the agency, facility, or designated crisis responder
17 knows, or has reason to know, that the individual is an American
18 Indian or Alaska Native who receives medical or behavioral health
19 services from a tribe within this state, the agency, facility, or
20 designated crisis responder shall notify the tribe and Indian health
21 care provider regarding any action that will be taken under this
22 section as soon as possible, but no later than three hours from the
23 time the decision to take action is made. The agency, facility, or
24 designated crisis responder must provide the tribe and Indian health
25 care provider with a copy of the petition, together with any orders
26 issued by the court and a notice of the tribe's right to intervene as
27 soon as possible, but before any hearing under this section, and no
28 later than 24 hours from the time the petition is served upon the
29 person and the person's guardian. The court clerk shall provide
30 copies of any court orders necessary for the agency, facility, or
31 designated crisis responder to provide notice to the tribe or Indian
32 health care provider under this section. Notification under this
33 section is subject to any federal and state laws and regulations
34 including the requirements in RCW 70.02.230 (2)(ee) and (3) and shall
35 be made in person or by telephonic or electronic communication to the
36 tribal contact listed in the authority's tribal crisis coordination
37 plan.

38 **Sec. 24.** RCW 71.05.590 and 2023 c 433 s 11 are each amended to
39 read as follows:

1 (1) Either an agency or facility designated to monitor or provide
2 services under a less restrictive alternative order or conditional
3 release, or a designated crisis responder, may take action to
4 enforce, modify, or revoke a less restrictive alternative treatment
5 order or conditional release order. The agency, facility, or
6 designated crisis responder must determine that:

7 (a) The person is failing to adhere to the terms and conditions
8 of the order;

9 (b) Substantial deterioration in the person's functioning has
10 occurred;

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

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

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

21 (a) To counsel or advise the person as to their rights and
22 responsibilities under the court order, and to offer incentives to
23 motivate compliance;

24 (b) To increase the intensity of outpatient services provided to
25 the person by increasing the frequency of contacts with the provider,
26 referring the person for an assessment for assertive community
27 services, or by other means;

28 (c) To request a court hearing for review and modification of the
29 court order. The request must be directed to the court with
30 jurisdiction over the order and specify the circumstances that give
31 rise to the request and what modification is being sought. The county
32 prosecutor shall assist the entity requesting the hearing and issue
33 an appropriate summons to the person. This subsection does not limit
34 the inherent authority of a treatment provider to alter conditions of
35 treatment for clinical reasons, and is intended to be used only when
36 court intervention is necessary or advisable to secure the person's
37 compliance and prevent decompensation or deterioration;

38 (d) To detain the person for up to 12 hours for evaluation at an
39 agency, facility providing services under the court order, crisis
40 stabilization unit, 23-hour crisis relief center, emergency

1 department, evaluation and treatment facility, secure withdrawal
2 management and stabilization facility, or an approved substance use
3 disorder treatment program. The purpose of the evaluation is to
4 determine whether modification, revocation, or commitment proceedings
5 are necessary and appropriate to stabilize the person and prevent
6 decompensation, deterioration, or physical harm. Temporary detention
7 for evaluation under this subsection is intended to occur only
8 following a pattern of noncompliance or the failure of reasonable
9 attempts at outreach and engagement, and may occur only when, based
10 on clinical judgment, temporary detention is appropriate. The agency,
11 facility, or designated crisis responder may request assistance from
12 a peace officer for the purposes of temporary detention under this
13 subsection (2)(d). This subsection does not limit the ability or
14 obligation of the agency, facility, or designated crisis responder to
15 pursue revocation procedures under subsection (5) of this section in
16 appropriate circumstances; and

17 (e) To initiate revocation procedures under subsection (5) of
18 this section.

19 (3) A court may supervise a person on an order for less
20 restrictive alternative treatment or a conditional release. While the
21 person is under the order, the court may:

22 (a) Require appearance in court for periodic reviews; and

23 (b) Modify the order after considering input from the agency or
24 facility designated to provide or facilitate services. The court may
25 not remand the person into inpatient treatment except as provided
26 under subsection (5) of this section, but may take actions under
27 subsection (2)(a) through (d) of this section.

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

34 (5)(a) A designated crisis responder or the secretary of the
35 department of social and health services may, upon their own motion
36 or upon request of the facility or agency designated to provide
37 outpatient care, cause a person to be detained in an evaluation and
38 treatment facility, secure withdrawal management and stabilization
39 facility, or approved substance use disorder treatment program in or
40 near the county in which he or she is receiving outpatient treatment

1 for the purpose of a hearing for revocation of a less restrictive
2 alternative treatment order or conditional release order under this
3 chapter. The designated crisis responder or secretary of the
4 department of social and health services shall file a petition for
5 revocation within 24 hours and serve the person, their guardian, if
6 any, and their attorney. A hearing for revocation of a less
7 restrictive alternative treatment order or conditional release order
8 may be scheduled without detention of the person.

9 (b) A person detained under this subsection (5) must be held
10 until such time, not exceeding five days, as a hearing can be
11 scheduled to determine whether or not the order for less restrictive
12 alternative treatment or conditional release should be revoked,
13 modified, or retained. If the person is not detained, the hearing
14 must be scheduled within five days of service on the person. The
15 designated crisis responder or the secretary of the department of
16 social and health services may withdraw its petition for revocation
17 at any time before the court hearing.

18 (c) A person detained under this subsection (5) has the same
19 rights with respect to notice, hearing, and counsel as in any
20 involuntary treatment proceeding, except as specifically set forth in
21 this section. There is no right to jury trial. The venue for
22 proceedings is the county where the petition is filed. Notice of the
23 filing must be provided to the court that originally ordered
24 commitment, if different from the court where the petition for
25 revocation is filed, within two judicial days of the person's
26 detention.

27 (d) The issues for the court to determine are whether: (i) The
28 person adhered to the terms and conditions of the order; (ii)
29 substantial deterioration in the person's functioning has occurred;
30 (iii) there is evidence of substantial decompensation with a
31 reasonable probability that the decompensation can be reversed by
32 further inpatient treatment; or (iv) there is a likelihood of serious
33 harm; and, if any of the above conditions apply, whether it is
34 appropriate for the court to reinstate or modify the person's less
35 restrictive alternative treatment order or conditional release order
36 or order the person's detention for inpatient treatment. The person
37 may waive the court hearing and allow the court to enter a stipulated
38 order upon the agreement of all parties. If the court orders
39 detention for inpatient treatment, the treatment period must be for
40 14 days from the revocation hearing if the less restrictive

1 alternative treatment order or conditional release order was based on
2 a petition under RCW 71.05.148, 71.05.160, or 71.05.230. If the court
3 orders detention for inpatient treatment and the less restrictive
4 alternative treatment order or conditional release order was based on
5 a petition under RCW 71.05.290 or 71.05.320, the number of days
6 remaining on the order must be converted to days of inpatient
7 treatment.

8 (6) In determining whether or not to take action under this
9 section the designated crisis responder, agency, or facility must
10 consider the factors specified under RCW 71.05.212 and the court must
11 consider the factors specified under RCW 71.05.245 as they apply to
12 the question of whether to enforce, modify, or revoke a court order
13 for involuntary treatment.

14 (7) Prior to taking any action to enforce, modify, or revoke a
15 less restrictive alternative treatment order or conditional release
16 order in which the agency, facility, or designated crisis responder
17 knows, or has reason to know, that the individual is an American
18 Indian or Alaska Native who receives medical or behavioral health
19 services from a tribe within this state, the agency, facility, or
20 designated crisis responder shall notify the tribe and Indian health
21 care provider regarding any action that will be taken under this
22 section as soon as possible, but no later than three hours from the
23 time the decision to take action is made. The agency, facility, or
24 designated crisis responder must provide the tribe and Indian health
25 care provider with a copy of the petition, together with any orders
26 issued by the court and a notice of the tribe's right to intervene as
27 soon as possible, but before any hearing under this section, and no
28 later than 24 hours from the time the petition is served upon the
29 person and the person's guardian. The court clerk shall provide
30 copies of any court orders necessary for the agency, facility, or
31 designated crisis responder to provide notice to the tribe or Indian
32 health care provider under this section. Notification under this
33 section is subject to any federal and state laws and regulations
34 including the requirements in RCW 70.02.230 (2)(ee) and (3) and shall
35 be made in person or by telephonic or electronic communication to the
36 tribal contact listed in the authority's tribal crisis coordination
37 plan.

38 **Sec. 25.** RCW 71.05.620 and 2023 c 298 s 1 are each amended to
39 read as follows:

1 (1) The files and records of court proceedings under this chapter
2 and chapter 71.34 RCW shall be closed but shall be accessible to:

3 (a) The department;

4 (b) The department of social and health services;

5 (c) The authority;

6 (d) The state hospitals as defined in RCW 72.23.010;

7 (e) Any person who is the subject of a petition;

8 (f) The attorney or guardian of the person;

9 (g) Resource management services for that person;

10 (h) Service providers authorized to receive such information by
11 resource management services; (~~and~~)

12 (i) The Washington state patrol firearms background division to
13 conduct background checks for processing and purchasing firearms,
14 concealed pistol licenses, alien firearms licenses, firearm rights
15 restoration petitions under chapter 9.41 RCW, and release of firearms
16 from evidence, including appeals of denial;

17 (j) The prosecuting attorney of a county or tribe located in this
18 state; and

19 (k) The tribe or Indian health care provider who has the right to
20 intervene or receive notice and copies of any orders issued by a
21 court in any court proceeding under this chapter and chapter 71.34
22 RCW.

23 (2) The authority shall adopt rules to implement this section.

24 **Sec. 26.** RCW 71.34.780 and 2020 c 302 s 97 are each amended to
25 read as follows:

26 (1) If the professional person in charge of an outpatient
27 treatment program, a designated crisis responder, or the director or
28 secretary, as appropriate, determines that a minor is failing to
29 adhere to the conditions of the court order for less restrictive
30 alternative treatment or the conditions for the conditional release,
31 or that substantial deterioration in the minor's functioning has
32 occurred, the designated crisis responder, or the director or
33 secretary, as appropriate, may order that the minor be taken into
34 custody and transported to an inpatient evaluation and treatment
35 facility, a secure withdrawal management and stabilization facility,
36 or an approved substance use disorder treatment program. A secure
37 withdrawal management and stabilization facility or approved
38 substance use disorder treatment program that has adequate space for
39 the minor must be available.

1 (2) (a) The designated crisis responder, director, or secretary,
2 as appropriate, shall file the order of apprehension and detention
3 and serve it upon the minor and notify the minor's parent and the
4 minor's attorney, if any, of the detention within two days of return.
5 At the time of service the minor shall be informed of the right to a
6 hearing and to representation by an attorney. The designated crisis
7 responder or the director or secretary, as appropriate, may modify or
8 rescind the order of apprehension and detention at any time prior to
9 the hearing.

10 (b) If the minor is involuntarily detained for revocation at an
11 evaluation and treatment facility, secure withdrawal management and
12 stabilization facility, or approved substance use disorder treatment
13 program in a different county from where the minor was initially
14 detained, the facility or program may file the order of apprehension,
15 serve it on the minor and notify the minor's parents and the minor's
16 attorney at the request of the designated crisis responder.

17 (3) A petition for revocation of less restrictive alternative
18 treatment shall be filed by the designated crisis responder or the
19 director, secretary, or facility, as appropriate, with the court in
20 the county where the minor is detained. The court shall conduct the
21 hearing in that county. A petition for revocation of conditional
22 release must be filed in the county where the minor is detained. A
23 petition shall describe the behavior of the minor indicating
24 violation of the conditions or deterioration of routine functioning
25 and a dispositional recommendation. The hearing shall be held within
26 seven days of the minor's return. The issues to be determined are
27 whether the minor did or did not adhere to the conditions of the less
28 restrictive alternative treatment or conditional release, or whether
29 the minor's routine functioning has substantially deteriorated, and,
30 if so, whether the conditions of less restrictive alternative
31 treatment or conditional release should be modified or, subject to
32 subsection (4) of this section, whether the minor should be returned
33 to inpatient treatment. Pursuant to the determination of the court,
34 the minor shall be returned to less restrictive alternative treatment
35 or conditional release on the same or modified conditions or shall be
36 returned to inpatient treatment. If the minor is returned to
37 inpatient treatment, RCW 71.34.760 regarding the director's placement
38 responsibility shall apply. The hearing may be waived by the minor
39 and the minor returned to inpatient treatment or to less restrictive

1 alternative treatment or conditional release on the same or modified
2 conditions.

3 (4) A court may not order the return of a minor to inpatient
4 treatment in a secure withdrawal management and stabilization
5 facility or approved substance use disorder treatment program unless
6 there is a secure withdrawal management and stabilization facility or
7 approved substance use disorder treatment program available with
8 adequate space for the minor.

9 (5) Prior to taking any action to enforce, modify, or revoke a
10 less restrictive alternative treatment order or conditional release
11 order in which the agency, facility, or designated crisis responder
12 knows, or has reason to know, that the minor is an American Indian or
13 Alaska Native who receives medical or behavioral health services from
14 a tribe within this state, the agency, facility, or designated crisis
15 responder shall notify the tribe and Indian health care provider
16 regarding any action that will be taken under this section as soon as
17 possible, but no later than three hours from the time the decision to
18 take action is made. The agency, facility, or designated crisis
19 responder must provide the tribe and Indian health care provider with
20 a copy of the petition, together with any orders issued by the court
21 and a notice of the tribe's right to intervene as soon as possible,
22 but before any hearing under this section, and no later than 24 hours
23 from the time the petition is served upon the person and the person's
24 guardian. The court clerk shall provide copies of any court orders
25 necessary for the agency, facility, or designated crisis responder to
26 provide notice to the tribe or Indian health care provider under this
27 section. Notification under this section is subject to any federal
28 and state laws and regulations including the requirements in RCW
29 70.02.240 and shall be made in person or by telephonic or electronic
30 communication to the tribal contact listed in the authority's tribal
31 crisis coordination plan.

32 **Sec. 27.** RCW 71.34.780 and 2020 c 302 s 98 are each amended to
33 read as follows:

34 (1) If the professional person in charge of an outpatient
35 treatment program, a designated crisis responder, or the director or
36 secretary, as appropriate, determines that a minor is failing to
37 adhere to the conditions of the court order for less restrictive
38 alternative treatment or the conditions for the conditional release,
39 or that substantial deterioration in the minor's functioning has

1 occurred, the designated crisis responder, or the director or
2 secretary, as appropriate, may order that the minor be taken into
3 custody and transported to an inpatient evaluation and treatment
4 facility, a secure withdrawal management and stabilization facility,
5 or an approved substance use disorder treatment program.

6 (2)(a) The designated crisis responder, director, or secretary,
7 as appropriate, shall file the order of apprehension and detention
8 and serve it upon the minor and notify the minor's parent and the
9 minor's attorney, if any, of the detention within two days of return.
10 At the time of service the minor shall be informed of the right to a
11 hearing and to representation by an attorney. The designated crisis
12 responder or the director or secretary, as appropriate, may modify or
13 rescind the order of apprehension and detention at any time prior to
14 the hearing.

15 (b) If the minor is involuntarily detained for revocation at an
16 evaluation and treatment facility, secure withdrawal management and
17 stabilization facility, or approved substance use disorder treatment
18 program in a different county from where the minor was initially
19 detained, the facility or program may file the order of apprehension,
20 serve it on the minor and notify the minor's parents and the minor's
21 attorney at the request of the designated crisis responder.

22 (3) A petition for revocation of less restrictive alternative
23 treatment shall be filed by the designated crisis responder or the
24 director, secretary, or facility, as appropriate, with the court in
25 the county where the minor is detained. The court shall conduct the
26 hearing in that county. A petition for revocation of conditional
27 release must be filed in the county where the minor is detained. A
28 petition shall describe the behavior of the minor indicating
29 violation of the conditions or deterioration of routine functioning
30 and a dispositional recommendation. The hearing shall be held within
31 seven days of the minor's return. The issues to be determined are
32 whether the minor did or did not adhere to the conditions of the less
33 restrictive alternative treatment or conditional release, or whether
34 the minor's routine functioning has substantially deteriorated, and,
35 if so, whether the conditions of less restrictive alternative
36 treatment or conditional release should be modified or whether the
37 minor should be returned to inpatient treatment. Pursuant to the
38 determination of the court, the minor shall be returned to less
39 restrictive alternative treatment or conditional release on the same
40 or modified conditions or shall be returned to inpatient treatment.

1 If the minor is returned to inpatient treatment, RCW 71.34.760
2 regarding the director's placement responsibility shall apply. The
3 hearing may be waived by the minor and the minor returned to
4 inpatient treatment or to less restrictive alternative treatment or
5 conditional release on the same or modified conditions.

6 (4) Prior to taking any action to enforce, modify, or revoke a
7 less restrictive alternative treatment order or conditional release
8 order in which the agency, facility, or designated crisis responder
9 knows, or has reason to know, that the minor is an American Indian or
10 Alaska Native who receives medical or behavioral health services from
11 a tribe within this state, the agency, facility, or designated crisis
12 responder shall notify the tribe and Indian health care provider
13 regarding any action that will be taken under this section as soon as
14 possible, but no later than three hours from the time the decision to
15 take action is made. The agency, facility, or designated crisis
16 responder must provide the tribe and Indian health care provider with
17 a copy of the petition, together with any orders issued by the court
18 and a notice of the tribe's right to intervene as soon as possible,
19 but before any hearing under this section, and no later than 24 hours
20 from the time the petition is served upon the person and the person's
21 guardian. The court clerk shall provide copies of any court orders
22 necessary for the agency, facility, or designated crisis responder to
23 provide notice to the tribe or Indian health care provider under this
24 section. Notification under this section is subject to any federal
25 and state laws and regulations including the requirements in RCW
26 70.02.240 and shall be made in person or by telephonic or electronic
27 communication to the tribal contact listed in the authority's tribal
28 crisis coordination plan.

29 **Sec. 28.** RCW 71.05.730 and 2019 c 325 s 3011 are each amended to
30 read as follows:

31 (1) A county may apply to its behavioral health administrative
32 services organization on a quarterly basis for reimbursement of its
33 direct costs in providing judicial services for civil commitment
34 cases under this chapter and chapter 71.34 RCW. A tribe may apply to
35 the authority on a quarterly basis for reimbursement of its direct
36 costs in providing judicial services for civil commitment cases under
37 this chapter and chapter 71.34 RCW. The behavioral health
38 administrative services organization shall in turn be entitled to
39 reimbursement from the behavioral health administrative services

1 organization that serves the county of residence of the individual
2 who is the subject of the civil commitment case.

3 (2) Reimbursement for judicial services shall be provided per
4 civil commitment case at a rate to be determined based on an
5 independent assessment of the county's or tribe's actual direct
6 costs. This assessment must be based on an average of the
7 expenditures for judicial services within the county or tribe over
8 the past three years. In the event that a baseline cannot be
9 established because there is no significant history of similar cases
10 within the county or tribe, the reimbursement rate shall be equal to
11 ~~((eighty))~~ 80 percent of the median reimbursement rate of counties or
12 tribes, if applicable included in the independent assessment.

13 (3) For the purposes of this section:

14 (a) "Civil commitment case" includes all judicial hearings
15 related to a single episode of hospitalization or less restrictive
16 alternative treatment, except that the filing of a petition for a one
17 hundred eighty-day commitment under this chapter or a petition for a
18 successive ~~((one hundred eighty-day))~~ 180-day commitment under
19 chapter 71.34 RCW shall be considered to be a new case regardless of
20 whether there has been a break in detention. "Civil commitment case"
21 does not include the filing of a petition for a ~~((one hundred eighty-~~
22 ~~day))~~ 180-day commitment under this chapter on behalf of a patient at
23 a state psychiatric hospital.

24 (b) "Judicial services" means a county's or tribe's reasonable
25 direct costs in providing prosecutor services, assigned counsel and
26 defense services, court services, and court clerk services for civil
27 commitment cases under this chapter and chapter 71.34 RCW.

28 (4) To the extent that resources have a shared purpose, the
29 behavioral health administrative services organization may only
30 reimburse counties to the extent such resources are necessary for and
31 devoted to judicial services as described in this section. To the
32 extent that resources have a shared purpose, the authority may only
33 reimburse tribes to the extent the resources are necessary for and
34 devoted to judicial services as described in this section.

35 (5) No filing fee may be charged or collected for any civil
36 commitment case subject to reimbursement under this section.

37 **Sec. 29.** RCW 71.24.030 and 2019 c 325 s 1005 are each amended to
38 read as follows:

1 The director is authorized to make grants and/or purchase
2 services from counties, tribes, combinations of counties, or other
3 entities, to establish and operate community behavioral health
4 programs.

5 **Sec. 30.** RCW 71.24.045 and 2022 c 210 s 27 are each amended to
6 read as follows:

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

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

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

13 (ii) Crisis response services (~~((twenty-four))~~) 24 hours a day,
14 seven days a week, (~~((three hundred sixty-five))~~) 365 days a year;

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

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

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

38 (vi) Care coordination, diversion services, and discharge
39 planning for nonmedicaid individuals transitioning from state

1 hospitals or inpatient settings to reduce rehospitalization and
2 utilization of crisis services, as required by the authority in
3 contract; and

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

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

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

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

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

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

22 (g) Establish and maintain quality assurance processes;

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

26 (i) Maintain patient tracking information as required by the
27 authority.

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

33 (3) The behavioral health administrative services organization
34 shall:

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

38 (b) Collaborate with local and tribal government entities to
39 ensure that policies do not result in an adverse shift of persons

1 with mental illness into state ((and)), local, and tribal
2 correctional facilities; and

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

6 (4) The behavioral health administrative services organization
7 shall employ an assisted outpatient treatment program coordinator to
8 oversee system coordination and legal compliance for assisted
9 outpatient treatment under RCW 71.05.148 and 71.34.815.

10 (5) The behavioral health administrative services organization
11 shall comply and ensure their contractors comply with the tribal
12 crisis coordination plan agreed upon by the authority and tribes for
13 coordination of crisis services, care coordination, and discharge and
14 transition planning with tribes and Indian health care providers
15 applicable to their regional service area.

16 **Sec. 31.** RCW 70.02.010 and 2020 c 302 s 112 and 2020 c 256 s 401
17 are each reenacted and amended to read as follows:

18 The definitions in this section apply throughout this chapter
19 unless the context clearly requires otherwise.

20 (1) "Admission" has the same meaning as in RCW 71.05.020.

21 (2) "Audit" means an assessment, evaluation, determination, or
22 investigation of a health care provider by a person not employed by
23 or affiliated with the provider to determine compliance with:

24 (a) Statutory, regulatory, fiscal, medical, or scientific
25 standards;

26 (b) A private or public program of payments to a health care
27 provider; or

28 (c) Requirements for licensing, accreditation, or certification.

29 (3) "Authority" means the Washington state health care authority.

30 (4) "Commitment" has the same meaning as in RCW 71.05.020.

31 (5) "Custody" has the same meaning as in RCW 71.05.020.

32 (6) "Deidentified" means health information that does not
33 identify an individual and with respect to which there is no
34 reasonable basis to believe that the information can be used to
35 identify an individual.

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

38 (8) "Designated crisis responder" has the same meaning as in RCW
39 71.05.020 or 71.34.020, as applicable.

1 (9) "Detention" or "detain" has the same meaning as in RCW
2 71.05.020.

3 (10) "Directory information" means information disclosing the
4 presence, and for the purpose of identification, the name, location
5 within a health care facility, and the general health condition of a
6 particular patient who is a patient in a health care facility or who
7 is currently receiving emergency health care in a health care
8 facility.

9 (11) "Discharge" has the same meaning as in RCW 71.05.020.

10 (12) "Evaluation and treatment facility" has the same meaning as
11 in RCW 71.05.020 or 71.34.020, as applicable.

12 (13) "Federal, state, or local law enforcement authorities" means
13 an officer of any agency or authority in the United States, a state,
14 a tribe, a territory, or a political subdivision of a state, a tribe,
15 or a territory who is empowered by law to: (a) Investigate or conduct
16 an official inquiry into a potential criminal violation of law; or
17 (b) prosecute or otherwise conduct a criminal proceeding arising from
18 an alleged violation of law.

19 (14) "General health condition" means the patient's health status
20 described in terms of "critical," "poor," "fair," "good,"
21 "excellent," or terms denoting similar conditions.

22 (15) "Health care" means any care, service, or procedure provided
23 by a health care provider:

24 (a) To diagnose, treat, or maintain a patient's physical or
25 mental condition; or

26 (b) That affects the structure or any function of the human body.

27 (16) "Health care facility" means a hospital, clinic, nursing
28 home, laboratory, office, or similar place where a health care
29 provider provides health care to patients.

30 (17) "Health care information" means any information, whether
31 oral or recorded in any form or medium, that identifies or can
32 readily be associated with the identity of a patient and directly
33 relates to the patient's health care, including a patient's
34 deoxyribonucleic acid and identified sequence of chemical base pairs.
35 The term includes any required accounting of disclosures of health
36 care information.

37 (18) "Health care operations" means any of the following
38 activities of a health care provider, health care facility, or third-
39 party payor to the extent that the activities are related to

1 functions that make an entity a health care provider, a health care
2 facility, or a third-party payor:

3 (a) Conducting: Quality assessment and improvement activities,
4 including outcomes evaluation and development of clinical guidelines,
5 if the obtaining of generalizable knowledge is not the primary
6 purpose of any studies resulting from such activities; population-
7 based activities relating to improving health or reducing health care
8 costs, protocol development, case management and care coordination,
9 contacting of health care providers and patients with information
10 about treatment alternatives; and related functions that do not
11 include treatment;

12 (b) Reviewing the competence or qualifications of health care
13 professionals, evaluating practitioner and provider performance and
14 third-party payor performance, conducting training programs in which
15 students, trainees, or practitioners in areas of health care learn
16 under supervision to practice or improve their skills as health care
17 providers, training of nonhealth care professionals, accreditation,
18 certification, licensing, or credentialing activities;

19 (c) Underwriting, premium rating, and other activities relating
20 to the creation, renewal, or replacement of a contract of health
21 insurance or health benefits, and ceding, securing, or placing a
22 contract for reinsurance of risk relating to claims for health care,
23 including stop-loss insurance and excess of loss insurance, if any
24 applicable legal requirements are met;

25 (d) Conducting or arranging for medical review, legal services,
26 and auditing functions, including fraud and abuse detection and
27 compliance programs;

28 (e) Business planning and development, such as conducting cost-
29 management and planning-related analyses related to managing and
30 operating the health care facility or third-party payor, including
31 formulary development and administration, development, or improvement
32 of methods of payment or coverage policies; and

33 (f) Business management and general administrative activities of
34 the health care facility, health care provider, or third-party payor
35 including, but not limited to:

36 (i) Management activities relating to implementation of and
37 compliance with the requirements of this chapter;

38 (ii) Customer service, including the provision of data analyses
39 for policyholders, plan sponsors, or other customers, provided that

1 health care information is not disclosed to such policyholder, plan
2 sponsor, or customer;

3 (iii) Resolution of internal grievances;

4 (iv) The sale, transfer, merger, or consolidation of all or part
5 of a health care provider, health care facility, or third-party payor
6 with another health care provider, health care facility, or third-
7 party payor or an entity that following such activity will become a
8 health care provider, health care facility, or third-party payor, and
9 due diligence related to such activity; and

10 (v) Consistent with applicable legal requirements, creating
11 deidentified health care information or a limited data set for the
12 benefit of the health care provider, health care facility, or third-
13 party payor.

14 (19) "Health care provider" means a person who is licensed,
15 certified, registered, or otherwise authorized by the law of this
16 state to provide health care in the ordinary course of business or
17 practice of a profession.

18 (20) "Human immunodeficiency virus" or "HIV" has the same meaning
19 as in RCW 70.24.017.

20 (21) "Imminent" has the same meaning as in RCW 71.05.020.

21 (22) "Indian health care provider" has the same meaning as in RCW
22 43.71B.010(11).

23 (23) "Information and records related to mental health services"
24 means a type of health care information that relates to all
25 information and records compiled, obtained, or maintained in the
26 course of providing services by a mental health service agency or
27 mental health professional to persons who are receiving or have
28 received services for mental illness. The term includes mental health
29 information contained in a medical bill, registration records, (~~as~~
30 ~~defined in RCW 70.97.010,~~) and all other records regarding the
31 person maintained by the department, by the authority, by behavioral
32 health administrative services organizations and their staff, managed
33 care organizations contracted with the authority under chapter 74.09
34 RCW and their staff, and by treatment facilities. The term further
35 includes documents of legal proceedings under chapter 71.05, 71.34,
36 or 10.77 RCW, or somatic health care information. For health care
37 information maintained by a hospital as defined in RCW 70.41.020 or a
38 health care facility or health care provider that participates with a
39 hospital in an organized health care arrangement defined under
40 federal law, "information and records related to mental health

1 services" is limited to information and records of services provided
2 by a mental health professional or information and records of
3 services created by a hospital-operated community behavioral health
4 program as defined in RCW 71.24.025. The term does not include
5 psychotherapy notes.

6 (24) "Information and records related to sexually transmitted
7 diseases" means a type of health care information that relates to the
8 identity of any person upon whom an HIV antibody test or other
9 sexually transmitted infection test is performed, the results of such
10 tests, and any information relating to diagnosis of or treatment for
11 any confirmed sexually transmitted infections.

12 (25) "Institutional review board" means any board, committee, or
13 other group formally designated by an institution, or authorized
14 under federal or state law, to review, approve the initiation of, or
15 conduct periodic review of research programs to assure the protection
16 of the rights and welfare of human research subjects.

17 (26) "Legal counsel" has the same meaning as in RCW 71.05.020.

18 (27) "Local public health officer" has the same meaning as the
19 term "local health officer" as defined in RCW 70.24.017.

20 (28) "Maintain," as related to health care information, means to
21 hold, possess, preserve, retain, store, or control that information.

22 (29) "Managed care organization" has the same meaning as provided
23 in RCW 71.24.025.

24 (30) "Mental health professional" means a psychiatrist,
25 psychologist, psychiatric advanced registered nurse practitioner,
26 psychiatric nurse, or social worker, and such other mental health
27 professionals as may be defined by rules adopted by the secretary of
28 health under chapter 71.05 RCW, whether that person works in a
29 private or public setting.

30 (31) "Mental health service agency" means a public or private
31 agency that provides services to persons with mental disorders as
32 defined under RCW 71.05.020 or 71.34.020 and receives funding from
33 public sources. This includes evaluation and treatment facilities as
34 defined in RCW 71.34.020, community mental health service delivery
35 systems, or community behavioral health programs, as defined in RCW
36 71.24.025, and facilities conducting competency evaluations and
37 restoration under chapter 10.77 RCW.

38 (32) "Minor" has the same meaning as in RCW 71.34.020.

39 (33) "Parent" has the same meaning as in RCW 71.34.020.

1 (34) "Patient" means an individual who receives or has received
2 health care. The term includes a deceased individual who has received
3 health care.

4 (35) "Payment" means:

5 (a) The activities undertaken by:

6 (i) A third-party payor to obtain premiums or to determine or
7 fulfill its responsibility for coverage and provision of benefits by
8 the third-party payor; or

9 (ii) A health care provider, health care facility, or third-party
10 payor, to obtain or provide reimbursement for the provision of health
11 care; and

12 (b) The activities in (a) of this subsection that relate to the
13 patient to whom health care is provided and that include, but are not
14 limited to:

15 (i) Determinations of eligibility or coverage, including
16 coordination of benefits or the determination of cost-sharing
17 amounts, and adjudication or subrogation of health benefit claims;

18 (ii) Risk adjusting amounts due based on enrollee health status
19 and demographic characteristics;

20 (iii) Billing, claims management, collection activities,
21 obtaining payment under a contract for reinsurance, including stop-
22 loss insurance and excess of loss insurance, and related health care
23 data processing;

24 (iv) Review of health care services with respect to medical
25 necessity, coverage under a health plan, appropriateness of care, or
26 justification of charges;

27 (v) Utilization review activities, including precertification and
28 preauthorization of services, and concurrent and retrospective review
29 of services; and

30 (vi) Disclosure to consumer reporting agencies of any of the
31 following health care information relating to collection of premiums
32 or reimbursement:

33 (A) Name and address;

34 (B) Date of birth;

35 (C) Social security number;

36 (D) Payment history;

37 (E) Account number; and

38 (F) Name and address of the health care provider, health care
39 facility, and/or third-party payor.

1 (36) "Person" means an individual, corporation, business trust,
2 estate, trust, partnership, association, joint venture, government,
3 governmental subdivision or agency, or any other legal or commercial
4 entity.

5 (37) "Professional person" has the same meaning as in RCW
6 71.05.020.

7 (38) "Psychiatric advanced registered nurse practitioner" has the
8 same meaning as in RCW 71.05.020.

9 (39) "Psychotherapy notes" means notes recorded, in any medium,
10 by a mental health professional documenting or analyzing the contents
11 of conversations during a private counseling session or group, joint,
12 or family counseling session, and that are separated from the rest of
13 the individual's medical record. The term excludes mediation
14 prescription and monitoring, counseling session start and stop times,
15 the modalities and frequencies of treatment furnished, results of
16 clinical tests, and any summary of the following items: Diagnosis,
17 functional status, the treatment plan, symptoms, prognosis, and
18 progress to date.

19 (40) "Reasonable fee" means the charges for duplicating or
20 searching the record, but shall not exceed (~~sixty-five~~) 65 cents
21 per page for the first (~~thirty~~) 30 pages and (~~fifty~~) 50 cents per
22 page for all other pages. In addition, a clerical fee for searching
23 and handling may be charged not to exceed (~~fifteen dollars~~) \$15.
24 These amounts shall be adjusted biennially in accordance with changes
25 in the consumer price index, all consumers, for Seattle-Tacoma
26 metropolitan statistical area as determined by the secretary of
27 health. However, where editing of records by a health care provider
28 is required by statute and is done by the provider personally, the
29 fee may be the usual and customary charge for a basic office visit.

30 (41) "Release" has the same meaning as in RCW 71.05.020.

31 (42) "Resource management services" has the same meaning as in
32 RCW 71.05.020.

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

35 (44) "Sexually transmitted infection" or "sexually transmitted
36 disease" has the same meaning as "sexually transmitted disease" in
37 RCW 70.24.017.

38 (45) "Test for a sexually transmitted disease" has the same
39 meaning as in RCW 70.24.017.

1 (46) "Third-party payor" means an insurer regulated under Title
2 48 RCW authorized to transact business in this state or other
3 jurisdiction, including a health care service contractor, and health
4 maintenance organization; or an employee welfare benefit plan,
5 excluding fitness or wellness plans; or a state or federal health
6 benefit program.

7 (47) "Treatment" means the provision, coordination, or management
8 of health care and related services by one or more health care
9 providers or health care facilities, including the coordination or
10 management of health care by a health care provider or health care
11 facility with a third party; consultation between health care
12 providers or health care facilities relating to a patient; or the
13 referral of a patient for health care from one health care provider
14 or health care facility to another.

15 (48) "Tribal public health authority" means a tribe that is
16 responsible for public health matters as a part of its official
17 mandate.

18 (49) "Tribal public health officer" means the individual
19 appointed as the health officer for the tribe.

20 (50) "Tribe" has the same meaning as in RCW 71.24.025.

21 **Sec. 32.** RCW 70.02.230 and 2023 c 295 s 12 are each amended to
22 read as follows:

23 (1) The fact of admission to a provider for mental health
24 services and all information and records compiled, obtained, or
25 maintained in the course of providing mental health services to
26 either voluntary or involuntary recipients of services at public or
27 private agencies may not be disclosed except as provided in this
28 section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240,
29 70.02.250, 70.02.260, and 70.02.265, or pursuant to a valid
30 authorization under RCW 70.02.030.

31 (2) Information and records related to mental health services,
32 other than those obtained through treatment under chapter 71.34 RCW,
33 may be disclosed:

34 (a) In communications between qualified professional persons to
35 meet the requirements of chapter 71.05 RCW, including Indian health
36 care providers, in the provision of services or appropriate
37 referrals, or in the course of guardianship proceedings if provided
38 to a professional person:

39 (i) Employed by the facility;

- 1 (ii) Who has medical responsibility for the patient's care;
2 (iii) Who is a designated crisis responder;
3 (iv) Who is providing services under chapter 71.24 RCW;
4 (v) Who is employed by a state or local correctional facility
5 where the person is confined or supervised; or
6 (vi) Who is providing evaluation, treatment, or follow-up
7 services under chapter 10.77 RCW;

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

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

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

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

21 (B) A statement evaluating the mental and physical condition of
22 the patient, and a statement of the probable duration of the
23 patient's confinement, if such information is requested by the next
24 of kin, attorney, personal representative, guardian, or conservator;
25 and

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

29 (d)(i) To the courts, including tribal courts, as necessary to
30 the administration of chapter 71.05 RCW, or equivalent proceedings in
31 tribal courts, or to a court ordering an evaluation or treatment
32 under chapter 10.77 RCW solely for the purpose of preventing the
33 entry of any evaluation or treatment order that is inconsistent with
34 any order entered under chapter 71.05 RCW.

35 (ii) To a court or its designee in which a motion under chapter
36 10.77 RCW has been made for involuntary medication of a defendant for
37 the purpose of competency restoration.

38 (iii) Disclosure under this subsection is mandatory for the
39 purpose of the federal health insurance portability and
40 accountability act;

1 (e) (i) When a mental health professional or designated crisis
2 responder is requested by a representative of a law enforcement or
3 corrections agency, including a police officer, sheriff, community
4 corrections officer, a municipal attorney, or prosecuting attorney to
5 undertake an investigation or provide treatment under RCW 71.05.150,
6 10.31.110, or 71.05.153, the mental health professional or designated
7 crisis responder shall, if requested to do so, advise the
8 representative in writing of the results of the investigation
9 including a statement of reasons for the decision to detain or
10 release the person investigated. The written report must be submitted
11 within (~~seventy-two~~) 72 hours of the completion of the
12 investigation or the request from the law enforcement or corrections
13 representative, whichever occurs later.

14 (ii) Disclosure under this subsection is mandatory for the
15 purposes of the federal health insurance portability and
16 accountability act;

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

18 (g) To the prosecuting attorney, including tribal prosecuting
19 attorney, as necessary to carry out the responsibilities of the
20 office under RCW 71.05.330(2), 71.05.340(1)(b), and 71.05.335. The
21 prosecutor, including tribal prosecutor, must be provided access to
22 records regarding the committed person's treatment and prognosis,
23 medication, behavior problems, and other records relevant to the
24 issue of whether treatment less restrictive than inpatient treatment
25 is in the best interest of the committed person or others.
26 Information must be disclosed only after giving notice to the
27 committed person and the person's counsel;

28 (h) (i) To appropriate law enforcement agencies, including tribal
29 law enforcement agencies, and to a person, when the identity of the
30 person is known to the public or private agency, whose health and
31 safety has been threatened, or who is known to have been repeatedly
32 harassed, by the patient. The person may designate a representative
33 to receive the disclosure. The disclosure must be made by the
34 professional person in charge of the public or private agency or his
35 or her designee and must include the dates of commitment, admission,
36 discharge, or release, authorized or unauthorized absence from the
37 agency's facility, and only any other information that is pertinent
38 to the threat or harassment. The agency or its employees are not
39 civilly liable for the decision to disclose or not, so long as the
40 decision was reached in good faith and without gross negligence.

1 Nothing in this section shall be interpreted as a waiver of sovereign
2 immunity by a tribe.

3 (ii) Disclosure under this subsection is mandatory for the
4 purposes of the federal health insurance portability and
5 accountability act;

6 (i)(i) To appropriate corrections and law enforcement agencies,
7 including tribal corrections and law enforcement agencies, all
8 necessary and relevant information in the event of a crisis or
9 emergent situation that poses a significant and imminent risk to the
10 public. The mental health service agency or its employees are not
11 civilly liable for the decision to disclose or not so long as the
12 decision was reached in good faith and without gross negligence.

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

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

17 (k) By a care coordinator, including an Indian health care
18 provider, under RCW 71.05.585 or 10.77.175 assigned to a person
19 ordered to receive less restrictive alternative treatment for the
20 purpose of sharing information to parties necessary for the
21 implementation of proceedings under chapter 71.05 or 10.77 RCW;

22 (l) Upon the death of a person. The person's next of kin,
23 personal representative, guardian, or conservator, if any, must be
24 notified. Next of kin who are of legal age and competent must be
25 notified under this section in the following order: Spouse, parents,
26 children, brothers and sisters, and other relatives according to the
27 degree of relation. Access to all records and information compiled,
28 obtained, or maintained in the course of providing services to a
29 deceased patient are governed by RCW 70.02.140;

30 (m) To mark headstones or otherwise memorialize patients interred
31 at state hospital cemeteries. The department of social and health
32 services shall make available the name, date of birth, and date of
33 death of patients buried in state hospital cemeteries fifty years
34 after the death of a patient;

35 (n) To law enforcement officers and to prosecuting attorneys as
36 are necessary to enforce RCW 9.41.040(2)(a)(iii). The extent of
37 information that may be released is limited as follows:

38 (i) Only the fact, place, and date of involuntary commitment, an
39 official copy of any order or orders of commitment, and an official
40 copy of any written or oral notice of ineligibility to possess a

1 firearm that was provided to the person pursuant to RCW 9.41.047(1),
2 must be disclosed upon request;

3 (ii) The law enforcement and prosecuting attorneys may only
4 release the information obtained to the person's attorney as required
5 by court rule and to a jury or judge, if a jury is waived, that
6 presides over any trial at which the person is charged with violating
7 RCW 9.41.040(2)(a)(iii);

8 (iii) Tribal law enforcement officers and tribal prosecuting
9 attorneys who enforce tribal laws or tribal court orders similar to
10 RCW 9.41.040(2)(a)(v) may also receive confidential information in
11 accordance with this subsection;

12 (iv) Disclosure under this subsection is mandatory for the
13 purposes of the federal health insurance portability and
14 accountability act;

15 (o) When a patient would otherwise be subject to the provisions
16 of this section and disclosure is necessary for the protection of the
17 patient or others due to his or her unauthorized disappearance from
18 the facility, and his or her whereabouts is unknown, notice of the
19 disappearance, along with relevant information, may be made to
20 relatives, the department of corrections when the person is under the
21 supervision of the department, and governmental law enforcement
22 agencies designated by the physician or psychiatric advanced
23 registered nurse practitioner in charge of the patient or the
24 professional person in charge of the facility, or his or her
25 professional designee;

26 (p) Pursuant to lawful order of a court, including a tribal
27 court;

28 (q) To qualified staff members of the department, to the
29 authority, to behavioral health administrative services
30 organizations, to managed care organizations, to resource management
31 services responsible for serving a patient, or to service providers
32 designated by resource management services as necessary to determine
33 the progress and adequacy of treatment and to determine whether the
34 person should be transferred to a less restrictive or more
35 appropriate treatment modality or facility;

36 (r) Within the mental health service agency or Indian health care
37 provider facility where the patient is receiving treatment,
38 confidential information may be disclosed to persons employed,
39 serving in bona fide training programs, or participating in

1 supervised volunteer programs, at the facility when it is necessary
2 to perform their duties;

3 (s) Within the department and the authority as necessary to
4 coordinate treatment for mental illness, developmental disabilities,
5 or substance use disorder of persons who are under the supervision of
6 the department;

7 (t) Between the department of social and health services, the
8 department of children, youth, and families, and the health care
9 authority as necessary to coordinate treatment for mental illness,
10 developmental disabilities, or substance use disorder of persons who
11 are under the supervision of the department of social and health
12 services or the department of children, youth, and families;

13 (u) To a licensed physician or psychiatric advanced registered
14 nurse practitioner who has determined that the life or health of the
15 person is in danger and that treatment without the information and
16 records related to mental health services could be injurious to the
17 patient's health. Disclosure must be limited to the portions of the
18 records necessary to meet the medical emergency;

19 (v)(i) Consistent with the requirements of the federal health
20 insurance portability and accountability act, to:

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

24 (B) Any other person who is working in a care coordinator role
25 for a health care facility, health care provider, or Indian health
26 care provider, or is under an agreement pursuant to the federal
27 health insurance portability and accountability act with a health
28 care facility or a health care provider and requires the information
29 and records to assure coordinated care and treatment of that patient.

30 (ii) A person authorized to use or disclose information and
31 records related to mental health services under this subsection
32 (2)(v) must take appropriate steps to protect the information and
33 records relating to mental health services.

34 (iii) Psychotherapy notes may not be released without
35 authorization of the patient who is the subject of the request for
36 release of information;

37 (w) To administrative and office support staff designated to
38 obtain medical records for those licensed professionals listed in (v)
39 of this subsection;

1 (x) To a facility that is to receive a person who is
2 involuntarily committed under chapter 71.05 RCW, or upon transfer of
3 the person from one evaluation and treatment facility to another. The
4 release of records under this subsection is limited to the
5 information and records related to mental health services required by
6 law, a record or summary of all somatic treatments, and a discharge
7 summary. The discharge summary may include a statement of the
8 patient's problem, the treatment goals, the type of treatment which
9 has been provided, and recommendation for future treatment, but may
10 not include the patient's complete treatment record;

11 (y) To the person's counsel or guardian ad litem, without
12 modification, at any time in order to prepare for involuntary
13 commitment or recommitment proceedings, reexaminations, appeals, or
14 other actions relating to detention, admission, commitment, or
15 patient's rights under chapter 71.05 RCW;

16 (z) To staff members of the protection and advocacy agency or to
17 staff members of a private, nonprofit corporation for the purpose of
18 protecting and advocating the rights of persons with mental disorders
19 or developmental disabilities. Resource management services may limit
20 the release of information to the name, birthdate, and county of
21 residence of the patient, information regarding whether the patient
22 was voluntarily admitted, or involuntarily committed, the date and
23 place of admission, placement, or commitment, the name and address of
24 a guardian of the patient, and the date and place of the guardian's
25 appointment. Any staff member who wishes to obtain additional
26 information must notify the patient's resource management services in
27 writing of the request and of the resource management services' right
28 to object. The staff member shall send the notice by mail to the
29 guardian's address. If the guardian does not object in writing within
30 fifteen days after the notice is mailed, the staff member may obtain
31 the additional information. If the guardian objects in writing within
32 fifteen days after the notice is mailed, the staff member may not
33 obtain the additional information;

34 (aa) To all current treating providers, including Indian health
35 care providers, of the patient with prescriptive authority who have
36 written a prescription for the patient within the last twelve months.
37 For purposes of coordinating health care, the department or the
38 authority may release without written authorization of the patient,
39 information acquired for billing and collection purposes as described
40 in RCW 70.02.050(1)(d). The department, or the authority, if

1 applicable, shall notify the patient that billing and collection
2 information has been released to named providers, and provide the
3 substance of the information released and the dates of such release.
4 Neither the department nor the authority may release counseling,
5 inpatient psychiatric hospitalization, or drug and alcohol treatment
6 information without a signed written release from the client;

7 (bb)(i) To the secretary of social and health services and the
8 director of the health care authority for either program evaluation
9 or research, or both so long as the secretary or director, where
10 applicable, adopts rules for the conduct of the evaluation or
11 research, or both. Such rules must include, but need not be limited
12 to, the requirement that all evaluators and researchers sign an oath
13 of confidentiality substantially as follows:

14 "As a condition of conducting evaluation or research concerning
15 persons who have received services from (fill in the facility,
16 agency, or person) I,, agree not to divulge, publish, or
17 otherwise make known to unauthorized persons or the public any
18 information obtained in the course of such evaluation or research
19 regarding persons who have received services such that the person who
20 received such services is identifiable.

21 I recognize that unauthorized release of confidential information
22 may subject me to civil liability under the provisions of state law.

23 /s/"

24 (ii) Nothing in this chapter may be construed to prohibit the
25 compilation and publication of statistical data for use by government
26 or researchers under standards, including standards to assure
27 maintenance of confidentiality, set forth by the secretary, or
28 director, where applicable;

29 (cc) To any person if the conditions in RCW 70.02.205 are met;

30 (dd) To the secretary of health for the purposes of the maternal
31 mortality review panel established in RCW 70.54.450; or

32 (ee) To a tribe or Indian health care provider to carry out the
33 requirements of RCW 71.05.150(~~(+6)~~) (5).

34 (3) Whenever federal law or federal regulations restrict the
35 release of information contained in the information and records
36 related to mental health services of any patient who receives
37 treatment for a substance use disorder, the department or the
38 authority may restrict the release of the information as necessary to
39 comply with federal law and regulations.

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

6 (5) The fact of admission to a provider of mental health
7 services, as well as all records, files, evidence, findings, or
8 orders made, prepared, collected, or maintained pursuant to chapter
9 71.05 RCW are not admissible as evidence in any legal proceeding
10 outside that chapter without the written authorization of the person
11 who was the subject of the proceeding except as provided in RCW
12 70.02.260, in a subsequent criminal prosecution of a person committed
13 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were
14 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand
15 trial, in a civil commitment proceeding pursuant to chapter 71.09
16 RCW, or, in the case of a minor, a guardianship or dependency
17 proceeding. The records and files maintained in any court proceeding
18 pursuant to chapter 71.05 RCW must be confidential and available
19 subsequent to such proceedings (~~only to the person who was the~~
20 ~~subject of the proceeding or his or her attorney~~) in accordance with
21 RCW 71.05.620. In addition, the court may order the subsequent
22 release or use of such records or files only upon good cause shown if
23 the court finds that appropriate safeguards for strict
24 confidentiality are and will be maintained.

25 (6)(a) Except as provided in RCW 4.24.550, any person may bring
26 an action against an individual who has willfully released
27 confidential information or records concerning him or her in
28 violation of the provisions of this section, for the greater of the
29 following amounts:

30 (i) One thousand dollars; or

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

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

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

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

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

6 **Sec. 33.** RCW 70.02.240 and 2023 c 295 s 13 are each amended to
7 read as follows:

8 The fact of admission and all information and records related to
9 mental health services obtained through inpatient or outpatient
10 treatment of a minor under chapter 71.34 RCW must be kept
11 confidential, except as authorized by this section or under RCW
12 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265.
13 Confidential information under this section may be disclosed only:

14 (1) In communications between mental health professionals,
15 including Indian health care providers, to meet the requirements of
16 chapter 71.34 RCW, in the provision of services to the minor, or in
17 making appropriate referrals;

18 (2) In the course of guardianship or dependency proceedings,
19 including proceedings within tribal jurisdictions;

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

23 (4) To the courts, including tribal courts, as necessary to
24 administer chapter 71.34 RCW or equivalent proceedings in tribal
25 courts;

26 (5) By a care coordinator, including an Indian health care
27 provider, under RCW 71.34.755 or 10.77.175 assigned to a person
28 ordered to receive less restrictive alternative treatment for the
29 purpose of sharing information to parties necessary for the
30 implementation of proceedings under chapter 71.34 or 10.77 RCW;

31 (6) By a care coordinator, including an Indian health care
32 provider, under RCW 71.34.755 assigned to a person ordered to receive
33 less restrictive alternative treatment for the purpose of sharing
34 information to parties necessary for the implementation of
35 proceedings under chapter 71.34 RCW;

36 (7) To law enforcement officers, including tribal law enforcement
37 officers, or public health officers, including tribal public health
38 officers, as necessary to carry out the responsibilities of their
39 office. However, only the fact and date of admission, and the date of

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

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

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

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

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

29 /s/";

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

37 (11) To appropriate law enforcement agencies, including tribal
38 law enforcement agencies, and to a person, when the identity of the
39 person is known to the public or private agency, whose health and

1 safety has been threatened, or who is known to have been repeatedly
2 harassed, by the patient. The person may designate a representative
3 to receive the disclosure. The disclosure must be made by the
4 professional person in charge of the public or private agency or his
5 or her designee and must include the dates of admission, discharge,
6 authorized or unauthorized absence from the agency's facility, and
7 only any other information that is pertinent to the threat or
8 harassment. The agency or its employees are not civilly liable for
9 the decision to disclose or not, so long as the decision was reached
10 in good faith and without gross negligence. Nothing in this section
11 shall be interpreted as a waiver of sovereign immunity by a tribe;

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

18 (13) Upon the death of a minor, to the minor's next of kin;

19 (14) To a facility, including a tribal facility, in which the
20 minor resides or will reside;

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

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

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

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

37 (d) Tribal law enforcement officers and tribal prosecuting
38 attorneys who enforce tribal laws or tribal court orders similar to
39 RCW 9.41.040(2)(a)(v) may also receive confidential information in
40 accordance with this subsection;

1 (16) This section may not be construed to prohibit the
2 compilation and publication of statistical data for use by government
3 or researchers under standards, including standards to assure
4 maintenance of confidentiality, set forth by the director of the
5 health care authority or the secretary of the department of social
6 and health services, where applicable. The fact of admission and all
7 information obtained pursuant to chapter 71.34 RCW are not admissible
8 as evidence in any legal proceeding outside chapter 71.34 RCW, except
9 guardianship or dependency, without the written consent of the minor
10 or the minor's parent;

11 (17) For the purpose of a correctional facility participating in
12 the postinstitutional medical assistance system supporting the
13 expedited medical determinations and medical suspensions as provided
14 in RCW 74.09.555 and 74.09.295;

15 (18) Pursuant to a lawful order of a court, including a tribal
16 court.

17 **Sec. 34.** RCW 70.02.260 and 2018 c 201 s 8005 are each amended to
18 read as follows:

19 (1)(a) A mental health service agency shall release to the
20 persons authorized under subsection (2) of this section, upon
21 request:

22 (i) The fact, place, and date of an involuntary commitment, the
23 fact and date of discharge or release, and the last known address of
24 a person who has been committed under chapter 71.05 RCW.

25 (ii) Information and records related to mental health services,
26 in the format determined under subsection (9) of this section,
27 concerning a person who:

28 (A) Is currently committed to the custody or supervision of the
29 department of corrections or the indeterminate sentence review board
30 under chapter 9.94A or 9.95 RCW;

31 (B) Has been convicted or found not guilty by reason of insanity
32 of a serious violent offense; or

33 (C) Was charged with a serious violent offense and the charges
34 were dismissed under RCW 10.77.086.

35 (b) Legal counsel may release such information to the persons
36 authorized under subsection (2) of this section on behalf of the
37 mental health service agency, so long as nothing in this subsection
38 requires the disclosure of attorney work product or attorney-client
39 privileged information.

1 (2) The information subject to release under subsection (1) of
2 this section must be released to law enforcement officers, personnel
3 of a county (~~or~~), city, or tribal jail or tribal detention or
4 holding facility, designated mental health professionals or
5 designated crisis responders, as appropriate, public health officers,
6 therapeutic court personnel as defined in RCW 71.05.020, or personnel
7 of the department of corrections, including the indeterminate
8 sentence review board and personnel assigned to perform board-related
9 duties, when such information is requested during the course of
10 business and for the purpose of carrying out the responsibilities of
11 the requesting person's office. No mental health service agency or
12 person employed by a mental health service agency, or its legal
13 counsel, may be liable for information released to or used under the
14 provisions of this section or rules adopted under this section except
15 under RCW 71.05.680.

16 (3) A person who requests information under subsection (1)(a)(ii)
17 of this section must comply with the following restrictions:

18 (a) Information must be requested only for the purposes permitted
19 by this subsection and for the purpose of carrying out the
20 responsibilities of the requesting person's office. Appropriate
21 purposes for requesting information under this section include:

22 (i) Completing presentence investigations or risk assessment
23 reports;

24 (ii) Assessing a person's risk to the community;

25 (iii) Assessing a person's risk of harm to self or others when
26 confined in a city or county jail;

27 (iv) Planning for and provision of supervision of an offender,
28 including decisions related to sanctions for violations of conditions
29 of community supervision; and

30 (v) Responding to an offender's failure to report for department
31 of corrections supervision;

32 (b) Information may not be requested under this section unless
33 the requesting person has reasonable suspicion that the individual
34 who is the subject of the information:

35 (i) Has engaged in activity indicating that a crime or a
36 violation of community custody or parole has been committed or, based
37 upon his or her current or recent past behavior, is likely to be
38 committed in the near future; or

1 (ii) Is exhibiting signs of a deterioration in mental functioning
2 which may make the individual appropriate for civil commitment under
3 chapter 71.05 RCW; and

4 (c) Any information received under this section must be held
5 confidential and subject to the limitations on disclosure outlined in
6 this chapter, except:

7 (i) The information may be shared with other persons who have the
8 right to request similar information under subsection (2) of this
9 section, solely for the purpose of coordinating activities related to
10 the individual who is the subject of the information in a manner
11 consistent with the official responsibilities of the persons
12 involved;

13 (ii) The information may be shared with a prosecuting attorney
14 acting in an advisory capacity for a person who receives information
15 under this section. A prosecuting attorney under this subsection is
16 subject to the same restrictions and confidentiality limitations as
17 the person who requested the information; and

18 (iii) As provided in RCW 72.09.585.

19 (4) A request for information and records related to mental
20 health services under this section does not require the consent of
21 the subject of the records. The request must be provided in writing,
22 except to the extent authorized in subsection (5) of this section. A
23 written request may include requests made by email or facsimile so
24 long as the requesting person is clearly identified. The request must
25 specify the information being requested.

26 (5) In the event of an emergency situation that poses a
27 significant risk to the public or the offender, a mental health
28 service agency, or its legal counsel, shall release information
29 related to mental health services delivered to the offender and, if
30 known, information regarding where the offender is likely to be found
31 to the department of corrections or law enforcement upon request. The
32 initial request may be written or oral. All oral requests must be
33 subsequently confirmed in writing. Information released in response
34 to an oral request is limited to a statement as to whether the
35 offender is or is not being treated by the mental health service
36 agency and the address or information about the location or
37 whereabouts of the offender.

38 (6) Disclosure under this section to state or local law
39 enforcement authorities is mandatory for the purposes of the federal
40 health insurance portability and accountability act.

1 (7) Whenever federal law or federal regulations restrict the
2 release of information contained in the treatment records of any
3 patient who receives treatment for alcoholism or drug dependency, the
4 release of the information may be restricted as necessary to comply
5 with federal law and regulations.

6 (8) This section does not modify the terms and conditions of
7 disclosure of information related to sexually transmitted diseases
8 under this chapter.

9 (9) In collaboration with interested organizations, the authority
10 shall develop a standard form for requests for information related to
11 mental health services made under this section and a standard format
12 for information provided in response to the requests. Consistent with
13 the goals of the health information privacy provisions of the federal
14 health insurance portability and accountability act, in developing
15 the standard form for responsive information, the authority shall
16 design the form in such a way that the information disclosed is
17 limited to the minimum necessary to serve the purpose for which the
18 information is requested.

19 NEW SECTION. **Sec. 35.** Section 5 of this act expires when
20 section 6 of this act takes effect.

21 NEW SECTION. **Sec. 36.** Section 6 of this act takes effect when
22 section 4, chapter 433, Laws of 2023 takes effect.

23 NEW SECTION. **Sec. 37.** Section 7 of this act expires when
24 section 8 of this act takes effect.

25 NEW SECTION. **Sec. 38.** Section 8 of this act takes effect when
26 section 13, chapter 433, Laws of 2023 takes effect.

27 NEW SECTION. **Sec. 39.** Sections 11, 13, 23, and 26 of this act
28 expire July 1, 2026.

29 NEW SECTION. **Sec. 40.** Sections 12, 14, 24, and 27 of this act
30 take effect July 1, 2026.

31 NEW SECTION. **Sec. 41.** Section 17 of this act expires when
32 section 18 of this act takes effect.

1 NEW SECTION. **Sec. 42.** Section 18 of this act takes effect when
2 section 10, chapter 210, Laws of 2022 takes effect.

3 NEW SECTION. **Sec. 43.** If specific funding for the purposes of
4 this act, referencing this act by bill or chapter number, is not
5 provided by June 30, 2024, in the omnibus appropriations act, this
6 act is null and void."

2SHB 1877 - S COMM AMD
By Committee on Ways & Means

ADOPTED 03/01/2024

7 On page 1, line 3 of the title, after "system;" strike the
8 remainder of the title and insert "amending RCW 71.34.020, 71.34.020,
9 71.05.148, 71.34.815, 71.05.150, 71.05.150, 71.34.710, 71.34.710,
10 71.05.195, 71.05.201, 71.05.212, 71.05.212, 71.05.214, 71.05.217,
11 71.05.435, 71.05.458, 71.05.590, 71.05.590, 71.05.620, 71.34.780,
12 71.34.780, 71.05.730, 71.24.030, 71.24.045, 70.02.230, 70.02.240, and
13 70.02.260; reenacting and amending RCW 71.05.020, 71.05.020, and
14 70.02.010; adding new sections to chapter 71.05 RCW; adding new
15 sections to chapter 71.34 RCW; creating a new section; providing an
16 effective date; providing contingent effective dates; providing an
17 expiration date; and providing contingent expiration dates."

EFFECT: Requires a tribe's intervention in an involuntary
treatment court proceeding involving a tribal member be accomplished
through an attorney representing the tribe.

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