
SECOND SUBSTITUTE HOUSE BILL 1450

State of Washington

64th Legislature

2015 Regular Session

By House Appropriations (originally sponsored by Representatives Jinkins, Rodne, Walkinshaw, Harris, Cody, Goodman, Senn, Walsh, Riccelli, Robinson, Orwall, Moeller, Gregerson, Van De Wege, Ormsby, Clibborn, McBride, Tharinger, Kagi, and Stanford)

READ FIRST TIME 02/27/15.

1 AN ACT Relating to involuntary outpatient mental health
2 treatment; amending RCW 71.05.150, 71.05.156, 71.05.212, 71.05.230,
3 71.05.240, 71.05.245, 71.05.280, 71.05.290, 71.05.300, 71.05.320,
4 71.05.340, 71.05.730, and 71.05.730; reenacting and amending RCW
5 71.05.020, 71.05.020, and 71.05.300; adding a new section to chapter
6 71.05 RCW; creating a new section; providing an effective date; and
7 providing an expiration date.

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

9 **Sec. 1.** RCW 71.05.020 and 2011 c 148 s 1 and 2011 c 89 s 14 are
10 each reenacted and amended to read as follows:

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

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

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

1 (3) "Attending staff" means any person on the staff of a public
2 or private agency having responsibility for the care and treatment of
3 a patient;

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

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

9 (6) "Crisis stabilization unit" means a short-term facility or a
10 portion of a facility licensed by the department of health and
11 certified by the department of social and health services under RCW
12 71.24.035, such as an evaluation and treatment facility or a
13 hospital, which has been designed to assess, diagnose, and treat
14 individuals experiencing an acute crisis without the use of long-term
15 hospitalization;

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

20 (8) "Department" means the department of social and health
21 services;

22 (9) "Designated chemical dependency specialist" means a person
23 designated by the county alcoholism and other drug addiction program
24 coordinator designated under RCW 70.96A.310 to perform the commitment
25 duties described in chapters 70.96A and 70.96B RCW;

26 (10) "Designated crisis responder" means a mental health
27 professional appointed by the county or the regional support network
28 to perform the duties specified in this chapter;

29 (11) "Designated mental health professional" means a mental
30 health professional designated by the county or other authority
31 authorized in rule to perform the duties specified in this chapter;

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

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

1 (14) "Developmental disability" means that condition defined in
2 RCW 71A.10.020(~~(+3)~~) (5);

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

6 (16) "Evaluation and treatment facility" means any facility which
7 can provide directly, or by direct arrangement with other public or
8 private agencies, emergency evaluation and treatment, outpatient
9 care, and timely and appropriate inpatient care to persons suffering
10 from a mental disorder, and which is certified as such by the
11 department. A physically separate and separately operated portion of
12 a state hospital may be designated as an evaluation and treatment
13 facility. A facility which is part of, or operated by, the department
14 or any federal agency will not require certification. No correctional
15 institution or facility, or jail, shall be an evaluation and
16 treatment facility within the meaning of this chapter;

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

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

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

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

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

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

7 (b) The conditions and strategies necessary to achieve the
8 purposes of habilitation;

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

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

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

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

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

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

27 (23) "Judicial commitment" means a commitment by a court pursuant
28 to the provisions of this chapter;

29 (24) "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 mental health service
32 providers under RCW 71.05.130;

33 (25) "Likelihood of serious harm" means:

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

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

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

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

8 (27) "Mental health professional" means a psychiatrist,
9 psychologist, psychiatric advanced registered nurse practitioner,
10 psychiatric nurse, or social worker, and such other mental health
11 professionals as may be defined by rules adopted by the secretary
12 pursuant to the provisions of this chapter;

13 (28) "Mental health service provider" means a public or private
14 agency that provides mental health services to persons with mental
15 disorders as defined under this section and receives funding from
16 public sources. This includes, but is not limited to, hospitals
17 licensed under chapter 70.41 RCW, evaluation and treatment facilities
18 as defined in this section, community mental health service delivery
19 systems or community mental health programs as defined in RCW
20 71.24.025, facilities conducting competency evaluations and
21 restoration under chapter 10.77 RCW, and correctional facilities
22 operated by state and local governments;

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

27 (30) "Private agency" means any person, partnership, corporation,
28 or association that is not a public agency, whether or not financed
29 in whole or in part by public funds, which constitutes an evaluation
30 and treatment facility or private institution, or hospital, which is
31 conducted for, or includes a department or ward conducted for, the
32 care and treatment of persons who are mentally ill;

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

38 (32) "Psychiatric advanced registered nurse practitioner" means a
39 person who is licensed as an advanced registered nurse practitioner

1 pursuant to chapter 18.79 RCW; and who is board certified in advanced
2 practice psychiatric and mental health nursing;

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

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

11 (35) "Public agency" means any evaluation and treatment facility
12 or institution, or hospital which is conducted for, or includes a
13 department or ward conducted for, the care and treatment of persons
14 with mental illness, if the agency is operated directly by, federal,
15 state, county, or municipal government, or a combination of such
16 governments;

17 (36) "Registration records" include all the records of the
18 department, regional support networks, treatment facilities, and
19 other persons providing services to the department, county
20 departments, or facilities which identify persons who are receiving
21 or who at any time have received services for mental illness;

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

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

26 (39) "Secretary" means the secretary of the department of social
27 and health services, or his or her designee;

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

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

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

39 (43) "Triage facility" means a short-term facility or a portion
40 of a facility licensed by the department of health and certified by

1 the department of social and health services under RCW 71.24.035,
2 which is designed as a facility to assess and stabilize an individual
3 or determine the need for involuntary commitment of an individual,
4 and must meet department of health residential treatment facility
5 standards. A triage facility may be structured as a voluntary or
6 involuntary placement facility;

7 (44) "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, by regional support networks and their staffs, and by
11 treatment facilities. Treatment records include mental health
12 information contained in a medical bill including but not limited to
13 mental health drugs, a mental health diagnosis, provider name, and
14 dates of service stemming from a medical service. Treatment records
15 do not include notes or records maintained for personal use by a
16 person providing treatment services for the department, regional
17 support networks, or a treatment facility if the notes or records are
18 not available to others;

19 (45) "Violent act" means behavior that resulted in homicide,
20 attempted suicide, nonfatal injuries, or substantial damage to
21 property.

22 (46) "In need of assisted outpatient mental health treatment"
23 means that a person, as a result of a mental disorder: (a) Has been
24 committed by a court to detention for involuntary mental health
25 treatment at least twice during the preceding thirty-six months, or,
26 if the person is currently committed for involuntary mental health
27 treatment, the person has been committed to detention for involuntary
28 mental health treatment at least once during the thirty-six months
29 preceding the date of initial detention of the current commitment
30 cycle; (b) is unlikely to voluntarily participate in outpatient
31 treatment without an order for assisted outpatient mental health
32 treatment, in view of the person's treatment history or current
33 behavior; (c) is unlikely to survive safely in the community without
34 supervision; (d) is likely to benefit from assisted outpatient mental
35 health treatment; and (e) requires outpatient treatment that would be
36 provided under an assisted outpatient mental health treatment order
37 to prevent a relapse, decompensation, or deterioration that is likely
38 to result in the person presenting a likelihood of serious harm or
39 the person becoming gravely disabled within a reasonably short period
40 of time. For purposes of (a) of this subsection, time spent in a

1 mental health facility or in confinement as a result of a criminal
2 conviction is excluded from the thirty-six month calculation.

3 (47) "Assisted outpatient mental health treatment" means a
4 program of individualized treatment in a less restrictive setting
5 that:

6 (a) At a minimum, includes the following services:

7 (i) Assignment of a care coordinator;

8 (ii) An intake evaluation with the provider of the assisted
9 outpatient mental health treatment;

10 (iii) A psychiatric evaluation;

11 (iv) Medication management;

12 (v) A schedule of regular contacts with the provider of the
13 assisted outpatient mental health treatment services for the duration
14 of the order;

15 (vi) A transition plan addressing access to continued services at
16 the expiration of the order; and

17 (vii) An individual crisis plan; and

18 (b) May also include the following services:

19 (i) Psychotherapy;

20 (ii) Nursing;

21 (iii) Substance abuse counseling; and

22 (iv) Support for housing, benefits, education, and employment.

23 **Sec. 2.** RCW 71.05.020 and 2014 c 225 s 79 are each reenacted and
24 amended to read as follows:

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

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

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

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

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

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

3 (6) "Crisis stabilization unit" means a short-term facility or a
4 portion of a facility licensed by the department of health and
5 certified by the department of social and health services under RCW
6 71.24.035, such as an evaluation and treatment facility or a
7 hospital, which has been designed to assess, diagnose, and treat
8 individuals experiencing an acute crisis without the use of long-term
9 hospitalization;

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

14 (8) "Department" means the department of social and health
15 services;

16 (9) "Designated chemical dependency specialist" means a person
17 designated by the county alcoholism and other drug addiction program
18 coordinator designated under RCW 70.96A.310 to perform the commitment
19 duties described in chapters 70.96A and 70.96B RCW;

20 (10) "Designated crisis responder" means a mental health
21 professional appointed by the county or the behavioral health
22 organization to perform the duties specified in this chapter;

23 (11) "Designated mental health professional" means a mental
24 health professional designated by the county or other authority
25 authorized in rule to perform the duties specified in this chapter;

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

28 (13) "Developmental disabilities professional" means a person who
29 has specialized training and three years of experience in directly
30 treating or working with persons with developmental disabilities and
31 is a psychiatrist, psychologist, psychiatric advanced registered
32 nurse practitioner, or social worker, and such other developmental
33 disabilities professionals as may be defined by rules adopted by the
34 secretary;

35 (14) "Developmental disability" means that condition defined in
36 RCW 71A.10.020(~~(+4)~~) (5);

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

1 (16) "Evaluation and treatment facility" means any facility which
2 can provide directly, or by direct arrangement with other public or
3 private agencies, emergency evaluation and treatment, outpatient
4 care, and timely and appropriate inpatient care to persons suffering
5 from a mental disorder, and which is certified as such by the
6 department. A physically separate and separately operated portion of
7 a state hospital may be designated as an evaluation and treatment
8 facility. A facility which is part of, or operated by, the department
9 or any federal agency will not require certification. No correctional
10 institution or facility, or jail, shall be an evaluation and
11 treatment facility within the meaning of this chapter;

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

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

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

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

35 (21) "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 (22) "Information related to mental health services" means all
16 information and records compiled, obtained, or maintained in the
17 course of providing services to either voluntary or involuntary
18 recipients of services by a mental health service provider. This may
19 include documents of legal proceedings under this chapter or chapter
20 71.34 or 10.77 RCW, or somatic health care information;

21 (23) "Judicial commitment" means a commitment by a court pursuant
22 to the provisions of this chapter;

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

27 (25) "Likelihood of serious harm" means:

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

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

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

4 (27) "Mental health professional" means a psychiatrist,
5 psychologist, psychiatric advanced registered nurse practitioner,
6 psychiatric nurse, or social worker, and such other mental health
7 professionals as may be defined by rules adopted by the secretary
8 pursuant to the provisions of this chapter;

9 (28) "Mental health service provider" means a public or private
10 agency that provides mental health services to persons with mental
11 disorders as defined under this section and receives funding from
12 public sources. This includes, but is not limited to, hospitals
13 licensed under chapter 70.41 RCW, evaluation and treatment facilities
14 as defined in this section, community mental health service delivery
15 systems or community mental health programs as defined in RCW
16 71.24.025, facilities conducting competency evaluations and
17 restoration under chapter 10.77 RCW, and correctional facilities
18 operated by state and local governments;

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

23 (30) "Private agency" means any person, partnership, corporation,
24 or association that is not a public agency, whether or not financed
25 in whole or in part by public funds, which constitutes an evaluation
26 and treatment facility or private institution, or hospital, which is
27 conducted for, or includes a department or ward conducted for, the
28 care and treatment of persons who are mentally ill;

29 (31) "Professional person" means a mental health professional and
30 shall also mean a physician, psychiatric advanced registered nurse
31 practitioner, registered nurse, and such others as may be defined by
32 rules adopted by the secretary pursuant to the provisions of this
33 chapter;

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

38 (33) "Psychiatrist" means a person having a license as a
39 physician and surgeon in this state who has in addition completed
40 three years of graduate training in psychiatry in a program approved

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

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

6 (35) "Public agency" means any evaluation and treatment facility
7 or institution, or hospital which is conducted for, or includes a
8 department or ward conducted for, the care and treatment of persons
9 with mental illness, if the agency is operated directly by, federal,
10 state, county, or municipal government, or a combination of such
11 governments;

12 (36) "Registration records" include all the records of the
13 department, behavioral health organizations, treatment facilities,
14 and other persons providing services to the department, county
15 departments, or facilities which identify persons who are receiving
16 or who at any time have received services for mental illness;

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

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

21 (39) "Secretary" means the secretary of the department of social
22 and health services, or his or her designee;

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

25 (41) "Social worker" means a person with a master's or further
26 advanced degree from a social work educational program accredited and
27 approved as provided in RCW 18.320.010;

28 (42) "Therapeutic court personnel" means the staff of a mental
29 health court or other therapeutic court which has jurisdiction over
30 defendants who are dually diagnosed with mental disorders, including
31 court personnel, probation officers, a court monitor, prosecuting
32 attorney, or defense counsel acting within the scope of therapeutic
33 court duties;

34 (43) "Treatment records" include registration and all other
35 records concerning persons who are receiving or who at any time have
36 received services for mental illness, which are maintained by the
37 department, by behavioral health organizations and their staffs, and
38 by treatment facilities. Treatment records include mental health
39 information contained in a medical bill including but not limited to
40 mental health drugs, a mental health diagnosis, provider name, and

1 dates of service stemming from a medical service. Treatment records
2 do not include notes or records maintained for personal use by a
3 person providing treatment services for the department, behavioral
4 health organizations, or a treatment facility if the notes or records
5 are not available to others;

6 (44) "Triage facility" means a short-term facility or a portion
7 of a facility licensed by the department of health and certified by
8 the department of social and health services under RCW 71.24.035,
9 which is designed as a facility to assess and stabilize an individual
10 or determine the need for involuntary commitment of an individual,
11 and must meet department of health residential treatment facility
12 standards. A triage facility may be structured as a voluntary or
13 involuntary placement facility;

14 (45) "Violent act" means behavior that resulted in homicide,
15 attempted suicide, nonfatal injuries, or substantial damage to
16 property.

17 (46) "In need of assisted outpatient mental health treatment"
18 means that a person, as a result of a mental disorder: (a) Has been
19 committed by a court to detention for involuntary mental health
20 treatment at least twice during the preceding thirty-six months, or,
21 if the person is currently committed for involuntary mental health
22 treatment, the person has been committed to detention for involuntary
23 mental health treatment at least once during the thirty-six months
24 preceding the date of initial detention of the current commitment
25 cycle; (b) is unlikely to voluntarily participate in outpatient
26 treatment without an order for assisted outpatient mental health
27 treatment, in view of the person's treatment history or current
28 behavior; (c) is unlikely to survive safely in the community without
29 supervision; (d) is likely to benefit from assisted outpatient mental
30 health treatment; and (e) requires outpatient treatment that would be
31 provided under an assisted outpatient mental health treatment order
32 to prevent a relapse, decompensation, or deterioration that is likely
33 to result in the person presenting a likelihood of serious harm or
34 the person becoming gravely disabled within a reasonably short period
35 of time. For purposes of (a) of this subsection, time spent in a
36 mental health facility or in confinement as a result of a criminal
37 conviction is excluded from the thirty-six month calculation.

38 (47) "Assisted outpatient mental health treatment" means a
39 program of individualized treatment in a less restrictive setting
40 that:

- 1 (a) At a minimum, includes the following services:
2 (i) Assignment of a care coordinator;
3 (ii) An intake evaluation with the provider of the assisted
4 outpatient mental health treatment;
5 (iii) A psychiatric evaluation;
6 (iv) Medication management;
7 (v) A schedule of regular contacts with the provider of the
8 assisted outpatient mental health treatment services for the duration
9 of the order;
10 (vi) A transition plan addressing access to continued services at
11 the expiration of the order; and
12 (vii) An individual crisis plan; and
13 (b) May also include the following services:
14 (i) Psychotherapy;
15 (ii) Nursing;
16 (iii) Substance abuse counseling; and
17 (iv) Support for housing, benefits, education, and employment.

18 **Sec. 3.** RCW 71.05.150 and 2011 c 148 s 5 are each amended to
19 read as follows:

20 (1)(a) When a designated mental health professional receives
21 information alleging that a person, as a result of a mental disorder:
22 (i) Presents a likelihood of serious harm; ((~~or~~)) (ii) is gravely
23 disabled; or (iii) is in need of assisted outpatient mental health
24 treatment; the designated mental health professional may, after
25 investigation and evaluation of the specific facts alleged and of the
26 reliability and credibility of any person providing information to
27 initiate detention or outpatient evaluation, if satisfied that the
28 allegations are true and that the person will not voluntarily seek
29 appropriate treatment, file a petition for initial detention or
30 outpatient evaluation. If the petition is filed solely on the grounds
31 that the person is in need of assisted outpatient mental health
32 treatment, the petition may only be for an outpatient evaluation. If
33 the petition is for assisted outpatient treatment and the person is
34 being held in a hospital emergency department, the person may be
35 released once the hospital has satisfied federal and state legal
36 requirements for appropriate screening and stabilization of patients.

37 (b) Before filing the petition, the designated mental health
38 professional must personally interview the person, unless the person
39 refuses an interview, and determine whether the person will

1 voluntarily receive appropriate evaluation and treatment at an
2 evaluation and treatment facility, crisis stabilization unit, ((~~or~~))
3 triage facility, or assisted outpatient mental health treatment
4 program.

5 (2)(a) An order to detain to a designated evaluation and
6 treatment facility for not more than a seventy-two-hour evaluation
7 and treatment period, or an order for an outpatient evaluation, may
8 be issued by a judge of the superior court upon request of a
9 designated mental health professional, whenever it appears to the
10 satisfaction of a judge of the superior court:

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

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

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

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

1 presence would present a safety risk, delay the proceedings, or
2 otherwise interfere with the evaluation.

3 (4) The designated mental health professional may notify a peace
4 officer to take such person or cause such person to be taken into
5 custody and placed in an evaluation and treatment facility. At the
6 time such person is taken into custody there shall commence to be
7 served on such person, his or her guardian, and conservator, if any,
8 a copy of the original order together with a notice of rights and a
9 petition for initial detention.

10 **Sec. 4.** RCW 71.05.156 and 2013 c 334 s 2 are each amended to
11 read as follows:

12 A designated mental health professional who conducts an
13 evaluation for imminent likelihood of serious harm or imminent danger
14 because of being gravely disabled under RCW 71.05.153 must also
15 evaluate the person under RCW 71.05.150 for likelihood of serious
16 harm or grave disability that does not meet the imminent standard for
17 emergency detention, and to determine whether the person is in need
18 of assisted outpatient mental health treatment.

19 **Sec. 5.** RCW 71.05.212 and 2010 c 280 s 2 are each amended to
20 read as follows:

21 (1) Whenever a designated mental health professional or
22 professional person is conducting an evaluation under this chapter,
23 consideration shall include all reasonably available information from
24 credible witnesses and records regarding:

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

28 (b) Historical behavior, including history of one or more violent
29 acts;

30 (c) Prior determinations of incompetency or insanity under
31 chapter 10.77 RCW; and

32 (d) Prior commitments under this chapter.

33 (2) Credible witnesses may include family members, landlords,
34 neighbors, or others with significant contact and history of
35 involvement with the person. If the designated mental health
36 professional relies upon information from a credible witness in
37 reaching his or her decision to detain the individual, then he or she
38 must provide contact information for any such witness to the

1 prosecutor. The designated mental health professional or prosecutor
2 shall provide notice of the date, time, and location of the probable
3 cause hearing to such a witness.

4 (3) Symptoms and behavior of the respondent which standing alone
5 would not justify civil commitment may support a finding of grave
6 disability or likelihood of serious harm, or a finding that the
7 person is in need of assisted outpatient mental health treatment,
8 when:

9 (a) Such symptoms or behavior are closely associated with
10 symptoms or behavior which preceded and led to a past incident of
11 involuntary hospitalization, severe deterioration, or one or more
12 violent acts;

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

15 (c) Without treatment, the continued deterioration of the
16 respondent is probable.

17 (4) When conducting an evaluation for offenders identified under
18 RCW 72.09.370, the designated mental health professional or
19 professional person shall consider an offender's history of
20 judicially required or administratively ordered antipsychotic
21 medication while in confinement.

22 **Sec. 6.** RCW 71.05.230 and 2011 c 343 s 9 are each amended to
23 read as follows:

24 A person detained or committed for seventy-two hour evaluation
25 and treatment may be ~~((detained))~~ committed for not more than
26 fourteen additional days of involuntary intensive treatment ~~((or))~~,
27 ninety additional days of a less restrictive alternative to
28 involuntary intensive treatment, or ninety additional days of
29 assisted outpatient mental health treatment. A petition may only be
30 filed if the following conditions are met:

31 (1) The professional staff of the agency or facility providing
32 evaluation services has analyzed the person's condition and finds
33 that the condition is caused by mental disorder and ~~((either))~~
34 results in a likelihood of serious harm, ~~((or))~~ results in the
35 ~~((detained))~~ person being gravely disabled, or results in the person
36 being in need of assisted outpatient mental health treatment, and are
37 prepared to testify those conditions are met; and

1 (2) The person has been advised of the need for voluntary
2 treatment and the professional staff of the facility has evidence
3 that he or she has not in good faith volunteered; and

4 (3) The facility providing intensive treatment is certified to
5 provide such treatment by the department; and

6 (4) The professional staff of the agency or facility or the
7 designated mental health professional has filed a petition with the
8 court for a fourteen day involuntary detention (~~((or))~~), a ninety day
9 less restrictive alternative ((with the court)), or a ninety-day
10 period of assisted outpatient mental health treatment. The petition
11 must be signed either by:

12 (a) Two physicians;

13 (b) One physician and a mental health professional;

14 (c) Two psychiatric advanced registered nurse practitioners;

15 (d) One psychiatric advanced registered nurse practitioner and a
16 mental health professional; or

17 (e) A physician and a psychiatric advanced registered nurse
18 practitioner. The persons signing the petition must have examined the
19 person. If involuntary detention is sought the petition shall state
20 facts that support the finding that such person, as a result of
21 mental disorder, presents a likelihood of serious harm, or is gravely
22 disabled and that there are no less restrictive alternatives to
23 detention in the best interest of such person or others. The petition
24 shall state specifically that less restrictive alternative treatment
25 was considered and specify why treatment less restrictive than
26 detention is not appropriate. If an involuntary less restrictive
27 alternative is sought, the petition shall state facts that support
28 the finding that such person, as a result of mental disorder,
29 presents a likelihood of serious harm, or is gravely disabled and
30 shall set forth the less restrictive alternative proposed by the
31 facility. If assisted outpatient mental health treatment is sought,
32 the petition shall state facts that support the finding that such a
33 person, as a result of mental disorder, is in need of assisted
34 outpatient mental health treatment, and shall set forth a proposed
35 assisted outpatient mental health treatment plan in accordance with
36 RCW 71.05.020(47); and

37 (5) A copy of the petition has been served on the detained or
38 committed person, his or her attorney and his or her guardian or
39 conservator, if any, prior to the probable cause hearing; and

1 (6) The court at the time the petition was filed and before the
2 probable cause hearing has appointed counsel to represent such person
3 if no other counsel has appeared; and

4 (7) The petition reflects that the person was informed of the
5 loss of firearm rights if involuntarily committed; and

6 (8) At the conclusion of the initial commitment period, the
7 professional staff of the agency or facility or the designated mental
8 health professional may petition for an additional period of
9 ~~((either))~~ ninety days of less restrictive alternative treatment,
10 ninety days of assisted outpatient mental health treatment, or ninety
11 days of involuntary intensive treatment as provided in RCW 71.05.290;
12 and

13 (9) If the hospital or facility designated to provide less
14 restrictive alternative treatment or assisted outpatient mental
15 health treatment is other than the facility providing involuntary
16 treatment, the outpatient facility so designated has agreed to assume
17 such responsibility.

18 **Sec. 7.** RCW 71.05.240 and 2009 c 293 s 4 are each amended to
19 read as follows:

20 (1) If a petition is filed for fourteen day involuntary treatment
21 ~~((or))~~, ninety days of less restrictive alternative treatment, or
22 ninety days of assisted outpatient mental health treatment, the court
23 shall hold a probable cause hearing within seventy-two hours of the
24 initial detention or outpatient evaluation of such person as
25 determined in RCW 71.05.180. If requested by the ~~((detained))~~ person
26 or his or her attorney, the hearing may be postponed for a period not
27 to exceed forty-eight hours. The hearing may also be continued
28 subject to the conditions set forth in RCW 71.05.210 or subject to
29 the petitioner's showing of good cause for a period not to exceed
30 twenty-four hours.

31 (2) The court at the time of the probable cause hearing and
32 before an order of commitment is entered shall inform the person both
33 orally and in writing that the failure to make a good faith effort to
34 seek voluntary treatment as provided in RCW 71.05.230 will result in
35 the loss of his or her firearm rights if the person is subsequently
36 detained for involuntary treatment under this section.

37 (3) At the conclusion of the probable cause hearing ~~((, if the~~
38 ~~court finds by a preponderance of the evidence that))~~:

1 (a) If the court finds by a preponderance of the evidence that
2 such person, as the result of mental disorder, presents a likelihood
3 of serious harm, or is gravely disabled, and, after considering less
4 restrictive alternatives to involuntary detention and treatment,
5 finds that no such alternatives are in the best interests of such
6 person or others, the court shall order that such person be detained
7 for involuntary treatment not to exceed fourteen days in a facility
8 certified to provide treatment by the department. If the court finds
9 that such person, as the result of a mental disorder, presents a
10 likelihood of serious harm, or is gravely disabled, but that
11 treatment in a less restrictive setting than detention is in the best
12 interest of such person or others, the court shall order an
13 appropriate less restrictive course of treatment for not to exceed
14 ninety days;

15 (b) If the court finds by a preponderance of the evidence that
16 such person, as the result of a mental disorder, is in need of
17 assisted outpatient mental health treatment, and that the person does
18 not present a likelihood of serious harm or grave disability, the
19 court shall order an appropriate course of assisted outpatient mental
20 health treatment not to exceed ninety days, and may not order
21 inpatient treatment. The order for assisted outpatient mental health
22 treatment must identify the services the person found in need of
23 assisted outpatient mental health treatment will receive, in
24 accordance with RCW 71.05.020(47). If the petitioner did not set
25 forth a proposed assisted outpatient mental health treatment plan,
26 the court may postpone the issuance of the order for up to five
27 judicial days and require the petitioner to submit a proposal for
28 assisted outpatient mental health services. The court may order
29 additional evaluation of the person if necessary to identify
30 appropriate services.

31 (4) The court shall specifically state to such person and give
32 such person notice in writing that if involuntary treatment beyond
33 the fourteen day period or beyond the ninety days of less restrictive
34 treatment or assisted outpatient mental health treatment is to be
35 sought, such person will have the right to a full hearing or jury
36 trial as required by RCW 71.05.310. The court shall also state to the
37 person and provide written notice that the person is barred from the
38 possession of firearms and that the prohibition remains in effect
39 until a court restores his or her right to possess a firearm under
40 RCW 9.41.047.

1 **Sec. 8.** RCW 71.05.245 and 2010 c 280 s 3 are each amended to
2 read as follows:

3 (1) In making a determination of whether a person is gravely
4 disabled (~~(or)~~), presents a likelihood of serious harm, or is in need
5 of assisted outpatient mental health treatment in a hearing conducted
6 under RCW 71.05.240 or 71.05.320, the court must consider the
7 symptoms and behavior of the respondent in light of all available
8 evidence concerning the respondent's historical behavior.

9 (2) Symptoms or behavior which standing alone would not justify
10 civil commitment may support a finding of grave disability or
11 likelihood of serious harm, or a finding that the person is in need
12 of assisted outpatient mental health treatment, when: (a) Such
13 symptoms or behavior are closely associated with symptoms or behavior
14 which preceded and led to a past incident of involuntary
15 hospitalization, severe deterioration, or one or more violent acts;
16 (b) these symptoms or behavior represent a marked and concerning
17 change in the baseline behavior of the respondent; and (c) without
18 treatment, the continued deterioration of the respondent is probable.

19 (3) In making a determination of whether there is a likelihood of
20 serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320,
21 the court shall give great weight to any evidence before the court
22 regarding whether the person has: (a) A recent history of one or more
23 violent acts; or (b) a recent history of one or more commitments
24 under this chapter or its equivalent provisions under the laws of
25 another state which were based on a likelihood of serious harm. The
26 existence of prior violent acts or commitments under this chapter or
27 its equivalent shall not be the sole basis for determining whether a
28 person presents a likelihood of serious harm.

29 For the purposes of this subsection "recent" refers to the period
30 of time not exceeding three years prior to the current hearing.

31 **Sec. 9.** RCW 71.05.280 and 2013 c 289 s 4 are each amended to
32 read as follows:

33 At the expiration of the fourteen-day period of intensive
34 treatment, a person may be confined for further treatment pursuant to
35 RCW 71.05.320 if:

36 (1) Such person after having been taken into custody for
37 evaluation and treatment has threatened, attempted, or inflicted: (a)
38 Physical harm upon the person of another or himself or herself, or

1 substantial damage upon the property of another, and (b) as a result
2 of mental disorder presents a likelihood of serious harm; or

3 (2) Such person was taken into custody as a result of conduct in
4 which he or she attempted or inflicted physical harm upon the person
5 of another or himself or herself, or substantial damage upon the
6 property of others, and continues to present, as a result of mental
7 disorder, a likelihood of serious harm; or

8 (3) Such person has been determined to be incompetent and
9 criminal charges have been dismissed pursuant to RCW 10.77.086(4),
10 and has committed acts constituting a felony, and as a result of a
11 mental disorder, presents a substantial likelihood of repeating
12 similar acts.

13 (a) In any proceeding pursuant to this subsection it shall not be
14 necessary to show intent, willfulness, or state of mind as an element
15 of the crime;

16 (b) For any person subject to commitment under this subsection
17 where the charge underlying the finding of incompetence is for a
18 felony classified as violent under RCW 9.94A.030, the court shall
19 determine whether the acts the person committed constitute a violent
20 offense under RCW 9.94A.030; or

21 (4) Such person is gravely disabled; or

22 (5) Such person is in need of assisted outpatient mental health
23 treatment.

24 **Sec. 10.** RCW 71.05.290 and 2009 c 217 s 3 are each amended to
25 read as follows:

26 (1) At any time during a person's fourteen day intensive
27 treatment period, the professional person in charge of a treatment
28 facility or his or her professional designee or the designated mental
29 health professional may petition the superior court for an order
30 requiring such person to undergo an additional period of treatment.
31 Such petition must be based on one or more of the grounds set forth
32 in RCW 71.05.280.

33 (2) The petition shall summarize the facts which support the need
34 for further confinement and shall be supported by affidavits signed
35 by:

36 (a) Two examining physicians;

37 (b) One examining physician and examining mental health
38 professional;

39 (c) Two psychiatric advanced registered nurse practitioners;

1 (d) One psychiatric advanced registered nurse practitioner and a
2 mental health professional; or

3 (e) An examining physician and an examining psychiatric advanced
4 registered nurse practitioner. The affidavits shall describe in
5 detail the behavior of the detained person which supports the
6 petition and shall explain what, if any, less restrictive treatments
7 which are alternatives to detention are available to such person,
8 including, if appropriate, assisted outpatient mental health
9 treatment, and shall state the willingness of the affiant to testify
10 to such facts in subsequent judicial proceedings under this chapter.
11 If assisted outpatient mental health treatment is sought, the
12 petition shall set forth a proposed assisted outpatient mental health
13 treatment plan in accordance with RCW 71.05.020(47).

14 (3) If a person has been determined to be incompetent pursuant to
15 RCW 10.77.086(4), then the professional person in charge of the
16 treatment facility or his or her professional designee or the
17 designated mental health professional may directly file a petition
18 for one hundred eighty day treatment under RCW 71.05.280(3). No
19 petition for initial detention or fourteen day detention is required
20 before such a petition may be filed.

21 **Sec. 11.** RCW 71.05.300 and 2009 c 293 s 5 and 2009 c 217 s 4 are
22 each reenacted and amended to read as follows:

23 (1) The petition for ninety day treatment shall be filed with the
24 clerk of the superior court at least three days before expiration of
25 the fourteen-day period of intensive treatment. At the time of filing
26 such petition, the clerk shall set a time for the person to come
27 before the court on the next judicial day after the day of filing
28 unless such appearance is waived by the person's attorney, and the
29 clerk shall notify the designated mental health professional. The
30 designated mental health professional shall immediately notify the
31 person detained, his or her attorney, if any, and his or her guardian
32 or conservator, if any, the prosecuting attorney, and the regional
33 support network administrator, and provide a copy of the petition to
34 such persons as soon as possible. The regional support network
35 administrator or designee may review the petition and may appear and
36 testify at the full hearing on the petition.

37 (2) At the time set for appearance the detained person shall be
38 brought before the court, unless such appearance has been waived and
39 the court shall advise him or her of his or her right to be

1 represented by an attorney, his or her right to a jury trial, and his
2 or her loss of firearm rights if involuntarily committed. If the
3 detained person is not represented by an attorney, or is indigent or
4 is unwilling to retain an attorney, the court shall immediately
5 appoint an attorney to represent him or her. The court shall, if
6 requested, appoint a reasonably available licensed physician,
7 psychiatric advanced registered nurse practitioner, psychologist, or
8 psychiatrist, designated by the detained person to examine and
9 testify on behalf of the detained person.

10 (3) The court may, if requested, also appoint a professional
11 person as defined in RCW 71.05.020 to seek less restrictive
12 alternative courses of treatment, including, if appropriate, assisted
13 outpatient mental health treatment, and to testify on behalf of the
14 detained person. In the case of a person with a developmental
15 disability who has been determined to be incompetent pursuant to RCW
16 10.77.086(4), then the appointed professional person under this
17 section shall be a developmental disabilities professional.

18 (4) The court shall also set a date for a full hearing on the
19 petition as provided in RCW 71.05.310.

20 **Sec. 12.** RCW 71.05.300 and 2014 c 225 s 84 are each amended to
21 read as follows:

22 (1) The petition for ninety day treatment shall be filed with the
23 clerk of the superior court at least three days before expiration of
24 the fourteen-day period of intensive treatment. At the time of filing
25 such petition, the clerk shall set a time for the person to come
26 before the court on the next judicial day after the day of filing
27 unless such appearance is waived by the person's attorney, and the
28 clerk shall notify the designated mental health professional. The
29 designated mental health professional shall immediately notify the
30 person detained, his or her attorney, if any, and his or her guardian
31 or conservator, if any, the prosecuting attorney, and the behavioral
32 health organization administrator, and provide a copy of the petition
33 to such persons as soon as possible. The behavioral health
34 organization administrator or designee may review the petition and
35 may appear and testify at the full hearing on the petition.

36 (2) At the time set for appearance the detained person shall be
37 brought before the court, unless such appearance has been waived and
38 the court shall advise him or her of his or her right to be
39 represented by an attorney, his or her right to a jury trial, and his

1 or her loss of firearm rights if involuntarily committed. If the
2 detained person is not represented by an attorney, or is indigent or
3 is unwilling to retain an attorney, the court shall immediately
4 appoint an attorney to represent him or her. The court shall, if
5 requested, appoint a reasonably available licensed physician,
6 psychiatric advanced registered nurse practitioner, psychologist, or
7 psychiatrist, designated by the detained person to examine and
8 testify on behalf of the detained person.

9 (3) The court may, if requested, also appoint a professional
10 person as defined in RCW 71.05.020 to seek less restrictive
11 alternative courses of treatment, including, if appropriate, assisted
12 outpatient mental health treatment, and to testify on behalf of the
13 detained person. In the case of a person with a developmental
14 disability who has been determined to be incompetent pursuant to RCW
15 10.77.086(4), then the appointed professional person under this
16 section shall be a developmental disabilities professional.

17 (4) The court shall also set a date for a full hearing on the
18 petition as provided in RCW 71.05.310.

19 **Sec. 13.** RCW 71.05.320 and 2013 c 289 s 5 are each amended to
20 read as follows:

21 (1) If the court or jury finds that grounds set forth in RCW
22 71.05.280 have been proven and that the best interests of the person
23 or others will not be served by a less restrictive treatment which is
24 an alternative to detention, the court shall remand him or her to the
25 custody of the department or to a facility certified for ninety day
26 treatment by the department for a further period of intensive
27 treatment not to exceed ninety days from the date of judgment. If the
28 grounds set forth in RCW 71.05.280(3) are the basis of commitment,
29 then the period of treatment may be up to but not exceed one hundred
30 eighty days from the date of judgment in a facility certified for one
31 hundred eighty day treatment by the department.

32 (2) If the court or jury finds that grounds set forth in RCW
33 71.05.280 have been proven, but finds that treatment less restrictive
34 than detention will be in the best interest of the person or others,
35 then the court shall remand him or her to the custody of the
36 department or to a facility certified for ninety day treatment by the
37 department or to a less restrictive alternative for a further period
38 of less restrictive treatment not to exceed ninety days from the date
39 of judgment. If the grounds set forth in RCW 71.05.280(3) are the

1 basis of commitment, then the period of treatment may be up to but
2 not exceed one hundred eighty days from the date of judgment.

3 (3) If the court or jury finds that the grounds set forth in RCW
4 71.05.280(5) have been proven, and provide the only basis for
5 commitment, the court must enter an order for assisted outpatient
6 mental health treatment for up to ninety days from the date of
7 judgment and may not order inpatient treatment. The order for
8 assisted outpatient mental health treatment must identify the
9 services the person found in need of assisted outpatient mental
10 health treatment will receive, in accordance with RCW 71.05.020(47).
11 If the petitioner did not set forth a proposed assisted outpatient
12 mental health treatment plan, the court may postpone the issuance of
13 the order for up to five judicial days and require the petitioner to
14 submit a proposal for assisted outpatient mental health services. The
15 court may order additional evaluation of the person if necessary to
16 identify appropriate services.

17 (4) The person shall be released from involuntary treatment at
18 the expiration of the period of commitment imposed under subsection
19 (1) (~~or~~), (2), or (3) of this section unless the superintendent or
20 professional person in charge of the facility in which he or she is
21 confined, or in the event of a less restrictive alternative or
22 assisted outpatient mental health treatment, the designated mental
23 health professional, files a new petition for involuntary treatment
24 on the grounds that the committed person:

25 (a) During the current period of court ordered treatment: (i) Has
26 threatened, attempted, or inflicted physical harm upon the person of
27 another, or substantial damage upon the property of another, and (ii)
28 as a result of mental disorder or developmental disability presents a
29 likelihood of serious harm; or

30 (b) Was taken into custody as a result of conduct in which he or
31 she attempted or inflicted serious physical harm upon the person of
32 another, and continues to present, as a result of mental disorder or
33 developmental disability a likelihood of serious harm; or

34 (c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result
35 of mental disorder or developmental disability continues to present a
36 substantial likelihood of repeating acts similar to the charged
37 criminal behavior, when considering the person's life history,
38 progress in treatment, and the public safety.

39 (ii) In cases under this subsection where the court has made an
40 affirmative special finding under RCW 71.05.280(3)(b), the commitment

1 shall continue for up to an additional one hundred eighty day period
2 whenever the petition presents prima facie evidence that the person
3 continues to suffer from a mental disorder or developmental
4 disability that results in a substantial likelihood of committing
5 acts similar to the charged criminal behavior, unless the person
6 presents proof through an admissible expert opinion that the person's
7 condition has so changed such that the mental disorder or
8 developmental disability no longer presents a substantial likelihood
9 of the person committing acts similar to the charged criminal
10 behavior. The initial or additional commitment period may include
11 transfer to a specialized program of intensive support and treatment,
12 which may be initiated prior to or after discharge from the state
13 hospital; or

14 (d) Continues to be gravely disabled; or

15 (e) Is in need of assisted outpatient mental health treatment.

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

19 ~~((4) For a person committed under subsection (2) of this section
20 who has been remanded to a period of less restrictive treatment, in
21 addition to the grounds specified in subsection (3) of this section,
22 the designated mental health professional may file a new petition for
23 continued less restrictive treatment if:~~

24 ~~(a) The person was previously committed by a court to detention
25 for involuntary mental health treatment during the thirty-six months
26 that preceded the person's initial detention date during the current
27 involuntary commitment cycle, excluding any time spent in a mental
28 health facility or in confinement as a result of a criminal
29 conviction;~~

30 ~~(b) In view of the person's treatment history or current
31 behavior, the person is unlikely to voluntarily participate in
32 outpatient treatment without an order for less restrictive treatment;
33 and~~

34 ~~(c) Outpatient treatment that would be provided under a less
35 restrictive treatment order is necessary to prevent a relapse,
36 decompensation, or deterioration that is likely to result in the
37 person presenting a likelihood of serious harm or the person becoming
38 gravely disabled within a reasonably short period of time.)) If
39 assisted outpatient mental health treatment is sought, the petition~~

1 shall set forth a proposed assisted outpatient mental health
2 treatment plan in accordance with RCW 71.05.020(47).

3 (5) A new petition for involuntary treatment filed under
4 subsection (~~((3) or~~) (4) of this section shall be filed and heard in
5 the superior court of the county of the facility which is filing the
6 new petition for involuntary treatment unless good cause is shown for
7 a change of venue. The cost of the proceedings shall be borne by the
8 state.

9 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
10 and if the court or jury finds that the grounds for additional
11 confinement as set forth in this section are present, the court may
12 order the committed person returned for an additional period of
13 treatment not to exceed one hundred eighty days from the date of
14 judgment, except as provided in subsection (7) of this section. If
15 the court's order is based solely on the grounds identified in
16 subsection (4)(e) of this section, the court may enter an order for
17 assisted outpatient mental health treatment not to exceed one hundred
18 eighty days from the date of judgment, and may not enter an order for
19 inpatient treatment. The order for assisted outpatient mental health
20 treatment must identify the services the person found in need of
21 assisted outpatient mental health treatment will receive, in
22 accordance with RCW 71.05.020(47). If the petitioner did not set
23 forth a proposed assisted outpatient mental health treatment plan,
24 the court may postpone the issuance of the order for up to five
25 judicial days and require the petitioner to submit a proposal for
26 assisted outpatient services. The court may order additional
27 evaluation of the person if necessary to identify appropriate
28 services.

29 (b) At the end of the one hundred eighty day period of
30 commitment, or one-year period of commitment if subsection (7) of
31 this section applies, the committed person shall be released unless a
32 petition for (~~another~~) an additional one hundred eighty day period
33 of continued treatment is filed and heard in the same manner as
34 provided in this section. Successive one hundred eighty day
35 commitments are permissible on the same grounds and pursuant to the
36 same procedures as the original one hundred eighty day commitment.
37 However, a commitment solely on the grounds identified in subsection
38 (4)(e) of this section is not permissible under this subsection (~~((4)~~
39 ~~of this section)) if (~~(thirty-six months have passed since the last~~~~
40 ~~date of discharge from detention for inpatient treatment that~~

1 ~~preceded the current less restrictive alternative order, nor shall a~~
2 ~~commitment under subsection (4) of this section be permissible if))~~
3 the likelihood of serious harm ~~((in subsection (4)(c) of this~~
4 ~~section))~~ as described in RCW 71.05.020(46)(e) is based solely on
5 harm to the property of others.

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

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

15 **Sec. 14.** RCW 71.05.340 and 2009 c 322 s 1 are each amended to
16 read as follows:

17 (1)(a) When, in the opinion of the superintendent or the
18 professional person in charge of the hospital or facility providing
19 involuntary treatment, the committed person can be appropriately
20 served by outpatient treatment prior to or at the expiration of the
21 period of commitment, then such outpatient care may be required as a
22 term of conditional release for a period which, when added to the
23 inpatient treatment period, shall not exceed the period of
24 commitment. If the hospital or facility designated to provide
25 outpatient treatment is other than the facility providing involuntary
26 treatment, the outpatient facility so designated must agree in
27 writing to assume such responsibility. A copy of the terms of
28 conditional release shall be given to the patient, the designated
29 mental health professional in the county in which the patient is to
30 receive outpatient treatment, and to the court of original
31 commitment.

32 (b) Before a person committed under grounds set forth in RCW
33 71.05.280(3) or 71.05.320(~~(+3)~~) (4)(c) is conditionally released
34 under (a) of this subsection, the superintendent or professional
35 person in charge of the hospital or facility providing involuntary
36 treatment shall in writing notify the prosecuting attorney of the
37 county in which the criminal charges against the committed person
38 were dismissed, of the decision to conditionally release the person.
39 Notice and a copy of the terms of conditional release shall be

1 provided at least thirty days before the person is released from
2 inpatient care. Within twenty days after receiving notice, the
3 prosecuting attorney may petition the court in the county that issued
4 the commitment order to hold a hearing to determine whether the
5 person may be conditionally released and the terms of the conditional
6 release. The prosecuting attorney shall provide a copy of the
7 petition to the superintendent or professional person in charge of
8 the hospital or facility providing involuntary treatment, the
9 attorney, if any, and guardian or conservator of the committed
10 person, and the court of original commitment. If the county in which
11 the committed person is to receive outpatient treatment is the same
12 county in which the criminal charges against the committed person
13 were dismissed, then the court shall, upon the motion of the
14 prosecuting attorney, transfer the proceeding to the court in that
15 county. The court shall conduct a hearing on the petition within ten
16 days of the filing of the petition. The committed person shall have
17 the same rights with respect to notice, hearing, and counsel as for
18 an involuntary treatment proceeding, except as set forth in this
19 subsection and except that there shall be no right to jury trial. The
20 issue to be determined at the hearing is whether or not the person
21 may be conditionally released without substantial danger to other
22 persons, or substantial likelihood of committing criminal acts
23 jeopardizing public safety or security. If the court disapproves of
24 the conditional release, it may do so only on the basis of
25 substantial evidence. Pursuant to the determination of the court upon
26 the hearing, the conditional release of the person shall be approved
27 by the court on the same or modified conditions or the person shall
28 be returned for involuntary treatment on an inpatient basis subject
29 to release at the end of the period for which he or she was
30 committed, or otherwise in accordance with the provisions of this
31 chapter.

32 (2) The hospital or facility designated to provide outpatient
33 care or the secretary may modify the conditions for continued release
34 when such modification is in the best interest of the person.
35 Notification of such changes shall be sent to all persons receiving a
36 copy of the original conditions.

37 (3)(a) If the hospital or facility designated to provide
38 outpatient care, the designated mental health professional, or the
39 secretary determines that:

1 (i) A conditionally released person is failing to adhere to the
2 terms and conditions of his or her release;

3 (ii) Substantial deterioration in a conditionally released
4 person's functioning has occurred;

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

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

9 Upon notification by the hospital or facility designated to
10 provide outpatient care, or on his or her own motion, the designated
11 mental health professional or the secretary may order that the
12 conditionally released person be apprehended and taken into custody
13 and temporarily detained in an evaluation and treatment facility in
14 or near the county in which he or she is receiving outpatient
15 treatment.

16 (b) The hospital or facility designated to provide outpatient
17 treatment shall notify the secretary or designated mental health
18 professional when a conditionally released person fails to adhere to
19 terms and conditions of his or her conditional release or experiences
20 substantial deterioration in his or her condition and, as a result,
21 presents an increased likelihood of serious harm. The designated
22 mental health professional or secretary shall order the person
23 apprehended and temporarily detained in an evaluation and treatment
24 facility in or near the county in which he or she is receiving
25 outpatient treatment.

26 (c) A person detained under this subsection (3) shall be held
27 until such time, not exceeding five days, as a hearing can be
28 scheduled to determine whether or not the person should be returned
29 to the hospital or facility from which he or she had been
30 conditionally released. The designated mental health professional or
31 the secretary may modify or rescind such order at any time prior to
32 commencement of the court hearing.

33 (d) The court that originally ordered commitment shall be
34 notified within two judicial days of a person's detention under the
35 provisions of this section, and the designated mental health
36 professional or the secretary shall file his or her petition and
37 order of apprehension and detention with the court that originally
38 ordered commitment or with the court in the county in which the
39 person is detained and serve them upon the person detained. His or
40 her attorney, if any, and his or her guardian or conservator, if any,

1 shall receive a copy of such papers as soon as possible. Such person
2 shall have the same rights with respect to notice, hearing, and
3 counsel as for an involuntary treatment proceeding, except as
4 specifically set forth in this section and except that there shall be
5 no right to jury trial. The venue for proceedings regarding a
6 petition for modification or revocation of an order for conditional
7 release shall be in the county in which the petition was filed. The
8 issues to be determined shall be: (i) Whether the conditionally
9 released person did or did not adhere to the terms and conditions of
10 his or her conditional release; (ii) that substantial deterioration
11 in the person's functioning has occurred; (iii) there is evidence of
12 substantial decompensation with a reasonable probability that the
13 decompensation can be reversed by further inpatient treatment; or
14 (iv) there is a likelihood of serious harm; and, if any of the
15 conditions listed in this subsection (3)(d) have occurred, whether
16 the terms of conditional release should be modified or the person
17 should be returned to the facility. If any of the conditions listed
18 in this subsection (3)(d) have occurred and the person is committed
19 to assisted outpatient mental health treatment, the court shall
20 determine whether the terms of the order should be modified or if
21 proceedings should be initiated under RCW 71.05.150.

22 (e) In determining whether or not to modify the terms of
23 conditional release or return the person to the facility:

24 (i) The court must consider the symptoms and behavior of the
25 person in light of all available evidence concerning the person's
26 historical behavior, which may include information provided by
27 credible witnesses as defined in RCW 71.05.212(2); and

28 (ii) If the petition is based on the person's failure to adhere
29 to the terms or conditions of his or her release, the court must give
30 great weight to information regarding symptoms or behavior that: (A)
31 Are closely associated with symptoms or behavior which preceded and
32 led to a past incident of involuntary hospitalization, severe
33 deterioration, or one or more violent acts; (B) represent a marked
34 and concerning change in the baseline behavior of the person; and (C)
35 indicate that without modified terms or return of the person to the
36 facility, continued deterioration is probable.

37 (f) Pursuant to the determination of the court upon such hearing,
38 the conditionally released person shall either continue to be
39 conditionally released on the same or modified conditions or shall be
40 returned for involuntary treatment on an inpatient basis subject to

1 release at the end of the period for which he or she was committed
2 for involuntary treatment, or otherwise in accordance with the
3 provisions of this chapter. Such hearing may be waived by the person
4 and his or her counsel and his or her guardian or conservator, if
5 any, but shall not be waivable unless all such persons agree to
6 waive, and upon such waiver the person may be returned for
7 involuntary treatment or continued on conditional release on the same
8 or modified conditions.

9 (4) The proceedings set forth in subsection (3) of this section
10 may be initiated by the designated mental health professional or the
11 secretary on the same basis set forth therein without requiring or
12 ordering the apprehension and detention of the conditionally released
13 person, in which case the court hearing shall take place in not less
14 than five days from the date of service of the petition upon the
15 conditionally released person. The petition may be filed in the court
16 that originally ordered commitment or with the court in the county in
17 which the person is present. The venue for the proceedings regarding
18 the petition for modification or revocation of an order for
19 conditional release shall be in the county in which the petition was
20 filed.

21 Upon expiration of the period of commitment, or when the person
22 is released from outpatient care, notice in writing to the court
23 which committed the person for treatment shall be provided.

24 (5) The grounds and procedures for revocation of less restrictive
25 alternative treatment and assisted outpatient mental health treatment
26 shall be the same as those set forth in this section for conditional
27 releases, except that if inpatient treatment is sought for a person
28 committed to assisted outpatient mental health treatment, such
29 treatment must be initiated under a new petition for involuntary
30 treatment under RCW 71.05.150.

31 (6) In the event of a revocation of a conditional release, the
32 subsequent treatment period may be for no longer than the actual
33 period authorized in the original court order.

34 **Sec. 15.** RCW 71.05.730 and 2011 c 343 s 2 are each amended to
35 read as follows:

36 (1) A county may apply to its regional support network on a
37 quarterly basis for reimbursement of its direct costs in providing
38 judicial services for civil commitment cases under this chapter and
39 chapter 71.34 RCW. The regional support network shall in turn be

1 entitled to reimbursement from the regional support network that
2 serves the county of residence of the individual who is the subject
3 of the civil commitment case. Reimbursements under this section shall
4 be paid out of the regional support network's nonmedicaid
5 appropriation.

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

16 (3) For the purposes of this section:

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

28 (b) "Judicial services" means a county's reasonable direct costs
29 in providing prosecutor services, assigned counsel and defense
30 services, court services, and court clerk services for civil
31 commitment cases under this chapter and chapter 71.34 RCW.

32 (4) To the extent that resources have shared purpose, the
33 regional support network may only reimburse counties to the extent
34 such resources are necessary for and devoted to judicial services as
35 described in this section.

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

38 **Sec. 16.** RCW 71.05.730 and 2014 c 225 s 87 are each amended to
39 read as follows:

1 (1) A county may apply to its behavioral health organization on a
2 quarterly basis for reimbursement of its direct costs in providing
3 judicial services for civil commitment cases under this chapter and
4 chapter 71.34 RCW. The behavioral health organization shall in turn
5 be entitled to reimbursement from the behavioral health organization
6 that serves the county of residence of the individual who is the
7 subject of the civil commitment case. Reimbursements under this
8 section shall be paid out of the behavioral health organization's
9 nonmedicaid appropriation.

10 (2) Reimbursement for judicial services shall be provided per
11 civil commitment case at a rate to be determined based on an
12 independent assessment of the county's actual direct costs. This
13 assessment must be based on an average of the expenditures for
14 judicial services within the county over the past three years. In the
15 event that a baseline cannot be established because there is no
16 significant history of similar cases within the county, the
17 reimbursement rate shall be equal to eighty percent of the median
18 reimbursement rate of counties included in the independent
19 assessment.

20 (3) For the purposes of this section:

21 (a) "Civil commitment case" includes all judicial hearings
22 related to a single episode of hospitalization, (~~(or)~~) less
23 restrictive alternative detention in lieu of hospitalization, or
24 assisted outpatient mental health treatment, except that the filing
25 of a petition for a one hundred eighty-day commitment under this
26 chapter or a petition for a successive one hundred eighty-day
27 commitment under chapter 71.34 RCW shall be considered to be a new
28 case regardless of whether there has been a break in detention.
29 "Civil commitment case" does not include the filing of a petition for
30 a one hundred eighty-day commitment under this chapter on behalf of a
31 patient at a state psychiatric hospital.

32 (b) "Judicial services" means a county's reasonable direct costs
33 in providing prosecutor services, assigned counsel and defense
34 services, court services, and court clerk services for civil
35 commitment cases under this chapter and chapter 71.34 RCW.

36 (4) To the extent that resources have shared purpose, the
37 behavioral health organization may only reimburse counties to the
38 extent such resources are necessary for and devoted to judicial
39 services as described in this section.

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

3 NEW SECTION. **Sec. 17.** A new section is added to chapter 71.05
4 RCW to read as follows:

5 A court order for assisted outpatient mental health treatment
6 entered under RCW 71.05.240 or 71.05.320 shall be terminated prior to
7 the expiration of the order when, in the opinion of the professional
8 person in charge of the assisted outpatient program, (1) the person
9 is prepared to accept voluntary treatment, or (2) the outpatient
10 treatment ordered is no longer necessary to prevent a relapse,
11 decompensation, or deterioration that is likely to result in the
12 person presenting a likelihood of serious harm or the person becoming
13 gravely disabled within a reasonably short period of time.

14 NEW SECTION. **Sec. 18.** Sections 1, 11, and 15 of this act expire
15 April 1, 2016.

16 NEW SECTION. **Sec. 19.** Sections 2, 12, and 16 of this act take
17 effect April 1, 2016.

18 NEW SECTION. **Sec. 20.** If specific funding for the purposes of
19 this act, referencing this act by bill or chapter number, is not
20 provided by June 30, 2015, in the omnibus appropriations act, this
21 act is null and void.

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