
ENGROSSED THIRD SUBSTITUTE HOUSE BILL 1713

AS AMENDED BY THE SENATE

Passed Legislature - 2016 Regular Session

State of Washington 64th Legislature 2016 Regular Session

By House Appropriations (originally sponsored by Representatives
Cody, Harris, Jinkins, Moeller, Tharinger, Appleton, Ortiz-Self, and
Pollet)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to integrating the treatment systems for mental
2 health and chemical dependency; amending RCW 70.96A.140, 70.96A.145,
3 70.96A.230, 71.05.010, 71.05.025, 71.05.026, 71.05.050, 71.05.120,
4 71.05.132, 71.05.150, 71.05.150, 71.05.153, 71.05.153, 71.05.154,
5 71.05.156, 71.05.157, 71.05.160, 71.05.170, 71.05.180, 71.05.190,
6 71.05.195, 71.05.201, 71.05.203, 71.05.210, 71.05.212, 71.05.214,
7 71.05.215, 71.05.220, 71.05.230, 71.05.235, 71.05.240, 71.05.240,
8 71.05.280, 71.05.290, 71.05.300, 71.05.320, 71.05.320, 71.05.325,
9 71.05.340, 71.05.585, 71.05.590, 71.05.590, 71.05.360, 71.05.380,
10 71.05.435, 71.05.530, 71.05.560, 71.05.620, 71.05.700, 71.05.705,
11 71.05.745, 71.05.750, 71.34.020, 71.34.305, 71.34.375, 71.34.385,
12 71.34.400, 71.34.410, 71.34.420, 71.34.500, 71.34.520, 71.34.600,
13 71.34.630, 71.34.650, 71.34.660, 71.34.700, 71.34.700, 71.34.710,
14 71.34.710, 71.34.720, 71.34.720, 71.34.740, 71.34.740, 71.34.750,
15 71.34.750, 71.34.760, 71.34.780, 71.34.780, 9.41.098, 4.24.558,
16 5.60.060, 9.41.280, 9.95.143, 10.77.010, 10.77.025, 10.77.027,
17 10.77.060, 10.77.065, 10.77.084, 10.77.088, 11.92.190, 43.185C.255,
18 18.83.110, 43.20A.025, 70.48.475, 70.97.010, 71.05.660, 71.24.045,
19 71.24.330, 71.32.080, 71.32.140, 71.32.150, 72.09.315, 72.09.370,
20 43.185C.305, 74.50.070, 71.24.025, 71.24.035, 70.96A.050, 71.24.037,
21 70.96A.090, 71.24.385, 70.96A.035, 70.96C.010, 70.96A.037,
22 70.96A.047, 70.96A.055, 70.96A.087, 70.96A.170, 70.96A.400,
23 70.96A.800, 70.96A.905, 71.24.300, 71.24.350, 9.94A.660, 10.05.020,

1 10.05.030, 10.05.150, 70.96C.020, 46.61.5055, 46.61.5056, and
2 82.04.4277; reenacting and amending RCW 70.96A.020, 71.05.020,
3 71.05.210, 71.34.730, 70.02.010, 70.02.230, 71.24.025, and
4 70.96A.350; adding new sections to chapter 71.05 RCW; adding new
5 sections to chapter 71.24 RCW; adding a new section to chapter 72.09
6 RCW; creating new sections; recodifying RCW 70.96A.035, 70.96A.037,
7 70.96A.040, 70.96A.043, 70.96A.047, 70.96A.050, 70.96A.055,
8 70.96A.080, 70.96A.085, 70.96A.087, 70.96A.090, 70.96A.100,
9 70.96A.170, 70.96A.190, 70.96A.350, 70.96A.400, 70.96A.410,
10 70.96A.420, 70.96A.430, 70.96A.500, 70.96A.510, 70.96A.520,
11 70.96A.800, 70.96A.905, 70.96C.010, and 70.96C.020; decodifying RCW
12 43.135.03901; repealing RCW 70.96A.011, 70.96A.020, 70.96A.095,
13 70.96A.096, 70.96A.097, 70.96A.110, 70.96A.120, 70.96A.140,
14 70.96A.141, 70.96A.142, 70.96A.145, 70.96A.148, 70.96A.155,
15 70.96A.157, 70.96A.160, 70.96A.180, 70.96A.230, 70.96A.235,
16 70.96A.240, 70.96A.245, 70.96A.250, 70.96A.255, 70.96A.260,
17 70.96A.265, 70.96A.910, 70.96A.915, 70.96A.920, 70.96A.930,
18 70.96B.010, 70.96B.020, 70.96B.030, 70.96B.040, 70.96B.045,
19 70.96B.050, 70.96B.060, 70.96B.070, 70.96B.080, 70.96B.090,
20 70.96B.100, 70.96B.110, 70.96B.120, 70.96B.130, 70.96B.140,
21 70.96B.150, 70.96B.800, 71.05.032, 70.96A.010, 70.96A.030,
22 70.96A.045, 70.96A.060, 70.96A.150, 70.96A.300, 70.96A.310,
23 70.96A.320, and 70.96A.325; providing effective dates; providing
24 expiration dates; and declaring an emergency.

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

26 **PART I**
27 **CHEMICAL DEPENDENCY INVOLUNTARY TREATMENT PROVISIONS**

28 **Sec. 101.** RCW 70.96A.020 and 2014 c 225 s 20 are each reenacted
29 and amended to read as follows:

30 For the purposes of this chapter the following words and phrases
31 shall have the following meanings unless the context clearly requires
32 otherwise:

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

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

3 (2) "Approved substance use disorder treatment program" means a
4 program for persons with a substance use disorder provided by a
5 treatment program certified by the department of social and health
6 services as meeting standards adopted under this chapter.

7 (3) "Behavioral health organization" means a county authority or
8 group of county authorities or other entity recognized by the
9 secretary in contract in a defined regional service area.

10 (4) "Behavioral health program" has the same meaning as in RCW
11 71.24.025.

12 (5) "Behavioral health services" means mental health services as
13 described in chapters 71.24 and 71.36 RCW and chemical dependency
14 treatment services as described in this chapter.

15 ~~((5))~~ (6) "Chemical dependency" means: (a) Alcoholism; (b) drug
16 addiction; or (c) dependence on alcohol and one or more other
17 psychoactive chemicals, as the context requires.

18 ~~((6) "Chemical dependency program" means expenditures and
19 activities of the department designed and conducted to prevent or
20 treat alcoholism and other drug addiction, including reasonable
21 administration and overhead.))~~

22 (7) "Department" means the department of social and health
23 services.

24 (8) "Designated chemical dependency specialist" or "specialist"
25 means a person designated by the behavioral health organization or by
26 the county ~~((alcoholism and other drug addiction))~~ substance use
27 disorder treatment program coordinator designated ~~((under RCW~~
28 ~~70.96A.310))~~ by the behavioral health organization to perform the
29 commitment duties described in RCW 70.96A.140 and qualified to do so
30 by meeting standards adopted by the department.

31 (9) ~~("Director" means the person administering the substance use
32 disorder program within the department.~~

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

39 ~~((11) "Emergency service patrol" means a patrol established
40 under RCW 70.96A.170.~~

1 ~~(12)~~) (10) "Gravely disabled by alcohol or other psychoactive
2 chemicals" or "gravely disabled" means that a person, as a result of
3 the use of alcohol or other psychoactive chemicals: (a) Is in danger
4 of serious physical harm resulting from a failure to provide for his
5 or her essential human needs of health or safety; or (b) manifests
6 severe deterioration in routine functioning evidenced by a repeated
7 and escalating loss of cognition or volitional control over his or
8 her actions and is not receiving care as essential for his or her
9 health or safety.

10 ~~((13))~~) (11) "History of one or more violent acts" refers to the
11 period of time ten years prior to the filing of a petition under this
12 chapter, excluding any time spent, but not any violent acts
13 committed, in a mental health facility, or a long-term alcoholism or
14 drug treatment facility, or in confinement.

15 ~~((14))~~) (12) "Incapacitated by alcohol or other psychoactive
16 chemicals" means that a person, as a result of the use of alcohol or
17 other psychoactive chemicals, is gravely disabled or presents a
18 likelihood of serious harm to himself or herself, to any other
19 person, or to property.

20 ~~((15))~~) (13) "Incompetent person" means a person who has been
21 adjudged incompetent by the superior court.

22 ~~((16))~~) (14) "Intoxicated person" means a person whose mental or
23 physical functioning is substantially impaired as a result of the use
24 of alcohol or other psychoactive chemicals.

25 ~~((17))~~) (15) "Licensed physician" means a person licensed to
26 practice medicine or osteopathic medicine and surgery in the state of
27 Washington.

28 ~~((18))~~) (16) "Likelihood of serious harm" means:

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

38 (b) The individual has threatened the physical safety of another
39 and has a history of one or more violent acts.

1 ((+19+)) (17) "Medical necessity" for inpatient care of a minor
2 means a requested certified inpatient service that is reasonably
3 calculated to: (a) Diagnose, arrest, or alleviate a chemical
4 dependency; or (b) prevent the progression of substance use disorders
5 that endanger life or cause suffering and pain, or result in illness
6 or infirmity or threaten to cause or aggravate a handicap, or cause
7 physical deformity or malfunction, and there is no adequate less
8 restrictive alternative available.

9 ((+20+)) (18) "Minor" means a person less than eighteen years of
10 age.

11 ((+21+)) (19) "Parent" means the parent or parents who have the
12 legal right to custody of the child. Parent includes custodian or
13 guardian.

14 ((+22+)) (20) "Peace officer" means a law enforcement official of
15 a public agency or governmental unit, and includes persons
16 specifically given peace officer powers by any state law, local
17 ordinance, or judicial order of appointment.

18 ((+23+)) (21) "Person" means an individual, including a minor.

19 ((+24+)) (22) "Professional person in charge" or "professional
20 person" means a physician or chemical dependency counselor as defined
21 in rule by the department, who is empowered by a certified treatment
22 program with authority to make assessment, admission, continuing
23 care, and discharge decisions on behalf of the certified program.

24 ((+25+)) (23) "Secretary" means the secretary of the department
25 of social and health services.

26 ((+26+)) (24) "Substance use disorder" means a cluster of
27 cognitive, behavioral, and physiological symptoms indicating that an
28 individual continues using the substance despite significant
29 substance-related problems. The diagnosis of a substance use disorder
30 is based on a pathological pattern of behaviors related to the use of
31 the substances.

32 ((+27+)) (25) "Treatment" means the broad range of emergency,
33 withdrawal management, residential, and outpatient services and care,
34 including diagnostic evaluation, (~~chemical dependency~~) substance
35 use disorder education and counseling, medical, psychiatric,
36 psychological, and social service care, vocational rehabilitation and
37 career counseling, which may be extended to persons with substance
38 use disorders and their families, persons incapacitated by alcohol or
39 other psychoactive chemicals, and intoxicated persons.

1 ~~((28))~~ (26) "Substance use disorder treatment program" means an
2 organization, institution, or corporation, public or private, engaged
3 in the care, treatment, or rehabilitation of persons with substance
4 use ~~((disorder[s]))~~ disorders.

5 ~~((29))~~ (27) "Violent act" means behavior that resulted in
6 homicide, attempted suicide, nonfatal injuries, or substantial damage
7 to property.

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

11 (29) "Mental health professional" means a psychiatrist,
12 psychologist, physician assistant working with a supervising
13 psychiatrist, psychiatric advanced registered nurse practitioner,
14 psychiatric nurse, or social worker, and such other mental health
15 professionals as may be defined by rules adopted by the secretary
16 pursuant to the provisions of chapter 71.05 RCW.

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

19 (31) "Psychiatric advanced registered nurse practitioner" means a
20 person who is licensed as an advanced registered nurse practitioner
21 pursuant to chapter 18.79 RCW; and who is board certified in advanced
22 practice psychiatric and mental health nursing.

23 **Sec. 102.** RCW 70.96A.140 and 2014 c 225 s 29 are each amended to
24 read as follows:

25 (1)(a) When a designated chemical dependency specialist receives
26 information alleging that a person presents a likelihood of serious
27 harm or is gravely disabled as a result of chemical dependency, the
28 designated chemical dependency specialist, after investigation and
29 evaluation of the specific facts alleged and of the reliability and
30 credibility of the information, may file a petition for commitment of
31 such person with the superior court, district court, or in another
32 court permitted by court rule.

33 If a petition for commitment is not filed in the case of a minor,
34 the parent, guardian, or custodian who has custody of the minor may
35 seek review of that decision made by the designated chemical
36 dependency specialist in superior or district court. The parent,
37 guardian, or custodian shall file notice with the court and provide a
38 copy of the designated chemical dependency specialist's report.

1 If the designated chemical dependency specialist finds that the
2 initial needs of such person would be better served by placement
3 within the mental health system, the person shall be referred to
4 either a designated mental health professional or an evaluation and
5 treatment facility as defined in RCW 71.05.020 or 71.34.020.

6 (b) If placement in a chemical dependency program is available
7 and deemed appropriate, the petition shall allege that: The person is
8 chemically dependent and presents a likelihood of serious harm or is
9 gravely disabled by alcohol or drug addiction, or that the person has
10 twice before in the preceding twelve months been admitted for
11 withdrawal management, sobering services, or chemical dependency
12 treatment pursuant to RCW 70.96A.110 or 70.96A.120, and is in need of
13 a more sustained treatment program, or that the person is chemically
14 dependent and has threatened, attempted, or inflicted physical harm
15 on another and is likely to inflict physical harm on another unless
16 committed. A refusal to undergo treatment, by itself, does not
17 constitute evidence of lack of judgment as to the need for treatment.

18 ~~((The petition shall be accompanied by a certificate of a licensed
19 physician who has examined the person within five days before
20 submission of the petition, unless the person whose commitment is
21 sought has refused to submit to a medical examination, in which case
22 the fact of refusal shall be alleged in the petition. The certificate
23 shall set forth the licensed physician's findings in support of the
24 allegations of the petition. A physician employed by the petitioning
25 program or the department is eligible to be the certifying
26 physician.))~~

27 (c) If involuntary detention is sought, the petition must state
28 facts that support a finding of the grounds identified in (b) of this
29 subsection and that there are no less restrictive alternatives to
30 detention in the best interest of such person or others. The petition
31 must state specifically that less restrictive alternative treatment
32 was considered and specify why treatment less restrictive than
33 detention is not appropriate. If an involuntary less restrictive
34 alternative is sought, the petition must state facts that support a
35 finding of the grounds for commitment identified in (b) of this
36 subsection and set forth the proposed less restrictive alternative.

37 (d)(i) The petition must be signed by:

38 (A) Two physicians;

39 (B) One physician and a mental health professional;

40 (C) One physician assistant and a mental health professional; or

1 (D) One psychiatric advanced registered nurse practitioner and a
2 mental health professional.

3 (ii) The persons signing the petition must have examined the
4 person.

5 (2) Upon filing the petition, the court shall fix a date for a
6 hearing no less than two and no more than seven days after the date
7 the petition was filed unless the person petitioned against is
8 presently being detained in a program, pursuant to RCW 70.96A.120,
9 71.05.210, or 71.34.710, in which case the hearing shall be held
10 within seventy-two hours of the filing of the petition: PROVIDED,
11 HOWEVER, That the above specified seventy-two hours shall be computed
12 by excluding Saturdays, Sundays, and holidays: PROVIDED FURTHER,
13 That, the court may, upon motion of the person whose commitment is
14 sought, or upon motion of petitioner with written permission of the
15 person whose commitment is sought, or his or her counsel and, upon
16 good cause shown, extend the date for the hearing. A copy of the
17 petition and of the notice of the hearing, including the date fixed
18 by the court, shall be served by the designated chemical dependency
19 specialist on the person whose commitment is sought, his or her next
20 of kin, a parent or his or her legal guardian if he or she is a
21 minor, and any other person the court believes advisable. A copy of
22 the petition and certificate shall be delivered to each person
23 notified.

24 (3) At the hearing the court shall hear all relevant
25 testimony((τ)) including, if possible, the testimony, which may be
26 telephonic, of at least one licensed physician, psychiatric advanced
27 registered nurse practitioner, physician assistant, or mental health
28 professional who has examined the person whose commitment is sought.
29 Communications otherwise deemed privileged under the laws of this
30 state are deemed to be waived in proceedings under this chapter when
31 a court of competent jurisdiction in its discretion determines that
32 the waiver is necessary to protect either the detained person or the
33 public. The waiver of a privilege under this section is limited to
34 records or testimony relevant to evaluation of the detained person
35 for purposes of a proceeding under this chapter. Upon motion by the
36 detained person, or on its own motion, the court shall examine a
37 record or testimony sought by a petitioner to determine whether it is
38 within the scope of the waiver.

39 The record maker shall not be required to testify in order to
40 introduce medical, nursing, or psychological records of detained

1 persons so long as the requirements of RCW 5.45.020 are met, except
2 that portions of the record that contain opinions as to whether the
3 detained person is chemically dependent shall be deleted from the
4 records unless the person offering the opinions is available for
5 cross-examination. The person shall be present unless the court
6 believes that his or her presence is likely to be injurious to him or
7 her; in this event the court may deem it appropriate to appoint a
8 guardian ad litem to represent him or her throughout the proceeding.
9 If deemed advisable, the court may examine the person out of
10 courtroom. If the person has refused to be examined by a licensed
11 physician, psychiatric advanced registered nurse practitioner,
12 physician assistant, or mental health professional, he or she shall
13 be given an opportunity to be examined by a court appointed licensed
14 physician, psychiatric advanced registered nurse practitioner,
15 physician assistant, or other professional person qualified to
16 provide such services. If he or she refuses and there is sufficient
17 evidence to believe that the allegations of the petition are true, or
18 if the court believes that more medical evidence is necessary, the
19 court may make a temporary order committing him or her to the
20 department for a period of not more than five days for purposes of a
21 diagnostic examination.

22 (4)(a) If, after hearing all relevant evidence, including the
23 results of any diagnostic examination, the court finds that grounds
24 for involuntary commitment have been established by ~~((clear, cogent,~~
25 ~~and convincing proof))~~ a preponderance of the evidence and, after
26 considering less restrictive alternatives to involuntary detention
27 and treatment, finds that no such alternatives are in the best
28 interest of the person or others, it shall make an order of
29 commitment to an approved substance use disorder treatment program.
30 It shall not order commitment of a person unless it determines that
31 an approved substance use disorder treatment program is available and
32 able to provide adequate and appropriate treatment for him or her.

33 (b) If the court finds that the grounds for commitment have been
34 established by a preponderance of the evidence, but that treatment in
35 a less restrictive setting than detention is in the best interest of
36 such person or others, the court shall order an appropriate less
37 restrictive course of treatment. The less restrictive order may
38 impose treatment conditions and other conditions that are in the best
39 interest of the respondent and others. A copy of the less restrictive
40 order must be given to the respondent, the designated chemical

1 dependency specialist, and any program designated to provide less
2 restrictive treatment. If the program designated to provide the less
3 restrictive treatment is other than the program providing the initial
4 involuntary treatment, the program so designated must agree in
5 writing to assume such responsibility. The court may not order
6 commitment of a person to a less restrictive course of treatment
7 unless it determines that an approved substance use disorder
8 treatment program is available and able to provide adequate and
9 appropriate treatment for him or her.

10 (5) A person committed to inpatient treatment under this section
11 shall remain in the program for treatment for a period of (~~sixty~~)
12 fourteen days unless sooner discharged. A person committed to a less
13 restrictive course of treatment under this section shall remain in
14 the program of treatment for a period of ninety days unless sooner
15 discharged. At the end of the (~~sixty~~) fourteen-day period, or
16 ninety-day period in the case of a less restrictive alternative to
17 inpatient treatment, he or she shall be discharged automatically
18 unless the program or the designated chemical dependency specialist,
19 before expiration of the period, files a petition for his or her
20 recommitment upon the grounds set forth in subsection (1) of this
21 section for a further period of ninety days of inpatient treatment or
22 ninety days of less restrictive alternative treatment unless sooner
23 discharged. The petition for ninety-day inpatient or less restrictive
24 alternative treatment must be filed with the clerk of the court at
25 least three days before expiration of the fourteen-day period of
26 intensive treatment.

27 If a petition for recommitment is not filed in the case of a
28 minor, the parent, guardian, or custodian who has custody of the
29 minor may seek review of that decision made by the designated
30 chemical dependency specialist in superior or district court. The
31 parent, guardian, or custodian shall file notice with the court and
32 provide a copy of the treatment progress report.

33 If a person has been committed because he or she is chemically
34 dependent and likely to inflict physical harm on another, the program
35 or designated chemical dependency specialist shall apply for
36 recommitment if after examination it is determined that the
37 likelihood still exists.

38 (6) Upon the filing of a petition for recommitment under
39 subsection (5) of this section, the court shall fix a date for
40 hearing no less than two and no more than seven days after the date

1 the petition was filed: PROVIDED, That, the court may, upon motion of
2 the person whose commitment is sought and upon good cause shown,
3 extend the date for the hearing. A copy of the petition and of the
4 notice of hearing, including the date fixed by the court, shall be
5 served by the treatment program on the person whose commitment is
6 sought, his or her next of kin, the original petitioner under
7 subsection (1) of this section if different from the petitioner for
8 recommitment, one of his or her parents or his or her legal guardian
9 if he or she is a minor, and his or her attorney and any other person
10 the court believes advisable. At the hearing the court shall proceed
11 as provided in subsections (3) and (4) of this section, except that
12 the burden of proof upon a hearing for recommitment must be proof by
13 clear, cogent, and convincing evidence.

14 (7) The approved substance use disorder treatment program shall
15 provide for adequate and appropriate treatment of a person committed
16 to its custody on an inpatient or outpatient basis. A person
17 committed under this section may be transferred from one approved
18 public treatment program to another if transfer is medically
19 advisable.

20 (8) A person committed to (~~the custody of~~) a program for
21 treatment shall be discharged at any time before the end of the
22 period for which he or she has been committed and he or she shall be
23 discharged by order of the court if either of the following
24 conditions are met:

25 (a) In case of a chemically dependent person committed on the
26 grounds of likelihood of infliction of physical harm upon himself,
27 herself, or another, the likelihood no longer exists; or further
28 treatment will not be likely to bring about significant improvement
29 in the person's condition, or treatment is no longer adequate or
30 appropriate.

31 (b) In case of a chemically dependent person committed on the
32 grounds of the need of treatment and incapacity, that the incapacity
33 no longer exists.

34 (9) The court shall inform the person whose commitment or
35 recommitment is sought of his or her right to contest the
36 application, be represented by counsel at every stage of any
37 proceedings relating to his or her commitment and recommitment, and
38 have counsel appointed by the court or provided by the court, if he
39 or she wants the assistance of counsel and is unable to obtain
40 counsel. If the court believes that the person needs the assistance

1 of counsel, the court shall require, by appointment if necessary,
2 counsel for him or her regardless of his or her wishes. The person
3 shall, if he or she is financially able, bear the costs of such legal
4 service; otherwise such legal service shall be at public expense. The
5 person whose commitment or recommitment is sought shall be informed
6 of his or her right to be examined by a licensed physician (~~of his~~
7 ~~or her choice~~), psychiatric advanced registered nurse practitioner,
8 physician assistant, or other professional person of his or her
9 choice who is qualified to provide such services. If the person is
10 unable to obtain a (~~licensed physician~~) qualified person and
11 requests an examination (~~by a physician~~), the court shall employ a
12 licensed physician, psychiatric advanced registered nurse
13 practitioner, physician assistant, or other professional person to
14 conduct an examination and testify on behalf of the person.

15 (10) A person committed under this chapter may at any time seek
16 to be discharged from commitment by writ of habeas corpus in a court
17 of competent jurisdiction.

18 (11) The venue for proceedings under this section is the county
19 in which person to be committed resides or is present.

20 (12) When in the opinion of the professional person in charge of
21 the program providing involuntary inpatient treatment under this
22 chapter, the committed patient can be appropriately served by less
23 restrictive treatment before expiration of the period of commitment,
24 then the less restrictive care may be required as a condition for
25 early release for a period which, when added to the initial treatment
26 period, does not exceed the period of commitment. If the program
27 designated to provide the less restrictive treatment is other than
28 the program providing the initial involuntary treatment, the program
29 so designated must agree in writing to assume such responsibility. A
30 copy of the conditions for early release shall be given to the
31 patient, the designated chemical dependency specialist of original
32 commitment, and the court of original commitment. The program
33 designated to provide less restrictive care may modify the conditions
34 for continued release when the modifications are in the best
35 interests of the patient. If the program providing less restrictive
36 care and the designated chemical dependency specialist determine that
37 a conditionally released patient is failing to adhere to the terms
38 and conditions of his or her release, or that substantial
39 deterioration in the patient's functioning has occurred, then the
40 designated chemical dependency specialist shall notify the court of

1 original commitment and request a hearing to be held no less than two
2 and no more than seven days after the date of the request to
3 determine whether or not the person should be returned to more
4 restrictive care. The designated chemical dependency specialist shall
5 file a petition with the court stating the facts substantiating the
6 need for the hearing along with the treatment recommendations. The
7 patient shall have the same rights with respect to notice, hearing,
8 and counsel as for the original involuntary treatment proceedings.
9 The issues to be determined at the hearing are whether the
10 conditionally released patient did or did not adhere to the terms and
11 conditions of his or her release to less restrictive care or that
12 substantial deterioration of the patient's functioning has occurred
13 and whether the conditions of release should be modified or the
14 person should be returned to a more restrictive program. The hearing
15 may be waived by the patient and his or her counsel and his or her
16 guardian or conservator, if any, but may not be waived unless all
17 such persons agree to the waiver. Upon waiver, the person may be
18 returned for involuntary treatment or continued on conditional
19 release on the same or modified conditions. The grounds and
20 procedures for revocation of less restrictive alternative treatment
21 ordered by the court must be the same as those set forth in this
22 section for less restrictive care arranged by an approved substance
23 use disorder treatment program as a condition for early release.

24 **Sec. 103.** RCW 70.96A.145 and 1993 c 137 s 1 are each amended to
25 read as follows:

26 The prosecuting attorney of the county in which such action is
27 taken (~~(may, at the discretion of the prosecuting attorney,)~~) shall
28 represent the designated chemical dependency specialist or treatment
29 program in judicial proceedings under RCW 70.96A.140 for the
30 involuntary commitment or recommitment of an individual, including
31 any judicial proceeding where the individual sought to be committed
32 or recommitted challenges the action. The costs of mandated
33 representation shall be reimbursed by the behavioral health
34 organization or full integration region.

35 **Sec. 104.** RCW 70.96A.230 and 1998 c 296 s 24 are each amended to
36 read as follows:

37 Any provider of outpatient treatment who provides outpatient
38 treatment to a minor thirteen years of age or older shall provide

1 notice of the minor's request for treatment to the minor's parents
2 if: (1) The minor signs a written consent authorizing the disclosure;
3 or (2) the treatment program director determines that the minor lacks
4 capacity to make a rational choice regarding consenting to
5 disclosure. ((The)) A provider of outpatient treatment may, at his or
6 her discretion, provide notice of a minor's request for treatment to
7 the minor's parents if the provider determines that notice is in the
8 best interest of the minor in achieving recovery. Any notice under
9 this section shall be made within seven days of the request for
10 treatment, excluding Saturdays, Sundays, and holidays, and shall
11 contain the name, location, and telephone number of the facility
12 providing treatment, and the name of a professional person on the
13 staff of the facility providing treatment who is designated to
14 discuss the minor's need for treatment with the parent.

15
16

PART II
INTEGRATED SYSTEM

17 NEW SECTION. **Sec. 201.** A new section is added to chapter 71.05
18 RCW to read as follows:

19 (1)(a) By April 1, 2018, the department, by rule, must combine
20 the functions of a designated mental health professional and
21 designated chemical dependency specialist by establishing a
22 designated crisis responder who is authorized to conduct
23 investigations, detain persons up to seventy-two hours to the proper
24 facility, and carry out the other functions identified in this
25 chapter and chapter 71.34 RCW. The behavioral health organizations
26 shall provide training to the designated crisis responders as
27 required by the department.

28 (b)(i) To qualify as a designated crisis responder, a person must
29 have received chemical dependency training as determined by the
30 department and be a:

31 (A) Psychiatrist, psychologist, psychiatric advanced registered
32 nurse practitioner, or social worker;

33 (B) Person with a master's degree or further advanced degree in
34 counseling or one of the social sciences from an accredited college
35 or university and who have, in addition, at least two years of
36 experience in direct treatment of persons with mental illness or
37 emotional disturbance, such experience gained under the direction of
38 a mental health professional;

1 (C) Person who meets the waiver criteria of RCW 71.24.260, which
2 waiver was granted before 1986;

3 (D) Person who had an approved waiver to perform the duties of a
4 mental health professional that was requested by the regional support
5 network and granted by the department before July 1, 2001; or

6 (E) Person who has been granted an exception of the minimum
7 requirements of a mental health professional by the department
8 consistent with rules adopted by the secretary.

9 (ii) Training must include chemical dependency training specific
10 to the duties of a designated crisis responder, including diagnosis
11 of substance abuse and dependence and assessment of risk associated
12 with substance use.

13 (c) The department must develop a transition process for any
14 person who has been designated as a designated mental health
15 professional or a designated chemical dependency specialist before
16 April 1, 2018, to be converted to a designated crisis responder. The
17 behavioral health organizations shall provide training, as required
18 by the department, to persons converting to designated crisis
19 responders, which must include both mental health and chemical
20 dependency training applicable to the designated crisis responder
21 role.

22 (2)(a) The department must ensure that at least one sixteen-bed
23 secure detoxification facility is operational by April 1, 2018, and
24 that at least two sixteen-bed secure detoxification facilities are
25 operational by April 1, 2019.

26 (b) If, at any time during the implementation of secure
27 detoxification facility capacity, federal funding becomes unavailable
28 for federal match for services provided in secure detoxification
29 facilities, then the department must cease any expansion of secure
30 detoxification facilities until further direction is provided by the
31 legislature.

32 NEW SECTION. **Sec. 202.** A new section is added to chapter 71.05
33 RCW to read as follows:

34 (1) The Washington state institute for public policy shall
35 evaluate the effect of the integration of the involuntary treatment
36 systems for substance use disorders and mental health and make
37 preliminary reports to appropriate committees of the legislature by
38 December 1, 2020, and June 30, 2021, and a final report by June 30,
39 2023.

1 (2) The evaluation must include an assessment of whether the
2 integrated system:

3 (a) Has increased efficiency of evaluation and treatment of
4 persons involuntarily detained for substance use disorders;

5 (b) Is cost-effective, including impacts on health care, housing,
6 employment, and criminal justice costs;

7 (c) Results in better outcomes for persons involuntarily
8 detained;

9 (d) Increases the effectiveness of the crisis response system
10 statewide;

11 (e) Has an impact on commitments based upon mental disorders;

12 (f) Has been sufficiently resourced with enough involuntary
13 treatment beds, less restrictive alternative treatment options, and
14 state funds to provide timely and appropriate treatment for all
15 individuals interacting with the integrated involuntary treatment
16 system; and

17 (g) Has diverted from the mental health involuntary treatment
18 system a significant number of individuals whose risk results from
19 substance abuse, including an estimate of the net savings from
20 serving these clients into the appropriate substance abuse treatment
21 system.

22 (3) This section expires August 1, 2023.

23 **Sec. 203.** RCW 71.05.010 and 2015 c 269 s 1 are each amended to
24 read as follows:

25 (1) The provisions of this chapter are intended by the
26 legislature:

27 (a) To protect the health and safety of persons suffering from
28 mental disorders and substance use disorders and to protect public
29 safety through use of the parens patriae and police powers of the
30 state;

31 (b) To prevent inappropriate, indefinite commitment of mentally
32 disordered persons and persons with substance use disorders and to
33 eliminate legal disabilities that arise from such commitment;

34 (c) To provide prompt evaluation and timely and appropriate
35 treatment of persons with serious mental disorders and substance use
36 disorders;

37 (d) To safeguard individual rights;

38 (e) To provide continuity of care for persons with serious mental
39 disorders and substance use disorders;

1 (f) To encourage the full use of all existing agencies,
2 professional personnel, and public funds to prevent duplication of
3 services and unnecessary expenditures; and

4 (g) To encourage, whenever appropriate, that services be provided
5 within the community.

6 (2) When construing the requirements of this chapter the court
7 must focus on the merits of the petition, except where requirements
8 have been totally disregarded, as provided in *In re C.W.*, 147 Wn.2d
9 259, 281 (2002). A presumption in favor of deciding petitions on
10 their merits furthers both public and private interests because the
11 mental and physical well-being of individuals as well as public
12 safety may be implicated by the decision to release an individual and
13 discontinue his or her treatment.

14 **Sec. 204.** RCW 71.05.020 and 2015 c 269 s 14 and 2015 c 250 s 2
15 are each reenacted and amended to read as follows:

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

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

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

25 (3) "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 (4) "Commitment" means the determination by a court that a person
29 should be detained for a period of either evaluation or treatment, or
30 both, in an inpatient or a less restrictive setting;

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

33 (6) "Crisis stabilization unit" means a short-term facility or a
34 portion of a facility licensed by the department of health and
35 certified by the department of social and health services under RCW
36 71.24.035, such as an evaluation and treatment facility or a
37 hospital, which has been designed to assess, diagnose, and treat
38 individuals experiencing an acute crisis without the use of long-term
39 hospitalization;

1 (7) "Custody" means involuntary detention under the provisions of
2 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 (8) "Department" means the department of social and health
6 services;

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

11 ~~(10))~~ (10) "Designated crisis responder" means a mental health
12 professional appointed by ~~((the county or))~~ the behavioral health
13 organization to perform the duties specified in this chapter;

14 ~~((11) "Designated mental health professional" means a mental
15 health professional designated by the county or other authority
16 authorized in rule to perform the duties specified in this chapter;~~

17 ~~(12))~~ (10) "Detention" or "detain" means the lawful confinement
18 of a person, under the provisions of this chapter;

19 ~~((13))~~ (11) "Developmental disabilities professional" means a
20 person who has specialized training and three years of experience in
21 directly treating or working with persons with developmental
22 disabilities and is a psychiatrist, psychologist, psychiatric
23 advanced registered nurse practitioner, or social worker, and such
24 other developmental disabilities professionals as may be defined by
25 rules adopted by the secretary;

26 ~~((14))~~ (12) "Developmental disability" means that condition
27 defined in RCW 71A.10.020(5);

28 ~~((15))~~ (13) "Discharge" means the termination of hospital
29 medical authority. The commitment may remain in place, be terminated,
30 or be amended by court order;

31 ~~((16))~~ (14) "Evaluation and treatment facility" means any
32 facility which can provide directly, or by direct arrangement with
33 other public or private agencies, emergency evaluation and treatment,
34 outpatient care, and timely and appropriate inpatient care to persons
35 suffering from a mental disorder, and which is certified as such by
36 the department. The department may certify single beds as temporary
37 evaluation and treatment beds under RCW 71.05.745. A physically
38 separate and separately operated portion of a state hospital may be
39 designated as an evaluation and treatment facility. A facility which
40 is part of, or operated by, the department or any federal agency will

1 not require certification. No correctional institution or facility,
2 or jail, shall be an evaluation and treatment facility within the
3 meaning of this chapter;

4 ~~((17))~~ (15) "Gravely disabled" means a condition in which a
5 person, as a result of a mental disorder, or as a result of the use
6 of alcohol or other psychoactive chemicals: (a) Is in danger of
7 serious physical harm resulting from a failure to provide for his or
8 her essential human needs of health or safety; or (b) manifests
9 severe deterioration in routine functioning evidenced by repeated and
10 escalating loss of cognitive or volitional control over his or her
11 actions and is not receiving such care as is essential for his or her
12 health or safety;

13 ~~((18))~~ (16) "Habilitative services" means those services
14 provided by program personnel to assist persons in acquiring and
15 maintaining life skills and in raising their levels of physical,
16 mental, social, and vocational functioning. Habilitative services
17 include education, training for employment, and therapy. The
18 habilitative process shall be undertaken with recognition of the risk
19 to the public safety presented by the person being assisted as
20 manifested by prior charged criminal conduct;

21 ~~((19))~~ (17) "History of one or more violent acts" refers to the
22 period of time ten years prior to the filing of a petition under this
23 chapter, excluding any time spent, but not any violent acts
24 committed, in a mental health facility, a long-term alcoholism or
25 drug treatment facility, or in confinement as a result of a criminal
26 conviction;

27 ~~((20))~~ (18) "Imminent" means the state or condition of being
28 likely to occur at any moment or near at hand, rather than distant or
29 remote;

30 ~~((21))~~ (19) "Individualized service plan" means a plan prepared
31 by a developmental disabilities professional with other professionals
32 as a team, for a person with developmental disabilities, which shall
33 state:

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

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

38 (c) The intermediate and long-range goals of the habilitation
39 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 ~~((+22+))~~ (20) "Information related to mental health services"
12 means all information and records compiled, obtained, or maintained
13 in the course of providing services to either voluntary or
14 involuntary recipients of services by a mental health service
15 provider. This may include documents of legal proceedings under this
16 chapter or chapter 71.34 or 10.77 RCW, or somatic health care
17 information;

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

39 ~~((+24+))~~ (22) "Judicial commitment" means a commitment by a court
40 pursuant to the provisions of this chapter;

1 ~~((25))~~ (23) "Legal counsel" means attorneys and staff employed
2 by county prosecutor offices or the state attorney general acting in
3 their capacity as legal representatives of public mental health and
4 substance use disorder service providers under RCW 71.05.130;

5 ~~((26))~~ (24) "Less restrictive alternative treatment" means a
6 program of individualized treatment in a less restrictive setting
7 than inpatient treatment that includes the services described in RCW
8 71.05.585;

9 ~~((27))~~ (25) "Likelihood of serious harm" means:

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

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

21 ~~((28))~~ (26) "Medical clearance" means a physician or other
22 health care provider has determined that a person is medically stable
23 and ready for referral to the designated ~~((mental—health~~
24 ~~professional))~~ crisis responder;

25 ~~((29))~~ (27) "Mental disorder" means any organic, mental, or
26 emotional impairment which has substantial adverse effects on a
27 person's cognitive or volitional functions;

28 ~~((30))~~ (28) "Mental health professional" means a psychiatrist,
29 psychologist, psychiatric advanced registered nurse practitioner,
30 psychiatric nurse, or social worker, and such other mental health
31 professionals as may be defined by rules adopted by the secretary
32 pursuant to the provisions of this chapter;

33 ~~((31))~~ (29) "Mental health service provider" means a public or
34 private agency that provides mental health services to persons with
35 mental disorders or substance use disorders as defined under this
36 section and receives funding from public sources. This includes, but
37 is not limited to, hospitals licensed under chapter 70.41 RCW,
38 evaluation and treatment facilities as defined in this section,
39 community mental health service delivery systems or ~~((community~~
40 ~~mental))~~ behavioral health programs as defined in RCW 71.24.025,

1 facilities conducting competency evaluations and restoration under
2 chapter 10.77 RCW, approved substance use disorder treatment programs
3 as defined in this section, secure detoxification facilities as
4 defined in this section, and correctional facilities operated by
5 state and local governments;

6 ~~((+32+))~~ (30) "Peace officer" means a law enforcement official of
7 a public agency or governmental unit, and includes persons
8 specifically given peace officer powers by any state law, local
9 ordinance, or judicial order of appointment;

10 ~~((+33+))~~ (31) "Private agency" means any person, partnership,
11 corporation, or association that is not a public agency, whether or
12 not financed in whole or in part by public funds, which constitutes
13 an evaluation and treatment facility or private institution, or
14 hospital, or approved substance use disorder treatment program, which
15 is conducted for, or includes a department or ward conducted for, the
16 care and treatment of persons ~~((who are mentally ill))~~ with mental
17 illness, substance use disorders, or both mental illness and
18 substance use disorders;

19 ~~((+34+))~~ (32) "Professional person" means a mental health
20 professional or designated crisis responder and shall also mean a
21 physician, psychiatric advanced registered nurse practitioner,
22 registered nurse, and such others as may be defined by rules adopted
23 by the secretary pursuant to the provisions of this chapter;

24 ~~((+35+))~~ (33) "Psychiatric advanced registered nurse
25 practitioner" means a person who is licensed as an advanced
26 registered nurse practitioner pursuant to chapter 18.79 RCW; and who
27 is board certified in advanced practice psychiatric and mental health
28 nursing;

29 ~~((+36+))~~ (34) "Psychiatrist" means a person having a license as a
30 physician and surgeon in this state who has in addition completed
31 three years of graduate training in psychiatry in a program approved
32 by the American medical association or the American osteopathic
33 association and is certified or eligible to be certified by the
34 American board of psychiatry and neurology;

35 ~~((+37+))~~ (35) "Psychologist" means a person who has been licensed
36 as a psychologist pursuant to chapter 18.83 RCW;

37 ~~((+38+))~~ (36) "Public agency" means any evaluation and treatment
38 facility or institution, secure detoxification facility, approved
39 substance use disorder treatment program, or hospital which is
40 conducted for, or includes a department or ward conducted for, the

1 care and treatment of persons with mental illness, substance use
2 disorders, or both mental illness and substance use disorders, if the
3 agency is operated directly by(~~(7)~~) federal, state, county, or
4 municipal government, or a combination of such governments;

5 (~~(39)~~) (37) "Registration records" include all the records of
6 the department, behavioral health organizations, treatment
7 facilities, and other persons providing services to the department,
8 county departments, or facilities which identify persons who are
9 receiving or who at any time have received services for mental
10 illness or substance use disorders;

11 (~~(40)~~) (38) "Release" means legal termination of the commitment
12 under the provisions of this chapter;

13 (~~(41)~~) (39) "Resource management services" has the meaning
14 given in chapter 71.24 RCW;

15 (~~(42)~~) (40) "Secretary" means the secretary of the department
16 of social and health services, or his or her designee;

17 (~~(43)~~) (41) "Serious violent offense" has the same meaning as
18 provided in RCW 9.94A.030;

19 (~~(44)~~) (42) "Social worker" means a person with a master's or
20 further advanced degree from a social work educational program
21 accredited and approved as provided in RCW 18.320.010;

22 (~~(45)~~) (43) "Therapeutic court personnel" means the staff of a
23 mental health court or other therapeutic court which has jurisdiction
24 over defendants who are dually diagnosed with mental disorders,
25 including court personnel, probation officers, a court monitor,
26 prosecuting attorney, or defense counsel acting within the scope of
27 therapeutic court duties;

28 (~~(46)~~) (44) "Treatment records" include registration and all
29 other records concerning persons who are receiving or who at any time
30 have received services for mental illness, which are maintained by
31 the department, by behavioral health organizations and their staffs,
32 and by treatment facilities. Treatment records include mental health
33 information contained in a medical bill including but not limited to
34 mental health drugs, a mental health diagnosis, provider name, and
35 dates of service stemming from a medical service. Treatment records
36 do not include notes or records maintained for personal use by a
37 person providing treatment services for the department, behavioral
38 health organizations, or a treatment facility if the notes or records
39 are not available to others;

1 ~~((47))~~ (45) "Triage facility" means a short-term facility or a
2 portion of a facility licensed by the department of health and
3 certified by the department of social and health services under RCW
4 71.24.035, which is designed as a facility to assess and stabilize an
5 individual or determine the need for involuntary commitment of an
6 individual, and must meet department of health residential treatment
7 facility standards. A triage facility may be structured as a
8 voluntary or involuntary placement facility;

9 ~~((48))~~ (46) "Violent act" means behavior that resulted in
10 homicide, attempted suicide, nonfatal injuries, or substantial damage
11 to property;

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

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

22 (49) "Chemical dependency" means:

23 (a) Alcoholism;

24 (b) Drug addiction; or

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

27 (50) "Chemical dependency professional" means a person certified
28 as a chemical dependency professional by the department of health
29 under chapter 18.205 RCW;

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

36 (52) "Intoxicated person" means a person whose mental or physical
37 functioning is substantially impaired as a result of the use of
38 alcohol or other psychoactive chemicals;

1 (53) "Licensed physician" means a person licensed to practice
2 medicine or osteopathic medicine and surgery in the state of
3 Washington;

4 (54) "Secure detoxification facility" means a facility operated
5 by either a public or private agency or by the program of an agency
6 that:

7 (a) Provides for intoxicated persons:

8 (i) Evaluation and assessment, provided by certified chemical
9 dependency professionals;

10 (ii) Acute or subacute detoxification services; and

11 (iii) Discharge assistance provided by certified chemical
12 dependency professionals, including facilitating transitions to
13 appropriate voluntary or involuntary inpatient services or to less
14 restrictive alternatives as appropriate for the individual;

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

17 (c) Is certified as such by the department;

18 (55) "Substance use disorder" means a cluster of cognitive,
19 behavioral, and physiological symptoms indicating that an individual
20 continues using the substance despite significant substance-related
21 problems. The diagnosis of a substance use disorder is based on a
22 pathological pattern of behaviors related to the use of the
23 substances.

24 **Sec. 205.** RCW 71.05.025 and 2014 c 225 s 80 are each amended to
25 read as follows:

26 The legislature intends that the procedures and services
27 authorized in this chapter be integrated with those in chapter 71.24
28 RCW to the maximum extent necessary to assure a continuum of care to
29 persons with mental illness or who have mental disorders or substance
30 use disorders, as defined in either or both this chapter and chapter
31 71.24 RCW. To this end, behavioral health organizations established
32 in accordance with chapter 71.24 RCW shall institute procedures which
33 require timely consultation with resource management services by
34 designated (~~mental health professionals and~~) crisis responders,
35 evaluation and treatment facilities, secure detoxification
36 facilities, and approved substance use disorder treatment programs to
37 assure that determinations to admit, detain, commit, treat,
38 discharge, or release persons with mental disorders or substance use
39 disorders under this chapter are made only after appropriate

1 information regarding such person's treatment history and current
2 treatment plan has been sought from resource management services.

3 **Sec. 206.** RCW 71.05.026 and 2014 c 225 s 81 are each amended to
4 read as follows:

5 (1) Except for monetary damage claims which have been reduced to
6 final judgment by a superior court, this section applies to all
7 claims against the state, state agencies, state officials, or state
8 employees that exist on or arise after March 29, 2006.

9 (2) Except as expressly provided in contracts entered into
10 between the department and the behavioral health organizations after
11 March 29, 2006, the entities identified in subsection (3) of this
12 section shall have no claim for declaratory relief, injunctive
13 relief, judicial review under chapter 34.05 RCW, or civil liability
14 against the state or state agencies for actions or inactions
15 performed pursuant to the administration of this chapter with regard
16 to the following: (a) The allocation or payment of federal or state
17 funds; (b) the use or allocation of state hospital beds; or (c)
18 financial responsibility for the provision of inpatient mental health
19 care or inpatient substance use disorder treatment.

20 (3) This section applies to counties, behavioral health
21 organizations, and entities which contract to provide behavioral
22 health organization services and their subcontractors, agents, or
23 employees.

24 **Sec. 207.** RCW 71.05.050 and 2015 c 269 s 5 are each amended to
25 read as follows:

26 (1) Nothing in this chapter shall be construed to limit the right
27 of any person to apply voluntarily to any public or private agency or
28 practitioner for treatment of a mental disorder or substance use
29 disorder, either by direct application or by referral. Any person
30 voluntarily admitted for inpatient treatment to any public or private
31 agency shall be released immediately upon his or her request. Any
32 person voluntarily admitted for inpatient treatment to any public or
33 private agency shall orally be advised of the right to immediate
34 discharge, and further advised of such rights in writing as are
35 secured to them pursuant to this chapter and their rights of access
36 to attorneys, courts, and other legal redress. Their condition and
37 status shall be reviewed at least once each one hundred eighty days
38 for evaluation as to the need for further treatment or possible

1 discharge, at which time they shall again be advised of their right
2 to discharge upon request.

3 (2) If the professional staff of any public or private agency or
4 hospital regards a person voluntarily admitted who requests discharge
5 as presenting, as a result of a mental disorder or substance use
6 disorder, an imminent likelihood of serious harm, or is gravely
7 disabled, they may detain such person for sufficient time to notify
8 the designated ((~~mental health professional~~)) crisis responder of
9 such person's condition to enable the designated ((~~mental health~~
10 ~~professional~~)) crisis responder to authorize such person being
11 further held in custody or transported to an evaluation and treatment
12 center, secure detoxification facility, or approved substance use
13 disorder treatment program pursuant to the provisions of this
14 chapter, which shall in ordinary circumstances be no later than the
15 next judicial day.

16 (3) If a person is brought to the emergency room of a public or
17 private agency or hospital for observation or treatment, the person
18 refuses voluntary admission, and the professional staff of the public
19 or private agency or hospital regard such person as presenting as a
20 result of a mental disorder or substance use disorder an imminent
21 likelihood of serious harm, or as presenting an imminent danger
22 because of grave disability, they may detain such person for
23 sufficient time to notify the designated ((~~mental health~~
24 ~~professional~~)) crisis responder of such person's condition to enable
25 the designated ((~~mental health professional~~)) crisis responder to
26 authorize such person being further held in custody or transported to
27 an evaluation treatment center, secure detoxification facility, or
28 approved substance use disorder treatment program pursuant to the
29 conditions in this chapter, but which time shall be no more than six
30 hours from the time the professional staff notify the designated
31 ((~~mental health professional~~)) crisis responder of the need for
32 evaluation, not counting time periods prior to medical clearance.

33 (4) Dismissal of a commitment petition is not the appropriate
34 remedy for a violation of the timeliness requirements of this section
35 based on the intent of this chapter under RCW 71.05.010 except in the
36 few cases where the facility staff or designated ((~~mental health~~
37 ~~professional~~)) crisis responder has totally disregarded the
38 requirements of this section.

1 **Sec. 208.** RCW 71.05.120 and 2000 c 94 s 4 are each amended to
2 read as follows:

3 (1) No officer of a public or private agency, nor the
4 superintendent, professional person in charge, his or her
5 professional designee, or attending staff of any such agency, nor any
6 public official performing functions necessary to the administration
7 of this chapter, nor peace officer responsible for detaining a person
8 pursuant to this chapter, nor any ~~((county))~~ designated ~~((mental~~
9 ~~health professional))~~ crisis responder, nor the state, a unit of
10 local government, ~~((or))~~ an evaluation and treatment facility, a
11 secure detoxification facility, or an approved substance use disorder
12 treatment program shall be civilly or criminally liable for
13 performing duties pursuant to this chapter with regard to the
14 decision of whether to admit, discharge, release, administer
15 antipsychotic medications, or detain a person for evaluation and
16 treatment: PROVIDED, That such duties were performed in good faith
17 and without gross negligence.

18 (2) This section does not relieve a person from giving the
19 required notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the
20 duty to warn or to take reasonable precautions to provide protection
21 from violent behavior where the patient has communicated an actual
22 threat of physical violence against a reasonably identifiable victim
23 or victims. The duty to warn or to take reasonable precautions to
24 provide protection from violent behavior is discharged if reasonable
25 efforts are made to communicate the threat to the victim or victims
26 and to law enforcement personnel.

27 **Sec. 209.** RCW 71.05.132 and 2004 c 166 s 12 are each amended to
28 read as follows:

29 When any court orders a person to receive treatment under this
30 chapter, the order shall include a statement that if the person is,
31 or becomes, subject to supervision by the department of corrections,
32 the person must notify the treatment provider and the person's mental
33 health treatment information and substance use disorder treatment
34 information must be shared with the department of corrections for the
35 duration of the offender's incarceration and supervision, under RCW
36 71.05.445. Upon a petition by a person who does not have a history of
37 one or more violent acts, the court may, for good cause, find that
38 public safety would not be enhanced by the sharing of this person's
39 information.

1 **Sec. 210.** RCW 71.05.150 and 2015 c 250 s 3 are each amended to
2 read as follows:

3 (1)(a) When a designated (~~(mental health professional)~~) crisis
4 responder receives information alleging that a person, as a result of
5 a mental disorder(~~(+-(i))~~), substance use disorder, or both presents
6 a likelihood of serious harm(~~(+-(ii))~~) or is gravely disabled(~~(+)~~),
7 or ((+iii)) that a person is in need of assisted outpatient mental
8 health treatment; the designated (~~(mental health professional)~~)
9 crisis responder may, after investigation and evaluation of the
10 specific facts alleged and of the reliability and credibility of any
11 person providing information to initiate detention or involuntary
12 outpatient evaluation, if satisfied that the allegations are true and
13 that the person will not voluntarily seek appropriate treatment, file
14 a petition for initial detention or involuntary outpatient
15 evaluation. If the petition is filed solely on the grounds that the
16 person is in need of assisted outpatient mental health treatment, the
17 petition may only be for an involuntary outpatient evaluation. An
18 involuntary outpatient evaluation may be conducted by any combination
19 of licensed professionals authorized to petition for involuntary
20 commitment under RCW 71.05.230 and must include involvement or
21 consultation with the agency or facility which will provide
22 monitoring or services under the proposed less restrictive
23 alternative treatment order. If the petition is for an involuntary
24 outpatient evaluation and the person is being held in a hospital
25 emergency department, the person may be released once the hospital
26 has satisfied federal and state legal requirements for appropriate
27 screening and stabilization of patients.

28 (b) Before filing the petition, the designated (~~(mental health~~
29 ~~professional)~~) crisis responder must personally interview the person,
30 unless the person refuses an interview, and determine whether the
31 person will voluntarily receive appropriate evaluation and treatment
32 at an evaluation and treatment facility, crisis stabilization unit,
33 (~~(+e)~~) triage facility, or approved substance use disorder treatment
34 program.

35 (2)(a) An order to detain (~~(+e)~~) a person with a mental disorder
36 to a designated evaluation and treatment facility, or to detain a
37 person with a substance use disorder to a secure detoxification
38 facility or approved substance use disorder treatment program, for
39 not more than a seventy-two-hour evaluation and treatment period, or
40 an order for an involuntary outpatient evaluation, may be issued by a

1 judge of the superior court upon request of a designated ((~~mental~~
2 ~~health professional~~)) crisis responder, subject to (d) of this
3 subsection, whenever it appears to the satisfaction of a judge of the
4 superior court:

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

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

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

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

16 (d) A court may not issue an order to detain a person to a secure
17 detoxification facility or approved substance use disorder treatment
18 program unless there is an available secure detoxification facility
19 or approved substance use disorder treatment program that has
20 adequate space for the person.

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

1 evaluation. Any other individual accompanying the person may be
2 present during the admission evaluation. The facility may exclude the
3 individual if his or her presence would present a safety risk, delay
4 the proceedings, or otherwise interfere with the evaluation.

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

14 **Sec. 211.** RCW 71.05.150 and 2016 1st sp.s. c ... s 210 (section
15 210 of this act) are each amended to read as follows:

16 (1)(a) When a designated crisis responder receives information
17 alleging that a person, as a result of a mental disorder, substance
18 use disorder, or both presents a likelihood of serious harm or is
19 gravely disabled, or that a person is in need of assisted outpatient
20 mental health treatment; the designated crisis responder may, after
21 investigation and evaluation of the specific facts alleged and of the
22 reliability and credibility of any person providing information to
23 initiate detention or involuntary outpatient evaluation, if satisfied
24 that the allegations are true and that the person will not
25 voluntarily seek appropriate treatment, file a petition for initial
26 detention or involuntary outpatient evaluation. If the petition is
27 filed solely on the grounds that the person is in need of assisted
28 outpatient mental health treatment, the petition may only be for an
29 involuntary outpatient evaluation. An involuntary outpatient
30 evaluation may be conducted by any combination of licensed
31 professionals authorized to petition for involuntary commitment under
32 RCW 71.05.230 and must include involvement or consultation with the
33 agency or facility which will provide monitoring or services under
34 the proposed less restrictive alternative treatment order. If the
35 petition is for an involuntary outpatient evaluation and the person
36 is being held in a hospital emergency department, the person may be
37 released once the hospital has satisfied federal and state legal
38 requirements for appropriate screening and stabilization of patients.

1 (b) Before filing the petition, the designated crisis responder
2 must personally interview the person, unless the person refuses an
3 interview, and determine whether the person will voluntarily receive
4 appropriate evaluation and treatment at an evaluation and treatment
5 facility, crisis stabilization unit, triage facility, or approved
6 substance use disorder treatment program.

7 (2)(a) An order to detain a person with a mental disorder to a
8 designated evaluation and treatment facility, or to detain a person
9 with a substance use disorder to a secure detoxification facility or
10 approved substance use disorder treatment program, for not more than
11 a seventy-two-hour evaluation and treatment period, or an order for
12 an involuntary outpatient evaluation, may be issued by a judge of the
13 superior court upon request of a designated crisis responder(~~(~~
14 ~~subject to (d) of this subsection,~~) whenever it appears to the
15 satisfaction of a judge of the superior court:

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

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

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

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

27 ~~((d) A court may not issue an order to detain a person to a
28 secure detoxification facility or approved substance use disorder
29 treatment program unless there is an available secure detoxification
30 facility or approved substance use disorder treatment program that
31 has adequate space for the person.))~~

32 (3) The designated crisis responder shall then serve or cause to
33 be served on such person, his or her guardian, and conservator, if
34 any, a copy of the order together with a notice of rights, and a
35 petition for initial detention or involuntary outpatient evaluation.
36 After service on such person the designated crisis responder shall
37 file the return of service in court and provide copies of all papers
38 in the court file to the evaluation and treatment facility, secure
39 detoxification facility, or approved substance use disorder treatment
40 program, and the designated attorney. The designated crisis responder

1 shall notify the court and the prosecuting attorney that a probable
2 cause hearing will be held within seventy-two hours of the date and
3 time of outpatient evaluation or admission to the evaluation and
4 treatment facility, secure detoxification facility, or approved
5 substance use disorder treatment program. The person shall be
6 permitted to be accompanied by one or more of his or her relatives,
7 friends, an attorney, a personal physician, or other professional or
8 religious advisor to the place of evaluation. An attorney
9 accompanying the person to the place of evaluation shall be permitted
10 to be present during the admission evaluation. Any other individual
11 accompanying the person may be present during the admission
12 evaluation. The facility may exclude the individual if his or her
13 presence would present a safety risk, delay the proceedings, or
14 otherwise interfere with the evaluation.

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

23 **Sec. 212.** RCW 71.05.153 and 2015 c 269 s 6 are each amended to
24 read as follows:

25 (1) When a designated (~~mental health professional~~) crisis
26 responder receives information alleging that a person, as the result
27 of a mental disorder, presents an imminent likelihood of serious
28 harm, or is in imminent danger because of being gravely disabled,
29 after investigation and evaluation of the specific facts alleged and
30 of the reliability and credibility of the person or persons providing
31 the information if any, the designated (~~mental health professional~~)
32 crisis responder may take such person, or cause by oral or written
33 order such person to be taken into emergency custody in an evaluation
34 and treatment facility for not more than seventy-two hours as
35 described in RCW 71.05.180.

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

1 evaluation of the specific facts alleged and of the reliability and
2 credibility of the person or persons providing the information if
3 any, the designated crisis responder may take the person, or cause by
4 oral or written order the person to be taken, into emergency custody
5 in a secure detoxification facility or approved substance use
6 disorder treatment program for not more than seventy-two hours as
7 described in RCW 71.05.180, if a secure detoxification facility or
8 approved substance use disorder treatment program is available and
9 has adequate space for the person.

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

16 ~~((a))~~ (i) Pursuant to subsection (1) or (2) of this section; or
17 ~~((b))~~ (ii) When he or she has reasonable cause to believe that
18 such person is suffering from a mental disorder or substance use
19 disorder and presents an imminent likelihood of serious harm or is in
20 imminent danger because of being gravely disabled.

21 ~~((3))~~ (b) A peace officer's delivery of a person, based on a
22 substance use disorder, to a secure detoxification facility or
23 approved substance use disorder treatment program is subject to the
24 availability of a secure detoxification facility or approved
25 substance use disorder treatment program with adequate space for the
26 person.

27 (4) Persons delivered to a crisis stabilization unit, evaluation
28 and treatment facility, emergency department of a local hospital,
29 ~~((e))~~ triage facility that has elected to operate as an involuntary
30 facility, secure detoxification facility, or approved substance use
31 disorder treatment program by peace officers pursuant to subsection
32 ~~((2))~~ (3) of this section may be held by the facility for a period
33 of up to twelve hours, not counting time periods prior to medical
34 clearance.

35 ~~((4))~~ (5) Within three hours after arrival, not counting time
36 periods prior to medical clearance, the person must be examined by a
37 mental health professional. Within twelve hours of notice of the need
38 for evaluation, not counting time periods prior to medical clearance,
39 the designated (~~mental health professional~~) crisis responder must
40 determine whether the individual meets detention criteria. If the

1 individual is detained, the designated (~~mental health professional~~)
2 crisis responder shall file a petition for detention or a
3 supplemental petition as appropriate and commence service on the
4 designated attorney for the detained person. If the individual is
5 released to the community, the mental health service provider shall
6 inform the peace officer of the release within a reasonable period of
7 time after the release if the peace officer has specifically
8 requested notification and provided contact information to the
9 provider.

10 ((+5)) (6) Dismissal of a commitment petition is not the
11 appropriate remedy for a violation of the timeliness requirements of
12 this section based on the intent of this chapter under RCW 71.05.010
13 except in the few cases where the facility staff or designated mental
14 health professional has totally disregarded the requirements of this
15 section.

16 **Sec. 213.** RCW 71.05.153 and 2016 1st sp.s. c ... s 212 (section
17 212 of this act) are each amended to read as follows:

18 (1) When a designated crisis responder receives information
19 alleging that a person, as the result of a mental disorder, presents
20 an imminent likelihood of serious harm, or is in imminent danger
21 because of being gravely disabled, after investigation and evaluation
22 of the specific facts alleged and of the reliability and credibility
23 of the person or persons providing the information if any, the
24 designated crisis responder may take such person, or cause by oral or
25 written order such person to be taken into emergency custody in an
26 evaluation and treatment facility for not more than seventy-two hours
27 as described in RCW 71.05.180.

28 (2) When a designated crisis responder receives information
29 alleging that a person, as the result of substance use disorder,
30 presents an imminent likelihood of serious harm, or is in imminent
31 danger because of being gravely disabled, after investigation and
32 evaluation of the specific facts alleged and of the reliability and
33 credibility of the person or persons providing the information if
34 any, the designated crisis responder may take the person, or cause by
35 oral or written order the person to be taken, into emergency custody
36 in a secure detoxification facility or approved substance use
37 disorder treatment program for not more than seventy-two hours as
38 described in RCW 71.05.180(~~, if a secure detoxification facility or~~

1 ~~approved substance use disorder treatment program is available and~~
2 ~~has adequate space for the person)).~~

3 ~~(3)((a) Subject to (b) of this subsection,))~~ A peace officer may
4 take or cause such person to be taken into custody and immediately
5 delivered to a triage facility, crisis stabilization unit, evaluation
6 and treatment facility, secure detoxification facility, approved
7 substance use disorder treatment program, or the emergency department
8 of a local hospital under the following circumstances:

9 ~~((i))~~ (a) Pursuant to subsection (1) or (2) of this section; or
10 ~~((ii))~~ (b) When he or she has reasonable cause to believe that
11 such person is suffering from a mental disorder or substance use
12 disorder and presents an imminent likelihood of serious harm or is in
13 imminent danger because of being gravely disabled.

14 ~~((b) A peace officer's delivery of a person, based on a~~
15 ~~substance use disorder, to a secure detoxification facility or~~
16 ~~approved substance use disorder treatment program is subject to the~~
17 ~~availability of a secure detoxification facility or approved~~
18 ~~substance use disorder treatment program with adequate space for the~~
19 ~~person.))~~

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

27 (5) Within three hours after arrival, not counting time periods
28 prior to medical clearance, the person must be examined by a mental
29 health professional. Within twelve hours of notice of the need for
30 evaluation, not counting time periods prior to medical clearance, the
31 designated crisis responder must determine whether the individual
32 meets detention criteria. If the individual is detained, the
33 designated crisis responder shall file a petition for detention or a
34 supplemental petition as appropriate and commence service on the
35 designated attorney for the detained person. If the individual is
36 released to the community, the mental health service provider shall
37 inform the peace officer of the release within a reasonable period of
38 time after the release if the peace officer has specifically
39 requested notification and provided contact information to the
40 provider.

1 (6) Dismissal of a commitment petition is not the appropriate
2 remedy for a violation of the timeliness requirements of this section
3 based on the intent of this chapter under RCW 71.05.010 except in the
4 few cases where the facility staff or designated mental health
5 professional has totally disregarded the requirements of this
6 section.

7 **Sec. 214.** RCW 71.05.154 and 2013 c 334 s 1 are each amended to
8 read as follows:

9 A designated (~~mental health professional~~) crisis responder
10 conducting an evaluation of a person under RCW 71.05.150 or 71.05.153
11 must consult with any examining emergency room physician regarding
12 the physician's observations and opinions relating to the person's
13 condition, and whether, in the view of the physician, detention is
14 appropriate. The designated (~~mental health professional~~) crisis
15 responder shall take serious consideration of observations and
16 opinions by examining emergency room physicians in determining
17 whether detention under this chapter is appropriate. The designated
18 (~~mental health professional~~) crisis responder must document the
19 consultation with an examining emergency room physician, including
20 the physician's observations or opinions regarding whether detention
21 of the person is appropriate.

22 **Sec. 215.** RCW 71.05.156 and 2015 c 250 s 4 are each amended to
23 read as follows:

24 A designated (~~mental health professional~~) crisis responder who
25 conducts an evaluation for imminent likelihood of serious harm or
26 imminent danger because of being gravely disabled under RCW 71.05.153
27 must also evaluate the person under RCW 71.05.150 for likelihood of
28 serious harm or grave disability that does not meet the imminent
29 standard for emergency detention, and to determine whether the person
30 is in need of assisted outpatient mental health treatment.

31 **Sec. 216.** RCW 71.05.157 and 2007 c 375 s 9 are each amended to
32 read as follows:

33 (1) When a designated (~~mental health professional~~) crisis
34 responder is notified by a jail that a defendant or offender who was
35 subject to a discharge review under RCW 71.05.232 is to be released
36 to the community, the designated (~~mental health professional~~)

1 crisis responder shall evaluate the person within seventy-two hours
2 of release.

3 (2) When an offender is under court-ordered treatment in the
4 community and the supervision of the department of corrections, and
5 the treatment provider becomes aware that the person is in violation
6 of the terms of the court order, the treatment provider shall notify
7 the designated (~~mental health professional~~) crisis responder and
8 the department of corrections of the violation and request an
9 evaluation for purposes of revocation of the less restrictive
10 alternative.

11 (3) When a designated (~~mental health professional~~) crisis
12 responder becomes aware that an offender who is under court-ordered
13 treatment in the community and the supervision of the department of
14 corrections is in violation of a treatment order or a condition of
15 supervision that relates to public safety, or the designated (~~mental~~
16 ~~health professional~~) crisis responder detains a person under this
17 chapter, the designated (~~mental health professional~~) crisis
18 responder shall notify the person's treatment provider and the
19 department of corrections.

20 (4) When an offender who is confined in a state correctional
21 facility or is under supervision of the department of corrections in
22 the community is subject to a petition for involuntary treatment
23 under this chapter, the petitioner shall notify the department of
24 corrections and the department of corrections shall provide
25 documentation of its risk assessment or other concerns to the
26 petitioner and the court if the department of corrections classified
27 the offender as a high risk or high needs offender.

28 (5) Nothing in this section creates a duty on any treatment
29 provider or designated (~~mental health professional~~) crisis
30 responder to provide offender supervision.

31 (6) No jail or state correctional facility may be considered a
32 less restrictive alternative to an evaluation and treatment facility,
33 secure detoxification facility, or approved substance use disorder
34 treatment program.

35 **Sec. 217.** RCW 71.05.160 and 2007 c 375 s 13 are each amended to
36 read as follows:

37 Any facility receiving a person pursuant to RCW 71.05.150 or
38 71.05.153 shall require the designated (~~mental health professional~~)
39 crisis responder to prepare a petition for initial detention stating

1 the circumstances under which the person's condition was made known
2 and stating that there is evidence, as a result of his or her
3 personal observation or investigation, that the actions of the person
4 for which application is made constitute a likelihood of serious
5 harm, or that he or she is gravely disabled, and stating the specific
6 facts known to him or her as a result of his or her personal
7 observation or investigation, upon which he or she bases the belief
8 that such person should be detained for the purposes and under the
9 authority of this chapter.

10 If a person is involuntarily placed in an evaluation and
11 treatment facility, secure detoxification facility, or approved
12 substance use disorder treatment program pursuant to RCW 71.05.150 or
13 71.05.153, on the next judicial day following the initial detention,
14 the designated ((~~mental health professional~~)) crisis responder shall
15 file with the court and serve the designated attorney of the detained
16 person the petition or supplemental petition for initial detention,
17 proof of service of notice, and a copy of a notice of emergency
18 detention.

19 **Sec. 218.** RCW 71.05.170 and 2000 c 94 s 5 are each amended to
20 read as follows:

21 Whenever the ((~~county~~)) designated ((~~mental health professional~~))
22 crisis responder petitions for detention of a person whose actions
23 constitute a likelihood of serious harm, or who is gravely disabled,
24 the facility providing seventy-two hour evaluation and treatment must
25 immediately accept on a provisional basis the petition and the
26 person. The facility shall then evaluate the person's condition and
27 admit, detain, transfer, or discharge such person in accordance with
28 RCW 71.05.210. The facility shall notify in writing the court and the
29 ((~~county~~)) designated ((~~mental health professional~~)) crisis responder
30 of the date and time of the initial detention of each person
31 involuntarily detained in order that a probable cause hearing shall
32 be held no later than seventy-two hours after detention.

33 The duty of a state hospital to accept persons for evaluation and
34 treatment under this section shall be limited by chapter 71.24 RCW.

35 **Sec. 219.** RCW 71.05.180 and 1997 c 112 s 12 are each amended to
36 read as follows:

37 If the evaluation and treatment facility, secure detoxification
38 facility, or approved substance use disorder treatment program admits

1 the person, it may detain him or her for evaluation and treatment for
2 a period not to exceed seventy-two hours from the time of acceptance
3 as set forth in RCW 71.05.170. The computation of such seventy-two
4 hour period shall exclude Saturdays, Sundays and holidays.

5 **Sec. 220.** RCW 71.05.190 and 2011 c 305 s 3 are each amended to
6 read as follows:

7 If the person is not approved for admission by a facility
8 providing seventy-two hour evaluation and treatment, and the
9 individual has not been arrested, the facility shall furnish
10 transportation, if not otherwise available, for the person to his or
11 her place of residence or other appropriate place. If the individual
12 has been arrested, the evaluation and treatment facility, secure
13 detoxification facility, or approved substance use disorder treatment
14 program shall detain the individual for not more than eight hours at
15 the request of the peace officer. The facility shall make reasonable
16 attempts to contact the requesting peace officer during this time to
17 inform the peace officer that the person is not approved for
18 admission in order to enable a peace officer to return to the
19 facility and take the individual back into custody.

20 **Sec. 221.** RCW 71.05.195 and 2010 c 208 s 1 are each amended to
21 read as follows:

22 (1) A civil commitment may be initiated under the procedures
23 described in RCW 71.05.150 or 71.05.153 for a person who has been
24 found not guilty by reason of insanity in a state other than
25 Washington and who has fled from detention, commitment, or
26 conditional release in that state, on the basis of a request by the
27 state in which the person was found not guilty by reason of insanity
28 for the person to be detained and transferred back to the custody or
29 care of the requesting state. A finding of likelihood of serious harm
30 or grave disability is not required for a commitment under this
31 section. The detention may occur at either an evaluation and
32 treatment facility or a state hospital. The petition for seventy-two
33 hour detention filed by the designated (~~(mental health professional)~~)
34 crisis responder must be accompanied by the following documents:

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

1 (b) A warrant issued by a magistrate in the state in which the
2 person was found not guilty by reason of insanity indicating that the
3 person has fled from detention, commitment, or conditional release in
4 that state and authorizing the detention of the person within the
5 state in which the person was found not guilty by reason of insanity;

6 (c) A statement from the executive authority of the state in
7 which the person was found not guilty by reason of insanity
8 requesting that the person be returned to the requesting state and
9 agreeing to facilitate the transfer of the person to the requesting
10 state.

11 (2) The person shall be entitled to a probable cause hearing
12 within the time limits applicable to other detentions under this
13 chapter and shall be afforded the rights described in this chapter
14 including the right to counsel. At the probable cause hearing, the
15 court shall determine the identity of the person and whether the
16 other requirements of this section are met. If the court so finds,
17 the court may order continued detention in a treatment facility for
18 up to thirty days for the purpose of the transfer of the person to
19 the custody or care of the requesting state. The court may order a
20 less restrictive alternative to detention only under conditions which
21 ensure the person's safe transfer to the custody or care of the
22 requesting state within thirty days without undue risk to the safety
23 of the person or others.

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

29 **Sec. 222.** RCW 71.05.201 and 2015 c 258 s 2 are each amended to
30 read as follows:

31 (1) If a designated (~~mental health professional~~) crisis
32 responder decides not to detain a person for evaluation and treatment
33 under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed
34 since a designated (~~mental health professional~~) crisis responder
35 received a request for investigation and the designated (~~mental~~
36 ~~health professional~~) crisis responder has not taken action to have
37 the person detained, an immediate family member or guardian or
38 conservator of the person may petition the superior court for the
39 person's initial detention.

1 (2)(a) The petition must be submitted on forms developed by the
2 administrative office of the courts for this purpose. The petition
3 must be accompanied by a sworn declaration from the petitioner, and
4 other witnesses if desired, describing why the person should be
5 detained for evaluation and treatment. The description of why the
6 person should be detained may contain, but is not limited to, the
7 information identified in RCW 71.05.212.

8 (b) The petition must contain:

9 (i) A description of the relationship between the petitioner and
10 the person; and

11 (ii) The date on which an investigation was requested from the
12 designated (~~mental health professional~~) crisis responder.

13 (3) The court shall, within one judicial day, review the petition
14 to determine whether the petition raises sufficient evidence to
15 support the allegation. If the court so finds, it shall provide a
16 copy of the petition to the designated (~~mental health professional~~)
17 crisis responder agency with an order for the agency to provide the
18 court, within one judicial day, with a written sworn statement
19 describing the basis for the decision not to seek initial detention
20 and a copy of all information material to the designated (~~mental
21 health professional's~~) crisis responder's current decision.

22 (4) Following the filing of the petition and before the court
23 reaches a decision, any person, including a mental health
24 professional, may submit a sworn declaration to the court in support
25 of or in opposition to initial detention.

26 (5) The court shall dismiss the petition at any time if it finds
27 that a designated (~~mental health professional~~) crisis responder has
28 filed a petition for the person's initial detention under RCW
29 71.05.150 or 71.05.153 or that the person has voluntarily accepted
30 appropriate treatment.

31 (6) The court must issue a final ruling on the petition within
32 five judicial days after it is filed. After reviewing all of the
33 information provided to the court, the court may enter an order for
34 initial detention if the court finds that: (a) There is probable
35 cause to support a petition for detention; and (b) the person has
36 refused or failed to accept appropriate evaluation and treatment
37 voluntarily. The court shall transmit its final decision to the
38 petitioner.

39 (7) If the court enters an order for initial detention, it shall
40 provide the order to the designated (~~mental health professional~~)

1 crisis responder agency, which shall execute the order without delay.
2 An order for initial detention under this section expires one hundred
3 eighty days from issuance.

4 (8) Except as otherwise expressly stated in this chapter, all
5 procedures must be followed as if the order had been entered under
6 RCW 71.05.150. RCW 71.05.160 does not apply if detention was
7 initiated under the process set forth in this section.

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

11 **Sec. 223.** RCW 71.05.203 and 2015 c 258 s 3 are each amended to
12 read as follows:

13 (1) The department and each (~~regional support network~~)
14 behavioral health organization or agency employing designated
15 (~~mental health professionals~~) crisis responders shall publish
16 information in an easily accessible format describing the process for
17 an immediate family member, guardian, or conservator to petition for
18 court review of a detention decision under RCW 71.05.201.

19 (2) A designated (~~mental health professional~~) crisis responder
20 or designated (~~mental health professional~~) crisis responder agency
21 that receives a request for investigation for possible detention
22 under this chapter must inquire whether the request comes from an
23 immediate family member, guardian, or conservator who would be
24 eligible to petition under RCW 71.05.201. If the designated (~~mental~~
25 ~~health professional~~) crisis responder decides not to detain the
26 person for evaluation and treatment under RCW 71.05.150 or 71.05.153
27 or forty-eight hours have elapsed since the request for investigation
28 was received and the designated (~~mental health professional~~) crisis
29 responder has not taken action to have the person detained, the
30 designated (~~mental health professional~~) crisis responder or
31 designated (~~mental health professional~~) crisis responder agency
32 must inform the immediate family member, guardian, or conservator who
33 made the request for investigation about the process to petition for
34 court review under RCW 71.05.201.

35 **Sec. 224.** RCW 71.05.210 and 2015 c 269 s 7 and 2015 c 250 s 20
36 are each reenacted and amended to read as follows:

37 Each person involuntarily detained and accepted or admitted at an
38 evaluation and treatment facility, secure detoxification facility, or

1 approved substance use disorder treatment program (1) shall, within
2 twenty-four hours of his or her admission or acceptance at the
3 facility, not counting time periods prior to medical clearance, be
4 examined and evaluated by (a) a licensed physician who may be
5 assisted by a physician assistant according to chapter 18.71A RCW and
6 a mental health professional, (b) an advanced registered nurse
7 practitioner according to chapter 18.79 RCW and a mental health
8 professional, or (c) a licensed physician and a psychiatric advanced
9 registered nurse practitioner and (2) shall receive such treatment
10 and care as his or her condition requires including treatment on an
11 outpatient basis for the period that he or she is detained, except
12 that, beginning twenty-four hours prior to a trial or hearing
13 pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320,
14 71.05.590, or 71.05.217, the individual may refuse psychiatric
15 medications, but may not refuse: (a) Any other medication previously
16 prescribed by a person licensed under Title 18 RCW; or (b) emergency
17 lifesaving treatment, and the individual shall be informed at an
18 appropriate time of his or her right of such refusal. The person
19 shall be detained up to seventy-two hours, if, in the opinion of the
20 professional person in charge of the facility, or his or her
21 professional designee, the person presents a likelihood of serious
22 harm, or is gravely disabled. A person who has been detained for
23 seventy-two hours shall no later than the end of such period be
24 released, unless referred for further care on a voluntary basis, or
25 detained pursuant to court order for further treatment as provided in
26 this chapter.

27 If, after examination and evaluation, the mental health
28 professional and licensed physician or psychiatric advanced
29 registered nurse practitioner determine that the initial needs of the
30 person, if detained to an evaluation and treatment facility, would be
31 better served by placement in a (~~chemical dependency~~) substance use
32 disorder treatment facility, or, if detained to a secure
33 detoxification facility or approved substance use disorder treatment
34 program, would be better served in an evaluation and treatment
35 facility then the person shall be referred to (~~an approved treatment~~
36 ~~program defined under RCW 70.96A.020~~) the more appropriate
37 placement; however, a person may only be referred to a secure
38 detoxification facility or approved substance use disorder treatment
39 program if there is an available secure detoxification facility or

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

3 An evaluation and treatment center, secure detoxification
4 facility, or approved substance use disorder treatment program
5 admitting or accepting any person pursuant to this chapter whose
6 physical condition reveals the need for hospitalization shall assure
7 that such person is transferred to an appropriate hospital for
8 evaluation or admission for treatment. Notice of such fact shall be
9 given to the court, the designated attorney, and the designated
10 (~~mental health professional~~) crisis responder and the court shall
11 order such continuance in proceedings under this chapter as may be
12 necessary, but in no event may this continuance be more than fourteen
13 days.

14 **Sec. 225.** RCW 71.05.210 and 2016 1st sp.s. c ... s 224 (section
15 224 of this act) are each amended to read as follows:

16 Each person involuntarily detained and accepted or admitted at an
17 evaluation and treatment facility, secure detoxification facility, or
18 approved substance use disorder treatment program (1) shall, within
19 twenty-four hours of his or her admission or acceptance at the
20 facility, not counting time periods prior to medical clearance, be
21 examined and evaluated by (a) a licensed physician who may be
22 assisted by a physician assistant according to chapter 18.71A RCW and
23 a mental health professional, (b) an advanced registered nurse
24 practitioner according to chapter 18.79 RCW and a mental health
25 professional, or (c) a licensed physician and a psychiatric advanced
26 registered nurse practitioner and (2) shall receive such treatment
27 and care as his or her condition requires including treatment on an
28 outpatient basis for the period that he or she is detained, except
29 that, beginning twenty-four hours prior to a trial or hearing
30 pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320,
31 71.05.590, or 71.05.217, the individual may refuse psychiatric
32 medications, but may not refuse: (a) Any other medication previously
33 prescribed by a person licensed under Title 18 RCW; or (b) emergency
34 lifesaving treatment, and the individual shall be informed at an
35 appropriate time of his or her right of such refusal. The person
36 shall be detained up to seventy-two hours, if, in the opinion of the
37 professional person in charge of the facility, or his or her
38 professional designee, the person presents a likelihood of serious
39 harm, or is gravely disabled. A person who has been detained for

1 seventy-two hours shall no later than the end of such period be
2 released, unless referred for further care on a voluntary basis, or
3 detained pursuant to court order for further treatment as provided in
4 this chapter.

5 If, after examination and evaluation, the mental health
6 professional and licensed physician or psychiatric advanced
7 registered nurse practitioner determine that the initial needs of the
8 person, if detained to an evaluation and treatment facility, would be
9 better served by placement in a substance use disorder treatment
10 facility, or, if detained to a secure detoxification facility or
11 approved substance use disorder treatment program, would be better
12 served in an evaluation and treatment facility then the person shall
13 be referred to the more appropriate placement(~~(; however, a person~~
14 ~~may only be referred to a secure detoxification facility or approved~~
15 ~~substance use disorder treatment program if there is an available~~
16 ~~secure detoxification facility or approved substance use disorder~~
17 ~~treatment program with adequate space for the person)).~~

18 An evaluation and treatment center, secure detoxification
19 facility, or approved substance use disorder treatment program
20 admitting or accepting any person pursuant to this chapter whose
21 physical condition reveals the need for hospitalization shall assure
22 that such person is transferred to an appropriate hospital for
23 evaluation or admission for treatment. Notice of such fact shall be
24 given to the court, the designated attorney, and the designated
25 crisis responder and the court shall order such continuance in
26 proceedings under this chapter as may be necessary, but in no event
27 may this continuance be more than fourteen days.

28 **Sec. 226.** RCW 71.05.212 and 2015 c 250 s 5 are each amended to
29 read as follows:

30 (1) Whenever a designated (~~(mental health professional)~~) crisis
31 responder or professional person is conducting an evaluation under
32 this chapter, consideration shall include all reasonably available
33 information from credible witnesses and records regarding:

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

37 (b) Historical behavior, including history of one or more violent
38 acts;

1 (c) Prior determinations of incompetency or insanity under
2 chapter 10.77 RCW; and

3 (d) Prior commitments under this chapter.

4 (2) Credible witnesses may include family members, landlords,
5 neighbors, or others with significant contact and history of
6 involvement with the person. If the designated (~~mental health~~
7 ~~professional~~) crisis responder relies upon information from a
8 credible witness in reaching his or her decision to detain the
9 individual, then he or she must provide contact information for any
10 such witness to the prosecutor. The designated (~~mental health~~
11 ~~professional~~) crisis responder or prosecutor shall provide notice of
12 the date, time, and location of the probable cause hearing to such a
13 witness.

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

19 (a) Such symptoms or behavior are closely associated with
20 symptoms or behavior which preceded and led to a past incident of
21 involuntary hospitalization, severe deterioration, or one or more
22 violent acts;

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

25 (c) Without treatment, the continued deterioration of the
26 respondent is probable.

27 (4) When conducting an evaluation for offenders identified under
28 RCW 72.09.370, the designated (~~mental health professional~~) crisis
29 responder or professional person shall consider an offender's history
30 of judicially required or administratively ordered antipsychotic
31 medication while in confinement.

32 **Sec. 227.** RCW 71.05.214 and 1998 c 297 s 26 are each amended to
33 read as follows:

34 The department shall develop statewide protocols to be utilized
35 by professional persons and (~~county~~) designated (~~mental health~~
36 ~~professionals~~) crisis responders in administration of this chapter
37 and chapter 10.77 RCW. The protocols shall be updated at least every
38 three years. The protocols shall provide uniform development and
39 application of criteria in evaluation and commitment recommendations,

1 of persons who have, or are alleged to have, mental disorders or
2 substance use disorders and are subject to this chapter.

3 The initial protocols shall be developed not later than September
4 1, 1999. The department shall develop and update the protocols in
5 consultation with representatives of (~~county~~) designated (~~mental~~
6 ~~health professionals~~) crisis responders, local government, law
7 enforcement, county and city prosecutors, public defenders, and
8 groups concerned with mental illness and substance use disorders. The
9 protocols shall be submitted to the governor and legislature upon
10 adoption by the department.

11 **Sec. 228.** RCW 71.05.215 and 2008 c 156 s 2 are each amended to
12 read as follows:

13 (1) A person found to be gravely disabled or presents a
14 likelihood of serious harm as a result of a mental disorder or
15 substance use disorder has a right to refuse antipsychotic medication
16 unless it is determined that the failure to medicate may result in a
17 likelihood of serious harm or substantial deterioration or
18 substantially prolong the length of involuntary commitment and there
19 is no less intrusive course of treatment than medication in the best
20 interest of that person.

21 (2) The department shall adopt rules to carry out the purposes of
22 this chapter. These rules shall include:

23 (a) An attempt to obtain the informed consent of the person prior
24 to administration of antipsychotic medication.

25 (b) For short-term treatment up to thirty days, the right to
26 refuse antipsychotic medications unless there is an additional
27 concurring medical opinion approving medication by a psychiatrist,
28 psychiatric advanced registered nurse practitioner, or physician in
29 consultation with a mental health professional with prescriptive
30 authority.

31 (c) For continued treatment beyond thirty days through the
32 hearing on any petition filed under RCW 71.05.217, the right to
33 periodic review of the decision to medicate by the medical director
34 or designee.

35 (d) Administration of antipsychotic medication in an emergency
36 and review of this decision within twenty-four hours. An emergency
37 exists if the person presents an imminent likelihood of serious harm,
38 and medically acceptable alternatives to administration of
39 antipsychotic medications are not available or are unlikely to be

1 successful; and in the opinion of the physician or psychiatric
2 advanced registered nurse practitioner, the person's condition
3 constitutes an emergency requiring the treatment be instituted prior
4 to obtaining a second medical opinion.

5 (e) Documentation in the medical record of the attempt by the
6 physician or psychiatric advanced registered nurse practitioner to
7 obtain informed consent and the reasons why antipsychotic medication
8 is being administered over the person's objection or lack of consent.

9 **Sec. 229.** RCW 71.05.220 and 1997 c 112 s 17 are each amended to
10 read as follows:

11 At the time a person is involuntarily admitted to an evaluation
12 and treatment facility, secure detoxification facility, or approved
13 substance use disorder treatment program, the professional person in
14 charge or his or her designee shall take reasonable precautions to
15 inventory and safeguard the personal property of the person detained.
16 A copy of the inventory, signed by the staff member making it, shall
17 be given to the person detained and shall, in addition, be open to
18 inspection to any responsible relative, subject to limitations, if
19 any, specifically imposed by the detained person. For purposes of
20 this section, "responsible relative" includes the guardian,
21 conservator, attorney, spouse, parent, adult child, or adult brother
22 or sister of the person. The facility shall not disclose the contents
23 of the inventory to any other person without the consent of the
24 patient or order of the court.

25 **Sec. 230.** RCW 71.05.230 and 2015 c 250 s 6 are each amended to
26 read as follows:

27 A person detained or committed for seventy-two hour evaluation
28 and treatment or for an outpatient evaluation for the purpose of
29 filing a petition for a less restrictive alternative treatment order
30 may be committed for not more than fourteen additional days of
31 involuntary intensive treatment or ninety additional days of a less
32 restrictive alternative to involuntary intensive treatment. A
33 petition may only be filed if the following conditions are met:

34 (1) The professional staff of the agency or facility providing
35 evaluation services has analyzed the person's condition and finds
36 that the condition is caused by mental disorder or substance use
37 disorder and results in a likelihood of serious harm, results in the
38 person being gravely disabled, or results in the person being in need

1 of assisted outpatient mental health treatment, and are prepared to
2 testify those conditions are met; and

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

6 (3) The agency or facility providing intensive treatment or which
7 proposes to supervise the less restrictive alternative is certified
8 to provide such treatment by the department; and

9 (4) The professional staff of the agency or facility or the
10 designated (~~mental health professional~~) crisis responder has filed
11 a petition with the court for a fourteen day involuntary detention or
12 a ninety day less restrictive alternative. The petition must be
13 signed either by:

14 (a) Two physicians;

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

16 (c) Two psychiatric advanced registered nurse practitioners;

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

19 (e) A physician and a psychiatric advanced registered nurse
20 practitioner. The persons signing the petition must have examined the
21 person. If involuntary detention is sought the petition shall state
22 facts that support the finding that such person, as a result of a
23 mental disorder or substance use disorder, presents a likelihood of
24 serious harm, or is gravely disabled and that there are no less
25 restrictive alternatives to detention in the best interest of such
26 person or others. The petition shall state specifically that less
27 restrictive alternative treatment was considered and specify why
28 treatment less restrictive than detention is not appropriate. If an
29 involuntary less restrictive alternative is sought, the petition
30 shall state facts that support the finding that such person, as a
31 result of a mental disorder or as a result of a substance use
32 disorder, presents a likelihood of serious harm, is gravely disabled,
33 or is in need of assisted outpatient mental health treatment, and
34 shall set forth a plan for the less restrictive alternative treatment
35 proposed by the facility in accordance with RCW 71.05.585; and

36 (5) A copy of the petition has been served on the detained or
37 committed person, his or her attorney and his or her guardian or
38 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 for mental health
6 treatment; and

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

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

18 **Sec. 231.** RCW 71.05.235 and 2015 1st sp.s. c 7 s 14 are each
19 amended to read as follows:

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

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

1 ((~~71.05~~ RCW)). Before expiration of the seventy-two hour evaluation
2 period authorized under RCW 10.77.088(1)(c)(ii), the professional
3 person shall file a petition or, if the recommendation of the
4 professional person is to release the individual, present his or her
5 recommendation to the superior court of the county in which the
6 criminal charge was dismissed. The superior court shall review the
7 recommendation not later than forty-eight hours, excluding Saturdays,
8 Sundays, and holidays, after the recommendation is presented. If the
9 court rejects the recommendation to unconditionally release the
10 individual, the court may order the individual detained at a
11 designated evaluation and treatment facility for not more than a
12 seventy-two hour evaluation and treatment period and direct the
13 individual to appear at a surety hearing before that court within
14 seventy-two hours, or the court may release the individual but direct
15 the individual to appear at a surety hearing set before that court
16 within eleven days, at which time the prosecutor may file a petition
17 under this chapter for ninety-day inpatient or outpatient treatment.
18 If a petition is filed by the prosecutor, the court may order that
19 the person named in the petition be detained at the evaluation and
20 treatment facility that performed the evaluation under this
21 subsection or order the respondent to be in outpatient treatment. If
22 a petition is filed but the individual fails to appear in court for
23 the surety hearing, the court shall order that a mental health
24 professional or peace officer shall take such person or cause such
25 person to be taken into custody and placed in an evaluation and
26 treatment facility to be brought before the court the next judicial
27 day after detention. Upon the individual's first appearance in court
28 after a petition has been filed, proceedings under RCW 71.05.310 and
29 71.05.320 shall commence. For an individual subject to this
30 subsection, the prosecutor or professional person may directly file a
31 petition for ninety-day inpatient or outpatient treatment and no
32 petition for initial detention or fourteen-day detention is required
33 before such a petition may be filed.

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

1 of the filing of the petition. The burden of proof shall be by clear,
2 cogent, and convincing evidence and shall be upon the petitioner. The
3 person shall be present at such proceeding, which shall in all
4 respects accord with the constitutional guarantees of due process of
5 law and the rules of evidence pursuant to RCW 71.05.360 (8) and (9).

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

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

19 (4) The individual shall have the rights specified in RCW
20 71.05.360 (8) and (9).

21 **Sec. 232.** RCW 71.05.240 and 2015 c 250 s 7 are each amended to
22 read as follows:

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

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

1 (3)(a) Subject to (b) of this subsection, at the conclusion of
2 the probable cause hearing(~~(+~~

3 ~~(a))~~, if the court finds by a preponderance of the evidence that
4 such person, as the result of a mental disorder or substance use
5 disorder, presents a likelihood of serious harm, or is gravely
6 disabled, and, after considering less restrictive alternatives to
7 involuntary detention and treatment, finds that no such alternatives
8 are in the best interests of such person or others, the court shall
9 order that such person be detained for involuntary treatment not to
10 exceed fourteen days in a facility certified to provide treatment by
11 the department.

12 (b) Commitment for up to fourteen days based on a substance use
13 disorder must be to either a secure detoxification facility or an
14 approved substance use disorder treatment program. A court may only
15 enter a commitment order based on a substance use disorder if there
16 is an available secure detoxification facility or approved substance
17 use disorder treatment program with adequate space for the person.

18 (c) At the conclusion of the probable cause hearing, if the court
19 finds by a preponderance of the evidence that such person, as the
20 result of a mental disorder or substance use disorder, presents a
21 likelihood of serious harm, or is gravely disabled, but that
22 treatment in a less restrictive setting than detention is in the best
23 interest of such person or others, the court shall order an
24 appropriate less restrictive alternative course of treatment for not
25 to exceed ninety days(~~(+~~

26 ~~(b))~~ (d) If the court finds by a preponderance of the evidence
27 that such person, as the result of a mental disorder, is in need of
28 assisted outpatient mental health treatment, and that the person does
29 not present a likelihood of serious harm or grave disability, the
30 court shall order an appropriate less restrictive alternative course
31 of treatment not to exceed ninety days, and may not order inpatient
32 treatment.

33 ~~(c))~~ (e) An order for less restrictive alternative treatment
34 must identify the services the person will receive, in accordance
35 with RCW 71.05.585. The court may order additional evaluation of the
36 person if necessary to identify appropriate services.

37 (4) The court shall specifically state to such person and give
38 such person notice in writing that if involuntary treatment beyond
39 the fourteen day period or beyond the ninety days of less restrictive
40 treatment is to be sought, such person will have the right to a full

1 hearing or jury trial as required by RCW 71.05.310. If the commitment
2 is for mental health treatment, the court shall also state to the
3 person and provide written notice that the person is barred from the
4 possession of firearms and that the prohibition remains in effect
5 until a court restores his or her right to possess a firearm under
6 RCW 9.41.047.

7 **Sec. 233.** RCW 71.05.240 and 2016 1st sp.s. c ... s 232 (section
8 232 of this act) are each amended to read as follows:

9 (1) If a petition is filed for fourteen day involuntary treatment
10 or ninety days of less restrictive alternative treatment, the court
11 shall hold a probable cause hearing within seventy-two hours of the
12 initial detention or involuntary outpatient evaluation of such person
13 as determined in RCW 71.05.180. If requested by the person or his or
14 her attorney, the hearing may be postponed for a period not to exceed
15 forty-eight hours. The hearing may also be continued subject to the
16 conditions set forth in RCW 71.05.210 or subject to the petitioner's
17 showing of good cause for a period not to exceed twenty-four hours.

18 (2) If the petition is for mental health treatment, the court at
19 the time of the probable cause hearing and before an order of
20 commitment is entered shall inform the person both orally and in
21 writing that the failure to make a good faith effort to seek
22 voluntary treatment as provided in RCW 71.05.230 will result in the
23 loss of his or her firearm rights if the person is subsequently
24 detained for involuntary treatment under this section.

25 (3)(a) Subject to (b) of this subsection, at the conclusion of
26 the probable cause hearing, if the court finds by a preponderance of
27 the evidence that such person, as the result of a mental disorder or
28 substance use disorder, presents a likelihood of serious harm, or is
29 gravely disabled, and, after considering less restrictive
30 alternatives to involuntary detention and treatment, finds that no
31 such alternatives are in the best interests of such person or others,
32 the court shall order that such person be detained for involuntary
33 treatment not to exceed fourteen days in a facility certified to
34 provide treatment by the department.

35 (b) Commitment for up to fourteen days based on a substance use
36 disorder must be to either a secure detoxification facility or an
37 approved substance use disorder treatment program. (~~A court may only~~
38 ~~enter a commitment order based on a substance use disorder if there~~

1 ~~is an available secure detoxification facility or approved substance~~
2 ~~use disorder treatment program with adequate space for the person.))~~

3 (c) At the conclusion of the probable cause hearing, if the court
4 finds by a preponderance of the evidence that such person, as the
5 result of a mental disorder or substance use disorder, presents a
6 likelihood of serious harm, or is gravely disabled, but that
7 treatment in a less restrictive setting than detention is in the best
8 interest of such person or others, the court shall order an
9 appropriate less restrictive alternative course of treatment for not
10 to exceed ninety days.

11 (d) If the court finds by a preponderance of the evidence that
12 such person, as the result of a mental disorder, is in need of
13 assisted outpatient mental health treatment, and that the person does
14 not present a likelihood of serious harm or grave disability, the
15 court shall order an appropriate less restrictive alternative course
16 of treatment not to exceed ninety days, and may not order inpatient
17 treatment.

18 (e) An order for less restrictive alternative treatment must
19 identify the services the person will receive, in accordance with RCW
20 71.05.585. The court may order additional evaluation of the person if
21 necessary to identify appropriate services.

22 (4) The court shall specifically state to such person and give
23 such person notice in writing that if involuntary treatment beyond
24 the fourteen day period or beyond the ninety days of less restrictive
25 treatment is to be sought, such person will have the right to a full
26 hearing or jury trial as required by RCW 71.05.310. If the commitment
27 is for mental health treatment, the court shall also state to the
28 person and provide written notice that the person is barred from the
29 possession of firearms and that the prohibition remains in effect
30 until a court restores his or her right to possess a firearm under
31 RCW 9.41.047.

32 **Sec. 234.** RCW 71.05.280 and 2015 c 250 s 9 are each amended to
33 read as follows:

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

37 (1) Such person after having been taken into custody for
38 evaluation and treatment has threatened, attempted, or inflicted: (a)
39 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 or substance use disorder presents a likelihood of
3 serious harm; or

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

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

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

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

22 (4) Such person is gravely disabled; or

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

25 **Sec. 235.** RCW 71.05.290 and 2015 c 250 s 10 are each amended to
26 read as follows:

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

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

37 (a) Two examining physicians;

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

1 (c) Two psychiatric advanced registered nurse practitioners;

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

4 (e) An examining physician and an examining psychiatric advanced
5 registered nurse practitioner. The affidavits shall describe in
6 detail the behavior of the detained person which supports the
7 petition and shall explain what, if any, less restrictive treatments
8 which are alternatives to detention are available to such person, and
9 shall state the willingness of the affiant to testify to such facts
10 in subsequent judicial proceedings under this chapter. If less
11 restrictive alternative treatment is sought, the petition shall set
12 forth a proposed plan for less restrictive alternative treatment in
13 accordance with RCW 71.05.585.

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~~) crisis responder may
18 directly file a petition for one hundred eighty day treatment under
19 RCW 71.05.280(3). No petition for initial detention or fourteen day
20 detention is required before such a petition may be filed.

21 **Sec. 236.** RCW 71.05.300 and 2014 c 225 s 84 are each amended to
22 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~~)
30 crisis responder. The designated (~~mental health professional~~)
31 crisis responder shall immediately notify the person detained, his or
32 her attorney, if any, and his or her guardian or conservator, if any,
33 the prosecuting attorney, and the behavioral health organization
34 administrator, and provide a copy of the petition to such persons as
35 soon as possible. The behavioral health organization administrator or
36 designee may review the petition and may appear and testify at the
37 full hearing on the petition.

38 (2) At the time set for appearance the detained person shall be
39 brought before the court, unless such appearance has been waived and

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

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

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

21 **Sec. 237.** RCW 71.05.320 and 2015 c 250 s 11 are each amended to
22 read as follows:

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

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

37 (c) If the grounds set forth in RCW 71.05.280(3) are the basis of
38 commitment, then the period of treatment may be up to but not exceed

1 one hundred eighty days from the date of judgment in a facility
2 certified for one hundred eighty day treatment by the department.

3 (2) If the court or jury finds that grounds set forth in RCW
4 71.05.280 have been proven, but finds that treatment less restrictive
5 than detention will be in the best interest of the person or others,
6 then the court shall remand him or her to the custody of the
7 department or to a facility certified for ninety day treatment by the
8 department or to a less restrictive alternative for a further period
9 of less restrictive treatment not to exceed ninety days from the date
10 of judgment. If the order for less restrictive treatment is based on
11 a substance use disorder, treatment must be provided by an approved
12 substance use disorder treatment program. If the grounds set forth in
13 RCW 71.05.280(3) are the basis of commitment, then the period of
14 treatment may be up to but not exceed one hundred eighty days from
15 the date of judgment. If the court or jury finds that the grounds set
16 forth in RCW 71.05.280(5) have been proven, and provide the only
17 basis for commitment, the court must enter an order for less
18 restrictive alternative treatment for up to ninety days from the date
19 of judgment and may not order inpatient treatment.

20 (3) An order for less restrictive alternative treatment entered
21 under subsection (2) of this section must identify the services the
22 person will receive, in accordance with RCW 71.05.585. The court may
23 order additional evaluation of the person if necessary to identify
24 appropriate services.

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

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

37 (b) Was taken into custody as a result of conduct in which he or
38 she attempted or inflicted serious physical harm upon the person of
39 another, and continues to present, as a result of mental disorder,

1 substance use disorder, or developmental disability a likelihood of
2 serious harm; or

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

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

23 (d) Continues to be gravely disabled; or

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

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

28 If less restrictive alternative treatment is sought, the petition
29 shall set forth a proposed plan for less restrictive alternative
30 services in accordance with RCW 71.05.585.

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

37 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
38 and if the court or jury finds that the grounds for additional
39 confinement as set forth in this section are present, subject to
40 subsection (1)(b) of this section, the court may order the committed

1 person returned for an additional period of treatment not to exceed
2 one hundred eighty days from the date of judgment, except as provided
3 in subsection (7) of this section. If the court's order is based
4 solely on the grounds identified in subsection (4)(e) of this
5 section, the court may enter an order for less restrictive
6 alternative treatment not to exceed one hundred eighty days from the
7 date of judgment, and may not enter an order for inpatient treatment.
8 An order for less restrictive alternative treatment must identify the
9 services the person will receive, in accordance with RCW 71.05.585.
10 The court may order additional evaluation of the person if necessary
11 to identify appropriate services.

12 (b) At the end of the one hundred eighty day period of
13 commitment, or one-year period of commitment if subsection (7) of
14 this section applies, the committed person shall be released unless a
15 petition for an additional one hundred eighty day period of continued
16 treatment is filed and heard in the same manner as provided in this
17 section. Successive one hundred eighty day commitments are
18 permissible on the same grounds and pursuant to the same procedures
19 as the original one hundred eighty day commitment.

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

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

28 **Sec. 238.** RCW 71.05.320 and 2016 1st sp.s. c ... s 237 (section
29 237 of this act) are each amended to read as follows:

30 (1)((~~(a) Subject to (b) of this subsection,~~) If the court or
31 jury finds that grounds set forth in RCW 71.05.280 have been proven
32 and that the best interests of the person or others will not be
33 served by a less restrictive treatment which is an alternative to
34 detention, the court shall remand him or her to the custody of the
35 department or to a facility certified for ninety day treatment by the
36 department for a further period of intensive treatment not to exceed
37 ninety days from the date of judgment.

38 ((~~b~~)) If the order for inpatient treatment is based on a
39 substance use disorder, treatment must take place at an approved

1 substance use disorder treatment program. (~~The court may only enter~~
2 ~~an order for commitment based on a substance use disorder if there is~~
3 ~~an available approved substance use disorder treatment program with~~
4 ~~adequate space for the person.~~

5 (e)) If the grounds set forth in RCW 71.05.280(3) are the basis
6 of commitment, then the period of treatment may be up to but not
7 exceed one hundred eighty days from the date of judgment in a
8 facility certified for one hundred eighty day treatment by the
9 department.

10 (2) If the court or jury finds that grounds set forth in RCW
11 71.05.280 have been proven, but finds that treatment less restrictive
12 than detention will be in the best interest of the person or others,
13 then the court shall remand him or her to the custody of the
14 department or to a facility certified for ninety day treatment by the
15 department or to a less restrictive alternative for a further period
16 of less restrictive treatment not to exceed ninety days from the date
17 of judgment. If the order for less restrictive treatment is based on
18 a substance use disorder, treatment must be provided by an approved
19 substance use disorder treatment program. If the grounds set forth in
20 RCW 71.05.280(3) are the basis of commitment, then the period of
21 treatment may be up to but not exceed one hundred eighty days from
22 the date of judgment. If the court or jury finds that the grounds set
23 forth in RCW 71.05.280(5) have been proven, and provide the only
24 basis for commitment, the court must enter an order for less
25 restrictive alternative treatment for up to ninety days from the date
26 of judgment and may not order inpatient treatment.

27 (3) An order for less restrictive alternative treatment entered
28 under subsection (2) of this section must identify the services the
29 person will receive, in accordance with RCW 71.05.585. The court may
30 order additional evaluation of the person if necessary to identify
31 appropriate services.

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

39 (a) During the current period of court ordered treatment: (i) Has
40 threatened, attempted, or inflicted physical harm upon the person of

1 another, or substantial damage upon the property of another, and (ii)
2 as a result of a mental disorder, substance use disorder, or
3 developmental disability presents a likelihood of serious harm; or

4 (b) Was taken into custody as a result of conduct in which he or
5 she attempted or inflicted serious physical harm upon the person of
6 another, and continues to present, as a result of mental disorder,
7 substance use disorder, or developmental disability a likelihood of
8 serious harm; or

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

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

29 (d) Continues to be gravely disabled; or

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

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

34 If less restrictive alternative treatment is sought, the petition
35 shall set forth a proposed plan for less restrictive alternative
36 services in accordance with RCW 71.05.585.

37 (5) A new petition for involuntary treatment filed under
38 subsection (4) of this section shall be filed and heard in the
39 superior court of the county of the facility which is filing the new
40 petition for involuntary treatment unless good cause is shown for a

1 change of venue. The cost of the proceedings shall be borne by the
2 state.

3 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
4 and if the court or jury finds that the grounds for additional
5 confinement as set forth in this section are present, (~~subject to~~
6 ~~subsection (1)(b) of this section,~~) the court may order the
7 committed person returned for an additional period of treatment not
8 to exceed one hundred eighty days from the date of judgment, except
9 as provided in subsection (7) of this section. If the court's order
10 is based solely on the grounds identified in subsection (4)(e) of
11 this section, the court may enter an order for less restrictive
12 alternative treatment not to exceed one hundred eighty days from the
13 date of judgment, and may not enter an order for inpatient treatment.
14 An order for less restrictive alternative treatment must identify the
15 services the person will receive, in accordance with RCW 71.05.585.
16 The court may order additional evaluation of the person if necessary
17 to identify appropriate services.

18 (b) At the end of the one hundred eighty day period of
19 commitment, or one-year period of commitment if subsection (7) of
20 this section applies, the committed person shall be released unless a
21 petition for an additional one hundred eighty day period of continued
22 treatment is filed and heard in the same manner as provided in this
23 section. Successive one hundred eighty day commitments are
24 permissible on the same grounds and pursuant to the same procedures
25 as the original one hundred eighty day commitment.

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

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

34 **Sec. 239.** RCW 71.05.325 and 2000 c 94 s 7 are each amended to
35 read as follows:

36 (1) Before a person committed under grounds set forth in RCW
37 71.05.280(3) is released because a new petition for involuntary
38 treatment has not been filed under RCW 71.05.320(~~(+2)~~) (3), the
39 superintendent, professional person, or designated (~~mental health~~

1 ~~professional~~) crisis responder responsible for the decision whether
2 to file a new petition shall in writing notify the prosecuting
3 attorney of the county in which the criminal charges against the
4 committed person were dismissed, of the decision not to file a new
5 petition for involuntary treatment. Notice shall be provided at least
6 forty-five days before the period of commitment expires.

7 (2)(a) Before a person committed under grounds set forth in RCW
8 71.05.280(3) is permitted temporarily to leave a treatment facility
9 pursuant to RCW 71.05.270 for any period of time without constant
10 accompaniment by facility staff, the superintendent, professional
11 person in charge of a treatment facility, or his or her professional
12 designee shall in writing notify the prosecuting attorney of any
13 county of the person's destination and the prosecuting attorney of
14 the county in which the criminal charges against the committed person
15 were dismissed. The notice shall be provided at least forty-five days
16 before the anticipated leave and shall describe the conditions under
17 which the leave is to occur.

18 (b) The provisions of RCW 71.05.330(2) apply to proposed leaves,
19 and either or both prosecuting attorneys receiving notice under this
20 subsection may petition the court under RCW 71.05.330(2).

21 (3) Nothing in this section shall be construed to authorize
22 detention of a person unless a valid order of commitment is in
23 effect.

24 (4) The existence of the notice requirements in this section will
25 not require any extension of the leave date in the event the leave
26 plan changes after notification.

27 (5) The notice requirements contained in this section shall not
28 apply to emergency medical transfers.

29 (6) The notice provisions of this section are in addition to
30 those provided in RCW 71.05.425.

31 **Sec. 240.** RCW 71.05.340 and 2015 c 250 s 12 are each amended to
32 read as follows:

33 (1)(a) When, in the opinion of the superintendent or the
34 professional person in charge of the hospital or facility providing
35 involuntary treatment, the committed person can be appropriately
36 served by outpatient treatment prior to or at the expiration of the
37 period of commitment, then such outpatient care may be required as a
38 term of conditional release for a period which, when added to the
39 inpatient treatment period, shall not exceed the period of

1 commitment. If the facility or agency designated to provide
2 outpatient treatment is other than the facility providing involuntary
3 treatment, the outpatient facility so designated must agree in
4 writing to assume such responsibility. A copy of the terms of
5 conditional release shall be given to the patient, the designated
6 (~~mental health professional~~) crisis responder in the county in
7 which the patient is to receive outpatient treatment, and to the
8 court of original commitment.

9 (b) Before a person committed under grounds set forth in RCW
10 71.05.280(3) or 71.05.320(4)(c) is conditionally released under (a)
11 of this subsection, the superintendent or professional person in
12 charge of the hospital or facility providing involuntary treatment
13 shall in writing notify the prosecuting attorney of the county in
14 which the criminal charges against the committed person were
15 dismissed, of the decision to conditionally release the person.
16 Notice and a copy of the terms of conditional release shall be
17 provided at least thirty days before the person is released from
18 inpatient care. Within twenty days after receiving notice, the
19 prosecuting attorney may petition the court in the county that issued
20 the commitment order to hold a hearing to determine whether the
21 person may be conditionally released and the terms of the conditional
22 release. The prosecuting attorney shall provide a copy of the
23 petition to the superintendent or professional person in charge of
24 the hospital or facility providing involuntary treatment, the
25 attorney, if any, and guardian or conservator of the committed
26 person, and the court of original commitment. If the county in which
27 the committed person is to receive outpatient treatment is the same
28 county in which the criminal charges against the committed person
29 were dismissed, then the court shall, upon the motion of the
30 prosecuting attorney, transfer the proceeding to the court in that
31 county. The court shall conduct a hearing on the petition within ten
32 days of the filing of the petition. The committed person shall have
33 the same rights with respect to notice, hearing, and counsel as for
34 an involuntary treatment proceeding, except as set forth in this
35 subsection and except that there shall be no right to jury trial. The
36 issue to be determined at the hearing is whether or not the person
37 may be conditionally released without substantial danger to other
38 persons, or substantial likelihood of committing criminal acts
39 jeopardizing public safety or security. If the court disapproves of
40 the conditional release, it may do so only on the basis of

1 substantial evidence. Pursuant to the determination of the court upon
2 the hearing, the conditional release of the person shall be approved
3 by the court on the same or modified conditions or the person shall
4 be returned for involuntary treatment on an inpatient basis subject
5 to release at the end of the period for which he or she was
6 committed, or otherwise in accordance with the provisions of this
7 chapter.

8 (2) The facility or agency designated to provide outpatient care
9 or the secretary may modify the conditions for continued release when
10 such modification is in the best interest of the person. Notification
11 of such changes shall be sent to all persons receiving a copy of the
12 original conditions. Enforcement or revocation proceedings related to
13 a conditional release order may occur as provided under RCW
14 71.05.590.

15 **Sec. 241.** RCW 71.05.585 and 2015 c 250 s 16 are each amended to
16 read as follows:

17 (1) Less restrictive alternative treatment, at a minimum,
18 includes the following services:

19 (a) Assignment of a care coordinator;

20 (b) An intake evaluation with the provider of the less
21 restrictive alternative treatment;

22 (c) A psychiatric evaluation;

23 (d) Medication management;

24 (e) A schedule of regular contacts with the provider of the less
25 restrictive alternative treatment services for the duration of the
26 order;

27 (f) A transition plan addressing access to continued services at
28 the expiration of the order; and

29 (g) An individual crisis plan.

30 (2) Less restrictive alternative treatment may additionally
31 include requirements to participate in the following services:

32 (a) Psychotherapy;

33 (b) Nursing;

34 (c) Substance abuse counseling;

35 (d) Residential treatment; and

36 (e) Support for housing, benefits, education, and employment.

37 (3) Less restrictive alternative treatment must be administered
38 by a provider that is certified or licensed to provide or coordinate

1 the full scope of services required under the less restrictive
2 alternative order and that has agreed to assume this responsibility.

3 (4) For the purpose of this section, "care coordinator" means a
4 clinical practitioner who coordinates the activities of less
5 restrictive alternative treatment. The care coordinator coordinates
6 activities with the designated (~~(mental health professionals)~~) crisis
7 responders that are necessary for enforcement and continuation of
8 less restrictive alternative orders and is responsible for
9 coordinating service activities with other agencies and establishing
10 and maintaining a therapeutic relationship with the individual on a
11 continuing basis.

12 **Sec. 242.** RCW 71.05.590 and 2015 c 250 s 13 are each amended to
13 read as follows:

14 (1) An agency or facility designated to monitor or provide
15 services under a less restrictive alternative or conditional release
16 order or a designated (~~(mental health professional)~~) crisis responder
17 may take action to enforce, modify, or revoke a less restrictive
18 alternative or conditional release order if the agency, facility, or
19 designated (~~(mental health professional)~~) crisis responder determines
20 that:

21 (a) The person is failing to adhere to the terms and conditions
22 of the court order;

23 (b) Substantial deterioration in the person's functioning has
24 occurred;

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

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

29 (2) Actions taken under this section must include a flexible
30 range of responses of varying levels of intensity appropriate to the
31 circumstances and consistent with the interests of the individual and
32 the public in personal autonomy, safety, recovery, and compliance.
33 Available actions may include, but are not limited to, any of the
34 following:

35 (a) To counsel, advise, or admonish the person as to their rights
36 and responsibilities under the court order, and to offer appropriate
37 incentives to motivate compliance;

38 (b) To increase the intensity of outpatient services provided to
39 the person by increasing the frequency of contacts with the provider,

1 referring the person for an assessment for assertive community
2 services, or by other means;

3 (c) To request a court hearing for review and modification of the
4 court order. The request must be made to the court with jurisdiction
5 over the order and specify the circumstances that give rise to the
6 request and what modification is being sought. The county prosecutor
7 shall assist the agency or facility in requesting this hearing and
8 issuing an appropriate summons to the person. This subsection does
9 not limit the inherent authority of a treatment provider to alter
10 conditions of treatment for clinical reasons, and is intended to be
11 used only when court intervention is necessary or advisable to secure
12 the person's compliance and prevent decompensation or deterioration;

13 (d) To cause the person to be transported by a peace officer,
14 designated (~~mental health professional~~) crisis responder, or other
15 means to the agency or facility monitoring or providing services
16 under the court order, or to a triage facility, crisis stabilization
17 unit, emergency department, or to an evaluation and treatment
18 facility if the person is committed for mental health treatment, or
19 to a secure detoxification facility with available space or an
20 approved substance use disorder treatment program with available
21 space if the person is committed for substance use disorder
22 treatment. The person may be detained at the facility for up to
23 twelve hours for the purpose of an evaluation to determine whether
24 modification, revocation, or commitment proceedings are necessary and
25 appropriate to stabilize the person and prevent decompensation,
26 deterioration, or physical harm. Temporary detention for evaluation
27 under this subsection is intended to occur only following a pattern
28 of noncompliance or the failure of reasonable attempts at outreach
29 and engagement, and may occur only when in the clinical judgment of a
30 designated (~~mental health professional~~) crisis responder or the
31 professional person in charge of an agency or facility designated to
32 monitor less restrictive alternative services temporary detention is
33 appropriate. This subsection does not limit the ability or obligation
34 to pursue revocation procedures under subsection (4) of this section
35 in appropriate circumstances; and

36 (e) To initiate revocation procedures under subsection (4) of
37 this section.

38 (3) The facility or agency designated to provide outpatient
39 treatment shall notify the secretary or designated (~~mental health~~
40 ~~professional~~) crisis responder when a person fails to adhere to

1 terms and conditions of court ordered treatment or experiences
2 substantial deterioration in his or her condition and, as a result,
3 presents an increased likelihood of serious harm.

4 (4)(a) A designated (~~mental health professional~~) crisis
5 responder or the secretary may upon their own motion or notification
6 by the facility or agency designated to provide outpatient care order
7 a person subject to a court order under this (~~section~~) chapter to
8 be apprehended and taken into custody and temporary detention in an
9 evaluation and treatment facility in or near the county in which he
10 or she is receiving outpatient treatment(~~, or initiate~~) if the
11 person is committed for mental health treatment, or, if the person is
12 committed for substance use disorder treatment, in a secure
13 detoxification facility or approved substance use disorder treatment
14 program if either is available in or near the county in which he or
15 she is receiving outpatient treatment and has adequate space.
16 Proceedings under this subsection (4) may be initiated without
17 ordering the apprehension and detention of the person.

18 (b) A person detained under this subsection (4) must be held
19 until such time, not exceeding five days, as a hearing can be
20 scheduled to determine whether or not the person should be returned
21 to the hospital or facility from which he or she had been released.
22 If the person is not detained, the hearing must be scheduled within
23 five days of service on the person. The designated (~~mental health~~
24 ~~professional~~) crisis responder or the secretary may modify or
25 rescind the order at any time prior to commencement of the court
26 hearing.

27 (c) The designated (~~mental health professional~~) crisis
28 responder or secretary shall notify the court that originally ordered
29 commitment within two judicial days of a person's detention and file
30 a revocation petition and order of apprehension and detention with
31 the court and serve the person and their attorney, guardian, and
32 conservator, if any. The person has the same rights with respect to
33 notice, hearing, and counsel as in any involuntary treatment
34 proceeding, except as specifically set forth in this section. There
35 is no right to jury trial. The venue for proceedings regarding a
36 petition for modification or revocation must be in the county in
37 which the petition was filed.

38 (d) The issues for the court to determine are whether: (i) The
39 person adhered to the terms and conditions of the court order; (ii)
40 substantial deterioration in the person's functioning has occurred;

1 (iii) there is evidence of substantial decompensation with a
2 reasonable probability that the decompensation can be reversed by
3 further inpatient treatment; or (iv) there is a likelihood of serious
4 harm; and, if any of the above conditions apply, whether the court
5 should reinstate or modify the person's less restrictive alternative
6 or conditional release order or order the person's detention for
7 inpatient treatment. The person may waive the court hearing and allow
8 the court to enter a stipulated order upon the agreement of all
9 parties. If the court orders detention for inpatient treatment, the
10 treatment period may be for no longer than the period authorized in
11 the original court order. A court may not issue an order to detain a
12 person for inpatient treatment in a secure detoxification facility or
13 approved substance use disorder treatment program under this
14 subsection unless there is a secure detoxification facility or
15 approved substance use disorder treatment program available and with
16 adequate space for the person.

17 (e) Revocation proceedings under this subsection (4) are not
18 allowable if the current commitment is solely based on the person
19 being in need of assisted outpatient mental health treatment. In
20 order to obtain a court order for detention for inpatient treatment
21 under this circumstance, a petition must be filed under RCW 71.05.150
22 or 71.05.153.

23 (5) In determining whether or not to take action under this
24 section the designated (~~mental health professional~~) crisis
25 responder, agency, or facility must consider the factors specified
26 under RCW 71.05.212 and the court must consider the factors specified
27 under RCW 71.05.245 as they apply to the question of whether to
28 enforce, modify, or revoke a court order for involuntary treatment.

29 **Sec. 243.** RCW 71.05.590 and 2016 1st sp.s. c ... s 242 (section
30 242 of this act) are each amended to read as follows:

31 (1) An agency or facility designated to monitor or provide
32 services under a less restrictive alternative or conditional release
33 order or a designated crisis responder may take action to enforce,
34 modify, or revoke a less restrictive alternative or conditional
35 release order if the agency, facility, or designated crisis responder
36 determines that:

37 (a) The person is failing to adhere to the terms and conditions
38 of the court order;

1 (b) Substantial deterioration in the person's functioning has
2 occurred;

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

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

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

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

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

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

30 (d) To cause the person to be transported by a peace officer,
31 designated crisis responder, or other means to the agency or facility
32 monitoring or providing services under the court order, or to a
33 triage facility, crisis stabilization unit, emergency department, or
34 to an evaluation and treatment facility if the person is committed
35 for mental health treatment, or to a secure detoxification facility
36 ((with available space)) or an approved substance use disorder
37 treatment program ((with available space)) if the person is committed
38 for substance use disorder treatment. The person may be detained at
39 the facility for up to twelve hours for the purpose of an evaluation
40 to determine whether modification, revocation, or commitment

1 proceedings are necessary and appropriate to stabilize the person and
2 prevent decompensation, deterioration, or physical harm. Temporary
3 detention for evaluation under this subsection is intended to occur
4 only following a pattern of noncompliance or the failure of
5 reasonable attempts at outreach and engagement, and may occur only
6 when in the clinical judgment of a designated crisis responder or the
7 professional person in charge of an agency or facility designated to
8 monitor less restrictive alternative services temporary detention is
9 appropriate. This subsection does not limit the ability or obligation
10 to pursue revocation procedures under subsection (4) of this section
11 in appropriate circumstances; and

12 (e) To initiate revocation procedures under subsection (4) of
13 this section.

14 (3) The facility or agency designated to provide outpatient
15 treatment shall notify the secretary or designated crisis responder
16 when a person fails to adhere to terms and conditions of court
17 ordered treatment or experiences substantial deterioration in his or
18 her condition and, as a result, presents an increased likelihood of
19 serious harm.

20 (4)(a) A designated crisis responder or the secretary may upon
21 their own motion or notification by the facility or agency designated
22 to provide outpatient care order a person subject to a court order
23 under this chapter to be apprehended and taken into custody and
24 temporary detention in an evaluation and treatment facility in or
25 near the county in which he or she is receiving outpatient treatment
26 if the person is committed for mental health treatment, or, if the
27 person is committed for substance use disorder treatment, in a secure
28 detoxification facility or approved substance use disorder treatment
29 program if either is available in or near the county in which he or
30 she is receiving outpatient treatment (~~and has adequate space~~).
31 Proceedings under this subsection (4) may be initiated without
32 ordering the apprehension and detention of the person.

33 (b) A person detained under this subsection (4) must be held
34 until such time, not exceeding five days, as a hearing can be
35 scheduled to determine whether or not the person should be returned
36 to the hospital or facility from which he or she had been released.
37 If the person is not detained, the hearing must be scheduled within
38 five days of service on the person. The designated crisis responder
39 or the secretary may modify or rescind the order at any time prior to
40 commencement of the court hearing.

1 (c) The designated crisis responder or secretary shall notify the
2 court that originally ordered commitment within two judicial days of
3 a person's detention and file a revocation petition and order of
4 apprehension and detention with the court and serve the person and
5 their attorney, guardian, and conservator, if any. The person has the
6 same rights with respect to notice, hearing, and counsel as in any
7 involuntary treatment proceeding, except as specifically set forth in
8 this section. There is no right to jury trial. The venue for
9 proceedings regarding a petition for modification or revocation must
10 be in the county in which the petition was filed.

11 (d) The issues for the court to determine are whether: (i) The
12 person adhered to the terms and conditions of the court order; (ii)
13 substantial deterioration in the person's functioning has occurred;
14 (iii) there is evidence of substantial decompensation with a
15 reasonable probability that the decompensation can be reversed by
16 further inpatient treatment; or (iv) there is a likelihood of serious
17 harm; and, if any of the above conditions apply, whether the court
18 should reinstate or modify the person's less restrictive alternative
19 or conditional release order or order the person's detention for
20 inpatient treatment. The person may waive the court hearing and allow
21 the court to enter a stipulated order upon the agreement of all
22 parties. If the court orders detention for inpatient treatment, the
23 treatment period may be for no longer than the period authorized in
24 the original court order. (~~A court may not issue an order to detain
25 a person for inpatient treatment in a secure detoxification facility
26 or approved substance use disorder treatment program under this
27 subsection unless there is a secure detoxification facility or
28 approved substance use disorder treatment program available and with
29 adequate space for the person.~~)

30 (e) Revocation proceedings under this subsection (4) are not
31 allowable if the current commitment is solely based on the person
32 being in need of assisted outpatient mental health treatment. In
33 order to obtain a court order for detention for inpatient treatment
34 under this circumstance, a petition must be filed under RCW 71.05.150
35 or 71.05.153.

36 (5) In determining whether or not to take action under this
37 section the designated crisis responder, agency, or facility must
38 consider the factors specified under RCW 71.05.212 and the court must
39 consider the factors specified under RCW 71.05.245 as they apply to

1 the question of whether to enforce, modify, or revoke a court order
2 for involuntary treatment.

3 **Sec. 244.** RCW 71.05.360 and 2009 c 217 s 5 are each amended to
4 read as follows:

5 (1)(a) Every person involuntarily detained or committed under the
6 provisions of this chapter shall be entitled to all the rights set
7 forth in this chapter, which shall be prominently posted in the
8 facility, and shall retain all rights not denied him or her under
9 this chapter except as chapter 9.41 RCW may limit the right of a
10 person to purchase or possess a firearm or to qualify for a concealed
11 pistol license if the person is committed under RCW 71.05.240 or
12 71.05.320 for mental health treatment.

13 (b) No person shall be presumed incompetent as a consequence of
14 receiving an evaluation or voluntary or involuntary treatment for a
15 mental disorder or substance use disorder, under this chapter or any
16 prior laws of this state dealing with mental illness or substance use
17 disorders. Competency shall not be determined or withdrawn except
18 under the provisions of chapter 10.77 or 11.88 RCW.

19 (c) Any person who leaves a public or private agency following
20 evaluation or treatment for a mental disorder or substance use
21 disorder shall be given a written statement setting forth the
22 substance of this section.

23 (2) Each person involuntarily detained or committed pursuant to
24 this chapter shall have the right to adequate care and individualized
25 treatment.

26 (3) The provisions of this chapter shall not be construed to deny
27 to any person treatment by spiritual means through prayer in
28 accordance with the tenets and practices of a church or religious
29 denomination.

30 (4) Persons receiving evaluation or treatment under this chapter
31 shall be given a reasonable choice of an available physician,
32 psychiatric advanced registered nurse practitioner, or other
33 professional person qualified to provide such services.

34 (5) Whenever any person is detained for evaluation and treatment
35 pursuant to this chapter, both the person and, if possible, a
36 responsible member of his or her immediate family, personal
37 representative, guardian, or conservator, if any, shall be advised as
38 soon as possible in writing or orally, by the officer or person
39 taking him or her into custody or by personnel of the evaluation and

1 treatment facility, secure detoxification facility, or approved
2 substance use disorder treatment program where the person is detained
3 that unless the person is released or voluntarily admits himself or
4 herself for treatment within seventy-two hours of the initial
5 detention:

6 (a) A judicial hearing in a superior court, either by a judge or
7 court commissioner thereof, shall be held not more than seventy-two
8 hours after the initial detention to determine whether there is
9 probable cause to detain the person after the seventy-two hours have
10 expired for up to an additional fourteen days without further
11 automatic hearing for the reason that the person is a person whose
12 mental disorder or substance use disorder presents a likelihood of
13 serious harm or that the person is gravely disabled;

14 (b) The person has a right to communicate immediately with an
15 attorney; has a right to have an attorney appointed to represent him
16 or her before and at the probable cause hearing if he or she is
17 indigent; and has the right to be told the name and address of the
18 attorney that the mental health professional has designated pursuant
19 to this chapter;

20 (c) The person has the right to remain silent and that any
21 statement he or she makes may be used against him or her;

22 (d) The person has the right to present evidence and to cross-
23 examine witnesses who testify against him or her at the probable
24 cause hearing; and

25 (e) The person has the right to refuse psychiatric medications,
26 including antipsychotic medication beginning twenty-four hours prior
27 to the probable cause hearing.

28 (6) When proceedings are initiated under RCW 71.05.153, no later
29 than twelve hours after such person is admitted to the evaluation and
30 treatment facility, secure detoxification facility, or approved
31 substance use disorder treatment program the personnel of the
32 ((~~evaluation and treatment~~)) facility or the designated ((~~mental~~
33 ~~health professional~~)) crisis responder shall serve on such person a
34 copy of the petition for initial detention and the name, business
35 address, and phone number of the designated attorney and shall
36 forthwith commence service of a copy of the petition for initial
37 detention on the designated attorney.

38 (7) The judicial hearing described in subsection (5) of this
39 section is hereby authorized, and shall be held according to the

1 provisions of subsection (5) of this section and rules promulgated by
2 the supreme court.

3 (8) At the probable cause hearing the detained person shall have
4 the following rights in addition to the rights previously specified:

- 5 (a) To present evidence on his or her behalf;
- 6 (b) To cross-examine witnesses who testify against him or her;
- 7 (c) To be proceeded against by the rules of evidence;
- 8 (d) To remain silent;
- 9 (e) To view and copy all petitions and reports in the court file.

10 (9) Privileges between patients and physicians, psychologists, or
11 psychiatric advanced registered nurse practitioners are deemed waived
12 in proceedings under this chapter relating to the administration of
13 antipsychotic medications. As to other proceedings under this
14 chapter, the privileges shall be waived when a court of competent
15 jurisdiction in its discretion determines that such waiver is
16 necessary to protect either the detained person or the public.

17 The waiver of a privilege under this section is limited to
18 records or testimony relevant to evaluation of the detained person
19 for purposes of a proceeding under this chapter. Upon motion by the
20 detained person or on its own motion, the court shall examine a
21 record or testimony sought by a petitioner to determine whether it is
22 within the scope of the waiver.

23 The record maker shall not be required to testify in order to
24 introduce medical or psychological records of the detained person so
25 long as the requirements of RCW 5.45.020 are met except that portions
26 of the record which contain opinions as to the detained person's
27 mental state must be deleted from such records unless the person
28 making such conclusions is available for cross-examination.

29 (10) Insofar as danger to the person or others is not created,
30 each person involuntarily detained, treated in a less restrictive
31 alternative course of treatment, or committed for treatment and
32 evaluation pursuant to this chapter shall have, in addition to other
33 rights not specifically withheld by law, the following rights:

- 34 (a) To wear his or her own clothes and to keep and use his or her
35 own personal possessions, except when deprivation of same is
36 essential to protect the safety of the resident or other persons;
- 37 (b) To keep and be allowed to spend a reasonable sum of his or
38 her own money for canteen expenses and small purchases;
- 39 (c) To have access to individual storage space for his or her
40 private use;

- 1 (d) To have visitors at reasonable times;
- 2 (e) To have reasonable access to a telephone, both to make and
3 receive confidential calls, consistent with an effective treatment
4 program;
- 5 (f) To have ready access to letter writing materials, including
6 stamps, and to send and receive uncensored correspondence through the
7 mails;
- 8 (g) To discuss treatment plans and decisions with professional
9 persons;
- 10 (h) Not to consent to the administration of antipsychotic
11 medications and not to thereafter be administered antipsychotic
12 medications unless ordered by a court under RCW 71.05.217 or pursuant
13 to an administrative hearing under RCW 71.05.215;
- 14 (i) Not to consent to the performance of electroconvulsant
15 therapy or surgery, except emergency lifesaving surgery, unless
16 ordered by a court under RCW 71.05.217;
- 17 (j) Not to have psychosurgery performed on him or her under any
18 circumstances;
- 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 (11) Every person involuntarily detained shall immediately be
23 informed of his or her right to a hearing to review the legality of
24 his or her detention and of his or her right to counsel, by the
25 professional person in charge of the facility providing evaluation
26 and treatment, or his or her designee, and, when appropriate, by the
27 court. If the person so elects, the court shall immediately appoint
28 an attorney to assist him or her.
- 29 (12) A person challenging his or her detention or his or her
30 attorney shall have the right to designate and have the court appoint
31 a reasonably available independent physician, psychiatric advanced
32 registered nurse practitioner, or licensed mental health professional
33 to examine the person detained, the results of which examination may
34 be used in the proceeding. The person shall, if he or she is
35 financially able, bear the cost of such expert examination, otherwise
36 such expert examination shall be at public expense.
- 37 (13) Nothing contained in this chapter shall prohibit the patient
38 from petitioning by writ of habeas corpus for release.
- 39 (14) Nothing in this chapter shall prohibit a person committed on
40 or prior to January 1, 1974, from exercising a right available to him

1 or her at or prior to January 1, 1974, for obtaining release from
2 confinement.

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

7 **Sec. 245.** RCW 71.05.380 and 1973 1st ex.s. c 142 s 43 are each
8 amended to read as follows:

9 All persons voluntarily entering or remaining in any facility,
10 institution, or hospital providing evaluation and treatment for
11 mental disorders or substance use disorders shall have no less than
12 all rights secured to involuntarily detained persons by RCW 71.05.360
13 and ~~((71.05.370))~~ 71.05.217.

14 **Sec. 246.** RCW 71.05.435 and 2010 c 280 s 4 are each amended to
15 read as follows:

16 (1) Whenever a person who is the subject of an involuntary
17 commitment order under this chapter is discharged from an evaluation
18 and treatment facility ~~((or))~~, state hospital, ~~((the evaluation and
19 treatment facility or state hospital shall provide notice of the
20 person's discharge to the designated mental health professional))~~
21 secure detoxification facility, or approved substance use disorder
22 treatment program providing involuntary treatment services, the
23 entity discharging the person shall provide notice of the person's
24 discharge to the designated crisis responder office responsible for
25 the initial commitment and the designated ~~((mental health
26 professional))~~ crisis responder office that serves the county in
27 which the person is expected to reside. The ~~((evaluation and
28 treatment facility or state hospital))~~ entity discharging the person
29 must also provide these offices with a copy of any less restrictive
30 order or conditional release order entered in conjunction with the
31 discharge of the person, unless the ~~((evaluation and treatment
32 facility or state hospital))~~ entity discharging the person has
33 entered into a memorandum of understanding obligating another entity
34 to provide these documents.

35 (2) The notice and documents referred to in subsection (1) of
36 this section shall be provided as soon as possible and no later than
37 one business day following the discharge of the person. Notice is not
38 required under this section if the discharge is for the purpose of

1 transferring the person for continued detention and treatment under
2 this chapter at another treatment facility.

3 (3) The department shall maintain and make available an updated
4 list of contact information for designated (~~mental—health~~
5 ~~professional~~) crisis responder offices around the state.

6 **Sec. 247.** RCW 71.05.530 and 1998 c 297 s 23 are each amended to
7 read as follows:

8 Evaluation and treatment facilities and secure detoxification
9 facilities authorized pursuant to this chapter may be part of the
10 comprehensive community mental health services program conducted in
11 counties pursuant to chapter 71.24 RCW, and may receive funding
12 pursuant to the provisions thereof.

13 **Sec. 248.** RCW 71.05.560 and 1998 c 297 s 24 are each amended to
14 read as follows:

15 The department shall adopt such rules as may be necessary to
16 effectuate the intent and purposes of this chapter, which shall
17 include but not be limited to evaluation of the quality of the
18 program and facilities operating pursuant to this chapter, evaluation
19 of the effectiveness and cost effectiveness of such programs and
20 facilities, and procedures and standards for certification and other
21 action relevant to evaluation and treatment facilities, secure
22 detoxification facilities, and approved substance use disorder
23 treatment programs.

24 **Sec. 249.** RCW 71.05.620 and 2015 c 269 s 16 are each amended to
25 read as follows:

26 (1) The files and records of court proceedings under this chapter
27 and chapter(~~s—70.96A,~~) 71.34(~~(, and 70.96B)~~) RCW shall be closed
28 but shall be accessible to:

29 (a) The department;

30 (b) The state hospitals as defined in RCW 72.23.010;

31 (c) Any person who is the subject of a petition;

32 (d) The (~~person's~~) attorney or guardian of the person;

33 (e) Resource management services for that person; and

34 (f) Service providers authorized to receive such information by
35 resource management services.

36 (2) The department shall adopt rules to implement this section.

1 **Sec. 250.** RCW 71.05.700 and 2007 c 360 s 2 are each amended to
2 read as follows:

3 No designated (~~mental health professional~~) crisis responder or
4 crisis intervention worker shall be required to respond to a private
5 home or other private location to stabilize or treat a person in
6 crisis, or to evaluate a person for potential detention under the
7 state's involuntary treatment act, unless a second trained
8 individual, determined by the clinical team supervisor, on-call
9 supervisor, or individual professional acting alone based on a risk
10 assessment for potential violence, accompanies them. The second
11 individual may be a law enforcement officer, a mental health
12 professional, a mental health paraprofessional who has received
13 training under RCW 71.05.715, or other first responder, such as fire
14 or ambulance personnel. No retaliation may be taken against a worker
15 who, following consultation with the clinical team, refuses to go on
16 a home visit alone.

17 **Sec. 251.** RCW 71.05.705 and 2007 c 360 s 3 are each amended to
18 read as follows:

19 Each provider of designated (~~mental health professional~~) crisis
20 responder or crisis outreach services shall maintain a written policy
21 that, at a minimum, describes the organization's plan for training,
22 staff backup, information sharing, and communication for crisis
23 outreach staff who respond to private homes or nonpublic settings.

24 **Sec. 252.** RCW 71.05.745 and 2015 c 269 s 2 are each amended to
25 read as follows:

26 (1) The department may use a single bed certification process as
27 outlined in rule to provide additional treatment capacity for a
28 person suffering from a mental disorder for whom an evaluation and
29 treatment bed is not available. The facility that is the proposed
30 site of the single bed certification must be a facility that is
31 willing and able to provide the person with timely and appropriate
32 treatment either directly or by arrangement with other public or
33 private agencies.

34 (2) A single bed certification must be specific to the patient
35 receiving treatment.

36 (3) A designated (~~mental health professional~~) crisis responder
37 who submits an application for a single bed certification for
38 treatment at a facility that is willing and able to provide timely

1 and appropriate mental health treatment in good faith belief that the
2 single bed certification is appropriate may presume that the single
3 bed certification will be approved for the purpose of completing the
4 detention process and responding to other emergency calls.

5 (4) The department may adopt rules implementing this section and
6 continue to enforce rules it has already adopted except where
7 inconsistent with this section.

8 **Sec. 253.** RCW 71.05.750 and 2015 c 269 s 3 are each amended to
9 read as follows:

10 (1) A designated (~~mental health professional~~) crisis responder
11 shall make a report to the department when he or she determines a
12 person meets detention criteria under RCW 71.05.150, 71.05.153,
13 71.34.700, or 71.34.710 and there are not any beds available at an
14 evaluation and treatment facility, the person has not been
15 provisionally accepted for admission by a facility, and the person
16 cannot be served on a single bed certification or less restrictive
17 alternative. Starting at the time when the designated (~~mental health~~
18 ~~professional~~) crisis responder determines a person meets detention
19 criteria and the investigation has been completed, the designated
20 (~~mental health professional~~) crisis responder has twenty-four hours
21 to submit a completed report to the department.

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

- 24 (a) The date and time that the investigation was completed;
25 (b) The identity of the responsible (~~regional support network~~
26 ~~or~~) behavioral health organization;
27 (c) The county in which the person met detention criteria;
28 (d) A list of facilities which refused to admit the person; and
29 (e) Identifying information for the person, including age or date
30 of birth.

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

38 (4) The department shall create quarterly reports displayed on
39 its web site that summarize the information reported under subsection

1 (2) of this section. At a minimum, the reports must display data by
2 county and by month. The reports must also include the number of
3 single bed certifications granted by category. The categories must
4 include all of the reasons that the department recognizes for issuing
5 a single bed certification, as identified in rule.

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

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

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

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

20 **Sec. 254.** RCW 71.34.020 and 2011 c 89 s 16 are each amended to
21 read as follows:

22 Unless the context clearly requires otherwise, the definitions in
23 this section apply throughout this chapter.

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

29 (2) "Children's mental health specialist" means:

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

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

37 (3) "Commitment" means a determination by a judge or court
38 commissioner, made after a commitment hearing, that the minor is in

1 need of inpatient diagnosis, evaluation, or treatment or that the
2 minor is in need of less restrictive alternative treatment.

3 (4) "Department" means the department of social and health
4 services.

5 (~~(5)~~) (~~"Designated mental health professional" means a mental~~
6 ~~health professional designated by one or more counties to perform the~~
7 ~~functions of a designated mental health professional described in~~
8 ~~this chapter.~~

9 (~~6~~) "Evaluation and treatment facility" means a public or
10 private facility or unit that is certified by the department to
11 provide emergency, inpatient, residential, or outpatient mental
12 health evaluation and treatment services for minors. A physically
13 separate and separately-operated portion of a state hospital may be
14 designated as an evaluation and treatment facility for minors. A
15 facility which is part of or operated by the department or federal
16 agency does not require certification. No correctional institution or
17 facility, juvenile court detention facility, or jail may be an
18 evaluation and treatment facility within the meaning of this chapter.

19 (~~(7)~~) (6) "Evaluation and treatment program" means the total
20 system of services and facilities coordinated and approved by a
21 county or combination of counties for the evaluation and treatment of
22 minors under this chapter.

23 (~~(8)~~) (7) "Gravely disabled minor" means a minor who, as a
24 result of a mental disorder, or as a result of the use of alcohol or
25 other psychoactive chemicals, is in danger of serious physical harm
26 resulting from a failure to provide for his or her essential human
27 needs of health or safety, or manifests severe deterioration in
28 routine functioning evidenced by repeated and escalating loss of
29 cognitive or volitional control over his or her actions and is not
30 receiving such care as is essential for his or her health or safety.

31 (~~(9)~~) (8) "Inpatient treatment" means twenty-four-hour-per-day
32 mental health care provided within a general hospital, psychiatric
33 hospital, (~~(or)~~) residential treatment facility certified by the
34 department as an evaluation and treatment facility for minors, secure
35 detoxification facility for minors, or approved substance use
36 disorder treatment program for minors.

37 (~~(10)~~) (9) "Less restrictive alternative" or "less restrictive
38 setting" means outpatient treatment provided to a minor who is not
39 residing in a facility providing inpatient treatment as defined in
40 this chapter.

1 (~~(11)~~) (10) "Likelihood of serious harm" means either: (a) A
2 substantial risk that physical harm will be inflicted by an
3 individual upon his or her own person, as evidenced by threats or
4 attempts to commit suicide or inflict physical harm on oneself; (b) a
5 substantial risk that physical harm will be inflicted by an
6 individual upon another, as evidenced by behavior which has caused
7 such harm or which places another person or persons in reasonable
8 fear of sustaining such harm; or (c) a substantial risk that physical
9 harm will be inflicted by an individual upon the property of others,
10 as evidenced by behavior which has caused substantial loss or damage
11 to the property of others.

12 (~~(12)~~) (11) "Medical necessity" for inpatient care means a
13 requested service which is reasonably calculated to: (a) Diagnose,
14 correct, cure, or alleviate a mental disorder or substance use
15 disorder; or (b) prevent the (~~worsening of mental conditions~~)
16 progression of a substance use disorder that endangers life or causes
17 suffering and pain, or results in illness or infirmity or threatens
18 to cause or aggravate a handicap, or causes physical deformity or
19 malfunction, and there is no adequate less restrictive alternative
20 available.

21 (~~(13)~~) (12) "Mental disorder" means any organic, mental, or
22 emotional impairment that has substantial adverse effects on an
23 individual's cognitive or volitional functions. The presence of
24 alcohol abuse, drug abuse, juvenile criminal history, antisocial
25 behavior, or intellectual disabilities alone is insufficient to
26 justify a finding of "mental disorder" within the meaning of this
27 section.

28 (~~(14)~~) (13) "Mental health professional" means a psychiatrist,
29 psychologist, psychiatric nurse, or social worker, and such other
30 mental health professionals as may be defined by rules adopted by the
31 secretary under this chapter.

32 (~~(15)~~) (14) "Minor" means any person under the age of eighteen
33 years.

34 (~~(16)~~) (15) "Outpatient treatment" means any of the
35 nonresidential services mandated under chapter 71.24 RCW and provided
36 by licensed service(~~s~~) providers as identified by RCW 71.24.025.

37 (~~(17)~~) (16) "Parent" means:

38 (a) A biological or adoptive parent who has legal custody of the
39 child, including either parent if custody is shared under a joint
40 custody agreement; or

1 (b) A person or agency judicially appointed as legal guardian or
2 custodian of the child.

3 ~~((18))~~ (17) "Professional person in charge" or "professional
4 person" means a physician ~~((or))~~, other mental health professional,
5 or other person empowered by an evaluation and treatment facility,
6 secure detoxification facility, or approved substance use disorder
7 treatment program with authority to make admission and discharge
8 decisions on behalf of that facility.

9 ~~((19))~~ (18) "Psychiatric nurse" means a registered nurse who
10 has a bachelor's degree from an accredited college or university, and
11 who has had, in addition, at least two years' experience in the
12 direct treatment of persons who have a mental illness or who are
13 emotionally disturbed, such experience gained under the supervision
14 of a mental health professional. "Psychiatric nurse" shall also mean
15 any other registered nurse who has three years of such experience.

16 ~~((20))~~ (19) "Psychiatrist" means a person having a license as a
17 physician in this state who has completed residency training in
18 psychiatry in a program approved by the American Medical Association
19 or the American Osteopathic Association, and is board eligible or
20 board certified in psychiatry.

21 ~~((21))~~ (20) "Psychologist" means a person licensed as a
22 psychologist under chapter 18.83 RCW.

23 ~~((22))~~ (21) "Responsible other" means the minor, the minor's
24 parent or estate, or any other person legally responsible for support
25 of the minor.

26 ~~((23))~~ (22) "Secretary" means the secretary of the department
27 or secretary's designee.

28 ~~((24))~~ (23) "Social worker" means a person with a master's or
29 further advanced degree from a social work educational program
30 accredited and approved as provided in RCW 18.320.010.

31 ~~((25))~~ (24) "Start of initial detention" means the time of
32 arrival of the minor at the first evaluation and treatment facility,
33 secure detoxification facility, or approved substance use disorder
34 treatment program offering inpatient treatment if the minor is being
35 involuntarily detained at the time. With regard to voluntary
36 patients, "start of initial detention" means the time at which the
37 minor gives notice of intent to leave under the provisions of this
38 chapter.

39 (25) "Alcoholism" means a disease, characterized by a dependency
40 on alcoholic beverages, loss of control over the amount and

1 circumstances of use, symptoms of tolerance, physiological or
2 psychological withdrawal, or both, if use is reduced or discontinued,
3 and impairment of health or disruption of social or economic
4 functioning.

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

9 (27) "Chemical dependency" means:

10 (a) Alcoholism;

11 (b) Drug addiction; or

12 (c) Dependence on alcohol and one or more other psychoactive
13 chemicals, as the context requires.

14 (28) "Chemical dependency professional" means a person certified
15 as a chemical dependency professional by the department of health
16 under chapter 18.205 RCW.

17 (29) "Designated crisis responder" means a person designated by a
18 behavioral health organization to perform the duties specified in
19 this chapter.

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

26 (31) "Intoxicated minor" means a minor whose mental or physical
27 functioning is substantially impaired as a result of the use of
28 alcohol or other psychoactive chemicals.

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

37 (33) "Public agency" means any evaluation and treatment facility
38 or institution, or hospital, or approved substance use disorder
39 treatment program that is conducted for, or includes a department or
40 ward conducted for, the care and treatment of persons with mental

1 illness, substance use disorders, or both mental illness and
2 substance use disorders if the agency is operated directly by
3 federal, state, county, or municipal government, or a combination of
4 such governments.

5 (34) "Secure detoxification facility" means a facility operated
6 by either a public or private agency or by the program of an agency
7 that:

8 (a) Provides for intoxicated minors:

9 (i) Evaluation and assessment, provided by certified chemical
10 dependency professionals;

11 (ii) Acute or subacute detoxification services; and

12 (iii) Discharge assistance provided by certified chemical
13 dependency professionals, including facilitating transitions to
14 appropriate voluntary or involuntary inpatient services or to less
15 restrictive alternatives as appropriate for the minor;

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

18 (c) Is certified as such by the department.

19 (35) "Substance use disorder" means a cluster of cognitive,
20 behavioral, and physiological symptoms indicating that an individual
21 continues using the substance despite significant substance-related
22 problems. The diagnosis of a substance use disorder is based on a
23 pathological pattern of behaviors related to the use of the
24 substances.

25 **Sec. 255.** RCW 71.34.305 and 1996 c 133 s 6 are each amended to
26 read as follows:

27 School district personnel who contact a mental health or
28 substance use disorder inpatient treatment program or provider for
29 the purpose of referring a student to inpatient treatment shall
30 provide the parents with notice of the contact within forty-eight
31 hours.

32 **Sec. 256.** RCW 71.34.375 and 2011 c 302 s 1 are each amended to
33 read as follows:

34 (1) If a parent or guardian, for the purpose of mental health
35 treatment, substance use disorder treatment, or evaluation, brings
36 his or her minor child to an evaluation and treatment facility, a
37 hospital emergency room, an inpatient facility licensed under chapter
38 72.23 RCW, ((~~or~~)) an inpatient facility licensed under chapter 70.41

1 or 71.12 RCW operating inpatient psychiatric beds for minors, a
2 secure detoxification facility, or an approved substance use disorder
3 treatment program, the facility is required to promptly provide
4 written and verbal notice of all statutorily available treatment
5 options contained in this chapter. The notice need not be given more
6 than once if written and verbal notice has already been provided and
7 documented by the facility.

8 (2) The provision of notice must be documented by the facilities
9 required to give notice under subsection (1) of this section and must
10 be accompanied by a signed acknowledgment of receipt by the parent or
11 guardian. The notice must contain the following information:

12 (a) All current statutorily available treatment options including
13 but not limited to those provided in this chapter; and

14 (b) The procedures to be followed to utilize the treatment
15 options described in this chapter.

16 (3) The department shall produce, and make available, the written
17 notification that must include, at a minimum, the information
18 contained in subsection (2) of this section. The department must
19 revise the written notification as necessary to reflect changes in
20 the law.

21 **Sec. 257.** RCW 71.34.385 and 1992 c 205 s 304 are each amended to
22 read as follows:

23 The department shall ensure that the provisions of this chapter
24 are applied by the counties in a consistent and uniform manner. The
25 department shall also ensure that, to the extent possible within
26 available funds, the ~~((county designated mental health~~
27 ~~professionals)) designated crisis responders are specifically trained
28 in adolescent mental health issues, the mental health and substance
29 use disorder civil commitment laws, and the criteria for civil
30 commitment.~~

31 **Sec. 258.** RCW 71.34.400 and 1998 c 296 s 11 are each amended to
32 read as follows:

33 For purposes of eligibility for medical assistance under chapter
34 74.09 RCW, minors in inpatient mental health or inpatient substance
35 use disorder treatment shall be considered to be part of their
36 parent's or legal guardian's household, unless the minor has been
37 assessed by the department or its designee as likely to require such
38 treatment for at least ninety consecutive days, or is in out-of-home

1 care in accordance with chapter 13.34 RCW, or the parents are found
2 to not be exercising responsibility for care and control of the
3 minor. Payment for such care by the department shall be made only in
4 accordance with rules, guidelines, and clinical criteria applicable
5 to inpatient treatment of minors established by the department.

6 **Sec. 259.** RCW 71.34.410 and 2005 c 371 s 5 are each amended to
7 read as follows:

8 No public or private agency or governmental entity, nor officer
9 of a public or private agency, nor the superintendent, or
10 professional person in charge, his or her professional designee or
11 attending staff of any such agency, nor any public official
12 performing functions necessary to the administration of this chapter,
13 nor peace officer responsible for detaining a person under this
14 chapter, nor any ((county)) designated ((~~mental health professional~~))
15 crisis responder, nor professional person, nor evaluation and
16 treatment facility, nor secure detoxification facility, nor approved
17 substance use disorder treatment program shall be civilly or
18 criminally liable for performing actions authorized in this chapter
19 with regard to the decision of whether to admit, release, or detain a
20 person for evaluation and treatment: PROVIDED, That such duties were
21 performed in good faith and without gross negligence.

22 **Sec. 260.** RCW 71.34.420 and 2015 c 269 s 12 are each amended to
23 read as follows:

24 (1) The department may use a single bed certification process as
25 outlined in rule to provide additional treatment capacity for a minor
26 suffering from a mental disorder for whom an evaluation and treatment
27 bed is not available. The facility that is the proposed site of the
28 single bed certification must be a facility that is willing and able
29 to provide the person with timely and appropriate treatment either
30 directly or by arrangement with other public or private agencies.

31 (2) A single bed certification must be specific to the minor
32 receiving treatment.

33 (3) A designated ((~~mental health professional~~)) crisis responder
34 who submits an application for a single bed certification for
35 treatment at a facility that is willing and able to provide timely
36 and appropriate mental health treatment in good faith belief that the
37 single bed certification is appropriate may presume that the single

1 bed certification will be approved for the purpose of completing the
2 detention process and responding to other emergency calls.

3 (4) The department may adopt rules implementing this section and
4 continue to enforce rules it has already adopted except where
5 inconsistent with this section.

6 **Sec. 261.** RCW 71.34.500 and 2006 c 93 s 3 are each amended to
7 read as follows:

8 (1) A minor thirteen years or older may admit himself or herself
9 to an evaluation and treatment facility for inpatient mental health
10 treatment or an approved substance use disorder treatment program for
11 inpatient (~~(mental)~~) substance use disorder treatment(~~(τ)~~) without
12 parental consent. The admission shall occur only if the professional
13 person in charge of the facility concurs with the need for inpatient
14 treatment. Parental authorization, or authorization from a person who
15 may consent on behalf of the minor pursuant to RCW 7.70.065, is
16 required for inpatient treatment of a minor under the age of
17 thirteen.

18 (2) When, in the judgment of the professional person in charge of
19 an evaluation and treatment facility or approved substance use
20 disorder treatment program, there is reason to believe that a minor
21 is in need of inpatient treatment because of a mental disorder or
22 substance use disorder, and the facility provides the type of
23 evaluation and treatment needed by the minor, and it is not feasible
24 to treat the minor in any less restrictive setting or the minor's
25 home, the minor may be admitted to (~~(an evaluation and treatment)~~)
26 the facility.

27 (3) Written renewal of voluntary consent must be obtained from
28 the applicant no less than once every twelve months. The minor's need
29 for continued inpatient treatments shall be reviewed and documented
30 no less than every one hundred eighty days.

31 **Sec. 262.** RCW 71.34.520 and 2003 c 106 s 1 are each amended to
32 read as follows:

33 (1) Any minor thirteen years or older voluntarily admitted to an
34 evaluation and treatment facility or approved substance use disorder
35 treatment program under RCW 71.34.500 may give notice of intent to
36 leave at any time. The notice need not follow any specific form so
37 long as it is written and the intent of the minor can be discerned.

1 (2) The staff member receiving the notice shall date it
2 immediately, record its existence in the minor's clinical record, and
3 send copies of it to the minor's attorney, if any, the (~~county-~~
4 ~~designated mental health professional~~) designated crisis responders,
5 and the parent.

6 (3) The professional person shall discharge the minor, thirteen
7 years or older, from the facility by the second judicial day
8 following receipt of the minor's notice of intent to leave.

9 **Sec. 263.** RCW 71.34.600 and 2007 c 375 s 11 are each amended to
10 read as follows:

11 (1) A parent may bring, or authorize the bringing of, his or her
12 minor child to:

13 (a) An evaluation and treatment facility or an inpatient facility
14 licensed under chapter 70.41, 71.12, or 72.23 RCW and request that
15 the professional person examine the minor to determine whether the
16 minor has a mental disorder and is in need of inpatient treatment; or

17 (b) A secure detoxification facility or approved substance use
18 disorder treatment program and request that a substance use disorder
19 assessment be conducted by a professional person to determine whether
20 the minor has a substance use disorder and is in need of inpatient
21 treatment.

22 (2) The consent of the minor is not required for admission,
23 evaluation, and treatment if the parent brings the minor to the
24 facility.

25 (3) An appropriately trained professional person may evaluate
26 whether the minor has a mental disorder or has a substance use
27 disorder. The evaluation shall be completed within twenty-four hours
28 of the time the minor was brought to the facility, unless the
29 professional person determines that the condition of the minor
30 necessitates additional time for evaluation. In no event shall a
31 minor be held longer than seventy-two hours for evaluation. If, in
32 the judgment of the professional person, it is determined it is a
33 medical necessity for the minor to receive inpatient treatment, the
34 minor may be held for treatment. The facility shall limit treatment
35 to that which the professional person determines is medically
36 necessary to stabilize the minor's condition until the evaluation has
37 been completed. Within twenty-four hours of completion of the
38 evaluation, the professional person shall notify the department if
39 the child is held for treatment and of the date of admission.

1 (4) No provider is obligated to provide treatment to a minor
2 under the provisions of this section except that no provider may
3 refuse to treat a minor under the provisions of this section solely
4 on the basis that the minor has not consented to the treatment. No
5 provider may admit a minor to treatment under this section unless it
6 is medically necessary.

7 (5) No minor receiving inpatient treatment under this section may
8 be discharged from the facility based solely on his or her request.

9 (6) Prior to the review conducted under RCW 71.34.610, the
10 professional person shall notify the minor of his or her right to
11 petition superior court for release from the facility.

12 (7) For the purposes of this section "professional person" means
13 "professional person" as defined in RCW 71.05.020.

14 **Sec. 264.** RCW 71.34.630 and 1998 c 296 s 20 are each amended to
15 read as follows:

16 If the minor is not released as a result of the petition filed
17 under RCW 71.34.620, he or she shall be released not later than
18 thirty days following the later of: (1) The date of the department's
19 determination under RCW 71.34.610(2); or (2) the filing of a petition
20 for judicial review under RCW 71.34.620, unless a professional person
21 or the ((county)) designated ((~~mental health professional~~)) crisis
22 responder initiates proceedings under this chapter.

23 **Sec. 265.** RCW 71.34.650 and 1998 c 296 s 18 are each amended to
24 read as follows:

25 (1) A parent may bring, or authorize the bringing of, his or her
26 minor child to:

27 (a) A provider of outpatient mental health treatment and request
28 that an appropriately trained professional person examine the minor
29 to determine whether the minor has a mental disorder and is in need
30 of outpatient treatment; or

31 (b) A provider of outpatient substance use disorder treatment and
32 request that an appropriately trained professional person examine the
33 minor to determine whether the minor has a substance use disorder and
34 is in need of outpatient treatment.

35 (2) The consent of the minor is not required for evaluation if
36 the parent brings the minor to the provider.

1 (3) The professional person may evaluate whether the minor has a
2 mental disorder or substance use disorder and is in need of
3 outpatient treatment.

4 (4) Any minor admitted to inpatient treatment under RCW 71.34.500
5 or 71.34.600 shall be discharged immediately from inpatient treatment
6 upon written request of the parent.

7 **Sec. 266.** RCW 71.34.660 and 2005 c 371 s 3 are each amended to
8 read as follows:

9 A minor child shall have no cause of action against an evaluation
10 and treatment facility, secure detoxification facility, approved
11 substance use disorder treatment program, inpatient facility, or
12 provider of outpatient mental health treatment or outpatient
13 substance use disorder treatment for admitting or accepting the minor
14 in good faith for evaluation or treatment under RCW 71.34.600 or
15 71.34.650 based solely upon the fact that the minor did not consent
16 to evaluation or treatment if the minor's parent has consented to the
17 evaluation or treatment.

18 **Sec. 267.** RCW 71.34.700 and 1985 c 354 s 4 are each amended to
19 read as follows:

20 (1) If a minor, thirteen years or older, is brought to an
21 evaluation and treatment facility or hospital emergency room for
22 immediate mental health services, the professional person in charge
23 of the facility shall evaluate the minor's mental condition,
24 determine whether the minor suffers from a mental disorder, and
25 whether the minor is in need of immediate inpatient treatment.

26 (2) If a minor, thirteen years or older, is brought to a secure
27 detoxification facility with available space, or a hospital emergency
28 room for immediate substance use disorder treatment, the professional
29 person in charge of the facility shall evaluate the minor's
30 condition, determine whether the minor suffers from substance use
31 disorder, and whether the minor is in need of immediate inpatient
32 treatment.

33 (3) If it is determined under subsection (1) or (2) of this
34 section that the minor suffers from a mental disorder or substance
35 use disorder, inpatient treatment is required, the minor is unwilling
36 to consent to voluntary admission, and the professional person
37 believes that the minor meets the criteria for initial detention set
38 forth herein, the facility may detain or arrange for the detention of

1 the minor for up to twelve hours in order to enable a (~~county-~~
2 ~~designated mental health professional~~) designated crisis responder
3 to evaluate the minor and commence initial detention proceedings
4 under the provisions of this chapter.

5 **Sec. 268.** RCW 71.34.700 and 2016 1st sp.s. c ... s 267 (section
6 267 of this act) are each amended to read as follows:

7 (1) If a minor, thirteen years or older, is brought to an
8 evaluation and treatment facility or hospital emergency room for
9 immediate mental health services, the professional person in charge
10 of the facility shall evaluate the minor's mental condition,
11 determine whether the minor suffers from a mental disorder, and
12 whether the minor is in need of immediate inpatient treatment.

13 (2) If a minor, thirteen years or older, is brought to a secure
14 detoxification facility (~~with available space,~~) or a hospital
15 emergency room for immediate substance use disorder treatment, the
16 professional person in charge of the facility shall evaluate the
17 minor's condition, determine whether the minor suffers from substance
18 use disorder, and whether the minor is in need of immediate inpatient
19 treatment.

20 (3) If it is determined under subsection (1) or (2) of this
21 section that the minor suffers from a mental disorder or substance
22 use disorder, inpatient treatment is required, the minor is unwilling
23 to consent to voluntary admission, and the professional person
24 believes that the minor meets the criteria for initial detention set
25 forth herein, the facility may detain or arrange for the detention of
26 the minor for up to twelve hours in order to enable a designated
27 crisis responder to evaluate the minor and commence initial detention
28 proceedings under the provisions of this chapter.

29 **Sec. 269.** RCW 71.34.710 and 1995 c 312 s 53 are each amended to
30 read as follows:

31 (1)(a)(i) When a (~~county-designated mental health professional~~)
32 designated crisis responder receives information that a minor,
33 thirteen years or older, as a result of a mental disorder presents a
34 likelihood of serious harm or is gravely disabled, has investigated
35 the specific facts alleged and of the credibility of the person or
36 persons providing the information, and has determined that voluntary
37 admission for inpatient treatment is not possible, the (~~county-~~
38 ~~designated mental health professional~~) designated crisis responder

1 may take the minor, or cause the minor to be taken, into custody and
2 transported to an evaluation and treatment facility providing
3 inpatient treatment.

4 (ii) When a designated crisis responder receives information that
5 a minor, thirteen years or older, as a result of substance use
6 disorder presents a likelihood of serious harm or is gravely
7 disabled, has investigated the specific facts alleged and of the
8 credibility of the person or persons providing the information, and
9 has determined that voluntary admission for inpatient treatment is
10 not possible, the designated crisis responder may take the minor, or
11 cause the minor to be taken, into custody and transported to a secure
12 detoxification facility or approved substance use disorder treatment
13 program, if a secure detoxification facility or approved substance
14 use disorder treatment program is available and has adequate space
15 for the minor.

16 (b) If the minor is not taken into custody for evaluation and
17 treatment, the parent who has custody of the minor may seek review of
18 that decision made by the (~~county-designated mental health~~
19 ~~professional~~) designated crisis responder in court. The parent shall
20 file notice with the court and provide a copy of the (~~county~~
21 ~~designated mental health professional's~~) designated crisis
22 responder's report or notes.

23 (2) Within twelve hours of the minor's arrival at the evaluation
24 and treatment facility, secure detoxification facility, or approved
25 substance use disorder treatment program, the (~~county-designated~~
26 ~~mental health professional~~) designated crisis responder shall serve
27 on the minor a copy of the petition for initial detention, notice of
28 initial detention, and statement of rights. The (~~county-designated~~
29 ~~mental health professional~~) designated crisis responder shall file
30 with the court on the next judicial day following the initial
31 detention the original petition for initial detention, notice of
32 initial detention, and statement of rights along with an affidavit of
33 service. The (~~county-designated mental health professional~~)
34 designated crisis responder shall commence service of the petition
35 for initial detention and notice of the initial detention on the
36 minor's parent and the minor's attorney as soon as possible following
37 the initial detention.

38 (3) At the time of initial detention, the (~~county-designated~~
39 ~~mental health professional~~) designated crisis responder shall advise
40 the minor both orally and in writing that if admitted to the

1 evaluation and treatment facility, secure detoxification facility, or
2 approved substance use disorder treatment program for inpatient
3 treatment, a commitment hearing shall be held within seventy-two
4 hours of the minor's provisional acceptance to determine whether
5 probable cause exists to commit the minor for further (~~mental~~
6 ~~health~~) treatment.

7 The minor shall be advised that he or she has a right to
8 communicate immediately with an attorney and that he or she has a
9 right to have an attorney appointed to represent him or her before
10 and at the hearing if the minor is indigent.

11 (4) Subject to subsection (5) of this section, whenever the
12 (~~county designated mental health professional~~) designated crisis
13 responder petitions for detention of a minor under this chapter, an
14 evaluation and treatment facility, secure detoxification facility, or
15 approved substance use disorder treatment program providing seventy-
16 two hour evaluation and treatment must immediately accept on a
17 provisional basis the petition and the person. Within twenty-four
18 hours of the minor's arrival, the facility must evaluate the minor's
19 condition and either admit or release the minor in accordance with
20 this chapter.

21 (5) A designated crisis responder may not petition for detention
22 of a minor to a secure detoxification facility or approved substance
23 use disorder treatment program unless there is a secure
24 detoxification facility or approved substance use disorder treatment
25 program available and that has adequate space for the minor.

26 (6) If a minor is not approved for admission by the inpatient
27 evaluation and treatment facility, secure detoxification facility, or
28 approved substance use disorder treatment program, the facility shall
29 make such recommendations and referrals for further care and
30 treatment of the minor as necessary.

31 **Sec. 270.** RCW 71.34.710 and 2016 1st sp.s. c ... s 269 (section
32 269 of this act) are each amended to read as follows:

33 (1)(a)(i) When a designated crisis responder receives information
34 that a minor, thirteen years or older, as a result of a mental
35 disorder presents a likelihood of serious harm or is gravely
36 disabled, has investigated the specific facts alleged and of the
37 credibility of the person or persons providing the information, and
38 has determined that voluntary admission for inpatient treatment is
39 not possible, the designated crisis responder may take the minor, or

1 cause the minor to be taken, into custody and transported to an
2 evaluation and treatment facility providing inpatient treatment.

3 (ii) When a designated crisis responder receives information that
4 a minor, thirteen years or older, as a result of substance use
5 disorder presents a likelihood of serious harm or is gravely
6 disabled, has investigated the specific facts alleged and of the
7 credibility of the person or persons providing the information, and
8 has determined that voluntary admission for inpatient treatment is
9 not possible, the designated crisis responder may take the minor, or
10 cause the minor to be taken, into custody and transported to a secure
11 detoxification facility or approved substance use disorder treatment
12 program(~~(, if a secure detoxification facility or approved substance~~
13 ~~use disorder treatment program is available and has adequate space~~
14 ~~for the minor)~~).

15 (b) If the minor is not taken into custody for evaluation and
16 treatment, the parent who has custody of the minor may seek review of
17 that decision made by the designated crisis responder in court. The
18 parent shall file notice with the court and provide a copy of the
19 designated crisis responder's report or notes.

20 (2) Within twelve hours of the minor's arrival at the evaluation
21 and treatment facility, secure detoxification facility, or approved
22 substance use disorder treatment program, the designated crisis
23 responder shall serve on the minor a copy of the petition for initial
24 detention, notice of initial detention, and statement of rights. The
25 designated crisis responder shall file with the court on the next
26 judicial day following the initial detention the original petition
27 for initial detention, notice of initial detention, and statement of
28 rights along with an affidavit of service. The designated crisis
29 responder shall commence service of the petition for initial
30 detention and notice of the initial detention on the minor's parent
31 and the minor's attorney as soon as possible following the initial
32 detention.

33 (3) At the time of initial detention, the designated crisis
34 responder shall advise the minor both orally and in writing that if
35 admitted to the evaluation and treatment facility, secure
36 detoxification facility, or approved substance use disorder treatment
37 program for inpatient treatment, a commitment hearing shall be held
38 within seventy-two hours of the minor's provisional acceptance to
39 determine whether probable cause exists to commit the minor for
40 further treatment.

1 The minor shall be advised that he or she has a right to
2 communicate immediately with an attorney and that he or she has a
3 right to have an attorney appointed to represent him or her before
4 and at the hearing if the minor is indigent.

5 ~~(4) ((Subject to subsection (5) of this section,))~~ Whenever the
6 designated crisis responder petitions for detention of a minor under
7 this chapter, an evaluation and treatment facility, secure
8 detoxification facility, or approved substance use disorder treatment
9 program providing seventy-two hour evaluation and treatment must
10 immediately accept on a provisional basis the petition and the
11 person. Within twenty-four hours of the minor's arrival, the facility
12 must evaluate the minor's condition and either admit or release the
13 minor in accordance with this chapter.

14 ~~(5) ((A designated crisis responder may not petition for
15 detention of a minor to a secure detoxification facility or approved
16 substance use disorder treatment program unless there is a secure
17 detoxification facility or approved substance use disorder treatment
18 program available and that has adequate space for the minor.~~

19 ~~(6))~~ If a minor is not approved for admission by the inpatient
20 evaluation and treatment facility, secure detoxification facility, or
21 approved substance use disorder treatment program, the facility shall
22 make such recommendations and referrals for further care and
23 treatment of the minor as necessary.

24 **Sec. 271.** RCW 71.34.720 and 2009 c 217 s 16 are each amended to
25 read as follows:

26 (1) Each minor approved by the facility for inpatient admission
27 shall be examined and evaluated by a children's mental health
28 specialist, for minors admitted as a result of a mental disorder, or
29 by a chemical dependency professional, for minors admitted as a
30 result of a substance use disorder, as to the child's mental
31 condition and by a physician or psychiatric advanced registered nurse
32 practitioner as to the child's physical condition within twenty-four
33 hours of admission. Reasonable measures shall be taken to ensure
34 medical treatment is provided for any condition requiring immediate
35 medical attention.

36 (2) If, after examination and evaluation, the children's mental
37 health specialist or substance use disorder specialist and the
38 physician or psychiatric advanced registered nurse practitioner
39 determine that the initial needs of the minor, if detained to an

1 evaluation and treatment facility, would be better served by
2 placement in a ((chemical dependency)) substance use disorder
3 treatment facility or, if detained to a secure detoxification
4 facility or approved substance use disorder treatment program, would
5 be better served in an evaluation and treatment facility, then the
6 minor shall be referred to ((an approved treatment program defined
7 under RCW 70.96A.020)) the more appropriate placement; however a
8 minor may only be referred to a secure detoxification facility or
9 approved substance use disorder treatment program if there is a
10 secure detoxification facility or approved substance use disorder
11 treatment program available and that has adequate space for the
12 minor.

13 (3) The admitting facility shall take reasonable steps to notify
14 immediately the minor's parent of the admission.

15 (4) During the initial seventy-two hour treatment period, the
16 minor has a right to associate or receive communications from parents
17 or others unless the professional person in charge determines that
18 such communication would be seriously detrimental to the minor's
19 condition or treatment and so indicates in the minor's clinical
20 record, and notifies the minor's parents of this determination. In no
21 event may the minor be denied the opportunity to consult an attorney.

22 (5) If the evaluation and treatment facility, secure
23 detoxification facility, or approved substance use disorder treatment
24 program admits the minor, it may detain the minor for evaluation and
25 treatment for a period not to exceed seventy-two hours from the time
26 of provisional acceptance. The computation of such seventy-two hour
27 period shall exclude Saturdays, Sundays, and holidays. This initial
28 treatment period shall not exceed seventy-two hours except when an
29 application for voluntary inpatient treatment is received or a
30 petition for fourteen-day commitment is filed.

31 (6) Within twelve hours of the admission, the facility shall
32 advise the minor of his or her rights as set forth in this chapter.

33 **Sec. 272.** RCW 71.34.720 and 2016 1st sp.s. c ... s 271 (section
34 271 of this act) are each amended to read as follows:

35 (1) Each minor approved by the facility for inpatient admission
36 shall be examined and evaluated by a children's mental health
37 specialist, for minors admitted as a result of a mental disorder, or
38 by a chemical dependency professional, for minors admitted as a
39 result of a substance use disorder, as to the child's mental

1 condition and by a physician or psychiatric advanced registered nurse
2 practitioner as to the child's physical condition within twenty-four
3 hours of admission. Reasonable measures shall be taken to ensure
4 medical treatment is provided for any condition requiring immediate
5 medical attention.

6 (2) If, after examination and evaluation, the children's mental
7 health specialist or substance use disorder specialist and the
8 physician or psychiatric advanced registered nurse practitioner
9 determine that the initial needs of the minor, if detained to an
10 evaluation and treatment facility, would be better served by
11 placement in a substance use disorder treatment facility or, if
12 detained to a secure detoxification facility or approved substance
13 use disorder treatment program, would be better served in an
14 evaluation and treatment facility, then the minor shall be referred
15 to the more appropriate placement(~~(; however a minor may only be~~
16 ~~referred to a secure detoxification facility or approved substance~~
17 ~~use disorder treatment program if there is a secure detoxification~~
18 ~~facility or approved substance use disorder treatment program~~
19 ~~available and that has adequate space for the minor)).~~

20 (3) The admitting facility shall take reasonable steps to notify
21 immediately the minor's parent of the admission.

22 (4) During the initial seventy-two hour treatment period, the
23 minor has a right to associate or receive communications from parents
24 or others unless the professional person in charge determines that
25 such communication would be seriously detrimental to the minor's
26 condition or treatment and so indicates in the minor's clinical
27 record, and notifies the minor's parents of this determination. In no
28 event may the minor be denied the opportunity to consult an attorney.

29 (5) If the evaluation and treatment facility, secure
30 detoxification facility, or approved substance use disorder treatment
31 program admits the minor, it may detain the minor for evaluation and
32 treatment for a period not to exceed seventy-two hours from the time
33 of provisional acceptance. The computation of such seventy-two hour
34 period shall exclude Saturdays, Sundays, and holidays. This initial
35 treatment period shall not exceed seventy-two hours except when an
36 application for voluntary inpatient treatment is received or a
37 petition for fourteen-day commitment is filed.

38 (6) Within twelve hours of the admission, the facility shall
39 advise the minor of his or her rights as set forth in this chapter.

1 **Sec. 273.** RCW 71.34.730 and 2009 c 293 s 6 and 2009 c 217 s 17
2 are each reenacted and amended to read as follows:

3 (1) The professional person in charge of an evaluation and
4 treatment facility, secure detoxification facility, or approved
5 substance use disorder treatment program where a minor has been
6 admitted involuntarily for the initial seventy-two hour treatment
7 period under this chapter may petition to have a minor committed to
8 an evaluation and treatment facility or, in the case of a minor with
9 a substance use disorder, to a secure detoxification facility or
10 approved substance use disorder treatment program for fourteen-day
11 diagnosis, evaluation, and treatment.

12 If the professional person in charge of the (~~treatment and~~
13 ~~evaluation~~)) facility does not petition to have the minor committed,
14 the parent who has custody of the minor may seek review of that
15 decision in court. The parent shall file notice with the court and
16 provide a copy of the treatment and evaluation facility's report.

17 (2) A petition for commitment of a minor under this section shall
18 be filed with the superior court in the county where the minor is
19 residing or being detained.

20 (a) A petition for a fourteen-day commitment shall be signed by
21 (i) two physicians, (ii) two psychiatric advanced registered nurse
22 practitioners, (iii) a mental health professional and either a
23 physician or a psychiatric advanced registered nurse practitioner, or
24 (iv) a physician and a psychiatric advanced registered nurse
25 practitioner. The person signing the petition must have examined the
26 minor, and the petition must contain the following:

27 (A) The name and address of the petitioner;

28 (B) The name of the minor alleged to meet the criteria for
29 fourteen-day commitment;

30 (C) The name, telephone number, and address if known of every
31 person believed by the petitioner to be legally responsible for the
32 minor;

33 (D) A statement that the petitioner has examined the minor and
34 finds that the minor's condition meets required criteria for
35 fourteen-day commitment and the supporting facts therefor;

36 (E) A statement that the minor has been advised of the need for
37 voluntary treatment but has been unwilling or unable to consent to
38 necessary treatment;

1 (F) If the petition is for mental health treatment, a statement
2 that the minor has been advised of the loss of firearm rights if
3 involuntarily committed;

4 (G) A statement recommending the appropriate facility or
5 facilities to provide the necessary treatment; and

6 (H) A statement concerning whether a less restrictive alternative
7 to inpatient treatment is in the best interests of the minor.

8 (b) A copy of the petition shall be personally delivered to the
9 minor by the petitioner or petitioner's designee. A copy of the
10 petition shall be sent to the minor's attorney and the minor's
11 parent.

12 **Sec. 274.** RCW 71.34.740 and 2009 c 293 s 7 are each amended to
13 read as follows:

14 (1) A commitment hearing shall be held within seventy-two hours
15 of the minor's admission, excluding Saturday, Sunday, and holidays,
16 unless a continuance is requested by the minor or the minor's
17 attorney.

18 (2) The commitment hearing shall be conducted at the superior
19 court or an appropriate place at the facility in which the minor is
20 being detained.

21 (3) At the commitment hearing, the evidence in support of the
22 petition shall be presented by the county prosecutor.

23 (4) The minor shall be present at the commitment hearing unless
24 the minor, with the assistance of the minor's attorney, waives the
25 right to be present at the hearing.

26 (5) If the parents are opposed to the petition, they may be
27 represented at the hearing and shall be entitled to court-appointed
28 counsel if they are indigent.

29 (6) At the commitment hearing, the minor shall have the following
30 rights:

31 (a) To be represented by an attorney;

32 (b) To present evidence on his or her own behalf;

33 (c) To question persons testifying in support of the petition.

34 (7) If the hearing is for commitment for mental health treatment,
35 the court at the time of the commitment hearing and before an order
36 of commitment is entered shall inform the minor both orally and in
37 writing that the failure to make a good faith effort to seek
38 voluntary treatment as provided in RCW 71.34.730 will result in the

1 loss of his or her firearm rights if the minor is subsequently
2 detained for involuntary treatment under this section.

3 (8) If the minor has received medication within twenty-four hours
4 of the hearing, the court shall be informed of that fact and of the
5 probable effects of the medication.

6 (9) Rules of evidence shall not apply in fourteen-day commitment
7 hearings.

8 (10) For a fourteen-day commitment, the court must find by a
9 preponderance of the evidence that:

10 (a) The minor has a mental disorder or substance use disorder and
11 presents a ~~((=))~~likelihood of serious harm~~((=))~~ or is ~~((=))~~gravely
12 disabled~~((=))~~;

13 (b) The minor is in need of evaluation and treatment of the type
14 provided by the inpatient evaluation and treatment facility, secure
15 detoxification facility, or approved substance use disorder treatment
16 program to which continued inpatient care is sought or is in need of
17 less restrictive alternative treatment found to be in the best
18 interests of the minor; ~~((and))~~

19 (c) The minor is unwilling or unable in good faith to consent to
20 voluntary treatment; and

21 (d) If commitment is for a substance use disorder, there is an
22 available secure detoxification facility or approved substance use
23 disorder treatment program with adequate space for the minor.

24 (11) If the court finds that the minor meets the criteria for a
25 fourteen-day commitment, the court shall either authorize commitment
26 of the minor for inpatient treatment or for less restrictive
27 alternative treatment upon such conditions as are necessary. If the
28 court determines that the minor does not meet the criteria for a
29 fourteen-day commitment, the minor shall be released.

30 (12) Nothing in this section prohibits the professional person in
31 charge of the ~~((evaluation and treatment))~~ facility from releasing
32 the minor at any time, when, in the opinion of the professional
33 person in charge of the facility, further inpatient treatment is no
34 longer necessary. The release may be subject to reasonable conditions
35 if appropriate.

36 Whenever a minor is released under this section, the professional
37 person in charge shall within three days, notify the court in writing
38 of the release.

1 (13) A minor who has been committed for fourteen days shall be
2 released at the end of that period unless a petition for one hundred
3 eighty-day commitment is pending before the court.

4 **Sec. 275.** RCW 71.34.740 and 2016 1st sp.s. c ... s 274 (section
5 274 of this act) are each amended to read as follows:

6 (1) A commitment hearing shall be held within seventy-two hours
7 of the minor's admission, excluding Saturday, Sunday, and holidays,
8 unless a continuance is requested by the minor or the minor's
9 attorney.

10 (2) The commitment hearing shall be conducted at the superior
11 court or an appropriate place at the facility in which the minor is
12 being detained.

13 (3) At the commitment hearing, the evidence in support of the
14 petition shall be presented by the county prosecutor.

15 (4) The minor shall be present at the commitment hearing unless
16 the minor, with the assistance of the minor's attorney, waives the
17 right to be present at the hearing.

18 (5) If the parents are opposed to the petition, they may be
19 represented at the hearing and shall be entitled to court-appointed
20 counsel if they are indigent.

21 (6) At the commitment hearing, the minor shall have the following
22 rights:

23 (a) To be represented by an attorney;

24 (b) To present evidence on his or her own behalf;

25 (c) To question persons testifying in support of the petition.

26 (7) If the hearing is for commitment for mental health treatment,
27 the court at the time of the commitment hearing and before an order
28 of commitment is entered shall inform the minor both orally and in
29 writing that the failure to make a good faith effort to seek
30 voluntary treatment as provided in RCW 71.34.730 will result in the
31 loss of his or her firearm rights if the minor is subsequently
32 detained for involuntary treatment under this section.

33 (8) If the minor has received medication within twenty-four hours
34 of the hearing, the court shall be informed of that fact and of the
35 probable effects of the medication.

36 (9) Rules of evidence shall not apply in fourteen-day commitment
37 hearings.

38 (10) For a fourteen-day commitment, the court must find by a
39 preponderance of the evidence that:

1 (a) The minor has a mental disorder or substance use disorder and
2 presents a likelihood of serious harm or is gravely disabled;

3 (b) The minor is in need of evaluation and treatment of the type
4 provided by the inpatient evaluation and treatment facility, secure
5 detoxification facility, or approved substance use disorder treatment
6 program to which continued inpatient care is sought or is in need of
7 less restrictive alternative treatment found to be in the best
8 interests of the minor; and

9 (c) The minor is unwilling or unable in good faith to consent to
10 voluntary treatment(~~(; and~~

11 ~~(d) If commitment is for a substance use disorder, there is an~~
12 ~~available secure detoxification facility or approved substance use~~
13 ~~disorder treatment program with adequate space for the minor)).~~

14 (11) If the court finds that the minor meets the criteria for a
15 fourteen-day commitment, the court shall either authorize commitment
16 of the minor for inpatient treatment or for less restrictive
17 alternative treatment upon such conditions as are necessary. If the
18 court determines that the minor does not meet the criteria for a
19 fourteen-day commitment, the minor shall be released.

20 (12) Nothing in this section prohibits the professional person in
21 charge of the facility from releasing the minor at any time, when, in
22 the opinion of the professional person in charge of the facility,
23 further inpatient treatment is no longer necessary. The release may
24 be subject to reasonable conditions if appropriate.

25 Whenever a minor is released under this section, the professional
26 person in charge shall within three days, notify the court in writing
27 of the release.

28 (13) A minor who has been committed for fourteen days shall be
29 released at the end of that period unless a petition for one hundred
30 eighty-day commitment is pending before the court.

31 **Sec. 276.** RCW 71.34.750 and 2009 c 217 s 18 are each amended to
32 read as follows:

33 (1) At any time during the minor's period of fourteen-day
34 commitment, the professional person in charge may petition the court
35 for an order requiring the minor to undergo an additional one hundred
36 eighty-day period of treatment. The evidence in support of the
37 petition shall be presented by the county prosecutor unless the
38 petition is filed by the professional person in charge of a state-

1 operated facility in which case the evidence shall be presented by
2 the attorney general.

3 (2) The petition for one hundred eighty-day commitment shall
4 contain the following:

5 (a) The name and address of the petitioner or petitioners;

6 (b) The name of the minor alleged to meet the criteria for one
7 hundred eighty-day commitment;

8 (c) A statement that the petitioner is the professional person in
9 charge of the evaluation and treatment facility, secure
10 detoxification facility, or approved substance use disorder treatment
11 program responsible for the treatment of the minor;

12 (d) The date of the fourteen-day commitment order; and

13 (e) A summary of the facts supporting the petition.

14 (3) The petition shall be supported by accompanying affidavits
15 signed by (a) two examining physicians, one of whom shall be a child
16 psychiatrist, or two psychiatric advanced registered nurse
17 practitioners, one of whom shall be a child and adolescent or family
18 psychiatric advanced registered nurse practitioner, (b) one
19 children's mental health specialist and either an examining physician
20 or a psychiatric advanced registered nurse practitioner, or (c) an
21 examining physician and a psychiatric advanced registered nurse
22 practitioner, one of which needs to be a child psychiatrist or a
23 child and adolescent psychiatric nurse practitioner. The affidavits
24 shall describe in detail the behavior of the detained minor which
25 supports the petition and shall state whether a less restrictive
26 alternative to inpatient treatment is in the best interests of the
27 minor.

28 (4) The petition for one hundred eighty-day commitment shall be
29 filed with the clerk of the court at least three days before the
30 expiration of the fourteen-day commitment period. The petitioner or
31 the petitioner's designee shall within twenty-four hours of filing
32 serve a copy of the petition on the minor and notify the minor's
33 attorney and the minor's parent. A copy of the petition shall be
34 provided to such persons at least twenty-four hours prior to the
35 hearing.

36 (5) At the time of filing, the court shall set a date within
37 seven days for the hearing on the petition. The court may continue
38 the hearing upon the written request of the minor or the minor's
39 attorney for not more than ten days. The minor or the parents shall

1 be afforded the same rights as in a fourteen-day commitment hearing.
2 Treatment of the minor shall continue pending the proceeding.

3 (6) For one hundred eighty-day commitment(~~(7)~~):

4 (a) The court must find by clear, cogent, and convincing evidence
5 that the minor:

6 ~~((a))~~ (i) Is suffering from a mental disorder or substance use
7 disorder;

8 ~~((b))~~ (ii) Presents a likelihood of serious harm or is gravely
9 disabled; and

10 ~~((c))~~ (iii) Is in need of further treatment that only can be
11 provided in a one hundred eighty-day commitment.

12 (b) If commitment is for a substance use disorder, the court must
13 find that there is an available approved substance use disorder
14 treatment program that has adequate space for the minor.

15 (7) If the court finds that the criteria for commitment are met
16 and that less restrictive treatment in a community setting is not
17 appropriate or available, the court shall order the minor committed
18 to the custody of the secretary for further inpatient mental health
19 treatment (~~to the custody of the secretary~~), to an approved
20 substance use disorder treatment program for further substance use
21 disorder treatment, or to a private treatment and evaluation facility
22 for inpatient mental health or substance use disorder treatment if
23 the minor's parents have assumed responsibility for payment for the
24 treatment. If the court finds that a less restrictive alternative is
25 in the best interest of the minor, the court shall order less
26 restrictive alternative treatment upon such conditions as necessary.

27 If the court determines that the minor does not meet the criteria
28 for one hundred eighty-day commitment, the minor shall be released.

29 (8) Successive one hundred eighty-day commitments are permissible
30 on the same grounds and under the same procedures as the original one
31 hundred eighty-day commitment. Such petitions shall be filed at least
32 five days prior to the expiration of the previous one hundred eighty-
33 day commitment order.

34 **Sec. 277.** RCW 71.34.750 and 2016 1st sp.s. c ... s 276 (section
35 276 of this act) are each amended to read as follows:

36 (1) At any time during the minor's period of fourteen-day
37 commitment, the professional person in charge may petition the court
38 for an order requiring the minor to undergo an additional one hundred
39 eighty-day period of treatment. The evidence in support of the

1 petition shall be presented by the county prosecutor unless the
2 petition is filed by the professional person in charge of a state-
3 operated facility in which case the evidence shall be presented by
4 the attorney general.

5 (2) The petition for one hundred eighty-day commitment shall
6 contain the following:

7 (a) The name and address of the petitioner or petitioners;

8 (b) The name of the minor alleged to meet the criteria for one
9 hundred eighty-day commitment;

10 (c) A statement that the petitioner is the professional person in
11 charge of the evaluation and treatment facility, secure
12 detoxification facility, or approved substance use disorder treatment
13 program responsible for the treatment of the minor;

14 (d) The date of the fourteen-day commitment order; and

15 (e) A summary of the facts supporting the petition.

16 (3) The petition shall be supported by accompanying affidavits
17 signed by (a) two examining physicians, one of whom shall be a child
18 psychiatrist, or two psychiatric advanced registered nurse
19 practitioners, one of whom shall be a child and adolescent or family
20 psychiatric advanced registered nurse practitioner, (b) one
21 children's mental health specialist and either an examining physician
22 or a psychiatric advanced registered nurse practitioner, or (c) an
23 examining physician and a psychiatric advanced registered nurse
24 practitioner, one of which needs to be a child psychiatrist or a
25 child and adolescent psychiatric nurse practitioner. The affidavits
26 shall describe in detail the behavior of the detained minor which
27 supports the petition and shall state whether a less restrictive
28 alternative to inpatient treatment is in the best interests of the
29 minor.

30 (4) The petition for one hundred eighty-day commitment shall be
31 filed with the clerk of the court at least three days before the
32 expiration of the fourteen-day commitment period. The petitioner or
33 the petitioner's designee shall within twenty-four hours of filing
34 serve a copy of the petition on the minor and notify the minor's
35 attorney and the minor's parent. A copy of the petition shall be
36 provided to such persons at least twenty-four hours prior to the
37 hearing.

38 (5) At the time of filing, the court shall set a date within
39 seven days for the hearing on the petition. The court may continue
40 the hearing upon the written request of the minor or the minor's

1 attorney for not more than ten days. The minor or the parents shall
2 be afforded the same rights as in a fourteen-day commitment hearing.
3 Treatment of the minor shall continue pending the proceeding.

4 (6) For one hundred eighty-day commitment(~~(+~~
5 ~~a)~~), the court must find by clear, cogent, and convincing
6 evidence that the minor:

7 ~~((i))~~ (a) Is suffering from a mental disorder or substance use
8 disorder;

9 ~~((ii))~~ (b) Presents a likelihood of serious harm or is gravely
10 disabled; and

11 ~~((iii))~~ (c) Is in need of further treatment that only can be
12 provided in a one hundred eighty-day commitment.

13 ~~((b) If commitment is for a substance use disorder, the court
14 must find that there is an available approved substance use disorder
15 treatment program that has adequate space for the minor.))~~

16 (7) If the court finds that the criteria for commitment are met
17 and that less restrictive treatment in a community setting is not
18 appropriate or available, the court shall order the minor committed
19 to the custody of the secretary for further inpatient mental health
20 treatment, to an approved substance use disorder treatment program
21 for further substance use disorder treatment, or to a private
22 treatment and evaluation facility for inpatient mental health or
23 substance use disorder treatment if the minor's parents have assumed
24 responsibility for payment for the treatment. If the court finds that
25 a less restrictive alternative is in the best interest of the minor,
26 the court shall order less restrictive alternative treatment upon
27 such conditions as necessary.

28 If the court determines that the minor does not meet the criteria
29 for one hundred eighty-day commitment, the minor shall be released.

30 (8) Successive one hundred eighty-day commitments are permissible
31 on the same grounds and under the same procedures as the original one
32 hundred eighty-day commitment. Such petitions shall be filed at least
33 five days prior to the expiration of the previous one hundred eighty-
34 day commitment order.

35 **Sec. 278.** RCW 71.34.760 and 1985 c 354 s 10 are each amended to
36 read as follows:

37 (1) If a minor is committed for one hundred eighty-day inpatient
38 treatment and is to be placed in a state-supported program, the
39 secretary shall accept immediately and place the minor in a state-

1 funded long-term evaluation and treatment facility or state-funded
2 approved substance use disorder treatment program.

3 (2) The secretary's placement authority shall be exercised
4 through a designated placement committee appointed by the secretary
5 and composed of children's mental health specialists and chemical
6 dependency professionals, including at least one child psychiatrist
7 who represents the state-funded, long-term, evaluation and treatment
8 facility for minors and one chemical dependency professional who
9 represents the state-funded approved substance use disorder treatment
10 program. The responsibility of the placement committee will be to:

11 (a) Make the long-term placement of the minor in the most
12 appropriate, available state-funded evaluation and treatment facility
13 or approved substance use disorder treatment program, having
14 carefully considered factors including the treatment needs of the
15 minor, the most appropriate facility able to respond to the minor's
16 identified treatment needs, the geographic proximity of the facility
17 to the minor's family, the immediate availability of bed space, and
18 the probable impact of the placement on other residents of the
19 facility;

20 (b) Approve or deny requests from treatment facilities for
21 transfer of a minor to another facility;

22 (c) Receive and monitor reports required under this section;

23 (d) Receive and monitor reports of all discharges.

24 (3) The secretary may authorize transfer of minors among
25 treatment facilities if the transfer is in the best interests of the
26 minor or due to treatment priorities.

27 (4) The responsible state-funded evaluation and treatment
28 facility or approved substance use disorder treatment program shall
29 submit a report to the department's designated placement committee
30 within ninety days of admission and no less than every one hundred
31 eighty days thereafter, setting forth such facts as the department
32 requires, including the minor's individual treatment plan and
33 progress, recommendations for future treatment, and possible less
34 restrictive treatment.

35 **Sec. 279.** RCW 71.34.780 and 1985 c 354 s 11 are each amended to
36 read as follows:

37 (1) If the professional person in charge of an outpatient
38 treatment program, a (~~county-designated mental health professional~~)
39 designated crisis responder, or the secretary determines that a minor

1 is failing to adhere to the conditions of the court order for less
2 restrictive alternative treatment or the conditions for the
3 conditional release, or that substantial deterioration in the minor's
4 functioning has occurred, the (~~county designated mental health~~
5 ~~professional~~) designated crisis responder, or the secretary may
6 order that the minor, if committed for mental health treatment, be
7 taken into custody and transported to an inpatient evaluation and
8 treatment facility or, if committed for substance use disorder
9 treatment, be taken into custody and transported to a secure
10 detoxification facility or approved substance use disorder treatment
11 program if there is an available secure detoxification facility or
12 approved substance use disorder treatment program that has adequate
13 space for the minor.

14 (2) The (~~county designated mental health professional~~)
15 designated crisis responder or the secretary shall file the order of
16 apprehension and detention and serve it upon the minor and notify the
17 minor's parent and the minor's attorney, if any, of the detention
18 within two days of return. At the time of service the minor shall be
19 informed of the right to a hearing and to representation by an
20 attorney. The (~~county designated mental health professional~~)
21 designated crisis responder or the secretary may modify or rescind
22 the order of apprehension and detention at any time prior to the
23 hearing.

24 (3) A petition for revocation of less restrictive alternative
25 treatment shall be filed by the (~~county designated mental health~~
26 ~~professional~~) designated crisis responder or the secretary with the
27 court in the county ordering the less restrictive alternative
28 treatment. The court shall conduct the hearing in that county. A
29 petition for revocation of conditional release may be filed with the
30 court in the county ordering inpatient treatment or the county where
31 the minor on conditional release is residing. A petition shall
32 describe the behavior of the minor indicating violation of the
33 conditions or deterioration of routine functioning and a
34 dispositional recommendation. Upon motion for good cause, the hearing
35 may be transferred to the county of the minor's residence or to the
36 county in which the alleged violations occurred. The hearing shall be
37 held within seven days of the minor's return. The issues to be
38 determined are whether the minor did or did not adhere to the
39 conditions of the less restrictive alternative treatment or
40 conditional release, or whether the minor's routine functioning has

1 substantially deteriorated, and, if so, whether the conditions of
2 less restrictive alternative treatment or conditional release should
3 be modified or, subject to subsection (4) of this section, whether
4 the minor should be returned to inpatient treatment. Pursuant to the
5 determination of the court, the minor shall be returned to less
6 restrictive alternative treatment or conditional release on the same
7 or modified conditions or shall be returned to inpatient treatment.
8 If the minor is returned to inpatient treatment, RCW 71.34.760
9 regarding the secretary's placement responsibility shall apply. The
10 hearing may be waived by the minor and the minor returned to
11 inpatient treatment or to less restrictive alternative treatment or
12 conditional release on the same or modified conditions.

13 (4) A court may not order the return of a minor to inpatient
14 treatment in a secure detoxification facility or approved substance
15 use disorder treatment program unless there is a secure
16 detoxification facility or approved substance use disorder treatment
17 program available with adequate space for the minor.

18 **Sec. 280.** RCW 71.34.780 and 2016 1st sp.s. c ... s 279 (section
19 279 of this act) are each amended to read as follows:

20 (1) If the professional person in charge of an outpatient
21 treatment program, a designated crisis responder, or the secretary
22 determines that a minor is failing to adhere to the conditions of the
23 court order for less restrictive alternative treatment or the
24 conditions for the conditional release, or that substantial
25 deterioration in the minor's functioning has occurred, the designated
26 crisis responder, or the secretary may order that the minor, if
27 committed for mental health treatment, be taken into custody and
28 transported to an inpatient evaluation and treatment facility or, if
29 committed for substance use disorder treatment, be taken into custody
30 and transported to a secure detoxification facility or approved
31 substance use disorder treatment program (~~((if there is an available~~
32 ~~secure detoxification facility or approved substance use disorder~~
33 ~~treatment program that has adequate space for the minor))).~~

34 (2) The designated crisis responder or the secretary shall file
35 the order of apprehension and detention and serve it upon the minor
36 and notify the minor's parent and the minor's attorney, if any, of
37 the detention within two days of return. At the time of service the
38 minor shall be informed of the right to a hearing and to
39 representation by an attorney. The designated crisis responder or the

1 secretary may modify or rescind the order of apprehension and
2 detention at any time prior to the hearing.

3 (3) A petition for revocation of less restrictive alternative
4 treatment shall be filed by the designated crisis responder or the
5 secretary with the court in the county ordering the less restrictive
6 alternative treatment. The court shall conduct the hearing in that
7 county. A petition for revocation of conditional release may be filed
8 with the court in the county ordering inpatient treatment or the
9 county where the minor on conditional release is residing. A petition
10 shall describe the behavior of the minor indicating violation of the
11 conditions or deterioration of routine functioning and a
12 dispositional recommendation. Upon motion for good cause, the hearing
13 may be transferred to the county of the minor's residence or to the
14 county in which the alleged violations occurred. The hearing shall be
15 held within seven days of the minor's return. The issues to be
16 determined are whether the minor did or did not adhere to the
17 conditions of the less restrictive alternative treatment or
18 conditional release, or whether the minor's routine functioning has
19 substantially deteriorated, and, if so, whether the conditions of
20 less restrictive alternative treatment or conditional release should
21 be modified or(~~(, subject to subsection (4) of this section,~~)
22 whether the minor should be returned to inpatient treatment. Pursuant
23 to the determination of the court, the minor shall be returned to
24 less restrictive alternative treatment or conditional release on the
25 same or modified conditions or shall be returned to inpatient
26 treatment. If the minor is returned to inpatient treatment, RCW
27 71.34.760 regarding the secretary's placement responsibility shall
28 apply. The hearing may be waived by the minor and the minor returned
29 to inpatient treatment or to less restrictive alternative treatment
30 or conditional release on the same or modified conditions.

31 ~~((4) A court may not order the return of a minor to inpatient
32 treatment in a secure detoxification facility or approved substance
33 use disorder treatment program unless there is a secure
34 detoxification facility or approved substance use disorder treatment
35 program available with adequate space for the minor.))~~

36 **Sec. 281.** RCW 9.41.098 and 2003 c 39 s 5 are each amended to
37 read as follows:

38 (1) The superior courts and the courts of limited jurisdiction of
39 the state may order forfeiture of a firearm which is proven to be:

1 (a) Found concealed on a person not authorized by RCW 9.41.060 or
2 9.41.070 to carry a concealed pistol: PROVIDED, That it is an
3 absolute defense to forfeiture if the person possessed a valid
4 Washington concealed pistol license within the preceding two years
5 and has not become ineligible for a concealed pistol license in the
6 interim. Before the firearm may be returned, the person must pay the
7 past due renewal fee and the current renewal fee;

8 (b) Commercially sold to any person without an application as
9 required by RCW 9.41.090;

10 (c) In the possession of a person prohibited from possessing the
11 firearm under RCW 9.41.040 or 9.41.045;

12 (d) In the possession or under the control of a person at the
13 time the person committed or was arrested for committing a felony or
14 committing a nonfelony crime in which a firearm was used or
15 displayed;

16 (e) In the possession of a person who is in any place in which a
17 concealed pistol license is required, and who is under the influence
18 of any drug or under the influence of intoxicating liquor, as defined
19 in chapter 46.61 RCW;

20 (f) In the possession of a person free on bail or personal
21 recognizance pending trial, appeal, or sentencing for a felony or for
22 a nonfelony crime in which a firearm was used or displayed, except
23 that violations of Title 77 RCW shall not result in forfeiture under
24 this section;

25 (g) In the possession of a person found to have been mentally
26 incompetent while in possession of a firearm when apprehended or who
27 is thereafter committed pursuant to chapter 10.77 RCW or committed
28 for mental health treatment under chapter 71.05 RCW;

29 (h) Used or displayed by a person in the violation of a proper
30 written order of a court of general jurisdiction; or

31 (i) Used in the commission of a felony or of a nonfelony crime in
32 which a firearm was used or displayed.

33 (2) Upon order of forfeiture, the court in its discretion may
34 order destruction of any forfeited firearm. A court may temporarily
35 retain forfeited firearms needed for evidence.

36 (a) Except as provided in (b), (c), and (d) of this subsection,
37 firearms that are: (i) Judicially forfeited and no longer needed for
38 evidence; or (ii) forfeited due to a failure to make a claim under
39 RCW 63.32.010 or 63.40.010; may be disposed of in any manner
40 determined by the local legislative authority. Any proceeds of an

1 auction or trade may be retained by the legislative authority. This
2 subsection (2)(a) applies only to firearms that come into the
3 possession of the law enforcement agency after June 30, 1993.

4 By midnight, June 30, 1993, every law enforcement agency shall
5 prepare an inventory, under oath, of every firearm that has been
6 judicially forfeited, has been seized and may be subject to judicial
7 forfeiture, or that has been, or may be, forfeited due to a failure
8 to make a claim under RCW 63.32.010 or 63.40.010.

9 (b) Except as provided in (c) of this subsection, of the
10 inventoried firearms a law enforcement agency shall destroy illegal
11 firearms, may retain a maximum of ten percent of legal forfeited
12 firearms for agency use, and shall either:

13 (i) Comply with the provisions for the auction of firearms in RCW
14 9.41.098 that were in effect immediately preceding May 7, 1993; or

15 (ii) Trade, auction, or arrange for the auction of, rifles and
16 shotguns. In addition, the law enforcement agency shall either trade,
17 auction, or arrange for the auction of, short firearms, or shall pay
18 a fee of twenty-five dollars to the state treasurer for every short
19 firearm neither auctioned nor traded, to a maximum of fifty thousand
20 dollars. The fees shall be accompanied by an inventory, under oath,
21 of every short firearm listed in the inventory required by (a) of
22 this subsection, that has been neither traded nor auctioned. The
23 state treasurer shall credit the fees to the firearms range account
24 established in RCW 79A.25.210. All trades or auctions of firearms
25 under this subsection shall be to licensed dealers. Proceeds of any
26 auction less costs, including actual costs of storage and sale, shall
27 be forwarded to the firearms range account established in RCW
28 79A.25.210.

29 (c) Antique firearms and firearms recognized as curios, relics,
30 and firearms of particular historical significance by the United
31 States treasury department bureau of alcohol, tobacco, (~~and~~)
32 firearms, and explosives are exempt from destruction and shall be
33 disposed of by auction or trade to licensed dealers.

34 (d) Firearms in the possession of the Washington state patrol on
35 or after May 7, 1993, that are judicially forfeited and no longer
36 needed for evidence, or forfeited due to a failure to make a claim
37 under RCW 63.35.020, must be disposed of as follows: (i) Firearms
38 illegal for any person to possess must be destroyed; (ii) the
39 Washington state patrol may retain a maximum of ten percent of legal
40 firearms for agency use; and (iii) all other legal firearms must be

1 auctioned or traded to licensed dealers. The Washington state patrol
2 may retain any proceeds of an auction or trade.

3 (3) The court shall order the firearm returned to the owner upon
4 a showing that there is no probable cause to believe a violation of
5 subsection (1) of this section existed or the firearm was stolen from
6 the owner or the owner neither had knowledge of nor consented to the
7 act or omission involving the firearm which resulted in its
8 forfeiture.

9 (4) A law enforcement officer of the state or of any county or
10 municipality may confiscate a firearm found to be in the possession
11 of a person under circumstances specified in subsection (1) of this
12 section. After confiscation, the firearm shall not be surrendered
13 except: (a) To the prosecuting attorney for use in subsequent legal
14 proceedings; (b) for disposition according to an order of a court
15 having jurisdiction as provided in subsection (1) of this section; or
16 (c) to the owner if the proceedings are dismissed or as directed in
17 subsection (3) of this section.

18 PART III

19 REPEALERS FOR INTEGRATED SYSTEM

20 NEW SECTION. **Sec. 301.** The following acts or parts of acts, as
21 now existing or hereafter amended, are each repealed, effective April
22 1, 2018:

23 (1) RCW 70.96A.011 (Legislative finding and intent—Purpose of
24 chapter) and 2014 c 225 s 19 & 1989 c 270 s 1;

25 (2) RCW 70.96A.020 (Definitions) and 2016 1st sp.s. c . . . s 101
26 (section 101 of this act), 2014 c 225 s 20, 2001 c 13 s 1, & 1998 c
27 296 s 22;

28 (3) RCW 70.96A.095 (Age of consent—Outpatient treatment of minors
29 for chemical dependency) and 1998 c 296 s 23, 1996 c 133 s 34, 1995 c
30 312 s 47, 1991 c 364 s 9, & 1989 c 270 s 24;

31 (4) RCW 70.96A.096 (Notice to parents, school contacts for
32 referring students to inpatient treatment) and 1996 c 133 s 5;

33 (5) RCW 70.96A.097 (Review of admission and inpatient treatment
34 of minors—Determination of medical necessity—Department review—
35 Minor declines necessary treatment—At-risk youth petition—Costs—
36 Public funds) and 1998 c 296 s 28, & 1995 c 312 s 48;

1 (6) RCW 70.96A.110 (Voluntary treatment of individuals with a
2 substance use disorder) and 2014 c 225 s 28, 1990 c 151 s 7, 1989 c
3 270 s 25, & 1972 ex.s. c 122 s 11;

4 (7) RCW 70.96A.120 (Treatment programs and facilities—Admissions
5 —Peace officer duties—Protective custody) and 1991 c 290 s 6, 1990 c
6 151 s 8, 1989 c 271 s 306, 1987 c 439 s 13, 1977 ex.s. c 62 s 1, 1974
7 ex.s. c 175 s 1, & 1972 ex.s. c 122 s 12;

8 (8) RCW 70.96A.140 (Involuntary commitment) and 2016 1st sp.s.
9 c . . . s 102 (section 102 of this act), 2014 c 225 s 29, 2001 c 13 s
10 3, 1995 c 312 s 49, 1993 c 362 s 1, 1991 c 364 s 10, 1990 c 151 s 3,
11 1989 c 271 s 307, 1987 c 439 s 14, 1977 ex.s. c 129 s 1, 1974 ex.s. c
12 175 s 2, & 1972 ex.s. c 122 s 14;

13 (9) RCW 70.96A.141 (Joinder of petitions for commitment) and 2005
14 c 504 s 304;

15 (10) RCW 70.96A.142 (Evaluation by designated chemical dependency
16 specialist—When required—Required notifications) and 2004 c 166 s
17 15;

18 (11) RCW 70.96A.145 (Involuntary commitment proceedings—
19 Prosecuting attorney may represent specialist or program) and 2016
20 1st sp.s. c . . . s 103 (section 103 of this act) & 1993 c 137 s 1;

21 (12) RCW 70.96A.148 (Detention, commitment duties—Designation of
22 county designated mental health professional) and 2001 c 13 s 4;

23 (13) RCW 70.96A.155 (Court-ordered treatment—Required
24 notifications) and 2004 c 166 s 13;

25 (14) RCW 70.96A.157 (Persons subject to court-ordered treatment
26 or supervision—Documentation) and 2005 c 504 s 508;

27 (15) RCW 70.96A.160 (Visitation and communication with patients)
28 and 1989 c 270 s 29 & 1972 ex.s. c 122 s 16;

29 (16) RCW 70.96A.180 (Payment for treatment—Financial ability of
30 patients) and 2012 c 117 s 413, 1990 c 151 s 6, 1989 c 270 s 31, &
31 1972 ex.s. c 122 s 18;

32 (17) RCW 70.96A.230 (Minor—When outpatient treatment provider
33 must give notice to parents) and 2016 1st sp.s. c . . . s 104
34 (section 104 of this act) & 1998 c 296 s 24;

35 (18) RCW 70.96A.235 (Minor—Parental consent for inpatient
36 treatment—Exception) and 1998 c 296 s 25;

37 (19) RCW 70.96A.240 (Minor—Parent not liable for payment unless
38 consented to treatment—No right to public funds) and 1998 c 296 s 26;

1 (20) RCW 70.96A.245 (Minor—Parent may request determination
2 whether minor has chemical dependency requiring inpatient treatment—
3 Minor consent not required—Duties and obligations of professional
4 person and facility) and 1998 c 296 s 27;

5 (21) RCW 70.96A.250 (Minor—Parent may request determination
6 whether minor has chemical dependency requiring outpatient treatment—
7 Consent of minor not required—Discharge of minor) and 1998 c 296 s
8 29;

9 (22) RCW 70.96A.255 (Minor—Petition to superior court for release
10 from facility) and 1998 c 296 s 30;

11 (23) RCW 70.96A.260 (Minor—Not released by petition under RCW
12 70.96A.255—Release within thirty days—Professional may initiate
13 proceedings to stop release) and 1998 c 296 s 31;

14 (24) RCW 70.96A.265 (Minor—Eligibility for medical assistance
15 under chapter 74.09 RCW—Payment by department) and 1998 c 296 s 32;

16 (25) RCW 70.96A.910 (Application—Construction—1972 ex.s. c 122)
17 and 1972 ex.s. c 122 s 22;

18 (26) RCW 70.96A.915 (Department allocation of funds—Construction)
19 and 1989 c 271 s 309;

20 (27) RCW 70.96A.920 (Severability—1972 ex.s. c 122) and 1972
21 ex.s. c 122 s 20;

22 (28) RCW 70.96A.930 (Section, subsection headings not part of
23 law) and 1972 ex.s. c 122 s 27;

24 (29) RCW 70.96B.010 (Definitions) and 2014 c 225 s 74, 2011 c 89
25 s 10, 2008 c 320 s 3, & 2005 c 504 s 202;

26 (30) RCW 70.96B.020 (Selection of areas for pilot programs—Pilot
27 program requirements) and 2014 c 225 s 75 & 2005 c 504 s 203;

28 (31) RCW 70.96B.030 (Designated crisis responder—Qualifications)
29 and 2014 c 225 s 76 & 2005 c 504 s 204;

30 (32) RCW 70.96B.040 (Powers of designated crisis responder) and
31 2005 c 504 s 205;

32 (33) RCW 70.96B.045 (Emergency custody—Procedure) and 2007 c 120
33 s 2;

34 (34) RCW 70.96B.050 (Petition for initial detention—Order to
35 detain for evaluation and treatment period—Procedure) and 2008 c 320
36 s 5, 2007 c 120 s 1, & 2005 c 504 s 206;

37 (35) RCW 70.96B.060 (Exemption from liability) and 2005 c 504 s
38 207;

1 (36) RCW 70.96B.070 (Detention period for evaluation and
2 treatment) and 2005 c 504 s 208;
3 (37) RCW 70.96B.080 (Detention for evaluation and treatment of
4 mental disorder—Chapter 71.05 RCW applies) and 2005 c 504 s 209;
5 (38) RCW 70.96B.090 (Procedures for additional chemical
6 dependency treatment) and 2005 c 504 s 210;
7 (39) RCW 70.96B.100 (Detention for involuntary chemical
8 dependency treatment—Petition for less restrictive treatment—
9 Appearance before court—Representation—Hearing—Less restrictive
10 order—Failure to adhere to terms of less restrictive order) and 2008
11 c 320 s 6 & 2005 c 504 s 211;
12 (40) RCW 70.96B.110 (Involuntary chemical dependency treatment
13 proceedings—Prosecuting attorney shall represent petitioner) and 2005
14 c 504 s 212;
15 (41) RCW 70.96B.120 (Rights of involuntarily detained persons)
16 and 2005 c 504 s 213;
17 (42) RCW 70.96B.130 (Evaluation by designated crisis responder—
18 When required—Required notifications) and 2005 c 504 s 214;
19 (43) RCW 70.96B.140 (Secretary may adopt rules) and 2005 c 504 s
20 215;
21 (44) RCW 70.96B.150 (Application of RCW 71.05.550) and 2005 c 504
22 s 216;
23 (45) RCW 70.96B.800 (Evaluation of pilot programs—Reports) and
24 2008 c 320 s 2 & 2005 c 504 s 217; and
25 (46) RCW 71.05.032 (Joinder of petitions for commitment) and 2005
26 c 504 s 115.

27 **PART IV**
28 **CORRECTIONS TO REFERENCES FOR INTEGRATED SYSTEM**

29 **Sec. 401.** RCW 4.24.558 and 2004 c 166 s 21 are each amended to
30 read as follows:

31 Information shared and actions taken without gross negligence and
32 in good faith compliance with RCW 71.05.445, 72.09.585,
33 (~~(70.96A.142,)~~) 71.05.157, or 72.09.315 are not a basis for any
34 private civil cause of action.

35 **Sec. 402.** RCW 5.60.060 and 2012 c 29 s 12 are each amended to
36 read as follows:

1 (1) A spouse or domestic partner shall not be examined for or
2 against his or her spouse or domestic partner, without the consent of
3 the spouse or domestic partner; nor can either during marriage or
4 during the domestic partnership or afterward, be without the consent
5 of the other, examined as to any communication made by one to the
6 other during the marriage or the domestic partnership. But this
7 exception shall not apply to a civil action or proceeding by one
8 against the other, nor to a criminal action or proceeding for a crime
9 committed by one against the other, nor to a criminal action or
10 proceeding against a spouse or domestic partner if the marriage or
11 the domestic partnership occurred subsequent to the filing of formal
12 charges against the defendant, nor to a criminal action or proceeding
13 for a crime committed by said spouse or domestic partner against any
14 child of whom said spouse or domestic partner is the parent or
15 guardian, nor to a proceeding under chapter ((70.96A, 70.96B,))
16 71.05((7)) or 71.09 RCW: PROVIDED, That the spouse or the domestic
17 partner of a person sought to be detained under chapter ((70.96A,
18 70.96B,)) 71.05((7)) or 71.09 RCW may not be compelled to testify and
19 shall be so informed by the court prior to being called as a witness.

20 (2)(a) An attorney or counselor shall not, without the consent of
21 his or her client, be examined as to any communication made by the
22 client to him or her, or his or her advice given thereon in the
23 course of professional employment.

24 (b) A parent or guardian of a minor child arrested on a criminal
25 charge may not be examined as to a communication between the child
26 and his or her attorney if the communication was made in the presence
27 of the parent or guardian. This privilege does not extend to
28 communications made prior to the arrest.

29 (3) A member of the clergy, a Christian Science practitioner
30 listed in the Christian Science Journal, or a priest shall not,
31 without the consent of a person making the confession or sacred
32 confidence, be examined as to any confession or sacred confidence
33 made to him or her in his or her professional character, in the
34 course of discipline enjoined by the church to which he or she
35 belongs.

36 (4) Subject to the limitations under RCW ((70.96A.140—~~or~~))
37 71.05.360 (8) and (9), a physician or surgeon or osteopathic
38 physician or surgeon or podiatric physician or surgeon shall not,
39 without the consent of his or her patient, be examined in a civil
40 action as to any information acquired in attending such patient,

1 which was necessary to enable him or her to prescribe or act for the
2 patient, except as follows:

3 (a) In any judicial proceedings regarding a child's injury,
4 neglect, or sexual abuse or the cause thereof; and

5 (b) Ninety days after filing an action for personal injuries or
6 wrongful death, the claimant shall be deemed to waive the physician-
7 patient privilege. Waiver of the physician-patient privilege for any
8 one physician or condition constitutes a waiver of the privilege as
9 to all physicians or conditions, subject to such limitations as a
10 court may impose pursuant to court rules.

11 (5) A public officer shall not be examined as a witness as to
12 communications made to him or her in official confidence, when the
13 public interest would suffer by the disclosure.

14 (6)(a) A peer support group counselor shall not, without consent
15 of the law enforcement officer or firefighter making the
16 communication, be compelled to testify about any communication made
17 to the counselor by the officer or firefighter while receiving
18 counseling. The counselor must be designated as such by the sheriff,
19 police chief, fire chief, or chief of the Washington state patrol,
20 prior to the incident that results in counseling. The privilege only
21 applies when the communication was made to the counselor while acting
22 in his or her capacity as a peer support group counselor. The
23 privilege does not apply if the counselor was an initial responding
24 officer or firefighter, a witness, or a party to the incident which
25 prompted the delivery of peer support group counseling services to
26 the law enforcement officer or firefighter.

27 (b) For purposes of this section, "peer support group counselor"
28 means a:

29 (i) Law enforcement officer, firefighter, civilian employee of a
30 law enforcement agency, or civilian employee of a fire department,
31 who has received training to provide emotional and moral support and
32 counseling to an officer or firefighter who needs those services as a
33 result of an incident in which the officer or firefighter was
34 involved while acting in his or her official capacity; or

35 (ii) Nonemployee counselor who has been designated by the
36 sheriff, police chief, fire chief, or chief of the Washington state
37 patrol to provide emotional and moral support and counseling to an
38 officer or firefighter who needs those services as a result of an
39 incident in which the officer or firefighter was involved while
40 acting in his or her official capacity.

1 (7) A sexual assault advocate may not, without the consent of the
2 victim, be examined as to any communication made between the victim
3 and the sexual assault advocate.

4 (a) For purposes of this section, "sexual assault advocate" means
5 the employee or volunteer from a community sexual assault program or
6 underserved populations provider, victim assistance unit, program, or
7 association, that provides information, medical or legal advocacy,
8 counseling, or support to victims of sexual assault, who is
9 designated by the victim to accompany the victim to the hospital or
10 other health care facility and to proceedings concerning the alleged
11 assault, including police and prosecution interviews and court
12 proceedings.

13 (b) A sexual assault advocate may disclose a confidential
14 communication without the consent of the victim if failure to
15 disclose is likely to result in a clear, imminent risk of serious
16 physical injury or death of the victim or another person. Any sexual
17 assault advocate participating in good faith in the disclosing of
18 records and communications under this section shall have immunity
19 from any liability, civil, criminal, or otherwise, that might result
20 from the action. In any proceeding, civil or criminal, arising out of
21 a disclosure under this section, the good faith of the sexual assault
22 advocate who disclosed the confidential communication shall be
23 presumed.

24 (8) A domestic violence advocate may not, without the consent of
25 the victim, be examined as to any communication between the victim
26 and the domestic violence advocate.

27 (a) For purposes of this section, "domestic violence advocate"
28 means an employee or supervised volunteer from a community-based
29 domestic violence program or human services program that provides
30 information, advocacy, counseling, crisis intervention, emergency
31 shelter, or support to victims of domestic violence and who is not
32 employed by, or under the direct supervision of, a law enforcement
33 agency, a prosecutor's office, or the child protective services
34 section of the department of social and health services as defined in
35 RCW 26.44.020.

36 (b) A domestic violence advocate may disclose a confidential
37 communication without the consent of the victim if failure to
38 disclose is likely to result in a clear, imminent risk of serious
39 physical injury or death of the victim or another person. This
40 section does not relieve a domestic violence advocate from the

1 requirement to report or cause to be reported an incident under RCW
2 26.44.030(1) or to disclose relevant records relating to a child as
3 required by RCW 26.44.030(~~(12)~~) (14). Any domestic violence
4 advocate participating in good faith in the disclosing of
5 communications under this subsection is immune from liability, civil,
6 criminal, or otherwise, that might result from the action. In any
7 proceeding, civil or criminal, arising out of a disclosure under this
8 subsection, the good faith of the domestic violence advocate who
9 disclosed the confidential communication shall be presumed.

10 (9) A mental health counselor, independent clinical social
11 worker, or marriage and family therapist licensed under chapter
12 18.225 RCW may not disclose, or be compelled to testify about, any
13 information acquired from persons consulting the individual in a
14 professional capacity when the information was necessary to enable
15 the individual to render professional services to those persons
16 except:

17 (a) With the written authorization of that person or, in the case
18 of death or disability, the person's personal representative;

19 (b) If the person waives the privilege by bringing charges
20 against the mental health counselor licensed under chapter 18.225
21 RCW;

22 (c) In response to a subpoena from the secretary of health. The
23 secretary may subpoena only records related to a complaint or report
24 under RCW 18.130.050;

25 (d) As required under chapter 26.44 or 74.34 RCW or RCW 71.05.360
26 (8) and (9); or

27 (e) To any individual if the mental health counselor, independent
28 clinical social worker, or marriage and family therapist licensed
29 under chapter 18.225 RCW reasonably believes that disclosure will
30 avoid or minimize an imminent danger to the health or safety of the
31 individual or any other individual; however, there is no obligation
32 on the part of the provider to so disclose.

33 **Sec. 403.** RCW 9.41.280 and 2014 c 225 s 56 are each amended to
34 read as follows:

35 (1) It is unlawful for a person to carry onto, or to possess on,
36 public or private elementary or secondary school premises, school-
37 provided transportation, or areas of facilities while being used
38 exclusively by public or private schools:

39 (a) Any firearm;

1 (b) Any other dangerous weapon as defined in RCW 9.41.250;

2 (c) Any device commonly known as "nun-chu-ka sticks," consisting
3 of two or more lengths of wood, metal, plastic, or similar substance
4 connected with wire, rope, or other means;

5 (d) Any device, commonly known as "throwing stars," which are
6 multipointed, metal objects designed to embed upon impact from any
7 aspect;

8 (e) Any air gun, including any air pistol or air rifle, designed
9 to propel a BB, pellet, or other projectile by the discharge of
10 compressed air, carbon dioxide, or other gas; or

11 (f)(i) Any portable device manufactured to function as a weapon
12 and which is commonly known as a stun gun, including a projectile
13 stun gun which projects wired probes that are attached to the device
14 that emit an electrical charge designed to administer to a person or
15 an animal an electric shock, charge, or impulse; or

16 (ii) Any device, object, or instrument which is used or intended
17 to be used as a weapon with the intent to injure a person by an
18 electric shock, charge, or impulse.

19 (2) Any such person violating subsection (1) of this section is
20 guilty of a gross misdemeanor. If any person is convicted of a
21 violation of subsection (1)(a) of this section, the person shall have
22 his or her concealed pistol license, if any revoked for a period of
23 three years. Anyone convicted under this subsection is prohibited
24 from applying for a concealed pistol license for a period of three
25 years. The court shall send notice of the revocation to the
26 department of licensing, and the city, town, or county which issued
27 the license.

28 Any violation of subsection (1) of this section by elementary or
29 secondary school students constitutes grounds for expulsion from the
30 state's public schools in accordance with RCW 28A.600.010. An
31 appropriate school authority shall promptly notify law enforcement
32 and the student's parent or guardian regarding any allegation or
33 indication of such violation.

34 Upon the arrest of a person at least twelve years of age and not
35 more than twenty-one years of age for violating subsection (1)(a) of
36 this section, the person shall be detained or confined in a juvenile
37 or adult facility for up to seventy-two hours. The person shall not
38 be released within the seventy-two hours until after the person has
39 been examined and evaluated by the designated (~~mental health~~
40 ~~professional~~) crisis responder unless the court in its discretion

1 releases the person sooner after a determination regarding probable
2 cause or on probation bond or bail.

3 Within twenty-four hours of the arrest, the arresting law
4 enforcement agency shall refer the person to the designated (~~mental~~
5 ~~health professional~~) crisis responder for examination and evaluation
6 under chapter 71.05 or 71.34 RCW and inform a parent or guardian of
7 the person of the arrest, detention, and examination. The designated
8 (~~mental health professional~~) crisis responder shall examine and
9 evaluate the person subject to the provisions of chapter 71.05 or
10 71.34 RCW. The examination shall occur at the facility in which the
11 person is detained or confined. If the person has been released on
12 probation, bond, or bail, the examination shall occur wherever is
13 appropriate.

14 (~~The designated mental health professional may determine whether~~
15 ~~to refer the person to the county designated chemical dependency~~
16 ~~specialist for examination and evaluation in accordance with chapter~~
17 ~~70.96A RCW. The county designated chemical dependency specialist~~
18 ~~shall examine the person subject to the provisions of chapter 70.96A~~
19 ~~RCW. The examination shall occur at the facility in which the person~~
20 ~~is detained or confined. If the person has been released on~~
21 ~~probation, bond, or bail, the examination shall occur wherever is~~
22 ~~appropriate.~~)

23 Upon completion of any examination by the designated (~~mental~~
24 ~~health professional or the county designated chemical dependency~~
25 ~~specialist~~) crisis responder, the results of the examination shall
26 be sent to the court, and the court shall consider those results in
27 making any determination about the person.

28 The designated (~~mental health professional and county designated~~
29 ~~chemical dependency specialist~~) crisis responder shall, to the
30 extent permitted by law, notify a parent or guardian of the person
31 that an examination and evaluation has taken place and the results of
32 the examination. Nothing in this subsection prohibits the delivery of
33 additional, appropriate mental health examinations to the person
34 while the person is detained or confined.

35 If the designated (~~mental health professional~~) crisis responder
36 determines it is appropriate, the designated (~~mental health~~
37 ~~professional~~) crisis responder may refer the person to the local
38 behavioral health organization for follow-up services or the
39 department of social and health services or other community providers
40 for other services to the family and individual.

1 (3) Subsection (1) of this section does not apply to:
2 (a) Any student or employee of a private military academy when on
3 the property of the academy;
4 (b) Any person engaged in military, law enforcement, or school
5 district security activities. However, a person who is not a
6 commissioned law enforcement officer and who provides school security
7 services under the direction of a school administrator may not
8 possess a device listed in subsection (1)(f) of this section unless
9 he or she has successfully completed training in the use of such
10 devices that is equivalent to the training received by commissioned
11 law enforcement officers;
12 (c) Any person who is involved in a convention, showing,
13 demonstration, lecture, or firearms safety course authorized by
14 school authorities in which the firearms of collectors or instructors
15 are handled or displayed;
16 (d) Any person while the person is participating in a firearms or
17 air gun competition approved by the school or school district;
18 (e) Any person in possession of a pistol who has been issued a
19 license under RCW 9.41.070, or is exempt from the licensing
20 requirement by RCW 9.41.060, while picking up or dropping off a
21 student;
22 (f) Any nonstudent at least eighteen years of age legally in
23 possession of a firearm or dangerous weapon that is secured within an
24 attended vehicle or concealed from view within a locked unattended
25 vehicle while conducting legitimate business at the school;
26 (g) Any nonstudent at least eighteen years of age who is in
27 lawful possession of an unloaded firearm, secured in a vehicle while
28 conducting legitimate business at the school; or
29 (h) Any law enforcement officer of the federal, state, or local
30 government agency.
31 (4) Subsections (1)(c) and (d) of this section do not apply to
32 any person who possesses nun-chu-ka sticks, throwing stars, or other
33 dangerous weapons to be used in martial arts classes authorized to be
34 conducted on the school premises.
35 (5) Subsection (1)(f)(i) of this section does not apply to any
36 person who possesses a device listed in subsection (1)(f)(i) of this
37 section, if the device is possessed and used solely for the purpose
38 approved by a school for use in a school authorized event, lecture,
39 or activity conducted on the school premises.

1 (6) Except as provided in subsection (3)(b), (c), (f), and (h) of
2 this section, firearms are not permitted in a public or private
3 school building.

4 (7) "GUN-FREE ZONE" signs shall be posted around school
5 facilities giving warning of the prohibition of the possession of
6 firearms on school grounds.

7 **Sec. 404.** RCW 9.95.143 and 2004 c 166 s 10 are each amended to
8 read as follows:

9 When an offender receiving court-ordered mental health or
10 chemical dependency treatment or treatment ordered by the department
11 of corrections presents for treatment from a mental health or
12 chemical dependency treatment provider, the offender must disclose to
13 the mental health or chemical dependency treatment provider whether
14 he or she is subject to supervision by the department of corrections.
15 If an offender has received relief from disclosure pursuant to RCW
16 9.94A.562(~~(, 70.96A.155,)~~) or 71.05.132, the offender must provide
17 the mental health or chemical dependency treatment provider with a
18 copy of the order granting the relief.

19 **Sec. 405.** RCW 10.77.010 and 2014 c 225 s 58 are each amended to
20 read as follows:

21 As used in this chapter:

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

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

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

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

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

37 (6) "Designated (~~(mental health professional)~~) crisis responder"
38 has the same meaning as provided in RCW 71.05.020.

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

3 (8) "Developmental disabilities professional" means a person who
4 has specialized training and three years of experience in directly
5 treating or working with persons with developmental disabilities and
6 is a psychiatrist or psychologist, or a social worker, and such other
7 developmental disabilities professionals as may be defined by rules
8 adopted by the secretary.

9 (9) "Developmental disability" means the condition as defined in
10 RCW 71A.10.020(~~(4)~~) (5).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (18) "Professional person" means:

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

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

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

37 (19) "Registration records" include all the records of the
38 department, behavioral health organizations, treatment facilities,
39 and other persons providing services to the department, county

1 departments, or facilities which identify persons who are receiving
2 or who at any time have received services for mental illness.

3 (20) "Release" means legal termination of the court-ordered
4 commitment under the provisions of this chapter.

5 (21) "Secretary" means the secretary of the department of social
6 and health services or his or her designee.

7 (22) "Treatment" means any currently standardized medical or
8 mental health procedure including medication.

9 (23) "Treatment records" include registration and all other
10 records concerning persons who are receiving or who at any time have
11 received services for mental illness, which are maintained by the
12 department, by behavioral health organizations and their staffs, and
13 by treatment facilities. Treatment records do not include notes or
14 records maintained for personal use by a person providing treatment
15 services for the department, behavioral health organizations, or a
16 treatment facility if the notes or records are not available to
17 others.

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

28 **Sec. 406.** RCW 10.77.025 and 2000 c 94 s 13 are each amended to
29 read as follows:

30 (1) Whenever any person has been: (a) Committed to a correctional
31 facility or inpatient treatment under any provision of this chapter;
32 or (b) ordered to undergo alternative treatment following his or her
33 acquittal by reason of insanity of a crime charged, such commitment
34 or treatment cannot exceed the maximum possible penal sentence for
35 any offense charged for which the person was committed, or was
36 acquitted by reason of insanity.

37 (2) Whenever any person committed under any provision of this
38 chapter has not been released within seven days of the maximum
39 possible penal sentence under subsection (1) of this section, and the

1 professional person in charge of the facility believes that the
2 person presents a likelihood of serious harm or is gravely disabled
3 due to a mental disorder, the professional person shall, prior to the
4 expiration of the maximum penal sentence, notify the appropriate
5 ((county)) designated ((~~mental health professional~~)) crisis responder
6 of the impending expiration and provide a copy of all relevant
7 information regarding the person, including the likely release date
8 and shall indicate why the person should not be released.

9 (3) A ((county)) designated ((~~mental health professional~~)) crisis
10 responder who receives notice and records under subsection (2) of
11 this section shall, prior to the date of the expiration of the
12 maximum sentence, determine whether to initiate proceedings under
13 chapter 71.05 RCW.

14 **Sec. 407.** RCW 10.77.027 and 2004 c 166 s 3 are each amended to
15 read as follows:

16 When a ((county)) designated ((~~mental health professional~~))
17 crisis responder or a professional person has determined that a
18 person has a mental disorder, and is otherwise committable, the cause
19 of the person's mental disorder shall not make the person ineligible
20 for commitment under chapter 71.05 RCW.

21 **Sec. 408.** RCW 10.77.060 and 2012 c 256 s 3 are each amended to
22 read as follows:

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

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

37 (c) The evaluator shall assess the defendant in a jail, detention
38 facility, in the community, or in court to determine whether a period

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

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

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

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

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

39 (2) The court may direct that a qualified expert or professional
40 person retained by or appointed for the defendant be permitted to

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

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

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

11 (b) A diagnosis or description of the current mental status of
12 the defendant;

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

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

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

33 (f) An opinion as to whether the defendant should be evaluated by
34 a designated (~~mental health professional~~) crisis responder under
35 chapter 71.05 RCW.

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

1 **Sec. 409.** RCW 10.77.065 and 2015 1st sp.s. c 7 s 16 are each
2 amended to read as follows:

3 (1)(a)(i) The expert conducting the evaluation shall provide his
4 or her report and recommendation to the court in which the criminal
5 proceeding is pending. For a competency evaluation of a defendant who
6 is released from custody, if the evaluation cannot be completed
7 within twenty-one days due to a lack of cooperation by the defendant,
8 the evaluator shall notify the court that he or she is unable to
9 complete the evaluation because of such lack of cooperation.

10 (ii) A copy of the report and recommendation shall be provided to
11 the designated (~~mental health professional~~) crisis responder, the
12 prosecuting attorney, the defense attorney, and the professional
13 person at the local correctional facility where the defendant is
14 being held, or if there is no professional person, to the person
15 designated under (a)(iv) of this subsection. Upon request, the
16 evaluator shall also provide copies of any source documents relevant
17 to the evaluation to the designated (~~mental health professional~~)
18 crisis responder.

19 (iii) Any facility providing inpatient services related to
20 competency shall discharge the defendant as soon as the facility
21 determines that the defendant is competent to stand trial. Discharge
22 shall not be postponed during the writing and distribution of the
23 evaluation report. Distribution of an evaluation report by a facility
24 providing inpatient services shall ordinarily be accomplished within
25 two working days or less following the final evaluation of the
26 defendant. If the defendant is discharged to the custody of a local
27 correctional facility, the local correctional facility must continue
28 the medication regimen prescribed by the facility, when clinically
29 appropriate, unless the defendant refuses to cooperate with
30 medication and an involuntary medication order by the court has not
31 been entered.

32 (iv) If there is no professional person at the local correctional
33 facility, the local correctional facility shall designate a
34 professional person as defined in RCW 71.05.020 or, in cooperation
35 with the behavioral health organization, a professional person at the
36 behavioral health organization to receive the report and
37 recommendation.

38 (v) Upon commencement of a defendant's evaluation in the local
39 correctional facility, the local correctional facility must notify
40 the evaluator of the name of the professional person, or person

1 designated under (a)(iv) of this subsection, to receive the report
2 and recommendation.

3 (b) If the evaluator concludes, under RCW 10.77.060(3)(f), the
4 person should be evaluated by a designated (~~mental—health~~
5 ~~professional~~) crisis responder under chapter 71.05 RCW, the court
6 shall order such evaluation be conducted prior to release from
7 confinement when the person is acquitted or convicted and sentenced
8 to confinement for twenty-four months or less, or when charges are
9 dismissed pursuant to a finding of incompetent to stand trial.

10 (2) The designated (~~mental—health—professional~~) crisis
11 responder shall provide written notification within twenty-four hours
12 of the results of the determination whether to commence proceedings
13 under chapter 71.05 RCW. The notification shall be provided to the
14 persons identified in subsection (1)(a) of this section.

15 (3) The prosecuting attorney shall provide a copy of the results
16 of any proceedings commenced by the designated (~~mental—health~~
17 ~~professional~~) crisis responder under subsection (2) of this section
18 to the secretary.

19 (4) A facility conducting a civil commitment evaluation under RCW
20 10.77.086(4) or 10.77.088(1)(~~(b)~~) (c)(ii) that makes a
21 determination to release the person instead of filing a civil
22 commitment petition must provide written notice to the prosecutor and
23 defense attorney at least twenty-four hours prior to release. The
24 notice may be given by (~~electronic mail~~) email, facsimile, or other
25 means reasonably likely to communicate the information immediately.

26 (5) The fact of admission and all information and records
27 compiled, obtained, or maintained in the course of providing services
28 under this chapter may also be disclosed to the courts solely to
29 prevent the entry of any evaluation or treatment order that is
30 inconsistent with any order entered under chapter 71.05 RCW.

31 **Sec. 410.** RCW 10.77.084 and 2015 1st sp.s. c 7 s 4 are each
32 amended to read as follows:

33 (1)(a) If at any time during the pendency of an action and prior
34 to judgment the court finds, following a report as provided in RCW
35 10.77.060, a defendant is incompetent, the court shall order the
36 proceedings against the defendant be stayed except as provided in
37 subsection (4) of this section.

38 (b) The court may order a defendant who has been found to be
39 incompetent to undergo competency restoration treatment at a facility

1 designated by the department if the defendant is eligible under RCW
2 10.77.086 or 10.77.088. At the end of each competency restoration
3 period or at any time a professional person determines competency has
4 been, or is unlikely to be, restored, the defendant shall be returned
5 to court for a hearing, except that if the opinion of the
6 professional person is that the defendant remains incompetent and the
7 hearing is held before the expiration of the current competency
8 restoration period, the parties may agree to waive the defendant's
9 presence, to remote participation by the defendant at a hearing, or
10 to presentation of an agreed order in lieu of a hearing. The facility
11 shall promptly notify the court and all parties of the date on which
12 the competency restoration period commences and expires so that a
13 timely hearing date may be scheduled.

14 (c) If, following notice and hearing or entry of an agreed order
15 under (b) of this subsection, the court finds that competency has
16 been restored, the court shall lift the stay entered under (a) of
17 this subsection. If the court finds that competency has not been
18 restored, the court shall dismiss the proceedings without prejudice,
19 except that the court may order a further period of competency
20 restoration treatment if it finds that further treatment within the
21 time limits established by RCW 10.77.086 or 10.77.088 is likely to
22 restore competency, and a further period of treatment is allowed
23 under RCW 10.77.086 or 10.77.088.

24 (d) If at any time during the proceeding the court finds,
25 following notice and hearing, a defendant is not likely to regain
26 competency, the court shall dismiss the proceedings without prejudice
27 and refer the defendant for civil commitment evaluation or
28 proceedings if appropriate under RCW 10.77.065, 10.77.086, or
29 10.77.088.

30 (2) If the defendant is referred for evaluation by a designated
31 (~~mental health professional~~) crisis responder under this chapter,
32 the designated (~~mental health professional~~) crisis responder shall
33 provide prompt written notification of the results of the evaluation
34 and whether the person was detained. The notification shall be
35 provided to the court in which the criminal action was pending, the
36 prosecutor, the defense attorney in the criminal action, and the
37 facility that evaluated the defendant for competency.

38 (3) The fact that the defendant is unfit to proceed does not
39 preclude any pretrial proceedings which do not require the personal
40 participation of the defendant.

1 (4) A defendant receiving medication for either physical or
2 mental problems shall not be prohibited from standing trial, if the
3 medication either enables the defendant to understand the proceedings
4 against him or her and to assist in his or her own defense, or does
5 not disable him or her from so understanding and assisting in his or
6 her own defense.

7 (5) At or before the conclusion of any commitment period provided
8 for by this section, the facility providing evaluation and treatment
9 shall provide to the court a written report of evaluation which meets
10 the requirements of RCW 10.77.060(3). For defendants charged with a
11 felony, the report following the second competency restoration period
12 or first competency restoration period if the defendant's
13 incompetence is determined to be solely due to a developmental
14 disability or the evaluator concludes that the defendant is not
15 likely to regain competency must include an assessment of the
16 defendant's future dangerousness which is evidence-based regarding
17 predictive validity.

18 **Sec. 411.** RCW 10.77.088 and 2015 1st sp.s. c 7 s 6 are each
19 amended to read as follows:

20 (1)(a) If the defendant is charged with a nonfelony crime which
21 is a serious offense as identified in RCW 10.77.092 and found by the
22 court to be not competent, then the court:

23 (i) Shall commit the defendant to the custody of the secretary
24 who shall place such defendant in an appropriate facility of the
25 department for evaluation and treatment;

26 (ii) May alternatively order the defendant to undergo evaluation
27 and treatment at some other facility or provider as determined by the
28 department, or under the guidance and control of a professional
29 person. The facilities or providers may include community mental
30 health providers or other local facilities that contract with the
31 department and are willing and able to provide treatment under this
32 section. During the 2015-2017 fiscal biennium, the department may
33 contract with one or more cities or counties to provide competency
34 restoration services in a city or county jail if the city or county
35 jail is willing and able to serve as a location for competency
36 restoration services and if the secretary determines that there is an
37 emergent need for beds and documents the justification, including a
38 plan to address the emergency. Patients receiving competency
39 restoration services in a city or county jail must be physically

1 separated from other populations at the jail and restoration
2 treatment services must be provided as much as possible within a
3 therapeutic environment. The placement under (a)(i) and (ii) of this
4 subsection shall not exceed fourteen days in addition to any unused
5 time of the evaluation under RCW 10.77.060. The court shall compute
6 this total period and include its computation in the order. The
7 fourteen-day period plus any unused time of the evaluation under RCW
8 10.77.060 shall be considered to include only the time the defendant
9 is actually at the facility and shall be in addition to reasonable
10 time for transport to or from the facility;

11 (iii) May alternatively order that the defendant be placed on
12 conditional release for up to ninety days for mental health treatment
13 and restoration of competency; or

14 (iv) May order any combination of this subsection.

15 (b) If the court has determined or the parties agree that the
16 defendant is unlikely to regain competency, the court may dismiss the
17 charges without prejudice without ordering the defendant to undergo
18 restoration treatment, in which case the court shall order that the
19 defendant be referred for evaluation for civil commitment in the
20 manner provided in (c) of this subsection.

21 (c)(i) If the proceedings are dismissed under RCW 10.77.084 and
22 the defendant was on conditional release at the time of dismissal,
23 the court shall order the designated (~~mental health professional~~)
24 crisis responder within that county to evaluate the defendant
25 pursuant to chapter 71.05 RCW. The evaluation may be conducted in any
26 location chosen by the professional.

27 (ii) If the defendant was in custody and not on conditional
28 release at the time of dismissal, the defendant shall be detained and
29 sent to an evaluation and treatment facility for up to seventy-two
30 hours, excluding Saturdays, Sundays, and holidays, for evaluation for
31 purposes of filing a petition under chapter 71.05 RCW. The seventy-
32 two-hour period shall commence upon the next nonholiday weekday
33 following the court order and shall run to the end of the last
34 nonholiday weekday within the seventy-two-hour period.

35 (2) If the defendant is charged with a nonfelony crime that is
36 not a serious offense as defined in RCW 10.77.092:

37 The court may stay or dismiss proceedings and detain the
38 defendant for sufficient time to allow the designated (~~mental health
39 professional~~) crisis responder to evaluate the defendant and
40 consider initial detention proceedings under chapter 71.05 RCW. The

1 court must give notice to all parties at least twenty-four hours
2 before the dismissal of any proceeding under this subsection, and
3 provide an opportunity for a hearing on whether to dismiss the
4 proceedings.

5 **Sec. 412.** RCW 11.92.190 and 1996 c 249 s 11 are each amended to
6 read as follows:

7 No residential treatment facility which provides nursing or other
8 care may detain a person within such facility against their will. Any
9 court order, other than an order issued in accordance with the
10 involuntary treatment provisions of chapters 10.77, 71.05, and 72.23
11 RCW, which purports to authorize such involuntary detention or
12 purports to authorize a guardian or limited guardian to consent to
13 such involuntary detention on behalf of an incapacitated person shall
14 be void and of no force or effect. This section does not apply to the
15 detention of a minor as provided in chapter (~~(70.96A or)~~) 71.34 RCW.

16 Nothing in this section shall be construed to require a court
17 order authorizing placement of an incapacitated person in a
18 residential treatment facility if such order is not otherwise
19 required by law: PROVIDED, That notice of any residential placement
20 of an incapacitated person shall be served, either before or after
21 placement, by the guardian or limited guardian on such person, the
22 guardian ad litem of record, and any attorney of record.

23 **Sec. 413.** RCW 43.185C.255 and 2015 c 69 s 12 are each amended to
24 read as follows:

25 (1) The purpose of the multidisciplinary team is to assist in a
26 coordinated referral of the family to available social and health-
27 related services.

28 (2) The team shall have the authority to evaluate the juvenile,
29 and family members, if appropriate and agreed to by the parent, and
30 shall:

31 (a) With parental input, develop a plan of appropriate available
32 services and assist the family in obtaining those services;

33 (b) Make a referral to the designated(~~(—chemical—dependency~~
34 ~~specialist or the county designated mental health professional)~~)
35 crisis responder, if appropriate;

36 (c) Recommend no further intervention because the juvenile and
37 his or her family have resolved the problem causing the family
38 conflict; or

1 (d) With the parent's consent, work with them to achieve
2 reconciliation of the child and family.

3 (3) At the first meeting of the multidisciplinary team, it shall
4 choose a member to coordinate the team's efforts. The parent member
5 of the multidisciplinary team must agree with the choice of
6 coordinator. The team shall meet or communicate as often as necessary
7 to assist the family.

8 (4) The coordinator of the multidisciplinary team may assist in
9 filing a child in need of services petition when requested by the
10 parent or child or an at-risk youth petition when requested by the
11 parent. The multidisciplinary team shall have no standing as a party
12 in any action under this title.

13 (5) If the administrator is unable to contact the child's parent,
14 the multidisciplinary team may be used for assistance. If the parent
15 has not been contacted within five days the administrator shall
16 contact the department of social and health services and request the
17 case be reviewed for a dependency filing under chapter 13.34 RCW.

18 **Sec. 414.** RCW 18.83.110 and 2005 c 504 s 706 are each amended to
19 read as follows:

20 Confidential communications between a client and a psychologist
21 shall be privileged against compulsory disclosure to the same extent
22 and subject to the same conditions as confidential communications
23 between attorney and client, but this exception is subject to the
24 limitations under RCW (~~((70.96A.140 and))~~) 71.05.360 (8) and (9).

25 **Sec. 415.** RCW 43.20A.025 and 1998 c 296 s 34 are each amended to
26 read as follows:

27 The department of social and health services shall adopt rules
28 defining "appropriately trained professional person" for the purposes
29 of conducting mental health and chemical dependency evaluations under
30 RCW (~~((71.34.052(3), 71.34.054(1), 70.96A.245(3), and 70.96A.250(1))~~)
31 71.34.600(3) and 71.34.650(1)).

32 **Sec. 416.** RCW 70.02.010 and 2014 c 225 s 70 and 2014 c 220 s 4
33 are each reenacted and amended to read as follows:

34 The definitions in this section apply throughout this chapter
35 unless the context clearly requires otherwise.

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

1 (2) "Audit" means an assessment, evaluation, determination, or
2 investigation of a health care provider by a person not employed by
3 or affiliated with the provider to determine compliance with:
4 (a) Statutory, regulatory, fiscal, medical, or scientific
5 standards;
6 (b) A private or public program of payments to a health care
7 provider; or
8 (c) Requirements for licensing, accreditation, or certification.
9 (3) "Commitment" has the same meaning as in RCW 71.05.020.
10 (4) "Custody" has the same meaning as in RCW 71.05.020.
11 (5) "Deidentified" means health information that does not
12 identify an individual and with respect to which there is no
13 reasonable basis to believe that the information can be used to
14 identify an individual.
15 (6) "Department" means the department of social and health
16 services.
17 (7) "Designated (~~mental health professional~~) crisis responder"
18 has the same meaning as in RCW 71.05.020 or 71.34.020, as applicable.
19 (8) "Detention" or "detain" has the same meaning as in RCW
20 71.05.020.
21 (9) "Directory information" means information disclosing the
22 presence, and for the purpose of identification, the name, location
23 within a health care facility, and the general health condition of a
24 particular patient who is a patient in a health care facility or who
25 is currently receiving emergency health care in a health care
26 facility.
27 (10) "Discharge" has the same meaning as in RCW 71.05.020.
28 (11) "Evaluation and treatment facility" has the same meaning as
29 in RCW 71.05.020 or 71.34.020, as applicable.
30 (12) "Federal, state, or local law enforcement authorities" means
31 an officer of any agency or authority in the United States, a state,
32 a tribe, a territory, or a political subdivision of a state, a tribe,
33 or a territory who is empowered by law to: (a) Investigate or conduct
34 an official inquiry into a potential criminal violation of law; or
35 (b) prosecute or otherwise conduct a criminal proceeding arising from
36 an alleged violation of law.
37 (13) "General health condition" means the patient's health status
38 described in terms of "critical," "poor," "fair," "good,"
39 "excellent," or terms denoting similar conditions.

1 (14) "Health care" means any care, service, or procedure provided
2 by a health care provider:

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

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

6 (15) "Health care facility" means a hospital, clinic, nursing
7 home, laboratory, office, or similar place where a health care
8 provider provides health care to patients.

9 (16) "Health care information" means any information, whether
10 oral or recorded in any form or medium, that identifies or can
11 readily be associated with the identity of a patient and directly
12 relates to the patient's health care, including a patient's
13 deoxyribonucleic acid and identified sequence of chemical base pairs.
14 The term includes any required accounting of disclosures of health
15 care information.

16 (17) "Health care operations" means any of the following
17 activities of a health care provider, health care facility, or third-
18 party payor to the extent that the activities are related to
19 functions that make an entity a health care provider, a health care
20 facility, or a third-party payor:

21 (a) Conducting: Quality assessment and improvement activities,
22 including outcomes evaluation and development of clinical guidelines,
23 if the obtaining of generalizable knowledge is not the primary
24 purpose of any studies resulting from such activities; population-
25 based activities relating to improving health or reducing health care
26 costs, protocol development, case management and care coordination,
27 contacting of health care providers and patients with information
28 about treatment alternatives; and related functions that do not
29 include treatment;

30 (b) Reviewing the competence or qualifications of health care
31 professionals, evaluating practitioner and provider performance and
32 third-party payor performance, conducting training programs in which
33 students, trainees, or practitioners in areas of health care learn
34 under supervision to practice or improve their skills as health care
35 providers, training of nonhealth care professionals, accreditation,
36 certification, licensing, or credentialing activities;

37 (c) Underwriting, premium rating, and other activities relating
38 to the creation, renewal, or replacement of a contract of health
39 insurance or health benefits, and ceding, securing, or placing a
40 contract for reinsurance of risk relating to claims for health care,

1 including stop-loss insurance and excess of loss insurance, if any
2 applicable legal requirements are met;

3 (d) Conducting or arranging for medical review, legal services,
4 and auditing functions, including fraud and abuse detection and
5 compliance programs;

6 (e) Business planning and development, such as conducting cost-
7 management and planning-related analyses related to managing and
8 operating the health care facility or third-party payor, including
9 formulary development and administration, development, or improvement
10 of methods of payment or coverage policies; and

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

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

16 (ii) Customer service, including the provision of data analyses
17 for policy holders, plan sponsors, or other customers, provided that
18 health care information is not disclosed to such policy holder, plan
19 sponsor, or customer;

20 (iii) Resolution of internal grievances;

21 (iv) The sale, transfer, merger, or consolidation of all or part
22 of a health care provider, health care facility, or third-party payor
23 with another health care provider, health care facility, or third-
24 party payor or an entity that following such activity will become a
25 health care provider, health care facility, or third-party payor, and
26 due diligence related to such activity; and

27 (v) Consistent with applicable legal requirements, creating
28 deidentified health care information or a limited dataset for the
29 benefit of the health care provider, health care facility, or third-
30 party payor.

31 (18) "Health care provider" means a person who is licensed,
32 certified, registered, or otherwise authorized by the law of this
33 state to provide health care in the ordinary course of business or
34 practice of a profession.

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

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

38 (21) "Information and records related to mental health services"
39 means a type of health care information that relates to all
40 information and records compiled, obtained, or maintained in the

1 course of providing services by a mental health service agency or
2 mental health professional to persons who are receiving or have
3 received services for mental illness. The term includes mental health
4 information contained in a medical bill, registration records, as
5 defined in RCW 71.05.020, and all other records regarding the person
6 maintained by the department, by regional support networks and their
7 staff, and by treatment facilities. The term further includes
8 documents of legal proceedings under chapter 71.05, 71.34, or 10.77
9 RCW, or somatic health care information. For health care information
10 maintained by a hospital as defined in RCW 70.41.020 or a health care
11 facility or health care provider that participates with a hospital in
12 an organized health care arrangement defined under federal law,
13 "information and records related to mental health services" is
14 limited to information and records of services provided by a mental
15 health professional or information and records of services created by
16 a hospital-operated (~~community mental~~) behavioral health program as
17 defined in RCW 71.24.025(~~(+6)~~). The term does not include
18 psychotherapy notes.

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

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

30 (24) "Legal counsel" has the same meaning as in RCW 71.05.020.

31 (25) "Local public health officer" has the same meaning as in RCW
32 70.24.017.

33 (26) "Maintain," as related to health care information, means to
34 hold, possess, preserve, retain, store, or control that information.

35 (27) "Mental health professional" means a psychiatrist,
36 psychologist, psychiatric advanced registered nurse practitioner,
37 psychiatric nurse, or social worker, and such other mental health
38 professionals as may be defined by rules adopted by the secretary of
39 social and health services under chapter 71.05 RCW, whether that
40 person works in a private or public setting.

1 (28) "Mental health service agency" means a public or private
2 agency that provides services to persons with mental disorders as
3 defined under RCW 71.05.020 or 71.34.020 and receives funding from
4 public sources. This includes evaluation and treatment facilities as
5 defined in RCW 71.34.020, community mental health service delivery
6 systems, or (~~community mental~~) behavioral health programs, as
7 defined in RCW 71.24.025, and facilities conducting competency
8 evaluations and restoration under chapter 10.77 RCW.

9 (29) "Minor" has the same meaning as in RCW 71.34.020.

10 (30) "Parent" has the same meaning as in RCW 71.34.020.

11 (31) "Patient" means an individual who receives or has received
12 health care. The term includes a deceased individual who has received
13 health care.

14 (32) "Payment" means:

15 (a) The activities undertaken by:

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

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

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

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

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

30 (iii) Billing, claims management, collection activities,
31 obtaining payment under a contract for reinsurance, including stop-
32 loss insurance and excess of loss insurance, and related health care
33 data processing;

34 (iv) Review of health care services with respect to medical
35 necessity, coverage under a health plan, appropriateness of care, or
36 justification of charges;

37 (v) Utilization review activities, including precertification and
38 preauthorization of services, and concurrent and retrospective review
39 of services; and

1 (vi) Disclosure to consumer reporting agencies of any of the
2 following health care information relating to collection of premiums
3 or reimbursement:

4 (A) Name and address;

5 (B) Date of birth;

6 (C) Social security number;

7 (D) Payment history;

8 (E) Account number; and

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

11 (33) "Person" means an individual, corporation, business trust,
12 estate, trust, partnership, association, joint venture, government,
13 governmental subdivision or agency, or any other legal or commercial
14 entity.

15 (34) "Professional person" has the same meaning as in RCW
16 71.05.020.

17 (35) "Psychiatric advanced registered nurse practitioner" has the
18 same meaning as in RCW 71.05.020.

19 (36) "Psychotherapy notes" means notes recorded, in any medium,
20 by a mental health professional documenting or analyzing the contents
21 of conversations during a private counseling session or group, joint,
22 or family counseling session, and that are separated from the rest of
23 the individual's medical record. The term excludes mediation
24 prescription and monitoring, counseling session start and stop times,
25 the modalities and frequencies of treatment furnished, results of
26 clinical tests, and any summary of the following items: Diagnosis,
27 functional status, the treatment plan, symptoms, prognosis, and
28 progress to date.

29 (37) "Reasonable fee" means the charges for duplicating or
30 searching the record, but shall not exceed sixty-five cents per page
31 for the first thirty pages and fifty cents per page for all other
32 pages. In addition, a clerical fee for searching and handling may be
33 charged not to exceed fifteen dollars. These amounts shall be
34 adjusted biennially in accordance with changes in the consumer price
35 index, all consumers, for Seattle-Tacoma metropolitan statistical
36 area as determined by the secretary of health. However, where editing
37 of records by a health care provider is required by statute and is
38 done by the provider personally, the fee may be the usual and
39 customary charge for a basic office visit.

40 (38) "Release" has the same meaning as in RCW 71.05.020.

1 (39) "Resource management services" has the same meaning as in
2 RCW 71.05.020.

3 (40) "Serious violent offense" has the same meaning as in RCW
4 71.05.020.

5 (41) "Sexually transmitted infection" or "sexually transmitted
6 disease" has the same meaning as "sexually transmitted disease" in
7 RCW 70.24.017.

8 (42) "Test for a sexually transmitted disease" has the same
9 meaning as in RCW 70.24.017.

10 (43) "Third-party payor" means an insurer regulated under Title
11 48 RCW authorized to transact business in this state or other
12 jurisdiction, including a health care service contractor, and health
13 maintenance organization; or an employee welfare benefit plan,
14 excluding fitness or wellness plans; or a state or federal health
15 benefit program.

16 (44) "Treatment" means the provision, coordination, or management
17 of health care and related services by one or more health care
18 providers or health care facilities, including the coordination or
19 management of health care by a health care provider or health care
20 facility with a third party; consultation between health care
21 providers or health care facilities relating to a patient; or the
22 referral of a patient for health care from one health care provider
23 or health care facility to another.

24 **Sec. 417.** RCW 70.02.230 and 2014 c 225 s 71 and 2014 c 220 s 9
25 are each reenacted and amended to read as follows:

26 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
27 (~~(70.96A.150,)~~) 74.09.295, 70.02.210, 70.02.240, 70.02.250, and
28 70.02.260, or pursuant to a valid authorization under RCW 70.02.030,
29 the fact of admission to a provider for mental health services and
30 all information and records compiled, obtained, or maintained in the
31 course of providing mental health services to either voluntary or
32 involuntary recipients of services at public or private agencies must
33 be confidential.

34 (2) Information and records related to mental health services,
35 other than those obtained through treatment under chapter 71.34 RCW,
36 may be disclosed only:

37 (a) In communications between qualified professional persons to
38 meet the requirements of chapter 71.05 RCW, in the provision of

1 services or appropriate referrals, or in the course of guardianship
2 proceedings if provided to a professional person:

3 (i) Employed by the facility;

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

5 (iii) Who is a designated (~~mental health professional~~) crisis
6 responder;

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

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

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

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

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

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

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

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

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

33 (d)(i) To the courts as necessary to the administration of
34 chapter 71.05 RCW or to a court ordering an evaluation or treatment
35 under chapter 10.77 RCW solely for the purpose of preventing the
36 entry of any evaluation or treatment order that is inconsistent with
37 any order entered under chapter 71.05 RCW.

38 (ii) To a court or its designee in which a motion under chapter
39 10.77 RCW has been made for involuntary medication of a defendant for
40 the purpose of competency restoration.

1 (iii) Disclosure under this subsection is mandatory for the
2 purpose of the federal health insurance portability and
3 accountability act;

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

17 (ii) Disclosure under this subsection is mandatory for the
18 purposes of the federal health insurance portability and
19 accountability act;

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

21 (g) To the prosecuting attorney as necessary to carry out the
22 responsibilities of the office under RCW 71.05.330(2),
23 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
24 access to records regarding the committed person's treatment and
25 prognosis, medication, behavior problems, and other records relevant
26 to the issue of whether treatment less restrictive than inpatient
27 treatment is in the best interest of the committed person or others.
28 Information must be disclosed only after giving notice to the
29 committed person and the person's counsel;

30 (h)(i) To appropriate law enforcement agencies and to a person,
31 when the identity of the person is known to the public or private
32 agency, whose health and safety has been threatened, or who is known
33 to have been repeatedly harassed, by the patient. The person may
34 designate a representative to receive the disclosure. The disclosure
35 must be made by the professional person in charge of the public or
36 private agency or his or her designee and must include the dates of
37 commitment, admission, discharge, or release, authorized or
38 unauthorized absence from the agency's facility, and only any other
39 information that is pertinent to the threat or harassment. The agency
40 or its employees are not civilly liable for the decision to disclose

1 or not, so long as the decision was reached in good faith and without
2 gross negligence.

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 all necessary and relevant information in the event of a crisis or
8 emergent situation that poses a significant and imminent risk to the
9 public. The mental health service agency or its employees are not
10 civilly liable for the decision to disclose or not so long as the
11 decision was reached in good faith and without gross negligence.

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

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

16 (k) Upon the death of a person. The person's next of kin,
17 personal representative, guardian, or conservator, if any, must be
18 notified. Next of kin who are of legal age and competent must be
19 notified under this section in the following order: Spouse, parents,
20 children, brothers and sisters, and other relatives according to the
21 degree of relation. Access to all records and information compiled,
22 obtained, or maintained in the course of providing services to a
23 deceased patient are governed by RCW 70.02.140;

24 (l) To mark headstones or otherwise memorialize patients interred
25 at state hospital cemeteries. The department of social and health
26 services shall make available the name, date of birth, and date of
27 death of patients buried in state hospital cemeteries fifty years
28 after the death of a patient;

29 (m) To law enforcement officers and to prosecuting attorneys as
30 are necessary to enforce RCW 9.41.040(2)(a)(~~(ii)~~) (iii). The extent
31 of information that may be released is limited as follows:

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

37 (ii) The law enforcement and prosecuting attorneys may only
38 release the information obtained to the person's attorney as required
39 by court rule and to a jury or judge, if a jury is waived, that

1 presides over any trial at which the person is charged with violating
2 RCW 9.41.040(2)(a)(~~(ii)~~) (iii);

3 (iii) Disclosure under this subsection is mandatory for the
4 purposes of the federal health insurance portability and
5 accountability act;

6 (n) When a patient would otherwise be subject to the provisions
7 of this section and disclosure is necessary for the protection of the
8 patient or others due to his or her unauthorized disappearance from
9 the facility, and his or her whereabouts is unknown, notice of the
10 disappearance, along with relevant information, may be made to
11 relatives, the department of corrections when the person is under the
12 supervision of the department, and governmental law enforcement
13 agencies designated by the physician or psychiatric advanced
14 registered nurse practitioner in charge of the patient or the
15 professional person in charge of the facility, or his or her
16 professional designee;

17 (o) Pursuant to lawful order of a court;

18 (p) To qualified staff members of the department, to the director
19 of behavioral health organizations, to resource management services
20 responsible for serving a patient, or to service providers designated
21 by resource management services as necessary to determine the
22 progress and adequacy of treatment and to determine whether the
23 person should be transferred to a less restrictive or more
24 appropriate treatment modality or facility;

25 (q) Within the mental health service agency where the patient is
26 receiving treatment, confidential information may be disclosed to
27 persons employed, serving in bona fide training programs, or
28 participating in supervised volunteer programs, at the facility when
29 it is necessary to perform their duties;

30 (r) Within the department as necessary to coordinate treatment
31 for mental illness, developmental disabilities, alcoholism, or drug
32 abuse of persons who are under the supervision of the department;

33 (s) To a licensed physician or psychiatric advanced registered
34 nurse practitioner who has determined that the life or health of the
35 person is in danger and that treatment without the information and
36 records related to mental health services could be injurious to the
37 patient's health. Disclosure must be limited to the portions of the
38 records necessary to meet the medical emergency;

39 (t) Consistent with the requirements of the federal health
40 information portability and accountability act, to a licensed mental

1 health professional or a health care professional licensed under
2 chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is
3 providing care to a person, or to whom a person has been referred for
4 evaluation or treatment, to assure coordinated care and treatment of
5 that person. Psychotherapy notes may not be released without
6 authorization of the person who is the subject of the request for
7 release of information;

8 (u) To administrative and office support staff designated to
9 obtain medical records for those licensed professionals listed in (t)
10 of this subsection;

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

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

26 (x) To staff members of the protection and advocacy agency or to
27 staff members of a private, nonprofit corporation for the purpose of
28 protecting and advocating the rights of persons with mental disorders
29 or developmental disabilities. Resource management services may limit
30 the release of information to the name, birthdate, and county of
31 residence of the patient, information regarding whether the patient
32 was voluntarily admitted, or involuntarily committed, the date and
33 place of admission, placement, or commitment, the name and address of
34 a guardian of the patient, and the date and place of the guardian's
35 appointment. Any staff member who wishes to obtain additional
36 information must notify the patient's resource management services in
37 writing of the request and of the resource management services' right
38 to object. The staff member shall send the notice by mail to the
39 guardian's address. If the guardian does not object in writing within
40 fifteen days after the notice is mailed, the staff member may obtain

1 the additional information. If the guardian objects in writing within
2 fifteen days after the notice is mailed, the staff member may not
3 obtain the additional information;

4 (y) To all current treating providers of the patient with
5 prescriptive authority who have written a prescription for the
6 patient within the last twelve months. For purposes of coordinating
7 health care, the department may release without written authorization
8 of the patient, information acquired for billing and collection
9 purposes as described in RCW 70.02.050(1)(d). The department shall
10 notify the patient that billing and collection information has been
11 released to named providers, and provide the substance of the
12 information released and the dates of such release. The department
13 may not release counseling, inpatient psychiatric hospitalization, or
14 drug and alcohol treatment information without a signed written
15 release from the client;

16 (z)(i) To the secretary of social and health services for either
17 program evaluation or research, or both so long as the secretary
18 adopts rules for the conduct of the evaluation or research, or both.
19 Such rules must include, but need not be limited to, the requirement
20 that all evaluators and researchers sign an oath of confidentiality
21 substantially as follows:

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

29 I recognize that unauthorized release of confidential information
30 may subject me to civil liability under the provisions of state law.

31 /s/"

32 (ii) Nothing in this chapter may be construed to prohibit the
33 compilation and publication of statistical data for use by government
34 or researchers under standards, including standards to assure
35 maintenance of confidentiality, set forth by the secretary.

36 (3) Whenever federal law or federal regulations restrict the
37 release of information contained in the information and records
38 related to mental health services of any patient who receives
39 treatment for chemical dependency, the department may restrict the

1 release of the information as necessary to comply with federal law
2 and regulations.

3 (4) Civil liability and immunity for the release of information
4 about a particular person who is committed to the department of
5 social and health services under RCW 71.05.280(3) and
6 71.05.320(~~(+3)~~) (4)(c) after dismissal of a sex offense as defined
7 in RCW 9.94A.030, is governed by RCW 4.24.550.

8 (5) The fact of admission to a provider of mental health
9 services, as well as all records, files, evidence, findings, or
10 orders made, prepared, collected, or maintained pursuant to chapter
11 71.05 RCW are not admissible as evidence in any legal proceeding
12 outside that chapter without the written authorization of the person
13 who was the subject of the proceeding except as provided in RCW
14 70.02.260, in a subsequent criminal prosecution of a person committed
15 pursuant to RCW 71.05.280(3) or 71.05.320(~~(+3)~~) (4)(c) on charges
16 that were dismissed pursuant to chapter 10.77 RCW due to incompetency
17 to stand trial, in a civil commitment proceeding pursuant to chapter
18 71.09 RCW, or, in the case of a minor, a guardianship or dependency
19 proceeding. The records and files maintained in any court proceeding
20 pursuant to chapter 71.05 RCW must be confidential and available
21 subsequent to such proceedings only to the person who was the subject
22 of the proceeding or his or her attorney. In addition, the court may
23 order the subsequent release or use of such records or files only
24 upon good cause shown if the court finds that appropriate safeguards
25 for strict confidentiality are and will be maintained.

26 (6)(a) Except as provided in RCW 4.24.550, any person may bring
27 an action against an individual who has willfully released
28 confidential information or records concerning him or her in
29 violation of the provisions of this section, for the greater of the
30 following amounts:

31 (i) One thousand dollars; or

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

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

36 (c) Any person may bring an action to enjoin the release of
37 confidential information or records concerning him or her or his or
38 her ward, in violation of the provisions of this section, and may in
39 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. 418.** RCW 70.48.475 and 2004 c 166 s 14 are each amended to
7 read as follows:

8 (1) A person having charge of a jail, or that person's designee,
9 shall notify the (~~county designated mental health professional or~~
10 ~~the designated chemical dependency specialist~~) designated crisis
11 responder seventy-two hours prior to the release to the community of
12 an offender or defendant who was subject to a discharge review under
13 RCW 71.05.232. If the person having charge of the jail does not
14 receive seventy-two hours notice of the release, the notification to
15 the (~~county designated mental health professional or the designated~~
16 ~~chemical dependency specialist~~) designated crisis responder shall be
17 made as soon as reasonably possible, but not later than the actual
18 release to the community of the defendant or offender.

19 (2) When a person having charge of a jail, or that person's
20 designee, releases an offender or defendant who was the subject of a
21 discharge review under RCW 71.05.232, the person having charge of a
22 jail, or that person's designee, shall notify the state hospital from
23 which the offender or defendant was released.

24 **Sec. 419.** RCW 70.97.010 and 2014 c 225 s 78 are each amended to
25 read as follows:

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

28 (1) "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 (2) "Attending staff" means any person on the staff of a public
33 or private agency having responsibility for the care and treatment of
34 a patient.

35 (3) "Chemical dependency" means alcoholism, drug addiction, or
36 dependence on alcohol and one or more other psychoactive chemicals,
37 as the context requires and as those terms are defined in chapter
38 (~~70.96A~~) 71.05 RCW.

1 (4) "Chemical dependency professional" means a person certified
2 as a chemical dependency professional by the department of health
3 under chapter 18.205 RCW.

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

7 (6) "Conditional release" means a modification of a commitment
8 that may be revoked upon violation of any of its terms.

9 (7) "Custody" means involuntary detention under chapter 71.05
10 (~~or 70.96A~~) RCW, uninterrupted by any period of unconditional
11 release from commitment from a facility providing involuntary care
12 and treatment.

13 (8) "Department" means the department of social and health
14 services.

15 (9) "Designated crisis responder" (~~means a designated mental~~
16 ~~health professional, a designated chemical dependency specialist, or~~
17 ~~a designated crisis responder as those terms are defined in chapter~~
18 ~~70.96A, 71.05, or 70.96B RCW~~) has the same meaning as in chapter
19 71.05 RCW.

20 (10) "Detention" or "detain" means the lawful confinement of an
21 individual under chapter (~~70.96A or~~) 71.05 RCW.

22 (11) "Discharge" means the termination of facility authority. The
23 commitment may remain in place, be terminated, or be amended by court
24 order.

25 (12) "Enhanced services facility" means a facility that provides
26 treatment and services to persons for whom acute inpatient treatment
27 is not medically necessary and who have been determined by the
28 department to be inappropriate for placement in other licensed
29 facilities due to the complex needs that result in behavioral and
30 security issues.

31 (13) "Expanded community services program" means a nonsecure
32 program of enhanced behavioral and residential support provided to
33 long-term and residential care providers serving specifically
34 eligible clients who would otherwise be at risk for hospitalization
35 at state hospital geriatric units.

36 (14) "Facility" means an enhanced services facility.

37 (15) "Gravely disabled" means a condition in which an individual,
38 as a result of a mental disorder, as a result of the use of alcohol
39 or other psychoactive chemicals, or both:

1 (a) Is in danger of serious physical harm resulting from a
2 failure to provide for his or her essential human needs of health or
3 safety; or

4 (b) Manifests severe deterioration in routine functioning
5 evidenced by repeated and escalating loss of cognitive or volitional
6 control over his or her actions and is not receiving such care as is
7 essential for his or her health or safety.

8 (16) "History of one or more violent acts" refers to the period
9 of time ten years before the filing of a petition under this
10 chapter((~~7~~)) or chapter ((~~70.96A-01~~)) 71.05 RCW, excluding any time
11 spent, but not any violent acts committed, in a mental health
12 facility or a long-term alcoholism or drug treatment facility, or in
13 confinement as a result of a criminal conviction.

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

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

18 (a) A substantial risk that:

19 (i) Physical harm will be inflicted by an individual upon his or
20 her own person, as evidenced by threats or attempts to commit suicide
21 or inflict physical harm on oneself;

22 (ii) Physical harm will be inflicted by an individual upon
23 another, as evidenced by behavior that has caused such harm or that
24 places another person or persons in reasonable fear of sustaining
25 such harm; or

26 (iii) Physical harm will be inflicted by an individual upon the
27 property of others, as evidenced by behavior that has caused
28 substantial loss or damage to the property of others; or

29 (b) The individual has threatened the physical safety of another
30 and has a history of one or more violent acts.

31 (19) "Mental disorder" means any organic, mental, or emotional
32 impairment that has substantial adverse effects on an individual's
33 cognitive or volitional functions.

34 (20) "Mental health professional" means a psychiatrist,
35 psychologist, psychiatric nurse, or social worker, and such other
36 mental health professionals as may be defined by rules adopted by the
37 secretary under the authority of chapter 71.05 RCW.

38 (21) "Professional person" means a mental health professional and
39 also means a physician, registered nurse, and such others as may be

1 defined in rules adopted by the secretary pursuant to the provisions
2 of this chapter.

3 (22) "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 (23) "Psychologist" means a person who has been licensed as a
10 psychologist under chapter 18.83 RCW.

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

17 (25) "Release" means legal termination of the commitment under
18 chapter ((70.96A or)) 71.05 RCW.

19 (26) "Resident" means a person admitted to an enhanced services
20 facility.

21 (27) "Secretary" means the secretary of the department or the
22 secretary's designee.

23 (28) "Significant change" means:

24 (a) A deterioration in a resident's physical, mental, or
25 psychosocial condition that has caused or is likely to cause clinical
26 complications or life-threatening conditions; or

27 (b) An improvement in the resident's physical, mental, or
28 psychosocial condition that may make the resident eligible for
29 release or for treatment in a less intensive or less secure setting.

30 (29) "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 (30) "Treatment" means the broad range of emergency,
34 detoxification, residential, inpatient, and outpatient services and
35 care, including diagnostic evaluation, mental health or chemical
36 dependency education and counseling, medical, psychiatric,
37 psychological, and social service care, vocational rehabilitation,
38 and career counseling, which may be extended to persons with mental
39 disorders, chemical dependency disorders, or both, and their
40 families.

1 (31) "Treatment records" include registration and all other
2 records concerning individuals who are receiving or who at any time
3 have received services for mental illness, which are maintained by
4 the department, by behavioral health organizations and their staffs,
5 and by treatment facilities. "Treatment records" do not include notes
6 or records maintained for personal use by an individual providing
7 treatment services for the department, behavioral health
8 organizations, or a treatment facility if the notes or records are
9 not available to others.

10 (32) "Violent act" means behavior that resulted in homicide,
11 attempted suicide, nonfatal injuries, or substantial damage to
12 property.

13 **Sec. 420.** RCW 71.05.660 and 2013 c 200 s 21 are each amended to
14 read as follows:

15 Nothing in this chapter or chapter 70.02(~~(, 70.96A,)~~) or 71.34(~~(, 70.96B)~~)
16 ~~or 70.96B~~) RCW shall be construed to interfere with communications
17 between physicians, psychiatric advanced registered nurse
18 practitioners, or psychologists and patients and attorneys and
19 clients.

20 **Sec. 421.** RCW 71.24.045 and 2014 c 225 s 13 are each amended to
21 read as follows:

22 The behavioral health organization shall:

23 (1) Contract as needed with licensed service providers. The
24 behavioral health organization may, in the absence of a licensed
25 service provider entity, become a licensed service provider entity
26 pursuant to minimum standards required for licensing by the
27 department for the purpose of providing services not available from
28 licensed service providers;

29 (2) Operate as a licensed service provider if it deems that doing
30 so is more efficient and cost effective than contracting for
31 services. When doing so, the behavioral health organization shall
32 comply with rules promulgated by the secretary that shall provide
33 measurements to determine when a behavioral health organization
34 provided service is more efficient and cost effective;

35 (3) Monitor and perform biennial fiscal audits of licensed
36 service providers who have contracted with the behavioral health
37 organization to provide services required by this chapter. The
38 monitoring and audits shall be performed by means of a formal process

1 which insures that the licensed service providers and professionals
2 designated in this subsection meet the terms of their contracts;

3 (4) Establish reasonable limitations on administrative costs for
4 agencies that contract with the behavioral health organization;

5 (5) Assure that the special needs of minorities, older adults,
6 individuals with disabilities, children, and low-income persons are
7 met within the priorities established in this chapter;

8 (6) Maintain patient tracking information in a central location
9 as required for resource management services and the department's
10 information system;

11 (7) Collaborate to ensure that policies do not result in an
12 adverse shift of persons with mental illness into state and local
13 correctional facilities;

14 (8) Work with the department to expedite the enrollment or
15 reenrollment of eligible persons leaving state or local correctional
16 facilities and institutions for mental diseases;

17 (9) Work closely with the (~~county designated mental health~~
18 ~~professional or county~~) designated crisis responder to maximize
19 appropriate placement of persons into community services; and

20 (10) Coordinate services for individuals who have received
21 services through the community mental health system and who become
22 patients at a state psychiatric hospital to ensure they are
23 transitioned into the community in accordance with mutually agreed
24 upon discharge plans and upon determination by the medical director
25 of the state psychiatric hospital that they no longer need intensive
26 inpatient care.

27 **Sec. 422.** RCW 71.24.330 and 2015 c 250 s 19 are each amended to
28 read as follows:

29 (1)(a) Contracts between a behavioral health organization and the
30 department shall include mechanisms for monitoring performance under
31 the contract and remedies for failure to substantially comply with
32 the requirements of the contract including, but not limited to,
33 financial penalties, termination of the contract, and reprourement
34 of the contract.

35 (b) The department shall incorporate the criteria to measure the
36 performance of service coordination organizations into contracts with
37 behavioral health organizations as provided in chapter 70.320 RCW.

38 (2) The behavioral health organization procurement processes
39 shall encourage the preservation of infrastructure previously

1 purchased by the community mental health service delivery system, the
2 maintenance of linkages between other services and delivery systems,
3 and maximization of the use of available funds for services versus
4 profits. However, a behavioral health organization selected through
5 the procurement process is not required to contract for services with
6 any county-owned or operated facility. The behavioral health
7 organization procurement process shall provide that public funds
8 appropriated by the legislature shall not be used to promote or
9 deter, encourage, or discourage employees from exercising their
10 rights under Title 29, chapter 7, subchapter II, United States Code
11 or chapter 41.56 RCW.

12 (3) In addition to the requirements of RCW 71.24.035, contracts
13 shall:

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

17 (b) Require effective collaboration with law enforcement,
18 criminal justice agencies, and the chemical dependency treatment
19 system;

20 (c) Require substantial implementation of department adopted
21 integrated screening and assessment process and matrix of best
22 practices;

23 (d) Maintain the decision-making independence of designated
24 (~~mental health professionals~~) crisis responders;

25 (e) Except at the discretion of the secretary or as specified in
26 the biennial budget, require behavioral health organizations to pay
27 the state for the costs associated with individuals who are being
28 served on the grounds of the state hospitals and who are not
29 receiving long-term inpatient care as defined in RCW 71.24.025;

30 (f) Include a negotiated alternative dispute resolution clause;

31 (g) Include a provision requiring either party to provide one
32 hundred eighty days' notice of any issue that may cause either party
33 to voluntarily terminate, refuse to renew, or refuse to sign a
34 mandatory amendment to the contract to act as a behavioral health
35 organization. If either party decides to voluntarily terminate,
36 refuse to renew, or refuse to sign a mandatory amendment to the
37 contract to serve as a behavioral health organization they shall
38 provide ninety days' advance notice in writing to the other party;

39 (h) Require behavioral health organizations to provide services
40 as identified in RCW 71.05.585 to individuals committed for

1 involuntary commitment under less restrictive alternative court
2 orders when:

3 (i) The individual is enrolled in the medicaid program and meets
4 behavioral health organization access to care standards; or

5 (ii) The individual is not enrolled in medicaid, does not have
6 other insurance which can pay for the services, and the behavioral
7 health organization has adequate available resources to provide the
8 services; and

9 (i) Establish caseload guidelines for care coordinators who
10 supervise less restrictive alternative orders and guidelines for
11 response times during and immediately following periods of
12 hospitalization or incarceration.

13 **Sec. 423.** RCW 71.32.080 and 2006 c 108 s 5 are each amended to
14 read as follows:

15 (1)(a) A principal with capacity may, by written statement by the
16 principal or at the principal's direction in the principal's
17 presence, revoke a directive in whole or in part.

18 (b) An incapacitated principal may revoke a directive only if he
19 or she elected at the time of executing the directive to be able to
20 revoke when incapacitated.

21 (2) The revocation need not follow any specific form so long as
22 it is written and the intent of the principal can be discerned. In
23 the case of a directive that is stored in the health care
24 declarations registry created by RCW 70.122.130, the revocation may
25 be by an online method established by the department of health.
26 Failure to use the online method of revocation for a directive that
27 is stored in the registry does not invalidate a revocation that is
28 made by another method described under this section.

29 (3) The principal shall provide a copy of his or her written
30 statement of revocation to his or her agent, if any, and to each
31 health care provider, professional person, or health care facility
32 that received a copy of the directive from the principal.

33 (4) The written statement of revocation is effective:

34 (a) As to a health care provider, professional person, or health
35 care facility, upon receipt. The professional person, health care
36 provider, or health care facility, or persons acting under their
37 direction shall make the statement of revocation part of the
38 principal's medical record; and

1 (b) As to the principal's agent, upon receipt. The principal's
2 agent shall notify the principal's health care provider, professional
3 person, or health care facility of the revocation and provide them
4 with a copy of the written statement of revocation.

5 (5) A directive also may:

6 (a) Be revoked, in whole or in part, expressly or to the extent
7 of any inconsistency, by a subsequent directive; or

8 (b) Be superseded or revoked by a court order, including any
9 order entered in a criminal matter. A directive may be superseded by
10 a court order regardless of whether the order contains an explicit
11 reference to the directive. To the extent a directive is not in
12 conflict with a court order, the directive remains effective, subject
13 to the provisions of RCW 71.32.150. A directive shall not be
14 interpreted in a manner that interferes with: (i) Incarceration or
15 detention by the department of corrections, in a city or county jail,
16 or by the department of social and health services; or (ii) treatment
17 of a principal who is subject to involuntary treatment pursuant to
18 chapter 10.77, (~~(70.96A,)~~) 71.05, 71.09, or 71.34 RCW.

19 (6) A directive that would have otherwise expired but is
20 effective because the principal is incapacitated remains effective
21 until the principal is no longer incapacitated unless the principal
22 has elected to be able to revoke while incapacitated and has revoked
23 the directive.

24 (7) When a principal with capacity consents to treatment that
25 differs from, or refuses treatment consented to in, the provisions of
26 his or her directive, the consent or refusal constitutes a waiver of
27 that provision and does not constitute a revocation of the provision
28 or directive unless the principal also revokes the directive or
29 provision.

30 **Sec. 424.** RCW 71.32.140 and 2009 c 217 s 12 are each amended to
31 read as follows:

32 (1) A principal who:

33 (a) Chose not to be able to revoke his or her directive during
34 any period of incapacity;

35 (b) Consented to voluntary admission to inpatient mental health
36 treatment, or authorized an agent to consent on the principal's
37 behalf; and

38 (c) At the time of admission to inpatient treatment, refuses to
39 be admitted,

1 may only be admitted into inpatient mental health treatment under
2 subsection (2) of this section.

3 (2) A principal may only be admitted to inpatient mental health
4 treatment under his or her directive if, prior to admission, a member
5 of the treating facility's professional staff who is a physician or
6 psychiatric advanced registered nurse practitioner:

7 (a) Evaluates the principal's mental condition, including a
8 review of reasonably available psychiatric and psychological history,
9 diagnosis, and treatment needs, and determines, in conjunction with
10 another health care provider or mental health professional, that the
11 principal is incapacitated;

12 (b) Obtains the informed consent of the agent, if any, designated
13 in the directive;

14 (c) Makes a written determination that the principal needs an
15 inpatient evaluation or is in need of inpatient treatment and that
16 the evaluation or treatment cannot be accomplished in a less
17 restrictive setting; and

18 (d) Documents in the principal's medical record a summary of the
19 physician's or psychiatric advanced registered nurse practitioner's
20 findings and recommendations for treatment or evaluation.

21 (3) In the event the admitting physician is not a psychiatrist,
22 or the advanced registered nurse practitioner is not a psychiatric
23 advanced registered nurse practitioner, the principal shall receive a
24 complete psychological assessment by a mental health professional
25 within twenty-four hours of admission to determine the continued need
26 for inpatient evaluation or treatment.

27 (4)(a) If it is determined that the principal has capacity, then
28 the principal may only be admitted to, or remain in, inpatient
29 treatment if he or she consents at the time or is detained under the
30 involuntary treatment provisions of chapter ((70.96A,)) 71.05((7)) or
31 71.34 RCW.

32 (b) If a principal who is determined by two health care providers
33 or one mental health professional and one health care provider to be
34 incapacitated continues to refuse inpatient treatment, the principal
35 may immediately seek injunctive relief for release from the facility.

36 (5) If, at the end of the period of time that the principal or
37 the principal's agent, if any, has consented to voluntary inpatient
38 treatment, but no more than fourteen days after admission, the
39 principal has not regained capacity or has regained capacity but
40 refuses to consent to remain for additional treatment, the principal

1 must be released during reasonable daylight hours, unless detained
2 under chapter ((70.96A,)) 71.05((7)) or 71.34 RCW.

3 (6)(a) Except as provided in (b) of this subsection, any
4 principal who is voluntarily admitted to inpatient mental health
5 treatment under this chapter shall have all the rights provided to
6 individuals who are voluntarily admitted to inpatient treatment under
7 chapter 71.05, 71.34, or 72.23 RCW.

8 (b) Notwithstanding RCW 71.05.050 regarding consent to inpatient
9 treatment for a specified length of time, the choices an
10 incapacitated principal expressed in his or her directive shall
11 control, provided, however, that a principal who takes action
12 demonstrating a desire to be discharged, in addition to making
13 statements requesting to be discharged, shall be discharged, and no
14 principal shall be restrained in any way in order to prevent his or
15 her discharge. Nothing in this subsection shall be construed to
16 prevent detention and evaluation for civil commitment under chapter
17 71.05 RCW.

18 (7) Consent to inpatient admission in a directive is effective
19 only while the professional person, health care provider, and health
20 care facility are in substantial compliance with the material
21 provisions of the directive related to inpatient treatment.

22 **Sec. 425.** RCW 71.32.150 and 2003 c 283 s 15 are each amended to
23 read as follows:

24 (1) Upon receiving a directive, a health care provider,
25 professional person, or health care facility providing treatment to
26 the principal, or persons acting under the direction of the health
27 care provider, professional person, or health care facility, shall
28 make the directive a part of the principal's medical record and shall
29 be deemed to have actual knowledge of the directive's contents.

30 (2) When acting under authority of a directive, a health care
31 provider, professional person, or health care facility shall act in
32 accordance with the provisions of the directive to the fullest extent
33 possible, unless in the determination of the health care provider,
34 professional person, or health care facility:

35 (a) Compliance with the provision would violate the accepted
36 standard of care established in RCW 7.70.040;

37 (b) The requested treatment is not available;

38 (c) Compliance with the provision would violate applicable law;

39 or

1 (d) It is an emergency situation and compliance would endanger
2 any person's life or health.

3 (3)(a) In the case of a principal committed or detained under the
4 involuntary treatment provisions of chapter 10.77, (~~70.96A,~~) 71.05,
5 71.09, or 71.34 RCW, those provisions of a principal's directive
6 that, in the determination of the health care provider, professional
7 person, or health care facility, are inconsistent with the purpose of
8 the commitment or with any order of the court relating to the
9 commitment are invalid during the commitment.

10 (b) Remaining provisions of a principal's directive are advisory
11 while the principal is committed or detained.

12 The treatment provider is encouraged to follow the remaining
13 provisions of the directive, except as provided in (a) of this
14 subsection or subsection (2) of this section.

15 (4) In the case of a principal who is incarcerated or committed
16 in a state or local correctional facility, provisions of the
17 principal's directive that are inconsistent with reasonable
18 penological objectives or administrative hearings regarding
19 involuntary medication are invalid during the period of incarceration
20 or commitment. In addition, treatment may be given despite refusal of
21 the principal or the provisions of the directive: (a) For any reason
22 under subsection (2) of this section; or (b) if, without the benefit
23 of the specific treatment measure, there is a significant possibility
24 that the person will harm self or others before an improvement of the
25 person's condition occurs.

26 (5)(a) If the health care provider, professional person, or
27 health care facility is, at the time of receiving the directive,
28 unable or unwilling to comply with any part or parts of the directive
29 for any reason, the health care provider, professional person, or
30 health care facility shall promptly notify the principal and, if
31 applicable, his or her agent and shall document the reason in the
32 principal's medical record.

33 (b) If the health care provider, professional person, or health
34 care facility is acting under authority of a directive and is unable
35 to comply with any part or parts of the directive for the reasons
36 listed in subsection (2) or (3) of this section, the health care
37 provider, professional person, or health care facility shall promptly
38 notify the principal and if applicable, his or her agent, and shall
39 document the reason in the principal's medical record.

1 (6) In the event that one or more parts of the directive are not
2 followed because of one or more of the reasons set forth in
3 subsection (2) or (4) of this section, all other parts of the
4 directive shall be followed.

5 (7) If no provider-patient relationship has previously been
6 established, nothing in this chapter requires the establishment of a
7 provider-patient relationship.

8 **Sec. 426.** RCW 72.09.315 and 2004 c 166 s 17 are each amended to
9 read as follows:

10 (1) When an offender is under court-ordered mental health or
11 chemical dependency treatment in the community and the supervision of
12 the department of corrections, and the community corrections officer
13 becomes aware that the person is in violation of the terms of the
14 court's treatment order, the community corrections officer shall
15 notify the (~~county designated mental health professional or the~~
16 ~~designated chemical dependency specialist~~) designated crisis
17 responder, as appropriate, of the violation and request an evaluation
18 for purposes of revocation of the less restrictive alternative or
19 conditional release.

20 (2) When a (~~county designated mental health professional or the~~
21 ~~designated chemical dependency specialist~~) designated crisis
22 responder notifies the department that an offender in a state
23 correctional facility is the subject of a petition for involuntary
24 treatment under chapter 71.05 (~~or 70.96A~~) RCW, the department shall
25 provide documentation of its risk assessment or other concerns to the
26 petitioner and the court if the department classified the offender as
27 a high risk or high needs offender.

28 **Sec. 427.** RCW 72.09.370 and 2014 c 225 s 95 are each amended to
29 read as follows:

30 (1) The offender reentry community safety program is established
31 to provide intensive services to offenders identified under this
32 subsection and to thereby promote public safety. The secretary shall
33 identify offenders in confinement or partial confinement who: (a) Are
34 reasonably believed to be dangerous to themselves or others; and (b)
35 have a mental disorder. In determining an offender's dangerousness,
36 the secretary shall consider behavior known to the department and
37 factors, based on research, that are linked to an increased risk for

1 dangerousness of offenders with mental illnesses and shall include
2 consideration of an offender's chemical dependency or abuse.

3 (2) Prior to release of an offender identified under this
4 section, a team consisting of representatives of the department of
5 corrections, the division of mental health, and, as necessary, the
6 indeterminate sentence review board, other divisions or
7 administrations within the department of social and health services,
8 specifically including the division of alcohol and substance abuse
9 and the division of developmental disabilities, the appropriate
10 behavioral health organization, and the providers, as appropriate,
11 shall develop a plan, as determined necessary by the team, for
12 delivery of treatment and support services to the offender upon
13 release. In developing the plan, the offender shall be offered
14 assistance in executing a mental health directive under chapter 71.32
15 RCW, after being fully informed of the benefits, scope, and purposes
16 of such directive. The team may include a school district
17 representative for offenders under the age of twenty-one. The team
18 shall consult with the offender's counsel, if any, and, as
19 appropriate, the offender's family and community. The team shall
20 notify the crime victim/witness program, which shall provide notice
21 to all people registered to receive notice under RCW 72.09.712 of the
22 proposed release plan developed by the team. Victims, witnesses, and
23 other interested people notified by the department may provide
24 information and comments to the department on potential safety risk
25 to specific individuals or classes of individuals posed by the
26 specific offender. The team may recommend: (a) That the offender be
27 evaluated by the designated (~~mental health professional~~) crisis
28 responder, as defined in chapter 71.05 RCW; (b) department-supervised
29 community treatment; or (c) voluntary community mental health or
30 chemical dependency or abuse treatment.

31 (3) Prior to release of an offender identified under this
32 section, the team shall determine whether or not an evaluation by a
33 designated (~~mental health professional~~) crisis responder is needed.
34 If an evaluation is recommended, the supporting documentation shall
35 be immediately forwarded to the appropriate designated (~~mental~~
36 ~~health professional~~) crisis responder. The supporting documentation
37 shall include the offender's criminal history, history of judicially
38 required or administratively ordered involuntary antipsychotic
39 medication while in confinement, and any known history of involuntary
40 civil commitment.

1 (4) If an evaluation by a designated (~~mental health~~
2 ~~professional~~) crisis responder is recommended by the team, such
3 evaluation shall occur not more than ten days, nor less than five
4 days, prior to release.

5 (5) A second evaluation by a designated (~~mental health~~
6 ~~professional~~) crisis responder shall occur on the day of release if
7 requested by the team, based upon new information or a change in the
8 offender's mental condition, and the initial evaluation did not
9 result in an emergency detention or a summons under chapter 71.05
10 RCW.

11 (6) If the designated (~~mental health professional~~) crisis
12 responder determines an emergency detention under chapter 71.05 RCW
13 is necessary, the department shall release the offender only to a
14 state hospital or to a consenting evaluation and treatment facility.
15 The department shall arrange transportation of the offender to the
16 hospital or facility.

17 (7) If the designated (~~mental health professional~~) crisis
18 responder believes that a less restrictive alternative treatment is
19 appropriate, he or she shall seek a summons, pursuant to the
20 provisions of chapter 71.05 RCW, to require the offender to appear at
21 an evaluation and treatment facility. If a summons is issued, the
22 offender shall remain within the corrections facility until
23 completion of his or her term of confinement and be transported, by
24 corrections personnel on the day of completion, directly to the
25 identified evaluation and treatment facility.

26 (8) The secretary shall adopt rules to implement this section.

27 **Sec. 428.** RCW 43.185C.305 and 2015 c 69 s 20 are each amended to
28 read as follows:

29 (1) If a resident of a crisis residential center becomes by his
30 or her behavior disruptive to the facility's program, such resident
31 may be immediately removed to a separate area within the facility and
32 counseled on an individual basis until such time as the child regains
33 his or her composure. The department may set rules and regulations
34 establishing additional procedures for dealing with severely
35 disruptive children on the premises.

36 (2) When the juvenile resides in this facility, all services
37 deemed necessary to the juvenile's reentry to normal family life
38 shall be made available to the juvenile as required by chapter 13.32A

1 RCW. In assessing the child and providing these services, the
2 facility staff shall:

3 (a) Interview the juvenile as soon as possible;

4 (b) Contact the juvenile's parents and arrange for a counseling
5 interview with the juvenile and his or her parents as soon as
6 possible;

7 (c) Conduct counseling interviews with the juvenile and his or
8 her parents, to the end that resolution of the child/parent conflict
9 is attained and the child is returned home as soon as possible;

10 (d) Provide additional crisis counseling as needed, to the end
11 that placement of the child in the crisis residential center will be
12 required for the shortest time possible, but not to exceed fifteen
13 consecutive days; and

14 (e) Convene, when appropriate, a multidisciplinary team.

15 (3) Based on the assessments done under subsection (2) of this
16 section the center staff may refer any child who, as the result of a
17 mental or emotional disorder, or intoxication by alcohol or other
18 drugs, is suicidal, seriously assaultive, or seriously destructive
19 toward others, or otherwise similarly evidences an immediate need for
20 emergency medical evaluation and possible care, for evaluation
21 pursuant to chapter 71.34 RCW((7)) or to a ((~~mental health~~
22 ~~professional~~)) designated crisis responder pursuant to chapter 71.05
23 RCW((~~, or to a chemical dependency specialist pursuant to chapter~~
24 ~~70.96A RCW~~)) whenever such action is deemed appropriate and
25 consistent with law.

26 (4) A juvenile taking unauthorized leave from a facility shall be
27 apprehended and returned to it by law enforcement officers or other
28 persons designated as having this authority as provided in RCW
29 43.185C.260. If returned to the facility after having taken
30 unauthorized leave for a period of more than twenty-four hours a
31 juvenile shall be supervised by such a facility for a period,
32 pursuant to this chapter, which, unless where otherwise provided, may
33 not exceed fifteen consecutive days. Costs of housing juveniles
34 admitted to crisis residential centers shall be assumed by the
35 department for a period not to exceed fifteen consecutive days.

36 **Sec. 429.** RCW 74.50.070 and 1987 c 406 s 8 are each amended to
37 read as follows:

38 (1) If a county elects to establish a multipurpose diagnostic
39 center or detention center, the alcoholism and drug addiction

1 assessment service under RCW 74.50.040 may be integrated into the
2 services provided by such a center.

3 (2) The center may be financed from funds made available by the
4 department for alcoholism and drug addiction assessments under this
5 chapter and funds contained in the department's budget for
6 detoxification, involuntary detention, and involuntary treatment
7 under chapter(~~s 70.96A and~~) 71.05 RCW. The center may be operated
8 by the county or pursuant to contract between the county and a
9 qualified organization.

10 **PART V**

11 **INTEGRATION OF CHEMICAL DEPENDENCY AND MENTAL HEALTH ADMINISTRATIVE**
12 **PROVISIONS**

13 **Sec. 501.** RCW 71.24.025 and 2014 c 225 s 10 are each reenacted
14 and amended to read as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout this chapter.

17 (1) "Acutely mentally ill" means a condition which is limited to
18 a short-term severe crisis episode of:

19 (a) A mental disorder as defined in RCW 71.05.020 or, in the case
20 of a child, as defined in RCW 71.34.020;

21 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
22 case of a child, a gravely disabled minor as defined in RCW
23 71.34.020; or

24 (c) Presenting a likelihood of serious harm as defined in RCW
25 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

26 (2) "Available resources" means funds appropriated for the
27 purpose of providing community mental health programs, federal funds,
28 except those provided according to Title XIX of the Social Security
29 Act, and state funds appropriated under this chapter or chapter 71.05
30 RCW by the legislature during any biennium for the purpose of
31 providing residential services, resource management services,
32 community support services, and other mental health services. This
33 does not include funds appropriated for the purpose of operating and
34 administering the state psychiatric hospitals.

35 (3) "Behavioral health organization" means any county authority
36 or group of county authorities or other entity recognized by the
37 secretary in contract in a defined region.

1 (4) "Behavioral health services" means mental health services as
2 described in this chapter and chapter 71.36 RCW and ~~((chemical~~
3 ~~dependency))~~ substance use disorder treatment services as described
4 in this chapter and chapter 70.96A RCW.

5 (5) "Child" means a person under the age of eighteen years.

6 (6) "Chronically mentally ill adult" or "adult who is chronically
7 mentally ill" means an adult who has a mental disorder and meets at
8 least one of the following criteria:

9 (a) Has undergone two or more episodes of hospital care for a
10 mental disorder within the preceding two years; or

11 (b) Has experienced a continuous psychiatric hospitalization or
12 residential treatment exceeding six months' duration within the
13 preceding year; or

14 (c) Has been unable to engage in any substantial gainful activity
15 by reason of any mental disorder which has lasted for a continuous
16 period of not less than twelve months. "Substantial gainful activity"
17 shall be defined by the department by rule consistent with Public Law
18 92-603, as amended.

19 (7) "Clubhouse" means a community-based program that provides
20 rehabilitation services and is certified by the department of social
21 and health services.

22 (8) ~~(("Community mental health program" means all mental health
23 services, activities, or programs using available resources.~~

24 ~~(9))~~ "Community mental health service delivery system" means
25 public, private, or tribal agencies that provide services
26 specifically to persons with mental disorders as defined under RCW
27 71.05.020 and receive funding from public sources.

28 ~~((10))~~ (9) "Community support services" means services
29 authorized, planned, and coordinated through resource management
30 services including, at a minimum, assessment, diagnosis, emergency
31 crisis intervention available twenty-four hours, seven days a week,
32 prescreening determinations for persons who are mentally ill being
33 considered for placement in nursing homes as required by federal law,
34 screening for patients being considered for admission to residential
35 services, diagnosis and treatment for children who are acutely
36 mentally ill or severely emotionally disturbed discovered under
37 screening through the federal Title XIX early and periodic screening,
38 diagnosis, and treatment program, investigation, legal, and other
39 nonresidential services under chapter 71.05 RCW, case management
40 services, psychiatric treatment including medication supervision,

1 counseling, psychotherapy, assuring transfer of relevant patient
2 information between service providers, recovery services, and other
3 services determined by behavioral health organizations.

4 ~~((+11))~~ (10) "Consensus-based" means a program or practice that
5 has general support among treatment providers and experts, based on
6 experience or professional literature, and may have anecdotal or case
7 study support, or that is agreed but not possible to perform studies
8 with random assignment and controlled groups.

9 ~~((+12))~~ (11) "County authority" means the board of county
10 commissioners, county council, or county executive having authority
11 to establish a community mental health program, or two or more of the
12 county authorities specified in this subsection which have entered
13 into an agreement to provide a community mental health program.

14 ~~((+13))~~ (12) "Department" means the department of social and
15 health services.

16 ~~((+14))~~ (13) "Designated mental health professional" means a
17 mental health professional designated by the county or other
18 authority authorized in rule to perform the duties specified in this
19 chapter.

20 ~~((+15))~~ (14) "Emerging best practice" or "promising practice"
21 means a program or practice that, based on statistical analyses or a
22 well established theory of change, shows potential for meeting the
23 evidence-based or research-based criteria, which may include the use
24 of a program that is evidence-based for outcomes other than those
25 listed in subsection ~~((+16))~~ (15) of this section.

26 ~~((+16))~~ (15) "Evidence-based" means a program or practice that
27 has been tested in heterogeneous or intended populations with
28 multiple randomized, or statistically controlled evaluations, or
29 both; or one large multiple site randomized, or statistically
30 controlled evaluation, or both, where the weight of the evidence from
31 a systemic review demonstrates sustained improvements in at least one
32 outcome. "Evidence-based" also means a program or practice that can
33 be implemented with a set of procedures to allow successful
34 replication in Washington and, when possible, is determined to be
35 cost-beneficial.

36 ~~((+17))~~ (16) "Licensed service provider" means an entity
37 licensed according to this chapter or chapter 71.05 or 70.96A RCW or
38 an entity deemed to meet state minimum standards as a result of
39 accreditation by a recognized behavioral health accrediting body
40 recognized and having a current agreement with the department, or

1 tribal attestation that meets state minimum standards, or persons
2 licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it
3 applies to registered nurses and advanced registered nurse
4 practitioners.

5 ~~((+18))~~ (17) "Long-term inpatient care" means inpatient services
6 for persons committed for, or voluntarily receiving intensive
7 treatment for, periods of ninety days or greater under chapter 71.05
8 RCW. "Long-term inpatient care" as used in this chapter does not
9 include: (a) Services for individuals committed under chapter 71.05
10 RCW who are receiving services pursuant to a conditional release or a
11 court-ordered less restrictive alternative to detention; or (b)
12 services for individuals voluntarily receiving less restrictive
13 alternative treatment on the grounds of the state hospital.

14 ~~((+19))~~ (18) "Mental health services" means all services
15 provided by behavioral health organizations and other services
16 provided by the state for persons who are mentally ill.

17 ~~((+20))~~ (19) "Mentally ill persons," "persons who are mentally
18 ill," and "the mentally ill" mean persons and conditions defined in
19 subsections (1), (6), (27), and (28)~~((, and (29))~~ of this section.

20 ~~((+21))~~ (20) "Recovery" means the process in which people are
21 able to live, work, learn, and participate fully in their
22 communities.

23 ~~((+22))~~ (21) "Registration records" include all the records of
24 the department, behavioral health organizations, treatment
25 facilities, and other persons providing services to the department,
26 county departments, or facilities which identify persons who are
27 receiving or who at any time have received services for mental
28 illness.

29 ~~((+23))~~ (22) "Research-based" means a program or practice that
30 has been tested with a single randomized, or statistically controlled
31 evaluation, or both, demonstrating sustained desirable outcomes; or
32 where the weight of the evidence from a systemic review supports
33 sustained outcomes as described in subsection ~~((+16))~~ (15) of this
34 section but does not meet the full criteria for evidence-based.

35 ~~((+24))~~ (23) "Residential services" means a complete range of
36 residences and supports authorized by resource management services
37 and which may involve a facility, a distinct part thereof, or
38 services which support community living, for persons who are acutely
39 mentally ill, adults who are chronically mentally ill, children who
40 are severely emotionally disturbed, or adults who are seriously

1 disturbed and determined by the behavioral health organization to be
2 at risk of becoming acutely or chronically mentally ill. The services
3 shall include at least evaluation and treatment services as defined
4 in chapter 71.05 RCW, acute crisis respite care, long-term adaptive
5 and rehabilitative care, and supervised and supported living
6 services, and shall also include any residential services developed
7 to service persons who are mentally ill in nursing homes, assisted
8 living facilities, and adult family homes, and may include outpatient
9 services provided as an element in a package of services in a
10 supported housing model. Residential services for children in out-of-
11 home placements related to their mental disorder shall not include
12 the costs of food and shelter, except for children's long-term
13 residential facilities existing prior to January 1, 1991.

14 ~~((+25))~~ (24) "Resilience" means the personal and community
15 qualities that enable individuals to rebound from adversity, trauma,
16 tragedy, threats, or other stresses, and to live productive lives.

17 ~~((+26))~~ (25) "Resource management services" mean the planning,
18 coordination, and authorization of residential services and community
19 support services administered pursuant to an individual service plan
20 for: (a) Adults and children who are acutely mentally ill; (b) adults
21 who are chronically mentally ill; (c) children who are severely
22 emotionally disturbed; or (d) adults who are seriously disturbed and
23 determined solely by a behavioral health organization to be at risk
24 of becoming acutely or chronically mentally ill. Such planning,
25 coordination, and authorization shall include mental health screening
26 for children eligible under the federal Title XIX early and periodic
27 screening, diagnosis, and treatment program. Resource management
28 services include seven day a week, twenty-four hour a day
29 availability of information regarding enrollment of adults and
30 children who are mentally ill in services and their individual
31 service plan to designated mental health professionals, evaluation
32 and treatment facilities, and others as determined by the behavioral
33 health organization.

34 ~~((+27))~~ (26) "Secretary" means the secretary of social and
35 health services.

36 ~~((+28))~~ (27) "Seriously disturbed person" means a person who:
37 (a) Is gravely disabled or presents a likelihood of serious harm
38 to himself or herself or others, or to the property of others, as a
39 result of a mental disorder as defined in chapter 71.05 RCW;

1 (b) Has been on conditional release status, or under a less
2 restrictive alternative order, at some time during the preceding two
3 years from an evaluation and treatment facility or a state mental
4 health hospital;

5 (c) Has a mental disorder which causes major impairment in
6 several areas of daily living;

7 (d) Exhibits suicidal preoccupation or attempts; or

8 (e) Is a child diagnosed by a mental health professional, as
9 defined in chapter 71.34 RCW, as experiencing a mental disorder which
10 is clearly interfering with the child's functioning in family or
11 school or with peers or is clearly interfering with the child's
12 personality development and learning.

13 (~~(29)~~) (28) "Severely emotionally disturbed child" or "child
14 who is severely emotionally disturbed" means a child who has been
15 determined by the behavioral health organization to be experiencing a
16 mental disorder as defined in chapter 71.34 RCW, including those
17 mental disorders that result in a behavioral or conduct disorder,
18 that is clearly interfering with the child's functioning in family or
19 school or with peers and who meets at least one of the following
20 criteria:

21 (a) Has undergone inpatient treatment or placement outside of the
22 home related to a mental disorder within the last two years;

23 (b) Has undergone involuntary treatment under chapter 71.34 RCW
24 within the last two years;

25 (c) Is currently served by at least one of the following child-
26 serving systems: Juvenile justice, child-protection/welfare, special
27 education, or developmental disabilities;

28 (d) Is at risk of escalating maladjustment due to:

29 (i) Chronic family dysfunction involving a caretaker who is
30 mentally ill or inadequate;

31 (ii) Changes in custodial adult;

32 (iii) Going to, residing in, or returning from any placement
33 outside of the home, for example, psychiatric hospital, short-term
34 inpatient, residential treatment, group or foster home, or a
35 correctional facility;

36 (iv) Subject to repeated physical abuse or neglect;

37 (v) Drug or alcohol abuse; or

38 (vi) Homelessness.

39 (~~(30)~~) (29) "State minimum standards" means minimum
40 requirements established by rules adopted by the secretary and

1 necessary to implement this chapter for: (a) Delivery of mental
2 health services; (b) licensed service providers for the provision of
3 mental health services; (c) residential services; and (d) community
4 support services and resource management services.

5 ~~((31))~~ (30) Mental health "treatment records" include
6 registration and all other records concerning persons who are
7 receiving or who at any time have received services for mental
8 illness, which are maintained by the department, by behavioral health
9 organizations and their staffs, and by treatment facilities.
10 Treatment records do not include notes or records maintained for
11 personal use by a person providing treatment services for the
12 department, behavioral health organizations, or a treatment facility
13 if the notes or records are not available to others.

14 ~~((32))~~ (31) "Tribal authority," for the purposes of this
15 section and RCW 71.24.300 only, means: The federally recognized
16 Indian tribes and the major Indian organizations recognized by the
17 secretary insofar as these organizations do not have a financial
18 relationship with any behavioral health organization that would
19 present a conflict of interest.

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

26 (33) "Approved substance use disorder treatment program" means a
27 program for persons with a substance use disorder provided by a
28 treatment program certified by the department of social and health
29 services as meeting standards adopted under this chapter.

30 (34) "Behavioral health program" means all expenditures,
31 services, activities, or programs, including reasonable
32 administration and overhead, designed and conducted to prevent or
33 treat chemical dependency and mental illness.

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

1 (36) "Designated chemical dependency specialist" means a person
2 designated by the behavioral health organization or by the county
3 alcoholism and other drug addiction program coordinator designated by
4 the behavioral health organization to perform the commitment duties
5 described in RCW 70.96A.140 and qualified to do so by meeting
6 standards adopted by the department.

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

13 (38) "Early adopter" means a regional service area for which all
14 of the county authorities have requested that the department and the
15 health care authority jointly purchase medical and behavioral health
16 services through a managed care health system as defined under RCW
17 71.24.380(6).

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

21 **Sec. 502.** RCW 71.24.025 and 2016 1st sp.s. c ... s 501 (section
22 501 of this act) are each amended to read as follows:

23 Unless the context clearly requires otherwise, the definitions in
24 this section apply throughout this chapter.

25 (1) "Acutely mentally ill" means a condition which is limited to
26 a short-term severe crisis episode of:

27 (a) A mental disorder as defined in RCW 71.05.020 or, in the case
28 of a child, as defined in RCW 71.34.020;

29 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
30 case of a child, a gravely disabled minor as defined in RCW
31 71.34.020; or

32 (c) Presenting a likelihood of serious harm as defined in RCW
33 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

34 (2) "Available resources" means funds appropriated for the
35 purpose of providing community mental health programs, federal funds,
36 except those provided according to Title XIX of the Social Security
37 Act, and state funds appropriated under this chapter or chapter 71.05
38 RCW by the legislature during any biennium for the purpose of
39 providing residential services, resource management services,

1 community support services, and other mental health services. This
2 does not include funds appropriated for the purpose of operating and
3 administering the state psychiatric hospitals.

4 (3) "Behavioral health organization" means any county authority
5 or group of county authorities or other entity recognized by the
6 secretary in contract in a defined region.

7 (4) "Behavioral health services" means mental health services as
8 described in this chapter and chapter 71.36 RCW and substance use
9 disorder treatment services as described in this chapter (~~and~~
10 ~~chapter 70.96A RCW~~).

11 (5) "Child" means a person under the age of eighteen years.

12 (6) "Chronically mentally ill adult" or "adult who is chronically
13 mentally ill" means an adult who has a mental disorder and meets at
14 least one of the following criteria:

15 (a) Has undergone two or more episodes of hospital care for a
16 mental disorder within the preceding two years; or

17 (b) Has experienced a continuous psychiatric hospitalization or
18 residential treatment exceeding six months' duration within the
19 preceding year; or

20 (c) Has been unable to engage in any substantial gainful activity
21 by reason of any mental disorder which has lasted for a continuous
22 period of not less than twelve months. "Substantial gainful activity"
23 shall be defined by the department by rule consistent with Public Law
24 92-603, as amended.

25 (7) "Clubhouse" means a community-based program that provides
26 rehabilitation services and is certified by the department of social
27 and health services.

28 (8) "Community mental health service delivery system" means
29 public, private, or tribal agencies that provide services
30 specifically to persons with mental disorders as defined under RCW
31 71.05.020 and receive funding from public sources.

32 (9) "Community support services" means services authorized,
33 planned, and coordinated through resource management services
34 including, at a minimum, assessment, diagnosis, emergency crisis
35 intervention available twenty-four hours, seven days a week,
36 prescreening determinations for persons who are mentally ill being
37 considered for placement in nursing homes as required by federal law,
38 screening for patients being considered for admission to residential
39 services, diagnosis and treatment for children who are acutely
40 mentally ill or severely emotionally disturbed discovered under

1 screening through the federal Title XIX early and periodic screening,
2 diagnosis, and treatment program, investigation, legal, and other
3 nonresidential services under chapter 71.05 RCW, case management
4 services, psychiatric treatment including medication supervision,
5 counseling, psychotherapy, assuring transfer of relevant patient
6 information between service providers, recovery services, and other
7 services determined by behavioral health organizations.

8 (10) "Consensus-based" means a program or practice that has
9 general support among treatment providers and experts, based on
10 experience or professional literature, and may have anecdotal or case
11 study support, or that is agreed but not possible to perform studies
12 with random assignment and controlled groups.

13 (11) "County authority" means the board of county commissioners,
14 county council, or county executive having authority to establish a
15 community mental health program, or two or more of the county
16 authorities specified in this subsection which have entered into an
17 agreement to provide a community mental health program.

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

20 (13) "Designated (~~(mental health professional)~~) crisis responder"
21 means a mental health professional designated by the county or other
22 authority authorized in rule to perform the duties specified in this
23 chapter.

24 (14) "Emerging best practice" or "promising practice" means a
25 program or practice that, based on statistical analyses or a well
26 established theory of change, shows potential for meeting the
27 evidence-based or research-based criteria, which may include the use
28 of a program that is evidence-based for outcomes other than those
29 listed in subsection (15) of this section.

30 (15) "Evidence-based" means a program or practice that has been
31 tested in heterogeneous or intended populations with multiple
32 randomized, or statistically controlled evaluations, or both; or one
33 large multiple site randomized, or statistically controlled
34 evaluation, or both, where the weight of the evidence from a systemic
35 review demonstrates sustained improvements in at least one outcome.
36 "Evidence-based" also means a program or practice that can be
37 implemented with a set of procedures to allow successful replication
38 in Washington and, when possible, is determined to be cost-
39 beneficial.

1 (16) "Licensed service provider" means an entity licensed
2 according to this chapter or chapter 71.05 (~~or 70.96A~~) RCW or an
3 entity deemed to meet state minimum standards as a result of
4 accreditation by a recognized behavioral health accrediting body
5 recognized and having a current agreement with the department, or
6 tribal attestation that meets state minimum standards, or persons
7 licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it
8 applies to registered nurses and advanced registered nurse
9 practitioners.

10 (17) "Long-term inpatient care" means inpatient services for
11 persons committed for, or voluntarily receiving intensive treatment
12 for, periods of ninety days or greater under chapter 71.05 RCW.
13 "Long-term inpatient care" as used in this chapter does not include:
14 (a) Services for individuals committed under chapter 71.05 RCW who
15 are receiving services pursuant to a conditional release or a court-
16 ordered less restrictive alternative to detention; or (b) services
17 for individuals voluntarily receiving less restrictive alternative
18 treatment on the grounds of the state hospital.

19 (18) "Mental health services" means all services provided by
20 behavioral health organizations and other services provided by the
21 state for persons who are mentally ill.

22 (19) "Mentally ill persons," "persons who are mentally ill," and
23 "the mentally ill" mean persons and conditions defined in subsections
24 (1), (6), (27), and (28) of this section.

25 (20) "Recovery" means the process in which people are able to
26 live, work, learn, and participate fully in their communities.

27 (21) "Registration records" include all the records of the
28 department, behavioral health organizations, treatment facilities,
29 and other persons providing services to the department, county
30 departments, or facilities which identify persons who are receiving
31 or who at any time have received services for mental illness.

32 (22) "Research-based" means a program or practice that has been
33 tested with a single randomized, or statistically controlled
34 evaluation, or both, demonstrating sustained desirable outcomes; or
35 where the weight of the evidence from a systemic review supports
36 sustained outcomes as described in subsection (15) of this section
37 but does not meet the full criteria for evidence-based.

38 (23) "Residential services" means a complete range of residences
39 and supports authorized by resource management services and which may
40 involve a facility, a distinct part thereof, or services which

1 support community living, for persons who are acutely mentally ill,
2 adults who are chronically mentally ill, children who are severely
3 emotionally disturbed, or adults who are seriously disturbed and
4 determined by the behavioral health organization to be at risk of
5 becoming acutely or chronically mentally ill. The services shall
6 include at least evaluation and treatment services as defined in
7 chapter 71.05 RCW, acute crisis respite care, long-term adaptive and
8 rehabilitative care, and supervised and supported living services,
9 and shall also include any residential services developed to service
10 persons who are mentally ill in nursing homes, assisted living
11 facilities, and adult family homes, and may include outpatient
12 services provided as an element in a package of services in a
13 supported housing model. Residential services for children in out-of-
14 home placements related to their mental disorder shall not include
15 the costs of food and shelter, except for children's long-term
16 residential facilities existing prior to January 1, 1991.

17 (24) "Resilience" means the personal and community qualities that
18 enable individuals to rebound from adversity, trauma, tragedy,
19 threats, or other stresses, and to live productive lives.

20 (25) "Resource management services" mean the planning,
21 coordination, and authorization of residential services and community
22 support services administered pursuant to an individual service plan
23 for: (a) Adults and children who are acutely mentally ill; (b) adults
24 who are chronically mentally ill; (c) children who are severely
25 emotionally disturbed; or (d) adults who are seriously disturbed and
26 determined solely by a behavioral health organization to be at risk
27 of becoming acutely or chronically mentally ill. Such planning,
28 coordination, and authorization shall include mental health screening
29 for children eligible under the federal Title XIX early and periodic
30 screening, diagnosis, and treatment program. Resource management
31 services include seven day a week, twenty-four hour a day
32 availability of information regarding enrollment of adults and
33 children who are mentally ill in services and their individual
34 service plan to designated (~~mental health professionals~~) crisis
35 responders, evaluation and treatment facilities, and others as
36 determined by the behavioral health organization.

37 (26) "Secretary" means the secretary of social and health
38 services.

39 (27) "Seriously disturbed person" means a person who:

1 (a) Is gravely disabled or presents a likelihood of serious harm
2 to himself or herself or others, or to the property of others, as a
3 result of a mental disorder as defined in chapter 71.05 RCW;

4 (b) Has been on conditional release status, or under a less
5 restrictive alternative order, at some time during the preceding two
6 years from an evaluation and treatment facility or a state mental
7 health hospital;

8 (c) Has a mental disorder which causes major impairment in
9 several areas of daily living;

10 (d) Exhibits suicidal preoccupation or attempts; or

11 (e) Is a child diagnosed by a mental health professional, as
12 defined in chapter 71.34 RCW, as experiencing a mental disorder which
13 is clearly interfering with the child's functioning in family or
14 school or with peers or is clearly interfering with the child's
15 personality development and learning.

16 (28) "Severely emotionally disturbed child" or "child who is
17 severely emotionally disturbed" means a child who has been determined
18 by the behavioral health organization to be experiencing a mental
19 disorder as defined in chapter 71.34 RCW, including those mental
20 disorders that result in a behavioral or conduct disorder, that is
21 clearly interfering with the child's functioning in family or school
22 or with peers and who meets at least one of the following criteria:

23 (a) Has undergone inpatient treatment or placement outside of the
24 home related to a mental disorder within the last two years;

25 (b) Has undergone involuntary treatment under chapter 71.34 RCW
26 within the last two years;

27 (c) Is currently served by at least one of the following child-
28 serving systems: Juvenile justice, child-protection/welfare, special
29 education, or developmental disabilities;

30 (d) Is at risk of escalating maladjustment due to:

31 (i) Chronic family dysfunction involving a caretaker who is
32 mentally ill or inadequate;

33 (ii) Changes in custodial adult;

34 (iii) Going to, residing in, or returning from any placement
35 outside of the home, for example, psychiatric hospital, short-term
36 inpatient, residential treatment, group or foster home, or a
37 correctional facility;

38 (iv) Subject to repeated physical abuse or neglect;

39 (v) Drug or alcohol abuse; or

40 (vi) Homelessness.

1 (29) "State minimum standards" means minimum requirements
2 established by rules adopted by the secretary and necessary to
3 implement this chapter for: (a) Delivery of mental health services;
4 (b) licensed service providers for the provision of mental health
5 services; (c) residential services; and (d) community support
6 services and resource management services.

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

16 (31) "Tribal authority," for the purposes of this section and RCW
17 71.24.300 only, means: The federally recognized Indian tribes and the
18 major Indian organizations recognized by the secretary insofar as
19 these organizations do not have a financial relationship with any
20 behavioral health organization that would present a conflict of
21 interest.

22 (32) "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 (33) "Approved substance use disorder treatment program" means a
29 program for persons with a substance use disorder provided by a
30 treatment program certified by the department of social and health
31 services as meeting standards adopted under this chapter.

32 (34) "Behavioral health program" means all expenditures,
33 services, activities, or programs, including reasonable
34 administration and overhead, designed and conducted to prevent or
35 treat chemical dependency and mental illness.

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

1 pathological pattern of behaviors related to the use of the
2 substances.

3 (~~(36)~~) (~~"Designated chemical dependency specialist" means a person~~
4 ~~designated by the behavioral health organization or by the county~~
5 ~~alcoholism and other drug addiction program coordinator designated by~~
6 ~~the behavioral health organization to perform the commitment duties~~
7 ~~described in RCW 70.96A.140 and qualified to do so by meeting~~
8 ~~standards adopted by the department.~~

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

15 (~~(38)~~) (37) "Early adopter" means a regional service area for
16 which all of the county authorities have requested that the
17 department and the health care authority jointly purchase medical and
18 behavioral health services through a managed care health system as
19 defined under RCW 71.24.380(6).

20 (~~(39)~~) (38) "Licensed physician" means a person licensed to
21 practice medicine or osteopathic medicine and surgery in the state of
22 Washington.

23 **Sec. 503.** RCW 71.24.035 and 2015 c 269 s 8 are each amended to
24 read as follows:

25 (1) The department is designated as the state (~~(mental)~~)
26 behavioral health authority which includes recognition as the single
27 state authority for substance use disorders and state mental health
28 authority.

29 (2) The secretary shall provide for public, client, tribal, and
30 licensed service provider participation in developing the state
31 (~~(mental)~~) behavioral health program, developing contracts with
32 behavioral health organizations, and any waiver request to the
33 federal government under medicaid.

34 (3) The secretary shall provide for participation in developing
35 the state (~~(mental)~~) behavioral health program for children and other
36 underserved populations, by including representatives on any
37 committee established to provide oversight to the state (~~(mental)~~)
38 behavioral health program.

1 (4) The secretary shall be designated as the behavioral health
2 organization if the behavioral health organization fails to meet
3 state minimum standards or refuses to exercise responsibilities under
4 its contract or RCW 71.24.045, until such time as a new behavioral
5 health organization is designated.

6 (5) The secretary shall:

7 (a) Develop a biennial state (~~((mental))~~) behavioral health program
8 that incorporates regional biennial needs assessments and regional
9 mental health service plans and state services for adults and
10 children with mental (~~((illness))~~) disorders or substance use disorders
11 or both;

12 (b) Assure that any behavioral health organization or county
13 community (~~((mental))~~) behavioral health program provides medically
14 necessary services to medicaid recipients consistent with the state's
15 medicaid state plan or federal waiver authorities, and nonmedicaid
16 services consistent with priorities established by the department;

17 (c) Develop and adopt rules establishing state minimum standards
18 for the delivery of (~~((mental))~~) behavioral health services pursuant to
19 RCW 71.24.037 including, but not limited to:

20 (i) Licensed service providers. These rules shall permit a
21 county-operated (~~((mental))~~) behavioral health program to be licensed
22 as a service provider subject to compliance with applicable statutes
23 and rules. The secretary shall provide for deeming of compliance with
24 state minimum standards for those entities accredited by recognized
25 behavioral health accrediting bodies recognized and having a current
26 agreement with the department;

27 (ii) Inpatient services, an adequate network of evaluation and
28 treatment services and facilities under chapter 71.05 RCW to ensure
29 access to treatment, resource management services, and community
30 support services;

31 (d) Assure that the special needs of persons who are minorities,
32 elderly, disabled, children, low-income, and parents who are
33 respondents in dependency cases are met within the priorities
34 established in this section;

35 (e) Establish a standard contract or contracts, consistent with
36 state minimum standards which shall be used in contracting with
37 behavioral health organizations. The standard contract shall include
38 a maximum fund balance, which shall be consistent with that required
39 by federal regulations or waiver stipulations;

1 (f) Make contracts necessary or incidental to the performance of
2 its duties and the execution of its powers, including managed care
3 contracts for behavioral health services, contracts entered into
4 under RCW 74.09.522, and contracts with public and private agencies,
5 organizations, and individuals to pay them for behavioral health
6 services;

7 (g) Establish, to the extent possible, a standardized auditing
8 procedure which is designed to assure compliance with contractual
9 agreements authorized by this chapter and minimizes paperwork
10 requirements of behavioral health organizations and licensed service
11 providers. The audit procedure shall focus on the outcomes of service
12 as provided in RCW 43.20A.895, 70.320.020, and 71.36.025;

13 ~~((g))~~ (h) Develop and maintain an information system to be used
14 by the state and behavioral health organizations that includes a
15 tracking method which allows the department and behavioral health
16 organizations to identify ~~((mental))~~ behavioral health clients'
17 participation in any ~~((mental))~~ behavioral health service or public
18 program on an immediate basis. The information system shall not
19 include individual patient's case history files. Confidentiality of
20 client information and records shall be maintained as provided in
21 this chapter and chapter 70.02 RCW;

22 ~~((h))~~ (i) License service providers who meet state minimum
23 standards;

24 ~~((i))~~ (j) Periodically monitor the compliance of behavioral
25 health organizations and their network of licensed service providers
26 for compliance with the contract between the department, the
27 behavioral health organization, and federal and state rules at
28 reasonable times and in a reasonable manner;

29 ~~((j))~~ (k) Fix fees to be paid by evaluation and treatment
30 centers to the secretary for the required inspections;

31 ~~((k))~~ (l) Monitor and audit behavioral health organizations and
32 licensed service providers as needed to assure compliance with
33 contractual agreements authorized by this chapter;

34 ~~((l))~~ (m) Adopt such rules as are necessary to implement the
35 department's responsibilities under this chapter;

36 ~~((m))~~ (n) License or certify crisis stabilization units that
37 meet state minimum standards;

38 ~~((n))~~ (o) License or certify clubhouses that meet state minimum
39 standards; ~~((and~~

1 ~~(e)~~) (p) License or certify triage facilities that meet state
2 minimum standards; and

3 (q) Administer or supervise the administration of the provisions
4 relating to persons with substance use disorders and intoxicated
5 persons of any state plan submitted for federal funding pursuant to
6 federal health, welfare, or treatment legislation.

7 (6) The secretary shall use available resources only for
8 behavioral health organizations, except:

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

12 (b) To incentivize improved performance with respect to the
13 client outcomes established in RCW 43.20A.895, 70.320.020, and
14 71.36.025, integration of behavioral health and medical services at
15 the clinical level, and improved care coordination for individuals
16 with complex care needs.

17 (7) Each behavioral health organization and licensed service
18 provider shall file with the secretary, on request, such data,
19 statistics, schedules, and information as the secretary reasonably
20 requires. A behavioral health organization or licensed service
21 provider which, without good cause, fails to furnish any data,
22 statistics, schedules, or information as requested, or files
23 fraudulent reports thereof, may be subject to the behavioral health
24 organization contractual remedies in RCW 43.20A.894 or may have its
25 service provider certification or license revoked or suspended.

26 (8) The secretary may suspend, revoke, limit, or restrict a
27 certification or license, or refuse to grant a certification or
28 license for failure to conform to: (a) The law; (b) applicable rules
29 and regulations; (c) applicable standards; or (d) state minimum
30 standards.

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

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

1 her to enter at reasonable times, and examine the records, books, and
2 accounts of any behavioral health organization or service provider
3 refusing to consent to inspection or examination by the authority.

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

10 ~~(12) ((The standards for certification or licensure of evaluation~~
11 ~~and treatment facilities shall include standards relating to~~
12 ~~maintenance of good physical and mental health and other services to~~
13 ~~be afforded persons pursuant to this chapter and chapters 71.05 and~~
14 ~~71.34 RCW, and shall otherwise assure the effectuation of the~~
15 ~~purposes of these chapters.~~

16 ~~(13) The standards for certification or licensure of crisis~~
17 ~~stabilization units shall include standards that:~~

18 ~~(a) Permit location of the units at a jail facility if the unit~~
19 ~~is physically separate from the general population of the jail;~~

20 ~~(b) Require administration of the unit by mental health~~
21 ~~professionals who direct the stabilization and rehabilitation~~
22 ~~efforts; and~~

23 ~~(c) Provide an environment affording security appropriate with~~
24 ~~the alleged criminal behavior and necessary to protect the public~~
25 ~~safety.~~

26 ~~(14) The standards for certification or licensure of a clubhouse~~
27 ~~shall at a minimum include:~~

28 ~~(a) The facilities may be peer-operated and must be recovery-~~
29 ~~focused;~~

30 ~~(b) Members and employees must work together;~~

31 ~~(c) Members must have the opportunity to participate in all the~~
32 ~~work of the clubhouse, including administration, research, intake and~~
33 ~~orientation, outreach, hiring, training and evaluation of staff,~~
34 ~~public relations, advocacy, and evaluation of clubhouse~~
35 ~~effectiveness;~~

36 ~~(d) Members and staff and ultimately the clubhouse director must~~
37 ~~be responsible for the operation of the clubhouse, central to this~~
38 ~~responsibility is the engagement of members and staff in all aspects~~
39 ~~of clubhouse operations;~~

1 ~~(e) Clubhouse programs must be comprised of structured activities~~
2 ~~including but not limited to social skills training, vocational~~
3 ~~rehabilitation, employment training and job placement, and community~~
4 ~~resource development;~~

5 ~~(f) Clubhouse programs must provide in-house educational programs~~
6 ~~that significantly utilize the teaching and tutoring skills of~~
7 ~~members and assist members by helping them to take advantage of adult~~
8 ~~education opportunities in the community;~~

9 ~~(g) Clubhouse programs must focus on strengths, talents, and~~
10 ~~abilities of its members;~~

11 ~~(h) The work-ordered day may not include medication clinics, day~~
12 ~~treatment, or other therapy programs within the clubhouse.~~

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

16 ~~((16))~~ (13) The secretary shall assume all duties assigned to
17 the nonparticipating behavioral health organizations under chapters
18 71.05 and 71.34 RCW and this chapter. Such responsibilities shall
19 include those which would have been assigned to the nonparticipating
20 counties in regions where there are not participating behavioral
21 health organizations.

22 The behavioral health organizations, or the secretary's
23 assumption of all responsibilities under chapters 71.05 and 71.34 RCW
24 and this chapter, shall be included in all state and federal plans
25 affecting the state ~~((mental))~~ behavioral health program including at
26 least those required by this chapter, the medicaid program, and P.L.
27 99-660. Nothing in these plans shall be inconsistent with the intent
28 and requirements of this chapter.

29 ~~((17))~~ (14) The secretary shall:

30 (a) Disburse funds for the behavioral health organizations within
31 sixty days of approval of the biennial contract. The department must
32 either approve or reject the biennial contract within sixty days of
33 receipt.

34 (b) Enter into biennial contracts with behavioral health
35 organizations. The contracts shall be consistent with available
36 resources. No contract shall be approved that does not include
37 progress toward meeting the goals of this chapter by taking
38 responsibility for: (i) Short-term commitments; (ii) residential
39 care; and (iii) emergency response systems.

1 (c) Notify behavioral health organizations of their allocation of
2 available resources at least sixty days prior to the start of a new
3 biennial contract period.

4 (d) Deny all or part of the funding allocations to behavioral
5 health organizations based solely upon formal findings of
6 noncompliance with the terms of the behavioral health organization's
7 contract with the department. Behavioral health organizations
8 disputing the decision of the secretary to withhold funding
9 allocations are limited to the remedies provided in the department's
10 contracts with the behavioral health organizations.

11 ~~((18))~~ (15) The department, in cooperation with the state
12 congressional delegation, shall actively seek waivers of federal
13 requirements and such modifications of federal regulations as are
14 necessary to allow federal medicaid reimbursement for services
15 provided by freestanding evaluation and treatment facilities
16 certified under chapter 71.05 RCW. The department shall periodically
17 report its efforts to the appropriate committees of the senate and
18 the house of representatives.

19 (16) The department may:

20 (a) Plan, establish, and maintain substance use disorder
21 prevention and substance use disorder treatment programs as necessary
22 or desirable;

23 (b) Coordinate its activities and cooperate with behavioral
24 programs in this and other states, and make contracts and other joint
25 or cooperative arrangements with state, local, or private agencies in
26 this and other states for behavioral health services and for the
27 common advancement of substance use disorder programs;

28 (c) Solicit and accept for use any gift of money or property made
29 by will or otherwise, and any grant of money, services, or property
30 from the federal government, the state, or any political subdivision
31 thereof or any private source, and do all things necessary to
32 cooperate with the federal government or any of its agencies in
33 making an application for any grant;

34 (d) Keep records and engage in research and the gathering of
35 relevant statistics; and

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

1 **Sec. 504.** RCW 70.96A.050 and 2014 c 225 s 23 are each amended to
2 read as follows:

3 The department shall:

4 (1) Develop, encourage, and foster statewide, regional, and local
5 plans and programs for the prevention of alcoholism and other drug
6 addiction, treatment of persons with substance use disorders and
7 their families, persons incapacitated by alcohol or other
8 psychoactive chemicals, and intoxicated persons in cooperation with
9 public and private agencies, organizations, and individuals and
10 provide technical assistance and consultation services for these
11 purposes;

12 (2) Assure that any behavioral health organization managed care
13 contract, or managed care contract under RCW 74.09.522 for behavioral
14 health services or programs for the treatment of persons with
15 substance use disorders and their families, persons incapacitated by
16 alcohol or other psychoactive chemicals, and intoxicated persons
17 provides medically necessary services to medicaid recipients. This
18 must include a continuum of mental health and (~~chemical dependency~~)
19 substance use disorder services consistent with the state's medicaid
20 plan or federal waiver authorities, and nonmedicaid services
21 consistent with priorities established by the department;

22 (3) Coordinate the efforts and enlist the assistance of all
23 public and private agencies, organizations, and individuals
24 interested in prevention of alcoholism and drug addiction, and
25 treatment of persons with substance use disorders and their families,
26 persons incapacitated by alcohol or other psychoactive chemicals, and
27 intoxicated persons;

28 (4) Cooperate with public and private agencies in establishing
29 and conducting programs to provide treatment for persons with
30 substance use disorders and their families, persons incapacitated by
31 alcohol or other psychoactive chemicals, and intoxicated persons who
32 are clients of the correctional system;

33 (5) Cooperate with the superintendent of public instruction,
34 state board of education, schools, police departments, courts, and
35 other public and private agencies, organizations and individuals in
36 establishing programs for the prevention of (~~alcoholism and other~~
37 ~~drug addiction~~) substance use disorders, treatment of persons with
38 substance use disorders and their families, persons incapacitated by
39 alcohol or other psychoactive chemicals, and intoxicated persons, and

1 preparing curriculum materials thereon for use at all levels of
2 school education;

3 (6) Prepare, publish, evaluate, and disseminate educational
4 material dealing with the nature and effects of alcohol and other
5 psychoactive chemicals and the consequences of their use;

6 (7) Develop and implement, as an integral part of substance use
7 disorder treatment programs, an educational program for use in the
8 treatment of persons with substance use disorders, persons
9 incapacitated by alcohol or other psychoactive chemicals, and
10 intoxicated persons, which program shall include the dissemination of
11 information concerning the nature and effects of alcohol and other
12 psychoactive chemicals, the consequences of their use, the principles
13 of recovery, and HIV and AIDS;

14 (8) Organize and foster training programs for persons engaged in
15 treatment of persons with substance use disorders, persons
16 incapacitated by alcohol or other psychoactive chemicals, and
17 intoxicated persons;

18 (9) Sponsor and encourage research into the causes and nature of
19 (~~alcoholism and other drug addiction~~) substance use disorders,
20 treatment of persons with substance use disorders, persons
21 incapacitated by alcohol or other psychoactive chemicals, and
22 intoxicated persons, and serve as a clearinghouse for information
23 relating to (~~alcoholism or other drug addiction~~) substance use
24 disorders;

25 (10) Specify uniform methods for keeping statistical information
26 by public and private agencies, organizations, and individuals, and
27 collect and make available relevant statistical information,
28 including number of persons treated, frequency of admission and
29 readmission, and frequency and duration of treatment;

30 (11) Advise the governor in the preparation of a comprehensive
31 plan for treatment of persons with substance use disorders, persons
32 incapacitated by alcohol or other psychoactive chemicals, and
33 intoxicated persons for inclusion in the state's comprehensive health
34 plan;

35 (12) Review all state health, welfare, and treatment plans to be
36 submitted for federal funding under federal legislation, and advise
37 the governor on provisions to be included relating to substance use
38 disorders;

39 (13) Assist in the development of, and cooperate with, programs
40 for alcohol and other psychoactive chemical education and treatment

1 for employees of state and local governments and businesses and
2 industries in the state;

3 (14) Use the support and assistance of interested persons in the
4 community to encourage persons with substance use disorders
5 voluntarily to undergo treatment;

6 (15) Cooperate with public and private agencies in establishing
7 and conducting programs designed to deal with the problem of persons
8 operating motor vehicles while intoxicated;

9 (16) Encourage general hospitals and other appropriate health
10 facilities to admit without discrimination persons with substance use
11 disorders, persons incapacitated by alcohol or other psychoactive
12 chemicals, and intoxicated persons and to provide them with adequate
13 and appropriate treatment;

14 (17) Encourage all health and disability insurance programs to
15 include (~~alcoholism and other drug addiction~~) substance use
16 disorders as a covered illness; and

17 (18) Organize and sponsor a statewide program to help court
18 personnel, including judges, better understand (~~the disease of~~
19 ~~alcoholism and other drug addiction~~) substance use disorders and the
20 uses of (~~chemical dependency~~) substance use disorder treatment
21 programs.

22 **Sec. 505.** RCW 71.24.037 and 2001 c 323 s 11 are each amended to
23 read as follows:

24 (1) The secretary shall by rule establish state minimum standards
25 for licensed behavioral health service providers and services,
26 whether those service providers and services are licensed to provide
27 solely mental health services, substance use disorder treatment
28 services, or services to persons with co-occurring disorders.

29 (2) Minimum standards for licensed behavioral health service
30 providers shall, at a minimum, establish: Qualifications for staff
31 providing services directly to (~~mentally ill~~) persons with mental
32 disorders, substance use disorders, or both, the intended result of
33 each service, and the rights and responsibilities of persons
34 receiving (~~mental~~) behavioral health services pursuant to this
35 chapter. The secretary shall provide for deeming of licensed
36 behavioral health service providers as meeting state minimum
37 standards as a result of accreditation by a recognized behavioral
38 health accrediting body recognized and having a current agreement
39 with the department.

1 (3) Minimum standards for community support services and resource
2 management services shall include at least qualifications for
3 resource management services, client tracking systems, and the
4 transfer of patient information between behavioral health service
5 providers.

6 (4) The department may suspend, revoke, limit, restrict, or
7 modify an approval, or refuse to grant approval, for failure to meet
8 the provisions of this chapter, or the standards adopted under this
9 chapter. RCW 43.20A.205 governs notice of a license denial,
10 revocation, suspension, or modification and provides the right to an
11 adjudicative proceeding.

12 (5) No licensed behavioral health service provider may advertise
13 or represent itself as a licensed behavioral health service provider
14 if approval has not been granted, has been denied, suspended,
15 revoked, or canceled.

16 (6) Licensure as a behavioral health service provider is
17 effective for one calendar year from the date of issuance of the
18 license. The license must specify the types of services provided by
19 the behavioral health service provider that meet the standards
20 adopted under this chapter. Renewal of a license must be made in
21 accordance with this section for initial approval and in accordance
22 with the standards set forth in rules adopted by the secretary.

23 (7) Licensure as a licensed behavioral health service provider
24 must specify the types of services provided that meet the standards
25 adopted under this chapter. Renewal of a license must be made in
26 accordance with this section for initial approval and in accordance
27 with the standards set forth in rules adopted by the secretary.

28 (8) Licensed behavioral health service providers may not provide
29 types of services for which the licensed behavioral health service
30 provider has not been certified. Licensed behavioral health service
31 providers may provide services for which approval has been sought and
32 is pending, if approval for the services has not been previously
33 revoked or denied.

34 (9) The department periodically shall inspect licensed behavioral
35 health service providers at reasonable times and in a reasonable
36 manner.

37 (10) Upon petition of the department and after a hearing held
38 upon reasonable notice to the facility, the superior court may issue
39 a warrant to an officer or employee of the department authorizing him
40 or her to enter and inspect at reasonable times, and examine the

1 books and accounts of, any licensed behavioral health service
2 provider refusing to consent to inspection or examination by the
3 department or which the department has reasonable cause to believe is
4 operating in violation of this chapter.

5 (11) The department shall maintain and periodically publish a
6 current list of licensed behavioral health service providers.

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

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

24 **Sec. 506.** RCW 70.96A.090 and 2005 c 70 s 2 are each amended to
25 read as follows:

26 ~~(1) ((The department shall adopt rules establishing standards for~~
27 ~~approved treatment programs, the process for the review and~~
28 ~~inspection program applying to the department for certification as an~~
29 ~~approved treatment program, and fixing the fees to be charged by the~~
30 ~~department for the required inspections. The standards may concern~~
31 ~~the health standards to be met and standards of services and~~
32 ~~treatment to be afforded patients.~~

33 ~~(2) The department may suspend, revoke, limit, restrict, or~~
34 ~~modify an approval, or refuse to grant approval, for failure to meet~~
35 ~~the provisions of this chapter, or the standards adopted under this~~
36 ~~chapter. RCW 43.20A.205 governs notice of a license denial,~~
37 ~~revocation, suspension, or modification and provides the right to an~~
38 ~~adjudicative proceeding.~~

1 ~~(3) No treatment program may advertise or represent itself as an~~
2 ~~approved treatment program if approval has not been granted, has been~~
3 ~~denied, suspended, revoked, or canceled.~~

4 ~~(4) Certification as an approved treatment program is effective~~
5 ~~for one calendar year from the date of issuance of the certificate.~~
6 ~~The certification shall specify the types of services provided by the~~
7 ~~approved treatment program that meet the standards adopted under this~~
8 ~~chapter. Renewal of certification shall be made in accordance with~~
9 ~~this section for initial approval and in accordance with the~~
10 ~~standards set forth in rules adopted by the secretary.~~

11 ~~(5) Approved treatment programs shall not provide alcoholism or~~
12 ~~other drug addiction treatment services for which the approved~~
13 ~~treatment program has not been certified. Approved treatment programs~~
14 ~~may provide services for which approval has been sought and is~~
15 ~~pending, if approval for the services has not been previously revoked~~
16 ~~or denied.~~

17 ~~(6) The department periodically shall inspect approved public and~~
18 ~~private treatment programs at reasonable times and in a reasonable~~
19 ~~manner.~~

20 ~~(7) The department shall maintain and periodically publish a~~
21 ~~current list of approved treatment programs.~~

22 ~~(8) Each approved treatment program shall file with the~~
23 ~~department on request, data, statistics, schedules, and information~~
24 ~~the department reasonably requires. An approved treatment program~~
25 ~~that without good cause fails to furnish any data, statistics,~~
26 ~~schedules, or information as requested, or files fraudulent returns~~
27 ~~thereof, may be removed from the list of approved treatment programs,~~
28 ~~and its certification revoked or suspended.~~

29 ~~(9) The department shall use the data provided in subsection (8)~~
30 ~~of this section to evaluate each program that admits children to~~
31 ~~inpatient treatment upon application of their parents. The evaluation~~
32 ~~shall be done at least once every twelve months. In addition, the~~
33 ~~department shall randomly select and review the information on~~
34 ~~individual children who are admitted on application of the child's~~
35 ~~parent for the purpose of determining whether the child was~~
36 ~~appropriately placed into treatment based on an objective evaluation~~
37 ~~of the child's condition and the outcome of the child's treatment.~~

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

1 ~~or her to enter and inspect at reasonable times, and examine the~~
2 ~~books and accounts of, any approved public or private treatment~~
3 ~~program refusing to consent to inspection or examination by the~~
4 ~~department or which the department has reasonable cause to believe is~~
5 ~~operating in violation of this chapter.~~

6 ~~(11)(a))~~ All approved opiate substitution treatment programs
7 that provide services to women who are pregnant are required to
8 disseminate up-to-date and accurate health education information to
9 all their pregnant clients concerning the possible addiction and
10 health risks that their opiate substitution treatment may have on
11 their baby. All pregnant clients must also be advised of the risks to
12 both them and their baby associated with not remaining on the opiate
13 substitute program. The information must be provided to these clients
14 both verbally and in writing. The health education information
15 provided to the pregnant clients must include referral options for
16 the addicted baby.

17 ~~((b))~~ (2) The department shall adopt rules that require all
18 opiate treatment programs to educate all pregnant women in their
19 program on the benefits and risks of methadone treatment to their
20 fetus before they are provided these medications, as part of their
21 addiction treatment. The department shall meet the requirements under
22 this subsection within the appropriations provided for opiate
23 treatment programs. The department, working with treatment providers
24 and medical experts, shall develop and disseminate the educational
25 materials to all certified opiate treatment programs.

26 NEW SECTION. Sec. 507. A new section is added to chapter 71.24
27 RCW to read as follows:

28 The standards for certification or licensure of evaluation and
29 treatment facilities must include standards relating to maintenance
30 of good physical and mental health and other services to be afforded
31 persons pursuant to this chapter and chapters 71.05 and 71.34 RCW,
32 and must otherwise assure the effectuation of the purposes of these
33 chapters.

34 NEW SECTION. Sec. 508. A new section is added to chapter 71.24
35 RCW to read as follows:

36 The standards for certification or licensure of crisis
37 stabilization units must include standards that:

- 1 (1) Permit location of the units at a jail facility if the unit
2 is physically separate from the general population of the jail;
- 3 (2) Require administration of the unit by mental health
4 professionals who direct the stabilization and rehabilitation
5 efforts; and
- 6 (3) Provide an environment affording security appropriate with
7 the alleged criminal behavior and necessary to protect the public
8 safety.

9 NEW SECTION. **Sec. 509.** A new section is added to chapter 71.24
10 RCW to read as follows:

11 The standards for certification or licensure of a clubhouse must
12 at a minimum include:

- 13 (1) The facilities may be peer-operated and must be
14 recovery-focused;
- 15 (2) Members and employees must work together;
- 16 (3) Members must have the opportunity to participate in all the
17 work of the clubhouse, including administration, research, intake and
18 orientation, outreach, hiring, training and evaluation of staff,
19 public relations, advocacy, and evaluation of clubhouse
20 effectiveness;
- 21 (4) Members and staff and ultimately the clubhouse director must
22 be responsible for the operation of the clubhouse, central to this
23 responsibility is the engagement of members and staff in all aspects
24 of clubhouse operations;
- 25 (5) Clubhouse programs must be comprised of structured activities
26 including but not limited to social skills training, vocational
27 rehabilitation, employment training and job placement, and community
28 resource development;
- 29 (6) Clubhouse programs must provide in-house educational programs
30 that significantly utilize the teaching and tutoring skills of
31 members and assist members by helping them to take advantage of adult
32 education opportunities in the community;
- 33 (7) Clubhouse programs must focus on strengths, talents, and
34 abilities of its members;
- 35 (8) The work-ordered day may not include medication clinics, day
36 treatment, or other therapy programs within the clubhouse.

37 **Sec. 510.** RCW 71.24.385 and 2014 c 225 s 9 are each amended to
38 read as follows:

1 (1) Within funds appropriated by the legislature for this
2 purpose, behavioral health organizations shall develop the means to
3 serve the needs of people:

4 (a) With mental disorders residing within the boundaries of their
5 regional service area. Elements of the program may include:

6 ~~((a))~~ (i) Crisis diversion services;

7 ~~((b))~~ (ii) Evaluation and treatment and community hospital
8 beds;

9 ~~((c))~~ (iii) Residential treatment;

10 ~~((d))~~ (iv) Programs for intensive community treatment;

11 ~~((e))~~ (v) Outpatient services;

12 ~~((f))~~ (vi) Peer support services;

13 ~~((g))~~ (vii) Community support services;

14 ~~((h))~~ (viii) Resource management services; and

15 ~~((i))~~ (ix) Supported housing and supported employment services.

16 (b) With substance use disorders and their families, people
17 incapacitated by alcohol or other psychoactive chemicals, and
18 intoxicated people.

19 (i) Elements of the program shall include, but not necessarily be
20 limited to, a continuum of substance use disorder treatment services
21 that includes:

22 (A) Withdrawal management;

23 (B) Residential treatment; and

24 (C) Outpatient treatment.

25 (ii) The program may include peer support, supported housing,
26 supported employment, crisis diversion, or recovery support services.

27 (iii) The department may contract for the use of an approved
28 substance use disorder treatment program or other individual or
29 organization if the secretary considers this to be an effective and
30 economical course to follow.

31 (2) The behavioral health organization shall have the
32 flexibility, within the funds appropriated by the legislature for
33 this purpose and the terms of their contract, to design the mix of
34 services that will be most effective within their service area of
35 meeting the needs of people with ~~((mental))~~ behavioral health
36 disorders and avoiding placement of such individuals at the state
37 mental hospital. Behavioral health organizations are encouraged to
38 maximize the use of evidence-based practices and alternative
39 resources with the goal of substantially reducing and potentially
40 eliminating the use of institutions for mental diseases.

1 (3)(a) Treatment provided under this chapter must be purchased
2 primarily through managed care contracts.

3 (b) Consistent with RCW 70.96A.350 (as recodified by this act),
4 services and funding provided through the criminal justice treatment
5 account are intended to be exempted from managed care contracting.

6 **Sec. 511.** RCW 70.96A.350 and 2015 3rd sp.s. c 4 s 968 and 2015 c
7 291 s 10 are each reenacted and amended to read as follows:

8 (1) The criminal justice treatment account is created in the
9 state treasury. Moneys in the account may be expended solely for: (a)
10 Substance (~~abuse~~) use disorder treatment and treatment support
11 services for offenders with (~~an addiction or a substance abuse~~
12 ~~problem~~) a substance use disorder that, if not treated, would result
13 in addiction, against whom charges are filed by a prosecuting
14 attorney in Washington state; (b) the provision of (~~drug and~~
15 ~~alcohol~~) substance use disorder treatment services and treatment
16 support services for nonviolent offenders within a drug court
17 program; and (c) the administrative and overhead costs associated
18 with the operation of a drug court. (~~This amount is not subject to~~
19 ~~the requirements of subsections (5) through (9) of this section.~~
20 ~~During the 2013-2015 fiscal biennium, the legislature may transfer~~
21 ~~from the criminal justice treatment account to the state general fund~~
22 ~~amounts as reflect the state savings associated with the~~
23 ~~implementation of the medicaid expansion of the federal affordable~~
24 ~~care act.)) During the 2015-2017 fiscal biennium, the legislature may~~
25 transfer from the criminal justice treatment account to the state
26 general fund amounts as reflect the state savings associated with the
27 implementation of the medicaid expansion of the federal affordable
28 care act and the excess fund balance of the account. Moneys in the
29 account may be spent only after appropriation.

30 (2) For purposes of this section:

31 (a) "Treatment" means services that are critical to a
32 participant's successful completion of his or her substance (~~abuse~~)
33 use disorder treatment program, but does not include the following
34 services: Housing other than that provided as part of an inpatient
35 substance (~~abuse~~) use disorder treatment program, vocational
36 training, and mental health counseling; and

37 (b) "Treatment support" means transportation to or from inpatient
38 or outpatient treatment services when no viable alternative exists,

1 and child care services that are necessary to ensure a participant's
2 ability to attend outpatient treatment sessions.

3 (3) Revenues to the criminal justice treatment account consist
4 of: (a) Funds transferred to the account pursuant to this section;
5 and (b) any other revenues appropriated to or deposited in the
6 account.

7 (4)(a) (~~For the fiscal biennium beginning July 1, 2003, the~~
8 ~~state treasurer shall transfer eight million nine hundred fifty~~
9 ~~thousand dollars from the general fund into the criminal justice~~
10 ~~treatment account, divided into eight equal quarterly payments. For~~
11 ~~the fiscal year beginning July 1, 2005, and each subsequent fiscal~~
12 ~~year, the state treasurer shall transfer eight million two hundred~~
13 ~~fifty thousand dollars from the general fund to the criminal justice~~
14 ~~treatment account, divided into four equal quarterly payments.)) For
15 the fiscal year beginning July 1, 2006, and each subsequent fiscal
16 year, the amount transferred shall be increased on an annual basis by
17 the implicit price deflator as published by the federal bureau of
18 labor statistics.~~

19 (b) In each odd-numbered year, the legislature shall appropriate
20 the amount transferred to the criminal justice treatment account in
21 (a) of this subsection to the (~~division of alcohol and substance~~
22 ~~abuse~~) department for the purposes of subsection (5) of this
23 section.

24 (5) Moneys appropriated to the (~~division of alcohol and~~
25 ~~substance abuse~~) department from the criminal justice treatment
26 account shall be distributed as specified in this subsection. The
27 department (~~shall serve as the fiscal agent for purposes of~~
28 ~~distribution. Until July 1, 2004, the department may not use moneys~~
29 ~~appropriated from the criminal justice treatment account for~~
30 ~~administrative expenses and shall distribute all amounts appropriated~~
31 ~~under subsection (4)(b) of this section in accordance with this~~
32 ~~subsection. Beginning in July 1, 2004, the department)) may retain up
33 to three percent of the amount appropriated under subsection (4)(b)
34 of this section for its administrative costs.~~

35 (a) Seventy percent of amounts appropriated to the (~~division~~)
36 department from the account shall be distributed to counties pursuant
37 to the distribution formula adopted under this section. The division
38 of alcohol and substance abuse, in consultation with the department
39 of corrections, the Washington state association of counties, the
40 Washington state association of drug court professionals, the

1 superior court judges' association, the Washington association of
2 prosecuting attorneys, representatives of the criminal defense bar,
3 representatives of substance ((~~abuse~~)) use disorder treatment
4 providers, and any other person deemed by the ((~~division~~)) department
5 to be necessary, shall establish a fair and reasonable methodology
6 for distribution to counties of moneys in the criminal justice
7 treatment account. County or regional plans submitted for the
8 expenditure of formula funds must be approved by the panel
9 established in (b) of this subsection.

10 (b) Thirty percent of the amounts appropriated to the
11 ((~~division~~)) department from the account shall be distributed as
12 grants for purposes of treating offenders against whom charges are
13 filed by a county prosecuting attorney. The ((~~division~~)) department
14 shall appoint a panel of representatives from the Washington
15 association of prosecuting attorneys, the Washington association of
16 sheriffs and police chiefs, the superior court judges' association,
17 the Washington state association of counties, the Washington
18 defender's association or the Washington association of criminal
19 defense lawyers, the department of corrections, the Washington state
20 association of drug court professionals, substance ((~~abuse~~)) use
21 disorder treatment providers, and the division. The panel shall
22 review county or regional plans for funding under (a) of this
23 subsection and grants approved under this subsection. The panel shall
24 attempt to ensure that treatment as funded by the grants is available
25 to offenders statewide.

26 (6) The county alcohol and drug coordinator, county prosecutor,
27 county sheriff, county superior court, a substance abuse treatment
28 provider appointed by the county legislative authority, a member of
29 the criminal defense bar appointed by the county legislative
30 authority, and, in counties with a drug court, a representative of
31 the drug court shall jointly submit a plan, approved by the county
32 legislative authority or authorities, to the panel established in
33 subsection (5)(b) of this section, for disposition of all the funds
34 provided from the criminal justice treatment account within that
35 county. The funds shall be used solely to provide approved alcohol
36 and substance abuse treatment pursuant to RCW 70.96A.090 (as
37 recodified by this act), treatment support services, and for the
38 administrative and overhead costs associated with the operation of a
39 drug court.

1 (a) No more than ten percent of the total moneys received under
2 subsections (4) and (5) of this section by a county or group of
3 counties participating in a regional agreement shall be spent on the
4 administrative and overhead costs associated with the operation of a
5 drug court.

6 (b) No more than ten percent of the total moneys received under
7 subsections (4) and (5) of this section by a county or group of
8 counties participating in a regional agreement shall be spent for
9 treatment support services.

10 (7) Counties are encouraged to consider regional agreements and
11 submit regional plans for the efficient delivery of treatment under
12 this section.

13 (8) Moneys allocated under this section shall be used to
14 supplement, not supplant, other federal, state, and local funds used
15 for substance abuse treatment.

16 (9) Counties must meet the criteria established in RCW
17 2.30.030(3).

18 (10) The authority under this section to use funds from the
19 criminal justice treatment account for the administrative and
20 overhead costs associated with the operation of a drug court expires
21 June 30, 2015.

22 **Sec. 512.** RCW 70.96A.035 and 2005 c 504 s 302 are each amended
23 to read as follows:

24 (1) (~~Not later than January 1, 2007,~~) All persons providing
25 treatment under this chapter shall also implement the integrated
26 comprehensive screening and assessment process for ((chemical
27 dependency)) substance use and mental disorders adopted pursuant to
28 RCW 70.96C.010 (as recodified by this act) and shall document the
29 numbers of clients with co-occurring mental and substance ((~~abuse~~))
30 use disorders based on a quadrant system of low and high needs.

31 (2) Treatment providers contracted to provide treatment under
32 this chapter who fail to implement the integrated comprehensive
33 screening and assessment process for ((~~chemical dependency~~))
34 substance use and mental disorders ((~~by July 1, 2007,~~)) are subject
35 to contractual penalties established under RCW 70.96C.010 (as
36 recodified by this act).

37 **Sec. 513.** RCW 70.96C.010 and 2014 c 225 s 77 are each amended to
38 read as follows:

1 (1) The department of social and health services(~~(, in~~
2 ~~consultation with the members of the team charged with developing the~~
3 ~~state plan for co-occurring mental and substance abuse disorders,~~
4 ~~shall adopt, not later than January 1, 2006,)~~) shall maintain an
5 integrated and comprehensive screening and assessment process for
6 (~~chemical dependency~~) substance use and mental disorders and co-
7 occurring (~~chemical dependency~~) substance use and mental disorders.

8 (a) The process adopted shall include, at a minimum:

9 (i) An initial screening tool that can be used by intake
10 personnel system-wide and which will identify the most common types
11 of co-occurring disorders;

12 (ii) An assessment process for those cases in which assessment is
13 indicated that provides an appropriate degree of assessment for most
14 situations, which can be expanded for complex situations;

15 (iii) Identification of triggers in the screening that indicate
16 the need to begin an assessment;

17 (iv) Identification of triggers after or outside the screening
18 that indicate a need to begin or resume an assessment;

19 (v) The components of an assessment process and a protocol for
20 determining whether part or all of the assessment is necessary, and
21 at what point; and

22 (vi) Emphasis that the process adopted under this section is to
23 replace and not to duplicate existing intake, screening, and
24 assessment tools and processes.

25 (b) The department shall consider existing models, including
26 those already adopted by other states, and to the extent possible,
27 adopt an established, proven model.

28 (c) The integrated, comprehensive screening and assessment
29 process shall be implemented statewide by all (~~chemical dependency~~)
30 substance use disorder and mental health treatment providers as well
31 as all designated mental health professionals, designated chemical
32 dependency specialists, and designated crisis responders (~~not later~~
33 ~~than January 1, 2007~~)).

34 (2) The department shall provide adequate training to effect
35 statewide implementation by the dates designated in this section and
36 shall report the rates of co-occurring disorders and the stage of
37 screening or assessment at which the co-occurring disorder was
38 identified to the appropriate committees of the legislature.

39 (3) The department shall establish contractual penalties to
40 contracted treatment providers, the behavioral health organizations,

1 and their contracted providers for failure to implement the
2 integrated screening and assessment process ((~~by July 1, 2007~~)).

3 **Sec. 514.** RCW 70.96A.037 and 2011 c 89 s 9 are each amended to
4 read as follows:

5 (1) The department of social and health services shall contract
6 for chemical dependency specialist services at division of children
7 and family services offices to enhance the timeliness and quality of
8 child protective services assessments and to better connect families
9 to needed treatment services.

10 (2) The chemical dependency specialist's duties may include, but
11 are not limited to: Conducting on-site ((~~chemical dependency~~))
12 substance use disorder screening and assessment, facilitating
13 progress reports to department employees, in-service training of
14 department employees and staff on substance ((~~abuse~~)) use disorder
15 issues, referring clients from the department to treatment providers,
16 and providing consultation on cases to department employees.

17 (3) The department of social and health services shall provide
18 training in and ensure that each case-carrying employee is trained in
19 uniform screening for mental health and ((~~chemical dependency~~))
20 substance use disorder.

21 **Sec. 515.** RCW 70.96A.047 and 1989 c 270 s 11 are each amended to
22 read as follows:

23 Except as provided in this chapter, the secretary shall not
24 approve any substance use disorder facility, plan, or program for
25 financial assistance under RCW 70.96A.040 (as recodified by this act)
26 unless at least ten percent of the amount spent for the facility,
27 plan, or program is provided from local public or private sources.
28 When deemed necessary to maintain public standards of care in the
29 substance use disorder facility, plan, or program, the secretary may
30 require the substance use disorder facility, plan, or program to
31 provide up to fifty percent of the total spent for the program
32 through fees, gifts, contributions, or volunteer services. The
33 secretary shall determine the value of the gifts, contributions, and
34 volunteer services.

35 **Sec. 516.** RCW 70.96A.055 and 1999 c 197 s 10 are each amended to
36 read as follows:

1 The department shall contract with counties operating drug courts
2 and counties in the process of implementing new drug courts for the
3 provision of (~~drug and alcohol~~) substance use disorder treatment
4 services.

5 **Sec. 517.** RCW 70.96A.087 and 1989 c 270 s 13 are each amended to
6 read as follows:

7 To be eligible to receive its share of liquor taxes and profits,
8 each city and county shall devote no less than two percent of its
9 share of liquor taxes and profits to the support of a substance use
10 disorder program (~~(of alcoholism and other drug addiction)~~) approved
11 by the (~~(alcoholism and other drug addiction board authorized by RCW~~
12 ~~70.96A.300)~~) behavioral health organization and the secretary.

13 **Sec. 518.** RCW 70.96A.170 and 1989 c 270 s 30 are each amended to
14 read as follows:

15 (1) The state and counties, cities, and other municipalities may
16 establish or contract for emergency service patrols which are to be
17 under the administration of the appropriate jurisdiction. A patrol
18 consists of persons trained to give assistance in the streets and in
19 other public places to persons who are intoxicated. Members of an
20 emergency service patrol shall be capable of providing first aid in
21 emergency situations and may transport intoxicated persons to their
22 homes and to and from substance use disorder treatment programs.

23 (2) The secretary shall adopt rules pursuant to chapter 34.05 RCW
24 for the establishment, training, and conduct of emergency service
25 patrols.

26 **Sec. 519.** RCW 70.96A.400 and 2001 c 242 s 1 are each amended to
27 read as follows:

28 The state of Washington declares that there is no fundamental
29 right to opiate substitution treatment. The state of Washington
30 further declares that while opiate substitution drugs used in the
31 treatment of opiate dependency are addictive substances, that they
32 nevertheless have several legal, important, and justified uses and
33 that one of their appropriate and legal uses is, in conjunction with
34 other required therapeutic procedures, in the treatment of persons
35 addicted to or habituated to opioids. Opiate substitution treatment
36 should only be used for participants who are deemed appropriate to

1 need this level of intervention and should not be the first treatment
2 intervention for all opiate addicts.

3 Because opiate substitution drugs, used in the treatment of
4 opiate dependency are addictive and are listed as a schedule II
5 controlled substance in chapter 69.50 RCW, the state of Washington
6 has the legal obligation and right to regulate the use of opiate
7 substitution treatment. The state of Washington declares its
8 authority to control and regulate carefully, in consultation with
9 counties and cities, all clinical uses of opiate substitution drugs
10 used in the treatment of opiate addiction.

11 Further, the state declares that the primary goal of opiate
12 substitution treatment is total abstinence from ~~((chemical
13 dependency))~~ substance use for the individuals who participate in the
14 treatment program. The state recognizes that a small percentage of
15 persons who participate in opiate substitution treatment programs
16 require treatment for an extended period of time. Opiate substitution
17 treatment programs shall provide a comprehensive transition program
18 to eliminate ~~((chemical-dependency))~~ substance use, including opiate
19 and opiate substitute addiction of program participants.

20 **Sec. 520.** RCW 70.96A.800 and 2014 c 225 s 33 are each amended to
21 read as follows:

22 (1) Subject to funds appropriated for this specific purpose, the
23 secretary shall select and contract with ~~((counties))~~ behavioral
24 health organizations to provide intensive case management for
25 ~~((chemically-dependent))~~ persons with substance use disorders and
26 histories of high utilization of crisis services at two sites. In
27 selecting the two sites, the secretary shall endeavor to site one in
28 an urban county, and one in a rural county; and to site them in
29 counties other than those selected pursuant to RCW 70.96B.020, to the
30 extent necessary to facilitate evaluation of pilot project results.
31 Subject to funds appropriated for this specific purpose, the
32 secretary may contract with additional counties to provide intensive
33 case management.

34 (2) The contracted sites shall implement the pilot programs by
35 providing intensive case management to persons with a primary
36 ~~((chemical-dependency))~~ substance use disorder diagnosis or dual
37 primary ~~((chemical-dependency))~~ substance use disorder and mental
38 health diagnoses, through the employment of ~~((chemical-dependency))~~

1 substance use disorder case managers. The ((~~chemical dependency~~))
2 substance use disorder case managers shall:

3 (a) Be trained in and use the integrated, comprehensive screening
4 and assessment process adopted under RCW 70.96C.010 (as recodified by
5 this act);

6 (b) Reduce the use of crisis medical, ((~~chemical dependency~~))
7 substance use disorder treatment and mental health services,
8 including but not limited to, emergency room admissions,
9 hospitalizations, withdrawal management programs, inpatient
10 psychiatric admissions, involuntary treatment petitions, emergency
11 medical services, and ambulance services;

12 (c) Reduce the use of emergency first responder services
13 including police, fire, emergency medical, and ambulance services;

14 (d) Reduce the number of criminal justice interventions including
15 arrests, violations of conditions of supervision, bookings, jail
16 days, prison sanction day for violations, court appearances, and
17 prosecutor and defense costs;

18 (e) Where appropriate and available, work with therapeutic courts
19 including drug courts and mental health courts to maximize the
20 outcomes for the individual and reduce the likelihood of reoffense;

21 (f) Coordinate with local offices of the economic services
22 administration to assist the person in accessing and remaining
23 enrolled in those programs to which the person may be entitled;

24 (g) Where appropriate and available, coordinate with primary care
25 and other programs operated through the federal government including
26 federally qualified health centers, Indian health programs, and
27 veterans' health programs for which the person is eligible to reduce
28 duplication of services and conflicts in case approach;

29 (h) Where appropriate, advocate for the client's needs to assist
30 the person in achieving and maintaining stability and progress toward
31 recovery;

32 (i) Document the numbers of persons with co-occurring mental and
33 substance ((~~abuse~~)) use disorders and the point of determination of
34 the co-occurring disorder by quadrant of intensity of need; and

35 (j) Where a program participant is under supervision by the
36 department of corrections, collaborate with the department of
37 corrections to maximize treatment outcomes and reduce the likelihood
38 of reoffense.

39 (3) The pilot programs established by this section shall begin
40 providing services by March 1, 2006.

1 **Sec. 521.** RCW 70.96A.905 and 1992 c 205 s 306 are each amended
2 to read as follows:

3 The department shall ensure that the provisions of this chapter
4 are applied by the ~~((counties))~~ behavioral health organizations in a
5 consistent and uniform manner. The department shall also ensure that,
6 to the extent possible within available funds, the ~~((county-~~
7 ~~designated))~~ behavioral health organization-designated chemical
8 dependency specialists are specifically trained in adolescent
9 chemical dependency issues, the chemical dependency commitment laws,
10 and the criteria for commitment, as specified in this chapter and
11 chapter 70.96A RCW.

12 **Sec. 522.** RCW 71.24.300 and 2015 c 269 s 10 are each amended to
13 read as follows:

14 (1) Upon the request of a tribal authority or authorities within
15 a behavioral health organization the joint operating agreement or the
16 county authority shall allow for the inclusion of the tribal
17 authority to be represented as a party to the behavioral health
18 organization.

19 (2) The roles and responsibilities of the county and tribal
20 authorities shall be determined by the terms of that agreement
21 including a determination of membership on the governing board and
22 advisory committees, the number of tribal representatives to be party
23 to the agreement, and the provisions of law and shall assure the
24 provision of culturally competent services to the tribes served.

25 (3) The state ~~((mental))~~ behavioral health authority may not
26 determine the roles and responsibilities of county authorities as to
27 each other under behavioral health organizations by rule, except to
28 assure that all duties required of behavioral health organizations
29 are assigned and that counties and the behavioral health organization
30 do not duplicate functions and that a single authority has final
31 responsibility for all available resources and performance under the
32 behavioral health organization's contract with the secretary.

33 (4) If a behavioral health organization is a private entity, the
34 department shall allow for the inclusion of the tribal authority to
35 be represented as a party to the behavioral health organization.

36 (5) The roles and responsibilities of the private entity and the
37 tribal authorities shall be determined by the department, through
38 negotiation with the tribal authority.

1 (6) Behavioral health organizations shall submit an overall six-
2 year operating and capital plan, timeline, and budget and submit
3 progress reports and an updated two-year plan biennially thereafter,
4 to assume within available resources all of the following duties:

5 (a) Administer and provide for the availability of all resource
6 management services, residential services, and community support
7 services.

8 (b) Administer and provide for the availability of an adequate
9 network of evaluation and treatment services to ensure access to
10 treatment, all investigation, transportation, court-related, and
11 other services provided by the state or counties pursuant to chapter
12 71.05 RCW.

13 (c) Provide within the boundaries of each behavioral health
14 organization evaluation and treatment services for at least ninety
15 percent of persons detained or committed for periods up to seventeen
16 days according to chapter 71.05 RCW. Behavioral health organizations
17 may contract to purchase evaluation and treatment services from other
18 organizations if they are unable to provide for appropriate resources
19 within their boundaries. Insofar as the original intent of serving
20 persons in the community is maintained, the secretary is authorized
21 to approve exceptions on a case-by-case basis to the requirement to
22 provide evaluation and treatment services within the boundaries of
23 each behavioral health organization. Such exceptions are limited to:

24 (i) Contracts with neighboring or contiguous regions; or

25 (ii) Individuals detained or committed for periods up to
26 seventeen days at the state hospitals at the discretion of the
27 secretary.

28 (d) Administer and provide for the availability of all other
29 mental health services, which shall include patient counseling, day
30 treatment, consultation, education services, employment services as
31 described in RCW 71.24.035, and mental health services to children.

32 (e) Establish standards and procedures for reviewing individual
33 service plans and determining when that person may be discharged from
34 resource management services.

35 (7) A behavioral health organization may request that any state-
36 owned land, building, facility, or other capital asset which was ever
37 purchased, deeded, given, or placed in trust for the care of the
38 persons with mental illness and which is within the boundaries of a
39 behavioral health organization be made available to support the
40 operations of the behavioral health organization. State agencies

1 managing such capital assets shall give first priority to requests
2 for their use pursuant to this chapter.

3 (8) Each behavioral health organization shall appoint a
4 (~~mental~~) behavioral health advisory board which shall review and
5 provide comments on plans and policies developed under this chapter,
6 provide local oversight regarding the activities of the behavioral
7 health organization, and work with the behavioral health organization
8 to resolve significant concerns regarding service delivery and
9 outcomes. The department shall establish statewide procedures for the
10 operation of regional advisory committees including mechanisms for
11 advisory board feedback to the department regarding behavioral health
12 organization performance. The composition of the board shall be
13 broadly representative of the demographic character of the region and
14 shall include, but not be limited to, representatives of consumers of
15 substance use disorder and mental health services and their families,
16 law enforcement, and, where the county is not the behavioral health
17 organization, county elected officials. Composition and length of
18 terms of board members may differ between behavioral health
19 organizations but shall be included in each behavioral health
20 organization's contract and approved by the secretary.

21 (9) Behavioral health organizations shall assume all duties
22 specified in their plans and joint operating agreements through
23 biennial contractual agreements with the secretary.

24 (10) Behavioral health organizations may receive technical
25 assistance from the housing trust fund and may identify and submit
26 projects for housing and housing support services to the housing
27 trust fund established under chapter 43.185 RCW. Projects identified
28 or submitted under this subsection must be fully integrated with the
29 behavioral health organization six-year operating and capital plan,
30 timeline, and budget required by subsection (6) of this section.

31 **Sec. 523.** RCW 71.24.350 and 2014 c 225 s 41 are each amended to
32 read as follows:

33 The department shall require each behavioral health organization
34 to provide for a separately funded (~~mental~~) behavioral health
35 ombuds office in each behavioral health organization that is
36 independent of the behavioral health organization. The ombuds office
37 shall maximize the use of consumer advocates.

1 **Sec. 524.** RCW 9.94A.660 and 2009 c 389 s 3 are each amended to
2 read as follows:

3 (1) An offender is eligible for the special drug offender
4 sentencing alternative if:

5 (a) The offender is convicted of a felony that is not a violent
6 offense or sex offense and the violation does not involve a sentence
7 enhancement under RCW 9.94A.533 (3) or (4);

8 (b) The offender is convicted of a felony that is not a felony
9 driving while under the influence of intoxicating liquor or any drug
10 under RCW 46.61.502(6) or felony physical control of a vehicle while
11 under the influence of intoxicating liquor or any drug under RCW
12 46.61.504(6);

13 (c) The offender has no current or prior convictions for a sex
14 offense at any time or violent offense within ten years before
15 conviction of the current offense, in this state, another state, or
16 the United States;

17 (d) For a violation of the Uniform Controlled Substances Act
18 under chapter 69.50 RCW or a criminal solicitation to commit such a
19 violation under chapter 9A.28 RCW, the offense involved only a small
20 quantity of the particular controlled substance as determined by the
21 judge upon consideration of such factors as the weight, purity,
22 packaging, sale price, and street value of the controlled substance;

23 (e) The offender has not been found by the United States attorney
24 general to be subject to a deportation detainer or order and does not
25 become subject to a deportation order during the period of the
26 sentence;

27 (f) The end of the standard sentence range for the current
28 offense is greater than one year; and

29 (g) The offender has not received a drug offender sentencing
30 alternative more than once in the prior ten years before the current
31 offense.

32 (2) A motion for a special drug offender sentencing alternative
33 may be made by the court, the offender, or the state.

34 (3) If the sentencing court determines that the offender is
35 eligible for an alternative sentence under this section and that the
36 alternative sentence is appropriate, the court shall waive imposition
37 of a sentence within the standard sentence range and impose a
38 sentence consisting of either a prison-based alternative under RCW
39 9.94A.662 or a residential chemical dependency treatment-based
40 alternative under RCW 9.94A.664. The residential chemical dependency

1 treatment-based alternative is only available if the midpoint of the
2 standard range is twenty-four months or less.

3 (4) To assist the court in making its determination, the court
4 may order the department to complete either or both a risk assessment
5 report and a chemical dependency screening report as provided in RCW
6 9.94A.500.

7 (5)(a) If the court is considering imposing a sentence under the
8 residential chemical dependency treatment-based alternative, the
9 court may order an examination of the offender by the department. The
10 examination shall, at a minimum, address the following issues:

11 (i) Whether the offender suffers from drug addiction;

12 (ii) Whether the addiction is such that there is a probability
13 that criminal behavior will occur in the future;

14 (iii) Whether effective treatment for the offender's addiction is
15 available from a provider that has been licensed or certified by the
16 (~~division of alcohol and substance abuse of the~~) department of
17 social and health services; and

18 (iv) Whether the offender and the community will benefit from the
19 use of the alternative.

20 (b) The examination report must contain:

21 (i) A proposed monitoring plan, including any requirements
22 regarding living conditions, lifestyle requirements, and monitoring
23 by family members and others; and

24 (ii) Recommended crime-related prohibitions and affirmative
25 conditions.

26 (6) When a court imposes a sentence of community custody under
27 this section:

28 (a) The court may impose conditions as provided in RCW 9.94A.703
29 and may impose other affirmative conditions as the court considers
30 appropriate. In addition, an offender may be required to pay thirty
31 dollars per month while on community custody to offset the cost of
32 monitoring for alcohol or controlled substances.

33 (b) The department may impose conditions and sanctions as
34 authorized in RCW 9.94A.704 and 9.94A.737.

35 (7)(a) The court may bring any offender sentenced under this
36 section back into court at any time on its own initiative to evaluate
37 the offender's progress in treatment or to determine if any
38 violations of the conditions of the sentence have occurred.

1 (b) If the offender is brought back to court, the court may
2 modify the conditions of the community custody or impose sanctions
3 under (c) of this subsection.

4 (c) The court may order the offender to serve a term of total
5 confinement within the standard range of the offender's current
6 offense at any time during the period of community custody if the
7 offender violates the conditions or requirements of the sentence or
8 if the offender is failing to make satisfactory progress in
9 treatment.

10 (d) An offender ordered to serve a term of total confinement
11 under (c) of this subsection shall receive credit for any time
12 previously served under this section.

13 (8) In serving a term of community custody imposed upon failure
14 to complete, or administrative termination from, the special drug
15 offender sentencing alternative program, the offender shall receive
16 no credit for time served in community custody prior to termination
17 of the offender's participation in the program.

18 (9) An offender sentenced under this section shall be subject to
19 all rules relating to earned release time with respect to any period
20 served in total confinement.

21 (10) Costs of examinations and preparing treatment plans under a
22 special drug offender sentencing alternative may be paid, at the
23 option of the county, from funds provided to the county from the
24 criminal justice treatment account under RCW 70.96A.350 (as
25 recodified by this act).

26 **Sec. 525.** RCW 10.05.020 and 2010 c 269 s 9 are each amended to
27 read as follows:

28 (1) Except as provided in subsection (2) of this section, the
29 petitioner shall allege under oath in the petition that the wrongful
30 conduct charged is the result of or caused by ~~((alcoholism, drug~~
31 ~~addiction,)) substance use disorders or mental problems for which the~~
32 person is in need of treatment and unless treated the probability of
33 future recurrence is great, along with a statement that the person
34 agrees to pay the cost of a diagnosis and treatment of the alleged
35 problem or problems if financially able to do so. The petition shall
36 also contain a case history and written assessment prepared by an
37 approved ~~((alcoholism)) substance use disorder treatment program as~~
38 designated in chapter ~~((70.96A)) 71.24 RCW if the petition alleges~~
39 ~~((alcoholism, an approved drug program as designated in chapter 71.24~~

1 ~~RCW if the petition alleges drug addiction,~~) a substance use
2 disorder or by an approved mental health center if the petition
3 alleges a mental problem.

4 (2) In the case of a petitioner charged with a misdemeanor or
5 gross misdemeanor under chapter 9A.42 RCW, the petitioner shall
6 allege under oath in the petition that the petitioner is the natural
7 or adoptive parent of the alleged victim; that the wrongful conduct
8 charged is the result of parenting problems for which the petitioner
9 is in need of services; that the petitioner is in need of child
10 welfare services under chapter 74.13 RCW to improve his or her
11 parenting skills in order to better provide his or her child or
12 children with the basic necessities of life; that the petitioner
13 wants to correct his or her conduct to reduce the likelihood of harm
14 to his or her minor children; that in the absence of child welfare
15 services the petitioner may be unable to reduce the likelihood of
16 harm to his or her minor children; and that the petitioner has
17 cooperated with the department of social and health services to
18 develop a plan to receive appropriate child welfare services; along
19 with a statement that the person agrees to pay the cost of the
20 services if he or she is financially able to do so. The petition
21 shall also contain a case history and a written service plan from the
22 department of social and health services.

23 (3) Before entry of an order deferring prosecution, a petitioner
24 shall be advised of his or her rights as an accused and execute, as a
25 condition of receiving treatment, a statement that contains: (a) An
26 acknowledgment of his or her rights; (b) an acknowledgment and waiver
27 of the right to testify, the right to a speedy trial, the right to
28 call witnesses to testify, the right to present evidence in his or
29 her defense, and the right to a jury trial; (c) a stipulation to the
30 admissibility and sufficiency of the facts contained in the written
31 police report; and (d) an acknowledgment that the statement will be
32 entered and used to support a finding of guilty if the court finds
33 cause to revoke the order granting deferred prosecution. The
34 petitioner shall also be advised that he or she may, if he or she
35 proceeds to trial and is found guilty, be allowed to seek suspension
36 of some or all of the fines and incarceration that may be ordered
37 upon the condition that he or she seek treatment and, further, that
38 he or she may seek treatment from public and private agencies at any
39 time without regard to whether or not he or she is found guilty of
40 the offense charged. He or she shall also be advised that the court

1 will not accept a petition for deferred prosecution from a person
2 who: (i) Sincerely believes that he or she is innocent of the
3 charges; (ii) sincerely believes that he or she does not, in fact,
4 suffer from alcoholism, drug addiction, or mental problems; or (iii)
5 in the case of a petitioner charged under chapter 9A.42 RCW,
6 sincerely believes that he or she does not need child welfare
7 services.

8 (4) Before entering an order deferring prosecution, the court
9 shall make specific findings that: (a) The petitioner has stipulated
10 to the admissibility and sufficiency of the facts as contained in the
11 written police report; (b) the petitioner has acknowledged the
12 admissibility of the stipulated facts in any criminal hearing on the
13 underlying offense or offenses held subsequent to revocation of the
14 order granting deferred prosecution; (c) the petitioner has
15 acknowledged and waived the right to testify, the right to a speedy
16 trial, the right to call witnesses to testify, the right to present
17 evidence in his or her defense, and the right to a jury trial; and
18 (d) the petitioner's statements were made knowingly and voluntarily.
19 Such findings shall be included in the order granting deferred
20 prosecution.

21 **Sec. 526.** RCW 10.05.030 and 2002 c 219 s 8 are each amended to
22 read as follows:

23 The arraignment judge upon consideration of the petition and with
24 the concurrence of the prosecuting attorney may continue the
25 arraignment and refer such person for a diagnostic investigation and
26 evaluation to an approved ((alcoholism)) substance use disorder
27 treatment program as designated in chapter ((70.96A)) 71.24 RCW, if
28 the petition alleges ((an alcohol problem, an approved drug treatment
29 center as designated in chapter 71.24 RCW, if the petition alleges a
30 drug problem)) a substance use disorder, to an approved mental health
31 center, if the petition alleges a mental problem, or the department
32 of social and health services if the petition is brought under RCW
33 10.05.020(2).

34 **Sec. 527.** RCW 10.05.150 and 1999 c 143 s 43 are each amended to
35 read as follows:

36 A deferred prosecution program for alcoholism shall be for a two-
37 year period and shall include, but not be limited to, the following
38 requirements:

1 (1) Total abstinence from alcohol and all other nonprescribed
2 mind-altering drugs;

3 (2) Participation in an intensive inpatient or intensive
4 outpatient program in a state-approved (~~alcoholism~~) substance use
5 disorder treatment program;

6 (3) Participation in a minimum of two meetings per week of an
7 alcoholism self-help recovery support group, as determined by the
8 assessing agency, for the duration of the treatment program;

9 (4) Participation in an alcoholism self-help recovery support
10 group, as determined by the assessing agency, from the date of court
11 approval of the plan to entry into intensive treatment;

12 (5) Not less than weekly approved outpatient counseling, group or
13 individual, for a minimum of six months following the intensive phase
14 of treatment;

15 (6) Not less than monthly outpatient contact, group or
16 individual, for the remainder of the two-year deferred prosecution
17 period;

18 (7) The decision to include the use of prescribed drugs,
19 including disulfiram, as a condition of treatment shall be reserved
20 to the treating facility and the petitioner's physician;

21 (8) All treatment within the purview of this section shall occur
22 within or be approved by a state-approved (~~alcoholism~~) substance
23 use disorder treatment program as described in chapter 70.96A RCW;

24 (9) Signature of the petitioner agreeing to the terms and
25 conditions of the treatment program.

26 **Sec. 528.** RCW 70.96C.020 and 2005 c 504 s 602 are each amended
27 to read as follows:

28 The department of corrections shall, to the extent that resources
29 are available for this purpose, utilize the integrated, comprehensive
30 screening and assessment process for chemical dependency and mental
31 disorders developed under RCW 70.96C.010 (as recodified by this act).

32 NEW SECTION. **Sec. 529.** RCW 43.135.03901 is decodified.

33 **Sec. 530.** RCW 46.61.5055 and 2015 2nd sp.s. c 3 s 9 are each
34 amended to read as follows:

35 (1) **No prior offenses in seven years.** Except as provided in RCW
36 46.61.502(6) or 46.61.504(6), a person who is convicted of a

1 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
2 within seven years shall be punished as follows:

3 (a) **Penalty for alcohol concentration less than 0.15.** In the case
4 of a person whose alcohol concentration was less than 0.15, or for
5 whom for reasons other than the person's refusal to take a test
6 offered pursuant to RCW 46.20.308 there is no test result indicating
7 the person's alcohol concentration:

8 (i) By imprisonment for not less than one day nor more than three
9 hundred sixty-four days. Twenty-four consecutive hours of the
10 imprisonment may not be suspended unless the court finds that the
11 imposition of this mandatory minimum sentence would impose a
12 substantial risk to the offender's physical or mental well-being.
13 Whenever the mandatory minimum sentence is suspended, the court shall
14 state in writing the reason for granting the suspension and the facts
15 upon which the suspension is based. In lieu of the mandatory minimum
16 term of imprisonment required under this subsection (1)(a)(i), the
17 court may order not less than fifteen days of electronic home
18 monitoring. The offender shall pay the cost of electronic home
19 monitoring. The county or municipality in which the penalty is being
20 imposed shall determine the cost. The court may also require the
21 offender's electronic home monitoring device or other separate
22 alcohol monitoring device to include an alcohol detection
23 breathalyzer, and the court may restrict the amount of alcohol the
24 offender may consume during the time the offender is on electronic
25 home monitoring; and

26 (ii) By a fine of not less than three hundred fifty dollars nor
27 more than five thousand dollars. Three hundred fifty dollars of the
28 fine may not be suspended unless the court finds the offender to be
29 indigent; or

30 (b) **Penalty for alcohol concentration at least 0.15.** In the case
31 of a person whose alcohol concentration was at least 0.15, or for
32 whom by reason of the person's refusal to take a test offered
33 pursuant to RCW 46.20.308 there is no test result indicating the
34 person's alcohol concentration:

35 (i) By imprisonment for not less than two days nor more than
36 three hundred sixty-four days. Forty-eight consecutive hours of the
37 imprisonment may not be suspended unless the court finds that the
38 imposition of this mandatory minimum sentence would impose a
39 substantial risk to the offender's physical or mental well-being.
40 Whenever the mandatory minimum sentence is suspended, the court shall

1 state in writing the reason for granting the suspension and the facts
2 upon which the suspension is based. In lieu of the mandatory minimum
3 term of imprisonment required under this subsection (1)(b)(i), the
4 court may order not less than thirty days of electronic home
5 monitoring. The offender shall pay the cost of electronic home
6 monitoring. The county or municipality in which the penalty is being
7 imposed shall determine the cost. The court may also require the
8 offender's electronic home monitoring device to include an alcohol
9 detection breathalyzer or other separate alcohol monitoring device,
10 and the court may restrict the amount of alcohol the offender may
11 consume during the time the offender is on electronic home
12 monitoring; and

13 (ii) By a fine of not less than five hundred dollars nor more
14 than five thousand dollars. Five hundred dollars of the fine may not
15 be suspended unless the court finds the offender to be indigent.

16 (2) **One prior offense in seven years.** Except as provided in RCW
17 46.61.502(6) or 46.61.504(6), a person who is convicted of a
18 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
19 within seven years shall be punished as follows:

20 (a) **Penalty for alcohol concentration less than 0.15.** In the case
21 of a person whose alcohol concentration was less than 0.15, or for
22 whom for reasons other than the person's refusal to take a test
23 offered pursuant to RCW 46.20.308 there is no test result indicating
24 the person's alcohol concentration:

25 (i) By imprisonment for not less than thirty days nor more than
26 three hundred sixty-four days and sixty days of electronic home
27 monitoring. In lieu of the mandatory minimum term of sixty days
28 electronic home monitoring, the court may order at least an
29 additional four days in jail or, if available in that county or city,
30 a six-month period of 24/7 sobriety program monitoring pursuant to
31 RCW 36.28A.300 through 36.28A.390, and the court shall order an
32 expanded alcohol assessment and treatment, if deemed appropriate by
33 the assessment. The offender shall pay for the cost of the electronic
34 monitoring. The county or municipality where the penalty is being
35 imposed shall determine the cost. The court may also require the
36 offender's electronic home monitoring device include an alcohol
37 detection breathalyzer or other separate alcohol monitoring device,
38 and may restrict the amount of alcohol the offender may consume
39 during the time the offender is on electronic home monitoring. Thirty
40 days of imprisonment and sixty days of electronic home monitoring may

1 not be suspended unless the court finds that the imposition of this
2 mandatory minimum sentence would impose a substantial risk to the
3 offender's physical or mental well-being. Whenever the mandatory
4 minimum sentence is suspended, the court shall state in writing the
5 reason for granting the suspension and the facts upon which the
6 suspension is based; and

7 (ii) By a fine of not less than five hundred dollars nor more
8 than five thousand dollars. Five hundred dollars of the fine may not
9 be suspended unless the court finds the offender to be indigent; or

10 (b) **Penalty for alcohol concentration at least 0.15.** In the case
11 of a person whose alcohol concentration was at least 0.15, or for
12 whom by reason of the person's refusal to take a test offered
13 pursuant to RCW 46.20.308 there is no test result indicating the
14 person's alcohol concentration:

15 (i) By imprisonment for not less than forty-five days nor more
16 than three hundred sixty-four days and ninety days of electronic home
17 monitoring. In lieu of the mandatory minimum term of ninety days
18 electronic home monitoring, the court may order at least an
19 additional six days in jail or, if available in that county or city,
20 a six-month period of 24/7 sobriety program monitoring pursuant to
21 RCW 36.28A.300 through 36.28A.390, and the court shall order an
22 expanded alcohol assessment and treatment, if deemed appropriate by
23 the assessment. The offender shall pay for the cost of the electronic
24 monitoring. The county or municipality where the penalty is being
25 imposed shall determine the cost. The court may also require the
26 offender's electronic home monitoring device include an alcohol
27 detection breathalyzer or other separate alcohol monitoring device,
28 and may restrict the amount of alcohol the offender may consume
29 during the time the offender is on electronic home monitoring. Forty-
30 five days of imprisonment and ninety days of electronic home
31 monitoring may not be suspended unless the court finds that the
32 imposition of this mandatory minimum sentence would impose a
33 substantial risk to the offender's physical or mental well-being.
34 Whenever the mandatory minimum sentence is suspended, the court shall
35 state in writing the reason for granting the suspension and the facts
36 upon which the suspension is based; and

37 (ii) By a fine of not less than seven hundred fifty dollars nor
38 more than five thousand dollars. Seven hundred fifty dollars of the
39 fine may not be suspended unless the court finds the offender to be
40 indigent.

1 (3) **Two or three prior offenses in seven years.** Except as
2 provided in RCW 46.61.502(6) or 46.61.504(6), a person who is
3 convicted of a violation of RCW 46.61.502 or 46.61.504 and who has
4 two or three prior offenses within seven years shall be punished as
5 follows:

6 (a) **Penalty for alcohol concentration less than 0.15.** In the case
7 of a person whose alcohol concentration was less than 0.15, or for
8 whom for reasons other than the person's refusal to take a test
9 offered pursuant to RCW 46.20.308 there is no test result indicating
10 the person's alcohol concentration:

11 (i) By imprisonment for not less than ninety days nor more than
12 three hundred sixty-four days, if available in that county or city, a
13 six-month period of 24/7 sobriety program monitoring pursuant to RCW
14 36.28A.300 through 36.28A.390, and one hundred twenty days of
15 electronic home monitoring. In lieu of the mandatory minimum term of
16 one hundred twenty days of electronic home monitoring, the court may
17 order at least an additional eight days in jail. The court shall
18 order an expanded alcohol assessment and treatment, if deemed
19 appropriate by the assessment. The offender shall pay for the cost of
20 the electronic monitoring. The county or municipality where the
21 penalty is being imposed shall determine the cost. The court may also
22 require the offender's electronic home monitoring device include an
23 alcohol detection breathalyzer or other separate alcohol monitoring
24 device, and may restrict the amount of alcohol the offender may
25 consume during the time the offender is on electronic home
26 monitoring. Ninety days of imprisonment and one hundred twenty days
27 of electronic home monitoring may not be suspended unless the court
28 finds that the imposition of this mandatory minimum sentence would
29 impose a substantial risk to the offender's physical or mental well-
30 being. Whenever the mandatory minimum sentence is suspended, the
31 court shall state in writing the reason for granting the suspension
32 and the facts upon which the suspension is based; and

33 (ii) By a fine of not less than one thousand dollars nor more
34 than five thousand dollars. One thousand dollars of the fine may not
35 be suspended unless the court finds the offender to be indigent; or

36 (b) **Penalty for alcohol concentration at least 0.15.** In the case
37 of a person whose alcohol concentration was at least 0.15, or for
38 whom by reason of the person's refusal to take a test offered
39 pursuant to RCW 46.20.308 there is no test result indicating the
40 person's alcohol concentration:

1 (i) By imprisonment for not less than one hundred twenty days nor
2 more than three hundred sixty-four days, if available in that county
3 or city, a six-month period of 24/7 sobriety program monitoring
4 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty
5 days of electronic home monitoring. In lieu of the mandatory minimum
6 term of one hundred fifty days of electronic home monitoring, the
7 court may order at least an additional ten days in jail. The offender
8 shall pay for the cost of the electronic monitoring. The court shall
9 order an expanded alcohol assessment and treatment, if deemed
10 appropriate by the assessment. The county or municipality where the
11 penalty is being imposed shall determine the cost. The court may also
12 require the offender's electronic home monitoring device include an
13 alcohol detection breathalyzer or other separate alcohol monitoring
14 device, and may restrict the amount of alcohol the offender may
15 consume during the time the offender is on electronic home
16 monitoring. One hundred twenty days of imprisonment and one hundred
17 fifty days of electronic home monitoring may not be suspended unless
18 the court finds that the imposition of this mandatory minimum
19 sentence would impose a substantial risk to the offender's physical
20 or mental well-being. Whenever the mandatory minimum sentence is
21 suspended, the court shall state in writing the reason for granting
22 the suspension and the facts upon which the suspension is based; and

23 (ii) By a fine of not less than one thousand five hundred dollars
24 nor more than five thousand dollars. One thousand five hundred
25 dollars of the fine may not be suspended unless the court finds the
26 offender to be indigent.

27 (4) **Four or more prior offenses in ten years.** A person who is
28 convicted of a violation of RCW 46.61.502 or 46.61.504 shall be
29 punished under chapter 9.94A RCW if:

30 (a) The person has four or more prior offenses within ten years;
31 or

32 (b) The person has ever previously been convicted of:

33 (i) A violation of RCW 46.61.520 committed while under the
34 influence of intoxicating liquor or any drug;

35 (ii) A violation of RCW 46.61.522 committed while under the
36 influence of intoxicating liquor or any drug;

37 (iii) An out-of-state offense comparable to the offense specified
38 in (b)(i) or (ii) of this subsection; or

39 (iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

40 (5) **Monitoring.**

1 (a) **Ignition interlock device.** The court shall require any person
2 convicted of a violation of RCW 46.61.502 or 46.61.504 or an
3 equivalent local ordinance to comply with the rules and requirements
4 of the department regarding the installation and use of a functioning
5 ignition interlock device installed on all motor vehicles operated by
6 the person.

7 (b) **Monitoring devices.** If the court orders that a person refrain
8 from consuming any alcohol, the court may order the person to submit
9 to alcohol monitoring through an alcohol detection breathalyzer
10 device, transdermal sensor device, or other technology designed to
11 detect alcohol in a person's system. The person shall pay for the
12 cost of the monitoring, unless the court specifies that the cost of
13 monitoring will be paid with funds that are available from an
14 alternative source identified by the court. The county or
15 municipality where the penalty is being imposed shall determine the
16 cost.

17 (c) **Ignition interlock device substituted for 24/7 sobriety**
18 **program monitoring.** In any county or city where a 24/7 sobriety
19 program is available and verified by the Washington association of
20 sheriffs and police chiefs, the court shall:

21 (i) Order the person to install and use a functioning ignition
22 interlock or other device in lieu of such period of 24/7 sobriety
23 program monitoring;

24 (ii) Order the person to a period of 24/7 sobriety program
25 monitoring pursuant to subsections (1) through (3) of this section;
26 or

27 (iii) Order the person to install and use a functioning ignition
28 interlock or other device in addition to a period of 24/7 sobriety
29 program monitoring pursuant to subsections (1) through (3) of this
30 section.

31 (6) **Penalty for having a minor passenger in vehicle.** If a person
32 who is convicted of a violation of RCW 46.61.502 or 46.61.504
33 committed the offense while a passenger under the age of sixteen was
34 in the vehicle, the court shall:

35 (a) Order the use of an ignition interlock or other device for an
36 additional six months;

37 (b) In any case in which the person has no prior offenses within
38 seven years, and except as provided in RCW 46.61.502(6) or
39 46.61.504(6), order an additional twenty-four hours of imprisonment
40 and a fine of not less than one thousand dollars and not more than

1 five thousand dollars. One thousand dollars of the fine may not be
2 suspended unless the court finds the offender to be indigent;

3 (c) In any case in which the person has one prior offense within
4 seven years, and except as provided in RCW 46.61.502(6) or
5 46.61.504(6), order an additional five days of imprisonment and a
6 fine of not less than two thousand dollars and not more than five
7 thousand dollars. One thousand dollars of the fine may not be
8 suspended unless the court finds the offender to be indigent;

9 (d) In any case in which the person has two or three prior
10 offenses within seven years, and except as provided in RCW
11 46.61.502(6) or 46.61.504(6), order an additional ten days of
12 imprisonment and a fine of not less than three thousand dollars and
13 not more than ten thousand dollars. One thousand dollars of the fine
14 may not be suspended unless the court finds the offender to be
15 indigent.

16 (7) **Other items courts must consider while setting penalties.** In
17 exercising its discretion in setting penalties within the limits
18 allowed by this section, the court shall particularly consider the
19 following:

20 (a) Whether the person's driving at the time of the offense was
21 responsible for injury or damage to another or another's property;

22 (b) Whether at the time of the offense the person was driving or
23 in physical control of a vehicle with one or more passengers;

24 (c) Whether the driver was driving in the opposite direction of
25 the normal flow of traffic on a multiple lane highway, as defined by
26 RCW 46.04.350, with a posted speed limit of forty-five miles per hour
27 or greater; and

28 (d) Whether a child passenger under the age of sixteen was an
29 occupant in the driver's vehicle.

30 (8) **Treatment and information school.** An offender punishable
31 under this section is subject to the alcohol assessment and treatment
32 provisions of RCW 46.61.5056.

33 (9) **Driver's license privileges of the defendant.** The license,
34 permit, or nonresident privilege of a person convicted of driving or
35 being in physical control of a motor vehicle while under the
36 influence of intoxicating liquor or drugs must:

37 (a) **Penalty for alcohol concentration less than 0.15.** If the
38 person's alcohol concentration was less than 0.15, or if for reasons
39 other than the person's refusal to take a test offered under RCW

1 46.20.308 there is no test result indicating the person's alcohol
2 concentration:

3 (i) Where there has been no prior offense within seven years, be
4 suspended or denied by the department for ninety days;

5 (ii) Where there has been one prior offense within seven years,
6 be revoked or denied by the department for two years; or

7 (iii) Where there have been two or more prior offenses within
8 seven years, be revoked or denied by the department for three years;

9 (b) **Penalty for alcohol concentration at least 0.15.** If the
10 person's alcohol concentration was at least 0.15:

11 (i) Where there has been no prior offense within seven years, be
12 revoked or denied by the department for one year;

13 (ii) Where there has been one prior offense within seven years,
14 be revoked or denied by the department for nine hundred days; or

15 (iii) Where there have been two or more prior offenses within
16 seven years, be revoked or denied by the department for four years;
17 or

18 (c) **Penalty for refusing to take test.** If by reason of the
19 person's refusal to take a test offered under RCW 46.20.308, there is
20 no test result indicating the person's alcohol concentration:

21 (i) Where there have been no prior offenses within seven years,
22 be revoked or denied by the department for two years;

23 (ii) Where there has been one prior offense within seven years,
24 be revoked or denied by the department for three years; or

25 (iii) Where there have been two or more previous offenses within
26 seven years, be revoked or denied by the department for four years.

27 The department shall grant credit on a day-for-day basis for any
28 portion of a suspension, revocation, or denial already served under
29 this subsection for a suspension, revocation, or denial imposed under
30 RCW 46.20.3101 arising out of the same incident.

31 Upon its own motion or upon motion by a person, a court may find,
32 on the record, that notice to the department under RCW 46.20.270 has
33 been delayed for three years or more as a result of a clerical or
34 court error. If so, the court may order that the person's license,
35 permit, or nonresident privilege shall not be revoked, suspended, or
36 denied for that offense. The court shall send notice of the finding
37 and order to the department and to the person. Upon receipt of the
38 notice from the court, the department shall not revoke, suspend, or
39 deny the license, permit, or nonresident privilege of the person for
40 that offense.

1 For purposes of this subsection (9), the department shall refer
2 to the driver's record maintained under RCW 46.52.120 when
3 determining the existence of prior offenses.

4 (10) **Probation of driving privilege.** After expiration of any
5 period of suspension, revocation, or denial of the offender's
6 license, permit, or privilege to drive required by this section, the
7 department shall place the offender's driving privilege in
8 probationary status pursuant to RCW 46.20.355.

9 (11) **Conditions of probation.** (a) In addition to any
10 nonsuspendable and nondeferrable jail sentence required by this
11 section, whenever the court imposes up to three hundred sixty-four
12 days in jail, the court shall also suspend but shall not defer a
13 period of confinement for a period not exceeding five years. The
14 court shall impose conditions of probation that include: (i) Not
15 driving a motor vehicle within this state without a valid license to
16 drive; (ii) not driving a motor vehicle within this state without
17 proof of liability insurance or other financial responsibility for
18 the future pursuant to RCW 46.30.020; (iii) not driving or being in
19 physical control of a motor vehicle within this state while having an
20 alcohol concentration of 0.08 or more or a THC concentration of 5.00
21 nanograms per milliliter of whole blood or higher, within two hours
22 after driving; (iv) not refusing to submit to a test of his or her
23 breath or blood to determine alcohol or drug concentration upon
24 request of a law enforcement officer who has reasonable grounds to
25 believe the person was driving or was in actual physical control of a
26 motor vehicle within this state while under the influence of
27 intoxicating liquor or drug; and (v) not driving a motor vehicle in
28 this state without a functioning ignition interlock device as
29 required by the department under RCW 46.20.720(3). The court may
30 impose conditions of probation that include nonrepetition,
31 installation of an ignition interlock device on the probationer's
32 motor vehicle, alcohol or drug treatment, supervised probation, or
33 other conditions that may be appropriate. The sentence may be imposed
34 in whole or in part upon violation of a condition of probation during
35 the suspension period.

36 (b) For each violation of mandatory conditions of probation under
37 (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall
38 order the convicted person to be confined for thirty days, which
39 shall not be suspended or deferred.

1 (c) For each incident involving a violation of a mandatory
2 condition of probation imposed under this subsection, the license,
3 permit, or privilege to drive of the person shall be suspended by the
4 court for thirty days or, if such license, permit, or privilege to
5 drive already is suspended, revoked, or denied at the time the
6 finding of probation violation is made, the suspension, revocation,
7 or denial then in effect shall be extended by thirty days. The court
8 shall notify the department of any suspension, revocation, or denial
9 or any extension of a suspension, revocation, or denial imposed under
10 this subsection.

11 (12) **Waiver of electronic home monitoring.** A court may waive the
12 electronic home monitoring requirements of this chapter when:

13 (a) The offender does not have a dwelling, telephone service, or
14 any other necessity to operate an electronic home monitoring system.
15 However, if a court determines that an alcohol monitoring device
16 utilizing wireless reporting technology is reasonably available, the
17 court may require the person to obtain such a device during the
18 period of required electronic home monitoring;

19 (b) The offender does not reside in the state of Washington; or

20 (c) The court determines that there is reason to believe that the
21 offender would violate the conditions of the electronic home
22 monitoring penalty.

23 Whenever the mandatory minimum term of electronic home monitoring
24 is waived, the court shall state in writing the reason for granting
25 the waiver and the facts upon which the waiver is based, and shall
26 impose an alternative sentence with similar punitive consequences.
27 The alternative sentence may include, but is not limited to, use of
28 an ignition interlock device, the 24/7 sobriety program monitoring,
29 additional jail time, work crew, or work camp.

30 Whenever the combination of jail time and electronic home
31 monitoring or alternative sentence would exceed three hundred sixty-
32 four days, the offender shall serve the jail portion of the sentence
33 first, and the electronic home monitoring or alternative portion of
34 the sentence shall be reduced so that the combination does not exceed
35 three hundred sixty-four days.

36 (13) **Extraordinary medical placement.** An offender serving a
37 sentence under this section, whether or not a mandatory minimum term
38 has expired, may be granted an extraordinary medical placement by the
39 jail administrator subject to the standards and limitations set forth
40 in RCW 9.94A.728(1)(c).

1 (14) **Definitions.** For purposes of this section and RCW 46.61.502
2 and 46.61.504:

3 (a) A "prior offense" means any of the following:

4 (i) A conviction for a violation of RCW 46.61.502 or an
5 equivalent local ordinance;

6 (ii) A conviction for a violation of RCW 46.61.504 or an
7 equivalent local ordinance;

8 (iii) A conviction for a violation of RCW 46.25.110 or an
9 equivalent local ordinance;

10 (iv) A conviction for a violation of RCW 79A.60.040(2) or an
11 equivalent local ordinance;

12 (v) A conviction for a violation of RCW 79A.60.040(1) or an
13 equivalent local ordinance committed in a reckless manner if the
14 conviction is the result of a charge that was originally filed as a
15 violation of RCW 79A.60.040(2) or an equivalent local ordinance;

16 (vi) A conviction for a violation of RCW 47.68.220 or an
17 equivalent local ordinance committed while under the influence of
18 intoxicating liquor or any drug;

19 (vii) A conviction for a violation of RCW 47.68.220 or an
20 equivalent local ordinance committed in a careless or reckless manner
21 if the conviction is the result of a charge that was originally filed
22 as a violation of RCW 47.68.220 or an equivalent local ordinance
23 while under the influence of intoxicating liquor or any drug;

24 (viii) A conviction for a violation of RCW 46.09.470(2) or an
25 equivalent local ordinance;

26 (ix) A conviction for a violation of RCW 46.10.490(2) or an
27 equivalent local ordinance;

28 (x) A conviction for a violation of RCW 46.61.520 committed while
29 under the influence of intoxicating liquor or any drug, or a
30 conviction for a violation of RCW 46.61.520 committed in a reckless
31 manner or with the disregard for the safety of others if the
32 conviction is the result of a charge that was originally filed as a
33 violation of RCW 46.61.520 committed while under the influence of
34 intoxicating liquor or any drug;

35 (xi) A conviction for a violation of RCW 46.61.522 committed
36 while under the influence of intoxicating liquor or any drug, or a
37 conviction for a violation of RCW 46.61.522 committed in a reckless
38 manner or with the disregard for the safety of others if the
39 conviction is the result of a charge that was originally filed as a

1 violation of RCW 46.61.522 committed while under the influence of
2 intoxicating liquor or any drug;

3 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
4 or 9A.36.050 or an equivalent local ordinance, if the conviction is
5 the result of a charge that was originally filed as a violation of
6 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of
7 RCW 46.61.520 or 46.61.522;

8 (xiii) An out-of-state conviction for a violation that would have
9 been a violation of (a)(i), (ii), (x), (xi), or (xii) of this
10 subsection if committed in this state;

11 (xiv) A deferred prosecution under chapter 10.05 RCW granted in a
12 prosecution for a violation of RCW 46.61.502, 46.61.504, or an
13 equivalent local ordinance;

14 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
15 prosecution for a violation of RCW 46.61.5249, or an equivalent local
16 ordinance, if the charge under which the deferred prosecution was
17 granted was originally filed as a violation of RCW 46.61.502 or
18 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
19 46.61.522;

20 (xvi) A deferred prosecution granted in another state for a
21 violation of driving or having physical control of a vehicle while
22 under the influence of intoxicating liquor or any drug if the out-of-
23 state deferred prosecution is equivalent to the deferred prosecution
24 under chapter 10.05 RCW, including a requirement that the defendant
25 participate in a chemical dependency treatment program; or

26 (xvii) A deferred sentence imposed in a prosecution for a
27 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
28 equivalent local ordinance, if the charge under which the deferred
29 sentence was imposed was originally filed as a violation of RCW
30 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
31 violation of RCW 46.61.520 or 46.61.522;

32 If a deferred prosecution is revoked based on a subsequent
33 conviction for an offense listed in this subsection (14)(a), the
34 subsequent conviction shall not be treated as a prior offense of the
35 revoked deferred prosecution for the purposes of sentencing;

36 (b) "Treatment" means (~~(alcohol or drug)~~) substance use disorder
37 treatment approved by the department of social and health services;

38 (c) "Within seven years" means that the arrest for a prior
39 offense occurred within seven years before or after the arrest for
40 the current offense; and

1 (d) "Within ten years" means that the arrest for a prior offense
2 occurred within ten years before or after the arrest for the current
3 offense.

4 (15) All fines imposed by this section apply to adult offenders
5 only.

6 **Sec. 531.** RCW 46.61.5056 and 2011 c 293 s 13 are each amended to
7 read as follows:

8 (1) A person subject to alcohol assessment and treatment under
9 RCW 46.61.5055 shall be required by the court to complete a course in
10 an alcohol information school approved by the department of social
11 and health services or to complete more intensive treatment in a
12 substance use disorder treatment program approved by the department
13 of social and health services, as determined by the court. The court
14 shall notify the department of licensing whenever it orders a person
15 to complete a course or treatment program under this section.

16 (2) A diagnostic evaluation and treatment recommendation shall be
17 prepared under the direction of the court by an alcoholism agency
18 approved by the department of social and health services or a
19 qualified probation department approved by the department of social
20 and health services. A copy of the report shall be forwarded to the
21 court and the department of licensing. Based on the diagnostic
22 evaluation, the court shall determine whether the person shall be
23 required to complete a course in an alcohol information school
24 approved by the department of social and health services or more
25 intensive treatment in a substance use disorder treatment program
26 approved by the department of social and health services.

27 (3) Standards for approval for alcohol treatment programs shall
28 be prescribed by the department of social and health services. The
29 department of social and health services shall periodically review
30 the costs of alcohol information schools and treatment programs.

31 (4) Any agency that provides treatment ordered under RCW
32 46.61.5055, shall immediately report to the appropriate probation
33 department where applicable, otherwise to the court, and to the
34 department of licensing any noncompliance by a person with the
35 conditions of his or her ordered treatment. The court shall notify
36 the department of licensing and the department of social and health
37 services of any failure by an agency to so report noncompliance. Any
38 agency with knowledge of noncompliance that fails to so report shall
39 be fined two hundred fifty dollars by the department of social and

1 health services. Upon three such failures by an agency within one
2 year, the department of social and health services shall revoke the
3 agency's approval under this section.

4 (5) The department of licensing and the department of social and
5 health services may adopt such rules as are necessary to carry out
6 this section.

7 **Sec. 532.** RCW 82.04.4277 and 2014 c 225 s 104 are each amended
8 to read as follows:

9 (1) A health or social welfare organization may deduct from the
10 measure of tax amounts received as compensation for providing mental
11 health services or chemical dependency services under a government-
12 funded program.

13 (2) A behavioral health organization may deduct from the measure
14 of tax amounts received from the state of Washington for distribution
15 to a health or social welfare organization that is eligible to deduct
16 the distribution under subsection (1) of this section.

17 (3) A person claiming a deduction under this section must file a
18 complete annual report with the department under RCW 82.32.534.

19 (4) The definitions in this subsection apply ~~((to this section))~~
20 throughout this section unless the context clearly requires
21 otherwise.

22 (a) "Chemical dependency" has the same meaning as provided in RCW
23 70.96A.020.

24 (b) "Health or social welfare organization" has the meaning
25 provided in RCW 82.04.431.

26 ~~((b))~~ (c) "Mental health services" and "behavioral health
27 organization" have the meanings provided in RCW 71.24.025.

28 (5) This section expires ~~((August 1, 2016))~~ January 1, 2020.

29 NEW SECTION. **Sec. 533.** A new section is added to chapter 71.24
30 RCW to read as follows:

31 (1) The department and the Washington state health care authority
32 shall convene a task force including participation by a
33 representative cross-section of behavioral health organizations and
34 behavioral health providers to align regulations between behavioral
35 health and primary health care settings and simplify regulations for
36 behavioral health providers. The alignment must support clinical
37 integration from the standpoint of standardizing practices and
38 culture in a manner that to the extent practicable reduces barriers

1 to access, including reducing the paperwork burden for patients and
2 providers. Brief integrated behavioral health services must not, in
3 general, take longer to document than to provide. Regulations should
4 emphasize the desired outcome rather than how they should be
5 achieved. The task force may also make recommendations to the
6 department concerning subsections (2) and (3) of this section.

7 (2) The department shall collaborate with the department of
8 health, the Washington state health care authority, and other
9 appropriate government partners to reduce unneeded costs and burdens
10 to health plans and providers associated with excessive audits, the
11 licensing process, and contracting. In pursuit of this goal, the
12 department shall consider steps such as cooperating across divisions
13 and agencies to combine audit functions when multiple audits of an
14 agency or site are scheduled, sharing audit information across
15 divisions and agencies to reduce redundancy of audits, and treating
16 organizations with multiple sites and programs as single entities
17 instead of as multiple agencies.

18 (3) The department shall review its practices under RCW
19 71.24.035(5)(c)(i) to determine whether its practices comply with the
20 statutory mandate to deem accreditation by recognized behavioral
21 health accrediting bodies as equivalent to meeting licensure
22 requirements, comport with standard practices used by other state
23 divisions or agencies, and properly incentivize voluntary
24 accreditation to the highest industry standards.

25 (4) The task force described in subsection (1) of this section
26 must consider means to provide notice to parents when a minor
27 requests chemical dependency treatment, which are consistent with
28 federal privacy laws and consistent with the best interests of the
29 minor and the minor's family. The department must provide a report to
30 the relevant committees of the legislature by December 1, 2016.

31 NEW SECTION. **Sec. 534.** The department of social and health
32 services and the Washington state health care authority shall report
33 their progress under section 533 of this act to the relevant
34 committees of the legislature by December 15, 2016.

35 **PART VI**

36 **REPEALERS FOR ADMINISTRATIVE PROVISIONS**

