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HOUSE BILL 1877

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State of Washington

68th Legislature

2024 Regular Session

By Representatives Lekanoff and Stearns

Prefiled 12/05/23.

1 AN ACT Relating to improving the Washington state behavioral  
2 health system for better coordination and recognition with the Indian  
3 behavioral health system; amending RCW 71.34.020, 71.34.020,  
4 71.05.148, 71.34.815, 71.05.150, 71.05.150, 71.34.710, 71.34.710,  
5 71.05.195, 71.05.201, 71.05.212, 71.05.212, 71.05.214, 71.05.217,  
6 71.05.435, 71.05.458, 71.05.590, 71.05.590, 71.05.620, 71.34.780,  
7 71.34.780, 71.05.730, 71.24.030, 71.24.045, 70.02.230, 70.02.240, and  
8 70.02.260; reenacting and amending RCW 71.05.020, 71.05.020, and  
9 70.02.010; adding new sections to chapter 71.05 RCW; adding new  
10 sections to chapter 71.34 RCW; providing an effective date; providing  
11 contingent effective dates; providing an expiration date; and  
12 providing contingent expiration dates.

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

14 NEW SECTION. **Sec. 1.** A new section is added to chapter 71.05  
15 RCW to read as follows:

16 (1) A tribe has the right to intervene at any point in any court  
17 proceeding under this chapter involving a member of their tribe.

18 (a) For purposes of this section, "right to intervene" means the  
19 right of a tribe to:

20 (i) Attend court proceedings;

21 (ii) Speak in court;

1 (iii) Request copies of orders issued by the court and petitions  
2 filed;

3 (iv) Submit information to the court including, but not limited  
4 to, information about available tribal resources to coordinate  
5 services; and

6 (v) Petition the court under RCW 71.05.201.

7 (b) Information provided to the tribe under this section is  
8 subject to any federal and state laws and regulations including the  
9 requirements in RCW 70.02.230 (2)(ee) and (3).

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

13 (3) The administrative office of the courts, in consultation with  
14 the authority, shall develop and update model court forms as needed  
15 in proceedings under this chapter for use by designated crisis  
16 responders and make them available by December 1, 2024. After January  
17 1, 2025, superior courts must allow tribal designated crisis  
18 responders to use court forms developed by the administrative office  
19 of the courts.

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

22 (1) A federally recognized Indian tribe has the right to  
23 intervene at any point in any court proceeding under this chapter  
24 involving a member of their tribe.

25 (a) For purposes of this section, "right to intervene" means the  
26 right of a tribe to:

27 (i) Attend court proceedings;

28 (ii) Speak in court;

29 (iii) Request copies of orders issued by the court and petitions  
30 filed;

31 (iv) Submit information to the court including, but not limited  
32 to, information about available tribal resources to coordinate  
33 services; and

34 (v) Petition the court under RCW 71.05.201.

35 (b) Information provided to the tribe under this section is  
36 subject to any federal and state laws and regulations including the  
37 requirements in RCW 70.02.240.

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

4 (3) The administrative office of the courts, in consultation with  
5 the authority, shall develop and update model court forms as needed  
6 in proceedings under this chapter for use by designated crisis  
7 responders and make them available by December 1, 2024. After January  
8 1, 2025, superior courts must allow tribal designated crisis  
9 responders to use court forms developed by the administrative office  
10 of the courts.

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

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

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

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

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

21 The definitions in this section apply throughout this chapter  
22 unless the context clearly requires otherwise.

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

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

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

35 (4) "Antipsychotic medications" means that class of drugs  
36 primarily used to treat serious manifestations of mental illness

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

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

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

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

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

15 (9) "Behavioral health service provider" means a public or  
16 private agency that provides mental health, substance use disorder,  
17 or co-occurring disorder services to persons with behavioral health  
18 disorders as defined under this section and receives funding from  
19 public sources. This includes, but is not limited to: Hospitals  
20 licensed under chapter 70.41 RCW; evaluation and treatment facilities  
21 as defined in this section; community mental health service delivery  
22 systems or community behavioral health programs as defined in RCW  
23 71.24.025; licensed or certified behavioral health agencies under RCW  
24 71.24.037; an entity with a tribal attestation that it meets minimum  
25 standards or a licensed or certified behavioral health agency as  
26 defined in RCW 71.24.025; facilities conducting competency  
27 evaluations and restoration under chapter 10.77 RCW; approved  
28 substance use disorder treatment programs as defined in this section;  
29 secure withdrawal management and stabilization facilities as defined  
30 in this section; and correctional facilities operated by state  
31 (~~and~~), local, and tribal governments;

32 (10) "Co-occurring disorder specialist" means an individual  
33 possessing an enhancement granted by the department of health under  
34 chapter 18.205 RCW that certifies the individual to provide substance  
35 use disorder counseling subject to the practice limitations under RCW  
36 18.205.105;

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

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

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

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

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

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

17 (17) "Designated crisis responder" means a mental health  
18 professional appointed by the county, by an entity appointed by the  
19 county, or by the authority in consultation with a (~~federally~~  
20 ~~recognized—Indian~~) tribe or after meeting and conferring with an  
21 Indian health care provider, to perform the duties specified in this  
22 chapter;

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

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

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

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

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

39 (23) "Drug addiction" means a disease, characterized by a  
40 dependency on psychoactive chemicals, loss of control over the amount

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

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

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

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

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

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

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

6 (31) "Individualized service plan" means a plan prepared by a  
7 developmental disabilities professional with other professionals as a  
8 team, for a person with developmental disabilities, which shall  
9 state:

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

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

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

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

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

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

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

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

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

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

35 (35) "Less restrictive alternative treatment" means a program of  
36 individualized treatment in a less restrictive setting than inpatient  
37 treatment that includes the services described in RCW 71.05.585. This  
38 term includes: Treatment pursuant to a less restrictive alternative  
39 treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant

1 to a conditional release under RCW 71.05.340; and treatment pursuant  
2 to an assisted outpatient treatment order under RCW 71.05.148;

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

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

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

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

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

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

27 (40) "Mental health professional" means an individual practicing  
28 within the mental health professional's statutory scope of practice  
29 who is:

30 (a) A psychiatrist, psychologist, physician assistant working  
31 with a supervising psychiatrist, psychiatric advanced registered  
32 nurse practitioner, psychiatric nurse, or social worker, as defined  
33 in this chapter and chapter 71.34 RCW;

34 (b) A mental health counselor, mental health counselor associate,  
35 marriage and family therapist, or marriage and family therapist  
36 associate, as defined in chapter 18.225 RCW; or

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

39 (41) "Peace officer" means a law enforcement official of a public  
40 agency or governmental unit, and includes persons specifically given



1 peace officer powers by any state law, local ordinance, or judicial  
2 order of appointment;

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

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

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

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

22 (46) "Psychiatrist" means a person having a license as a  
23 physician and surgeon in this state who has in addition completed  
24 three years of graduate training in psychiatry in a program approved  
25 by the American medical association or the American osteopathic  
26 association and is certified or eligible to be certified by the  
27 American board of psychiatry and neurology;

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

30 (48) "Public agency" means any evaluation and treatment facility  
31 or institution, secure withdrawal management and stabilization  
32 facility, approved substance use disorder treatment program, or  
33 hospital which is conducted for, or includes a department or ward  
34 conducted for, the care and treatment of persons with behavioral  
35 health disorders, if the agency is operated directly by federal,  
36 state, county, or municipal government, or a combination of such  
37 governments;

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

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

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

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

12 (a) Provide the following services:

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

15 (ii) Clinical stabilization services;

16 (iii) Acute or subacute detoxification services for intoxicated  
17 individuals; and

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

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

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

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

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

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

38 (56) "Therapeutic court personnel" means the staff of a mental  
39 health court or other therapeutic court which has jurisdiction over  
40 defendants who are dually diagnosed with mental disorders, including

1 court personnel, probation officers, a court monitor, prosecuting  
2 attorney, or defense counsel acting within the scope of therapeutic  
3 court duties;

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

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

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

31 ~~((59))~~ (60) "Violent act" means behavior that resulted in  
32 homicide, attempted suicide, injury, or substantial loss or damage to  
33 property.

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

36 The definitions in this section apply throughout this chapter  
37 unless the context clearly requires otherwise.

38 (1) "23-hour crisis relief center" has the same meaning as under  
39 RCW 71.24.025;

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

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

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

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

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

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

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

27 (9) "Behavioral health service provider" means a public or  
28 private agency that provides mental health, substance use disorder,  
29 or co-occurring disorder services to persons with behavioral health  
30 disorders as defined under this section and receives funding from  
31 public sources. This includes, but is not limited to: Hospitals  
32 licensed under chapter 70.41 RCW; evaluation and treatment facilities  
33 as defined in this section; community mental health service delivery  
34 systems or community behavioral health programs as defined in RCW  
35 71.24.025; licensed or certified behavioral health agencies under RCW  
36 71.24.037; an entity with a tribal attestation that it meets minimum  
37 standards or a licensed or certified behavioral health agency as  
38 defined in RCW 71.24.025; facilities conducting competency  
39 evaluations and restoration under chapter 10.77 RCW; approved  
40 substance use disorder treatment programs as defined in this section;

1 secure withdrawal management and stabilization facilities as defined  
2 in this section; and correctional facilities operated by state  
3 ((and)), local, and tribal governments;

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

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

12 (12) "Community behavioral health agency" has the same meaning as  
13 "licensed or certified behavioral health agency" defined in RCW  
14 71.24.025;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (31) "Individualized service plan" means a plan prepared by a  
18 developmental disabilities professional with other professionals as a  
19 team, for a person with developmental disabilities, which shall  
20 state:

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

23 (b) The conditions and strategies necessary to achieve the  
24 purposes of habilitation;

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

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

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

30 (f) Where relevant in light of past criminal behavior and due  
31 consideration for public safety, the criteria for proposed movement  
32 to less-restrictive settings, criteria for proposed eventual  
33 discharge or release, and a projected possible date for discharge or  
34 release; and

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

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

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

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

7 (35) "Less restrictive alternative treatment" means a program of  
8 individualized treatment in a less restrictive setting than inpatient  
9 treatment that includes the services described in RCW 71.05.585. This  
10 term includes: Treatment pursuant to a less restrictive alternative  
11 treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant  
12 to a conditional release under RCW 71.05.340; and treatment pursuant  
13 to an assisted outpatient treatment order under RCW 71.05.148;

14 (36) "Licensed physician" means a person licensed to practice  
15 medicine or osteopathic medicine and surgery in the state of  
16 Washington;

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

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

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

29 (38) "Medical clearance" means a physician or other health care  
30 provider, including an Indian health care provider, has determined  
31 that a person is medically stable and ready for referral to the  
32 designated crisis responder or facility. For a person presenting in  
33 the community, no medical clearance is required prior to  
34 investigation by a designated crisis responder;

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

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



1 (a) A psychiatrist, psychologist, physician assistant working  
2 with a supervising psychiatrist, psychiatric advanced registered  
3 nurse practitioner, psychiatric nurse, or social worker, as defined  
4 in this chapter and chapter 71.34 RCW;

5 (b) A mental health counselor, mental health counselor associate,  
6 marriage and family therapist, or marriage and family therapist  
7 associate, as defined in chapter 18.225 RCW; or

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

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

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

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

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

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

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

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

1 (48) "Public agency" means any evaluation and treatment facility  
2 or institution, secure withdrawal management and stabilization  
3 facility, approved substance use disorder treatment program, or  
4 hospital which is conducted for, or includes a department or ward  
5 conducted for, the care and treatment of persons with behavioral  
6 health disorders, if the agency is operated directly by federal,  
7 state, county, or municipal government, or a combination of such  
8 governments;

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

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

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

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

22 (a) Provide the following services:

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

25 (ii) Clinical stabilization services;

26 (iii) Acute or subacute detoxification services for intoxicated  
27 individuals; and

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

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

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

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

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

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

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

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

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

35 (59) "Tribe" has the same meaning as in RCW 71.24.025;

36 (60) "Video," unless the context clearly indicates otherwise,  
37 means the delivery of behavioral health services through the use of  
38 interactive audio and video technology, permitting real-time  
39 communication between a person and a designated crisis responder, for  
40 the purpose of evaluation. "Video" does not include the use of audio-

1 only telephone, facsimile, email, or store and forward technology.  
2 "Store and forward technology" means use of an asynchronous  
3 transmission of a person's medical information from a mental health  
4 service provider to the designated crisis responder which results in  
5 medical diagnosis, consultation, or treatment;

6 ~~((+60))~~ (61) "Violent act" means behavior that resulted in  
7 homicide, attempted suicide, injury, or substantial loss or damage to  
8 property.

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

11 Unless the context clearly requires otherwise, the definitions in  
12 this section apply throughout this chapter.

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

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

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

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

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

32 (6) "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 minor patient.

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

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

38 (9) "Behavioral health disorder" means either a mental disorder  
39 as defined in this section, a substance use disorder as defined in

1 this section, or a co-occurring mental disorder and substance use  
2 disorder.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (24) "Evaluation and treatment facility" means a public or  
20 private facility or unit that is licensed or certified by the  
21 department of health to provide emergency, inpatient, residential, or  
22 outpatient mental health evaluation and treatment services for  
23 minors. A physically separate and separately operated portion of a  
24 state hospital may be designated as an evaluation and treatment  
25 facility for minors. A facility which is part of or operated by the  
26 state or federal agency does not require licensure or certification.  
27 No correctional institution or facility, juvenile court detention  
28 facility, or jail may be an evaluation and treatment facility within  
29 the meaning of this chapter.

30 (25) "Evaluation and treatment program" means the total system of  
31 services and facilities coordinated and approved by a county or  
32 combination of counties for the evaluation and treatment of minors  
33 under this chapter.

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

1 (27) "Habilitative services" means those services provided by  
2 program personnel to assist minors in acquiring and maintaining life  
3 skills and in raising their levels of physical, behavioral, social,  
4 and vocational functioning. Habilitative services include education,  
5 training for employment, and therapy.

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

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

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

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

19 (b) The conditions and strategies necessary to achieve the  
20 purposes of habilitation;

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

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

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

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

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

33 (31)(a) "Inpatient treatment" means twenty-four-hour-per-day  
34 mental health care provided within a general hospital, psychiatric  
35 hospital, residential treatment facility licensed or certified by the  
36 department of health as an evaluation and treatment facility for  
37 minors, secure withdrawal management and stabilization facility for  
38 minors, or approved substance use disorder treatment program for  
39 minors.

1 (b) For purposes of family-initiated treatment under RCW  
2 71.34.600 through 71.34.670, "inpatient treatment" has the meaning  
3 included in (a) of this subsection and any other residential  
4 treatment facility licensed under chapter 71.12 RCW.

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

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

10 (34) "Kinship caregiver" has the same meaning as in RCW  
11 74.13.031(~~((19)(a))~~) (22)(a).

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

16 (36) "Less restrictive alternative" or "less restrictive setting"  
17 means outpatient treatment provided to a minor as a program of  
18 individualized treatment in a less restrictive setting than inpatient  
19 treatment that includes the services described in RCW 71.34.755,  
20 including residential treatment.

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

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

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

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

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

38 (40) "Medical clearance" means a physician or other health care  
39 provider, including an Indian health care provider, has determined  
40 that a person is medically stable and ready for referral to the



1 designated crisis responder or facility. For a person presenting in  
2 the community, no medical clearance is required prior to  
3 investigation by a designated crisis responder.

4 (41) "Medical necessity" for inpatient care means a requested  
5 service which is reasonably calculated to: (a) Diagnose, correct,  
6 cure, or alleviate a mental disorder or substance use disorder; or  
7 (b) prevent the progression of a mental disorder or substance use  
8 disorder that endangers life or causes suffering and pain, or results  
9 in illness or infirmity or threatens to cause or aggravate a  
10 disability, or causes physical deformity or malfunction, and there is  
11 no adequate less restrictive alternative available.

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

18 (43) "Mental health professional" means a psychiatrist,  
19 psychiatric advanced registered nurse practitioner, physician  
20 assistant working with a supervising psychiatrist, psychologist,  
21 psychiatric nurse, social worker, and such other mental health  
22 professionals as defined by rules adopted by the secretary of the  
23 department of health under this chapter.

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

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

28 (46)(a) "Parent" has the same meaning as defined in RCW  
29 26.26A.010, including either parent if custody is shared under a  
30 joint custody agreement, or a person or agency judicially appointed  
31 as legal guardian or custodian of the child.

32 (b) For purposes of family-initiated treatment under RCW  
33 71.34.600 through 71.34.670, "parent" also includes a person to whom  
34 a parent defined in (a) of this subsection has given a signed  
35 authorization to make health care decisions for the adolescent, a  
36 stepparent who is involved in caring for the adolescent, a kinship  
37 caregiver who is involved in caring for the adolescent, or another  
38 relative who is responsible for the health care of the adolescent,  
39 who may be required to provide a declaration under penalty of perjury  
40 stating that he or she is a relative responsible for the health care

1 of the adolescent pursuant to chapter 5.50 RCW. If a dispute arises  
2 between individuals authorized to act as a parent for the purpose of  
3 RCW 71.34.600 through 71.34.670, the disagreement must be resolved  
4 according to the priority established under RCW 7.70.065(2) (a).

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

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

11 (49) "Private agency" means any person, partnership, corporation,  
12 or association that is not a public agency, whether or not financed  
13 in whole or in part by public funds, that constitutes an evaluation  
14 and treatment facility or private institution, or hospital, or  
15 approved substance use disorder treatment program, that is conducted  
16 for, or includes a distinct unit, floor, or ward conducted for, the  
17 care and treatment of persons with mental illness, substance use  
18 disorders, or both mental illness and substance use disorders.

19 (50) "Professional person in charge" or "professional person"  
20 means a physician, other mental health professional, or other person  
21 empowered by an evaluation and treatment facility, secure withdrawal  
22 management and stabilization facility, or approved substance use  
23 disorder treatment program with authority to make admission and  
24 discharge decisions on behalf of that facility.

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

29 (52) "Psychiatrist" means a person having a license as a  
30 physician in this state who has completed residency training in  
31 psychiatry in a program approved by the American Medical Association  
32 or the American Osteopathic Association, and is board eligible or  
33 board certified in psychiatry.

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

36 (54) "Public agency" means any evaluation and treatment facility  
37 or institution, or hospital, or approved substance use disorder  
38 treatment program that is conducted for, or includes a distinct unit,  
39 floor, or ward conducted for, the care and treatment of persons with  
40 mental illness, substance use disorders, or both mental illness and

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

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

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

8 (57) "Responsible other" means the minor, the minor's parent or  
9 estate, or any other person legally responsible for support of the  
10 minor.

11 (58) "Secretary" means the secretary of the department or  
12 secretary's designee.

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

20 (a) Provide the following services:

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

23 (ii) Clinical stabilization services;

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

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

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

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

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

37 (61) "Start of initial detention" means the time of arrival of  
38 the minor at the first evaluation and treatment facility, secure  
39 withdrawal management and stabilization facility, or approved  
40 substance use disorder treatment program offering inpatient treatment

1 if the minor is being involuntarily detained at the time. With regard  
2 to voluntary patients, "start of initial detention" means the time at  
3 which the minor gives notice of intent to leave under the provisions  
4 of this chapter.

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

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

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

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

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

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

38 (68) "Video" means the delivery of behavioral health services  
39 through the use of interactive audio and video technology, permitting  
40 real-time communication between a person and a designated crisis

1 responder, for the purpose of evaluation. "Video" does not include  
2 the use of audio-only telephone, facsimile, email, or store and  
3 forward technology.

4 ~~((68))~~ (69) "Violent act" means behavior that resulted in  
5 homicide, attempted suicide, injury, or substantial loss or damage to  
6 property.

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

9 Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout this chapter.

11 (1) "Admission" or "admit" means a decision by a physician,  
12 physician assistant, or psychiatric advanced registered nurse  
13 practitioner that a minor should be examined or treated as a patient  
14 in a hospital.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (24) "Evaluation and treatment facility" means a public or  
18 private facility or unit that is licensed or certified by the  
19 department of health to provide emergency, inpatient, residential, or  
20 outpatient mental health evaluation and treatment services for  
21 minors. A physically separate and separately operated portion of a  
22 state hospital may be designated as an evaluation and treatment  
23 facility for minors. A facility which is part of or operated by the  
24 state or federal agency does not require licensure or certification.  
25 No correctional institution or facility, juvenile court detention  
26 facility, or jail may be an evaluation and treatment facility within  
27 the meaning of this chapter.

28 (25) "Evaluation and treatment program" means the total system of  
29 services and facilities coordinated and approved by a county or  
30 combination of counties for the evaluation and treatment of minors  
31 under this chapter.

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

39 (27) "Habilitative services" means those services provided by  
40 program personnel to assist minors in acquiring and maintaining life

1 skills and in raising their levels of physical, behavioral, social,  
2 and vocational functioning. Habilitative services include education,  
3 training for employment, and therapy.

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

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

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

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

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

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

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

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

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

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

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

38 (b) For purposes of family-initiated treatment under RCW  
39 71.34.600 through 71.34.670, "inpatient treatment" has the meaning



1 included in (a) of this subsection and any other residential  
2 treatment facility licensed under chapter 71.12 RCW.

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

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

8 (34) "Kinship caregiver" has the same meaning as in RCW  
9 74.13.031(~~((19)(a))~~) (22)(a).

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

14 (36) "Less restrictive alternative" or "less restrictive setting"  
15 means outpatient treatment provided to a minor as a program of  
16 individualized treatment in a less restrictive setting than inpatient  
17 treatment that includes the services described in RCW 71.34.755,  
18 including residential treatment.

19 (37) "Licensed physician" means a person licensed to practice  
20 medicine or osteopathic medicine and surgery in the state of  
21 Washington.

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

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

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

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

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

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

3 (41) "Medical necessity" for inpatient care means a requested  
4 service which is reasonably calculated to: (a) Diagnose, correct,  
5 cure, or alleviate a mental disorder or substance use disorder; or  
6 (b) prevent the progression of a mental disorder or substance use  
7 disorder that endangers life or causes suffering and pain, or results  
8 in illness or infirmity or threatens to cause or aggravate a  
9 disability, or causes physical deformity or malfunction, and there is  
10 no adequate less restrictive alternative available.

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

17 (43) "Mental health professional" means a psychiatrist,  
18 psychiatric advanced registered nurse practitioner, physician  
19 assistant working with a supervising psychiatrist, psychologist,  
20 psychiatric nurse, social worker, and such other mental health  
21 professionals as defined by rules adopted by the secretary of the  
22 department of health under this chapter.

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

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

27 (46)(a) "Parent" has the same meaning as defined in RCW  
28 26.26A.010, including either parent if custody is shared under a  
29 joint custody agreement, or a person or agency judicially appointed  
30 as legal guardian or custodian of the child.

31 (b) For purposes of family-initiated treatment under RCW  
32 71.34.600 through 71.34.670, "parent" also includes a person to whom  
33 a parent defined in (a) of this subsection has given a signed  
34 authorization to make health care decisions for the adolescent, a  
35 stepparent who is involved in caring for the adolescent, a kinship  
36 caregiver who is involved in caring for the adolescent, or another  
37 relative who is responsible for the health care of the adolescent,  
38 who may be required to provide a declaration under penalty of perjury  
39 stating that he or she is a relative responsible for the health care  
40 of the adolescent pursuant to chapter 5.50 RCW. If a dispute arises

1 between individuals authorized to act as a parent for the purpose of  
2 RCW 71.34.600 through 71.34.670, the disagreement must be resolved  
3 according to the priority established under RCW 7.70.065(2) (a).

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

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

10 (49) "Private agency" means any person, partnership, corporation,  
11 or association that is not a public agency, whether or not financed  
12 in whole or in part by public funds, that constitutes an evaluation  
13 and treatment facility or private institution, or hospital, or  
14 approved substance use disorder treatment program, that is conducted  
15 for, or includes a distinct unit, floor, or ward conducted for, the  
16 care and treatment of persons with mental illness, substance use  
17 disorders, or both mental illness and substance use disorders.

18 (50) "Professional person in charge" or "professional person"  
19 means a physician, other mental health professional, or other person  
20 empowered by an evaluation and treatment facility, secure withdrawal  
21 management and stabilization facility, or approved substance use  
22 disorder treatment program with authority to make admission and  
23 discharge decisions on behalf of that facility.

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

28 (52) "Psychiatrist" means a person having a license as a  
29 physician in this state who has completed residency training in  
30 psychiatry in a program approved by the American Medical Association  
31 or the American Osteopathic Association, and is board eligible or  
32 board certified in psychiatry.

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

35 (54) "Public agency" means any evaluation and treatment facility  
36 or institution, or hospital, or approved substance use disorder  
37 treatment program that is conducted for, or includes a distinct unit,  
38 floor, or ward conducted for, the care and treatment of persons with  
39 mental illness, substance use disorders, or both mental illness and  
40 substance use disorders if the agency is operated directly by

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

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

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

7 (57) "Responsible other" means the minor, the minor's parent or  
8 estate, or any other person legally responsible for support of the  
9 minor.

10 (58) "Secretary" means the secretary of the department or  
11 secretary's designee.

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

19 (a) Provide the following services:

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

22 (ii) Clinical stabilization services;

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

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

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

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

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

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

1 (62) "Start of initial detention" means the time of arrival of  
2 the minor at the first evaluation and treatment facility, secure  
3 withdrawal management and stabilization facility, or approved  
4 substance use disorder treatment program offering inpatient treatment  
5 if the minor is being involuntarily detained at the time. With regard  
6 to voluntary patients, "start of initial detention" means the time at  
7 which the minor gives notice of intent to leave under the provisions  
8 of this chapter.

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

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

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

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

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

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

2 (69) "Video" means the delivery of behavioral health services  
3 through the use of interactive audio and video technology, permitting  
4 real-time communication between a person and a designated crisis  
5 responder, for the purpose of evaluation. "Video" does not include  
6 the use of audio-only telephone, facsimile, email, or store and  
7 forward technology.

8 ((+69)) (70) "Violent act" means behavior that resulted in  
9 homicide, attempted suicide, injury, or substantial loss or damage to  
10 property.

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

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

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

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

20 (i) The person is unlikely to survive safely in the community  
21 without supervision and the person's condition is substantially  
22 deteriorating; or

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

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

29 (i) At least twice within the 36 months prior to the filing of  
30 the petition been a significant factor in necessitating  
31 hospitalization of the person, or the person's receipt of services in  
32 a forensic or other mental health unit of a state or tribal  
33 correctional facility or local correctional facility, provided that  
34 the 36-month period shall be extended by the length of any  
35 hospitalization or incarceration of the person that occurred within  
36 the 36-month period;

37 (ii) At least twice within the 36 months prior to the filing of  
38 the petition been a significant factor in necessitating emergency  
39 medical care or hospitalization for behavioral health-related medical

1 conditions including overdose, infected abscesses, sepsis,  
2 endocarditis, or other maladies, or a significant factor in behavior  
3 which resulted in the person's incarceration in a state, tribal, or  
4 local correctional facility; or

5 (iii) Resulted in one or more violent acts, threats, or attempts  
6 to cause serious physical harm to the person or another within the 48  
7 months prior to the filing of the petition, provided that the 48-  
8 month period shall be extended by the length of any hospitalization  
9 or incarceration of the person that occurred during the 48-month  
10 period;

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

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

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

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

20 (b) The director of a behavioral health service provider  
21 providing behavioral health care or residential services to the  
22 person or the director's designee;

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

25 (d) A designated crisis responder;

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

27 (f) An emergency room physician.

28 (3) A court order for less restrictive alternative treatment on  
29 the basis that the person is in need of assisted outpatient treatment  
30 may be effective for up to 18 months. The petitioner must personally  
31 interview the person, unless the person refuses an interview, to  
32 determine whether the person will voluntarily receive appropriate  
33 treatment.

34 (4) The petitioner must allege specific facts based on personal  
35 observation, evaluation, or investigation, and must consider the  
36 reliability or credibility of any person providing information  
37 material to the petition.

38 (5) The petition must include:

39 (a) A statement of the circumstances under which the person's  
40 condition was made known and the basis for the opinion, from personal

1 observation or investigation, that the person is in need of assisted  
2 outpatient treatment. The petitioner must state which specific facts  
3 come from personal observation and specify what other sources of  
4 information the petitioner has relied upon to form this belief;

5 (b) A declaration from a physician, physician assistant, advanced  
6 registered nurse practitioner, or the person's treating mental health  
7 professional or substance use disorder professional, who has examined  
8 the person no more than 10 days prior to the submission of the  
9 petition and who is willing to testify in support of the petition, or  
10 who alternatively has made appropriate attempts to examine the person  
11 within the same period but has not been successful in obtaining the  
12 person's cooperation, and who is willing to testify to the reasons  
13 they believe that the person meets the criteria for assisted  
14 outpatient treatment. If the declaration is provided by the person's  
15 treating mental health professional or substance use disorder  
16 professional, it must be cosigned by a supervising physician,  
17 physician assistant, or advanced registered nurse practitioner who  
18 certifies that they have reviewed the declaration;

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

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

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

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

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

34 (ii) If the respondent is hospitalized at the time of filing of  
35 the petition, before discharge of the respondent and in sufficient  
36 time to arrange for a continuous transition from inpatient treatment  
37 to assisted outpatient treatment.

38 (b) A copy of the petition and notice of hearing shall be served,  
39 in the same manner as a summons, on the petitioner, the respondent,  
40 the qualified professional whose affidavit accompanied the petition,



1 a current provider, if any, and a surrogate decision maker or agent  
2 under chapter 71.32 RCW, if any.

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

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

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

12 (f) If the respondent has refused to be examined by the qualified  
13 professional whose affidavit accompanied the petition, the court may  
14 order a mental examination of the respondent. The examination of the  
15 respondent may be performed by the qualified professional whose  
16 affidavit accompanied the petition. If the examination is performed  
17 by another qualified professional, the examining qualified  
18 professional shall be authorized to consult with the qualified  
19 professional whose affidavit accompanied the petition.

20 (g) If the respondent has refused to be examined by a qualified  
21 professional and the court finds reasonable grounds to believe that  
22 the allegations of the petition are true, the court may issue a  
23 written order directing a peace officer who has completed crisis  
24 intervention training to detain and transport the respondent to a  
25 provider for examination by a qualified professional. A respondent  
26 detained pursuant to this subsection shall be detained no longer than  
27 necessary to complete the examination and in no event longer than 24  
28 hours.

29 (7) If the petition involves a person whom the petitioner or  
30 behavioral health administrative services organization knows, or has  
31 reason to know, is an American Indian or Alaska Native who receives  
32 medical or behavioral health services from a tribe within this state,  
33 the petitioner or behavioral health administrative services  
34 organization shall notify the tribe and Indian health care provider.  
35 Notification shall be made in person or by telephonic or electronic  
36 communication to the tribal contact listed in the authority's tribal  
37 crisis coordination plan as soon as possible, but before the hearing  
38 and no later than 24 hours from the time the petition is served upon  
39 the person and the person's guardian. The notice to the tribe or  
40 Indian health care provider must include a copy of the petition,

1 together with any orders issued by the court and a notice of the  
2 tribe's right to intervene. The court clerk shall provide copies of  
3 any court orders necessary for the petitioner or the behavioral  
4 health administrative services organization to provide notice to the  
5 tribe or Indian health care provider under this section.

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

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

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

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

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

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

20 (i) The adolescent is unlikely to survive safely in the community  
21 without supervision and the adolescent's condition is substantially  
22 deteriorating; or

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

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

29 (i) At least twice within the 36 months prior to the filing of  
30 the petition been a significant factor in necessitating  
31 hospitalization of the adolescent, or the adolescent's receipt of  
32 services in a forensic or other mental health unit of a state  
33 (~~(correctional facility or)~~), local, or tribal correctional facility,  
34 provided that the 36-month period shall be extended by the length of  
35 any hospitalization or incarceration of the adolescent that occurred  
36 within the 36-month period;

37 (ii) At least twice within the 36 months prior to the filing of  
38 the petition been a significant factor in necessitating emergency  
39 medical care or hospitalization for behavioral health-related medical

1 conditions including overdose, infected abscesses, sepsis,  
2 endocarditis, or other maladies, or a significant factor in behavior  
3 which resulted in the adolescent's incarceration in a state ((~~or~~)),  
4 local, or tribal correctional facility; or

5 (iii) Resulted in one or more violent acts, threats, or attempts  
6 to cause serious physical harm to the adolescent or another within  
7 the 48 months prior to the filing of the petition, provided that the  
8 48-month period shall be extended by the length of any  
9 hospitalization or incarceration of the person that occurred during  
10 the 48-month period;

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

14 (e) The adolescent will benefit from assisted outpatient  
15 treatment.

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

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

21 (b) The director of a behavioral health service provider  
22 providing behavioral health care or residential services to the  
23 adolescent or the director's designee;

24 (c) The adolescent's treating mental health professional or  
25 substance use disorder professional or one who has evaluated the  
26 person;

27 (d) A designated crisis responder;

28 (e) A release planner from a juvenile detention or rehabilitation  
29 facility; or

30 (f) An emergency room physician.

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

37 (4) The petitioner must allege specific facts based on personal  
38 observation, evaluation, or investigation, and must consider the  
39 reliability or credibility of any person providing information  
40 material to the petition.

1 (5) The petition must include:

2 (a) A statement of the circumstances under which the adolescent's  
3 condition was made known and the basis for the opinion, from personal  
4 observation or investigation, that the adolescent is in need of  
5 assisted outpatient treatment. The petitioner must state which  
6 specific facts come from personal observation and specify what other  
7 sources of information the petitioner has relied upon to form this  
8 belief;

9 (b) A declaration from a physician, physician assistant, or  
10 advanced registered nurse practitioner, or the adolescent's treating  
11 mental health professional or substance use disorder professional,  
12 who has examined the adolescent no more than 10 days prior to the  
13 submission of the petition and who is willing to testify in support  
14 of the petition, or who alternatively has made appropriate attempts  
15 to examine the adolescent within the same period but has not been  
16 successful in obtaining the adolescent's cooperation, and who is  
17 willing to testify to the reasons they believe that the adolescent  
18 meets the criteria for assisted outpatient treatment. If the  
19 declaration is provided by the adolescent's treating mental health  
20 professional or substance use disorder professional, it must be  
21 cosigned by a supervising physician, physician assistant, or advanced  
22 registered nurse practitioner who certifies that they have reviewed  
23 the declaration;

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

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

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

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

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

39 (ii) If the adolescent is hospitalized at the time of filing of  
40 the petition, before discharge of the adolescent and in sufficient

1 time to arrange for a continuous transition from inpatient treatment  
2 to assisted outpatient treatment.

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

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

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

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

17 (f) If the adolescent has refused to be examined by the qualified  
18 professional whose affidavit accompanied the petition, the court may  
19 order a mental examination of the adolescent. The examination of the  
20 adolescent may be performed by the qualified professional whose  
21 affidavit accompanied the petition. If the examination is performed  
22 by another qualified professional, the examining qualified  
23 professional shall be authorized to consult with the qualified  
24 professional whose affidavit accompanied the petition.

25 (g) If the adolescent has refused to be examined by a qualified  
26 professional and the court finds reasonable grounds to believe that  
27 the allegations of the petition are true, the court may issue a  
28 written order directing a peace officer who has completed crisis  
29 intervention training to detain and transport the adolescent to a  
30 provider for examination by a qualified professional. An adolescent  
31 detained pursuant to this subsection shall be detained no longer than  
32 necessary to complete the examination and in no event longer than 24  
33 hours. All papers in the court file must be provided to the  
34 adolescent's designated attorney.

35 (7) If the petition involves an adolescent whom the petitioner or  
36 behavioral health administrative services organization knows, or has  
37 reason to know, is an American Indian or Alaska Native who receives  
38 medical or behavioral health services from a tribe within this state,  
39 the petitioner or behavioral health administrative services  
40 organization shall notify the tribe and Indian health care provider.

1 Notification shall be made in person or by telephonic or electronic  
2 communication to the tribal contact listed in the authority's tribal  
3 crisis coordination plan as soon as possible, but before the hearing  
4 and no later than 24 hours from the time the petition is served upon  
5 the person and the person's guardian. The notice to the tribe or  
6 Indian health care provider must include a copy of the petition,  
7 together with any orders issued by the court and a notice of the  
8 tribe's right to intervene. The court clerk shall provide copies of  
9 any court orders necessary for the petitioner or the behavioral  
10 health administrative services organization to provide notice to the  
11 tribe or Indian health care provider under this section.

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

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

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

19 (1) When a designated crisis responder receives information  
20 alleging that a person, as a result of a behavioral health disorder,  
21 presents a likelihood of serious harm or is gravely disabled, the  
22 designated crisis responder may, after investigation and evaluation  
23 of the specific facts alleged and of the reliability and credibility  
24 of any person providing information to initiate detention, if  
25 satisfied that the allegations are true and that the person will not  
26 voluntarily seek appropriate treatment, file a petition for initial  
27 detention under this section. Before filing the petition, the  
28 designated crisis responder must personally interview the person,  
29 unless the person refuses an interview, and determine whether the  
30 person will voluntarily receive appropriate evaluation and treatment  
31 at an evaluation and treatment facility, crisis stabilization unit,  
32 23-hour crisis relief center, secure withdrawal management and  
33 stabilization facility, or approved substance use disorder treatment  
34 program. As part of the assessment, the designated crisis responder  
35 must attempt to ascertain if the person has executed a mental health  
36 advance directive under chapter 71.32 RCW. The interview performed by  
37 the designated crisis responder may be conducted by video provided  
38 that a licensed health care professional or professional person who

1 can adequately and accurately assist with obtaining any necessary  
2 information is present with the person at the time of the interview.

3 (2)(a) A superior court judge may issue a warrant to detain a  
4 person with a behavioral health disorder to a designated evaluation  
5 and treatment facility, a secure withdrawal management and  
6 stabilization facility, or an approved substance use disorder  
7 treatment program, for a period of not more than (~~one hundred~~  
8 ~~twenty~~) 120 hours for evaluation and treatment upon request of a  
9 designated crisis responder, subject to (d) of this subsection,  
10 whenever it appears to the satisfaction of the judge that:

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

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

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

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

22 (d) A court may not issue an order to detain a person to a secure  
23 withdrawal management and stabilization facility or approved  
24 substance use disorder treatment program unless there is an available  
25 secure withdrawal management and stabilization facility or approved  
26 substance use disorder treatment program that has adequate space for  
27 the person.

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

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

1 will be held within (~~one hundred twenty~~) 120 hours of the date and  
2 time of outpatient evaluation or admission to the evaluation and  
3 treatment facility, secure withdrawal management and stabilization  
4 facility, or approved substance use disorder treatment program. The  
5 person shall be permitted to be accompanied by one or more of his or  
6 her relatives, friends, an attorney, a personal physician, or other  
7 professional or religious advisor or traditional cultural healer to  
8 the place of evaluation. An attorney accompanying the person to the  
9 place of evaluation shall be permitted to be present during the  
10 admission evaluation. Any other individual accompanying the person  
11 may be present during the admission evaluation. The facility may  
12 exclude the individual if his or her presence would present a safety  
13 risk, delay the proceedings, or otherwise interfere with the  
14 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 withdrawal  
18 management and stabilization facility, or approved substance use  
19 disorder treatment program. At the time such person is taken into  
20 custody there shall commence to be served on such person, his or her  
21 guardian, and conservator, if any, a copy of the original order  
22 together with a notice of rights and a petition for initial  
23 detention.

24 (5) (~~Tribal court orders for involuntary commitment shall be~~  
25 ~~recognized and enforced in accordance with superior court civil rule~~  
26 ~~82.5.~~

27 ~~(6)~~) In any investigation and evaluation of an individual under  
28 this section or RCW 71.05.153 in which the designated crisis  
29 responder knows, or has reason to know, that the individual is an  
30 American Indian or Alaska Native who receives medical or behavioral  
31 health services from a tribe within this state, the designated crisis  
32 responder shall notify the tribe and Indian health care provider  
33 (~~regarding~~) whether or not a petition for initial detention or  
34 involuntary outpatient treatment will be filed(~~. Notification~~) as  
35 soon as possible, but no later than three hours from the time the  
36 decision is made. If a petition for initial detention or involuntary  
37 outpatient treatment is filed, the designated crisis responder must  
38 provide the tribe and Indian health care provider with a copy of the  
39 petition, together with any orders issued by the court and a notice  
40 of the tribe's right to intervene as soon as possible, but before the



1 hearing, and no later than 24 hours from the time the petition is  
2 served upon the person and the person's guardian. The court clerk  
3 shall provide copies of any court orders necessary for the designated  
4 crisis responder to provide notice to the tribe or Indian health care  
5 provider under this section. Notification under this section is  
6 subject to any federal and state laws and regulations including the  
7 requirements in RCW 70.02.230 (2)(ee) and (3) and shall be made in  
8 person or by telephonic or electronic communication to the tribal  
9 contact listed in the authority's tribal crisis coordination plan  
10 (~~as soon as possible but no later than three hours subject to the~~  
11 ~~requirements in RCW 70.02.230 (2)(ee) and (3). A designated crisis~~  
12 ~~responder may restrict the release of information as necessary to~~  
13 ~~comply with 42 C.F.R. Part 2)).~~

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

16 (1) When a designated crisis responder receives information  
17 alleging that a person, as a result of a behavioral health disorder,  
18 presents a likelihood of serious harm or is gravely disabled, the  
19 designated crisis responder may, after investigation and evaluation  
20 of the specific facts alleged and of the reliability and credibility  
21 of any person providing information to initiate detention, if  
22 satisfied that the allegations are true and that the person will not  
23 voluntarily seek appropriate treatment, file a petition for initial  
24 detention under this section. Before filing the petition, the  
25 designated crisis responder must personally interview the person,  
26 unless the person refuses an interview, and determine whether the  
27 person will voluntarily receive appropriate evaluation and treatment  
28 at an evaluation and treatment facility, crisis stabilization unit,  
29 23-hour crisis relief center, secure withdrawal management and  
30 stabilization facility, or approved substance use disorder treatment  
31 program. As part of the assessment, the designated crisis responder  
32 must attempt to ascertain if the person has executed a mental health  
33 advance directive under chapter 71.32 RCW. The interview performed by  
34 the designated crisis responder may be conducted by video provided  
35 that a licensed health care professional or professional person who  
36 can adequately and accurately assist with obtaining any necessary  
37 information is present with the person at the time of the interview.

38 (2)(a) A superior court judge may issue a warrant to detain a  
39 person with a behavioral health disorder to a designated evaluation

1 and treatment facility, a secure withdrawal management and  
2 stabilization facility, or an approved substance use disorder  
3 treatment program, for a period of not more than (~~one hundred~~  
4 ~~twenty~~) 120 hours for evaluation and treatment upon request of a  
5 designated crisis responder whenever it appears to the satisfaction  
6 of the judge that:

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

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

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

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

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

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

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

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

14 ~~(5) ((Tribal court orders for involuntary commitment shall be~~  
15 ~~recognized and enforced in accordance with superior court civil rule~~  
16 ~~82.5.~~

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

1 requirements in RCW 70.02.230 (2)(ee) and (3). A designated crisis  
2 responder may restrict the release of information as necessary to  
3 comply with 42 C.F.R. Part 2)).

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

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

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

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

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

38 (2)(a) Within (~~twelve~~) 12 hours of the adolescent's arrival at  
39 the evaluation and treatment facility, secure withdrawal management

1 and stabilization facility, or approved substance use disorder  
2 treatment program, the designated crisis responder shall serve or  
3 cause to be served on the adolescent a copy of the petition for  
4 initial detention, notice of initial detention, and statement of  
5 rights. The designated crisis responder shall file with the court on  
6 the next judicial day following the initial detention the original  
7 petition for initial detention, notice of initial detention, and  
8 statement of rights along with an affidavit of service. The  
9 designated crisis responder shall commence service of the petition  
10 for initial detention and notice of the initial detention on the  
11 adolescent's parent and the adolescent's attorney as soon as possible  
12 following the initial detention.

13 (b) The facility or program may serve the adolescent, notify the  
14 adolescent's parents and the adolescent's attorney, and file with the  
15 court on the next judicial day following the initial detention the  
16 original petition for initial detention, notice of initial detention,  
17 and statement of rights along with an affidavit of service when  
18 filing with the court at the request of the designated crisis  
19 responder.

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

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

32 (4) Subject to subsection (5) of this section, whenever the  
33 designated crisis responder petitions for detention of an adolescent  
34 under this chapter, an evaluation and treatment facility, secure  
35 withdrawal management and stabilization facility, or approved  
36 substance use disorder treatment program providing (~~one hundred~~  
37 ~~twenty~~) 120-hour evaluation and treatment must immediately accept on  
38 a provisional basis the petition and the person. Within (~~twenty-~~  
39 ~~four~~) 24 hours of the adolescent's arrival, the facility must

1 evaluate the adolescent's condition and either admit or release the  
2 adolescent in accordance with this chapter.

3 (5) A designated crisis responder may not petition for detention  
4 of an adolescent to a secure withdrawal management and stabilization  
5 facility or approved substance use disorder treatment program unless  
6 there is a secure withdrawal management and stabilization facility or  
7 approved substance use disorder treatment program available and that  
8 has adequate space for the adolescent.

9 (6) If an adolescent is not approved for admission by the  
10 inpatient evaluation and treatment facility, secure withdrawal  
11 management and stabilization facility, or approved substance use  
12 disorder treatment program, the facility shall make such  
13 recommendations and referrals for further care and treatment of the  
14 adolescent as necessary.

15 (7) Dismissal of a commitment petition is not the appropriate  
16 remedy for a violation of the timeliness requirements of this  
17 section, based on the purpose of this chapter under RCW 71.34.010,  
18 except in the few cases where the facility staff or the designated  
19 crisis responder have totally disregarded the requirements of this  
20 section.

21 ~~((Tribal court orders for involuntary commitment shall be  
22 recognized and enforced in accordance with superior court civil rule  
23 82.5.~~

24 ~~(9))~~ In any investigation and evaluation of ~~((a juvenile))~~ an  
25 adolescent under this section in which the designated crisis  
26 responder knows, or has reason to know, that the ~~((juvenile))~~  
27 adolescent is an American Indian or Alaska Native who receives  
28 medical or behavioral health services from a tribe within this state,  
29 the designated crisis responder shall notify the tribe and the Indian  
30 health care provider ~~((regarding))~~ whether or not a petition for  
31 initial detention or involuntary outpatient treatment will be  
32 filed~~((. Notification))~~ as soon as possible, but no later than three  
33 hours from the time the decision is made. If a petition for initial  
34 detention or involuntary outpatient treatment is filed, the  
35 designated crisis responder must provide the tribe with a copy of the  
36 petition, together with any orders issued by the court and a notice  
37 of the tribe's right to intervene as soon as possible, but before the  
38 hearing, and no later than 24 hours from the time the petition is  
39 served upon the person and the person's guardian. The court clerk  
40 shall provide copies of any court orders necessary for the designated

1 crisis responder to provide notice to the tribe or Indian health care  
2 provider under this section. Notification under this section is  
3 subject to any federal and state laws and regulations including the  
4 requirements in RCW 70.02.240 and shall be made in person or by  
5 telephonic or electronic communication to the tribal contact listed  
6 in the authority's tribal crisis coordination plan (~~as seen as~~  
7 ~~possible but no later than three hours subject to the requirements in~~  
8 ~~RCW 70.02.230 (2)(ee) and (3). A designated crisis responder may~~  
9 ~~restrict the release of information as necessary to comply with 42~~  
10 ~~C.F.R. Part 2~~)).

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

13 (1)(a) When a designated crisis responder receives information  
14 that an adolescent as a result of a behavioral health disorder  
15 presents a likelihood of serious harm or is gravely disabled, has  
16 investigated the specific facts alleged and of the credibility of the  
17 person or persons providing the information, and has determined that  
18 voluntary admission for inpatient treatment is not possible, the  
19 designated crisis responder may take the adolescent, or cause the  
20 adolescent to be taken, into custody and transported to an evaluation  
21 and treatment facility, secure withdrawal management and  
22 stabilization facility, or approved substance use disorder treatment  
23 program providing inpatient treatment.

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

37 (c) The interview performed by the designated crisis responder  
38 may be conducted by video provided that a licensed health care  
39 professional or professional person who can adequately and accurately

1 assist with obtaining any necessary information is present with the  
2 person at the time of the interview.

3 (2) (a) Within (~~twelve~~) 12 hours of the adolescent's arrival at  
4 the evaluation and treatment facility, secure withdrawal management  
5 and stabilization facility, or approved substance use disorder  
6 treatment program, the designated crisis responder shall serve or  
7 cause to be served on the adolescent a copy of the petition for  
8 initial detention, notice of initial detention, and statement of  
9 rights. The designated crisis responder shall file with the court on  
10 the next judicial day following the initial detention the original  
11 petition for initial detention, notice of initial detention, and  
12 statement of rights along with an affidavit of service. The  
13 designated crisis responder shall commence service of the petition  
14 for initial detention and notice of the initial detention on the  
15 adolescent's parent and the adolescent's attorney as soon as possible  
16 following the initial detention.

17 (b) The facility or program may serve the adolescent, notify the  
18 adolescent's parents and the adolescent's attorney, and file with the  
19 court on the next judicial day following the initial detention the  
20 original petition for initial detention, notice of initial detention,  
21 and statement of rights along with an affidavit of service when  
22 filing with the court at the request of the designated crisis  
23 responder.

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

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

36 (4) Whenever the designated crisis responder petitions for  
37 detention of an adolescent under this chapter, an evaluation and  
38 treatment facility, secure withdrawal management and stabilization  
39 facility, or approved substance use disorder treatment program  
40 providing (~~one hundred twenty~~) 120-hour evaluation and treatment



1 must immediately accept on a provisional basis the petition and the  
2 person. Within (~~twenty-four~~) 24 hours of the adolescent's arrival,  
3 the facility must evaluate the adolescent's condition and either  
4 admit or release the adolescent in accordance with this chapter.

5 (5) If an adolescent is not approved for admission by the  
6 inpatient evaluation and treatment facility, secure withdrawal  
7 management and stabilization facility, or approved substance use  
8 disorder treatment program, the facility shall make such  
9 recommendations and referrals for further care and treatment of the  
10 adolescent as necessary.

11 (6) Dismissal of a commitment petition is not the appropriate  
12 remedy for a violation of the timeliness requirements of this  
13 section, based on the purpose of this chapter under RCW 71.34.010,  
14 except in the few cases where the facility staff or the designated  
15 crisis responder have totally disregarded the requirements of this  
16 section.

17 (~~(7) (Tribal court orders for involuntary commitment shall be~~  
18 ~~recognized and enforced in accordance with superior court civil rule~~  
19 ~~82.5.~~

20 ~~(8))~~) In any investigation and evaluation of (~~a juvenile~~) an  
21 adolescent under this section in which the designated crisis  
22 responder knows, or has reason to know, that the (~~juvenile~~)  
23 adolescent is an American Indian or Alaska Native who receives  
24 medical or behavioral health services from a tribe within this state,  
25 the designated crisis responder shall notify the tribe and the Indian  
26 health care provider (~~regarding~~) whether or not a petition for  
27 initial detention or involuntary outpatient treatment will be  
28 filed(~~. Notification~~) as soon as possible, but no later than three  
29 hours from the time the decision is made. If a petition for initial  
30 detention or involuntary outpatient treatment is filed, the  
31 designated crisis responder must provide the tribe with a copy of the  
32 petition, together with any orders issued by the court and a notice  
33 of the tribe's right to intervene as soon as possible, but before the  
34 hearing, and no later than 24 hours from the time the petition is  
35 served upon the person and the person's guardian. The court clerk  
36 shall provide copies of any court orders necessary for the designated  
37 crisis responder to provide notice to the tribe or Indian health care  
38 provider under this section. Notification under this section is  
39 subject to any federal and state laws and regulations including the  
40 requirements in RCW 70.02.240 and shall be made in person or by

1 telephonic or electronic communication to the tribal contact listed  
2 in the authority's tribal crisis coordination plan (~~as seen as~~  
3 ~~possible but no later than three hours subject to the requirements in~~  
4 ~~RCW 70.02.230 (2) (ee) and (3). A designated crisis responder may~~  
5 ~~restrict the release of information as necessary to comply with 42~~  
6 ~~C.F.R. Part 2~~)).

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

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

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

25 (b) A warrant issued by a magistrate in the state or tribe in  
26 which the person was found not guilty by reason of insanity  
27 indicating that the person has fled from detention, commitment, or  
28 conditional release in that state or tribe and authorizing the  
29 detention of the person within the state or tribe in which the person  
30 was found not guilty by reason of insanity;

31 (c) A statement from the executive authority of the state or  
32 tribe in which the person was found not guilty by reason of insanity  
33 requesting that the person be returned to the requesting state or  
34 tribe and agreeing to facilitate the transfer of the person to the  
35 requesting state or tribe.

36 (2) The person shall be entitled to a probable cause hearing  
37 within the time limits applicable to other detentions under this  
38 chapter and shall be afforded the rights described in this chapter  
39 including the right to counsel. At the probable cause hearing, the

1 court shall determine the identity of the person and whether the  
2 other requirements of this section are met. If the court so finds,  
3 the court may order continued detention in a treatment facility for  
4 up to (~~thirty~~) 30 days for the purpose of the transfer of the  
5 person to the custody or care of the requesting state or tribe. The  
6 court may order a less restrictive alternative to detention only  
7 under conditions which ensure the person's safe transfer to the  
8 custody or care of the requesting state or tribe within (~~thirty~~) 30  
9 days without undue risk to the safety of the person or others.

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

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

17 (1) If a designated crisis responder decides not to detain a  
18 person for evaluation and treatment under RCW 71.05.150 or 71.05.153  
19 or (~~forty-eight~~) 48 hours have elapsed since a designated crisis  
20 responder received a request for investigation and the designated  
21 crisis responder has not taken action to have the person detained, an  
22 immediate family member or guardian of the person, or a (~~federally~~  
23 ~~recognized Indian~~) tribe if the person is a member of such a tribe,  
24 may petition the superior court for the person's initial detention.

25 (2) A petition under this section must be filed within (~~ten~~) 10  
26 calendar days following the designated crisis responder investigation  
27 or the request for a designated crisis responder investigation. If  
28 more than (~~ten~~) 10 days have elapsed, the immediate family member,  
29 guardian, (~~or~~) conservator, or a tribe if the person is a member of  
30 such a tribe, may request a new designated crisis responder  
31 investigation.

32 (3)(a) The petition must be filed in the county in which the  
33 designated crisis responder investigation occurred or was requested  
34 to occur and must be submitted on forms developed by the  
35 administrative office of the courts for this purpose. The petition  
36 must be accompanied by a sworn declaration from the petitioner, and  
37 other witnesses if desired, describing why the person should be  
38 detained for evaluation and treatment. The description of why the

1 person should be detained may contain, but is not limited to, the  
2 information identified in RCW 71.05.212.

3 (b) The petition must contain:

4 (i) A description of the relationship between the petitioner and  
5 the person; and

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

8 (4) The court shall, within one judicial day, review the petition  
9 to determine whether the petition raises sufficient evidence to  
10 support the allegation. If the court so finds, it shall provide a  
11 copy of the petition to the designated crisis responder agency with  
12 an order for the agency to provide the court, within one judicial  
13 day, with a written sworn statement describing the basis for the  
14 decision not to seek initial detention and a copy of all information  
15 material to the designated crisis responder's current decision.

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

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

24 (7) The court must issue a final ruling on the petition within  
25 five judicial days after it is filed. After reviewing all of the  
26 information provided to the court, the court may enter an order for  
27 initial detention if the court finds that: (a) There is probable  
28 cause to support a petition for detention; and (b) the person has  
29 refused or failed to accept appropriate evaluation and treatment  
30 voluntarily. The court shall transmit its final decision to the  
31 petitioner.

32 (8) If the court enters an order for initial detention, it shall  
33 provide the order to the designated crisis responder agency and issue  
34 a warrant. The designated crisis responder agency serving the  
35 jurisdiction of the court must collaborate and coordinate with law  
36 enforcement, including tribal law enforcement, regarding  
37 apprehensions and detentions under this subsection, including sharing  
38 of information relating to risk and which would assist in locating  
39 the person. A person may not be detained to jail pursuant to a  
40 warrant issued under this subsection. An order for detention under

1 this section should contain the advisement of rights which the person  
2 would receive if the person were detained by a designated crisis  
3 responder. An order for initial detention under this section expires  
4 (~~one hundred eighty~~) 180 days from issuance.

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

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

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

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

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

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

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

25 (d) Prior commitments under this chapter.

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

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

1 (a) Such symptoms or behavior are closely associated with  
2 symptoms or behavior which preceded and led to a past incident of  
3 involuntary hospitalization, severe deterioration, or one or more  
4 violent acts;

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

7 (c) Without treatment, the continued deterioration of the  
8 respondent is probable.

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

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

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

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

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

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

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

32 (d) Prior commitments under this chapter.

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

1 date, time, and location of the probable cause hearing to such a  
2 witness.

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

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

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

13 (c) Without treatment, the continued deterioration of the  
14 respondent is probable.

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

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

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

27 The authority shall develop statewide protocols to be utilized by  
28 professional persons and designated crisis responders in  
29 administration of this chapter and chapters 10.77 and 71.34 RCW. The  
30 protocols shall be updated at least every three years. The protocols  
31 shall provide uniform development and application of criteria in  
32 evaluation and commitment recommendations, of persons who have, or  
33 are alleged to have, behavioral health disorders and are subject to  
34 this chapter.

35 The initial protocols shall be developed not later than September  
36 1, 1999. The authority shall develop and update the protocols in  
37 consultation with representatives of designated crisis responders,  
38 the department of social and health services, tribal government,  
39 local government, law enforcement, county and city prosecutors,

1 public defenders, and groups concerned with behavioral health  
2 disorders. The protocols shall be submitted to the governor and  
3 legislature upon adoption by the authority.

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

6 (1) Insofar as danger to the individual or others is not created,  
7 each person involuntarily detained, treated in a less restrictive  
8 alternative course of treatment, or committed for treatment and  
9 evaluation pursuant to this chapter shall have, in addition to other  
10 rights not specifically withheld by law, the following rights, a list  
11 of which shall be prominently posted in all facilities, institutions,  
12 and hospitals providing such services:

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

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

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

20 (d) To have visitors at reasonable times;

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

23 (f) To have ready access to letter writing materials, including  
24 stamps, and to send and receive uncensored correspondence through the  
25 mails;

26 (g) To have the right to individualized care and adequate  
27 treatment;

28 (h) To discuss treatment plans and decisions with professional  
29 persons;

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

34 (j) Not to consent to the administration of antipsychotic  
35 medications beyond the hearing conducted pursuant to RCW 71.05.320(4)  
36 or the performance of electroconvulsant therapy or surgery, except  
37 emergency lifesaving surgery, unless ordered by a court of competent  
38 jurisdiction pursuant to the following standards and procedures:



1 (i) The administration of antipsychotic medication or  
2 electroconvulsant therapy shall not be ordered unless the petitioning  
3 party proves by clear, cogent, and convincing evidence that there  
4 exists a compelling state interest that justifies overriding the  
5 patient's lack of consent to the administration of antipsychotic  
6 medications or electroconvulsant therapy, that the proposed treatment  
7 is necessary and effective, and that medically acceptable alternative  
8 forms of treatment are not available, have not been successful, or  
9 are not likely to be effective.

10 (ii) The court shall make specific findings of fact concerning:  
11 (A) The existence of one or more compelling state interests; (B) the  
12 necessity and effectiveness of the treatment; and (C) the person's  
13 desires regarding the proposed treatment. If the patient is unable to  
14 make a rational and informed decision about consenting to or refusing  
15 the proposed treatment, the court shall make a substituted judgment  
16 for the patient as if he or she were competent to make such a  
17 determination.

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

36 (iv) An order for the administration of antipsychotic medications  
37 entered following a hearing conducted pursuant to this section shall  
38 be effective for the period of the current involuntary treatment  
39 order, and any interim period during which the person is awaiting

1 trial or hearing on a new petition for involuntary treatment or  
2 involuntary medication.

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

6 (vi) Antipsychotic medication may be administered to a  
7 nonconsenting person detained or committed pursuant to this chapter  
8 without a court order pursuant to RCW 71.05.215(2) or under the  
9 following circumstances:

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

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

14 (C) (I) In the opinion of the physician, physician assistant, or  
15 psychiatric advanced registered nurse practitioner with  
16 responsibility for treatment of the person, or his or her designee,  
17 the person's condition constitutes an emergency requiring the  
18 treatment be instituted before a judicial hearing as authorized  
19 pursuant to this section can be held.

20 (II) If antipsychotic medications are administered over a  
21 person's lack of consent pursuant to this subsection, a petition for  
22 an order authorizing the administration of antipsychotic medications  
23 shall be filed on the next judicial day. The hearing shall be held  
24 within two judicial days. If deemed necessary by the physician,  
25 physician assistant, or psychiatric advanced registered nurse  
26 practitioner with responsibility for the treatment of the person,  
27 administration of antipsychotic medications may continue until the  
28 hearing is held;

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (g) To view and copy all petitions and reports in the court file;  
33 and

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

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

1 (7) (a) Privileges between patients and physicians, physician  
2 assistants, psychologists, or psychiatric advanced registered nurse  
3 practitioners are deemed waived in proceedings under this chapter  
4 relating to the administration of antipsychotic medications. As to  
5 other proceedings under this chapter, the privileges are waived when  
6 a court of competent jurisdiction in its discretion determines that  
7 such waiver is necessary to protect either the detained person or the  
8 public.

9 (b) The waiver of a privilege under this section is limited to  
10 records or testimony relevant to evaluation of the detained person  
11 for purposes of a proceeding under this chapter. Upon motion by the  
12 detained person or on its own motion, the court shall examine a  
13 record or testimony sought by a petitioner to determine whether it is  
14 within the scope of the waiver.

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

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

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

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

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

32 (1) Whenever a person who is the subject of an involuntary  
33 commitment order under this chapter is discharged from an evaluation  
34 and treatment facility, state hospital, secure withdrawal management  
35 and stabilization facility, or approved substance use disorder  
36 treatment program providing involuntary treatment services, the  
37 entity discharging the person shall provide notice of the person's  
38 discharge, subject to federal laws and regulations, to the designated  
39 crisis responder office responsible for the initial commitment, which

1 may be a (~~federally recognized Indian~~) tribe or other Indian health  
2 care provider if the designated crisis responder is appointed by the  
3 authority, and the designated crisis responder office that serves the  
4 county in which the person is expected to reside or to the tribal  
5 contact listed in the authority's tribal crisis coordination plan if  
6 the entity discharging the person knows, or has reason to know, that  
7 the person is an American Indian or Alaska Native who receives  
8 medical or behavioral health services from a tribe within this state.

9 The entity discharging the person must also provide these offices  
10 with a copy of any less restrictive order or conditional release  
11 order entered in conjunction with the discharge of the person, unless  
12 the entity discharging the person has entered into a memorandum of  
13 understanding obligating another entity to provide these documents.

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

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

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

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

28 As soon as possible, but no later than (~~twenty-four~~) 24 hours  
29 from receiving a referral from a law enforcement officer or law  
30 enforcement agency, including a tribal law enforcement officer or  
31 tribal law enforcement agency, excluding Saturdays, Sundays, and  
32 holidays, a mental health professional contacted by the designated  
33 crisis responder agency must attempt to contact the referred person  
34 to determine whether additional mental health intervention is  
35 necessary, including, if needed, an assessment by a designated crisis  
36 responder for initial detention under RCW 71.05.150 or 71.05.153.  
37 Documentation of the mental health professional's attempt to contact  
38 and assess the person must be maintained by the designated crisis  
39 responder agency.

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

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

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

11       (b) Substantial deterioration in the person's functioning has  
12 occurred;

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

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

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

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

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

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

1 (d) To detain the person for up to 12 hours for evaluation at an  
2 agency, facility providing services under the court order, crisis  
3 stabilization unit, 23-hour crisis relief center, emergency  
4 department, evaluation and treatment facility, secure withdrawal  
5 management and stabilization facility with available space, or an  
6 approved substance use disorder treatment program with available  
7 space. The purpose of the evaluation is to determine whether  
8 modification, revocation, or commitment proceedings are necessary and  
9 appropriate to stabilize the person and prevent decompensation,  
10 deterioration, or physical harm. Temporary detention for evaluation  
11 under this subsection is intended to occur only following a pattern  
12 of noncompliance or the failure of reasonable attempts at outreach  
13 and engagement, and may occur only when, based on clinical judgment,  
14 temporary detention is appropriate. The agency, facility, or  
15 designated crisis responder may request assistance from a peace  
16 officer for the purposes of temporary detention under this subsection  
17 (2)(d). This subsection does not limit the ability or obligation of  
18 the agency, facility, or designated crisis responder to pursue  
19 revocation procedures under subsection (5) of this section in  
20 appropriate circumstances; and

21 (e) To initiate revocation procedures under subsection (5) of  
22 this section.

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

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

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

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

38 (5)(a) A designated crisis responder or the secretary of the  
39 department of social and health services may, upon their own motion  
40 or upon request of the facility or agency designated to provide

1 outpatient care, cause a person to be detained in an evaluation and  
2 treatment facility, available secure withdrawal management and  
3 stabilization facility with adequate space, or available approved  
4 substance use disorder treatment program with adequate space in or  
5 near the county in which he or she is receiving outpatient treatment  
6 for the purpose of a hearing for revocation of a less restrictive  
7 alternative treatment order or conditional release order under this  
8 chapter. The designated crisis responder or secretary of the  
9 department of social and health services shall file a petition for  
10 revocation within 24 hours and serve the person, their guardian, if  
11 any, and their attorney. A hearing for revocation of a less  
12 restrictive alternative treatment order or conditional release order  
13 may be scheduled without detention of the person.

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

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

32 (d) The issues for the court to determine are whether: (i) The  
33 person adhered to the terms and conditions of the order; (ii)  
34 substantial deterioration in the person's functioning has occurred;  
35 (iii) there is evidence of substantial decompensation with a  
36 reasonable probability that the decompensation can be reversed by  
37 further inpatient treatment; or (iv) there is a likelihood of serious  
38 harm; and, if any of the above conditions apply, whether it is  
39 appropriate for the court to reinstate or modify the person's less  
40 restrictive alternative treatment order or conditional release order



1 or order the person's detention for inpatient treatment. The person  
2 may waive the court hearing and allow the court to enter a stipulated  
3 order upon the agreement of all parties. If the court orders  
4 detention for inpatient treatment, the treatment period must be for  
5 14 days from the revocation hearing if the less restrictive  
6 alternative treatment order or conditional release order was based on  
7 a petition under RCW 71.05.148, 71.05.160, or 71.05.230. If the court  
8 orders detention for inpatient treatment and the less restrictive  
9 alternative treatment order or conditional release order was based on  
10 a petition under RCW 71.05.290 or 71.05.320, the number of days  
11 remaining on the order must be converted to days of inpatient  
12 treatment. A court may not detain a person for inpatient treatment to  
13 a secure withdrawal management and stabilization facility or approved  
14 substance use disorder treatment program under this subsection unless  
15 there is a facility or program available with adequate space for the  
16 person.

17 (6) In determining whether or not to take action under this  
18 section the designated crisis responder, agency, or facility must  
19 consider the factors specified under RCW 71.05.212 and the court must  
20 consider the factors specified under RCW 71.05.245 as they apply to  
21 the question of whether to enforce, modify, or revoke a court order  
22 for involuntary treatment.

23 (7) Prior to taking any action to enforce, modify, or revoke a  
24 less restrictive alternative treatment order or conditional release  
25 order in which the agency, facility, or designated crisis responder  
26 knows, or has reason to know, that the individual is an American  
27 Indian or Alaska Native who receives medical or behavioral health  
28 services from a tribe within this state, the agency, facility, or  
29 designated crisis responder shall notify the tribe and Indian health  
30 care provider regarding any action that will be taken under this  
31 section as soon as possible, but no later than three hours from the  
32 time the decision to take action is made. The agency, facility, or  
33 designated crisis responder must provide the tribe and Indian health  
34 care provider with a copy of the petition, together with any orders  
35 issued by the court and a notice of the tribe's right to intervene as  
36 soon as possible, but before any hearing under this section, and no  
37 later than 24 hours from the time the petition is served upon the  
38 person and the person's guardian. The court clerk shall provide  
39 copies of any court orders necessary for the agency, facility, or  
40 designated crisis responder to provide notice to the tribe or Indian

1 health care provider under this section. Notification under this  
2 section is subject to any federal and state laws and regulations  
3 including the requirements in RCW 70.02.230 (2)(ee) and (3) and shall  
4 be made in person or by telephonic or electronic communication to the  
5 tribal contact listed in the authority's tribal crisis coordination  
6 plan.

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

9 (1) Either an agency or facility designated to monitor or provide  
10 services under a less restrictive alternative order or conditional  
11 release, or a designated crisis responder, may take action to  
12 enforce, modify, or revoke a less restrictive alternative treatment  
13 order or conditional release order. The agency, facility, or  
14 designated crisis responder must determine that:

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

17 (b) Substantial deterioration in the person's functioning has  
18 occurred;

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

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

23 (2) Actions taken under this section must include a flexible  
24 range of responses of varying levels of intensity appropriate to the  
25 circumstances and consistent with the interests of the individual and  
26 the public in personal autonomy, safety, recovery, and compliance.  
27 Available actions may include, but are not limited to, any of the  
28 following:

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

32 (b) To increase the intensity of outpatient services provided to  
33 the person by increasing the frequency of contacts with the provider,  
34 referring the person for an assessment for assertive community  
35 services, or by other means;

36 (c) To request a court hearing for review and modification of the  
37 court order. The request must be directed to the court with  
38 jurisdiction over the order and specify the circumstances that give  
39 rise to the request and what modification is being sought. The county

1 prosecutor shall assist the entity requesting the hearing and issue  
2 an appropriate summons to the person. This subsection does not limit  
3 the inherent authority of a treatment provider to alter conditions of  
4 treatment for clinical reasons, and is intended to be used only when  
5 court intervention is necessary or advisable to secure the person's  
6 compliance and prevent decompensation or deterioration;

7 (d) To detain the person for up to 12 hours for evaluation at an  
8 agency, facility providing services under the court order, crisis  
9 stabilization unit, 23-hour crisis relief center, emergency  
10 department, evaluation and treatment facility, secure withdrawal  
11 management and stabilization facility, or an approved substance use  
12 disorder treatment program. The purpose of the evaluation is to  
13 determine whether modification, revocation, or commitment proceedings  
14 are necessary and appropriate to stabilize the person and prevent  
15 decompensation, deterioration, or physical harm. Temporary detention  
16 for evaluation under this subsection is intended to occur only  
17 following a pattern of noncompliance or the failure of reasonable  
18 attempts at outreach and engagement, and may occur only when, based  
19 on clinical judgment, temporary detention is appropriate. The agency,  
20 facility, or designated crisis responder may request assistance from  
21 a peace officer for the purposes of temporary detention under this  
22 subsection (2)(d). This subsection does not limit the ability or  
23 obligation of the agency, facility, or designated crisis responder to  
24 pursue revocation procedures under subsection (5) of this section in  
25 appropriate circumstances; and

26 (e) To initiate revocation procedures under subsection (5) of  
27 this section.

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

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

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

37 (4) The facility or agency designated to provide outpatient  
38 treatment shall notify the secretary of the department of social and  
39 health services or designated crisis responder when a person fails to  
40 adhere to terms and conditions of court ordered treatment or

1 experiences substantial deterioration in his or her condition and, as  
2 a result, presents an increased likelihood of serious harm.

3 (5) (a) A designated crisis responder or the secretary of the  
4 department of social and health services may, upon their own motion  
5 or upon request of the facility or agency designated to provide  
6 outpatient care, cause a person to be detained in an evaluation and  
7 treatment facility, secure withdrawal management and stabilization  
8 facility, or approved substance use disorder treatment program in or  
9 near the county in which he or she is receiving outpatient treatment  
10 for the purpose of a hearing for revocation of a less restrictive  
11 alternative treatment order or conditional release order under this  
12 chapter. The designated crisis responder or secretary of the  
13 department of social and health services shall file a petition for  
14 revocation within 24 hours and serve the person, their guardian, if  
15 any, and their attorney. A hearing for revocation of a less  
16 restrictive alternative treatment order or conditional release order  
17 may be scheduled without detention of the person.

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

27 (c) A person detained under this subsection (5) has the same  
28 rights with respect to notice, hearing, and counsel as in any  
29 involuntary treatment proceeding, except as specifically set forth in  
30 this section. There is no right to jury trial. The venue for  
31 proceedings is the county where the petition is filed. Notice of the  
32 filing must be provided to the court that originally ordered  
33 commitment, if different from the court where the petition for  
34 revocation is filed, within two judicial days of the person's  
35 detention.

36 (d) The issues for the court to determine are whether: (i) The  
37 person adhered to the terms and conditions of the order; (ii)  
38 substantial deterioration in the person's functioning has occurred;  
39 (iii) there is evidence of substantial decompensation with a  
40 reasonable probability that the decompensation can be reversed by

1 further inpatient treatment; or (iv) there is a likelihood of serious  
2 harm; and, if any of the above conditions apply, whether it is  
3 appropriate for the court to reinstate or modify the person's less  
4 restrictive alternative treatment order or conditional release order  
5 or order the person's detention for inpatient treatment. The person  
6 may waive the court hearing and allow the court to enter a stipulated  
7 order upon the agreement of all parties. If the court orders  
8 detention for inpatient treatment, the treatment period must be for  
9 14 days from the revocation hearing if the less restrictive  
10 alternative treatment order or conditional release order was based on  
11 a petition under RCW 71.05.148, 71.05.160, or 71.05.230. If the court  
12 orders detention for inpatient treatment and the less restrictive  
13 alternative treatment order or conditional release order was based on  
14 a petition under RCW 71.05.290 or 71.05.320, the number of days  
15 remaining on the order must be converted to days of inpatient  
16 treatment.

17 (6) In determining whether or not to take action under this  
18 section the designated crisis responder, agency, or facility must  
19 consider the factors specified under RCW 71.05.212 and the court must  
20 consider the factors specified under RCW 71.05.245 as they apply to  
21 the question of whether to enforce, modify, or revoke a court order  
22 for involuntary treatment.

23 (7) Prior to taking any action to enforce, modify, or revoke a  
24 less restrictive alternative treatment order or conditional release  
25 order in which the agency, facility, or designated crisis responder  
26 knows, or has reason to know, that the individual is an American  
27 Indian or Alaska Native who receives medical or behavioral health  
28 services from a tribe within this state, the agency, facility, or  
29 designated crisis responder shall notify the tribe and Indian health  
30 care provider regarding any action that will be taken under this  
31 section as soon as possible, but no later than three hours from the  
32 time the decision to take action is made. The agency, facility, or  
33 designated crisis responder must provide the tribe and Indian health  
34 care provider with a copy of the petition, together with any orders  
35 issued by the court and a notice of the tribe's right to intervene as  
36 soon as possible, but before any hearing under this section, and no  
37 later than 24 hours from the time the petition is served upon the  
38 person and the person's guardian. The court clerk shall provide  
39 copies of any court orders necessary for the agency, facility, or  
40 designated crisis responder to provide notice to the tribe or Indian

1 health care provider under this section. Notification under this  
2 section is subject to any federal and state laws and regulations  
3 including the requirements in RCW 70.02.230 (2)(ee) and (3) and shall  
4 be made in person or by telephonic or electronic communication to the  
5 tribal contact listed in the authority's tribal crisis coordination  
6 plan.

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

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

11 (a) The department;

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

13 (c) The authority;

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

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

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

17 (g) Resource management services for that person;

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

20 (i) The Washington state patrol firearms background division to  
21 conduct background checks for processing and purchasing firearms,  
22 concealed pistol licenses, alien firearms licenses, firearm rights  
23 restoration petitions under chapter 9.41 RCW, and release of firearms  
24 from evidence, including appeals of denial;

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

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

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

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

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

1 or that substantial deterioration in the minor's functioning has  
2 occurred, the designated crisis responder, or the director or  
3 secretary, as appropriate, may order that the minor be taken into  
4 custody and transported to an inpatient evaluation and treatment  
5 facility, a secure withdrawal management and stabilization facility,  
6 or an approved substance use disorder treatment program. A secure  
7 withdrawal management and stabilization facility or approved  
8 substance use disorder treatment program that has adequate space for  
9 the minor must be available.

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

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

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

1 subsection (4) of this section, whether the minor should be returned  
2 to inpatient treatment. Pursuant to the determination of the court,  
3 the minor shall be returned to less restrictive alternative treatment  
4 or conditional release on the same or modified conditions or shall be  
5 returned to inpatient treatment. If the minor is returned to  
6 inpatient treatment, RCW 71.34.760 regarding the director's placement  
7 responsibility shall apply. The hearing may be waived by the minor  
8 and the minor returned to inpatient treatment or to less restrictive  
9 alternative treatment or conditional release on the same or modified  
10 conditions.

11 (4) A court may not order the return of a minor to inpatient  
12 treatment in a secure withdrawal management and stabilization  
13 facility or approved substance use disorder treatment program unless  
14 there is a secure withdrawal management and stabilization facility or  
15 approved substance use disorder treatment program available with  
16 adequate space for the minor.

17 (5) Prior to taking any action to enforce, modify, or revoke a  
18 less restrictive alternative treatment order or conditional release  
19 order in which the agency, facility, or designated crisis responder  
20 knows, or has reason to know, that the minor is an American Indian or  
21 Alaska Native who receives medical or behavioral health services from  
22 a tribe within this state, the agency, facility, or designated crisis  
23 responder shall notify the tribe and Indian health care provider  
24 regarding any action that will be taken under this section as soon as  
25 possible, but no later than three hours from the time the decision to  
26 take action is made. The agency, facility, or designated crisis  
27 responder must provide the tribe and Indian health care provider with  
28 a copy of the petition, together with any orders issued by the court  
29 and a notice of the tribe's right to intervene as soon as possible,  
30 but before any hearing under this section, and no later than 24 hours  
31 from the time the petition is served upon the person and the person's  
32 guardian. The court clerk shall provide copies of any court orders  
33 necessary for the agency, facility, or designated crisis responder to  
34 provide notice to the tribe or Indian health care provider under this  
35 section. Notification under this section is subject to any federal  
36 and state laws and regulations including the requirements in RCW  
37 70.02.240 and shall be made in person or by telephonic or electronic  
38 communication to the tribal contact listed in the authority's tribal  
39 crisis coordination plan.



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

3       (1) If the professional person in charge of an outpatient  
4 treatment program, a designated crisis responder, or the director or  
5 secretary, as appropriate, determines that a minor is failing to  
6 adhere to the conditions of the court order for less restrictive  
7 alternative treatment or the conditions for the conditional release,  
8 or that substantial deterioration in the minor's functioning has  
9 occurred, the designated crisis responder, or the director or  
10 secretary, as appropriate, may order that the minor be taken into  
11 custody and transported to an inpatient evaluation and treatment  
12 facility, a secure withdrawal management and stabilization facility,  
13 or an approved substance use disorder treatment program.

14       (2)(a) The designated crisis responder, director, or secretary,  
15 as appropriate, shall file the order of apprehension and detention  
16 and serve it upon the minor and notify the minor's parent and the  
17 minor's attorney, if any, of the detention within two days of return.  
18 At the time of service the minor shall be informed of the right to a  
19 hearing and to representation by an attorney. The designated crisis  
20 responder or the director or secretary, as appropriate, may modify or  
21 rescind the order of apprehension and detention at any time prior to  
22 the hearing.

23       (b) If the minor is involuntarily detained for revocation at an  
24 evaluation and treatment facility, secure withdrawal management and  
25 stabilization facility, or approved substance use disorder treatment  
26 program in a different county from where the minor was initially  
27 detained, the facility or program may file the order of apprehension,  
28 serve it on the minor and notify the minor's parents and the minor's  
29 attorney at the request of the designated crisis responder.

30       (3) A petition for revocation of less restrictive alternative  
31 treatment shall be filed by the designated crisis responder or the  
32 director, secretary, or facility, as appropriate, with the court in  
33 the county where the minor is detained. The court shall conduct the  
34 hearing in that county. A petition for revocation of conditional  
35 release must be filed in the county where the minor is detained. A  
36 petition shall describe the behavior of the minor indicating  
37 violation of the conditions or deterioration of routine functioning  
38 and a dispositional recommendation. The hearing shall be held within  
39 seven days of the minor's return. The issues to be determined are  
40 whether the minor did or did not adhere to the conditions of the less

1 restrictive alternative treatment or conditional release, or whether  
2 the minor's routine functioning has substantially deteriorated, and,  
3 if so, whether the conditions of less restrictive alternative  
4 treatment or conditional release should be modified or whether the  
5 minor should be returned to inpatient treatment. Pursuant to the  
6 determination of the court, the minor shall be returned to less  
7 restrictive alternative treatment or conditional release on the same  
8 or modified conditions or shall be returned to inpatient treatment.  
9 If the minor is returned to inpatient treatment, RCW 71.34.760  
10 regarding the director's placement responsibility shall apply. The  
11 hearing may be waived by the minor and the minor returned to  
12 inpatient treatment or to less restrictive alternative treatment or  
13 conditional release on the same or modified conditions.

14 (4) Prior to taking any action to enforce, modify, or revoke a  
15 less restrictive alternative treatment order or conditional release  
16 order in which the agency, facility, or designated crisis responder  
17 knows, or has reason to know, that the minor is an American Indian or  
18 Alaska Native who receives medical or behavioral health services from  
19 a tribe within this state, the agency, facility, or designated crisis  
20 responder shall notify the tribe and Indian health care provider  
21 regarding any action that will be taken under this section as soon as  
22 possible, but no later than three hours from the time the decision to  
23 take action is made. The agency, facility, or designated crisis  
24 responder must provide the tribe and Indian health care provider with  
25 a copy of the petition, together with any orders issued by the court  
26 and a notice of the tribe's right to intervene as soon as possible,  
27 but before any hearing under this section, and no later than 24 hours  
28 from the time the petition is served upon the person and the person's  
29 guardian. The court clerk shall provide copies of any court orders  
30 necessary for the agency, facility, or designated crisis responder to  
31 provide notice to the tribe or Indian health care provider under this  
32 section. Notification under this section is subject to any federal  
33 and state laws and regulations including the requirements in RCW  
34 70.02.240 and shall be made in person or by telephonic or electronic  
35 communication to the tribal contact listed in the authority's tribal  
36 crisis coordination plan.

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

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

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

22 (3) For the purposes of this section:

23 (a) "Civil commitment case" includes all judicial hearings  
24 related to a single episode of hospitalization or less restrictive  
25 alternative treatment, except that the filing of a petition for a one  
26 hundred eighty-day commitment under this chapter or a petition for a  
27 successive ~~((one hundred eighty-day))~~ 180-day commitment under  
28 chapter 71.34 RCW shall be considered to be a new case regardless of  
29 whether there has been a break in detention. "Civil commitment case"  
30 does not include the filing of a petition for a ~~((one hundred eighty-~~  
31 ~~day))~~ 180-day commitment under this chapter on behalf of a patient at  
32 a state psychiatric hospital.

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

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

1 extent that resources have a shared purpose, the authority may only  
2 reimburse tribes to the extent the resources are necessary for and  
3 devoted to judicial services as described in this section.

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

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

8 The director is authorized to make grants and/or purchase  
9 services from counties, tribes, combinations of counties, or other  
10 entities, to establish and operate community behavioral health  
11 programs.

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

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

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

18 (i) A behavioral health crisis hotline for its assigned regional  
19 service area;

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

22 (iii) Services related to involuntary commitments under chapters  
23 71.05 and 71.34 RCW;

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

1 (v) Additional noncrisis behavioral health services, within  
2 available resources, to individuals who meet certain criteria set by  
3 the authority in its contracts with the behavioral health  
4 administrative services organization. These services may include  
5 services provided through federal grant funds, provisos, and general  
6 fund state appropriations;

7 (vi) Care coordination, diversion services, and discharge  
8 planning for nonmedicaid individuals transitioning from state  
9 hospitals or inpatient settings to reduce rehospitalization and  
10 utilization of crisis services, as required by the authority in  
11 contract; and

12 (vii) Regional coordination, cross-system and cross-jurisdiction  
13 coordination with tribal governments, and capacity building efforts,  
14 such as supporting the behavioral health advisory board and efforts  
15 to support access to services or to improve the behavioral health  
16 system;

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

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

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

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

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

30 (g) Establish and maintain quality assurance processes;

31 (h) Meet established limitations on administrative costs for  
32 agencies that contract with the behavioral health administrative  
33 services organization; and

34 (i) Maintain patient tracking information as required by the  
35 authority.

36 (2) The behavioral health administrative services organization  
37 must collaborate with the authority and its contracted managed care  
38 organizations to develop and implement strategies to coordinate care  
39 with tribes and community behavioral health providers for individuals  
40 with a history of frequent crisis system utilization.

1 (3) The behavioral health administrative services organization  
2 shall:

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

6 (b) Collaborate with local and tribal government entities to  
7 ensure that policies do not result in an adverse shift of persons  
8 with mental illness into state ~~((and))~~, local, and tribal  
9 correctional facilities; and

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

13 (4) The behavioral health administrative services organization  
14 shall employ an assisted outpatient treatment program coordinator to  
15 oversee system coordination and legal compliance for assisted  
16 outpatient treatment under RCW 71.05.148 and 71.34.815.

17 (5) The behavioral health administrative services organization  
18 shall comply and ensure their contractors comply with the tribal  
19 crisis coordination plan agreed upon by the authority and tribes for  
20 coordination of crisis services, care coordination, and discharge and  
21 transition planning with tribes and Indian health care providers  
22 applicable to their regional service area.

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

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

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

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

31 (a) Statutory, regulatory, fiscal, medical, or scientific  
32 standards;

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

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

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

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

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

1 (6) "Deidentified" means health information that does not  
2 identify an individual and with respect to which there is no  
3 reasonable basis to believe that the information can be used to  
4 identify an individual.

5 (7) "Department" means the department of social and health  
6 services.

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

9 (9) "Detention" or "detain" has the same meaning as in RCW  
10 71.05.020.

11 (10) "Directory information" means information disclosing the  
12 presence, and for the purpose of identification, the name, location  
13 within a health care facility, and the general health condition of a  
14 particular patient who is a patient in a health care facility or who  
15 is currently receiving emergency health care in a health care  
16 facility.

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

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

20 (13) "Federal, state, or local law enforcement authorities" means  
21 an officer of any agency or authority in the United States, a state,  
22 a tribe, a territory, or a political subdivision of a state, a tribe,  
23 or a territory who is empowered by law to: (a) Investigate or conduct  
24 an official inquiry into a potential criminal violation of law; or  
25 (b) prosecute or otherwise conduct a criminal proceeding arising from  
26 an alleged violation of law.

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

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

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

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

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

38 (17) "Health care information" means any information, whether  
39 oral or recorded in any form or medium, that identifies or can  
40 readily be associated with the identity of a patient and directly

1 relates to the patient's health care, including a patient's  
2 deoxyribonucleic acid and identified sequence of chemical base pairs.  
3 The term includes any required accounting of disclosures of health  
4 care information.

5 (18) "Health care operations" means any of the following  
6 activities of a health care provider, health care facility, or third-  
7 party payor to the extent that the activities are related to  
8 functions that make an entity a health care provider, a health care  
9 facility, or a third-party payor:

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

19 (b) Reviewing the competence or qualifications of health care  
20 professionals, evaluating practitioner and provider performance and  
21 third-party payor performance, conducting training programs in which  
22 students, trainees, or practitioners in areas of health care learn  
23 under supervision to practice or improve their skills as health care  
24 providers, training of nonhealth care professionals, accreditation,  
25 certification, licensing, or credentialing activities;

26 (c) Underwriting, premium rating, and other activities relating  
27 to the creation, renewal, or replacement of a contract of health  
28 insurance or health benefits, and ceding, securing, or placing a  
29 contract for reinsurance of risk relating to claims for health care,  
30 including stop-loss insurance and excess of loss insurance, if any  
31 applicable legal requirements are met;

32 (d) Conducting or arranging for medical review, legal services,  
33 and auditing functions, including fraud and abuse detection and  
34 compliance programs;

35 (e) Business planning and development, such as conducting cost-  
36 management and planning-related analyses related to managing and  
37 operating the health care facility or third-party payor, including  
38 formulary development and administration, development, or improvement  
39 of methods of payment or coverage policies; and



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

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

6 (ii) Customer service, including the provision of data analyses  
7 for policyholders, plan sponsors, or other customers, provided that  
8 health care information is not disclosed to such policyholder, plan  
9 sponsor, or customer;

10 (iii) Resolution of internal grievances;

11 (iv) The sale, transfer, merger, or consolidation of all or part  
12 of a health care provider, health care facility, or third-party payor  
13 with another health care provider, health care facility, or third-  
14 party payor or an entity that following such activity will become a  
15 health care provider, health care facility, or third-party payor, and  
16 due diligence related to such activity; and

17 (v) Consistent with applicable legal requirements, creating  
18 deidentified health care information or a limited data set for the  
19 benefit of the health care provider, health care facility, or third-  
20 party payor.

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

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

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

28 (22) "Indian health care provider" has the same meaning as in RCW  
29 43.71B.010(11).

30 (23) "Information and records related to mental health services"  
31 means a type of health care information that relates to all  
32 information and records compiled, obtained, or maintained in the  
33 course of providing services by a mental health service agency or  
34 mental health professional to persons who are receiving or have  
35 received services for mental illness. The term includes mental health  
36 information contained in a medical bill, registration records, (~~as~~  
37 ~~defined in RCW 70.97.010,~~) and all other records regarding the  
38 person maintained by the department, by the authority, by behavioral  
39 health administrative services organizations and their staff, managed  
40 care organizations contracted with the authority under chapter 74.09

1 RCW and their staff, and by treatment facilities. The term further  
2 includes documents of legal proceedings under chapter 71.05, 71.34,  
3 or 10.77 RCW, or somatic health care information. For health care  
4 information maintained by a hospital as defined in RCW 70.41.020 or a  
5 health care facility or health care provider that participates with a  
6 hospital in an organized health care arrangement defined under  
7 federal law, "information and records related to mental health  
8 services" is limited to information and records of services provided  
9 by a mental health professional or information and records of  
10 services created by a hospital-operated community behavioral health  
11 program as defined in RCW 71.24.025. The term does not include  
12 psychotherapy notes.

13 (24) "Information and records related to sexually transmitted  
14 diseases" means a type of health care information that relates to the  
15 identity of any person upon whom an HIV antibody test or other  
16 sexually transmitted infection test is performed, the results of such  
17 tests, and any information relating to diagnosis of or treatment for  
18 any confirmed sexually transmitted infections.

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

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

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

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

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

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

37 (31) "Mental health service agency" means a public or private  
38 agency that provides services to persons with mental disorders as  
39 defined under RCW 71.05.020 or 71.34.020 and receives funding from  
40 public sources. This includes evaluation and treatment facilities as

1 defined in RCW 71.34.020, community mental health service delivery  
2 systems, or community behavioral health programs, as defined in RCW  
3 71.24.025, and facilities conducting competency evaluations and  
4 restoration under chapter 10.77 RCW.

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

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

7 (34) "Patient" means an individual who receives or has received  
8 health care. The term includes a deceased individual who has received  
9 health care.

10 (35) "Payment" means:

11 (a) The activities undertaken by:

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

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

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

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

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

26 (iii) Billing, claims management, collection activities,  
27 obtaining payment under a contract for reinsurance, including stop-  
28 loss insurance and excess of loss insurance, and related health care  
29 data processing;

30 (iv) Review of health care services with respect to medical  
31 necessity, coverage under a health plan, appropriateness of care, or  
32 justification of charges;

33 (v) Utilization review activities, including precertification and  
34 preauthorization of services, and concurrent and retrospective review  
35 of services; and

36 (vi) Disclosure to consumer reporting agencies of any of the  
37 following health care information relating to collection of premiums  
38 or reimbursement:

39 (A) Name and address;

40 (B) Date of birth;

1 (C) Social security number;  
2 (D) Payment history;  
3 (E) Account number; and  
4 (F) Name and address of the health care provider, health care  
5 facility, and/or third-party payor.  
6 (36) "Person" means an individual, corporation, business trust,  
7 estate, trust, partnership, association, joint venture, government,  
8 governmental subdivision or agency, or any other legal or commercial  
9 entity.  
10 (37) "Professional person" has the same meaning as in RCW  
11 71.05.020.  
12 (38) "Psychiatric advanced registered nurse practitioner" has the  
13 same meaning as in RCW 71.05.020.  
14 (39) "Psychotherapy notes" means notes recorded, in any medium,  
15 by a mental health professional documenting or analyzing the contents  
16 of conversations during a private counseling session or group, joint,  
17 or family counseling session, and that are separated from the rest of  
18 the individual's medical record. The term excludes mediation  
19 prescription and monitoring, counseling session start and stop times,  
20 the modalities and frequencies of treatment furnished, results of  
21 clinical tests, and any summary of the following items: Diagnosis,  
22 functional status, the treatment plan, symptoms, prognosis, and  
23 progress to date.  
24 (40) "Reasonable fee" means the charges for duplicating or  
25 searching the record, but shall not exceed (~~sixty-five~~) 65 cents  
26 per page for the first (~~thirty~~) 30 pages and (~~fifty~~) 50 cents per  
27 page for all other pages. In addition, a clerical fee for searching  
28 and handling may be charged not to exceed (~~fifteen-dollars~~) \$15.  
29 These amounts shall be adjusted biennially in accordance with changes  
30 in the consumer price index, all consumers, for Seattle-Tacoma  
31 metropolitan statistical area as determined by the secretary of  
32 health. However, where editing of records by a health care provider  
33 is required by statute and is done by the provider personally, the  
34 fee may be the usual and customary charge for a basic office visit.  
35 (41) "Release" has the same meaning as in RCW 71.05.020.  
36 (42) "Resource management services" has the same meaning as in  
37 RCW 71.05.020.  
38 (43) "Serious violent offense" has the same meaning as in RCW  
39 9.94A.030.

1 (44) "Sexually transmitted infection" or "sexually transmitted  
2 disease" has the same meaning as "sexually transmitted disease" in  
3 RCW 70.24.017.

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

6 (46) "Third-party payor" means an insurer regulated under Title  
7 48 RCW authorized to transact business in this state or other  
8 jurisdiction, including a health care service contractor, and health  
9 maintenance organization; or an employee welfare benefit plan,  
10 excluding fitness or wellness plans; or a state or federal health  
11 benefit program.

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

20 (48) "Tribal public health authority" means a tribe that is  
21 responsible for public health matters as a part of its official  
22 mandate.

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

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

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

28 (1) The fact of admission to a provider for mental health  
29 services and all information and records compiled, obtained, or  
30 maintained in the course of providing mental health services to  
31 either voluntary or involuntary recipients of services at public or  
32 private agencies may not be disclosed except as provided in this  
33 section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240,  
34 70.02.250, 70.02.260, and 70.02.265, or pursuant to a valid  
35 authorization under RCW 70.02.030.

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

1 (a) In communications between qualified professional persons to  
2 meet the requirements of chapter 71.05 RCW, including Indian health  
3 care providers, in the provision of services or appropriate  
4 referrals, or in the course of guardianship proceedings if provided  
5 to a professional person:

6 (i) Employed by the facility;

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

8 (iii) Who is a designated crisis responder;

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

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

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

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

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

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

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

27 (B) A statement evaluating the mental and physical condition of  
28 the patient, and a statement of the probable duration of the  
29 patient's confinement, if such information is requested by the next  
30 of kin, attorney, personal representative, guardian, or conservator;  
31 and

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

35 (d) (i) To the courts, including tribal courts, as necessary to  
36 the administration of chapter 71.05 RCW, or equivalent proceedings in  
37 tribal courts, or to a court ordering an evaluation or treatment  
38 under chapter 10.77 RCW solely for the purpose of preventing the  
39 entry of any evaluation or treatment order that is inconsistent with  
40 any order entered under chapter 71.05 RCW.

1 (ii) To a court or its designee in which a motion under chapter  
2 10.77 RCW has been made for involuntary medication of a defendant for  
3 the purpose of competency restoration.

4 (iii) Disclosure under this subsection is mandatory for the  
5 purpose of the federal health insurance portability and  
6 accountability act;

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

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

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

24 (g) To the prosecuting attorney, including tribal prosecuting  
25 attorney, as necessary to carry out the responsibilities of the  
26 office under RCW 71.05.330(2), 71.05.340(1)(b), and 71.05.335. The  
27 prosecutor, including tribal prosecutor, must be provided access to  
28 records regarding the committed person's treatment and prognosis,  
29 medication, behavior problems, and other records relevant to the  
30 issue of whether treatment less restrictive than inpatient treatment  
31 is in the best interest of the committed person or others.  
32 Information must be disclosed only after giving notice to the  
33 committed person and the person's counsel;

34 (h)(i) To appropriate law enforcement agencies, including tribal  
35 law enforcement agencies, and to a person, when the identity of the  
36 person is known to the public or private agency, whose health and  
37 safety has been threatened, or who is known to have been repeatedly  
38 harassed, by the patient. The person may designate a representative  
39 to receive the disclosure. The disclosure must be made by the  
40 professional person in charge of the public or private agency or his

1 or her designee and must include the dates of commitment, admission,  
2 discharge, or release, authorized or unauthorized absence from the  
3 agency's facility, and only any other information that is pertinent  
4 to the threat or harassment. The agency or its employees are not  
5 civilly liable for the decision to disclose or not, so long as the  
6 decision was reached in good faith and without gross negligence.  
7 Nothing in this section shall be interpreted as a waiver of sovereign  
8 immunity by a tribe.

9 (ii) Disclosure under this subsection is mandatory for the  
10 purposes of the federal health insurance portability and  
11 accountability act;

12 (i)(i) To appropriate corrections and law enforcement agencies,  
13 including tribal corrections and law enforcement agencies, all  
14 necessary and relevant information in the event of a crisis or  
15 emergent situation that poses a significant and imminent risk to the  
16 public. The mental health service agency or its employees are not  
17 civilly liable for the decision to disclose or not so long as the  
18 decision was reached in good faith and without gross negligence.

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

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

23 (k) By a care coordinator, including an Indian health care  
24 provider, under RCW 71.05.585 or 10.77.175 assigned to a person  
25 ordered to receive less restrictive alternative treatment for the  
26 purpose of sharing information to parties necessary for the  
27 implementation of proceedings under chapter 71.05 or 10.77 RCW;

28 (l) Upon the death of a person. The person's next of kin,  
29 personal representative, guardian, or conservator, if any, must be  
30 notified. Next of kin who are of legal age and competent must be  
31 notified under this section in the following order: Spouse, parents,  
32 children, brothers and sisters, and other relatives according to the  
33 degree of relation. Access to all records and information compiled,  
34 obtained, or maintained in the course of providing services to a  
35 deceased patient are governed by RCW 70.02.140;

36 (m) To mark headstones or otherwise memorialize patients interred  
37 at state hospital cemeteries. The department of social and health  
38 services shall make available the name, date of birth, and date of  
39 death of patients buried in state hospital cemeteries fifty years  
40 after the death of a patient;



1 (n) To law enforcement officers and to prosecuting attorneys as  
2 are necessary to enforce RCW 9.41.040(2)(a)(iii). The extent of  
3 information that may be released is limited as follows:

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

9 (ii) The law enforcement and prosecuting attorneys may only  
10 release the information obtained to the person's attorney as required  
11 by court rule and to a jury or judge, if a jury is waived, that  
12 presides over any trial at which the person is charged with violating  
13 RCW 9.41.040(2)(a)(iii);

14 (iii) Tribal law enforcement officers and tribal prosecuting  
15 attorneys who enforce tribal laws or tribal court orders similar to  
16 RCW 9.41.040(2)(a)(v) may also receive confidential information in  
17 accordance with this subsection;

18 (iv) Disclosure under this subsection is mandatory for the  
19 purposes of the federal health insurance portability and  
20 accountability act;

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

32 (p) Pursuant to lawful order of a court, including a tribal  
33 court;

34 (q) To qualified staff members of the department, to the  
35 authority, to behavioral health administrative services  
36 organizations, to managed care organizations, to resource management  
37 services responsible for serving a patient, or to service providers  
38 designated by resource management services as necessary to determine  
39 the progress and adequacy of treatment and to determine whether the

1 person should be transferred to a less restrictive or more  
2 appropriate treatment modality or facility;

3 (r) Within the mental health service agency or Indian health care  
4 provider facility where the patient is receiving treatment,  
5 confidential information may be disclosed to persons employed,  
6 serving in bona fide training programs, or participating in  
7 supervised volunteer programs, at the facility when it is necessary  
8 to perform their duties;

9 (s) Within the department and the authority as necessary to  
10 coordinate treatment for mental illness, developmental disabilities,  
11 or substance use disorder of persons who are under the supervision of  
12 the department;

13 (t) Between the department of social and health services, the  
14 department of children, youth, and families, and the health care  
15 authority as necessary to coordinate treatment for mental illness,  
16 developmental disabilities, or substance use disorder of persons who  
17 are under the supervision of the department of social and health  
18 services or the department of children, youth, and families;

19 (u) To a licensed physician or psychiatric advanced registered  
20 nurse practitioner who has determined that the life or health of the  
21 person is in danger and that treatment without the information and  
22 records related to mental health services could be injurious to the  
23 patient's health. Disclosure must be limited to the portions of the  
24 records necessary to meet the medical emergency;

25 (v)(i) Consistent with the requirements of the federal health  
26 insurance portability and accountability act, to:

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

30 (B) Any other person who is working in a care coordinator role  
31 for a health care facility, health care provider, or Indian health  
32 care provider, or is under an agreement pursuant to the federal  
33 health insurance portability and accountability act with a health  
34 care facility or a health care provider and requires the information  
35 and records to assure coordinated care and treatment of that patient.

36 (ii) A person authorized to use or disclose information and  
37 records related to mental health services under this subsection  
38 (2)(v) must take appropriate steps to protect the information and  
39 records relating to mental health services.

1 (iii) Psychotherapy notes may not be released without  
2 authorization of the patient who is the subject of the request for  
3 release of information;

4 (w) To administrative and office support staff designated to  
5 obtain medical records for those licensed professionals listed in (v)  
6 of this subsection;

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

17 (y) To the person's counsel or guardian ad litem, without  
18 modification, at any time in order to prepare for involuntary  
19 commitment or recommitment proceedings, reexaminations, appeals, or  
20 other actions relating to detention, admission, commitment, or  
21 patient's rights under chapter 71.05 RCW;

22 (z) To staff members of the protection and advocacy agency or to  
23 staff members of a private, nonprofit corporation for the purpose of  
24 protecting and advocating the rights of persons with mental disorders  
25 or developmental disabilities. Resource management services may limit  
26 the release of information to the name, birthdate, and county of  
27 residence of the patient, information regarding whether the patient  
28 was voluntarily admitted, or involuntarily committed, the date and  
29 place of admission, placement, or commitment, the name and address of  
30 a guardian of the patient, and the date and place of the guardian's  
31 appointment. Any staff member who wishes to obtain additional  
32 information must notify the patient's resource management services in  
33 writing of the request and of the resource management services' right  
34 to object. The staff member shall send the notice by mail to the  
35 guardian's address. If the guardian does not object in writing within  
36 fifteen days after the notice is mailed, the staff member may obtain  
37 the additional information. If the guardian objects in writing within  
38 fifteen days after the notice is mailed, the staff member may not  
39 obtain the additional information;

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

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

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

28 I recognize that unauthorized release of confidential information  
29 may subject me to civil liability under the provisions of state law.  
30 /s/ . . . . ."

31 (ii) Nothing in this chapter may be construed to prohibit the  
32 compilation and publication of statistical data for use by government  
33 or researchers under standards, including standards to assure  
34 maintenance of confidentiality, set forth by the secretary, or  
35 director, where applicable;

36 (cc) To any person if the conditions in RCW 70.02.205 are met;

37 (dd) To the secretary of health for the purposes of the maternal  
38 mortality review panel established in RCW 70.54.450; or

1 (ee) To a tribe or Indian health care provider to carry out the  
2 requirements of RCW 71.05.150(~~(+6)~~) (5).

3 (3) Whenever federal law or federal regulations restrict the  
4 release of information contained in the information and records  
5 related to mental health services of any patient who receives  
6 treatment for a substance use disorder, the department or the  
7 authority may restrict the release of the information as necessary to  
8 comply with federal law and regulations.

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

14 (5) The fact of admission to a provider of mental health  
15 services, as well as all records, files, evidence, findings, or  
16 orders made, prepared, collected, or maintained pursuant to chapter  
17 71.05 RCW are not admissible as evidence in any legal proceeding  
18 outside that chapter without the written authorization of the person  
19 who was the subject of the proceeding except as provided in RCW  
20 70.02.260, in a subsequent criminal prosecution of a person committed  
21 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were  
22 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand  
23 trial, in a civil commitment proceeding pursuant to chapter 71.09  
24 RCW, or, in the case of a minor, a guardianship or dependency  
25 proceeding. The records and files maintained in any court proceeding  
26 pursuant to chapter 71.05 RCW must be confidential and available  
27 subsequent to such proceedings (~~only to the person who was the~~  
28 ~~subject of the proceeding or his or her attorney~~) in accordance with  
29 RCW 71.05.620. In addition, the court may order the subsequent  
30 release or use of such records or files only upon good cause shown if  
31 the court finds that appropriate safeguards for strict  
32 confidentiality are and will be maintained.

33 (6)(a) Except as provided in RCW 4.24.550, any person may bring  
34 an action against an individual who has willfully released  
35 confidential information or records concerning him or her in  
36 violation of the provisions of this section, for the greater of the  
37 following amounts:

38 (i) One thousand dollars; or

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

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

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

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

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

13 **Sec. 33.** RCW 70.02.240 and 2023 c 295 s 13 are each amended to  
14 read as follows:

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

21 (1) In communications between mental health professionals,  
22 including Indian health care providers, to meet the requirements of  
23 chapter 71.34 RCW, in the provision of services to the minor, or in  
24 making appropriate referrals;

25 (2) In the course of guardianship or dependency proceedings,  
26 including proceedings within tribal jurisdictions;

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

30 (4) To the courts, including tribal courts, as necessary to  
31 administer chapter 71.34 RCW or equivalent proceedings in tribal  
32 courts;

33 (5) By a care coordinator, including an Indian health care  
34 provider, under RCW 71.34.755 or 10.77.175 assigned to a person  
35 ordered to receive less restrictive alternative treatment for the  
36 purpose of sharing information to parties necessary for the  
37 implementation of proceedings under chapter 71.34 or 10.77 RCW;

38 (6) By a care coordinator, including an Indian health care  
39 provider, under RCW 71.34.755 assigned to a person ordered to receive

1 less restrictive alternative treatment for the purpose of sharing  
2 information to parties necessary for the implementation of  
3 proceedings under chapter 71.34 RCW;

4 (7) To law enforcement officers, including tribal law enforcement  
5 officers, or public health officers, including tribal public health  
6 officers, as necessary to carry out the responsibilities of their  
7 office. However, only the fact and date of admission, and the date of  
8 discharge, the name and address of the treatment provider, if any,  
9 and the last known address must be disclosed upon request;

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

20 (9) To the secretary of social and health services and the  
21 director of the health care authority for assistance in data  
22 collection and program evaluation or research so long as the  
23 secretary or director, where applicable, adopts rules for the conduct  
24 of such evaluation and research. The rules must include, but need not  
25 be limited to, the requirement that all evaluators and researchers  
26 sign an oath of confidentiality substantially as follows:

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

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

36 /s/ . . . . .";

37 (10) To appropriate law enforcement agencies, including tribal  
38 law enforcement agencies, upon request, all necessary and relevant  
39 information in the event of a crisis or emergent situation that poses

1 a significant and imminent risk to the public. The mental health  
2 service agency or its employees are not civilly liable for the  
3 decision to disclose or not, so long as the decision was reached in  
4 good faith and without gross negligence;

5 (11) To appropriate law enforcement agencies, including tribal  
6 law enforcement agencies, and to a person, when the identity of the  
7 person is known to the public or private agency, whose health and  
8 safety has been threatened, or who is known to have been repeatedly  
9 harassed, by the patient. The person may designate a representative  
10 to receive the disclosure. The disclosure must be made by the  
11 professional person in charge of the public or private agency or his  
12 or her designee and must include the dates of admission, discharge,  
13 authorized or unauthorized absence from the agency's facility, and  
14 only any other information that is pertinent to the threat or  
15 harassment. The agency or its employees are not civilly liable for  
16 the decision to disclose or not, so long as the decision was reached  
17 in good faith and without gross negligence. Nothing in this section  
18 shall be interpreted as a waiver of sovereign immunity by a tribe;

19 (12) To a minor's next of kin, attorney, guardian, or  
20 conservator, if any, the information that the minor is presently in  
21 the facility or that the minor is seriously physically ill and a  
22 statement evaluating the mental and physical condition of the minor  
23 as well as a statement of the probable duration of the minor's  
24 confinement;

25 (13) Upon the death of a minor, to the minor's next of kin;

26 (14) To a facility, including a tribal facility, in which the  
27 minor resides or will reside;

28 (15) To law enforcement officers and to prosecuting attorneys as  
29 are necessary to enforce RCW 9.41.040(2)(a)(iii). The extent of  
30 information that may be released is limited as follows:

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

36 (b) The law enforcement and prosecuting attorneys may only  
37 release the information obtained to the person's attorney as required  
38 by court rule and to a jury or judge, if a jury is waived, that  
39 presides over any trial at which the person is charged with violating  
40 RCW 9.41.040(2)(a)(iii);



1 (c) Disclosure under this subsection is mandatory for the  
2 purposes of the federal health insurance portability and  
3 accountability act;

4 (d) Tribal law enforcement officers and tribal prosecuting  
5 attorneys who enforce tribal laws or tribal court orders similar to  
6 RCW 9.41.040(2)(a)(v) may also receive confidential information in  
7 accordance with this subsection;

8 (16) This section may not be construed to prohibit the  
9 compilation and publication of statistical data for use by government  
10 or researchers under standards, including standards to assure  
11 maintenance of confidentiality, set forth by the director of the  
12 health care authority or the secretary of the department of social  
13 and health services, where applicable. The fact of admission and all  
14 information obtained pursuant to chapter 71.34 RCW are not admissible  
15 as evidence in any legal proceeding outside chapter 71.34 RCW, except  
16 guardianship or dependency, without the written consent of the minor  
17 or the minor's parent;

18 (17) For the purpose of a correctional facility participating in  
19 the postinstitutional medical assistance system supporting the  
20 expedited medical determinations and medical suspensions as provided  
21 in RCW 74.09.555 and 74.09.295;

22 (18) Pursuant to a lawful order of a court, including a tribal  
23 court.

24 **Sec. 34.** RCW 70.02.260 and 2018 c 201 s 8005 are each amended to  
25 read as follows:

26 (1)(a) A mental health service agency shall release to the  
27 persons authorized under subsection (2) of this section, upon  
28 request:

29 (i) The fact, place, and date of an involuntary commitment, the  
30 fact and date of discharge or release, and the last known address of  
31 a person who has been committed under chapter 71.05 RCW.

32 (ii) Information and records related to mental health services,  
33 in the format determined under subsection (9) of this section,  
34 concerning a person who:

35 (A) Is currently committed to the custody or supervision of the  
36 department of corrections or the indeterminate sentence review board  
37 under chapter 9.94A or 9.95 RCW;

38 (B) Has been convicted or found not guilty by reason of insanity  
39 of a serious violent offense; or

1 (C) Was charged with a serious violent offense and the charges  
2 were dismissed under RCW 10.77.086.

3 (b) Legal counsel may release such information to the persons  
4 authorized under subsection (2) of this section on behalf of the  
5 mental health service agency, so long as nothing in this subsection  
6 requires the disclosure of attorney work product or attorney-client  
7 privileged information.

8 (2) The information subject to release under subsection (1) of  
9 this section must be released to law enforcement officers, personnel  
10 of a county (~~(or)~~), city, or tribal jail or tribal detention or  
11 holding facility, designated mental health professionals or  
12 designated crisis responders, as appropriate, public health officers,  
13 therapeutic court personnel as defined in RCW 71.05.020, or personnel  
14 of the department of corrections, including the indeterminate  
15 sentence review board and personnel assigned to perform board-related  
16 duties, when such information is requested during the course of  
17 business and for the purpose of carrying out the responsibilities of  
18 the requesting person's office. No mental health service agency or  
19 person employed by a mental health service agency, or its legal  
20 counsel, may be liable for information released to or used under the  
21 provisions of this section or rules adopted under this section except  
22 under RCW 71.05.680.

23 (3) A person who requests information under subsection (1)(a)(ii)  
24 of this section must comply with the following restrictions:

25 (a) Information must be requested only for the purposes permitted  
26 by this subsection and for the purpose of carrying out the  
27 responsibilities of the requesting person's office. Appropriate  
28 purposes for requesting information under this section include:

29 (i) Completing presentence investigations or risk assessment  
30 reports;

31 (ii) Assessing a person's risk to the community;

32 (iii) Assessing a person's risk of harm to self or others when  
33 confined in a city or county jail;

34 (iv) Planning for and provision of supervision of an offender,  
35 including decisions related to sanctions for violations of conditions  
36 of community supervision; and

37 (v) Responding to an offender's failure to report for department  
38 of corrections supervision;

1 (b) Information may not be requested under this section unless  
2 the requesting person has reasonable suspicion that the individual  
3 who is the subject of the information:

4 (i) Has engaged in activity indicating that a crime or a  
5 violation of community custody or parole has been committed or, based  
6 upon his or her current or recent past behavior, is likely to be  
7 committed in the near future; or

8 (ii) Is exhibiting signs of a deterioration in mental functioning  
9 which may make the individual appropriate for civil commitment under  
10 chapter 71.05 RCW; and

11 (c) Any information received under this section must be held  
12 confidential and subject to the limitations on disclosure outlined in  
13 this chapter, except:

14 (i) The information may be shared with other persons who have the  
15 right to request similar information under subsection (2) of this  
16 section, solely for the purpose of coordinating activities related to  
17 the individual who is the subject of the information in a manner  
18 consistent with the official responsibilities of the persons  
19 involved;

20 (ii) The information may be shared with a prosecuting attorney  
21 acting in an advisory capacity for a person who receives information  
22 under this section. A prosecuting attorney under this subsection is  
23 subject to the same restrictions and confidentiality limitations as  
24 the person who requested the information; and

25 (iii) As provided in RCW 72.09.585.

26 (4) A request for information and records related to mental  
27 health services under this section does not require the consent of  
28 the subject of the records. The request must be provided in writing,  
29 except to the extent authorized in subsection (5) of this section. A  
30 written request may include requests made by email or facsimile so  
31 long as the requesting person is clearly identified. The request must  
32 specify the information being requested.

33 (5) In the event of an emergency situation that poses a  
34 significant risk to the public or the offender, a mental health  
35 service agency, or its legal counsel, shall release information  
36 related to mental health services delivered to the offender and, if  
37 known, information regarding where the offender is likely to be found  
38 to the department of corrections or law enforcement upon request. The  
39 initial request may be written or oral. All oral requests must be  
40 subsequently confirmed in writing. Information released in response

1 to an oral request is limited to a statement as to whether the  
2 offender is or is not being treated by the mental health service  
3 agency and the address or information about the location or  
4 whereabouts of the offender.

5 (6) Disclosure under this section to state or local law  
6 enforcement authorities is mandatory for the purposes of the federal  
7 health insurance portability and accountability act.

8 (7) Whenever federal law or federal regulations restrict the  
9 release of information contained in the treatment records of any  
10 patient who receives treatment for alcoholism or drug dependency, the  
11 release of the information may be restricted as necessary to comply  
12 with federal law and regulations.

13 (8) This section does not modify the terms and conditions of  
14 disclosure of information related to sexually transmitted diseases  
15 under this chapter.

16 (9) In collaboration with interested organizations, the authority  
17 shall develop a standard form for requests for information related to  
18 mental health services made under this section and a standard format  
19 for information provided in response to the requests. Consistent with  
20 the goals of the health information privacy provisions of the federal  
21 health insurance portability and accountability act, in developing  
22 the standard form for responsive information, the authority shall  
23 design the form in such a way that the information disclosed is  
24 limited to the minimum necessary to serve the purpose for which the  
25 information is requested.

26 NEW SECTION. **Sec. 35.** Section 5 of this act expires when  
27 section 6 of this act takes effect.

28 NEW SECTION. **Sec. 36.** Section 6 of this act takes effect when  
29 section 4, chapter 433, Laws of 2023 takes effect.

30 NEW SECTION. **Sec. 37.** Section 7 of this act expires when  
31 section 8 of this act takes effect.

32 NEW SECTION. **Sec. 38.** Section 8 of this act takes effect when  
33 section 13, chapter 433, Laws of 2023 takes effect.

34 NEW SECTION. **Sec. 39.** Sections 11, 13, 23, and 26 of this act  
35 expire July 1, 2026.

1        NEW SECTION.    **Sec. 40.**    Sections 12, 14, 24, and 27 of this act  
2 take effect July 1, 2026.

3        NEW SECTION.    **Sec. 41.**    Section 17 of this act expires when  
4 section 18 of this act takes effect.

5        NEW SECTION.    **Sec. 42.**    Section 18 of this act takes effect when  
6 section 10, chapter 210, Laws of 2022 takes effect.

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