
SECOND SUBSTITUTE HOUSE BILL 1877

AS AMENDED BY THE SENATE

Passed Legislature - 2024 Regular Session

State of Washington **68th Legislature** **2024 Regular Session**

By House Appropriations (originally sponsored by Representatives Lekanoff, Stearns, Ortiz-Self, Ramel, Ramos, Cortes, Reed, Ormsby, Macri, Street, Paul, Gregerson, Doglio, Callan, Orwall, Mena, Wylie, Reeves, Pollet, Davis, and Shavers)

READ FIRST TIME 02/05/24.

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; creating a new section; providing an
11 effective date; providing contingent effective dates; providing an
12 expiration date; and 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) An attorney representing a tribe has the right to intervene
17 at any point in any court proceeding under this chapter involving a
18 member of the tribe.

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

21 (i) Attend court proceedings;

1 (ii) Speak in court;
2 (iii) Request copies of orders issued by the court and petitions
3 filed;
4 (iv) Submit information to the court including, but not limited
5 to, information about available tribal resources to coordinate
6 services; and
7 (v) Petition the court under RCW 71.05.201.
8 (b) Information provided to the tribal attorney under this
9 section is subject to any federal and state laws and regulations
10 including the requirements in RCW 70.02.230 (2)(ee) and (3).
11 (2) Behavioral health service providers shall accept tribal court
12 orders from tribes located within the state on the same basis as
13 state court orders issued under this chapter.
14 (3) The administrative office of the courts, in consultation with
15 the authority, shall develop and update court forms as needed in
16 proceedings under this chapter for use by designated crisis
17 responders and make them available by December 1, 2024. After January
18 1, 2025, superior courts must allow tribal designated crisis
19 responders to use court forms developed by the administrative office
20 of the courts.

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

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

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

28 (i) Attend court proceedings;
29 (ii) Speak in court;
30 (iii) Request copies of orders issued by the court and petitions
31 filed;
32 (iv) Submit information to the court including, but not limited
33 to, information about available tribal resources to coordinate
34 services; and
35 (v) Petition the court under RCW 71.05.201.

36 (b) Information provided to the tribal attorney under this
37 section is subject to any federal and state laws and regulations
38 including the 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 court forms as needed in
6 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 at 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.

7 NEW SECTION. **Sec. 43.** If specific funding for the purposes of
8 this act, referencing this act by bill or chapter number, is not
9 provided by June 30, 2024, in the omnibus appropriations act, this
10 act is null and void."

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