
SENATE BILL 5649

State of Washington

64th Legislature

2015 Regular Session

By Senators Darneille, Miloscia, Fraser, Keiser, Parlette, Benton, McCoy, and Dammeier

Read first time 01/28/15. Referred to Committee on Human Services, Mental Health & Housing.

1 AN ACT Relating to involuntary outpatient mental health
2 treatment; amending RCW 71.05.150, 71.05.156, 71.05.212, 71.05.230,
3 71.05.240, 71.05.245, 71.05.280, and 71.05.320; reenacting and
4 amending RCW 71.05.020 and 71.05.020; providing an effective date;
5 and providing an expiration date.

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

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

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (21) "Individualized service plan" means a plan prepared by a
39 developmental disabilities professional with other professionals as a

1 team, for a person with developmental disabilities, which shall
2 state:

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

5 (b) The conditions and strategies necessary to achieve the
6 purposes of habilitation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (43) "Triage facility" means a short-term facility or a portion
38 of a facility licensed by the department of health and certified by
39 the department of social and health services under RCW 71.24.035,
40 which is designed as a facility to assess and stabilize an individual

1 or determine the need for involuntary commitment of an individual,
2 and must meet department of health residential treatment facility
3 standards. A triage facility may be structured as a voluntary or
4 involuntary placement facility;

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

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

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

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

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

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

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

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

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

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

20 (6) "Crisis stabilization unit" means a short-term facility or a
21 portion of a facility licensed by the department of health and
22 certified by the department of social and health services under RCW
23 71.24.035, such as an evaluation and treatment facility or a
24 hospital, which has been designed to assess, diagnose, and treat
25 individuals experiencing an acute crisis without the use of long-term
26 hospitalization;

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

31 (8) "Department" means the department of social and health
32 services;

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

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

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

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

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

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

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

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

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

37 (18) "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 (19) "History of one or more violent acts" refers to the period
6 of time ten years prior to the filing of a petition under this
7 chapter, excluding any time spent, but not any violent acts
8 committed, in a mental health facility or in confinement as a result
9 of a criminal conviction;

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

12 (21) "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 shall
15 state:

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

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

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

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

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

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

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

32 (22) "Information related to mental health services" means all
33 information and records compiled, obtained, or maintained in the
34 course of providing services to either voluntary or involuntary
35 recipients of services by a mental health service provider. This may
36 include documents of legal proceedings under this chapter or chapter
37 71.34 or 10.77 RCW, or somatic health care information;

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

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

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

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

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

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

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

25 (28) "Mental health service provider" means a public or private
26 agency that provides mental health services to persons with mental
27 disorders as defined under this section and receives funding from
28 public sources. This includes, but is not limited to, hospitals
29 licensed under chapter 70.41 RCW, evaluation and treatment facilities
30 as defined in this section, community mental health service delivery
31 systems or community mental health programs as defined in RCW
32 71.24.025, facilities conducting competency evaluations and
33 restoration under chapter 10.77 RCW, and correctional facilities
34 operated by state and local governments;

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

39 (30) "Private agency" means any person, partnership, corporation,
40 or association that is not a public agency, whether or not financed

1 in whole or in part by public funds, which constitutes an evaluation
2 and treatment facility or private institution, or hospital, which is
3 conducted for, or includes a department or ward conducted for, the
4 care and treatment of persons who are mentally ill;

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

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

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

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

22 (35) "Public agency" means any evaluation and treatment facility
23 or institution, or hospital which is conducted for, or includes a
24 department or ward conducted for, the care and treatment of persons
25 with mental illness, if the agency is operated directly by, federal,
26 state, county, or municipal government, or a combination of such
27 governments;

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

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

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

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

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

1 (41) "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 (42) "Therapeutic court personnel" means the staff of a mental
5 health court or other therapeutic court which has jurisdiction over
6 defendants who are dually diagnosed with mental disorders, including
7 court personnel, probation officers, a court monitor, prosecuting
8 attorney, or defense counsel acting within the scope of therapeutic
9 court duties;

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

22 (44) "Triage facility" means a short-term facility or a portion
23 of a facility licensed by the department of health and certified by
24 the department of social and health services under RCW 71.24.035,
25 which is designed as a facility to assess and stabilize an individual
26 or determine the need for involuntary commitment of an individual,
27 and must meet department of health residential treatment facility
28 standards. A triage facility may be structured as a voluntary or
29 involuntary placement facility;

30 (45) "Violent act" means behavior that resulted in homicide,
31 attempted suicide, nonfatal injuries, or substantial damage to
32 property.

33 (46) "In need of assisted outpatient treatment" means that a
34 person, as a result of a mental disorder: (a) Has been committed by a
35 court to detention for involuntary mental health treatment at least
36 twice during the preceding thirty-six months, or, if the person is
37 currently committed for involuntary mental health treatment, the
38 person has been committed to detention for involuntary mental health
39 treatment at least once during the thirty-six months preceding the
40 date of initial detention of the current commitment cycle; (b) in

1 view of the person's treatment history or current behavior, the
2 person is unlikely to voluntarily participate in outpatient treatment
3 without an order for less restrictive treatment; and (c) outpatient
4 treatment that would be provided under a less restrictive treatment
5 order is necessary to prevent a relapse, decompensation, or
6 deterioration that is likely to result in the person presenting a
7 likelihood of serious harm or the person becoming gravely disabled
8 within a reasonably short period of time. For purposes of (a) of this
9 subsection, time spent in a mental health facility or in confinement
10 as a result of a criminal conviction is excluded from the thirty-six
11 month calculation.

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

14 (1)(a) When a designated mental health professional receives
15 information alleging that a person, as a result of a mental disorder:
16 (i) Presents a likelihood of serious harm; ~~((or))~~ (ii) is gravely
17 disabled; or (iii) is in need of assisted outpatient treatment; the
18 designated mental health professional may, after investigation and
19 evaluation of the specific facts alleged and of the reliability and
20 credibility of any person providing information to initiate detention
21 or outpatient evaluation, if satisfied that the allegations are true
22 and that the person will not voluntarily seek appropriate treatment,
23 file a petition for initial detention or outpatient evaluation. If
24 the petition is filed solely on the grounds that the person is in
25 need of assisted outpatient treatment, the petition may only be for
26 outpatient evaluation.

27 (b) Before filing the petition, the designated mental health
28 professional must personally interview the person, unless the person
29 refuses an interview, and determine whether the person will
30 voluntarily receive appropriate evaluation and treatment at an
31 evaluation and treatment facility, crisis stabilization unit, or
32 triage facility.

33 (2)(a) An order to detain to a designated evaluation and
34 treatment facility for not more than a seventy-two-hour evaluation
35 and treatment period, or for an outpatient evaluation, may be issued
36 by a judge of the superior court upon request of a designated mental
37 health professional, whenever it appears to the satisfaction of a
38 judge of the superior court:

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

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

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

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

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

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

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

3 A designated mental health professional who conducts an
4 evaluation for imminent likelihood of serious harm or imminent danger
5 because of being gravely disabled under RCW 71.05.153 must also
6 evaluate the person under RCW 71.05.150 for likelihood of serious
7 harm or grave disability that does not meet the imminent standard for
8 emergency detention, and determine whether the person is in need of
9 assisted outpatient treatment.

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

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

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

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

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

23 (d) Prior commitments under this chapter.

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

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

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

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

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

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

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

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

14 A person detained or committed for seventy-two hour evaluation
15 and treatment may be (~~detained~~) committed for not more than
16 fourteen additional days of involuntary intensive treatment or ninety
17 additional days of a less restrictive alternative to involuntary
18 intensive treatment. A petition may only be filed if the following
19 conditions are met:

20 (1) The professional staff of the agency or facility providing
21 evaluation services has analyzed the person's condition and finds
22 that the condition is caused by mental disorder and (~~either~~)
23 results in a likelihood of serious harm, (~~or~~) results in the
24 (~~detained~~) person being gravely disabled, or results in the person
25 being in need of assisted outpatient treatment, and are prepared to
26 testify those conditions are met; and

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

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

32 (4) The professional staff of the agency or facility or the
33 designated mental health professional has filed a petition for
34 fourteen day involuntary detention or a ninety day less restrictive
35 alternative with the court. The petition must be signed either by:

36 (a) Two physicians;

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

38 (c) Two psychiatric advanced registered nurse practitioners;

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

3 (e) A physician and a psychiatric advanced registered nurse
4 practitioner. The persons signing the petition must have examined the
5 person. If involuntary detention is sought the petition shall state
6 facts that support the finding that such person, as a result of
7 mental disorder, presents a likelihood of serious harm, or is gravely
8 disabled and that there are no less restrictive alternatives to
9 detention in the best interest of such person or others. The petition
10 shall state specifically that less restrictive alternative treatment
11 was considered and specify why treatment less restrictive than
12 detention is not appropriate. If an involuntary less restrictive
13 alternative is sought, the petition shall state facts that support
14 the finding that such person, as a result of mental disorder,
15 presents a likelihood of serious harm, ~~((or))~~ is gravely disabled, or
16 is in need of assisted outpatient treatment, and shall set forth the
17 less restrictive alternative proposed by the facility; and

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

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

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

26 (8) At the conclusion of the initial commitment period, the
27 professional staff of the agency or facility or the designated mental
28 health professional may petition for an additional period of either
29 ninety days of less restrictive alternative treatment or ninety days
30 of involuntary intensive treatment as provided in RCW 71.05.290; and

31 (9) If the hospital or facility designated to provide outpatient
32 treatment is other than the facility providing involuntary treatment,
33 the outpatient facility so designated has agreed to assume such
34 responsibility.

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

37 (1) If a petition is filed for fourteen day involuntary treatment
38 or ninety days of less restrictive alternative treatment, the court
39 shall hold a probable cause hearing within seventy-two hours of the

1 initial detention of such person as determined in RCW 71.05.180. If
2 requested by the detained person or his or her attorney, the hearing
3 may be postponed for a period not to exceed forty-eight hours. The
4 hearing may also be continued subject to the conditions set forth in
5 RCW 71.05.210 or subject to the petitioner's showing of good cause
6 for a period not to exceed twenty-four hours.

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

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

15 (a) If the court finds by a preponderance of the evidence that
16 such person, as the result of mental disorder, presents a likelihood
17 of serious harm, or is gravely disabled, and, after considering less
18 restrictive alternatives to involuntary detention and treatment,
19 finds that no such alternatives are in the best interests of such
20 person or others, the court shall order that such person be detained
21 for involuntary treatment not to exceed fourteen days in a facility
22 certified to provide treatment by the department. If the court finds
23 that such person, as the result of a mental disorder, presents a
24 likelihood of serious harm, or is gravely disabled, but that
25 treatment in a less restrictive setting than detention is in the best
26 interest of such person or others, the court shall order an
27 appropriate less restrictive course of treatment for not to exceed
28 ninety days;

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

35 (4) The court shall specifically state to such person and give
36 such person notice in writing that if involuntary treatment beyond
37 the fourteen day period or beyond the ninety days of less restrictive
38 treatment is to be sought, such person will have the right to a full
39 hearing or jury trial as required by RCW 71.05.310. The court shall
40 also state to the person and provide written notice that the person

1 is barred from the possession of firearms and that the prohibition
2 remains in effect until a court restores his or her right to possess
3 a firearm under RCW 9.41.047.

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

6 (1) In making a determination of whether a person is gravely
7 disabled ((~~or~~)), presents a likelihood of serious harm, or is in need
8 of assisted outpatient treatment in a hearing conducted under RCW
9 71.05.240 or 71.05.320, the court must consider the symptoms and
10 behavior of the respondent in light of all available evidence
11 concerning the respondent's historical behavior.

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

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

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

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

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

1 (1) Such person after having been taken into custody for
2 evaluation and treatment has threatened, attempted, or inflicted: (a)
3 Physical harm upon the person of another or himself or herself, or
4 substantial damage upon the property of another, and (b) as a result
5 of mental disorder presents a likelihood of serious harm; or

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

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

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

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

24 (4) Such person is gravely disabled; or

25 (5) Such person is in need of assisted outpatient treatment.

26 **Sec. 10.** RCW 71.05.320 and 2013 c 289 s 5 are each amended to
27 read as follows:

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

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

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

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

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

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

36 (ii) In cases under this subsection where the court has made an
37 affirmative special finding under RCW 71.05.280(3)(b), the commitment
38 shall continue for up to an additional one hundred eighty day period
39 whenever the petition presents prima facie evidence that the person
40 continues to suffer from a mental disorder or developmental

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

11 (d) Continues to be gravely disabled; or

12 (e) Is in need of assisted outpatient treatment.

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

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

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

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

31 ~~(c) Outpatient treatment that would be provided under a less
32 restrictive treatment order is necessary to prevent a relapse,
33 decompensation, or deterioration that is likely to result in the
34 person presenting a likelihood of serious harm or the person becoming
35 gravely disabled within a reasonably short period of time.~~

36 ~~(5))~~ A new petition for involuntary treatment filed under
37 subsection (3) ~~((or (4))~~) of this section shall be filed and heard in
38 the superior court of the county of the facility which is filing the
39 new petition for involuntary treatment unless good cause is shown for

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

3 ~~((+6))~~ (5) The hearing shall be held as provided in RCW
4 71.05.310, and if the court or jury finds that the grounds for
5 additional confinement as set forth in this section are present, the
6 court may order the committed person returned for an additional
7 period of treatment not to exceed one hundred eighty days from the
8 date of judgment. If the court's order is based solely on the grounds
9 identified in subsection (3)(e) of this section, the court may enter
10 an order for less restrictive alternative treatment not to exceed one
11 hundred eighty days, and may not enter an order for inpatient
12 treatment. At the end of the one hundred eighty day period of
13 commitment, the committed person shall be released unless a petition
14 for another one hundred eighty day period of continued treatment is
15 filed and heard in the same manner as provided in this section.
16 Successive one hundred eighty day commitments are permissible on the
17 same grounds and pursuant to the same procedures as the original one
18 hundred eighty day commitment. However, a commitment solely on the
19 grounds identified in subsection (3)(e) of this section is not
20 permissible under subsection ~~((+4))~~ (3) of this section if: (i)
21 Thirty-six months have passed since the last date of discharge from
22 detention for inpatient treatment that preceded the current less
23 restrictive alternative order, ~~((nor shall a commitment under~~
24 subsection (4) of this section be permissible if)) or (ii) the
25 likelihood of serious harm ~~((in subsection (4)(c) of this section))~~
26 as described in RCW 71.05.020(46)(c) is based solely on harm to the
27 property of others.

28 ~~((+7))~~ (6) No person committed as provided in this section may
29 be detained unless a valid order of commitment is in effect. No order
30 of commitment can exceed one hundred eighty days in length.

31 NEW SECTION. Sec. 11. Section 1 of this act expires April 1,
32 2016.

33 NEW SECTION. Sec. 12. Section 2 of this act takes effect April
34 1, 2016.

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