
SUBSTITUTE SENATE BILL 6491

State of Washington

65th Legislature

2018 Regular Session

By Senate Ways & Means (originally sponsored by Senators O'Ban and Darneille)

READ FIRST TIME 02/06/18.

1 AN ACT Relating to increasing the availability of assisted
2 outpatient behavioral health treatment; amending RCW 71.05.020,
3 71.05.150, 71.05.150, 71.05.230, 71.05.240, 71.05.590, 71.05.590,
4 71.05.201, 71.05.156, 71.05.212, 71.05.245, 71.05.280, and 71.05.595;
5 reenacting and amending RCW 71.05.585 and 71.05.240; adding a new
6 section to chapter 71.05 RCW; providing effective dates; providing an
7 expiration date; and declaring an emergency.

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

9 **Sec. 1.** RCW 71.05.020 and 2017 3rd sp.s. c 14 s 14 are each
10 amended to read as follows:

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

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

17 (2) "Alcoholism" means a disease, characterized by a dependency
18 on alcoholic beverages, loss of control over the amount and
19 circumstances of use, symptoms of tolerance, physiological or
20 psychological withdrawal, or both, if use is reduced or discontinued,

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

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

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

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

14 (6) "Chemical dependency" means:

15 (a) Alcoholism;

16 (b) Drug addiction; or

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

19 (7) "Chemical dependency professional" means a person certified
20 as a chemical dependency professional by the department of health
21 under chapter 18.205 RCW;

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

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

27 (10) "Crisis stabilization unit" means a short-term facility or a
28 portion of a facility licensed by the department of health and
29 certified by the department of social and health services under RCW
30 71.24.035, such as an evaluation and treatment facility or a
31 hospital, which has been designed to assess, diagnose, and treat
32 individuals experiencing an acute crisis without the use of long-term
33 hospitalization;

34 (11) "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 (12) "Department" means the department of social and health
39 services;

1 (13) "Designated crisis responder" means a mental health
2 professional appointed by the behavioral health organization to
3 perform the duties specified in this chapter;

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

6 (15) "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, physician assistant working with a supervising
10 psychiatrist, psychologist, psychiatric advanced registered nurse
11 practitioner, or social worker, and such other developmental
12 disabilities professionals as may be defined by rules adopted by the
13 secretary;

14 (16) "Developmental disability" means that condition defined in
15 RCW 71A.10.020(5);

16 (17) "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 (18) "Drug addiction" means a disease, characterized by a
20 dependency on psychoactive chemicals, loss of control over the amount
21 and circumstances of use, symptoms of tolerance, physiological or
22 psychological withdrawal, or both, if use is reduced or discontinued,
23 and impairment of health or disruption of social or economic
24 functioning;

25 (19) "Evaluation and treatment facility" means any facility which
26 can provide directly, or by direct arrangement with other public or
27 private agencies, emergency evaluation and treatment, outpatient
28 care, and timely and appropriate inpatient care to persons suffering
29 from a mental disorder, and which is certified as such by the
30 department. The department may certify single beds as temporary
31 evaluation and treatment beds under RCW 71.05.745. A physically
32 separate and separately operated portion of a state hospital may be
33 designated as an evaluation and treatment facility. A facility which
34 is part of, or operated by, the department or any federal agency will
35 not require certification. No correctional institution or facility,
36 or jail, shall be an evaluation and treatment facility within the
37 meaning of this chapter;

38 (20) "Gravely disabled" means a condition in which a person, as a
39 result of a mental disorder, or as a result of the use of alcohol or
40 other psychoactive chemicals: (a) Is in danger of serious physical

1 harm resulting from a failure to provide for his or her essential
2 human needs of health or safety; or (b) manifests severe
3 deterioration in routine functioning evidenced by repeated and
4 escalating loss of cognitive or volitional control over his or her
5 actions and is not receiving such care as is essential for his or her
6 health or safety;

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

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

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

23 (24) "Individualized service plan" means a plan prepared by a
24 developmental disabilities professional with other professionals as a
25 team, for a person with developmental disabilities, which shall
26 state:

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

29 (b) The conditions and strategies necessary to achieve the
30 purposes of habilitation;

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

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

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

36 (f) Where relevant in light of past criminal behavior and due
37 consideration for public safety, the criteria for proposed movement
38 to less-restrictive settings, criteria for proposed eventual
39 discharge or release, and a projected possible date for discharge or
40 release; and

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

3 (25) "Information related to mental health services" means all
4 information and records compiled, obtained, or maintained in the
5 course of providing services to either voluntary or involuntary
6 recipients of services by a mental health service provider. This may
7 include documents of legal proceedings under this chapter or chapter
8 71.34 or 10.77 RCW, or somatic health care information;

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

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

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

38 (29) "Legal counsel" means attorneys and staff employed by county
39 prosecutor offices or the state attorney general acting in their

1 capacity as legal representatives of public mental health and
2 substance use disorder service providers under RCW 71.05.130;

3 (30) "Less restrictive alternative treatment" means a program of
4 individualized treatment in a less restrictive setting than inpatient
5 treatment that includes the services described in RCW 71.05.585;

6 (31) "Licensed physician" means a person licensed to practice
7 medicine or osteopathic medicine and surgery in the state of
8 Washington;

9 (32) "Likelihood of serious harm" means:

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

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

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

24 (34) "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 (35) "Mental health professional" means a psychiatrist,
28 psychologist, physician assistant working with a supervising
29 psychiatrist, psychiatric advanced registered nurse practitioner,
30 psychiatric nurse, or social worker, and such other mental health
31 professionals as may be defined by rules adopted by the secretary
32 pursuant to the provisions of this chapter;

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

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

5 (37) "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 (38) "Physician assistant" means a person licensed as a physician
10 assistant under chapter 18.57A or 18.71A RCW;

11 (39) "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, which constitutes an evaluation
14 and treatment facility or private institution, or hospital, or
15 approved substance use disorder treatment program, which is conducted
16 for, or includes a department or ward conducted for, the care and
17 treatment of persons with mental illness, substance use disorders, or
18 both mental illness and substance use disorders;

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

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

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

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

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

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

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

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

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

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

17 (49) "Secure detoxification facility" means a facility operated
18 by either a public or private agency or by the program of an agency
19 that:

20 (a) Provides for intoxicated persons:

21 (i) Evaluation and assessment, provided by certified chemical
22 dependency professionals;

23 (ii) Acute or subacute detoxification services; and

24 (iii) Discharge assistance provided by certified chemical
25 dependency professionals, including facilitating transitions to
26 appropriate voluntary or involuntary inpatient services or to less
27 restrictive alternatives as appropriate for the individual;

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

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

31 (50) "Serious violent offense" has the same meaning as provided
32 in RCW 9.94A.030;

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

36 (52) "Substance use disorder" means a cluster of cognitive,
37 behavioral, and physiological symptoms indicating that an individual
38 continues using the substance despite significant substance-related
39 problems. The diagnosis of a substance use disorder is based on a

1 pathological pattern of behaviors related to the use of the
2 substances;

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

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

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

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

32 **Sec. 2.** RCW 71.05.585 and 2016 sp.s. c 29 s 241 and 2016 c 45 s
33 5 are each reenacted and amended to read as follows:

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

36 (a) Assignment of a care coordinator;

37 (b) An intake evaluation with the provider of the less
38 restrictive alternative treatment;

39 (c) A psychiatric evaluation;

1 ~~((Medication management;~~
2 ~~(+e))~~) A schedule of regular contacts with the provider of the
3 less restrictive alternative treatment services for the duration of
4 the order;
5 ~~((+f))~~ (e) A transition plan addressing access to continued
6 services at the expiration of the order; ~~((and~~
7 ~~(+g))~~ (f) An individual crisis plan; and
8 (g) Notification to the designated crisis responder if reasonable
9 efforts to engage the client fail to produce substantial compliance
10 with court-ordered treatment conditions.

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

13 (a) Medication management;
14 (b) Psychotherapy;
15 ~~((+b))~~ (c) Nursing;
16 ~~((+e))~~ (d) Substance abuse counseling;
17 ~~((+d))~~ (e) Residential treatment; and
18 ~~((+e))~~ (f) Support for housing, benefits, education, and
19 employment.

20 (3) Less restrictive alternative treatment must be administered
21 by a provider that is certified or licensed to provide or coordinate
22 the full scope of services required under the less restrictive
23 alternative order and that has agreed to assume this responsibility.

24 (4) The care coordinator assigned to a person ordered to less
25 restrictive alternative treatment must submit an individualized plan
26 for the person's treatment services to the court that entered the
27 order. An initial plan must be submitted as soon as possible
28 following the intake evaluation and a revised plan must be submitted
29 upon any subsequent modification in which a type of service is
30 removed from or added to the treatment plan.

31 (5) For the purpose of this section, "care coordinator" means a
32 clinical practitioner who coordinates the activities of less
33 restrictive alternative treatment. The care coordinator coordinates
34 activities with the designated crisis responders that are necessary
35 for enforcement and continuation of less restrictive alternative
36 orders and is responsible for coordinating service activities with
37 other agencies and establishing and maintaining a therapeutic
38 relationship with the individual on a continuing basis.

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

3 This section establishes a process for initial evaluation and
4 filing of a petition for assisted outpatient behavioral health
5 treatment, but however does not preclude the filing of a petition for
6 assisted outpatient behavioral health treatment following a period of
7 inpatient detention in appropriate circumstances:

8 (1) The designated crisis responder must personally interview the
9 person, unless the person refuses an interview, and determine whether
10 the person will voluntarily receive appropriate evaluation and
11 treatment at a mental health facility, secure detoxification
12 facility, or approved substance use disorder treatment program.

13 (2) The designated crisis responder must investigate and evaluate
14 the specific facts alleged and the reliability or credibility of any
15 person providing information. The designated crisis responder may
16 spend up to forty-eight hours to complete the investigation, provided
17 that the person may not be held for investigation for any period
18 except as authorized by RCW 71.05.050 or 71.05.153.

19 (3) If the designated crisis responder finds that the person is
20 in need of assisted outpatient behavioral health treatment, they may
21 file a petition requesting the court to enter an order for up to
22 ninety days less restrictive alternative treatment. The petition must
23 include:

24 (a) A statement of the circumstances under which the person's
25 condition was made known and stating that there is evidence, as a
26 result of the designated crisis responder's personal observation or
27 investigation, that the person is in need of assisted outpatient
28 behavioral health treatment, and stating the specific facts known as
29 a result of personal observation or investigation, upon which the
30 designated crisis responder bases this belief;

31 (b) The declaration of additional witnesses, if any, supporting
32 the petition for assisted outpatient behavioral health treatment;

33 (c) A designation of retained counsel for the person or, if
34 counsel is appointed, the name, business address, and telephone
35 number of the attorney appointed to represent the person;

36 (d) The name of an agency or facility which agreed to assume the
37 responsibility of providing less restrictive alternative treatment if
38 the petition is granted by the court;

1 (e) A summons to appear in court at a specific time and place
2 within five judicial days for a probable cause hearing, except as
3 provided in subsection (4) of this section.

4 (4) If the person is in the custody of jail or prison at the time
5 of the investigation, a petition for assisted outpatient behavioral
6 health treatment may be used to facilitate continuity of care after
7 release from custody or the diversion of criminal charges as follows:

8 (a) If the petition is filed in anticipation of the person's
9 release from custody, the summons may be for a date up to five
10 judicial days following the person's anticipated release date,
11 provided that a clear time and place for the hearing is provided; or

12 (b) The hearing may be held prior to the person's release from
13 custody, provided that (i) the filing of the petition does not extend
14 the time the person would otherwise spend in the custody of jail or
15 prison; (ii) the charges or custody of the person is not a pretext to
16 detain the person for the purpose of the involuntary commitment
17 hearing; and (iii) the person's release from custody must be expected
18 to swiftly follow the adjudication of the petition. In this
19 circumstance, the time for hearing is shortened to three judicial
20 days after the filing of the petition.

21 (5) The petition must be served upon the person and the person's
22 counsel with a notice of applicable rights. Proof of service must be
23 filed with the court.

24 (6) A petition for assisted outpatient behavioral health
25 treatment filed under this section must be adjudicated under RCW
26 71.05.240.

27 **Sec. 4.** RCW 71.05.150 and 2016 sp.s. c 29 s 210 are each amended
28 to read as follows:

29 (1)~~((a))~~ When a designated crisis responder receives
30 information alleging that a person, as a result of a mental disorder,
31 substance use disorder, or both presents a likelihood of serious harm
32 or is gravely disabled, or that a person is in need of assisted
33 outpatient ~~((mental))~~ behavioral health treatment; the designated
34 crisis responder may, after investigation and evaluation of the
35 specific facts alleged and of the reliability and credibility of any
36 person providing information to initiate detention or involuntary
37 outpatient ~~((evaluation))~~ treatment, if satisfied that the
38 allegations are true and that the person will not voluntarily seek
39 appropriate treatment, file a petition for initial detention ~~((or~~

1 ~~involuntary outpatient evaluation. If the petition is filed solely on~~
2 ~~the grounds that the person is in need of assisted outpatient mental~~
3 ~~health treatment, the petition may only be for an involuntary~~
4 ~~outpatient evaluation. An involuntary outpatient evaluation may be~~
5 ~~conducted by any combination of licensed professionals authorized to~~
6 ~~petition for involuntary commitment under RCW 71.05.230 and must~~
7 ~~include involvement or consultation with the agency or facility which~~
8 ~~will provide monitoring or services under the proposed less~~
9 ~~restrictive alternative treatment order. If the petition is for an~~
10 ~~involuntary outpatient evaluation and the person is being held in a~~
11 ~~hospital emergency department, the person may be released once the~~
12 ~~hospital has satisfied federal and state legal requirements for~~
13 ~~appropriate screening and stabilization of patients.~~

14 ~~(b))~~ under this section or a petition for involuntary outpatient
15 behavioral health treatment under section 3 of this act. Before
16 filing the petition, the designated crisis responder must personally
17 interview the person, unless the person refuses an interview, and
18 determine whether the person will voluntarily receive appropriate
19 evaluation and treatment at an evaluation and treatment facility,
20 crisis stabilization unit, triage facility, or approved substance use
21 disorder treatment program.

22 (2)(a) An order to detain a person with a mental disorder to a
23 designated evaluation and treatment facility, or to detain a person
24 with a substance use disorder to a secure detoxification facility or
25 approved substance use disorder treatment program, for not more than
26 a seventy-two-hour evaluation and treatment period(~~, or an order for~~
27 ~~an involuntary outpatient evaluation,~~) may be issued by a judge of
28 the superior court upon request of a designated crisis responder,
29 subject to (d) of this subsection, whenever it appears to the
30 satisfaction of a judge of the superior court:

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

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

38 (c) The order shall designate retained counsel or, if counsel is
39 appointed from a list provided by the court, the name, business

1 address, and telephone number of the attorney appointed to represent
2 the person.

3 (d) A court may not issue an order to detain a person to a secure
4 detoxification facility or approved substance use disorder treatment
5 program unless there is an available secure detoxification facility
6 or approved substance use disorder treatment program that has
7 adequate space for the person.

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

31 (4) The designated crisis responder may notify a peace officer to
32 take such person or cause such person to be taken into custody and
33 placed in an evaluation and treatment facility, secure detoxification
34 facility, or approved substance use disorder treatment program. At
35 the 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. 5.** RCW 71.05.150 and 2016 sp.s. c 29 s 211 are each amended
2 to read as follows:

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

27 ~~(b))~~ under this section or a petition for involuntary outpatient
28 behavioral health treatment under section 3 of this act. Before
29 filing the petition, the designated crisis responder must personally
30 interview the person, unless the person refuses an interview, and
31 determine whether the person will voluntarily receive appropriate
32 evaluation and treatment at an evaluation and treatment facility,
33 crisis stabilization unit, triage facility, or approved substance use
34 disorder treatment program.

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

1 the superior court upon request of a designated crisis responder
2 whenever it appears to the satisfaction of a judge of the superior
3 court:

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

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

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

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

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

38 (4) The designated crisis responder may notify a peace officer to
39 take such person or cause such person to be taken into custody and
40 placed in an evaluation and treatment facility, secure detoxification

1 facility, or approved substance use disorder treatment program. At
2 the time such person is taken into custody there shall commence to be
3 served on such person, his or her guardian, and conservator, if any,
4 a copy of the original order together with a notice of rights and a
5 petition for initial detention.

6 **Sec. 6.** RCW 71.05.230 and 2017 3rd sp.s. c 14 s 17 are each
7 amended to read as follows:

8 A person detained (~~or committed~~) for seventy-two hour
9 evaluation and treatment (~~or for an outpatient evaluation for the~~
10 ~~purpose of filing a petition for a less restrictive alternative~~
11 ~~treatment order~~) may be committed for not more than fourteen
12 additional days of involuntary intensive treatment or ninety
13 additional days of a less restrictive alternative (~~to involuntary~~
14 ~~intensive~~) treatment. A petition may only be filed if the following
15 conditions are met:

16 (1) The professional staff of the (~~agency or~~) facility
17 providing evaluation services has analyzed the person's condition and
18 finds that the condition is caused by mental disorder or substance
19 use disorder and results in a likelihood of serious harm, results in
20 the person being gravely disabled, or results in the person being in
21 need of assisted outpatient (~~mental~~) behavioral health treatment,
22 and are prepared to testify those conditions are met; and

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

26 (3) The (~~agency or~~) facility providing intensive treatment (~~or~~
27 ~~which proposes to supervise the less restrictive alternative~~) is
28 certified to provide such treatment by the department; and

29 (4)(a)(i) The professional staff of the (~~agency or~~) facility or
30 the designated crisis responder has filed a petition with the court
31 for a fourteen day involuntary detention or a ninety day less
32 restrictive alternative. The petition must be signed by:

33 (A) One physician, physician assistant, or psychiatric advanced
34 registered nurse practitioner; and

35 (B) One physician, physician assistant, psychiatric advanced
36 registered nurse practitioner, or mental health professional.

37 (ii) If the petition is for substance use disorder treatment, the
38 petition may be signed by a chemical dependency professional instead
39 of a mental health professional and by an advanced registered nurse

1 practitioner instead of a psychiatric advanced registered nurse
2 practitioner. The persons signing the petition must have examined the
3 person.

4 (b) If involuntary detention is sought the petition shall state
5 facts that support the finding that such person, as a result of a
6 mental disorder or substance use disorder, presents a likelihood of
7 serious harm, or is gravely disabled and that there are no less
8 restrictive alternatives to detention in the best interest of such
9 person or others. The petition shall state specifically that less
10 restrictive alternative treatment was considered and specify why
11 treatment less restrictive than detention is not appropriate. If an
12 involuntary less restrictive alternative is sought, the petition
13 shall state facts that support the finding that such person, as a
14 result of a mental disorder or as a result of a substance use
15 disorder, presents a likelihood of serious harm, is gravely disabled,
16 or is in need of assisted outpatient (~~mental~~) behavioral health
17 treatment, and shall set forth any recommendations for less
18 restrictive alternative treatment services; and

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

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

25 (7) The petition reflects that the person was informed of the
26 loss of firearm rights if involuntarily committed for mental health
27 treatment; and

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

33 (9) If the hospital or facility designated to provide less
34 restrictive alternative treatment is other than the facility
35 providing involuntary treatment, the outpatient facility so
36 designated to provide less restrictive alternative treatment has
37 agreed to assume such responsibility.

38 **Sec. 7.** RCW 71.05.240 and 2016 sp.s. c 29 s 232 and 2016 c 45 s
39 2 are each reenacted and amended to read as follows:

1 (1) If a petition is filed for fourteen day involuntary treatment
2 or ninety days of less restrictive alternative treatment, the court
3 shall hold a probable cause hearing within seventy-two hours of the
4 initial detention (~~(or involuntary outpatient evaluation)~~) of such
5 person as determined in RCW 71.05.180, or at a time determined under
6 section 3 of this act. If requested by the person or his or her
7 attorney, the hearing may be postponed for a period not to exceed
8 forty-eight hours. The hearing may also be continued subject to the
9 conditions set forth in RCW 71.05.210 or subject to the petitioner's
10 showing of good cause for a period not to exceed twenty-four hours.

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

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

28 (b) Commitment for up to fourteen days based on a substance use
29 disorder must be to either a secure detoxification facility or an
30 approved substance use disorder treatment program. A court may only
31 enter a commitment order based on a substance use disorder if there
32 is an available secure detoxification facility or approved substance
33 use disorder treatment program with adequate space for the person.

34 (c) At the conclusion of the probable cause hearing, if the court
35 finds by a preponderance of the evidence that such person, as the
36 result of a mental disorder or substance use disorder, presents a
37 likelihood of serious harm, or is gravely disabled, but that
38 treatment in a less restrictive setting than detention is in the best
39 interest of such person or others, the court shall order an

1 appropriate less restrictive alternative course of treatment for not
2 to exceed ninety days.

3 (d) If the court finds by a preponderance of the evidence that
4 such person, as the result of a mental disorder or substance use
5 disorder, is in need of assisted outpatient (~~(mental)~~) behavioral
6 health treatment, and that the person does not present a likelihood
7 of serious harm or grave disability, the court shall order an
8 appropriate less restrictive alternative course of treatment not to
9 exceed ninety days(~~(, and may not order inpatient treatment)~~).

10 ~~((e))~~ (4) An order for less restrictive alternative treatment
11 must name the mental health service provider responsible for
12 identifying the services the person will receive in accordance with
13 RCW 71.05.585, and must include a requirement that the person
14 cooperate with the services planned by the mental health service
15 provider.

16 ~~((4))~~ (5) The court shall specifically state to such person and
17 give such person notice in writing that if involuntary treatment
18 beyond the fourteen day period or beyond the ninety days of less
19 restrictive treatment is to be sought, such person will have the
20 right to a full hearing or jury trial as required by RCW 71.05.310.
21 If the commitment is for mental health treatment, the court shall
22 also state to the person and provide written notice that the person
23 is barred from the possession of firearms and that the prohibition
24 remains in effect until a court restores his or her right to possess
25 a firearm under RCW 9.41.047.

26 **Sec. 8.** RCW 71.05.240 and 2016 sp.s. c 29 s 233 are each amended
27 to read as follows:

28 (1) If a petition is filed for fourteen day involuntary treatment
29 or ninety days of less restrictive alternative treatment, the court
30 shall hold a probable cause hearing within seventy-two hours of the
31 initial detention (~~(or involuntary outpatient evaluation)~~) of such
32 person as determined in RCW 71.05.180, or at a time determined under
33 section 3 of this act. If requested by the person or his or her
34 attorney, the hearing may be postponed for a period not to exceed
35 forty-eight hours. The hearing may also be continued subject to the
36 conditions set forth in RCW 71.05.210 or subject to the petitioner's
37 showing of good cause for a period not to exceed twenty-four hours.

38 (2) If the petition is for mental health treatment, the court at
39 the time of the probable cause hearing and before an order of

1 commitment is entered shall inform the person both orally and in
2 writing that the failure to make a good faith effort to seek
3 voluntary treatment as provided in RCW 71.05.230 will result in the
4 loss of his or her firearm rights if the person is subsequently
5 detained for involuntary treatment under this section.

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

16 (b) Commitment for up to fourteen days based on a substance use
17 disorder must be to either a secure detoxification facility or an
18 approved substance use disorder treatment program.

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

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

34 ~~((+e))~~ (4) An order for less restrictive alternative treatment
35 must name the mental health service provider responsible for
36 identifying the services the person will receive in accordance with
37 RCW 71.05.585, and must include a requirement that the person
38 cooperate with the services planned by the mental health service
39 provider.

1 (~~(4)~~) (5) The court shall specifically state to such person and
2 give such person notice in writing that if involuntary treatment
3 beyond the fourteen day period or beyond the ninety days of less
4 restrictive treatment is to be sought, such person will have the
5 right to a full hearing or jury trial as required by RCW 71.05.310.
6 If the commitment is for mental health treatment, the court shall
7 also state to the person and provide written notice that the person
8 is barred from the possession of firearms and that the prohibition
9 remains in effect until a court restores his or her right to possess
10 a firearm under RCW 9.41.047.

11 **Sec. 9.** RCW 71.05.590 and 2017 3rd sp.s. c 14 s 9 are each
12 amended to read as follows:

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

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

21 (b) Substantial deterioration in the person's functioning has
22 occurred;

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

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

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

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

36 (b) To increase the intensity of outpatient services provided to
37 the person by increasing the frequency of contacts with the provider,
38 referring the person for an assessment for assertive community
39 services, or by other means;

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

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

33 (e) To initiate revocation procedures under subsection (4) of
34 this section.

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

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

15 (b) A person detained under this subsection (4) (~~must be held~~
16 ~~until such time, not exceeding five days, as a hearing can be~~
17 ~~scheduled to determine whether or not the person should be returned~~
18 ~~to the hospital or facility from which he or she had been released~~)
19 may be held for evaluation for up to seventy-two hours, excluding
20 weekends and holidays, pending a court hearing. If the person is not
21 detained, the hearing must be scheduled within five days of service
22 on the person. The designated crisis responder or the secretary may
23 modify or rescind the order at any time prior to commencement of the
24 court hearing.

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

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

1 ~~(iii) there is evidence of substantial decompensation with a~~
2 ~~reasonable probability that the decompensation can be reversed by~~
3 ~~further inpatient treatment; or (iv) there is a likelihood of serious~~
4 ~~harm; and, if any of the above conditions apply,)) to continue the~~
5 ~~detention of the person for inpatient treatment or whether the court~~
6 ~~should reinstate or modify the person's less restrictive alternative~~
7 ~~or conditional release order ((~~or order the person's detention for~~~~
8 ~~inpatient treatment)). To continue detention after the seventy-two~~
9 ~~hour period, the court must find that the person, as the result of a~~
10 ~~mental disorder or substance use disorder, presents a likelihood of~~
11 ~~serious harm or is gravely disabled and, after considering less~~
12 ~~restrictive alternatives to involuntary detention and treatment, that~~
13 ~~no such alternatives are in the best interest of the person or~~
14 ~~others.~~ The person may waive the court hearing and allow the court to
15 enter a stipulated order upon the agreement of all parties. If the
16 court orders detention for inpatient treatment, the treatment period
17 may be for no longer than the period authorized in the original court
18 order. A court may not issue an order to detain a person for
19 inpatient treatment in a secure detoxification facility or approved
20 substance use disorder treatment program under this subsection unless
21 there is a secure detoxification facility or approved substance use
22 disorder treatment program available and with adequate space for the
23 person.

24 ~~((e) Revocation proceedings under this subsection (4) are not~~
25 ~~allowable if the current commitment is solely based on the person~~
26 ~~being in need of assisted outpatient mental health treatment. In~~
27 ~~order to obtain a court order for detention for inpatient treatment~~
28 ~~under this circumstance, a petition must be filed under RCW 71.05.150~~
29 ~~or 71.05.153.))~~

30 (5) In determining whether or not to take action under this
31 section the designated crisis responder, agency, or facility must
32 consider the factors specified under RCW 71.05.212 and the court must
33 consider the factors specified under RCW 71.05.245 as they apply to
34 the question of whether to enforce, modify, or revoke a court order
35 for involuntary treatment.

36 **Sec. 10.** RCW 71.05.590 and 2017 3rd sp.s. c 14 s 10 are each
37 amended to read as follows:

38 (1) Either an agency or facility designated to monitor or provide
39 services under a less restrictive alternative order or conditional

1 release order, or a designated crisis responder, may take action to
2 enforce, modify, or revoke a less restrictive alternative or
3 conditional release order. The agency, facility, or designated crisis
4 responder must determine that:

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

7 (b) Substantial deterioration in the person's functioning has
8 occurred;

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

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

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

19 (a) To counsel or advise the person as to their rights and
20 responsibilities under the court order, and to offer appropriate
21 incentives to motivate compliance;

22 (b) To increase the intensity of outpatient services provided to
23 the person by increasing the frequency of contacts with the provider,
24 referring the person for an assessment for assertive community
25 services, or by other means;

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

36 (d) To cause the person to be transported by a peace officer,
37 designated crisis responder, or other means to the agency or facility
38 monitoring or providing services under the court order, or to a
39 triage facility, crisis stabilization unit, emergency department, or
40 to an evaluation and treatment facility if the person is committed

1 for mental health treatment, or to a secure detoxification facility
2 or an approved substance use disorder treatment program if the person
3 is committed for substance use disorder treatment. The person may be
4 detained at the facility for up to twelve hours for the purpose of an
5 evaluation to determine whether modification, revocation, or
6 commitment proceedings are necessary and appropriate to stabilize the
7 person and prevent decompensation, deterioration, or physical harm.
8 Temporary detention for evaluation under this subsection is intended
9 to occur only following a pattern of noncompliance or the failure of
10 reasonable attempts at outreach and engagement, and may occur only
11 when in the clinical judgment of a designated crisis responder or the
12 professional person in charge of an agency or facility designated to
13 monitor less restrictive alternative services temporary detention is
14 appropriate. This subsection does not limit the ability or obligation
15 to pursue revocation procedures under subsection (4) of this section
16 in appropriate circumstances; and

17 (e) To initiate revocation procedures under subsection (4) of
18 this section.

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

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

38 (b) A person detained under this subsection (4) (~~must be held~~
39 ~~until such time, not exceeding five days, as a hearing can be~~
40 ~~scheduled to determine whether or not the person should be returned~~

1 ~~to the hospital or facility from which he or she had been released))~~
2 may be held for evaluation for up to seventy-two hours, excluding
3 weekends and holidays, pending a court hearing. If the person is not
4 detained, the hearing must be scheduled within five days of service
5 on the person. The designated crisis responder or the secretary may
6 modify or rescind the order at any time prior to commencement of the
7 court hearing.

8 (c) The designated crisis responder or secretary shall file a
9 revocation petition and order of apprehension and detention with the
10 court of the county where the person is currently located or being
11 detained. The designated crisis responder shall serve the person and
12 their attorney, guardian, and conservator, if any. The person has the
13 same rights with respect to notice, hearing, and counsel as in any
14 involuntary treatment proceeding, except as specifically set forth in
15 this section. There is no right to jury trial. The venue for
16 proceedings is the county where the petition is filed. Notice of the
17 filing must be provided to the court that originally ordered
18 commitment, if different from the court where the petition for
19 revocation is filed, within two judicial days of the person's
20 detention.

21 (d) The issues for the court to determine are whether(~~(i) The~~
22 ~~person adhered to the terms and conditions of the court order;~~ ~~(ii)~~
23 ~~substantial deterioration in the person's functioning has occurred;~~
24 ~~(iii) there is evidence of substantial decompensation with a~~
25 ~~reasonable probability that the decompensation can be reversed by~~
26 ~~further inpatient treatment; or (iv) there is a likelihood of serious~~
27 ~~harm; and, if any of the above conditions apply,)) to continue the
28 detention of the person for inpatient treatment or whether the court
29 should reinstate or modify the person's less restrictive alternative
30 or conditional release order (~~or order the person's detention for~~
31 ~~inpatient treatment)). To continue detention after the seventy-two
32 hour period, the court must find that the person, as the result of a
33 mental disorder or substance use disorder, presents a likelihood of
34 serious harm or is gravely disabled and, after considering less
35 restrictive alternatives to involuntary detention and treatment, that
36 no such alternatives are in the best interest of the person or
37 others. The person may waive the court hearing and allow the court to
38 enter a stipulated order upon the agreement of all parties. If the
39 court orders detention for inpatient treatment, the treatment period~~~~

1 may be for no longer than the period authorized in the original court
2 order.

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

9 (5) In determining whether or not to take action under this
10 section the designated crisis responder, agency, or facility must
11 consider the factors specified under RCW 71.05.212 and the court must
12 consider the factors specified under RCW 71.05.245 as they apply to
13 the question of whether to enforce, modify, or revoke a court order
14 for involuntary treatment.

15 **Sec. 11.** RCW 71.05.201 and 2017 3rd sp.s. c 14 s 2 are each
16 amended to 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 hours have elapsed since a designated crisis responder
20 received a request for investigation and the designated crisis
21 responder has not taken action to have the person detained, an
22 immediate family member or guardian or conservator of the person may
23 petition the superior court for the person's initial detention.

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

30 (3)(a) The petition must be filed in the county in which the
31 designated crisis responder investigation occurred or was requested
32 to occur and must be submitted on forms developed by the
33 administrative office of the courts for this purpose. The petition
34 must be accompanied by a sworn declaration from the petitioner, and
35 other witnesses if desired, describing why the person should be
36 detained for evaluation and treatment. The description of why the
37 person should be detained may contain, but is not limited to, the
38 information identified in RCW 71.05.212.

39 (b) The petition must contain:

1 (i) A description of the relationship between the petitioner and
2 the person; and

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

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

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

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

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

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

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

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

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

13 **Sec. 12.** RCW 71.05.156 and 2016 sp.s. c 29 s 215 are each
14 amended to read as follows:

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

22 **Sec. 13.** RCW 71.05.212 and 2016 sp.s. c 29 s 226 are each
23 amended to read as follows:

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

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

31 (b) Historical behavior, including history of one or more violent
32 acts;

33 (c) Prior determinations of incompetency or insanity under
34 chapter 10.77 RCW; and

35 (d) Prior commitments under this chapter.

36 (2) Credible witnesses may include family members, landlords,
37 neighbors, or others with significant contact and history of
38 involvement with the person. If the designated crisis responder

1 relies upon information from a credible witness in reaching his or
2 her decision to detain the individual, then he or she must provide
3 contact information for any such witness to the prosecutor. The
4 designated crisis responder or prosecutor shall provide notice of the
5 date, time, and location of the probable cause hearing to such a
6 witness.

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

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

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

18 (c) Without treatment, the continued deterioration of the
19 respondent is probable.

20 (4) When conducting an evaluation for offenders identified under
21 RCW 72.09.370, the designated crisis responder or professional person
22 shall consider an offender's history of judicially required or
23 administratively ordered antipsychotic medication while in
24 confinement.

25 **Sec. 14.** RCW 71.05.245 and 2015 c 250 s 8 are each amended to
26 read as follows:

27 (1) In making a determination of whether a person is gravely
28 disabled, presents a likelihood of serious harm, or is in need of
29 assisted outpatient (~~mental~~) behavioral health treatment in a
30 hearing conducted under RCW 71.05.240 or 71.05.320, the court must
31 consider the symptoms and behavior of the respondent in light of all
32 available evidence concerning the respondent's historical behavior.

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

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

1 (b) these symptoms or behavior represent a marked and concerning
2 change in the baseline behavior of the respondent; and (c) without
3 treatment, the continued deterioration of the respondent is probable.

4 (3) In making a determination of whether there is a likelihood of
5 serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320,
6 the court shall give great weight to any evidence before the court
7 regarding whether the person has: (a) A recent history of one or more
8 violent acts; or (b) a recent history of one or more commitments
9 under this chapter or its equivalent provisions under the laws of
10 another state which were based on a likelihood of serious harm. The
11 existence of prior violent acts or commitments under this chapter or
12 its equivalent shall not be the sole basis for determining whether a
13 person presents a likelihood of serious harm.

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

16 **Sec. 15.** RCW 71.05.280 and 2016 sp.s. c 29 s 234 are each
17 amended to read as follows:

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

21 (1) Such person after having been taken into custody for
22 evaluation and treatment has threatened, attempted, or inflicted: (a)
23 Physical harm upon the person of another or himself or herself, or
24 substantial damage upon the property of another, and (b) as a result
25 of mental disorder or substance use disorder presents a likelihood of
26 serious harm; or

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

32 (3) Such person has been determined to be incompetent and
33 criminal charges have been dismissed pursuant to RCW 10.77.086(4),
34 and has committed acts constituting a felony, and as a result of a
35 mental disorder, presents a substantial likelihood of repeating
36 similar acts.

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

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

6 (4) Such person is gravely disabled; or

7 (5) Such person is in need of assisted outpatient (~~mental~~)
8 behavioral health treatment.

9 **Sec. 16.** RCW 71.05.595 and 2015 c 250 s 17 are each amended to
10 read as follows:

11 A court order for less restrictive alternative treatment for a
12 person found to be in need of assisted outpatient (~~mental~~)
13 behavioral health treatment must be terminated prior to the
14 expiration of the order when, in the opinion of the professional
15 person in charge of the less restrictive alternative treatment
16 provider, (1) the person is prepared to accept voluntary treatment,
17 or (2) the outpatient treatment ordered is no longer necessary to
18 prevent a relapse, decompensation, or deterioration that is likely to
19 result in the person presenting a likelihood of serious harm or the
20 person becoming gravely disabled within a reasonably short period of
21 time.

22 NEW SECTION. **Sec. 17.** Sections 1 through 4, 6, 7, 9, 11, 12,
23 13, and 15 of this act are necessary for the immediate preservation
24 of the public peace, health, or safety, or support of the state
25 government and its existing public institutions, and take effect
26 April 1, 2018.

27 NEW SECTION. **Sec. 18.** Sections 5, 8, and 10 of this act take
28 effect July 1, 2026.

29 NEW SECTION. **Sec. 19.** Sections 4, 7, and 9 of this act expire
30 July 1, 2026.

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