
SENATE BILL 5644

State of Washington

64th Legislature

2015 Regular Session

By Senators O'Ban, Dammeier, and Darneille

Read first time 01/27/15. Referred to Committee on Human Services,
Mental Health & Housing.

1 AN ACT Relating to psychiatric boarding under the involuntary
2 treatment act; amending RCW 71.05.010, 71.05.050, 71.05.210,
3 71.24.035, 71.24.300, and 71.24.300; reenacting and amending RCW
4 71.05.020, 71.05.020, and 71.05.153; adding new sections to chapter
5 71.05 RCW; adding a new section to chapter 71.24 RCW; creating a new
6 section; providing an effective date; providing an expiration date;
7 and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** Boarding of persons in crisis due to a
10 mental disorder during detention under the involuntary treatment act
11 is a practice that should be avoided. Adequate means do not currently
12 exist at the state level to measure the extent of psychiatric
13 boarding, or the extent to which efforts undertaken since the
14 Washington supreme court's ruling in *In re D.W.*, 181 Wash. 2d 201
15 (2014), have succeeded in eliminating the need for this practice.
16 Meanwhile, a gap in the crisis system threatening public health and
17 safety has arisen in the absence of laws written to address
18 psychiatric boarding, in which persons evaluated by a designated
19 mental health professional as meeting criteria for initial detention
20 under the involuntary treatment act based on a likelihood of serious
21 harm or grave disability must be released without services under the

1 act if an appropriate evaluation and treatment bed cannot be located
2 within short, inflexible time periods. This legislation clarifies the
3 intent of the involuntary treatment act in this difficult situation
4 and provides for ongoing data collection and analysis of the extent
5 of psychiatric boarding practices so that corrective action may be
6 taken to provide an adequate statewide network of appropriate
7 evaluation and treatment services in which there is no need for
8 boarding during detention periods.

9 **Sec. 2.** RCW 71.05.010 and 1998 c 297 s 2 are each amended to
10 read as follows:

11 (1) The provisions of this chapter are intended by the
12 legislature:

13 ~~((1))~~ (a) To protect the health and safety of persons suffering
14 from mental disorders and the public through use of the parens
15 patriae and police powers of the state;

16 (b) To prevent inappropriate, indefinite commitment of mentally
17 disordered persons and to eliminate legal disabilities that arise
18 from such commitment;

19 ~~((2))~~ (c) To provide prompt evaluation and timely and
20 appropriate treatment of persons with serious mental disorders;

21 ~~((3))~~ (d) To safeguard individual rights;

22 ~~((4))~~ (e) To provide continuity of care for persons with
23 serious mental disorders;

24 ~~((5))~~ (f) To encourage the full use of all existing agencies,
25 professional personnel, and public funds to prevent duplication of
26 services and unnecessary expenditures; and

27 ~~((6))~~ (g) To encourage, whenever appropriate, that services be
28 provided within the community(~~(+~~

29 ~~-7) To protect the public safety))~~.

30 (2)(a) The legislature finds that the intention of this chapter
31 is undermined when a person who meets involuntary detention criteria
32 is unable to receive services under this chapter due to a temporary
33 lack of appropriate evaluation and treatment beds.

34 (b) The administration of twenty-four-hour crisis services on a
35 statewide basis presents complex challenges. The state's interest in
36 providing timely and appropriate treatment to persons who meet
37 involuntary detention criteria is best advanced by vigorous
38 performance monitoring and enforcement of contracts held at the state

1 level that provide for adequate networks of evaluation and treatment
2 services.

3 (c) Neither the state's interest in timely and appropriate
4 treatment nor its interest in public health and safety are advanced
5 by an inflexible ban on detention under this chapter while a person
6 is in boarding status. Detention while boarding may prevent serious
7 harm from occurring by providing for a person's immediate health and
8 safety needs, despite the delay in providing recovery-oriented
9 treatment. To avoid routine or extended use of detention while
10 boarding, incidents of detention while boarding must be closely
11 tracked and network deficiencies analyzed so that appropriate
12 corrective action may be taken to minimize its occurrence.

13 (3) When construing the requirements of this chapter, including
14 making determinations whether to dismiss a petition, the court must
15 focus on the merits of the petition, except where requirements have
16 been totally disregarded, meaning that actors have not proceeded in
17 good faith or have acted with gross negligence. A presumption in
18 favor of deciding petitions on their merits furthers both public and
19 private interests because the mental and physical well-being of
20 individuals as well as public safety may be implicated by the
21 decision to release an individual and discontinue his or her
22 treatment.

23 NEW SECTION. Sec. 3. A new section is added to chapter 71.05
24 RCW to read as follows:

25 (1) The department may use a single bed certification process to
26 certify single beds as temporary evaluation and treatment beds;
27 however, the bed must be within a facility that can provide the
28 person with timely and appropriate care within the meaning of RCW
29 71.05.020(16), either directly or by arrangement with other public or
30 private agencies. Appropriate settings for single bed certifications
31 may include, but are not limited to, an evaluation and treatment
32 facility which is already at certified capacity; a hospital with a
33 psychiatric unit, psychiatric hospital, or hospital that is willing
34 and able to provide timely mental health treatment; a facility
35 providing necessary medical services; a residential treatment
36 facility; or a community facility.

37 (2) A single bed certification must be specific to the patient
38 receiving treatment and must be limited in time. The department may
39 provide for standardized time limitations that may vary depending on

1 the purpose of the single bed certification. At the end of the time
2 limitation for single bed certification, the patient must either be
3 discharged, transferred to a new placement, or a new application for
4 single bed certification must be submitted to the department.

5 (3) A designated mental health professional who submits an
6 application for a single bed certification in the good faith belief
7 that all requirements have been met may presume that the application
8 will be approved for the purpose of completing the detention process
9 and responding to other emergency calls. If the application is not
10 approved, or requires additional information for approval, the
11 designated mental health professional or facility has twenty-four
12 hours from the time of notification to submit additional information,
13 or make other arrangements for the detained person.

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

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 71.05
18 RCW to read as follows:

19 (1) If a designated mental health professional determines that a
20 person meets detention criteria under RCW 71.05.150 or 71.05.153 and
21 the person has not been provisionally accepted for admission by an
22 evaluation and treatment facility, and the designated mental health
23 professional has exhausted alternative options such as a single bed
24 certification under section 2 of this act, a less restrictive
25 alternative such as crisis triage or crisis diversion, or appropriate
26 voluntary treatment, or such alternative options provide insufficient
27 safety for the person or the public, then the designated mental
28 health professional must detain the person in boarding status.

29 (2) Detention of a person in boarding status under this section
30 constitutes prima facie evidence that the responsible regional
31 support network or behavioral health organization is in breach of its
32 duty under RCW 71.24.300(6)(b) and 43.20A.894(1)(d) to provide for
33 adequate network of evaluation and treatment services within its
34 service area.

35 (3) When a designated mental health professional detains a person
36 in boarding status under this section, the designated mental health
37 professional must make a report to the department. The department
38 shall develop a standardized reporting form, or modify the current
39 form used for single bed certifications, and determine the method by

1 which the completed report must be transmitted from the designated
2 mental health professional to the department. At a minimum, the
3 report must contain:

4 (a) The date, time, and location of the detention;

5 (b) The county in which the person met detention criteria;

6 (c) A list of facilities which refused to admit the person;

7 (d) The identity of the responsible regional support network or
8 behavioral health organization;

9 (e) Identifying information for the person, including age or date
10 of birth;

11 (f) Identification and contact information for the responsible
12 designated mental health professional or designated mental health
13 professional agency; and

14 (g) Court date and jurisdiction in which a fourteen-day petition
15 must be filed and heard to extend detention if person continues to
16 meet detention criteria and is in boarding status at the end of the
17 initial detention period.

18 (4) Within two hours of receiving this report, the department
19 must transmit a copy of the report to the responsible regional
20 support network or behavioral health organization.

21 (5) Upon notification, the regional support network or behavioral
22 health organization must collaborate with the designated mental
23 health professional to place the individual in an appropriate
24 facility or alternative under subsection (1) of this section as soon
25 as possible. If the individual continues to meet involuntary
26 detention criteria and remains in boarding status at the end of the
27 initial detention period, the designated mental health professional
28 does not have legal authority to dismiss the detention. A
29 representative of the regional support network or behavioral health
30 organization must appear at the fourteen-day hearing to show cause
31 why appropriate placement of the individual has not been made.

32 (6) The department shall track and analyze reports submitted
33 under this section. The department must initiate corrective action
34 when appropriate to ensure that each regional support network or
35 behavioral health organization has implemented an adequate plan to
36 provide evaluation and treatment services. Corrective actions may
37 include remedies under RCW 71.24.330 and 43.20A.894. An adequate plan
38 may include development of alternatives under subsection (1) of this
39 section or prevention programs reasonably calculated to reduce demand
40 for evaluation and treatment under this chapter.

1 (7) The department shall create quarterly reports displayed on
2 its web site that summarize information reported under subsection (3)
3 of this section, except for protected health information. At a
4 minimum, the reports must display data by county and by month. The
5 reports must also include the number of single bed certifications
6 granted by the department by category. The categories must include
7 all of the reasons that the department recognizes for issuing a
8 single bed certification, as identified in rule.

9 **Sec. 5.** RCW 71.05.020 and 2011 c 148 s 1 and 2011 c 89 s 14 are
10 each reenacted and 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 or
14 psychiatric advanced registered nurse practitioner that a person
15 should be examined or treated as a patient in a hospital;

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

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

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

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

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

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

1 (8) "Department" means the department of social and health
2 services;

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

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

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

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

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

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

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

27 (16) "Evaluation and treatment facility" means any facility which
28 can provide directly, or by direct arrangement with other public or
29 private agencies, emergency evaluation and treatment, outpatient
30 care, and timely and appropriate inpatient care to persons suffering
31 from a mental disorder, and which is certified as such by the
32 department. The department may certify single beds as temporary
33 evaluation and treatment beds under section 3 of this act. A
34 physically separate and separately operated portion of a state
35 hospital may be designated as an evaluation and treatment facility. A
36 facility which is part of, or operated by, the department or any
37 federal agency will not require certification. No correctional
38 institution or facility, or jail, shall be an evaluation and
39 treatment facility within the meaning of this chapter;

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

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

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

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

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

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

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

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

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

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

37 (f) Where relevant in light of past criminal behavior and due
38 consideration for public safety, the criteria for proposed movement
39 to less-restrictive settings, criteria for proposed eventual

1 discharge or release, and a projected possible date for discharge or
2 release; and

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

5 (22) "Information related to mental health services" means all
6 information and records compiled, obtained, or maintained in the
7 course of providing services to either voluntary or involuntary
8 recipients of services by a mental health service provider. This may
9 include documents of legal proceedings under this chapter or chapter
10 71.34 or 10.77 RCW, or somatic health care information;

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

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

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

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

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

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

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

37 (28) "Mental health service provider" means a public or private
38 agency that provides mental health services to persons with mental
39 disorders as defined under this section and receives funding from
40 public sources. This includes, but is not limited to, hospitals

1 licensed under chapter 70.41 RCW, evaluation and treatment facilities
2 as defined in this section, community mental health service delivery
3 systems or community mental health programs as defined in RCW
4 71.24.025, facilities conducting competency evaluations and
5 restoration under chapter 10.77 RCW, and correctional facilities
6 operated by state and local governments;

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

11 (30) "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, which is
15 conducted for, or includes a department or ward conducted for, the
16 care and treatment of persons who are mentally ill;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 support networks, or a treatment facility if the notes or records are
2 not available to others;

3 (45) "Violent act" means behavior that resulted in homicide,
4 attempted suicide, nonfatal injuries, or substantial damage to
5 property;

6 (46) "Boarding" refers to a state in which a person who has been
7 involuntarily committed is temporarily held in a place capable of
8 protecting the immediate health and safety needs of the person and
9 the public while an appropriate placement is actively being sought
10 for the person;

11 (47) "Single bed certification" means a bed that has been
12 certified using the process described under section 3 of this act.

13 **Sec. 6.** RCW 71.05.020 and 2014 c 225 s 79 are each reenacted and
14 amended to read as follows:

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

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

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

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

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

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

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

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

5 (8) "Department" means the department of social and health
6 services;

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

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

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

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

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

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

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

31 (16) "Evaluation and treatment facility" means any facility which
32 can provide directly, or by direct arrangement with other public or
33 private agencies, emergency evaluation and treatment, outpatient
34 care, and timely and appropriate inpatient care to persons suffering
35 from a mental disorder, and which is certified as such by the
36 department. The department may certify single beds as temporary
37 evaluation and treatment beds under section 3 of this act. A
38 physically separate and separately operated portion of a state
39 hospital may be designated as an evaluation and treatment facility. A
40 facility which is part of, or operated by, the department or any

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

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

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

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

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

27 (21) "Individualized service plan" means a plan prepared by a
28 developmental disabilities professional with other professionals as a
29 team, for a person with developmental disabilities, which shall
30 state:

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

33 (b) The conditions and strategies necessary to achieve the
34 purposes of habilitation;

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

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

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

1 (f) Where relevant in light of past criminal behavior and due
2 consideration for public safety, the criteria for proposed movement
3 to less-restrictive settings, criteria for proposed eventual
4 discharge or release, and a projected possible date for discharge or
5 release; and

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

8 (22) "Information related to mental health services" means all
9 information and records compiled, obtained, or maintained in the
10 course of providing services to either voluntary or involuntary
11 recipients of services by a mental health service provider. This may
12 include documents of legal proceedings under this chapter or chapter
13 71.34 or 10.77 RCW, or somatic health care information;

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

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

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

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

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

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

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

1 (28) "Mental health service provider" means a public or private
2 agency that provides mental health services to persons with mental
3 disorders as defined under this section and receives funding from
4 public sources. This includes, but is not limited to, hospitals
5 licensed under chapter 70.41 RCW, evaluation and treatment facilities
6 as defined in this section, community mental health service delivery
7 systems or community mental health programs as defined in RCW
8 71.24.025, facilities conducting competency evaluations and
9 restoration under chapter 10.77 RCW, and correctional facilities
10 operated by state and local governments;

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

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

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

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

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

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

38 (35) "Public agency" means any evaluation and treatment facility
39 or institution, or hospital which is conducted for, or includes a
40 department or ward conducted for, the care and treatment of persons

1 with mental illness, if the agency is operated directly by, federal,
2 state, county, or municipal government, or a combination of such
3 governments;

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

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

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

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

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

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

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

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

38 (44) "Triage facility" means a short-term facility or a portion
39 of a facility licensed by the department of health and certified by
40 the department of social and health services under RCW 71.24.035,

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

6 (45) "Violent act" means behavior that resulted in homicide,
7 attempted suicide, nonfatal injuries, or substantial damage to
8 property;

9 (46) "Boarding" refers to a state in which a person who has been
10 involuntarily committed is temporarily held in a place capable of
11 protecting the immediate health and safety needs of the person and
12 the public while an appropriate placement is actively being sought
13 for the person;

14 (47) "Single bed certification" means a bed that has been
15 certified using the process described under section 3 of this act.

16 **Sec. 7.** RCW 71.05.050 and 2000 c 94 s 3 are each amended to read
17 as follows:

18 (1) Nothing in this chapter shall be construed to limit the right
19 of any person to apply voluntarily to any public or private agency or
20 practitioner for treatment of a mental disorder, either by direct
21 application or by referral. Any person voluntarily admitted for
22 inpatient treatment to any public or private agency shall be released
23 immediately upon his or her request. Any person voluntarily admitted
24 for inpatient treatment to any public or private agency shall orally
25 be advised of the right to immediate discharge, and further advised
26 of such rights in writing as are secured to them pursuant to this
27 chapter and their rights of access to attorneys, courts, and other
28 legal redress. Their condition and status shall be reviewed at least
29 once each one hundred eighty days for evaluation as to the need for
30 further treatment or possible discharge, at which time they shall
31 again be advised of their right to discharge upon request(~~(+PROVIDED~~
32 ~~HOWEVER, That)~~).

33 (2) If the professional staff of any public or private agency or
34 hospital regards a person voluntarily admitted who requests discharge
35 as presenting, as a result of a mental disorder, an imminent
36 likelihood of serious harm, or is gravely disabled, they may detain
37 such person for sufficient time to notify the ((~~county~~)) designated
38 mental health professional of such person's condition to enable the
39 ((~~county~~)) designated mental health professional to authorize such

1 person being further held in custody or transported to an evaluation
2 and treatment center pursuant to the provisions of this chapter,
3 which shall in ordinary circumstances be no later than the next
4 judicial day(~~(- PROVIDED FURTHER, That)~~).

5 (3) If a person is brought to the emergency room of a public or
6 private agency or hospital for observation or treatment, the person
7 refuses voluntary admission, and the professional staff of the public
8 or private agency or hospital regard such person as presenting as a
9 result of a mental disorder an imminent likelihood of serious harm,
10 or as presenting an imminent danger because of grave disability, they
11 may detain such person for sufficient time to notify the ((county))
12 designated mental health professional of such person's condition to
13 enable the ((county)) designated mental health professional to
14 authorize such person being further held in custody or transported to
15 an evaluation treatment center pursuant to the conditions in this
16 chapter, but which time shall be no more than six hours from the time
17 the professional staff ((determine that an evaluation by)) notify the
18 ((county)) designated mental health professional ((is necessary)) of
19 the need for evaluation, not counting time periods during which the
20 person is not medically cleared for evaluation.

21 (4) Dismissal of a commitment petition is not the appropriate
22 remedy for a violation of the timeliness requirements of this section
23 based on the intent of this chapter under RCW 71.05.010 except in the
24 few cases where the facility staff or designated mental health
25 professional has totally disregarded the requirements of this
26 section.

27 **Sec. 8.** RCW 71.05.153 and 2011 c 305 s 8 and 2011 c 148 s 2 are
28 each reenacted and amended to read as follows:

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

1 (2) A peace officer may take or cause such person to be taken
2 into custody and immediately delivered to a triage facility, crisis
3 stabilization unit, evaluation and treatment facility, or the
4 emergency department of a local hospital under the following
5 circumstances:

6 (a) Pursuant to subsection (1) of this section; or

7 (b) When he or she has reasonable cause to believe that such
8 person is suffering from a mental disorder and presents an imminent
9 likelihood of serious harm or is in imminent danger because of being
10 gravely disabled.

11 (3) Persons delivered to a crisis stabilization unit, evaluation
12 and treatment facility, emergency department of a local hospital, or
13 triage facility that has elected to operate as an involuntary
14 facility by peace officers pursuant to subsection (2) of this section
15 may be held by the facility for a period of up to twelve hours.

16 (4) Within three hours (~~of~~) after arrival, not counting time
17 periods during which the person has not been medically cleared, the
18 person must be examined by a mental health professional. Within
19 twelve hours of (~~arrival~~) notice of the need for evaluation, not
20 counting time periods during which the person has not been medically
21 cleared, the designated mental health professional must determine
22 whether the individual meets detention criteria. If the individual is
23 detained, the designated mental health professional shall file a
24 petition for detention or a supplemental petition as appropriate and
25 commence service on the designated attorney for the detained person.
26 If the individual is released to the community, the mental health
27 provider shall inform the peace officer of the release within a
28 reasonable period of time after the release if the peace officer has
29 specifically requested notification and provided contact information
30 to the provider.

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

37 **Sec. 9.** RCW 71.05.210 and 2009 c 217 s 1 are each amended to
38 read as follows:

1 Each person involuntarily detained and accepted or admitted at an
2 evaluation and treatment facility (1) shall, within twenty-four hours
3 of his or her admission or acceptance at the facility, not counting
4 time periods during which the person is not medically cleared, be
5 examined and evaluated by (a) a licensed physician who may be
6 assisted by a physician assistant according to chapter 18.71A RCW and
7 a mental health professional, (b) an advanced registered nurse
8 practitioner according to chapter 18.79 RCW and a mental health
9 professional, or (c) a licensed physician and a psychiatric advanced
10 registered nurse practitioner and (2) shall receive such treatment
11 and care as his or her condition requires including treatment on an
12 outpatient basis for the period that he or she is detained, except
13 that, beginning twenty-four hours prior to a trial or hearing
14 pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320,
15 71.05.340, or 71.05.217, the individual may refuse psychiatric
16 medications, but may not refuse: (a) Any other medication previously
17 prescribed by a person licensed under Title 18 RCW; or (b) emergency
18 lifesaving treatment, and the individual shall be informed at an
19 appropriate time of his or her right of such refusal. The person
20 shall be detained up to seventy-two hours, if, in the opinion of the
21 professional person in charge of the facility, or his or her
22 professional designee, the person presents a likelihood of serious
23 harm, or is gravely disabled. A person who has been detained for
24 seventy-two hours shall no later than the end of such period be
25 released, unless referred for further care on a voluntary basis, or
26 detained pursuant to court order for further treatment as provided in
27 this chapter.

28 If, after examination and evaluation, the mental health
29 professional and licensed physician or psychiatric advanced
30 registered nurse practitioner determine that the initial needs of the
31 person would be better served by placement in a chemical dependency
32 treatment facility, then the person shall be referred to an approved
33 treatment program defined under RCW 70.96A.020.

34 An evaluation and treatment center admitting or accepting any
35 person pursuant to this chapter whose physical condition reveals the
36 need for hospitalization shall assure that such person is transferred
37 to an appropriate hospital for evaluation or admission for treatment.
38 Notice of such fact shall be given to the court, the designated
39 attorney, and the designated mental health professional and the court
40 shall order such continuance in proceedings under this chapter as may

1 be necessary, but in no event may this continuance be more than
2 fourteen days.

3 **Sec. 10.** RCW 71.24.035 and 2014 c 225 s 11 are each amended to
4 read as follows:

5 (1) The department is designated as the state mental health
6 authority.

7 (2) The secretary shall provide for public, client, tribal, and
8 licensed service provider participation in developing the state
9 mental health program, developing contracts with behavioral health
10 organizations, and any waiver request to the federal government under
11 medicaid.

12 (3) The secretary shall provide for participation in developing
13 the state mental health program for children and other underserved
14 populations, by including representatives on any committee
15 established to provide oversight to the state mental health program.

16 (4) The secretary shall be designated as the behavioral health
17 organization if the behavioral health organization fails to meet
18 state minimum standards or refuses to exercise responsibilities under
19 its contract or RCW 71.24.045, until such time as a new behavioral
20 health organization is designated.

21 (5) The secretary shall:

22 (a) Develop a biennial state mental health program that
23 incorporates regional biennial needs assessments and regional mental
24 health service plans and state services for adults and children with
25 mental illness;

26 (b) Assure that any behavioral health organization or county
27 community mental health program provides medically necessary services
28 to medicaid recipients consistent with the state's medicaid state
29 plan or federal waiver authorities, and nonmedicaid services
30 consistent with priorities established by the department;

31 (c) Develop and adopt rules establishing state minimum standards
32 for the delivery of mental health services pursuant to RCW 71.24.037
33 including, but not limited to:

34 (i) Licensed service providers. These rules shall permit a
35 county-operated mental health program to be licensed as a service
36 provider subject to compliance with applicable statutes and rules.
37 The secretary shall provide for deeming of compliance with state
38 minimum standards for those entities accredited by recognized

1 behavioral health accrediting bodies recognized and having a current
2 agreement with the department;

3 (ii) Inpatient services, an adequate network of evaluation and
4 treatment services and facilities under chapter 71.05 RCW to
5 eliminate need for use of boarding during detention periods, resource
6 management services, and community support services;

7 (d) Assure that the special needs of persons who are minorities,
8 elderly, disabled, children, low-income, and parents who are
9 respondents in dependency cases are met within the priorities
10 established in this section;

11 (e) Establish a standard contract or contracts, consistent with
12 state minimum standards which shall be used in contracting with
13 behavioral health organizations. The standard contract shall include
14 a maximum fund balance, which shall be consistent with that required
15 by federal regulations or waiver stipulations;

16 (f) Establish, to the extent possible, a standardized auditing
17 procedure which is designed to assure compliance with contractual
18 agreements authorized by this chapter and minimizes paperwork
19 requirements of behavioral health organizations and licensed service
20 providers. The audit procedure shall focus on the outcomes of service
21 as provided in RCW 43.20A.895, 70.320.020, and 71.36.025;

22 (g) Develop and maintain an information system to be used by the
23 state and behavioral health organizations that includes a tracking
24 method which allows the department and behavioral health
25 organizations to identify mental health clients' participation in any
26 mental health service or public program on an immediate basis. The
27 information system shall not include individual patient's case
28 history files. Confidentiality of client information and records
29 shall be maintained as provided in this chapter and chapter 70.02
30 RCW;

31 (h) License service providers who meet state minimum standards;

32 (i) Periodically monitor the compliance of behavioral health
33 organizations and their network of licensed service providers for
34 compliance with the contract between the department, the behavioral
35 health organization, and federal and state rules at reasonable times
36 and in a reasonable manner;

37 (j) Fix fees to be paid by evaluation and treatment centers to
38 the secretary for the required inspections;

1 (k) Monitor and audit behavioral health organizations and
2 licensed service providers as needed to assure compliance with
3 contractual agreements authorized by this chapter;

4 (l) Adopt such rules as are necessary to implement the
5 department's responsibilities under this chapter;

6 (m) License or certify crisis stabilization units that meet state
7 minimum standards;

8 (n) License or certify clubhouses that meet state minimum
9 standards; and

10 (o) License or certify triage facilities that meet state minimum
11 standards.

12 (6) The secretary shall use available resources only for
13 behavioral health organizations, except:

14 (a) To the extent authorized, and in accordance with any
15 priorities or conditions specified, in the biennial appropriations
16 act; or

17 (b) To incentivize improved performance with respect to the
18 client outcomes established in RCW 43.20A.895, 70.320.020, and
19 71.36.025, integration of behavioral health and medical services at
20 the clinical level, and improved care coordination for individuals
21 with complex care needs.

22 (7) Each behavioral health organization and licensed service
23 provider shall file with the secretary, on request, such data,
24 statistics, schedules, and information as the secretary reasonably
25 requires. A behavioral health organization or licensed service
26 provider which, without good cause, fails to furnish any data,
27 statistics, schedules, or information as requested, or files
28 fraudulent reports thereof, may be subject to the behavioral health
29 organization contractual remedies in RCW 43.20A.894 or may have its
30 service provider certification or license revoked or suspended.

31 (8) The secretary may suspend, revoke, limit, or restrict a
32 certification or license, or refuse to grant a certification or
33 license for failure to conform to: (a) The law; (b) applicable rules
34 and regulations; (c) applicable standards; or (d) state minimum
35 standards.

36 (9) The superior court may restrain any behavioral health
37 organization or service provider from operating without a contract,
38 certification, or a license or any other violation of this section.
39 The court may also review, pursuant to procedures contained in
40 chapter 34.05 RCW, any denial, suspension, limitation, restriction,

1 or revocation of certification or license, and grant other relief
2 required to enforce the provisions of this chapter.

3 (10) Upon petition by the secretary, and after hearing held upon
4 reasonable notice to the facility, the superior court may issue a
5 warrant to an officer or employee of the secretary authorizing him or
6 her to enter at reasonable times, and examine the records, books, and
7 accounts of any behavioral health organization(~~(s-[organization])~~) or
8 service provider refusing to consent to inspection or examination by
9 the authority.

10 (11) Notwithstanding the existence or pursuit of any other
11 remedy, the secretary may file an action for an injunction or other
12 process against any person or governmental unit to restrain or
13 prevent the establishment, conduct, or operation of a behavioral
14 health organization or service provider without a contract,
15 certification, or a license under this chapter.

16 (12) The standards for certification or licensure of evaluation
17 and treatment facilities shall include standards relating to
18 maintenance of good physical and mental health and other services to
19 be afforded persons pursuant to this chapter and chapters 71.05 and
20 71.34 RCW, and shall otherwise assure the effectuation of the
21 purposes of these chapters.

22 (13) The standards for certification or licensure of crisis
23 stabilization units shall include standards that:

24 (a) Permit location of the units at a jail facility if the unit
25 is physically separate from the general population of the jail;

26 (b) Require administration of the unit by mental health
27 professionals who direct the stabilization and rehabilitation
28 efforts; and

29 (c) Provide an environment affording security appropriate with
30 the alleged criminal behavior and necessary to protect the public
31 safety.

32 (14) The standards for certification or licensure of a clubhouse
33 shall at a minimum include:

34 (a) The facilities may be peer-operated and must be
35 recovery-focused;

36 (b) Members and employees must work together;

37 (c) Members must have the opportunity to participate in all the
38 work of the clubhouse, including administration, research, intake and
39 orientation, outreach, hiring, training and evaluation of staff,

1 public relations, advocacy, and evaluation of clubhouse
2 effectiveness;

3 (d) Members and staff and ultimately the clubhouse director must
4 be responsible for the operation of the clubhouse, central to this
5 responsibility is the engagement of members and staff in all aspects
6 of clubhouse operations;

7 (e) Clubhouse programs must be comprised of structured activities
8 including but not limited to social skills training, vocational
9 rehabilitation, employment training and job placement, and community
10 resource development;

11 (f) Clubhouse programs must provide in-house educational programs
12 that significantly utilize the teaching and tutoring skills of
13 members and assist members by helping them to take advantage of adult
14 education opportunities in the community;

15 (g) Clubhouse programs must focus on strengths, talents, and
16 abilities of its members;

17 (h) The work-ordered day may not include medication clinics, day
18 treatment, or other therapy programs within the clubhouse.

19 (15) The department shall distribute appropriated state and
20 federal funds in accordance with any priorities, terms, or conditions
21 specified in the appropriations act.

22 (16) The secretary shall assume all duties assigned to the
23 nonparticipating behavioral health organizations under chapters 71.05
24 and 71.34 RCW and this chapter. Such responsibilities shall include
25 those which would have been assigned to the nonparticipating counties
26 in regions where there are not participating behavioral health
27 organizations.

28 The behavioral health organizations, or the secretary's
29 assumption of all responsibilities under chapters 71.05 and 71.34 RCW
30 and this chapter, shall be included in all state and federal plans
31 affecting the state mental health program including at least those
32 required by this chapter, the medicaid program, and P.L. 99-660.
33 Nothing in these plans shall be inconsistent with the intent and
34 requirements of this chapter.

35 (17) The secretary shall:

36 (a) Disburse funds for the behavioral health organizations within
37 sixty days of approval of the biennial contract. The department must
38 either approve or reject the biennial contract within sixty days of
39 receipt.

1 (b) Enter into biennial contracts with behavioral health
2 organizations. The contracts shall be consistent with available
3 resources. No contract shall be approved that does not include
4 progress toward meeting the goals of this chapter by taking
5 responsibility for: (i) Short-term commitments; (ii) residential
6 care; and (iii) emergency response systems.

7 (c) Notify behavioral health organizations of their allocation of
8 available resources at least sixty days prior to the start of a new
9 biennial contract period.

10 (d) Deny all or part of the funding allocations to behavioral
11 health organizations based solely upon formal findings of
12 noncompliance with the terms of the behavioral health organization's
13 contract with the department. Behavioral health organizations
14 disputing the decision of the secretary to withhold funding
15 allocations are limited to the remedies provided in the department's
16 contracts with the behavioral health organizations.

17 (18) The department, in cooperation with the state congressional
18 delegation, shall actively seek waivers of federal requirements and
19 such modifications of federal regulations as are necessary to allow
20 federal medicaid reimbursement for services provided by freestanding
21 evaluation and treatment facilities certified under chapter 71.05
22 RCW. The department shall periodically report its efforts to the
23 appropriate committees of the senate and the house of
24 representatives.

25 **Sec. 11.** RCW 71.24.300 and 2008 c 261 s 4 are each amended to
26 read as follows:

27 (1) Upon the request of a tribal authority or authorities within
28 a regional support network the joint operating agreement or the
29 county authority shall allow for the inclusion of the tribal
30 authority to be represented as a party to the regional support
31 network.

32 (2) The roles and responsibilities of the county and tribal
33 authorities shall be determined by the terms of that agreement
34 including a determination of membership on the governing board and
35 advisory committees, the number of tribal representatives to be party
36 to the agreement, and the provisions of law and shall assure the
37 provision of culturally competent services to the tribes served.

38 (3) The state mental health authority may not determine the roles
39 and responsibilities of county authorities as to each other under

1 regional support networks by rule, except to assure that all duties
2 required of regional support networks are assigned and that counties
3 and the regional support network do not duplicate functions and that
4 a single authority has final responsibility for all available
5 resources and performance under the regional support network's
6 contract with the secretary.

7 (4) If a regional support network is a private entity, the
8 department shall allow for the inclusion of the tribal authority to
9 be represented as a party to the regional support network.

10 (5) The roles and responsibilities of the private entity and the
11 tribal authorities shall be determined by the department, through
12 negotiation with the tribal authority.

13 (6) Regional support networks shall submit an overall six-year
14 operating and capital plan, timeline, and budget and submit progress
15 reports and an updated two-year plan biennially thereafter, to assume
16 within available resources all of the following duties:

17 (a) Administer and provide for the availability of all resource
18 management services, residential services, and community support
19 services.

20 (b) Administer and provide for the availability of an adequate
21 network of evaluation and treatment services to eliminate need for
22 use of boarding during detention periods, all investigation,
23 transportation, court-related, and other services provided by the
24 state or counties pursuant to chapter 71.05 RCW.

25 (c) Provide within the boundaries of each regional support
26 network evaluation and treatment services for at least ninety percent
27 of persons detained or committed for periods up to seventeen days
28 according to chapter 71.05 RCW. Regional support networks may
29 contract to purchase evaluation and treatment services from other
30 networks if they are unable to provide for appropriate resources
31 within their boundaries. Insofar as the original intent of serving
32 persons in the community is maintained, the secretary is authorized
33 to approve exceptions on a case-by-case basis to the requirement to
34 provide evaluation and treatment services within the boundaries of
35 each regional support network. Such exceptions are limited to:

36 (i) Contracts with neighboring or contiguous regions; or

37 (ii) Individuals detained or committed for periods up to
38 seventeen days at the state hospitals at the discretion of the
39 secretary.

1 (d) Administer and provide for the availability of all other
2 mental health services, which shall include patient counseling, day
3 treatment, consultation, education services, employment services as
4 (~~defined~~) described in RCW 71.24.035, and mental health services to
5 children.

6 (e) Establish standards and procedures for reviewing individual
7 service plans and determining when that person may be discharged from
8 resource management services.

9 (7) A regional support network may request that any state-owned
10 land, building, facility, or other capital asset which was ever
11 purchased, deeded, given, or placed in trust for the care of the
12 persons with mental illness and which is within the boundaries of a
13 regional support network be made available to support the operations
14 of the regional support network. State agencies managing such capital
15 assets shall give first priority to requests for their use pursuant
16 to this chapter.

17 (8) Each regional support network shall appoint a mental health
18 advisory board which shall review and provide comments on plans and
19 policies developed under this chapter, provide local oversight
20 regarding the activities of the regional support network, and work
21 with the regional support network to resolve significant concerns
22 regarding service delivery and outcomes. The department shall
23 establish statewide procedures for the operation of regional advisory
24 committees including mechanisms for advisory board feedback to the
25 department regarding regional support network performance. The
26 composition of the board shall be broadly representative of the
27 demographic character of the region and shall include, but not be
28 limited to, representatives of consumers and families, law
29 enforcement, and where the county is not the regional support
30 network, county elected officials. Composition and length of terms of
31 board members may differ between regional support networks but shall
32 be included in each regional support network's contract and approved
33 by the secretary.

34 (9) Regional support networks shall assume all duties specified
35 in their plans and joint operating agreements through biennial
36 contractual agreements with the secretary.

37 (10) Regional support networks may receive technical assistance
38 from the housing trust fund and may identify and submit projects for
39 housing and housing support services to the housing trust fund
40 established under chapter 43.185 RCW. Projects identified or

1 submitted under this subsection must be fully integrated with the
2 regional support network six-year operating and capital plan,
3 timeline, and budget required by subsection (6) of this section.

4 **Sec. 12.** RCW 71.24.300 and 2014 c 225 s 39 are each amended to
5 read as follows:

6 (1) Upon the request of a tribal authority or authorities within
7 a behavioral health organization the joint operating agreement or the
8 county authority shall allow for the inclusion of the tribal
9 authority to be represented as a party to the behavioral health
10 organization.

11 (2) The roles and responsibilities of the county and tribal
12 authorities shall be determined by the terms of that agreement
13 including a determination of membership on the governing board and
14 advisory committees, the number of tribal representatives to be party
15 to the agreement, and the provisions of law and shall assure the
16 provision of culturally competent services to the tribes served.

17 (3) The state mental health authority may not determine the roles
18 and responsibilities of county authorities as to each other under
19 behavioral health organizations by rule, except to assure that all
20 duties required of behavioral health organizations are assigned and
21 that counties and the behavioral health organization do not duplicate
22 functions and that a single authority has final responsibility for
23 all available resources and performance under the behavioral health
24 organization's contract with the secretary.

25 (4) If a behavioral health organization is a private entity, the
26 department shall allow for the inclusion of the tribal authority to
27 be represented as a party to the behavioral health organization.

28 (5) The roles and responsibilities of the private entity and the
29 tribal authorities shall be determined by the department, through
30 negotiation with the tribal authority.

31 (6) Behavioral health organizations shall submit an overall six-
32 year operating and capital plan, timeline, and budget and submit
33 progress reports and an updated two-year plan biennially thereafter,
34 to assume within available resources all of the following duties:

35 (a) Administer and provide for the availability of all resource
36 management services, residential services, and community support
37 services.

38 (b) Administer and provide for the availability of an adequate
39 network of evaluation and treatment services to eliminate need for

1 use of boarding during detention periods, all investigation,
2 transportation, court-related, and other services provided by the
3 state or counties pursuant to chapter 71.05 RCW.

4 (c) Provide within the boundaries of each behavioral health
5 organization evaluation and treatment services for at least ninety
6 percent of persons detained or committed for periods up to seventeen
7 days according to chapter 71.05 RCW. Behavioral health organizations
8 may contract to purchase evaluation and treatment services from other
9 organizations if they are unable to provide for appropriate resources
10 within their boundaries. Insofar as the original intent of serving
11 persons in the community is maintained, the secretary is authorized
12 to approve exceptions on a case-by-case basis to the requirement to
13 provide evaluation and treatment services within the boundaries of
14 each behavioral health organization. Such exceptions are limited to:

15 (i) Contracts with neighboring or contiguous regions; or

16 (ii) Individuals detained or committed for periods up to
17 seventeen days at the state hospitals at the discretion of the
18 secretary.

19 (d) Administer and provide for the availability of all other
20 mental health services, which shall include patient counseling, day
21 treatment, consultation, education services, employment services as
22 described in RCW 71.24.035, and mental health services to children.

23 (e) Establish standards and procedures for reviewing individual
24 service plans and determining when that person may be discharged from
25 resource management services.

26 (7) A behavioral health organization may request that any state-
27 owned land, building, facility, or other capital asset which was ever
28 purchased, deeded, given, or placed in trust for the care of the
29 persons with mental illness and which is within the boundaries of a
30 behavioral health organization be made available to support the
31 operations of the behavioral health organization. State agencies
32 managing such capital assets shall give first priority to requests
33 for their use pursuant to this chapter.

34 (8) Each behavioral health organization shall appoint a mental
35 health advisory board which shall review and provide comments on
36 plans and policies developed under this chapter, provide local
37 oversight regarding the activities of the behavioral health
38 organization, and work with the behavioral health organization to
39 resolve significant concerns regarding service delivery and outcomes.
40 The department shall establish statewide procedures for the operation

1 of regional advisory committees including mechanisms for advisory
2 board feedback to the department regarding behavioral health
3 organization performance. The composition of the board shall be
4 broadly representative of the demographic character of the region and
5 shall include, but not be limited to, representatives of consumers
6 and families, law enforcement, and where the county is not the
7 behavioral health organization, county elected officials. Composition
8 and length of terms of board members may differ between behavioral
9 health organizations but shall be included in each behavioral health
10 organization's contract and approved by the secretary.

11 (9) Behavioral health organizations shall assume all duties
12 specified in their plans and joint operating agreements through
13 biennial contractual agreements with the secretary.

14 (10) Behavioral health organizations may receive technical
15 assistance from the housing trust fund and may identify and submit
16 projects for housing and housing support services to the housing
17 trust fund established under chapter 43.185 RCW. Projects identified
18 or submitted under this subsection must be fully integrated with the
19 behavioral health organization six-year operating and capital plan,
20 timeline, and budget required by subsection (6) of this section.

21 NEW SECTION. **Sec. 13.** A new section is added to chapter 71.24
22 RCW to read as follows:

23 The department must collaborate with regional support networks or
24 behavioral health organizations and the Washington state institute
25 for public policy to estimate the capacity needs for evaluation and
26 treatment services within each regional service area or behavioral
27 health organization. Estimated capacity needs shall include
28 consideration of the average occupancy rates needed to avoid the need
29 for boarding during involuntary detention. A regional service network
30 or behavioral health organization must develop and maintain an
31 adequate plan to provide for evaluation and treatment needs without
32 need for using detention while in boarding status.

33 NEW SECTION. **Sec. 14.** Sections 5 and 11 of this act expire
34 April 1, 2016.

35 NEW SECTION. **Sec. 15.** Except for sections 6 and 12 of this act,
36 which take effect April 1, 2016, this act is necessary for the
37 immediate preservation of the public peace, health, or safety, or

1 support of the state government and its existing public institutions,
2 and takes effect immediately.

--- END ---