

1 investigation or the request for a designated mental health
2 professional investigation. If more than ten days have elapsed, the
3 immediate family member, guardian, or conservator must request a new
4 designated mental health professional investigation.

5 (3)(a) The petition must be filed in the county in which the
6 designated mental health professional investigation occurred or was
7 requested to occur and must be submitted on forms developed by the
8 administrative office of the courts for this purpose. The petition
9 must be accompanied by a sworn declaration from the petitioner, and
10 other witnesses if desired, describing why the person should be
11 detained for evaluation and treatment. The description of why the
12 person should be detained may contain, but is not limited to, the
13 information identified in RCW 71.05.212.

14 (b) The petition must contain:

15 (i) A description of the relationship between the petitioner and
16 the person; and

17 (ii) The date on which an investigation was requested from the
18 designated mental health professional.

19 ~~((3))~~ (4) The court shall, within one judicial day, review the
20 petition to determine whether the petition raises sufficient evidence
21 to support the allegation. If the court so finds, it shall provide a
22 copy of the petition to the designated mental health professional
23 agency with an order for the agency to provide the court, within one
24 judicial day, with a written sworn statement describing the basis for
25 the decision not to seek initial detention and a copy of all
26 information material to the designated mental health professional's
27 current decision.

28 ~~((4))~~ (5) Following the filing of the petition and before the
29 court reaches a decision, any person, including a mental health
30 professional, may submit a sworn declaration to the court in support
31 of or in opposition to initial detention.

32 ~~((5))~~ (6) The court shall dismiss the petition at any time if
33 it finds that a designated mental health professional has filed a
34 petition for the person's initial detention under RCW 71.05.150 or
35 71.05.153 or that the person has voluntarily accepted appropriate
36 treatment.

37 ~~((6))~~ (7) The court must issue a final ruling on the petition
38 within five judicial days after it is filed. After reviewing all of
39 the information provided to the court, the court may enter an order
40 for initial detention if the court finds that: (a) There is probable

1 cause to support a petition for detention; and (b) the person has
2 refused or failed to accept appropriate evaluation and treatment
3 voluntarily. The court shall transmit its final decision to the
4 petitioner.

5 ~~((+7))~~ (8) If the court enters an order for initial detention,
6 it shall provide the order to the designated mental health
7 professional agency(~~(, which shall execute the order without delay)~~)
8 and issue a written order for apprehension of the person by a peace
9 officer for delivery of the person to a facility or emergency room
10 determined by the designated mental health professional. The
11 designated mental health agency serving the jurisdiction of the court
12 must collaborate and coordinate with law enforcement regarding
13 apprehensions and detentions under this subsection, including sharing
14 of information relating to risk and which would assist in locating
15 the person. A person may not be detained to jail pursuant to a
16 written order issued under this subsection. An order for detention
17 under this section should contain the advisement of rights which the
18 person would receive if the person were detained by a designated
19 mental health professional. An order for initial detention under this
20 section expires one hundred eighty days from issuance.

21 ~~((+8))~~ (9) Except as otherwise expressly stated in this chapter,
22 all procedures must be followed as if the order had been entered
23 under RCW 71.05.150. RCW 71.05.160 does not apply if detention was
24 initiated under the process set forth in this section.

25 ~~((+9))~~ (10) For purposes of this section, "immediate family
26 member" means a spouse, domestic partner, child, stepchild, parent,
27 stepparent, grandparent, or sibling.

28 **Sec. 2.** RCW 71.05.201 and 2016 sp.s. c 29 s 222 and 2016 c 107 s
29 1 are each reenacted and amended to read as follows:

30 (1) If a designated crisis responder decides not to detain a
31 person for evaluation and treatment under RCW 71.05.150 or 71.05.153
32 or forty-eight hours have elapsed since a designated crisis responder
33 received a request for investigation and the designated crisis
34 responder has not taken action to have the person detained, an
35 immediate family member or guardian or conservator of the person may
36 petition the superior court for the person's initial detention.

37 (2) A petition under this section must be filed within ten
38 calendar days following the designated crisis responder investigation
39 or the request for a designated crisis responder investigation. If

1 more than ten days have elapsed, the immediate family member,
2 guardian, or conservator must request a new designated crisis
3 responder investigation.

4 (3)(a) The petition must be filed in the county in which the
5 designated ~~((mental—health—professional))~~ crisis responder
6 investigation occurred or was requested to occur and must be
7 submitted on forms developed by the administrative office of the
8 courts for this purpose. The petition must be accompanied by a sworn
9 declaration from the petitioner, and other witnesses if desired,
10 describing why the person should be detained for evaluation and
11 treatment. The description of why the person should be detained may
12 contain, but is not limited to, the information identified in RCW
13 71.05.212.

14 (b) The petition must contain:

15 (i) A description of the relationship between the petitioner and
16 the person; and

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

19 ~~((+3))~~ (4) The court shall, within one judicial day, review the
20 petition to determine whether the petition raises sufficient evidence
21 to support the allegation. If the court so finds, it shall provide a
22 copy of the petition to the designated crisis responder agency with
23 an order for the agency to provide the court, within one judicial
24 day, with a written sworn statement describing the basis for the
25 decision not to seek initial detention and a copy of all information
26 material to the designated crisis responder's current decision.

27 ~~((+4))~~ (5) Following the filing of the petition and before the
28 court reaches a decision, any person, including a mental health
29 professional, may submit a sworn declaration to the court in support
30 of or in opposition to initial detention.

31 ~~((+5))~~ (6) The court shall dismiss the petition at any time if
32 it finds that a designated crisis responder has filed a petition for
33 the person's initial detention under RCW 71.05.150 or 71.05.153 or
34 that the person has voluntarily accepted appropriate treatment.

35 ~~((+6))~~ (7) The court must issue a final ruling on the petition
36 within five judicial days after it is filed. After reviewing all of
37 the information provided to the court, the court may enter an order
38 for initial detention if the court finds that: (a) There is probable
39 cause to support a petition for detention; and (b) the person has
40 refused or failed to accept appropriate evaluation and treatment

1 voluntarily. The court shall transmit its final decision to the
2 petitioner.

3 ~~((7))~~ (8) If the court enters an order for initial detention,
4 it shall provide the order to the designated crisis responder
5 agency(~~(, which shall execute the order without delay)~~) and issue a
6 written order for apprehension of the person by a peace officer for
7 delivery of the person to a facility or emergency room determined by
8 the designated crisis responder. The designated crisis responder
9 agency serving the jurisdiction of the court must collaborate and
10 coordinate with law enforcement regarding apprehensions and
11 detentions under this subsection, including sharing of information
12 relating to risk and which would assist in locating the person. A
13 person may not be detained to jail pursuant to a written order issued
14 under this subsection. An order for detention under this section
15 should contain the advisement of rights which the person would
16 receive if the person were detained by a designated crisis responder.
17 An order for initial detention under this section expires one hundred
18 eighty days from issuance.

19 ~~((8))~~ (9) Except as otherwise expressly stated in this chapter,
20 all procedures must be followed as if the order had been entered
21 under RCW 71.05.150. RCW 71.05.160 does not apply if detention was
22 initiated under the process set forth in this section.

23 ~~((9))~~ (10) For purposes of this section, "immediate family
24 member" means a spouse, domestic partner, child, stepchild, parent,
25 stepparent, grandparent, or sibling.

26 **Sec. 3.** RCW 71.05.203 and 2015 c 258 s 3 are each amended to
27 read as follows:

28 (1) The department and each ~~((regional support network))~~
29 behavioral health organization or agency employing designated mental
30 health professionals shall publish information in an easily
31 accessible format describing the process for an immediate family
32 member, guardian, or conservator to petition for court review of a
33 detention decision under RCW 71.05.201.

34 (2) A designated mental health professional or designated mental
35 health professional agency that receives a request for investigation
36 for possible detention under this chapter must inquire whether the
37 request comes from an immediate family member, guardian, or
38 conservator who would be eligible to petition under RCW 71.05.201. If
39 the designated mental health professional decides not to detain the

1 person for evaluation and treatment under RCW 71.05.150 or 71.05.153
2 or forty-eight hours have elapsed since the request for investigation
3 was received and the designated mental health professional has not
4 taken action to have the person detained, the designated mental
5 health professional or designated mental health professional agency
6 must inform the immediate family member, guardian, or conservator who
7 made the request for investigation about the process to petition for
8 court review under RCW 71.05.201.

9 (3) A designated mental health professional or designated mental
10 health professional agency must, upon request, disclose the date of a
11 designated mental health professional investigation under this
12 chapter to an immediate family member, guardian, or conservator of a
13 person to assist in the preparation of a petition under RCW
14 71.05.201.

15 **Sec. 4.** RCW 71.05.203 and 2016 sp.s. c 29 s 223 are each amended
16 to read as follows:

17 (1) The department and each behavioral health organization or
18 agency employing designated crisis responders shall publish
19 information in an easily accessible format describing the process for
20 an immediate family member, guardian, or conservator to petition for
21 court review of a detention decision under RCW 71.05.201.

22 (2) A designated crisis responder or designated crisis responder
23 agency that receives a request for investigation for possible
24 detention under this chapter must inquire whether the request comes
25 from an immediate family member, guardian, or conservator who would
26 be eligible to petition under RCW 71.05.201. If the designated crisis
27 responder decides not to detain the person for evaluation and
28 treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have
29 elapsed since the request for investigation was received and the
30 designated crisis responder has not taken action to have the person
31 detained, the designated crisis responder or designated crisis
32 responder agency must inform the immediate family member, guardian,
33 or conservator who made the request for investigation about the
34 process to petition for court review under RCW 71.05.201.

35 (3) A designated crisis responder or designated crisis responder
36 agency must, upon request, disclose the date of a designated crisis
37 responder investigation under this chapter to an immediate family
38 member, guardian, or conservator of a person to assist in the
39 preparation of a petition under RCW 71.05.201.

1 NEW SECTION. **Sec. 5.** By December 15, 2017, the administrative
2 office of the courts, in collaboration with stakeholders, including
3 but not limited to judges, prosecutors, defense attorneys, the
4 department of social and health services, behavioral health
5 advocates, and families, shall: (1) Develop a user's guide to assist
6 pro se litigants in the preparation and filing of a Joel's law
7 petition; and (2) develop a model order of detention under RCW
8 71.05.201 which contains an advisement of rights for the detained
9 person.

10 NEW SECTION. **Sec. 6.** Sections 1 and 3 of this act expire April
11 1, 2018.

12 NEW SECTION. **Sec. 7.** Sections 2 and 4 of this act take effect
13 April 1, 2018.

14 **Part Two - Less Restrictive Alternative Revocations**

15 **Sec. 8.** RCW 71.05.590 and 2015 c 250 s 13 are each amended to
16 read as follows:

17 (1) Either an agency or facility designated to monitor or provide
18 services under a less restrictive alternative order or conditional
19 release order, or a designated mental health professional, may take
20 action to enforce, modify, or revoke a less restrictive alternative
21 or conditional release order ~~((if))~~. The agency, facility, or
22 designated mental health professional ~~((determines))~~ must determine
23 that:

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

26 (b) Substantial deterioration in the person's functioning has
27 occurred;

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

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

32 (2) Actions taken under this section must include a flexible
33 range of responses of varying levels of intensity appropriate to the
34 circumstances and consistent with the interests of the individual and
35 the public in personal autonomy, safety, recovery, and compliance.

1 Available actions may include, but are not limited to, any of the
2 following:

3 (a) To counsel, advise, or admonish the person as to their rights
4 and responsibilities under the court order, and to offer appropriate
5 incentives to motivate compliance;

6 (b) To increase the intensity of outpatient services provided to
7 the person by increasing the frequency of contacts with the provider,
8 referring the person for an assessment for assertive community
9 services, or by other means;

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

20 (d) To cause the person to be transported by a peace officer,
21 designated mental health professional, or other means to the agency
22 or facility monitoring or providing services under the court order,
23 or to a triage facility, crisis stabilization unit, emergency
24 department, or evaluation and treatment facility for up to twelve
25 hours for the purpose of an evaluation to determine whether
26 modification, revocation, or commitment proceedings are necessary and
27 appropriate to stabilize the person and prevent decompensation,
28 deterioration, or physical harm. Temporary detention for evaluation
29 under this subsection is intended to occur only following a pattern
30 of noncompliance or the failure of reasonable attempts at outreach
31 and engagement, and may occur only when in the clinical judgment of a
32 designated mental health professional or the professional person in
33 charge of an agency or facility designated to monitor less
34 restrictive alternative services temporary detention is appropriate.
35 This subsection does not limit the ability or obligation to pursue
36 revocation procedures under subsection (4) of this section in
37 appropriate circumstances; and

38 (e) To initiate revocation procedures under subsection (4) of
39 this section.

1 (3) The facility or agency designated to provide outpatient
2 treatment shall notify the secretary or designated mental health
3 professional when a person fails to adhere to terms and conditions of
4 court ordered treatment or experiences substantial deterioration in
5 his or her condition and, as a result, presents an increased
6 likelihood of serious harm.

7 (4)(a) A designated mental health professional or the secretary
8 may upon their own motion or notification by the facility or agency
9 designated to provide outpatient care order a person subject to a
10 court order under this section to be apprehended and taken into
11 custody and temporary detention in an evaluation and treatment
12 facility in or near the county in which he or she is receiving
13 outpatient treatment, or initiate proceedings under this subsection
14 (4) without ordering the apprehension and detention of the 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 If the person is not detained, the hearing must be scheduled within
20 five days of service on the person. The designated mental health
21 professional or the secretary may modify or rescind the order at any
22 time prior to commencement of the court hearing.

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

39 (d) The issues for the court to determine are whether: (i) The
40 person adhered to the terms and conditions of the court order; (ii)

1 substantial deterioration in the person's functioning has occurred;
2 (iii) there is evidence of substantial decompensation with a
3 reasonable probability that the decompensation can be reversed by
4 further inpatient treatment; or (iv) there is a likelihood of serious
5 harm; and, if any of the above conditions apply, 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. The person may waive the court hearing and allow
9 the court to enter a stipulated order upon the agreement of all
10 parties. If the court orders detention for inpatient treatment, the
11 treatment period may be for no longer than the period authorized in
12 the original court order.

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

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

25 **Sec. 9.** RCW 71.05.590 and 2016 sp.s. c 29 s 242 are each amended
26 to read as follows:

27 (1) Either an agency or facility designated to monitor or provide
28 services under a less restrictive alternative order or conditional
29 release order, or a designated crisis responder, may take action to
30 enforce, modify, or revoke a less restrictive alternative or
31 conditional release order ~~((if))~~. The agency, facility, or designated
32 crisis responder ((determines)) must determine that:

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

35 (b) Substantial deterioration in the person's functioning has
36 occurred;

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

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

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

8 (a) To counsel, advise, or admonish the person as to their rights
9 and responsibilities under the court order, and to offer appropriate
10 incentives to motivate compliance;

11 (b) To increase the intensity of outpatient services provided to
12 the person by increasing the frequency of contacts with the provider,
13 referring the person for an assessment for assertive community
14 services, or by other means;

15 (c) To request a court hearing for review and modification of the
16 court order. The request must be made to the court with jurisdiction
17 over the order and specify the circumstances that give rise to the
18 request and what modification is being sought. The county prosecutor
19 shall assist the agency or facility in requesting this hearing and
20 issuing an appropriate summons to the person. This subsection does
21 not limit the inherent authority of a treatment provider to alter
22 conditions of treatment for clinical reasons, and is intended to be
23 used only when court intervention is necessary or advisable to secure
24 the person's compliance and prevent decompensation or deterioration;

25 (d) To cause the person to be transported by a peace officer,
26 designated crisis responder, or other means to the agency or facility
27 monitoring or providing services under the court order, or to a
28 triage facility, crisis stabilization unit, emergency department, or
29 to an evaluation and treatment facility if the person is committed
30 for mental health treatment, or to a secure detoxification facility
31 with available space or an approved substance use disorder treatment
32 program with available space if the person is committed for substance
33 use disorder treatment. The person may be detained at the facility
34 for up to twelve hours for the purpose of an evaluation to determine
35 whether modification, revocation, or commitment proceedings are
36 necessary and appropriate to stabilize the person and prevent
37 decompensation, deterioration, or physical harm. Temporary detention
38 for evaluation under this subsection is intended to occur only
39 following a pattern of noncompliance or the failure of reasonable
40 attempts at outreach and engagement, and may occur only when in the

1 clinical judgment of a designated crisis responder or the
2 professional person in charge of an agency or facility designated to
3 monitor less restrictive alternative services temporary detention is
4 appropriate. This subsection does not limit the ability or obligation
5 to pursue revocation procedures under subsection (4) of this section
6 in appropriate circumstances; and

7 (e) To initiate revocation procedures under subsection (4) of
8 this section.

9 (3) The facility or agency designated to provide outpatient
10 treatment shall notify the secretary or designated crisis responder
11 when a person fails to adhere to terms and conditions of court
12 ordered treatment or experiences substantial deterioration in his or
13 her condition and, as a result, presents an increased likelihood of
14 serious harm.

15 (4)(a) A designated crisis responder or the secretary may upon
16 their own motion or notification by the facility or agency designated
17 to provide outpatient care order a person subject to a court order
18 under this chapter to be apprehended and taken into custody and
19 temporary detention in an evaluation and treatment facility in or
20 near the county in which he or she is receiving outpatient treatment
21 if the person is committed for mental health treatment, or, if the
22 person is committed for substance use disorder treatment, in a secure
23 detoxification facility or approved substance use disorder treatment
24 program if either is available in or near the county in which he or
25 she is receiving outpatient treatment and has adequate space.
26 Proceedings under this subsection (4) may be initiated without
27 ordering the apprehension and detention of the person.

28 (b) A person detained under this subsection (4) must be held
29 until such time, not exceeding five days, as a hearing can be
30 scheduled to determine whether or not the person should be returned
31 to the hospital or facility from which he or she had been released.
32 If the person is not detained, the hearing must be scheduled within
33 five days of service on the person. The designated crisis responder
34 or the secretary may modify or rescind the order at any time prior to
35 commencement of the court hearing.

36 (c) The designated crisis responder or secretary shall (~~notify~~
37 ~~the court that originally ordered commitment within two judicial days~~
38 ~~of a person's detention and~~) file a revocation petition and order of
39 apprehension and detention with the court (~~and~~) of the county where
40 the person is currently located or being detained. The designated

1 crisis responder shall serve the person and their attorney, guardian,
2 and conservator, if any. The person has the same rights with respect
3 to notice, hearing, and counsel as in any involuntary treatment
4 proceeding, except as specifically set forth in this section. There
5 is no right to jury trial. The venue for proceedings (~~regarding a~~
6 ~~petition for modification or revocation must be in~~) is the county
7 (~~in which~~) where the petition (~~was~~) is filed. Notice of the
8 filing must be provided to the court that originally ordered
9 commitment, if different from the court of revocation, within two
10 judicial days of the person's detention.

11 (d) The issues for the court to determine are whether: (i) The
12 person adhered to the terms and conditions of the court order; (ii)
13 substantial deterioration in the person's functioning has occurred;
14 (iii) there is evidence of substantial decompensation with a
15 reasonable probability that the decompensation can be reversed by
16 further inpatient treatment; or (iv) there is a likelihood of serious
17 harm; and, if any of the above conditions apply, whether the court
18 should reinstate or modify the person's less restrictive alternative
19 or conditional release order or order the person's detention for
20 inpatient treatment. The person may waive the court hearing and allow
21 the court to enter a stipulated order upon the agreement of all
22 parties. If the court orders detention for inpatient treatment, the
23 treatment period may be for no longer than the period authorized in
24 the original court order. A court may not issue an order to detain a
25 person for inpatient treatment in a secure detoxification facility or
26 approved substance use disorder treatment program under this
27 subsection unless there is a secure detoxification facility or
28 approved substance use disorder treatment program available and with
29 adequate space for the person.

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

36 (5) In determining whether or not to take action under this
37 section the designated crisis responder, agency, or facility must
38 consider the factors specified under RCW 71.05.212 and the court must
39 consider the factors specified under RCW 71.05.245 as they apply to

1 the question of whether to enforce, modify, or revoke a court order
2 for involuntary treatment.

3 **Sec. 10.** RCW 71.05.590 and 2016 sp.s. c 29 s 243 are each
4 amended to read as follows:

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

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

13 (b) Substantial deterioration in the person's functioning has
14 occurred;

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

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

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

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

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

32 (c) To request a court hearing for review and modification of the
33 court order. The request must be made to the court with jurisdiction
34 over the order and specify the circumstances that give rise to the
35 request and what modification is being sought. The county prosecutor
36 shall assist the agency or facility in requesting this hearing and
37 issuing an appropriate summons to the person. This subsection does
38 not limit the inherent authority of a treatment provider to alter
39 conditions of treatment for clinical reasons, and is intended to be

1 used only when court intervention is necessary or advisable to secure
2 the person's compliance and prevent decompensation or deterioration;

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

24 (e) To initiate revocation procedures under subsection (4) of
25 this section.

26 (3) The facility or agency designated to provide outpatient
27 treatment shall notify the secretary or designated crisis responder
28 when a person fails to adhere to terms and conditions of court
29 ordered treatment or experiences substantial deterioration in his or
30 her condition and, as a result, presents an increased likelihood of
31 serious harm.

32 (4)(a) A designated crisis responder or the secretary may upon
33 their own motion or notification by the facility or agency designated
34 to provide outpatient care order a person subject to a court order
35 under this chapter to be apprehended and taken into custody and
36 temporary detention in an evaluation and treatment facility in or
37 near the county in which he or she is receiving outpatient treatment
38 if the person is committed for mental health treatment, or, if the
39 person is committed for substance use disorder treatment, in a secure
40 detoxification facility or approved substance use disorder treatment

1 program if either is available in or near the county in which he or
2 she is receiving outpatient treatment. Proceedings under this
3 subsection (4) may be initiated without ordering the apprehension and
4 detention of the person.

5 (b) A person detained under this subsection (4) must be held
6 until such time, not exceeding five days, as a hearing can be
7 scheduled to determine whether or not the person should be returned
8 to the hospital or facility from which he or she had been released.
9 If the person is not detained, the hearing must be scheduled within
10 five days of service on the person. The designated crisis responder
11 or the secretary may modify or rescind the order at any time prior to
12 commencement of the court hearing.

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

28 (d) The issues for the court to determine are whether: (i) The
29 person adhered to the terms and conditions of the court order; (ii)
30 substantial deterioration in the person's functioning has occurred;
31 (iii) there is evidence of substantial decompensation with a
32 reasonable probability that the decompensation can be reversed by
33 further inpatient treatment; or (iv) there is a likelihood of serious
34 harm; and, if any of the above conditions apply, whether the court
35 should reinstate or modify the person's less restrictive alternative
36 or conditional release order or order the person's detention for
37 inpatient treatment. The person may waive the court hearing and allow
38 the court to enter a stipulated order upon the agreement of all
39 parties. If the court orders detention for inpatient treatment, the

1 treatment period may be for no longer than the period authorized in
2 the original court 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 **Part Three - Initial Detention Investigations**

16 **Sec. 11.** RCW 71.05.154 and 2013 c 334 s 1 are each amended to
17 read as follows:

18 ((A)) (1) If a person subject to evaluation under RCW 71.05.150
19 or 71.05.153 is located in an emergency room at the time of
20 evaluation, the designated mental health professional conducting
21 ((an)) the evaluation ((of a person under RCW 71.05.150 or 71.05.153
22 must consult with any examining emergency room physician regarding
23 the physician's observations and opinions relating to the person's
24 condition, and whether, in the view of the physician, detention is
25 appropriate. The designated mental health professional)) shall take
26 serious consideration of observations and opinions by an examining
27 emergency room physician((s)), advanced registered nurse
28 practitioner, or physician assistant in determining whether detention
29 under this chapter is appropriate. The designated mental health
30 professional must document ((the)) his or her consultation with ((an
31 examining emergency room physician)) this professional, ((including))
32 if the professional is available, or his or her review of the
33 ((physician's)) professional's written observations or opinions
34 regarding whether detention of the person is appropriate.

35 (2) This section does not create an exception to the general rule
36 under RCW 71.05.010, which creates a presumption that courts should
37 decide petitions under this chapter on their merits in light of the

1 state's parens patriae or police power interest in protecting the
2 safety of individuals and the public.

3 **Sec. 12.** RCW 71.05.154 and 2016 sp.s. c 29 s 214 are each
4 amended to read as follows:

5 ((A)) (1) If a person subject to evaluation under RCW 71.05.150
6 or 71.05.153 is located in an emergency room at the time of
7 evaluation, the designated crisis responder conducting ((a)) the
8 evaluation ((of a person under RCW 71.05.150 or 71.05.153 must
9 consult with any examining emergency room physician regarding the
10 physician's observations and opinions relating to the person's
11 condition, and whether, in the view of the physician, detention is
12 appropriate. The designated crisis responder)) shall take serious
13 consideration of observations and opinions by an examining emergency
14 room physician((s)), advanced registered nurse practitioner, or
15 physician assistant in determining whether detention under this
16 chapter is appropriate. The designated crisis responder must document
17 ((the)) his or her consultation with ((an examining emergency room
18 physician)) this professional, ((including)) if the professional is
19 available, or his or her review of the ((physician's)) professional's
20 written observations or opinions regarding whether detention of the
21 person is appropriate.

22 (2) This section does not create an exception to the general rule
23 under RCW 71.05.010, which creates a presumption that courts should
24 decide petitions under this chapter on their merits in light of the
25 state's parens patriae or police power interest in protecting the
26 safety of individuals and the public.

27 **Part Four - Evaluation and Petition by Chemical**
28 **Dependency Professionals**

29 **Sec. 13.** RCW 70.96A.140 and 2016 sp.s. c 29 s 102 are each
30 amended to read as follows:

31 (1)(a) When a designated chemical dependency specialist receives
32 information alleging that a person presents a likelihood of serious
33 harm or is gravely disabled as a result of ((chemical dependency)) a
34 substance use disorder, the designated chemical dependency
35 specialist, after investigation and evaluation of the specific facts
36 alleged and of the reliability and credibility of the information,

1 may file a petition for commitment of such person with the superior
2 court, district court, or in another court permitted by court rule.

3 If a petition for commitment is not filed in the case of a minor,
4 the parent, guardian, or custodian who has custody of the minor may
5 seek review of that decision made by the designated chemical
6 dependency specialist in superior or district court. The parent,
7 guardian, or custodian shall file notice with the court and provide a
8 copy of the designated chemical dependency specialist's report.

9 If the designated chemical dependency specialist finds that the
10 initial needs of such person would be better served by placement
11 within the mental health system, the person shall be referred to
12 either a designated mental health professional or an evaluation and
13 treatment facility as defined in RCW 71.05.020 or 71.34.020.

14 (b) If placement in a (~~chemical dependency~~) substance use
15 disorder treatment program is available and deemed appropriate, the
16 petition shall allege that: The person is chemically dependent and
17 presents a likelihood of serious harm or is gravely disabled by
18 alcohol or drug addiction, or that the person has twice before in the
19 preceding twelve months been admitted for withdrawal management,
20 sobering services, or (~~chemical dependency~~) substance use disorder
21 treatment pursuant to RCW 70.96A.110 or 70.96A.120, and is in need of
22 a more sustained treatment program, or that the person (~~is~~
23 ~~chemically dependent~~) has a substance use disorder and has
24 threatened, attempted, or inflicted physical harm on another and is
25 likely to inflict physical harm on another unless committed. A
26 refusal to undergo treatment, by itself, does not constitute evidence
27 of lack of judgment as to the need for treatment.

28 (c) If involuntary detention is sought, the petition must state
29 facts that support a finding of the grounds identified in (b) of this
30 subsection and that there are no less restrictive alternatives to
31 detention in the best interest of such person or others. The petition
32 must state specifically that less restrictive alternative treatment
33 was considered and specify why treatment less restrictive than
34 detention is not appropriate. If an involuntary less restrictive
35 alternative is sought, the petition must state facts that support a
36 finding of the grounds for commitment identified in (b) of this
37 subsection and set forth the proposed less restrictive alternative.

38 (d)(i) The petition must be signed by:

39 (A) (~~Two physicians;~~) One physician, physician assistant, or
40 advanced registered nurse practitioner; and

1 (B) ~~((One physician and a mental health professional;~~
2 ~~(C) One physician assistant and a mental health professional; or~~
3 ~~(D) One psychiatric advanced registered nurse practitioner and a~~
4 ~~mental health professional.~~

5 ~~(ii) The persons signing the petition must have examined the~~
6 ~~person)) One physician, physician assistant, advanced registered~~
7 ~~nurse practitioner, or chemical dependency professional.~~

8 (2) Upon filing the petition, the court shall fix a date for a
9 hearing no less than two and no more than seven days after the date
10 the petition was filed unless the person petitioned against is
11 presently being detained in a program, pursuant to RCW 70.96A.120,
12 71.05.210, or 71.34.710, in which case the hearing shall be held
13 within seventy-two hours of the filing of the petition(~~(:—PROVIDED,~~
14 ~~HOWEVER, That)). The ((above specified)) seventy-two hours shall be~~
15 ~~computed by excluding Saturdays, Sundays, and holidays((:—PROVIDED~~
16 ~~FURTHER, That,)). The court may, upon motion of the person whose~~
17 ~~commitment is sought, or upon motion of petitioner with written~~
18 ~~permission of the person whose commitment is sought, or his or her~~
19 ~~counsel and, upon good cause shown, extend the date for the hearing.~~
20 A copy of the petition and of the notice of the hearing, including
21 the date fixed by the court, shall be served (~~(by the designated~~
22 ~~chemical dependency specialist)) on the person whose commitment is~~
23 sought, his or her next of kin, a parent or his or her legal guardian
24 if he or she is a minor, and any other person the court believes
25 advisable. A copy of the petition and certificate shall be delivered
26 to each person notified.

27 (3) At the hearing the court shall hear all relevant testimony
28 including, if possible, the testimony, which may be telephonic, of at
29 least one licensed physician, (~~(psychiatric)) advanced registered~~
30 nurse practitioner, physician assistant, or (~~(mental health))~~
31 chemical dependency professional who has examined the person whose
32 commitment is sought. Communications otherwise deemed privileged
33 under the laws of this state are deemed to be waived in proceedings
34 under this chapter when a court of competent jurisdiction in its
35 discretion determines that the waiver is necessary to protect either
36 the detained person or the public. The waiver of a privilege under
37 this section is limited to records or testimony relevant to
38 evaluation of the detained person for purposes of a proceeding under
39 this chapter. Upon motion by the detained person, or on its own

1 motion, the court shall examine a record or testimony sought by a
2 petitioner to determine whether it is within the scope of the waiver.

3 The record maker shall not be required to testify in order to
4 introduce medical, nursing, or psychological records of detained
5 persons so long as the requirements of RCW 5.45.020 are met, except
6 that portions of the record that contain opinions as to whether the
7 detained person (~~is chemically dependent~~) has a substance use
8 disorder shall be deleted from the records unless the person offering
9 the opinions is available for cross-examination. The person shall be
10 present unless the court believes that his or her presence is likely
11 to be injurious to him or her; in this event the court may deem it
12 appropriate to appoint a guardian ad litem to represent him or her
13 throughout the proceeding. If deemed advisable, the court may examine
14 the person out of courtroom. If the person has refused to be examined
15 by a licensed physician, (~~psychiatric~~) advanced registered nurse
16 practitioner, physician assistant, or (~~mental health~~) chemical
17 dependency professional, he or she shall be given an opportunity to
18 be examined by a court appointed licensed physician, (~~psychiatric~~)
19 advanced registered nurse practitioner, physician assistant, or other
20 professional person qualified to provide such services. If he or she
21 refuses and there is sufficient evidence to believe that the
22 allegations of the petition are true, or if the court believes that
23 more medical evidence is necessary, the court may make a temporary
24 order committing him or her to the department for a period of not
25 more than five days for purposes of a diagnostic examination.

26 (4)(a) If, after hearing all relevant evidence, including the
27 results of any diagnostic examination, the court finds that grounds
28 for involuntary commitment have been established by a preponderance
29 of the evidence and, after considering less restrictive alternatives
30 to involuntary detention and treatment, finds that no such
31 alternatives are in the best interest of the person or others, it
32 shall make an order of commitment to an approved substance use
33 disorder treatment program. It shall not order commitment of a person
34 unless it determines that an approved substance use disorder
35 treatment program is available and able to provide adequate and
36 appropriate treatment for him or her.

37 (b) If the court finds that the grounds for commitment have been
38 established by a preponderance of the evidence, but that treatment in
39 a less restrictive setting than detention is in the best interest of
40 such person or others, the court shall order an appropriate less

1 restrictive course of treatment. The less restrictive order may
2 impose treatment conditions and other conditions that are in the best
3 interest of the respondent and others. A copy of the less restrictive
4 order must be given to the respondent, the designated chemical
5 dependency specialist, and any program designated to provide less
6 restrictive treatment. If the program designated to provide the less
7 restrictive treatment is other than the program providing the initial
8 involuntary treatment, the program so designated must agree in
9 writing to assume such responsibility. The court may not order
10 commitment of a person to a less restrictive course of treatment
11 unless it determines that an approved substance use disorder
12 treatment program is available and able to provide adequate and
13 appropriate treatment for him or her.

14 (5) A person committed to inpatient treatment under this section
15 shall remain in the program for treatment for a period of fourteen
16 days unless sooner discharged. A person committed to a less
17 restrictive course of treatment under this section shall remain in
18 the program of treatment for a period of ninety days unless sooner
19 discharged. At the end of the fourteen-day period, or ninety-day
20 period in the case of a less restrictive alternative to inpatient
21 treatment, he or she shall be discharged automatically unless the
22 program or the designated chemical dependency specialist, before
23 expiration of the period, files a petition for his or her
24 recommitment upon the grounds set forth in subsection (1) of this
25 section for a further period of ninety days of inpatient treatment or
26 ninety days of less restrictive alternative treatment unless sooner
27 discharged. The petition for ninety-day inpatient or less restrictive
28 alternative treatment must be filed with the clerk of the court at
29 least three days before expiration of the fourteen-day period of
30 intensive treatment.

31 If a petition for recommitment is not filed in the case of a
32 minor, the parent, guardian, or custodian who has custody of the
33 minor may seek review of that decision made by the designated
34 chemical dependency specialist in superior or district court. The
35 parent, guardian, or custodian shall file notice with the court and
36 provide a copy of the treatment progress report.

37 If a person has been committed because he or she (~~is chemically~~
38 ~~dependent~~) has a substance use disorder and is likely to inflict
39 physical harm on another, the program or designated chemical

1 dependency specialist shall apply for recommitment if after
2 examination it is determined that the likelihood still exists.

3 (6) Upon the filing of a petition for recommitment under
4 subsection (5) of this section, the court shall fix a date for
5 hearing no less than two and no more than seven days after the date
6 the petition was filed(~~(: PROVIDED, That,)~~). The court may, upon
7 motion of the person whose commitment is sought and upon good cause
8 shown, extend the date for the hearing. A copy of the petition and of
9 the notice of hearing, including the date fixed by the court, shall
10 be served by the treatment program on the person whose commitment is
11 sought, his or her next of kin, the original petitioner under
12 subsection (1) of this section if different from the petitioner for
13 recommitment, one of his or her parents or his or her legal guardian
14 if he or she is a minor, and his or her attorney and any other person
15 the court believes advisable. At the hearing the court shall proceed
16 as provided in subsections (3) and (4) of this section, except that
17 the burden of proof upon a hearing for recommitment must be proof by
18 clear, cogent, and convincing evidence.

19 (7) The approved substance use disorder treatment program shall
20 provide for adequate and appropriate treatment of a person committed
21 to its custody on an inpatient or outpatient basis. A person
22 committed under this section may be transferred from one approved
23 public treatment program to another if transfer is medically
24 advisable.

25 (8) A person committed to a program for treatment shall be
26 discharged at any time before the end of the period for which he or
27 she has been committed and he or she shall be discharged by order of
28 the court if either of the following conditions are met:

29 (a) In case of a (~~(chemically dependent)~~) person with a substance
30 use disorder committed on the grounds of likelihood of infliction of
31 physical harm upon himself, herself, or another, the likelihood no
32 longer exists; or further treatment will not be likely to bring about
33 significant improvement in the person's condition, or treatment is no
34 longer adequate or appropriate.

35 (b) In case of a (~~(chemically dependent)~~) person with a substance
36 use disorder committed on the grounds of the need of treatment and
37 incapacity, that the incapacity no longer exists.

38 (9) The court shall inform the person whose commitment or
39 recommitment is sought of his or her right to contest the
40 application, be represented by counsel at every stage of any

1 proceedings relating to his or her commitment and recommitment, and
2 have counsel appointed by the court or provided by the court, if he
3 or she wants the assistance of counsel and is unable to obtain
4 counsel. If the court believes that the person needs the assistance
5 of counsel, the court shall require, by appointment if necessary,
6 counsel for him or her regardless of his or her wishes. The person
7 shall, if he or she is financially able, bear the costs of such legal
8 service; otherwise such legal service shall be at public expense. The
9 person whose commitment or recommitment is sought shall be informed
10 of his or her right to be examined by a licensed physician,
11 ((psychiatric)) advanced registered nurse practitioner, physician
12 assistant, or other professional person of his or her choice who is
13 qualified to provide such services. If the person is unable to obtain
14 a qualified person and requests an examination, the court shall
15 employ a licensed physician, ((psychiatric)) advanced registered
16 nurse practitioner, physician assistant, or other professional person
17 to conduct an examination and testify on behalf of the person.

18 (10) A person committed under this chapter may at any time seek
19 to be discharged from commitment by writ of habeas corpus in a court
20 of competent jurisdiction.

21 (11) The venue for proceedings under this section is the county
22 in which person to be committed resides or is present.

23 (12) When in the opinion of the professional person in charge of
24 the program providing involuntary inpatient treatment under this
25 chapter, the committed patient can be appropriately served by less
26 restrictive treatment before expiration of the period of commitment,
27 then the less restrictive care may be required as a condition for
28 early release for a period which, when added to the initial treatment
29 period, does not exceed the period of commitment. If the program
30 designated to provide the less restrictive treatment is other than
31 the program providing the initial involuntary treatment, the program
32 so designated must agree in writing to assume such responsibility. A
33 copy of the conditions for early release shall be given to the
34 patient, the designated chemical dependency specialist of original
35 commitment, and the court of original commitment. The program
36 designated to provide less restrictive care may modify the conditions
37 for continued release when the modifications are in the best
38 interests of the patient. If the program providing less restrictive
39 care and the designated chemical dependency specialist determine that
40 a conditionally released patient is failing to adhere to the terms

1 and conditions of his or her release, or that substantial
2 deterioration in the patient's functioning has occurred, then the
3 designated chemical dependency specialist shall notify the court of
4 original commitment and request a hearing to be held no less than two
5 and no more than seven days after the date of the request to
6 determine whether or not the person should be returned to more
7 restrictive care. The designated chemical dependency specialist shall
8 file a petition with the court stating the facts substantiating the
9 need for the hearing along with the treatment recommendations. The
10 patient shall have the same rights with respect to notice, hearing,
11 and counsel as for the original involuntary treatment proceedings.
12 The issues to be determined at the hearing are whether the
13 conditionally released patient did or did not adhere to the terms and
14 conditions of his or her release to less restrictive care or that
15 substantial deterioration of the patient's functioning has occurred
16 and whether the conditions of release should be modified or the
17 person should be returned to a more restrictive program. The hearing
18 may be waived by the patient and his or her counsel and his or her
19 guardian or conservator, if any, but may not be waived unless all
20 such persons agree to the waiver. Upon waiver, the person may be
21 returned for involuntary treatment or continued on conditional
22 release on the same or modified conditions. The grounds and
23 procedures for revocation of less restrictive alternative treatment
24 ordered by the court must be the same as those set forth in this
25 section for less restrictive care arranged by an approved substance
26 use disorder treatment program as a condition for early release.

27 **Sec. 14.** RCW 71.05.020 and 2016 sp.s. c 29 s 204 and 2016 c 155
28 s 1 are each reenacted and amended to read as follows:

29 The definitions in this section apply throughout this chapter
30 unless the context clearly requires otherwise.

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

35 (2) "Alcoholism" means a disease, characterized by a dependency
36 on alcoholic beverages, loss of control over the amount and
37 circumstances of use, symptoms of tolerance, physiological or
38 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 health treatment"
13 means that a person, as a result of a mental disorder: (a) Has been
14 committed by a court to detention for involuntary mental health
15 treatment at least twice during the preceding thirty-six months, or,
16 if the person is currently committed for involuntary mental health
17 treatment, the person has been committed to detention for involuntary
18 mental health treatment at least once during the thirty-six months
19 preceding the date of initial detention of the current commitment
20 cycle; (b) is unlikely to voluntarily participate in outpatient
21 treatment without an order for less restrictive alternative
22 treatment, in view of the person's treatment history or current
23 behavior; (c) is unlikely to survive safely in the community without
24 supervision; (d) is likely to benefit from less restrictive
25 alternative treatment; and (e) requires less restrictive alternative
26 treatment to prevent a relapse, decompensation, or deterioration that
27 is likely to result in the person presenting a likelihood of serious
28 harm or the person becoming gravely disabled within a reasonably
29 short period of time. For purposes of (a) of this subsection, time
30 spent in a mental health facility or in confinement as a result of a
31 criminal conviction is excluded from the thirty-six month
32 calculation;

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

35 (29) "Legal counsel" means attorneys and staff employed by county
36 prosecutor offices or the state attorney general acting in their
37 capacity as legal representatives of public mental health and
38 substance use disorder service providers under RCW 71.05.130;

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

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

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

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

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

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

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

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

31 (36) "Mental health service provider" means a public or private
32 agency that provides mental health services to persons with mental
33 disorders or substance use disorders as defined under this section
34 and receives funding from public sources. This includes, but is not
35 limited to, hospitals licensed under chapter 70.41 RCW, evaluation
36 and treatment facilities as defined in this section, community mental
37 health service delivery systems or behavioral health programs as
38 defined in RCW 71.24.025, facilities conducting competency
39 evaluations and restoration under chapter 10.77 RCW, approved
40 substance use disorder treatment programs as defined in this section,

1 secure detoxification facilities as defined in this section, and
2 correctional facilities operated by state and local governments;

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

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

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

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

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

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

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

35 (44) "Public agency" means any evaluation and treatment facility
36 or institution, secure detoxification facility, approved substance
37 use disorder treatment program, or hospital which is conducted for,
38 or includes a department or ward conducted for, the care and
39 treatment of persons with mental illness, substance use disorders, or
40 both mental illness and substance use disorders, if the agency is

1 operated directly by federal, state, county, or municipal government,
2 or a combination of such governments;

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

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

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

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

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

18 (a) Provides for intoxicated persons:

19 (i) Evaluation and assessment, provided by certified chemical
20 dependency professionals;

21 (ii) Acute or subacute detoxification services; and

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

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

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

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

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

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

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

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

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

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

30 **Sec. 15.** RCW 71.05.210 and 2016 sp.s. c 29 s 224 and 2016 c 155
31 s 2 are each reenacted and amended to read as follows:

32 (1) Each person involuntarily detained and accepted or admitted
33 at an evaluation and treatment facility, secure detoxification
34 facility, or approved substance use disorder treatment program:

35 (a) Shall, within twenty-four hours of his or her admission or
36 acceptance at the facility, not counting time periods prior to
37 medical clearance, be examined and evaluated by:

38 (i) One physician ((and a mental health professional)), physician
39 assistant, or advanced registered nurse professional; and

1 (ii) One (~~physician assistant and a~~) mental health
2 professional(~~;~~~~or~~

3 ~~(iii) One advanced registered nurse practitioner and a mental~~
4 ~~health)) or chemical dependency professional; and~~

5 (b) Shall receive such treatment and care as his or her condition
6 requires including treatment on an outpatient basis for the period
7 that he or she is detained, except that, beginning twenty-four hours
8 prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240,
9 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may
10 refuse psychiatric medications, but may not refuse: (i) Any other
11 medication previously prescribed by a person licensed under Title 18
12 RCW; or (ii) emergency lifesaving treatment, and the individual shall
13 be informed at an appropriate time of his or her right of such
14 refusal. The person shall be detained up to seventy-two hours, if, in
15 the opinion of the professional person in charge of the facility, or
16 his or her professional designee, the person presents a likelihood of
17 serious harm, or is gravely disabled. A person who has been detained
18 for seventy-two hours shall no later than the end of such period be
19 released, unless referred for further care on a voluntary basis, or
20 detained pursuant to court order for further treatment as provided in
21 this chapter.

22 (2) If, after examination and evaluation, the mental health
23 professional or chemical dependency professional and licensed
24 physician, physician assistant, or psychiatric advanced registered
25 nurse practitioner determine that the initial needs of the person, if
26 detained to an evaluation and treatment facility, would be better
27 served by placement in a substance use disorder treatment
28 (~~facility~~) program, or, if detained to a secure detoxification
29 facility or approved substance use disorder treatment program, would
30 be better served in an evaluation and treatment facility than the
31 person shall be referred to the more appropriate placement; however,
32 a person may only be referred to a secure detoxification facility or
33 approved substance use disorder treatment program if there is an
34 available secure detoxification facility or approved substance use
35 disorder treatment program with adequate space for the person.

36 (3) An evaluation and treatment center, secure detoxification
37 facility, or approved substance use disorder treatment program
38 admitting or accepting any person pursuant to this chapter whose
39 physical condition reveals the need for hospitalization shall assure
40 that such person is transferred to an appropriate hospital for

1 evaluation or admission for treatment. Notice of such fact shall be
2 given to the court, the designated attorney, and the designated
3 crisis responder and the court shall order such continuance in
4 proceedings under this chapter as may be necessary, but in no event
5 may this continuance be more than fourteen days.

6 (4) A person detained, accepted, or admitted to an evaluation and
7 treatment facility must be evaluated by a mental health professional.
8 A person detained, accepted, or admitted to a secure detox facility
9 or approved substance use disorder treatment facility must be
10 evaluated by a chemical dependency professional.

11 **Sec. 16.** RCW 71.05.210 and 2016 sp.s. c 29 s 225 are each
12 amended to read as follows:

13 (1) Each person involuntarily detained and accepted or admitted
14 at an evaluation and treatment facility, secure detoxification
15 facility, or approved substance use disorder treatment program:

16 (a) Shall, within twenty-four hours of his or her admission or
17 acceptance at the facility, not counting time periods prior to
18 medical clearance, be examined and evaluated by:

19 (i) One physician ~~((and a mental health professional))~~, physician
20 assistant, or advanced registered nurse professional; and

21 (ii) One ~~((physician assistant and a))~~ mental health
22 professional~~((; or~~

23 ~~(iii) One advanced registered nurse practitioner and a mental~~
24 ~~health))~~ or chemical dependency professional; and

25 (b) Shall receive such treatment and care as his or her condition
26 requires including treatment on an outpatient basis for the period
27 that he or she is detained, except that, beginning twenty-four hours
28 prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240,
29 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may
30 refuse psychiatric medications, but may not refuse: (i) Any other
31 medication previously prescribed by a person licensed under Title 18
32 RCW; or (ii) emergency lifesaving treatment, and the individual shall
33 be informed at an appropriate time of his or her right of such
34 refusal. The person shall be detained up to seventy-two hours, if, in
35 the opinion of the professional person in charge of the facility, or
36 his or her professional designee, the person presents a likelihood of
37 serious harm, or is gravely disabled. A person who has been detained
38 for seventy-two hours shall no later than the end of such period be
39 released, unless referred for further care on a voluntary basis, or

1 detained pursuant to court order for further treatment as provided in
2 this chapter.

3 (2) If, after examination and evaluation, the mental health
4 professional or chemical dependency professional and licensed
5 physician, physician assistant, or psychiatric advanced registered
6 nurse practitioner determine that the initial needs of the person, if
7 detained to an evaluation and treatment facility, would be better
8 served by placement in a substance use disorder treatment
9 (~~facility~~) program, or, if detained to a secure detoxification
10 facility or approved substance use disorder treatment program, would
11 be better served in an evaluation and treatment facility than the
12 person shall be referred to the more appropriate placement.

13 (3) An evaluation and treatment center, secure detoxification
14 facility, or approved substance use disorder treatment program
15 admitting or accepting any person pursuant to this chapter whose
16 physical condition reveals the need for hospitalization shall assure
17 that such person is transferred to an appropriate hospital for
18 evaluation or admission for treatment. Notice of such fact shall be
19 given to the court, the designated attorney, and the designated
20 crisis responder and the court shall order such continuance in
21 proceedings under this chapter as may be necessary, but in no event
22 may this continuance be more than fourteen days.

23 (4) A person detained, accepted, or admitted to an evaluation and
24 treatment facility must be evaluated by a mental health professional.
25 A person detained, accepted, or admitted to a secure detox facility
26 or approved substance use disorder treatment facility must be
27 evaluated by a chemical dependency professional.

28 **Sec. 17.** RCW 71.05.230 and 2016 sp.s. c 29 s 230, 2016 c 155 s
29 5, and 2016 c 45 s 1 are each reenacted and amended to read as
30 follows:

31 A person detained or committed for seventy-two hour evaluation
32 and treatment or for an outpatient evaluation for the purpose of
33 filing a petition for a less restrictive alternative treatment order
34 may be committed for not more than fourteen additional days of
35 involuntary intensive treatment or ninety additional days of a less
36 restrictive alternative to involuntary intensive treatment. A
37 petition may only be filed if the following conditions are met:

38 (1) The professional staff of the agency or facility providing
39 evaluation services has analyzed the person's condition and finds

1 that the condition is caused by mental disorder or substance use
2 disorder and results in a likelihood of serious harm, results in the
3 person being gravely disabled, or results in the person being in need
4 of assisted outpatient mental health treatment, and are prepared to
5 testify those conditions are met; and

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

9 (3) The agency or facility providing intensive treatment or which
10 proposes to supervise the less restrictive alternative is certified
11 to provide such treatment by the department; and

12 (4) The professional staff of the agency or facility or the
13 designated crisis responder has filed a petition with the court for a
14 fourteen day involuntary detention or a ninety day less restrictive
15 alternative. The petition must be signed (~~either~~) by:

16 (a) (~~Two physicians~~) One physician, physician assistant, or
17 advanced registered nurse practitioner; and

18 (b) One physician (~~and a~~), physician assistant, advanced
19 registered nurse practitioner, mental health professional(~~+~~

20 ~~(c) One physician assistant and a mental health professional; or~~

21 ~~(d) One psychiatric advanced registered nurse practitioner and a~~
22 ~~mental health professional), or chemical dependency professional.~~

23 The persons signing the petition must have examined the person. If
24 the person is detained for the purpose of mental health treatment,
25 the person must be examined by a mental health professional. If

26 involuntary detention is sought the petition shall state facts that
27 support the finding that such person, as a result of a mental
28 disorder or substance use disorder, presents a likelihood of serious
29 harm, or is gravely disabled and that there are no less restrictive
30 alternatives to detention in the best interest of such person or
31 others. The petition shall state specifically that less restrictive
32 alternative treatment was considered and specify why treatment less
33 restrictive than detention is not appropriate. If an involuntary less
34 restrictive alternative is sought, the petition shall state facts
35 that support the finding that such person, as a result of a mental
36 disorder or as a result of a substance use disorder, presents a
37 likelihood of serious harm, is gravely disabled, or is in need of
38 assisted outpatient mental health treatment, and shall set forth any
39 recommendations for less restrictive alternative treatment services;
40 and

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

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

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

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

15 (9) If the hospital or facility designated to provide less
16 restrictive alternative treatment is other than the facility
17 providing involuntary treatment, the outpatient facility so
18 designated to provide less restrictive alternative treatment has
19 agreed to assume such responsibility.

20 **Part Five - Technical**

21 NEW SECTION. **Sec. 18.** Section 13 of this act is necessary for
22 the immediate preservation of the public peace, health, or safety, or
23 support of the state government and its existing public institutions,
24 and takes effect immediately.

25 NEW SECTION. **Sec. 19.** Sections 8, 11, and 13 of this act expire
26 April 1, 2018.

27 NEW SECTION. **Sec. 20.** Sections 9, 12, 14, 15, and 17 of this
28 act take effect April 1, 2018.

29 NEW SECTION. **Sec. 21.** Sections 9 and 15 of this act expire July
30 1, 2026.

31 NEW SECTION. **Sec. 22.** Sections 10 and 16 of this act take
32 effect July 1, 2026.

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