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**SUBSTITUTE SENATE BILL 5580**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** Senate Human Services, Mental Health & Housing (originally sponsored by Senator O'Ban; by request of Department of Social and Health Services)

READ FIRST TIME 02/13/17.

1 AN ACT Relating to integrating the treatment systems for mental  
2 health and substance use disorders; amending RCW 70.96A.140 and  
3 71.05.210; reenacting and amending RCW 71.05.020, 71.05.210, and  
4 71.05.230; providing effective dates; providing expiration dates; and  
5 declaring an emergency.

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

7 **Sec. 1.** RCW 70.96A.140 and 2016 sp.s. c 29 s 102 are each  
8 amended to read as follows:

9 (1)(a) When a designated chemical dependency specialist receives  
10 information alleging that a person presents a likelihood of serious  
11 harm or is gravely disabled as a result of (~~chemical dependency~~) a  
12 substance use disorder, the designated chemical dependency  
13 specialist, after investigation and evaluation of the specific facts  
14 alleged and of the reliability and credibility of the information,  
15 may file a petition for commitment of such person with the superior  
16 court, district court, or in another court permitted by court rule.

17 If a petition for commitment is not filed in the case of a minor,  
18 the parent, guardian, or custodian who has custody of the minor may  
19 seek review of that decision made by the designated chemical  
20 dependency specialist in superior or district court. The parent,

1 guardian, or custodian shall file notice with the court and provide a  
2 copy of the designated chemical dependency specialist's report.

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

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

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

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

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

35 (B) (~~One physician and a mental health professional;~~

36 ~~(C) One physician assistant and a mental health professional; or~~

37 ~~(D) One psychiatric advanced registered nurse practitioner and a~~  
38 ~~mental health professional.~~

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

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

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

38       The record maker shall not be required to testify in order to  
39 introduce medical, nursing, or psychological records of detained  
40 persons so long as the requirements of RCW 5.45.020 are met, except

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

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

32 (b) If the court finds that the grounds for commitment have been  
33 established by a preponderance of the evidence, but that treatment in  
34 a less restrictive setting than detention is in the best interest of  
35 such person or others, the court shall order an appropriate less  
36 restrictive course of treatment. The less restrictive order may  
37 impose treatment conditions and other conditions that are in the best  
38 interest of the respondent and others. A copy of the less restrictive  
39 order must be given to the respondent, the designated chemical  
40 dependency specialist, and any program designated to provide less

1 restrictive treatment. If the program designated to provide the less  
2 restrictive treatment is other than the program providing the initial  
3 involuntary treatment, the program so designated must agree in  
4 writing to assume such responsibility. The court may not order  
5 commitment of a person to a less restrictive course of treatment  
6 unless it determines that an approved substance use disorder  
7 treatment program is available and able to provide adequate and  
8 appropriate treatment for him or her.

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

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

32 If a person has been committed because he or she (~~is chemically~~  
33 ~~dependent~~)) has a substance use disorder and is likely to inflict  
34 physical harm on another, the program or designated chemical  
35 dependency specialist shall apply for recommitment if after  
36 examination it is determined that the likelihood still exists.

37 (6) Upon the filing of a petition for recommitment under  
38 subsection (5) of this section, the court shall fix a date for  
39 hearing no less than two and no more than seven days after the date  
40 the petition was filed(~~(; PROVIDED, That,)~~). The court may, upon

1 motion of the person whose commitment is sought and upon good cause  
2 shown, extend the date for the hearing. A copy of the petition and of  
3 the notice of hearing, including the date fixed by the court, shall  
4 be served by the treatment program on the person whose commitment is  
5 sought, his or her next of kin, the original petitioner under  
6 subsection (1) of this section if different from the petitioner for  
7 recommitment, one of his or her parents or his or her legal guardian  
8 if he or she is a minor, and his or her attorney and any other person  
9 the court believes advisable. At the hearing the court shall proceed  
10 as provided in subsections (3) and (4) of this section, except that  
11 the burden of proof upon a hearing for recommitment must be proof by  
12 clear, cogent, and convincing evidence.

13 (7) The approved substance use disorder treatment program shall  
14 provide for adequate and appropriate treatment of a person committed  
15 to its custody on an inpatient or outpatient basis. A person  
16 committed under this section may be transferred from one approved  
17 public treatment program to another if transfer is medically  
18 advisable.

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

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

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

32 (9) The court shall inform the person whose commitment or  
33 recommitment is sought of his or her right to contest the  
34 application, be represented by counsel at every stage of any  
35 proceedings relating to his or her commitment and recommitment, and  
36 have counsel appointed by the court or provided by the court, if he  
37 or she wants the assistance of counsel and is unable to obtain  
38 counsel. If the court believes that the person needs the assistance  
39 of counsel, the court shall require, by appointment if necessary,  
40 counsel for him or her regardless of his or her wishes. The person

1 shall, if he or she is financially able, bear the costs of such legal  
2 service; otherwise such legal service shall be at public expense. The  
3 person whose commitment or recommitment is sought shall be informed  
4 of his or her right to be examined by a licensed physician,  
5 ((~~psychiatrist~~)) advanced registered nurse practitioner, physician  
6 assistant, or other professional person of his or her choice who is  
7 qualified to provide such services. If the person is unable to obtain  
8 a qualified person and requests an examination, the court shall  
9 employ a licensed physician, ((~~psychiatrist~~)) advanced registered  
10 nurse practitioner, physician assistant, or other professional person  
11 to conduct an examination and testify on behalf of the person.

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

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

17 (12) When in the opinion of the professional person in charge of  
18 the program providing involuntary inpatient treatment under this  
19 chapter, the committed patient can be appropriately served by less  
20 restrictive treatment before expiration of the period of commitment,  
21 then the less restrictive care may be required as a condition for  
22 early release for a period which, when added to the initial treatment  
23 period, does not exceed the period of commitment. If the program  
24 designated to provide the less restrictive treatment is other than  
25 the program providing the initial involuntary treatment, the program  
26 so designated must agree in writing to assume such responsibility. A  
27 copy of the conditions for early release shall be given to the  
28 patient, the designated chemical dependency specialist of original  
29 commitment, and the court of original commitment. The program  
30 designated to provide less restrictive care may modify the conditions  
31 for continued release when the modifications are in the best  
32 interests of the patient. If the program providing less restrictive  
33 care and the designated chemical dependency specialist determine that  
34 a conditionally released patient is failing to adhere to the terms  
35 and conditions of his or her release, or that substantial  
36 deterioration in the patient's functioning has occurred, then the  
37 designated chemical dependency specialist shall notify the court of  
38 original commitment and request a hearing to be held no less than two  
39 and no more than seven days after the date of the request to  
40 determine whether or not the person should be returned to more

1 restrictive care. The designated chemical dependency specialist shall  
2 file a petition with the court stating the facts substantiating the  
3 need for the hearing along with the treatment recommendations. The  
4 patient shall have the same rights with respect to notice, hearing,  
5 and counsel as for the original involuntary treatment proceedings.  
6 The issues to be determined at the hearing are whether the  
7 conditionally released patient did or did not adhere to the terms and  
8 conditions of his or her release to less restrictive care or that  
9 substantial deterioration of the patient's functioning has occurred  
10 and whether the conditions of release should be modified or the  
11 person should be returned to a more restrictive program. The hearing  
12 may be waived by the patient and his or her counsel and his or her  
13 guardian or conservator, if any, but may not be waived unless all  
14 such persons agree to the waiver. Upon waiver, the person may be  
15 returned for involuntary treatment or continued on conditional  
16 release on the same or modified conditions. The grounds and  
17 procedures for revocation of less restrictive alternative treatment  
18 ordered by the court must be the same as those set forth in this  
19 section for less restrictive care arranged by an approved substance  
20 use disorder treatment program as a condition for early release.

21 **Sec. 2.** RCW 71.05.020 and 2016 sp.s. c 29 s 204 and 2016 c 155 s  
22 1 are each reenacted and amended to read as follows:

23 The definitions in this section apply throughout this chapter  
24 unless the context clearly requires otherwise.

25 (1) "Admission" or "admit" means a decision by a physician,  
26 physician assistant, or psychiatric advanced registered nurse  
27 practitioner that a person should be examined or treated as a patient  
28 in a hospital;

29 (2) "Alcoholism" means a disease, characterized by a dependency  
30 on alcoholic beverages, loss of control over the amount and  
31 circumstances of use, symptoms of tolerance, physiological or  
32 psychological withdrawal, or both, if use is reduced or discontinued,  
33 and impairment of health or disruption of social or economic  
34 functioning;

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

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

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

8 (6) "Chemical dependency" means:

9 (a) Alcoholism;

10 (b) Drug addiction; or

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

13 (7) "Chemical dependency professional" means a person certified  
14 as a chemical dependency professional by the department of health  
15 under chapter 18.205 RCW;

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

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

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

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

32 (12) "Department" means the department of social and health  
33 services;

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

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

39 (15) "Developmental disabilities professional" means a person who  
40 has specialized training and three years of experience in directly

1 treating or working with persons with developmental disabilities and  
2 is a psychiatrist, physician assistant working with a supervising  
3 psychiatrist, psychologist, psychiatric advanced registered nurse  
4 practitioner, or social worker, and such other developmental  
5 disabilities professionals as may be defined by rules adopted by the  
6 secretary;

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

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

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

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

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

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

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

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

17 (24) "Individualized service plan" means a plan prepared by a  
18 developmental disabilities professional with other professionals as a  
19 team, for a person with developmental disabilities, which shall  
20 state:

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

23 (b) The conditions and strategies necessary to achieve the  
24 purposes of habilitation;

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

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

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

30 (f) Where relevant in light of past criminal behavior and due  
31 consideration for public safety, the criteria for proposed movement  
32 to less-restrictive settings, criteria for proposed eventual  
33 discharge or release, and a projected possible date for discharge or  
34 release; and

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

37 (25) "Information related to mental health services" means all  
38 information and records compiled, obtained, or maintained in the  
39 course of providing services to either voluntary or involuntary  
40 recipients of services by a mental health service provider. This may

1 include documents of legal proceedings under this chapter or chapter  
2 71.34 or 10.77 RCW, or somatic health care information;

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

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

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

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

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

36 (31) "Licensed physician" means a person licensed to practice  
37 medicine or osteopathic medicine and surgery in the state of  
38 Washington;

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

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

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

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

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

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

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

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

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

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

11 (40) "Professional person" means a mental health professional,  
12 chemical dependency professional, or designated crisis responder and  
13 shall also mean a physician, physician assistant, psychiatric  
14 advanced registered nurse practitioner, registered nurse, and such  
15 others as may be defined by rules adopted by the secretary pursuant  
16 to the provisions of this chapter;

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

21 (42) "Psychiatrist" means a person having a license as a  
22 physician and surgeon in this state who has in addition completed  
23 three years of graduate training in psychiatry in a program approved  
24 by the American medical association or the American osteopathic  
25 association and is certified or eligible to be certified by the  
26 American board of psychiatry and neurology;

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

29 (44) "Public agency" means any evaluation and treatment facility  
30 or institution, secure detoxification facility, approved substance  
31 use disorder treatment program, or hospital which is conducted for,  
32 or includes a department or ward conducted for, the care and  
33 treatment of persons with mental illness, substance use disorders, or  
34 both mental illness and substance use disorders, if the agency is  
35 operated directly by federal, state, county, or municipal government,  
36 or a combination of such governments;

37 (45) "Registration records" include all the records of the  
38 department, behavioral health organizations, treatment facilities,  
39 and other persons providing services to the department, county  
40 departments, or facilities which identify persons who are receiving

1 or who at any time have received services for mental illness or  
2 substance use disorders;

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

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

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

9 (49) "Secure detoxification facility" means a facility operated  
10 by either a public or private agency or by the program of an agency  
11 that:

12 (a) Provides for intoxicated persons:

13 (i) Evaluation and assessment, provided by certified chemical  
14 dependency professionals;

15 (ii) Acute or subacute detoxification services; and

16 (iii) Discharge assistance provided by certified chemical  
17 dependency professionals, including facilitating transitions to  
18 appropriate voluntary or involuntary inpatient services or to less  
19 restrictive alternatives as appropriate for the individual;

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

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

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

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

28 (52) "Substance use disorder" means a cluster of cognitive,  
29 behavioral, and physiological symptoms indicating that an individual  
30 continues using the substance despite significant substance-related  
31 problems. The diagnosis of a substance use disorder is based on a  
32 pathological pattern of behaviors related to the use of the  
33 substances;

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

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

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

21 (56) "Violent act" means behavior that resulted in homicide,  
22 attempted suicide, nonfatal injuries, or substantial damage to  
23 property.

24 **Sec. 3.** RCW 71.05.210 and 2016 sp.s. c 29 s 224 and 2016 c 155 s  
25 2 are each reenacted and amended to read as follows:

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

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

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

34 (ii) One (~~(physician assistant and a)~~) mental health  
35 professional(~~(; or~~

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

38 (b) Shall receive such treatment and care as his or her condition  
39 requires including treatment on an outpatient basis for the period

1 that he or she is detained, except that, beginning twenty-four hours  
2 prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240,  
3 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may  
4 refuse psychiatric medications, but may not refuse: (i) Any other  
5 medication previously prescribed by a person licensed under Title 18  
6 RCW; or (ii) emergency lifesaving treatment, and the individual shall  
7 be informed at an appropriate time of his or her right of such  
8 refusal. The person shall be detained up to seventy-two hours, if, in  
9 the opinion of the professional person in charge of the facility, or  
10 his or her professional designee, the person presents a likelihood of  
11 serious harm, or is gravely disabled. A person who has been detained  
12 for seventy-two hours shall no later than the end of such period be  
13 released, unless referred for further care on a voluntary basis, or  
14 detained pursuant to court order for further treatment as provided in  
15 this chapter.

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

30 (3) An evaluation and treatment center, secure detoxification  
31 facility, or approved substance use disorder treatment program  
32 admitting or accepting any person pursuant to this chapter whose  
33 physical condition reveals the need for hospitalization shall assure  
34 that such person is transferred to an appropriate hospital for  
35 evaluation or admission for treatment. Notice of such fact shall be  
36 given to the court, the designated attorney, and the designated  
37 crisis responder and the court shall order such continuance in  
38 proceedings under this chapter as may be necessary, but in no event  
39 may this continuance be more than fourteen days.

1       (4) A person detained, accepted, or admitted to an evaluation and  
2 treatment facility must be evaluated by a mental health professional.  
3 A person detained, accepted, or admitted to a secure detox facility  
4 or approved substance use disorder treatment facility must be  
5 evaluated by a chemical dependency professional.

6       **Sec. 4.** RCW 71.05.210 and 2016 sp.s. c 29 s 225 are each amended  
7 to read as follows:

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

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

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

16       (ii) One ((physician—assistant—and—a)) mental health  
17 professional((;—or

18 (iii) One advanced registered nurse practitioner and a mental  
19 health)) or chemical dependency professional; and

20       (b) Shall receive such treatment and care as his or her condition  
21 requires including treatment on an outpatient basis for the period  
22 that he or she is detained, except that, beginning twenty-four hours  
23 prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240,  
24 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may  
25 refuse psychiatric medications, but may not refuse: (i) Any other  
26 medication previously prescribed by a person licensed under Title 18  
27 RCW; or (ii) emergency lifesaving treatment, and the individual shall  
28 be informed at an appropriate time of his or her right of such  
29 refusal. The person shall be detained up to seventy-two hours, if, in  
30 the opinion of the professional person in charge of the facility, or  
31 his or her professional designee, the person presents a likelihood of  
32 serious harm, or is gravely disabled. A person who has been detained  
33 for seventy-two hours shall no later than the end of such period be  
34 released, unless referred for further care on a voluntary basis, or  
35 detained pursuant to court order for further treatment as provided in  
36 this chapter.

37       (2) If, after examination and evaluation, the mental health  
38 professional or chemical dependency professional and licensed  
39 physician, physician assistant, or psychiatric advanced registered

1 nurse practitioner determine that the initial needs of the person, if  
2 detained to an evaluation and treatment facility, would be better  
3 served by placement in a substance use disorder treatment  
4 ((facility)) program, or, if detained to a secure detoxification  
5 facility or approved substance use disorder treatment program, would  
6 be better served in an evaluation and treatment facility than the  
7 person shall be referred to the more appropriate placement.

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

18 (4) A person detained, accepted, or admitted to an evaluation and  
19 treatment facility must be evaluated by a mental health professional.  
20 A person detained, accepted, or admitted to a secure detox facility  
21 or approved substance use disorder treatment facility must be  
22 evaluated by a chemical dependency professional.

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

25 A person detained or committed for seventy-two hour evaluation  
26 and treatment or for an outpatient evaluation for the purpose of  
27 filing a petition for a less restrictive alternative treatment order  
28 may be committed for not more than fourteen additional days of  
29 involuntary intensive treatment or ninety additional days of a less  
30 restrictive alternative to involuntary intensive treatment. A  
31 petition may only be filed if the following conditions are met:

32 (1) The professional staff of the agency or facility providing  
33 evaluation services has analyzed the person's condition and finds  
34 that the condition is caused by mental disorder or substance use  
35 disorder and results in a likelihood of serious harm, results in the  
36 person being gravely disabled, or results in the person being in need  
37 of assisted outpatient mental health treatment, and are prepared to  
38 testify those conditions are met; and

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

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

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

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

13 (b) One physician (~~and a~~), physician assistant, advanced  
14 registered nurse practitioner, mental health professional(

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

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

18 The persons signing the petition must have examined the person. If  
19 the person is detained for the purpose of mental health treatment,  
20 the person must be examined by a mental health professional. If  
21 involuntary detention is sought the petition shall state facts that  
22 support the finding that such person, as a result of a mental  
23 disorder or substance use disorder, presents a likelihood of serious  
24 harm, or is gravely disabled and that there are no less restrictive  
25 alternatives to detention in the best interest of such person or  
26 others. The petition shall state specifically that less restrictive  
27 alternative treatment was considered and specify why treatment less  
28 restrictive than detention is not appropriate. If an involuntary less  
29 restrictive alternative is sought, the petition shall state facts  
30 that support the finding that such person, as a result of a mental  
31 disorder or as a result of a substance use disorder, presents a  
32 likelihood of serious harm, is gravely disabled, or is in need of  
33 assisted outpatient mental health treatment, and shall set forth any  
34 recommendations for less restrictive alternative treatment services;  
35 and

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

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

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

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

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

17 NEW SECTION. **Sec. 6.** Section 1 of this act is necessary for the  
18 immediate preservation of the public peace, health, or safety, or  
19 support of the state government and its existing public institutions,  
20 and takes effect immediately.

21 NEW SECTION. **Sec. 7.** (1) Sections 2, 3, and 5 of this act take  
22 effect April 1, 2018.

23 (2) Section 4 of this act takes effect July 1, 2026.

24 NEW SECTION. **Sec. 8.** (1) Section 1 of this act expires April 1,  
25 2018.

26 (2) Section 3 of this act expires July 1, 2026.

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