

3SHB 1713 - S COMM AMD

By Committee on Human Services, Mental Health & Housing

1 Strike everything after the enacting clause and insert the
2 following:

3 "PART I

4 CHEMICAL DEPENDENCY INVOLUNTARY TREATMENT PROVISIONS

5 **Sec. 101.** RCW 70.96A.020 and 2014 c 225 s 20 are each reenacted
6 and amended to read as follows:

7 For the purposes of this chapter the following words and phrases
8 shall have the following meanings unless the context clearly requires
9 otherwise:

10 (1) "Alcoholism" means a disease, characterized by a dependency
11 on alcoholic beverages, loss of control over the amount and
12 circumstances of use, symptoms of tolerance, physiological or
13 psychological withdrawal, or both, if use is reduced or discontinued,
14 and impairment of health or disruption of social or economic
15 functioning.

16 (2) "Approved substance use disorder treatment program" means a
17 program for persons with a substance use disorder provided by a
18 treatment program certified by the department of social and health
19 services as meeting standards adopted under this chapter.

20 (3) "Authority" means the Washington state health care authority.

21 (4) "Behavioral health organization" means a county authority or
22 group of county authorities or other entity recognized by the
23 secretary in contract in a defined regional service area.

24 ((+4)) (5) "Behavioral health program" has the same meaning as
25 in RCW 71.24.025.

26 (6) "Behavioral health services" means mental health services as
27 described in chapters 71.24 and 71.36 RCW and chemical dependency
28 treatment services as described in this chapter.

29 ((+5)) (7) "Chemical dependency" means: (a) Alcoholism; (b) drug
30 addiction; or (c) dependence on alcohol and one or more other
31 psychoactive chemicals, as the context requires.

1 ~~((6) "Chemical dependency program" means expenditures and~~
2 ~~activities of the department designed and conducted to prevent or~~
3 ~~treat alcoholism and other drug addiction, including reasonable~~
4 ~~administration and overhead.~~

5 ~~(7))~~ (8) "Department" means the department of social and health
6 services.

7 ~~((8))~~ (9) "Designated chemical dependency specialist" or
8 "specialist" means a person designated by the behavioral health
9 organization or by the county ~~((alcoholism and other drug addiction))~~
10 substance use disorder treatment program coordinator designated
11 ((under RCW 70.96A.310)) by the behavioral health organization to
12 perform the commitment duties described in RCW 70.96A.140 and
13 qualified to do so by meeting standards adopted by the department.

14 ~~((9) "Director" means the person administering the substance use~~
15 ~~disorder program within the department.))~~

16 (10) "Designated crisis responder" means a mental health
17 professional appointed by the behavioral health organization or full
18 integration region to perform the duties specified in this chapter.

19 (11) "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 ~~((11) "Emergency service patrol" means a patrol established~~
26 ~~under RCW 70.96A.170.))~~

27 (12) "Full integration region" means entities within a regional
28 service area which has elected to jointly purchase behavioral health
29 services through an integrated medical and behavioral health services
30 contract under RCW 71.24.380(5) which perform functions relevant to
31 this chapter which are equivalent to the functions of a behavioral
32 health organization.

33 (13) "Gravely disabled by alcohol or other psychoactive
34 chemicals" or "gravely disabled" means that a person, as a result of
35 the use of alcohol or other psychoactive chemicals: (a) Is in danger
36 of serious physical harm resulting from a failure to provide for his
37 or her essential human needs of health or safety; or (b) manifests
38 severe deterioration in routine functioning evidenced by a repeated
39 and escalating loss of cognition or volitional control over his or

1 her actions and is not receiving care as essential for his or her
2 health or safety.

3 ~~((13))~~ (14) "History of one or more violent acts" refers to the
4 period of time ten years prior to the filing of a petition under this
5 chapter, excluding any time spent, but not any violent acts
6 committed, in a mental health facility, or a long-term alcoholism or
7 drug treatment facility, or in confinement.

8 ~~((14))~~ (15) "Incapacitated by alcohol or other psychoactive
9 chemicals" means that a person, as a result of the use of alcohol or
10 other psychoactive chemicals, is gravely disabled or presents a
11 likelihood of serious harm to himself or herself, to any other
12 person, or to property.

13 ~~((15))~~ (16) "Incompetent person" means a person who has been
14 adjudged incompetent by the superior court.

15 ~~((16))~~ (17) "Integrated crisis response" means a system
16 consistent with this chapter in which the functions of a designated
17 mental health professional under chapters 71.05 and 71.34 RCW and a
18 designated chemical dependency specialist under this chapter are
19 combined in a designated crisis responder empowered to detain
20 appropriate persons to an evaluation and treatment facility, secure
21 detoxification facility, or approved substance use disorder treatment
22 program depending on the treatment needs of the person.

23 (18) "Intoxicated person" means a person whose mental or physical
24 functioning is substantially impaired as a result of the use of
25 alcohol or other psychoactive chemicals.

26 ~~((17))~~ (19) "Licensed physician" means a person licensed to
27 practice medicine or osteopathic medicine and surgery in the state of
28 Washington.

29 ~~((18))~~ (20) "Likelihood of serious harm" means:

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

39 (b) The individual has threatened the physical safety of another
40 and has a history of one or more violent acts.

1 ((+19+)) (21) "Medical necessity" for inpatient care of a minor
2 means a requested certified inpatient service that is reasonably
3 calculated to: (a) Diagnose, arrest, or alleviate a chemical
4 dependency; or (b) prevent the progression of substance use disorders
5 that endanger life or cause suffering and pain, or result in illness
6 or infirmity or threaten to cause or aggravate a handicap, or cause
7 physical deformity or malfunction, and there is no adequate less
8 restrictive alternative available.

9 ((+20+)) (22) "Minor" means a person less than eighteen years of
10 age.

11 ((+21+)) (23) "Parent" means the parent or parents who have the
12 legal right to custody of the child. Parent includes custodian or
13 guardian.

14 ((+22+)) (24) "Peace officer" means a law enforcement official of
15 a public agency or governmental unit, and includes persons
16 specifically given peace officer powers by any state law, local
17 ordinance, or judicial order of appointment.

18 ((+23+)) (25) "Person" means an individual, including a minor.

19 ((+24+)) (26) "Professional person in charge" or "professional
20 person" means a physician or chemical dependency counselor as defined
21 in rule by the department, who is empowered by a certified treatment
22 program with authority to make assessment, admission, continuing
23 care, and discharge decisions on behalf of the certified program.

24 ((+25+)) (27) "Region" means a regional service area under RCW
25 71.24.380.

26 (28) "Secretary" means the secretary of the department of social
27 and health services.

28 ((+26+)) (29) "Substance use disorder" means a cluster of
29 cognitive, behavioral, and physiological symptoms indicating that an
30 individual continues using the substance despite significant
31 substance-related problems. The diagnosis of a substance use disorder
32 is based on a pathological pattern of behaviors related to the use of
33 the substances.

34 ((+27+)) (30) "Treatment" means the broad range of emergency,
35 withdrawal management, residential, and outpatient services and care,
36 including diagnostic evaluation, (~~chemical dependency~~) substance
37 use disorder education and counseling, medical, psychiatric,
38 psychological, and social service care, vocational rehabilitation and
39 career counseling, which may be extended to persons with substance

1 use disorders and their families, persons incapacitated by alcohol or
2 other psychoactive chemicals, and intoxicated persons.

3 ~~((+28))~~ (31) "Substance use disorder treatment program" means an
4 organization, institution, or corporation, public or private, engaged
5 in the care, treatment, or rehabilitation of persons with substance
6 use ~~((disorder[s+]))~~ disorders.

7 ~~((+29))~~ (32) "Violent act" means behavior that resulted in
8 homicide, attempted suicide, nonfatal injuries, or substantial damage
9 to property.

10 (33) "Commitment" means the determination by a court that a
11 person should be detained for a period of either evaluation or
12 treatment, or both, in an inpatient or a less restrictive setting.

13 (34) "Mental health professional" means a psychiatrist,
14 psychologist, psychiatric advanced registered nurse practitioner,
15 psychiatric nurse, or social worker, and such other mental health
16 professionals as may be defined by rules adopted by the secretary
17 pursuant to the provisions of chapter 71.05 RCW.

18 (35) "Physician assistant" means a person who is licensed as a
19 physician assistant pursuant to chapter 18.57A or 18.71A RCW and is
20 working with a licensed mental health physician as indicated by their
21 delegation agreement.

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

26 **Sec. 102.** RCW 70.96A.140 and 2014 c 225 s 29 are each amended to
27 read as follows:

28 (1)(a) When a designated chemical dependency specialist receives
29 information alleging that a person presents a likelihood of serious
30 harm or is gravely disabled as a result of chemical dependency, the
31 designated chemical dependency specialist, after investigation and
32 evaluation of the specific facts alleged and of the reliability and
33 credibility of the information, may file a petition for commitment of
34 such person with the superior court, district court, or in another
35 court permitted by court rule.

36 If a petition for commitment is not filed in the case of a minor,
37 the parent, guardian, or custodian who has custody of the minor may
38 seek review of that decision made by the designated chemical
39 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 program is available
9 and deemed appropriate, the petition shall allege that: The person is
10 chemically dependent and presents a likelihood of serious harm or is
11 gravely disabled by alcohol or drug addiction, or that the person has
12 twice before in the preceding twelve months been admitted for
13 withdrawal management, sobering services, or chemical dependency
14 treatment pursuant to RCW 70.96A.110 or 70.96A.120, and is in need of
15 a more sustained treatment program, or that the person is chemically
16 dependent and has threatened, attempted, or inflicted physical harm
17 on another and is likely to inflict physical harm on another unless
18 committed. A refusal to undergo treatment, by itself, does not
19 constitute evidence of lack of judgment as to the need for treatment.

20 ~~((The petition shall be accompanied by a certificate of a licensed
21 physician who has examined the person within five days before
22 submission of the petition, unless the person whose commitment is
23 sought has refused to submit to a medical examination, in which case
24 the fact of refusal shall be alleged in the petition. The certificate
25 shall set forth the licensed physician's findings in support of the
26 allegations of the petition. A physician employed by the petitioning
27 program or the department is eligible to be the certifying
28 physician.))~~

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

39 (d) The petition must be signed by two professionals who have
40 each examined the person:

1 (i) The first professional must be a physician, physician
2 assistant, or advanced registered nurse practitioner;

3 (ii) The second professional must be a physician, physician
4 assistant, advanced registered nurse practitioner, mental health
5 professional, or chemical dependency professional.

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

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

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

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

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

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

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

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

36 If a person has been committed because he or she is chemically
37 dependent and likely to inflict physical harm on another, the program
38 or designated chemical dependency specialist shall apply for
39 recommitment if after examination it is determined that the
40 likelihood still exists.

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

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

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

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

34 (b) In case of a chemically dependent person committed on the
35 grounds of the need of treatment and incapacity, that the incapacity
36 no longer exists.

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

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

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

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

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

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

25 **Sec. 103.** RCW 70.96A.145 and 1993 c 137 s 1 are each amended to
26 read as follows:

27 The prosecuting attorney of the county in which such action is
28 taken (~~(may, at the discretion of the prosecuting attorney,)~~) shall
29 represent the designated chemical dependency specialist or treatment
30 program in judicial proceedings under RCW 70.96A.140 for the
31 involuntary commitment or recommitment of an individual, including
32 any judicial proceeding where the individual sought to be committed
33 or recommitted challenges the action. The costs of mandated
34 representation shall be reimbursed by the behavioral health
35 organization or full integration region.

36 **PART II**
37 **INTEGRATED SYSTEM**

1 NEW SECTION. **Sec. 201.** This chapter must be used in place of
2 chapters 71.05 and 70.96A RCW in regions that have implemented
3 integrated crisis response in accordance with section 202 of this
4 act.

5 NEW SECTION. **Sec. 202.** (1) The department shall establish, in
6 collaboration with behavioral health organizations and full
7 integration regions, a phased implementation plan for the
8 implementation of integrated crisis response across the state, which
9 specifies the dates by which integrated crisis response
10 implementation must be completed in different regions around the
11 state. The first regions of the state to implement integrated crisis
12 response must do so by April 1, 2018. The last regions of the state
13 to implement integrated crisis response must do so by July 1, 2026.

14 (2) Before a behavioral health organization or full integration
15 region may implement integrated crisis response, the entity must
16 update its contractual agreements with the department, or the
17 authority in the case of a full integration region, to encompass the
18 requirements of administering integrated crisis response. By the
19 effective date of a contract requiring integrated crisis response,
20 the department or the authority shall require a behavioral health
21 organization or full integration region to demonstrate that it has
22 the capacity to administer integrated crisis response. Capacity
23 includes sufficient inpatient capacity in secure detoxification
24 treatment facilities and approved substance use disorder treatment
25 programs, sufficient outpatient capacity to allow for less
26 restrictive alternative orders, and other arrangements and agreements
27 with the court system necessary to meet the requirements of this
28 chapter and chapter 71.--- RCW (the new chapter created in section
29 904 of this act). Behavioral health organizations and full
30 integration regions may contract to purchase services to satisfy
31 capacity requirements from other organizations, if they are unable to
32 provide for appropriate resources within their boundaries. On the
33 effective date of a contract requiring the region to implement
34 integrated crisis response, civil commitment functions within the
35 affected region shall be governed by this chapter and chapter 71.---
36 RCW (the new chapter created in section 904 of this act), while
37 chapters 71.05, 70.96A, and 71.34 RCW shall remain in effect in
38 regions which have not yet implemented integrated crisis response.

1 (3) The department shall, by rule, combine the functions of a
2 designated mental health professional and designated chemical
3 dependency specialist in integrated crisis response regions by
4 establishing a designated crisis responder who is authorized to
5 conduct investigations, detain persons for up to seventy-two hours to
6 the proper facility, and carry out the other functions identified in
7 this chapter and chapter 71.--- RCW (the new chapter created in
8 section 904 of this act). Behavioral health organizations and full
9 integration regions shall provide training to the designated crisis
10 responders as required by the department before implementation of
11 integrated crisis response.

12 (4)(a) To qualify as a designated crisis responder, a person must
13 have received chemical dependency training and mental health training
14 as determined by the department and be a:

15 (i) Psychiatrist, psychologist, physician's assistant, advanced
16 registered nurse practitioner, social worker, mental health
17 professional, or chemical dependency professional;

18 (ii) Person with a master's degree or further advanced degree in
19 counseling or one of the social sciences from an accredited college
20 or university and who have, in addition, at least two years of
21 experience in direct treatment of persons with behavioral health
22 disorders or emotional disturbance, such experience gained under the
23 direction of a mental health professional or chemical dependency
24 professional;

25 (iii) Person who meets the waiver criteria of RCW 71.24.260,
26 which waiver was granted before 1986;

27 (iv) Person who had an approved waiver to perform the duties of a
28 mental health professional that was requested by the regional support
29 network and granted by the department before July 1, 2001; or

30 (v) Person who has been granted an exception of the minimum
31 requirements of a mental health professional or chemical dependency
32 professional by the department consistent with rules adopted by the
33 secretary.

34 (b) Training must include mental health and chemical dependency
35 training appropriate to the duties of a designated crisis responder,
36 including diagnosis of substance abuse and dependence and assessment
37 of risks associated with substance use.

38 (5) The department must develop a transition process for any
39 person who has been designated as a designated mental health
40 professional or a designated chemical dependency specialist to be

1 converted to a designated crisis responder. The behavioral health
2 organizations or full integration regions shall provide training, as
3 required by the department, in advance of implementation of
4 integrated crisis response to persons converting to designated crisis
5 responders, which must include both mental health and chemical
6 dependency training applicable to the designated crisis responder
7 role.

8 (6) The department must submit a phased statewide implementation
9 plan for statewide implementation of integrated crisis response to
10 the relevant policy and fiscal committees of the legislature by
11 October 1, 2016.

12 NEW SECTION. **Sec. 203.** (1) The Washington state institute for
13 public policy shall evaluate the effect of the integration of the
14 involuntary treatment systems for substance use disorders and mental
15 health and make preliminary reports to appropriate committees of the
16 legislature by December 1, 2020, and June 30, 2021, and a final
17 report by June 30, 2023.

18 (2) The evaluation must include an assessment of whether the
19 integrated system:

20 (a) Has increased efficiency of evaluation and treatment of
21 persons involuntarily detained for substance use disorders;

22 (b) Is cost-effective, including impacts on health care, housing,
23 employment, and criminal justice costs;

24 (c) Results in better outcomes for persons involuntarily
25 detained;

26 (d) Increases the effectiveness of the crisis response system
27 statewide;

28 (e) Has an impact on commitments based upon mental disorders;

29 (f) Has been sufficiently resourced with enough involuntary
30 treatment beds, less restrictive alternative treatment options, and
31 state funds to provide timely and appropriate treatment for all
32 individuals interacting with the integrated involuntary treatment
33 system; and

34 (g) Has diverted from the mental health involuntary treatment
35 system a significant number of individuals whose risk results from
36 substance abuse, including an estimate of the net savings from
37 serving these clients into the appropriate substance abuse treatment
38 system.

39 (3) This section expires August 1, 2023.

1 NEW SECTION. **Sec. 204.** (1) The provisions of this chapter are
2 intended by the legislature:

3 (a) To protect the health and safety of persons suffering from
4 mental disorders and substance use disorders and to protect public
5 safety through use of the parens patriae and police powers of the
6 state;

7 (b) To prevent inappropriate, indefinite commitment of mentally
8 disordered persons and persons with substance use disorders and to
9 eliminate legal disabilities that arise from such commitment;

10 (c) To provide prompt evaluation and timely and appropriate
11 treatment of persons with serious mental disorders and substance use
12 disorders;

13 (d) To safeguard individual rights;

14 (e) To provide continuity of care for persons with serious mental
15 disorders and substance use disorders;

16 (f) To encourage the full use of all existing agencies,
17 professional personnel, and public funds to prevent duplication of
18 services and unnecessary expenditures; and

19 (g) To encourage, whenever appropriate, that services be provided
20 within the community.

21 (2) When construing the requirements of this chapter the court
22 must focus on the merits of the petition, except where requirements
23 have been totally disregarded, as provided in *In re C.W.*, 147 Wn.2d
24 259, 281 (2002). A presumption in favor of deciding petitions on
25 their merits furthers both public and private interests because the
26 mental and physical well-being of individuals as well as public
27 safety may be implicated by the decision to release an individual and
28 discontinue his or her treatment.

29 NEW SECTION. **Sec. 205.** The definitions in this section apply
30 throughout this chapter unless the context clearly requires
31 otherwise.

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

35 (2) "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 (3) "Attending staff" means any person on the staff of a public
2 or private agency having responsibility for the care and treatment of
3 a patient;

4 (4) "Authority" means the Washington state health care authority;

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

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

10 (7) "Crisis stabilization unit" means a short-term facility or a
11 portion of a facility licensed by the department of health and
12 certified by the department of social and health services under RCW
13 71.24.035, such as an evaluation and treatment facility or a
14 hospital, which has been designed to assess, diagnose, and treat
15 individuals experiencing an acute crisis without the use of long-term
16 hospitalization;

17 (8) "Custody" means involuntary detention under the provisions of
18 this chapter or chapter 10.77 RCW, uninterrupted by any period of
19 unconditional release from commitment from a facility providing
20 involuntary care and treatment;

21 (9) "Department" means the department of social and health
22 services;

23 (10) "Designated crisis responder" means a mental health
24 professional appointed by the behavioral health organization or full
25 integration region to perform the duties specified in this chapter;

26 (11) "Detention" or "detain" means the lawful confinement of a
27 person, under the provisions of this chapter;

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

35 (13) "Developmental disability" means that condition defined in
36 RCW 71A.10.020(5);

37 (14) "Discharge" means the termination of hospital medical
38 authority. The commitment may remain in place, be terminated, or be
39 amended by court order;

1 (15) "Evaluation and treatment facility" means any facility which
2 can provide directly, or by direct arrangement with other public or
3 private agencies, emergency evaluation and treatment, outpatient
4 care, and timely and appropriate inpatient care to persons suffering
5 from a mental disorder, and which is certified as such by the
6 department. The department may certify single beds as temporary
7 evaluation and treatment beds under section 247 of this act. A
8 physically separate and separately operated portion of a state
9 hospital may be designated as an evaluation and treatment facility. A
10 facility which is part of, or operated by, the department or any
11 federal agency will not require certification. No correctional
12 institution or facility, or jail, shall be an evaluation and
13 treatment facility within the meaning of this chapter;

14 (16) "Full integration region" means entities within a regional
15 service area which has elected to jointly purchase behavioral health
16 services through an integrated medical and behavioral health services
17 contract under RCW 71.24.380(5) which perform functions relevant to
18 this chapter which are equivalent to the functions of a behavioral
19 health organization;

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

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

37 (19) "History of one or more violent acts" refers to the period
38 of time ten years prior to the filing of a petition under this
39 chapter, excluding any time spent, but not any violent acts
40 committed, in a mental health facility, a long-term alcoholism or

1 drug treatment facility, or in confinement as a result of a criminal
2 conviction;

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

5 (21) "Individualized service plan" means a plan prepared by a
6 developmental disabilities professional with other professionals as a
7 team, for a person with developmental disabilities, which shall
8 state:

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

11 (b) The conditions and strategies necessary to achieve the
12 purposes of habilitation;

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

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

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

18 (f) Where relevant in light of past criminal behavior and due
19 consideration for public safety, the criteria for proposed movement
20 to less-restrictive settings, criteria for proposed eventual
21 discharge or release, and a projected possible date for discharge or
22 release; and

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

25 (22) "Information related to mental health services" means all
26 information and records compiled, obtained, or maintained in the
27 course of providing services to either voluntary or involuntary
28 recipients of services by a mental health service provider. This may
29 include documents of legal proceedings under this chapter or chapter
30 71.34 or 10.77 RCW, or somatic health care information;

31 (23) "In need of assisted outpatient mental health treatment"
32 means that a person, as a result of a mental disorder: (a) Has been
33 committed by a court to detention for involuntary mental health
34 treatment at least twice during the preceding thirty-six months, or,
35 if the person is currently committed for involuntary mental health
36 treatment, the person has been committed to detention for involuntary
37 mental health treatment at least once during the thirty-six months
38 preceding the date of initial detention of the current commitment
39 cycle; (b) is unlikely to voluntarily participate in outpatient
40 treatment without an order for less restrictive alternative

1 treatment, in view of the person's treatment history or current
2 behavior; (c) is unlikely to survive safely in the community without
3 supervision; (d) is likely to benefit from less restrictive
4 alternative treatment; and (e) requires less restrictive alternative
5 treatment to prevent a relapse, decompensation, or deterioration that
6 is likely to result in the person presenting a likelihood of serious
7 harm or the person becoming gravely disabled within a reasonably
8 short period of time. For purposes of (a) of this subsection, time
9 spent in a mental health facility or in confinement as a result of a
10 criminal conviction is excluded from the thirty-six month
11 calculation;

12 (24) "Integrated crisis response" means a system consistent with
13 this chapter in which the functions of a designated mental health
14 professional under chapters 71.05 and 71.34 RCW and a designated
15 chemical dependency specialist under chapter 70.96A RCW are combined
16 in a designated crisis responder empowered to detain appropriate
17 persons to an evaluation and treatment facility, secure
18 detoxification facility, or approved substance use disorder treatment
19 program depending on the treatment needs of the person;

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

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

26 (27) "Less restrictive alternative treatment" means a program of
27 individualized treatment in a less restrictive setting than inpatient
28 treatment that includes the services described in section 237 of this
29 act;

30 (28) "Likelihood of serious harm" means:

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

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

3 (29) "Medical clearance" means a physician or other health care
4 provider has determined that a person is medically stable and ready
5 for referral to the designated crisis responder;

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

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

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

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

30 (34) "Private agency" means any person, partnership, corporation,
31 or association that is not a public agency, whether or not financed
32 in whole or in part by public funds, which constitutes an evaluation
33 and treatment facility or private institution, or hospital, or
34 approved substance use disorder treatment program, which is conducted
35 for, or includes a department or ward conducted for, the care and
36 treatment of persons with mental illness, substance use disorders, or
37 both mental illness and substance use disorders;

38 (35) "Professional person" means a mental health professional or
39 designated crisis responder and shall also mean a physician,
40 psychiatric advanced registered nurse practitioner, registered nurse,

1 and such others as may be defined by rules adopted by the secretary
2 pursuant to the provisions of this chapter;

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

7 (37) "Psychiatrist" means a person having a license as a
8 physician and surgeon in this state who has in addition completed
9 three years of graduate training in psychiatry in a program approved
10 by the American medical association or the American osteopathic
11 association and is certified or eligible to be certified by the
12 American board of psychiatry and neurology;

13 (38) "Psychologist" means a person who has been licensed as a
14 psychologist pursuant to chapter 18.83 RCW;

15 (39) "Public agency" means any evaluation and treatment facility
16 or institution, secure detoxification facility, approved substance
17 use disorder treatment program, or hospital which is conducted for,
18 or includes a department or ward conducted for, the care and
19 treatment of persons with mental illness, substance use disorders, or
20 both mental illness and substance use disorders, if the agency is
21 operated directly by federal, state, county, or municipal government,
22 or a combination of such governments;

23 (40) "Region" means a regional service area under RCW 71.24.380;

24 (41) "Registration records" include all the records of the
25 department, behavioral health organizations, treatment facilities,
26 and other persons providing services to the department, county
27 departments, or facilities which identify persons who are receiving
28 or who at any time have received services for mental illness or
29 substance use disorders;

30 (42) "Release" means legal termination of the commitment under
31 the provisions of this chapter;

32 (43) "Resource management services" has the meaning given in
33 chapter 71.24 RCW;

34 (44) "Secretary" means the secretary of the department of social
35 and health services, or his or her designee;

36 (45) "Serious violent offense" has the same meaning as provided
37 in RCW 9.94A.030;

38 (46) "Social worker" means a person with a master's or further
39 advanced degree from a social work educational program accredited and
40 approved as provided in RCW 18.320.010;

1 (47) "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 (48) "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 (49) "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 (50) "Violent act" means behavior that resulted in homicide,
28 attempted suicide, nonfatal injuries, or substantial damage to
29 property;

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

36 (52) "Approved substance use disorder treatment program" means a
37 program for persons with a substance use disorder provided by a
38 treatment program certified by the department as meeting standards
39 adopted under chapter 71.24 RCW;

40 (53) "Chemical dependency" means:

- 1 (a) Alcoholism;
- 2 (b) Drug addiction; or
- 3 (c) Dependence on alcohol and one or more psychoactive chemicals,
- 4 as the context requires;

5 (54) "Chemical dependency professional" means a person certified
6 as a chemical dependency professional by the department of health
7 under chapter 18.205 RCW;

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

14 (56) "Intoxicated person" means a person whose mental or physical
15 functioning is substantially impaired as a result of the use of
16 alcohol or other psychoactive chemicals;

17 (57) "Licensed physician" means a person licensed to practice
18 medicine or osteopathic medicine and surgery in the state of
19 Washington;

20 (58) "Physician assistant" means a person who is licensed as a
21 physician assistant pursuant to chapter 18.57A or 18.71A RCW and is
22 working with a licensed mental health physician as indicated by their
23 delegation agreement;

24 (59) "Secure detoxification facility" means a facility operated
25 by either a public or private agency or by the program of an agency
26 that:

- 27 (a) Provides for intoxicated persons:
 - 28 (i) Evaluation and assessment, provided by certified chemical
 - 29 dependency professionals;
 - 30 (ii) Acute or subacute detoxification services; and
 - 31 (iii) Discharge assistance provided by certified chemical
 - 32 dependency professionals, including facilitating transitions to
 - 33 appropriate voluntary or involuntary inpatient services or to less
 - 34 restrictive alternatives as appropriate for the individual;
- 35 (b) Includes security measures sufficient to protect the
- 36 patients, staff, and community; and
- 37 (c) Is certified as such by the department;

38 (60) "Substance use disorder" means a cluster of cognitive,
39 behavioral, and physiological symptoms indicating that an individual
40 continues using the substance despite significant substance-related

1 problems. The diagnosis of a substance use disorder is based on a
2 pathological pattern of behaviors related to the use of the
3 substances.

4 NEW SECTION. **Sec. 206.** The legislature intends that the
5 procedures and services authorized in this chapter be integrated with
6 those in chapter 71.24 RCW to the maximum extent necessary to assure
7 a continuum of care to persons with mental illness or who have mental
8 disorders or substance use disorders, as defined in either or both
9 this chapter and chapter 71.24 RCW. To this end, behavioral health
10 organizations established in accordance with chapter 71.24 RCW shall
11 institute procedures which require timely consultation with resource
12 management services by designated crisis responders, evaluation and
13 treatment facilities, secure detoxification facilities, and approved
14 substance use disorder treatment programs to assure that
15 determinations to admit, detain, commit, treat, discharge, or release
16 persons with mental disorders or substance use disorders under this
17 chapter are made only after appropriate information regarding such
18 person's treatment history and current treatment plan has been sought
19 from resource management services.

20 NEW SECTION. **Sec. 207.** (1) Except for monetary damage claims
21 which have been reduced to final judgment by a superior court, this
22 section applies to all claims against the state, state agencies,
23 state officials, or state employees that exist on or arise after
24 March 29, 2006.

25 (2) Except as expressly provided in contracts entered into
26 between the department and the behavioral health organizations after
27 March 29, 2006, the entities identified in subsection (3) of this
28 section shall have no claim for declaratory relief, injunctive
29 relief, judicial review under chapter 34.05 RCW, or civil liability
30 against the state or state agencies for actions or inactions
31 performed pursuant to the administration of this chapter with regard
32 to the following: (a) The allocation or payment of federal or state
33 funds; (b) the use or allocation of state hospital beds; or (c)
34 financial responsibility for the provision of inpatient mental health
35 care or inpatient substance use disorder treatment.

36 (3) This section applies to counties, behavioral health
37 organizations, and entities which contract to provide behavioral

1 health organization services and their subcontractors, agents, or
2 employees.

3 NEW SECTION. **Sec. 208.** (1) Nothing in this chapter shall be
4 construed to limit the right of any person to apply voluntarily to
5 any public or private agency or practitioner for treatment of a
6 mental disorder or substance use disorder, either by direct
7 application or by referral. Any person voluntarily admitted for
8 inpatient treatment to any public or private agency shall be released
9 immediately upon his or her request. Any person voluntarily admitted
10 for inpatient treatment to any public or private agency shall orally
11 be advised of the right to immediate discharge, and further advised
12 of such rights in writing as are secured to them pursuant to this
13 chapter and their rights of access to attorneys, courts, and other
14 legal redress. Their condition and status shall be reviewed at least
15 once each one hundred eighty days for evaluation as to the need for
16 further treatment or possible discharge, at which time they shall
17 again be advised of their right to discharge upon request.

18 (2) If the professional staff of any public or private agency or
19 hospital regards a person voluntarily admitted who requests discharge
20 as presenting, as a result of a mental disorder or substance use
21 disorder, an imminent likelihood of serious harm, or is gravely
22 disabled, they may detain such person for sufficient time to notify
23 the designated crisis responder of such person's condition to enable
24 the designated crisis responder to authorize such person being
25 further held in custody or transported to an evaluation and treatment
26 center, secure detoxification facility, or approved substance use
27 disorder treatment program pursuant to the provisions of this
28 chapter, which shall in ordinary circumstances be no later than the
29 next judicial day.

30 (3) If a person is brought to the emergency room of a public or
31 private agency or hospital for observation or treatment, the person
32 refuses voluntary admission, and the professional staff of the public
33 or private agency or hospital regard such person as presenting as a
34 result of a mental disorder or substance use disorder an imminent
35 likelihood of serious harm, or as presenting an imminent danger
36 because of grave disability, they may detain such person for
37 sufficient time to notify the designated crisis responder of such
38 person's condition to enable the designated crisis responder to
39 authorize such person being further held in custody or transported to

1 an evaluation treatment center, secure detoxification facility, or
2 approved substance use disorder treatment program pursuant to the
3 conditions in this chapter, but which time shall be no more than six
4 hours from the time the professional staff notify the designated
5 crisis responder of the need for evaluation, not counting time
6 periods prior to medical clearance.

7 (4) Dismissal of a commitment petition is not the appropriate
8 remedy for a violation of the timeliness requirements of this section
9 based on the intent of this chapter under section 204 of this act
10 except in the few cases where the facility staff or designated crisis
11 responder has totally disregarded the requirements of this section.

12 NEW SECTION. **Sec. 209.** (1) No officer of a public or private
13 agency, nor the superintendent, professional person in charge, his or
14 her professional designee, or attending staff of any such agency, nor
15 any public official performing functions necessary to the
16 administration of this chapter, nor peace officer responsible for
17 detaining a person pursuant to this chapter, nor any designated
18 crisis responder, nor the state, a unit of local government, an
19 evaluation and treatment facility, a secure detoxification facility,
20 or an approved substance use disorder treatment program shall be
21 civilly or criminally liable for performing duties pursuant to this
22 chapter with regard to the decision of whether to admit, discharge,
23 release, administer antipsychotic medications, or detain a person for
24 evaluation and treatment: PROVIDED, That such duties were performed
25 in good faith and without gross negligence.

26 (2) This section does not relieve a person from giving the
27 required notices under RCW 71.05.330(2) or section 236(1)(b) of this
28 act, or the duty to warn or to take reasonable precautions to provide
29 protection from violent behavior where the patient has communicated
30 an actual threat of physical violence against a reasonably
31 identifiable victim or victims. The duty to warn or to take
32 reasonable precautions to provide protection from violent behavior is
33 discharged if reasonable efforts are made to communicate the threat
34 to the victim or victims and to law enforcement personnel.

35 NEW SECTION. **Sec. 210.** When any court orders a person to
36 receive treatment under this chapter, the order shall include a
37 statement that if the person is, or becomes, subject to supervision
38 by the department of corrections, the person must notify the

1 treatment provider and the person's mental health treatment
2 information and substance use disorder treatment information must be
3 shared with the department of corrections for the duration of the
4 offender's incarceration and supervision, under RCW 71.05.445. Upon a
5 petition by a person who does not have a history of one or more
6 violent acts, the court may, for good cause, find that public safety
7 would not be enhanced by the sharing of this person's information.

8 NEW SECTION. **Sec. 211.** (1)(a) When a designated crisis
9 responder receives information alleging that a person, as a result of
10 a mental disorder, substance use disorder, or both presents a
11 likelihood of serious harm or is gravely disabled, or that a person
12 is in need of assisted outpatient mental health treatment; the
13 designated crisis responder may, after investigation and evaluation
14 of the specific facts alleged and of the reliability and credibility
15 of any person providing information to initiate detention or
16 involuntary outpatient evaluation, if satisfied that the allegations
17 are true and that the person will not voluntarily seek appropriate
18 treatment, file a petition for initial detention or involuntary
19 outpatient evaluation. If the petition is filed solely on the grounds
20 that the person is in need of assisted outpatient mental health
21 treatment, the petition may only be for an involuntary outpatient
22 evaluation. An involuntary outpatient evaluation may be conducted by
23 any combination of licensed professionals authorized to petition for
24 involuntary commitment under section 228 of this act and must include
25 involvement or consultation with the agency or facility which will
26 provide monitoring or services under the proposed less restrictive
27 alternative treatment order. If the petition is for an involuntary
28 outpatient evaluation and the person is being held in a hospital
29 emergency department, the person may be released once the hospital
30 has satisfied federal and state legal requirements for appropriate
31 screening and stabilization of patients.

32 (b) Before filing the petition, the designated crisis responder
33 must personally interview the person, unless the person refuses an
34 interview, and determine whether the person will voluntarily receive
35 appropriate evaluation and treatment at an evaluation and treatment
36 facility, crisis stabilization unit, triage facility, or approved
37 substance use disorder treatment program.

38 (2)(a) An order to detain a person with a mental disorder to a
39 designated evaluation and treatment facility, or to detain a person

1 with a substance use disorder to a secure detoxification facility or
2 approved substance use disorder treatment program, for not more than
3 a seventy-two-hour evaluation and treatment period, or an order for
4 an involuntary outpatient evaluation, may be issued by a judge of the
5 superior court upon request of a designated crisis responder whenever
6 it appears to the satisfaction of a judge of the superior court:

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

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

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

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

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

1 (4) The designated crisis responder may notify a peace officer to
2 take such person or cause such person to be taken into custody and
3 placed in an evaluation and treatment facility, secure detoxification
4 facility, or approved substance use disorder treatment program. At
5 the time such person is taken into custody there shall commence to be
6 served on such person, his or her guardian, and conservator, if any,
7 a copy of the original order together with a notice of rights and a
8 petition for initial detention.

9 NEW SECTION. **Sec. 212.** (1) When a designated crisis responder
10 receives information alleging that a person, as the result of a
11 mental disorder, presents an imminent likelihood of serious harm, or
12 is in imminent danger because of being gravely disabled, after
13 investigation and evaluation of the specific facts alleged and of the
14 reliability and credibility of the person or persons providing the
15 information if any, the designated crisis responder may take such
16 person, or cause by oral or written order such person to be taken
17 into emergency custody in an evaluation and treatment facility for
18 not more than seventy-two hours as described in section 218 of this
19 act.

20 (2) When a designated crisis responder receives information
21 alleging that a person, as the result of substance use disorder,
22 presents an imminent likelihood of serious harm, or is in imminent
23 danger because of being gravely disabled, after investigation and
24 evaluation of the specific facts alleged and of the reliability and
25 credibility of the person or persons providing the information if
26 any, the designated crisis responder may take the person, or cause by
27 oral or written order the person to be taken, into emergency custody
28 in a secure detoxification facility or approved substance use
29 disorder treatment program for not more than seventy-two hours as
30 described in section 218 of this act.

31 (3) A peace officer may take or cause such person to be taken
32 into custody and immediately delivered to a triage facility, crisis
33 stabilization unit, evaluation and treatment facility, secure
34 detoxification facility, approved substance use disorder treatment
35 program, or the emergency department of a local hospital under the
36 following circumstances:

37 (a) Pursuant to subsection (1) or (2) of this section; or

38 (b) When he or she has reasonable cause to believe that such
39 person is suffering from a mental disorder or substance use disorder

1 and presents an imminent likelihood of serious harm or is in imminent
2 danger because of being gravely disabled.

3 (4) Persons delivered to a crisis stabilization unit, evaluation
4 and treatment facility, emergency department of a local hospital,
5 triage facility that has elected to operate as an involuntary
6 facility, secure detoxification facility, or approved substance use
7 disorder treatment program by peace officers pursuant to subsection
8 (3) of this section may be held by the facility for a period of up to
9 twelve hours, not counting time periods prior to medical clearance.

10 (5) Within three hours after arrival, not counting time periods
11 prior to medical clearance, the person must be examined by a mental
12 health professional. Within twelve hours of notice of the need for
13 evaluation, not counting time periods prior to medical clearance, the
14 designated crisis responder must determine whether the individual
15 meets detention criteria. If the individual is detained, the
16 designated crisis responder shall file a petition for detention or a
17 supplemental petition as appropriate and commence service on the
18 designated attorney for the detained person. If the individual is
19 released to the community, the mental health service provider shall
20 inform the peace officer of the release within a reasonable period of
21 time after the release if the peace officer has specifically
22 requested notification and provided contact information to the
23 provider.

24 (6) Dismissal of a commitment petition is not the appropriate
25 remedy for a violation of the timeliness requirements of this section
26 based on the intent of this chapter under section 204 of this act
27 except in the few cases where the facility staff or designated mental
28 health professional has totally disregarded the requirements of this
29 section.

30 NEW SECTION. **Sec. 213.** A designated crisis responder conducting
31 an evaluation of a person under section 211 or 212 of this act must
32 consult with any examining emergency room physician regarding the
33 physician's observations and opinions relating to the person's
34 condition, and whether, in the view of the physician, detention is
35 appropriate. The designated crisis responder shall take serious
36 consideration of observations and opinions by examining emergency
37 room physicians in determining whether detention under this chapter
38 is appropriate. The designated crisis responder must document the
39 consultation with an examining emergency room physician, including

1 the physician's observations or opinions regarding whether detention
2 of the person is appropriate.

3 NEW SECTION. **Sec. 214.** A designated crisis responder who
4 conducts an evaluation for imminent likelihood of serious harm or
5 imminent danger because of being gravely disabled under section 212
6 of this act must also evaluate the person under section 211 of this
7 act for likelihood of serious harm or grave disability that does not
8 meet the imminent standard for emergency detention, and to determine
9 whether the person is in need of assisted outpatient mental health
10 treatment.

11 NEW SECTION. **Sec. 215.** (1) When a designated crisis responder
12 is notified by a jail that a defendant or offender who was subject to
13 a discharge review under RCW 71.05.232 is to be released to the
14 community, the designated crisis responder shall evaluate the person
15 within seventy-two hours of release.

16 (2) When an offender is under court-ordered treatment in the
17 community and the supervision of the department of corrections, and
18 the treatment provider becomes aware that the person is in violation
19 of the terms of the court order, the treatment provider shall notify
20 the designated crisis responder and the department of corrections of
21 the violation and request an evaluation for purposes of revocation of
22 the less restrictive alternative.

23 (3) When a designated crisis responder becomes aware that an
24 offender who is under court-ordered treatment in the community and
25 the supervision of the department of corrections is in violation of a
26 treatment order or a condition of supervision that relates to public
27 safety, or the designated crisis responder detains a person under
28 this chapter, the designated crisis responder shall notify the
29 person's treatment provider and the department of corrections.

30 (4) When an offender who is confined in a state correctional
31 facility or is under supervision of the department of corrections in
32 the community is subject to a petition for involuntary treatment
33 under this chapter, the petitioner shall notify the department of
34 corrections and the department of corrections shall provide
35 documentation of its risk assessment or other concerns to the
36 petitioner and the court if the department of corrections classified
37 the offender as a high risk or high needs offender.

1 (5) Nothing in this section creates a duty on any treatment
2 provider or designated crisis responder to provide offender
3 supervision.

4 (6) No jail or state correctional facility may be considered a
5 less restrictive alternative to an evaluation and treatment facility,
6 secure detoxification facility, or approved substance use disorder
7 treatment program.

8 NEW SECTION. **Sec. 216.** Any facility receiving a person pursuant
9 to section 211 or 212 of this act shall require the designated crisis
10 responder to prepare a petition for initial detention stating the
11 circumstances under which the person's condition was made known and
12 stating that there is evidence, as a result of his or her personal
13 observation or investigation, that the actions of the person for
14 which application is made constitute a likelihood of serious harm, or
15 that he or she is gravely disabled, and stating the specific facts
16 known to him or her as a result of his or her personal observation or
17 investigation, upon which he or she bases the belief that such person
18 should be detained for the purposes and under the authority of this
19 chapter.

20 If a person is involuntarily placed in an evaluation and
21 treatment facility, secure detoxification facility, or approved
22 substance use disorder treatment program pursuant to section 211 or
23 212 of this act, on the next judicial day following the initial
24 detention, the designated crisis responder shall file with the court
25 and serve the designated attorney of the detained person the petition
26 or supplemental petition for initial detention, proof of service of
27 notice, and a copy of a notice of emergency detention.

28 NEW SECTION. **Sec. 217.** Whenever the designated crisis responder
29 petitions for detention of a person whose actions constitute a
30 likelihood of serious harm, or who is gravely disabled, the facility
31 providing seventy-two hour evaluation and treatment must immediately
32 accept on a provisional basis the petition and the person. The
33 facility shall then evaluate the person's condition and admit,
34 detain, transfer, or discharge such person in accordance with section
35 223 of this act. The facility shall notify in writing the court and
36 the designated crisis responder of the date and time of the initial
37 detention of each person involuntarily detained in order that a

1 probable cause hearing shall be held no later than seventy-two hours
2 after detention.

3 The duty of a state hospital to accept persons for evaluation and
4 treatment under this section shall be limited by chapter 71.24 RCW.

5 NEW SECTION. **Sec. 218.** If the evaluation and treatment
6 facility, secure detoxification facility, or approved substance use
7 disorder treatment program admits the person, it may detain him or
8 her for evaluation and treatment for a period not to exceed seventy-
9 two hours from the time of acceptance as set forth in section 217 of
10 this act. The computation of such seventy-two hour period shall
11 exclude Saturdays, Sundays and holidays.

12 NEW SECTION. **Sec. 219.** If the person is not approved for
13 admission by a facility providing seventy-two hour evaluation and
14 treatment, and the individual has not been arrested, the facility
15 shall furnish transportation, if not otherwise available, for the
16 person to his or her place of residence or other appropriate place.
17 If the individual has been arrested, the evaluation and treatment
18 facility, secure detoxification facility, or approved substance use
19 disorder treatment program shall detain the individual for not more
20 than eight hours at the request of the peace officer. The facility
21 shall make reasonable attempts to contact the requesting peace
22 officer during this time to inform the peace officer that the person
23 is not approved for admission in order to enable a peace officer to
24 return to the facility and take the individual back into custody.

25 NEW SECTION. **Sec. 220.** (1) A civil commitment may be initiated
26 under the procedures described in section 211 or 212 of this act for
27 a person who has been found not guilty by reason of insanity in a
28 state other than Washington and who has fled from detention,
29 commitment, or conditional release in that state, on the basis of a
30 request by the state in which the person was found not guilty by
31 reason of insanity for the person to be detained and transferred back
32 to the custody or care of the requesting state. A finding of
33 likelihood of serious harm or grave disability is not required for a
34 commitment under this section. The detention may occur at either an
35 evaluation and treatment facility or a state hospital. The petition
36 for seventy-two hour detention filed by the designated crisis
37 responder must be accompanied by the following documents:

1 (a) A copy of an order for detention, commitment, or conditional
2 release of the person in a state other than Washington on the basis
3 of a judgment of not guilty by reason of insanity;

4 (b) A warrant issued by a magistrate in the state in which the
5 person was found not guilty by reason of insanity indicating that the
6 person has fled from detention, commitment, or conditional release in
7 that state and authorizing the detention of the person within the
8 state in which the person was found not guilty by reason of insanity;

9 (c) A statement from the executive authority of the state in
10 which the person was found not guilty by reason of insanity
11 requesting that the person be returned to the requesting state and
12 agreeing to facilitate the transfer of the person to the requesting
13 state.

14 (2) The person shall be entitled to a probable cause hearing
15 within the time limits applicable to other detentions under this
16 chapter and shall be afforded the rights described in this chapter
17 including the right to counsel. At the probable cause hearing, the
18 court shall determine the identity of the person and whether the
19 other requirements of this section are met. If the court so finds,
20 the court may order continued detention in a treatment facility for
21 up to thirty days for the purpose of the transfer of the person to
22 the custody or care of the requesting state. The court may order a
23 less restrictive alternative to detention only under conditions which
24 ensure the person's safe transfer to the custody or care of the
25 requesting state within thirty days without undue risk to the safety
26 of the person or others.

27 (3) For the purposes of this section, "not guilty by reason of
28 insanity" shall be construed to include any provision of law which is
29 generally equivalent to a finding of criminal insanity within the
30 state of Washington; and "state" shall be construed to mean any
31 state, district, or territory of the United States.

32 NEW SECTION. **Sec. 221.** (1) If a designated crisis responder
33 decides not to detain a person for evaluation and treatment under
34 section 211 or 212 of this act or forty-eight hours have elapsed
35 since a designated crisis responder received a request for
36 investigation and the designated crisis responder has not taken
37 action to have the person detained, an immediate family member or
38 guardian or conservator of the person may petition the superior court
39 for the person's initial detention.

1 (2)(a) The petition must be submitted on forms developed by the
2 administrative office of the courts for this purpose. The petition
3 must be accompanied by a sworn declaration from the petitioner, and
4 other witnesses if desired, describing why the person should be
5 detained for evaluation and treatment. The description of why the
6 person should be detained may contain, but is not limited to, the
7 information identified in section 224 of this act.

8 (b) The petition must contain:

9 (i) A description of the relationship between the petitioner and
10 the person; and

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

13 (3) The court shall, within one judicial day, review the petition
14 to determine whether the petition raises sufficient evidence to
15 support the allegation. If the court so finds, it shall provide a
16 copy of the petition to the designated crisis responder agency with
17 an order for the agency to provide the court, within one judicial
18 day, with a written sworn statement describing the basis for the
19 decision not to seek initial detention and a copy of all information
20 material to the designated crisis responder's current decision.

21 (4) Following the filing of the petition and before the court
22 reaches a decision, any person, including a mental health
23 professional, may submit a sworn declaration to the court in support
24 of or in opposition to initial detention.

25 (5) The court shall dismiss the petition at any time if it finds
26 that a designated crisis responder has filed a petition for the
27 person's initial detention under section 211 or 212 of this act or
28 that the person has voluntarily accepted appropriate treatment.

29 (6) The court must issue a final ruling on the petition within
30 five judicial days after it is filed. After reviewing all of the
31 information provided to the court, the court may enter an order for
32 initial detention if the court finds that: (a) There is probable
33 cause to support a petition for detention; and (b) the person has
34 refused or failed to accept appropriate evaluation and treatment
35 voluntarily. The court shall transmit its final decision to the
36 petitioner.

37 (7) If the court enters an order for initial detention, it shall
38 provide the order to the designated crisis responder agency, which
39 shall execute the order without delay. An order for initial detention
40 under this section expires one hundred eighty days from issuance.

1 (8) Except as otherwise expressly stated in this chapter, all
2 procedures must be followed as if the order had been entered under
3 section 211 of this act. Section 216 of this act does not apply if
4 detention was initiated under the process set forth in this section.

5 (9) For purposes of this section, "immediate family member" means
6 a spouse, domestic partner, child, stepchild, parent, stepparent,
7 grandparent, or sibling.

8 NEW SECTION. **Sec. 222.** (1) The department and each behavioral
9 health organization or agency employing designated crisis responders
10 shall publish information in an easily accessible format describing
11 the process for an immediate family member, guardian, or conservator
12 to petition for court review of a detention decision under section
13 221 of this act.

14 (2) A designated crisis responder or designated crisis responder
15 agency that receives a request for investigation for possible
16 detention under this chapter must inquire whether the request comes
17 from an immediate family member, guardian, or conservator who would
18 be eligible to petition under section 221 of this act. If the
19 designated crisis responder decides not to detain the person for
20 evaluation and treatment under section 211 or 212 of this act or
21 forty-eight hours have elapsed since the request for investigation
22 was received and the designated crisis responder has not taken action
23 to have the person detained, the designated crisis responder or
24 designated crisis responder agency must inform the immediate family
25 member, guardian, or conservator who made the request for
26 investigation about the process to petition for court review under
27 section 221 of this act.

28 NEW SECTION. **Sec. 223.** Each person involuntarily detained and
29 accepted or admitted at an evaluation and treatment facility, secure
30 detoxification facility, or approved substance use disorder treatment
31 program (1) shall, within twenty-four hours of his or her admission
32 or acceptance at the facility, not counting time periods prior to
33 medical clearance, be examined and evaluated by (a) a licensed
34 physician who may be assisted by a physician assistant according to
35 chapter 18.71A RCW and a mental health professional, (b) an advanced
36 registered nurse practitioner according to chapter 18.79 RCW and a
37 mental health professional, or (c) a licensed physician and a
38 psychiatric advanced registered nurse practitioner and (2) shall

1 receive such treatment and care as his or her condition requires
2 including treatment on an outpatient basis for the period that he or
3 she is detained, except that, beginning twenty-four hours prior to a
4 trial or hearing pursuant to RCW 71.05.310, 71.05.320, or 71.05.217
5 or section 226, 230, or 238 of this act, the individual may refuse
6 psychiatric medications, but may not refuse: (a) Any other medication
7 previously prescribed by a person licensed under Title 18 RCW; or (b)
8 emergency lifesaving treatment, and the individual shall be informed
9 at an appropriate time of his or her right of such refusal. The
10 person shall be detained up to seventy-two hours, if, in the opinion
11 of the professional person in charge of the facility, or his or her
12 professional designee, the person presents a likelihood of serious
13 harm, or is gravely disabled. A person who has been detained for
14 seventy-two hours shall no later than the end of such period be
15 released, unless referred for further care on a voluntary basis, or
16 detained pursuant to court order for further treatment as provided in
17 this chapter.

18 If, after examination and evaluation, the mental health
19 professional and licensed physician or psychiatric advanced
20 registered nurse practitioner determine that the initial needs of the
21 person, if detained to an evaluation and treatment facility, would be
22 better served by placement in a substance use disorder treatment
23 facility, or, if detained to a secure detoxification facility or
24 approved substance use disorder treatment program, would be better
25 served in an evaluation and treatment facility then the person shall
26 be referred to the more appropriate placement.

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

37 NEW SECTION. **Sec. 224.** (1) Whenever a designated crisis
38 responder or professional person is conducting an evaluation under

1 this chapter, consideration shall include all reasonably available
2 information from credible witnesses and records regarding:

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

6 (b) Historical behavior, including history of one or more violent
7 acts;

8 (c) Prior determinations of incompetency or insanity under
9 chapter 10.77 RCW; and

10 (d) Prior commitments under this chapter.

11 (2) Credible witnesses may include family members, landlords,
12 neighbors, or others with significant contact and history of
13 involvement with the person. If the designated crisis responder
14 relies upon information from a credible witness in reaching his or
15 her decision to detain the individual, then he or she must provide
16 contact information for any such witness to the prosecutor. The
17 designated crisis responder or prosecutor shall provide notice of the
18 date, time, and location of the probable cause hearing to such a
19 witness.

20 (3) Symptoms and behavior of the respondent which standing alone
21 would not justify civil commitment may support a finding of grave
22 disability or likelihood of serious harm, or a finding that the
23 person is in need of assisted outpatient mental health treatment,
24 when:

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

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

31 (c) Without treatment, the continued deterioration of the
32 respondent is probable.

33 (4) When conducting an evaluation for offenders identified under
34 RCW 72.09.370, the designated crisis responder or professional person
35 shall consider an offender's history of judicially required or
36 administratively ordered antipsychotic medication while in
37 confinement.

38 NEW SECTION. **Sec. 225.** The department shall develop statewide
39 protocols to be utilized by professional persons and designated

1 crisis responders in administration of this chapter and chapter 10.77
2 RCW. The protocols shall be updated at least every three years. The
3 protocols shall provide uniform development and application of
4 criteria in evaluation and commitment recommendations, of persons who
5 have, or are alleged to have, mental disorders or substance use
6 disorders and are subject to this chapter.

7 The initial protocols shall be developed not later than September
8 1, 1999. The department shall develop and update the protocols in
9 consultation with representatives of designated crisis responders,
10 local government, law enforcement, county and city prosecutors,
11 public defenders, and groups concerned with mental illness and
12 substance use disorders. The protocols shall be submitted to the
13 governor and legislature upon adoption by the department.

14 NEW SECTION. **Sec. 226.** (1) A person found to be gravely
15 disabled or presents a likelihood of serious harm as a result of a
16 mental disorder or substance use disorder has a right to refuse
17 antipsychotic medication unless it is determined that the failure to
18 medicate may result in a likelihood of serious harm or substantial
19 deterioration or substantially prolong the length of involuntary
20 commitment and there is no less intrusive course of treatment than
21 medication in the best interest of that person.

22 (2) The department shall adopt rules to carry out the purposes of
23 this chapter. These rules shall include:

24 (a) An attempt to obtain the informed consent of the person prior
25 to administration of antipsychotic medication.

26 (b) For short-term treatment up to thirty days, the right to
27 refuse antipsychotic medications unless there is an additional
28 concurring medical opinion approving medication by a psychiatrist,
29 psychiatric advanced registered nurse practitioner, or physician in
30 consultation with a mental health professional with prescriptive
31 authority.

32 (c) For continued treatment beyond thirty days through the
33 hearing on any petition filed under RCW 71.05.217, the right to
34 periodic review of the decision to medicate by the medical director
35 or designee.

36 (d) Administration of antipsychotic medication in an emergency
37 and review of this decision within twenty-four hours. An emergency
38 exists if the person presents an imminent likelihood of serious harm,
39 and medically acceptable alternatives to administration of

1 antipsychotic medications are not available or are unlikely to be
2 successful; and in the opinion of the physician or psychiatric
3 advanced registered nurse practitioner, the person's condition
4 constitutes an emergency requiring the treatment be instituted prior
5 to obtaining a second medical opinion.

6 (e) Documentation in the medical record of the attempt by the
7 physician or psychiatric advanced registered nurse practitioner to
8 obtain informed consent and the reasons why antipsychotic medication
9 is being administered over the person's objection or lack of consent.

10 NEW SECTION. **Sec. 227.** At the time a person is involuntarily
11 admitted to an evaluation and treatment facility, secure
12 detoxification facility, or approved substance use disorder treatment
13 program, the professional person in charge or his or her designee
14 shall take reasonable precautions to inventory and safeguard the
15 personal property of the person detained. A copy of the inventory,
16 signed by the staff member making it, shall be given to the person
17 detained and shall, in addition, be open to inspection to any
18 responsible relative, subject to limitations, if any, specifically
19 imposed by the detained person. For purposes of this section,
20 "responsible relative" includes the guardian, conservator, attorney,
21 spouse, parent, adult child, or adult brother or sister of the
22 person. The facility shall not disclose the contents of the inventory
23 to any other person without the consent of the patient or order of
24 the court.

25 NEW SECTION. **Sec. 228.** A person detained or committed for
26 seventy-two hour evaluation and treatment or for an outpatient
27 evaluation for the purpose of filing a petition for a less
28 restrictive alternative treatment order may be committed for not more
29 than fourteen additional days of involuntary intensive treatment or
30 ninety additional days of a less restrictive alternative to
31 involuntary intensive treatment. A petition may only be filed if the
32 following conditions are met:

33 (1) The professional staff of the agency or facility providing
34 evaluation services has analyzed the person's condition and finds
35 that the condition is caused by mental disorder or substance use
36 disorder and results in a likelihood of serious harm, results in the
37 person being gravely disabled, or results in the person being in need

1 of assisted outpatient mental health treatment, and are prepared to
2 testify those conditions are met; and

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

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

9 (4) The professional staff of the agency or facility or the
10 designated crisis responder has filed a petition with the court for a
11 fourteen day involuntary detention or a ninety day less restrictive
12 alternative. The petition must be signed by two professionals who
13 have each examined the person:

14 (a) The first professional must be a physician, physician
15 assistant, or advanced registered nurse practitioner;

16 (b) The second professional must be a physician, physician
17 assistant, advanced registered nurse practitioner, mental health
18 professional, or chemical dependency professional.

19 If involuntary detention is sought the petition shall state facts
20 that support the finding that such person, as a result of a mental
21 disorder or substance use disorder, presents a likelihood of serious
22 harm, or is gravely disabled and that there are no less restrictive
23 alternatives to detention in the best interest of such person or
24 others. The petition shall state specifically that less restrictive
25 alternative treatment was considered and specify why treatment less
26 restrictive than detention is not appropriate. If an involuntary less
27 restrictive alternative is sought, the petition shall state facts
28 that support the finding that such person, as a result of a mental
29 disorder or as a result of a substance use disorder, presents a
30 likelihood of serious harm, is gravely disabled, or is in need of
31 assisted outpatient mental health treatment, and shall set forth a
32 plan for the less restrictive alternative treatment proposed by the
33 facility in accordance with section 237 of this act; and

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

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

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

4 (8) At the conclusion of the initial commitment period, the
5 professional staff of the agency or facility or the designated crisis
6 responder may petition for an additional period of either ninety days
7 of less restrictive alternative treatment or ninety days of
8 involuntary intensive treatment as provided in section 232 of this
9 act; and

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

15 NEW SECTION. **Sec. 229.** (1) If an individual is referred to a
16 designated crisis responder under RCW 10.77.088(1)(c)(i), the
17 designated crisis responder shall examine the individual within
18 forty-eight hours. If the designated crisis responder determines it
19 is not appropriate to detain the individual or petition for a ninety-
20 day less restrictive alternative under section 228(4) of this act,
21 that decision shall be immediately presented to the superior court
22 for hearing. The court shall hold a hearing to consider the decision
23 of the designated crisis responder not later than the next judicial
24 day. At the hearing the superior court shall review the determination
25 of the designated crisis responder and determine whether an order
26 should be entered requiring the person to be evaluated at an
27 evaluation and treatment facility. No person referred to an
28 evaluation and treatment facility may be held at the facility longer
29 than seventy-two hours.

30 (2) If an individual is placed in an evaluation and treatment
31 facility under RCW 10.77.088(1)(c)(ii), a professional person shall
32 evaluate the individual for purposes of determining whether to file a
33 ninety-day inpatient or outpatient petition under this chapter.
34 Before expiration of the seventy-two hour evaluation period
35 authorized under RCW 10.77.088(1)(c)(ii), the professional person
36 shall file a petition or, if the recommendation of the professional
37 person is to release the individual, present his or her
38 recommendation to the superior court of the county in which the
39 criminal charge was dismissed. The superior court shall review the

1 recommendation not later than forty-eight hours, excluding Saturdays,
2 Sundays, and holidays, after the recommendation is presented. If the
3 court rejects the recommendation to unconditionally release the
4 individual, the court may order the individual detained at a
5 designated evaluation and treatment facility for not more than a
6 seventy-two hour evaluation and treatment period and direct the
7 individual to appear at a surety hearing before that court within
8 seventy-two hours, or the court may release the individual but direct
9 the individual to appear at a surety hearing set before that court
10 within eleven days, at which time the prosecutor may file a petition
11 under this chapter for ninety-day inpatient or outpatient treatment.
12 If a petition is filed by the prosecutor, the court may order that
13 the person named in the petition be detained at the evaluation and
14 treatment facility that performed the evaluation under this
15 subsection or order the respondent to be in outpatient treatment. If
16 a petition is filed but the individual fails to appear in court for
17 the surety hearing, the court shall order that a mental health
18 professional or peace officer shall take such person or cause such
19 person to be taken into custody and placed in an evaluation and
20 treatment facility to be brought before the court the next judicial
21 day after detention. Upon the individual's first appearance in court
22 after a petition has been filed, proceedings under RCW 71.05.310 and
23 section 234 of this act shall commence. For an individual subject to
24 this subsection, the prosecutor or professional person may directly
25 file a petition for ninety-day inpatient or outpatient treatment and
26 no petition for initial detention or fourteen-day detention is
27 required before such a petition may be filed.

28 The court shall conduct the hearing on the petition filed under
29 this subsection within five judicial days of the date the petition is
30 filed. The court may continue the hearing upon the written request of
31 the person named in the petition or the person's attorney, for good
32 cause shown, which continuance shall not exceed five additional
33 judicial days. If the person named in the petition requests a jury
34 trial, the trial shall commence within ten judicial days of the date
35 of the filing of the petition. The burden of proof shall be by clear,
36 cogent, and convincing evidence and shall be upon the petitioner. The
37 person shall be present at such proceeding, which shall in all
38 respects accord with the constitutional guarantees of due process of
39 law and the rules of evidence pursuant to section 239 (8) and (9) of
40 this act.

1 During the proceeding the person named in the petition shall
2 continue to be detained and treated until released by order of the
3 court. If no order has been made within thirty days after the filing
4 of the petition, not including any extensions of time requested by
5 the detained person or his or her attorney, the detained person shall
6 be released.

7 (3) If a designated crisis responder or the professional person
8 and prosecuting attorney for the county in which the criminal charge
9 was dismissed or attorney general, as appropriate, stipulate that the
10 individual does not present a likelihood of serious harm or is not
11 gravely disabled, the hearing under this section is not required and
12 the individual, if in custody, shall be released.

13 (4) The individual shall have the rights specified in section 239
14 (8) and (9) of this act.

15 NEW SECTION. **Sec. 230.** (1) If a petition is filed for fourteen
16 day involuntary treatment or ninety days of less restrictive
17 alternative treatment, the court shall hold a probable cause hearing
18 within seventy-two hours of the initial detention or involuntary
19 outpatient evaluation of such person as determined in section 218 of
20 this act. If requested by the person or his or her attorney, the
21 hearing may be postponed for a period not to exceed forty-eight
22 hours. The hearing may also be continued subject to the conditions
23 set forth in section 223 of this act or subject to the petitioner's
24 showing of good cause for a period not to exceed twenty-four hours.

25 (2) If the petition is for mental health treatment, the court at
26 the time of the probable cause hearing and before an order of
27 commitment is entered shall inform the person both orally and in
28 writing that the failure to make a good faith effort to seek
29 voluntary treatment as provided in section 228 of this act will
30 result in the loss of his or her firearm rights if the person is
31 subsequently detained for involuntary treatment under this section.

32 (3)(a) Subject to (b) of this subsection, at the conclusion of
33 the probable cause hearing, if the court finds by a preponderance of
34 the evidence that such person, as the result of a mental disorder or
35 substance use disorder, presents a likelihood of serious harm, or is
36 gravely disabled, and, after considering less restrictive
37 alternatives to involuntary detention and treatment, finds that no
38 such alternatives are in the best interests of such person or others,
39 the court shall order that such person be detained for involuntary

1 treatment not to exceed fourteen days in a facility certified to
2 provide treatment by the department.

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

6 (c) At the conclusion of the probable cause hearing, if the court
7 finds by a preponderance of the evidence that such person, as the
8 result of a mental disorder or substance use disorder, presents a
9 likelihood of serious harm, or is gravely disabled, but that
10 treatment in a less restrictive setting than detention is in the best
11 interest of such person or others, the court shall order an
12 appropriate less restrictive alternative course of treatment for not
13 to exceed ninety days.

14 (d) If the court finds by a preponderance of the evidence that
15 such person, as the result of a mental disorder, is in need of
16 assisted outpatient mental health treatment, and that the person does
17 not present a likelihood of serious harm or grave disability, the
18 court shall order an appropriate less restrictive alternative course
19 of treatment not to exceed ninety days, and may not order inpatient
20 treatment.

21 (e) An order for less restrictive alternative treatment must
22 identify the services the person will receive, in accordance with
23 section 237 of this act. The court may order additional evaluation of
24 the person if necessary to identify appropriate services.

25 (4) The court shall specifically state to such person and give
26 such person notice in writing that if involuntary treatment beyond
27 the fourteen day period or beyond the ninety days of less restrictive
28 treatment is to be sought, such person will have the right to a full
29 hearing or jury trial as required by RCW 71.05.310. If the commitment
30 is for mental health treatment, the court shall also state to the
31 person and provide written notice that the person is barred from the
32 possession of firearms and that the prohibition remains in effect
33 until a court restores his or her right to possess a firearm under
34 RCW 9.41.047.

35 NEW SECTION. **Sec. 231.** At the expiration of the fourteen-day
36 period of intensive treatment, a person may be committed for further
37 treatment pursuant to section 234 of this act if:

38 (1) Such person after having been taken into custody for
39 evaluation and treatment has threatened, attempted, or inflicted: (a)

1 Physical harm upon the person of another or himself or herself, or
2 substantial damage upon the property of another, and (b) as a result
3 of mental disorder or substance use disorder presents a likelihood of
4 serious harm; or

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

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

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

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

23 (4) Such person is gravely disabled; or

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

26 NEW SECTION. **Sec. 232.** (1) At any time during a person's
27 fourteen day intensive treatment period, the professional person in
28 charge of a treatment facility or his or her professional designee or
29 the designated crisis responder may petition the superior court for
30 an order requiring such person to undergo an additional period of
31 treatment. Such petition must be based on one or more of the grounds
32 set forth in section 231 of this act.

33 (2) The petition shall summarize the facts which support the need
34 for further commitment and shall be supported by affidavits signed by
35 two professionals who have each examined the person:

36 (a) The first professional must be a physician, physician
37 assistant, or advanced registered nurse practitioner;

38 (b) The second professional must be a physician, physician
39 assistant, advanced registered nurse practitioner, mental health

1 professional, or chemical dependency professional. The affidavits
2 shall describe in detail the behavior of the detained person which
3 supports the petition and shall explain what, if any, less
4 restrictive treatments which are alternatives to detention are
5 available to such person, and shall state the willingness of the
6 affiant to testify to such facts in subsequent judicial proceedings
7 under this chapter. If less restrictive alternative treatment is
8 sought, the petition shall set forth a proposed plan for less
9 restrictive alternative treatment in accordance with section 237 of
10 this act.

11 (3) If a person has been determined to be incompetent pursuant to
12 RCW 10.77.086(4), then the professional person in charge of the
13 treatment facility or his or her professional designee or the
14 designated crisis responder may directly file a petition for one
15 hundred eighty day treatment under section 231(3) of this act. No
16 petition for initial detention or fourteen day detention is required
17 before such a petition may be filed.

18 NEW SECTION. **Sec. 233.** (1) The petition for ninety day
19 treatment shall be filed with the clerk of the superior court at
20 least three days before expiration of the fourteen-day period of
21 intensive treatment. At the time of filing such petition, the clerk
22 shall set a time for the person to come before the court on the next
23 judicial day after the day of filing unless such appearance is waived
24 by the person's attorney, and the clerk shall notify the designated
25 crisis responder. The designated crisis responder shall immediately
26 notify the person detained, his or her attorney, if any, and his or
27 her guardian or conservator, if any, the prosecuting attorney, and
28 the behavioral health organization administrator, and provide a copy
29 of the petition to such persons as soon as possible. The behavioral
30 health organization administrator or designee may review the petition
31 and may appear and testify at the full hearing on the petition.

32 (2) At the time set for appearance the detained person shall be
33 brought before the court, unless such appearance has been waived and
34 the court shall advise him or her of his or her right to be
35 represented by an attorney, his or her right to a jury trial, and, if
36 the petition is for commitment for mental health treatment, his or
37 her loss of firearm rights if involuntarily committed. If the
38 detained person is not represented by an attorney, or is indigent or
39 is unwilling to retain an attorney, the court shall immediately

1 appoint an attorney to represent him or her. The court shall, if
2 requested, appoint a reasonably available licensed physician,
3 psychiatric advanced registered nurse practitioner, physician
4 assistant, psychologist, or psychiatrist, designated by the detained
5 person to examine and testify on behalf of the detained person.

6 (3) The court may, if requested, also appoint a professional
7 person as defined in section 205 of this act to seek less restrictive
8 alternative courses of treatment and to testify on behalf of the
9 detained person. In the case of a person with a developmental
10 disability who has been determined to be incompetent pursuant to RCW
11 10.77.086(4), then the appointed professional person under this
12 section shall be a developmental disabilities professional.

13 (4) The court shall also set a date for a full hearing on the
14 petition as provided in RCW 71.05.310.

15 NEW SECTION. **Sec. 234.** (1) If the court or jury finds that
16 grounds set forth in section 231 of this act have been proven and
17 that the best interests of the person or others will not be served by
18 a less restrictive treatment which is an alternative to detention,
19 the court shall remand him or her to the custody of the department or
20 to a facility certified for ninety day treatment by the department
21 for a further period of intensive treatment not to exceed ninety days
22 from the date of judgment. If the order for inpatient treatment is
23 based on a substance use disorder, treatment must take place at an
24 approved substance use disorder treatment program. If the grounds set
25 forth in section 231(3) of this act are the basis of commitment, then
26 the period of treatment may be up to but not exceed one hundred
27 eighty days from the date of judgment in a facility certified for one
28 hundred eighty day treatment by the department.

29 (2) If the court or jury finds that grounds set forth in section
30 231 of this act have been proven, but finds that treatment less
31 restrictive than detention will be in the best interest of the person
32 or others, then the court shall remand him or her to the custody of
33 the department or to a facility certified for ninety day treatment by
34 the department or to a less restrictive alternative for a further
35 period of less restrictive treatment not to exceed ninety days from
36 the date of judgment. If the order for less restrictive treatment is
37 based on a substance use disorder, treatment must be provided by an
38 approved substance use disorder treatment program. If the grounds set
39 forth in section 231(3) of this act are the basis of commitment, then

1 the period of treatment may be up to but not exceed one hundred
2 eighty days from the date of judgment. If the court or jury finds
3 that the grounds set forth in section 231(5) of this act have been
4 proven, and provide the only basis for commitment, the court must
5 enter an order for less restrictive alternative treatment for up to
6 ninety days from the date of judgment and may not order inpatient
7 treatment.

8 (3) An order for less restrictive alternative treatment entered
9 under subsection (2) of this section must identify the services the
10 person will receive, in accordance with section 237 of this act. The
11 court may order additional evaluation of the person if necessary to
12 identify appropriate services.

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

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

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

30 (c)(i) Is in custody pursuant to section 231(3) of this act and
31 as a result of mental disorder or developmental disability continues
32 to present a substantial likelihood of repeating acts similar to the
33 charged criminal behavior, when considering the person's life
34 history, progress in treatment, and the public safety.

35 (ii) In cases under this subsection where the court has made an
36 affirmative special finding under section 231(3)(b) of this act, the
37 commitment shall continue for up to an additional one hundred eighty
38 day period whenever the petition presents prima facie evidence that
39 the person continues to suffer from a mental disorder or
40 developmental disability that results in a substantial likelihood of

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

10 (d) Continues to be gravely disabled; or

11 (e) Is in need of assisted outpatient mental health treatment.

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

15 If less restrictive alternative treatment is sought, the petition
16 shall set forth a proposed plan for less restrictive alternative
17 services in accordance with section 237 of this act.

18 (5) A new petition for involuntary treatment filed under
19 subsection (4) of this section shall be filed and heard in the
20 superior court of the county of the facility which is filing the new
21 petition for involuntary treatment unless good cause is shown for a
22 change of venue. The cost of the proceedings shall be borne by the
23 state.

24 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
25 and if the court or jury finds that the grounds for additional
26 confinement as set forth in this section are present, the court may
27 order the committed person returned for an additional period of
28 treatment not to exceed one hundred eighty days from the date of
29 judgment, except as provided in subsection (7) of this section. If
30 the court's order is based solely on the grounds identified in
31 subsection (4)(e) of this section, the court may enter an order for
32 less restrictive alternative treatment not to exceed one hundred
33 eighty days from the date of judgment, and may not enter an order for
34 inpatient treatment. An order for less restrictive alternative
35 treatment must identify the services the person will receive, in
36 accordance with section 237 of this act. The court may order
37 additional evaluation of the person if necessary to identify
38 appropriate services.

39 (b) At the end of the one hundred eighty day period of
40 commitment, or one-year period of commitment if subsection (7) of

1 this section applies, the committed person shall be released unless a
2 petition for an additional one hundred eighty day period of continued
3 treatment is filed and heard in the same manner as provided in this
4 section. Successive one hundred eighty day commitments are
5 permissible on the same grounds and pursuant to the same procedures
6 as the original one hundred eighty day commitment.

7 (7) An order for less restrictive treatment entered under
8 subsection (6) of this section may be for up to one year when the
9 person's previous commitment term was for intensive inpatient
10 treatment in a state hospital.

11 (8) No person committed as provided in this section may be
12 detained unless a valid order of commitment is in effect. No order of
13 commitment can exceed one hundred eighty days in length except as
14 provided in subsection (7) of this section.

15 NEW SECTION. **Sec. 235.** (1) Before a person committed under
16 grounds set forth in section 231(3) of this act is released because a
17 new petition for involuntary treatment has not been filed under
18 section 234(3) of this act, the superintendent, professional person,
19 or designated crisis responder responsible for the decision whether
20 to file a new petition shall in writing notify the prosecuting
21 attorney of the county in which the criminal charges against the
22 committed person were dismissed, of the decision not to file a new
23 petition for involuntary treatment. Notice shall be provided at least
24 forty-five days before the period of commitment expires.

25 (2)(a) Before a person committed under grounds set forth in
26 section 231(3) of this act is permitted temporarily to leave a
27 treatment facility pursuant to RCW 71.05.270 for any period of time
28 without constant accompaniment by facility staff, the superintendent,
29 professional person in charge of a treatment facility, or his or her
30 professional designee shall in writing notify the prosecuting
31 attorney of any county of the person's destination and the
32 prosecuting attorney of the county in which the criminal charges
33 against the committed person were dismissed. The notice shall be
34 provided at least forty-five days before the anticipated leave and
35 shall describe the conditions under which the leave is to occur.

36 (b) The provisions of RCW 71.05.330(2) apply to proposed leaves,
37 and either or both prosecuting attorneys receiving notice under this
38 subsection may petition the court under RCW 71.05.330(2).

1 (3) Nothing in this section shall be construed to authorize
2 detention of a person unless a valid order of commitment is in
3 effect.

4 (4) The existence of the notice requirements in this section will
5 not require any extension of the leave date in the event the leave
6 plan changes after notification.

7 (5) The notice requirements contained in this section shall not
8 apply to emergency medical transfers.

9 (6) The notice provisions of this section are in addition to
10 those provided in RCW 71.05.425.

11 NEW SECTION. **Sec. 236.** (1)(a) When, in the opinion of the
12 superintendent or the professional person in charge of the hospital
13 or facility providing involuntary treatment, the committed person can
14 be appropriately served by outpatient treatment prior to or at the
15 expiration of the period of commitment, then such outpatient care may
16 be required as a term of conditional release for a period which, when
17 added to the inpatient treatment period, shall not exceed the period
18 of commitment. If the facility or agency designated to provide
19 outpatient treatment is other than the facility providing involuntary
20 treatment, the outpatient facility so designated must agree in
21 writing to assume such responsibility. A copy of the terms of
22 conditional release shall be given to the patient, the designated
23 crisis responder in the county in which the patient is to receive
24 outpatient treatment, and to the court of original commitment.

25 (b) Before a person committed under grounds set forth in section
26 231(3) or 234(4)(c) of this act is conditionally released under (a)
27 of this subsection, the superintendent or professional person in
28 charge of the hospital or facility providing involuntary treatment
29 shall in writing notify the prosecuting attorney of the county in
30 which the criminal charges against the committed person were
31 dismissed, of the decision to conditionally release the person.
32 Notice and a copy of the terms of conditional release shall be
33 provided at least thirty days before the person is released from
34 inpatient care. Within twenty days after receiving notice, the
35 prosecuting attorney may petition the court in the county that issued
36 the commitment order to hold a hearing to determine whether the
37 person may be conditionally released and the terms of the conditional
38 release. The prosecuting attorney shall provide a copy of the
39 petition to the superintendent or professional person in charge of

1 the hospital or facility providing involuntary treatment, the
2 attorney, if any, and guardian or conservator of the committed
3 person, and the court of original commitment. If the county in which
4 the committed person is to receive outpatient treatment is the same
5 county in which the criminal charges against the committed person
6 were dismissed, then the court shall, upon the motion of the
7 prosecuting attorney, transfer the proceeding to the court in that
8 county. The court shall conduct a hearing on the petition within ten
9 days of the filing of the petition. The committed person shall have
10 the same rights with respect to notice, hearing, and counsel as for
11 an involuntary treatment proceeding, except as set forth in this
12 subsection and except that there shall be no right to jury trial. The
13 issue to be determined at the hearing is whether or not the person
14 may be conditionally released without substantial danger to other
15 persons, or substantial likelihood of committing criminal acts
16 jeopardizing public safety or security. If the court disapproves of
17 the conditional release, it may do so only on the basis of
18 substantial evidence. Pursuant to the determination of the court upon
19 the hearing, the conditional release of the person shall be approved
20 by the court on the same or modified conditions or the person shall
21 be returned for involuntary treatment on an inpatient basis subject
22 to release at the end of the period for which he or she was
23 committed, or otherwise in accordance with the provisions of this
24 chapter.

25 (2) The facility or agency designated to provide outpatient care
26 or the secretary may modify the conditions for continued release when
27 such modification is in the best interest of the person. Notification
28 of such changes shall be sent to all persons receiving a copy of the
29 original conditions. Enforcement or revocation proceedings related to
30 a conditional release order may occur as provided under section 238
31 of this act.

32 NEW SECTION. **Sec. 237.** (1) Less restrictive alternative
33 treatment, at a minimum, includes the following services:

- 34 (a) Assignment of a care coordinator;
35 (b) An intake evaluation with the provider of the less
36 restrictive alternative treatment;
37 (c) A psychiatric evaluation;
38 (d) Medication management;

1 (e) A schedule of regular contacts with the provider of the less
2 restrictive alternative treatment services for the duration of the
3 order;

4 (f) A transition plan addressing access to continued services at
5 the expiration of the order; and

6 (g) An individual crisis plan.

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

9 (a) Psychotherapy;

10 (b) Nursing;

11 (c) Substance abuse counseling;

12 (d) Residential treatment; and

13 (e) Support for housing, benefits, education, and employment.

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

18 (4) For the purpose of this section, "care coordinator" means a
19 clinical practitioner who coordinates the activities of less
20 restrictive alternative treatment. The care coordinator coordinates
21 activities with the designated crisis responders that are necessary
22 for enforcement and continuation of less restrictive alternative
23 orders and is responsible for coordinating service activities with
24 other agencies and establishing and maintaining a therapeutic
25 relationship with the individual on a continuing basis.

26 NEW SECTION. **Sec. 238.** (1) An agency or facility designated to
27 monitor or provide services under a less restrictive alternative or
28 conditional release order or a designated crisis responder may take
29 action to enforce, modify, or revoke a less restrictive alternative
30 or conditional release order if the agency, facility, or designated
31 crisis responder determines that:

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

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

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

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

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

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

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

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

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

1 monitor less restrictive alternative services temporary detention is
2 appropriate. This subsection does not limit the ability or obligation
3 to pursue revocation procedures under subsection (4) of this section
4 in appropriate circumstances; and

5 (e) To initiate revocation procedures under subsection (4) of
6 this section.

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

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

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

34 (c) The designated crisis responder or secretary shall notify the
35 court that originally ordered commitment within two judicial days of
36 a person's detention and file a revocation petition and order of
37 apprehension and detention with the court and serve the person and
38 their attorney, guardian, and conservator, if any. The person has the
39 same rights with respect to notice, hearing, and counsel as in any
40 involuntary treatment proceeding, except as specifically set forth in

1 this section. There is no right to jury trial. The venue for
2 proceedings regarding a petition for modification or revocation must
3 be in the county in which the petition was filed.

4 (d) The issues for the court to determine are whether: (i) The
5 person adhered to the terms and conditions of the court order; (ii)
6 substantial deterioration in the person's functioning has occurred;
7 (iii) there is evidence of substantial decompensation with a
8 reasonable probability that the decompensation can be reversed by
9 further inpatient treatment; or (iv) there is a likelihood of serious
10 harm; and, if any of the above conditions apply, whether the court
11 should reinstate or modify the person's less restrictive alternative
12 or conditional release order or order the person's detention for
13 inpatient treatment. The person may waive the court hearing and allow
14 the court to enter a stipulated order upon the agreement of all
15 parties. If the court orders detention for inpatient treatment, the
16 treatment period may be for no longer than the period authorized in
17 the original court order.

18 (e) Revocation proceedings under this subsection (4) are not
19 allowable if the current commitment is solely based on the person
20 being in need of assisted outpatient mental health treatment. In
21 order to obtain a court order for detention for inpatient treatment
22 under this circumstance, a petition must be filed under section 211
23 or 212 of this act.

24 (5) In determining whether or not to take action under this
25 section the designated crisis responder, agency, or facility must
26 consider the factors specified under section 224 of this act and the
27 court must consider the factors specified under RCW 71.05.245 as they
28 apply to the question of whether to enforce, modify, or revoke a
29 court order for involuntary treatment.

30 NEW SECTION. **Sec. 239.** (1)(a) Every person involuntarily
31 detained or committed under the provisions of this chapter shall be
32 entitled to all the rights set forth in this chapter, which shall be
33 prominently posted in the facility, and shall retain all rights not
34 denied him or her under this chapter except as chapter 9.41 RCW may
35 limit the right of a person to purchase or possess a firearm or to
36 qualify for a concealed pistol license if the person is committed
37 under section 230 or 234 of this act for mental health treatment.

38 (b) No person shall be presumed incompetent as a consequence of
39 receiving an evaluation or voluntary or involuntary treatment for a

1 mental disorder or substance use disorder, under this chapter or any
2 prior laws of this state dealing with mental illness or substance use
3 disorders. Competency shall not be determined or withdrawn except
4 under the provisions of chapter 10.77 or 11.88 RCW.

5 (c) Any person who leaves a public or private agency following
6 evaluation or treatment for a mental disorder or substance use
7 disorder shall be given a written statement setting forth the
8 substance of this section.

9 (2) Each person involuntarily detained or committed pursuant to
10 this chapter shall have the right to adequate care and individualized
11 treatment.

12 (3) The provisions of this chapter shall not be construed to deny
13 to any person treatment by spiritual means through prayer in
14 accordance with the tenets and practices of a church or religious
15 denomination.

16 (4) Persons receiving evaluation or treatment under this chapter
17 shall be given a reasonable choice of an available physician,
18 psychiatric advanced registered nurse practitioner, physician
19 assistant, or other professional person qualified to provide such
20 services.

21 (5) Whenever any person is detained for evaluation and treatment
22 pursuant to this chapter, both the person and, if possible, a
23 responsible member of his or her immediate family, personal
24 representative, guardian, or conservator, if any, shall be advised as
25 soon as possible in writing or orally, by the officer or person
26 taking him or her into custody or by personnel of the evaluation and
27 treatment facility, secure detoxification facility, or approved
28 substance use disorder treatment program where the person is detained
29 that unless the person is released or voluntarily admits himself or
30 herself for treatment within seventy-two hours of the initial
31 detention:

32 (a) A judicial hearing in a superior court, either by a judge or
33 court commissioner thereof, shall be held not more than seventy-two
34 hours after the initial detention to determine whether there is
35 probable cause to detain the person after the seventy-two hours have
36 expired for up to an additional fourteen days without further
37 automatic hearing for the reason that the person is a person whose
38 mental disorder or substance use disorder presents a likelihood of
39 serious harm or that the person is gravely disabled;

1 (b) The person has a right to communicate immediately with an
2 attorney; has a right to have an attorney appointed to represent him
3 or her before and at the probable cause hearing if he or she is
4 indigent; and has the right to be told the name and address of the
5 attorney that the mental health professional has designated pursuant
6 to this chapter;

7 (c) The person has the right to remain silent and that any
8 statement he or she makes may be used against him or her;

9 (d) The person has the right to present evidence and to cross-
10 examine witnesses who testify against him or her at the probable
11 cause hearing; and

12 (e) The person has the right to refuse psychiatric medications,
13 including antipsychotic medication beginning twenty-four hours prior
14 to the probable cause hearing.

15 (6) When proceedings are initiated under section 212 of this act,
16 no later than twelve hours after such person is admitted to the
17 evaluation and treatment facility, secure detoxification facility, or
18 approved substance use disorder treatment program the personnel of
19 the facility or the designated crisis responder shall serve on such
20 person a copy of the petition for initial detention and the name,
21 business address, and phone number of the designated attorney and
22 shall forthwith commence service of a copy of the petition for
23 initial detention on the designated attorney.

24 (7) The judicial hearing described in subsection (5) of this
25 section is hereby authorized, and shall be held according to the
26 provisions of subsection (5) of this section and rules promulgated by
27 the supreme court.

28 (8) At the probable cause hearing the detained person shall have
29 the following rights in addition to the rights previously specified:

30 (a) To present evidence on his or her behalf;

31 (b) To cross-examine witnesses who testify against him or her;

32 (c) To be proceeded against by the rules of evidence;

33 (d) To remain silent;

34 (e) To view and copy all petitions and reports in the court file.

35 (9) Privileges between patients and physicians, psychologists,
36 physician assistants, or psychiatric advanced registered nurse
37 practitioners are deemed waived in proceedings under this chapter
38 relating to the administration of antipsychotic medications. As to
39 other proceedings under this chapter, the privileges shall be waived
40 when a court of competent jurisdiction in its discretion determines

1 that such waiver is necessary to protect either the detained person
2 or the public.

3 The waiver of a privilege under this section is limited to
4 records or testimony relevant to evaluation of the detained person
5 for purposes of a proceeding under this chapter. Upon motion by the
6 detained person or on its own motion, the court shall examine a
7 record or testimony sought by a petitioner to determine whether it is
8 within the scope of the waiver.

9 The record maker shall not be required to testify in order to
10 introduce medical or psychological records of the detained person so
11 long as the requirements of RCW 5.45.020 are met except that portions
12 of the record which contain opinions as to the detained person's
13 mental state must be deleted from such records unless the person
14 making such conclusions is available for cross-examination.

15 (10) Insofar as danger to the person or others is not created,
16 each person involuntarily detained, treated in a less restrictive
17 alternative course of treatment, or committed for treatment and
18 evaluation pursuant to this chapter shall have, in addition to other
19 rights not specifically withheld by law, the following rights:

20 (a) To wear his or her own clothes and to keep and use his or her
21 own personal possessions, except when deprivation of same is
22 essential to protect the safety of the resident or other persons;

23 (b) To keep and be allowed to spend a reasonable sum of his or
24 her own money for canteen expenses and small purchases;

25 (c) To have access to individual storage space for his or her
26 private use;

27 (d) To have visitors at reasonable times;

28 (e) To have reasonable access to a telephone, both to make and
29 receive confidential calls, consistent with an effective treatment
30 program;

31 (f) To have ready access to letter writing materials, including
32 stamps, and to send and receive uncensored correspondence through the
33 mails;

34 (g) To discuss treatment plans and decisions with professional
35 persons;

36 (h) Not to consent to the administration of antipsychotic
37 medications and not to thereafter be administered antipsychotic
38 medications unless ordered by a court under RCW 71.05.217 or pursuant
39 to an administrative hearing under section 226 of this act;

1 (i) Not to consent to the performance of electroconvulsant
2 therapy or surgery, except emergency lifesaving surgery, unless
3 ordered by a court under RCW 71.05.217;

4 (j) Not to have psychosurgery performed on him or her under any
5 circumstances;

6 (k) To dispose of property and sign contracts unless such person
7 has been adjudicated an incompetent in a court proceeding directed to
8 that particular issue.

9 (11) Every person involuntarily detained shall immediately be
10 informed of his or her right to a hearing to review the legality of
11 his or her detention and of his or her right to counsel, by the
12 professional person in charge of the facility providing evaluation
13 and treatment, or his or her designee, and, when appropriate, by the
14 court. If the person so elects, the court shall immediately appoint
15 an attorney to assist him or her.

16 (12) A person challenging his or her detention or his or her
17 attorney shall have the right to designate and have the court appoint
18 a reasonably available independent physician, psychiatric advanced
19 registered nurse practitioner, physician assistant, or licensed
20 mental health professional to examine the person detained, the
21 results of which examination may be used in the proceeding. The
22 person shall, if he or she is financially able, bear the cost of such
23 expert examination, otherwise such expert examination shall be at
24 public expense.

25 (13) Nothing contained in this chapter shall prohibit the patient
26 from petitioning by writ of habeas corpus for release.

27 (14) Nothing in this chapter shall prohibit a person committed on
28 or prior to January 1, 1974, from exercising a right available to him
29 or her at or prior to January 1, 1974, for obtaining release from
30 confinement.

31 (15) Nothing in this section permits any person to knowingly
32 violate a no-contact order or a condition of an active judgment and
33 sentence or an active condition of supervision by the department of
34 corrections.

35 NEW SECTION. **Sec. 240.** All persons voluntarily entering or
36 remaining in any facility, institution, or hospital providing
37 evaluation and treatment for mental disorders or substance use
38 disorders shall have no less than all rights secured to involuntarily
39 detained persons by section 239 of this act and RCW 71.05.217.

1 NEW SECTION. **Sec. 241.** (1) Whenever a person who is the subject
2 of an involuntary commitment order under this chapter is discharged
3 from an evaluation and treatment facility, state hospital, secure
4 detoxification facility, or approved substance use disorder treatment
5 program providing involuntary treatment services, the entity
6 discharging the person shall provide notice of the person's discharge
7 to the designated crisis responder office responsible for the initial
8 commitment and the designated crisis responder office that serves the
9 county in which the person is expected to reside. The entity
10 discharging the person must also provide these offices with a copy of
11 any less restrictive order or conditional release order entered in
12 conjunction with the discharge of the person, unless the entity
13 discharging the person has entered into a memorandum of understanding
14 obligating another entity to provide these documents.

15 (2) The notice and documents referred to in subsection (1) of
16 this section shall be provided as soon as possible and no later than
17 one business day following the discharge of the person. Notice is not
18 required under this section if the discharge is for the purpose of
19 transferring the person for continued detention and treatment under
20 this chapter at another treatment facility.

21 (3) The department shall maintain and make available an updated
22 list of contact information for designated crisis responder offices
23 around the state.

24 NEW SECTION. **Sec. 242.** Evaluation and treatment facilities and
25 secure detoxification facilities authorized pursuant to this chapter
26 may be part of the comprehensive community mental health services
27 program conducted in counties pursuant to chapter 71.24 RCW, and may
28 receive funding pursuant to the provisions thereof.

29 NEW SECTION. **Sec. 243.** The department shall adopt such rules as
30 may be necessary to effectuate the intent and purposes of this
31 chapter, which shall include but not be limited to evaluation of the
32 quality of the program and facilities operating pursuant to this
33 chapter, evaluation of the effectiveness and cost effectiveness of
34 such programs and facilities, and procedures and standards for
35 certification and other action relevant to evaluation and treatment
36 facilities, secure detoxification facilities, and approved substance
37 use disorder treatment programs.

1 NEW SECTION. **Sec. 244.** (1) The files and records of court
2 proceedings under this chapter and chapter 71.34 RCW shall be closed
3 but shall be accessible to:

4 (a) The department;

5 (b) The state hospitals as defined in RCW 72.23.010;

6 (c) Any person who is the subject of a petition;

7 (d) The attorney or guardian of the person;

8 (e) Resource management services for that person; and

9 (f) Service providers authorized to receive such information by
10 resource management services.

11 (2) The department shall adopt rules to implement this section.

12 NEW SECTION. **Sec. 245.** No designated crisis responder or crisis
13 intervention worker shall be required to respond to a private home or
14 other private location to stabilize or treat a person in crisis, or
15 to evaluate a person for potential detention under the state's
16 involuntary treatment act, unless a second trained individual,
17 determined by the clinical team supervisor, on-call supervisor, or
18 individual professional acting alone based on a risk assessment for
19 potential violence, accompanies them. The second individual may be a
20 law enforcement officer, a mental health professional, a mental
21 health paraprofessional who has received training under RCW
22 71.05.715, or other first responder, such as fire or ambulance
23 personnel. No retaliation may be taken against a worker who,
24 following consultation with the clinical team, refuses to go on a
25 home visit alone.

26 NEW SECTION. **Sec. 246.** Each provider of designated crisis
27 responder or crisis outreach services shall maintain a written policy
28 that, at a minimum, describes the organization's plan for training,
29 staff backup, information sharing, and communication for crisis
30 outreach staff who respond to private homes or nonpublic settings.

31 NEW SECTION. **Sec. 247.** (1) The department may use a single bed
32 certification process as outlined in rule to provide additional
33 treatment capacity for a person suffering from a mental disorder for
34 whom an evaluation and treatment bed is not available. The facility
35 that is the proposed site of the single bed certification must be a
36 facility that is willing and able to provide the person with timely

1 and appropriate treatment either directly or by arrangement with
2 other public or private agencies.

3 (2) A single bed certification must be specific to the patient
4 receiving treatment.

5 (3) A designated crisis responder who submits an application for
6 a single bed certification for treatment at a facility that is
7 willing and able to provide timely and appropriate mental health
8 treatment in good faith belief that the single bed certification is
9 appropriate may presume that the single bed certification will be
10 approved for the purpose of completing the detention process and
11 responding to other emergency calls.

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

15 NEW SECTION. **Sec. 248.** (1) A designated crisis responder shall
16 make a report to the department when he or she determines a person
17 meets detention criteria under section 211, 212, 263, or 264 of this
18 act and there are not any beds available at an evaluation and
19 treatment facility, the person has not been provisionally accepted
20 for admission by a facility, and the person cannot be served on a
21 single bed certification or less restrictive alternative. Starting at
22 the time when the designated crisis responder determines a person
23 meets detention criteria and the investigation has been completed,
24 the designated crisis responder has twenty-four hours to submit a
25 completed report to the department.

26 (2) The report required under subsection (1) of this section must
27 contain at a minimum:

28 (a) The date and time that the investigation was completed;

29 (b) The identity of the responsible behavioral health
30 organization;

31 (c) The county in which the person met detention criteria;

32 (d) A list of facilities which refused to admit the person; and

33 (e) Identifying information for the person, including age or date
34 of birth.

35 (3) The department shall develop a standardized reporting form or
36 modify the current form used for single bed certifications for the
37 report required under subsection (2) of this section and may require
38 additional reporting elements as it determines are necessary or
39 supportive. The department shall also determine the method for the

1 transmission of the completed report from the designated crisis
2 responder to the department.

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

10 (5) The reports provided according to this section may not
11 display "protected health information" as that term is used in the
12 federal health insurance portability and accountability act of 1996,
13 nor information contained in "mental health treatment records" as
14 that term is used in chapter 70.02 RCW or elsewhere in state law, and
15 must otherwise be compliant with state and federal privacy laws.

16 (6) For purposes of this section, the term "single bed
17 certification" means a situation in which an adult on a seventy-two
18 hour detention, fourteen-day commitment, ninety-day commitment, or
19 one hundred eighty-day commitment is detained to a facility that is:

20 (a) Not certified as an inpatient evaluation and treatment
21 facility; or

22 (b) A certified inpatient evaluation and treatment facility that
23 is already at capacity.

24 NEW SECTION. **Sec. 249.** The following sections apply to this
25 chapter: RCW 71.05.012, 71.05.027, 71.05.030, 71.05.040, 71.05.100,
26 71.05.110, 71.05.130, 71.05.135, 71.05.137, 71.05.140, 71.05.145,
27 71.05.217, 71.05.232, 71.05.237, 71.05.245, 71.05.260, 71.05.270,
28 71.05.285, 71.05.310, 71.05.330, 71.05.335, 71.05.350, 71.05.365,
29 71.05.425, 71.05.445, 71.05.500, 71.05.510, 71.05.520, 71.05.525,
30 71.05.570, 71.05.575, 71.05.590, 71.05.595, 71.05.660, 71.05.680,
31 71.05.710, 71.05.715, 71.05.720, 71.05.730, 71.05.732, 71.05.740,
32 71.05.755, and 71.05.801.

33 NEW SECTION. **Sec. 250.** Unless the context clearly requires
34 otherwise, the definitions in this section apply throughout this
35 chapter.

36 (1) "Authority" means the Washington state health care authority.

37 (2) "Child psychiatrist" means a person having a license as a
38 physician and surgeon in this state, who has had graduate training in

1 child psychiatry in a program approved by the American Medical
2 Association or the American Osteopathic Association, and who is board
3 eligible or board certified in child psychiatry.

4 (3) "Children's mental health specialist" means:

5 (a) A mental health professional who has completed a minimum of
6 one hundred actual hours, not quarter or semester hours, of
7 specialized training devoted to the study of child development and
8 the treatment of children; and

9 (b) A mental health professional who has the equivalent of one
10 year of full-time experience in the treatment of children under the
11 supervision of a children's mental health specialist.

12 (4) "Commitment" means a determination by a judge or court
13 commissioner, made after a commitment hearing, that the minor is in
14 need of inpatient diagnosis, evaluation, or treatment or that the
15 minor is in need of less restrictive alternative treatment.

16 (5) "Department" means the department of social and health
17 services.

18 (6) "Evaluation and treatment facility" means a public or private
19 facility or unit that is certified by the department to provide
20 emergency, inpatient, residential, or outpatient mental health
21 evaluation and treatment services for minors. A physically separate
22 and separately-operated portion of a state hospital may be designated
23 as an evaluation and treatment facility for minors. A facility which
24 is part of or operated by the department or federal agency does not
25 require certification. No correctional institution or facility,
26 juvenile court detention facility, or jail may be an evaluation and
27 treatment facility within the meaning of this chapter.

28 (7) "Evaluation and treatment program" means the total system of
29 services and facilities coordinated and approved by a county or
30 combination of counties for the evaluation and treatment of minors
31 under this chapter.

32 (8) "Full integration region" means entities within a regional
33 service area which has elected to jointly purchase behavioral health
34 services through an integrated medical and behavioral health services
35 contract under RCW 71.24.380(5) which perform functions relevant to
36 this chapter which are equivalent to the functions of a behavioral
37 health organization.

38 (9) "Gravely disabled minor" means a minor who, as a result of a
39 mental disorder, or as a result of the use of alcohol or other
40 psychoactive chemicals, is in danger of serious physical harm

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

6 (10) "Inpatient treatment" means twenty-four-hour-per-day mental
7 health care provided within a general hospital, psychiatric hospital,
8 residential treatment facility certified by the department as an
9 evaluation and treatment facility for minors, secure detoxification
10 facility for minors, or approved substance use disorder treatment
11 program for minors.

12 (11) "Integrated crisis response" means a system consistent with
13 this chapter in which the functions of a designated mental health
14 professional under chapters 71.05 and 71.34 RCW and a designated
15 chemical dependency specialist under chapter 70.96A RCW are combined
16 in a designated crisis responder empowered to detain appropriate
17 persons to an evaluation and treatment facility, secure
18 detoxification facility, or approved substance use disorder treatment
19 program depending on the treatment needs of the person.

20 (12) "Less restrictive alternative" or "less restrictive setting"
21 means outpatient treatment provided to a minor who is not residing in
22 a facility providing inpatient treatment as defined in this chapter.

23 (13) "Likelihood of serious harm" means either: (a) A substantial
24 risk that physical harm will be inflicted by an individual upon his
25 or her own person, as evidenced by threats or attempts to commit
26 suicide or inflict physical harm on oneself; (b) a substantial risk
27 that physical harm will be inflicted by an individual upon another,
28 as evidenced by behavior which has caused such harm or which places
29 another person or persons in reasonable fear of sustaining such harm;
30 or (c) a substantial risk that physical harm will be inflicted by an
31 individual upon the property of others, as evidenced by behavior
32 which has caused substantial loss or damage to the property of
33 others.

34 (14) "Medical necessity" for inpatient care means a requested
35 service which is reasonably calculated to: (a) Diagnose, correct,
36 cure, or alleviate a mental disorder or substance use disorder; or
37 (b) prevent the worsening of mental conditions or progression of a
38 substance use disorder that endangers life or causes suffering and
39 pain, or results in illness or infirmity or threatens to cause or

1 aggravate a handicap, or causes physical deformity or malfunction,
2 and there is no adequate less restrictive alternative available.

3 (15) "Mental disorder" means any organic, mental, or emotional
4 impairment that has substantial adverse effects on an individual's
5 cognitive or volitional functions. The presence of alcohol abuse,
6 drug abuse, juvenile criminal history, antisocial behavior, or
7 intellectual disabilities alone is insufficient to justify a finding
8 of "mental disorder" within the meaning of this section.

9 (16) "Mental health professional" means a psychiatrist,
10 psychologist, psychiatric nurse, or social worker, and such other
11 mental health professionals as may be defined by rules adopted by the
12 secretary under this chapter.

13 (17) "Minor" means any person under the age of eighteen years.

14 (18) "Outpatient treatment" means any of the nonresidential
15 services mandated under chapter 71.24 RCW and provided by licensed
16 service providers as identified by RCW 71.24.025.

17 (19) "Parent" means:

18 (a) A biological or adoptive parent who has legal custody of the
19 child, including either parent if custody is shared under a joint
20 custody agreement; or

21 (b) A person or agency judicially appointed as legal guardian or
22 custodian of the child.

23 (20) "Professional person in charge" or "professional person"
24 means a physician, other mental health professional, or other person
25 empowered by an evaluation and treatment facility, secure
26 detoxification facility, or approved substance use disorder treatment
27 program with authority to make admission and discharge decisions on
28 behalf of that facility.

29 (21) "Psychiatric nurse" means a registered nurse who has a
30 bachelor's degree from an accredited college or university, and who
31 has had, in addition, at least two years' experience in the direct
32 treatment of persons who have a mental illness or who are emotionally
33 disturbed, such experience gained under the supervision of a mental
34 health professional. "Psychiatric nurse" shall also mean any other
35 registered nurse who has three years of such experience.

36 (22) "Psychiatrist" means a person having a license as a
37 physician in this state who has completed residency training in
38 psychiatry in a program approved by the American Medical Association
39 or the American Osteopathic Association, and is board eligible or
40 board certified in psychiatry.

1 (23) "Psychologist" means a person licensed as a psychologist
2 under chapter 18.83 RCW.

3 (24) "Region" means a regional service area under RCW 71.24.380.

4 (25) "Responsible other" means the minor, the minor's parent or
5 estate, or any other person legally responsible for support of the
6 minor.

7 (26) "Secretary" means the secretary of the department or
8 secretary's designee.

9 (27) "Social worker" means a person with a master's or further
10 advanced degree from a social work educational program accredited and
11 approved as provided in RCW 18.320.010.

12 (28) "Start of initial detention" means the time of arrival of
13 the minor at the first evaluation and treatment facility, secure
14 detoxification facility, or approved substance use disorder treatment
15 program offering inpatient treatment if the minor is being
16 involuntarily detained at the time. With regard to voluntary
17 patients, "start of initial detention" means the time at which the
18 minor gives notice of intent to leave under the provisions of this
19 chapter.

20 (29) "Alcoholism" means a disease, characterized by a dependency
21 on alcoholic beverages, loss of control over the amount and
22 circumstances of use, symptoms of tolerance, physiological or
23 psychological withdrawal, or both, if use is reduced or discontinued,
24 and impairment of health or disruption of social or economic
25 functioning.

26 (30) "Approved substance use disorder treatment program" means a
27 program for minors with substance use disorders provided by a
28 treatment program certified by the department as meeting standards
29 adopted under chapter 71.24 RCW.

30 (31) "Chemical dependency" means:

31 (a) Alcoholism;

32 (b) Drug addiction; or

33 (c) Dependence on alcohol and one or more other psychoactive
34 chemicals, as the context requires.

35 (32) "Chemical dependency professional" means a person certified
36 as a chemical dependency professional by the department of health
37 under chapter 18.205 RCW.

38 (33) "Designated crisis responder" means a person designated by a
39 behavioral health organization or full integration region to perform
40 the duties specified in this chapter.

1 (34) "Drug addiction" means a disease, characterized by a
2 dependency on psychoactive chemicals, loss of control over the amount
3 and circumstances of use, symptoms of tolerance, physiological or
4 psychological withdrawal, or both, if use is reduced or discontinued,
5 and impairment of health or disruption of social or economic
6 functioning.

7 (35) "Intoxicated minor" means a minor whose mental or physical
8 functioning is substantially impaired as a result of the use of
9 alcohol or other psychoactive chemicals.

10 (36) "Physician assistant" means a person who is licensed as a
11 physician assistant pursuant to chapter 18.57A or 18.71A RCW and is
12 working with a licensed mental health physician as indicated by their
13 delegation agreement.

14 (37) "Private agency" means any person, partnership, corporation,
15 or association that is not a public agency, whether or not financed
16 in whole or in part by public funds, that constitutes an evaluation
17 and treatment facility or private institution, or hospital, or
18 approved substance use disorder treatment program, that is conducted
19 for, or includes a department or ward conducted for, the care and
20 treatment of persons with mental illness, substance use disorders, or
21 both mental illness and substance use disorders.

22 (38) "Public agency" means any evaluation and treatment facility
23 or institution, or hospital, or approved substance use disorder
24 treatment program that is conducted for, or includes a department or
25 ward conducted for, the care and treatment of persons with mental
26 illness, substance use disorders, or both mental illness and
27 substance use disorders if the agency is operated directly by
28 federal, state, county, or municipal government, or a combination of
29 such governments.

30 (39) "Secure detoxification facility" means a facility operated
31 by either a public or private agency or by the program of an agency
32 that:

33 (a) Provides for intoxicated minors:

34 (i) Evaluation and assessment, provided by certified chemical
35 dependency professionals;

36 (ii) Acute or subacute detoxification services; and

37 (iii) Discharge assistance provided by certified chemical
38 dependency professionals, including facilitating transitions to
39 appropriate voluntary or involuntary inpatient services or to less
40 restrictive alternatives as appropriate for the minor;

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

3 (c) Is certified as such by the department.

4 (40) "Substance use disorder" means a cluster of cognitive,
5 behavioral, and physiological symptoms indicating that an individual
6 continues using the substance despite significant substance-related
7 problems. The diagnosis of a substance use disorder is based on a
8 pathological pattern of behaviors related to the use of the
9 substances.

10 NEW SECTION. **Sec. 251.** School district personnel who contact a
11 mental health or substance use disorder inpatient treatment program
12 or provider for the purpose of referring a student to inpatient
13 treatment shall provide the parents with notice of the contact within
14 forty-eight hours.

15 NEW SECTION. **Sec. 252.** (1) If a parent or guardian, for the
16 purpose of mental health treatment, substance use disorder treatment,
17 or evaluation, brings his or her minor child to an evaluation and
18 treatment facility, a hospital emergency room, an inpatient facility
19 licensed under chapter 72.23 RCW, an inpatient facility licensed
20 under chapter 70.41 or 71.12 RCW operating inpatient psychiatric beds
21 for minors, a secure detoxification facility, or an approved
22 substance use disorder treatment program, the facility is required to
23 promptly provide written and verbal notice of all statutorily
24 available treatment options contained in this chapter. The notice
25 need not be given more than once if written and verbal notice has
26 already been provided and documented by the facility.

27 (2) The provision of notice must be documented by the facilities
28 required to give notice under subsection (1) of this section and must
29 be accompanied by a signed acknowledgment of receipt by the parent or
30 guardian. The notice must contain the following information:

31 (a) All current statutorily available treatment options including
32 but not limited to those provided in this chapter; and

33 (b) The procedures to be followed to utilize the treatment
34 options described in this chapter.

35 (3) The department shall produce, and make available, the written
36 notification that must include, at a minimum, the information
37 contained in subsection (2) of this section. The department must

1 revise the written notification as necessary to reflect changes in
2 the law.

3 NEW SECTION. **Sec. 253.** The department shall ensure that the
4 provisions of this chapter are applied by the counties in a
5 consistent and uniform manner. The department shall also ensure that,
6 to the extent possible within available funds, the designated crisis
7 responders are specifically trained in adolescent mental health
8 issues, the mental health and substance use disorder civil commitment
9 laws, and the criteria for civil commitment.

10 NEW SECTION. **Sec. 254.** For purposes of eligibility for medical
11 assistance under chapter 74.09 RCW, minors in inpatient mental health
12 or inpatient substance use disorder treatment shall be considered to
13 be part of their parent's or legal guardian's household, unless the
14 minor has been assessed by the department or its designee as likely
15 to require such treatment for at least ninety consecutive days, or is
16 in out-of-home care in accordance with chapter 13.34 RCW, or the
17 parents are found to not be exercising responsibility for care and
18 control of the minor. Payment for such care by the department shall
19 be made only in accordance with rules, guidelines, and clinical
20 criteria applicable to inpatient treatment of minors established by
21 the department.

22 NEW SECTION. **Sec. 255.** No public or private agency or
23 governmental entity, nor officer of a public or private agency, nor
24 the superintendent, or professional person in charge, his or her
25 professional designee or attending staff of any such agency, nor any
26 public official performing functions necessary to the administration
27 of this chapter, nor peace officer responsible for detaining a person
28 under this chapter, nor any designated crisis responder, nor
29 professional person, nor evaluation and treatment facility, nor
30 secure detoxification facility, nor approved substance use disorder
31 treatment program shall be civilly or criminally liable for
32 performing actions authorized in this chapter with regard to the
33 decision of whether to admit, release, or detain a person for
34 evaluation and treatment: PROVIDED, That such duties were performed
35 in good faith and without gross negligence.

1 NEW SECTION. **Sec. 256.** (1) The department may use a single bed
2 certification process as outlined in rule to provide additional
3 treatment capacity for a minor suffering from a mental disorder for
4 whom an evaluation and treatment bed is not available. The facility
5 that is the proposed site of the single bed certification must be a
6 facility that is willing and able to provide the person with timely
7 and appropriate treatment either directly or by arrangement with
8 other public or private agencies.

9 (2) A single bed certification must be specific to the minor
10 receiving treatment.

11 (3) A designated crisis responder who submits an application for
12 a single bed certification for treatment at a facility that is
13 willing and able to provide timely and appropriate mental health
14 treatment in good faith belief that the single bed certification is
15 appropriate may presume that the single bed certification will be
16 approved for the purpose of completing the detention process and
17 responding to other emergency calls.

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

21 NEW SECTION. **Sec. 257.** (1) A minor thirteen years or older may
22 admit himself or herself to an evaluation and treatment facility for
23 inpatient mental health treatment or an approved substance use
24 disorder treatment program for inpatient substance use disorder
25 treatment without parental consent. The admission shall occur only if
26 the professional person in charge of the facility concurs with the
27 need for inpatient treatment. Parental authorization, or
28 authorization from a person who may consent on behalf of the minor
29 pursuant to RCW 7.70.065, is required for inpatient treatment of a
30 minor under the age of thirteen.

31 (2) When, in the judgment of the professional person in charge of
32 an evaluation and treatment facility or approved substance use
33 disorder treatment program, there is reason to believe that a minor
34 is in need of inpatient treatment because of a mental disorder or
35 substance use disorder, and the facility provides the type of
36 evaluation and treatment needed by the minor, and it is not feasible
37 to treat the minor in any less restrictive setting or the minor's
38 home, the minor may be admitted to the facility.

1 (3) Written renewal of voluntary consent must be obtained from
2 the applicant no less than once every twelve months. The minor's need
3 for continued inpatient treatments shall be reviewed and documented
4 no less than every one hundred eighty days.

5 NEW SECTION. **Sec. 258.** (1) Any minor thirteen years or older
6 voluntarily admitted to an evaluation and treatment facility or
7 approved substance use disorder treatment program under section 257
8 of this act may give notice of intent to leave at any time. The
9 notice need not follow any specific form so long as it is written and
10 the intent of the minor can be discerned.

11 (2) The staff member receiving the notice shall date it
12 immediately, record its existence in the minor's clinical record, and
13 send copies of it to the minor's attorney, if any, the designated
14 crisis responders, and the parent.

15 (3) The professional person shall discharge the minor, thirteen
16 years or older, from the facility by the second judicial day
17 following receipt of the minor's notice of intent to leave.

18 NEW SECTION. **Sec. 259.** (1) A parent may bring, or authorize the
19 bringing of, his or her minor child to:

20 (a) An evaluation and treatment facility or an inpatient facility
21 licensed under chapter 70.41, 71.12, or 72.23 RCW and request that
22 the professional person examine the minor to determine whether the
23 minor has a mental disorder and is in need of inpatient treatment; or

24 (b) A secure detoxification facility or approved substance use
25 disorder treatment program and request that a substance use disorder
26 assessment be conducted by a professional person to determine whether
27 the minor has a substance use disorder and is in need of inpatient
28 treatment.

29 (2) The consent of the minor is not required for admission,
30 evaluation, and treatment if the parent brings the minor to the
31 facility.

32 (3) An appropriately trained professional person may evaluate
33 whether the minor has a mental disorder or has a substance use
34 disorder. The evaluation shall be completed within twenty-four hours
35 of the time the minor was brought to the facility, unless the
36 professional person determines that the condition of the minor
37 necessitates additional time for evaluation. In no event shall a
38 minor be held longer than seventy-two hours for evaluation. If, in

1 the judgment of the professional person, it is determined it is a
2 medical necessity for the minor to receive inpatient treatment, the
3 minor may be held for treatment. The facility shall limit treatment
4 to that which the professional person determines is medically
5 necessary to stabilize the minor's condition until the evaluation has
6 been completed. Within twenty-four hours of completion of the
7 evaluation, the professional person shall notify the department if
8 the child is held for treatment and of the date of admission.

9 (4) No provider is obligated to provide treatment to a minor
10 under the provisions of this section except that no provider may
11 refuse to treat a minor under the provisions of this section solely
12 on the basis that the minor has not consented to the treatment. No
13 provider may admit a minor to treatment under this section unless it
14 is medically necessary.

15 (5) No minor receiving inpatient treatment under this section may
16 be discharged from the facility based solely on his or her request.

17 (6) Prior to the review conducted under RCW 71.34.610, the
18 professional person shall notify the minor of his or her right to
19 petition superior court for release from the facility.

20 (7) For the purposes of this section "professional person" means
21 "professional person" as defined in section 205 of this act.

22 NEW SECTION. **Sec. 260.** If the minor is not released as a result
23 of the petition filed under RCW 71.34.620, he or she shall be
24 released not later than thirty days following the later of: (1) The
25 date of the department's determination under RCW 71.34.610(2); or (2)
26 the filing of a petition for judicial review under RCW 71.34.620,
27 unless a professional person or the designated crisis responder
28 initiates proceedings under this chapter.

29 NEW SECTION. **Sec. 261.** (1) A parent may bring, or authorize the
30 bringing of, his or her minor child to:

31 (a) A provider of outpatient mental health treatment and request
32 that an appropriately trained professional person examine the minor
33 to determine whether the minor has a mental disorder and is in need
34 of outpatient treatment; or

35 (b) A provider of outpatient substance use disorder treatment and
36 request that an appropriately trained professional person examine the
37 minor to determine whether the minor has a substance use disorder and
38 is in need of outpatient treatment.

1 (2) The consent of the minor is not required for evaluation if
2 the parent brings the minor to the provider.

3 (3) The professional person may evaluate whether the minor has a
4 mental disorder or substance use disorder and is in need of
5 outpatient treatment.

6 (4) Any minor admitted to inpatient treatment under section 257
7 or 259 of this act shall be discharged immediately from inpatient
8 treatment upon written request of the parent.

9 NEW SECTION. **Sec. 262.** A minor child shall have no cause of
10 action against an evaluation and treatment facility, secure
11 detoxification facility, approved substance use disorder treatment
12 program, inpatient facility, or provider of outpatient mental health
13 treatment or outpatient substance use disorder treatment for
14 admitting or accepting the minor in good faith for evaluation or
15 treatment under section 259 or 261 of this act based solely upon the
16 fact that the minor did not consent to evaluation or treatment if the
17 minor's parent has consented to the evaluation or treatment.

18 NEW SECTION. **Sec. 263.** (1) If a minor, thirteen years or older,
19 is brought to an evaluation and treatment facility or hospital
20 emergency room for immediate mental health services, the professional
21 person in charge of the facility shall evaluate the minor's mental
22 condition, determine whether the minor suffers from a mental
23 disorder, and whether the minor is in need of immediate inpatient
24 treatment.

25 (2) If a minor, thirteen years or older, is brought to a secure
26 detoxification facility or a hospital emergency room for immediate
27 substance use disorder treatment, the professional person in charge
28 of the facility shall evaluate the minor's condition, determine
29 whether the minor suffers from substance use disorder, and whether
30 the minor is in need of immediate inpatient treatment.

31 (3) If it is determined under subsection (1) or (2) of this
32 section that the minor suffers from a mental disorder or substance
33 use disorder, inpatient treatment is required, the minor is unwilling
34 to consent to voluntary admission, and the professional person
35 believes that the minor meets the criteria for initial detention set
36 forth herein, the facility may detain or arrange for the detention of
37 the minor for up to twelve hours in order to enable a designated

1 crisis responder to evaluate the minor and commence initial detention
2 proceedings under the provisions of this chapter.

3 NEW SECTION. **Sec. 264.** (1)(a)(i) When a designated crisis
4 responder receives information that a minor, thirteen years or older,
5 as a result of a mental disorder presents a likelihood of serious
6 harm or is gravely disabled, has investigated the specific facts
7 alleged and of the credibility of the person or persons providing the
8 information, and has determined that voluntary admission for
9 inpatient treatment is not possible, the designated crisis responder
10 may take the minor, or cause the minor to be taken, into custody and
11 transported to an evaluation and treatment facility providing
12 inpatient treatment.

13 (ii) When a designated crisis responder receives information that
14 a minor, thirteen years or older, as a result of substance use
15 disorder presents a likelihood of serious harm or is gravely
16 disabled, has investigated the specific facts alleged and of the
17 credibility of the person or persons providing the information, and
18 has determined that voluntary admission for inpatient treatment is
19 not possible, the designated crisis responder may take the minor, or
20 cause the minor to be taken, into custody and transported to a secure
21 detoxification facility or approved substance use disorder treatment
22 program.

23 (b) If the minor is not taken into custody for evaluation and
24 treatment, the parent who has custody of the minor may seek review of
25 that decision made by the designated crisis responder in court. The
26 parent shall file notice with the court and provide a copy of the
27 designated crisis responder's report or notes.

28 (2) Within twelve hours of the minor's arrival at the evaluation
29 and treatment facility, secure detoxification facility, or approved
30 substance use disorder treatment program, the designated crisis
31 responder shall serve on the minor a copy of the petition for initial
32 detention, notice of initial detention, and statement of rights. The
33 designated crisis responder shall file with the court on the next
34 judicial day following the initial detention the original petition
35 for initial detention, notice of initial detention, and statement of
36 rights along with an affidavit of service. The designated crisis
37 responder shall commence service of the petition for initial
38 detention and notice of the initial detention on the minor's parent

1 and the minor's attorney as soon as possible following the initial
2 detention.

3 (3) At the time of initial detention, the designated crisis
4 responder shall advise the minor both orally and in writing that if
5 admitted to the evaluation and treatment facility, secure
6 detoxification facility, or approved substance use disorder treatment
7 program for inpatient treatment, a commitment hearing shall be held
8 within seventy-two hours of the minor's provisional acceptance to
9 determine whether probable cause exists to commit the minor for
10 further treatment.

11 The minor shall be advised that he or she has a right to
12 communicate immediately with an attorney and that he or she has a
13 right to have an attorney appointed to represent him or her before
14 and at the hearing if the minor is indigent.

15 (4) Whenever the designated crisis responder petitions for
16 detention of a minor under this chapter, an evaluation and treatment
17 facility, secure detoxification facility, or approved substance use
18 disorder treatment program providing seventy-two hour evaluation and
19 treatment must immediately accept on a provisional basis the petition
20 and the person. Within twenty-four hours of the minor's arrival, the
21 facility must evaluate the minor's condition and either admit or
22 release the minor in accordance with this chapter.

23 (5) If a minor is not approved for admission by the inpatient
24 evaluation and treatment facility, secure detoxification facility, or
25 approved substance use disorder treatment program, the facility shall
26 make such recommendations and referrals for further care and
27 treatment of the minor as necessary.

28 NEW SECTION. **Sec. 265.** (1) Each minor approved by the facility
29 for inpatient admission shall be examined and evaluated by a
30 children's mental health specialist, for minors admitted as a result
31 of a mental disorder, or by a chemical dependency professional, for
32 minors admitted as a result of a substance use disorder, as to the
33 child's mental condition and by a physician, physician assistant, or
34 psychiatric advanced registered nurse practitioner as to the child's
35 physical condition within twenty-four hours of admission. Reasonable
36 measures shall be taken to ensure medical treatment is provided for
37 any condition requiring immediate medical attention.

38 (2) If, after examination and evaluation, the children's mental
39 health specialist or substance use disorder specialist and the

1 physician, physician assistant, or psychiatric advanced registered
2 nurse practitioner determine that the initial needs of the minor, if
3 detained to an evaluation and treatment facility, would be better
4 served by placement in a substance use disorder treatment facility
5 or, if detained to a secure detoxification facility or approved
6 substance use disorder treatment program, would be better served in
7 an evaluation and treatment facility, then the minor shall be
8 referred to the more appropriate placement.

9 (3) The admitting facility shall take reasonable steps to notify
10 immediately the minor's parent of the admission.

11 (4) During the initial seventy-two hour treatment period, the
12 minor has a right to associate or receive communications from parents
13 or others unless the professional person in charge determines that
14 such communication would be seriously detrimental to the minor's
15 condition or treatment and so indicates in the minor's clinical
16 record, and notifies the minor's parents of this determination. In no
17 event may the minor be denied the opportunity to consult an attorney.

18 (5) If the evaluation and treatment facility, secure
19 detoxification facility, or approved substance use disorder treatment
20 program admits the minor, it may detain the minor for evaluation and
21 treatment for a period not to exceed seventy-two hours from the time
22 of provisional acceptance. The computation of such seventy-two hour
23 period shall exclude Saturdays, Sundays, and holidays. This initial
24 treatment period shall not exceed seventy-two hours except when an
25 application for voluntary inpatient treatment is received or a
26 petition for fourteen-day commitment is filed.

27 (6) Within twelve hours of the admission, the facility shall
28 advise the minor of his or her rights as set forth in this chapter.

29 NEW SECTION. **Sec. 266.** (1) The professional person in charge of
30 an evaluation and treatment facility, secure detoxification facility,
31 or approved substance use disorder treatment program where a minor
32 has been admitted involuntarily for the initial seventy-two hour
33 treatment period under this chapter may petition to have a minor
34 committed to an evaluation and treatment facility or, in the case of
35 a minor with a substance use disorder, to a secure detoxification
36 facility or approved substance use disorder treatment program for
37 fourteen-day diagnosis, evaluation, and treatment.

38 If the professional person in charge of the facility does not
39 petition to have the minor committed, the parent who has custody of

1 the minor may seek review of that decision in court. The parent shall
2 file notice with the court and provide a copy of the treatment and
3 evaluation facility's report.

4 (2) A petition for commitment of a minor under this section shall
5 be filed with the superior court in the county where the minor is
6 residing or being detained.

7 (a) A petition for a fourteen-day commitment shall be signed by
8 two professionals who have each examined the minor:

9 (i) The first professional must be a physician, physician
10 assistant, or advanced registered nurse practitioner;

11 (ii) The second professional must be a physician, physician
12 assistant, advanced registered nurse practitioner, mental health
13 professional, or chemical dependency professional. The petition must
14 contain the following:

15 (A) The name and address of the petitioner;

16 (B) The name of the minor alleged to meet the criteria for
17 fourteen-day commitment;

18 (C) The name, telephone number, and address if known of every
19 person believed by the petitioner to be legally responsible for the
20 minor;

21 (D) A statement that the petitioner has examined the minor and
22 finds that the minor's condition meets required criteria for
23 fourteen-day commitment and the supporting facts therefor;

24 (E) A statement that the minor has been advised of the need for
25 voluntary treatment but has been unwilling or unable to consent to
26 necessary treatment;

27 (F) If the petition is for mental health treatment, a statement
28 that the minor has been advised of the loss of firearm rights if
29 involuntarily committed;

30 (G) A statement recommending the appropriate facility or
31 facilities to provide the necessary treatment; and

32 (H) A statement concerning whether a less restrictive alternative
33 to inpatient treatment is in the best interests of the minor.

34 (b) A copy of the petition shall be personally delivered to the
35 minor by the petitioner or petitioner's designee. A copy of the
36 petition shall be sent to the minor's attorney and the minor's
37 parent.

38 NEW SECTION. **Sec. 267.** (1) A commitment hearing shall be held
39 within seventy-two hours of the minor's admission, excluding

1 Saturday, Sunday, and holidays, unless a continuance is requested by
2 the minor or the minor's attorney.

3 (2) The commitment hearing shall be conducted at the superior
4 court or an appropriate place at the facility in which the minor is
5 being detained.

6 (3) At the commitment hearing, the evidence in support of the
7 petition shall be presented by the county prosecutor.

8 (4) The minor shall be present at the commitment hearing unless
9 the minor, with the assistance of the minor's attorney, waives the
10 right to be present at the hearing.

11 (5) If the parents are opposed to the petition, they may be
12 represented at the hearing and shall be entitled to court-appointed
13 counsel if they are indigent.

14 (6) At the commitment hearing, the minor shall have the following
15 rights:

16 (a) To be represented by an attorney;

17 (b) To present evidence on his or her own behalf;

18 (c) To question persons testifying in support of the petition.

19 (7) If the hearing is for commitment for mental health treatment,
20 the court at the time of the commitment hearing and before an order
21 of commitment is entered shall inform the minor both orally and in
22 writing that the failure to make a good faith effort to seek
23 voluntary treatment as provided in section 266 of this act will
24 result in the loss of his or her firearm rights if the minor is
25 subsequently detained for involuntary treatment under this section.

26 (8) If the minor has received medication within twenty-four hours
27 of the hearing, the court shall be informed of that fact and of the
28 probable effects of the medication.

29 (9) Rules of evidence shall not apply in fourteen-day commitment
30 hearings.

31 (10) For a fourteen-day commitment, the court must find by a
32 preponderance of the evidence that:

33 (a) The minor has a mental disorder or substance use disorder and
34 presents a likelihood of serious harm or is gravely disabled;

35 (b) The minor is in need of evaluation and treatment of the type
36 provided by the inpatient evaluation and treatment facility, secure
37 detoxification facility, or approved substance use disorder treatment
38 program to which continued inpatient care is sought or is in need of
39 less restrictive alternative treatment found to be in the best
40 interests of the minor; and

1 (c) The minor is unwilling or unable in good faith to consent to
2 voluntary treatment.

3 (11) If the court finds that the minor meets the criteria for a
4 fourteen-day commitment, the court shall either authorize commitment
5 of the minor for inpatient treatment or for less restrictive
6 alternative treatment upon such conditions as are necessary. If the
7 court determines that the minor does not meet the criteria for a
8 fourteen-day commitment, the minor shall be released.

9 (12) Nothing in this section prohibits the professional person in
10 charge of the facility from releasing the minor at any time, when, in
11 the opinion of the professional person in charge of the facility,
12 further inpatient treatment is no longer necessary. The release may
13 be subject to reasonable conditions if appropriate.

14 Whenever a minor is released under this section, the professional
15 person in charge shall within three days, notify the court in writing
16 of the release.

17 (13) A minor who has been committed for fourteen days shall be
18 released at the end of that period unless a petition for one hundred
19 eighty-day commitment is pending before the court.

20 NEW SECTION. **Sec. 268.** (1) At any time during the minor's
21 period of fourteen-day commitment, the professional person in charge
22 may petition the court for an order requiring the minor to undergo an
23 additional one hundred eighty-day period of treatment. The evidence
24 in support of the petition shall be presented by the county
25 prosecutor unless the petition is filed by the professional person in
26 charge of a state-operated facility in which case the evidence shall
27 be presented by the attorney general.

28 (2) The petition for one hundred eighty-day commitment shall
29 contain the following:

30 (a) The name and address of the petitioner or petitioners;

31 (b) The name of the minor alleged to meet the criteria for one
32 hundred eighty-day commitment;

33 (c) A statement that the petitioner is the professional person in
34 charge of the evaluation and treatment facility, secure
35 detoxification facility, or approved substance use disorder treatment
36 program responsible for the treatment of the minor;

37 (d) The date of the fourteen-day commitment order; and

38 (e) A summary of the facts supporting the petition.

1 (3) The petition shall be supported by accompanying affidavits
2 signed by two professionals who have each examined the minor:

3 (a) The first professional must be a physician or advanced
4 registered nurse practitioner who is either a child psychiatrist or a
5 child and adolescent or family advanced registered nurse
6 practitioner;

7 (b) The second professional must be a physician, physician
8 assistant, advanced registered nurse practitioner, children's mental
9 health specialist, or children's substance use disorder specialist.
10 The affidavits shall describe in detail the behavior of the detained
11 minor which supports the petition and shall state whether a less
12 restrictive alternative to inpatient treatment is in the best
13 interests of the minor.

14 (4) The petition for one hundred eighty-day commitment shall be
15 filed with the clerk of the court at least three days before the
16 expiration of the fourteen-day commitment period. The petitioner or
17 the petitioner's designee shall within twenty-four hours of filing
18 serve a copy of the petition on the minor and notify the minor's
19 attorney and the minor's parent. A copy of the petition shall be
20 provided to such persons at least twenty-four hours prior to the
21 hearing.

22 (5) At the time of filing, the court shall set a date within
23 seven days for the hearing on the petition. The court may continue
24 the hearing upon the written request of the minor or the minor's
25 attorney for not more than ten days. The minor or the parents shall
26 be afforded the same rights as in a fourteen-day commitment hearing.
27 Treatment of the minor shall continue pending the proceeding.

28 (6) For one hundred eighty-day commitment, the court must find by
29 clear, cogent, and convincing evidence that the minor:

30 (a) Is suffering from a mental disorder or substance use
31 disorder;

32 (b) Presents a likelihood of serious harm or is gravely disabled;
33 and

34 (c) Is in need of further treatment that only can be provided in
35 a one hundred eighty-day commitment.

36 (7) If the court finds that the criteria for commitment are met
37 and that less restrictive treatment in a community setting is not
38 appropriate or available, the court shall order the minor committed
39 to the custody of the secretary for further inpatient mental health
40 treatment, to an approved substance use disorder treatment program

1 for further substance use disorder treatment, or to a private
2 treatment and evaluation facility for inpatient mental health or
3 substance use disorder treatment if the minor's parents have assumed
4 responsibility for payment for the treatment. If the court finds that
5 a less restrictive alternative is in the best interest of the minor,
6 the court shall order less restrictive alternative treatment upon
7 such conditions as necessary.

8 If the court determines that the minor does not meet the criteria
9 for one hundred eighty-day commitment, the minor shall be released.

10 (8) Successive one hundred eighty-day commitments are permissible
11 on the same grounds and under the same procedures as the original one
12 hundred eighty-day commitment. Such petitions shall be filed at least
13 five days prior to the expiration of the previous one hundred eighty-
14 day commitment order.

15 NEW SECTION. **Sec. 269.** (1) If a minor is committed for one
16 hundred eighty-day inpatient treatment and is to be placed in a
17 state-supported program, the secretary shall accept immediately and
18 place the minor in a state-funded long-term evaluation and treatment
19 facility or approved substance use disorder treatment program.

20 (2) The secretary's placement authority shall be exercised
21 through a designated placement committee appointed by the secretary
22 and composed of children's mental health specialists and chemical
23 dependency professionals, including at least one child psychiatrist
24 who represents the state-funded, long-term, evaluation and treatment
25 facility for minors and one chemical dependency professional who
26 represents the state-funded approved substance use disorder treatment
27 program. The responsibility of the placement committee will be to:

28 (a) Make the long-term placement of the minor in the most
29 appropriate, available state-funded evaluation and treatment facility
30 or approved substance use disorder treatment program, having
31 carefully considered factors including the treatment needs of the
32 minor, the most appropriate facility able to respond to the minor's
33 identified treatment needs, the geographic proximity of the facility
34 to the minor's family, the immediate availability of bed space, and
35 the probable impact of the placement on other residents of the
36 facility;

37 (b) Approve or deny requests from treatment facilities for
38 transfer of a minor to another facility;

39 (c) Receive and monitor reports required under this section;

1 (d) Receive and monitor reports of all discharges.

2 (3) The secretary may authorize transfer of minors among
3 treatment facilities if the transfer is in the best interests of the
4 minor or due to treatment priorities.

5 (4) The responsible state-funded evaluation and treatment
6 facility or approved substance use disorder treatment program shall
7 submit a report to the department's designated placement committee
8 within ninety days of admission and no less than every one hundred
9 eighty days thereafter, setting forth such facts as the department
10 requires, including the minor's individual treatment plan and
11 progress, recommendations for future treatment, and possible less
12 restrictive treatment.

13 NEW SECTION. **Sec. 270.** (1) If the professional person in charge
14 of an outpatient treatment program, a designated crisis responder, or
15 the secretary determines that a minor is failing to adhere to the
16 conditions of the court order for less restrictive alternative
17 treatment or the conditions for the conditional release, or that
18 substantial deterioration in the minor's functioning has occurred,
19 the designated crisis responder, or the secretary may order that the
20 minor, if committed for mental health treatment, be taken into
21 custody and transported to an inpatient evaluation and treatment
22 facility or, if committed for substance use disorder treatment, be
23 taken into custody and transported to a secure detoxification
24 facility or approved substance use disorder treatment program.

25 (2) The designated crisis responder or the secretary shall file
26 the order of apprehension and detention and serve it upon the minor
27 and notify the minor's parent and the minor's attorney, if any, of
28 the detention within two days of return. At the time of service the
29 minor shall be informed of the right to a hearing and to
30 representation by an attorney. The designated crisis responder or the
31 secretary may modify or rescind the order of apprehension and
32 detention at any time prior to the hearing.

33 (3) A petition for revocation of less restrictive alternative
34 treatment shall be filed by the designated crisis responder or the
35 secretary with the court in the county ordering the less restrictive
36 alternative treatment. The court shall conduct the hearing in that
37 county. A petition for revocation of conditional release may be filed
38 with the court in the county ordering inpatient treatment or the
39 county where the minor on conditional release is residing. A petition

1 shall describe the behavior of the minor indicating violation of the
2 conditions or deterioration of routine functioning and a
3 dispositional recommendation. Upon motion for good cause, the hearing
4 may be transferred to the county of the minor's residence or to the
5 county in which the alleged violations occurred. The hearing shall be
6 held within seven days of the minor's return. The issues to be
7 determined are whether the minor did or did not adhere to the
8 conditions of the less restrictive alternative treatment or
9 conditional release, or whether the minor's routine functioning has
10 substantially deteriorated, and, if so, whether the conditions of
11 less restrictive alternative treatment or conditional release should
12 be modified or whether the minor should be returned to inpatient
13 treatment. Pursuant to the determination of the court, the minor
14 shall be returned to less restrictive alternative treatment or
15 conditional release on the same or modified conditions or shall be
16 returned to inpatient treatment. If the minor is returned to
17 inpatient treatment, section 269 of this act regarding the
18 secretary's placement responsibility shall apply. The hearing may be
19 waived by the minor and the minor returned to inpatient treatment or
20 to less restrictive alternative treatment or conditional release on
21 the same or modified conditions.

22 NEW SECTION. **Sec. 271.** The following sections apply to this
23 chapter: RCW 71.34.010, 71.34.300, 71.34.310, 71.34.315, 71.34.320,
24 71.34.325, 71.34.330, 71.34.335, 71.34.355, 71.34.360, 71.34.365,
25 71.34.370, 71.34.377, 71.34.379, 71.34.380, 71.34.390, 71.34.395,
26 71.34.415, 71.34.510, 71.34.530, 71.34.610, 71.34.620, 71.34.640,
27 71.34.770, 71.34.790, and 71.34.795.

28 **Sec. 272.** RCW 9.41.098 and 2003 c 39 s 5 are each amended to
29 read as follows:

30 (1) The superior courts and the courts of limited jurisdiction of
31 the state may order forfeiture of a firearm which is proven to be:

32 (a) Found concealed on a person not authorized by RCW 9.41.060 or
33 9.41.070 to carry a concealed pistol: PROVIDED, That it is an
34 absolute defense to forfeiture if the person possessed a valid
35 Washington concealed pistol license within the preceding two years
36 and has not become ineligible for a concealed pistol license in the
37 interim. Before the firearm may be returned, the person must pay the
38 past due renewal fee and the current renewal fee;

1 (b) Commercially sold to any person without an application as
2 required by RCW 9.41.090;

3 (c) In the possession of a person prohibited from possessing the
4 firearm under RCW 9.41.040 or 9.41.045;

5 (d) In the possession or under the control of a person at the
6 time the person committed or was arrested for committing a felony or
7 committing a nonfelony crime in which a firearm was used or
8 displayed;

9 (e) In the possession of a person who is in any place in which a
10 concealed pistol license is required, and who is under the influence
11 of any drug or under the influence of intoxicating liquor, as defined
12 in chapter 46.61 RCW;

13 (f) In the possession of a person free on bail or personal
14 recognizance pending trial, appeal, or sentencing for a felony or for
15 a nonfelony crime in which a firearm was used or displayed, except
16 that violations of Title 77 RCW shall not result in forfeiture under
17 this section;

18 (g) In the possession of a person found to have been mentally
19 incompetent while in possession of a firearm when apprehended or who
20 is thereafter committed pursuant to chapter 10.77 RCW or committed
21 for mental health treatment under chapter 71.05 RCW or chapter 71.---
22 RCW (the new chapter created in section 903 of this act);

23 (h) Used or displayed by a person in the violation of a proper
24 written order of a court of general jurisdiction; or

25 (i) Used in the commission of a felony or of a nonfelony crime in
26 which a firearm was used or displayed.

27 (2) Upon order of forfeiture, the court in its discretion may
28 order destruction of any forfeited firearm. A court may temporarily
29 retain forfeited firearms needed for evidence.

30 (a) Except as provided in (b), (c), and (d) of this subsection,
31 firearms that are: (i) Judicially forfeited and no longer needed for
32 evidence; or (ii) forfeited due to a failure to make a claim under
33 RCW 63.32.010 or 63.40.010; may be disposed of in any manner
34 determined by the local legislative authority. Any proceeds of an
35 auction or trade may be retained by the legislative authority. This
36 subsection (2)(a) applies only to firearms that come into the
37 possession of the law enforcement agency after June 30, 1993.

38 By midnight, June 30, 1993, every law enforcement agency shall
39 prepare an inventory, under oath, of every firearm that has been
40 judicially forfeited, has been seized and may be subject to judicial

1 forfeiture, or that has been, or may be, forfeited due to a failure
2 to make a claim under RCW 63.32.010 or 63.40.010.

3 (b) Except as provided in (c) of this subsection, of the
4 inventoried firearms a law enforcement agency shall destroy illegal
5 firearms, may retain a maximum of ten percent of legal forfeited
6 firearms for agency use, and shall either:

7 (i) Comply with the provisions for the auction of firearms in RCW
8 9.41.098 that were in effect immediately preceding May 7, 1993; or

9 (ii) Trade, auction, or arrange for the auction of, rifles and
10 shotguns. In addition, the law enforcement agency shall either trade,
11 auction, or arrange for the auction of, short firearms, or shall pay
12 a fee of twenty-five dollars to the state treasurer for every short
13 firearm neither auctioned nor traded, to a maximum of fifty thousand
14 dollars. The fees shall be accompanied by an inventory, under oath,
15 of every short firearm listed in the inventory required by (a) of
16 this subsection, that has been neither traded nor auctioned. The
17 state treasurer shall credit the fees to the firearms range account
18 established in RCW 79A.25.210. All trades or auctions of firearms
19 under this subsection shall be to licensed dealers. Proceeds of any
20 auction less costs, including actual costs of storage and sale, shall
21 be forwarded to the firearms range account established in RCW
22 79A.25.210.

23 (c) Antique firearms and firearms recognized as curios, relics,
24 and firearms of particular historical significance by the United
25 States treasury department bureau of alcohol, tobacco, (~~and~~)
26 firearms, and explosives are exempt from destruction and shall be
27 disposed of by auction or trade to licensed dealers.

28 (d) Firearms in the possession of the Washington state patrol on
29 or after May 7, 1993, that are judicially forfeited and no longer
30 needed for evidence, or forfeited due to a failure to make a claim
31 under RCW 63.35.020, must be disposed of as follows: (i) Firearms
32 illegal for any person to possess must be destroyed; (ii) the
33 Washington state patrol may retain a maximum of ten percent of legal
34 firearms for agency use; and (iii) all other legal firearms must be
35 auctioned or traded to licensed dealers. The Washington state patrol
36 may retain any proceeds of an auction or trade.

37 (3) The court shall order the firearm returned to the owner upon
38 a showing that there is no probable cause to believe a violation of
39 subsection (1) of this section existed or the firearm was stolen from
40 the owner or the owner neither had knowledge of nor consented to the

1 act or omission involving the firearm which resulted in its
2 forfeiture.

3 (4) A law enforcement officer of the state or of any county or
4 municipality may confiscate a firearm found to be in the possession
5 of a person under circumstances specified in subsection (1) of this
6 section. After confiscation, the firearm shall not be surrendered
7 except: (a) To the prosecuting attorney for use in subsequent legal
8 proceedings; (b) for disposition according to an order of a court
9 having jurisdiction as provided in subsection (1) of this section; or
10 (c) to the owner if the proceedings are dismissed or as directed in
11 subsection (3) of this section.

12 **Sec. 273.** RCW 71.05.020 and 2015 c 269 s 14 and 2015 c 250 s 2
13 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

38 (7) "Custody" means involuntary detention under the provisions of
39 this chapter or chapter 10.77 RCW, uninterrupted by any period of

1 unconditional release from commitment from a facility providing
2 involuntary care and treatment;

3 (8) "Department" means the department of social and health
4 services;

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

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

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

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

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

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

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

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

1 or jail, shall be an evaluation and treatment facility within the
2 meaning of this chapter;

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

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

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

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

26 (21) "In need of assisted outpatient mental health treatment"
27 means that a person, as a result of a mental disorder: (a) Has been
28 committed by a court to detention for involuntary mental health
29 treatment at least twice during the preceding thirty-six months, or,
30 if the person is currently committed for involuntary mental health
31 treatment, the person has been committed to detention for involuntary
32 mental health treatment at least once during the thirty-six months
33 preceding the date of initial detention of the current commitment
34 cycle; (b) is unlikely to voluntarily participate in outpatient
35 treatment without an order for less restrictive alternative
36 treatment, in view of the person's treatment history or current
37 behavior; (c) is unlikely to survive safely in the community without
38 supervision; (d) is likely to benefit from less restrictive
39 alternative treatment; and (e) requires less restrictive alternative
40 treatment to prevent a relapse, decompensation, or deterioration that

1 is likely to result in the person presenting a likelihood of serious
2 harm or the person becoming gravely disabled within a reasonably
3 short period of time. For purposes of (a) of this subsection, time
4 spent in a mental health facility or in confinement as a result of a
5 criminal conviction is excluded from the thirty-six month
6 calculation;

7 (22) "Individualized service plan" means a plan prepared by a
8 developmental disabilities professional with other professionals as a
9 team, for a person with developmental disabilities, which shall
10 state:

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

13 (b) The conditions and strategies necessary to achieve the
14 purposes of habilitation;

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

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

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

20 (f) Where relevant in light of past criminal behavior and due
21 consideration for public safety, the criteria for proposed movement
22 to less-restrictive settings, criteria for proposed eventual
23 discharge or release, and a projected possible date for discharge or
24 release; and

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

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

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

35 (25) "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 service
38 providers under RCW 71.05.130;

1 (26) "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 (27) "Likelihood of serious harm" means:

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

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

16 (28) "Medical clearance" means a physician or other health care
17 provider has determined that a person is medically stable and ready
18 for referral to the designated mental health professional;

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

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

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

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

1 (33) "Private agency" means any person, partnership, corporation,
2 or association that is not a public agency, whether or not financed
3 in whole or in part by public funds, which constitutes an evaluation
4 and treatment facility or private institution, or hospital, which is
5 conducted for, or includes a department or ward conducted for, the
6 care and treatment of persons who are mentally ill;

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

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

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

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

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

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

35 (40) "Release" means legal termination of the commitment under
36 the provisions of this chapter;

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

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

1 (43) "Serious violent offense" has the same meaning as provided
2 in RCW 9.94A.030;

3 (44) "Social worker" means a person with a master's or further
4 advanced degree from a social work educational program accredited and
5 approved as provided in RCW 18.320.010;

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

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

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

32 (48) "Violent act" means behavior that resulted in homicide,
33 attempted suicide, nonfatal injuries, or substantial damage to
34 property;

35 (49) "Physician assistant" means a person who is licensed as a
36 physician assistant pursuant to chapter 18.57A or 18.71A RCW and is
37 working with a licensed mental health physician as indicated by their
38 delegation agreement.

1 **Sec. 274.** RCW 71.05.230 and 2015 c 250 s 6 are each amended to
2 read as follows:

3 A person detained or committed for seventy-two hour evaluation
4 and treatment or for an outpatient evaluation for the purpose of
5 filing a petition for a less restrictive alternative treatment order
6 may be committed for not more than fourteen additional days of
7 involuntary intensive treatment or ninety additional days of a less
8 restrictive alternative to involuntary intensive treatment. A
9 petition may only be filed if the following conditions are met:

10 (1) The professional staff of the agency or facility providing
11 evaluation services has analyzed the person's condition and finds
12 that the condition is caused by mental disorder and results in a
13 likelihood of serious harm, results in the person being gravely
14 disabled, or results in the person being in need of assisted
15 outpatient mental health treatment, and are prepared to testify those
16 conditions are met; and

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

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

23 (4) The professional staff of the agency or facility or the
24 designated mental health professional has filed a petition with the
25 court for a fourteen day involuntary detention or a ninety day less
26 restrictive alternative. The petition must be signed ~~((either))~~ by
27 two professionals who have each examined the person:

28 ~~((Two physicians))~~ The first professional must be a
29 physician, physician assistant, or psychiatric advanced registered
30 nurse practitioner;

31 ~~((One physician and a mental health professional;~~

32 ~~(c) Two psychiatric advanced registered nurse practitioners;~~

33 ~~(d) One psychiatric advanced registered nurse practitioner and a~~
34 ~~mental health professional; or~~

35 ~~(e) A physician and a psychiatric advanced registered nurse~~
36 ~~practitioner. The persons signing the petition must have examined the~~
37 ~~person))~~ The second professional must be a physician, physician
38 assistant, psychiatric advanced registered nurse practitioner, or
39 mental health professional.

1 If involuntary detention is sought the petition shall state facts
2 that support the finding that such person, as a result of mental
3 disorder, presents a likelihood of serious harm, or is gravely
4 disabled and that there are no less restrictive alternatives to
5 detention in the best interest of such person or others. The petition
6 shall state specifically that less restrictive alternative treatment
7 was considered and specify why treatment less restrictive than
8 detention is not appropriate. If an involuntary less restrictive
9 alternative is sought, the petition shall state facts that support
10 the finding that such person, as a result of mental disorder,
11 presents a likelihood of serious harm, is gravely disabled, or is in
12 need of assisted outpatient mental health treatment, and shall set
13 forth a plan for the less restrictive alternative treatment proposed
14 by the facility in accordance with RCW 71.05.585; and

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

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

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

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

28 (9) If the hospital or facility designated to provide less
29 restrictive alternative treatment is other than the facility
30 providing involuntary treatment, the outpatient facility so
31 designated to provide less restrictive alternative treatment has
32 agreed to assume such responsibility.

33 **Sec. 275.** RCW 71.05.290 and 2015 c 250 s 10 are each amended to
34 read as follows:

35 (1) At any time during a person's fourteen day intensive
36 treatment period, the professional person in charge of a treatment
37 facility or his or her professional designee or the designated mental
38 health professional may petition the superior court for an order
39 requiring such person to undergo an additional period of treatment.

1 Such petition must be based on one or more of the grounds set forth
2 in RCW 71.05.280.

3 (2) The petition shall summarize the facts which support the need
4 for further commitment and shall be supported by affidavits signed by
5 two professionals who have each examined the person:

6 (a) (~~Two examining physicians~~) The first professional must be a
7 physician, physician assistant, or psychiatric advanced registered
8 nurse practitioner;

9 (b) (~~One examining physician and examining mental health~~
10 ~~professional;~~

11 ~~(c) Two psychiatric advanced registered nurse practitioners;~~

12 ~~(d) One psychiatric advanced registered nurse practitioner and a~~
13 ~~mental health professional; or~~

14 ~~(e) An examining physician and an examining psychiatric advanced~~
15 ~~registered nurse practitioner)) The second professional must be a~~

16 physician, physician assistant, psychiatric advanced registered nurse
17 practitioner, or mental health professional.

18 The affidavits shall describe in detail the behavior of the
19 detained person which supports the petition and shall explain what,
20 if any, less restrictive treatments which are alternatives to
21 detention are available to such person, and shall state the
22 willingness of the affiant to testify to such facts in subsequent
23 judicial proceedings under this chapter. If less restrictive
24 alternative treatment is sought, the petition shall set forth a
25 proposed plan for less restrictive alternative treatment in
26 accordance with RCW 71.05.585.

27 (3) If a person has been determined to be incompetent pursuant to
28 RCW 10.77.086(4), then the professional person in charge of the
29 treatment facility or his or her professional designee or the
30 designated mental health professional may directly file a petition
31 for one hundred eighty day treatment under RCW 71.05.280(3). No
32 petition for initial detention or fourteen day detention is required
33 before such a petition may be filed.

34 **Sec. 276.** RCW 71.05.360 and 2009 c 217 s 5 are each amended to
35 read as follows:

36 (1)(a) Every person involuntarily detained or committed under the
37 provisions of this chapter shall be entitled to all the rights set
38 forth in this chapter, which shall be prominently posted in the
39 facility, and shall retain all rights not denied him or her under

1 this chapter except as chapter 9.41 RCW may limit the right of a
2 person to purchase or possess a firearm or to qualify for a concealed
3 pistol license.

4 (b) No person shall be presumed incompetent as a consequence of
5 receiving an evaluation or voluntary or involuntary treatment for a
6 mental disorder, under this chapter or any prior laws of this state
7 dealing with mental illness. Competency shall not be determined or
8 withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

9 (c) Any person who leaves a public or private agency following
10 evaluation or treatment for mental disorder shall be given a written
11 statement setting forth the substance of this section.

12 (2) Each person involuntarily detained or committed pursuant to
13 this chapter shall have the right to adequate care and individualized
14 treatment.

15 (3) The provisions of this chapter shall not be construed to deny
16 to any person treatment by spiritual means through prayer in
17 accordance with the tenets and practices of a church or religious
18 denomination.

19 (4) Persons receiving evaluation or treatment under this chapter
20 shall be given a reasonable choice of an available physician,
21 physician assistant, psychiatric advanced registered nurse
22 practitioner, or other professional person qualified to provide such
23 services.

24 (5) Whenever any person is detained for evaluation and treatment
25 pursuant to this chapter, both the person and, if possible, a
26 responsible member of his or her immediate family, personal
27 representative, guardian, or conservator, if any, shall be advised as
28 soon as possible in writing or orally, by the officer or person
29 taking him or her into custody or by personnel of the evaluation and
30 treatment facility where the person is detained that unless the
31 person is released or voluntarily admits himself or herself for
32 treatment within seventy-two hours of the initial detention:

33 (a) A judicial hearing in a superior court, either by a judge or
34 court commissioner thereof, shall be held not more than seventy-two
35 hours after the initial detention to determine whether there is
36 probable cause to detain the person after the seventy-two hours have
37 expired for up to an additional fourteen days without further
38 automatic hearing for the reason that the person is a person whose
39 mental disorder presents a likelihood of serious harm or that the
40 person is gravely disabled;

1 (b) The person has a right to communicate immediately with an
2 attorney; has a right to have an attorney appointed to represent him
3 or her before and at the probable cause hearing if he or she is
4 indigent; and has the right to be told the name and address of the
5 attorney that the mental health professional has designated pursuant
6 to this chapter;

7 (c) The person has the right to remain silent and that any
8 statement he or she makes may be used against him or her;

9 (d) The person has the right to present evidence and to cross-
10 examine witnesses who testify against him or her at the probable
11 cause hearing; and

12 (e) The person has the right to refuse psychiatric medications,
13 including antipsychotic medication beginning twenty-four hours prior
14 to the probable cause hearing.

15 (6) When proceedings are initiated under RCW 71.05.153, no later
16 than twelve hours after such person is admitted to the evaluation and
17 treatment facility the personnel of the evaluation and treatment
18 facility or the designated mental health professional shall serve on
19 such person a copy of the petition for initial detention and the
20 name, business address, and phone number of the designated attorney
21 and shall forthwith commence service of a copy of the petition for
22 initial detention on the designated attorney.

23 (7) The judicial hearing described in subsection (5) of this
24 section is hereby authorized, and shall be held according to the
25 provisions of subsection (5) of this section and rules promulgated by
26 the supreme court.

27 (8) At the probable cause hearing the detained person shall have
28 the following rights in addition to the rights previously specified:

29 (a) To present evidence on his or her behalf;

30 (b) To cross-examine witnesses who testify against him or her;

31 (c) To be proceeded against by the rules of evidence;

32 (d) To remain silent;

33 (e) To view and copy all petitions and reports in the court file.

34 (9) Privileges between patients and physicians, psychologists,
35 physician assistants, or psychiatric advanced registered nurse
36 practitioners are deemed waived in proceedings under this chapter
37 relating to the administration of antipsychotic medications. As to
38 other proceedings under this chapter, the privileges shall be waived
39 when a court of competent jurisdiction in its discretion determines

1 that such waiver is necessary to protect either the detained person
2 or the public.

3 The waiver of a privilege under this section is limited to
4 records or testimony relevant to evaluation of the detained person
5 for purposes of a proceeding under this chapter. Upon motion by the
6 detained person or on its own motion, the court shall examine a
7 record or testimony sought by a petitioner to determine whether it is
8 within the scope of the waiver.

9 The record maker shall not be required to testify in order to
10 introduce medical or psychological records of the detained person so
11 long as the requirements of RCW 5.45.020 are met except that portions
12 of the record which contain opinions as to the detained person's
13 mental state must be deleted from such records unless the person
14 making such conclusions is available for cross-examination.

15 (10) Insofar as danger to the person or others is not created,
16 each person involuntarily detained, treated in a less restrictive
17 alternative course of treatment, or committed for treatment and
18 evaluation pursuant to this chapter shall have, in addition to other
19 rights not specifically withheld by law, the following rights:

20 (a) To wear his or her own clothes and to keep and use his or her
21 own personal possessions, except when deprivation of same is
22 essential to protect the safety of the resident or other persons;

23 (b) To keep and be allowed to spend a reasonable sum of his or
24 her own money for canteen expenses and small purchases;

25 (c) To have access to individual storage space for his or her
26 private use;

27 (d) To have visitors at reasonable times;

28 (e) To have reasonable access to a telephone, both to make and
29 receive confidential calls, consistent with an effective treatment
30 program;

31 (f) To have ready access to letter writing materials, including
32 stamps, and to send and receive uncensored correspondence through the
33 mails;

34 (g) To discuss treatment plans and decisions with professional
35 persons;

36 (h) Not to consent to the administration of antipsychotic
37 medications and not to thereafter be administered antipsychotic
38 medications unless ordered by a court under RCW 71.05.217 or pursuant
39 to an administrative hearing under RCW 71.05.215;

1 (i) Not to consent to the performance of electroconvulsant
2 therapy or surgery, except emergency lifesaving surgery, unless
3 ordered by a court under RCW 71.05.217;

4 (j) Not to have psychosurgery performed on him or her under any
5 circumstances;

6 (k) To dispose of property and sign contracts unless such person
7 has been adjudicated an incompetent in a court proceeding directed to
8 that particular issue.

9 (11) Every person involuntarily detained shall immediately be
10 informed of his or her right to a hearing to review the legality of
11 his or her detention and of his or her right to counsel, by the
12 professional person in charge of the facility providing evaluation
13 and treatment, or his or her designee, and, when appropriate, by the
14 court. If the person so elects, the court shall immediately appoint
15 an attorney to assist him or her.

16 (12) A person challenging his or her detention or his or her
17 attorney shall have the right to designate and have the court appoint
18 a reasonably available independent physician, psychiatric advanced
19 registered nurse practitioner, physician assistant, or licensed
20 mental health professional to examine the person detained, the
21 results of which examination may be used in the proceeding. The
22 person shall, if he or she is financially able, bear the cost of such
23 expert examination, otherwise such expert examination shall be at
24 public expense.

25 (13) Nothing contained in this chapter shall prohibit the patient
26 from petitioning by writ of habeas corpus for release.

27 (14) Nothing in this chapter shall prohibit a person committed on
28 or prior to January 1, 1974, from exercising a right available to him
29 or her at or prior to January 1, 1974, for obtaining release from
30 confinement.

31 (15) Nothing in this section permits any person to knowingly
32 violate a no-contact order or a condition of an active judgment and
33 sentence or an active condition of supervision by the department of
34 corrections.

35 **Sec. 277.** RCW 71.34.020 and 2011 c 89 s 16 are each amended to
36 read as follows:

37 Unless the context clearly requires otherwise, the definitions in
38 this section apply throughout this chapter.

1 (1) "Child psychiatrist" means a person having a license as a
2 physician and surgeon in this state, who has had graduate training in
3 child psychiatry in a program approved by the American Medical
4 Association or the American Osteopathic Association, and who is board
5 eligible or board certified in child psychiatry.

6 (2) "Children's mental health specialist" means:

7 (a) A mental health professional who has completed a minimum of
8 one hundred actual hours, not quarter or semester hours, of
9 specialized training devoted to the study of child development and
10 the treatment of children; and

11 (b) A mental health professional who has the equivalent of one
12 year of full-time experience in the treatment of children under the
13 supervision of a children's mental health specialist.

14 (3) "Commitment" means a determination by a judge or court
15 commissioner, made after a commitment hearing, that the minor is in
16 need of inpatient diagnosis, evaluation, or treatment or that the
17 minor is in need of less restrictive alternative treatment.

18 (4) "Department" means the department of social and health
19 services.

20 (5) "Designated mental health professional" means a mental health
21 professional designated by one or more counties to perform the
22 functions of a designated mental health professional described in
23 this chapter.

24 (6) "Evaluation and treatment facility" means a public or private
25 facility or unit that is certified by the department to provide
26 emergency, inpatient, residential, or outpatient mental health
27 evaluation and treatment services for minors. A physically separate
28 and separately-operated portion of a state hospital may be designated
29 as an evaluation and treatment facility for minors. A facility which
30 is part of or operated by the department or federal agency does not
31 require certification. No correctional institution or facility,
32 juvenile court detention facility, or jail may be an evaluation and
33 treatment facility within the meaning of this chapter.

34 (7) "Evaluation and treatment program" means the total system of
35 services and facilities coordinated and approved by a county or
36 combination of counties for the evaluation and treatment of minors
37 under this chapter.

38 (8) "Gravely disabled minor" means a minor who, as a result of a
39 mental disorder, is in danger of serious physical harm resulting from
40 a failure to provide for his or her essential human needs of health

1 or safety, or manifests severe deterioration in routine functioning
2 evidenced by repeated and escalating loss of cognitive or volitional
3 control over his or her actions and is not receiving such care as is
4 essential for his or her health or safety.

5 (9) "Inpatient treatment" means twenty-four-hour-per-day mental
6 health care provided within a general hospital, psychiatric hospital,
7 or residential treatment facility certified by the department as an
8 evaluation and treatment facility for minors.

9 (10) "Less restrictive alternative" or "less restrictive setting"
10 means outpatient treatment provided to a minor who is not residing in
11 a facility providing inpatient treatment as defined in this chapter.

12 (11) "Likelihood of serious harm" means either: (a) A substantial
13 risk that physical harm will be inflicted by an individual upon his
14 or her own person, as evidenced by threats or attempts to commit
15 suicide or inflict physical harm on oneself; (b) a substantial risk
16 that physical harm will be inflicted by an individual upon another,
17 as evidenced by behavior which has caused such harm or which places
18 another person or persons in reasonable fear of sustaining such harm;
19 or (c) a substantial risk that physical harm will be inflicted by an
20 individual upon the property of others, as evidenced by behavior
21 which has caused substantial loss or damage to the property of
22 others.

23 (12) "Medical necessity" for inpatient care means a requested
24 service which is reasonably calculated to: (a) Diagnose, correct,
25 cure, or alleviate a mental disorder; or (b) prevent the worsening of
26 mental conditions that endanger life or cause suffering and pain, or
27 result in illness or infirmity or threaten to cause or aggravate a
28 handicap, or cause physical deformity or malfunction, and there is no
29 adequate less restrictive alternative available.

30 (13) "Mental disorder" means any organic, mental, or emotional
31 impairment that has substantial adverse effects on an individual's
32 cognitive or volitional functions. The presence of alcohol abuse,
33 drug abuse, juvenile criminal history, antisocial behavior, or
34 intellectual disabilities alone is insufficient to justify a finding
35 of "mental disorder" within the meaning of this section.

36 (14) "Mental health professional" means a psychiatrist,
37 psychologist, psychiatric nurse, or social worker, and such other
38 mental health professionals as may be defined by rules adopted by the
39 secretary under this chapter.

40 (15) "Minor" means any person under the age of eighteen years.

1 (16) "Outpatient treatment" means any of the nonresidential
2 services mandated under chapter 71.24 RCW and provided by licensed
3 services providers as identified by RCW 71.24.025.

4 (17) "Parent" means:

5 (a) A biological or adoptive parent who has legal custody of the
6 child, including either parent if custody is shared under a joint
7 custody agreement; or

8 (b) A person or agency judicially appointed as legal guardian or
9 custodian of the child.

10 (18) "Professional person in charge" or "professional person"
11 means a physician or other mental health professional empowered by an
12 evaluation and treatment facility with authority to make admission
13 and discharge decisions on behalf of that facility.

14 (19) "Psychiatric nurse" means a registered nurse who has a
15 bachelor's degree from an accredited college or university, and who
16 has had, in addition, at least two years' experience in the direct
17 treatment of persons who have a mental illness or who are emotionally
18 disturbed, such experience gained under the supervision of a mental
19 health professional. "Psychiatric nurse" shall also mean any other
20 registered nurse who has three years of such experience.

21 (20) "Psychiatrist" means a person having a license as a
22 physician in this state who has completed residency training in
23 psychiatry in a program approved by the American Medical Association
24 or the American Osteopathic Association, and is board eligible or
25 board certified in psychiatry.

26 (21) "Psychologist" means a person licensed as a psychologist
27 under chapter 18.83 RCW.

28 (22) "Responsible other" means the minor, the minor's parent or
29 estate, or any other person legally responsible for support of the
30 minor.

31 (23) "Secretary" means the secretary of the department or
32 secretary's designee.

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

36 (25) "Start of initial detention" means the time of arrival of
37 the minor at the first evaluation and treatment facility offering
38 inpatient treatment if the minor is being involuntarily detained at
39 the time. With regard to voluntary patients, "start of initial

1 detention" means the time at which the minor gives notice of intent
2 to leave under the provisions of this chapter.

3 (26) "Physician assistant" means a person who is licensed as a
4 physician assistant pursuant to chapter 18.57A or 18.71A RCW and is
5 working with a licensed mental health physician as indicated by their
6 delegation agreement.

7 **Sec. 278.** RCW 71.34.720 and 2009 c 217 s 16 are each amended to
8 read as follows:

9 (1) Each minor approved by the facility for inpatient admission
10 shall be examined and evaluated by a children's mental health
11 specialist as to the child's mental condition and by a physician,
12 physician assistant, or psychiatric advanced registered nurse
13 practitioner as to the child's physical condition within twenty-four
14 hours of admission. Reasonable measures shall be taken to ensure
15 medical treatment is provided for any condition requiring immediate
16 medical attention.

17 (2) If, after examination and evaluation, the children's mental
18 health specialist and the physician, physician assistant, or
19 psychiatric advanced registered nurse practitioner determine that the
20 initial needs of the minor would be better served by placement in a
21 chemical dependency treatment facility, then the minor shall be
22 referred to an approved treatment program defined under RCW
23 70.96A.020.

24 (3) The admitting facility shall take reasonable steps to notify
25 immediately the minor's parent of the admission.

26 (4) During the initial seventy-two hour treatment period, the
27 minor has a right to associate or receive communications from parents
28 or others unless the professional person in charge determines that
29 such communication would be seriously detrimental to the minor's
30 condition or treatment and so indicates in the minor's clinical
31 record, and notifies the minor's parents of this determination. In no
32 event may the minor be denied the opportunity to consult an attorney.

33 (5) If the evaluation and treatment facility admits the minor, it
34 may detain the minor for evaluation and treatment for a period not to
35 exceed seventy-two hours from the time of provisional acceptance. The
36 computation of such seventy-two hour period shall exclude Saturdays,
37 Sundays, and holidays. This initial treatment period shall not exceed
38 seventy-two hours except when an application for voluntary inpatient

1 treatment is received or a petition for fourteen-day commitment is
2 filed.

3 (6) Within twelve hours of the admission, the facility shall
4 advise the minor of his or her rights as set forth in this chapter.

5 **Sec. 279.** RCW 71.34.750 and 2009 c 217 s 18 are each amended to
6 read as follows:

7 (1) At any time during the minor's period of fourteen-day
8 commitment, the professional person in charge may petition the court
9 for an order requiring the minor to undergo an additional one hundred
10 eighty-day period of treatment. The evidence in support of the
11 petition shall be presented by the county prosecutor unless the
12 petition is filed by the professional person in charge of a state-
13 operated facility in which case the evidence shall be presented by
14 the attorney general.

15 (2) The petition for one hundred eighty-day commitment shall
16 contain the following:

17 (a) The name and address of the petitioner or petitioners;

18 (b) The name of the minor alleged to meet the criteria for one
19 hundred eighty-day commitment;

20 (c) A statement that the petitioner is the professional person in
21 charge of the evaluation and treatment facility responsible for the
22 treatment of the minor;

23 (d) The date of the fourteen-day commitment order; and

24 (e) A summary of the facts supporting the petition.

25 (3) The petition shall be supported by accompanying affidavits
26 signed by two professionals, each of whom has examined the minor:

27 (a) (~~two examining physicians, one of whom shall be a child~~
28 ~~psychiatrist, or two psychiatric advanced registered nurse~~
29 ~~practitioners, one of whom shall be a child and adolescent or family~~
30 ~~psychiatric advanced registered nurse practitioner,)) The first
31 professional must be a child psychiatrist or a child and adolescent
32 or family psychiatric registered nurse practitioner;~~

33 (b) (~~one children's mental health specialist and either an~~
34 ~~examining physician or a psychiatric advanced registered nurse~~
35 ~~practitioner, or (c) an examining physician and a psychiatric~~
36 ~~advanced registered nurse practitioner, one of which needs to be a~~
37 ~~child psychiatrist or a child and adolescent psychiatric nurse~~
38 ~~practitioner,)) The second professional must be a physician, physician
39 assistant, psychiatric advanced registered nurse practitioner,~~

1 children's mental health specialist, or children's substance use
2 disorder specialist.

3 The affidavits shall describe in detail the behavior of the
4 detained minor which supports the petition and shall state whether a
5 less restrictive alternative to inpatient treatment is in the best
6 interests of the minor.

7 (4) The petition for one hundred eighty-day commitment shall be
8 filed with the clerk of the court at least three days before the
9 expiration of the fourteen-day commitment period. The petitioner or
10 the petitioner's designee shall within twenty-four hours of filing
11 serve a copy of the petition on the minor and notify the minor's
12 attorney and the minor's parent. A copy of the petition shall be
13 provided to such persons at least twenty-four hours prior to the
14 hearing.

15 (5) At the time of filing, the court shall set a date within
16 seven days for the hearing on the petition. The court may continue
17 the hearing upon the written request of the minor or the minor's
18 attorney for not more than ten days. The minor or the parents shall
19 be afforded the same rights as in a fourteen-day commitment hearing.
20 Treatment of the minor shall continue pending the proceeding.

21 (6) For one hundred eighty-day commitment, the court must find by
22 clear, cogent, and convincing evidence that the minor:

23 (a) Is suffering from a mental disorder;

24 (b) Presents a likelihood of serious harm or is gravely disabled;
25 and

26 (c) Is in need of further treatment that only can be provided in
27 a one hundred eighty-day commitment.

28 (7) If the court finds that the criteria for commitment are met
29 and that less restrictive treatment in a community setting is not
30 appropriate or available, the court shall order the minor committed
31 for further inpatient treatment to the custody of the secretary or to
32 a private treatment and evaluation facility if the minor's parents
33 have assumed responsibility for payment for the treatment. If the
34 court finds that a less restrictive alternative is in the best
35 interest of the minor, the court shall order less restrictive
36 alternative treatment upon such conditions as necessary.

37 If the court determines that the minor does not meet the criteria
38 for one hundred eighty-day commitment, the minor shall be released.

39 (8) Successive one hundred eighty-day commitments are permissible
40 on the same grounds and under the same procedures as the original one

1 hundred eighty-day commitment. Such petitions shall be filed at least
2 five days prior to the expiration of the previous one hundred eighty-
3 day commitment order.

4 **Sec. 280.** RCW 70.96A.097 and 1998 c 296 s 28 are each amended to
5 read as follows:

6 (1) The department shall ensure that, for any minor admitted to
7 inpatient treatment under RCW 70.96A.245, a review is conducted by a
8 physician or ((~~chemical dependency~~)) substance use disorder
9 counselor, as defined in rule by the department, who is employed by
10 the department or an agency under contract with the department and
11 who neither has a financial interest in continued inpatient treatment
12 of the minor nor is affiliated with the program providing the
13 treatment. The physician or ((~~chemical dependency~~)) substance use
14 disorder counselor shall conduct the review not less than seven nor
15 more than fourteen days following the date the minor was brought to
16 the facility under RCW 70.96A.245(1) to determine whether it is a
17 medical necessity to continue the minor's treatment on an inpatient
18 basis.

19 (2) In making a determination under subsection (1) of this
20 section whether it is a medical necessity to release the minor from
21 inpatient treatment, the department shall consider the opinion of the
22 treatment provider, the safety of the minor, the likelihood the
23 minor's ((~~chemical dependency~~)) substance use disorder recovery will
24 deteriorate if released from inpatient treatment, and the wishes of
25 the parent or guardian.

26 (3) If, after any review conducted by the department under this
27 section, the department determines it is no longer a medical
28 necessity for a minor to receive inpatient treatment, the department
29 shall immediately notify the parents or guardian and the professional
30 person in charge. The professional person in charge shall release the
31 minor to the parents or guardian within twenty-four hours of
32 receiving notice. If the professional person in charge and the parent
33 or guardian believe that it is a medical necessity for the minor to
34 remain in inpatient treatment, the minor shall be released to the
35 parent or guardian on the second judicial day following the
36 department's determination in order to allow the parent or guardian
37 time to file an at-risk youth petition under chapter 13.32A RCW. If
38 the department determines it is a medical necessity for the minor to
39 receive outpatient treatment and the minor declines to obtain such

1 treatment, such refusal shall be grounds for the parent or guardian
2 to file an at-risk youth petition.

3 (4) The department may, subject to available funds, contract with
4 other governmental agencies for the conduct of the reviews conducted
5 under this section and may seek reimbursement from the parents, the
6 guardian, their insurance, or medicaid for the expense of any review
7 conducted by an agency under contract.

8 (5) In addition to the review required under this section, the
9 department may periodically determine and redetermine the medical
10 necessity of treatment for purposes of payment with public funds.

11 **Sec. 281.** RCW 70.96A.230 and 1998 c 296 s 24 are each amended to
12 read as follows:

13 Any provider of outpatient treatment who provides outpatient
14 treatment to a minor thirteen years of age or older shall provide
15 notice of the minor's request for treatment to the minor's parents
16 ((if: (1) The minor signs a written consent authorizing the
17 disclosure; or (2) the treatment program director determines that the
18 minor lacks capacity to make a rational choice regarding consenting
19 to disclosure)) or guardian. The notice shall be made within seven
20 days of the request for treatment, excluding Saturdays, Sundays, and
21 holidays, and shall contain the name, location, and telephone number
22 of the facility providing treatment, and the name of a professional
23 person on the staff of the facility providing treatment who is
24 designated to discuss the minor's need for treatment with the parent
25 or guardian.

26 **Sec. 282.** RCW 70.96A.235 and 1998 c 296 s 25 are each amended to
27 read as follows:

28 Parental or guardian consent is required for inpatient ((~~chemical~~
29 ~~dependency~~)) substance use disorder treatment of a minor, unless the
30 child meets the definition of a child in need of services in RCW
31 13.32A.030((+4)) (5)(c) as determined by the department((~~PROVIDED,~~
32 ~~That~~)). Parental or guardian consent is required for any treatment of
33 a minor under the age of thirteen.

34 This section does not apply to petitions filed under this
35 chapter.

36 **Sec. 283.** RCW 70.96A.240 and 1998 c 296 s 26 are each amended to
37 read as follows:

1 (1) The parent or guardian of a minor is not liable for payment
2 of inpatient or outpatient (~~(chemical dependency)~~) substance use
3 disorder treatment unless the parent or guardian has joined in the
4 consent to the treatment.

5 (2) The ability of a parent or guardian to apply to a certified
6 treatment program for the admission of his or her minor child does
7 not create a right to obtain or benefit from any funds or resources
8 of the state. However, the state may provide services for indigent
9 minors to the extent that funds are available (~~(therefor)~~).

10 **Sec. 284.** RCW 70.96A.245 and 1998 c 296 s 27 are each amended to
11 read as follows:

12 (1) A parent or guardian may bring, or authorize the bringing of,
13 his or her minor child to a certified treatment program and request
14 that a (~~(chemical dependency)~~) substance use disorder assessment be
15 conducted by a professional person to determine whether the minor
16 (~~(is chemically dependent and)~~) has a substance use disorder and is
17 in need of inpatient treatment.

18 (2) The consent of the minor is not required for admission,
19 evaluation, and treatment if the parent or guardian brings the minor
20 to the program.

21 (3) An appropriately trained professional person may evaluate
22 whether the minor (~~(is chemically dependent)~~) has a substance use
23 disorder. The evaluation shall be completed within twenty-four hours
24 of the time the minor was brought to the program, unless the
25 professional person determines that the condition of the minor
26 necessitates additional time for evaluation. In no event shall a
27 minor be held longer than seventy-two hours for evaluation. If, in
28 the judgment of the professional person, it is determined it is a
29 medical necessity for the minor to receive inpatient treatment, the
30 minor may be held for treatment. The facility shall limit treatment
31 to that which the professional person determines is medically
32 necessary to stabilize the minor's condition until the evaluation has
33 been completed. Within twenty-four hours of completion of the
34 evaluation, the professional person shall notify the department if
35 the child is held for treatment and of the date of admission.

36 (4) No provider is obligated to provide treatment to a minor
37 under the provisions of this section. No provider may admit a minor
38 to treatment under this section unless it is medically necessary.

1 (5) No minor receiving inpatient treatment under this section may
2 be discharged from the program based solely on his or her request.

3 **Sec. 285.** RCW 70.96A.250 and 1998 c 296 s 29 are each amended to
4 read as follows:

5 (1) A parent or guardian may bring, or authorize the bringing of,
6 his or her minor child to a provider of outpatient (~~chemical~~
7 ~~dependency~~) substance use disorder treatment and request that an
8 appropriately trained professional person examine the minor to
9 determine whether the minor has a (~~chemical-dependency~~) substance
10 use disorder and is in need of outpatient treatment.

11 (2) The consent of the minor is not required for evaluation if
12 the parent or guardian brings the minor to the provider.

13 (3) The professional person in charge of the program may evaluate
14 whether the minor has a (~~chemical-dependency~~) substance use
15 disorder and is in need of outpatient treatment.

16 (4) Any minor admitted to inpatient treatment under RCW
17 70.96A.245 shall be discharged immediately from inpatient treatment
18 upon written request of the parent or guardian.

19 **Sec. 286.** RCW 70.96A.255 and 1998 c 296 s 30 are each amended to
20 read as follows:

21 Following the review conducted under RCW 70.96A.097, a minor
22 child may petition the superior court for his or her release from the
23 facility. The petition may be filed not sooner than fourteen days
24 after the minor is admitted to the facility, or five days following
25 the review, whichever is later. The court shall release the minor
26 unless it finds, upon a preponderance of the evidence, that it is a
27 medical necessity for the minor to remain at the facility.

28 NEW SECTION. **Sec. 287.** A new section is added to chapter 71.24
29 RCW to read as follows:

30 (1) The department and the Washington state health care authority
31 shall convene a task force including participation by a
32 representative cross-section of behavioral health organizations and
33 behavioral health providers to align regulations between behavioral
34 health and primary health care settings and simplify regulations for
35 behavioral health providers. The alignment must support clinical
36 integration from the standpoint of standardizing practices and
37 culture in a manner that to the extent practicable reduces barriers

1 to access, including reducing the paperwork burden for patients and
2 providers. Brief integrated behavioral health services must not, in
3 general, take longer to document than to provide. Regulations should
4 emphasize the desired outcome rather than how they should be
5 achieved. The task force may also make recommendations to the
6 department concerning subsections (2) and (3) of this section.

7 (2) The department shall collaborate with the department of
8 health, the Washington state health care authority, and other
9 appropriate government partners to reduce unneeded costs and burdens
10 to health plans and providers associated with excessive audits, the
11 licensing process, and contracting. In pursuit of this goal, the
12 department shall consider steps such as cooperating across divisions
13 and agencies to combine audit functions when multiple audits of an
14 agency or site are scheduled, sharing audit information across
15 divisions and agencies to reduce redundancy of audits, and treating
16 organizations with multiple sites and programs as single entities
17 instead of as multiple agencies.

18 (3) The department shall review its practices under RCW
19 71.24.035(5)(c)(i) to determine whether its practices comply with the
20 statutory mandate to deem accreditation by recognized behavioral
21 health accrediting bodies as equivalent to meeting licensure
22 requirements, comport with standard practices used by other state
23 divisions or agencies, and properly incentivize voluntary
24 accreditation to the highest industry standards.

25 NEW SECTION. **Sec. 288.** The department of social and health
26 services and the Washington state health care authority shall report
27 their progress under section 287 of this act to the relevant
28 committees of the legislature by December 15, 2016.

29 **PART III**

30 **REPEALERS FOR INTEGRATED SYSTEM**

31 NEW SECTION. **Sec. 301.** The following acts or parts of acts, as
32 now existing or hereafter amended, are each repealed, effective April
33 1, 2018:

34 (1) RCW 70.96B.010 (Definitions) and 2014 c 225 s 74, 2011 c 89 s
35 10, 2008 c 320 s 3, & 2005 c 504 s 202;

36 (2) RCW 70.96B.020 (Selection of areas for pilot programs—Pilot
37 program requirements) and 2014 c 225 s 75 & 2005 c 504 s 203;

1 (3) RCW 70.96B.030 (Designated crisis responder—Qualifications)
2 and 2014 c 225 s 76 & 2005 c 504 s 204;
3 (4) RCW 70.96B.040 (Powers of designated crisis responder) and
4 2005 c 504 s 205;
5 (5) RCW 70.96B.045 (Emergency custody—Procedure) and 2007 c 120 s
6 2;
7 (6) RCW 70.96B.050 (Petition for initial detention—Order to
8 detain for evaluation and treatment period—Procedure) and 2008 c 320
9 s 5, 2007 c 120 s 1, & 2005 c 504 s 206;
10 (7) RCW 70.96B.060 (Exemption from liability) and 2005 c 504 s
11 207;
12 (8) RCW 70.96B.070 (Detention period for evaluation and
13 treatment) and 2005 c 504 s 208;
14 (9) RCW 70.96B.080 (Detention for evaluation and treatment of
15 mental disorder—Chapter 71.05 RCW applies) and 2005 c 504 s 209;
16 (10) RCW 70.96B.090 (Procedures for additional chemical
17 dependency treatment) and 2005 c 504 s 210;
18 (11) RCW 70.96B.100 (Detention for involuntary chemical
19 dependency treatment—Petition for less restrictive treatment—
20 Appearance before court—Representation—Hearing—Less restrictive
21 order—Failure to adhere to terms of less restrictive order) and 2008
22 c 320 s 6 & 2005 c 504 s 211;
23 (12) RCW 70.96B.110 (Involuntary chemical dependency treatment
24 proceedings—Prosecuting attorney shall represent petitioner) and 2005
25 c 504 s 212;
26 (13) RCW 70.96B.120 (Rights of involuntarily detained persons)
27 and 2005 c 504 s 213;
28 (14) RCW 70.96B.130 (Evaluation by designated crisis responder—
29 When required—Required notifications) and 2005 c 504 s 214;
30 (15) RCW 70.96B.140 (Secretary may adopt rules) and 2005 c 504 s
31 215;
32 (16) RCW 70.96B.150 (Application of RCW 71.05.550) and 2005 c 504
33 s 216;
34 (17) RCW 70.96B.800 (Evaluation of pilot programs—Reports) and
35 2008 c 320 s 2 & 2005 c 504 s 217; and
36 (18) RCW 71.05.032 (Joinder of petitions for commitment) and 2005
37 c 504 s 115.

38

PART IV

1 (3) A member of the clergy, a Christian Science practitioner
2 listed in the Christian Science Journal, or a priest shall not,
3 without the consent of a person making the confession or sacred
4 confidence, be examined as to any confession or sacred confidence
5 made to him or her in his or her professional character, in the
6 course of discipline enjoined by the church to which he or she
7 belongs.

8 (4) Subject to the limitations under RCW 70.96A.140 or 71.05.360
9 (8) and (9) or section 239 of this act, a physician or surgeon or
10 osteopathic physician or surgeon or podiatric physician or surgeon
11 shall not, without the consent of his or her patient, be examined in
12 a civil action as to any information acquired in attending such
13 patient, which was necessary to enable him or her to prescribe or act
14 for the patient, except as follows:

15 (a) In any judicial proceedings regarding a child's injury,
16 neglect, or sexual abuse or the cause thereof; and

17 (b) Ninety days after filing an action for personal injuries or
18 wrongful death, the claimant shall be deemed to waive the physician-
19 patient privilege. Waiver of the physician-patient privilege for any
20 one physician or condition constitutes a waiver of the privilege as
21 to all physicians or conditions, subject to such limitations as a
22 court may impose pursuant to court rules.

23 (5) A public officer shall not be examined as a witness as to
24 communications made to him or her in official confidence, when the
25 public interest would suffer by the disclosure.

26 (6)(a) A peer support group counselor shall not, without consent
27 of the law enforcement officer or firefighter making the
28 communication, be compelled to testify about any communication made
29 to the counselor by the officer or firefighter while receiving
30 counseling. The counselor must be designated as such by the sheriff,
31 police chief, fire chief, or chief of the Washington state patrol,
32 prior to the incident that results in counseling. The privilege only
33 applies when the communication was made to the counselor while acting
34 in his or her capacity as a peer support group counselor. The
35 privilege does not apply if the counselor was an initial responding
36 officer or firefighter, a witness, or a party to the incident which
37 prompted the delivery of peer support group counseling services to
38 the law enforcement officer or firefighter.

39 (b) For purposes of this section, "peer support group counselor"
40 means a:

1 (i) Law enforcement officer, firefighter, civilian employee of a
2 law enforcement agency, or civilian employee of a fire department,
3 who has received training to provide emotional and moral support and
4 counseling to an officer or firefighter who needs those services as a
5 result of an incident in which the officer or firefighter was
6 involved while acting in his or her official capacity; or

7 (ii) Nonemployee counselor who has been designated by the
8 sheriff, police chief, fire chief, or chief of the Washington state
9 patrol to provide emotional and moral support and counseling to an
10 officer or firefighter who needs those services as a result of an
11 incident in which the officer or firefighter was involved while
12 acting in his or her official capacity.

13 (7) A sexual assault advocate may not, without the consent of the
14 victim, be examined as to any communication made between the victim
15 and the sexual assault advocate.

16 (a) For purposes of this section, "sexual assault advocate" means
17 the employee or volunteer from a community sexual assault program or
18 underserved populations provider, victim assistance unit, program, or
19 association, that provides information, medical or legal advocacy,
20 counseling, or support to victims of sexual assault, who is
21 designated by the victim to accompany the victim to the hospital or
22 other health care facility and to proceedings concerning the alleged
23 assault, including police and prosecution interviews and court
24 proceedings.

25 (b) A sexual assault advocate may disclose a confidential
26 communication without the consent of the victim if failure to
27 disclose is likely to result in a clear, imminent risk of serious
28 physical injury or death of the victim or another person. Any sexual
29 assault advocate participating in good faith in the disclosing of
30 records and communications under this section shall have immunity
31 from any liability, civil, criminal, or otherwise, that might result
32 from the action. In any proceeding, civil or criminal, arising out of
33 a disclosure under this section, the good faith of the sexual assault
34 advocate who disclosed the confidential communication shall be
35 presumed.

36 (8) A domestic violence advocate may not, without the consent of
37 the victim, be examined as to any communication between the victim
38 and the domestic violence advocate.

39 (a) For purposes of this section, "domestic violence advocate"
40 means an employee or supervised volunteer from a community-based

1 domestic violence program or human services program that provides
2 information, advocacy, counseling, crisis intervention, emergency
3 shelter, or support to victims of domestic violence and who is not
4 employed by, or under the direct supervision of, a law enforcement
5 agency, a prosecutor's office, or the child protective services
6 section of the department of social and health services as defined in
7 RCW 26.44.020.

8 (b) A domestic violence advocate may disclose a confidential
9 communication without the consent of the victim if failure to
10 disclose is likely to result in a clear, imminent risk of serious
11 physical injury or death of the victim or another person. This
12 section does not relieve a domestic violence advocate from the
13 requirement to report or cause to be reported an incident under RCW
14 26.44.030(1) or to disclose relevant records relating to a child as
15 required by RCW 26.44.030(~~(12)~~) (14). Any domestic violence
16 advocate participating in good faith in the disclosing of
17 communications under this subsection is immune from liability, civil,
18 criminal, or otherwise, that might result from the action. In any
19 proceeding, civil or criminal, arising out of a disclosure under this
20 subsection, the good faith of the domestic violence advocate who
21 disclosed the confidential communication shall be presumed.

22 (9) A mental health counselor, independent clinical social
23 worker, or marriage and family therapist licensed under chapter
24 18.225 RCW may not disclose, or be compelled to testify about, any
25 information acquired from persons consulting the individual in a
26 professional capacity when the information was necessary to enable
27 the individual to render professional services to those persons
28 except:

29 (a) With the written authorization of that person or, in the case
30 of death or disability, the person's personal representative;

31 (b) If the person waives the privilege by bringing charges
32 against the mental health counselor licensed under chapter 18.225
33 RCW;

34 (c) In response to a subpoena from the secretary of health. The
35 secretary may subpoena only records related to a complaint or report
36 under RCW 18.130.050;

37 (d) As required under chapter 26.44 or 74.34 RCW or RCW 71.05.360
38 (8) and (9); or

39 (e) To any individual if the mental health counselor, independent
40 clinical social worker, or marriage and family therapist licensed

1 under chapter 18.225 RCW reasonably believes that disclosure will
2 avoid or minimize an imminent danger to the health or safety of the
3 individual or any other individual; however, there is no obligation
4 on the part of the provider to so disclose.

5 **Sec. 403.** RCW 9.41.280 and 2014 c 225 s 56 are each amended to
6 read as follows:

7 (1) It is unlawful for a person to carry onto, or to possess on,
8 public or private elementary or secondary school premises, school-
9 provided transportation, or areas of facilities while being used
10 exclusively by public or private schools:

11 (a) Any firearm;

12 (b) Any other dangerous weapon as defined in RCW 9.41.250;

13 (c) Any device commonly known as "nun-chu-ka sticks," consisting
14 of two or more lengths of wood, metal, plastic, or similar substance
15 connected with wire, rope, or other means;

16 (d) Any device, commonly known as "throwing stars," which are
17 multipointed, metal objects designed to embed upon impact from any
18 aspect;

19 (e) Any air gun, including any air pistol or air rifle, designed
20 to propel a BB, pellet, or other projectile by the discharge of
21 compressed air, carbon dioxide, or other gas; or

22 (f)(i) Any portable device manufactured to function as a weapon
23 and which is commonly known as a stun gun, including a projectile
24 stun gun which projects wired probes that are attached to the device
25 that emit an electrical charge designed to administer to a person or
26 an animal an electric shock, charge, or impulse; or

27 (ii) Any device, object, or instrument which is used or intended
28 to be used as a weapon with the intent to injure a person by an
29 electric shock, charge, or impulse.

30 (2) Any such person violating subsection (1) of this section is
31 guilty of a gross misdemeanor. If any person is convicted of a
32 violation of subsection (1)(a) of this section, the person shall have
33 his or her concealed pistol license, if any revoked for a period of
34 three years. Anyone convicted under this subsection is prohibited
35 from applying for a concealed pistol license for a period of three
36 years. The court shall send notice of the revocation to the
37 department of licensing, and the city, town, or county which issued
38 the license.

1 Any violation of subsection (1) of this section by elementary or
2 secondary school students constitutes grounds for expulsion from the
3 state's public schools in accordance with RCW 28A.600.010. An
4 appropriate school authority shall promptly notify law enforcement
5 and the student's parent or guardian regarding any allegation or
6 indication of such violation.

7 Upon the arrest of a person at least twelve years of age and not
8 more than twenty-one years of age for violating subsection (1)(a) of
9 this section, the person shall be detained or confined in a juvenile
10 or adult facility for up to seventy-two hours. The person shall not
11 be released within the seventy-two hours until after the person has
12 been examined and evaluated by the designated mental health
13 professional or designated crisis responder unless the court in its
14 discretion releases the person sooner after a determination regarding
15 probable cause or on probation bond or bail.

16 Within twenty-four hours of the arrest, the arresting law
17 enforcement agency shall refer the person to the designated mental
18 health professional or designated crisis responder for examination
19 and evaluation under chapter 71.05 or 71.34 RCW and inform a parent
20 or guardian of the person of the arrest, detention, and examination.
21 The designated mental health professional or designated crisis
22 responder shall examine and evaluate the person subject to the
23 provisions of chapter 71.05 or 71.34 RCW. The examination shall occur
24 at the facility in which the person is detained or confined. If the
25 person has been released on probation, bond, or bail, the examination
26 shall occur wherever is appropriate.

27 The designated mental health professional may determine whether
28 to refer the person to the county-designated chemical dependency
29 specialist for examination and evaluation in accordance with chapter
30 70.96A RCW. The county-designated chemical dependency specialist
31 shall examine the person subject to the provisions of chapter 70.96A
32 RCW. The examination shall occur at the facility in which the person
33 is detained or confined. If the person has been released on
34 probation, bond, or bail, the examination shall occur wherever is
35 appropriate.

36 Upon completion of any examination by the designated mental
37 health professional or the county-designated chemical dependency
38 specialist or designated crisis responder, the results of the
39 examination shall be sent to the court, and the court shall consider
40 those results in making any determination about the person.

1 The designated mental health professional and county-designated
2 chemical dependency specialist or designated crisis responder shall,
3 to the extent permitted by law, notify a parent or guardian of the
4 person that an examination and evaluation has taken place and the
5 results of the examination. Nothing in this subsection prohibits the
6 delivery of additional, appropriate mental health examinations to the
7 person while the person is detained or confined.

8 If the designated mental health professional or designated crisis
9 responder determines it is appropriate, the designated mental health
10 professional or designated crisis responder may refer the person to
11 the local behavioral health organization for follow-up services or
12 the department of social and health services or other community
13 providers for other services to the family and individual.

14 (3) Subsection (1) of this section does not apply to:

15 (a) Any student or employee of a private military academy when on
16 the property of the academy;

17 (b) Any person engaged in military, law enforcement, or school
18 district security activities. However, a person who is not a
19 commissioned law enforcement officer and who provides school security
20 services under the direction of a school administrator may not
21 possess a device listed in subsection (1)(f) of this section unless
22 he or she has successfully completed training in the use of such
23 devices that is equivalent to the training received by commissioned
24 law enforcement officers;

25 (c) Any person who is involved in a convention, showing,
26 demonstration, lecture, or firearms safety course authorized by
27 school authorities in which the firearms of collectors or instructors
28 are handled or displayed;

29 (d) Any person while the person is participating in a firearms or
30 air gun competition approved by the school or school district;

31 (e) Any person in possession of a pistol who has been issued a
32 license under RCW 9.41.070, or is exempt from the licensing
33 requirement by RCW 9.41.060, while picking up or dropping off a
34 student;

35 (f) Any nonstudent at least eighteen years of age legally in
36 possession of a firearm or dangerous weapon that is secured within an
37 attended vehicle or concealed from view within a locked unattended
38 vehicle while conducting legitimate business at the school;

1 (g) Any nonstudent at least eighteen years of age who is in
2 lawful possession of an unloaded firearm, secured in a vehicle while
3 conducting legitimate business at the school; or

4 (h) Any law enforcement officer of the federal, state, or local
5 government agency.

6 (4) Subsections (1)(c) and (d) of this section do not apply to
7 any person who possesses nun-chu-ka sticks, throwing stars, or other
8 dangerous weapons to be used in martial arts classes authorized to be
9 conducted on the school premises.

10 (5) Subsection (1)(f)(i) of this section does not apply to any
11 person who possesses a device listed in subsection (1)(f)(i) of this
12 section, if the device is possessed and used solely for the purpose
13 approved by a school for use in a school authorized event, lecture,
14 or activity conducted on the school premises.

15 (6) Except as provided in subsection (3)(b), (c), (f), and (h) of
16 this section, firearms are not permitted in a public or private
17 school building.

18 (7) "GUN-FREE ZONE" signs shall be posted around school
19 facilities giving warning of the prohibition of the possession of
20 firearms on school grounds.

21 **Sec. 404.** RCW 9.95.143 and 2004 c 166 s 10 are each amended to
22 read as follows:

23 When an offender receiving court-ordered mental health or
24 chemical dependency treatment or treatment ordered by the department
25 of corrections presents for treatment from a mental health or
26 chemical dependency treatment provider, the offender must disclose to
27 the mental health or chemical dependency treatment provider whether
28 he or she is subject to supervision by the department of corrections.
29 If an offender has received relief from disclosure pursuant to RCW
30 9.94A.562, 70.96A.155, (~~(e)~~) 71.05.132, or section 210 of this act,
31 the offender must provide the mental health or chemical dependency
32 treatment provider with a copy of the order granting the relief.

33 **Sec. 405.** RCW 10.77.010 and 2014 c 225 s 58 are each amended to
34 read as follows:

35 As used in this chapter:

36 (1) "Admission" means acceptance based on medical necessity, of a
37 person as a patient.

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

4 (3) "Conditional release" means modification of a court-ordered
5 commitment, which may be revoked upon violation of any of its terms.

6 (4) A "criminally insane" person means any person who has been
7 acquitted of a crime charged by reason of insanity, and thereupon
8 found to be a substantial danger to other persons or to present a
9 substantial likelihood of committing criminal acts jeopardizing
10 public safety or security unless kept under further control by the
11 court or other persons or institutions.

12 (5) "Department" means the state department of social and health
13 services.

14 (6) "Designated mental health professional" and "designated
15 crisis responder" (~~(has)~~) have the same meanings as provided in RCW
16 71.05.020.

17 (7) "Detention" or "detain" means the lawful confinement of a
18 person, under the provisions of this chapter, pending evaluation.

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

25 (9) "Developmental disability" means the condition as defined in
26 RCW 71A.10.020(~~(+4)~~) (5).

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

30 (11) "Furlough" means an authorized leave of absence for a
31 resident of a state institution operated by the department designated
32 for the custody, care, and treatment of the criminally insane,
33 consistent with an order of conditional release from the court under
34 this chapter, without any requirement that the resident be
35 accompanied by, or be in the custody of, any law enforcement or
36 institutional staff, while on such unescorted leave.

37 (12) "Habilitative services" means those services provided by
38 program personnel to assist persons in acquiring and maintaining life
39 skills and in raising their levels of physical, mental, social, and
40 vocational functioning. Habilitative services include education,

1 training for employment, and therapy. The habilitative process shall
2 be undertaken with recognition of the risk to the public safety
3 presented by the person being assisted as manifested by prior charged
4 criminal conduct.

5 (13) "History of one or more violent acts" means violent acts
6 committed during: (a) The ten-year period of time prior to the filing
7 of criminal charges; plus (b) the amount of time equal to time spent
8 during the ten-year period in a mental health facility or in
9 confinement as a result of a criminal conviction.

10 (14) "Immediate family member" means a spouse, child, stepchild,
11 parent, stepparent, grandparent, sibling, or domestic partner.

12 (15) "Incompetency" means a person lacks the capacity to
13 understand the nature of the proceedings against him or her or to
14 assist in his or her own defense as a result of mental disease or
15 defect.

16 (16) "Indigent" means any person who is financially unable to
17 obtain counsel or other necessary expert or professional services
18 without causing substantial hardship to the person or his or her
19 family.

20 (17) "Individualized service plan" means a plan prepared by a
21 developmental disabilities professional with other professionals as a
22 team, for an individual with developmental disabilities, which shall
23 state:

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

26 (b) The conditions and strategies necessary to achieve the
27 purposes of habilitation;

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

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

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

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

37 (g) The type of residence immediately anticipated for the person
38 and possible future types of residences.

39 (18) "Professional person" means:

1 (a) A psychiatrist licensed as a physician and surgeon in this
2 state who has, in addition, completed three years of graduate
3 training in psychiatry in a program approved by the American medical
4 association or the American osteopathic association and is certified
5 or eligible to be certified by the American board of psychiatry and
6 neurology or the American osteopathic board of neurology and
7 psychiatry;

8 (b) A psychologist licensed as a psychologist pursuant to chapter
9 18.83 RCW; or

10 (c) A social worker with a master's or further advanced degree
11 from a social work educational program accredited and approved as
12 provided in RCW 18.320.010.

13 (19) "Registration records" include all the records of the
14 department, behavioral health organizations, treatment facilities,
15 and other persons providing services to the department, county
16 departments, or facilities which identify persons who are receiving
17 or who at any time have received services for mental illness.

18 (20) "Release" means legal termination of the court-ordered
19 commitment under the provisions of this chapter.

20 (21) "Secretary" means the secretary of the department of social
21 and health services or his or her designee.

22 (22) "Treatment" means any currently standardized medical or
23 mental health procedure including medication.

24 (23) "Treatment records" include registration and all other
25 records concerning persons who are receiving or who at any time have
26 received services for mental illness, which are maintained by the
27 department, by behavioral health organizations and their staffs, and
28 by treatment facilities. Treatment records do not include notes or
29 records maintained for personal use by a person providing treatment
30 services for the department, behavioral health organizations, or a
31 treatment facility if the notes or records are not available to
32 others.

33 (24) "Violent act" means behavior that: (a)(i) Resulted in; (ii)
34 if completed as intended would have resulted in; or (iii) was
35 threatened to be carried out by a person who had the intent and
36 opportunity to carry out the threat and would have resulted in,
37 homicide, nonfatal injuries, or substantial damage to property; or
38 (b) recklessly creates an immediate risk of serious physical injury
39 to another person. As used in this subsection, "nonfatal injuries"
40 means physical pain or injury, illness, or an impairment of physical

1 condition. "Nonfatal injuries" shall be construed to be consistent
2 with the definition of "bodily injury," as defined in RCW 9A.04.110.

3 **Sec. 406.** RCW 10.77.025 and 2000 c 94 s 13 are each amended to
4 read as follows:

5 (1) Whenever any person has been: (a) Committed to a correctional
6 facility or inpatient treatment under any provision of this chapter;
7 or (b) ordered to undergo alternative treatment following his or her
8 acquittal by reason of insanity of a crime charged, such commitment
9 or treatment cannot exceed the maximum possible penal sentence for
10 any offense charged for which the person was committed, or was
11 acquitted by reason of insanity.

12 (2) Whenever any person committed under any provision of this
13 chapter has not been released within seven days of the maximum
14 possible penal sentence under subsection (1) of this section, and the
15 professional person in charge of the facility believes that the
16 person presents a likelihood of serious harm or is gravely disabled
17 due to a mental disorder, the professional person shall, prior to the
18 expiration of the maximum penal sentence, notify the appropriate
19 ((~~county~~)) designated mental health professional or designated crisis
20 responder of the impending expiration and provide a copy of all
21 relevant information regarding the person, including the likely
22 release date and shall indicate why the person should not be
23 released.

24 (3) A ((~~county~~)) designated mental health professional or
25 designated crisis responder who receives notice and records under
26 subsection (2) of this section shall, prior to the date of the
27 expiration of the maximum sentence, determine whether to initiate
28 proceedings under chapter 71.05 RCW.

29 **Sec. 407.** RCW 10.77.027 and 2004 c 166 s 3 are each amended to
30 read as follows:

31 When a ((~~county~~)) designated mental health professional or
32 designated crisis responder or a professional person has determined
33 that a person has a mental disorder, and is otherwise committable,
34 the cause of the person's mental disorder shall not make the person
35 ineligible for commitment under chapter 71.05 RCW.

36 **Sec. 408.** RCW 10.77.060 and 2012 c 256 s 3 are each amended to
37 read as follows:

1 (1)(a) Whenever a defendant has pleaded not guilty by reason of
2 insanity, or there is reason to doubt his or her competency, the
3 court on its own motion or on the motion of any party shall either
4 appoint or request the secretary to designate a qualified expert or
5 professional person, who shall be approved by the prosecuting
6 attorney, to evaluate and report upon the mental condition of the
7 defendant.

8 (b) The signed order of the court shall serve as authority for
9 the evaluator to be given access to all records held by any mental
10 health, medical, educational, or correctional facility that relate to
11 the present or past mental, emotional, or physical condition of the
12 defendant. If the court is advised by any party that the defendant
13 may have a developmental disability, the evaluation must be performed
14 by a developmental disabilities professional.

15 (c) The evaluator shall assess the defendant in a jail, detention
16 facility, in the community, or in court to determine whether a period
17 of inpatient commitment will be necessary to complete an accurate
18 evaluation. If inpatient commitment is needed, the signed order of
19 the court shall serve as authority for the evaluator to request the
20 jail or detention facility to transport the defendant to a hospital
21 or secure mental health facility for a period of commitment not to
22 exceed fifteen days from the time of admission to the facility.
23 Otherwise, the evaluator shall complete the evaluation.

24 (d) The court may commit the defendant for evaluation to a
25 hospital or secure mental health facility without an assessment if:
26 (i) The defendant is charged with murder in the first or second
27 degree; (ii) the court finds that it is more likely than not that an
28 evaluation in the jail will be inadequate to complete an accurate
29 evaluation; or (iii) the court finds that an evaluation outside the
30 jail setting is necessary for the health, safety, or welfare of the
31 defendant. The court shall not order an initial inpatient evaluation
32 for any purpose other than a competency evaluation.

33 (e) The order shall indicate whether, in the event the defendant
34 is committed to a hospital or secure mental health facility for
35 evaluation, all parties agree to waive the presence of the defendant
36 or to the defendant's remote participation at a subsequent competency
37 hearing or presentation of an agreed order if the recommendation of
38 the evaluator is for continuation of the stay of criminal
39 proceedings, or if the opinion of the evaluator is that the defendant
40 remains incompetent and there is no remaining restoration period, and

1 the hearing is held prior to the expiration of the authorized
2 commitment period.

3 (f) When a defendant is ordered to be committed for inpatient
4 evaluation under this subsection (1), the court may delay granting
5 bail until the defendant has been evaluated for competency or sanity
6 and appears before the court. Following the evaluation, in
7 determining bail the court shall consider: (i) Recommendations of the
8 evaluator regarding the defendant's competency, sanity, or diminished
9 capacity; (ii) whether the defendant has a recent history of one or
10 more violent acts; (iii) whether the defendant has previously been
11 acquitted by reason of insanity or found incompetent; (iv) whether it
12 is reasonably likely the defendant will fail to appear for a future
13 court hearing; and (v) whether the defendant is a threat to public
14 safety.

15 (2) The court may direct that a qualified expert or professional
16 person retained by or appointed for the defendant be permitted to
17 witness the evaluation authorized by subsection (1) of this section,
18 and that the defendant shall have access to all information obtained
19 by the court appointed experts or professional persons. The
20 defendant's expert or professional person shall have the right to
21 file his or her own report following the guidelines of subsection (3)
22 of this section. If the defendant is indigent, the court shall upon
23 the request of the defendant assist him or her in obtaining an expert
24 or professional person.

25 (3) The report of the evaluation shall include the following:

26 (a) A description of the nature of the evaluation;

27 (b) A diagnosis or description of the current mental status of
28 the defendant;

29 (c) If the defendant suffers from a mental disease or defect, or
30 has a developmental disability, an opinion as to competency;

31 (d) If the defendant has indicated his or her intention to rely
32 on the defense of insanity pursuant to RCW 10.77.030, and an
33 evaluation and report by an expert or professional person has been
34 provided concluding that the defendant was criminally insane at the
35 time of the alleged offense, an opinion as to the defendant's sanity
36 at the time of the act, and an opinion as to whether the defendant
37 presents a substantial danger to other persons, or presents a
38 substantial likelihood of committing criminal acts jeopardizing
39 public safety or security, unless kept under further control by the
40 court or other persons or institutions, provided that no opinion

1 shall be rendered under this subsection (3)(d) unless the evaluator
2 or court determines that the defendant is competent to stand trial;

3 (e) When directed by the court, if an evaluation and report by an
4 expert or professional person has been provided concluding that the
5 defendant lacked the capacity at the time of the offense to form the
6 mental state necessary to commit the charged offense, an opinion as
7 to the capacity of the defendant to have a particular state of mind
8 which is an element of the offense charged;

9 (f) An opinion as to whether the defendant should be evaluated by
10 a designated mental health professional or designated crisis
11 responder under chapter 71.05 RCW.

12 (4) The secretary may execute such agreements as appropriate and
13 necessary to implement this section and may choose to designate more
14 than one evaluator.

15 **Sec. 409.** RCW 10.77.065 and 2015 1st sp.s. c 7 s 16 are each
16 amended to read as follows:

17 (1)(a)(i) The expert conducting the evaluation shall provide his
18 or her report and recommendation to the court in which the criminal
19 proceeding is pending. For a competency evaluation of a defendant who
20 is released from custody, if the evaluation cannot be completed
21 within twenty-one days due to a lack of cooperation by the defendant,
22 the evaluator shall notify the court that he or she is unable to
23 complete the evaluation because of such lack of cooperation.

24 (ii) A copy of the report and recommendation shall be provided to
25 the designated mental health professional or designated crisis
26 responder, the prosecuting attorney, the defense attorney, and the
27 professional person at the local correctional facility where the
28 defendant is being held, or if there is no professional person, to
29 the person designated under (a)(iv) of this subsection. Upon request,
30 the evaluator shall also provide copies of any source documents
31 relevant to the evaluation to the designated mental health
32 professional or designated crisis responder.

33 (iii) Any facility providing inpatient services related to
34 competency shall discharge the defendant as soon as the facility
35 determines that the defendant is competent to stand trial. Discharge
36 shall not be postponed during the writing and distribution of the
37 evaluation report. Distribution of an evaluation report by a facility
38 providing inpatient services shall ordinarily be accomplished within
39 two working days or less following the final evaluation of the

1 defendant. If the defendant is discharged to the custody of a local
2 correctional facility, the local correctional facility must continue
3 the medication regimen prescribed by the facility, when clinically
4 appropriate, unless the defendant refuses to cooperate with
5 medication and an involuntary medication order by the court has not
6 been entered.

7 (iv) If there is no professional person at the local correctional
8 facility, the local correctional facility shall designate a
9 professional person as defined in RCW 71.05.020 or, in cooperation
10 with the behavioral health organization, a professional person at the
11 behavioral health organization to receive the report and
12 recommendation.

13 (v) Upon commencement of a defendant's evaluation in the local
14 correctional facility, the local correctional facility must notify
15 the evaluator of the name of the professional person, or person
16 designated under (a)(iv) of this subsection, to receive the report
17 and recommendation.

18 (b) If the evaluator concludes, under RCW 10.77.060(3)(f), the
19 person should be evaluated by a designated mental health professional
20 or designated crisis responder under chapter 71.05 RCW, the court
21 shall order such evaluation be conducted prior to release from
22 confinement when the person is acquitted or convicted and sentenced
23 to confinement for twenty-four months or less, or when charges are
24 dismissed pursuant to a finding of incompetent to stand trial.

25 (2) The designated mental health professional or designated
26 crisis responder shall provide written notification within twenty-
27 four hours of the results of the determination whether to commence
28 proceedings under chapter 71.05 RCW. The notification shall be
29 provided to the persons identified in subsection (1)(a) of this
30 section.

31 (3) The prosecuting attorney shall provide a copy of the results
32 of any proceedings commenced by the designated mental health
33 professional or designated crisis responder under subsection (2) of
34 this section to the secretary.

35 (4) A facility conducting a civil commitment evaluation under RCW
36 10.77.086(4) or 10.77.088(1)(~~(b)~~) (c)(ii) that makes a
37 determination to release the person instead of filing a civil
38 commitment petition must provide written notice to the prosecutor and
39 defense attorney at least twenty-four hours prior to release. The

1 notice may be given by (~~electronic mail~~) email, facsimile, or other
2 means reasonably likely to communicate the information immediately.

3 (5) The fact of admission and all information and records
4 compiled, obtained, or maintained in the course of providing services
5 under this chapter may also be disclosed to the courts solely to
6 prevent the entry of any evaluation or treatment order that is
7 inconsistent with any order entered under chapter 71.05 RCW.

8 **Sec. 410.** RCW 10.77.084 and 2015 1st sp.s. c 7 s 4 are each
9 amended to read as follows:

10 (1)(a) If at any time during the pendency of an action and prior
11 to judgment the court finds, following a report as provided in RCW
12 10.77.060, a defendant is incompetent, the court shall order the
13 proceedings against the defendant be stayed except as provided in
14 subsection (4) of this section.

15 (b) The court may order a defendant who has been found to be
16 incompetent to undergo competency restoration treatment at a facility
17 designated by the department if the defendant is eligible under RCW
18 10.77.086 or 10.77.088. At the end of each competency restoration
19 period or at any time a professional person determines competency has
20 been, or is unlikely to be, restored, the defendant shall be returned
21 to court for a hearing, except that if the opinion of the
22 professional person is that the defendant remains incompetent and the
23 hearing is held before the expiration of the current competency
24 restoration period, the parties may agree to waive the defendant's
25 presence, to remote participation by the defendant at a hearing, or
26 to presentation of an agreed order in lieu of a hearing. The facility
27 shall promptly notify the court and all parties of the date on which
28 the competency restoration period commences and expires so that a
29 timely hearing date may be scheduled.

30 (c) If, following notice and hearing or entry of an agreed order
31 under (b) of this subsection, the court finds that competency has
32 been restored, the court shall lift the stay entered under (a) of
33 this subsection. If the court finds that competency has not been
34 restored, the court shall dismiss the proceedings without prejudice,
35 except that the court may order a further period of competency
36 restoration treatment if it finds that further treatment within the
37 time limits established by RCW 10.77.086 or 10.77.088 is likely to
38 restore competency, and a further period of treatment is allowed
39 under RCW 10.77.086 or 10.77.088.

1 (d) If at any time during the proceeding the court finds,
2 following notice and hearing, a defendant is not likely to regain
3 competency, the court shall dismiss the proceedings without prejudice
4 and refer the defendant for civil commitment evaluation or
5 proceedings if appropriate under RCW 10.77.065, 10.77.086, or
6 10.77.088.

7 (2) If the defendant is referred for evaluation by a designated
8 mental health professional or designated crisis responder under this
9 chapter, the designated mental health professional or designated
10 crisis responder shall provide prompt written notification of the
11 results of the evaluation and whether the person was detained. The
12 notification shall be provided to the court in which the criminal
13 action was pending, the prosecutor, the defense attorney in the
14 criminal action, and the facility that evaluated the defendant for
15 competency.

16 (3) The fact that the defendant is unfit to proceed does not
17 preclude any pretrial proceedings which do not require the personal
18 participation of the defendant.

19 (4) A defendant receiving medication for either physical or
20 mental problems shall not be prohibited from standing trial, if the
21 medication either enables the defendant to understand the proceedings
22 against him or her and to assist in his or her own defense, or does
23 not disable him or her from so understanding and assisting in his or
24 her own defense.

25 (5) At or before the conclusion of any commitment period provided
26 for by this section, the facility providing evaluation and treatment
27 shall provide to the court a written report of evaluation which meets
28 the requirements of RCW 10.77.060(3). For defendants charged with a
29 felony, the report following the second competency restoration period
30 or first competency restoration period if the defendant's
31 incompetence is determined to be solely due to a developmental
32 disability or the evaluator concludes that the defendant is not
33 likely to regain competency must include an assessment of the
34 defendant's future dangerousness which is evidence-based regarding
35 predictive validity.

36 **Sec. 411.** RCW 10.77.088 and 2015 1st sp.s. c 7 s 6 are each
37 amended to read as follows:

1 (1)(a) If the defendant is charged with a nonfelony crime which
2 is a serious offense as identified in RCW 10.77.092 and found by the
3 court to be not competent, then the court:

4 (i) Shall commit the defendant to the custody of the secretary
5 who shall place such defendant in an appropriate facility of the
6 department for evaluation and treatment;

7 (ii) May alternatively order the defendant to undergo evaluation
8 and treatment at some other facility or provider as determined by the
9 department, or under the guidance and control of a professional
10 person. The facilities or providers may include community mental
11 health providers or other local facilities that contract with the
12 department and are willing and able to provide treatment under this
13 section. During the 2015-2017 fiscal biennium, the department may
14 contract with one or more cities or counties to provide competency
15 restoration services in a city or county jail if the city or county
16 jail is willing and able to serve as a location for competency
17 restoration services and if the secretary determines that there is an
18 emergent need for beds and documents the justification, including a
19 plan to address the emergency. Patients receiving competency
20 restoration services in a city or county jail must be physically
21 separated from other populations at the jail and restoration
22 treatment services must be provided as much as possible within a
23 therapeutic environment. The placement under (a)(i) and (ii) of this
24 subsection shall not exceed fourteen days in addition to any unused
25 time of the evaluation under RCW 10.77.060. The court shall compute
26 this total period and include its computation in the order. The
27 fourteen-day period plus any unused time of the evaluation under RCW
28 10.77.060 shall be considered to include only the time the defendant
29 is actually at the facility and shall be in addition to reasonable
30 time for transport to or from the facility;

31 (iii) May alternatively order that the defendant be placed on
32 conditional release for up to ninety days for mental health treatment
33 and restoration of competency; or

34 (iv) May order any combination of this subsection.

35 (b) If the court has determined or the parties agree that the
36 defendant is unlikely to regain competency, the court may dismiss the
37 charges without prejudice without ordering the defendant to undergo
38 restoration treatment, in which case the court shall order that the
39 defendant be referred for evaluation for civil commitment in the
40 manner provided in (c) of this subsection.

1 (c)(i) If the proceedings are dismissed under RCW 10.77.084 and
2 the defendant was on conditional release at the time of dismissal,
3 the court shall order the designated mental health professional or
4 designated crisis responder within that county to evaluate the
5 defendant pursuant to chapter 71.05 RCW. The evaluation may be
6 conducted in any location chosen by the professional.

7 (ii) If the defendant was in custody and not on conditional
8 release at the time of dismissal, the defendant shall be detained and
9 sent to an evaluation and treatment facility for up to seventy-two
10 hours, excluding Saturdays, Sundays, and holidays, for evaluation for
11 purposes of filing a petition under chapter 71.05 RCW. The seventy-
12 two-hour period shall commence upon the next nonholiday weekday
13 following the court order and shall run to the end of the last
14 nonholiday weekday within the seventy-two-hour period.

15 (2) If the defendant is charged with a nonfelony crime that is
16 not a serious offense as defined in RCW 10.77.092:

17 The court may stay or dismiss proceedings and detain the
18 defendant for sufficient time to allow the designated mental health
19 professional or designated crisis responder to evaluate the defendant
20 and consider initial detention proceedings under chapter 71.05 RCW.
21 The court must give notice to all parties at least twenty-four hours
22 before the dismissal of any proceeding under this subsection, and
23 provide an opportunity for a hearing on whether to dismiss the
24 proceedings.

25 **Sec. 412.** RCW 11.92.190 and 1996 c 249 s 11 are each amended to
26 read as follows:

27 No residential treatment facility which provides nursing or other
28 care may detain a person within such facility against their will. Any
29 court order, other than an order issued in accordance with the
30 involuntary treatment provisions of chapters 10.77, 71.05, 71.---
31 (the new chapter created in section 903 of this act), and 72.23 RCW,
32 which purports to authorize such involuntary detention or purports to
33 authorize a guardian or limited guardian to consent to such
34 involuntary detention on behalf of an incapacitated person shall be
35 void and of no force or effect. This section does not apply to the
36 detention of a minor as provided in chapter 70.96A (~~((ϵ))~~), 71.34, or
37 71.--- (the new chapter created in section 904 of this act) RCW.

38 Nothing in this section shall be construed to require a court
39 order authorizing placement of an incapacitated person in a

1 residential treatment facility if such order is not otherwise
2 required by law: PROVIDED, That notice of any residential placement
3 of an incapacitated person shall be served, either before or after
4 placement, by the guardian or limited guardian on such person, the
5 guardian ad litem of record, and any attorney of record.

6 **Sec. 413.** RCW 43.185C.255 and 2015 c 69 s 12 are each amended to
7 read as follows:

8 (1) The purpose of the multidisciplinary team is to assist in a
9 coordinated referral of the family to available social and health-
10 related services.

11 (2) The team shall have the authority to evaluate the juvenile,
12 and family members, if appropriate and agreed to by the parent, and
13 shall:

14 (a) With parental input, develop a plan of appropriate available
15 services and assist the family in obtaining those services;

16 (b) Make a referral to the designated chemical dependency
17 specialist or the county designated mental health professional or
18 designated crisis responder, if appropriate;

19 (c) Recommend no further intervention because the juvenile and
20 his or her family have resolved the problem causing the family
21 conflict; or

22 (d) With the parent's consent, work with them to achieve
23 reconciliation of the child and family.

24 (3) At the first meeting of the multidisciplinary team, it shall
25 choose a member to coordinate the team's efforts. The parent member
26 of the multidisciplinary team must agree with the choice of
27 coordinator. The team shall meet or communicate as often as necessary
28 to assist the family.

29 (4) The coordinator of the multidisciplinary team may assist in
30 filing a child in need of services petition when requested by the
31 parent or child or an at-risk youth petition when requested by the
32 parent. The multidisciplinary team shall have no standing as a party
33 in any action under this title.

34 (5) If the administrator is unable to contact the child's parent,
35 the multidisciplinary team may be used for assistance. If the parent
36 has not been contacted within five days the administrator shall
37 contact the department of social and health services and request the
38 case be reviewed for a dependency filing under chapter 13.34 RCW.

1 **Sec. 414.** RCW 18.83.110 and 2005 c 504 s 706 are each amended to
2 read as follows:

3 Confidential communications between a client and a psychologist
4 shall be privileged against compulsory disclosure to the same extent
5 and subject to the same conditions as confidential communications
6 between attorney and client, but this exception is subject to the
7 limitations under RCW 70.96A.140 (~~(and)~~), 71.05.360 (8) and (9), and
8 section 239 (8) and (9) of this act.

9 **Sec. 415.** RCW 43.20A.025 and 1998 c 296 s 34 are each amended to
10 read as follows:

11 The department of social and health services shall adopt rules
12 defining "appropriately trained professional person" for the purposes
13 of conducting mental health and chemical dependency evaluations under
14 RCW (~~(71.34.052(3), 71.34.054(1),)~~) 70.96A.245(3), (~~(and)~~)
15 70.96A.250(1), 71.34.600(3), and 71.34.650(1).

16 **Sec. 416.** RCW 70.02.010 and 2014 c 225 s 70 and 2014 c 220 s 4
17 are each reenacted and amended to read as follows:

18 The definitions in this section apply throughout this chapter
19 unless the context clearly requires otherwise.

20 (1) "Admission" has the same meaning as in RCW 71.05.020.

21 (2) "Audit" means an assessment, evaluation, determination, or
22 investigation of a health care provider by a person not employed by
23 or affiliated with the provider to determine compliance with:

24 (a) Statutory, regulatory, fiscal, medical, or scientific
25 standards;

26 (b) A private or public program of payments to a health care
27 provider; or

28 (c) Requirements for licensing, accreditation, or certification.

29 (3) "Commitment" has the same meaning as in RCW 71.05.020.

30 (4) "Custody" has the same meaning as in RCW 71.05.020.

31 (5) "Deidentified" means health information that does not
32 identify an individual and with respect to which there is no
33 reasonable basis to believe that the information can be used to
34 identify an individual.

35 (6) "Department" means the department of social and health
36 services.

1 (7) "Designated mental health professional" and "designated
2 crisis responder" (~~has~~) have the same meanings as in RCW 71.05.020
3 or 71.34.020, as applicable.

4 (8) "Detention" or "detain" has the same meaning as in RCW
5 71.05.020.

6 (9) "Directory information" means information disclosing the
7 presence, and for the purpose of identification, the name, location
8 within a health care facility, and the general health condition of a
9 particular patient who is a patient in a health care facility or who
10 is currently receiving emergency health care in a health care
11 facility.

12 (10) "Discharge" has the same meaning as in RCW 71.05.020.

13 (11) "Evaluation and treatment facility" has the same meaning as
14 in RCW 71.05.020 or 71.34.020, as applicable.

15 (12) "Federal, state, or local law enforcement authorities" means
16 an officer of any agency or authority in the United States, a state,
17 a tribe, a territory, or a political subdivision of a state, a tribe,
18 or a territory who is empowered by law to: (a) Investigate or conduct
19 an official inquiry into a potential criminal violation of law; or
20 (b) prosecute or otherwise conduct a criminal proceeding arising from
21 an alleged violation of law.

22 (13) "General health condition" means the patient's health status
23 described in terms of "critical," "poor," "fair," "good,"
24 "excellent," or terms denoting similar conditions.

25 (14) "Health care" means any care, service, or procedure provided
26 by a health care provider:

27 (a) To diagnose, treat, or maintain a patient's physical or
28 mental condition; or

29 (b) That affects the structure or any function of the human body.

30 (15) "Health care facility" means a hospital, clinic, nursing
31 home, laboratory, office, or similar place where a health care
32 provider provides health care to patients.

33 (16) "Health care information" means any information, whether
34 oral or recorded in any form or medium, that identifies or can
35 readily be associated with the identity of a patient and directly
36 relates to the patient's health care, including a patient's
37 deoxyribonucleic acid and identified sequence of chemical base pairs.
38 The term includes any required accounting of disclosures of health
39 care information.

1 (17) "Health care operations" means any of the following
2 activities of a health care provider, health care facility, or third-
3 party payor to the extent that the activities are related to
4 functions that make an entity a health care provider, a health care
5 facility, or a third-party payor:

6 (a) Conducting: Quality assessment and improvement activities,
7 including outcomes evaluation and development of clinical guidelines,
8 if the obtaining of generalizable knowledge is not the primary
9 purpose of any studies resulting from such activities; population-
10 based activities relating to improving health or reducing health care
11 costs, protocol development, case management and care coordination,
12 contacting of health care providers and patients with information
13 about treatment alternatives; and related functions that do not
14 include treatment;

15 (b) Reviewing the competence or qualifications of health care
16 professionals, evaluating practitioner and provider performance and
17 third-party payor performance, conducting training programs in which
18 students, trainees, or practitioners in areas of health care learn
19 under supervision to practice or improve their skills as health care
20 providers, training of nonhealth care professionals, accreditation,
21 certification, licensing, or credentialing activities;

22 (c) Underwriting, premium rating, and other activities relating
23 to the creation, renewal, or replacement of a contract of health
24 insurance or health benefits, and ceding, securing, or placing a
25 contract for reinsurance of risk relating to claims for health care,
26 including stop-loss insurance and excess of loss insurance, if any
27 applicable legal requirements are met;

28 (d) Conducting or arranging for medical review, legal services,
29 and auditing functions, including fraud and abuse detection and
30 compliance programs;

31 (e) Business planning and development, such as conducting cost-
32 management and planning-related analyses related to managing and
33 operating the health care facility or third-party payor, including
34 formulary development and administration, development, or improvement
35 of methods of payment or coverage policies; and

36 (f) Business management and general administrative activities of
37 the health care facility, health care provider, or third-party payor
38 including, but not limited to:

39 (i) Management activities relating to implementation of and
40 compliance with the requirements of this chapter;

1 (ii) Customer service, including the provision of data analyses
2 for policy holders, plan sponsors, or other customers, provided that
3 health care information is not disclosed to such policy holder, plan
4 sponsor, or customer;

5 (iii) Resolution of internal grievances;

6 (iv) The sale, transfer, merger, or consolidation of all or part
7 of a health care provider, health care facility, or third-party payor
8 with another health care provider, health care facility, or third-
9 party payor or an entity that following such activity will become a
10 health care provider, health care facility, or third-party payor, and
11 due diligence related to such activity; and

12 (v) Consistent with applicable legal requirements, creating
13 deidentified health care information or a limited dataset for the
14 benefit of the health care provider, health care facility, or third-
15 party payor.

16 (18) "Health care provider" means a person who is licensed,
17 certified, registered, or otherwise authorized by the law of this
18 state to provide health care in the ordinary course of business or
19 practice of a profession.

20 (19) "Human immunodeficiency virus" or "HIV" has the same meaning
21 as in RCW 70.24.017.

22 (20) "Imminent" has the same meaning as in RCW 71.05.020.

23 (21) "Information and records related to mental health services"
24 means a type of health care information that relates to all
25 information and records compiled, obtained, or maintained in the
26 course of providing services by a mental health service agency or
27 mental health professional to persons who are receiving or have
28 received services for mental illness. The term includes mental health
29 information contained in a medical bill, registration records, as
30 defined in RCW 71.05.020, and all other records regarding the person
31 maintained by the department, by regional support networks and their
32 staff, and by treatment facilities. The term further includes
33 documents of legal proceedings under chapter 71.05, 71.34, or 10.77
34 RCW, or somatic health care information. For health care information
35 maintained by a hospital as defined in RCW 70.41.020 or a health care
36 facility or health care provider that participates with a hospital in
37 an organized health care arrangement defined under federal law,
38 "information and records related to mental health services" is
39 limited to information and records of services provided by a mental
40 health professional or information and records of services created by

1 a hospital-operated (~~community mental~~) behavioral health program as
2 defined in RCW 71.24.025(~~(+6)~~). The term does not include
3 psychotherapy notes.

4 (22) "Information and records related to sexually transmitted
5 diseases" means a type of health care information that relates to the
6 identity of any person upon whom an HIV antibody test or other
7 sexually transmitted infection test is performed, the results of such
8 tests, and any information relating to diagnosis of or treatment for
9 any confirmed sexually transmitted infections.

10 (23) "Institutional review board" means any board, committee, or
11 other group formally designated by an institution, or authorized
12 under federal or state law, to review, approve the initiation of, or
13 conduct periodic review of research programs to assure the protection
14 of the rights and welfare of human research subjects.

15 (24) "Legal counsel" has the same meaning as in RCW 71.05.020.

16 (25) "Local public health officer" has the same meaning as in RCW
17 70.24.017.

18 (26) "Maintain," as related to health care information, means to
19 hold, possess, preserve, retain, store, or control that information.

20 (27) "Mental health professional" means a psychiatrist,
21 psychologist, psychiatric advanced registered nurse practitioner,
22 psychiatric nurse, or social worker, and such other mental health
23 professionals as may be defined by rules adopted by the secretary of
24 social and health services under chapter 71.05 RCW, whether that
25 person works in a private or public setting.

26 (28) "Mental health service agency" means a public or private
27 agency that provides services to persons with mental disorders as
28 defined under RCW 71.05.020 or 71.34.020 and receives funding from
29 public sources. This includes evaluation and treatment facilities as
30 defined in RCW 71.34.020, community mental health service delivery
31 systems, or (~~community mental~~) behavioral health programs, as
32 defined in RCW 71.24.025, and facilities conducting competency
33 evaluations and restoration under chapter 10.77 RCW.

34 (29) "Minor" has the same meaning as in RCW 71.34.020.

35 (30) "Parent" has the same meaning as in RCW 71.34.020.

36 (31) "Patient" means an individual who receives or has received
37 health care. The term includes a deceased individual who has received
38 health care.

39 (32) "Payment" means:

40 (a) The activities undertaken by:

1 (i) A third-party payor to obtain premiums or to determine or
2 fulfill its responsibility for coverage and provision of benefits by
3 the third-party payor; or

4 (ii) A health care provider, health care facility, or third-party
5 payor, to obtain or provide reimbursement for the provision of health
6 care; and

7 (b) The activities in (a) of this subsection that relate to the
8 patient to whom health care is provided and that include, but are not
9 limited to:

10 (i) Determinations of eligibility or coverage, including
11 coordination of benefits or the determination of cost-sharing
12 amounts, and adjudication or subrogation of health benefit claims;

13 (ii) Risk adjusting amounts due based on enrollee health status
14 and demographic characteristics;

15 (iii) Billing, claims management, collection activities,
16 obtaining payment under a contract for reinsurance, including stop-
17 loss insurance and excess of loss insurance, and related health care
18 data processing;

19 (iv) Review of health care services with respect to medical
20 necessity, coverage under a health plan, appropriateness of care, or
21 justification of charges;

22 (v) Utilization review activities, including precertification and
23 preauthorization of services, and concurrent and retrospective review
24 of services; and

25 (vi) Disclosure to consumer reporting agencies of any of the
26 following health care information relating to collection of premiums
27 or reimbursement:

28 (A) Name and address;

29 (B) Date of birth;

30 (C) Social security number;

31 (D) Payment history;

32 (E) Account number; and

33 (F) Name and address of the health care provider, health care
34 facility, and/or third-party payor.

35 (33) "Person" means an individual, corporation, business trust,
36 estate, trust, partnership, association, joint venture, government,
37 governmental subdivision or agency, or any other legal or commercial
38 entity.

39 (34) "Professional person" has the same meaning as in RCW
40 71.05.020.

1 (35) "Psychiatric advanced registered nurse practitioner" has the
2 same meaning as in RCW 71.05.020.

3 (36) "Psychotherapy notes" means notes recorded, in any medium,
4 by a mental health professional documenting or analyzing the contents
5 of conversations during a private counseling session or group, joint,
6 or family counseling session, and that are separated from the rest of
7 the individual's medical record. The term excludes mediation
8 prescription and monitoring, counseling session start and stop times,
9 the modalities and frequencies of treatment furnished, results of
10 clinical tests, and any summary of the following items: Diagnosis,
11 functional status, the treatment plan, symptoms, prognosis, and
12 progress to date.

13 (37) "Reasonable fee" means the charges for duplicating or
14 searching the record, but shall not exceed sixty-five cents per page
15 for the first thirty pages and fifty cents per page for all other
16 pages. In addition, a clerical fee for searching and handling may be
17 charged not to exceed fifteen dollars. These amounts shall be
18 adjusted biennially in accordance with changes in the consumer price
19 index, all consumers, for Seattle-Tacoma metropolitan statistical
20 area as determined by the secretary of health. However, where editing
21 of records by a health care provider is required by statute and is
22 done by the provider personally, the fee may be the usual and
23 customary charge for a basic office visit.

24 (38) "Release" has the same meaning as in RCW 71.05.020.

25 (39) "Resource management services" has the same meaning as in
26 RCW 71.05.020.

27 (40) "Serious violent offense" has the same meaning as in RCW
28 71.05.020.

29 (41) "Sexually transmitted infection" or "sexually transmitted
30 disease" has the same meaning as "sexually transmitted disease" in
31 RCW 70.24.017.

32 (42) "Test for a sexually transmitted disease" has the same
33 meaning as in RCW 70.24.017.

34 (43) "Third-party payor" means an insurer regulated under Title
35 48 RCW authorized to transact business in this state or other
36 jurisdiction, including a health care service contractor, and health
37 maintenance organization; or an employee welfare benefit plan,
38 excluding fitness or wellness plans; or a state or federal health
39 benefit program.

1 (44) "Treatment" means the provision, coordination, or management
2 of health care and related services by one or more health care
3 providers or health care facilities, including the coordination or
4 management of health care by a health care provider or health care
5 facility with a third party; consultation between health care
6 providers or health care facilities relating to a patient; or the
7 referral of a patient for health care from one health care provider
8 or health care facility to another.

9 **Sec. 417.** RCW 70.02.230 and 2014 c 225 s 71 and 2014 c 220 s 9
10 are each reenacted and amended to read as follows:

11 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
12 70.96A.150, 74.09.295, 70.02.210, 70.02.240, 70.02.250, and
13 70.02.260, or pursuant to a valid authorization under RCW 70.02.030,
14 the fact of admission to a provider for mental health services and
15 all information and records compiled, obtained, or maintained in the
16 course of providing mental health services to either voluntary or
17 involuntary recipients of services at public or private agencies must
18 be confidential.

19 (2) Information and records related to mental health services,
20 other than those obtained through treatment under chapter 71.34 RCW,
21 may be disclosed only:

22 (a) In communications between qualified professional persons to
23 meet the requirements of chapter 71.05 RCW, in the provision of
24 services or appropriate referrals, or in the course of guardianship
25 proceedings if provided to a professional person:

26 (i) Employed by the facility;

27 (ii) Who has medical responsibility for the patient's care;

28 (iii) Who is a designated mental health professional or
29 designated crisis responder;

30 (iv) Who is providing services under chapter 71.24 RCW;

31 (v) Who is employed by a state or local correctional facility
32 where the person is confined or supervised; or

33 (vi) Who is providing evaluation, treatment, or follow-up
34 services under chapter 10.77 RCW;

35 (b) When the communications regard the special needs of a patient
36 and the necessary circumstances giving rise to such needs and the
37 disclosure is made by a facility providing services to the operator
38 of a facility in which the patient resides or will reside;

1 (c)(i) When the person receiving services, or his or her
2 guardian, designates persons to whom information or records may be
3 released, or if the person is a minor, when his or her parents make
4 such a designation;

5 (ii) A public or private agency shall release to a person's next
6 of kin, attorney, personal representative, guardian, or conservator,
7 if any:

8 (A) The information that the person is presently a patient in the
9 facility or that the person is seriously physically ill;

10 (B) A statement evaluating the mental and physical condition of
11 the patient, and a statement of the probable duration of the
12 patient's confinement, if such information is requested by the next
13 of kin, attorney, personal representative, guardian, or conservator;
14 and

15 (iii) Other information requested by the next of kin or attorney
16 as may be necessary to decide whether or not proceedings should be
17 instituted to appoint a guardian or conservator;

18 (d)(i) To the courts as necessary to the administration of
19 chapter 71.05 RCW or to a court ordering an evaluation or treatment
20 under chapter 10.77 RCW solely for the purpose of preventing the
21 entry of any evaluation or treatment order that is inconsistent with
22 any order entered under chapter 71.05 RCW.

23 (ii) To a court or its designee in which a motion under chapter
24 10.77 RCW has been made for involuntary medication of a defendant for
25 the purpose of competency restoration.

26 (iii) Disclosure under this subsection is mandatory for the
27 purpose of the federal health insurance portability and
28 accountability act;

29 (e)(i) When a mental health professional or designated crisis
30 responder is requested by a representative of a law enforcement or
31 corrections agency, including a police officer, sheriff, community
32 corrections officer, a municipal attorney, or prosecuting attorney to
33 undertake an investigation or provide treatment under RCW 71.05.150,
34 10.31.110, or 71.05.153, the mental health professional or designated
35 crisis responder shall, if requested to do so, advise the
36 representative in writing of the results of the investigation
37 including a statement of reasons for the decision to detain or
38 release the person investigated. The written report must be submitted
39 within seventy-two hours of the completion of the investigation or

1 the request from the law enforcement or corrections representative,
2 whichever occurs later.

3 (ii) Disclosure under this subsection is mandatory for the
4 purposes of the federal health insurance portability and
5 accountability act;

6 (f) To the attorney of the detained person;

7 (g) To the prosecuting attorney as necessary to carry out the
8 responsibilities of the office under RCW 71.05.330(2),
9 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
10 access to records regarding the committed person's treatment and
11 prognosis, medication, behavior problems, and other records relevant
12 to the issue of whether treatment less restrictive than inpatient
13 treatment is in the best interest of the committed person or others.
14 Information must be disclosed only after giving notice to the
15 committed person and the person's counsel;

16 (h)(i) To appropriate law enforcement agencies and to a person,
17 when the identity of the person is known to the public or private
18 agency, whose health and safety has been threatened, or who is known
19 to have been repeatedly harassed, by the patient. The person may
20 designate a representative to receive the disclosure. The disclosure
21 must be made by the professional person in charge of the public or
22 private agency or his or her designee and must include the dates of
23 commitment, admission, discharge, or release, authorized or
24 unauthorized absence from the agency's facility, and only any other
25 information that is pertinent to the threat or harassment. The agency
26 or its employees are not civilly liable for the decision to disclose
27 or not, so long as the decision was reached in good faith and without
28 gross negligence.

29 (ii) Disclosure under this subsection is mandatory for the
30 purposes of the federal health insurance portability and
31 accountability act;

32 (i)(i) To appropriate corrections and law enforcement agencies
33 all necessary and relevant information in the event of a crisis or
34 emergent situation that poses a significant and imminent risk to the
35 public. The mental health service agency or its employees are not
36 civilly liable for the decision to disclose or not so long as the
37 decision was reached in good faith and without gross negligence.

38 (ii) Disclosure under this subsection is mandatory for the
39 purposes of the health insurance portability and accountability act;

1 (j) To the persons designated in RCW 71.05.425 for the purposes
2 described in those sections;

3 (k) Upon the death of a person. The person's next of kin,
4 personal representative, guardian, or conservator, if any, must be
5 notified. Next of kin who are of legal age and competent must be
6 notified under this section in the following order: Spouse, parents,
7 children, brothers and sisters, and other relatives according to the
8 degree of relation. Access to all records and information compiled,
9 obtained, or maintained in the course of providing services to a
10 deceased patient are governed by RCW 70.02.140;

11 (l) To mark headstones or otherwise memorialize patients interred
12 at state hospital cemeteries. The department of social and health
13 services shall make available the name, date of birth, and date of
14 death of patients buried in state hospital cemeteries fifty years
15 after the death of a patient;

16 (m) To law enforcement officers and to prosecuting attorneys as
17 are necessary to enforce RCW 9.41.040(2)(a)(~~(ii)~~) (iii). The extent
18 of information that may be released is limited as follows:

19 (i) Only the fact, place, and date of involuntary commitment, an
20 official copy of any order or orders of commitment, and an official
21 copy of any written or oral notice of ineligibility to possess a
22 firearm that was provided to the person pursuant to RCW 9.41.047(1),
23 must be disclosed upon request;

24 (ii) The law enforcement and prosecuting attorneys may only
25 release the information obtained to the person's attorney as required
26 by court rule and to a jury or judge, if a jury is waived, that
27 presides over any trial at which the person is charged with violating
28 RCW 9.41.040(2)(a)(~~(ii)~~) (iii);

29 (iii) Disclosure under this subsection is mandatory for the
30 purposes of the federal health insurance portability and
31 accountability act;

32 (n) When a patient would otherwise be subject to the provisions
33 of this section and disclosure is necessary for the protection of the
34 patient or others due to his or her unauthorized disappearance from
35 the facility, and his or her whereabouts is unknown, notice of the
36 disappearance, along with relevant information, may be made to
37 relatives, the department of corrections when the person is under the
38 supervision of the department, and governmental law enforcement
39 agencies designated by the physician or psychiatric advanced
40 registered nurse practitioner in charge of the patient or the

1 professional person in charge of the facility, or his or her
2 professional designee;

3 (o) Pursuant to lawful order of a court;

4 (p) To qualified staff members of the department, to the director
5 of behavioral health organizations, to resource management services
6 responsible for serving a patient, or to service providers designated
7 by resource management services as necessary to determine the
8 progress and adequacy of treatment and to determine whether the
9 person should be transferred to a less restrictive or more
10 appropriate treatment modality or facility;

11 (q) Within the mental health service agency where the patient is
12 receiving treatment, confidential information may be disclosed to
13 persons employed, serving in bona fide training programs, or
14 participating in supervised volunteer programs, at the facility when
15 it is necessary to perform their duties;

16 (r) Within the department as necessary to coordinate treatment
17 for mental illness, developmental disabilities, alcoholism, or drug
18 abuse of persons who are under the supervision of the department;

19 (s) To a licensed physician or psychiatric advanced registered
20 nurse practitioner who has determined that the life or health of the
21 person is in danger and that treatment without the information and
22 records related to mental health services could be injurious to the
23 patient's health. Disclosure must be limited to the portions of the
24 records necessary to meet the medical emergency;

25 (t) Consistent with the requirements of the federal health
26 information portability and accountability act, to a licensed mental
27 health professional or a health care professional licensed under
28 chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is
29 providing care to a person, or to whom a person has been referred for
30 evaluation or treatment, to assure coordinated care and treatment of
31 that person. Psychotherapy notes may not be released without
32 authorization of the person who is the subject of the request for
33 release of information;

34 (u) To administrative and office support staff designated to
35 obtain medical records for those licensed professionals listed in (t)
36 of this subsection;

37 (v) To a facility that is to receive a person who is
38 involuntarily committed under chapter 71.05 RCW, or upon transfer of
39 the person from one evaluation and treatment facility to another. The
40 release of records under this subsection is limited to the

1 information and records related to mental health services required by
2 law, a record or summary of all somatic treatments, and a discharge
3 summary. The discharge summary may include a statement of the
4 patient's problem, the treatment goals, the type of treatment which
5 has been provided, and recommendation for future treatment, but may
6 not include the patient's complete treatment record;

7 (w) To the person's counsel or guardian ad litem, without
8 modification, at any time in order to prepare for involuntary
9 commitment or recommitment proceedings, reexaminations, appeals, or
10 other actions relating to detention, admission, commitment, or
11 patient's rights under chapter 71.05 RCW;

12 (x) To staff members of the protection and advocacy agency or to
13 staff members of a private, nonprofit corporation for the purpose of
14 protecting and advocating the rights of persons with mental disorders
15 or developmental disabilities. Resource management services may limit
16 the release of information to the name, birthdate, and county of
17 residence of the patient, information regarding whether the patient
18 was voluntarily admitted, or involuntarily committed, the date and
19 place of admission, placement, or commitment, the name and address of
20 a guardian of the patient, and the date and place of the guardian's
21 appointment. Any staff member who wishes to obtain additional
22 information must notify the patient's resource management services in
23 writing of the request and of the resource management services' right
24 to object. The staff member shall send the notice by mail to the
25 guardian's address. If the guardian does not object in writing within
26 fifteen days after the notice is mailed, the staff member may obtain
27 the additional information. If the guardian objects in writing within
28 fifteen days after the notice is mailed, the staff member may not
29 obtain the additional information;

30 (y) To all current treating providers of the patient with
31 prescriptive authority who have written a prescription for the
32 patient within the last twelve months. For purposes of coordinating
33 health care, the department may release without written authorization
34 of the patient, information acquired for billing and collection
35 purposes as described in RCW 70.02.050(1)(d). The department shall
36 notify the patient that billing and collection information has been
37 released to named providers, and provide the substance of the
38 information released and the dates of such release. The department
39 may not release counseling, inpatient psychiatric hospitalization, or

1 drug and alcohol treatment information without a signed written
2 release from the client;

3 (z)(i) To the secretary of social and health services for either
4 program evaluation or research, or both so long as the secretary
5 adopts rules for the conduct of the evaluation or research, or both.
6 Such rules must include, but need not be limited to, the requirement
7 that all evaluators and researchers sign an oath of confidentiality
8 substantially as follows:

9 "As a condition of conducting evaluation or research concerning
10 persons who have received services from (fill in the facility,
11 agency, or person) I,, agree not to divulge, publish, or
12 otherwise make known to unauthorized persons or the public any
13 information obtained in the course of such evaluation or research
14 regarding persons who have received services such that the person who
15 received such services is identifiable.

16 I recognize that unauthorized release of confidential information
17 may subject me to civil liability under the provisions of state law.
18 /s/"

19 (ii) Nothing in this chapter may be construed to prohibit the
20 compilation and publication of statistical data for use by government
21 or researchers under standards, including standards to assure
22 maintenance of confidentiality, set forth by the secretary.

23 (3) Whenever federal law or federal regulations restrict the
24 release of information contained in the information and records
25 related to mental health services of any patient who receives
26 treatment for chemical dependency, the department may restrict the
27 release of the information as necessary to comply with federal law
28 and regulations.

29 (4) Civil liability and immunity for the release of information
30 about a particular person who is committed to the department of
31 social and health services under RCW 71.05.280(3) and
32 71.05.320(~~(+3)~~) (4)(c) after dismissal of a sex offense as defined
33 in RCW 9.94A.030, is governed by RCW 4.24.550.

34 (5) The fact of admission to a provider of mental health
35 services, as well as all records, files, evidence, findings, or
36 orders made, prepared, collected, or maintained pursuant to chapter
37 71.05 RCW are not admissible as evidence in any legal proceeding
38 outside that chapter without the written authorization of the person
39 who was the subject of the proceeding except as provided in RCW

1 70.02.260, in a subsequent criminal prosecution of a person committed
2 pursuant to RCW 71.05.280(3) or 71.05.320(~~(+3)~~) (4)(c) on charges
3 that were dismissed pursuant to chapter 10.77 RCW due to incompetency
4 to stand trial, in a civil commitment proceeding pursuant to chapter
5 71.09 RCW, or, in the case of a minor, a guardianship or dependency
6 proceeding. The records and files maintained in any court proceeding
7 pursuant to chapter 71.05 RCW must be confidential and available
8 subsequent to such proceedings only to the person who was the subject
9 of the proceeding or his or her attorney. In addition, the court may
10 order the subsequent release or use of such records or files only
11 upon good cause shown if the court finds that appropriate safeguards
12 for strict confidentiality are and will be maintained.

13 (6)(a) Except as provided in RCW 4.24.550, any person may bring
14 an action against an individual who has willfully released
15 confidential information or records concerning him or her in
16 violation of the provisions of this section, for the greater of the
17 following amounts:

18 (i) One thousand dollars; or

19 (ii) Three times the amount of actual damages sustained, if any.

20 (b) It is not a prerequisite to recovery under this subsection
21 that the plaintiff suffered or was threatened with special, as
22 contrasted with general, damages.

23 (c) Any person may bring an action to enjoin the release of
24 confidential information or records concerning him or her or his or
25 her ward, in violation of the provisions of this section, and may in
26 the same action seek damages as provided in this subsection.

27 (d) The court may award to the plaintiff, should he or she
28 prevail in any action authorized by this subsection, reasonable
29 attorney fees in addition to those otherwise provided by law.

30 (e) If an action is brought under this subsection, no action may
31 be brought under RCW 70.02.170.

32 **Sec. 418.** RCW 70.48.475 and 2004 c 166 s 14 are each amended to
33 read as follows:

34 (1) A person having charge of a jail, or that person's designee,
35 shall notify the county designated mental health professional or the
36 designated chemical dependency specialist or designated crisis
37 responder seventy-two hours prior to the release to the community of
38 an offender or defendant who was subject to a discharge review under
39 RCW 71.05.232. If the person having charge of the jail does not

1 receive seventy-two hours notice of the release, the notification to
2 the county designated mental health professional or the designated
3 chemical dependency specialist or designated crisis responder shall
4 be made as soon as reasonably possible, but not later than the actual
5 release to the community of the defendant or offender.

6 (2) When a person having charge of a jail, or that person's
7 designee, releases an offender or defendant who was the subject of a
8 discharge review under RCW 71.05.232, the person having charge of a
9 jail, or that person's designee, shall notify the state hospital from
10 which the offender or defendant was released.

11 **Sec. 419.** RCW 70.97.010 and 2014 c 225 s 78 are each amended to
12 read as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

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

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

22 (3) "Chemical dependency" means alcoholism, drug addiction, or
23 dependence on alcohol and one or more other psychoactive chemicals,
24 as the context requires and as those terms are defined in chapter
25 70.96A, 71.05, or 71.--- (the new chapter created in section 903 of
26 this act) RCW.

27 (4) "Chemical dependency professional" means a person certified
28 as a chemical dependency professional by the department of health
29 under chapter 18.205 RCW.

30 (5) "Commitment" means the determination by a court that an
31 individual should be detained for a period of either evaluation or
32 treatment, or both, in an inpatient or a less restrictive setting.

33 (6) "Conditional release" means a modification of a commitment
34 that may be revoked upon violation of any of its terms.

35 (7) "Custody" means involuntary detention under chapter 71.05,
36 71.--- (the new chapter created in section 903 of this act), or
37 70.96A RCW, uninterrupted by any period of unconditional release from
38 commitment from a facility providing involuntary care and treatment.

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

3 (9) "Designated crisis responder" (~~means a designated mental~~
4 ~~health professional, a designated chemical dependency specialist, or~~
5 ~~a designated crisis responder as those terms are defined in chapter~~
6 ~~70.96A, 71.05, or 70.96B RCW~~) has the same meaning as in chapter
7 71.05 RCW.

8 (10) "Detention" or "detain" means the lawful confinement of an
9 individual under chapter 70.96A (~~($\text{\textcircled{e}}$)~~), 71.05, or 71.--- (the new
10 chapter created in section 903 of this act) RCW.

11 (11) "Discharge" means the termination of facility authority. The
12 commitment may remain in place, be terminated, or be amended by court
13 order.

14 (12) "Enhanced services facility" means a facility that provides
15 treatment and services to persons for whom acute inpatient treatment
16 is not medically necessary and who have been determined by the
17 department to be inappropriate for placement in other licensed
18 facilities due to the complex needs that result in behavioral and
19 security issues.

20 (13) "Expanded community services program" means a nonsecure
21 program of enhanced behavioral and residential support provided to
22 long-term and residential care providers serving specifically
23 eligible clients who would otherwise be at risk for hospitalization
24 at state hospital geriatric units.

25 (14) "Facility" means an enhanced services facility.

26 (15) "Gravely disabled" means a condition in which an individual,
27 as a result of a mental disorder, as a result of the use of alcohol
28 or other psychoactive chemicals, or both:

29 (a) Is in danger of serious physical harm resulting from a
30 failure to provide for his or her essential human needs of health or
31 safety; or

32 (b) Manifests severe deterioration in routine functioning
33 evidenced by repeated and escalating loss of cognitive or volitional
34 control over his or her actions and is not receiving such care as is
35 essential for his or her health or safety.

36 (16) "History of one or more violent acts" refers to the period
37 of time ten years before the filing of a petition under this
38 chapter(~~($\text{\textcircled{r}}$)~~) or chapter 70.96A (~~($\text{\textcircled{e}}$)~~), 71.05, or 71.--- (the new
39 chapter created in section 903 of this act) RCW, excluding any time
40 spent, but not any violent acts committed, in a mental health

1 facility or a long-term alcoholism or drug treatment facility, or in
2 confinement as a result of a criminal conviction.

3 (17) "Licensed physician" means a person licensed to practice
4 medicine or osteopathic medicine and surgery in the state of
5 Washington.

6 (18) "Likelihood of serious harm" means:

7 (a) A substantial risk that:

8 (i) Physical harm will be inflicted by an individual upon his or
9 her own person, as evidenced by threats or attempts to commit suicide
10 or inflict physical harm on oneself;

11 (ii) Physical harm will be inflicted by an individual upon
12 another, as evidenced by behavior that has caused such harm or that
13 places another person or persons in reasonable fear of sustaining
14 such harm; or

15 (iii) Physical harm will be inflicted by an individual upon the
16 property of others, as evidenced by behavior that has caused
17 substantial loss or damage to the property of others; or

18 (b) The individual has threatened the physical safety of another
19 and has a history of one or more violent acts.

20 (19) "Mental disorder" means any organic, mental, or emotional
21 impairment that has substantial adverse effects on an individual's
22 cognitive or volitional functions.

23 (20) "Mental health professional" means a psychiatrist,
24 psychologist, psychiatric nurse, or social worker, and such other
25 mental health professionals as may be defined by rules adopted by the
26 secretary under the authority of chapter 71.05 RCW.

27 (21) "Professional person" means a mental health professional and
28 also means a physician, registered nurse, and such others as may be
29 defined in rules adopted by the secretary pursuant to the provisions
30 of this chapter.

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

37 (23) "Psychologist" means a person who has been licensed as a
38 psychologist under chapter 18.83 RCW.

39 (24) "Registration records" include all the records of the
40 department, behavioral health organizations, treatment facilities,

1 and other persons providing services to the department, county
2 departments, or facilities which identify individuals who are
3 receiving or who at any time have received services for mental
4 illness.

5 (25) "Release" means legal termination of the commitment under
6 chapter ((70.96A or)) 71.05 RCW.

7 (26) "Resident" means a person admitted to an enhanced services
8 facility.

9 (27) "Secretary" means the secretary of the department or the
10 secretary's designee.

11 (28) "Significant change" means:

12 (a) A deterioration in a resident's physical, mental, or
13 psychosocial condition that has caused or is likely to cause clinical
14 complications or life-threatening conditions; or

15 (b) An improvement in the resident's physical, mental, or
16 psychosocial condition that may make the resident eligible for
17 release or for treatment in a less intensive or less secure setting.

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

21 (30) "Treatment" means the broad range of emergency,
22 detoxification, residential, inpatient, and outpatient services and
23 care, including diagnostic evaluation, mental health or chemical
24 dependency education and counseling, medical, psychiatric,
25 psychological, and social service care, vocational rehabilitation,
26 and career counseling, which may be extended to persons with mental
27 disorders, chemical dependency disorders, or both, and their
28 families.

29 (31) "Treatment records" include registration and all other
30 records concerning individuals who are receiving or who at any time
31 have received services for mental illness, which are maintained by
32 the department, by behavioral health organizations and their staffs,
33 and by treatment facilities. "Treatment records" do not include notes
34 or records maintained for personal use by an individual providing
35 treatment services for the department, behavioral health
36 organizations, or a treatment facility if the notes or records are
37 not available to others.

38 (32) "Violent act" means behavior that resulted in homicide,
39 attempted suicide, nonfatal injuries, or substantial damage to
40 property.

1 **Sec. 420.** RCW 71.05.660 and 2013 c 200 s 21 are each amended to
2 read as follows:

3 Nothing in this chapter or chapter 70.02, 70.96A, or 71.34(~~(, or~~
4 ~~70.96B))~~) RCW shall be construed to interfere with communications
5 between physicians, psychiatric advanced registered nurse
6 practitioners, or psychologists and patients and attorneys and
7 clients.

8 **Sec. 421.** RCW 71.24.330 and 2015 c 250 s 19 are each amended to
9 read as follows:

10 (1)(a) Contracts between a behavioral health organization and the
11 department shall include mechanisms for monitoring performance under
12 the contract and remedies for failure to substantially comply with
13 the requirements of the contract including, but not limited to,
14 financial penalties, termination of the contract, and reprocurement
15 of the contract.

16 (b) The department shall incorporate the criteria to measure the
17 performance of service coordination organizations into contracts with
18 behavioral health organizations as provided in chapter 70.320 RCW.

19 (2) The behavioral health organization procurement processes
20 shall encourage the preservation of infrastructure previously
21 purchased by the community mental health service delivery system, the
22 maintenance of linkages between other services and delivery systems,
23 and maximization of the use of available funds for services versus
24 profits. However, a behavioral health organization selected through
25 the procurement process is not required to contract for services with
26 any county-owned or operated facility. The behavioral health
27 organization procurement process shall provide that public funds
28 appropriated by the legislature shall not be used to promote or
29 deter, encourage, or discourage employees from exercising their
30 rights under Title 29, chapter 7, subchapter II, United States Code
31 or chapter 41.56 RCW.

32 (3) In addition to the requirements of RCW 71.24.035, contracts
33 shall:

34 (a) Define administrative costs and ensure that the behavioral
35 health organization does not exceed an administrative cost of ten
36 percent of available funds;

37 (b) Require effective collaboration with law enforcement,
38 criminal justice agencies, and the chemical dependency treatment
39 system;

1 (c) Require substantial implementation of department adopted
2 integrated screening and assessment process and matrix of best
3 practices;

4 (d) Maintain the decision-making independence of designated
5 mental health professionals or designated crisis responders;

6 (e) Except at the discretion of the secretary or as specified in
7 the biennial budget, require behavioral health organizations to pay
8 the state for the costs associated with individuals who are being
9 served on the grounds of the state hospitals and who are not
10 receiving long-term inpatient care as defined in RCW 71.24.025;

11 (f) Include a negotiated alternative dispute resolution clause;

12 (g) Include a provision requiring either party to provide one
13 hundred eighty days' notice of any issue that may cause either party
14 to voluntarily terminate, refuse to renew, or refuse to sign a
15 mandatory amendment to the contract to act as a behavioral health
16 organization. If either party decides to voluntarily terminate,
17 refuse to renew, or refuse to sign a mandatory amendment to the
18 contract to serve as a behavioral health organization they shall
19 provide ninety days' advance notice in writing to the other party;

20 (h) Require behavioral health organizations to provide services
21 as identified in RCW 71.05.585 to individuals committed for
22 involuntary commitment under less restrictive alternative court
23 orders when:

24 (i) The individual is enrolled in the medicaid program and meets
25 behavioral health organization access to care standards; or

26 (ii) The individual is not enrolled in medicaid, does not have
27 other insurance which can pay for the services, and the behavioral
28 health organization has adequate available resources to provide the
29 services; and

30 (i) Establish caseload guidelines for care coordinators who
31 supervise less restrictive alternative orders and guidelines for
32 response times during and immediately following periods of
33 hospitalization or incarceration.

34 **Sec. 422.** RCW 71.32.080 and 2006 c 108 s 5 are each amended to
35 read as follows:

36 (1)(a) A principal with capacity may, by written statement by the
37 principal or at the principal's direction in the principal's
38 presence, revoke a directive in whole or in part.

1 (b) An incapacitated principal may revoke a directive only if he
2 or she elected at the time of executing the directive to be able to
3 revoke when incapacitated.

4 (2) The revocation need not follow any specific form so long as
5 it is written and the intent of the principal can be discerned. In
6 the case of a directive that is stored in the health care
7 declarations registry created by RCW 70.122.130, the revocation may
8 be by an online method established by the department of health.
9 Failure to use the online method of revocation for a directive that
10 is stored in the registry does not invalidate a revocation that is
11 made by another method described under this section.

12 (3) The principal shall provide a copy of his or her written
13 statement of revocation to his or her agent, if any, and to each
14 health care provider, professional person, or health care facility
15 that received a copy of the directive from the principal.

16 (4) The written statement of revocation is effective:

17 (a) As to a health care provider, professional person, or health
18 care facility, upon receipt. The professional person, health care
19 provider, or health care facility, or persons acting under their
20 direction shall make the statement of revocation part of the
21 principal's medical record; and

22 (b) As to the principal's agent, upon receipt. The principal's
23 agent shall notify the principal's health care provider, professional
24 person, or health care facility of the revocation and provide them
25 with a copy of the written statement of revocation.

26 (5) A directive also may:

27 (a) Be revoked, in whole or in part, expressly or to the extent
28 of any inconsistency, by a subsequent directive; or

29 (b) Be superseded or revoked by a court order, including any
30 order entered in a criminal matter. A directive may be superseded by
31 a court order regardless of whether the order contains an explicit
32 reference to the directive. To the extent a directive is not in
33 conflict with a court order, the directive remains effective, subject
34 to the provisions of RCW 71.32.150. A directive shall not be
35 interpreted in a manner that interferes with: (i) Incarceration or
36 detention by the department of corrections, in a city or county jail,
37 or by the department of social and health services; or (ii) treatment
38 of a principal who is subject to involuntary treatment pursuant to
39 chapter 10.77, 70.96A, 71.05, 71.--- (the new chapter created in

1 section 903 of this act), 71.09, ((~~or~~) 71.34, or 71.---(the new
2 chapter created in section 904 of this act) RCW.

3 (6) A directive that would have otherwise expired but is
4 effective because the principal is incapacitated remains effective
5 until the principal is no longer incapacitated unless the principal
6 has elected to be able to revoke while incapacitated and has revoked
7 the directive.

8 (7) When a principal with capacity consents to treatment that
9 differs from, or refuses treatment consented to in, the provisions of
10 his or her directive, the consent or refusal constitutes a waiver of
11 that provision and does not constitute a revocation of the provision
12 or directive unless the principal also revokes the directive or
13 provision.

14 **Sec. 423.** RCW 71.32.140 and 2009 c 217 s 12 are each amended to
15 read as follows:

16 (1) A principal who:

17 (a) Chose not to be able to revoke his or her directive during
18 any period of incapacity;

19 (b) Consented to voluntary admission to inpatient mental health
20 treatment, or authorized an agent to consent on the principal's
21 behalf; and

22 (c) At the time of admission to inpatient treatment, refuses to
23 be admitted,
24 may only be admitted into inpatient mental health treatment under
25 subsection (2) of this section.

26 (2) A principal may only be admitted to inpatient mental health
27 treatment under his or her directive if, prior to admission, a member
28 of the treating facility's professional staff who is a physician or
29 psychiatric advanced registered nurse practitioner:

30 (a) Evaluates the principal's mental condition, including a
31 review of reasonably available psychiatric and psychological history,
32 diagnosis, and treatment needs, and determines, in conjunction with
33 another health care provider or mental health professional, that the
34 principal is incapacitated;

35 (b) Obtains the informed consent of the agent, if any, designated
36 in the directive;

37 (c) Makes a written determination that the principal needs an
38 inpatient evaluation or is in need of inpatient treatment and that

1 the evaluation or treatment cannot be accomplished in a less
2 restrictive setting; and

3 (d) Documents in the principal's medical record a summary of the
4 physician's or psychiatric advanced registered nurse practitioner's
5 findings and recommendations for treatment or evaluation.

6 (3) In the event the admitting physician is not a psychiatrist,
7 or the advanced registered nurse practitioner is not a psychiatric
8 advanced registered nurse practitioner, the principal shall receive a
9 complete psychological assessment by a mental health professional
10 within twenty-four hours of admission to determine the continued need
11 for inpatient evaluation or treatment.

12 (4)(a) If it is determined that the principal has capacity, then
13 the principal may only be admitted to, or remain in, inpatient
14 treatment if he or she consents at the time or is detained under the
15 involuntary treatment provisions of chapter 70.96A, 71.05, ((~~or~~))
16 71.--- (the new chapter created in section 903 of this act), 71.34,
17 or 71.--- (the new chapter created in section 904 of this act) RCW.

18 (b) If a principal who is determined by two health care providers
19 or one mental health professional and one health care provider to be
20 incapacitated continues to refuse inpatient treatment, the principal
21 may immediately seek injunctive relief for release from the facility.

22 (5) If, at the end of the period of time that the principal or
23 the principal's agent, if any, has consented to voluntary inpatient
24 treatment, but no more than fourteen days after admission, the
25 principal has not regained capacity or has regained capacity but
26 refuses to consent to remain for additional treatment, the principal
27 must be released during reasonable daylight hours, unless detained
28 under chapter 70.96A, 71.05, ((~~or~~)) 71.--- (the new chapter created
29 in section 903 of this act), 71.34, or 71.--- (the new chapter
30 created in section 904 of this act) RCW.

31 (6)(a) Except as provided in (b) of this subsection, any
32 principal who is voluntarily admitted to inpatient mental health
33 treatment under this chapter shall have all the rights provided to
34 individuals who are voluntarily admitted to inpatient treatment under
35 chapter 71.05, 71.34, or 72.23 RCW.

36 (b) Notwithstanding RCW 71.05.050 regarding consent to inpatient
37 treatment for a specified length of time, the choices an
38 incapacitated principal expressed in his or her directive shall
39 control, provided, however, that a principal who takes action
40 demonstrating a desire to be discharged, in addition to making

1 statements requesting to be discharged, shall be discharged, and no
2 principal shall be restrained in any way in order to prevent his or
3 her discharge. Nothing in this subsection shall be construed to
4 prevent detention and evaluation for civil commitment under chapter
5 71.05 RCW.

6 (7) Consent to inpatient admission in a directive is effective
7 only while the professional person, health care provider, and health
8 care facility are in substantial compliance with the material
9 provisions of the directive related to inpatient treatment.

10 **Sec. 424.** RCW 71.32.150 and 2003 c 283 s 15 are each amended to
11 read as follows:

12 (1) Upon receiving a directive, a health care provider,
13 professional person, or health care facility providing treatment to
14 the principal, or persons acting under the direction of the health
15 care provider, professional person, or health care facility, shall
16 make the directive a part of the principal's medical record and shall
17 be deemed to have actual knowledge of the directive's contents.

18 (2) When acting under authority of a directive, a health care
19 provider, professional person, or health care facility shall act in
20 accordance with the provisions of the directive to the fullest extent
21 possible, unless in the determination of the health care provider,
22 professional person, or health care facility:

23 (a) Compliance with the provision would violate the accepted
24 standard of care established in RCW 7.70.040;

25 (b) The requested treatment is not available;

26 (c) Compliance with the provision would violate applicable law;
27 or

28 (d) It is an emergency situation and compliance would endanger
29 any person's life or health.

30 (3)(a) In the case of a principal committed or detained under the
31 involuntary treatment provisions of chapter 10.77, 70.96A, 71.05,
32 71.--- (the new chapter created in section 903 of this act), 71.09,
33 ~~((~~o~~))~~ 71.34, or 71.--- (the new chapter created in section 904 of
34 this act) RCW, those provisions of a principal's directive that, in
35 the determination of the health care provider, professional person,
36 or health care facility, are inconsistent with the purpose of the
37 commitment or with any order of the court relating to the commitment
38 are invalid during the commitment.

1 (b) Remaining provisions of a principal's directive are advisory
2 while the principal is committed or detained.

3 The treatment provider is encouraged to follow the remaining
4 provisions of the directive, except as provided in (a) of this
5 subsection or subsection (2) of this section.

6 (4) In the case of a principal who is incarcerated or committed
7 in a state or local correctional facility, provisions of the
8 principal's directive that are inconsistent with reasonable
9 penological objectives or administrative hearings regarding
10 involuntary medication are invalid during the period of incarceration
11 or commitment. In addition, treatment may be given despite refusal of
12 the principal or the provisions of the directive: (a) For any reason
13 under subsection (2) of this section; or (b) if, without the benefit
14 of the specific treatment measure, there is a significant possibility
15 that the person will harm self or others before an improvement of the
16 person's condition occurs.

17 (5)(a) If the health care provider, professional person, or
18 health care facility is, at the time of receiving the directive,
19 unable or unwilling to comply with any part or parts of the directive
20 for any reason, the health care provider, professional person, or
21 health care facility shall promptly notify the principal and, if
22 applicable, his or her agent and shall document the reason in the
23 principal's medical record.

24 (b) If the health care provider, professional person, or health
25 care facility is acting under authority of a directive and is unable
26 to comply with any part or parts of the directive for the reasons
27 listed in subsection (2) or (3) of this section, the health care
28 provider, professional person, or health care facility shall promptly
29 notify the principal and if applicable, his or her agent, and shall
30 document the reason in the principal's medical record.

31 (6) In the event that one or more parts of the directive are not
32 followed because of one or more of the reasons set forth in
33 subsection (2) or (4) of this section, all other parts of the
34 directive shall be followed.

35 (7) If no provider-patient relationship has previously been
36 established, nothing in this chapter requires the establishment of a
37 provider-patient relationship.

38 **Sec. 425.** RCW 72.09.315 and 2004 c 166 s 17 are each amended to
39 read as follows:

1 (1) When an offender is under court-ordered mental health or
2 chemical dependency treatment in the community and the supervision of
3 the department of corrections, and the community corrections officer
4 becomes aware that the person is in violation of the terms of the
5 court's treatment order, the community corrections officer shall
6 notify the county designated mental health professional or the
7 designated chemical dependency specialist or designated crisis
8 responder, as appropriate, of the violation and request an evaluation
9 for purposes of revocation of the less restrictive alternative or
10 conditional release.

11 (2) When a county designated mental health professional or the
12 designated chemical dependency specialist or designated crisis
13 responder notifies the department that an offender in a state
14 correctional facility is the subject of a petition for involuntary
15 treatment under chapter 71.05, 71.--- (the new chapter created in
16 section 903 of this act), or 70.96A RCW, the department shall provide
17 documentation of its risk assessment or other concerns to the
18 petitioner and the court if the department classified the offender as
19 a high risk or high needs offender.

20 **Sec. 426.** RCW 72.09.370 and 2014 c 225 s 95 are each amended to
21 read as follows:

22 (1) The offender reentry community safety program is established
23 to provide intensive services to offenders identified under this
24 subsection and to thereby promote public safety. The secretary shall
25 identify offenders in confinement or partial confinement who: (a) Are
26 reasonably believed to be dangerous to themselves or others; and (b)
27 have a mental disorder. In determining an offender's dangerousness,
28 the secretary shall consider behavior known to the department and
29 factors, based on research, that are linked to an increased risk for
30 dangerousness of offenders with mental illnesses and shall include
31 consideration of an offender's chemical dependency or abuse.

32 (2) Prior to release of an offender identified under this
33 section, a team consisting of representatives of the department of
34 corrections, the division of mental health, and, as necessary, the
35 indeterminate sentence review board, other divisions or
36 administrations within the department of social and health services,
37 specifically including the division of alcohol and substance abuse
38 and the division of developmental disabilities, the appropriate
39 behavioral health organization, and the providers, as appropriate,

1 shall develop a plan, as determined necessary by the team, for
2 delivery of treatment and support services to the offender upon
3 release. In developing the plan, the offender shall be offered
4 assistance in executing a mental health directive under chapter 71.32
5 RCW, after being fully informed of the benefits, scope, and purposes
6 of such directive. The team may include a school district
7 representative for offenders under the age of twenty-one. The team
8 shall consult with the offender's counsel, if any, and, as
9 appropriate, the offender's family and community. The team shall
10 notify the crime victim/witness program, which shall provide notice
11 to all people registered to receive notice under RCW 72.09.712 of the
12 proposed release plan developed by the team. Victims, witnesses, and
13 other interested people notified by the department may provide
14 information and comments to the department on potential safety risk
15 to specific individuals or classes of individuals posed by the
16 specific offender. The team may recommend: (a) That the offender be
17 evaluated by the designated mental health professional or designated
18 crisis responder, as defined in chapter 71.05 RCW; (b) department-
19 supervised community treatment; or (c) voluntary community mental
20 health or chemical dependency or abuse treatment.

21 (3) Prior to release of an offender identified under this
22 section, the team shall determine whether or not an evaluation by a
23 designated mental health professional or designated crisis responder
24 is needed. If an evaluation is recommended, the supporting
25 documentation shall be immediately forwarded to the appropriate
26 designated mental health professional or designated crisis responder.
27 The supporting documentation shall include the offender's criminal
28 history, history of judicially required or administratively ordered
29 involuntary antipsychotic medication while in confinement, and any
30 known history of involuntary civil commitment.

31 (4) If an evaluation by a designated mental health professional
32 or designated crisis responder is recommended by the team, such
33 evaluation shall occur not more than ten days, nor less than five
34 days, prior to release.

35 (5) A second evaluation by a designated mental health
36 professional or designated crisis responder shall occur on the day of
37 release if requested by the team, based upon new information or a
38 change in the offender's mental condition, and the initial evaluation
39 did not result in an emergency detention or a summons under chapter
40 71.05 RCW.

1 (6) If the designated mental health professional or designated
2 crisis responder determines an emergency detention under chapter
3 71.05 RCW is necessary, the department shall release the offender
4 only to a state hospital or to a consenting evaluation and treatment
5 facility. The department shall arrange transportation of the offender
6 to the hospital or facility.

7 (7) If the designated mental health professional or designated
8 crisis responder believes that a less restrictive alternative
9 treatment is appropriate, he or she shall seek a summons, pursuant to
10 the provisions of chapter 71.05 RCW, to require the offender to
11 appear at an evaluation and treatment facility. If a summons is
12 issued, the offender shall remain within the corrections facility
13 until completion of his or her term of confinement and be
14 transported, by corrections personnel on the day of completion,
15 directly to the identified evaluation and treatment facility.

16 (8) The secretary shall adopt rules to implement this section.

17 **Sec. 427.** RCW 43.185C.305 and 2015 c 69 s 20 are each amended to
18 read as follows:

19 (1) If a resident of a crisis residential center becomes by his
20 or her behavior disruptive to the facility's program, such resident
21 may be immediately removed to a separate area within the facility and
22 counseled on an individual basis until such time as the child regains
23 his or her composure. The department may set rules and regulations
24 establishing additional procedures for dealing with severely
25 disruptive children on the premises.

26 (2) When the juvenile resides in this facility, all services
27 deemed necessary to the juvenile's reentry to normal family life
28 shall be made available to the juvenile as required by chapter 13.32A
29 RCW. In assessing the child and providing these services, the
30 facility staff shall:

31 (a) Interview the juvenile as soon as possible;

32 (b) Contact the juvenile's parents and arrange for a counseling
33 interview with the juvenile and his or her parents as soon as
34 possible;

35 (c) Conduct counseling interviews with the juvenile and his or
36 her parents, to the end that resolution of the child/parent conflict
37 is attained and the child is returned home as soon as possible;

38 (d) Provide additional crisis counseling as needed, to the end
39 that placement of the child in the crisis residential center will be

1 required for the shortest time possible, but not to exceed fifteen
2 consecutive days; and

3 (e) Convene, when appropriate, a multidisciplinary team.

4 (3) Based on the assessments done under subsection (2) of this
5 section the center staff may refer any child who, as the result of a
6 mental or emotional disorder, or intoxication by alcohol or other
7 drugs, is suicidal, seriously assaultive, or seriously destructive
8 toward others, or otherwise similarly evidences an immediate need for
9 emergency medical evaluation and possible care, for evaluation
10 pursuant to chapter 71.34 RCW((7)) or to a designated mental health
11 professional or designated crisis responder pursuant to chapter 71.05
12 or 71.--- (the new chapter created in section 903 of this act) RCW,
13 or to a chemical dependency specialist pursuant to chapter 70.96A RCW
14 whenever such action is deemed appropriate and consistent with law.

15 (4) A juvenile taking unauthorized leave from a facility shall be
16 apprehended and returned to it by law enforcement officers or other
17 persons designated as having this authority as provided in RCW
18 43.185C.260. If returned to the facility after having taken
19 unauthorized leave for a period of more than twenty-four hours a
20 juvenile shall be supervised by such a facility for a period,
21 pursuant to this chapter, which, unless where otherwise provided, may
22 not exceed fifteen consecutive days. Costs of housing juveniles
23 admitted to crisis residential centers shall be assumed by the
24 department for a period not to exceed fifteen consecutive days.

25 **Sec. 428.** RCW 74.50.070 and 1987 c 406 s 8 are each amended to
26 read as follows:

27 (1) If a county elects to establish a multipurpose diagnostic
28 center or detention center, the alcoholism and drug addiction
29 assessment service under RCW 74.50.040 may be integrated into the
30 services provided by such a center.

31 (2) The center may be financed from funds made available by the
32 department for alcoholism and drug addiction assessments under this
33 chapter and funds contained in the department's budget for
34 detoxification, involuntary detention, and involuntary treatment
35 under chapters 70.96A ((and)), 71.05, and 71.--- (the new chapter
36 created in section 903 of this act) RCW. The center may be operated
37 by the county or pursuant to contract between the county and a
38 qualified organization.

PART V
INTEGRATION OF CHEMICAL DEPENDENCY AND MENTAL HEALTH ADMINISTRATIVE
PROVISIONS

Sec. 501. RCW 71.24.025 and 2014 c 225 s 10 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Available resources" means funds appropriated for the purpose of providing community mental health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other mental health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(3) "Behavioral health organization" means any county authority or group of county authorities or other entity recognized by the secretary in contract in a defined region. References in this chapter to behavioral health organizations should be read to apply equally to full integration regions unless the context clearly indicates otherwise.

(4) "Behavioral health services" means mental health services as described in this chapter and chapter 71.36 RCW and (~~chemical dependency~~) substance use disorder treatment services as described in this chapter and chapter 70.96A RCW.

(5) "Child" means a person under the age of eighteen years.

(6) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

1 (a) Has undergone two or more episodes of hospital care for a
2 mental disorder within the preceding two years; or

3 (b) Has experienced a continuous psychiatric hospitalization or
4 residential treatment exceeding six months' duration within the
5 preceding year; or

6 (c) Has been unable to engage in any substantial gainful activity
7 by reason of any mental disorder which has lasted for a continuous
8 period of not less than twelve months. "Substantial gainful activity"
9 shall be defined by the department by rule consistent with Public Law
10 92-603, as amended.

11 (7) "Clubhouse" means a community-based program that provides
12 rehabilitation services and is certified by the department of social
13 and health services.

14 ~~(8) ("Community mental health program" means all mental health~~
15 ~~services, activities, or programs using available resources.~~

16 ~~(9))~~ "Community mental health service delivery system" means
17 public, private, or tribal agencies that provide services
18 specifically to persons with mental disorders as defined under RCW
19 71.05.020 and receive funding from public sources.

20 ~~((10))~~ (9) "Community support services" means services
21 authorized, planned, and coordinated through resource management
22 services including, at a minimum, assessment, diagnosis, emergency
23 crisis intervention available twenty-four hours, seven days a week,
24 prescreening determinations for persons who are mentally ill being
25 considered for placement in nursing homes as required by federal law,
26 screening for patients being considered for admission to residential
27 services, diagnosis and treatment for children who are acutely
28 mentally ill or severely emotionally disturbed discovered under
29 screening through the federal Title XIX early and periodic screening,
30 diagnosis, and treatment program, investigation, legal, and other
31 nonresidential services under chapter 71.05 RCW, case management
32 services, psychiatric treatment including medication supervision,
33 counseling, psychotherapy, assuring transfer of relevant patient
34 information between service providers, recovery services, and other
35 services determined by behavioral health organizations.

36 ~~((11))~~ (10) "Consensus-based" means a program or practice that
37 has general support among treatment providers and experts, based on
38 experience or professional literature, and may have anecdotal or case
39 study support, or that is agreed but not possible to perform studies
40 with random assignment and controlled groups.

1 ~~((12))~~ (11) "County authority" means the board of county
2 commissioners, county council, or county executive having authority
3 to establish a community mental health program, or two or more of the
4 county authorities specified in this subsection which have entered
5 into an agreement to provide a community mental health program.

6 ~~((13))~~ (12) "Department" means the department of social and
7 health services.

8 ~~((14))~~ (13) "Designated mental health professional" means a
9 mental health professional designated by the county or other
10 authority authorized in rule to perform the duties specified in this
11 chapter.

12 ~~((15))~~ (14) "Emerging best practice" or "promising practice"
13 means a program or practice that, based on statistical analyses or a
14 well established theory of change, shows potential for meeting the
15 evidence-based or research-based criteria, which may include the use
16 of a program that is evidence-based for outcomes other than those
17 listed in subsection ~~((16))~~ (15) of this section.

18 ~~((16))~~ (15) "Evidence-based" means a program or practice that
19 has been tested in heterogeneous or intended populations with
20 multiple randomized, or statistically controlled evaluations, or
21 both; or one large multiple site randomized, or statistically
22 controlled evaluation, or both, where the weight of the evidence from
23 a systemic review demonstrates sustained improvements in at least one
24 outcome. "Evidence-based" also means a program or practice that can
25 be implemented with a set of procedures to allow successful
26 replication in Washington and, when possible, is determined to be
27 cost-beneficial.

28 ~~((17))~~ (16) "Licensed service provider" means an entity
29 licensed according to this chapter or chapter 71.05 or 70.96A RCW or
30 an entity deemed to meet state minimum standards as a result of
31 accreditation by a recognized behavioral health accrediting body
32 recognized and having a current agreement with the department, or
33 tribal attestation that meets state minimum standards, or persons
34 licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it
35 applies to registered nurses and advanced registered nurse
36 practitioners.

37 ~~((18))~~ (17) "Long-term inpatient care" means inpatient services
38 for persons committed for, or voluntarily receiving intensive
39 treatment for, periods of ninety days or greater under chapter 71.05
40 RCW. "Long-term inpatient care" as used in this chapter does not

1 include: (a) Services for individuals committed under chapter 71.05
2 RCW who are receiving services pursuant to a conditional release or a
3 court-ordered less restrictive alternative to detention; or (b)
4 services for individuals voluntarily receiving less restrictive
5 alternative treatment on the grounds of the state hospital.

6 ~~((19))~~ (18) "Mental health services" means all services
7 provided by behavioral health organizations and other services
8 provided by the state for persons who are mentally ill.

9 ~~((20))~~ (19) "Mentally ill persons," "persons who are mentally
10 ill," and "the mentally ill" mean persons and conditions defined in
11 subsections (1), (6), (27), and (28)~~((, and (29))~~ of this section.

12 ~~((21))~~ (20) "Recovery" means the process in which people are
13 able to live, work, learn, and participate fully in their
14 communities.

15 ~~((22))~~ (21) "Registration records" include all the records of
16 the department, behavioral health organizations, treatment
17 facilities, and other persons providing services to the department,
18 county departments, or facilities which identify persons who are
19 receiving or who at any time have received services for mental
20 illness.

21 ~~((23))~~ (22) "Research-based" means a program or practice that
22 has been tested with a single randomized, or statistically controlled
23 evaluation, or both, demonstrating sustained desirable outcomes; or
24 where the weight of the evidence from a systemic review supports
25 sustained outcomes as described in subsection ~~((16))~~ (15) of this
26 section but does not meet the full criteria for evidence-based.

27 ~~((24))~~ (23) "Residential services" means a complete range of
28 residences and supports authorized by resource management services
29 and which may involve a facility, a distinct part thereof, or
30 services which support community living, for persons who are acutely
31 mentally ill, adults who are chronically mentally ill, children who
32 are severely emotionally disturbed, or adults who are seriously
33 disturbed and determined by the behavioral health organization to be
34 at risk of becoming acutely or chronically mentally ill. The services
35 shall include at least evaluation and treatment services as defined
36 in chapter 71.05 RCW, acute crisis respite care, long-term adaptive
37 and rehabilitative care, and supervised and supported living
38 services, and shall also include any residential services developed
39 to service persons who are mentally ill in nursing homes, assisted
40 living facilities, and adult family homes, and may include outpatient

1 services provided as an element in a package of services in a
2 supported housing model. Residential services for children in out-of-
3 home placements related to their mental disorder shall not include
4 the costs of food and shelter, except for children's long-term
5 residential facilities existing prior to January 1, 1991.

6 ~~((+25+))~~ (24) "Resilience" means the personal and community
7 qualities that enable individuals to rebound from adversity, trauma,
8 tragedy, threats, or other stresses, and to live productive lives.

9 ~~((+26+))~~ (25) "Resource management services" mean the planning,
10 coordination, and authorization of residential services and community
11 support services administered pursuant to an individual service plan
12 for: (a) Adults and children who are acutely mentally ill; (b) adults
13 who are chronically mentally ill; (c) children who are severely
14 emotionally disturbed; or (d) adults who are seriously disturbed and
15 determined solely by a behavioral health organization to be at risk
16 of becoming acutely or chronically mentally ill. Such planning,
17 coordination, and authorization shall include mental health screening
18 for children eligible under the federal Title XIX early and periodic
19 screening, diagnosis, and treatment program. Resource management
20 services include seven day a week, twenty-four hour a day
21 availability of information regarding enrollment of adults and
22 children who are mentally ill in services and their individual
23 service plan to designated mental health professionals, evaluation
24 and treatment facilities, and others as determined by the behavioral
25 health organization.

26 ~~((+27+))~~ (26) "Secretary" means the secretary of social and
27 health services.

28 ~~((+28+))~~ (27) "Seriously disturbed person" means a person who:

29 (a) Is gravely disabled or presents a likelihood of serious harm
30 to himself or herself or others, or to the property of others, as a
31 result of a mental disorder as defined in chapter 71.05 RCW;

32 (b) Has been on conditional release status, or under a less
33 restrictive alternative order, at some time during the preceding two
34 years from an evaluation and treatment facility or a state mental
35 health hospital;

36 (c) Has a mental disorder which causes major impairment in
37 several areas of daily living;

38 (d) Exhibits suicidal preoccupation or attempts; or

39 (e) Is a child diagnosed by a mental health professional, as
40 defined in chapter 71.34 RCW, as experiencing a mental disorder which

1 is clearly interfering with the child's functioning in family or
2 school or with peers or is clearly interfering with the child's
3 personality development and learning.

4 ~~((+29+))~~ (28) "Severely emotionally disturbed child" or "child
5 who is severely emotionally disturbed" means a child who has been
6 determined by the behavioral health organization to be experiencing a
7 mental disorder as defined in chapter 71.34 RCW, including those
8 mental disorders that result in a behavioral or conduct disorder,
9 that is clearly interfering with the child's functioning in family or
10 school or with peers and who meets at least one of the following
11 criteria:

12 (a) Has undergone inpatient treatment or placement outside of the
13 home related to a mental disorder within the last two years;

14 (b) Has undergone involuntary treatment under chapter 71.34 RCW
15 within the last two years;

16 (c) Is currently served by at least one of the following child-
17 serving systems: Juvenile justice, child-protection/welfare, special
18 education, or developmental disabilities;

19 (d) Is at risk of escalating maladjustment due to:

20 (i) Chronic family dysfunction involving a caretaker who is
21 mentally ill or inadequate;

22 (ii) Changes in custodial adult;

23 (iii) Going to, residing in, or returning from any placement
24 outside of the home, for example, psychiatric hospital, short-term
25 inpatient, residential treatment, group or foster home, or a
26 correctional facility;

27 (iv) Subject to repeated physical abuse or neglect;

28 (v) Drug or alcohol abuse; or

29 (vi) Homelessness.

30 ~~((+30+))~~ (29) "State minimum standards" means minimum
31 requirements established by rules adopted by the secretary and
32 necessary to implement this chapter for: (a) Delivery of mental
33 health services; (b) licensed service providers for the provision of
34 mental health services; (c) residential services; and (d) community
35 support services and resource management services.

36 ~~((+31+))~~ (30) Mental health "treatment records" include
37 registration and all other records concerning persons who are
38 receiving or who at any time have received services for mental
39 illness, which are maintained by the department, by behavioral health
40 organizations and their staffs, and by treatment facilities.

1 Treatment records do not include notes or records maintained for
2 personal use by a person providing treatment services for the
3 department, behavioral health organizations, or a treatment facility
4 if the notes or records are not available to others.

5 ~~((32))~~ (31) "Tribal authority," for the purposes of this
6 section and RCW 71.24.300 only, means: The federally recognized
7 Indian tribes and the major Indian organizations recognized by the
8 secretary insofar as these organizations do not have a financial
9 relationship with any behavioral health organization that would
10 present a conflict of interest.

11 (32) "Alcoholism" means a disease, characterized by a dependency
12 on alcoholic beverages, loss of control over the amount and
13 circumstances of use, symptoms of tolerance, physiological or
14 psychological withdrawal, or both, if use is reduced or discontinued,
15 and impairment of health or disruption of social or economic
16 functioning.

17 (33) "Approved substance use disorder treatment program" means a
18 program for persons with a substance use disorder provided by a
19 treatment program certified by the department of social and health
20 services as meeting standards adopted under this chapter.

21 (34) "Authority" means the Washington state health care
22 authority.

23 (35) "Behavioral health program" means all expenditures,
24 services, activities, or programs, including reasonable
25 administration and overhead, designed and conducted to prevent or
26 treat chemical dependency and mental illness.

27 (36) "Full integration region" means entities within a regional
28 service area which has elected to jointly purchase behavioral health
29 services through an integrated medical and behavioral health services
30 contract under RCW 71.24.380(5) which perform functions relevant to
31 this chapter which are equivalent to the functions of a behavioral
32 health organization.

33 (37) "Integrated crisis response" means a system consistent with
34 this chapter in which the functions of a designated mental health
35 professional under chapters 71.05 and 71.34 RCW and a designated
36 chemical dependency specialist under chapter 70.96A RCW are combined
37 in a designated crisis responder empowered to detain appropriate
38 persons to an evaluation and treatment facility, secure
39 detoxification facility, or approved substance use disorder treatment
40 program depending on the treatment needs of the person.

1 (38) "Region" means a regional service area under RCW 71.24.380.

2 (39) "Substance use disorder" means a cluster of cognitive,
3 behavioral, and physiological symptoms indicating that an individual
4 continues using the substance despite significant substance-related
5 problems. The diagnosis of a substance use disorder is based on a
6 pathological pattern of behaviors related to the use of the
7 substances.

8 (40) "Designated chemical dependency specialist" means a person
9 designated by the behavioral health organization or by the county
10 alcoholism and other drug addiction program coordinator designated by
11 the behavioral health organization to perform the commitment duties
12 described in RCW 70.96A.140 and qualified to do so by meeting
13 standards adopted by the department.

14 (41) "Designated crisis responder" means a mental health
15 professional appointed by the behavioral health organization or full
16 integration region to perform the duties specified in this chapter.

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

23 (43) "Early adopter" means a regional service area for which all
24 of the county authorities have requested that the department and the
25 health care authority jointly purchase medical and behavioral health
26 services through a managed care health system as defined under RCW
27 71.24.380(6).

28 (44) "Licensed physician" means a person licensed to practice
29 medicine or osteopathic medicine and surgery in the state of
30 Washington.

31 **Sec. 502.** RCW 71.24.035 and 2015 c 269 s 8 are each amended to
32 read as follows:

33 (1) The department is designated as the state (~~mental~~)
34 behavioral health authority which includes recognition as the single
35 state authority for substance use disorders and state mental health
36 authority.

37 (2) The secretary shall provide for public, client, tribal, and
38 licensed service provider participation in developing the state
39 (~~mental~~) behavioral health program, developing contracts with

1 behavioral health organizations, and any waiver request to the
2 federal government under medicaid.

3 (3) The secretary shall provide for participation in developing
4 the state (~~(mental)~~) behavioral health program for children and other
5 underserved populations, by including representatives on any
6 committee established to provide oversight to the state (~~(mental)~~)
7 behavioral health program.

8 (4) The secretary shall be designated as the behavioral health
9 organization if the behavioral health organization fails to meet
10 state minimum standards or refuses to exercise responsibilities under
11 its contract or RCW 71.24.045, until such time as a new behavioral
12 health organization is designated.

13 (5) The secretary shall:

14 (a) Develop a biennial state (~~(mental)~~) behavioral health program
15 that incorporates regional biennial needs assessments and regional
16 mental health service plans and state services for adults and
17 children with mental (~~(illness)~~) disorders or substance use disorders
18 or both;

19 (b) Assure that any behavioral health organization or county
20 community (~~(mental)~~) behavioral health program provides medically
21 necessary services to medicaid recipients consistent with the state's
22 medicaid state plan or federal waiver authorities, and nonmedicaid
23 services consistent with priorities established by the department;

24 (c) Develop and adopt rules establishing state minimum standards
25 for the delivery of (~~(mental)~~) behavioral health services pursuant to
26 RCW 71.24.037 including, but not limited to:

27 (i) Licensed service providers. These rules shall permit a
28 county-operated (~~(mental)~~) behavioral health program to be licensed
29 as a service provider subject to compliance with applicable statutes
30 and rules. The secretary shall provide for deeming of compliance with
31 state minimum standards for those entities accredited by recognized
32 behavioral health accrediting bodies recognized and having a current
33 agreement with the department;

34 (ii) Inpatient services, an adequate network of evaluation and
35 treatment services and facilities under chapter 71.05 RCW to ensure
36 access to treatment, resource management services, and community
37 support services;

38 (d) Assure that the special needs of persons who are minorities,
39 elderly, disabled, children, low-income, and parents who are

1 respondents in dependency cases are met within the priorities
2 established in this section;

3 (e) Establish a standard contract or contracts, consistent with
4 state minimum standards which shall be used in contracting with
5 behavioral health organizations. The standard contract shall include
6 a maximum fund balance, which shall be consistent with that required
7 by federal regulations or waiver stipulations;

8 (f) Make contracts necessary or incidental to the performance of
9 its duties and the execution of its powers, including managed care
10 contracts for behavioral health services, contracts entered into
11 under RCW 74.09.522, and contracts with public and private agencies,
12 organizations, and individuals to pay them for behavioral health
13 services;

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

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

29 (~~(h)~~) (i) License service providers who meet state minimum
30 standards;

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

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

38 (~~(k)~~) (l) Monitor and audit behavioral health organizations and
39 licensed service providers as needed to assure compliance with
40 contractual agreements authorized by this chapter;

1 ~~((l))~~ (m) Adopt such rules as are necessary to implement the
2 department's responsibilities under this chapter;

3 ~~((m))~~ (n) License or certify crisis stabilization units that
4 meet state minimum standards;

5 ~~((n))~~ (o) License or certify clubhouses that meet state minimum
6 standards; ~~((and~~

7 ~~((o))~~ (p) License or certify triage facilities that meet state
8 minimum standards; and

9 (q) Administer or supervise the administration of the provisions
10 relating to persons with substance use disorders and intoxicated
11 persons of any state plan submitted for federal funding pursuant to
12 federal health, welfare, or treatment legislation.

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

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

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

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

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

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

1 chapter 34.05 RCW, any denial, suspension, limitation, restriction,
2 or revocation of certification or license, and grant other relief
3 required to enforce the provisions of this chapter.

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

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

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

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

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

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

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

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

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

36 ~~(b) Members and employees must work together;~~

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

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

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

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

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

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

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

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

22 ~~((16))~~ (13) The secretary shall assume all duties assigned to
23 the nonparticipating behavioral health organizations under chapters
24 71.05 and 71.34 RCW and this chapter. Such responsibilities shall
25 include those which would have been assigned to the nonparticipating
26 counties in regions where there are not participating behavioral
27 health organizations.

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

35 ~~((17))~~ (14) The secretary shall:

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

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

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

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

17 ~~((18))~~ (15) The department, in cooperation with the state
18 congressional delegation, shall actively seek waivers of federal
19 requirements and such modifications of federal regulations as are
20 necessary to allow federal medicaid reimbursement for services
21 provided by freestanding evaluation and treatment facilities
22 certified under chapter 71.05 RCW. The department shall periodically
23 report its efforts to the appropriate committees of the senate and
24 the house of representatives.

25 (16) The department may:

26 (a) Plan, establish, and maintain substance use disorder
27 prevention and substance use disorder treatment programs as necessary
28 or desirable;

29 (b) Coordinate its activities and cooperate with behavioral
30 programs in this and other states, and make contracts and other joint
31 or cooperative arrangements with state, local, or private agencies in
32 this and other states for behavioral health services and for the
33 common advancement of substance use disorder programs;

34 (c) Solicit and accept for use any gift of money or property made
35 by will or otherwise, and any grant of money, services, or property
36 from the federal government, the state, or any political subdivision
37 thereof or any private source, and do all things necessary to
38 cooperate with the federal government or any of its agencies in
39 making an application for any grant;

1 (d) Keep records and engage in research and the gathering of
2 relevant statistics; and

3 (e) Acquire, hold, or dispose of real property or any interest
4 therein, and construct, lease, or otherwise provide substance use
5 disorder treatment programs.

6 **Sec. 503.** RCW 70.96A.050 and 2014 c 225 s 23 are each amended to
7 read as follows:

8 The department shall:

9 (1) Develop, encourage, and foster statewide, regional, and local
10 plans and programs for the prevention of alcoholism and other drug
11 addiction, treatment of persons with substance use disorders and
12 their families, persons incapacitated by alcohol or other
13 psychoactive chemicals, and intoxicated persons in cooperation with
14 public and private agencies, organizations, and individuals and
15 provide technical assistance and consultation services for these
16 purposes;

17 (2) Assure that any behavioral health organization managed care
18 contract, or managed care contract under RCW 74.09.522 for behavioral
19 health services or programs for the treatment of persons with
20 substance use disorders and their families, persons incapacitated by
21 alcohol or other psychoactive chemicals, and intoxicated persons
22 provides medically necessary services to medicaid recipients. This
23 must include a continuum of mental health and (~~chemical dependency~~)
24 substance use disorder services consistent with the state's medicaid
25 plan or federal waiver authorities, and nonmedicaid services
26 consistent with priorities established by the department;

27 (3) Coordinate the efforts and enlist the assistance of all
28 public and private agencies, organizations, and individuals
29 interested in prevention of alcoholism and drug addiction, and
30 treatment of persons with substance use disorders and their families,
31 persons incapacitated by alcohol or other psychoactive chemicals, and
32 intoxicated persons;

33 (4) Cooperate with public and private agencies in establishing
34 and conducting programs to provide treatment for persons with
35 substance use disorders and their families, persons incapacitated by
36 alcohol or other psychoactive chemicals, and intoxicated persons who
37 are clients of the correctional system;

38 (5) Cooperate with the superintendent of public instruction,
39 state board of education, schools, police departments, courts, and

1 other public and private agencies, organizations and individuals in
2 establishing programs for the prevention of (~~alcoholism and other~~
3 ~~drug addiction~~) substance use disorders, treatment of persons with
4 substance use disorders and their families, persons incapacitated by
5 alcohol or other psychoactive chemicals, and intoxicated persons, and
6 preparing curriculum materials thereon for use at all levels of
7 school education;

8 (6) Prepare, publish, evaluate, and disseminate educational
9 material dealing with the nature and effects of alcohol and other
10 psychoactive chemicals and the consequences of their use;

11 (7) Develop and implement, as an integral part of substance use
12 disorder treatment programs, an educational program for use in the
13 treatment of persons with substance use disorders, persons
14 incapacitated by alcohol or other psychoactive chemicals, and
15 intoxicated persons, which program shall include the dissemination of
16 information concerning the nature and effects of alcohol and other
17 psychoactive chemicals, the consequences of their use, the principles
18 of recovery, and HIV and AIDS;

19 (8) Organize and foster training programs for persons engaged in
20 treatment of persons with substance use disorders, persons
21 incapacitated by alcohol or other psychoactive chemicals, and
22 intoxicated persons;

23 (9) Sponsor and encourage research into the causes and nature of
24 (~~alcoholism and other drug addiction~~) substance use disorders,
25 treatment of persons with substance use disorders, persons
26 incapacitated by alcohol or other psychoactive chemicals, and
27 intoxicated persons, and serve as a clearinghouse for information
28 relating to (~~alcoholism or other drug addiction~~) substance use
29 disorders;

30 (10) Specify uniform methods for keeping statistical information
31 by public and private agencies, organizations, and individuals, and
32 collect and make available relevant statistical information,
33 including number of persons treated, frequency of admission and
34 readmission, and frequency and duration of treatment;

35 (11) Advise the governor in the preparation of a comprehensive
36 plan for treatment of persons with substance use disorders, persons
37 incapacitated by alcohol or other psychoactive chemicals, and
38 intoxicated persons for inclusion in the state's comprehensive health
39 plan;

1 (12) Review all state health, welfare, and treatment plans to be
2 submitted for federal funding under federal legislation, and advise
3 the governor on provisions to be included relating to substance use
4 disorders;

5 (13) Assist in the development of, and cooperate with, programs
6 for alcohol and other psychoactive chemical education and treatment
7 for employees of state and local governments and businesses and
8 industries in the state;

9 (14) Use the support and assistance of interested persons in the
10 community to encourage persons with substance use disorders
11 voluntarily to undergo treatment;

12 (15) Cooperate with public and private agencies in establishing
13 and conducting programs designed to deal with the problem of persons
14 operating motor vehicles while intoxicated;

15 (16) Encourage general hospitals and other appropriate health
16 facilities to admit without discrimination persons with substance use
17 disorders, persons incapacitated by alcohol or other psychoactive
18 chemicals, and intoxicated persons and to provide them with adequate
19 and appropriate treatment;

20 (17) Encourage all health and disability insurance programs to
21 include (~~alcoholism and other drug addiction~~) substance use
22 disorders as a covered illness; and

23 (18) Organize and sponsor a statewide program to help court
24 personnel, including judges, better understand (~~the disease of~~
25 ~~alcoholism and other drug addiction~~) substance use disorders and the
26 uses of (~~chemical dependency~~) substance use disorder treatment
27 programs.

28 **Sec. 504.** RCW 71.24.037 and 2001 c 323 s 11 are each amended to
29 read as follows:

30 (1) The secretary shall by rule establish state minimum standards
31 for licensed behavioral health service providers and services,
32 whether those service providers and services are licensed to provide
33 solely mental health services, substance use disorder treatment
34 services, or services to persons with co-occurring disorders.

35 (2) Minimum standards for licensed behavioral health service
36 providers shall, at a minimum, establish: Qualifications for staff
37 providing services directly to (~~mentally ill~~) persons with mental
38 disorders, substance use disorders, or both, the intended result of
39 each service, and the rights and responsibilities of persons

1 receiving (~~mental~~) behavioral health services pursuant to this
2 chapter. The secretary shall provide for deeming of licensed
3 behavioral health service providers as meeting state minimum
4 standards as a result of accreditation by a recognized behavioral
5 health accrediting body recognized and having a current agreement
6 with the department.

7 (3) Minimum standards for community support services and resource
8 management services shall include at least qualifications for
9 resource management services, client tracking systems, and the
10 transfer of patient information between behavioral health service
11 providers.

12 (4) The department may suspend, revoke, limit, restrict, or
13 modify an approval, or refuse to grant approval, for failure to meet
14 the provisions of this chapter, or the standards adopted under this
15 chapter. RCW 43.20A.205 governs notice of a license denial,
16 revocation, suspension, or modification and provides the right to an
17 adjudicative proceeding.

18 (5) No licensed behavioral health service provider may advertise
19 or represent itself as a licensed behavioral health service provider
20 if approval has not been granted, has been denied, suspended,
21 revoked, or canceled.

22 (6) Licensure as a behavioral health service provider is
23 effective for one calendar year from the date of issuance of the
24 license. The license must specify the types of services provided by
25 the behavioral health service provider that meet the standards
26 adopted under this chapter. Renewal of a license must be made in
27 accordance with this section for initial approval and in accordance
28 with the standards set forth in rules adopted by the secretary.

29 (7) Licensure as a licensed behavioral health service provider
30 must specify the types of services provided that meet the standards
31 adopted under this chapter. Renewal of a license must be made in
32 accordance with this section for initial approval and in accordance
33 with the standards set forth in rules adopted by the secretary.

34 (8) Licensed behavioral health service providers may not provide
35 types of services for which the licensed behavioral health service
36 provider has not been certified. Licensed behavioral health service
37 providers may provide services for which approval has been sought and
38 is pending, if approval for the services has not been previously
39 revoked or denied.

1 (9) The department periodically shall inspect licensed behavioral
2 health service providers at reasonable times and in a reasonable
3 manner.

4 (10) Upon petition of the department and after a hearing held
5 upon reasonable notice to the facility, the superior court may issue
6 a warrant to an officer or employee of the department authorizing him
7 or her to enter and inspect at reasonable times, and examine the
8 books and accounts of, any licensed behavioral health service
9 provider refusing to consent to inspection or examination by the
10 department or which the department has reasonable cause to believe is
11 operating in violation of this chapter.

12 (11) The department shall maintain and periodically publish a
13 current list of licensed behavioral health service providers.

14 (12) Each licensed behavioral health service provider shall file
15 with the department upon request, data, statistics, schedules, and
16 information the department reasonably requires. A licensed behavioral
17 health service provider that without good cause fails to furnish any
18 data, statistics, schedules, or information as requested, or files
19 fraudulent returns thereof, may have its license revoked or
20 suspended.

21 (13) The department shall use the data provided in subsection
22 (12) of this section to evaluate each program that admits children to
23 inpatient substance use disorder treatment upon application of their
24 parents. The evaluation must be done at least once every twelve
25 months. In addition, the department shall randomly select and review
26 the information on individual children who are admitted on
27 application of the child's parent for the purpose of determining
28 whether the child was appropriately placed into substance use
29 disorder treatment based on an objective evaluation of the child's
30 condition and the outcome of the child's treatment.

31 **Sec. 505.** RCW 70.96A.090 and 2005 c 70 s 2 are each amended to
32 read as follows:

33 ~~(1) ((The department shall adopt rules establishing standards for~~
34 ~~approved treatment programs, the process for the review and~~
35 ~~inspection program applying to the department for certification as an~~
36 ~~approved treatment program, and fixing the fees to be charged by the~~
37 ~~department for the required inspections. The standards may concern~~
38 ~~the health standards to be met and standards of services and~~
39 ~~treatment to be afforded patients.~~

1 ~~(2) The department may suspend, revoke, limit, restrict, or~~
2 ~~modify an approval, or refuse to grant approval, for failure to meet~~
3 ~~the provisions of this chapter, or the standards adopted under this~~
4 ~~chapter. RCW 43.20A.205 governs notice of a license denial,~~
5 ~~revocation, suspension, or modification and provides the right to an~~
6 ~~adjudicative proceeding.~~

7 ~~(3) No treatment program may advertise or represent itself as an~~
8 ~~approved treatment program if approval has not been granted, has been~~
9 ~~denied, suspended, revoked, or canceled.~~

10 ~~(4) Certification as an approved treatment program is effective~~
11 ~~for one calendar year from the date of issuance of the certificate.~~
12 ~~The certification shall specify the types of services provided by the~~
13 ~~approved treatment program that meet the standards adopted under this~~
14 ~~chapter. Renewal of certification shall be made in accordance with~~
15 ~~this section for initial approval and in accordance with the~~
16 ~~standards set forth in rules adopted by the secretary.~~

17 ~~(5) Approved treatment programs shall not provide alcoholism or~~
18 ~~other drug addiction treatment services for which the approved~~
19 ~~treatment program has not been certified. Approved treatment programs~~
20 ~~may provide services for which approval has been sought and is~~
21 ~~pending, if approval for the services has not been previously revoked~~
22 ~~or denied.~~

23 ~~(6) The department periodically shall inspect approved public and~~
24 ~~private treatment programs at reasonable times and in a reasonable~~
25 ~~manner.~~

26 ~~(7) The department shall maintain and periodically publish a~~
27 ~~current list of approved treatment programs.~~

28 ~~(8) Each approved treatment program shall file with the~~
29 ~~department on request, data, statistics, schedules, and information~~
30 ~~the department reasonably requires. An approved treatment program~~
31 ~~that without good cause fails to furnish any data, statistics,~~
32 ~~schedules, or information as requested, or files fraudulent returns~~
33 ~~thereof, may be removed from the list of approved treatment programs,~~
34 ~~and its certification revoked or suspended.~~

35 ~~(9) The department shall use the data provided in subsection (8)~~
36 ~~of this section to evaluate each program that admits children to~~
37 ~~inpatient treatment upon application of their parents. The evaluation~~
38 ~~shall be done at least once every twelve months. In addition, the~~
39 ~~department shall randomly select and review the information on~~
40 ~~individual children who are admitted on application of the child's~~

1 ~~parent for the purpose of determining whether the child was~~
2 ~~appropriately placed into treatment based on an objective evaluation~~
3 ~~of the child's condition and the outcome of the child's treatment.~~

4 ~~(10) Upon petition of the department and after a hearing held~~
5 ~~upon reasonable notice to the facility, the superior court may issue~~
6 ~~a warrant to an officer or employee of the department authorizing him~~
7 ~~or her to enter and inspect at reasonable times, and examine the~~
8 ~~books and accounts of, any approved public or private treatment~~
9 ~~program refusing to consent to inspection or examination by the~~
10 ~~department or which the department has reasonable cause to believe is~~
11 ~~operating in violation of this chapter.~~

12 ~~((11)(a)))~~ All approved opiate substitution treatment programs
13 that provide services to women who are pregnant are required to
14 disseminate up-to-date and accurate health education information to
15 all their pregnant clients concerning the possible addiction and
16 health risks that their opiate substitution treatment may have on
17 their baby. All pregnant clients must also be advised of the risks to
18 both them and their baby associated with not remaining on the opiate
19 substitute program. The information must be provided to these clients
20 both verbally and in writing. The health education information
21 provided to the pregnant clients must include referral options for
22 the addicted baby.

23 ~~((b)))~~ (2) The department shall adopt rules that require all
24 opiate treatment programs to educate all pregnant women in their
25 program on the benefits and risks of methadone treatment to their
26 fetus before they are provided these medications, as part of their
27 addiction treatment. The department shall meet the requirements under
28 this subsection within the appropriations provided for opiate
29 treatment programs. The department, working with treatment providers
30 and medical experts, shall develop and disseminate the educational
31 materials to all certified opiate treatment programs.

32 NEW SECTION. **Sec. 506.** A new section is added to chapter 71.24
33 RCW to read as follows:

34 The standards for certification or licensure of evaluation and
35 treatment facilities must include standards relating to maintenance
36 of good physical and mental health and other services to be afforded
37 persons pursuant to this chapter and chapters 71.05 and 71.34 RCW,
38 and must otherwise assure the effectuation of the purposes of these
39 chapters.

1 NEW SECTION. **Sec. 507.** A new section is added to chapter 71.24
2 RCW to read as follows:

3 The standards for certification or licensure of crisis
4 stabilization units must include standards that:

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

7 (2) Require administration of the unit by mental health
8 professionals who direct the stabilization and rehabilitation
9 efforts; and

10 (3) Provide an environment affording security appropriate with
11 the alleged criminal behavior and necessary to protect the public
12 safety.

13 NEW SECTION. **Sec. 508.** A new section is added to chapter 71.24
14 RCW to read as follows:

15 The standards for certification or licensure of a clubhouse must
16 at a minimum include:

17 (1) The facilities may be peer-operated and must be
18 recovery-focused;

19 (2) Members and employees must work together;

20 (3) Members must have the opportunity to participate in all the
21 work of the clubhouse, including administration, research, intake and
22 orientation, outreach, hiring, training and evaluation of staff,
23 public relations, advocacy, and evaluation of clubhouse
24 effectiveness;

25 (4) Members and staff and ultimately the clubhouse director must
26 be responsible for the operation of the clubhouse, central to this
27 responsibility is the engagement of members and staff in all aspects
28 of clubhouse operations;

29 (5) Clubhouse programs must be comprised of structured activities
30 including but not limited to social skills training, vocational
31 rehabilitation, employment training and job placement, and community
32 resource development;

33 (6) Clubhouse programs must provide in-house educational programs
34 that significantly utilize the teaching and tutoring skills of
35 members and assist members by helping them to take advantage of adult
36 education opportunities in the community;

37 (7) Clubhouse programs must focus on strengths, talents, and
38 abilities of its members;

1 (8) The work-ordered day may not include medication clinics, day
2 treatment, or other therapy programs within the clubhouse.

3 **Sec. 509.** RCW 71.24.385 and 2014 c 225 s 9 are each amended to
4 read as follows:

5 (1) Within funds appropriated by the legislature for this
6 purpose, behavioral health organizations shall develop the means to
7 serve the needs of people:

8 (a) With mental disorders residing within the boundaries of their
9 regional service area. Elements of the program may include:

10 ~~((a))~~ (i) Crisis diversion services;

11 ~~((b))~~ (ii) Evaluation and treatment and community hospital
12 beds;

13 ~~((c))~~ (iii) Residential treatment;

14 ~~((d))~~ (iv) Programs for intensive community treatment;

15 ~~((e))~~ (v) Outpatient services;

16 ~~((f))~~ (vi) Peer support services;

17 ~~((g))~~ (vii) Community support services;

18 ~~((h))~~ (viii) Resource management services; and

19 ~~((i))~~ (ix) Supported housing and supported employment services.

20 (b) With substance use disorders and their families, people
21 incapacitated by alcohol or other psychoactive chemicals, and
22 intoxicated people.

23 (i) Elements of the program shall include, but not necessarily be
24 limited to, a continuum of substance use disorder treatment services
25 that includes:

26 (A) Withdrawal management;

27 (B) Residential treatment; and

28 (C) Outpatient treatment.

29 (ii) The program may include peer support, supported housing,
30 supported employment, crisis diversion, or recovery support services.

31 (iii) The department may contract for the use of an approved
32 substance use disorder treatment program or other individual or
33 organization if the secretary considers this to be an effective and
34 economical course to follow.

35 (2) The behavioral health organization shall have the
36 flexibility, within the funds appropriated by the legislature for
37 this purpose and the terms of their contract, to design the mix of
38 services that will be most effective within their service area of
39 meeting the needs of people with ~~((mental))~~ behavioral health

1 disorders and avoiding placement of such individuals at the state
2 mental hospital. Behavioral health organizations are encouraged to
3 maximize the use of evidence-based practices and alternative
4 resources with the goal of substantially reducing and potentially
5 eliminating the use of institutions for mental diseases.

6 (3)(a) Treatment provided under this chapter must be purchased
7 primarily through managed care contracts.

8 (b) Consistent with RCW 70.96A.350 (as recodified by this act),
9 services and funding provided through the criminal justice treatment
10 account are intended to be exempted from managed care contracting.

11 **Sec. 510.** RCW 70.96A.350 and 2015 3rd sp.s. c 4 s 968 and 2015 c
12 291 s 10 are each reenacted and amended to read as follows:

13 (1) The criminal justice treatment account is created in the
14 state treasury. Moneys in the account may be expended solely for: (a)
15 Substance ((~~abuse~~)) use disorder treatment and treatment support
16 services for offenders with ((~~an addiction or a substance abuse~~
17 ~~problem~~)) a substance use disorder that, if not treated, would result
18 in addiction, against whom charges are filed by a prosecuting
19 attorney in Washington state; (b) the provision of ((~~drug and~~
20 ~~alcohol~~)) substance use disorder treatment services and treatment
21 support services for nonviolent offenders within a drug court
22 program; and (c) the administrative and overhead costs associated
23 with the operation of a drug court. ((~~This amount is not subject to~~
24 ~~the requirements of subsections (5) through (9) of this section.~~
25 ~~During the 2013-2015 fiscal biennium, the legislature may transfer~~
26 ~~from the criminal justice treatment account to the state general fund~~
27 ~~amounts as reflect the state savings associated with the~~
28 ~~implementation of the medicaid expansion of the federal affordable~~
29 ~~care act.~~)) During the 2015-2017 fiscal biennium, the legislature may
30 transfer from the criminal justice treatment account to the state
31 general fund amounts as reflect the state savings associated with the
32 implementation of the medicaid expansion of the federal affordable
33 care act and the excess fund balance of the account. Moneys in the
34 account may be spent only after appropriation.

35 (2) For purposes of this section:

36 (a) "Treatment" means services that are critical to a
37 participant's successful completion of his or her substance ((~~abuse~~))
38 use disorder treatment program, but does not include the following
39 services: Housing other than that provided as part of an inpatient

1 substance ((~~abuse~~)) use disorder treatment program, vocational
2 training, and mental health counseling; and

3 (b) "Treatment support" means transportation to or from inpatient
4 or outpatient treatment services when no viable alternative exists,
5 and child care services that are necessary to ensure a participant's
6 ability to attend outpatient treatment sessions.

7 (3) Revenues to the criminal justice treatment account consist
8 of: (a) Funds transferred to the account pursuant to this section;
9 and (b) any other revenues appropriated to or deposited in the
10 account.

11 (4)(a) (~~((For the fiscal biennium beginning July 1, 2003, the
12 state treasurer shall transfer eight million nine hundred fifty
13 thousand dollars from the general fund into the criminal justice
14 treatment account, divided into eight equal quarterly payments. For
15 the fiscal year beginning July 1, 2005, and each subsequent fiscal
16 year, the state treasurer shall transfer eight million two hundred
17 fifty thousand dollars from the general fund to the criminal justice
18 treatment account, divided into four equal quarterly payments.))~~) For
19 the fiscal year beginning July 1, 2006, and each subsequent fiscal
20 year, the amount transferred shall be increased on an annual basis by
21 the implicit price deflator as published by the federal bureau of
22 labor statistics.

23 (b) In each odd-numbered year, the legislature shall appropriate
24 the amount transferred to the criminal justice treatment account in
25 (a) of this subsection to the ((~~division of alcohol and substance
26 abuse~~)) department for the purposes of subsection (5) of this
27 section.

28 (5) Moneys appropriated to the ((~~division of alcohol and
29 substance abuse~~)) department from the criminal justice treatment
30 account shall be distributed as specified in this subsection. The
31 department ((~~shall serve as the fiscal agent for purposes of
32 distribution. Until July 1, 2004, the department may not use moneys
33 appropriated from the criminal justice treatment account for
34 administrative expenses and shall distribute all amounts appropriated
35 under subsection (4)(b) of this section in accordance with this
36 subsection. Beginning in July 1, 2004, the department~~)) may retain up
37 to three percent of the amount appropriated under subsection (4)(b)
38 of this section for its administrative costs.

39 (a) Seventy percent of amounts appropriated to the ((~~division~~))
40 department from the account shall be distributed to counties pursuant

1 to the distribution formula adopted under this section. The division
2 of alcohol and substance abuse, in consultation with the department
3 of corrections, the Washington state association of counties, the
4 Washington state association of drug court professionals, the
5 superior court judges' association, the Washington association of
6 prosecuting attorneys, representatives of the criminal defense bar,
7 representatives of substance ~~((abuse))~~ use disorder treatment
8 providers, and any other person deemed by the ~~((division))~~ department
9 to be necessary, shall establish a fair and reasonable methodology
10 for distribution to counties of moneys in the criminal justice
11 treatment account. County or regional plans submitted for the
12 expenditure of formula funds must be approved by the panel
13 established in (b) of this subsection.

14 (b) Thirty percent of the amounts appropriated to the
15 ~~((division))~~ department from the account shall be distributed as
16 grants for purposes of treating offenders against whom charges are
17 filed by a county prosecuting attorney. The ~~((division))~~ department
18 shall appoint a panel of representatives from the Washington
19 association of prosecuting attorneys, the Washington association of
20 sheriffs and police chiefs, the superior court judges' association,
21 the Washington state association of counties, the Washington
22 defender's association or the Washington association of criminal
23 defense lawyers, the department of corrections, the Washington state
24 association of drug court professionals, substance ~~((abuse))~~ use
25 disorder treatment providers, and the division. The panel shall
26 review county or regional plans for funding under (a) of this
27 subsection and grants approved under this subsection. The panel shall
28 attempt to ensure that treatment as funded by the grants is available
29 to offenders statewide.

30 (6) The county alcohol and drug coordinator, county prosecutor,
31 county sheriff, county superior court, a substance abuse treatment
32 provider appointed by the county legislative authority, a member of
33 the criminal defense bar appointed by the county legislative
34 authority, and, in counties with a drug court, a representative of
35 the drug court shall jointly submit a plan, approved by the county
36 legislative authority or authorities, to the panel established in
37 subsection (5)(b) of this section, for disposition of all the funds
38 provided from the criminal justice treatment account within that
39 county. The funds shall be used solely to provide approved alcohol
40 and substance abuse treatment pursuant to RCW 70.96A.090 (as

1 recodified by this act), treatment support services, and for the
2 administrative and overhead costs associated with the operation of a
3 drug court.

4 (a) No more than ten percent of the total moneys received under
5 subsections (4) and (5) of this section by a county or group of
6 counties participating in a regional agreement shall be spent on the
7 administrative and overhead costs associated with the operation of a
8 drug court.

9 (b) No more than ten percent of the total moneys received under
10 subsections (4) and (5) of this section by a county or group of
11 counties participating in a regional agreement shall be spent for
12 treatment support services.

13 (7) Counties are encouraged to consider regional agreements and
14 submit regional plans for the efficient delivery of treatment under
15 this section.

16 (8) Moneys allocated under this section shall be used to
17 supplement, not supplant, other federal, state, and local funds used
18 for substance abuse treatment.

19 (9) Counties must meet the criteria established in RCW
20 2.30.030(3).

21 (10) The authority under this section to use funds from the
22 criminal justice treatment account for the administrative and
23 overhead costs associated with the operation of a drug court expires
24 June 30, 2015.

25 **Sec. 511.** RCW 70.96A.035 and 2005 c 504 s 302 are each amended
26 to read as follows:

27 (1) (~~Not later than January 1, 2007,~~) All persons providing
28 treatment under this chapter shall also implement the integrated
29 comprehensive screening and assessment process for (~~chemical~~
30 ~~dependency~~) substance use and mental disorders adopted pursuant to
31 RCW 70.96C.010 (as recodified by this act) and shall document the
32 numbers of clients with co-occurring mental and substance (~~abuse~~)
33 use disorders based on a quadrant system of low and high needs.

34 (2) Treatment providers contracted to provide treatment under
35 this chapter who fail to implement the integrated comprehensive
36 screening and assessment process for (~~chemical—dependency~~)
37 substance use and mental disorders (~~by July 1, 2007,~~) are subject
38 to contractual penalties established under RCW 70.96C.010 (as
39 recodified by this act).

1 **Sec. 512.** RCW 70.96C.010 and 2014 c 225 s 77 are each amended to
2 read as follows:

3 (1) The department of social and health services(~~(, in~~
4 ~~consultation with the members of the team charged with developing the~~
5 ~~state plan for co-occurring mental and substance abuse disorders,~~
6 ~~shall adopt, not later than January 1, 2006,)) shall maintain an
7 integrated and comprehensive screening and assessment process for
8 (~~chemical dependency~~) substance use and mental disorders and co-
9 occurring (~~chemical dependency~~) substance use and mental disorders.~~

10 (a) The process adopted shall include, at a minimum:

11 (i) An initial screening tool that can be used by intake
12 personnel system-wide and which will identify the most common types
13 of co-occurring disorders;

14 (ii) An assessment process for those cases in which assessment is
15 indicated that provides an appropriate degree of assessment for most
16 situations, which can be expanded for complex situations;

17 (iii) Identification of triggers in the screening that indicate
18 the need to begin an assessment;

19 (iv) Identification of triggers after or outside the screening
20 that indicate a need to begin or resume an assessment;

21 (v) The components of an assessment process and a protocol for
22 determining whether part or all of the assessment is necessary, and
23 at what point; and

24 (vi) Emphasis that the process adopted under this section is to
25 replace and not to duplicate existing intake, screening, and
26 assessment tools and processes.

27 (b) The department shall consider existing models, including
28 those already adopted by other states, and to the extent possible,
29 adopt an established, proven model.

30 (c) The integrated, comprehensive screening and assessment
31 process shall be implemented statewide by all (~~chemical dependency~~)
32 substance use disorder and mental health treatment providers as well
33 as all designated mental health professionals, designated chemical
34 dependency specialists, and designated crisis responders (~~not later~~
35 ~~than January 1, 2007~~)).

36 (2) The department shall provide adequate training to effect
37 statewide implementation by the dates designated in this section and
38 shall report the rates of co-occurring disorders and the stage of
39 screening or assessment at which the co-occurring disorder was
40 identified to the appropriate committees of the legislature.

1 (3) The department shall establish contractual penalties to
2 contracted treatment providers, the behavioral health organizations,
3 and their contracted providers for failure to implement the
4 integrated screening and assessment process ((~~by July 1, 2007~~)).

5 **Sec. 513.** RCW 70.96A.037 and 2011 c 89 s 9 are each amended to
6 read as follows:

7 (1) The department of social and health services shall contract
8 for chemical dependency specialist services at division of children
9 and family services offices to enhance the timeliness and quality of
10 child protective services assessments and to better connect families
11 to needed treatment services.

12 (2) The chemical dependency specialist's duties may include, but
13 are not limited to: Conducting on-site ((~~chemical dependency~~))
14 substance use disorder screening and assessment, facilitating
15 progress reports to department employees, in-service training of
16 department employees and staff on substance ((~~abuse~~)) use disorder
17 issues, referring clients from the department to treatment providers,
18 and providing consultation on cases to department employees.

19 (3) The department of social and health services shall provide
20 training in and ensure that each case-carrying employee is trained in
21 uniform screening for mental health and ((~~chemical dependency~~))
22 substance use disorder.

23 **Sec. 514.** RCW 70.96A.047 and 1989 c 270 s 11 are each amended to
24 read as follows:

25 Except as provided in this chapter, the secretary shall not
26 approve any substance use disorder facility, plan, or program for
27 financial assistance under RCW 70.96A.040 (as recodified by this act)
28 unless at least ten percent of the amount spent for the facility,
29 plan, or program is provided from local public or private sources.
30 When deemed necessary to maintain public standards of care in the
31 substance use disorder facility, plan, or program, the secretary may
32 require the substance use disorder facility, plan, or program to
33 provide up to fifty percent of the total spent for the program
34 through fees, gifts, contributions, or volunteer services. The
35 secretary shall determine the value of the gifts, contributions, and
36 volunteer services.

1 **Sec. 515.** RCW 70.96A.055 and 1999 c 197 s 10 are each amended to
2 read as follows:

3 The department shall contract with counties operating drug courts
4 and counties in the process of implementing new drug courts for the
5 provision of (~~drug and alcohol~~) substance use disorder treatment
6 services.

7 **Sec. 516.** RCW 70.96A.087 and 1989 c 270 s 13 are each amended to
8 read as follows:

9 To be eligible to receive its share of liquor taxes and profits,
10 each city and county shall devote no less than two percent of its
11 share of liquor taxes and profits to the support of a substance use
12 disorder program (~~(of alcoholism and other drug addiction)~~) approved
13 by the (~~(alcoholism and other drug addiction board authorized by RCW~~
14 ~~70.96A.300)~~) behavioral health organization and the secretary.

15 **Sec. 517.** RCW 70.96A.170 and 1989 c 270 s 30 are each amended to
16 read as follows:

17 (1) The state and counties, cities, and other municipalities may
18 establish or contract for emergency service patrols which are to be
19 under the administration of the appropriate jurisdiction. A patrol
20 consists of persons trained to give assistance in the streets and in
21 other public places to persons who are intoxicated. Members of an
22 emergency service patrol shall be capable of providing first aid in
23 emergency situations and may transport intoxicated persons to their
24 homes and to and from substance use disorder treatment programs.

25 (2) The secretary shall adopt rules pursuant to chapter 34.05 RCW
26 for the establishment, training, and conduct of emergency service
27 patrols.

28 **Sec. 518.** RCW 70.96A.400 and 2001 c 242 s 1 are each amended to
29 read as follows:

30 The state of Washington declares that there is no fundamental
31 right to opiate substitution treatment. The state of Washington
32 further declares that while opiate substitution drugs used in the
33 treatment of opiate dependency are addictive substances, that they
34 nevertheless have several legal, important, and justified uses and
35 that one of their appropriate and legal uses is, in conjunction with
36 other required therapeutic procedures, in the treatment of persons
37 addicted to or habituated to opioids. Opiate substitution treatment

1 should only be used for participants who are deemed appropriate to
2 need this level of intervention and should not be the first treatment
3 intervention for all opiate addicts.

4 Because opiate substitution drugs, used in the treatment of
5 opiate dependency are addictive and are listed as a schedule II
6 controlled substance in chapter 69.50 RCW, the state of Washington
7 has the legal obligation and right to regulate the use of opiate
8 substitution treatment. The state of Washington declares its
9 authority to control and regulate carefully, in consultation with
10 counties and cities, all clinical uses of opiate substitution drugs
11 used in the treatment of opiate addiction.

12 Further, the state declares that the primary goal of opiate
13 substitution treatment is total abstinence from ((chemical
14 dependency)) substance use for the individuals who participate in the
15 treatment program. The state recognizes that a small percentage of
16 persons who participate in opiate substitution treatment programs
17 require treatment for an extended period of time. Opiate substitution
18 treatment programs shall provide a comprehensive transition program
19 to eliminate ((chemical-dependency)) substance use, including opiate
20 and opiate substitute addiction of program participants.

21 **Sec. 519.** RCW 70.96A.800 and 2014 c 225 s 33 are each amended to
22 read as follows:

23 (1) Subject to funds appropriated for this specific purpose, the
24 secretary shall select and contract with ((counties)) behavioral
25 health organizations to provide intensive case management for
26 ((chemically-dependent)) persons with substance use disorders and
27 histories of high utilization of crisis services at two sites. In
28 selecting the two sites, the secretary shall endeavor to site one in
29 an urban county, and one in a rural county; and to site them in
30 counties other than those selected pursuant to RCW 70.96B.020, to the
31 extent necessary to facilitate evaluation of pilot project results.
32 Subject to funds appropriated for this specific purpose, the
33 secretary may contract with additional counties to provide intensive
34 case management.

35 (2) The contracted sites shall implement the pilot programs by
36 providing intensive case management to persons with a primary
37 ((chemical-dependency)) substance use disorder diagnosis or dual
38 primary ((chemical-dependency)) substance use disorder and mental
39 health diagnoses, through the employment of ((chemical-dependency))

1 substance use disorder case managers. The ((~~chemical dependency~~))
2 substance use disorder case managers shall:

3 (a) Be trained in and use the integrated, comprehensive screening
4 and assessment process adopted under RCW 70.96C.010 (as recodified by
5 this act);

6 (b) Reduce the use of crisis medical, ((~~chemical dependency~~))
7 substance use disorder treatment and mental health services,
8 including but not limited to, emergency room admissions,
9 hospitalizations, withdrawal management programs, inpatient
10 psychiatric admissions, involuntary treatment petitions, emergency
11 medical services, and ambulance services;

12 (c) Reduce the use of emergency first responder services
13 including police, fire, emergency medical, and ambulance services;

14 (d) Reduce the number of criminal justice interventions including
15 arrests, violations of conditions of supervision, bookings, jail
16 days, prison sanction day for violations, court appearances, and
17 prosecutor and defense costs;

18 (e) Where appropriate and available, work with therapeutic courts
19 including drug courts and mental health courts to maximize the
20 outcomes for the individual and reduce the likelihood of reoffense;

21 (f) Coordinate with local offices of the economic services
22 administration to assist the person in accessing and remaining
23 enrolled in those programs to which the person may be entitled;

24 (g) Where appropriate and available, coordinate with primary care
25 and other programs operated through the federal government including
26 federally qualified health centers, Indian health programs, and
27 veterans' health programs for which the person is eligible to reduce
28 duplication of services and conflicts in case approach;

29 (h) Where appropriate, advocate for the client's needs to assist
30 the person in achieving and maintaining stability and progress toward
31 recovery;

32 (i) Document the numbers of persons with co-occurring mental and
33 substance ((~~abuse~~)) use disorders and the point of determination of
34 the co-occurring disorder by quadrant of intensity of need; and

35 (j) Where a program participant is under supervision by the
36 department of corrections, collaborate with the department of
37 corrections to maximize treatment outcomes and reduce the likelihood
38 of reoffense.

39 (3) The pilot programs established by this section shall begin
40 providing services by March 1, 2006.

1 **Sec. 520.** RCW 70.96A.905 and 1992 c 205 s 306 are each amended
2 to read as follows:

3 The department shall ensure that the provisions of this chapter
4 are applied by the ~~((counties))~~ behavioral health organizations in a
5 consistent and uniform manner. The department shall also ensure that,
6 to the extent possible within available funds, the ~~((county-~~
7 ~~designated))~~ behavioral health organization-designated chemical
8 dependency specialists are specifically trained in adolescent
9 chemical dependency issues, the chemical dependency commitment laws,
10 and the criteria for commitment, as specified in this chapter and
11 chapter 70.96A RCW.

12 **Sec. 521.** RCW 71.24.300 and 2015 c 269 s 10 are each amended to
13 read as follows:

14 (1) Upon the request of a tribal authority or authorities within
15 a behavioral health organization the joint operating agreement or the
16 county authority shall allow for the inclusion of the tribal
17 authority to be represented as a party to the behavioral health
18 organization.

19 (2) The roles and responsibilities of the county and tribal
20 authorities shall be determined by the terms of that agreement
21 including a determination of membership on the governing board and
22 advisory committees, the number of tribal representatives to be party
23 to the agreement, and the provisions of law and shall assure the
24 provision of culturally competent services to the tribes served.

25 (3) The state ~~((mental))~~ behavioral health authority may not
26 determine the roles and responsibilities of county authorities as to
27 each other under behavioral health organizations by rule, except to
28 assure that all duties required of behavioral health organizations
29 are assigned and that counties and the behavioral health organization
30 do not duplicate functions and that a single authority has final
31 responsibility for all available resources and performance under the
32 behavioral health organization's contract with the secretary.

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

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

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

5 (a) Administer and provide for the availability of all resource
6 management services, residential services, and community support
7 services.

8 (b) Administer and provide for the availability of an adequate
9 network of evaluation and treatment services to ensure access to
10 treatment, all investigation, transportation, court-related, and
11 other services provided by the state or counties pursuant to chapter
12 71.05 RCW.

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

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

25 (ii) Individuals detained or committed for periods up to
26 seventeen days at the state hospitals at the discretion of the
27 secretary.

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

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

35 (7) A behavioral health organization may request that any state-
36 owned land, building, facility, or other capital asset which was ever
37 purchased, deeded, given, or placed in trust for the care of the
38 persons with mental illness and which is within the boundaries of a
39 behavioral health organization be made available to support the
40 operations of the behavioral health organization. State agencies

1 managing such capital assets shall give first priority to requests
2 for their use pursuant to this chapter.

3 (8) Each behavioral health organization shall appoint a
4 (~~mental~~) behavioral health advisory board which shall review and
5 provide comments on plans and policies developed under this chapter,
6 provide local oversight regarding the activities of the behavioral
7 health organization, and work with the behavioral health organization
8 to resolve significant concerns regarding service delivery and
9 outcomes. The department shall establish statewide procedures for the
10 operation of regional advisory committees including mechanisms for
11 advisory board feedback to the department regarding behavioral health
12 organization performance. The composition of the board shall be
13 broadly representative of the demographic character of the region and
14 shall include, but not be limited to, representatives of consumers of
15 substance use disorder and mental health services and their families,
16 law enforcement, and, where the county is not the behavioral health
17 organization, county elected officials. Composition and length of
18 terms of board members may differ between behavioral health
19 organizations but shall be included in each behavioral health
20 organization's contract and approved by the secretary.

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

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

31 **Sec. 522.** RCW 71.24.350 and 2014 c 225 s 41 are each amended to
32 read as follows:

33 The department shall require each behavioral health organization
34 to provide for a separately funded (~~mental~~) behavioral health
35 ombuds office in each behavioral health organization that is
36 independent of the behavioral health organization. The ombuds office
37 shall maximize the use of consumer advocates.

1 **Sec. 523.** RCW 9.94A.660 and 2009 c 389 s 3 are each amended to
2 read as follows:

3 (1) An offender is eligible for the special drug offender
4 sentencing alternative if:

5 (a) The offender is convicted of a felony that is not a violent
6 offense or sex offense and the violation does not involve a sentence
7 enhancement under RCW 9.94A.533 (3) or (4);

8 (b) The offender is convicted of a felony that is not a felony
9 driving while under the influence of intoxicating liquor or any drug
10 under RCW 46.61.502(6) or felony physical control of a vehicle while
11 under the influence of intoxicating liquor or any drug under RCW
12 46.61.504(6);

13 (c) The offender has no current or prior convictions for a sex
14 offense at any time or violent offense within ten years before
15 conviction of the current offense, in this state, another state, or
16 the United States;

17 (d) For a violation of the Uniform Controlled Substances Act
18 under chapter 69.50 RCW or a criminal solicitation to commit such a
19 violation under chapter 9A.28 RCW, the offense involved only a small
20 quantity of the particular controlled substance as determined by the
21 judge upon consideration of such factors as the weight, purity,
22 packaging, sale price, and street value of the controlled substance;

23 (e) The offender has not been found by the United States attorney
24 general to be subject to a deportation detainer or order and does not
25 become subject to a deportation order during the period of the
26 sentence;

27 (f) The end of the standard sentence range for the current
28 offense is greater than one year; and

29 (g) The offender has not received a drug offender sentencing
30 alternative more than once in the prior ten years before the current
31 offense.

32 (2) A motion for a special drug offender sentencing alternative
33 may be made by the court, the offender, or the state.

34 (3) If the sentencing court determines that the offender is
35 eligible for an alternative sentence under this section and that the
36 alternative sentence is appropriate, the court shall waive imposition
37 of a sentence within the standard sentence range and impose a
38 sentence consisting of either a prison-based alternative under RCW
39 9.94A.662 or a residential chemical dependency treatment-based
40 alternative under RCW 9.94A.664. The residential chemical dependency

1 treatment-based alternative is only available if the midpoint of the
2 standard range is twenty-four months or less.

3 (4) To assist the court in making its determination, the court
4 may order the department to complete either or both a risk assessment
5 report and a chemical dependency screening report as provided in RCW
6 9.94A.500.

7 (5)(a) If the court is considering imposing a sentence under the
8 residential chemical dependency treatment-based alternative, the
9 court may order an examination of the offender by the department. The
10 examination shall, at a minimum, address the following issues:

11 (i) Whether the offender suffers from drug addiction;

12 (ii) Whether the addiction is such that there is a probability
13 that criminal behavior will occur in the future;

14 (iii) Whether effective treatment for the offender's addiction is
15 available from a provider that has been licensed or certified by the
16 (~~division of alcohol and substance abuse of the~~) department of
17 social and health services; and

18 (iv) Whether the offender and the community will benefit from the
19 use of the alternative.

20 (b) The examination report must contain:

21 (i) A proposed monitoring plan, including any requirements
22 regarding living conditions, lifestyle requirements, and monitoring
23 by family members and others; and

24 (ii) Recommended crime-related prohibitions and affirmative
25 conditions.

26 (6) When a court imposes a sentence of community custody under
27 this section:

28 (a) The court may impose conditions as provided in RCW 9.94A.703
29 and may impose other affirmative conditions as the court considers
30 appropriate. In addition, an offender may be required to pay thirty
31 dollars per month while on community custody to offset the cost of
32 monitoring for alcohol or controlled substances.

33 (b) The department may impose conditions and sanctions as
34 authorized in RCW 9.94A.704 and 9.94A.737.

35 (7)(a) The court may bring any offender sentenced under this
36 section back into court at any time on its own initiative to evaluate
37 the offender's progress in treatment or to determine if any
38 violations of the conditions of the sentence have occurred.

1 (b) If the offender is brought back to court, the court may
2 modify the conditions of the community custody or impose sanctions
3 under (c) of this subsection.

4 (c) The court may order the offender to serve a term of total
5 confinement within the standard range of the offender's current
6 offense at any time during the period of community custody if the
7 offender violates the conditions or requirements of the sentence or
8 if the offender is failing to make satisfactory progress in
9 treatment.

10 (d) An offender ordered to serve a term of total confinement
11 under (c) of this subsection shall receive credit for any time
12 previously served under this section.

13 (8) In serving a term of community custody imposed upon failure
14 to complete, or administrative termination from, the special drug
15 offender sentencing alternative program, the offender shall receive
16 no credit for time served in community custody prior to termination
17 of the offender's participation in the program.

18 (9) An offender sentenced under this section shall be subject to
19 all rules relating to earned release time with respect to any period
20 served in total confinement.

21 (10) Costs of examinations and preparing treatment plans under a
22 special drug offender sentencing alternative may be paid, at the
23 option of the county, from funds provided to the county from the
24 criminal justice treatment account under RCW 70.96A.350 (as
25 recodified by this act).

26 **Sec. 524.** RCW 10.05.020 and 2010 c 269 s 9 are each amended to
27 read as follows:

28 (1) Except as provided in subsection (2) of this section, the
29 petitioner shall allege under oath in the petition that the wrongful
30 conduct charged is the result of or caused by ~~((alcoholism, drug~~
31 ~~addiction,))~~ substance use disorders or mental problems for which the
32 person is in need of treatment and unless treated the probability of
33 future recurrence is great, along with a statement that the person
34 agrees to pay the cost of a diagnosis and treatment of the alleged
35 problem or problems if financially able to do so. The petition shall
36 also contain a case history and written assessment prepared by an
37 approved ~~((alcoholism))~~ substance use disorder treatment program as
38 designated in chapter ~~((70.96A))~~ 71.24 RCW if the petition alleges
39 ~~((alcoholism, an approved drug program as designated in chapter 71.24~~

1 ~~RCW if the petition alleges drug addiction,~~) a substance use
2 disorder or by an approved mental health center if the petition
3 alleges a mental problem.

4 (2) In the case of a petitioner charged with a misdemeanor or
5 gross misdemeanor under chapter 9A.42 RCW, the petitioner shall
6 allege under oath in the petition that the petitioner is the natural
7 or adoptive parent of the alleged victim; that the wrongful conduct
8 charged is the result of parenting problems for which the petitioner
9 is in need of services; that the petitioner is in need of child
10 welfare services under chapter 74.13 RCW to improve his or her
11 parenting skills in order to better provide his or her child or
12 children with the basic necessities of life; that the petitioner
13 wants to correct his or her conduct to reduce the likelihood of harm
14 to his or her minor children; that in the absence of child welfare
15 services the petitioner may be unable to reduce the likelihood of
16 harm to his or her minor children; and that the petitioner has
17 cooperated with the department of social and health services to
18 develop a plan to receive appropriate child welfare services; along
19 with a statement that the person agrees to pay the cost of the
20 services if he or she is financially able to do so. The petition
21 shall also contain a case history and a written service plan from the
22 department of social and health services.

23 (3) Before entry of an order deferring prosecution, a petitioner
24 shall be advised of his or her rights as an accused and execute, as a
25 condition of receiving treatment, a statement that contains: (a) An
26 acknowledgment of his or her rights; (b) an acknowledgment and waiver
27 of the right to testify, the right to a speedy trial, the right to
28 call witnesses to testify, the right to present evidence in his or
29 her defense, and the right to a jury trial; (c) a stipulation to the
30 admissibility and sufficiency of the facts contained in the written
31 police report; and (d) an acknowledgment that the statement will be
32 entered and used to support a finding of guilty if the court finds
33 cause to revoke the order granting deferred prosecution. The
34 petitioner shall also be advised that he or she may, if he or she
35 proceeds to trial and is found guilty, be allowed to seek suspension
36 of some or all of the fines and incarceration that may be ordered
37 upon the condition that he or she seek treatment and, further, that
38 he or she may seek treatment from public and private agencies at any
39 time without regard to whether or not he or she is found guilty of
40 the offense charged. He or she shall also be advised that the court

1 will not accept a petition for deferred prosecution from a person
2 who: (i) Sincerely believes that he or she is innocent of the
3 charges; (ii) sincerely believes that he or she does not, in fact,
4 suffer from alcoholism, drug addiction, or mental problems; or (iii)
5 in the case of a petitioner charged under chapter 9A.42 RCW,
6 sincerely believes that he or she does not need child welfare
7 services.

8 (4) Before entering an order deferring prosecution, the court
9 shall make specific findings that: (a) The petitioner has stipulated
10 to the admissibility and sufficiency of the facts as contained in the
11 written police report; (b) the petitioner has acknowledged the
12 admissibility of the stipulated facts in any criminal hearing on the
13 underlying offense or offenses held subsequent to revocation of the
14 order granting deferred prosecution; (c) the petitioner has
15 acknowledged and waived the right to testify, the right to a speedy
16 trial, the right to call witnesses to testify, the right to present
17 evidence in his or her defense, and the right to a jury trial; and
18 (d) the petitioner's statements were made knowingly and voluntarily.
19 Such findings shall be included in the order granting deferred
20 prosecution.

21 **Sec. 525.** RCW 10.05.030 and 2002 c 219 s 8 are each amended to
22 read as follows:

23 The arraigining judge upon consideration of the petition and with
24 the concurrence of the prosecuting attorney may continue the
25 arraignment and refer such person for a diagnostic investigation and
26 evaluation to an approved ((alcoholism)) substance use disorder
27 treatment program as designated in chapter ((70.96A)) 71.24 RCW, if
28 the petition alleges ((an alcohol problem, an approved drug treatment
29 center as designated in chapter 71.24 RCW, if the petition alleges a
30 drug problem)) a substance use disorder, to an approved mental health
31 center, if the petition alleges a mental problem, or the department
32 of social and health services if the petition is brought under RCW
33 10.05.020(2).

34 **Sec. 526.** RCW 10.05.150 and 1999 c 143 s 43 are each amended to
35 read as follows:

36 A deferred prosecution program for alcoholism shall be for a two-
37 year period and shall include, but not be limited to, the following
38 requirements:

1 (1) Total abstinence from alcohol and all other nonprescribed
2 mind-altering drugs;

3 (2) Participation in an intensive inpatient or intensive
4 outpatient program in a state-approved (~~alcoholism~~) substance use
5 disorder treatment program;

6 (3) Participation in a minimum of two meetings per week of an
7 alcoholism self-help recovery support group, as determined by the
8 assessing agency, for the duration of the treatment program;

9 (4) Participation in an alcoholism self-help recovery support
10 group, as determined by the assessing agency, from the date of court
11 approval of the plan to entry into intensive treatment;

12 (5) Not less than weekly approved outpatient counseling, group or
13 individual, for a minimum of six months following the intensive phase
14 of treatment;

15 (6) Not less than monthly outpatient contact, group or
16 individual, for the remainder of the two-year deferred prosecution
17 period;

18 (7) The decision to include the use of prescribed drugs,
19 including disulfiram, as a condition of treatment shall be reserved
20 to the treating facility and the petitioner's physician;

21 (8) All treatment within the purview of this section shall occur
22 within or be approved by a state-approved (~~alcoholism~~) substance
23 use disorder treatment program as described in chapter 70.96A RCW;

24 (9) Signature of the petitioner agreeing to the terms and
25 conditions of the treatment program.

26 **Sec. 527.** RCW 70.96C.020 and 2005 c 504 s 602 are each amended
27 to read as follows:

28 The department of corrections shall, to the extent that resources
29 are available for this purpose, utilize the integrated, comprehensive
30 screening and assessment process for chemical dependency and mental
31 disorders developed under RCW 70.96C.010 (as recodified by this act).

32 NEW SECTION. **Sec. 528.** RCW 43.135.03901 is decodified.

33 **Sec. 529.** RCW 46.61.5055 and 2015 2nd sp.s. c 3 s 9 are each
34 amended to read as follows:

35 (1) **No prior offenses in seven years.** Except as provided in RCW
36 46.61.502(6) or 46.61.504(6), a person who is convicted of a

1 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
2 within seven years shall be punished as follows:

3 (a) **Penalty for alcohol concentration less than 0.15.** In the case
4 of a person whose alcohol concentration was less than 0.15, or for
5 whom for reasons other than the person's refusal to take a test
6 offered pursuant to RCW 46.20.308 there is no test result indicating
7 the person's alcohol concentration:

8 (i) By imprisonment for not less than one day nor more than three
9 hundred sixty-four days. Twenty-four consecutive hours of the
10 imprisonment may not be suspended unless the court finds that the
11 imposition of this mandatory minimum sentence would impose a
12 substantial risk to the offender's physical or mental well-being.
13 Whenever the mandatory minimum sentence is suspended, the court shall
14 state in writing the reason for granting the suspension and the facts
15 upon which the suspension is based. In lieu of the mandatory minimum
16 term of imprisonment required under this subsection (1)(a)(i), the
17 court may order not less than fifteen days of electronic home
18 monitoring. The offender shall pay the cost of electronic home
19 monitoring. The county or municipality in which the penalty is being
20 imposed shall determine the cost. The court may also require the
21 offender's electronic home monitoring device or other separate
22 alcohol monitoring device to include an alcohol detection
23 breathalyzer, and the court may restrict the amount of alcohol the
24 offender may consume during the time the offender is on electronic
25 home monitoring; and

26 (ii) By a fine of not less than three hundred fifty dollars nor
27 more than five thousand dollars. Three hundred fifty dollars of the
28 fine may not be suspended unless the court finds the offender to be
29 indigent; or

30 (b) **Penalty for alcohol concentration at least 0.15.** In the case
31 of a person whose alcohol concentration was at least 0.15, or for
32 whom by reason of the person's refusal to take a test offered
33 pursuant to RCW 46.20.308 there is no test result indicating the
34 person's alcohol concentration:

35 (i) By imprisonment for not less than two days nor more than
36 three hundred sixty-four days. Forty-eight consecutive hours of the
37 imprisonment may not be suspended unless the court finds that the
38 imposition of this mandatory minimum sentence would impose a
39 substantial risk to the offender's physical or mental well-being.
40 Whenever the mandatory minimum sentence is suspended, the court shall

1 state in writing the reason for granting the suspension and the facts
2 upon which the suspension is based. In lieu of the mandatory minimum
3 term of imprisonment required under this subsection (1)(b)(i), the
4 court may order not less than thirty days of electronic home
5 monitoring. The offender shall pay the cost of electronic home
6 monitoring. The county or municipality in which the penalty is being
7 imposed shall determine the cost. The court may also require the
8 offender's electronic home monitoring device to include an alcohol
9 detection breathalyzer or other separate alcohol monitoring device,
10 and the court may restrict the amount of alcohol the offender may
11 consume during the time the offender is on electronic home
12 monitoring; and

13 (ii) By a fine of not less than five hundred dollars nor more
14 than five thousand dollars. Five hundred dollars of the fine may not
15 be suspended unless the court finds the offender to be indigent.

16 (2) **One prior offense in seven years.** Except as provided in RCW
17 46.61.502(6) or 46.61.504(6), a person who is convicted of a
18 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
19 within seven years shall be punished as follows:

20 (a) **Penalty for alcohol concentration less than 0.15.** In the case
21 of a person whose alcohol concentration was less than 0.15, or for
22 whom for reasons other than the person's refusal to take a test
23 offered pursuant to RCW 46.20.308 there is no test result indicating
24 the person's alcohol concentration:

25 (i) By imprisonment for not less than thirty days nor more than
26 three hundred sixty-four days and sixty days of electronic home
27 monitoring. In lieu of the mandatory minimum term of sixty days
28 electronic home monitoring, the court may order at least an
29 additional four days in jail or, if available in that county or city,
30 a six-month period of 24/7 sobriety program monitoring pursuant to
31 RCW 36.28A.300 through 36.28A.390, and the court shall order an
32 expanded alcohol assessment and treatment, if deemed appropriate by
33 the assessment. The offender shall pay for the cost of the electronic
34 monitoring. The county or municipality where the penalty is being
35 imposed shall determine the cost. The court may also require the
36 offender's electronic home monitoring device include an alcohol
37 detection breathalyzer or other separate alcohol monitoring device,
38 and may restrict the amount of alcohol the offender may consume
39 during the time the offender is on electronic home monitoring. Thirty
40 days of imprisonment and sixty days of electronic home monitoring may

1 not be suspended unless the court finds that the imposition of this
2 mandatory minimum sentence would impose a substantial risk to the
3 offender's physical or mental well-being. Whenever the mandatory
4 minimum sentence is suspended, the court shall state in writing the
5 reason for granting the suspension and the facts upon which the
6 suspension is based; and

7 (ii) By a fine of not less than five hundred dollars nor more
8 than five thousand dollars. Five hundred dollars of the fine may not
9 be suspended unless the court finds the offender to be indigent; or

10 (b) **Penalty for alcohol concentration at least 0.15.** In the case
11 of a person whose alcohol concentration was at least 0.15, or for
12 whom by reason of the person's refusal to take a test offered
13 pursuant to RCW 46.20.308 there is no test result indicating the
14 person's alcohol concentration:

15 (i) By imprisonment for not less than forty-five days nor more
16 than three hundred sixty-four days and ninety days of electronic home
17 monitoring. In lieu of the mandatory minimum term of ninety days
18 electronic home monitoring, the court may order at least an
19 additional six days in jail or, if available in that county or city,
20 a six-month period of 24/7 sobriety program monitoring pursuant to
21 RCW 36.28A.300 through 36.28A.390, and the court shall order an
22 expanded alcohol assessment and treatment, if deemed appropriate by
23 the assessment. The offender shall pay for the cost of the electronic
24 monitoring. The county or municipality where the penalty is being
25 imposed shall determine the cost. The court may also require the
26 offender's electronic home monitoring device include an alcohol
27 detection breathalyzer or other separate alcohol monitoring device,
28 and may restrict the amount of alcohol the offender may consume
29 during the time the offender is on electronic home monitoring. Forty-
30 five days of imprisonment and ninety days of electronic home
31 monitoring may not be suspended unless the court finds that the
32 imposition of this mandatory minimum sentence would impose a
33 substantial risk to the offender's physical or mental well-being.
34 Whenever the mandatory minimum sentence is suspended, the court shall
35 state in writing the reason for granting the suspension and the facts
36 upon which the suspension is based; and

37 (ii) By a fine of not less than seven hundred fifty dollars nor
38 more than five thousand dollars. Seven hundred fifty dollars of the
39 fine may not be suspended unless the court finds the offender to be
40 indigent.

1 (3) **Two or three prior offenses in seven years.** Except as
2 provided in RCW 46.61.502(6) or 46.61.504(6), a person who is
3 convicted of a violation of RCW 46.61.502 or 46.61.504 and who has
4 two or three prior offenses within seven years shall be punished as
5 follows:

6 (a) **Penalty for alcohol concentration less than 0.15.** In the case
7 of a person whose alcohol concentration was less than 0.15, or for
8 whom for reasons other than the person's refusal to take a test
9 offered pursuant to RCW 46.20.308 there is no test result indicating
10 the person's alcohol concentration:

11 (i) By imprisonment for not less than ninety days nor more than
12 three hundred sixty-four days, if available in that county or city, a
13 six-month period of 24/7 sobriety program monitoring pursuant to RCW
14 36.28A.300 through 36.28A.390, and one hundred twenty days of
15 electronic home monitoring. In lieu of the mandatory minimum term of
16 one hundred twenty days of electronic home monitoring, the court may
17 order at least an additional eight days in jail. The court shall
18 order an expanded alcohol assessment and treatment, if deemed
19 appropriate by the assessment. The offender shall pay for the cost of
20 the electronic monitoring. The county or municipality where the
21 penalty is being imposed shall determine the cost. The court may also
22 require the offender's electronic home monitoring device include an
23 alcohol detection breathalyzer or other separate alcohol monitoring
24 device, and may restrict the amount of alcohol the offender may
25 consume during the time the offender is on electronic home
26 monitoring. Ninety days of imprisonment and one hundred twenty days
27 of electronic home monitoring may not be suspended unless the court
28 finds that the imposition of this mandatory minimum sentence would
29 impose a substantial risk to the offender's physical or mental well-
30 being. Whenever the mandatory minimum sentence is suspended, the
31 court shall state in writing the reason for granting the suspension
32 and the facts upon which the suspension is based; and

33 (ii) By a fine of not less than one thousand dollars nor more
34 than five thousand dollars. One thousand dollars of the fine may not
35 be suspended unless the court finds the offender to be indigent; or

36 (b) **Penalty for alcohol concentration at least 0.15.** In the case
37 of a person whose alcohol concentration was at least 0.15, or for
38 whom by reason of the person's refusal to take a test offered
39 pursuant to RCW 46.20.308 there is no test result indicating the
40 person's alcohol concentration:

1 (i) By imprisonment for not less than one hundred twenty days nor
2 more than three hundred sixty-four days, if available in that county
3 or city, a six-month period of 24/7 sobriety program monitoring
4 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty
5 days of electronic home monitoring. In lieu of the mandatory minimum
6 term of one hundred fifty days of electronic home monitoring, the
7 court may order at least an additional ten days in jail. The offender
8 shall pay for the cost of the electronic monitoring. The court shall
9 order an expanded alcohol assessment and treatment, if deemed
10 appropriate by the assessment. The county or municipality where the
11 penalty is being imposed shall determine the cost. The court may also
12 require the offender's electronic home monitoring device include an
13 alcohol detection breathalyzer or other separate alcohol monitoring
14 device, and may restrict the amount of alcohol the offender may
15 consume during the time the offender is on electronic home
16 monitoring. One hundred twenty days of imprisonment and one hundred
17 fifty days of electronic home monitoring may not be suspended unless
18 the court finds that the imposition of this mandatory minimum
19 sentence would impose a substantial risk to the offender's physical
20 or mental well-being. Whenever the mandatory minimum sentence is
21 suspended, the court shall state in writing the reason for granting
22 the suspension and the facts upon which the suspension is based; and

23 (ii) By a fine of not less than one thousand five hundred dollars
24 nor more than five thousand dollars. One thousand five hundred
25 dollars of the fine may not be suspended unless the court finds the
26 offender to be indigent.

27 (4) **Four or more prior offenses in ten years.** A person who is
28 convicted of a violation of RCW 46.61.502 or 46.61.504 shall be
29 punished under chapter 9.94A RCW if:

30 (a) The person has four or more prior offenses within ten years;
31 or

32 (b) The person has ever previously been convicted of:

33 (i) A violation of RCW 46.61.520 committed while under the
34 influence of intoxicating liquor or any drug;

35 (ii) A violation of RCW 46.61.522 committed while under the
36 influence of intoxicating liquor or any drug;

37 (iii) An out-of-state offense comparable to the offense specified
38 in (b)(i) or (ii) of this subsection; or

39 (iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

40 (5) **Monitoring.**

1 (a) **Ignition interlock device.** The court shall require any person
2 convicted of a violation of RCW 46.61.502 or 46.61.504 or an
3 equivalent local ordinance to comply with the rules and requirements
4 of the department regarding the installation and use of a functioning
5 ignition interlock device installed on all motor vehicles operated by
6 the person.

7 (b) **Monitoring devices.** If the court orders that a person refrain
8 from consuming any alcohol, the court may order the person to submit
9 to alcohol monitoring through an alcohol detection breathalyzer
10 device, transdermal sensor device, or other technology designed to
11 detect alcohol in a person's system. The person shall pay for the
12 cost of the monitoring, unless the court specifies that the cost of
13 monitoring will be paid with funds that are available from an
14 alternative source identified by the court. The county or
15 municipality where the penalty is being imposed shall determine the
16 cost.

17 (c) **Ignition interlock device substituted for 24/7 sobriety**
18 **program monitoring.** In any county or city where a 24/7 sobriety
19 program is available and verified by the Washington association of
20 sheriffs and police chiefs, the court shall:

21 (i) Order the person to install and use a functioning ignition
22 interlock or other device in lieu of such period of 24/7 sobriety
23 program monitoring;

24 (ii) Order the person to a period of 24/7 sobriety program
25 monitoring pursuant to subsections (1) through (3) of this section;
26 or

27 (iii) Order the person to install and use a functioning ignition
28 interlock or other device in addition to a period of 24/7 sobriety
29 program monitoring pursuant to subsections (1) through (3) of this
30 section.

31 (6) **Penalty for having a minor passenger in vehicle.** If a person
32 who is convicted of a violation of RCW 46.61.502 or 46.61.504
33 committed the offense while a passenger under the age of sixteen was
34 in the vehicle, the court shall:

35 (a) Order the use of an ignition interlock or other device for an
36 additional six months;

37 (b) In any case in which the person has no prior offenses within
38 seven years, and except as provided in RCW 46.61.502(6) or
39 46.61.504(6), order an additional twenty-four hours of imprisonment
40 and a fine of not less than one thousand dollars and not more than

1 five thousand dollars. One thousand dollars of the fine may not be
2 suspended unless the court finds the offender to be indigent;

3 (c) In any case in which the person has one prior offense within
4 seven years, and except as provided in RCW 46.61.502(6) or
5 46.61.504(6), order an additional five days of imprisonment and a
6 fine of not less than two thousand dollars and not more than five
7 thousand dollars. One thousand dollars of the fine may not be
8 suspended unless the court finds the offender to be indigent;

9 (d) In any case in which the person has two or three prior
10 offenses within seven years, and except as provided in RCW
11 46.61.502(6) or 46.61.504(6), order an additional ten days of
12 imprisonment and a fine of not less than three thousand dollars and
13 not more than ten thousand dollars. One thousand dollars of the fine
14 may not be suspended unless the court finds the offender to be
15 indigent.

16 (7) **Other items courts must consider while setting penalties.** In
17 exercising its discretion in setting penalties within the limits
18 allowed by this section, the court shall particularly consider the
19 following:

20 (a) Whether the person's driving at the time of the offense was
21 responsible for injury or damage to another or another's property;

22 (b) Whether at the time of the offense the person was driving or
23 in physical control of a vehicle with one or more passengers;

24 (c) Whether the driver was driving in the opposite direction of
25 the normal flow of traffic on a multiple lane highway, as defined by
26 RCW 46.04.350, with a posted speed limit of forty-five miles per hour
27 or greater; and

28 (d) Whether a child passenger under the age of sixteen was an
29 occupant in the driver's vehicle.

30 (8) **Treatment and information school.** An offender punishable
31 under this section is subject to the alcohol assessment and treatment
32 provisions of RCW 46.61.5056.

33 (9) **Driver's license privileges of the defendant.** The license,
34 permit, or nonresident privilege of a person convicted of driving or
35 being in physical control of a motor vehicle while under the
36 influence of intoxicating liquor or drugs must:

37 (a) **Penalty for alcohol concentration less than 0.15.** If the
38 person's alcohol concentration was less than 0.15, or if for reasons
39 other than the person's refusal to take a test offered under RCW

1 46.20.308 there is no test result indicating the person's alcohol
2 concentration:

3 (i) Where there has been no prior offense within seven years, be
4 suspended or denied by the department for ninety days;

5 (ii) Where there has been one prior offense within seven years,
6 be revoked or denied by the department for two years; or

7 (iii) Where there have been two or more prior offenses within
8 seven years, be revoked or denied by the department for three years;

9 (b) **Penalty for alcohol concentration at least 0.15.** If the
10 person's alcohol concentration was at least 0.15:

11 (i) Where there has been no prior offense within seven years, be
12 revoked or denied by the department for one year;

13 (ii) Where there has been one prior offense within seven years,
14 be revoked or denied by the department for nine hundred days; or

15 (iii) Where there have been two or more prior offenses within
16 seven years, be revoked or denied by the department for four years;
17 or

18 (c) **Penalty for refusing to take test.** If by reason of the
19 person's refusal to take a test offered under RCW 46.20.308, there is
20 no test result indicating the person's alcohol concentration:

21 (i) Where there have been no prior offenses within seven years,
22 be revoked or denied by the department for two years;

23 (ii) Where there has been one prior offense within seven years,
24 be revoked or denied by the department for three years; or

25 (iii) Where there have been two or more previous offenses within
26 seven years, be revoked or denied by the department for four years.

27 The department shall grant credit on a day-for-day basis for any
28 portion of a suspension, revocation, or denial already served under
29 this subsection for a suspension, revocation, or denial imposed under
30 RCW 46.20.3101 arising out of the same incident.

31 Upon its own motion or upon motion by a person, a court may find,
32 on the record, that notice to the department under RCW 46.20.270 has
33 been delayed for three years or more as a result of a clerical or
34 court error. If so, the court may order that the person's license,
35 permit, or nonresident privilege shall not be revoked, suspended, or
36 denied for that offense. The court shall send notice of the finding
37 and order to the department and to the person. Upon receipt of the
38 notice from the court, the department shall not revoke, suspend, or
39 deny the license, permit, or nonresident privilege of the person for
40 that offense.

1 For purposes of this subsection (9), the department shall refer
2 to the driver's record maintained under RCW 46.52.120 when
3 determining the existence of prior offenses.

4 (10) **Probation of driving privilege.** After expiration of any
5 period of suspension, revocation, or denial of the offender's
6 license, permit, or privilege to drive required by this section, the
7 department shall place the offender's driving privilege in
8 probationary status pursuant to RCW 46.20.355.

9 (11) **Conditions of probation.** (a) In addition to any
10 nonsuspendable and nondeferrable jail sentence required by this
11 section, whenever the court imposes up to three hundred sixty-four
12 days in jail, the court shall also suspend but shall not defer a
13 period of confinement for a period not exceeding five years. The
14 court shall impose conditions of probation that include: (i) Not
15 driving a motor vehicle within this state without a valid license to
16 drive; (ii) not driving a motor vehicle within this state without
17 proof of liability insurance or other financial responsibility for
18 the future pursuant to RCW 46.30.020; (iii) not driving or being in
19 physical control of a motor vehicle within this state while having an
20 alcohol concentration of 0.08 or more or a THC concentration of 5.00
21 nanograms per milliliter of whole blood or higher, within two hours
22 after driving; (iv) not refusing to submit to a test of his or her
23 breath or blood to determine alcohol or drug concentration upon
24 request of a law enforcement officer who has reasonable grounds to
25 believe the person was driving or was in actual physical control of a
26 motor vehicle within this state while under the influence of
27 intoxicating liquor or drug; and (v) not driving a motor vehicle in
28 this state without a functioning ignition interlock device as
29 required by the department under RCW 46.20.720(3). The court may
30 impose conditions of probation that include nonrepetition,
31 installation of an ignition interlock device on the probationer's
32 motor vehicle, alcohol or drug treatment, supervised probation, or
33 other conditions that may be appropriate. The sentence may be imposed
34 in whole or in part upon violation of a condition of probation during
35 the suspension period.

36 (b) For each violation of mandatory conditions of probation under
37 (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall
38 order the convicted person to be confined for thirty days, which
39 shall not be suspended or deferred.

1 (c) For each incident involving a violation of a mandatory
2 condition of probation imposed under this subsection, the license,
3 permit, or privilege to drive of the person shall be suspended by the
4 court for thirty days or, if such license, permit, or privilege to
5 drive already is suspended, revoked, or denied at the time the
6 finding of probation violation is made, the suspension, revocation,
7 or denial then in effect shall be extended by thirty days. The court
8 shall notify the department of any suspension, revocation, or denial
9 or any extension of a suspension, revocation, or denial imposed under
10 this subsection.

11 (12) **Waiver of electronic home monitoring.** A court may waive the
12 electronic home monitoring requirements of this chapter when:

13 (a) The offender does not have a dwelling, telephone service, or
14 any other necessity to operate an electronic home monitoring system.
15 However, if a court determines that an alcohol monitoring device
16 utilizing wireless reporting technology is reasonably available, the
17 court may require the person to obtain such a device during the
18 period of required electronic home monitoring;

19 (b) The offender does not reside in the state of Washington; or

20 (c) The court determines that there is reason to believe that the
21 offender would violate the conditions of the electronic home
22 monitoring penalty.

23 Whenever the mandatory minimum term of electronic home monitoring
24 is waived, the court shall state in writing the reason for granting
25 the waiver and the facts upon which the waiver is based, and shall
26 impose an alternative sentence with similar punitive consequences.
27 The alternative sentence may include, but is not limited to, use of
28 an ignition interlock device, the 24/7 sobriety program monitoring,
29 additional jail time, work crew, or work camp.

30 Whenever the combination of jail time and electronic home
31 monitoring or alternative sentence would exceed three hundred sixty-
32 four days, the offender shall serve the jail portion of the sentence
33 first, and the electronic home monitoring or alternative portion of
34 the sentence shall be reduced so that the combination does not exceed
35 three hundred sixty-four days.

36 (13) **Extraordinary medical placement.** An offender serving a
37 sentence under this section, whether or not a mandatory minimum term
38 has expired, may be granted an extraordinary medical placement by the
39 jail administrator subject to the standards and limitations set forth
40 in RCW 9.94A.728(1)(c).

1 (14) **Definitions.** For purposes of this section and RCW 46.61.502
2 and 46.61.504:

3 (a) A "prior offense" means any of the following:

4 (i) A conviction for a violation of RCW 46.61.502 or an
5 equivalent local ordinance;

6 (ii) A conviction for a violation of RCW 46.61.504 or an
7 equivalent local ordinance;

8 (iii) A conviction for a violation of RCW 46.25.110 or an
9 equivalent local ordinance;

10 (iv) A conviction for a violation of RCW 79A.60.040(2) or an
11 equivalent local ordinance;

12 (v) A conviction for a violation of RCW 79A.60.040(1) or an
13 equivalent local ordinance committed in a reckless manner if the
14 conviction is the result of a charge that was originally filed as a
15 violation of RCW 79A.60.040(2) or an equivalent local ordinance;

16 (vi) A conviction for a violation of RCW 47.68.220 or an
17 equivalent local ordinance committed while under the influence of
18 intoxicating liquor or any drug;

19 (vii) A conviction for a violation of RCW 47.68.220 or an
20 equivalent local ordinance committed in a careless or reckless manner
21 if the conviction is the result of a charge that was originally filed
22 as a violation of RCW 47.68.220 or an equivalent local ordinance
23 while under the influence of intoxicating liquor or any drug;

24 (viii) A conviction for a violation of RCW 46.09.470(2) or an
25 equivalent local ordinance;

26 (ix) A conviction for a violation of RCW 46.10.490(2) or an
27 equivalent local ordinance;

28 (x) A conviction for a violation of RCW 46.61.520 committed while
29 under the influence of intoxicating liquor or any drug, or a
30 conviction for a violation of RCW 46.61.520 committed in a reckless
31 manner or with the disregard for the safety of others if the
32 conviction is the result of a charge that was originally filed as a
33 violation of RCW 46.61.520 committed while under the influence of
34 intoxicating liquor or any drug;

35 (xi) A conviction for a violation of RCW 46.61.522 committed
36 while under the influence of intoxicating liquor or any drug, or a
37 conviction for a violation of RCW 46.61.522 committed in a reckless
38 manner or with the disregard for the safety of others if the
39 conviction is the result of a charge that was originally filed as a

1 violation of RCW 46.61.522 committed while under the influence of
2 intoxicating liquor or any drug;

3 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
4 or 9A.36.050 or an equivalent local ordinance, if the conviction is
5 the result of a charge that was originally filed as a violation of
6 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of
7 RCW 46.61.520 or 46.61.522;

8 (xiii) An out-of-state conviction for a violation that would have
9 been a violation of (a)(i), (ii), (x), (xi), or (xii) of this
10 subsection if committed in this state;

11 (xiv) A deferred prosecution under chapter 10.05 RCW granted in a
12 prosecution for a violation of RCW 46.61.502, 46.61.504, or an
13 equivalent local ordinance;

14 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
15 prosecution for a violation of RCW 46.61.5249, or an equivalent local
16 ordinance, if the charge under which the deferred prosecution was
17 granted was originally filed as a violation of RCW 46.61.502 or
18 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
19 46.61.522;

20 (xvi) A deferred prosecution granted in another state for a
21 violation of driving or having physical control of a vehicle while
22 under the influence of intoxicating liquor or any drug if the out-of-
23 state deferred prosecution is equivalent to the deferred prosecution
24 under chapter 10.05 RCW, including a requirement that the defendant
25 participate in a chemical dependency treatment program; or

26 (xvii) A deferred sentence imposed in a prosecution for a
27 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
28 equivalent local ordinance, if the charge under which the deferred
29 sentence was imposed was originally filed as a violation of RCW
30 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
31 violation of RCW 46.61.520 or 46.61.522;

32 If a deferred prosecution is revoked based on a subsequent
33 conviction for an offense listed in this subsection (14)(a), the
34 subsequent conviction shall not be treated as a prior offense of the
35 revoked deferred prosecution for the purposes of sentencing;

36 (b) "Treatment" means (~~(alcohol or drug)~~) substance use disorder
37 treatment approved by the department of social and health services;

38 (c) "Within seven years" means that the arrest for a prior
39 offense occurred within seven years before or after the arrest for
40 the current offense; and

1 (d) "Within ten years" means that the arrest for a prior offense
2 occurred within ten years before or after the arrest for the current
3 offense.

4 (15) All fines imposed by this section apply to adult offenders
5 only.

6 **Sec. 530.** RCW 46.61.5056 and 2011 c 293 s 13 are each amended to
7 read as follows:

8 (1) A person subject to alcohol assessment and treatment under
9 RCW 46.61.5055 shall be required by the court to complete a course in
10 an alcohol information school approved by the department of social
11 and health services or to complete more intensive treatment in a
12 substance use disorder treatment program approved by the department
13 of social and health services, as determined by the court. The court
14 shall notify the department of licensing whenever it orders a person
15 to complete a course or treatment program under this section.

16 (2) A diagnostic evaluation and treatment recommendation shall be
17 prepared under the direction of the court by an alcoholism agency
18 approved by the department of social and health services or a
19 qualified probation department approved by the department of social
20 and health services. A copy of the report shall be forwarded to the
21 court and the department of licensing. Based on the diagnostic
22 evaluation, the court shall determine whether the person shall be
23 required to complete a course in an alcohol information school
24 approved by the department of social and health services or more
25 intensive treatment in a substance use disorder treatment program
26 approved by the department of social and health services.

27 (3) Standards for approval for alcohol treatment programs shall
28 be prescribed by the department of social and health services. The
29 department of social and health services shall periodically review
30 the costs of alcohol information schools and treatment programs.

31 (4) Any agency that provides treatment ordered under RCW
32 46.61.5055, shall immediately report to the appropriate probation
33 department where applicable, otherwise to the court, and to the
34 department of licensing any noncompliance by a person with the
35 conditions of his or her ordered treatment. The court shall notify
36 the department of licensing and the department of social and health
37 services of any failure by an agency to so report noncompliance. Any
38 agency with knowledge of noncompliance that fails to so report shall
39 be fined two hundred fifty dollars by the department of social and

1 health services. Upon three such failures by an agency within one
2 year, the department of social and health services shall revoke the
3 agency's approval under this section.

4 (5) The department of licensing and the department of social and
5 health services may adopt such rules as are necessary to carry out
6 this section.

7 **PART VI**

8 **TAXATION OF FUNDS PROVIDED FOR INTEGRATED TREATMENT SYSTEMS**

9 NEW SECTION. **Sec. 601.** (1) This section is the tax preference
10 performance statement for the tax preference contained in section 602
11 of this act. This performance statement is only intended to be used
12 for subsequent evaluation of the tax preference. It is not intended
13 to create a private right of action by any party or be used to
14 determine eligibility for preferential tax treatment.

15 (2) The legislature categorizes this tax preference as one
16 intended to reduce structural inefficiencies in the tax structure as
17 indicated in RCW 82.32.808(2)(d).

18 (3) It is the legislature's specific public policy objective to
19 increase the funds available for community treatment of mental health
20 and chemical dependency disorders under a government-funded program.
21 It is the legislature's intent to provide tax relief to behavioral
22 health organizations and health or social welfare organizations in
23 order to increase the funds available for community treatment.

24 (4) It is not intended for this tax preference to extend beyond
25 January 1, 2020, because on that date the community behavioral health
26 program must be fully integrated in a managed care health system
27 under RCW 71.24.850(2).

28 **Sec. 602.** RCW 82.04.4277 and 2014 c 225 s 104 are each amended
29 to read as follows:

30 (1) A health or social welfare organization may deduct from the
31 measure of tax amounts received as compensation for providing mental
32 health services or chemical dependency services under a government-
33 funded program.

34 (2) A behavioral health organization may deduct from the measure
35 of tax amounts received from the state of Washington for distribution
36 to a health or social welfare organization that is eligible to deduct
37 the distribution under subsection (1) of this section.

1 (3) A person claiming a deduction under this section must file a
2 complete annual report with the department under RCW 82.32.534.

3 (4) The definitions in this subsection apply ~~((to this section))~~
4 throughout this section unless the context clearly requires
5 otherwise.

6 (a) "Chemical dependency" has the same meaning as provided in RCW
7 70.96A.020.

8 (b) "Health or social welfare organization" has the meaning
9 provided in RCW 82.04.431.

10 ~~((b))~~ (c) "Mental health services" and "behavioral health
11 organization" have the meanings provided in RCW 71.24.025.

12 (5) This section expires ~~((August 1, 2016))~~ January 1, 2020.

13 PART VII

14 REPEALERS FOR ADMINISTRATIVE PROVISIONS

15 NEW SECTION. Sec. 701. The following acts or parts of acts, as
16 now existing or hereafter amended, are each repealed, effective April
17 1, 2016:

18 (1) RCW 70.96A.010 (Declaration of policy) and 2014 c 225 s 18,
19 1989 c 271 s 304, & 1972 ex.s. c 122 s 1;

20 (2) RCW 70.96A.030 (Substance use disorder program) and 2014 c
21 225 s 21, 1989 c 270 s 4, & 1972 ex.s. c 122 s 3;

22 (3) RCW 70.96A.045 (Funding prerequisites, facilities, plans, or
23 programs receiving financial assistance) and 1989 c 270 s 10;

24 (4) RCW 70.96A.060 (Interdepartmental coordinating committee) and
25 2014 c 225 s 24, 1989 c 270 s 8, 1979 c 158 s 220, & 1972 ex.s. c 122
26 s 6;

27 (5) RCW 70.96A.150 (Records of persons treated for alcoholism and
28 drug addiction) and 1990 c 151 s 1, 1989 c 162 s 1, & 1972 ex.s. c
29 122 s 15;

30 (6) RCW 70.96A.300 (Counties may create alcoholism and other drug
31 addiction board—Generally) and 2014 c 225 s 31 & 1989 c 270 s 15;

32 (7) RCW 70.96A.310 (County alcoholism and other drug addiction
33 program—Chief executive officer of program to be program coordinator)
34 and 1989 c 270 s 16;

35 (8) RCW 70.96A.320 (Alcoholism and other drug addiction program—
36 Generally) and 2014 c 225 s 32, 2013 c 320 s 8, 1990 c 151 s 9, &
37 1989 c 270 s 17; and

1 (9) RCW 70.96A.325 (Methamphetamine addiction programs—Counties
2 authorized to seek state funding) and 2006 c 339 s 101.

3 **PART VIII**
4 **RECODIFICATION**

5 NEW SECTION. **Sec. 801.** (1) RCW 70.96A.035, 70.96A.037,
6 70.96A.040, 70.96A.043, 70.96A.047, 70.96A.050, 70.96A.055,
7 70.96A.080, 70.96A.085, 70.96A.087, 70.96A.090, 70.96A.100,
8 70.96A.170, 70.96A.190, 70.96A.350, 70.96A.400, 70.96A.410,
9 70.96A.420, 70.96A.430, 70.96A.500, 70.96A.510, 70.96A.520,
10 70.96A.800, 70.96A.905, and 70.96C.010 are each recodified as
11 sections in chapter 71.24 RCW.

12 (2) RCW 70.96C.020 is recodified as a section in chapter 72.09
13 RCW.

14 **PART IX**
15 **MISCELLANEOUS**

16 NEW SECTION. **Sec. 901.** This act may be known and cited as Ricky
17 Garcia's act.

18 NEW SECTION. **Sec. 902.** Sections 501 through 530, 601, 602, and
19 801 of this act are necessary for the immediate preservation of the
20 public peace, health, or safety, or support of the state government
21 and its existing public institutions, and take effect April 1, 2016.

22 NEW SECTION. **Sec. 903.** Sections 201 through 249 of this act
23 constitute a new chapter in Title 71 RCW to be codified directly
24 after chapter 71.05 RCW.

25 NEW SECTION. **Sec. 904.** Sections 250 through 271 of this act
26 constitute a new chapter in Title 71 RCW to be codified directly
27 after chapter 71.34 RCW.

28 NEW SECTION. **Sec. 905.** If specific funding for the purposes of
29 this act, referencing this act by bill or chapter number, is not
30 provided by June 30, 2016, in the omnibus appropriations act, this
31 act is null and void."

3SHB 1713 - S COMM AMD

By Committee on Human Services, Mental Health & Housing

1 On page 1, line 2 of the title, after "dependency;" strike the
2 remainder of the title and insert "amending RCW 70.96A.140,
3 70.96A.145, 9.41.098, 71.05.230, 71.05.290, 71.05.360, 71.34.020,
4 71.34.720, 71.34.750, 70.96A.097, 70.96A.230, 70.96A.235, 70.96A.240,
5 70.96A.245, 70.96A.250, 70.96A.255, 4.24.558, 5.60.060, 9.41.280,
6 9.95.143, 10.77.010, 10.77.025, 10.77.027, 10.77.060, 10.77.065,
7 10.77.084, 10.77.088, 11.92.190, 43.185C.255, 18.83.110, 43.20A.025,
8 70.48.475, 70.97.010, 71.05.660, 71.24.330, 71.32.080, 71.32.140,
9 71.32.150, 72.09.315, 72.09.370, 43.185C.305, 74.50.070, 71.24.035,
10 70.96A.050, 71.24.037, 70.96A.090, 71.24.385, 70.96A.035, 70.96C.010,
11 70.96A.037, 70.96A.047, 70.96A.055, 70.96A.087, 70.96A.170,
12 70.96A.400, 70.96A.800, 70.96A.905, 71.24.300, 71.24.350, 9.94A.660,
13 10.05.020, 10.05.030, 10.05.150, 70.96C.020, 46.61.5055, 46.61.5056,
14 and 82.04.4277; reenacting and amending RCW 70.96A.020, 71.05.020,
15 70.02.010, 70.02.230, 71.24.025, and 70.96A.350; adding new sections
16 to chapter 71.24 RCW; adding a new section to chapter 72.09 RCW;
17 adding new chapters to Title 71 RCW; creating new sections;
18 recodifying RCW 70.96A.035, 70.96A.037, 70.96A.040, 70.96A.043,
19 70.96A.047, 70.96A.050, 70.96A.055, 70.96A.080, 70.96A.085,
20 70.96A.087, 70.96A.090, 70.96A.100, 70.96A.170, 70.96A.190,
21 70.96A.350, 70.96A.400, 70.96A.410, 70.96A.420, 70.96A.430,
22 70.96A.500, 70.96A.510, 70.96A.520, 70.96A.800, 70.96A.905,
23 70.96C.010, and 70.96C.020; decodifying RCW 43.135.03901; repealing
24 RCW 70.96B.010, 70.96B.020, 70.96B.030, 70.96B.040, 70.96B.045,
25 70.96B.050, 70.96B.060, 70.96B.070, 70.96B.080, 70.96B.090,
26 70.96B.100, 70.96B.110, 70.96B.120, 70.96B.130, 70.96B.140,
27 70.96B.150, 70.96B.800, 71.05.032, 70.96A.010, 70.96A.030,
28 70.96A.045, 70.96A.060, 70.96A.150, 70.96A.300, 70.96A.310,
29 70.96A.320, and 70.96A.325; providing effective dates; providing
30 expiration dates; and declaring an emergency."

EFFECT: The Department of Social and Health Services (DSHS) must establish a phased implementation plan for the statewide implementation of integrated crisis response (ICR) in collaboration with behavioral health organizations (BHOs) and full integration regions. The plan must be submitted to the Legislature by October 1,

2016. Before ICR may be implemented in a region, the region must update its contract with DSHS or the Health Care Authority (HCA) and demonstrate that it has the capacity to provide ICR services to the residents of its region. ICR requirements must only be in force in regions which have implemented ICR. The first regions in the state to implement ICR must do so by April 1, 2018. The last regions in the state to implement ICR must do so by July 1, 2026.

Chemical dependency professionals may provide a second signature for a chemical dependency involuntary treatment (CD ITA) or ICR commitment petition. The cost of mandatory representation of the petitioner by a county prosecutor in a CD ITA proceeding must be reimbursed by the BHO or full integration region.

DSHS and HCA must convene a task force to align regulations between behavioral health and primary care settings and simplify regulations for behavioral health providers. DSHS must collaborate to reduce the costs and burdens associated with excess provider audits and review its policies related to deeming accreditation by a recognized behavioral health accrediting body as equivalent to meeting licensure requirements. These provisions in this paragraph are identical to 2SSB 6544 (2016).

A guardian of a minor, in addition to a parent, may consent to parent-initiated substance use disorder treatment on behalf of the minor and participate in associated decision-making. A treatment provider that provides outpatient substance use disorder treatment to a minor 13 years of age or older at the request of the minor must notify the parents or guardian of the minor. A minor may not file a superior court petition asking to be released from a course of inpatient parent or guardian-initiated substance use disorder treatment sooner than fourteen days after the minor's admission to the facility.

--- END ---