RCW 10.77.010 Definitions. ***(Effective until June 30, 2027.)*** As used in this chapter:

(1) "Admission" means acceptance based on medical necessity, of a person as a patient.

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

(3) "Clinical intervention specialist" means a licensed professional with prescribing authority who is employed by or contracted with the department to provide direct services, enhanced oversight and monitoring of the behavioral health status of in-custody defendants who have been referred for evaluation or restoration services related to competency to stand trial and who coordinate treatment options with forensic navigators, the department, and jail health services.

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

(5) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025.

(6) "Conditional release" means modification of a court-ordered commitment, which may be revoked upon violation of any of its terms.

(7) A "criminally insane" person means any person who has been acquitted of a crime charged by reason of insanity, and thereupon found to be a substantial danger to other persons or to present a substantial likelihood of committing criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions.

(8) "Department" means the state department of social and health services.

(9) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(10) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter, pending evaluation.

(11) "Developmental disabilities professional" means a person who has specialized training and experience in directly treating or working with persons with developmental disabilities and is a psychiatrist or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(12) "Developmental disability" means the condition as defined in RCW 71A.10.020.

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

(14) "Furlough" means an authorized leave of absence for a resident of a state institution operated by the department designated for the custody, care, and treatment of the criminally insane, consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

(15) "Genuine doubt as to competency" means that there is reasonable cause to believe, based upon actual interactions with or observations of the defendant or information provided by counsel, that a defendant is incompetent to stand trial.

(16) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life

skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct.

(17) "History of one or more violent acts" means violent acts committed during: (a) The 10-year period of time prior to the filing of criminal charges; plus (b) the amount of time equal to time spent during the 10-year period in a mental health facility or in confinement as a result of a criminal conviction.

(18) "Immediate family member" means a spouse, child, stepchild, parent, stepparent, grandparent, sibling, or domestic partner.

(19) "Incompetency" means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense as a result of mental disease or defect.

(20) "Indigent" means any person who is indigent as defined in RCW 10.101.010, or financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to the person or his or her family.

(21) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

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

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

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

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

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

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

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

(22) "Professional person" means:

(a) A psychiatrist licensed as a physician and surgeon in this state who has, in addition, completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology or the American osteopathic board of neurology and psychiatry;

(b) A psychologist licensed as a psychologist pursuant to chapter 18.83 RCW;

(c) A psychiatric advanced registered nurse practitioner, as defined in RCW 71.05.020; or

(d) A social worker with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(23) "Release" means legal termination of the court-ordered commitment under the provisions of this chapter.

(24) "Secretary" means the secretary of the department of social and health services or his or her designee.

(25) "Treatment" means any currently standardized medical or mental health procedure including medication.

(26) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others.

(27) "Violent act" means behavior that: (a)(i) Resulted in; (ii) if completed as intended would have resulted in; or (iii) was threatened to be carried out by a person who had the intent and opportunity to carry out the threat and would have resulted in, homicide, nonfatal injuries, or substantial damage to property; or (b) recklessly creates an immediate risk of serious physical injury to another person. As used in this subsection, "nonfatal injuries" means physical pain or injury, illness, or an impairment of physical condition. "Nonfatal injuries" shall be construed to be consistent with the definition of "bodily injury," as defined in RCW 9A.04.110. [2023 c 453 s 2; 2023 c 120 s 5. Prior: 2022 c 288 s 1; prior: 2021 c 263 s 9; 2019 c 325 s 5005; 2016 sp.s. c 29 s 405; 2014 c 225 s 58; 2011 c 89 s 4; 2010 c 262 s 2; 2005 c 504 s 106; 2004 c 157 s 2; 2000 c 94 s 12; prior: 1999 c 143 s 49; 1999 c 13 s 2; 1998 c 297 s 29; 1993 c 31 s 4; 1989 c 420 s 3; 1983 c 122 s 1; 1974 ex.s. c 198 s 1; 1973 1st ex.s. c 117 s 1.]

Reviser's note: This section was amended by 2023 c 120 s 5 and by 2023 c 453 s 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—2023 c 453: See note following RCW 10.77.400.

Intent—Effective date—2023 c 120: See notes following RCW 2.70.027.

Application—2021 c 263: See note following RCW 10.77.550.

Effective date—2019 c 325: See note following RCW 71.24.011.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Effective date—2014 c 225: See note following RCW 71.24.016.

Effective date—2011 c 89: See note following RCW 18.320.005.

Findings—2011 c 89: See RCW 18.320.005.

Findings—Intent—Severability—Application—Construction—Captions, part headings, subheadings not law—Adoption of rules—Effective dates—2005 c 504: See notes following RCW 71.05.027.

Alphabetization—Correction of references—2005 c 504: See note following RCW 71.05.020.

Findings—Intent—2004 c 157: "The legislature finds that recent state and federal case law requires clarification of state statutes with regard to competency evaluations and involuntary medication ordered in the context of competency restoration.

The legislature finds that the court in *Born v. Thompson*, 117 Wn. App. 57 (2003) interpreted the term "nonfatal injuries" in a manner that conflicts with the stated intent of the legislature to: "(1) Clarify that it is the nature of a person's current conduct, current mental condition, history, and likelihood of committing future acts that pose a threat to public safety or himself or herself, rather than simple categorization of offenses, that should determine treatment procedures and level; ... and (3) provide additional opportunities for mental health treatment for persons whose conduct threatens himself or herself or threatens public safety and has led to contact with the criminal justice system" as stated in section 1, chapter 297, Laws of 1998. Consequently, the legislature intends to clarify that it intended "nonfatal injuries" to be interpreted in a manner consistent with the purposes of the competency restoration statutes.

The legislature also finds that the decision in *Sell v. United States*, ___U.S. ____ (2003), requires a determination whether a particular criminal offense is "serious" in the context of competency restoration and the state's duty to protect the public. The legislature further finds that, in order to adequately protect the public and in order to provide additional opportunities for mental health treatment for persons whose conduct threatens themselves or threatens public safety and has led to contact with the criminal justice system in the state, the determination of those criminal offenses that are "serious" offenses must be made consistently throughout the state. In order to facilitate this consistency, the legislature intends to determine those offenses that are serious in every case as well as the standards by which other offenses may be determined to be serious. The legislature also intends to clarify that a court may, to the extent permitted by federal law and required by the *Sell* decision, inquire into the civil commitment status of a defendant and may be told, if known." [2004 c 157 s 1.]

Severability—2004 c 157: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2004 c 157 s 7.]

Effective date—2004 c 157: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 26, 2004]." [2004 c 157 s 8.]

Purpose—Construction—1999 c 13: "The purpose of this act is to make technical nonsubstantive changes to chapters 10.77 and 71.05 RCW. No provision of this act shall be construed as a substantive change in

the provisions dealing with persons charged with crimes who are subject to evaluation under chapter 10.77 or 71.05 RCW." [1999 c 13 s 1.]

Alphabetization of section—1998 c 297 s 29: "The code reviser shall alphabetize the definitions in RCW 10.77.010 and correct any references." [1998 c 297 s 51.]

Effective dates—Severability—Intent—1998 c 297: See notes following RCW 71.05.010.

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***Reviser's note:** RCW 71.05.020 does not define "psychiatric advanced practice registered nurse," but does define "psychiatric advanced registered nurse practitioner." The term "advanced registered nurse practitioner" was changed to "advanced practice registered nurse" by 2024 c 239 s 1, effective June 30, 2027.

Effective date—2025 c 58 ss 5058-5170: See note following RCW 7.68.030.

Explanatory note—2025 c 58: See note following RCW 1.16.050.

Findings—2023 c 453: See note following RCW 10.77.400.

Intent—Effective date—2023 c 120: See notes following RCW 2.70.027.

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