RCW 71.05.320 Remand for additional treatment—Less restrictive alternatives—Duration—Grounds—Hearing. (1) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment.

If the order for inpatient treatment is based on a substance use disorder, treatment must take place at an approved substance use disorder treatment program. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment to the custody of the department of social and health services or to a facility certified for 180-day treatment by the department or under RCW 71.05.745.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department or to a less restrictive alternative for a further period of less restrictive treatment not to exceed 90 days from the date of judgment. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed 180 days from the date of judgment. If the court has made an affirmative special finding under RCW 71.05.280(3)(b), the court shall appoint a multidisciplinary transition team as provided in subsection (6)(a)(i) of this section.

(3) An order for less restrictive alternative treatment entered under subsection (2) of this section must name the behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the behavioral health service provider.

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

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of a behavioral health disorder or developmental disability presents a likelihood of serious harm; or

(b) Was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of a behavioral health disorder or developmental disability, a likelihood of serious harm; or

(c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result of a behavioral health disorder or developmental disability continues to present a substantial likelihood of repeating acts similar to the

charged criminal behavior, when considering the person's life history, progress in treatment, and the public safety.

(ii) In cases under this subsection where the court has made an affirmative special finding under RCW 71.05.280(3)(b), the commitment shall continue for up to an additional one hundred eighty-day period whenever the petition presents prima facie evidence that the person continues to suffer from a behavioral health disorder or developmental disability that results in a substantial likelihood of committing acts similar to the charged criminal behavior, unless the person presents proof through an admissible expert opinion that the person's condition has so changed such that the behavioral health disorder or developmental disability no longer presents a substantial likelihood of the person committing acts similar to the charged criminal behavior. The initial or additional commitment period may include transfer to a specialized program of intensive support and treatment, which may be initiated prior to or after discharge from the state hospital; or

(d) Continues to be gravely disabled.

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

If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

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

(6)(a) The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this section are present, the court may order the committed person returned for an additional period of treatment not to exceed 180 days from the date of judgment, except as provided in subsection (7) of this section. An order for less restrictive alternative treatment must name the behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the behavioral health service provider.

(i) In cases where the court has ordered less restrictive alternative treatment and has previously made an affirmative special finding under RCW 71.05.280(3)(b), the court shall appoint a multidisciplinary transition team to supervise and assist the person on the order for less restrictive treatment, which shall include a representative of the community behavioral health agency providing treatment under RCW 71.05.585, and a specially trained supervising community corrections officer. The court may omit the appointment of a community corrections officer if it makes a special finding that the appointment of a community corrections officer would not facilitate the success of the person, or the safety of the person and the community under (a)(ii) of this subsection.

(ii) The role of the transition team shall be to facilitate the success of the person on the less restrictive alternative order by monitoring the person's progress in treatment, compliance with court-ordered conditions, and to problem solve around extra support the

person may need or circumstances which may arise that threaten the safety of the person or the community. The transition team may develop a monitoring plan which may be carried out by any member of the team. The transition team shall meet according to a schedule developed by the team, and shall communicate as needed if issues arise that require the immediate attention of the team.

(iii) The department of corrections shall collaborate with the department to develop specialized training for community corrections officers under this section. The lack of a trained community corrections officer must not be the cause of delay to entry of a less restrictive alternative order.

(b) At the end of the 180-day period of commitment, or one-year period of commitment if subsection (7) of this section applies, the committed person shall be released unless a petition for an additional 180-day period of continued treatment is filed and heard in the same manner as provided in this section. Successive 180-day commitments are permissible on the same grounds and pursuant to the same procedures as the original 180-day commitment.

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

(8) No person committed under this section may be detained unless a valid order of commitment is in effect. No order of commitment under this section may exceed 180 days in length except as provided in subsection (7) of this section.

(9) Nothing in this section precludes the court from subsequently modifying the terms of an order for less restrictive alternative treatment under RCW 71.05.590(3). [2022 c 210 s 18; (2022 c 210 s 17 expired July 1, 2026). Prior: 2021 c 264 s 11; (2021 c 264 s 10 expired July 1, 2026); 2021 c 263 s 3; (2021 c 263 s 2 expired July 1, 2026); 2020 c 302 s 46; (2020 c 302 s 45 expired July 1, 2026); 2018 c 201 s 3013; (2018 c 201 s 3012 expired July 1, 2026); 2016 sp.s. c 29 s 238; 2016 sp.s. c 29 s 237; 2016 c 45 s 4; 2015 c 250 s 11; 2013 c 289 s 5; 2009 c 323 s 2; 2008 c 213 s 9; 2006 c 333 s 304; 1999 c 13 s 7; 1997 c 112 s 26; 1989 c 420 s 15; 1986 c 67 s 5; 1979 ex.s. c 215 s 15; 1975 1st ex.s. c 199 s 9; 1974 ex.s. c 145 s 23; 1973 1st ex.s. c 142 s 37.]

Effective date—2022 c 210 ss 6, 13, 18, and 24: See note following RCW 71.05.150.

Expiration date—2022 c 210 ss 5, 12, 17, and 23: See note following RCW 71.05.150.

Effective date—2021 c 264 ss 2, 4, 7, 9, 11, 15, 32, and 34: See note following RCW 71.05.150.

Expiration date—2021 c 264 ss 1, 3, 6, 8, 10, 14, 31, and 33: See note following RCW 71.05.150.

Effective date—2021 c 263 s 3: "Section 3 of this act takes effect July 1, 2026." [2021 c 263 s 23.]

Expiration date—2021 c 263 s 2: "Section 2 of this act expires July 1, 2026." [2021 c 263 s 22.]

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

Effective date—2020 c 302 ss 14, 17, 27, 40, 46, 56, 79, 84, 87, 93, 95, and 98: See note following RCW 71.05.150.

Expiration date—2020 c 302 ss 13, 16, 26, 39, 45, 55, 78, 83, 86, 92, 94, and 97: See note following RCW 71.05.150.

Effective date—2018 c 201 ss 3010, 3013, 3027, 5018, and 5021: See note following RCW 71.05.240.

Expiration date—2018 c 201 ss 3009, 3012, 3026, 5017, and 5020: See note following RCW 71.05.240.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

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.

Findings—2013 c 289: See note following RCW 10.77.645.

Findings—Intent—2015 c 250; 2009 c 323: "(1) The legislature finds that many persons who are released from involuntary mental health treatment in an inpatient setting would benefit from an order for less restrictive treatment in order to provide the structure and support necessary to facilitate long-term stability and success in the community.

(2) The legislature intends to make it easier to renew orders for less restrictive treatment following a period of inpatient commitment in cases in which a person has been involuntarily committed more than once and is likely to benefit from a renewed order for less restrictive treatment.

(3) The legislature finds that public safety is enhanced when a designated mental health professional is able to file a petition to revoke an order for less restrictive treatment under RCW 71.05.590 before a person who is the subject of the petition becomes ill enough to present a likelihood of serious harm." [2015 c 250 s 21; 2009 c 323 s 1.]

Finding—Purpose—Intent—Severability—Part headings not law—Effective dates—2006 c 333: See notes following RCW 71.24.016.

Purpose—Construction—1999 c 13: See note following RCW 10.77.010.