

SHB 1713 - H AMD 217

By Representative Cody

ADOPTED AS AMENDED 3/9/2015

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 2001 c 13 s 1 are each amended to
6 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) "Alcoholic" means a person who suffers from the disease of
11 alcoholism.

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

18 (3) "Approved treatment program" means a discrete program of
19 chemical dependency treatment provided by a treatment program
20 certified by the department of social and health services as meeting
21 standards adopted under this chapter.

22 (4) "Chemical dependency" means:

23 (a) Alcoholism; (b) drug addiction; or (c) dependence on alcohol
24 and one or more other psychoactive chemicals, as the context
25 requires.

26 (5) "Chemical dependency program" means expenditures and
27 activities of the department designed and conducted to prevent or
28 treat alcoholism and other drug addiction, including reasonable
29 administration and overhead.

30 (6) "Department" means the department of social and health
31 services.

1 (7) "Designated chemical dependency specialist" or "specialist"
2 means a person designated by the county alcoholism and other drug
3 addiction program coordinator designated under RCW 70.96A.310 to
4 perform the commitment duties described in RCW 70.96A.140 and
5 qualified to do so by meeting standards adopted by the department.

6 (8) "Director" means the person administering the chemical
7 dependency program within the department.

8 (9) "Drug addict" means a person who suffers from the disease of
9 drug addiction.

10 (10) "Drug addiction" means a disease characterized by a
11 dependency on psychoactive chemicals, loss of control over the amount
12 and 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 (11) "Emergency service patrol" means a patrol established under
17 RCW 70.96A.170.

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

27 (13) "History of one or more violent acts" refers to the period
28 of time ten years prior to the filing of a petition under this
29 chapter, excluding any time spent, but not any violent acts
30 committed, in a mental health facility, or a long-term alcoholism or
31 drug treatment facility, or in confinement.

32 (14) "Incapacitated by alcohol or other psychoactive chemicals"
33 means that a person, as a result of the use of alcohol or other
34 psychoactive chemicals, is gravely disabled or presents a likelihood
35 of serious harm to himself or herself, to any other person, or to
36 property.

37 (15) "Incompetent person" means a person who has been adjudged
38 incompetent by the superior court.

1 (16) "Intoxicated person" means a person whose mental or physical
2 functioning is substantially impaired as a result of the use of
3 alcohol or other psychoactive chemicals.

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

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

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

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

19 (19) "Medical necessity" for inpatient care of a minor means a
20 requested certified inpatient service that is reasonably calculated
21 to: (a) Diagnose, arrest, or alleviate a chemical dependency; or (b)
22 prevent the worsening of chemical dependency conditions that endanger
23 life or cause suffering and pain, or result in illness or infirmity
24 or threaten to cause or aggravate a handicap, or cause physical
25 deformity or malfunction, and there is no adequate less restrictive
26 alternative available.

27 (20) "Minor" means a person less than eighteen years of age.

28 (21) "Parent" means the parent or parents who have the legal
29 right to custody of the child. Parent includes custodian or guardian.

30 (22) "Peace officer" means a law enforcement official of a public
31 agency or governmental unit, and includes persons specifically given
32 peace officer powers by any state law, local ordinance, or judicial
33 order of appointment.

34 (23) "Person" means an individual, including a minor.

35 (24) "Professional person in charge" or "professional person"
36 means a physician or chemical dependency counselor as defined in rule
37 by the department, who is empowered by a certified treatment program
38 with authority to make assessment, admission, continuing care, and
39 discharge decisions on behalf of the certified program.

1 (25) "Secretary" means the secretary of the department of social
2 and health services.

3 (26) "Treatment" means the broad range of emergency,
4 detoxification, residential, and outpatient services and care,
5 including diagnostic evaluation, chemical dependency education and
6 counseling, medical, psychiatric, psychological, and social service
7 care, vocational rehabilitation and career counseling, which may be
8 extended to alcoholics and other drug addicts and their families,
9 persons incapacitated by alcohol or other psychoactive chemicals, and
10 intoxicated persons.

11 (27) "Treatment program" means an organization, institution, or
12 corporation, public or private, engaged in the care, treatment, or
13 rehabilitation of alcoholics or other drug addicts.

14 (28) "Violent act" means behavior that resulted in homicide,
15 attempted suicide, nonfatal injuries, or substantial damage to
16 property.

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

20 (30) "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
24 pursuant to the provisions of chapter 71.05 RCW.

25 (31) "Physician assistant" means a person who is licensed as a
26 physician assistant pursuant to chapter 18.57A or 18.71A RCW and is
27 working with a licensed mental health physician as indicated by their
28 delegation agreement.

29 (32) "Psychiatric advanced registered nurse practitioner" means a
30 person who is licensed as an advanced registered nurse practitioner
31 pursuant to chapter 18.79 RCW; and who is board certified in advanced
32 practice psychiatric and mental health nursing.

33 **Sec. 102.** RCW 70.96A.020 and 2014 c 225 s 20 are each reenacted
34 and amended to read as follows:

35 For the purposes of this chapter the following words and phrases
36 shall have the following meanings unless the context clearly requires
37 otherwise:

38 (1) "Alcoholism" means a disease, characterized by a dependency
39 on alcoholic beverages, loss of control over the amount and

1 circumstances of use, symptoms of tolerance, physiological or
2 psychological withdrawal, or both, if use is reduced or discontinued,
3 and impairment of health or disruption of social or economic
4 functioning.

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

9 (3) "Behavioral health organization" means a county authority or
10 group of county authorities or other entity recognized by the
11 secretary in contract in a defined regional service area.

12 (4) "Behavioral health services" means mental health services as
13 described in chapters 71.24 and 71.36 RCW and chemical dependency
14 treatment services as described in this chapter.

15 (5) "Chemical dependency" means: (a) Alcoholism; (b) drug
16 addiction; or (c) dependence on alcohol and one or more other
17 psychoactive chemicals, as the context requires.

18 (6) "Chemical dependency program" means expenditures and
19 activities of the department designed and conducted to prevent or
20 treat alcoholism and other drug addiction, including reasonable
21 administration and overhead.

22 (7) "Department" means the department of social and health
23 services.

24 (8) "Designated chemical dependency specialist" or "specialist"
25 means a person designated by the behavioral health organization or by
26 the county alcoholism and other drug addiction program coordinator
27 designated under RCW 70.96A.310 to perform the commitment duties
28 described in RCW 70.96A.140 and qualified to do so by meeting
29 standards adopted by the department.

30 (9) "Director" means the person administering the substance use
31 disorder program within the department.

32 (10) "Drug addiction" means a disease characterized by a
33 dependency on psychoactive chemicals, loss of control over the amount
34 and circumstances of use, symptoms of tolerance, physiological or
35 psychological withdrawal, or both, if use is reduced or discontinued,
36 and impairment of health or disruption of social or economic
37 functioning.

38 (11) "Emergency service patrol" means a patrol established under
39 RCW 70.96A.170.

1 (12) "Gravely disabled by alcohol or other psychoactive
2 chemicals" or "gravely disabled" means that a person, as a result of
3 the use of alcohol or other psychoactive chemicals: (a) Is in danger
4 of serious physical harm resulting from a failure to provide for his
5 or her essential human needs of health or safety; or (b) manifests
6 severe deterioration in routine functioning evidenced by a repeated
7 and escalating loss of cognition or volitional control over his or
8 her actions and is not receiving care as essential for his or her
9 health or safety.

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

15 (14) "Incapacitated by alcohol or other psychoactive chemicals"
16 means that a person, as a result of the use of alcohol or other
17 psychoactive chemicals, is gravely disabled or presents a likelihood
18 of serious harm to himself or herself, to any other person, or to
19 property.

20 (15) "Incompetent person" means a person who has been adjudged
21 incompetent by the superior court.

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

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

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

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

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

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

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

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

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

16 (23) "Person" means an individual, including a minor.

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

22 (25) "Secretary" means the secretary of the department of social
23 and health services.

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

30 (27) "Treatment" means the broad range of emergency, withdrawal
31 management, residential, and outpatient services and care, including
32 diagnostic evaluation, chemical dependency education and counseling,
33 medical, psychiatric, psychological, and social service care,
34 vocational rehabilitation and career counseling, which may be
35 extended to persons with substance use disorders and their families,
36 persons incapacitated by alcohol or other psychoactive chemicals, and
37 intoxicated persons.

38 (28) "Treatment program" means an organization, institution, or
39 corporation, public or private, engaged in the care, treatment, or

1 rehabilitation of persons with substance use ((disorder[s+]))
2 disorders.

3 (29) "Violent act" means behavior that resulted in homicide,
4 attempted suicide, nonfatal injuries, or substantial damage to
5 property.

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

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 chapter 71.05 RCW.

14 (32) "Physician assistant" means a person who is licensed as a
15 physician assistant pursuant to chapter 18.57A or 18.71A RCW and is
16 working with a licensed mental health physician as indicated by their
17 delegation agreement.

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

22 **Sec. 103.** RCW 70.96A.140 and 2001 c 13 s 3 are each amended to
23 read as follows:

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

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

38 If the designated chemical dependency specialist finds that the
39 initial needs of such person would be better served by placement

1 within the mental health system, the person shall be referred to
2 either a ((county)) designated mental health professional or an
3 evaluation and treatment facility as defined in RCW 71.05.020 or
4 71.34.020.

5 (b) If placement in a chemical dependency program is available
6 and deemed appropriate, the petition shall allege that: The person is
7 chemically dependent and presents a likelihood of serious harm or is
8 gravely disabled by alcohol or drug addiction, or that the person has
9 twice before in the preceding twelve months been admitted for
10 detoxification, sobering services, or chemical dependency treatment
11 pursuant to RCW 70.96A.110 or 70.96A.120, and is in need of a more
12 sustained treatment program, or that the person is chemically
13 dependent and has threatened, attempted, or inflicted physical harm
14 on another and is likely to inflict physical harm on another unless
15 committed. A refusal to undergo treatment, by itself, does not
16 constitute evidence of lack of judgment as to the need for treatment.
17 ~~((The petition shall be accompanied by a certificate of a licensed
18 physician who has examined the person within five days before
19 submission of the petition, unless the person whose commitment is
20 sought has refused to submit to a medical examination, in which case
21 the fact of refusal shall be alleged in the petition. The certificate
22 shall set forth the licensed physician's findings in support of the
23 allegations of the petition. A physician employed by the petitioning
24 program or the department is eligible to be the certifying
25 physician.))~~

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

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

37 (A) Two licensed physicians;

38 (B) One licensed physician and a mental health professional;

39 (C) Two psychiatric advanced registered nurse practitioners;

40 (D) Two physician assistants;

1 (E) One mental health professional and either a psychiatric
2 advanced registered nurse practitioner or a physician assistant; or

3 (F) One licensed physician and either a psychiatric advanced
4 registered nurse practitioner or physician assistant.

5 (ii) The persons signing the petition must have examined the
6 person.

7 (2) Upon filing the petition, the court shall fix a date for a
8 hearing no less than two and no more than seven days after the date
9 the petition was filed unless the person petitioned against is
10 presently being detained in a program, pursuant to RCW 70.96A.120,
11 71.05.210, or ((71.34.050)) 71.34.710, in which case the hearing
12 shall be held within seventy-two hours of the filing of the petition:
13 PROVIDED, HOWEVER, That the above specified seventy-two hours shall
14 be computed by excluding Saturdays, Sundays, and holidays: PROVIDED
15 FURTHER, That, the court may, upon motion of the person whose
16 commitment is sought, or upon motion of petitioner with written
17 permission of the person whose commitment is sought, or his or her
18 counsel and, upon good cause shown, extend the date for the hearing.
19 A copy of the petition and of the notice of the hearing, including
20 the date fixed by the court, shall be served by the designated
21 chemical dependency specialist on the person whose commitment is
22 sought, his or her next of kin, a parent or his or her legal guardian
23 if he or she is a minor, and any other person the court believes
24 advisable. A copy of the petition and certificate shall be delivered
25 to each person notified.

26 (3) At the hearing the court shall hear all relevant
27 testimony((τ)) including, if possible, the testimony, which may be
28 telephonic, of at least one licensed physician, psychiatric advanced
29 registered nurse practitioner, physician assistant, or mental health
30 professional who has examined the person whose commitment is sought.
31 Communications otherwise deemed privileged under the laws of this
32 state are deemed to be waived in proceedings under this chapter when
33 a court of competent jurisdiction in its discretion determines that
34 the waiver is necessary to protect either the detained person or the
35 public. The waiver of a privilege under this section is limited to
36 records or testimony relevant to evaluation of the detained person
37 for purposes of a proceeding under this chapter. Upon motion by the
38 detained person, or on its own motion, the court shall examine a
39 record or testimony sought by a petitioner to determine whether it is
40 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, psychiatric advanced registered nurse practitioner,
14 physician assistant, or mental health professional, he or she shall
15 be given an opportunity to be examined by a court appointed licensed
16 physician, psychiatric advanced registered nurse practitioner,
17 physician assistant, or other professional person qualified to
18 provide such services. If he or she refuses and there is sufficient
19 evidence to believe that the allegations of the petition are true, or
20 if the court believes that more medical evidence is necessary, the
21 court may make a temporary order committing him or her to the
22 department for a period of not more than five days for purposes of a
23 diagnostic examination.

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

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

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

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

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

35 If a person has been committed because he or she is chemically
36 dependent and likely to inflict physical harm on another, the program
37 or designated chemical dependency specialist shall apply for
38 recommitment if after examination it is determined that the
39 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 treatment program shall provide for adequate and
18 appropriate treatment of a person committed to its custody on an
19 inpatient or outpatient basis. A person committed under this section
20 may be transferred from one approved public treatment program to
21 another if transfer is medically advisable.

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

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

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

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

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

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

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

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

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

24 **Sec. 104.** RCW 70.96A.145 and 1993 c 137 s 1 are each amended to
25 read as follows:

26 The prosecuting attorney of the county in which such action is
27 taken (~~(may, at the discretion of the prosecuting attorney,)~~) shall
28 represent the designated chemical dependency specialist or treatment
29 program in judicial proceedings under RCW 70.96A.140 for the
30 involuntary commitment or recommitment of an individual, including
31 any judicial proceeding where the individual sought to be committed
32 or recommitted challenges the action.

33 **PART II**
34 **INTEGRATED SYSTEM**

35 NEW SECTION. **Sec. 201.** A new section is added to chapter 71.05
36 RCW to read as follows:

1 (1) By April 1, 2017, the department, by rule, must combine the
2 functions of a designated mental health professional and designated
3 chemical dependency specialist by establishing a designated crisis
4 responder who is authorized to conduct investigations, detain persons
5 up to seventy-two hours to the proper facility, and carry out the
6 other functions identified in this chapter and chapter 71.34 RCW. The
7 behavioral health organizations shall provide training to the
8 designated crisis responders as required by the department.

9 (2)(a) To qualify as a designated crisis responder, a person must
10 have received chemical dependency training as determined by the
11 department and be a:

12 (i) Psychiatrist, psychologist, psychiatric advanced registered
13 nurse practitioner, or social worker;

14 (ii) Person with a master's degree or further advanced degree in
15 counseling or one of the social sciences from an accredited college
16 or university and who have, in addition, at least two years of
17 experience in direct treatment of persons with mental illness or
18 emotional disturbance, such experience gained under the direction of
19 a mental health professional;

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

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

25 (v) Person who has been granted an exception of the minimum
26 requirements of a mental health professional by the department
27 consistent with rules adopted by the secretary.

28 (b) Training must include chemical dependency training specific
29 to the duties of a designated crisis responder, including diagnosis
30 of substance abuse and dependence and assessment of risk associated
31 with substance use.

32 (3) The department must develop a transition process for any
33 person who has been designated as a designated mental health
34 professional or a designated chemical dependency specialist before
35 April 1, 2017, to be converted to a designated crisis responder. The
36 behavioral health organizations shall provide training, as required
37 by the department, to persons converting to designated crisis
38 responders, which must include both mental health and chemical
39 dependency training applicable to the designated crisis responder
40 role.

1 NEW SECTION. **Sec. 202.** A new section is added to chapter 71.05
2 RCW to read as follows:

3 (1) The Washington state institute for public policy shall
4 evaluate the effect of the integration of the involuntary treatment
5 systems for substance use disorders and mental health and make
6 preliminary reports to appropriate committees of the legislature by
7 December 1, 2019, and June 30, 2020, and a final report by June 30,
8 2022.

9 (2) The evaluation must include an assessment of whether the
10 integrated system:

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

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

15 (c) Results in better outcomes for persons involuntarily
16 detained;

17 (d) Increases the effectiveness of the crisis response system
18 statewide;

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

20 (f) Has been sufficiently resourced with enough involuntary
21 treatment beds, less restrictive alternative treatment options, and
22 state funds to provide timely and appropriate treatment for all
23 individuals interacting with the integrated involuntary treatment
24 system; and

25 (g) Has diverted from the mental health involuntary treatment
26 system a significant number of individuals whose risk results from
27 substance abuse, including an estimate of the net savings from
28 serving these clients into the appropriate substance abuse treatment
29 system.

30 (3) This section expires August 1, 2022.

31 **Sec. 203.** RCW 71.05.020 and 2014 c 225 s 79 are each reenacted
32 and amended to read as follows:

33 The definitions in this section apply throughout this chapter
34 unless the context clearly requires otherwise.

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

38 (2) "Antipsychotic medications" means that class of drugs
39 primarily used to treat serious manifestations of mental illness

1 associated with thought disorders, which includes, but is not limited
2 to atypical antipsychotic medications;

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

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

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

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

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

22 (8) "Department" means the department of social and health
23 services;

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

28 (+10)) "Designated crisis responder" means a mental health
29 professional appointed by ((~~the county or~~)) the behavioral health
30 organization to perform the duties specified in this chapter;

31 ((~~11~~)) "~~Designated mental health professional" means a mental~~
32 ~~health professional designated by the county or other authority~~
33 ~~authorized in rule to perform the duties specified in this chapter;~~

34 (+12)) (10) "Detention" or "detain" means the lawful confinement
35 of a person, under the provisions of this chapter;

36 ((+13)) (11) "Developmental disabilities professional" means a
37 person who has specialized training and three years of experience in
38 directly treating or working with persons with developmental
39 disabilities and is a psychiatrist, psychologist, psychiatric
40 advanced registered nurse practitioner, or social worker, and such

1 other developmental disabilities professionals as may be defined by
2 rules adopted by the secretary;

3 ~~((14))~~ (12) "Developmental disability" means that condition
4 defined in RCW 71A.10.020~~((4))~~ (5);

5 ~~((15))~~ (13) "Discharge" means the termination of hospital
6 medical authority. The commitment may remain in place, be terminated,
7 or be amended by court order;

8 ~~((16))~~ (14) "Evaluation and treatment facility" means any
9 facility which can provide directly, or by direct arrangement with
10 other public or private agencies, emergency evaluation and treatment,
11 outpatient care, and timely and appropriate inpatient care to persons
12 suffering from a mental disorder, and which is certified as such by
13 the department. A physically separate and separately operated portion
14 of a state hospital may be designated as an evaluation and treatment
15 facility. A facility which is part of, or operated by, the department
16 or any federal agency will not require certification. No correctional
17 institution or facility, or jail, shall be an evaluation and
18 treatment facility within the meaning of this chapter;

19 ~~((17))~~ (15) "Gravely disabled" means a condition in which a
20 person, as a result of a mental disorder, or as a result of the use
21 of alcohol or other psychoactive chemicals: (a) Is in danger of
22 serious physical harm resulting from a failure to provide for his or
23 her essential human needs of health or safety; or (b) manifests
24 severe deterioration in routine functioning evidenced by repeated and
25 escalating loss of cognitive or volitional control over his or her
26 actions and is not receiving such care as is essential for his or her
27 health or safety;

28 ~~((18))~~ (16) "Habilitative services" means those services
29 provided by program personnel to assist persons in acquiring and
30 maintaining life skills and in raising their levels of physical,
31 mental, social, and vocational functioning. Habilitative services
32 include education, training for employment, and therapy. The
33 habilitative process shall be undertaken with recognition of the risk
34 to the public safety presented by the person being assisted as
35 manifested by prior charged criminal conduct;

36 ~~((19))~~ (17) "History of one or more violent acts" refers to the
37 period of time ten years prior to the filing of a petition under this
38 chapter, excluding any time spent, but not any violent acts
39 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+))~~ (18) "Imminent" means the state or condition of being
4 likely to occur at any moment or near at hand, rather than distant or
5 remote;

6 ~~((+21+))~~ (19) "Individualized service plan" means a plan prepared
7 by a developmental disabilities professional with other professionals
8 as a team, for a person with developmental disabilities, which shall
9 state:

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

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

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

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

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

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

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

26 ~~((+22+))~~ (20) "Information related to mental health services"
27 means all information and records compiled, obtained, or maintained
28 in the course of providing services to either voluntary or
29 involuntary recipients of services by a mental health service
30 provider. This may include documents of legal proceedings under this
31 chapter or chapter 71.34 or 10.77 RCW, or somatic health care
32 information;

33 ~~((+23+))~~ (21) "Judicial commitment" means a commitment by a court
34 pursuant to the provisions of this chapter;

35 ~~((+24+))~~ (22) "Legal counsel" means attorneys and staff employed
36 by county prosecutor offices or the state attorney general acting in
37 their capacity as legal representatives of public mental health and
38 substance use disorder service providers under RCW 71.05.130;

39 ~~((+25+))~~ (23) "Likelihood of serious harm" means:

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

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

12 ~~((+26+))~~ (24) "Mental disorder" means any organic, mental, or
13 emotional impairment which has substantial adverse effects on a
14 person's cognitive or volitional functions;

15 ~~((+27+))~~ (25) "Mental health professional" means a psychiatrist,
16 psychologist, psychiatric advanced registered nurse practitioner,
17 psychiatric nurse, or social worker, and such other mental health
18 professionals as may be defined by rules adopted by the secretary
19 pursuant to the provisions of this chapter;

20 ~~((+28+))~~ (26) "Mental health service provider" means a public or
21 private agency that provides mental health services to persons with
22 mental disorders or substance use disorders as defined under this
23 section and receives funding from public sources. This includes, but
24 is not limited to, hospitals licensed under chapter 70.41 RCW,
25 evaluation and treatment facilities as defined in this section,
26 community mental health service delivery systems or community mental
27 health programs as defined in RCW 71.24.025, facilities conducting
28 competency evaluations and restoration under chapter 10.77 RCW,
29 approved substance use disorder treatment programs as defined in this
30 section, secure detoxification facilities as defined in this section,
31 and correctional facilities operated by state and local governments;

32 ~~((+29+))~~ (27) "Peace officer" means a law enforcement official of
33 a public agency or governmental unit, and includes persons
34 specifically given peace officer powers by any state law, local
35 ordinance, or judicial order of appointment;

36 ~~((+30+))~~ (28) "Private agency" means any person, partnership,
37 corporation, or association that is not a public agency, whether or
38 not financed in whole or in part by public funds, which constitutes
39 an evaluation and treatment facility or private institution, or
40 hospital, or approved substance use disorder treatment program, which

1 is conducted for, or includes a department or ward conducted for, the
2 care and treatment of persons (~~(who are mentally ill)~~) with mental
3 illness, substance use disorders, or both mental illness and
4 substance use disorders;

5 ~~((+31+))~~ (29) "Professional person" means a mental health
6 professional or designated crisis responder and shall also mean a
7 physician, psychiatric advanced registered nurse practitioner,
8 registered nurse, and such others as may be defined by rules adopted
9 by the secretary pursuant to the provisions of this chapter;

10 ~~((+32+))~~ (30) "Psychiatric advanced registered nurse
11 practitioner" means a person who is licensed as an advanced
12 registered nurse practitioner pursuant to chapter 18.79 RCW; and who
13 is board certified in advanced practice psychiatric and mental health
14 nursing;

15 ~~((+33+))~~ (31) "Psychiatrist" means a person having a license as a
16 physician and surgeon in this state who has in addition completed
17 three years of graduate training in psychiatry in a program approved
18 by the American medical association or the American osteopathic
19 association and is certified or eligible to be certified by the
20 American board of psychiatry and neurology;

21 ~~((+34+))~~ (32) "Psychologist" means a person who has been licensed
22 as a psychologist pursuant to chapter 18.83 RCW;

23 ~~((+35+))~~ (33) "Public agency" means any evaluation and treatment
24 facility or institution, secure detoxification facility, approved
25 substance use disorder treatment program, or hospital which is
26 conducted for, or includes a department or ward conducted for, the
27 care and treatment of persons with mental illness, substance use
28 disorders, or both mental illness and substance use disorders, if the
29 agency is operated directly by~~((7))~~ federal, state, county, or
30 municipal government, or a combination of such governments;

31 ~~((+36+))~~ (34) "Registration records" include all the records of
32 the department, behavioral health organizations, treatment
33 facilities, and other persons providing services to the department,
34 county departments, or facilities which identify persons who are
35 receiving or who at any time have received services for mental
36 illness or substance use disorders;

37 ~~((+37+))~~ (35) "Release" means legal termination of the commitment
38 under the provisions of this chapter;

39 ~~((+38+))~~ (36) "Resource management services" has the meaning
40 given in chapter 71.24 RCW;

1 ~~((39))~~ (37) "Secretary" means the secretary of the department
2 of social and health services, or his or her designee;

3 ~~((40))~~ (38) "Serious violent offense" has the same meaning as
4 provided in RCW 9.94A.030;

5 ~~((41))~~ (39) "Social worker" means a person with a master's or
6 further advanced degree from a social work educational program
7 accredited and approved as provided in RCW 18.320.010;

8 ~~((42))~~ (40) "Therapeutic court personnel" means the staff of a
9 mental health court or other therapeutic court which has jurisdiction
10 over defendants who are dually diagnosed with mental disorders,
11 including court personnel, probation officers, a court monitor,
12 prosecuting attorney, or defense counsel acting within the scope of
13 therapeutic court duties;

14 ~~((43))~~ (41) "Treatment records" include registration and all
15 other records concerning persons who are receiving or who at any time
16 have received services for mental illness, which are maintained by
17 the department, by behavioral health organizations and their staffs,
18 and by treatment facilities. Treatment records include mental health
19 information contained in a medical bill including but not limited to
20 mental health drugs, a mental health diagnosis, provider name, and
21 dates of service stemming from a medical service. Treatment records
22 do not include notes or records maintained for personal use by a
23 person providing treatment services for the department, behavioral
24 health organizations, or a treatment facility if the notes or records
25 are not available to others;

26 ~~((44))~~ (42) "Triage facility" means a short-term facility or a
27 portion of a facility licensed by the department of health and
28 certified by the department of social and health services under RCW
29 71.24.035, which is designed as a facility to assess and stabilize an
30 individual or determine the need for involuntary commitment of an
31 individual, and must meet department of health residential treatment
32 facility standards. A triage facility may be structured as a
33 voluntary or involuntary placement facility;

34 ~~((45))~~ (43) "Violent act" means behavior that resulted in
35 homicide, attempted suicide, nonfatal injuries, or substantial damage
36 to property;

37 (44) "Alcoholism" means a disease, characterized by a dependency
38 on alcoholic beverages, loss of control over the amount and
39 circumstances of use, symptoms of tolerance, physiological or
40 psychological withdrawal, or both, if use is reduced or discontinued,

1 and impairment of health or disruption of social or economic
2 functioning;

3 (45) "Approved substance use disorder treatment program" means a
4 program for persons with a substance use disorder provided by a
5 treatment program certified by the department as meeting standards
6 adopted under chapter 70.96A RCW;

7 (46) "Chemical dependency" means:

8 (a) Alcoholism;

9 (b) Drug addiction; or

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

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

15 (48) "Controlled substance" has the same meaning as under the
16 federal controlled substances act, 21 U.S.C. Sec. 802;

17 (49) "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 (50) "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 (51) "Licensed physician" means a person licensed to practice
27 medicine or osteopathic medicine and surgery in the state of
28 Washington;

29 (52) "Physician assistant" means a person who is licensed as a
30 physician assistant pursuant to chapter 18.57A or 18.71A RCW and is
31 working with a licensed mental health physician as indicated by their
32 delegation agreement;

33 (53) "Secure detoxification facility" means a facility operated
34 by either a public or private agency or by the program of an agency
35 that:

36 (a) Provides for intoxicated persons:

37 (i) Evaluation and assessment, provided by certified chemical
38 dependency professionals;

39 (ii) Acute or subacute detoxification services; and

1 (iii) Discharge assistance provided by certified chemical
2 dependency professionals, including facilitating transitions to
3 appropriate voluntary or involuntary inpatient services or to less
4 restrictive alternatives as appropriate for the individual;

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

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

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

14 **Sec. 204.** RCW 71.05.025 and 2014 c 225 s 80 are each amended to
15 read as follows:

16 The legislature intends that the procedures and services
17 authorized in this chapter be integrated with those in chapter 71.24
18 RCW to the maximum extent necessary to assure a continuum of care to
19 persons with mental illness or who have mental disorders or substance
20 use disorders, as defined in either or both this chapter and chapter
21 71.24 RCW. To this end, behavioral health organizations established
22 in accordance with chapter 71.24 RCW shall institute procedures which
23 require timely consultation with resource management services by
24 designated (~~mental health professionals and~~) crisis responders,
25 evaluation and treatment facilities, secure detoxification
26 facilities, and approved substance use disorder treatment programs to
27 assure that determinations to admit, detain, commit, treat,
28 discharge, or release persons with mental disorders or substance use
29 disorders under this chapter are made only after appropriate
30 information regarding such person's treatment history and current
31 treatment plan has been sought from resource management services.

32 **Sec. 205.** RCW 71.05.026 and 2014 c 225 s 81 are each amended to
33 read as follows:

34 (1) Except for monetary damage claims which have been reduced to
35 final judgment by a superior court, this section applies to all
36 claims against the state, state agencies, state officials, or state
37 employees that exist on or arise after March 29, 2006.

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

12 (3) This section applies to counties, behavioral health
13 organizations, and entities which contract to provide behavioral
14 health organization services and their subcontractors, agents, or
15 employees.

16 **Sec. 206.** RCW 71.05.050 and 2000 c 94 s 3 are each amended to
17 read as follows:

18 Nothing in this chapter shall be construed to limit the right of
19 any person to apply voluntarily to any public or private agency or
20 practitioner for treatment of a mental disorder or substance use
21 disorder, either by direct application or by referral. Any person
22 voluntarily admitted for inpatient treatment to any public or private
23 agency shall be released immediately upon his or her request. Any
24 person voluntarily admitted for inpatient treatment to any public or
25 private agency shall orally be advised of the right to immediate
26 discharge, and further advised of such rights in writing as are
27 secured to them pursuant to this chapter and their rights of access
28 to attorneys, courts, and other legal redress. Their condition and
29 status shall be reviewed at least once each one hundred eighty days
30 for evaluation as to the need for further treatment or possible
31 discharge, at which time they shall again be advised of their right
32 to discharge upon request: PROVIDED HOWEVER, That if the professional
33 staff of any public or private agency or hospital regards a person
34 voluntarily admitted who requests discharge as presenting, as a
35 result of a mental disorder or substance use disorder, an imminent
36 likelihood of serious harm, or is gravely disabled, they may detain
37 such person for sufficient time to notify the ((~~county~~)) designated
38 ((~~mental health professional~~)) crisis responder of such person's
39 condition to enable the ((~~county~~)) designated ((~~mental health~~

1 ~~professional~~) crisis responder to authorize such person being
2 further held in custody or transported to an evaluation and treatment
3 center, secure detoxification facility, or approved substance use
4 disorder treatment program pursuant to the provisions of this
5 chapter, which shall in ordinary circumstances be no later than the
6 next judicial day: PROVIDED FURTHER, That if a person is brought to
7 the emergency room of a public or private agency or hospital for
8 observation or treatment, the person refuses voluntary admission, and
9 the professional staff of the public or private agency or hospital
10 regard such person as presenting as a result of a mental disorder or
11 substance use disorder an imminent likelihood of serious harm, or as
12 presenting an imminent danger because of grave disability, they may
13 detain such person for sufficient time to notify the ((~~county~~))
14 designated ((~~mental health professional~~)) crisis responder of such
15 person's condition to enable the ((~~county~~)) designated ((~~mental~~
16 ~~health professional~~)) crisis responder to authorize such person being
17 further held in custody or transported to an evaluation treatment
18 center, secure detoxification facility, or approved substance use
19 disorder treatment program pursuant to the conditions in this
20 chapter, but which time shall be no more than six hours from the time
21 the professional staff determine that an evaluation by the ((~~county~~))
22 designated ((~~mental health professional~~)) crisis responder is
23 necessary.

24 **Sec. 207.** RCW 71.05.120 and 2000 c 94 s 4 are each amended to
25 read as follows:

26 (1) No officer of a public or private agency, nor the
27 superintendent, professional person in charge, his or her
28 professional designee, or attending staff of any such agency, nor any
29 public official performing functions necessary to the administration
30 of this chapter, nor peace officer responsible for detaining a person
31 pursuant to this chapter, nor any ((~~county~~)) designated ((~~mental~~
32 ~~health professional~~)) crisis responder, nor the state, a unit of
33 local government, ((~~or~~)) an evaluation and treatment facility, a
34 secure detoxification facility, or an approved substance use disorder
35 treatment program shall be civilly or criminally liable for
36 performing duties pursuant to this chapter with regard to the
37 decision of whether to admit, discharge, release, administer
38 antipsychotic medications, or detain a person for evaluation and

1 treatment: PROVIDED, That such duties were performed in good faith
2 and without gross negligence.

3 (2) This section does not relieve a person from giving the
4 required notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the
5 duty to warn or to take reasonable precautions to provide protection
6 from violent behavior where the patient has communicated an actual
7 threat of physical violence against a reasonably identifiable victim
8 or victims. The duty to warn or to take reasonable precautions to
9 provide protection from violent behavior is discharged if reasonable
10 efforts are made to communicate the threat to the victim or victims
11 and to law enforcement personnel.

12 **Sec. 208.** RCW 71.05.132 and 2004 c 166 s 12 are each amended to
13 read as follows:

14 When any court orders a person to receive treatment under this
15 chapter, the order shall include a statement that if the person is,
16 or becomes, subject to supervision by the department of corrections,
17 the person must notify the treatment provider and the person's mental
18 health treatment information and substance use disorder treatment
19 information must be shared with the department of corrections for the
20 duration of the offender's incarceration and supervision, under RCW
21 71.05.445. Upon a petition by a person who does not have a history of
22 one or more violent acts, the court may, for good cause, find that
23 public safety would not be enhanced by the sharing of this person's
24 information.

25 **Sec. 209.** RCW 71.05.150 and 2011 c 148 s 5 are each amended to
26 read as follows:

27 (1) When a designated (~~mental health professional~~) crisis
28 responder receives information alleging that a person, as a result of
29 a mental disorder, substance use disorder, or both: (i) Presents a
30 likelihood of serious harm; or (ii) is gravely disabled; the
31 designated (~~mental health professional~~) crisis responder may, after
32 investigation and evaluation of the specific facts alleged and of the
33 reliability and credibility of any person providing information to
34 initiate detention, if satisfied that the allegations are true and
35 that the person will not voluntarily seek appropriate treatment, file
36 a petition for initial detention. Before filing the petition, the
37 designated (~~mental health professional~~) crisis responder must
38 personally interview the person, unless the person refuses an

1 interview, and determine whether the person will voluntarily receive
2 appropriate evaluation and treatment at an evaluation and treatment
3 facility, crisis stabilization unit, (~~(or)~~) triage facility, or
4 approved substance use disorder treatment program.

5 (2)(a) An order to detain (~~(to)~~) a person with a mental disorder
6 to a designated evaluation and treatment facility, or to detain a
7 person with a substance use disorder to a secure detoxification
8 facility or approved substance use disorder treatment program, for
9 not more than a seventy-two-hour evaluation and treatment period may
10 be issued by a judge of the superior court upon request of a
11 designated (~~(mental health professional)~~) crisis responder, subject
12 to (d) of this subsection, whenever it appears to the satisfaction of
13 a judge of the superior court:

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

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

17 (b) The petition for initial detention, signed under penalty of
18 perjury, or sworn telephonic testimony may be considered by the court
19 in determining whether there are sufficient grounds for issuing the
20 order.

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

25 (d) A court may not issue an order to detain a person to a secure
26 detoxification facility or approved substance use disorder treatment
27 program unless there is available space at the facility or program.

28 (3) The designated (~~(mental health professional)~~) crisis
29 responder shall then serve or cause to be served on such person, his
30 or her guardian, and conservator, if any, a copy of the order
31 together with a notice of rights, and a petition for initial
32 detention. After service on such person the designated (~~(mental~~
33 ~~health professional)~~) crisis responder shall file the return of
34 service in court and provide copies of all papers in the court file
35 to the evaluation and treatment facility, secure detoxification
36 facility, or approved substance use disorder treatment program, and
37 the designated attorney. The designated (~~(mental health~~
38 ~~professional)~~) crisis responder shall notify the court and the
39 prosecuting attorney that a probable cause hearing will be held
40 within seventy-two hours of the date and time of outpatient

1 evaluation or admission to the evaluation and treatment facility,
2 secure detoxification facility, or approved substance use disorder
3 treatment program. The person shall be permitted to be accompanied by
4 one or more of his or her relatives, friends, an attorney, a personal
5 physician, or other professional or religious advisor to the place of
6 evaluation. An attorney accompanying the person to the place of
7 evaluation shall be permitted to be present during the admission
8 evaluation. Any other individual accompanying the person may be
9 present during the admission evaluation. The facility may exclude the
10 individual if his or her presence would present a safety risk, delay
11 the proceedings, or otherwise interfere with the evaluation.

12 (4) The designated (~~mental health professional~~) crisis
13 responder may notify a peace officer to take such person or cause
14 such person to be taken into custody and placed in an evaluation and
15 treatment facility, secure detoxification facility, or approved
16 substance use disorder treatment program. At the time such person is
17 taken into custody there shall commence to be served on such person,
18 his or her guardian, and conservator, if any, a copy of the original
19 order together with a notice of rights and a petition for initial
20 detention.

21 **Sec. 210.** RCW 71.05.150 and 2015 c ... s 209 (section 209 of
22 this act) are each amended to read as follows:

23 (1) When a designated crisis responder receives information
24 alleging that a person, as a result of a mental disorder, substance
25 use disorder, or both: (i) Presents a likelihood of serious harm; or
26 (ii) is gravely disabled; the designated crisis responder may, after
27 investigation and evaluation of the specific facts alleged and of the
28 reliability and credibility of any person providing information to
29 initiate detention, if satisfied that the allegations are true and
30 that the person will not voluntarily seek appropriate treatment, file
31 a petition for initial detention. Before filing the petition, the
32 designated crisis responder must personally interview the person,
33 unless the person refuses an interview, and determine whether the
34 person will voluntarily receive appropriate evaluation and treatment
35 at an evaluation and treatment facility, crisis stabilization unit,
36 triage facility, or approved substance use disorder treatment
37 program.

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

1 ~~person with a substance use disorder to a~~) secure detoxification
2 facility, or approved substance use disorder treatment program((~~7~~))
3 for not more than a seventy-two-hour evaluation and treatment period
4 may be issued by a judge of the superior court upon request of a
5 designated crisis responder(~~(, subject to (d) of this subsection~~)),
6 whenever it appears to the satisfaction of a judge of the superior
7 court:

8 (i) That there is probable cause to support the petition; and
9 (ii) That the person has refused or failed to accept appropriate
10 evaluation and treatment voluntarily.

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

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

19 ~~((d) A court may not issue an order to detain a person to a
20 secure detoxification facility or approved substance use disorder
21 treatment program unless there is available space at the facility or
22 program.))~~

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

1 evaluation. Any other individual accompanying the person may be
2 present during the admission evaluation. The facility may exclude the
3 individual if his or her presence would present a safety risk, delay
4 the proceedings, or otherwise interfere with the evaluation.

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

13 **Sec. 211.** RCW 71.05.153 and 2011 c 305 s 8 and 2011 c 148 s 2
14 are each reenacted and amended to read as follows:

15 (1) When a designated (~~mental health professional~~) crisis
16 responder receives information alleging that a person, as the result
17 of a mental disorder, presents an imminent likelihood of serious
18 harm, or is in imminent danger because of being gravely disabled,
19 after investigation and evaluation of the specific facts alleged and
20 of the reliability and credibility of the person or persons providing
21 the information if any, the designated (~~mental health professional~~)
22 crisis responder may take such person, or cause by oral or written
23 order such person to be taken into emergency custody in an evaluation
24 and treatment facility for not more than seventy-two hours as
25 described in RCW 71.05.180.

26 (2) When a designated crisis responder receives information
27 alleging that a person, as the result of substance use disorder,
28 presents an imminent likelihood of serious harm, or is in imminent
29 danger because of being gravely disabled, after investigation and
30 evaluation of the specific facts alleged and of the reliability and
31 credibility of the person or persons providing the information if
32 any, the designated crisis responder may take the person, or cause by
33 oral or written order the person to be taken, into emergency custody
34 in a secure detoxification facility or approved substance use
35 disorder treatment program, if space is available in the facility or
36 program, for not more than seventy-two hours as described in RCW
37 71.05.180.

38 (3)(a) Subject to (b) of this subsection, a peace officer may
39 take or cause such person to be taken into custody and immediately

1 delivered to a triage facility, crisis stabilization unit, evaluation
2 and treatment facility, secure detoxification facility, approved
3 substance use disorder treatment program, or the emergency department
4 of a local hospital under the following circumstances:

5 ((+a)) (i) Pursuant to subsection (1) or (2) of this section; or

6 ((+b)) (ii) When he or she has reasonable cause to believe that
7 such person is suffering from a mental disorder or substance use
8 disorder and presents an imminent likelihood of serious harm or is in
9 imminent danger because of being gravely disabled.

10 ((+3)) (b) A peace officer may not deliver a person to a secure
11 detoxification facility or approved substance use disorder treatment
12 program unless space is available at the facility or program.

13 (4) Persons delivered to a crisis stabilization unit, evaluation
14 and treatment facility, emergency department of a local hospital,
15 ((~~or~~)) triage facility that has elected to operate as an involuntary
16 facility, secure detoxification facility, or approved substance use
17 disorder treatment program by peace officers pursuant to subsection
18 ((+2)) (3) of this section may be held by the facility for a period
19 of up to twelve hours.

20 ((+4)) (5) Within three hours of arrival, the person must be
21 examined by a mental health professional. Within twelve hours of
22 arrival, the designated ((~~mental health professional~~)) crisis
23 responder must determine whether the individual meets detention
24 criteria. If the individual is detained, the designated ((~~mental~~
25 ~~health professional~~)) crisis responder shall file a petition for
26 detention or a supplemental petition as appropriate and commence
27 service on the designated attorney for the detained person. If the
28 individual is released to the community, the mental health service
29 provider shall inform the peace officer of the release within a
30 reasonable period of time after the release if the peace officer has
31 specifically requested notification and provided contact information
32 to the provider.

33 **Sec. 212.** RCW 71.05.153 and 2015 c ... s 211 (section 211 of
34 this act) are each amended to read as follows:

35 (1) When a designated crisis responder receives information
36 alleging that a person, as the result of a mental disorder, presents
37 an imminent likelihood of serious harm, or is in imminent danger
38 because of being gravely disabled, after investigation and evaluation
39 of the specific facts alleged and of the reliability and credibility

1 of the person or persons providing the information if any, the
2 designated crisis responder may take such person, or cause by oral or
3 written order such person to be taken into emergency custody in an
4 evaluation and treatment facility for not more than seventy-two hours
5 as described in RCW 71.05.180.

6 (2) When a designated crisis responder receives information
7 alleging that a person, as the result of substance use disorder,
8 presents an imminent likelihood of serious harm, or is in imminent
9 danger because of being gravely disabled, after investigation and
10 evaluation of the specific facts alleged and of the reliability and
11 credibility of the person or persons providing the information if
12 any, the designated crisis responder may take the person, or cause by
13 oral or written order the person to be taken, into emergency custody
14 in a secure detoxification facility or approved substance use
15 disorder treatment program(~~(, if space is available in the facility~~
16 ~~or program,)) for not more than seventy-two hours as described in RCW
17 71.05.180.~~

18 (3)(~~((a) Subject to (b) of this subsection,))~~ A peace officer may
19 take or cause such person to be taken into custody and immediately
20 delivered to a triage facility, crisis stabilization unit, evaluation
21 and treatment facility, secure detoxification facility, approved
22 substance use disorder treatment program, or the emergency department
23 of a local hospital under the following circumstances:

24 ~~((i))~~ (a) Pursuant to subsection (1) or (2) of this section; or
25 ~~((ii))~~ (b) When he or she has reasonable cause to believe that
26 such person is suffering from a mental disorder or substance use
27 disorder and presents an imminent likelihood of serious harm or is in
28 imminent danger because of being gravely disabled.

29 ~~((b) A peace officer may not deliver a person to a secure~~
30 ~~detoxification facility or approved substance use disorder treatment~~
31 ~~program unless space is available at the facility or program.))~~

32 (4) Persons delivered to a crisis stabilization unit, evaluation
33 and treatment facility, emergency department of a local hospital,
34 triage facility that has elected to operate as an involuntary
35 facility, secure detoxification facility, or approved substance use
36 disorder treatment program by peace officers pursuant to subsection
37 (3) of this section may be held by the facility for a period of up to
38 twelve hours.

39 (5) Within three hours of arrival, the person must be examined by
40 a mental health professional. Within twelve hours of arrival, the

1 designated crisis responder must determine whether the individual
2 meets detention criteria. If the individual is detained, the
3 designated crisis responder shall file a petition for detention or a
4 supplemental petition as appropriate and commence service on the
5 designated attorney for the detained person. If the individual is
6 released to the community, the mental health service provider shall
7 inform the peace officer of the release within a reasonable period of
8 time after the release if the peace officer has specifically
9 requested notification and provided contact information to the
10 provider.

11 **Sec. 213.** RCW 71.05.154 and 2013 c 334 s 1 are each amended to
12 read as follows:

13 A designated (~~mental health professional~~) crisis responder
14 conducting an evaluation of a person under RCW 71.05.150 or 71.05.153
15 must consult with any examining emergency room physician regarding
16 the physician's observations and opinions relating to the person's
17 condition, and whether, in the view of the physician, detention is
18 appropriate. The designated (~~mental health professional~~) crisis
19 responder shall take serious consideration of observations and
20 opinions by examining emergency room physicians in determining
21 whether detention under this chapter is appropriate. The designated
22 (~~mental health professional~~) crisis responder must document the
23 consultation with an examining emergency room physician, including
24 the physician's observations or opinions regarding whether detention
25 of the person is appropriate.

26 **Sec. 214.** RCW 71.05.156 and 2013 c 334 s 2 are each amended to
27 read as follows:

28 A designated (~~mental health professional~~) crisis responder who
29 conducts an evaluation for imminent likelihood of serious harm or
30 imminent danger because of being gravely disabled under RCW 71.05.153
31 must also evaluate the person under RCW 71.05.150 for likelihood of
32 serious harm or grave disability that does not meet the imminent
33 standard for emergency detention.

34 **Sec. 215.** RCW 71.05.157 and 2007 c 375 s 9 are each amended to
35 read as follows:

36 (1) When a designated (~~mental health professional~~) crisis
37 responder is notified by a jail that a defendant or offender who was

1 subject to a discharge review under RCW 71.05.232 is to be released
2 to the community, the designated (~~mental health professional~~)
3 crisis responder shall evaluate the person within seventy-two hours
4 of release.

5 (2) When an offender is under court-ordered treatment in the
6 community and the supervision of the department of corrections, and
7 the treatment provider becomes aware that the person is in violation
8 of the terms of the court order, the treatment provider shall notify
9 the designated (~~mental health professional~~) crisis responder and
10 the department of corrections of the violation and request an
11 evaluation for purposes of revocation of the less restrictive
12 alternative.

13 (3) When a designated (~~mental health professional~~) crisis
14 responder becomes aware that an offender who is under court-ordered
15 treatment in the community and the supervision of the department of
16 corrections is in violation of a treatment order or a condition of
17 supervision that relates to public safety, or the designated (~~mental~~
18 ~~health professional~~) crisis responder detains a person under this
19 chapter, the designated (~~mental health professional~~) crisis
20 responder shall notify the person's treatment provider and the
21 department of corrections.

22 (4) When an offender who is confined in a state correctional
23 facility or is under supervision of the department of corrections in
24 the community is subject to a petition for involuntary treatment
25 under this chapter, the petitioner shall notify the department of
26 corrections and the department of corrections shall provide
27 documentation of its risk assessment or other concerns to the
28 petitioner and the court if the department of corrections classified
29 the offender as a high risk or high needs offender.

30 (5) Nothing in this section creates a duty on any treatment
31 provider or designated (~~mental health professional~~) crisis
32 responder to provide offender supervision.

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

37 **Sec. 216.** RCW 71.05.160 and 2007 c 375 s 13 are each amended to
38 read as follows:

1 Any facility receiving a person pursuant to RCW 71.05.150 or
2 71.05.153 shall require the designated (~~mental health professional~~)
3 crisis responder to prepare a petition for initial detention stating
4 the circumstances under which the person's condition was made known
5 and stating that there is evidence, as a result of his or her
6 personal observation or investigation, that the actions of the person
7 for which application is made constitute a likelihood of serious
8 harm, or that he or she is gravely disabled, and stating the specific
9 facts known to him or her as a result of his or her personal
10 observation or investigation, upon which he or she bases the belief
11 that such person should be detained for the purposes and under the
12 authority of this chapter.

13 If a person is involuntarily placed in an evaluation and
14 treatment facility, secure detoxification facility, or approved
15 substance use disorder treatment program pursuant to RCW 71.05.150 or
16 71.05.153, on the next judicial day following the initial detention,
17 the designated (~~mental health professional~~) crisis responder shall
18 file with the court and serve the designated attorney of the detained
19 person the petition or supplemental petition for initial detention,
20 proof of service of notice, and a copy of a notice of emergency
21 detention.

22 **Sec. 217.** RCW 71.05.170 and 2000 c 94 s 5 are each amended to
23 read as follows:

24 Whenever the (~~county~~) designated (~~mental health professional~~)
25 crisis responder petitions for detention of a person whose actions
26 constitute a likelihood of serious harm, or who is gravely disabled,
27 the facility providing seventy-two hour evaluation and treatment must
28 immediately accept on a provisional basis the petition and the
29 person. The facility shall then evaluate the person's condition and
30 admit, detain, transfer, or discharge such person in accordance with
31 RCW 71.05.210. The facility shall notify in writing the court and the
32 (~~county~~) designated (~~mental health professional~~) crisis responder
33 of the date and time of the initial detention of each person
34 involuntarily detained in order that a probable cause hearing shall
35 be held no later than seventy-two hours after detention.

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

1 **Sec. 218.** RCW 71.05.180 and 1997 c 112 s 12 are each amended to
2 read as follows:

3 If the evaluation and treatment facility, secure detoxification
4 facility, or approved substance use disorder treatment program admits
5 the person, it may detain him or her for evaluation and treatment for
6 a period not to exceed seventy-two hours from the time of acceptance
7 as set forth in RCW 71.05.170. The computation of such seventy-two
8 hour period shall exclude Saturdays, Sundays and holidays.

9 **Sec. 219.** RCW 71.05.190 and 2011 c 305 s 3 are each amended to
10 read as follows:

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

24 **Sec. 220.** RCW 71.05.195 and 2010 c 208 s 1 are each amended to
25 read as follows:

26 (1) A civil commitment may be initiated under the procedures
27 described in RCW 71.05.150 or 71.05.153 for a person who has been
28 found not guilty by reason of insanity in a state other than
29 Washington and who has fled from detention, commitment, or
30 conditional release in that state, on the basis of a request by the
31 state in which the person was found not guilty by reason of insanity
32 for the person to be detained and transferred back to the custody or
33 care of the requesting state. A finding of likelihood of serious harm
34 or grave disability is not required for a commitment under this
35 section. The detention may occur at either an evaluation and
36 treatment facility or a state hospital. The petition for seventy-two
37 hour detention filed by the designated (~~(mental health professional)~~)
38 crisis 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 **Sec. 221.** RCW 71.05.210 and 2009 c 217 s 1 are each amended to
33 read as follows:

34 Each person involuntarily detained and accepted or admitted at an
35 evaluation and treatment facility, secure detoxification facility, or
36 approved substance use disorder treatment program (1) shall, within
37 twenty-four hours of his or her admission or acceptance at the
38 facility, be examined and evaluated by (a) a licensed physician who
39 may be assisted by a physician assistant according to chapter 18.71A

1 RCW and a mental health professional, (b) an advanced registered
2 nurse practitioner according to chapter 18.79 RCW and a mental health
3 professional, or (c) a licensed physician and a psychiatric advanced
4 registered nurse practitioner and (2) shall receive such treatment
5 and care as his or her condition requires including treatment on an
6 outpatient basis for the period that he or she is detained, except
7 that, beginning twenty-four hours prior to a trial or hearing
8 pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320,
9 71.05.340, or 71.05.217, the individual may refuse psychiatric
10 medications, but may not refuse: (a) Any other medication previously
11 prescribed by a person licensed under Title 18 RCW; or (b) emergency
12 lifesaving treatment, and the individual shall be informed at an
13 appropriate time of his or her right of such refusal. The person
14 shall be detained up to seventy-two hours, if, in the opinion of the
15 professional person in charge of the facility, or his or her
16 professional designee, the person presents a likelihood of serious
17 harm, or is gravely disabled. A person who has been detained for
18 seventy-two hours shall no later than the end of such period be
19 released, unless referred for further care on a voluntary basis, or
20 detained pursuant to court order for further treatment as provided in
21 this chapter.

22 If, after examination and evaluation, the mental health
23 professional and licensed physician or psychiatric advanced
24 registered nurse practitioner determine that the initial needs of the
25 person, if detained to an evaluation and treatment facility, would be
26 better served by placement in a (~~chemical dependency~~) substance use
27 disorder treatment facility, or, if detained to a secure
28 detoxification facility or approved substance use disorder treatment
29 program, would be better served in an evaluation and treatment
30 facility then the person shall be referred to (~~an approved treatment~~
31 ~~program defined under RCW 70.96A.020~~) the more appropriate
32 placement; however, a person may only be referred to a secure
33 detoxification facility or approved substance use disorder treatment
34 program if space is available in the facility or program.

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

1 given to the court, the designated attorney, and the designated
2 (~~mental health professional~~) crisis responder and the court shall
3 order such continuance in proceedings under this chapter as may be
4 necessary, but in no event may this continuance be more than fourteen
5 days.

6 **Sec. 222.** RCW 71.05.210 and 2015 c ... s 221 (section 221 of
7 this act) are each amended to read as follows:

8 Each person involuntarily detained and accepted or admitted at an
9 evaluation and treatment facility, secure detoxification facility, or
10 approved substance use disorder treatment program (1) shall, within
11 twenty-four hours of his or her admission or acceptance at the
12 facility, be examined and evaluated by (a) a licensed physician who
13 may be assisted by a physician assistant according to chapter 18.71A
14 RCW and a mental health professional, (b) an advanced registered
15 nurse practitioner according to chapter 18.79 RCW and a mental health
16 professional, or (c) a licensed physician and a psychiatric advanced
17 registered nurse practitioner and (2) shall receive such treatment
18 and care as his or her condition requires including treatment on an
19 outpatient basis for the period that he or she is detained, except
20 that, beginning twenty-four hours prior to a trial or hearing
21 pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320,
22 71.05.340, or 71.05.217, the individual may refuse psychiatric
23 medications, but may not refuse: (a) Any other medication previously
24 prescribed by a person licensed under Title 18 RCW; or (b) emergency
25 lifesaving treatment, and the individual shall be informed at an
26 appropriate time of his or her right of such refusal. The person
27 shall be detained up to seventy-two hours, if, in the opinion of the
28 professional person in charge of the facility, or his or her
29 professional designee, the person presents a likelihood of serious
30 harm, or is gravely disabled. A person who has been detained for
31 seventy-two hours shall no later than the end of such period be
32 released, unless referred for further care on a voluntary basis, or
33 detained pursuant to court order for further treatment as provided in
34 this chapter.

35 If, after examination and evaluation, the mental health
36 professional and licensed physician or psychiatric advanced
37 registered nurse practitioner determine that the initial needs of the
38 person, if detained to an evaluation and treatment facility, would be
39 better served by placement in a substance use disorder treatment

1 facility, or, if detained to a secure detoxification facility or
2 approved substance use disorder treatment program, would be better
3 served in an evaluation and treatment facility than the person shall
4 be referred to the more appropriate placement(~~(; however, a person~~
5 ~~may only be referred to a secure detoxification facility or approved~~
6 ~~substance use disorder treatment program if space is available in the~~
7 ~~facility or program)~~).

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

18 **Sec. 223.** RCW 71.05.212 and 2010 c 280 s 2 are each amended to
19 read as follows:

20 (1) Whenever a designated (~~(mental health professional)~~) crisis
21 responder or professional person is conducting an evaluation under
22 this chapter, consideration shall include all reasonably available
23 information from credible witnesses and records regarding:

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

27 (b) Historical behavior, including history of one or more violent
28 acts;

29 (c) Prior determinations of incompetency or insanity under
30 chapter 10.77 RCW; and

31 (d) Prior commitments under this chapter.

32 (2) Credible witnesses may include family members, landlords,
33 neighbors, or others with significant contact and history of
34 involvement with the person. If the designated (~~(mental health~~
35 ~~professional)~~) crisis responder relies upon information from a
36 credible witness in reaching his or her decision to detain the
37 individual, then he or she must provide contact information for any
38 such witness to the prosecutor. The designated (~~(mental health~~
39 ~~professional)~~) crisis responder or prosecutor shall provide notice of

1 the date, time, and location of the probable cause hearing to such a
2 witness.

3 (3) Symptoms and behavior of the respondent which standing alone
4 would not justify civil commitment may support a finding of grave
5 disability or likelihood of serious harm when:

6 (a) Such symptoms or behavior are closely associated with
7 symptoms or behavior which preceded and led to a past incident of
8 involuntary hospitalization, severe deterioration, or one or more
9 violent acts;

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

12 (c) Without treatment, the continued deterioration of the
13 respondent is probable.

14 (4) When conducting an evaluation for offenders identified under
15 RCW 72.09.370, the designated (~~mental health professional~~) crisis
16 responder or professional person shall consider an offender's history
17 of judicially required or administratively ordered antipsychotic
18 medication while in confinement.

19 **Sec. 224.** RCW 71.05.214 and 1998 c 297 s 26 are each amended to
20 read as follows:

21 The department shall develop statewide protocols to be utilized
22 by professional persons and (~~county~~) designated (~~mental health~~
23 ~~professionals~~) crisis responders in administration of this chapter
24 and chapter 10.77 RCW. The protocols shall be updated at least every
25 three years. The protocols shall provide uniform development and
26 application of criteria in evaluation and commitment recommendations,
27 of persons who have, or are alleged to have, mental disorders or
28 substance use disorders and are subject to this chapter.

29 The initial protocols shall be developed not later than September
30 1, 1999. The department shall develop and update the protocols in
31 consultation with representatives of (~~county~~) designated (~~mental~~
32 ~~health professionals~~) crisis responders, local government, law
33 enforcement, county and city prosecutors, public defenders, and
34 groups concerned with mental illness and substance use disorders. The
35 protocols shall be submitted to the governor and legislature upon
36 adoption by the department.

37 **Sec. 225.** RCW 71.05.215 and 2008 c 156 s 2 are each amended to
38 read as follows:

1 (1) A person found to be gravely disabled or presents a
2 likelihood of serious harm as a result of a mental disorder or
3 substance use disorder has a right to refuse antipsychotic medication
4 unless it is determined that the failure to medicate may result in a
5 likelihood of serious harm or substantial deterioration or
6 substantially prolong the length of involuntary commitment and there
7 is no less intrusive course of treatment than medication in the best
8 interest of that person.

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

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

13 (b) For short-term treatment up to thirty days, the right to
14 refuse antipsychotic medications unless there is an additional
15 concurring medical opinion approving medication by a psychiatrist,
16 psychiatric advanced registered nurse practitioner, or physician in
17 consultation with a mental health professional with prescriptive
18 authority.

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

23 (d) Administration of antipsychotic medication in an emergency
24 and review of this decision within twenty-four hours. An emergency
25 exists if the person presents an imminent likelihood of serious harm,
26 and medically acceptable alternatives to administration of
27 antipsychotic medications are not available or are unlikely to be
28 successful; and in the opinion of the physician or psychiatric
29 advanced registered nurse practitioner, the person's condition
30 constitutes an emergency requiring the treatment be instituted prior
31 to obtaining a second medical opinion.

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

36 **Sec. 226.** RCW 71.05.220 and 1997 c 112 s 17 are each amended to
37 read as follows:

38 At the time a person is involuntarily admitted to an evaluation
39 and treatment facility, secure detoxification facility, or approved

1 substance use disorder treatment program, the professional person in
2 charge or his or her designee shall take reasonable precautions to
3 inventory and safeguard the personal property of the person detained.
4 A copy of the inventory, signed by the staff member making it, shall
5 be given to the person detained and shall, in addition, be open to
6 inspection to any responsible relative, subject to limitations, if
7 any, specifically imposed by the detained person. For purposes of
8 this section, "responsible relative" includes the guardian,
9 conservator, attorney, spouse, parent, adult child, or adult brother
10 or sister of the person. The facility shall not disclose the contents
11 of the inventory to any other person without the consent of the
12 patient or order of the court.

13 **Sec. 227.** RCW 71.05.230 and 2011 c 343 s 9 are each amended to
14 read as follows:

15 A person detained for seventy-two hour evaluation and treatment
16 may be detained for not more than fourteen additional days of
17 involuntary intensive treatment or ninety additional days of a less
18 restrictive alternative to involuntary intensive treatment. A
19 petition may only be filed if the following conditions are met:

20 (1) The professional staff of the agency or facility providing
21 evaluation services has analyzed the person's condition and finds
22 that the condition is caused by mental disorder or substance use
23 disorder and either results in a likelihood of serious harm, or
24 results in the detained person being gravely disabled and are
25 prepared to testify those conditions are met; and

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

29 (3) The facility providing intensive treatment is certified to
30 provide such treatment by the department; and

31 (4) The professional staff of the agency or facility or the
32 designated (~~mental health professional~~) crisis responder has filed
33 a petition for fourteen day involuntary detention or a ninety day
34 less restrictive alternative with the court. The petition must be
35 signed either by:

- 36 (a) Two physicians;
37 (b) One physician and a mental health professional;
38 (c) Two psychiatric advanced registered nurse practitioners;
39 (d) Two physician assistants;

1 (e) One mental health professional and either a psychiatric
2 advanced registered nurse practitioner (~~and a mental health~~
3 ~~professional~~) or a physician assistant; or

4 (~~(e) A~~) (f) One physician and either a psychiatric advanced
5 registered nurse practitioner or physician assistant. The persons
6 signing the petition must have examined the person. If involuntary
7 detention is sought the petition shall state facts that support the
8 finding that such person, as a result of a mental disorder or
9 substance use disorder, presents a likelihood of serious harm, or is
10 gravely disabled and that there are no less restrictive alternatives
11 to detention in the best interest of such person or others. The
12 petition shall state specifically that less restrictive alternative
13 treatment was considered and specify why treatment less restrictive
14 than detention is not appropriate. If an involuntary less restrictive
15 alternative is sought, the petition shall state facts that support
16 the finding that such person, as a result of a mental disorder or as
17 a result of a substance use disorder, presents a likelihood of
18 serious harm, or is gravely disabled and shall set forth the less
19 restrictive alternative proposed by the facility; and

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

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

26 (7) The petition reflects that the person was informed of the
27 loss of firearm rights if involuntarily committed for mental health
28 treatment or treatment of a substance use disorder that is based on
29 use of a controlled substance; and

30 (8) At the conclusion of the initial commitment period, the
31 professional staff of the agency or facility or the designated
32 (~~mental health professional~~) crisis responder may petition for an
33 additional period of either ninety days of less restrictive
34 alternative treatment or ninety days of involuntary intensive
35 treatment as provided in RCW 71.05.290; and

36 (9) If the hospital or facility designated to provide outpatient
37 treatment is other than the facility providing involuntary treatment,
38 the outpatient facility so designated has agreed to assume such
39 responsibility.

1 **Sec. 228.** RCW 71.05.235 and 2008 c 213 s 5 are each amended to
2 read as follows:

3 (1) If an individual is referred to a designated (~~mental health~~
4 ~~professional~~) crisis responder under RCW 10.77.088(1)(b)(i), the
5 designated (~~mental health professional~~) crisis responder shall
6 examine the individual within forty-eight hours. If the designated
7 (~~mental health professional~~) crisis responder determines it is not
8 appropriate to detain the individual or petition for a ninety-day
9 less restrictive alternative under RCW 71.05.230(4), that decision
10 shall be immediately presented to the superior court for hearing. The
11 court shall hold a hearing to consider the decision of the designated
12 (~~mental health professional~~) crisis responder not later than the
13 next judicial day. At the hearing the superior court shall review the
14 determination of the designated (~~mental health professional~~) crisis
15 responder and determine whether an order should be entered requiring
16 the person to be evaluated at an evaluation and treatment facility.
17 No person referred to an evaluation and treatment facility may be
18 held at the facility longer than seventy-two hours.

19 (2) If an individual is placed in an evaluation and treatment
20 facility under RCW 10.77.088(1)(b)(ii), a professional person shall
21 evaluate the individual for purposes of determining whether to file a
22 ninety-day inpatient or outpatient petition under chapter 71.05 RCW.
23 Before expiration of the seventy-two hour evaluation period
24 authorized under RCW 10.77.088(1)(b)(ii), the professional person
25 shall file a petition or, if the recommendation of the professional
26 person is to release the individual, present his or her
27 recommendation to the superior court of the county in which the
28 criminal charge was dismissed. The superior court shall review the
29 recommendation not later than forty-eight hours, excluding Saturdays,
30 Sundays, and holidays, after the recommendation is presented. If the
31 court rejects the recommendation to unconditionally release the
32 individual, the court may order the individual detained at a
33 designated evaluation and treatment facility for not more than a
34 seventy-two hour evaluation and treatment period and direct the
35 individual to appear at a surety hearing before that court within
36 seventy-two hours, or the court may release the individual but direct
37 the individual to appear at a surety hearing set before that court
38 within eleven days, at which time the prosecutor may file a petition
39 under this chapter for ninety-day inpatient or outpatient treatment.
40 If a petition is filed by the prosecutor, the court may order that

1 the person named in the petition be detained at the evaluation and
2 treatment facility that performed the evaluation under this
3 subsection or order the respondent to be in outpatient treatment. If
4 a petition is filed but the individual fails to appear in court for
5 the surety hearing, the court shall order that a mental health
6 professional or peace officer shall take such person or cause such
7 person to be taken into custody and placed in an evaluation and
8 treatment facility to be brought before the court the next judicial
9 day after detention. Upon the individual's first appearance in court
10 after a petition has been filed, proceedings under RCW 71.05.310 and
11 71.05.320 shall commence. For an individual subject to this
12 subsection, the prosecutor or professional person may directly file a
13 petition for ninety-day inpatient or outpatient treatment and no
14 petition for initial detention or fourteen-day detention is required
15 before such a petition may be filed.

16 The court shall conduct the hearing on the petition filed under
17 this subsection within five judicial days of the date the petition is
18 filed. The court may continue the hearing upon the written request of
19 the person named in the petition or the person's attorney, for good
20 cause shown, which continuance shall not exceed five additional
21 judicial days. If the person named in the petition requests a jury
22 trial, the trial shall commence within ten judicial days of the date
23 of the filing of the petition. The burden of proof shall be by clear,
24 cogent, and convincing evidence and shall be upon the petitioner. The
25 person shall be present at such proceeding, which shall in all
26 respects accord with the constitutional guarantees of due process of
27 law and the rules of evidence pursuant to RCW 71.05.360 (8) and (9).

28 During the proceeding the person named in the petition shall
29 continue to be detained and treated until released by order of the
30 court. If no order has been made within thirty days after the filing
31 of the petition, not including any extensions of time requested by
32 the detained person or his or her attorney, the detained person shall
33 be released.

34 (3) If a designated (~~mental health professional~~) crisis
35 responder or the professional person and prosecuting attorney for the
36 county in which the criminal charge was dismissed or attorney
37 general, as appropriate, stipulate that the individual does not
38 present a likelihood of serious harm or is not gravely disabled, the
39 hearing under this section is not required and the individual, if in
40 custody, shall be released.

1 (4) The individual shall have the rights specified in RCW
2 71.05.360 (8) and (9).

3 **Sec. 229.** RCW 71.05.240 and 2009 c 293 s 4 are each amended to
4 read as follows:

5 (1) If a petition is filed for fourteen day involuntary treatment
6 or ninety days of less restrictive alternative treatment, the court
7 shall hold a probable cause hearing within seventy-two hours of the
8 initial detention of such person as determined in RCW 71.05.180. If
9 requested by the detained person or his or her attorney, the hearing
10 may be postponed for a period not to exceed forty-eight hours. The
11 hearing may also be continued subject to the conditions set forth in
12 RCW 71.05.210 or subject to the petitioner's showing of good cause
13 for a period not to exceed twenty-four hours.

14 (2) If the petition is for mental health treatment or for
15 treatment of a substance use disorder that is based on use of a
16 controlled substance, the court at the time of the probable cause
17 hearing and before an order of commitment is entered shall inform the
18 person both orally and in writing that the failure to make a good
19 faith effort to seek voluntary treatment as provided in RCW 71.05.230
20 will result in the loss of his or her firearm rights if the person is
21 subsequently detained for involuntary treatment under this section.

22 (3)(a) Subject to (b) of this subsection, at the conclusion of
23 the probable cause hearing, if the court finds by a preponderance of
24 the evidence that such person, as the result of a mental disorder or
25 a substance use disorder, presents a likelihood of serious harm, or
26 is gravely disabled, and, after considering less restrictive
27 alternatives to involuntary detention and treatment, finds that no
28 such alternatives are in the best interests of such person or others,
29 the court shall order that such person be detained for involuntary
30 treatment not to exceed fourteen days in a facility certified to
31 provide treatment by the department.

32 (b) Commitment for up to fourteen days based on a substance use
33 disorder must be to either a secure detoxification facility or an
34 approved substance use disorder treatment program. A court may only
35 commit a person to a secure detoxification facility or approved
36 substance use disorder treatment program if space is available at the
37 facility or program.

38 (c) At the conclusion of the probable cause hearing, if the court
39 finds by a preponderance of the evidence that such person, as the

1 result of a mental disorder or substance use disorder, presents a
2 likelihood of serious harm, or is gravely disabled, but that
3 treatment in a less restrictive setting than detention is in the best
4 interest of such person or others, the court shall order an
5 appropriate less restrictive course of treatment for not to exceed
6 ninety days.

7 (4) The court shall specifically state to such person and give
8 such person notice in writing that if involuntary treatment beyond
9 the fourteen day period or beyond the ninety days of less restrictive
10 treatment is to be sought, such person will have the right to a full
11 hearing or jury trial as required by RCW 71.05.310. If the commitment
12 is for mental health treatment or for treatment of a substance use
13 disorder that is based on use of a controlled substance, the court
14 shall also state to the person and provide written notice that the
15 person is barred from the possession of firearms and that the
16 prohibition remains in effect until a court restores his or her right
17 to possess a firearm under RCW 9.41.047.

18 **Sec. 230.** RCW 71.05.240 and 2015 c ... s 229 (section 229 of
19 this act) are each amended to read as follows:

20 (1) If a petition is filed for fourteen day involuntary treatment
21 or ninety days of less restrictive alternative treatment, the court
22 shall hold a probable cause hearing within seventy-two hours of the
23 initial detention of such person as determined in RCW 71.05.180. If
24 requested by the detained person or his or her attorney, the hearing
25 may be postponed for a period not to exceed forty-eight hours. The
26 hearing may also be continued subject to the conditions set forth in
27 RCW 71.05.210 or subject to the petitioner's showing of good cause
28 for a period not to exceed twenty-four hours.

29 (2) If the petition is for mental health treatment or for
30 treatment of a substance use disorder that is based on use of a
31 controlled substance, the court at the time of the probable cause
32 hearing and before an order of commitment is entered shall inform the
33 person both orally and in writing that the failure to make a good
34 faith effort to seek voluntary treatment as provided in RCW 71.05.230
35 will result in the loss of his or her firearm rights if the person is
36 subsequently detained for involuntary treatment under this section.

37 (3) ~~((a) Subject to (b) of this subsection,)~~ At the conclusion
38 of the probable cause hearing, if the court finds by a preponderance
39 of the evidence that such person, as the result of a mental disorder

1 or a substance use disorder, presents a likelihood of serious harm,
2 or is gravely disabled, and, after considering less restrictive
3 alternatives to involuntary detention and treatment, finds that no
4 such alternatives are in the best interests of such person or others,
5 the court shall order that such person be detained for involuntary
6 treatment not to exceed fourteen days in a facility certified to
7 provide treatment by the department.

8 ~~((b))~~ Commitment for up to fourteen days based on a substance
9 use disorder must be to either a secure detoxification facility or an
10 approved substance use disorder treatment program. ~~((A court may only
11 commit a person to a secure detoxification facility or approved
12 substance use disorder treatment program if space is available at the
13 facility or program.~~

14 ~~(c) At the conclusion of the probable cause hearing,)~~ If the
15 court finds ~~((by a preponderance of the evidence))~~ that such person,
16 as the result of a mental disorder or substance use disorder,
17 presents a likelihood of serious harm, or is gravely disabled, but
18 that treatment in a less restrictive setting than detention is in the
19 best interest of such person or others, the court shall order an
20 appropriate less restrictive course of treatment for not to exceed
21 ninety days.

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

33 **Sec. 231.** RCW 71.05.280 and 2013 c 289 s 4 are each amended to
34 read as follows:

35 At the expiration of the fourteen-day period of intensive
36 treatment, a person may be confined for further treatment pursuant to
37 RCW 71.05.320 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.

24 **Sec. 232.** RCW 71.05.290 and 2009 c 217 s 3 are each amended to
25 read as follows:

26 (1) At any time during a person's fourteen day intensive
27 treatment period, the professional person in charge of a treatment
28 facility or his or her professional designee or the designated
29 (~~mental health professional~~) crisis responder may petition the
30 superior court for an order requiring such person to undergo an
31 additional period of treatment. Such petition must be based on one or
32 more of the grounds set forth in RCW 71.05.280.

33 (2) The petition shall summarize the facts which support the need
34 for further confinement and shall be supported by affidavits signed
35 by:

36 (a) Two examining physicians;

37 (b) One examining physician and an examining mental health
38 professional;

1 (c) Two examining psychiatric advanced registered nurse
2 practitioners;

3 (d) Two examining physician assistants;

4 (e) One examining mental health professional and either an
5 examining psychiatric advanced registered nurse practitioner (~~and a~~
6 ~~mental health professional~~) or an examining physician assistant; or

7 (~~(e) An~~) (f) One examining physician and either an examining
8 psychiatric advanced registered nurse practitioner or an examining
9 physician assistant. The affidavits shall describe in detail the
10 behavior of the detained person which supports the petition and shall
11 explain what, if any, less restrictive treatments which are
12 alternatives to detention are available to such person, and shall
13 state the willingness of the affiant to testify to such facts in
14 subsequent judicial proceedings under this chapter.

15 (3) If a person has been determined to be incompetent pursuant to
16 RCW 10.77.086(4), then the professional person in charge of the
17 treatment facility or his or her professional designee or the
18 designated (~~mental health professional~~) crisis responder may
19 directly file a petition for one hundred eighty day treatment under
20 RCW 71.05.280(3). No petition for initial detention or fourteen day
21 detention is required before such a petition may be filed.

22 **Sec. 233.** RCW 71.05.300 and 2014 c 225 s 84 are each amended to
23 read as follows:

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

1 (2) At the time set for appearance the detained person shall be
2 brought before the court, unless such appearance has been waived and
3 the court shall advise him or her of his or her right to be
4 represented by an attorney, his or her right to a jury trial, and, if
5 the petition is for commitment for mental health treatment or for
6 treatment of a substance use disorder that is based on use of a
7 controlled substance, his or her loss of firearm rights if
8 involuntarily committed. If the detained person is not represented by
9 an attorney, or is indigent or is unwilling to retain an attorney,
10 the court shall immediately appoint an attorney to represent him or
11 her. The court shall, if requested, appoint a reasonably available
12 licensed physician, psychiatric advanced registered nurse
13 practitioner, physician assistant, psychologist, or psychiatrist,
14 designated by the detained person to examine and testify on behalf of
15 the detained person.

16 (3) The court may, if requested, also appoint a professional
17 person as defined in RCW 71.05.020 to seek less restrictive
18 alternative courses of treatment and to testify on behalf of the
19 detained person. In the case of a person with a developmental
20 disability who has been determined to be incompetent pursuant to RCW
21 10.77.086(4), then the appointed professional person under this
22 section shall be a developmental disabilities professional.

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

25 **Sec. 234.** RCW 71.05.320 and 2013 c 289 s 5 are each amended to
26 read as follows:

27 (1)(a) Subject to (b) of this subsection, if the court or jury
28 finds that grounds set forth in RCW 71.05.280 have been proven and
29 that the best interests of the person or others will not be served by
30 a less restrictive treatment which is an alternative to detention,
31 the court shall remand him or her to the custody of the department or
32 to a facility certified for ninety day treatment by the department
33 for a further period of intensive treatment not to exceed ninety days
34 from the date of judgment.

35 (b) If the order for inpatient treatment is based on substance
36 use disorder, treatment must take place at an approved substance use
37 disorder treatment program. The court may only order the person's
38 commitment to an approved substance use disorder treatment program if
39 there is space available at the program.

1 (c) If the grounds set forth in RCW 71.05.280(3) are the basis of
2 commitment, then the period of treatment may be up to but not exceed
3 one hundred eighty days from the date of judgment in a facility
4 certified for one hundred eighty day treatment by the department.

5 (2) If the court or jury finds that grounds set forth in RCW
6 71.05.280 have been proven, but finds that treatment less restrictive
7 than detention will be in the best interest of the person or others,
8 then the court shall remand him or her to the custody of the
9 department or to a facility certified for ninety day treatment by the
10 department or to a less restrictive alternative for a further period
11 of less restrictive treatment not to exceed ninety days from the date
12 of judgment. If the order for less restrictive treatment is based on
13 substance use disorder, treatment must be provided by an approved
14 substance use disorder treatment program. If the grounds set forth in
15 RCW 71.05.280(3) are the basis of commitment, then the period of
16 treatment may be up to but not exceed one hundred eighty days from
17 the date of judgment.

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

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

30 (b) Was taken into custody as a result of conduct in which he or
31 she attempted or inflicted serious physical harm upon the person of
32 another, and continues to present, as a result of mental disorder,
33 substance use disorder, or developmental disability a likelihood of
34 serious harm; or

35 (c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result
36 of mental disorder or developmental disability continues to present a
37 substantial likelihood of repeating acts similar to the charged
38 criminal behavior, when considering the person's life history,
39 progress in treatment, and the public safety.

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

16 (d) Continues to be gravely disabled.

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

20 (4) For a person committed under subsection (2) of this section
21 who has been remanded to a period of less restrictive treatment, in
22 addition to the grounds specified in subsection (3) of this section,
23 the designated (~~mental health professional~~) crisis responder may
24 file a new petition for continued less restrictive treatment if:

25 (a) The person was previously committed by a court to detention
26 for involuntary mental health treatment or involuntary substance use
27 disorder treatment during the thirty-six months that preceded the
28 person's initial detention date during the current involuntary
29 commitment cycle, excluding any time spent in a mental health
30 facility, in long-term alcoholism or drug treatment facility, or in
31 confinement as a result of a criminal conviction;

32 (b) In view of the person's treatment history or current
33 behavior, the person is unlikely to voluntarily participate in
34 outpatient treatment without an order for less restrictive treatment;
35 and

36 (c) Outpatient treatment that would be provided under a less
37 restrictive treatment order is necessary to prevent a relapse,
38 decompensation, or deterioration that is likely to result in the
39 person presenting a likelihood of serious harm or the person becoming
40 gravely disabled within a reasonably short period of time.

1 (5) A new petition for involuntary treatment filed under
2 subsection (3) or (4) of this section shall be filed and heard in the
3 superior court of the county of the facility which is filing the new
4 petition for involuntary treatment unless good cause is shown for a
5 change of venue. The cost of the proceedings shall be borne by the
6 state.

7 (6) The hearing shall be held as provided in RCW 71.05.310, and
8 if the court or jury finds that the grounds for additional
9 confinement as set forth in this section are present, subject to
10 subsection (1)(b) of this section, the court may order the committed
11 person returned for an additional period of treatment not to exceed
12 one hundred eighty days from the date of judgment. At the end of the
13 one hundred eighty day period of commitment, the committed person
14 shall be released unless a petition for another one hundred eighty
15 day period of continued treatment is filed and heard in the same
16 manner as provided in this section. Successive one hundred eighty day
17 commitments are permissible on the same grounds and pursuant to the
18 same procedures as the original one hundred eighty day commitment.
19 However, a commitment is not permissible under subsection (4) of this
20 section if thirty-six months have passed since the last date of
21 discharge from detention for inpatient treatment that preceded the
22 current less restrictive alternative order, nor shall a commitment
23 under subsection (4) of this section be permissible if the likelihood
24 of serious harm in subsection (4)(c) of this section is based solely
25 on harm to the property of others.

26 (7) No person committed as provided in this section may be
27 detained unless a valid order of commitment is in effect. No order of
28 commitment can exceed one hundred eighty days in length.

29 **Sec. 235.** RCW 71.05.320 and 2015 c ... s 234 (section 234 of
30 this act) are each amended to read as follows:

31 (1)((~~(a) Subject to (b) of this subsection,~~) If the court or
32 jury finds that grounds set forth in RCW 71.05.280 have been proven
33 and that the best interests of the person or others will not be
34 served by a less restrictive treatment which is an alternative to
35 detention, the court shall remand him or her to the custody of the
36 department or to a facility certified for ninety day treatment by the
37 department for a further period of intensive treatment not to exceed
38 ninety days from the date of judgment.

1 (~~(b)~~) If the order for inpatient treatment is based on
2 substance use disorder, treatment must take place at an approved
3 substance use disorder treatment program. (~~The court may only order~~
4 ~~the person's commitment to an approved substance use disorder~~
5 ~~treatment program if there is space available at the program.~~

6 (e)) If the grounds set forth in RCW 71.05.280(3) are the basis
7 of commitment, then the period of treatment may be up to but not
8 exceed one hundred eighty days from the date of judgment in a
9 facility certified for one hundred eighty day treatment by the
10 department.

11 (2) If the court or jury finds that grounds set forth in RCW
12 71.05.280 have been proven, but finds that treatment less restrictive
13 than detention will be in the best interest of the person or others,
14 then the court shall remand him or her to the custody of the
15 department or to a facility certified for ninety day treatment by the
16 department or to a less restrictive alternative for a further period
17 of less restrictive treatment not to exceed ninety days from the date
18 of judgment. If the order for less restrictive treatment is based on
19 substance use disorder, treatment must be provided by an approved
20 substance use disorder treatment program. If the grounds set forth in
21 RCW 71.05.280(3) are the basis of commitment, then the period of
22 treatment may be up to but not exceed one hundred eighty days from
23 the date of judgment.

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

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

36 (b) Was taken into custody as a result of conduct in which he or
37 she attempted or inflicted serious physical harm upon the person of
38 another, and continues to present, as a result of mental disorder,
39 substance use disorder, or developmental disability a likelihood of
40 serious harm; or

1 (c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result
2 of mental disorder or developmental disability continues to present a
3 substantial likelihood of repeating acts similar to the charged
4 criminal behavior, when considering the person's life history,
5 progress in treatment, and the public safety.

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

21 (d) Continues to be gravely disabled.

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

25 (4) For a person committed under subsection (2) of this section
26 who has been remanded to a period of less restrictive treatment, in
27 addition to the grounds specified in subsection (3) of this section,
28 the designated crisis responder may file a new petition for continued
29 less restrictive treatment if:

30 (a) The person was previously committed by a court to detention
31 for involuntary mental health treatment or involuntary substance use
32 disorder treatment during the thirty-six months that preceded the
33 person's initial detention date during the current involuntary
34 commitment cycle, excluding any time spent in a mental health
35 facility, in long-term alcoholism or drug treatment facility, or in
36 confinement as a result of a criminal conviction;

37 (b) In view of the person's treatment history or current
38 behavior, the person is unlikely to voluntarily participate in
39 outpatient treatment without an order for less restrictive treatment;
40 and

1 (c) Outpatient treatment that would be provided under a less
2 restrictive treatment order is necessary to prevent a relapse,
3 decompensation, or deterioration that is likely to result in the
4 person presenting a likelihood of serious harm or the person becoming
5 gravely disabled within a reasonably short period of time.

6 (5) A new petition for involuntary treatment filed under
7 subsection (3) or (4) of this section shall be filed and heard in the
8 superior court of the county of the facility which is filing the new
9 petition for involuntary treatment unless good cause is shown for a
10 change of venue. The cost of the proceedings shall be borne by the
11 state.

12 (6) The hearing shall be held as provided in RCW 71.05.310, and
13 if the court or jury finds that the grounds for additional
14 confinement as set forth in this section are present, (~~subject to~~
15 ~~subsection (1)(b) of this section,~~) the court may order the
16 committed person returned for an additional period of treatment not
17 to exceed one hundred eighty days from the date of judgment. At the
18 end of the one hundred eighty day period of commitment, the committed
19 person shall be released unless a petition for another one hundred
20 eighty day period of continued treatment is filed and heard in the
21 same manner as provided in this section. Successive one hundred
22 eighty day commitments are permissible on the same grounds and
23 pursuant to the same procedures as the original one hundred eighty
24 day commitment. However, a commitment is not permissible under
25 subsection (4) of this section if thirty-six months have passed since
26 the last date of discharge from detention for inpatient treatment
27 that preceded the current less restrictive alternative order, nor
28 shall a commitment under subsection (4) of this section be
29 permissible if the likelihood of serious harm in subsection (4)(c) of
30 this section is based solely on harm to the property of others.

31 (7) No person committed as provided in this section may be
32 detained unless a valid order of commitment is in effect. No order of
33 commitment can exceed one hundred eighty days in length.

34 **Sec. 236.** RCW 71.05.325 and 2000 c 94 s 7 are each amended to
35 read as follows:

36 (1) Before a person committed under grounds set forth in RCW
37 71.05.280(3) is released because a new petition for involuntary
38 treatment has not been filed under RCW 71.05.320(~~(+2)~~) (3), the
39 superintendent, professional person, or designated (~~mental health~~

1 ~~professional~~) crisis responder responsible for the decision whether
2 to file a new petition shall in writing notify the prosecuting
3 attorney of the county in which the criminal charges against the
4 committed person were dismissed, of the decision not to file a new
5 petition for involuntary treatment. Notice shall be provided at least
6 forty-five days before the period of commitment expires.

7 (2)(a) Before a person committed under grounds set forth in RCW
8 71.05.280(3) is permitted temporarily to leave a treatment facility
9 pursuant to RCW 71.05.270 for any period of time without constant
10 accompaniment by facility staff, the superintendent, professional
11 person in charge of a treatment facility, or his or her professional
12 designee shall in writing notify the prosecuting attorney of any
13 county of the person's destination and the prosecuting attorney of
14 the county in which the criminal charges against the committed person
15 were dismissed. The notice shall be provided at least forty-five days
16 before the anticipated leave and shall describe the conditions under
17 which the leave is to occur.

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

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

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

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

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

31 **Sec. 237.** RCW 71.05.340 and 2009 c 322 s 1 are each amended to
32 read as follows:

33 (1)(a) When, in the opinion of the superintendent or the
34 professional person in charge of the hospital or facility providing
35 involuntary treatment, the committed person can be appropriately
36 served by outpatient treatment prior to or at the expiration of the
37 period of commitment, then such outpatient care may be required as a
38 term of conditional release for a period which, when added to the
39 inpatient treatment period, shall not exceed the period of

1 commitment. If the hospital or facility designated to provide
2 outpatient treatment is other than the facility providing involuntary
3 treatment, the outpatient facility so designated must agree in
4 writing to assume such responsibility. A copy of the terms of
5 conditional release shall be given to the patient, the designated
6 (~~mental health professional~~) crisis responder in the county in
7 which the patient is to receive outpatient treatment, and to the
8 court of original commitment.

9 (b) Before a person committed under grounds set forth in RCW
10 71.05.280(3) or 71.05.320(3)(c) is conditionally released under (a)
11 of this subsection, the superintendent or professional person in
12 charge of the hospital or facility providing involuntary treatment
13 shall in writing notify the prosecuting attorney of the county in
14 which the criminal charges against the committed person were
15 dismissed, of the decision to conditionally release the person.
16 Notice and a copy of the terms of conditional release shall be
17 provided at least thirty days before the person is released from
18 inpatient care. Within twenty days after receiving notice, the
19 prosecuting attorney may petition the court in the county that issued
20 the commitment order to hold a hearing to determine whether the
21 person may be conditionally released and the terms of the conditional
22 release. The prosecuting attorney shall provide a copy of the
23 petition to the superintendent or professional person in charge of
24 the hospital or facility providing involuntary treatment, the
25 attorney, if any, and guardian or conservator of the committed
26 person, and the court of original commitment. If the county in which
27 the committed person is to receive outpatient treatment is the same
28 county in which the criminal charges against the committed person
29 were dismissed, then the court shall, upon the motion of the
30 prosecuting attorney, transfer the proceeding to the court in that
31 county. The court shall conduct a hearing on the petition within ten
32 days of the filing of the petition. The committed person shall have
33 the same rights with respect to notice, hearing, and counsel as for
34 an involuntary treatment proceeding, except as set forth in this
35 subsection and except that there shall be no right to jury trial. The
36 issue to be determined at the hearing is whether or not the person
37 may be conditionally released without substantial danger to other
38 persons, or substantial likelihood of committing criminal acts
39 jeopardizing public safety or security. If the court disapproves of
40 the conditional release, it may do so only on the basis of

1 substantial evidence. Pursuant to the determination of the court upon
2 the hearing, the conditional release of the person shall be approved
3 by the court on the same or modified conditions or the person shall
4 be returned for involuntary treatment on an inpatient basis subject
5 to release at the end of the period for which he or she was
6 committed, or otherwise in accordance with the provisions of this
7 chapter.

8 (2) The hospital or facility designated to provide outpatient
9 care or the secretary may modify the conditions for continued release
10 when such modification is in the best interest of the person.
11 Notification of such changes shall be sent to all persons receiving a
12 copy of the original conditions.

13 (3)(a) If the hospital or facility designated to provide
14 outpatient care, the designated (~~(mental health professional)~~) crisis
15 responder, or the secretary determines that:

16 (i) A conditionally released person is failing to adhere to the
17 terms and conditions of his or her release;

18 (ii) Substantial deterioration in a conditionally released
19 person's functioning has occurred;

20 (iii) There is evidence of substantial decompensation with a
21 reasonable probability that the decompensation can be reversed by
22 further inpatient treatment; or

23 (iv) The person poses a likelihood of serious harm(~~(-)~~);

24 Upon notification by the hospital or facility designated to
25 provide outpatient care, or on his or her own motion, the designated
26 (~~(mental health professional)~~) crisis responder or the secretary may
27 order that the conditionally released person be apprehended and taken
28 into custody and temporarily detained in an evaluation and treatment
29 facility in or near the county in which he or she is receiving
30 outpatient treatment if the person is committed for mental health
31 treatment, or, if the person is committed for substance use disorder
32 treatment, in a secure detoxification facility or approved substance
33 use disorder treatment program with available space in or near the
34 county in which he or she is receiving outpatient treatment. A person
35 may not be detained to a secure detoxification facility or approved
36 substance use disorder treatment program unless there is available
37 space in the facility or program.

38 (b) The hospital or facility designated to provide outpatient
39 treatment shall notify the secretary or designated (~~(mental health~~
40 ~~professional)~~) crisis responder when a conditionally released person

1 fails to adhere to terms and conditions of his or her conditional
2 release or experiences substantial deterioration in his or her
3 condition and, as a result, presents an increased likelihood of
4 serious harm. The designated (~~mental health professional~~) crisis
5 responder or secretary shall order the person apprehended and
6 temporarily detained in an evaluation and treatment facility in or
7 near the county in which he or she is receiving outpatient treatment
8 if the person is committed for mental health treatment, or, if the
9 person is committed for substance use disorder treatment, in a secure
10 detoxification facility or approved substance use disorder treatment
11 program with available space in or near the county in which he or she
12 is receiving outpatient treatment. A person may not be detained to a
13 secure detoxification facility or approved substance use disorder
14 treatment program unless there is available space in the facility or
15 program.

16 (c) A person detained under this subsection (3) shall be held
17 until such time, not exceeding five days, as a hearing can be
18 scheduled to determine whether or not the person should be returned
19 to the hospital or facility from which he or she had been
20 conditionally released. The designated (~~mental health professional~~)
21 crisis responder or the secretary may modify or rescind such order at
22 any time prior to commencement of the court hearing.

23 (d) The court that originally ordered commitment shall be
24 notified within two judicial days of a person's detention under the
25 provisions of this section, and the designated (~~mental health~~
26 ~~professional~~) crisis responder or the secretary shall file his or
27 her petition and order of apprehension and detention with the court
28 that originally ordered commitment or with the court in the county in
29 which the person is detained and serve them upon the person detained.
30 His or her attorney, if any, and his or her guardian or conservator,
31 if any, shall receive a copy of such papers as soon as possible. Such
32 person shall have the same rights with respect to notice, hearing,
33 and counsel as for an involuntary treatment proceeding, except as
34 specifically set forth in this section and except that there shall be
35 no right to jury trial. The venue for proceedings regarding a
36 petition for modification or revocation of an order for conditional
37 release shall be in the county in which the petition was filed. The
38 issues to be determined shall be: (i) Whether the conditionally
39 released person did or did not adhere to the terms and conditions of
40 his or her conditional release; (ii) that substantial deterioration

1 in the person's functioning has occurred; (iii) there is evidence of
2 substantial decompensation with a reasonable probability that the
3 decompensation can be reversed by further inpatient treatment; or
4 (iv) there is a likelihood of serious harm; and, if any of the
5 conditions listed in this subsection (3)(d) have occurred, whether
6 the terms of conditional release should be modified or the person
7 should be returned to the facility.

8 (e) Pursuant to the determination of the court upon such hearing,
9 the conditionally released person shall either continue to be
10 conditionally released on the same or modified conditions or shall be
11 returned for involuntary treatment on an inpatient basis subject to
12 release at the end of the period for which he or she was committed
13 for involuntary treatment, or otherwise in accordance with the
14 provisions of this chapter. Such hearing may be waived by the person
15 and his or her counsel and his or her guardian or conservator, if
16 any, but shall not be waivable unless all such persons agree to
17 waive, and upon such waiver the person may be returned for
18 involuntary treatment or continued on conditional release on the same
19 or modified conditions. A person must not be returned for involuntary
20 treatment in a secure detoxification facility or approved substance
21 use disorder treatment program under this subsection unless there is
22 available space in the facility or program.

23 (4) The proceedings set forth in subsection (3) of this section
24 may be initiated by the designated (~~mental health professional~~)
25 crisis responder or the secretary on the same basis set forth therein
26 without requiring or ordering the apprehension and detention of the
27 conditionally released person, in which case the court hearing shall
28 take place in not less than five days from the date of service of the
29 petition upon the conditionally released person. The petition may be
30 filed in the court that originally ordered commitment or with the
31 court in the county in which the person is present. The venue for the
32 proceedings regarding the petition for modification or revocation of
33 an order for conditional release shall be in the county in which the
34 petition was filed.

35 Upon expiration of the period of commitment, or when the person
36 is released from outpatient care, notice in writing to the court
37 which committed the person for treatment shall be provided.

38 (5) The grounds and procedures for revocation of less restrictive
39 alternative treatment shall be the same as those set forth in this
40 section for conditional releases.

1 (6) In the event of a revocation of a conditional release, the
2 subsequent treatment period may be for no longer than the actual
3 period authorized in the original court order.

4 **Sec. 238.** RCW 71.05.340 and 2015 c ... s 237 (section 237 of
5 this act) are each amended to read as follows:

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

20 (b) Before a person committed under grounds set forth in RCW
21 71.05.280(3) or 71.05.320(3)(c) is conditionally released under (a)
22 of this subsection, the superintendent or professional person in
23 charge of the hospital or facility providing involuntary treatment
24 shall in writing notify the prosecuting attorney of the county in
25 which the criminal charges against the committed person were
26 dismissed, of the decision to conditionally release the person.
27 Notice and a copy of the terms of conditional release shall be
28 provided at least thirty days before the person is released from
29 inpatient care. Within twenty days after receiving notice, the
30 prosecuting attorney may petition the court in the county that issued
31 the commitment order to hold a hearing to determine whether the
32 person may be conditionally released and the terms of the conditional
33 release. The prosecuting attorney shall provide a copy of the
34 petition to the superintendent or professional person in charge of
35 the hospital or facility providing involuntary treatment, the
36 attorney, if any, and guardian or conservator of the committed
37 person, and the court of original commitment. If the county in which
38 the committed person is to receive outpatient treatment is the same
39 county in which the criminal charges against the committed person

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

20 (2) The hospital or facility designated to provide outpatient
21 care or the secretary may modify the conditions for continued release
22 when such modification is in the best interest of the person.
23 Notification of such changes shall be sent to all persons receiving a
24 copy of the original conditions.

25 (3)(a) If the hospital or facility designated to provide
26 outpatient care, the designated crisis responder, or the secretary
27 determines that:

28 (i) A conditionally released person is failing to adhere to the
29 terms and conditions of his or her release;

30 (ii) Substantial deterioration in a conditionally released
31 person's functioning has occurred;

32 (iii) There is evidence of substantial decompensation with a
33 reasonable probability that the decompensation can be reversed by
34 further inpatient treatment; or

35 (iv) The person poses a likelihood of serious harm;

36 Upon notification by the hospital or facility designated to
37 provide outpatient care, or on his or her own motion, the designated
38 crisis responder or the secretary may order that the conditionally
39 released person be apprehended and taken into custody and temporarily
40 detained in an evaluation and treatment facility in or near the

1 county in which he or she is receiving outpatient treatment if the
2 person is committed for mental health treatment, or, if the person is
3 committed for substance use disorder treatment, in a secure
4 detoxification facility or approved substance use disorder treatment
5 program (~~((with available space))~~) in or near the county in which he or
6 she is receiving outpatient treatment. (~~((A person may not be detained
7 to a secure detoxification facility or approved substance use
8 disorder treatment program unless there is available space in the
9 facility or program.))~~)

10 (b) The hospital or facility designated to provide outpatient
11 treatment shall notify the secretary or designated crisis responder
12 when a conditionally released person fails to adhere to terms and
13 conditions of his or her conditional release or experiences
14 substantial deterioration in his or her condition and, as a result,
15 presents an increased likelihood of serious harm. The designated
16 crisis responder or secretary shall order the person apprehended and
17 temporarily detained 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 (~~((with available space))~~) in or near the county in which he or
23 she is receiving outpatient treatment. (~~((A person may not be detained
24 to a secure detoxification facility or approved substance use
25 disorder treatment program unless there is available space in the
26 facility or program.))~~)

27 (c) A person detained under this subsection (3) shall be held
28 until such time, not exceeding five days, as a hearing can be
29 scheduled to determine whether or not the person should be returned
30 to the hospital or facility from which he or she had been
31 conditionally released. The designated crisis responder or the
32 secretary may modify or rescind such order at any time prior to
33 commencement of the court hearing.

34 (d) The court that originally ordered commitment shall be
35 notified within two judicial days of a person's detention under the
36 provisions of this section, and the designated crisis responder or
37 the secretary shall file his or her petition and order of
38 apprehension and detention with the court that originally ordered
39 commitment or with the court in the county in which the person is
40 detained and serve them upon the person detained. His or her

1 attorney, if any, and his or her guardian or conservator, if any,
2 shall receive a copy of such papers as soon as possible. Such person
3 shall have the same rights with respect to notice, hearing, and
4 counsel as for an involuntary treatment proceeding, except as
5 specifically set forth in this section and except that there shall be
6 no right to jury trial. The venue for proceedings regarding a
7 petition for modification or revocation of an order for conditional
8 release shall be in the county in which the petition was filed. The
9 issues to be determined shall be: (i) Whether the conditionally
10 released person did or did not adhere to the terms and conditions of
11 his or her conditional release; (ii) that substantial deterioration
12 in the person's functioning has occurred; (iii) there is evidence of
13 substantial decompensation with a reasonable probability that the
14 decompensation can be reversed by further inpatient treatment; or
15 (iv) there is a likelihood of serious harm; and, if any of the
16 conditions listed in this subsection (3)(d) have occurred, whether
17 the terms of conditional release should be modified or the person
18 should be returned to the facility.

19 (e) Pursuant to the determination of the court upon such hearing,
20 the conditionally released person shall either continue to be
21 conditionally released on the same or modified conditions or shall be
22 returned for involuntary treatment on an inpatient basis subject to
23 release at the end of the period for which he or she was committed
24 for involuntary treatment, or otherwise in accordance with the
25 provisions of this chapter. Such hearing may be waived by the person
26 and his or her counsel and his or her guardian or conservator, if
27 any, but shall not be waivable unless all such persons agree to
28 waive, and upon such waiver the person may be returned for
29 involuntary treatment or continued on conditional release on the same
30 or modified conditions. (~~(A person must not be returned for~~
31 ~~involuntary treatment in a secure detoxification facility or approved~~
32 ~~substance use disorder treatment program under this subsection unless~~
33 ~~there is available space in the facility or program.)~~)

34 (4) The proceedings set forth in subsection (3) of this section
35 may be initiated by the designated crisis responder or the secretary
36 on the same basis set forth therein without requiring or ordering the
37 apprehension and detention of the conditionally released person, in
38 which case the court hearing shall take place in not less than five
39 days from the date of service of the petition upon the conditionally
40 released person. The petition may be filed in the court that

1 originally ordered commitment or with the court in the county in
2 which the person is present. The venue for the proceedings regarding
3 the petition for modification or revocation of an order for
4 conditional release shall be in the county in which the petition was
5 filed.

6 Upon expiration of the period of commitment, or when the person
7 is released from outpatient care, notice in writing to the court
8 which committed the person for treatment shall be provided.

9 (5) The grounds and procedures for revocation of less restrictive
10 alternative treatment shall be the same as those set forth in this
11 section for conditional releases.

12 (6) In the event of a revocation of a conditional release, the
13 subsequent treatment period may be for no longer than the actual
14 period authorized in the original court order.

15 **Sec. 239.** RCW 71.05.360 and 2009 c 217 s 5 are each amended to
16 read as follows:

17 (1)(a) Every person involuntarily detained or committed under the
18 provisions of this chapter shall be entitled to all the rights set
19 forth in this chapter, which shall be prominently posted in the
20 facility, and shall retain all rights not denied him or her under
21 this chapter except as chapter 9.41 RCW may limit the right of a
22 person to purchase or possess a firearm or to qualify for a concealed
23 pistol license if the person is committed under RCW 71.05.240 or
24 71.05.320 for mental health treatment or treatment of a substance use
25 disorder that is based on use of a controlled substance.

26 (b) No person shall be presumed incompetent as a consequence of
27 receiving an evaluation or voluntary or involuntary treatment for a
28 mental disorder or substance use disorders, under this chapter or any
29 prior laws of this state dealing with mental illness or substance use
30 disorders. Competency shall not be determined or withdrawn except
31 under the provisions of chapter 10.77 or 11.88 RCW.

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

36 (2) Each person involuntarily detained or committed pursuant to
37 this chapter shall have the right to adequate care and individualized
38 treatment.

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

5 (4) Persons receiving evaluation or treatment under this chapter
6 shall be given a reasonable choice of an available physician,
7 psychiatric advanced registered nurse practitioner, physician
8 assistant, or other professional person qualified to provide such
9 services.

10 (5) Whenever any person is detained for evaluation and treatment
11 pursuant to this chapter, both the person and, if possible, a
12 responsible member of his or her immediate family, personal
13 representative, guardian, or conservator, if any, shall be advised as
14 soon as possible in writing or orally, by the officer or person
15 taking him or her into custody or by personnel of the evaluation and
16 treatment facility, secure detoxification facility, or approved
17 substance use disorder treatment program where the person is detained
18 that unless the person is released or voluntarily admits himself or
19 herself for treatment within seventy-two hours of the initial
20 detention:

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

29 (b) The person has a right to communicate immediately with an
30 attorney; has a right to have an attorney appointed to represent him
31 or her before and at the probable cause hearing if he or she is
32 indigent; and has the right to be told the name and address of the
33 attorney that the mental health professional has designated pursuant
34 to this chapter;

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

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

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

4 (6) When proceedings are initiated under RCW 71.05.153, no later
5 than twelve hours after such person is admitted to the evaluation and
6 treatment facility, secure detoxification facility, or approved
7 substance use disorder treatment program the personnel of the
8 ((evaluation and treatment)) facility or the designated ((mental
9 health professional)) crisis responder shall serve on such person a
10 copy of the petition for initial detention and the name, business
11 address, and phone number of the designated attorney and shall
12 forthwith commence service of a copy of the petition for initial
13 detention on the designated attorney.

14 (7) The judicial hearing described in subsection (5) of this
15 section is hereby authorized, and shall be held according to the
16 provisions of subsection (5) of this section and rules promulgated by
17 the supreme court.

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

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

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

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

23 (d) To remain silent;

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

25 (9) Privileges between patients and physicians, psychologists,
26 physician assistants, or psychiatric advanced registered nurse
27 practitioners are deemed waived in proceedings under this chapter
28 relating to the administration of antipsychotic medications. As to
29 other proceedings under this chapter, the privileges shall be waived
30 when a court of competent jurisdiction in its discretion determines
31 that such waiver is necessary to protect either the detained person
32 or the public.

33 The waiver of a privilege under this section is limited to
34 records or testimony relevant to evaluation of the detained person
35 for purposes of a proceeding under this chapter. Upon motion by the
36 detained person or on its own motion, the court shall examine a
37 record or testimony sought by a petitioner to determine whether it is
38 within the scope of the waiver.

39 The record maker shall not be required to testify in order to
40 introduce medical or psychological records of the detained person so

1 long as the requirements of RCW 5.45.020 are met except that portions
2 of the record which contain opinions as to the detained person's
3 mental state must be deleted from such records unless the person
4 making such conclusions is available for cross-examination.

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

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

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

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

17 (d) To have visitors at reasonable times;

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

21 (f) To have ready access to letter writing materials, including
22 stamps, and to send and receive uncensored correspondence through the
23 mails;

24 (g) To discuss treatment plans and decisions with professional
25 persons;

26 (h) Not to consent to the administration of antipsychotic
27 medications and not to thereafter be administered antipsychotic
28 medications unless ordered by a court under RCW 71.05.217 or pursuant
29 to an administrative hearing under RCW 71.05.215;

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

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

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

38 (11) Every person involuntarily detained shall immediately be
39 informed of his or her right to a hearing to review the legality of
40 his or her detention and of his or her right to counsel, by the

1 professional person in charge of the facility providing evaluation
2 and treatment, or his or her designee, and, when appropriate, by the
3 court. If the person so elects, the court shall immediately appoint
4 an attorney to assist him or her.

5 (12) A person challenging his or her detention or his or her
6 attorney shall have the right to designate and have the court appoint
7 a reasonably available independent physician, psychiatric advanced
8 registered nurse practitioner, physician assistant, or licensed
9 mental health professional to examine the person detained, the
10 results of which examination may be used in the proceeding. The
11 person shall, if he or she is financially able, bear the cost of such
12 expert examination, otherwise such expert examination shall be at
13 public expense.

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

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

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

24 **Sec. 240.** RCW 71.05.380 and 1973 1st ex.s. c 142 s 43 are each
25 amended to read as follows:

26 All persons voluntarily entering or remaining in any facility,
27 institution, or hospital providing evaluation and treatment for
28 mental disorders or substance use disorders shall have no less than
29 all rights secured to involuntarily detained persons by RCW 71.05.360
30 and (~~(71.05.370)~~) 71.05.217.

31 **Sec. 241.** RCW 71.05.435 and 2010 c 280 s 4 are each amended to
32 read as follows:

33 (1) Whenever a person who is the subject of an involuntary
34 commitment order under this chapter is discharged from an evaluation
35 and treatment facility (~~(or)~~) state hospital, (~~(the evaluation and~~
36 ~~treatment facility or state hospital shall provide notice of the~~
37 ~~person's discharge to the designated mental health professional)~~)
38 secure detoxification facility, or approved substance use disorder

1 treatment program providing involuntary treatment services, the
2 entity discharging the person shall provide notice of the person's
3 discharge to the designated crisis responder office responsible for
4 the initial commitment and the designated ~~((mental—health~~
5 ~~professional))~~ crisis responder office that serves the county in
6 which the person is expected to reside. The ~~((evaluation—and~~
7 ~~treatment facility or state hospital))~~ entity discharging the person
8 must also provide these offices with a copy of any less restrictive
9 order or conditional release order entered in conjunction with the
10 discharge of the person, unless the ~~((evaluation—and—treatment~~
11 ~~facility or state hospital))~~ entity discharging the person has
12 entered into a memorandum of understanding obligating another entity
13 to provide these documents.

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

20 (3) The department shall maintain and make available an updated
21 list of contact information for designated ~~((mental—health~~
22 ~~professional))~~ crisis responder offices around the state.

23 **Sec. 242.** RCW 71.05.530 and 1998 c 297 s 23 are each amended to
24 read as follows:

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

30 **Sec. 243.** RCW 71.05.560 and 1998 c 297 s 24 are each amended to
31 read as follows:

32 The department shall adopt such rules as may be necessary to
33 effectuate the intent and purposes of this chapter, which shall
34 include but not be limited to evaluation of the quality of the
35 program and facilities operating pursuant to this chapter, evaluation
36 of the effectiveness and cost effectiveness of such programs and
37 facilities, and procedures and standards for certification and other
38 action relevant to evaluation and treatment facilities, secure

1 detoxification facilities, and approved substance use disorder
2 treatment programs.

3 **Sec. 244.** RCW 71.05.620 and 2013 c 200 s 23 are each amended to
4 read as follows:

5 (1) The files and records of court proceedings under this chapter
6 and chapter(~~(s 70.96A,)~~) 71.34(~~(, and 70.96B)~~) RCW shall be closed
7 but shall be accessible to:

8 (a) The department;

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

10 (c) Any person who is the subject of a petition (~~and to~~);

11 (d) The (~~person's~~) attorney(~~(,)~~) or guardian ad litem(~~(,)~~) of
12 the person;

13 (e) Resource management services(~~(, or)~~) for that person; and

14 (f) Service providers authorized to receive such information by
15 resource management services.

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

17 **Sec. 245.** RCW 71.05.700 and 2007 c 360 s 2 are each amended to
18 read as follows:

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

33 **Sec. 246.** RCW 71.05.705 and 2007 c 360 s 3 are each amended to
34 read as follows:

35 Each provider of designated (~~mental health professional~~) crisis
36 responder or crisis outreach services shall maintain a written policy
37 that, at a minimum, describes the organization's plan for training,

1 staff backup, information sharing, and communication for crisis
2 outreach staff who respond to private homes or nonpublic settings.

3 **Sec. 247.** RCW 71.34.020 and 2011 c 89 s 16 are each amended to
4 read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

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

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

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

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

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

24 (4) "Department" means the department of social and health
25 services.

26 (5) (~~"Designated mental health professional" means a mental~~
27 ~~health professional designated by one or more counties to perform the~~
28 ~~functions of a designated mental health professional described in~~
29 ~~this chapter.~~

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

1 ((+7)) (6) "Evaluation and treatment program" means the total
2 system of services and facilities coordinated and approved by a
3 county or combination of counties for the evaluation and treatment of
4 minors under this chapter.

5 ((+8)) (7) "Gravely disabled minor" means a minor who, as a
6 result of a mental disorder, or as a result of the use of alcohol or
7 other psychoactive chemicals, is in danger of serious physical harm
8 resulting from a failure to provide for his or her essential human
9 needs of health or safety, or manifests severe deterioration in
10 routine functioning evidenced by repeated and escalating loss of
11 cognitive or volitional control over his or her actions and is not
12 receiving such care as is essential for his or her health or safety.

13 ((+9)) (8) "Inpatient treatment" means twenty-four-hour-per-day
14 mental health care provided within a general hospital, psychiatric
15 hospital, ~~((+))~~ residential treatment facility certified by the
16 department as an evaluation and treatment facility for minors, secure
17 detoxification facility for minors, or approved substance use
18 disorder treatment program for minors.

19 ((+10)) (9) "Less restrictive alternative" or "less restrictive
20 setting" means outpatient treatment provided to a minor who is not
21 residing in a facility providing inpatient treatment as defined in
22 this chapter.

23 ((+11)) (10) "Likelihood of serious harm" means either: (a) A
24 substantial risk that physical harm will be inflicted by an
25 individual upon his or her own person, as evidenced by threats or
26 attempts to commit suicide or inflict physical harm on oneself; (b) a
27 substantial risk that physical harm will be inflicted by an
28 individual upon another, as evidenced by behavior which has caused
29 such harm or which places another person or persons in reasonable
30 fear of sustaining such harm; or (c) a substantial risk that physical
31 harm will be inflicted by an individual upon the property of others,
32 as evidenced by behavior which has caused substantial loss or damage
33 to the property of others.

34 ((+12)) (11) "Medical necessity" for inpatient care means a
35 requested service which is reasonably calculated to: (a) Diagnose,
36 correct, cure, or alleviate a mental disorder or substance use
37 disorder; or (b) prevent the ~~((worsening of mental conditions))~~
38 progression of a substance use disorder that endangers life or causes
39 suffering and pain, or results in illness or infirmity or threatens
40 to cause or aggravate a handicap, or causes physical deformity or

1 malfunction, and there is no adequate less restrictive alternative
2 available.

3 ~~((13))~~ (12) "Mental disorder" means any organic, mental, or
4 emotional impairment that has substantial adverse effects on an
5 individual's cognitive or volitional functions. The presence of
6 alcohol abuse, drug abuse, juvenile criminal history, antisocial
7 behavior, or intellectual disabilities alone is insufficient to
8 justify a finding of "mental disorder" within the meaning of this
9 section.

10 ~~((14))~~ (13) "Mental health professional" means a psychiatrist,
11 psychologist, psychiatric nurse, or social worker, and such other
12 mental health professionals as may be defined by rules adopted by the
13 secretary under this chapter.

14 ~~((15))~~ (14) "Minor" means any person under the age of eighteen
15 years.

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

19 ~~((17))~~ (16) "Parent" means:

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

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

25 ~~((18))~~ (17) "Professional person in charge" or "professional
26 person" means a physician ~~((or))~~ other mental health professional,
27 or other person empowered by an evaluation and treatment facility,
28 secure detoxification facility, or approved substance use disorder
29 treatment program with authority to make admission and discharge
30 decisions on behalf of that facility.

31 ~~((19))~~ (18) "Psychiatric nurse" means a registered nurse who
32 has a bachelor's degree from an accredited college or university, and
33 who has had, in addition, at least two years' experience in the
34 direct treatment of persons who have a mental illness or who are
35 emotionally disturbed, such experience gained under the supervision
36 of a mental health professional. "Psychiatric nurse" shall also mean
37 any other registered nurse who has three years of such experience.

38 ~~((20))~~ (19) "Psychiatrist" means a person having a license as a
39 physician in this state who has completed residency training in
40 psychiatry in a program approved by the American Medical Association

1 or the American Osteopathic Association, and is board eligible or
2 board certified in psychiatry.

3 ~~((+21))~~ (20) "Psychologist" means a person licensed as a
4 psychologist under chapter 18.83 RCW.

5 ~~((+22))~~ (21) "Responsible other" means the minor, the minor's
6 parent or estate, or any other person legally responsible for support
7 of the minor.

8 ~~((+23))~~ (22) "Secretary" means the secretary of the department
9 or secretary's designee.

10 ~~((+24))~~ (23) "Social worker" means a person with a master's or
11 further advanced degree from a social work educational program
12 accredited and approved as provided in RCW 18.320.010.

13 ~~((+25))~~ (24) "Start of initial detention" means the time of
14 arrival of the minor at the first evaluation and treatment facility,
15 secure detoxification facility, or approved substance use disorder
16 treatment program offering inpatient treatment if the minor is being
17 involuntarily detained at the time. With regard to voluntary
18 patients, "start of initial detention" means the time at which the
19 minor gives notice of intent to leave under the provisions of this
20 chapter.

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

27 (26) "Approved substance use disorder treatment program" means a
28 program for minors with substance use disorders provided by a
29 treatment program certified by the department as meeting standards
30 adopted under chapter 70.96A RCW.

31 (27) "Chemical dependency" means:

32 (a) Alcoholism;

33 (b) Drug addiction; or

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

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

39 (29) "Controlled substance" has the same meaning as under the
40 federal controlled substances act, 21 U.S.C. Sec. 802.

1 (30) "Designated crisis responder" means a person designated by a
2 behavioral health organization to perform the duties specified in
3 this chapter.

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

10 (32) "Intoxicated minor" means a minor whose mental or physical
11 functioning is substantially impaired as a result of the use of
12 alcohol or other psychoactive chemicals.

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

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

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

33 (36) "Secure detoxification facility" means a facility operated
34 by either a public or private agency or by the program of an agency
35 that:

36 (a) Provides for intoxicated minors:

37 (i) Evaluation and assessment, provided by certified chemical
38 dependency professionals;

39 (ii) Acute or subacute detoxification services; and

1 (iii) Discharge assistance provided by certified chemical
2 dependency professionals, including facilitating transitions to
3 appropriate voluntary or involuntary inpatient services or to less
4 restrictive alternatives as appropriate for the minor;

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

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

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

14 **Sec. 248.** RCW 71.34.305 and 1996 c 133 s 6 are each amended to
15 read as follows:

16 School district personnel who contact a mental health or
17 substance use disorder inpatient treatment program or provider for
18 the purpose of referring a student to inpatient treatment shall
19 provide the parents with notice of the contact within forty-eight
20 hours.

21 **Sec. 249.** RCW 71.34.375 and 2011 c 302 s 1 are each amended to
22 read as follows:

23 (1) If a parent or guardian, for the purpose of mental health
24 treatment, substance use disorder treatment, or evaluation, brings
25 his or her minor child to an evaluation and treatment facility, a
26 hospital emergency room, an inpatient facility licensed under chapter
27 72.23 RCW, ~~((or))~~ an inpatient facility licensed under chapter 70.41
28 or 71.12 RCW operating inpatient psychiatric beds for minors, a
29 secure detoxification facility, or an approved substance use disorder
30 treatment program, the facility is required to promptly provide
31 written and verbal notice of all statutorily available treatment
32 options contained in this chapter. The notice need not be given more
33 than once if written and verbal notice has already been provided and
34 documented by the facility.

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

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

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

5 (3) The department shall produce, and make available, the written
6 notification that must include, at a minimum, the information
7 contained in subsection (2) of this section. The department must
8 revise the written notification as necessary to reflect changes in
9 the law.

10 **Sec. 250.** RCW 71.34.385 and 1992 c 205 s 304 are each amended to
11 read as follows:

12 The department shall ensure that the provisions of this chapter
13 are applied by the counties in a consistent and uniform manner. The
14 department shall also ensure that, to the extent possible within
15 available funds, the ~~((county designated mental health~~
16 ~~professionals))~~ designated crisis responders are specifically trained
17 in adolescent mental health issues, the mental health and substance
18 use disorder civil commitment laws, and the criteria for civil
19 commitment.

20 **Sec. 251.** RCW 71.34.400 and 1998 c 296 s 11 are each amended to
21 read as follows:

22 For purposes of eligibility for medical assistance under chapter
23 74.09 RCW, minors in inpatient mental health or inpatient substance
24 use disorder treatment shall be considered to be part of their
25 parent's or legal guardian's household, unless the minor has been
26 assessed by the department or its designee as likely to require such
27 treatment for at least ninety consecutive days, or is in out-of-home
28 care in accordance with chapter 13.34 RCW, or the parents are found
29 to not be exercising responsibility for care and control of the
30 minor. Payment for such care by the department shall be made only in
31 accordance with rules, guidelines, and clinical criteria applicable
32 to inpatient treatment of minors established by the department.

33 **Sec. 252.** RCW 71.34.410 and 2005 c 371 s 5 are each amended to
34 read as follows:

35 No public or private agency or governmental entity, nor officer
36 of a public or private agency, nor the superintendent, or
37 professional person in charge, his or her professional designee or

1 attending staff of any such agency, nor any public official
2 performing functions necessary to the administration of this chapter,
3 nor peace officer responsible for detaining a person under this
4 chapter, nor any ((county)) designated ((~~mental health professional~~))
5 crisis responder, nor professional person, nor evaluation and
6 treatment facility, nor secure detoxification facility, nor approved
7 substance use disorder treatment program shall be civilly or
8 criminally liable for performing actions authorized in this chapter
9 with regard to the decision of whether to admit, release, or detain a
10 person for evaluation and treatment: PROVIDED, That such duties were
11 performed in good faith and without gross negligence.

12 **Sec. 253.** RCW 71.34.500 and 2006 c 93 s 3 are each amended to
13 read as follows:

14 (1) A minor thirteen years or older may admit himself or herself
15 to an evaluation and treatment facility for inpatient mental health
16 treatment or an approved substance use disorder treatment program for
17 inpatient ((~~mental~~)) substance use disorder treatment((~~τ~~)) without
18 parental consent. The admission shall occur only if the professional
19 person in charge of the facility concurs with the need for inpatient
20 treatment. Parental authorization, or authorization from a person who
21 may consent on behalf of the minor pursuant to RCW 7.70.065, is
22 required for inpatient treatment of a minor under the age of
23 thirteen.

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

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

37 **Sec. 254.** RCW 71.34.520 and 2003 c 106 s 1 are each amended to
38 read as follows:

1 (1) Any minor thirteen years or older voluntarily admitted to an
2 evaluation and treatment facility or approved substance use disorder
3 treatment program under RCW 71.34.500 may give notice of intent to
4 leave at any time. The notice need not follow any specific form so
5 long as it is written and the intent of the minor can be discerned.

6 (2) The staff member receiving the notice shall date it
7 immediately, record its existence in the minor's clinical record, and
8 send copies of it to the minor's attorney, if any, the (~~county-~~
9 ~~designated mental health professional~~) designated crisis responders,
10 and the parent.

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

14 **Sec. 255.** RCW 71.34.600 and 2007 c 375 s 11 are each amended to
15 read as follows:

16 (1) A parent may bring, or authorize the bringing of, his or her
17 minor child to:

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

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

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

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

1 to that which the professional person determines is medically
2 necessary to stabilize the minor's condition until the evaluation has
3 been completed. Within twenty-four hours of completion of the
4 evaluation, the professional person shall notify the department if
5 the child is held for treatment and of the date of admission.

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

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

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

17 (7) For the purposes of this section "professional person" means
18 "professional person" as defined in RCW 71.05.020.

19 **Sec. 256.** RCW 71.34.630 and 1998 c 296 s 20 are each amended to
20 read as follows:

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

28 **Sec. 257.** RCW 71.34.650 and 1998 c 296 s 18 are each amended to
29 read as follows:

30 (1) A parent may bring, or authorize the bringing of, his or her
31 minor child to:

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

36 (b) A provider of outpatient substance use disorder treatment and
37 request that an appropriately trained professional person examine the

1 minor to determine whether the minor has a substance use disorder and
2 is in need of outpatient treatment.

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

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

8 (4) Any minor admitted to inpatient treatment under RCW 71.34.500
9 or 71.34.600 shall be discharged immediately from inpatient treatment
10 upon written request of the parent.

11 **Sec. 258.** RCW 71.34.660 and 2005 c 371 s 3 are each amended to
12 read as follows:

13 A minor child shall have no cause of action against an evaluation
14 and treatment facility, secure detoxification facility, approved
15 substance use disorder treatment program, inpatient facility, or
16 provider of outpatient mental health treatment or outpatient
17 substance use disorder treatment for admitting or accepting the minor
18 in good faith for evaluation or treatment under RCW 71.34.600 or
19 71.34.650 based solely upon the fact that the minor did not consent
20 to evaluation or treatment if the minor's parent has consented to the
21 evaluation or treatment.

22 **Sec. 259.** RCW 71.34.700 and 1985 c 354 s 4 are each amended to
23 read as follows:

24 (1) If a minor, thirteen years or older, is brought to an
25 evaluation and treatment facility or hospital emergency room for
26 immediate mental health services, the professional person in charge
27 of the facility shall evaluate the minor's mental condition,
28 determine whether the minor suffers from a mental disorder, and
29 whether the minor is in need of immediate inpatient treatment.

30 (2) If a minor, thirteen years or older, is brought to a secure
31 detoxification facility with available space, or a hospital emergency
32 room for immediate substance use disorder treatment, the professional
33 person in charge of the facility shall evaluate the minor's
34 condition, determine whether the minor suffers from substance use
35 disorder, and whether the minor is in need of immediate inpatient
36 treatment.

37 (3) If it is determined under subsection (1) or (2) of this
38 section that the minor suffers from a mental disorder or substance

1 use disorder, inpatient treatment is required, the minor is unwilling
2 to consent to voluntary admission, and the professional person
3 believes that the minor meets the criteria for initial detention set
4 forth herein, the facility may detain or arrange for the detention of
5 the minor for up to twelve hours in order to enable a (~~county-~~
6 ~~designated mental health professional~~) designated crisis responder
7 to evaluate the minor and commence initial detention proceedings
8 under the provisions of this chapter.

9 **Sec. 260.** RCW 71.34.700 and 2015 c ... s 259 (section 259 of
10 this act) are each amended to read as follows:

11 (1) If a minor, thirteen years or older, is brought to an
12 evaluation and treatment facility or hospital emergency room for
13 immediate mental health services, the professional person in charge
14 of the facility shall evaluate the minor's mental condition,
15 determine whether the minor suffers from a mental disorder, and
16 whether the minor is in need of immediate inpatient treatment.

17 (2) If a minor, thirteen years or older, is brought to a secure
18 detoxification facility (~~with available space~~), or a hospital
19 emergency room for immediate substance use disorder treatment, the
20 professional person in charge of the facility shall evaluate the
21 minor's condition, determine whether the minor suffers from substance
22 use disorder, and whether the minor is in need of immediate inpatient
23 treatment.

24 (3) If it is determined under subsection (1) or (2) of this
25 section that the minor suffers from a mental disorder or substance
26 use disorder, inpatient treatment is required, the minor is unwilling
27 to consent to voluntary admission, and the professional person
28 believes that the minor meets the criteria for initial detention set
29 forth herein, the facility may detain or arrange for the detention of
30 the minor for up to twelve hours in order to enable a designated
31 crisis responder to evaluate the minor and commence initial detention
32 proceedings under the provisions of this chapter.

33 **Sec. 261.** RCW 71.34.710 and 1995 c 312 s 53 are each amended to
34 read as follows:

35 (1)(a)(i) When a (~~county-designated mental health professional~~)
36 designated crisis responder receives information that a minor,
37 thirteen years or older, as a result of a mental disorder presents a
38 likelihood of serious harm or is gravely disabled, has investigated

1 the specific facts alleged and of the credibility of the person or
2 persons providing the information, and has determined that voluntary
3 admission for inpatient treatment is not possible, the ((~~county-~~
4 ~~designated mental health professional~~)) designated crisis responder
5 may take the minor, or cause the minor to be taken, into custody and
6 transported to an evaluation and treatment facility providing
7 inpatient treatment.

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

18 (b) If the minor is not taken into custody for evaluation and
19 treatment, the parent who has custody of the minor may seek review of
20 that decision made by the ((~~county-designated mental health~~
21 ~~professional~~)) designated crisis responder in court. The parent shall
22 file notice with the court and provide a copy of the ((~~county~~
23 ~~designated mental health professional's~~)) designated crisis
24 responder's report or notes.

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

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

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

14 (4) Subject to subsection (5) of this section, whenever the
15 (~~county-designated mental health professional~~) designated crisis
16 responder petitions for detention of a minor under this chapter, an
17 evaluation and treatment facility, secure detoxification facility, or
18 approved substance use disorder treatment program providing seventy-
19 two hour evaluation and treatment must immediately accept on a
20 provisional basis the petition and the person. Within twenty-four
21 hours of the minor's arrival, the facility must evaluate the minor's
22 condition and either admit or release the minor in accordance with
23 this chapter.

24 (5) A designated crisis responder may not petition for detention
25 of a minor to a secure detoxification facility or approved substance
26 use disorder treatment program unless there is space available in the
27 facility or program.

28 (6) If a minor is not approved for admission by the inpatient
29 evaluation and treatment facility, secure detoxification facility, or
30 approved substance use disorder treatment program, the facility shall
31 make such recommendations and referrals for further care and
32 treatment of the minor as necessary.

33 **Sec. 262.** RCW 71.34.710 and 2015 c ... s 261 (section 261 of
34 this act) are each amended to read as follows:

35 (1)(a)(i) When a designated crisis responder receives information
36 that a minor, thirteen years or older, as a result of a mental
37 disorder presents a likelihood of serious harm or is gravely
38 disabled, has investigated the specific facts alleged and of the
39 credibility of the person or persons providing the information, and

1 has determined that voluntary admission for inpatient treatment is
2 not possible, the designated crisis responder may take the minor, or
3 cause the minor to be taken, into custody and transported to an
4 evaluation and treatment facility providing inpatient treatment.

5 (ii) When a designated crisis responder receives information that
6 a minor, thirteen years or older, as a result of substance use
7 disorder presents a likelihood of serious harm or is gravely
8 disabled, has investigated the specific facts alleged and of the
9 credibility of the person or persons providing the information, and
10 has determined that voluntary admission for inpatient treatment is
11 not possible, the designated crisis responder may take the minor, or
12 cause the minor to be taken, into custody and transported to a secure
13 detoxification facility or approved substance use disorder treatment
14 program(~~(, if space is available in the facility or program)~~).

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

20 (2) Within twelve hours of the minor's arrival at the evaluation
21 and treatment facility, secure detoxification facility, or approved
22 substance use disorder treatment program, the designated crisis
23 responder shall serve on the minor a copy of the petition for initial
24 detention, notice of initial detention, and statement of rights. The
25 designated crisis responder shall file with the court on the next
26 judicial day following the initial detention the original petition
27 for initial detention, notice of initial detention, and statement of
28 rights along with an affidavit of service. The designated crisis
29 responder shall commence service of the petition for initial
30 detention and notice of the initial detention on the minor's parent
31 and the minor's attorney as soon as possible following the initial
32 detention.

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

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

5 ~~(4) ((Subject to subsection (5) of this section,))~~ Whenever the
6 designated crisis responder petitions for detention of a minor under
7 this chapter, an evaluation and treatment facility, secure
8 detoxification facility, or approved substance use disorder treatment
9 program providing seventy-two hour evaluation and treatment must
10 immediately accept on a provisional basis the petition and the
11 person. Within twenty-four hours of the minor's arrival, the facility
12 must evaluate the minor's condition and either admit or release the
13 minor in accordance with this chapter.

14 ~~(5) ((A designated crisis responder may not petition for~~
15 ~~detention of a minor to a secure detoxification facility or approved~~
16 ~~substance use disorder treatment program unless there is space~~
17 ~~available in the facility or program.~~

18 ~~(6))~~ If a minor is not approved for admission by the inpatient
19 evaluation and treatment facility, secure detoxification facility, or
20 approved substance use disorder treatment program, the facility shall
21 make such recommendations and referrals for further care and
22 treatment of the minor as necessary.

23 **Sec. 263.** RCW 71.34.720 and 2009 c 217 s 16 are each amended to
24 read as follows:

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

35 (2) If, after examination and evaluation, the children's mental
36 health specialist or substance use disorder specialist and the
37 physician, physician assistant, or psychiatric advanced registered
38 nurse practitioner determine that the initial needs of the minor, if
39 detained to an evaluation and treatment facility, would be better

1 served by placement in a (~~chemical dependency~~) substance use
2 disorder treatment facility or, if detained to a secure
3 detoxification facility or approved substance use disorder treatment
4 program, would be better served in an evaluation and treatment
5 facility, then the minor shall be referred to (~~an approved treatment~~
6 program defined under RCW 70.96A.020)) the more appropriate
7 placement; however a minor may only be referred to a secure
8 detoxification facility or approved substance use disorder treatment
9 program if space is available in the facility or program.

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

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

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

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

30 **Sec. 264.** RCW 71.34.720 and 2015 c ... s 263 (section 263 of
31 this act) are each amended to read as follows:

32 (1) Each minor approved by the facility for inpatient admission
33 shall be examined and evaluated by a children's mental health
34 specialist, for minors admitted as a result of a mental disorder, or
35 by a chemical dependency professional, for minors admitted as a
36 result of a substance use disorder, as to the child's mental
37 condition and by a physician, physician assistant, or psychiatric
38 advanced registered nurse practitioner as to the child's physical
39 condition within twenty-four hours of admission. Reasonable measures

1 shall be taken to ensure medical treatment is provided for any
2 condition requiring immediate medical attention.

3 (2) If, after examination and evaluation, the children's mental
4 health specialist or substance use disorder specialist and the
5 physician, physician assistant, or psychiatric advanced registered
6 nurse practitioner determine that the initial needs of the minor, if
7 detained to an evaluation and treatment facility, would be better
8 served by placement in a substance use disorder treatment facility
9 or, if detained to a secure detoxification facility or approved
10 substance use disorder treatment program, would be better served in
11 an evaluation and treatment facility, then the minor shall be
12 referred to the more appropriate placement(~~(; however a minor may~~
13 ~~only be referred to a secure detoxification facility or approved~~
14 ~~substance use disorder treatment program if space is available in the~~
15 ~~facility or program)).~~

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

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

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

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

36 **Sec. 265.** RCW 71.34.730 and 2009 c 293 s 6 and 2009 c 217 s 17
37 are each reenacted and amended to read as follows:

38 (1) The professional person in charge of an evaluation and
39 treatment facility, secure detoxification facility, or approved

1 substance use disorder treatment program where a minor has been
2 admitted involuntarily for the initial seventy-two hour treatment
3 period under this chapter may petition to have a minor committed to
4 an evaluation and treatment facility or, in the case of a minor with
5 a substance use disorder, to a secure detoxification facility or
6 approved substance use disorder treatment program for fourteen-day
7 diagnosis, evaluation, and treatment.

8 If the professional person in charge of the (~~treatment and~~
9 ~~evaluation~~) facility does not petition to have the minor committed,
10 the parent who has custody of the minor may seek review of that
11 decision in court. The parent shall file notice with the court and
12 provide a copy of the treatment and evaluation facility's report.

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

16 (a) A petition for a fourteen-day commitment shall be signed by
17 (i) two physicians, (ii) two psychiatric advanced registered nurse
18 practitioners, (iii) ~~((a))~~ two physician assistants, (iv) one mental
19 health professional and either a (A) physician, (B) physician
20 assistant, or ~~((a))~~ (C) psychiatric advanced registered nurse
21 practitioner, or ~~((iv)—a))~~ (v) one physician and either a
22 psychiatric advanced registered nurse practitioner or physician
23 assistant. The person signing the petition must have examined the
24 minor, and the petition must contain the following:

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

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

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

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

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

37 (F) If the petition is for mental health treatment or treatment
38 for a substance use disorder that is based on use of a controlled
39 substance, a statement that the minor has been advised of the loss of
40 firearm rights if involuntarily committed;

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

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

5 (b) A copy of the petition shall be personally delivered to the
6 minor by the petitioner or petitioner's designee. A copy of the
7 petition shall be sent to the minor's attorney and the minor's
8 parent.

9 **Sec. 266.** RCW 71.34.740 and 2009 c 293 s 7 are each amended to
10 read as follows:

11 (1) A commitment hearing shall be held within seventy-two hours
12 of the minor's admission, excluding Saturday, Sunday, and holidays,
13 unless a continuance is requested by the minor or the minor's
14 attorney.

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

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

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

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

26 (6) At the commitment hearing, the minor shall have the following
27 rights:

28 (a) To be represented by an attorney;

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

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

31 (7) If the hearing is for commitment for mental health treatment
32 or treatment of a substance use disorder that is based on use of a
33 controlled substance, the court at the time of the commitment hearing
34 and before an order of commitment is entered shall inform the minor
35 both orally and in writing that the failure to make a good faith
36 effort to seek voluntary treatment as provided in RCW 71.34.730 will
37 result in the loss of his or her firearm rights if the minor is
38 subsequently detained for involuntary treatment under this section.

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

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

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

8 (a) The minor has a mental disorder or substance use disorder and
9 presents a ~~((=))~~likelihood of serious harm~~((=))~~ or is ~~((=))~~gravely
10 disabled~~((=))~~;

11 (b) The minor is in need of evaluation and treatment of the type
12 provided by the inpatient evaluation and treatment facility, secure
13 detoxification facility, or approved substance use disorder treatment
14 program to which continued inpatient care is sought or is in need of
15 less restrictive alternative treatment found to be in the best
16 interests of the minor; ~~((and))~~

17 (c) The minor is unwilling or unable in good faith to consent to
18 voluntary treatment; and

19 (d) If commitment is to a secure detoxification facility or
20 approved substance use disorder treatment program for inpatient
21 treatment, there is available space at the facility or program.

22 (11) If the court finds that the minor meets the criteria for a
23 fourteen-day commitment, the court shall either authorize commitment
24 of the minor for inpatient treatment or for less restrictive
25 alternative treatment upon such conditions as are necessary. If the
26 court determines that the minor does not meet the criteria for a
27 fourteen-day commitment, the minor shall be released.

28 (12) Nothing in this section prohibits the professional person in
29 charge of the ~~((evaluation and treatment))~~ facility from releasing
30 the minor at any time, when, in the opinion of the professional
31 person in charge of the facility, further inpatient treatment is no
32 longer necessary. The release may be subject to reasonable conditions
33 if appropriate.

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

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

1 **Sec. 267.** RCW 71.34.740 and 2015 c ... s 266 (section 266 of
2 this act) are each amended to read as follows:

3 (1) A commitment hearing shall be held within seventy-two hours
4 of the minor's admission, excluding Saturday, Sunday, and holidays,
5 unless a continuance is requested by the minor or the minor's
6 attorney.

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

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

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

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

18 (6) At the commitment hearing, the minor shall have the following
19 rights:

20 (a) To be represented by an attorney;

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

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

23 (7) If the hearing is for commitment for mental health treatment
24 or treatment of a substance use disorder that is based on use of a
25 controlled substance, the court at the time of the commitment hearing
26 and before an order of commitment is entered shall inform the minor
27 both orally and in writing that the failure to make a good faith
28 effort to seek voluntary treatment as provided in RCW 71.34.730 will
29 result in the loss of his or her firearm rights if the minor is
30 subsequently detained for involuntary treatment under this section.

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

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

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

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

1 (b) The minor is in need of evaluation and treatment of the type
2 provided by the inpatient evaluation and treatment facility, secure
3 detoxification facility, or approved substance use disorder treatment
4 program to which continued inpatient care is sought or is in need of
5 less restrictive alternative treatment found to be in the best
6 interests of the minor; and

7 (c) The minor is unwilling or unable in good faith to consent to
8 voluntary treatment(~~(; and~~

9 ~~(d) If commitment is to a secure detoxification facility or~~
10 ~~approved substance use disorder treatment program for inpatient~~
11 ~~treatment, there is available space at the facility or program)).~~

12 (11) If the court finds that the minor meets the criteria for a
13 fourteen-day commitment, the court shall either authorize commitment
14 of the minor for inpatient treatment or for less restrictive
15 alternative treatment upon such conditions as are necessary. If the
16 court determines that the minor does not meet the criteria for a
17 fourteen-day commitment, the minor shall be released.

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

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

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

29 **Sec. 268.** RCW 71.34.750 and 2009 c 217 s 18 are each amended to
30 read as follows:

31 (1) At any time during the minor's period of fourteen-day
32 commitment, the professional person in charge may petition the court
33 for an order requiring the minor to undergo an additional one hundred
34 eighty-day period of treatment. The evidence in support of the
35 petition shall be presented by the county prosecutor unless the
36 petition is filed by the professional person in charge of a state-
37 operated facility in which case the evidence shall be presented by
38 the attorney general.

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

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

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

6 (c) A statement that the petitioner is the professional person in
7 charge of the evaluation and treatment facility, secure
8 detoxification facility, or approved substance use disorder treatment
9 program responsible for the treatment of the minor;

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

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

12 (3) The petition shall be supported by accompanying affidavits
13 signed by (a) two examining physicians or physician assistants
14 working under the license of an examining physician, one of whom
15 shall be a child psychiatrist, or two psychiatric advanced registered
16 nurse practitioners, one of whom shall be a child and adolescent or
17 family psychiatric advanced registered nurse practitioner, (b) one
18 children's mental health specialist and either: (i) An examining
19 physician, (ii) a physician assistant, or (iii) a psychiatric
20 advanced registered nurse practitioner, or (c) (~~an~~) one examining
21 physician and either a psychiatric advanced registered nurse
22 practitioner or physician assistant, one of which under this
23 subsection (3)(c) needs to be a child psychiatrist or a child and
24 adolescent psychiatric nurse practitioner. The affidavits shall
25 describe in detail the behavior of the detained minor which supports
26 the petition and shall state whether a less restrictive alternative
27 to inpatient treatment is in the best interests of the minor.

28 (4) The petition for one hundred eighty-day commitment shall be
29 filed with the clerk of the court at least three days before the
30 expiration of the fourteen-day commitment period. The petitioner or
31 the petitioner's designee shall within twenty-four hours of filing
32 serve a copy of the petition on the minor and notify the minor's
33 attorney and the minor's parent. A copy of the petition shall be
34 provided to such persons at least twenty-four hours prior to the
35 hearing.

36 (5) At the time of filing, the court shall set a date within
37 seven days for the hearing on the petition. The court may continue
38 the hearing upon the written request of the minor or the minor's
39 attorney for not more than ten days. The minor or the parents shall

1 be afforded the same rights as in a fourteen-day commitment hearing.
2 Treatment of the minor shall continue pending the proceeding.

3 (6) For one hundred eighty-day commitment(~~(7)~~):

4 (a) The court must find by clear, cogent, and convincing evidence
5 that the minor:

6 ~~((a))~~ (i) Is suffering from a mental disorder;

7 ~~((b))~~ (ii) Presents a likelihood of serious harm or is gravely
8 disabled; and

9 ~~((c))~~ (iii) Is in need of further treatment that only can be
10 provided in a one hundred eighty-day commitment.

11 (b) If commitment is to an approved substance use disorder
12 treatment program for inpatient treatment, the court must find that
13 there is available space at the program.

14 (7) If the court finds that the criteria for commitment are met
15 and that less restrictive treatment in a community setting is not
16 appropriate or available, the court shall order the minor committed
17 to the custody of the secretary for further inpatient mental health
18 treatment (~~to the custody of the secretary~~), to an approved
19 substance use disorder treatment program for further substance use
20 disorder treatment, or to a private treatment and evaluation facility
21 for the inpatient mental health or substance use disorder treatment
22 if the minor's parents have assumed responsibility for payment for
23 the treatment. If the court finds that a less restrictive alternative
24 is in the best interest of the minor, the court shall order less
25 restrictive alternative treatment upon such conditions as necessary.

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

28 (8) Successive one hundred eighty-day commitments are permissible
29 on the same grounds and under the same procedures as the original one
30 hundred eighty-day commitment. Such petitions shall be filed at least
31 five days prior to the expiration of the previous one hundred eighty-
32 day commitment order.

33 **Sec. 269.** RCW 71.34.750 and 2015 c ... s 268 (section 268 of
34 this act) are each amended to read as follows:

35 (1) At any time during the minor's period of fourteen-day
36 commitment, the professional person in charge may petition the court
37 for an order requiring the minor to undergo an additional one hundred
38 eighty-day period of treatment. The evidence in support of the
39 petition shall be presented by the county prosecutor unless the

1 petition is filed by the professional person in charge of a state-
2 operated facility in which case the evidence shall be presented by
3 the attorney general.

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

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

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

9 (c) A statement that the petitioner is the professional person in
10 charge of the evaluation and treatment facility, secure
11 detoxification facility, or approved substance use disorder treatment
12 program responsible for the treatment of the minor;

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

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

15 (3) The petition shall be supported by accompanying affidavits
16 signed by (a) two examining physicians or physician assistants
17 working under the license of an examining physician, one of whom
18 shall be a child psychiatrist, or two psychiatric advanced registered
19 nurse practitioners, one of whom shall be a child and adolescent or
20 family psychiatric advanced registered nurse practitioner, (b) one
21 children's mental health specialist and either: (i) An examining
22 physician, (ii) a physician assistant, or (iii) a psychiatric
23 advanced registered nurse practitioner, or (c) one examining
24 physician and either a psychiatric advanced registered nurse
25 practitioner or physician assistant, one of which under this
26 subsection (3)(c) needs to be a child psychiatrist or a child and
27 adolescent psychiatric nurse practitioner. The affidavits shall
28 describe in detail the behavior of the detained minor which supports
29 the petition and shall state whether a less restrictive alternative
30 to inpatient treatment is in the best interests of the minor.

31 (4) The petition for one hundred eighty-day commitment shall be
32 filed with the clerk of the court at least three days before the
33 expiration of the fourteen-day commitment period. The petitioner or
34 the petitioner's designee shall within twenty-four hours of filing
35 serve a copy of the petition on the minor and notify the minor's
36 attorney and the minor's parent. A copy of the petition shall be
37 provided to such persons at least twenty-four hours prior to the
38 hearing.

39 (5) At the time of filing, the court shall set a date within
40 seven days for the hearing on the petition. The court may continue

1 the hearing upon the written request of the minor or the minor's
2 attorney for not more than ten days. The minor or the parents shall
3 be afforded the same rights as in a fourteen-day commitment hearing.
4 Treatment of the minor shall continue pending the proceeding.

5 (6) For one hundred eighty-day commitment(~~(+~~
6 ~~(a))~~), the court must find by clear, cogent, and convincing
7 evidence that the minor:

8 ~~((i))~~ (a) Is suffering from a mental disorder;

9 ~~((ii))~~ (b) Presents a likelihood of serious harm or is gravely
10 disabled; and

11 ~~((iii))~~ (c) Is in need of further treatment that only can be
12 provided in a one hundred eighty-day commitment.

13 ~~((b) If commitment is to an approved substance use disorder
14 treatment program for inpatient treatment, the court must find that
15 there is available space at the program.))~~

16 (7) If the court finds that the criteria for commitment are met
17 and that less restrictive treatment in a community setting is not
18 appropriate or available, the court shall order the minor committed
19 to the custody of the secretary for further inpatient mental health
20 treatment, to an approved substance use disorder treatment program
21 for further substance use disorder treatment, or to a private
22 treatment and evaluation facility for the inpatient mental health or
23 substance use disorder treatment if the minor's parents have assumed
24 responsibility for payment for the treatment. If the court finds that
25 a less restrictive alternative is in the best interest of the minor,
26 the court shall order less restrictive alternative treatment upon
27 such conditions as necessary.

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

30 (8) Successive one hundred eighty-day commitments are permissible
31 on the same grounds and under the same procedures as the original one
32 hundred eighty-day commitment. Such petitions shall be filed at least
33 five days prior to the expiration of the previous one hundred eighty-
34 day commitment order.

35 **Sec. 270.** RCW 71.34.760 and 1985 c 354 s 10 are each amended to
36 read as follows:

37 (1) If a minor is committed for one hundred eighty-day inpatient
38 treatment and is to be placed in a state-supported program, the
39 secretary shall accept immediately and place the minor in a state-

1 funded long-term evaluation and treatment facility or state-funded
2 approved substance use disorder treatment program.

3 (2) The secretary's placement authority shall be exercised
4 through a designated placement committee appointed by the secretary
5 and composed of children's mental health specialists and chemical
6 dependency professionals, including at least one child psychiatrist
7 who represents the state-funded, long-term, evaluation and treatment
8 facility for minors and one chemical dependency professional who
9 represents the state-funded approved substance use disorder treatment
10 program. The responsibility of the placement committee will be to:

11 (a) Make the long-term placement of the minor in the most
12 appropriate, available state-funded evaluation and treatment facility
13 or approved substance use disorder treatment program, having
14 carefully considered factors including the treatment needs of the
15 minor, the most appropriate facility able to respond to the minor's
16 identified treatment needs, the geographic proximity of the facility
17 to the minor's family, the immediate availability of bed space, and
18 the probable impact of the placement on other residents of the
19 facility;

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

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

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

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

27 (4) The responsible state-funded evaluation and treatment
28 facility or approved substance use disorder treatment program shall
29 submit a report to the department's designated placement committee
30 within ninety days of admission and no less than every one hundred
31 eighty days thereafter, setting forth such facts as the department
32 requires, including the minor's individual treatment plan and
33 progress, recommendations for future treatment, and possible less
34 restrictive treatment.

35 **Sec. 271.** RCW 71.34.780 and 1985 c 354 s 11 are each amended to
36 read as follows:

37 (1) If the professional person in charge of an outpatient
38 treatment program, a (~~county-designated mental health professional~~)
39 designated crisis responder, or the secretary determines that a minor

1 is failing to adhere to the conditions of the court order for less
2 restrictive alternative treatment or the conditions for the
3 conditional release, or that substantial deterioration in the minor's
4 functioning has occurred, the (~~county designated mental health~~
5 ~~professional~~) designated crisis responder, or the secretary may
6 order that the minor, if committed for mental health treatment, be
7 taken into custody and transported to an inpatient evaluation and
8 treatment facility or, if committed for substance use disorder
9 treatment, be taken into custody and transported to a secure
10 detoxification facility or approved substance use disorder treatment
11 program if there is available space in the secure detoxification
12 facility or approved substance use disorder treatment program.

13 (2) The (~~county designated mental health professional~~)
14 designated crisis responder or the secretary shall file the order of
15 apprehension and detention and serve it upon the minor and notify the
16 minor's parent and the minor's attorney, if any, of the detention
17 within two days of return. At the time of service the minor shall be
18 informed of the right to a hearing and to representation by an
19 attorney. The (~~county designated mental health professional~~)
20 designated crisis responder or the secretary may modify or rescind
21 the order of apprehension and detention at any time prior to the
22 hearing.

23 (3) A petition for revocation of less restrictive alternative
24 treatment shall be filed by the (~~county designated mental health~~
25 ~~professional~~) designated crisis responder or the secretary with the
26 court in the county ordering the less restrictive alternative
27 treatment. The court shall conduct the hearing in that county. A
28 petition for revocation of conditional release may be filed with the
29 court in the county ordering inpatient treatment or the county where
30 the minor on conditional release is residing. A petition shall
31 describe the behavior of the minor indicating violation of the
32 conditions or deterioration of routine functioning and a
33 dispositional recommendation. Upon motion for good cause, the hearing
34 may be transferred to the county of the minor's residence or to the
35 county in which the alleged violations occurred. The hearing shall be
36 held within seven days of the minor's return. The issues to be
37 determined are whether the minor did or did not adhere to the
38 conditions of the less restrictive alternative treatment or
39 conditional release, or whether the minor's routine functioning has
40 substantially deteriorated, and, if so, whether the conditions of

1 less restrictive alternative treatment or conditional release should
2 be modified or, subject to subsection (4) of this section, whether
3 the minor should be returned to inpatient treatment. Pursuant to the
4 determination of the court, the minor shall be returned to less
5 restrictive alternative treatment or conditional release on the same
6 or modified conditions or shall be returned to inpatient treatment.
7 If the minor is returned to inpatient treatment, RCW 71.34.760
8 regarding the secretary's placement responsibility shall apply. The
9 hearing may be waived by the minor and the minor returned to
10 inpatient treatment or to less restrictive alternative treatment or
11 conditional release on the same or modified conditions.

12 (4) A court may not order the return of a minor to inpatient
13 treatment in a secure detoxification facility or approved treatment
14 program unless there is available space in the facility or program.

15 **Sec. 272.** RCW 71.34.780 and 2015 c ... s 271 (section 271 of
16 this act) are each amended to read as follows:

17 (1) If the professional person in charge of an outpatient
18 treatment program, a designated crisis responder, or the secretary
19 determines that a minor is failing to adhere to the conditions of the
20 court order for less restrictive alternative treatment or the
21 conditions for the conditional release, or that substantial
22 deterioration in the minor's functioning has occurred, the designated
23 crisis responder, or the secretary may order that the minor, if
24 committed for mental health treatment, be taken into custody and
25 transported to an inpatient evaluation and treatment facility or, if
26 committed for substance use disorder treatment, be taken into custody
27 and transported to a secure detoxification facility or approved
28 substance use disorder treatment program (~~(if there is available~~
29 ~~space in the secure detoxification facility or approved substance use~~
30 ~~disorder treatment program))~~).

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

1 (3) A petition for revocation of less restrictive alternative
2 treatment shall be filed by the designated crisis responder or the
3 secretary with the court in the county ordering the less restrictive
4 alternative treatment. The court shall conduct the hearing in that
5 county. A petition for revocation of conditional release may be filed
6 with the court in the county ordering inpatient treatment or the
7 county where the minor on conditional release is residing. A petition
8 shall describe the behavior of the minor indicating violation of the
9 conditions or deterioration of routine functioning and a
10 dispositional recommendation. Upon motion for good cause, the hearing
11 may be transferred to the county of the minor's residence or to the
12 county in which the alleged violations occurred. The hearing shall be
13 held within seven days of the minor's return. The issues to be
14 determined are whether the minor did or did not adhere to the
15 conditions of the less restrictive alternative treatment or
16 conditional release, or whether the minor's routine functioning has
17 substantially deteriorated, and, if so, whether the conditions of
18 less restrictive alternative treatment or conditional release should
19 be modified or(~~(, subject to subsection (4) of this section,~~)
20 whether the minor should be returned to inpatient treatment. Pursuant
21 to the determination of the court, the minor shall be returned to
22 less restrictive alternative treatment or conditional release on the
23 same or modified conditions or shall be returned to inpatient
24 treatment. If the minor is returned to inpatient treatment, RCW
25 71.34.760 regarding the secretary's placement responsibility shall
26 apply. The hearing may be waived by the minor and the minor returned
27 to inpatient treatment or to less restrictive alternative treatment
28 or conditional release on the same or modified conditions.

29 ~~((4) A court may not order the return of a minor to inpatient
30 treatment in a secure detoxification facility or approved treatment
31 program unless there is available space in the facility or program.))~~

32 **Sec. 273.** RCW 9.41.010 and 2015 c 1 s 2 (Initiative Measure No.
33 594) are each amended to read as follows:

34 Unless the context clearly requires otherwise, the definitions in
35 this section apply throughout this chapter.

36 (1) "Antique firearm" means a firearm or replica of a firearm not
37 designed or redesigned for using rim fire or conventional center fire
38 ignition with fixed ammunition and manufactured in or before 1898,
39 including any matchlock, flintlock, percussion cap, or similar type

1 of ignition system and also any firearm using fixed ammunition
2 manufactured in or before 1898, for which ammunition is no longer
3 manufactured in the United States and is not readily available in the
4 ordinary channels of commercial trade.

5 (2) "Barrel length" means the distance from the bolt face of a
6 closed action down the length of the axis of the bore to the crown of
7 the muzzle, or in the case of a barrel with attachments to the end of
8 any legal device permanently attached to the end of the muzzle.

9 (3) "Crime of violence" means:

10 (a) Any of the following felonies, as now existing or hereafter
11 amended: Any felony defined under any law as a class A felony or an
12 attempt to commit a class A felony, criminal solicitation of or
13 criminal conspiracy to commit a class A felony, manslaughter in the
14 first degree, manslaughter in the second degree, indecent liberties
15 if committed by forcible compulsion, kidnapping in the second degree,
16 arson in the second degree, assault in the second degree, assault of
17 a child in the second degree, extortion in the first degree, burglary
18 in the second degree, residential burglary, and robbery in the second
19 degree;

20 (b) Any conviction for a felony offense in effect at any time
21 prior to June 6, 1996, which is comparable to a felony classified as
22 a crime of violence in (a) of this subsection; and

23 (c) Any federal or out-of-state conviction for an offense
24 comparable to a felony classified as a crime of violence under (a) or
25 (b) of this subsection.

26 (4) "Dealer" means a person engaged in the business of selling
27 firearms at wholesale or retail who has, or is required to have, a
28 federal firearms license under 18 U.S.C. Sec. 923(a). A person who
29 does not have, and is not required to have, a federal firearms
30 license under 18 U.S.C. Sec. 923(a), is not a dealer if that person
31 makes only occasional sales, exchanges, or purchases of firearms for
32 the enhancement of a personal collection or for a hobby, or sells all
33 or part of his or her personal collection of firearms.

34 (5) "Family or household member" means "family" or "household
35 member" as used in RCW 10.99.020.

36 (6) "Felony" means any felony offense under the laws of this
37 state or any federal or out-of-state offense comparable to a felony
38 offense under the laws of this state.

39 (7) "Felony firearm offender" means a person who has previously
40 been convicted or found not guilty by reason of insanity in this

1 state of any felony firearm offense. A person is not a felony firearm
2 offender under this chapter if any and all qualifying offenses have
3 been the subject of an expungement, pardon, annulment, certificate,
4 or rehabilitation, or other equivalent procedure based on a finding
5 of the rehabilitation of the person convicted or a pardon, annulment,
6 or other equivalent procedure based on a finding of innocence.

7 (8) "Felony firearm offense" means:

8 (a) Any felony offense that is a violation of this chapter;

9 (b) A violation of RCW 9A.36.045;

10 (c) A violation of RCW 9A.56.300;

11 (d) A violation of RCW 9A.56.310;

12 (e) Any felony offense if the offender was armed with a firearm
13 in the commission of the offense.

14 (9) "Firearm" means a weapon or device from which a projectile or
15 projectiles may be fired by an explosive such as gunpowder.

16 (10) "Gun" has the same meaning as firearm.

17 (11) "Law enforcement officer" includes a general authority
18 Washington peace officer as defined in RCW 10.93.020, or a specially
19 commissioned Washington peace officer as defined in RCW 10.93.020.
20 "Law enforcement officer" also includes a limited authority
21 Washington peace officer as defined in RCW 10.93.020 if such officer
22 is duly authorized by his or her employer to carry a concealed
23 pistol.

24 (12) "Lawful permanent resident" has the same meaning afforded a
25 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.
26 1101(a)(20).

27 (13) "Licensed dealer" means a person who is federally licensed
28 under 18 U.S.C. Sec. 923(a).

29 (14) "Loaded" means:

30 (a) There is a cartridge in the chamber of the firearm;

31 (b) Cartridges are in a clip that is locked in place in the
32 firearm;

33 (c) There is a cartridge in the cylinder of the firearm, if the
34 firearm is a revolver;

35 (d) There is a cartridge in the tube or magazine that is inserted
36 in the action; or

37 (e) There is a ball in the barrel and the firearm is capped or
38 primed if the firearm is a muzzle loader.

39 (15) "Machine gun" means any firearm known as a machine gun,
40 mechanical rifle, submachine gun, or any other mechanism or

1 instrument not requiring that the trigger be pressed for each shot
2 and having a reservoir clip, disc, drum, belt, or other separable
3 mechanical device for storing, carrying, or supplying ammunition
4 which can be loaded into the firearm, mechanism, or instrument, and
5 fired therefrom at the rate of five or more shots per second.

6 (16) "Nonimmigrant alien" means a person defined as such in 8
7 U.S.C. Sec. 1101(a)(15).

8 (17) "Person" means any individual, corporation, company,
9 association, firm, partnership, club, organization, society, joint
10 stock company, or other legal entity.

11 (18) "Pistol" means any firearm with a barrel less than sixteen
12 inches in length, or is designed to be held and fired by the use of a
13 single hand.

14 (19) "Rifle" means a weapon designed or redesigned, made or
15 remade, and intended to be fired from the shoulder and designed or
16 redesigned, made or remade, and intended to use the energy of the
17 explosive in a fixed metallic cartridge to fire only a single
18 projectile through a rifled bore for each single pull of the trigger.

19 (20) "Sale" and "sell" mean the actual approval of the delivery
20 of a firearm in consideration of payment or promise of payment.

21 (21) "Serious offense" means any of the following felonies or a
22 felony attempt to commit any of the following felonies, as now
23 existing or hereafter amended:

24 (a) Any crime of violence;

25 (b) Any felony violation of the uniform controlled substances
26 act, chapter 69.50 RCW, that is classified as a class B felony or
27 that has a maximum term of imprisonment of at least ten years;

28 (c) Child molestation in the second degree;

29 (d) Incest when committed against a child under age fourteen;

30 (e) Indecent liberties;

31 (f) Leading organized crime;

32 (g) Promoting prostitution in the first degree;

33 (h) Rape in the third degree;

34 (i) Drive-by shooting;

35 (j) Sexual exploitation;

36 (k) Vehicular assault, when caused by the operation or driving of
37 a vehicle by a person while under the influence of intoxicating
38 liquor or any drug or by the operation or driving of a vehicle in a
39 reckless manner;

1 (1) Vehicular homicide, when proximately caused by the driving of
2 any vehicle by any person while under the influence of intoxicating
3 liquor or any drug as defined by RCW 46.61.502, or by the operation
4 of any vehicle in a reckless manner;

5 (m) Any other class B felony offense with a finding of sexual
6 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

7 (n) Any other felony with a deadly weapon verdict under RCW
8 9.94A.825;

9 (o) Any felony offense in effect at any time prior to June 6,
10 1996, that is comparable to a serious offense, or any federal or out-
11 of-state conviction for an offense that under the laws of this state
12 would be a felony classified as a serious offense; or

13 (p) Any felony conviction under RCW 9.41.115.

14 (22) "Short-barreled rifle" means a rifle having one or more
15 barrels less than sixteen inches in length and any weapon made from a
16 rifle by any means of modification if such modified weapon has an
17 overall length of less than twenty-six inches.

18 (23) "Short-barreled shotgun" means a shotgun having one or more
19 barrels less than eighteen inches in length and any weapon made from
20 a shotgun by any means of modification if such modified weapon has an
21 overall length of less than twenty-six inches.

22 (24) "Shotgun" means a weapon with one or more barrels, designed
23 or redesigned, made or remade, and intended to be fired from the
24 shoulder and designed or redesigned, made or remade, and intended to
25 use the energy of the explosive in a fixed shotgun shell to fire
26 through a smooth bore either a number of ball shot or a single
27 projectile for each single pull of the trigger.

28 (25) "Transfer" means the intended delivery of a firearm to
29 another person without consideration of payment or promise of payment
30 including, but not limited to, gifts and loans.

31 (26) "Unlicensed person" means any person who is not a licensed
32 dealer under this chapter.

33 (27) "Controlled substance" has the same meaning as under the
34 federal controlled substances act, 21 U.S.C. Sec. 802.

35 **Sec. 274.** RCW 9.41.040 and 2014 c 111 s 1 are each amended to
36 read as follows:

37 (1)(a) A person, whether an adult or juvenile, is guilty of the
38 crime of unlawful possession of a firearm in the first degree, if the
39 person owns, has in his or her possession, or has in his or her

1 control any firearm after having previously been convicted or found
2 not guilty by reason of insanity in this state or elsewhere of any
3 serious offense as defined in this chapter.

4 (b) Unlawful possession of a firearm in the first degree is a
5 class B felony punishable according to chapter 9A.20 RCW.

6 (2)(a) A person, whether an adult or juvenile, is guilty of the
7 crime of unlawful possession of a firearm in the second degree, if
8 the person does not qualify under subsection (1) of this section for
9 the crime of unlawful possession of a firearm in the first degree and
10 the person owns, has in his or her possession, or has in his or her
11 control any firearm:

12 (i) After having previously been convicted or found not guilty by
13 reason of insanity in this state or elsewhere of any felony not
14 specifically listed as prohibiting firearm possession under
15 subsection (1) of this section, or any of the following crimes when
16 committed by one family or household member against another,
17 committed on or after July 1, 1993: Assault in the fourth degree,
18 coercion, stalking, reckless endangerment, criminal trespass in the
19 first degree, or violation of the provisions of a protection order or
20 no-contact order restraining the person or excluding the person from
21 a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

22 (ii) During any period of time that the person is subject to a
23 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,
24 26.09, 26.10, 26.26, or 26.50 RCW that:

25 (A) Was issued after a hearing of which the person received
26 actual notice, and at which the person had an opportunity to
27 participate;

28 (B) Restrains the person from harassing, stalking, or threatening
29 an intimate partner of the person or child of the intimate partner or
30 person, or engaging in other conduct that would place an intimate
31 partner in reasonable fear of bodily injury to the partner or child;
32 and

33 (C)(I) Includes a finding that the person represents a credible
34 threat to the physical safety of the intimate partner or child; and

35 (II) By its terms, explicitly prohibits the use, attempted use,
36 or threatened use of physical force against the intimate partner or
37 child that would reasonably be expected to cause bodily injury;

38 (iii) After having previously been involuntarily committed for
39 mental health treatment or treatment of a substance use disorder that
40 is based on use of a controlled substance under RCW 71.05.240,

1 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent
2 statutes of another jurisdiction, unless his or her right to possess
3 a firearm has been restored as provided in RCW 9.41.047;

4 (iv) If the person is under eighteen years of age, except as
5 provided in RCW 9.41.042; and/or

6 (v) If the person is free on bond or personal recognizance
7 pending trial, appeal, or sentencing for a serious offense as defined
8 in RCW 9.41.010.

9 (b) Unlawful possession of a firearm in the second degree is a
10 class C felony punishable according to chapter 9A.20 RCW.

11 (3) Notwithstanding RCW 9.41.047 or any other provisions of law,
12 as used in this chapter, a person has been "convicted", whether in an
13 adult court or adjudicated in a juvenile court, at such time as a
14 plea of guilty has been accepted, or a verdict of guilty has been
15 filed, notwithstanding the pendency of any future proceedings
16 including but not limited to sentencing or disposition, post-trial or
17 post-fact-finding motions, and appeals. Conviction includes a
18 dismissal entered after a period of probation, suspension or deferral
19 of sentence, and also includes equivalent dispositions by courts in
20 jurisdictions other than Washington state. A person shall not be
21 precluded from possession of a firearm if the conviction has been the
22 subject of a pardon, annulment, certificate of rehabilitation, or
23 other equivalent procedure based on a finding of the rehabilitation
24 of the person convicted or the conviction or disposition has been the
25 subject of a pardon, annulment, or other equivalent procedure based
26 on a finding of innocence. Where no record of the court's disposition
27 of the charges can be found, there shall be a rebuttable presumption
28 that the person was not convicted of the charge.

29 (4)(a) Notwithstanding subsection (1) or (2) of this section, a
30 person convicted or found not guilty by reason of insanity of an
31 offense prohibiting the possession of a firearm under this section
32 other than murder, manslaughter, robbery, rape, indecent liberties,
33 arson, assault, kidnapping, extortion, burglary, or violations with
34 respect to controlled substances under RCW 69.50.401 and 69.50.410,
35 who received a probationary sentence under RCW 9.95.200, and who
36 received a dismissal of the charge under RCW 9.95.240, shall not be
37 precluded from possession of a firearm as a result of the conviction
38 or finding of not guilty by reason of insanity. Notwithstanding any
39 other provisions of this section, if a person is prohibited from
40 possession of a firearm under subsection (1) or (2) of this section

1 and has not previously been convicted or found not guilty by reason
2 of insanity of a sex offense prohibiting firearm ownership under
3 subsection (1) or (2) of this section and/or any felony defined under
4 any law as a class A felony or with a maximum sentence of at least
5 twenty years, or both, the individual may petition a court of record
6 to have his or her right to possess a firearm restored:

7 (i) Under RCW 9.41.047; and/or

8 (ii)(A) If the conviction or finding of not guilty by reason of
9 insanity was for a felony offense, after five or more consecutive
10 years in the community without being convicted or found not guilty by
11 reason of insanity or currently charged with any felony, gross
12 misdemeanor, or misdemeanor crimes, if the individual has no prior
13 felony convictions that prohibit the possession of a firearm counted
14 as part of the offender score under RCW 9.94A.525; or

15 (B) If the conviction or finding of not guilty by reason of
16 insanity was for a nonfelony offense, after three or more consecutive
17 years in the community without being convicted or found not guilty by
18 reason of insanity or currently charged with any felony, gross
19 misdemeanor, or misdemeanor crimes, if the individual has no prior
20 felony convictions that prohibit the possession of a firearm counted
21 as part of the offender score under RCW 9.94A.525 and the individual
22 has completed all conditions of the sentence.

23 (b) An individual may petition a court of record to have his or
24 her right to possess a firearm restored under (a) of this subsection
25 (4) only at:

26 (i) The court of record that ordered the petitioner's prohibition
27 on possession of a firearm; or

28 (ii) The superior court in the county in which the petitioner
29 resides.

30 (5) In addition to any other penalty provided for by law, if a
31 person under the age of eighteen years is found by a court to have
32 possessed a firearm in a vehicle in violation of subsection (1) or
33 (2) of this section or to have committed an offense while armed with
34 a firearm during which offense a motor vehicle served an integral
35 function, the court shall notify the department of licensing within
36 twenty-four hours and the person's privilege to drive shall be
37 revoked under RCW 46.20.265.

38 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed
39 or interpreted as preventing an offender from being charged and
40 subsequently convicted for the separate felony crimes of theft of a

1 firearm or possession of a stolen firearm, or both, in addition to
2 being charged and subsequently convicted under this section for
3 unlawful possession of a firearm in the first or second degree.
4 Notwithstanding any other law, if the offender is convicted under
5 this section for unlawful possession of a firearm in the first or
6 second degree and for the felony crimes of theft of a firearm or
7 possession of a stolen firearm, or both, then the offender shall
8 serve consecutive sentences for each of the felony crimes of
9 conviction listed in this subsection.

10 (7) Each firearm unlawfully possessed under this section shall be
11 a separate offense.

12 (8) For purposes of this section, "intimate partner" includes: A
13 spouse, a domestic partner, a former spouse, a former domestic
14 partner, a person with whom the restrained person has a child in
15 common, or a person with whom the restrained person has cohabitated
16 or is cohabitating as part of a dating relationship.

17 **Sec. 275.** RCW 9.41.047 and 2011 c 193 s 2 are each amended to
18 read as follows:

19 (1)(a) At the time a person is convicted or found not guilty by
20 reason of insanity of an offense making the person ineligible to
21 possess a firearm, or at the time a person is committed by court
22 order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or
23 chapter 10.77 RCW for mental health treatment or treatment of a
24 substance use disorder that is based on use of a controlled
25 substance, the convicting or committing court shall notify the
26 person, orally and in writing, that the person must immediately
27 surrender any concealed pistol license and that the person may not
28 possess a firearm unless his or her right to do so is restored by a
29 court of record. For purposes of this section a convicting court
30 includes a court in which a person has been found not guilty by
31 reason of insanity.

32 (b) The convicting or committing court shall forward within three
33 judicial days after conviction or entry of the commitment order a
34 copy of the person's driver's license or identicard, or comparable
35 information, along with the date of conviction or commitment, to the
36 department of licensing. When a person is committed by court order
37 under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter
38 10.77 RCW, for mental health treatment or for treatment of a
39 substance use disorder that is based on use of a controlled

1 substance, the committing court also shall forward, within three
2 judicial days after entry of the commitment order, a copy of the
3 person's driver's license, or comparable information, along with the
4 date of commitment, to the national instant criminal background check
5 system index, denied persons file, created by the federal Brady
6 handgun violence prevention act (P.L. 103-159).

7 (2) Upon receipt of the information provided for by subsection
8 (1) of this section, the department of licensing shall determine if
9 the convicted or committed person has a concealed pistol license. If
10 the person does have a concealed pistol license, the department of
11 licensing shall immediately notify the license-issuing authority
12 which, upon receipt of such notification, shall immediately revoke
13 the license.

14 (3)(a) A person who is prohibited from possessing a firearm, by
15 reason of having been involuntarily committed for mental health
16 treatment or treatment of a substance use disorder that is based on
17 use of a controlled substance under RCW 71.05.240, 71.05.320,
18 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of
19 another jurisdiction may, upon discharge, petition the superior court
20 to have his or her right to possess a firearm restored.

21 (b) The petition must be brought in the superior court that
22 ordered the involuntary commitment or the superior court of the
23 county in which the petitioner resides.

24 (c) Except as provided in (d) of this subsection, the court shall
25 restore the petitioner's right to possess a firearm if the petitioner
26 proves by a preponderance of the evidence that:

27 (i) The petitioner is no longer required to participate in court-
28 ordered inpatient or outpatient treatment;

29 (ii) The petitioner has successfully managed the condition
30 related to the commitment;

31 (iii) The petitioner no longer presents a substantial danger to
32 himself or herself, or the public; and

33 (iv) The symptoms related to the commitment are not reasonably
34 likely to recur.

35 (d) If a preponderance of the evidence in the record supports a
36 finding that the person petitioning the court has engaged in violence
37 and that it is more likely than not that the person will engage in
38 violence after his or her right to possess a firearm is restored, the
39 person shall bear the burden of proving by clear, cogent, and

1 convincing evidence that he or she does not present a substantial
2 danger to the safety of others.

3 (e) When a person's right to possess a firearm has been restored
4 under this subsection, the court shall forward, within three judicial
5 days after entry of the restoration order, notification that the
6 person's right to possess a firearm has been restored to the
7 department of licensing, the department of social and health
8 services, and the national instant criminal background check system
9 index, denied persons file.

10 (4) No person who has been found not guilty by reason of insanity
11 may petition a court for restoration of the right to possess a
12 firearm unless the person meets the requirements for the restoration
13 of the right to possess a firearm under RCW 9.41.040(4).

14 **Sec. 276.** RCW 9.41.075 and 2005 c 453 s 4 are each amended to
15 read as follows:

16 (1) The license shall be revoked by the license-issuing authority
17 immediately upon:

18 (a) Discovery by the issuing authority that the person was
19 ineligible under RCW 9.41.070 for a concealed pistol license when
20 applying for the license or license renewal;

21 (b) Conviction of the licensee, or the licensee being found not
22 guilty by reason of insanity, of an offense, or commitment of the
23 licensee for mental health treatment or treatment of a substance use
24 disorder that is based on use of a controlled substance, that makes a
25 person ineligible under RCW 9.41.040 to possess a firearm;

26 (c) Conviction of the licensee for a third violation of this
27 chapter within five calendar years; or

28 (d) An order that the licensee forfeit a firearm under RCW
29 9.41.098(1)(d).

30 (2)(a) Unless the person may lawfully possess a pistol without a
31 concealed pistol license, an ineligible person to whom a concealed
32 pistol license was issued shall, within fourteen days of license
33 revocation, lawfully transfer ownership of any pistol acquired while
34 the person was in possession of the license.

35 (b) Upon discovering a person issued a concealed pistol license
36 was ineligible for the license, the issuing authority shall contact
37 the department of licensing to determine whether the person purchased
38 a pistol while in possession of the license. If the person did
39 purchase a pistol while in possession of the concealed pistol

1 license, if the person may not lawfully possess a pistol without a
2 concealed pistol license, the issuing authority shall require the
3 person to present satisfactory evidence of having lawfully
4 transferred ownership of the pistol. The issuing authority shall
5 require the person to produce the evidence within fifteen days of the
6 revocation of the license.

7 (3) When a licensee is ordered to forfeit a firearm under RCW
8 9.41.098(1)(d), the issuing authority shall:

9 (a) On the first forfeiture, revoke the license for one year;

10 (b) On the second forfeiture, revoke the license for two years;

11 or

12 (c) On the third or subsequent forfeiture, revoke the license for
13 five years.

14 Any person whose license is revoked as a result of a forfeiture
15 of a firearm under RCW 9.41.098(1)(d) may not reapply for a new
16 license until the end of the revocation period.

17 (4) The issuing authority shall notify, in writing, the
18 department of licensing of the revocation of a license. The
19 department of licensing shall record the revocation.

20 **Sec. 277.** RCW 9.41.097 and 2009 c 216 s 6 are each amended to
21 read as follows:

22 (1) The department of social and health services, mental health
23 institutions, and other health care facilities shall, upon request of
24 a court or law enforcement agency, supply such relevant information
25 as is necessary to determine the eligibility of a person to possess a
26 pistol or to be issued a concealed pistol license under RCW 9.41.070
27 or to purchase a pistol under RCW 9.41.090.

28 (2) Mental health or substance use disorder information received
29 by: (a) The department of licensing pursuant to RCW 9.41.047 or
30 9.41.173; (b) an issuing authority pursuant to RCW 9.41.047 or
31 9.41.070; (c) a chief of police or sheriff pursuant to RCW 9.41.090
32 or 9.41.173; (d) a court or law enforcement agency pursuant to
33 subsection (1) of this section, shall not be disclosed except as
34 provided in RCW 42.56.240(4).

35 **Sec. 278.** RCW 9.41.098 and 2003 c 39 s 5 are each amended to
36 read as follows:

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

1 (a) Found concealed on a person not authorized by RCW 9.41.060 or
2 9.41.070 to carry a concealed pistol: PROVIDED, That it is an
3 absolute defense to forfeiture if the person possessed a valid
4 Washington concealed pistol license within the preceding two years
5 and has not become ineligible for a concealed pistol license in the
6 interim. Before the firearm may be returned, the person must pay the
7 past due renewal fee and the current renewal fee;

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

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

12 (d) In the possession or under the control of a person at the
13 time the person committed or was arrested for committing a felony or
14 committing a nonfelony crime in which a firearm was used or
15 displayed;

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

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

25 (g) In the possession of a person found to have been mentally
26 incompetent while in possession of a firearm when apprehended or who
27 is thereafter committed pursuant to chapter 10.77 RCW or committed
28 for mental health treatment or treatment of a substance use disorder
29 that is based on use of a controlled substance under chapter 71.05
30 RCW;

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

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

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

38 (a) Except as provided in (b), (c), and (d) of this subsection,
39 firearms that are: (i) Judicially forfeited and no longer needed for
40 evidence; or (ii) forfeited due to a failure to make a claim under

1 RCW 63.32.010 or 63.40.010; may be disposed of in any manner
2 determined by the local legislative authority. Any proceeds of an
3 auction or trade may be retained by the legislative authority. This
4 subsection (2)(a) applies only to firearms that come into the
5 possession of the law enforcement agency after June 30, 1993.

6 By midnight, June 30, 1993, every law enforcement agency shall
7 prepare an inventory, under oath, of every firearm that has been
8 judicially forfeited, has been seized and may be subject to judicial
9 forfeiture, or that has been, or may be, forfeited due to a failure
10 to make a claim under RCW 63.32.010 or 63.40.010.

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

15 (i) Comply with the provisions for the auction of firearms in RCW
16 9.41.098 that were in effect immediately preceding May 7, 1993; or

17 (ii) Trade, auction, or arrange for the auction of, rifles and
18 shotguns. In addition, the law enforcement agency shall either trade,
19 auction, or arrange for the auction of, short firearms, or shall pay
20 a fee of twenty-five dollars to the state treasurer for every short
21 firearm neither auctioned nor traded, to a maximum of fifty thousand
22 dollars. The fees shall be accompanied by an inventory, under oath,
23 of every short firearm listed in the inventory required by (a) of
24 this subsection, that has been neither traded nor auctioned. The
25 state treasurer shall credit the fees to the firearms range account
26 established in RCW 79A.25.210. All trades or auctions of firearms
27 under this subsection shall be to licensed dealers. Proceeds of any
28 auction less costs, including actual costs of storage and sale, shall
29 be forwarded to the firearms range account established in RCW
30 79A.25.210.

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

36 (d) Firearms in the possession of the Washington state patrol on
37 or after May 7, 1993, that are judicially forfeited and no longer
38 needed for evidence, or forfeited due to a failure to make a claim
39 under RCW 63.35.020, must be disposed of as follows: (i) Firearms
40 illegal for any person to possess must be destroyed; (ii) the

1 Washington state patrol may retain a maximum of ten percent of legal
2 firearms for agency use; and (iii) all other legal firearms must be
3 auctioned or traded to licensed dealers. The Washington state patrol
4 may retain any proceeds of an auction or trade.

5 (3) The court shall order the firearm returned to the owner upon
6 a showing that there is no probable cause to believe a violation of
7 subsection (1) of this section existed or the firearm was stolen from
8 the owner or the owner neither had knowledge of nor consented to the
9 act or omission involving the firearm which resulted in its
10 forfeiture.

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

20 **PART III**

21 **REPEALERS**

22 NEW SECTION. **Sec. 301.** The following acts or parts of acts, as
23 now existing or hereafter amended, are each repealed, effective April
24 1, 2017:

25 (1) RCW 70.96A.095 (Age of consent—Outpatient treatment of minors
26 for chemical dependency) and 1998 c 296 s 23, 1996 c 133 s 34, 1995 c
27 312 s 47, 1991 c 364 s 9, & 1989 c 270 s 24;

28 (2) RCW 70.96A.096 (Notice to parents, school contacts for
29 referring students to inpatient treatment) and 1996 c 133 s 5;

30 (3) RCW 70.96A.097 (Review of admission and inpatient treatment
31 of minors—Determination of medical necessity—Department review—
32 Minor declines necessary treatment—At-risk youth petition—Costs—
33 Public funds) and 1998 c 296 s 28 & 1995 c 312 s 48;

34 (4) RCW 70.96A.110 (Voluntary treatment of individuals with a
35 substance use disorder) and 2014 c 225 s 28, 1990 c 151 s 7, 1989 c
36 270 s 25, & 1972 ex.s. c 122 s 11;

1 (5) RCW 70.96A.120 (Treatment programs and facilities—Admissions
2 —Peace officer duties—Protective custody) and 1991 c 290 s 6, 1990 c
3 151 s 8, 1989 c 271 s 306, 1987 c 439 s 13, 1977 ex.s. c 62 s 1, 1974
4 ex.s. c 175 s 1, & 1972 ex.s. c 122 s 12;

5 (6) RCW 70.96A.140 (Involuntary commitment) and 2015 c ... s 103
6 (section 103 of this act), 2014 c 225 s 29, 2001 c 13 s 3, 1995 c 312
7 s 49, 1993 c 362 s 1, 1991 c 364 s 10, 1990 c 151 s 3, 1989 c 271 s
8 307, 1987 c 439 s 14, 1977 ex.s. c 129 s 1, 1974 ex.s. c 175 s 2, &
9 1972 ex.s. c 122 s 14;

10 (7) RCW 70.96A.141 (Joinder of petitions for commitment) and 2005
11 c 504 s 304;

12 (8) RCW 70.96A.142 (Evaluation by designated chemical dependency
13 specialist—When required—Required notifications) and 2004 c 166 s
14 15;

15 (9) RCW 70.96A.145 (Involuntary commitment proceedings—
16 Prosecuting attorney may represent specialist or program) and 2015
17 c ... s 104 (section 104 of this act) & 1993 c 137 s 1;

18 (10) RCW 70.96A.148 (Detention, commitment duties—Designation of
19 county designated mental health professional) and 2001 c 13 s 4;

20 (11) RCW 70.96A.155 (Court-ordered treatment—Required
21 notifications) and 2004 c 166 s 13;

22 (12) RCW 70.96A.157 (Persons subject to court-ordered treatment
23 or supervision—Documentation) and 2005 c 504 s 508;

24 (13) RCW 70.96A.160 (Visitation and communication with patients)
25 and 1989 c 270 s 29 & 1972 ex.s. c 122 s 16;

26 (14) RCW 70.96A.180 (Payment for treatment—Financial ability of
27 patients) and 2012 c 117 s 413, 1990 c 151 s 6, 1989 c 270 s 31, &
28 1972 ex.s. c 122 s 18;

29 (15) RCW 70.96A.230 (Minor—When outpatient treatment provider
30 must give notice to parents) and 1998 c 296 s 24;

31 (16) RCW 70.96A.235 (Minor—Parental consent for inpatient
32 treatment—Exception) and 1998 c 296 s 25;

33 (17) RCW 70.96A.240 (Minor—Parent not liable for payment unless
34 consented to treatment—No right to public funds) and 1998 c 296 s 26;

35 (18) RCW 70.96A.245 (Minor—Parent may request determination
36 whether minor has chemical dependency requiring inpatient treatment—
37 Minor consent not required—Duties and obligations of professional
38 person and facility) and 1998 c 296 s 27;

1 (19) RCW 70.96A.250 (Minor—Parent may request determination
2 whether minor has chemical dependency requiring outpatient treatment—
3 Consent of minor not required—Discharge of minor) and 1998 c 296 s
4 29;

5 (20) RCW 70.96A.255 (Minor—Petition to superior court for release
6 from facility) and 1998 c 296 s 30;

7 (21) RCW 70.96A.260 (Minor—Not released by petition under RCW
8 70.96A.255—Release within thirty days—Professional may initiate
9 proceedings to stop release) and 1998 c 296 s 31;

10 (22) RCW 70.96A.265 (Minor—Eligibility for medical assistance
11 under chapter 74.09 RCW—Payment by department) and 1998 c 296 s 32;

12 (23) RCW 70.96B.010 (Definitions) and 2014 c 225 s 74, 2011 c 89
13 s 10, 2008 c 320 s 3, & 2005 c 504 s 202;

14 (24) RCW 70.96B.020 (Selection of areas for pilot programs—Pilot
15 program requirements) and 2014 c 225 s 75 & 2005 c 504 s 203;

16 (25) RCW 70.96B.030 (Designated crisis responder—Qualifications)
17 and 2014 c 225 s 76 & 2005 c 504 s 204;

18 (26) RCW 70.96B.040 (Powers of designated crisis responder) and
19 2005 c 504 s 205;

20 (27) RCW 70.96B.045 (Emergency custody—Procedure) and 2007 c 120
21 s 2;

22 (28) RCW 70.96B.050 (Petition for initial detention—Order to
23 detain for evaluation and treatment period—Procedure) and 2008 c 320
24 s 5, 2007 c 120 s 1, & 2005 c 504 s 206;

25 (29) RCW 70.96B.060 (Exemption from liability) and 2005 c 504 s
26 207;

27 (30) RCW 70.96B.070 (Detention period for evaluation and
28 treatment) and 2005 c 504 s 208;

29 (31) RCW 70.96B.080 (Detention for evaluation and treatment of
30 mental disorder—Chapter 71.05 RCW applies) and 2005 c 504 s 209;

31 (32) RCW 70.96B.090 (Procedures for additional chemical
32 dependency treatment) and 2005 c 504 s 210;

33 (33) RCW 70.96B.100 (Detention for involuntary chemical
34 dependency treatment—Petition for less restrictive treatment—
35 Appearance before court—Representation—Hearing—Less restrictive
36 order—Failure to adhere to terms of less restrictive order) and 2008
37 c 320 s 6 & 2005 c 504 s 211;

1 (34) RCW 70.96B.110 (Involuntary chemical dependency treatment
2 proceedings—Prosecuting attorney shall represent petitioner) and 2005
3 c 504 s 212;

4 (35) RCW 70.96B.120 (Rights of involuntarily detained persons)
5 and 2005 c 504 s 213;

6 (36) RCW 70.96B.130 (Evaluation by designated crisis responder—
7 When required—Required notifications) and 2005 c 504 s 214;

8 (37) RCW 70.96B.140 (Secretary may adopt rules) and 2005 c 504 s
9 215;

10 (38) RCW 70.96B.150 (Application of RCW 71.05.550) and 2005 c 504
11 s 216;

12 (39) RCW 70.96B.800 (Evaluation of pilot programs—Reports) and
13 2008 c 320 s 2 & 2005 c 504 s 217; and

14 (40) RCW 71.05.032 (Joinder of petitions for commitment) and 2005
15 c 504 s 115.

16 PART IV

17 CORRECTIONS TO REFERENCES

18 **Sec. 401.** RCW 4.24.558 and 2004 c 166 s 21 are each amended to
19 read as follows:

20 Information shared and actions taken without gross negligence and
21 in good faith compliance with RCW 71.05.445, 72.09.585,
22 (~~70.96A.142,~~) 71.05.157, or 72.09.315 are not a basis for any
23 private civil cause of action.

24 **Sec. 402.** RCW 5.60.060 and 2012 c 29 s 12 are each amended to
25 read as follows:

26 (1) A spouse or domestic partner shall not be examined for or
27 against his or her spouse or domestic partner, without the consent of
28 the spouse or domestic partner; nor can either during marriage or
29 during the domestic partnership or afterward, be without the consent
30 of the other, examined as to any communication made by one to the
31 other during the marriage or the domestic partnership. But this
32 exception shall not apply to a civil action or proceeding by one
33 against the other, nor to a criminal action or proceeding for a crime
34 committed by one against the other, nor to a criminal action or
35 proceeding against a spouse or domestic partner if the marriage or
36 the domestic partnership occurred subsequent to the filing of formal

1 charges against the defendant, nor to a criminal action or proceeding
2 for a crime committed by said spouse or domestic partner against any
3 child of whom said spouse or domestic partner is the parent or
4 guardian, nor to a proceeding under chapter ((70.96A, 70.96B,))
5 71.05((7)) or 71.09 RCW: PROVIDED, That the spouse or the domestic
6 partner of a person sought to be detained under chapter ((70.96A,
7 70.96B,)) 71.05((7)) or 71.09 RCW may not be compelled to testify and
8 shall be so informed by the court prior to being called as a witness.

9 (2)(a) An attorney or counselor shall not, without the consent of
10 his or her client, be examined as to any communication made by the
11 client to him or her, or his or her advice given thereon in the
12 course of professional employment.

13 (b) A parent or guardian of a minor child arrested on a criminal
14 charge may not be examined as to a communication between the child
15 and his or her attorney if the communication was made in the presence
16 of the parent or guardian. This privilege does not extend to
17 communications made prior to the arrest.

18 (3) A member of the clergy, a Christian Science practitioner
19 listed in the Christian Science Journal, or a priest shall not,
20 without the consent of a person making the confession or sacred
21 confidence, be examined as to any confession or sacred confidence
22 made to him or her in his or her professional character, in the
23 course of discipline enjoined by the church to which he or she
24 belongs.

25 (4) Subject to the limitations under RCW ((70.96A.140 or))
26 71.05.360 (8) and (9), a physician or surgeon or osteopathic
27 physician or surgeon or podiatric physician or surgeon shall not,
28 without the consent of his or her patient, be examined in a civil
29 action as to any information acquired in attending such patient,
30 which was necessary to enable him or her to prescribe or act for the
31 patient, except as follows:

32 (a) In any judicial proceedings regarding a child's injury,
33 neglect, or sexual abuse or the cause thereof; and

34 (b) Ninety days after filing an action for personal injuries or
35 wrongful death, the claimant shall be deemed to waive the physician-
36 patient privilege. Waiver of the physician-patient privilege for any
37 one physician or condition constitutes a waiver of the privilege as
38 to all physicians or conditions, subject to such limitations as a
39 court may impose pursuant to court rules.

1 (5) A public officer shall not be examined as a witness as to
2 communications made to him or her in official confidence, when the
3 public interest would suffer by the disclosure.

4 (6)(a) A peer support group counselor shall not, without consent
5 of the law enforcement officer or firefighter making the
6 communication, be compelled to testify about any communication made
7 to the counselor by the officer or firefighter while receiving
8 counseling. The counselor must be designated as such by the sheriff,
9 police chief, fire chief, or chief of the Washington state patrol,
10 prior to the incident that results in counseling. The privilege only
11 applies when the communication was made to the counselor while acting
12 in his or her capacity as a peer support group counselor. The
13 privilege does not apply if the counselor was an initial responding
14 officer or firefighter, a witness, or a party to the incident which
15 prompted the delivery of peer support group counseling services to
16 the law enforcement officer or firefighter.

17 (b) For purposes of this section, "peer support group counselor"
18 means a:

19 (i) Law enforcement officer, firefighter, civilian employee of a
20 law enforcement agency, or civilian employee of a fire department,
21 who has received training to provide emotional and moral support and
22 counseling to an officer or firefighter who needs those services as a
23 result of an incident in which the officer or firefighter was
24 involved while acting in his or her official capacity; or

25 (ii) Nonemployee counselor who has been designated by the
26 sheriff, police chief, fire chief, or chief of the Washington state
27 patrol to provide emotional and moral support and counseling to an
28 officer or firefighter who needs those services as a result of an
29 incident in which the officer or firefighter was involved while
30 acting in his or her official capacity.

31 (7) A sexual assault advocate may not, without the consent of the
32 victim, be examined as to any communication made between the victim
33 and the sexual assault advocate.

34 (a) For purposes of this section, "sexual assault advocate" means
35 the employee or volunteer from a community sexual assault program or
36 underserved populations provider, victim assistance unit, program, or
37 association, that provides information, medical or legal advocacy,
38 counseling, or support to victims of sexual assault, who is
39 designated by the victim to accompany the victim to the hospital or
40 other health care facility and to proceedings concerning the alleged

1 assault, including police and prosecution interviews and court
2 proceedings.

3 (b) A sexual assault advocate may disclose a confidential
4 communication without the consent of the victim if failure to
5 disclose is likely to result in a clear, imminent risk of serious
6 physical injury or death of the victim or another person. Any sexual
7 assault advocate participating in good faith in the disclosing of
8 records and communications under this section shall have immunity
9 from any liability, civil, criminal, or otherwise, that might result
10 from the action. In any proceeding, civil or criminal, arising out of
11 a disclosure under this section, the good faith of the sexual assault
12 advocate who disclosed the confidential communication shall be
13 presumed.

14 (8) A domestic violence advocate may not, without the consent of
15 the victim, be examined as to any communication between the victim
16 and the domestic violence advocate.

17 (a) For purposes of this section, "domestic violence advocate"
18 means an employee or supervised volunteer from a community-based
19 domestic violence program or human services program that provides
20 information, advocacy, counseling, crisis intervention, emergency
21 shelter, or support to victims of domestic violence and who is not
22 employed by, or under the direct supervision of, a law enforcement
23 agency, a prosecutor's office, or the child protective services
24 section of the department of social and health services as defined in
25 RCW 26.44.020.

26 (b) A domestic violence advocate may disclose a confidential
27 communication without the consent of the victim if failure to
28 disclose is likely to result in a clear, imminent risk of serious
29 physical injury or death of the victim or another person. This
30 section does not relieve a domestic violence advocate from the
31 requirement to report or cause to be reported an incident under RCW
32 26.44.030(1) or to disclose relevant records relating to a child as
33 required by RCW 26.44.030(~~(+12)~~) (14). Any domestic violence
34 advocate participating in good faith in the disclosing of
35 communications under this subsection is immune from liability, civil,
36 criminal, or otherwise, that might result from the action. In any
37 proceeding, civil or criminal, arising out of a disclosure under this
38 subsection, the good faith of the domestic violence advocate who
39 disclosed the confidential communication shall be presumed.

1 (9) A mental health counselor, independent clinical social
2 worker, or marriage and family therapist licensed under chapter
3 18.225 RCW may not disclose, or be compelled to testify about, any
4 information acquired from persons consulting the individual in a
5 professional capacity when the information was necessary to enable
6 the individual to render professional services to those persons
7 except:

8 (a) With the written authorization of that person or, in the case
9 of death or disability, the person's personal representative;

10 (b) If the person waives the privilege by bringing charges
11 against the mental health counselor licensed under chapter 18.225
12 RCW;

13 (c) In response to a subpoena from the secretary of health. The
14 secretary may subpoena only records related to a complaint or report
15 under RCW 18.130.050;

16 (d) As required under chapter 26.44 or 74.34 RCW or RCW 71.05.360
17 (8) and (9); or

18 (e) To any individual if the mental health counselor, independent
19 clinical social worker, or marriage and family therapist licensed
20 under chapter 18.225 RCW reasonably believes that disclosure will
21 avoid or minimize an imminent danger to the health or safety of the
22 individual or any other individual; however, there is no obligation
23 on the part of the provider to so disclose.

24 **Sec. 403.** RCW 9.41.280 and 2014 c 225 s 56 are each amended to
25 read as follows:

26 (1) It is unlawful for a person to carry onto, or to possess on,
27 public or private elementary or secondary school premises, school-
28 provided transportation, or areas of facilities while being used
29 exclusively by public or private schools:

30 (a) Any firearm;

31 (b) Any other dangerous weapon as defined in RCW 9.41.250;

32 (c) Any device commonly known as "nun-chu-ka sticks," consisting
33 of two or more lengths of wood, metal, plastic, or similar substance
34 connected with wire, rope, or other means;

35 (d) Any device, commonly known as "throwing stars," which are
36 multipointed, metal objects designed to embed upon impact from any
37 aspect;

1 (e) Any air gun, including any air pistol or air rifle, designed
2 to propel a BB, pellet, or other projectile by the discharge of
3 compressed air, carbon dioxide, or other gas; or

4 (f)(i) Any portable device manufactured to function as a weapon
5 and which is commonly known as a stun gun, including a projectile
6 stun gun which projects wired probes that are attached to the device
7 that emit an electrical charge designed to administer to a person or
8 an animal an electric shock, charge, or impulse; or

9 (ii) Any device, object, or instrument which is used or intended
10 to be used as a weapon with the intent to injure a person by an
11 electric shock, charge, or impulse.

12 (2) Any such person violating subsection (1) of this section is
13 guilty of a gross misdemeanor. If any person is convicted of a
14 violation of subsection (1)(a) of this section, the person shall have
15 his or her concealed pistol license, if any revoked for a period of
16 three years. Anyone convicted under this subsection is prohibited
17 from applying for a concealed pistol license for a period of three
18 years. The court shall send notice of the revocation to the
19 department of licensing, and the city, town, or county which issued
20 the license.

21 Any violation of subsection (1) of this section by elementary or
22 secondary school students constitutes grounds for expulsion from the
23 state's public schools in accordance with RCW 28A.600.010. An
24 appropriate school authority shall promptly notify law enforcement
25 and the student's parent or guardian regarding any allegation or
26 indication of such violation.

27 Upon the arrest of a person at least twelve years of age and not
28 more than twenty-one years of age for violating subsection (1)(a) of
29 this section, the person shall be detained or confined in a juvenile
30 or adult facility for up to seventy-two hours. The person shall not
31 be released within the seventy-two hours until after the person has
32 been examined and evaluated by the designated (~~mental health~~
33 ~~professional~~) crisis responder unless the court in its discretion
34 releases the person sooner after a determination regarding probable
35 cause or on probation bond or bail.

36 Within twenty-four hours of the arrest, the arresting law
37 enforcement agency shall refer the person to the designated (~~mental~~
38 ~~health professional~~) crisis responder for examination and evaluation
39 under chapter 71.05 or 71.34 RCW and inform a parent or guardian of
40 the person of the arrest, detention, and examination. The designated

1 ((~~mental health professional~~)) crisis responder shall examine and
2 evaluate the person subject to the provisions of chapter 71.05 or
3 71.34 RCW. The examination shall occur at the facility in which the
4 person is detained or confined. If the person has been released on
5 probation, bond, or bail, the examination shall occur wherever is
6 appropriate.

7 ((~~The designated mental health professional may determine whether
8 to refer the person to the county designated chemical dependency
9 specialist for examination and evaluation in accordance with chapter
10 70.96A RCW. The county designated chemical dependency specialist
11 shall examine the person subject to the provisions of chapter 70.96A
12 RCW. The examination shall occur at the facility in which the person
13 is detained or confined. If the person has been released on
14 probation, bond, or bail, the examination shall occur wherever is
15 appropriate.~~))

16 Upon completion of any examination by the designated ((~~mental
17 health professional or the county designated chemical dependency
18 specialist~~)) crisis responder, the results of the examination shall
19 be sent to the court, and the court shall consider those results in
20 making any determination about the person.

21 The designated ((~~mental health professional and county designated
22 chemical dependency specialist~~)) crisis responder shall, to the
23 extent permitted by law, notify a parent or guardian of the person
24 that an examination and evaluation has taken place and the results of
25 the examination. Nothing in this subsection prohibits the delivery of
26 additional, appropriate mental health examinations to the person
27 while the person is detained or confined.

28 If the designated ((~~mental health professional~~)) crisis responder
29 determines it is appropriate, the designated ((~~mental health
30 professional~~)) crisis responder may refer the person to the local
31 behavioral health organization for follow-up services or the
32 department of social and health services or other community providers
33 for other services to the family and individual.

34 (3) Subsection (1) of this section does not apply to:

35 (a) Any student or employee of a private military academy when on
36 the property of the academy;

37 (b) Any person engaged in military, law enforcement, or school
38 district security activities. However, a person who is not a
39 commissioned law enforcement officer and who provides school security
40 services under the direction of a school administrator may not

1 possess a device listed in subsection (1)(f) of this section unless
2 he or she has successfully completed training in the use of such
3 devices that is equivalent to the training received by commissioned
4 law enforcement officers;

5 (c) Any person who is involved in a convention, showing,
6 demonstration, lecture, or firearms safety course authorized by
7 school authorities in which the firearms of collectors or instructors
8 are handled or displayed;

9 (d) Any person while the person is participating in a firearms or
10 air gun competition approved by the school or school district;

11 (e) Any person in possession of a pistol who has been issued a
12 license under RCW 9.41.070, or is exempt from the licensing
13 requirement by RCW 9.41.060, while picking up or dropping off a
14 student;

15 (f) Any nonstudent at least eighteen years of age legally in
16 possession of a firearm or dangerous weapon that is secured within an
17 attended vehicle or concealed from view within a locked unattended
18 vehicle while conducting legitimate business at the school;

19 (g) Any nonstudent at least eighteen years of age who is in
20 lawful possession of an unloaded firearm, secured in a vehicle while
21 conducting legitimate business at the school; or

22 (h) Any law enforcement officer of the federal, state, or local
23 government agency.

24 (4) Subsections (1)(c) and (d) of this section do not apply to
25 any person who possesses nun-chu-ka sticks, throwing stars, or other
26 dangerous weapons to be used in martial arts classes authorized to be
27 conducted on the school premises.

28 (5) Subsection (1)(f)(i) of this section does not apply to any
29 person who possesses a device listed in subsection (1)(f)(i) of this
30 section, if the device is possessed and used solely for the purpose
31 approved by a school for use in a school authorized event, lecture,
32 or activity conducted on the school premises.

33 (6) Except as provided in subsection (3)(b), (c), (f), and (h) of
34 this section, firearms are not permitted in a public or private
35 school building.

36 (7) "GUN-FREE ZONE" signs shall be posted around school
37 facilities giving warning of the prohibition of the possession of
38 firearms on school grounds.

1 **Sec. 404.** RCW 9.95.143 and 2004 c 166 s 10 are each amended to
2 read as follows:

3 When an offender receiving court-ordered mental health or
4 chemical dependency treatment or treatment ordered by the department
5 of corrections presents for treatment from a mental health or
6 chemical dependency treatment provider, the offender must disclose to
7 the mental health or chemical dependency treatment provider whether
8 he or she is subject to supervision by the department of corrections.
9 If an offender has received relief from disclosure pursuant to RCW
10 9.94A.562(~~(, 70.96A.155,)~~) or 71.05.132, the offender must provide
11 the mental health or chemical dependency treatment provider with a
12 copy of the order granting the relief.

13 **Sec. 405.** RCW 10.77.010 and 2014 c 225 s 58 are each amended to
14 read as follows:

15 As used in this chapter:

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

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

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

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

29 (5) "Department" means the state department of social and health
30 services.

31 (6) "Designated (~~(mental health professional)~~) crisis responder"
32 has the same meaning as provided in RCW 71.05.020.

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

35 (8) "Developmental disabilities professional" means a person who
36 has specialized training and three years of experience in directly
37 treating or working with persons with developmental disabilities and
38 is a psychiatrist or psychologist, or a social worker, and such other

1 developmental disabilities professionals as may be defined by rules
2 adopted by the secretary.

3 (9) "Developmental disability" means the condition as defined in
4 RCW 71A.10.020(~~(+4)~~) (5).

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

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

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

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

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

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

34 (16) "Indigent" means any person who is financially unable to
35 obtain counsel or other necessary expert or professional services
36 without causing substantial hardship to the person or his or her
37 family.

38 (17) "Individualized service plan" means a plan prepared by a
39 developmental disabilities professional with other professionals as a

1 team, for an individual with developmental disabilities, which shall
2 state:

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

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

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

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

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

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

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

18 (18) "Professional person" means:

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

26 (b) A psychologist licensed as a psychologist pursuant to chapter
27 18.83 RCW; or

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

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

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

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

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

3 (23) "Treatment records" include registration and all other
4 records concerning persons who are receiving or who at any time have
5 received services for mental illness, which are maintained by the
6 department, by behavioral health organizations and their staffs, and
7 by treatment facilities. Treatment records do not include notes or
8 records maintained for personal use by a person providing treatment
9 services for the department, behavioral health organizations, or a
10 treatment facility if the notes or records are not available to
11 others.

12 (24) "Violent act" means behavior that: (a)(i) Resulted in; (ii)
13 if completed as intended would have resulted in; or (iii) was
14 threatened to be carried out by a person who had the intent and
15 opportunity to carry out the threat and would have resulted in,
16 homicide, nonfatal injuries, or substantial damage to property; or
17 (b) recklessly creates an immediate risk of serious physical injury
18 to another person. As used in this subsection, "nonfatal injuries"
19 means physical pain or injury, illness, or an impairment of physical
20 condition. "Nonfatal injuries" shall be construed to be consistent
21 with the definition of "bodily injury," as defined in RCW 9A.04.110.

22 **Sec. 406.** RCW 10.77.025 and 2000 c 94 s 13 are each amended to
23 read as follows:

24 (1) Whenever any person has been: (a) Committed to a correctional
25 facility or inpatient treatment under any provision of this chapter;
26 or (b) ordered to undergo alternative treatment following his or her
27 acquittal by reason of insanity of a crime charged, such commitment
28 or treatment cannot exceed the maximum possible penal sentence for
29 any offense charged for which the person was committed, or was
30 acquitted by reason of insanity.

31 (2) Whenever any person committed under any provision of this
32 chapter has not been released within seven days of the maximum
33 possible penal sentence under subsection (1) of this section, and the
34 professional person in charge of the facility believes that the
35 person presents a likelihood of serious harm or is gravely disabled
36 due to a mental disorder, the professional person shall, prior to the
37 expiration of the maximum penal sentence, notify the appropriate
38 ((county)) designated ((~~mental health professional~~)) crisis responder
39 of the impending expiration and provide a copy of all relevant

1 information regarding the person, including the likely release date
2 and shall indicate why the person should not be released.

3 (3) A ((~~county~~)) designated ((~~mental health professional~~)) crisis
4 responder who receives notice and records under subsection (2) of
5 this section shall, prior to the date of the expiration of the
6 maximum sentence, determine whether to initiate proceedings under
7 chapter 71.05 RCW.

8 **Sec. 407.** RCW 10.77.027 and 2004 c 166 s 3 are each amended to
9 read as follows:

10 When a ((~~county~~)) designated ((~~mental health professional~~))
11 crisis responder or a professional person has determined that a
12 person has a mental disorder, and is otherwise committable, the cause
13 of the person's mental disorder shall not make the person ineligible
14 for commitment under chapter 71.05 RCW.

15 **Sec. 408.** RCW 10.77.060 and 2012 c 256 s 3 are each amended to
16 read as follows:

17 (1)(a) Whenever a defendant has pleaded not guilty by reason of
18 insanity, or there is reason to doubt his or her competency, the
19 court on its own motion or on the motion of any party shall either
20 appoint or request the secretary to designate a qualified expert or
21 professional person, who shall be approved by the prosecuting
22 attorney, to evaluate and report upon the mental condition of the
23 defendant.

24 (b) The signed order of the court shall serve as authority for
25 the evaluator to be given access to all records held by any mental
26 health, medical, educational, or correctional facility that relate to
27 the present or past mental, emotional, or physical condition of the
28 defendant. If the court is advised by any party that the defendant
29 may have a developmental disability, the evaluation must be performed
30 by a developmental disabilities professional.

31 (c) The evaluator shall assess the defendant in a jail, detention
32 facility, in the community, or in court to determine whether a period
33 of inpatient commitment will be necessary to complete an accurate
34 evaluation. If inpatient commitment is needed, the signed order of
35 the court shall serve as authority for the evaluator to request the
36 jail or detention facility to transport the defendant to a hospital
37 or secure mental health facility for a period of commitment not to

1 exceed fifteen days from the time of admission to the facility.
2 Otherwise, the evaluator shall complete the evaluation.

3 (d) The court may commit the defendant for evaluation to a
4 hospital or secure mental health facility without an assessment if:
5 (i) The defendant is charged with murder in the first or second
6 degree; (ii) the court finds that it is more likely than not that an
7 evaluation in the jail will be inadequate to complete an accurate
8 evaluation; or (iii) the court finds that an evaluation outside the
9 jail setting is necessary for the health, safety, or welfare of the
10 defendant. The court shall not order an initial inpatient evaluation
11 for any purpose other than a competency evaluation.

12 (e) The order shall indicate whether, in the event the defendant
13 is committed to a hospital or secure mental health facility for
14 evaluation, all parties agree to waive the presence of the defendant
15 or to the defendant's remote participation at a subsequent competency
16 hearing or presentation of an agreed order if the recommendation of
17 the evaluator is for continuation of the stay of criminal
18 proceedings, or if the opinion of the evaluator is that the defendant
19 remains incompetent and there is no remaining restoration period, and
20 the hearing is held prior to the expiration of the authorized
21 commitment period.

22 (f) When a defendant is ordered to be committed for inpatient
23 evaluation under this subsection (1), the court may delay granting
24 bail until the defendant has been evaluated for competency or sanity
25 and appears before the court. Following the evaluation, in
26 determining bail the court shall consider: (i) Recommendations of the
27 evaluator regarding the defendant's competency, sanity, or diminished
28 capacity; (ii) whether the defendant has a recent history of one or
29 more violent acts; (iii) whether the defendant has previously been
30 acquitted by reason of insanity or found incompetent; (iv) whether it
31 is reasonably likely the defendant will fail to appear for a future
32 court hearing; and (v) whether the defendant is a threat to public
33 safety.

34 (2) The court may direct that a qualified expert or professional
35 person retained by or appointed for the defendant be permitted to
36 witness the evaluation authorized by subsection (1) of this section,
37 and that the defendant shall have access to all information obtained
38 by the court appointed experts or professional persons. The
39 defendant's expert or professional person shall have the right to
40 file his or her own report following the guidelines of subsection (3)

1 of this section. If the defendant is indigent, the court shall upon
2 the request of the defendant assist him or her in obtaining an expert
3 or professional person.

4 (3) The report of the evaluation shall include the following:

5 (a) A description of the nature of the evaluation;

6 (b) A diagnosis or description of the current mental status of
7 the defendant;

8 (c) If the defendant suffers from a mental disease or defect, or
9 has a developmental disability, an opinion as to competency;

10 (d) If the defendant has indicated his or her intention to rely
11 on the defense of insanity pursuant to RCW 10.77.030, and an
12 evaluation and report by an expert or professional person has been
13 provided concluding that the defendant was criminally insane at the
14 time of the alleged offense, an opinion as to the defendant's sanity
15 at the time of the act, and an opinion as to whether the defendant
16 presents a substantial danger to other persons, or presents a
17 substantial likelihood of committing criminal acts jeopardizing
18 public safety or security, unless kept under further control by the
19 court or other persons or institutions, provided that no opinion
20 shall be rendered under this subsection (3)(d) unless the evaluator
21 or court determines that the defendant is competent to stand trial;

22 (e) When directed by the court, if an evaluation and report by an
23 expert or professional person has been provided concluding that the
24 defendant lacked the capacity at the time of the offense to form the
25 mental state necessary to commit the charged offense, an opinion as
26 to the capacity of the defendant to have a particular state of mind
27 which is an element of the offense charged;

28 (f) An opinion as to whether the defendant should be evaluated by
29 a designated (~~mental health professional~~) crisis responder under
30 chapter 71.05 RCW.

31 (4) The secretary may execute such agreements as appropriate and
32 necessary to implement this section and may choose to designate more
33 than one evaluator.

34 **Sec. 409.** RCW 10.77.065 and 2014 c 225 s 59 and 2014 c 10 s 3
35 are each reenacted and amended to read as follows:

36 (1)(a)(i) The expert conducting the evaluation shall provide his
37 or her report and recommendation to the court in which the criminal
38 proceeding is pending. For a competency evaluation of a defendant who
39 is released from custody, if the evaluation cannot be completed

1 within twenty-one days due to a lack of cooperation by the defendant,
2 the evaluator shall notify the court that he or she is unable to
3 complete the evaluation because of such lack of cooperation.

4 (ii) A copy of the report and recommendation shall be provided to
5 the designated (~~(mental health professional)~~) crisis responder, the
6 prosecuting attorney, the defense attorney, and the professional
7 person at the local correctional facility where the defendant is
8 being held, or if there is no professional person, to the person
9 designated under (a)(iv) of this subsection. Upon request, the
10 evaluator shall also provide copies of any source documents relevant
11 to the evaluation to the designated (~~(mental health professional)~~)
12 crisis responder.

13 (iii) Any facility providing inpatient services related to
14 competency shall discharge the defendant as soon as the facility
15 determines that the defendant is competent to stand trial. Discharge
16 shall not be postponed during the writing and distribution of the
17 evaluation report. Distribution of an evaluation report by a facility
18 providing inpatient services shall ordinarily be accomplished within
19 two working days or less following the final evaluation of the
20 defendant. If the defendant is discharged to the custody of a local
21 correctional facility, the local correctional facility must continue
22 the medication regimen prescribed by the facility, when clinically
23 appropriate, unless the defendant refuses to cooperate with
24 medication and an involuntary medication order by the court has not
25 been entered.

26 (iv) If there is no professional person at the local correctional
27 facility, the local correctional facility shall designate a
28 professional person as defined in RCW 71.05.020 or, in cooperation
29 with the behavioral health organization, a professional person at the
30 behavioral health organization to receive the report and
31 recommendation.

32 (v) Upon commencement of a defendant's evaluation in the local
33 correctional facility, the local correctional facility must notify
34 the evaluator of the name of the professional person, or person
35 designated under (a)(iv) of this subsection, to receive the report
36 and recommendation.

37 (b) If the evaluator concludes, under RCW 10.77.060(3)(f), the
38 person should be evaluated by a designated (~~(mental health
39 professional)~~) crisis responder under chapter 71.05 RCW, the court
40 shall order such evaluation be conducted prior to release from

1 confinement when the person is acquitted or convicted and sentenced
2 to confinement for twenty-four months or less, or when charges are
3 dismissed pursuant to a finding of incompetent to stand trial.

4 (2) The designated (~~mental health professional~~) crisis
5 responder shall provide written notification within twenty-four hours
6 of the results of the determination whether to commence proceedings
7 under chapter 71.05 RCW. The notification shall be provided to the
8 persons identified in subsection (1)(a) of this section.

9 (3) The prosecuting attorney shall provide a copy of the results
10 of any proceedings commenced by the designated (~~mental health~~
11 ~~professional~~) crisis responder under subsection (2) of this section
12 to the secretary.

13 (4) A facility conducting a civil commitment evaluation under RCW
14 10.77.086(4) or 10.77.088(1)(b)(ii) that makes a determination to
15 release the person instead of filing a civil commitment petition must
16 provide written notice to the prosecutor and defense attorney at
17 least twenty-four hours prior to release. The notice may be given by
18 electronic mail, facsimile, or other means reasonably likely to
19 communicate the information immediately.

20 (5) The fact of admission and all information and records
21 compiled, obtained, or maintained in the course of providing services
22 under this chapter may also be disclosed to the courts solely to
23 prevent the entry of any evaluation or treatment order that is
24 inconsistent with any order entered under chapter 71.05 RCW.

25 **Sec. 410.** RCW 10.77.084 and 2012 c 256 s 5 are each amended to
26 read as follows:

27 (1)(a) If at any time during the pendency of an action and prior
28 to judgment the court finds, following a report as provided in RCW
29 10.77.060, a defendant is incompetent, the court shall order the
30 proceedings against the defendant be stayed except as provided in
31 subsection (4) of this section.

32 (b) At the end of the mental health treatment and restoration
33 period, if any, or at any time a professional person determines
34 competency has been, or is unlikely to be, restored, the defendant
35 shall be returned to court for a hearing. The parties may agree to
36 waive the defendant's presence or to remote participation by the
37 defendant at a hearing or presentation of an agreed order if the
38 recommendation of the evaluator is for the continuation of the stay
39 of criminal proceedings, or if the opinion of the evaluator is that

1 the defendant remains incompetent and there is no remaining
2 restoration period, and the hearing is held prior to expiration of
3 the defendant's authorized period of commitment, in which case the
4 department shall promptly notify the court and parties of the date of
5 the defendant's admission and expiration of commitment so that a
6 timely hearing date may be scheduled. If, after notice and hearing,
7 competency has been restored, the stay entered under (a) of this
8 subsection shall be lifted. If competency has not been restored, the
9 proceedings shall be dismissed without prejudice. If the court
10 concludes that competency has not been restored, but that further
11 treatment within the time limits established by RCW 10.77.086 or
12 10.77.088 is likely to restore competency, the court may order that
13 treatment for purposes of competency restoration be continued. Such
14 treatment may not extend beyond the combination of time provided for
15 in RCW 10.77.086 or 10.77.088.

16 (c) If at any time during the proceeding the court finds,
17 following notice and hearing, a defendant is not likely to regain
18 competency, the proceedings shall be dismissed without prejudice and
19 the defendant shall be evaluated for civil commitment proceedings.

20 (2) If the defendant is referred for evaluation by a designated
21 (~~mental health professional~~) crisis responder under this chapter,
22 the designated (~~mental health professional~~) crisis responder shall
23 provide prompt written notification of the results of the evaluation
24 and whether the person was detained. The notification shall be
25 provided to the court in which the criminal action was pending, the
26 prosecutor, the defense attorney in the criminal action, and the
27 facility that evaluated the defendant for competency.

28 (3) The fact that the defendant is unfit to proceed does not
29 preclude any pretrial proceedings which do not require the personal
30 participation of the defendant.

31 (4) A defendant receiving medication for either physical or
32 mental problems shall not be prohibited from standing trial, if the
33 medication either enables the defendant to understand the proceedings
34 against him or her and to assist in his or her own defense, or does
35 not disable him or her from so understanding and assisting in his or
36 her own defense.

37 (5) At or before the conclusion of any commitment period provided
38 for by this section, the facility providing evaluation and treatment
39 shall provide to the court a written report of evaluation which meets
40 the requirements of RCW 10.77.060(3). For defendants charged with a

1 felony, the report following the second competency restoration period
2 or first competency restoration period if the defendant's
3 incompetence is determined to be solely due to a developmental
4 disability or the evaluator concludes that the defendant is not
5 likely to regain competency must include an assessment of the
6 defendant's future dangerousness which is evidence-based regarding
7 predictive validity.

8 **Sec. 411.** RCW 10.77.088 and 2007 c 375 s 5 are each amended to
9 read as follows:

10 (1)(a) If the defendant is charged with a nonfelony crime which
11 is a serious offense as identified in RCW 10.77.092 and found by the
12 court to be not competent, then the court shall order the secretary
13 to place the defendant:

14 (i) At a secure mental health facility in the custody of the
15 department or an agency designated by the department for mental
16 health treatment and restoration of competency. The placement shall
17 not exceed fourteen days in addition to any unused time of the
18 evaluation under RCW 10.77.060. The court shall compute this total
19 period and include its computation in the order. The fourteen-day
20 period plus any unused time of the evaluation under RCW 10.77.060
21 shall be considered to include only the time the defendant is
22 actually at the facility and shall be in addition to reasonable time
23 for transport to or from the facility;

24 (ii) On conditional release for up to ninety days for mental
25 health treatment and restoration of competency; or

26 (iii) Any combination of this subsection.

27 (b)(i) If the proceedings are dismissed under RCW 10.77.084 and
28 the defendant was on conditional release at the time of dismissal,
29 the court shall order the designated (~~mental health professional~~)
30 crisis responder within that county to evaluate the defendant
31 pursuant to chapter 71.05 RCW. The evaluation may be conducted in any
32 location chosen by the professional.

33 (ii) If the defendant was in custody and not on conditional
34 release at the time of dismissal, the defendant shall be detained and
35 sent to an evaluation and treatment facility for up to seventy-two
36 hours, excluding Saturdays, Sundays, and holidays, for evaluation for
37 purposes of filing a petition under chapter 71.05 RCW. The seventy-
38 two-hour period shall commence upon the next nonholiday weekday

1 following the court order and shall run to the end of the last
2 nonholiday weekday within the seventy-two-hour period.

3 (2) If the defendant is charged with a nonfelony crime that is
4 not a serious offense as defined in RCW 10.77.092:

5 The court may stay or dismiss proceedings and detain the
6 defendant for sufficient time to allow the designated (~~mental health~~
7 ~~professional~~) crisis responder to evaluate the defendant and
8 consider initial detention proceedings under chapter 71.05 RCW. The
9 court must give notice to all parties at least twenty-four hours
10 before the dismissal of any proceeding under this subsection, and
11 provide an opportunity for a hearing on whether to dismiss the
12 proceedings.

13 **Sec. 412.** RCW 11.92.190 and 1996 c 249 s 11 are each amended to
14 read as follows:

15 No residential treatment facility which provides nursing or other
16 care may detain a person within such facility against their will. Any
17 court order, other than an order issued in accordance with the
18 involuntary treatment provisions of chapters 10.77, 71.05, and 72.23
19 RCW, which purports to authorize such involuntary detention or
20 purports to authorize a guardian or limited guardian to consent to
21 such involuntary detention on behalf of an incapacitated person shall
22 be void and of no force or effect. This section does not apply to the
23 detention of a minor as provided in chapter (~~(70.96A or)~~) 71.34 RCW.

24 Nothing in this section shall be construed to require a court
25 order authorizing placement of an incapacitated person in a
26 residential treatment facility if such order is not otherwise
27 required by law: PROVIDED, That notice of any residential placement
28 of an incapacitated person shall be served, either before or after
29 placement, by the guardian or limited guardian on such person, the
30 guardian ad litem of record, and any attorney of record.

31 **Sec. 413.** RCW 13.32A.044 and 2000 c 123 s 5 are each amended to
32 read as follows:

33 (1) The purpose of the multidisciplinary team is to assist in a
34 coordinated referral of the family to available social and health-
35 related services.

36 (2) The team shall have the authority to evaluate the juvenile,
37 and family members, if appropriate and agreed to by the parent, and
38 shall:

1 (a) With parental input, develop a plan of appropriate available
2 services and assist the family in obtaining those services;

3 (b) Make a referral to the designated (~~chemical dependency~~
4 ~~specialist or the county designated mental health professional~~)
5 crisis responder, if appropriate;

6 (c) Recommend no further intervention because the juvenile and
7 his or her family have resolved the problem causing the family
8 conflict; or

9 (d) With the parent's consent, work with them to achieve
10 reconciliation of the child and family.

11 (3) At the first meeting of the multidisciplinary team, it shall
12 choose a member to coordinate the team's efforts. The parent member
13 of the multidisciplinary team must agree with the choice of
14 coordinator. The team shall meet or communicate as often as necessary
15 to assist the family.

16 (4) The coordinator of the multidisciplinary team may assist in
17 filing a child in need of services petition when requested by the
18 parent or child or an at-risk youth petition when requested by the
19 parent. The multidisciplinary team shall have no standing as a party
20 in any action under this title.

21 (5) If the administrator is unable to contact the child's parent,
22 the multidisciplinary team may be used for assistance. If the parent
23 has not been contacted within five days the administrator shall
24 contact the department and request the case be reviewed for a
25 dependency filing under chapter 13.34 RCW.

26 **Sec. 414.** RCW 18.83.110 and 2005 c 504 s 706 are each amended to
27 read as follows:

28 Confidential communications between a client and a psychologist
29 shall be privileged against compulsory disclosure to the same extent
30 and subject to the same conditions as confidential communications
31 between attorney and client, but this exception is subject to the
32 limitations under RCW (~~70.96A.140 and~~) 71.05.360 (8) and (9).

33 **Sec. 415.** RCW 43.20A.025 and 1998 c 296 s 34 are each amended to
34 read as follows:

35 The department of social and health services shall adopt rules
36 defining "appropriately trained professional person" for the purposes
37 of conducting mental health and chemical dependency evaluations under

1 RCW ((~~71.34.052(3)~~, ~~71.34.054(1)~~, ~~70.96A.245(3)~~, and ~~70.96A.250(1)~~))
2 71.34.600(3) and 71.34.650(1).

3 **Sec. 416.** RCW 70.02.010 and 2014 c 225 s 70 and 2014 c 220 s 4
4 are each reenacted and amended to read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Admission" has the same meaning as in RCW 71.05.020.

8 (2) "Audit" means an assessment, evaluation, determination, or
9 investigation of a health care provider by a person not employed by
10 or affiliated with the provider to determine compliance with:

11 (a) Statutory, regulatory, fiscal, medical, or scientific
12 standards;

13 (b) A private or public program of payments to a health care
14 provider; or

15 (c) Requirements for licensing, accreditation, or certification.

16 (3) "Commitment" has the same meaning as in RCW 71.05.020.

17 (4) "Custody" has the same meaning as in RCW 71.05.020.

18 (5) "Deidentified" means health information that does not
19 identify an individual and with respect to which there is no
20 reasonable basis to believe that the information can be used to
21 identify an individual.

22 (6) "Department" means the department of social and health
23 services.

24 (7) "Designated (~~mental health professional~~) crisis responder"
25 has the same meaning as in RCW 71.05.020 or 71.34.020, as applicable.

26 (8) "Detention" or "detain" has the same meaning as in RCW
27 71.05.020.

28 (9) "Directory information" means information disclosing the
29 presence, and for the purpose of identification, the name, location
30 within a health care facility, and the general health condition of a
31 particular patient who is a patient in a health care facility or who
32 is currently receiving emergency health care in a health care
33 facility.

34 (10) "Discharge" has the same meaning as in RCW 71.05.020.

35 (11) "Evaluation and treatment facility" has the same meaning as
36 in RCW 71.05.020 or 71.34.020, as applicable.

37 (12) "Federal, state, or local law enforcement authorities" means
38 an officer of any agency or authority in the United States, a state,
39 a tribe, a territory, or a political subdivision of a state, a tribe,

1 or a territory who is empowered by law to: (a) Investigate or conduct
2 an official inquiry into a potential criminal violation of law; or
3 (b) prosecute or otherwise conduct a criminal proceeding arising from
4 an alleged violation of law.

5 (13) "General health condition" means the patient's health status
6 described in terms of "critical," "poor," "fair," "good,"
7 "excellent," or terms denoting similar conditions.

8 (14) "Health care" means any care, service, or procedure provided
9 by a health care provider:

10 (a) To diagnose, treat, or maintain a patient's physical or
11 mental condition; or

12 (b) That affects the structure or any function of the human body.

13 (15) "Health care facility" means a hospital, clinic, nursing
14 home, laboratory, office, or similar place where a health care
15 provider provides health care to patients.

16 (16) "Health care information" means any information, whether
17 oral or recorded in any form or medium, that identifies or can
18 readily be associated with the identity of a patient and directly
19 relates to the patient's health care, including a patient's
20 deoxyribonucleic acid and identified sequence of chemical base pairs.
21 The term includes any required accounting of disclosures of health
22 care information.

23 (17) "Health care operations" means any of the following
24 activities of a health care provider, health care facility, or third-
25 party payor to the extent that the activities are related to
26 functions that make an entity a health care provider, a health care
27 facility, or a third-party payor:

28 (a) Conducting: Quality assessment and improvement activities,
29 including outcomes evaluation and development of clinical guidelines,
30 if the obtaining of generalizable knowledge is not the primary
31 purpose of any studies resulting from such activities; population-
32 based activities relating to improving health or reducing health care
33 costs, protocol development, case management and care coordination,
34 contacting of health care providers and patients with information
35 about treatment alternatives; and related functions that do not
36 include treatment;

37 (b) Reviewing the competence or qualifications of health care
38 professionals, evaluating practitioner and provider performance and
39 third-party payor performance, conducting training programs in which
40 students, trainees, or practitioners in areas of health care learn

1 under supervision to practice or improve their skills as health care
2 providers, training of nonhealth care professionals, accreditation,
3 certification, licensing, or credentialing activities;

4 (c) Underwriting, premium rating, and other activities relating
5 to the creation, renewal, or replacement of a contract of health
6 insurance or health benefits, and ceding, securing, or placing a
7 contract for reinsurance of risk relating to claims for health care,
8 including stop-loss insurance and excess of loss insurance, if any
9 applicable legal requirements are met;

10 (d) Conducting or arranging for medical review, legal services,
11 and auditing functions, including fraud and abuse detection and
12 compliance programs;

13 (e) Business planning and development, such as conducting cost-
14 management and planning-related analyses related to managing and
15 operating the health care facility or third-party payor, including
16 formulary development and administration, development, or improvement
17 of methods of payment or coverage policies; and

18 (f) Business management and general administrative activities of
19 the health care facility, health care provider, or third-party payor
20 including, but not limited to:

21 (i) Management activities relating to implementation of and
22 compliance with the requirements of this chapter;

23 (ii) Customer service, including the provision of data analyses
24 for policy holders, plan sponsors, or other customers, provided that
25 health care information is not disclosed to such policy holder, plan
26 sponsor, or customer;

27 (iii) Resolution of internal grievances;

28 (iv) The sale, transfer, merger, or consolidation of all or part
29 of a health care provider, health care facility, or third-party payor
30 with another health care provider, health care facility, or third-
31 party payor or an entity that following such activity will become a
32 health care provider, health care facility, or third-party payor, and
33 due diligence related to such activity; and

34 (v) Consistent with applicable legal requirements, creating
35 deidentified health care information or a limited dataset for the
36 benefit of the health care provider, health care facility, or third-
37 party payor.

38 (18) "Health care provider" means a person who is licensed,
39 certified, registered, or otherwise authorized by the law of this

1 state to provide health care in the ordinary course of business or
2 practice of a profession.

3 (19) "Human immunodeficiency virus" or "HIV" has the same meaning
4 as in RCW 70.24.017.

5 (20) "Imminent" has the same meaning as in RCW 71.05.020.

6 (21) "Information and records related to mental health services"
7 means a type of health care information that relates to all
8 information and records compiled, obtained, or maintained in the
9 course of providing services by a mental health service agency or
10 mental health professional to persons who are receiving or have
11 received services for mental illness. The term includes mental health
12 information contained in a medical bill, registration records, as
13 defined in RCW 71.05.020, and all other records regarding the person
14 maintained by the department, by regional support networks and their
15 staff, and by treatment facilities. The term further includes
16 documents of legal proceedings under chapter 71.05, 71.34, or 10.77
17 RCW, or somatic health care information. For health care information
18 maintained by a hospital as defined in RCW 70.41.020 or a health care
19 facility or health care provider that participates with a hospital in
20 an organized health care arrangement defined under federal law,
21 "information and records related to mental health services" is
22 limited to information and records of services provided by a mental
23 health professional or information and records of services created by
24 a hospital-operated community mental health program as defined in RCW
25 71.24.025(6). The term does not include psychotherapy notes.

26 (22) "Information and records related to sexually transmitted
27 diseases" means a type of health care information that relates to the
28 identity of any person upon whom an HIV antibody test or other
29 sexually transmitted infection test is performed, the results of such
30 tests, and any information relating to diagnosis of or treatment for
31 any confirmed sexually transmitted infections.

32 (23) "Institutional review board" means any board, committee, or
33 other group formally designated by an institution, or authorized
34 under federal or state law, to review, approve the initiation of, or
35 conduct periodic review of research programs to assure the protection
36 of the rights and welfare of human research subjects.

37 (24) "Legal counsel" has the same meaning as in RCW 71.05.020.

38 (25) "Local public health officer" has the same meaning as in RCW
39 70.24.017.

1 (26) "Maintain," as related to health care information, means to
2 hold, possess, preserve, retain, store, or control that information.

3 (27) "Mental health professional" means a psychiatrist,
4 psychologist, psychiatric advanced registered nurse practitioner,
5 psychiatric nurse, or social worker, and such other mental health
6 professionals as may be defined by rules adopted by the secretary of
7 social and health services under chapter 71.05 RCW, whether that
8 person works in a private or public setting.

9 (28) "Mental health service agency" means a public or private
10 agency that provides services to persons with mental disorders as
11 defined under RCW 71.05.020 or 71.34.020 and receives funding from
12 public sources. This includes evaluation and treatment facilities as
13 defined in RCW 71.34.020, community mental health service delivery
14 systems, or community mental health programs, as defined in RCW
15 71.24.025, and facilities conducting competency evaluations and
16 restoration under chapter 10.77 RCW.

17 (29) "Minor" has the same meaning as in RCW 71.34.020.

18 (30) "Parent" has the same meaning as in RCW 71.34.020.

19 (31) "Patient" means an individual who receives or has received
20 health care. The term includes a deceased individual who has received
21 health care.

22 (32) "Payment" means:

23 (a) The activities undertaken by:

24 (i) A third-party payor to obtain premiums or to determine or
25 fulfill its responsibility for coverage and provision of benefits by
26 the third-party payor; or

27 (ii) A health care provider, health care facility, or third-party
28 payor, to obtain or provide reimbursement for the provision of health
29 care; and

30 (b) The activities in (a) of this subsection that relate to the
31 patient to whom health care is provided and that include, but are not
32 limited to:

33 (i) Determinations of eligibility or coverage, including
34 coordination of benefits or the determination of cost-sharing
35 amounts, and adjudication or subrogation of health benefit claims;

36 (ii) Risk adjusting amounts due based on enrollee health status
37 and demographic characteristics;

38 (iii) Billing, claims management, collection activities,
39 obtaining payment under a contract for reinsurance, including stop-

1 loss insurance and excess of loss insurance, and related health care
2 data processing;

3 (iv) Review of health care services with respect to medical
4 necessity, coverage under a health plan, appropriateness of care, or
5 justification of charges;

6 (v) Utilization review activities, including precertification and
7 preauthorization of services, and concurrent and retrospective review
8 of services; and

9 (vi) Disclosure to consumer reporting agencies of any of the
10 following health care information relating to collection of premiums
11 or reimbursement:

12 (A) Name and address;

13 (B) Date of birth;

14 (C) Social security number;

15 (D) Payment history;

16 (E) Account number; and

17 (F) Name and address of the health care provider, health care
18 facility, and/or third-party payor.

19 (33) "Person" means an individual, corporation, business trust,
20 estate, trust, partnership, association, joint venture, government,
21 governmental subdivision or agency, or any other legal or commercial
22 entity.

23 (34) "Professional person" has the same meaning as in RCW
24 71.05.020.

25 (35) "Psychiatric advanced registered nurse practitioner" has the
26 same meaning as in RCW 71.05.020.

27 (36) "Psychotherapy notes" means notes recorded, in any medium,
28 by a mental health professional documenting or analyzing the contents
29 of conversations during a private counseling session or group, joint,
30 or family counseling session, and that are separated from the rest of
31 the individual's medical record. The term excludes mediation
32 prescription and monitoring, counseling session start and stop times,
33 the modalities and frequencies of treatment furnished, results of
34 clinical tests, and any summary of the following items: Diagnosis,
35 functional status, the treatment plan, symptoms, prognosis, and
36 progress to date.

37 (37) "Reasonable fee" means the charges for duplicating or
38 searching the record, but shall not exceed sixty-five cents per page
39 for the first thirty pages and fifty cents per page for all other
40 pages. In addition, a clerical fee for searching and handling may be

1 charged not to exceed fifteen dollars. These amounts shall be
2 adjusted biennially in accordance with changes in the consumer price
3 index, all consumers, for Seattle-Tacoma metropolitan statistical
4 area as determined by the secretary of health. However, where editing
5 of records by a health care provider is required by statute and is
6 done by the provider personally, the fee may be the usual and
7 customary charge for a basic office visit.

8 (38) "Release" has the same meaning as in RCW 71.05.020.

9 (39) "Resource management services" has the same meaning as in
10 RCW 71.05.020.

11 (40) "Serious violent offense" has the same meaning as in RCW
12 71.05.020.

13 (41) "Sexually transmitted infection" or "sexually transmitted
14 disease" has the same meaning as "sexually transmitted disease" in
15 RCW 70.24.017.

16 (42) "Test for a sexually transmitted disease" has the same
17 meaning as in RCW 70.24.017.

18 (43) "Third-party payor" means an insurer regulated under Title
19 48 RCW authorized to transact business in this state or other
20 jurisdiction, including a health care service contractor, and health
21 maintenance organization; or an employee welfare benefit plan,
22 excluding fitness or wellness plans; or a state or federal health
23 benefit program.

24 (44) "Treatment" means the provision, coordination, or management
25 of health care and related services by one or more health care
26 providers or health care facilities, including the coordination or
27 management of health care by a health care provider or health care
28 facility with a third party; consultation between health care
29 providers or health care facilities relating to a patient; or the
30 referral of a patient for health care from one health care provider
31 or health care facility to another.

32 **Sec. 417.** RCW 70.02.230 and 2014 c 225 s 71 and 2014 c 220 s 9
33 are each reenacted and amended to read as follows:

34 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
35 70.96A.150, 74.09.295, 70.02.210, 70.02.240, 70.02.250, and
36 70.02.260, or pursuant to a valid authorization under RCW 70.02.030,
37 the fact of admission to a provider for mental health services and
38 all information and records compiled, obtained, or maintained in the
39 course of providing mental health services to either voluntary or

1 involuntary recipients of services at public or private agencies must
2 be confidential.

3 (2) Information and records related to mental health services,
4 other than those obtained through treatment under chapter 71.34 RCW,
5 may be disclosed only:

6 (a) In communications between qualified professional persons to
7 meet the requirements of chapter 71.05 RCW, in the provision of
8 services or appropriate referrals, or in the course of guardianship
9 proceedings if provided to a professional person:

10 (i) Employed by the facility;

11 (ii) Who has medical responsibility for the patient's care;

12 (iii) Who is a designated (~~mental health professional~~) crisis
13 responder;

14 (iv) Who is providing services under chapter 71.24 RCW;

15 (v) Who is employed by a state or local correctional facility
16 where the person is confined or supervised; or

17 (vi) Who is providing evaluation, treatment, or follow-up
18 services under chapter 10.77 RCW;

19 (b) When the communications regard the special needs of a patient
20 and the necessary circumstances giving rise to such needs and the
21 disclosure is made by a facility providing services to the operator
22 of a facility in which the patient resides or will reside;

23 (c)(i) When the person receiving services, or his or her
24 guardian, designates persons to whom information or records may be
25 released, or if the person is a minor, when his or her parents make
26 such a designation;

27 (ii) A public or private agency shall release to a person's next
28 of kin, attorney, personal representative, guardian, or conservator,
29 if any:

30 (A) The information that the person is presently a patient in the
31 facility or that the person is seriously physically ill;

32 (B) A statement evaluating the mental and physical condition of
33 the patient, and a statement of the probable duration of the
34 patient's confinement, if such information is requested by the next
35 of kin, attorney, personal representative, guardian, or conservator;
36 and

37 (iii) Other information requested by the next of kin or attorney
38 as may be necessary to decide whether or not proceedings should be
39 instituted to appoint a guardian or conservator;

1 (d)(i) To the courts as necessary to the administration of
2 chapter 71.05 RCW or to a court ordering an evaluation or treatment
3 under chapter 10.77 RCW solely for the purpose of preventing the
4 entry of any evaluation or treatment order that is inconsistent with
5 any order entered under chapter 71.05 RCW.

6 (ii) To a court or its designee in which a motion under chapter
7 10.77 RCW has been made for involuntary medication of a defendant for
8 the purpose of competency restoration.

9 (iii) Disclosure under this subsection is mandatory for the
10 purpose of the federal health insurance portability and
11 accountability act;

12 (e)(i) When a mental health professional or designated crisis
13 responder is requested by a representative of a law enforcement or
14 corrections agency, including a police officer, sheriff, community
15 corrections officer, a municipal attorney, or prosecuting attorney to
16 undertake an investigation or provide treatment under RCW 71.05.150,
17 10.31.110, or 71.05.153, the mental health professional or designated
18 crisis responder shall, if requested to do so, advise the
19 representative in writing of the results of the investigation
20 including a statement of reasons for the decision to detain or
21 release the person investigated. The written report must be submitted
22 within seventy-two hours of the completion of the investigation or
23 the request from the law enforcement or corrections representative,
24 whichever occurs later.

25 (ii) Disclosure under this subsection is mandatory for the
26 purposes of the federal health insurance portability and
27 accountability act;

28 (f) To the attorney of the detained person;

29 (g) To the prosecuting attorney as necessary to carry out the
30 responsibilities of the office under RCW 71.05.330(2),
31 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
32 access to records regarding the committed person's treatment and
33 prognosis, medication, behavior problems, and other records relevant
34 to the issue of whether treatment less restrictive than inpatient
35 treatment is in the best interest of the committed person or others.
36 Information must be disclosed only after giving notice to the
37 committed person and the person's counsel;

38 (h)(i) To appropriate law enforcement agencies and to a person,
39 when the identity of the person is known to the public or private
40 agency, whose health and safety has been threatened, or who is known

1 to have been repeatedly harassed, by the patient. The person may
2 designate a representative to receive the disclosure. The disclosure
3 must be made by the professional person in charge of the public or
4 private agency or his or her designee and must include the dates of
5 commitment, admission, discharge, or release, authorized or
6 unauthorized absence from the agency's facility, and only any other
7 information that is pertinent to the threat or harassment. The agency
8 or its employees are not civilly liable for the decision to disclose
9 or not, so long as the decision was reached in good faith and without
10 gross negligence.

11 (ii) Disclosure under this subsection is mandatory for the
12 purposes of the federal health insurance portability and
13 accountability act;

14 (i)(i) To appropriate corrections and law enforcement agencies
15 all necessary and relevant information in the event of a crisis or
16 emergent situation that poses a significant and imminent risk to the
17 public. The mental health service agency or its employees are not
18 civilly liable for the decision to disclose or not so long as the
19 decision was reached in good faith and without gross negligence.

20 (ii) Disclosure under this subsection is mandatory for the
21 purposes of the health insurance portability and accountability act;

22 (j) To the persons designated in RCW 71.05.425 for the purposes
23 described in those sections;

24 (k) Upon the death of a person. The person's next of kin,
25 personal representative, guardian, or conservator, if any, must be
26 notified. Next of kin who are of legal age and competent must be
27 notified under this section in the following order: Spouse, parents,
28 children, brothers and sisters, and other relatives according to the
29 degree of relation. Access to all records and information compiled,
30 obtained, or maintained in the course of providing services to a
31 deceased patient are governed by RCW 70.02.140;

32 (l) To mark headstones or otherwise memorialize patients interred
33 at state hospital cemeteries. The department of social and health
34 services shall make available the name, date of birth, and date of
35 death of patients buried in state hospital cemeteries fifty years
36 after the death of a patient;

37 (m) To law enforcement officers and to prosecuting attorneys as
38 are necessary to enforce RCW 9.41.040(2)(a)(~~(ii)~~) (iii). The extent
39 of information that may be released is limited as follows:

1 (i) Only the fact, place, and date of involuntary commitment, an
2 official copy of any order or orders of commitment, and an official
3 copy of any written or oral notice of ineligibility to possess a
4 firearm that was provided to the person pursuant to RCW 9.41.047(1),
5 must be disclosed upon request;

6 (ii) The law enforcement and prosecuting attorneys may only
7 release the information obtained to the person's attorney as required
8 by court rule and to a jury or judge, if a jury is waived, that
9 presides over any trial at which the person is charged with violating
10 RCW 9.41.040(2)(a)(~~(ii)~~) (iii);

11 (iii) Disclosure under this subsection is mandatory for the
12 purposes of the federal health insurance portability and
13 accountability act;

14 (n) When a patient would otherwise be subject to the provisions
15 of this section and disclosure is necessary for the protection of the
16 patient or others due to his or her unauthorized disappearance from
17 the facility, and his or her whereabouts is unknown, notice of the
18 disappearance, along with relevant information, may be made to
19 relatives, the department of corrections when the person is under the
20 supervision of the department, and governmental law enforcement
21 agencies designated by the physician or psychiatric advanced
22 registered nurse practitioner in charge of the patient or the
23 professional person in charge of the facility, or his or her
24 professional designee;

25 (o) Pursuant to lawful order of a court;

26 (p) To qualified staff members of the department, to the director
27 of behavioral health organizations, to resource management services
28 responsible for serving a patient, or to service providers designated
29 by resource management services as necessary to determine the
30 progress and adequacy of treatment and to determine whether the
31 person should be transferred to a less restrictive or more
32 appropriate treatment modality or facility;

33 (q) Within the mental health service agency where the patient is
34 receiving treatment, confidential information may be disclosed to
35 persons employed, serving in bona fide training programs, or
36 participating in supervised volunteer programs, at the facility when
37 it is necessary to perform their duties;

38 (r) Within the department as necessary to coordinate treatment
39 for mental illness, developmental disabilities, alcoholism, or drug
40 abuse of persons who are under the supervision of the department;

1 (s) To a licensed physician or psychiatric advanced registered
2 nurse practitioner who has determined that the life or health of the
3 person is in danger and that treatment without the information and
4 records related to mental health services could be injurious to the
5 patient's health. Disclosure must be limited to the portions of the
6 records necessary to meet the medical emergency;

7 (t) Consistent with the requirements of the federal health
8 information portability and accountability act, to a licensed mental
9 health professional or a health care professional licensed under
10 chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is
11 providing care to a person, or to whom a person has been referred for
12 evaluation or treatment, to assure coordinated care and treatment of
13 that person. Psychotherapy notes may not be released without
14 authorization of the person who is the subject of the request for
15 release of information;

16 (u) To administrative and office support staff designated to
17 obtain medical records for those licensed professionals listed in (t)
18 of this subsection;

19 (v) To a facility that is to receive a person who is
20 involuntarily committed under chapter 71.05 RCW, or upon transfer of
21 the person from one evaluation and treatment facility to another. The
22 release of records under this subsection is limited to the
23 information and records related to mental health services required by
24 law, a record or summary of all somatic treatments, and a discharge
25 summary. The discharge summary may include a statement of the
26 patient's problem, the treatment goals, the type of treatment which
27 has been provided, and recommendation for future treatment, but may
28 not include the patient's complete treatment record;

29 (w) To the person's counsel or guardian ad litem, without
30 modification, at any time in order to prepare for involuntary
31 commitment or recommitment proceedings, reexaminations, appeals, or
32 other actions relating to detention, admission, commitment, or
33 patient's rights under chapter 71.05 RCW;

34 (x) To staff members of the protection and advocacy agency or to
35 staff members of a private, nonprofit corporation for the purpose of
36 protecting and advocating the rights of persons with mental disorders
37 or developmental disabilities. Resource management services may limit
38 the release of information to the name, birthdate, and county of
39 residence of the patient, information regarding whether the patient
40 was voluntarily admitted, or involuntarily committed, the date and

1 place of admission, placement, or commitment, the name and address of
2 a guardian of the patient, and the date and place of the guardian's
3 appointment. Any staff member who wishes to obtain additional
4 information must notify the patient's resource management services in
5 writing of the request and of the resource management services' right
6 to object. The staff member shall send the notice by mail to the
7 guardian's address. If the guardian does not object in writing within
8 fifteen days after the notice is mailed, the staff member may obtain
9 the additional information. If the guardian objects in writing within
10 fifteen days after the notice is mailed, the staff member may not
11 obtain the additional information;

12 (y) To all current treating providers of the patient with
13 prescriptive authority who have written a prescription for the
14 patient within the last twelve months. For purposes of coordinating
15 health care, the department may release without written authorization
16 of the patient, information acquired for billing and collection
17 purposes as described in RCW 70.02.050(1)(d). The department shall
18 notify the patient that billing and collection information has been
19 released to named providers, and provide the substance of the
20 information released and the dates of such release. The department
21 may not release counseling, inpatient psychiatric hospitalization, or
22 drug and alcohol treatment information without a signed written
23 release from the client;

24 (z)(i) To the secretary of social and health services for either
25 program evaluation or research, or both so long as the secretary
26 adopts rules for the conduct of the evaluation or research, or both.
27 Such rules must include, but need not be limited to, the requirement
28 that all evaluators and researchers sign an oath of confidentiality
29 substantially as follows:

30 "As a condition of conducting evaluation or research concerning
31 persons who have received services from (fill in the facility,
32 agency, or person) I,, agree not to divulge, publish, or
33 otherwise make known to unauthorized persons or the public any
34 information obtained in the course of such evaluation or research
35 regarding persons who have received services such that the person who
36 received such services is identifiable.

37 I recognize that unauthorized release of confidential information
38 may subject me to civil liability under the provisions of state law.

39 /s/"

1 (ii) Nothing in this chapter may be construed to prohibit the
2 compilation and publication of statistical data for use by government
3 or researchers under standards, including standards to assure
4 maintenance of confidentiality, set forth by the secretary.

5 (3) Whenever federal law or federal regulations restrict the
6 release of information contained in the information and records
7 related to mental health services of any patient who receives
8 treatment for chemical dependency, the department may restrict the
9 release of the information as necessary to comply with federal law
10 and regulations.

11 (4) Civil liability and immunity for the release of information
12 about a particular person who is committed to the department of
13 social and health services under RCW 71.05.280(3) and 71.05.320(3)(c)
14 after dismissal of a sex offense as defined in RCW 9.94A.030, is
15 governed by RCW 4.24.550.

16 (5) The fact of admission to a provider of mental health
17 services, as well as all records, files, evidence, findings, or
18 orders made, prepared, collected, or maintained pursuant to chapter
19 71.05 RCW are not admissible as evidence in any legal proceeding
20 outside that chapter without the written authorization of the person
21 who was the subject of the proceeding except as provided in RCW
22 70.02.260, in a subsequent criminal prosecution of a person committed
23 pursuant to RCW 71.05.280(3) or 71.05.320(3)(c) on charges that were
24 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand
25 trial, in a civil commitment proceeding pursuant to chapter 71.09
26 RCW, or, in the case of a minor, a guardianship or dependency
27 proceeding. The records and files maintained in any court proceeding
28 pursuant to chapter 71.05 RCW must be confidential and available
29 subsequent to such proceedings only to the person who was the subject
30 of the proceeding or his or her attorney. In addition, the court may
31 order the subsequent release or use of such records or files only
32 upon good cause shown if the court finds that appropriate safeguards
33 for strict confidentiality are and will be maintained.

34 (6)(a) Except as provided in RCW 4.24.550, any person may bring
35 an action against an individual who has willfully released
36 confidential information or records concerning him or her in
37 violation of the provisions of this section, for the greater of the
38 following amounts:

39 (i) One thousand dollars; or

1 (ii) Three times the amount of actual damages sustained, if any.

2 (b) It is not a prerequisite to recovery under this subsection
3 that the plaintiff suffered or was threatened with special, as
4 contrasted with general, damages.

5 (c) Any person may bring an action to enjoin the release of
6 confidential information or records concerning him or her or his or
7 her ward, in violation of the provisions of this section, and may in
8 the same action seek damages as provided in this subsection.

9 (d) The court may award to the plaintiff, should he or she
10 prevail in any action authorized by this subsection, reasonable
11 attorney fees in addition to those otherwise provided by law.

12 (e) If an action is brought under this subsection, no action may
13 be brought under RCW 70.02.170.

14 **Sec. 418.** RCW 70.48.475 and 2004 c 166 s 14 are each amended to
15 read as follows:

16 (1) A person having charge of a jail, or that person's designee,
17 shall notify the (~~county designated mental health professional or~~
18 ~~the designated chemical dependency specialist~~) designated crisis
19 responder seventy-two hours prior to the release to the community of
20 an offender or defendant who was subject to a discharge review under
21 RCW 71.05.232. If the person having charge of the jail does not
22 receive seventy-two hours notice of the release, the notification to
23 the (~~county designated mental health professional or the designated~~
24 ~~chemical dependency specialist~~) designated crisis responder shall be
25 made as soon as reasonably possible, but not later than the actual
26 release to the community of the defendant or offender.

27 (2) When a person having charge of a jail, or that person's
28 designee, releases an offender or defendant who was the subject of a
29 discharge review under RCW 71.05.232, the person having charge of a
30 jail, or that person's designee, shall notify the state hospital from
31 which the offender or defendant was released.

32 **Sec. 419.** RCW 70.97.010 and 2014 c 225 s 78 are each amended to
33 read as follows:

34 The definitions in this section apply throughout this chapter
35 unless the context clearly requires otherwise.

36 (1) "Antipsychotic medications" means that class of drugs
37 primarily used to treat serious manifestations of mental illness

1 associated with thought disorders, which includes but is not limited
2 to atypical antipsychotic medications.

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

6 (3) "Chemical dependency" means alcoholism, drug addiction, or
7 dependence on alcohol and one or more other psychoactive chemicals,
8 as the context requires and as those terms are defined in chapter
9 (~~70.96A~~) 71.05 RCW.

10 (4) "Chemical dependency professional" means a person certified
11 as a chemical dependency professional by the department of health
12 under chapter 18.205 RCW.

13 (5) "Commitment" means the determination by a court that an
14 individual should be detained for a period of either evaluation or
15 treatment, or both, in an inpatient or a less restrictive setting.

16 (6) "Conditional release" means a modification of a commitment
17 that may be revoked upon violation of any of its terms.

18 (7) "Custody" means involuntary detention under chapter 71.05
19 (~~or 70.96A~~) RCW, uninterrupted by any period of unconditional
20 release from commitment from a facility providing involuntary care
21 and treatment.

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

24 (9) "Designated crisis responder" (~~means a designated mental~~
25 ~~health professional, a designated chemical dependency specialist, or~~
26 ~~a designated crisis responder as those terms are defined in chapter~~
27 ~~70.96A, 71.05, or 70.96B~~ RCW) has the same meaning as in chapter
28 71.05 RCW.

29 (10) "Detention" or "detain" means the lawful confinement of an
30 individual under chapter (~~70.96A or~~) 71.05 RCW.

31 (11) "Discharge" means the termination of facility authority. The
32 commitment may remain in place, be terminated, or be amended by court
33 order.

34 (12) "Enhanced services facility" means a facility that provides
35 treatment and services to persons for whom acute inpatient treatment
36 is not medically necessary and who have been determined by the
37 department to be inappropriate for placement in other licensed
38 facilities due to the complex needs that result in behavioral and
39 security issues.

1 (13) "Expanded community services program" means a nonsecure
2 program of enhanced behavioral and residential support provided to
3 long-term and residential care providers serving specifically
4 eligible clients who would otherwise be at risk for hospitalization
5 at state hospital geriatric units.

6 (14) "Facility" means an enhanced services facility.

7 (15) "Gravely disabled" means a condition in which an individual,
8 as a result of a mental disorder, as a result of the use of alcohol
9 or other psychoactive chemicals, or both:

10 (a) Is in danger of serious physical harm resulting from a
11 failure to provide for his or her essential human needs of health or
12 safety; or

13 (b) Manifests severe deterioration in routine functioning
14 evidenced by repeated and escalating loss of cognitive or volitional
15 control over his or her actions and is not receiving such care as is
16 essential for his or her health or safety.

17 (16) "History of one or more violent acts" refers to the period
18 of time ten years before the filing of a petition under this
19 chapter((7)) or chapter ((~~70.96A-01~~)) 71.05 RCW, excluding any time
20 spent, but not any violent acts committed, in a mental health
21 facility or a long-term alcoholism or drug treatment facility, or in
22 confinement as a result of a criminal conviction.

23 (17) "Licensed physician" means a person licensed to practice
24 medicine or osteopathic medicine and surgery in the state of
25 Washington.

26 (18) "Likelihood of serious harm" means:

27 (a) A substantial risk that:

28 (i) Physical harm will be inflicted by an individual upon his or
29 her own person, as evidenced by threats or attempts to commit suicide
30 or inflict physical harm on oneself;

31 (ii) Physical harm will be inflicted by an individual upon
32 another, as evidenced by behavior that has caused such harm or that
33 places another person or persons in reasonable fear of sustaining
34 such harm; or

35 (iii) Physical harm will be inflicted by an individual upon the
36 property of others, as evidenced by behavior that has caused
37 substantial loss or damage to the property of others; or

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

1 (19) "Mental disorder" means any organic, mental, or emotional
2 impairment that has substantial adverse effects on an individual's
3 cognitive or volitional functions.

4 (20) "Mental health professional" means a psychiatrist,
5 psychologist, psychiatric nurse, or social worker, and such other
6 mental health professionals as may be defined by rules adopted by the
7 secretary under the authority of chapter 71.05 RCW.

8 (21) "Professional person" means a mental health professional and
9 also means a physician, registered nurse, and such others as may be
10 defined in rules adopted by the secretary pursuant to the provisions
11 of this chapter.

12 (22) "Psychiatrist" means a person having a license as a
13 physician and surgeon in this state who has in addition completed
14 three years of graduate training in psychiatry in a program approved
15 by the American medical association or the American osteopathic
16 association and is certified or eligible to be certified by the
17 American board of psychiatry and neurology.

18 (23) "Psychologist" means a person who has been licensed as a
19 psychologist under chapter 18.83 RCW.

20 (24) "Registration records" include all the records of the
21 department, behavioral health organizations, treatment facilities,
22 and other persons providing services to the department, county
23 departments, or facilities which identify individuals who are
24 receiving or who at any time have received services for mental
25 illness.

26 (25) "Release" means legal termination of the commitment under
27 chapter 70.96A or 71.05 RCW.

28 (26) "Resident" means a person admitted to an enhanced services
29 facility.

30 (27) "Secretary" means the secretary of the department or the
31 secretary's designee.

32 (28) "Significant change" means:

33 (a) A deterioration in a resident's physical, mental, or
34 psychosocial condition that has caused or is likely to cause clinical
35 complications or life-threatening conditions; or

36 (b) An improvement in the resident's physical, mental, or
37 psychosocial condition that may make the resident eligible for
38 release or for treatment in a less intensive or less secure setting.

1 (29) "Social worker" means a person with a master's or further
2 advanced degree from a social work educational program accredited and
3 approved as provided in RCW 18.320.010.

4 (30) "Treatment" means the broad range of emergency,
5 detoxification, residential, inpatient, and outpatient services and
6 care, including diagnostic evaluation, mental health or chemical
7 dependency education and counseling, medical, psychiatric,
8 psychological, and social service care, vocational rehabilitation,
9 and career counseling, which may be extended to persons with mental
10 disorders, chemical dependency disorders, or both, and their
11 families.

12 (31) "Treatment records" include registration and all other
13 records concerning individuals who are receiving or who at any time
14 have received services for mental illness, which are maintained by
15 the department, by behavioral health organizations and their staffs,
16 and by treatment facilities. "Treatment records" do not include notes
17 or records maintained for personal use by an individual providing
18 treatment services for the department, behavioral health
19 organizations, or a treatment facility if the notes or records are
20 not available to others.

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

24 **Sec. 420.** RCW 71.05.660 and 2013 c 200 s 21 are each amended to
25 read as follows:

26 Nothing in this chapter or chapter 70.02(~~(, 70.96A,)~~) or 71.34(~~(, 70.96B)~~)
27 ~~or 70.96B~~) RCW shall be construed to interfere with communications
28 between physicians, psychiatric advanced registered nurse
29 practitioners, or psychologists and patients and attorneys and
30 clients.

31 **Sec. 421.** RCW 71.24.025 and 2014 c 225 s 10 are each reenacted
32 and amended to read as follows:

33 Unless the context clearly requires otherwise, the definitions in
34 this section apply throughout this chapter.

35 (1) "Acutely mentally ill" means a condition which is limited to
36 a short-term severe crisis episode of:

37 (a) A mental disorder as defined in RCW 71.05.020 or, in the case
38 of a child, as defined in RCW 71.34.020;

1 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
2 case of a child, a gravely disabled minor as defined in RCW
3 71.34.020; or

4 (c) Presenting a likelihood of serious harm as defined in RCW
5 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

6 (2) "Available resources" means funds appropriated for the
7 purpose of providing community mental health programs, federal funds,
8 except those provided according to Title XIX of the Social Security
9 Act, and state funds appropriated under this chapter or chapter 71.05
10 RCW by the legislature during any biennium for the purpose of
11 providing residential services, resource management services,
12 community support services, and other mental health services. This
13 does not include funds appropriated for the purpose of operating and
14 administering the state psychiatric hospitals.

15 (3) "Behavioral health organization" means any county authority
16 or group of county authorities or other entity recognized by the
17 secretary in contract in a defined region.

18 (4) "Behavioral health services" means mental health services as
19 described in this chapter and chapter 71.36 RCW and chemical
20 dependency treatment services as described in chapter 70.96A RCW.

21 (5) "Child" means a person under the age of eighteen years.

22 (6) "Chronically mentally ill adult" or "adult who is chronically
23 mentally ill" means an adult who has a mental disorder and meets at
24 least one of the following criteria:

25 (a) Has undergone two or more episodes of hospital care for a
26 mental disorder within the preceding two years; or

27 (b) Has experienced a continuous psychiatric hospitalization or
28 residential treatment exceeding six months' duration within the
29 preceding year; or

30 (c) Has been unable to engage in any substantial gainful activity
31 by reason of any mental disorder which has lasted for a continuous
32 period of not less than twelve months. "Substantial gainful activity"
33 shall be defined by the department by rule consistent with Public Law
34 92-603, as amended.

35 (7) "Clubhouse" means a community-based program that provides
36 rehabilitation services and is certified by the department of social
37 and health services.

38 (8) "Community mental health program" means all mental health
39 services, activities, or programs using available resources.

1 (9) "Community mental health service delivery system" means
2 public, private, or tribal agencies that provide services
3 specifically to persons with mental disorders as defined under RCW
4 71.05.020 and receive funding from public sources.

5 (10) "Community support services" means services authorized,
6 planned, and coordinated through resource management services
7 including, at a minimum, assessment, diagnosis, emergency crisis
8 intervention available twenty-four hours, seven days a week,
9 prescreening determinations for persons who are mentally ill being
10 considered for placement in nursing homes as required by federal law,
11 screening for patients being considered for admission to residential
12 services, diagnosis and treatment for children who are acutely
13 mentally ill or severely emotionally disturbed discovered under
14 screening through the federal Title XIX early and periodic screening,
15 diagnosis, and treatment program, investigation, legal, and other
16 nonresidential services under chapter 71.05 RCW, case management
17 services, psychiatric treatment including medication supervision,
18 counseling, psychotherapy, assuring transfer of relevant patient
19 information between service providers, recovery services, and other
20 services determined by behavioral health organizations.

21 (11) "Consensus-based" means a program or practice that has
22 general support among treatment providers and experts, based on
23 experience or professional literature, and may have anecdotal or case
24 study support, or that is agreed but not possible to perform studies
25 with random assignment and controlled groups.

26 (12) "County authority" means the board of county commissioners,
27 county council, or county executive having authority to establish a
28 community mental health program, or two or more of the county
29 authorities specified in this subsection which have entered into an
30 agreement to provide a community mental health program.

31 (13) "Department" means the department of social and health
32 services.

33 (14) "Designated (~~(mental health professional)~~) crisis responder"
34 means a mental health professional designated by the county or other
35 authority authorized in rule to perform the duties specified in this
36 chapter.

37 (15) "Emerging best practice" or "promising practice" means a
38 program or practice that, based on statistical analyses or a well
39 established theory of change, shows potential for meeting the
40 evidence-based or research-based criteria, which may include the use

1 of a program that is evidence-based for outcomes other than those
2 listed in subsection (16) of this section.

3 (16) "Evidence-based" means a program or practice that has been
4 tested in heterogeneous or intended populations with multiple
5 randomized, or statistically controlled evaluations, or both; or one
6 large multiple site randomized, or statistically controlled
7 evaluation, or both, where the weight of the evidence from a systemic
8 review demonstrates sustained improvements in at least one outcome.
9 "Evidence-based" also means a program or practice that can be
10 implemented with a set of procedures to allow successful replication
11 in Washington and, when possible, is determined to be cost-
12 beneficial.

13 (17) "Licensed service provider" means an entity licensed
14 according to this chapter or chapter 71.05 (~~or 70.96A~~) RCW or an
15 entity deemed to meet state minimum standards as a result of
16 accreditation by a recognized behavioral health accrediting body
17 recognized and having a current agreement with the department, or
18 tribal attestation that meets state minimum standards, or persons
19 licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it
20 applies to registered nurses and advanced registered nurse
21 practitioners.

22 (18) "Long-term inpatient care" means inpatient services for
23 persons committed for, or voluntarily receiving intensive treatment
24 for, periods of ninety days or greater under chapter 71.05 RCW.
25 "Long-term inpatient care" as used in this chapter does not include:
26 (a) Services for individuals committed under chapter 71.05 RCW who
27 are receiving services pursuant to a conditional release or a court-
28 ordered less restrictive alternative to detention; or (b) services
29 for individuals voluntarily receiving less restrictive alternative
30 treatment on the grounds of the state hospital.

31 (19) "Mental health services" means all services provided by
32 behavioral health organizations and other services provided by the
33 state for persons who are mentally ill.

34 (20) "Mentally ill persons," "persons who are mentally ill," and
35 "the mentally ill" mean persons and conditions defined in subsections
36 (1), (6), (28), and (29) of this section.

37 (21) "Recovery" means the process in which people are able to
38 live, work, learn, and participate fully in their communities.

39 (22) "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 persons who are receiving
3 or who at any time have received services for mental illness.

4 (23) "Research-based" means a program or practice that has been
5 tested with a single randomized, or statistically controlled
6 evaluation, or both, demonstrating sustained desirable outcomes; or
7 where the weight of the evidence from a systemic review supports
8 sustained outcomes as described in subsection (16) of this section
9 but does not meet the full criteria for evidence-based.

10 (24) "Residential services" means a complete range of residences
11 and supports authorized by resource management services and which may
12 involve a facility, a distinct part thereof, or services which
13 support community living, for persons who are acutely mentally ill,
14 adults who are chronically mentally ill, children who are severely
15 emotionally disturbed, or adults who are seriously disturbed and
16 determined by the behavioral health organization to be at risk of
17 becoming acutely or chronically mentally ill. The services shall
18 include at least evaluation and treatment services as defined in
19 chapter 71.05 RCW, acute crisis respite care, long-term adaptive and
20 rehabilitative care, and supervised and supported living services,
21 and shall also include any residential services developed to service
22 persons who are mentally ill in nursing homes, assisted living
23 facilities, and adult family homes, and may include outpatient
24 services provided as an element in a package of services in a
25 supported housing model. Residential services for children in out-of-
26 home placements related to their mental disorder shall not include
27 the costs of food and shelter, except for children's long-term
28 residential facilities existing prior to January 1, 1991.

29 (25) "Resilience" means the personal and community qualities that
30 enable individuals to rebound from adversity, trauma, tragedy,
31 threats, or other stresses, and to live productive lives.

32 (26) "Resource management services" mean the planning,
33 coordination, and authorization of residential services and community
34 support services administered pursuant to an individual service plan
35 for: (a) Adults and children who are acutely mentally ill; (b) adults
36 who are chronically mentally ill; (c) children who are severely
37 emotionally disturbed; or (d) adults who are seriously disturbed and
38 determined solely by a behavioral health organization to be at risk
39 of becoming acutely or chronically mentally ill. Such planning,
40 coordination, and authorization shall include mental health screening

1 for children eligible under the federal Title XIX early and periodic
2 screening, diagnosis, and treatment program. Resource management
3 services include seven day a week, twenty-four hour a day
4 availability of information regarding enrollment of adults and
5 children who are mentally ill in services and their individual
6 service plan to designated (~~mental health professionals~~) crisis
7 responders, evaluation and treatment facilities, and others as
8 determined by the behavioral health organization.

9 (27) "Secretary" means the secretary of social and health
10 services.

11 (28) "Seriously disturbed person" means a person who:

12 (a) Is gravely disabled or presents a likelihood of serious harm
13 to himself or herself or others, or to the property of others, as a
14 result of a mental disorder as defined in chapter 71.05 RCW;

15 (b) Has been on conditional release status, or under a less
16 restrictive alternative order, at some time during the preceding two
17 years from an evaluation and treatment facility or a state mental
18 health hospital;

19 (c) Has a mental disorder which causes major impairment in
20 several areas of daily living;

21 (d) Exhibits suicidal preoccupation or attempts; or

22 (e) Is a child diagnosed by a mental health professional, as
23 defined in chapter 71.34 RCW, as experiencing a mental disorder which
24 is clearly interfering with the child's functioning in family or
25 school or with peers or is clearly interfering with the child's
26 personality development and learning.

27 (29) "Severely emotionally disturbed child" or "child who is
28 severely emotionally disturbed" means a child who has been determined
29 by the behavioral health organization to be experiencing a mental
30 disorder as defined in chapter 71.34 RCW, including those mental
31 disorders that result in a behavioral or conduct disorder, that is
32 clearly interfering with the child's functioning in family or school
33 or with peers and who meets at least one of the following criteria:

34 (a) Has undergone inpatient treatment or placement outside of the
35 home related to a mental disorder within the last two years;

36 (b) Has undergone involuntary treatment under chapter 71.34 RCW
37 within the last two years;

38 (c) Is currently served by at least one of the following child-
39 serving systems: Juvenile justice, child-protection/welfare, special
40 education, or developmental disabilities;

1 (d) Is at risk of escalating maladjustment due to:

2 (i) Chronic family dysfunction involving a caretaker who is
3 mentally ill or inadequate;

4 (ii) Changes in custodial adult;

5 (iii) Going to, residing in, or returning from any placement
6 outside of the home, for example, psychiatric hospital, short-term
7 inpatient, residential treatment, group or foster home, or a
8 correctional facility;

9 (iv) Subject to repeated physical abuse or neglect;

10 (v) Drug or alcohol abuse; or

11 (vi) Homelessness.

12 (30) "State minimum standards" means minimum requirements
13 established by rules adopted by the secretary and necessary to
14 implement this chapter for: (a) Delivery of mental health services;
15 (b) licensed service providers for the provision of mental health
16 services; (c) residential services; and (d) community support
17 services and resource management services.

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

27 (32) "Tribal authority," for the purposes of this section and RCW
28 71.24.300 only, means: The federally recognized Indian tribes and the
29 major Indian organizations recognized by the secretary insofar as
30 these organizations do not have a financial relationship with any
31 behavioral health organization that would present a conflict of
32 interest.

33 **Sec. 422.** RCW 71.24.045 and 2014 c 225 s 13 are each amended to
34 read as follows:

35 The behavioral health organization shall:

36 (1) Contract as needed with licensed service providers. The
37 behavioral health organization may, in the absence of a licensed
38 service provider entity, become a licensed service provider entity
39 pursuant to minimum standards required for licensing by the

1 department for the purpose of providing services not available from
2 licensed service providers;

3 (2) Operate as a licensed service provider if it deems that doing
4 so is more efficient and cost effective than contracting for
5 services. When doing so, the behavioral health organization shall
6 comply with rules promulgated by the secretary that shall provide
7 measurements to determine when a behavioral health organization
8 provided service is more efficient and cost effective;

9 (3) Monitor and perform biennial fiscal audits of licensed
10 service providers who have contracted with the behavioral health
11 organization to provide services required by this chapter. The
12 monitoring and audits shall be performed by means of a formal process
13 which insures that the licensed service providers and professionals
14 designated in this subsection meet the terms of their contracts;

15 (4) Establish reasonable limitations on administrative costs for
16 agencies that contract with the behavioral health organization;

17 (5) Assure that the special needs of minorities, older adults,
18 individuals with disabilities, children, and low-income persons are
19 met within the priorities established in this chapter;

20 (6) Maintain patient tracking information in a central location
21 as required for resource management services and the department's
22 information system;

23 (7) Collaborate to ensure that policies do not result in an
24 adverse shift of persons with mental illness into state and local
25 correctional facilities;

26 (8) Work with the department to expedite the enrollment or
27 reenrollment of eligible persons leaving state or local correctional
28 facilities and institutions for mental diseases;

29 (9) Work closely with the (~~county designated mental health~~
30 ~~professional or county~~) designated crisis responder to maximize
31 appropriate placement of persons into community services; and

32 (10) Coordinate services for individuals who have received
33 services through the community mental health system and who become
34 patients at a state psychiatric hospital to ensure they are
35 transitioned into the community in accordance with mutually agreed
36 upon discharge plans and upon determination by the medical director
37 of the state psychiatric hospital that they no longer need intensive
38 inpatient care.

1 **Sec. 423.** RCW 71.24.330 and 2014 c 225 s 51 are each amended to
2 read as follows:

3 (1)(a) Contracts between a behavioral health organization and the
4 department shall include mechanisms for monitoring performance under
5 the contract and remedies for failure to substantially comply with
6 the requirements of the contract including, but not limited to,
7 financial penalties, termination of the contract, and reprocurement
8 of the contract.

9 (b) The department shall incorporate the criteria to measure the
10 performance of service coordination organizations into contracts with
11 behavioral health organizations as provided in chapter 70.320 RCW.

12 (2) The behavioral health organization procurement processes
13 shall encourage the preservation of infrastructure previously
14 purchased by the community mental health service delivery system, the
15 maintenance of linkages between other services and delivery systems,
16 and maximization of the use of available funds for services versus
17 profits. However, a behavioral health organization selected through
18 the procurement process is not required to contract for services with
19 any county-owned or operated facility. The behavioral health
20 organization procurement process shall provide that public funds
21 appropriated by the legislature shall not be used to promote or
22 deter, encourage, or discourage employees from exercising their
23 rights under Title 29, chapter 7, subchapter II, United States Code
24 or chapter 41.56 RCW.

25 (3) In addition to the requirements of RCW 71.24.035, contracts
26 shall:

27 (a) Define administrative costs and ensure that the behavioral
28 health organization does not exceed an administrative cost of ten
29 percent of available funds;

30 (b) Require effective collaboration with law enforcement,
31 criminal justice agencies, and the chemical dependency treatment
32 system;

33 (c) Require substantial implementation of department adopted
34 integrated screening and assessment process and matrix of best
35 practices;

36 (d) Maintain the decision-making independence of designated
37 (~~mental health professionals~~) crisis responders;

38 (e) Except at the discretion of the secretary or as specified in
39 the biennial budget, require behavioral health organizations to pay
40 the state for the costs associated with individuals who are being

1 served on the grounds of the state hospitals and who are not
2 receiving long-term inpatient care as defined in RCW 71.24.025;

3 (f) Include a negotiated alternative dispute resolution clause;
4 and

5 (g) Include a provision requiring either party to provide one
6 hundred eighty days' notice of any issue that may cause either party
7 to voluntarily terminate, refuse to renew, or refuse to sign a
8 mandatory amendment to the contract to act as a behavioral health
9 organization. If either party decides to voluntarily terminate,
10 refuse to renew, or refuse to sign a mandatory amendment to the
11 contract to serve as a behavioral health organization they shall
12 provide ninety days' advance notice in writing to the other party.

13 **Sec. 424.** RCW 71.32.080 and 2006 c 108 s 5 are each amended to
14 read as follows:

15 (1)(a) A principal with capacity may, by written statement by the
16 principal or at the principal's direction in the principal's
17 presence, revoke a directive in whole or in part.

18 (b) An incapacitated principal may revoke a directive only if he
19 or she elected at the time of executing the directive to be able to
20 revoke when incapacitated.

21 (2) The revocation need not follow any specific form so long as
22 it is written and the intent of the principal can be discerned. In
23 the case of a directive that is stored in the health care
24 declarations registry created by RCW 70.122.130, the revocation may
25 be by an online method established by the department of health.
26 Failure to use the online method of revocation for a directive that
27 is stored in the registry does not invalidate a revocation that is
28 made by another method described under this section.

29 (3) The principal shall provide a copy of his or her written
30 statement of revocation to his or her agent, if any, and to each
31 health care provider, professional person, or health care facility
32 that received a copy of the directive from the principal.

33 (4) The written statement of revocation is effective:

34 (a) As to a health care provider, professional person, or health
35 care facility, upon receipt. The professional person, health care
36 provider, or health care facility, or persons acting under their
37 direction shall make the statement of revocation part of the
38 principal's medical record; and

1 (b) As to the principal's agent, upon receipt. The principal's
2 agent shall notify the principal's health care provider, professional
3 person, or health care facility of the revocation and provide them
4 with a copy of the written statement of revocation.

5 (5) A directive also may:

6 (a) Be revoked, in whole or in part, expressly or to the extent
7 of any inconsistency, by a subsequent directive; or

8 (b) Be superseded or revoked by a court order, including any
9 order entered in a criminal matter. A directive may be superseded by
10 a court order regardless of whether the order contains an explicit
11 reference to the directive. To the extent a directive is not in
12 conflict with a court order, the directive remains effective, subject
13 to the provisions of RCW 71.32.150. A directive shall not be
14 interpreted in a manner that interferes with: (i) Incarceration or
15 detention by the department of corrections, in a city or county jail,
16 or by the department of social and health services; or (ii) treatment
17 of a principal who is subject to involuntary treatment pursuant to
18 chapter 10.77, (~~(70.96A,)~~) 71.05, 71.09, or 71.34 RCW.

19 (6) A directive that would have otherwise expired but is
20 effective because the principal is incapacitated remains effective
21 until the principal is no longer incapacitated unless the principal
22 has elected to be able to revoke while incapacitated and has revoked
23 the directive.

24 (7) When a principal with capacity consents to treatment that
25 differs from, or refuses treatment consented to in, the provisions of
26 his or her directive, the consent or refusal constitutes a waiver of
27 that provision and does not constitute a revocation of the provision
28 or directive unless the principal also revokes the directive or
29 provision.

30 **Sec. 425.** RCW 71.32.140 and 2009 c 217 s 12 are each amended to
31 read as follows:

32 (1) A principal who:

33 (a) Chose not to be able to revoke his or her directive during
34 any period of incapacity;

35 (b) Consented to voluntary admission to inpatient mental health
36 treatment, or authorized an agent to consent on the principal's
37 behalf; and

38 (c) At the time of admission to inpatient treatment, refuses to
39 be admitted,

1 may only be admitted into inpatient mental health treatment under
2 subsection (2) of this section.

3 (2) A principal may only be admitted to inpatient mental health
4 treatment under his or her directive if, prior to admission, a member
5 of the treating facility's professional staff who is a physician or
6 psychiatric advanced registered nurse practitioner:

7 (a) Evaluates the principal's mental condition, including a
8 review of reasonably available psychiatric and psychological history,
9 diagnosis, and treatment needs, and determines, in conjunction with
10 another health care provider or mental health professional, that the
11 principal is incapacitated;

12 (b) Obtains the informed consent of the agent, if any, designated
13 in the directive;

14 (c) Makes a written determination that the principal needs an
15 inpatient evaluation or is in need of inpatient treatment and that
16 the evaluation or treatment cannot be accomplished in a less
17 restrictive setting; and

18 (d) Documents in the principal's medical record a summary of the
19 physician's or psychiatric advanced registered nurse practitioner's
20 findings and recommendations for treatment or evaluation.

21 (3) In the event the admitting physician is not a psychiatrist,
22 or the advanced registered nurse practitioner is not a psychiatric
23 advanced registered nurse practitioner, the principal shall receive a
24 complete psychological assessment by a mental health professional
25 within twenty-four hours of admission to determine the continued need
26 for inpatient evaluation or treatment.

27 (4)(a) If it is determined that the principal has capacity, then
28 the principal may only be admitted to, or remain in, inpatient
29 treatment if he or she consents at the time or is detained under the
30 involuntary treatment provisions of chapter ((70-96A,)) 71.05((7)) or
31 71.34 RCW.

32 (b) If a principal who is determined by two health care providers
33 or one mental health professional and one health care provider to be
34 incapacitated continues to refuse inpatient treatment, the principal
35 may immediately seek injunctive relief for release from the facility.

36 (5) If, at the end of the period of time that the principal or
37 the principal's agent, if any, has consented to voluntary inpatient
38 treatment, but no more than fourteen days after admission, the
39 principal has not regained capacity or has regained capacity but
40 refuses to consent to remain for additional treatment, the principal

1 must be released during reasonable daylight hours, unless detained
2 under chapter ((70.96A,)) 71.05((7)) or 71.34 RCW.

3 (6)(a) Except as provided in (b) of this subsection, any
4 principal who is voluntarily admitted to inpatient mental health
5 treatment under this chapter shall have all the rights provided to
6 individuals who are voluntarily admitted to inpatient treatment under
7 chapter 71.05, 71.34, or 72.23 RCW.

8 (b) Notwithstanding RCW 71.05.050 regarding consent to inpatient
9 treatment for a specified length of time, the choices an
10 incapacitated principal expressed in his or her directive shall
11 control, provided, however, that a principal who takes action
12 demonstrating a desire to be discharged, in addition to making
13 statements requesting to be discharged, shall be discharged, and no
14 principal shall be restrained in any way in order to prevent his or
15 her discharge. Nothing in this subsection shall be construed to
16 prevent detention and evaluation for civil commitment under chapter
17 71.05 RCW.

18 (7) Consent to inpatient admission in a directive is effective
19 only while the professional person, health care provider, and health
20 care facility are in substantial compliance with the material
21 provisions of the directive related to inpatient treatment.

22 **Sec. 426.** RCW 71.32.150 and 2003 c 283 s 15 are each amended to
23 read as follows:

24 (1) Upon receiving a directive, a health care provider,
25 professional person, or health care facility providing treatment to
26 the principal, or persons acting under the direction of the health
27 care provider, professional person, or health care facility, shall
28 make the directive a part of the principal's medical record and shall
29 be deemed to have actual knowledge of the directive's contents.

30 (2) When acting under authority of a directive, a health care
31 provider, professional person, or health care facility shall act in
32 accordance with the provisions of the directive to the fullest extent
33 possible, unless in the determination of the health care provider,
34 professional person, or health care facility:

35 (a) Compliance with the provision would violate the accepted
36 standard of care established in RCW 7.70.040;

37 (b) The requested treatment is not available;

38 (c) Compliance with the provision would violate applicable law;

39 or

1 (d) It is an emergency situation and compliance would endanger
2 any person's life or health.

3 (3)(a) In the case of a principal committed or detained under the
4 involuntary treatment provisions of chapter 10.77, (~~70.96A,~~) 71.05,
5 71.09, or 71.34 RCW, those provisions of a principal's directive
6 that, in the determination of the health care provider, professional
7 person, or health care facility, are inconsistent with the purpose of
8 the commitment or with any order of the court relating to the
9 commitment are invalid during the commitment.

10 (b) Remaining provisions of a principal's directive are advisory
11 while the principal is committed or detained.

12 The treatment provider is encouraged to follow the remaining
13 provisions of the directive, except as provided in (a) of this
14 subsection or subsection (2) of this section.

15 (4) In the case of a principal who is incarcerated or committed
16 in a state or local correctional facility, provisions of the
17 principal's directive that are inconsistent with reasonable
18 penological objectives or administrative hearings regarding
19 involuntary medication are invalid during the period of incarceration
20 or commitment. In addition, treatment may be given despite refusal of
21 the principal or the provisions of the directive: (a) For any reason
22 under subsection (2) of this section; or (b) if, without the benefit
23 of the specific treatment measure, there is a significant possibility
24 that the person will harm self or others before an improvement of the
25 person's condition occurs.

26 (5)(a) If the health care provider, professional person, or
27 health care facility is, at the time of receiving the directive,
28 unable or unwilling to comply with any part or parts of the directive
29 for any reason, the health care provider, professional person, or
30 health care facility shall promptly notify the principal and, if
31 applicable, his or her agent and shall document the reason in the
32 principal's medical record.

33 (b) If the health care provider, professional person, or health
34 care facility is acting under authority of a directive and is unable
35 to comply with any part or parts of the directive for the reasons
36 listed in subsection (2) or (3) of this section, the health care
37 provider, professional person, or health care facility shall promptly
38 notify the principal and if applicable, his or her agent, and shall
39 document the reason in the principal's medical record.

1 (6) In the event that one or more parts of the directive are not
2 followed because of one or more of the reasons set forth in
3 subsection (2) or (4) of this section, all other parts of the
4 directive shall be followed.

5 (7) If no provider-patient relationship has previously been
6 established, nothing in this chapter requires the establishment of a
7 provider-patient relationship.

8 **Sec. 427.** RCW 72.09.315 and 2004 c 166 s 17 are each amended to
9 read as follows:

10 (1) When an offender is under court-ordered mental health or
11 chemical dependency treatment in the community and the supervision of
12 the department of corrections, and the community corrections officer
13 becomes aware that the person is in violation of the terms of the
14 court's treatment order, the community corrections officer shall
15 notify the (~~county designated mental health professional or the~~
16 ~~designated chemical dependency specialist~~) designated crisis
17 responder, as appropriate, of the violation and request an evaluation
18 for purposes of revocation of the less restrictive alternative or
19 conditional release.

20 (2) When a (~~county designated mental health professional or the~~
21 ~~designated chemical dependency specialist~~) designated crisis
22 responder notifies the department that an offender in a state
23 correctional facility is the subject of a petition for involuntary
24 treatment under chapter 71.05 (~~or 70.96A~~) RCW, the department shall
25 provide documentation of its risk assessment or other concerns to the
26 petitioner and the court if the department classified the offender as
27 a high risk or high needs offender.

28 **Sec. 428.** RCW 72.09.370 and 2014 c 225 s 95 are each amended to
29 read as follows:

30 (1) The offender reentry community safety program is established
31 to provide intensive services to offenders identified under this
32 subsection and to thereby promote public safety. The secretary shall
33 identify offenders in confinement or partial confinement who: (a) Are
34 reasonably believed to be dangerous to themselves or others; and (b)
35 have a mental disorder. In determining an offender's dangerousness,
36 the secretary shall consider behavior known to the department and
37 factors, based on research, that are linked to an increased risk for

1 dangerousness of offenders with mental illnesses and shall include
2 consideration of an offender's chemical dependency or abuse.

3 (2) Prior to release of an offender identified under this
4 section, a team consisting of representatives of the department of
5 corrections, the division of mental health, and, as necessary, the
6 indeterminate sentence review board, other divisions or
7 administrations within the department of social and health services,
8 specifically including the division of alcohol and substance abuse
9 and the division of developmental disabilities, the appropriate
10 behavioral health organization, and the providers, as appropriate,
11 shall develop a plan, as determined necessary by the team, for
12 delivery of treatment and support services to the offender upon
13 release. In developing the plan, the offender shall be offered
14 assistance in executing a mental health directive under chapter 71.32
15 RCW, after being fully informed of the benefits, scope, and purposes
16 of such directive. The team may include a school district
17 representative for offenders under the age of twenty-one. The team
18 shall consult with the offender's counsel, if any, and, as
19 appropriate, the offender's family and community. The team shall
20 notify the crime victim/witness program, which shall provide notice
21 to all people registered to receive notice under RCW 72.09.712 of the
22 proposed release plan developed by the team. Victims, witnesses, and
23 other interested people notified by the department may provide
24 information and comments to the department on potential safety risk
25 to specific individuals or classes of individuals posed by the
26 specific offender. The team may recommend: (a) That the offender be
27 evaluated by the designated (~~mental health professional~~) crisis
28 responder, as defined in chapter 71.05 RCW; (b) department-supervised
29 community treatment; or (c) voluntary community mental health or
30 chemical dependency or abuse treatment.

31 (3) Prior to release of an offender identified under this
32 section, the team shall determine whether or not an evaluation by a
33 designated (~~mental health professional~~) crisis responder is needed.
34 If an evaluation is recommended, the supporting documentation shall
35 be immediately forwarded to the appropriate designated (~~mental~~
36 ~~health professional~~) crisis responder. The supporting documentation
37 shall include the offender's criminal history, history of judicially
38 required or administratively ordered involuntary antipsychotic
39 medication while in confinement, and any known history of involuntary
40 civil commitment.

1 (4) If an evaluation by a designated (~~mental health~~
2 ~~professional~~) crisis responder is recommended by the team, such
3 evaluation shall occur not more than ten days, nor less than five
4 days, prior to release.

5 (5) A second evaluation by a designated (~~mental health~~
6 ~~professional~~) crisis responder shall occur on the day of release if
7 requested by the team, based upon new information or a change in the
8 offender's mental condition, and the initial evaluation did not
9 result in an emergency detention or a summons under chapter 71.05
10 RCW.

11 (6) If the designated (~~mental health professional~~) crisis
12 responder determines an emergency detention under chapter 71.05 RCW
13 is necessary, the department shall release the offender only to a
14 state hospital or to a consenting evaluation and treatment facility.
15 The department shall arrange transportation of the offender to the
16 hospital or facility.

17 (7) If the designated (~~mental health professional~~) crisis
18 responder believes that a less restrictive alternative treatment is
19 appropriate, he or she shall seek a summons, pursuant to the
20 provisions of chapter 71.05 RCW, to require the offender to appear at
21 an evaluation and treatment facility. If a summons is issued, the
22 offender shall remain within the corrections facility until
23 completion of his or her term of confinement and be transported, by
24 corrections personnel on the day of completion, directly to the
25 identified evaluation and treatment facility.

26 (8) The secretary shall adopt rules to implement this section.

27 **Sec. 429.** RCW 74.13.033 and 2009 c 569 s 3 are each amended to
28 read as follows:

29 (1) If a resident of a crisis residential center becomes by his
30 or her behavior disruptive to the facility's program, such resident
31 may be immediately removed to a separate area within the facility and
32 counseled on an individual basis until such time as the child regains
33 his or her composure. The department may set rules and regulations
34 establishing additional procedures for dealing with severely
35 disruptive children on the premises.

36 (2) When the juvenile resides in this facility, all services
37 deemed necessary to the juvenile's reentry to normal family life
38 shall be made available to the juvenile as required by chapter 13.32A

1 RCW. In assessing the child and providing these services, the
2 facility staff shall:

3 (a) Interview the juvenile as soon as possible;

4 (b) Contact the juvenile's parents and arrange for a counseling
5 interview with the juvenile and his or her parents as soon as
6 possible;

7 (c) Conduct counseling interviews with the juvenile and his or
8 her parents, to the end that resolution of the child/parent conflict
9 is attained and the child is returned home as soon as possible;

10 (d) Provide additional crisis counseling as needed, to the end
11 that placement of the child in the crisis residential center will be
12 required for the shortest time possible, but not to exceed fifteen
13 consecutive days; and

14 (e) Convene, when appropriate, a multidisciplinary team.

15 (3) Based on the assessments done under subsection (2) of this
16 section the center staff may refer any child who, as the result of a
17 mental or emotional disorder, or intoxication by alcohol or other
18 drugs, is suicidal, seriously assaultive, or seriously destructive
19 toward others, or otherwise similarly evidences an immediate need for
20 emergency medical evaluation and possible care, for evaluation
21 pursuant to chapter 71.34 RCW((7)) or to a (~~mental health~~
22 ~~professional~~) designated crisis responder pursuant to chapter 71.05
23 RCW(~~, or to a chemical dependency specialist pursuant to chapter~~
24 ~~70.96A RCW~~) whenever such action is deemed appropriate and
25 consistent with law.

26 (4) A juvenile taking unauthorized leave from a facility shall be
27 apprehended and returned to it by law enforcement officers or other
28 persons designated as having this authority as provided in RCW
29 13.32A.050. If returned to the facility after having taken
30 unauthorized leave for a period of more than twenty-four hours a
31 juvenile shall be supervised by such a facility for a period,
32 pursuant to this chapter, which, unless where otherwise provided, may
33 not exceed fifteen consecutive days. Costs of housing juveniles
34 admitted to crisis residential centers shall be assumed by the
35 department for a period not to exceed fifteen consecutive days.

36 **Sec. 430.** RCW 74.50.070 and 1987 c 406 s 8 are each amended to
37 read as follows:

38 (1) If a county elects to establish a multipurpose diagnostic
39 center or detention center, the alcoholism and drug addiction

1 assessment service under RCW 74.50.040 may be integrated into the
2 services provided by such a center.

3 (2) The center may be financed from funds made available by the
4 department for alcoholism and drug addiction assessments under this
5 chapter and funds contained in the department's budget for
6 detoxification, involuntary detention, and involuntary treatment
7 under chapter(~~s 70.96A and~~) 71.05 RCW. The center may be operated
8 by the county or pursuant to contract between the county and a
9 qualified organization.

10 **PART V**
11 **MISCELLANEOUS**

12 NEW SECTION. **Sec. 501.** This act may be known and cited as Ricky
13 Garcia's act.

14 NEW SECTION. **Sec. 502.** (1) Section 102 of this act takes effect
15 April 1, 2016.

16 (2) Sections 202 through 209, 211, 213 through 221, 223 through
17 229, 231 through 234, 236, 237, 239 through 259, 261, 263, 265, 266,
18 268, 270, 271, and 273 through 278 of this act take effect April 1,
19 2017.

20 (3) Sections 210, 212, 222, 230, 235, 238, 260, 262, 264, 267,
21 269, and 272 of this act take effect July 1, 2019.

22 NEW SECTION. **Sec. 503.** Section 101 of this act expires April 1,
23 2016.

24 NEW SECTION. **Sec. 504.** If specific funding for the purposes of
25 this act, referencing this act by bill or chapter number, is not
26 provided by June 30, 2015, in the omnibus appropriations act, this
27 act is null and void."

28 Correct the title.

EFFECT: The striking amendment makes the following changes:

1. Provides that, from the time of integration of the treatment systems until July 1, 2019, a court's ability to commit a person for substance use disorder treatment to a secure detoxification facility or an approved substance use disorder treatment program is subject to available space in the facility or program.

2. Includes the Department of Social and Health Services and the state hospitals in the list of persons and entities that may access

confidential files and records of court proceedings regarding involuntary treatment cases.

3. Provides that commitment based on a substance use disorder results in a firearm possession prohibition only if the substance use disorder is based on use of a controlled substance.

4. Adds a null and void clause.

5. Makes other minor changes to wording for consistency and technical correction.

--- END ---