Title 71
MENTAL ILLNESS

Chapters

Alcoholism, intoxication, and drug addiction treatment: Chapter 70.96 RCW.

Center for research and training in intellectual and developmental disabilities: RCW 28B.20.410 through 28B.20.414.

County hospitals: Chapter 36.62 RCW.

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Commitment to veterans' administration or other federal agency: RCW 73.36.165.

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Mental illness: Chapter 71.05 RCW.

State hospitals for individuals with mental illness: Chapter 72.23 RCW.

Voluntary patients: RCW 72.23.080 through 72.23.120.

71.02.490 Authority over patient—Federal agencies, private establishments. The United States veterans' administration, or other United States government agency, or the chief officer of a private facility shall have the same powers as are conferred upon the superintendent of a state hospital with reference to retention, transfer, parole, or discharge of mentally ill persons ordered hospitalized in their facilities. [1959 c 25 § 71.02.490. Prior: 1951 c 139 § 26.]

Commitment to veterans' administration or other federal agency: RCW 73.36.165.

71.02.900 Construction and purpose—1959 c 25. The provisions of this chapter shall be liberally construed so that persons who are in need of care and treatment for mental illness shall receive humane care and treatment and be restored to normal mental condition as rapidly as possible with an avoidance of loss of civil rights where not necessary, and with as little formality as possible, still preserving all rights and all privileges of the person as guaranteed by the Constitution. [1959 c 25 § 71.02.900. Prior: 1951 c 139 § 1; 1949 c 198 § 1; Rem. Supp. 1949 § 6953-1.]

Chapter 71.05 RCW
MENTAL ILLNESS

Sections

Rules of court: *Cf. Superior Court Mental Proceedings Rules (MPR).*

Reviser's note: The department of social and health services filed an emergency order, WSR 89-20-030, effective October 1, 1989, establishing rules for the recognition and certification of regional support networks. A final order was filed on January 24, 1990, effective January 25, 1990.

Council for children and families: Chapter 43.121 RCW.

Minors—Mental health services, commitment: Chapter 71.34 RCW.

71.05.010 Legislative intent. (1) The provisions of this chapter are intended by the legislature:

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

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

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

(d) To safeguard individual rights;

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

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

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

(2) When construing the requirements of this chapter the court must focus on the merits of the petition, except where requirements have been totally disregarded, as provided in *In re C.W.*, 147 Wn.2d 259, 281 (2002). A presumption in favor of deciding petitions on their merits furthers both public and private interests because the mental and physical well-being of individuals as well as public safety may be implicated by the decision to release an individual and discontinue his or her treatment. [2016 sp.s. c 29 § 203; 2015 c 269 § 1; 1998 c 297 § 2; 1997 c 112 § 2; 1989 c 120 § 1; 1973 1st ex.s. c 142 § 6.]

Short title—2016 sp.s. c 29: "This act may be known and cited as Ricky Garcia's act." [2016 sp.s. c 29 § 801.]

Right of action—2016 sp.s. c 29: "This act does not create any new entitlement or cause of action related to civil commitment under this chapter, and cannot form the basis for a private right of action." [2016 sp.s. c 29 § 802.]

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

Effective date—2015 c 269 §§ 1-9 and 11-13: "Sections 1 through 9 and 11 through 13 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [May 14, 2015]." [2015 c 269 § 20.]

Intent—1998 c 297: "It is the intent of the legislature to: (1) Clarify that it is the nature of a person's current conduct, current mental condition, history, and likelihood of committing future acts that pose a threat to public safety or himself or herself, rather than simple categorization of offenses, that should determine treatment procedures and level; (2) improve and clarify the sharing of information between the mental health and criminal justice systems; and (3) provide additional opportunities for mental health treatment for persons whose conduct threatens himself or herself or threatens public safety and has led to contact with the criminal justice system.

The legislature recognizes that a person can be incompetent to stand trial, but may not be gravely disabled or may not present a likelihood of serious harm. The legislature does not intend to create a presumption that a person who is found incompetent to stand trial is gravely disabled or presents a likelihood of serious harm requiring civil commitment." [1998 c 297 § 1.]

Additional notes found at www.leg.wa.gov

71.05.012 Legislative intent and finding. It is the intent of the legislature to enhance continuity of care for persons with serious mental disorders that can be controlled or stabilized in a less restrictive alternative commitment. Within the guidelines stated in *In Re LaBelle* 107 Wn. 2d 196 (1986), the legislature intends to encourage appropriate interventions at a point when there is the best opportunity to restore the person to or maintain satisfactory functioning.

For persons with a prior history or pattern of repeated hospitalizations or law enforcement interventions due to decompensation, the consideration of prior mental history is particularly relevant in determining whether the person would receive, if released, such care as is essential for his or her health or safety.

Therefore, the legislature finds that for persons who are currently under a commitment order, a prior history of decompensation leading to repeated hospitalizations or law enforcement interventions should be given great weight in determining whether a new less restrictive alternative commitment should be ordered. [1997 c 112 § 1.]

71.05.020 Definitions. ***(Effective until January 1, 2020.)*** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

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

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

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

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

(7) "Chemical dependency" means:

(a) Alcoholism;

(b) Drug addiction; or

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

(8) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

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

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

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

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

(13) "Department" means the department of health;

(14) "Designated crisis responder" means a mental health professional appointed by the county, an entity appointed by the county, or the behavioral health organization to perform the duties specified in this chapter;

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

(16) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

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

(18) "Director" means the director of the authority;

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

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

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

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

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

(24) "Hearing" means any proceeding conducted in open court. For purposes of this chapter, at any hearing the petitioner, the respondent, the witnesses, and the presiding judicial officer may be present and participate either in person or by video, as determined by the court. The term "video" as used herein shall include any functional equivalent. At any hearing conducted by video, the technology used must permit the judicial officer, counsel, all parties, and the witnesses to be able to see, hear, and speak, when authorized, during the hearing; to allow attorneys to use exhibits or other materials during the hearing; and to allow respondent's counsel to be in the same location as the respondent unless otherwise requested by the respondent or the respondent's counsel. Witnesses in a proceeding may also appear in court through other means, including telephonically, pursuant to the requirements of superior court civil rule 43. Notwithstanding the foregoing, the court, upon its own motion or upon a motion for good cause by any party, may require all parties and witnesses to participate in the hearing in person rather than by video. In ruling on any such motion, the court may allow in-person or video testimony; and the court may consider, among other things, whether the respondent's alleged mental illness affects the respondent's ability to perceive or participate in the proceeding by video;

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

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

(27) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a mental disorder or substance use disorder: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(35) "Likelihood of serious harm" means:

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

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

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

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

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

(39) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders or substance use disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or behavioral health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, approved substance use disorder treatment programs as defined in this section, secure withdrawal management and stabilization facilities as defined in this section, and correctional facilities operated by state and local governments;

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

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

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

(43) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

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

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

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

(47) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(48) "Release" means legal termination of the commitment under the provisions of this chapter;

(49) "Resource management services" has the meaning given in chapter 71.24 RCW;

(50) "Secretary" means the secretary of the department of health, or his or her designee;

(51) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder special-

ists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

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

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

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

(55) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

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

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

(58) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(59) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property. [2019 c 446 § 2; 2019 c 444 § 16. Prior: 2018 c 305 § 1; 2018 c 291 § 1; 2018 c 201 § 3001; 2017 3rd sp.s. c 14 § 14; prior: 2016 sp.s. c 29 § 204; 2016 c 155 § 1; prior: 2015 c 269 § 14; (2015 c 269 § 13 expired April 1, 2016); 2015 c 250 § 2; (2015 c 250 § 1 expired April 1, 2016); prior: 2014 c 225 § 79; prior: 2011 c 148 § 1; 2011 c 89 § 14; prior: 2009 c 320 § 1; 2009 c 217 § 20; 2008 c 156 § 1; prior: 2007 c 375 § 6; 2007 c 191 § 2; 2005 c 504 § 104; 2000 c 94 § 1; 1999 c 13 § 5; 1998 c 297 § 3; 1997 c 112 § 3; prior: 1989 c 420 § 13; 1989 c 205 § 8; 1989 c 120 § 2; 1979 ex.s. c 215 § 5; 1973 1st ex.s. c 142 § 7.]

Reviser's note: (1) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

(2) This section was amended by 2019 c 444 § 16 and by 2019 c 446 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2018 c 291 §§ 1-4, 6, 7, 9, 11, 12, 13, and 15: "Sections 1 through 4, 6, 7, 9, 11, 12, 13, and 15 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect April 1, 2018." [2018 c 291 § 18.]

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

Effective date—2017 3rd sp.s. c 14 §§ 9, 12, 14, 15, and 17-21: See note following RCW 71.05.590.

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

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

Effective date—2015 c 269 §§ 10 and 14: See note following RCW 71.24.300.

Expiration dates—2015 c 269 §§ 9, 13, and 15: See note following RCW 71.24.300.

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

Effective date—2015 c 250 §§ 2, 15, and 19: "Sections 2, 15, and 19 of this act take effect April 1, 2016." [2015 c 250 § 23.]

Expiration date—2015 c 250 §§ 1, 14, and 18: "Sections 1, 14, and 18 of this act expire April 1, 2016." [2015 c 250 § 22.]

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

Certification of triage facilities—2011 c 148: "Facilities operating as triage facilities as defined in RCW 71.05.020, whether or not they are certified by the department of social and health services, as of April 22, 2011, are not required to relicense or recertify under any new rules governing licensure or certification of triage facilities. The department of social and health services shall work with the Washington association of counties and the Washington association of sheriffs and police chiefs in creating rules that establish standards for certification of triage facilities. The department of health rules must not require triage facilities to provide twenty-four hour nursing." [2011 c 148 § 6.]

Effective date—2011 c 148: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 22, 2011]." [2011 c 148 § 7.]

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

Findings—2011 c 89: See RCW 18.320.005.

Conflict with federal requirements—2009 c 320: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [2009 c 320 § 6.]

Findings—Purpose—Construction—Severability—2007 c 375: See notes following RCW 10.31.110.

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

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

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

Additional notes found at www.leg.wa.gov

71.05.020 Definitions. ***(Effective January 1, 2020.)*** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

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

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

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

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

(7) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

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

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

(10) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

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

(12) "Department" means the department of health;

(13) "Designated crisis responder" means a mental health professional appointed by the county or an entity appointed by the county, to perform the duties specified in this chapter;

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

(15) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

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

(17) "Director" means the director of the authority;

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

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

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

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

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

(23) "Hearing" means any proceeding conducted in open court. For purposes of this chapter, at any hearing the petitioner, the respondent, the witnesses, and the presiding judicial officer may be present and participate either in person or by video, as determined by the court. The term "video" as used herein shall include any functional equivalent. At any hearing conducted by video, the technology used must permit the judicial officer, counsel, all parties, and the witnesses to be able to see, hear, and speak, when authorized, during the hearing; to allow attorneys to use exhibits or other materials during the hearing; and to allow respondent's counsel to be in

the same location as the respondent unless otherwise requested by the respondent or the respondent's counsel. Witnesses in a proceeding may also appear in court through other means, including telephonically, pursuant to the requirements of superior court civil rule 43. Notwithstanding the foregoing, the court, upon its own motion or upon a motion for good cause by any party, may require all parties and witnesses to participate in the hearing in person rather than by video. In ruling on any such motion, the court may allow in-person or video testimony; and the court may consider, among other things, whether the respondent's alleged mental illness affects the respondent's ability to perceive or participate in the proceeding by video;

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

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

(26) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a mental disorder or substance use disorder: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(34) "Likelihood of serious harm" means:

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

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

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

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

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

(38) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders or substance use disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, approved substance use disorder treatment programs as defined in this section, secure withdrawal management and stabilization facilities as defined in this section, and correctional facilities operated by state and local governments;

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

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

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

(42) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

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

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

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

(46) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(47) "Release" means legal termination of the commitment under the provisions of this chapter;

(48) "Resource management services" has the meaning given in chapter 71.24 RCW;

(49) "Secretary" means the secretary of the department of health, or his or her designee;

(50) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occuring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occuring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

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

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

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

(54) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

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

(56) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health services, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(57) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(58) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property. [2019 c 446 § 2; 2019 c 444 § 16; 2019 c 325 § 3001. Prior: 2018 c 305 § 1; 2018 c 291 § 1; 2018 c 201 § 3001; 2017 3rd sp.s. c 14 § 14; prior: 2016 sp.s. c 29 § 204; 2016 c 155 § 1; prior: 2015 c 269 § 14; (2015 c 269 § 13 expired April 1, 2016); 2015 c 250 § 2; (2015 c 250 § 1 expired April 1, 2016); prior: 2014 c 225 § 79; prior: 2011 c 148 § 1; 2011 c 89 § 14; prior: 2009 c 320 § 1; 2009 c 217 § 20; 2008 c 156 § 1; prior: 2007 c 375 § 6; 2007 c 191 § 2; 2005 c 504 § 104; 2000 c 94 § 1; 1999 c 13 § 5; 1998 c 297 § 3; 1997 c 112 § 3; prior: 1989 c 420 § 13; 1989 c 205 § 8; 1989 c 120 § 2; 1979 ex.s. c 215 § 5; 1973 1st ex.s. c 142 § 7.]

Reviser's note: (1) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

(2) This section was amended by 2019 c 325 § 3001, 2019 c 444 § 16, and by 2019 c 446 § 2, without reference to one another. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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

Effective date—2018 c 291 §§ 1-4, 6, 7, 9, 11, 12, 13, and 15: "Sections 1 through 4, 6, 7, 9, 11, 12, 13, and 15 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect April 1, 2018." [2018 c 291 § 18.]

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

Effective date—2017 3rd sp.s. c 14 §§ 9, 12, 14, 15, and 17-21: See note following RCW 71.05.590.

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

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

Effective date—2015 c 269 §§ 10 and 14: See note following RCW 71.24.300.

Expiration dates—2015 c 269 §§ 9, 13, and 15: See note following RCW 71.24.300.

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

Effective date—2015 c 250 §§ 2, 15, and 19: "Sections 2, 15, and 19 of this act take effect April 1, 2016." [2015 c 250 § 23.]

Expiration date—2015 c 250 §§ 1, 14, and 18: "Sections 1, 14, and 18 of this act expire April 1, 2016." [2015 c 250 § 22.]

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

Certification of triage facilities—2011 c 148: "Facilities operating as triage facilities as defined in RCW 71.05.020, whether or not they are certified by the department of social and health services, as of April 22, 2011, are not required to relicense or recertify under any new rules governing licensure or certification of triage facilities. The department of social and health services shall work with the Washington association of counties and the Washington association of sheriffs and police chiefs in creating rules that establish standards for certification of triage facilities. The department of health rules must not require triage facilities to provide twenty-four hour nursing." [2011 c 148 § 6.]

Effective date—2011 c 148: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 22, 2011]." [2011 c 148 § 7.]

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

Findings—2011 c 89: See RCW 18.320.005.

Conflict with federal requirements—2009 c 320: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [2009 c 320 § 6.]

Findings—Purpose—Construction—Severability—2007 c 375: See notes following RCW 10.31.110.

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

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

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

Additional notes found at www.leg.wa.gov

71.05.025 Integration with chapter 71.24 RCW—Behavioral health organizations. ***(Effective until January 1, 2020.)*** The legislature intends that the procedures and services authorized in this chapter be integrated with those in chapter 71.24 RCW to the maximum extent necessary to assure a continuum of care to persons with mental illness or who have mental disorders or substance use disorders, as defined in either or both this chapter and chapter 71.24 RCW. To this end, behavioral health organizations established in accordance with chapter 71.24 RCW shall institute procedures which require timely consultation with resource management services by designated crisis responders, evaluation and treatment facilities, secure detoxification facilities, and approved substance use disorder treatment programs to assure that determinations to admit, detain, commit, treat, discharge, or release persons with mental disorders or substance use disorders under this chapter are made only after appropriate information regarding such person's treatment history and current treatment plan has been sought from resource management services. [2016 sp.s. c 29 § 205; 2014 c 225 § 80; 2000 c 94 § 2; 1989 c 205 § 9.]

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

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

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

Additional notes found at www.leg.wa.gov

71.05.025 Integration with chapter 71.24 RCW—Behavioral health administrative services organizations—Duty to institute procedures for timely consultation with resource management services. ***(Effective January 1, 2020.)*** The legislature intends that the procedures and services authorized in this chapter be integrated with those in chapter 71.24 RCW to the maximum extent necessary to assure a continuum of care to persons with mental illness or who have mental disorders or substance use disorders, as defined in either or both this chapter and chapter 71.24 RCW. To this end, behavioral health administrative services organizations established in accordance with chapter 71.24 RCW shall institute procedures which require timely consultation with resource management services by designated crisis responders, managed care organizations, evaluation and treatment facilities, *secure detoxification facilities, and approved substance use disorder treatment programs to assure that determinations to admit, detain, commit, treat, discharge, or release persons with mental disorders or substance use disorders under this chapter are made only after appropriate information regarding such person's treatment history and current treatment plan has been sought from resource management services. [2019 c 325 § 3002; 2016

sp.s. c 29 § 205; 2014 c 225 § 80; 2000 c 94 § 2; 1989 c 205 § 9.]

***Reviser's note:** The term "secure detoxification facility" as defined in RCW 71.05.020 was changed to "secure withdrawal management and stabilization facility" by 2019 c 446 § 2.

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

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

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

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

Additional notes found at www.leg.wa.gov

71.05.026 Behavioral health organizations contracts—Limitation on state liability. ***(Effective until January 1, 2020.)*** (1) Except for monetary damage claims which have been reduced to final judgment by a superior court, this section applies to all claims against the state, state agencies, state officials, or state employees that exist on or arise after March 29, 2006.

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

(3) This section applies to counties, behavioral health organizations, and entities which contract to provide behavioral health organization services and their subcontractors, agents, or employees. [2018 c 201 § 3002; 2016 sp.s. c 29 § 206; 2014 c 225 § 81; 2006 c 333 § 301.]

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

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

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

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

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

71.05.026 Behavioral health services contracts—Limitation on state liability. ***(Effective January 1, 2020.)*** (1) Except for monetary damage claims which have been reduced to final judgment by a superior court, this section applies to all claims against the state, state agencies, state officials, or state employees that exist on or arise after March 29, 2006.

(2) Except as expressly provided in contracts entered into by the authority, the entities identified in subsection (3) of this section shall have no claim for declaratory relief, injunctive relief, judicial review under chapter 34.05 RCW, or civil liability against the state or state agencies for actions or inactions performed pursuant to the administration of this chapter with regard to the following: (a) The allocation or payment of federal or state funds; (b) the use or allocation of state hospital beds; or (c) financial responsibility for the provision of inpatient mental health care or inpatient substance use disorder treatment.

(3) This section applies to counties, behavioral health administrative services organizations, managed care organizations, and entities which contract to provide behavioral health services and their subcontractors, agents, or employees. [2019 c 325 § 3003; 2018 c 201 § 3002; 2016 sp.s. c 29 § 206; 2014 c 225 § 81; 2006 c 333 § 301.]

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

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

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

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

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

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

71.05.027 Integrated comprehensive screening and assessment for chemical dependency and mental disorders. ***(Effective until January 1, 2020.)*** (1) Not later than January 1, 2007, all persons providing treatment under this chapter shall also implement the integrated comprehensive screening and assessment process for chemical dependency and mental disorders adopted pursuant to RCW 71.24.630 and shall document the numbers of clients with co-occurring mental and substance abuse disorders based on a quadrant system of low and high needs.

(2) Treatment providers and behavioral health organizations who fail to implement the integrated comprehensive screening and assessment process for chemical dependency and mental disorders by July 1, 2007, shall be subject to contractual penalties established under RCW 71.24.630. [2018 c 201 § 3003; 2014 c 225 § 82; 2005 c 504 § 103.]

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

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

Findings—Intent—2005 c 504: "The legislature finds that persons with mental disorders, chemical dependency disorders, or co-occurring mental and substance abuse disorders are disproportionately more likely to be confined in a correctional institution, become homeless, become involved with child protective services or involved in a dependency proceeding, or lose those state and federal benefits to which they may be entitled as a result of their disorders. The legislature finds that prior state policy of addressing mental health and chemical dependency in isolation from each other has not been cost-effective and has often resulted in longer-term, more costly treatment that may be less effective over time. The legislature finds that a substantial number of persons have co-occurring mental and substance abuse disorders and that identification and integrated treatment of co-occurring disorders is critical to successful outcomes and recovery. Consequently, the legislature intends, to the extent of available funding, to:

(1) Establish a process for determining which persons with mental disorders and substance abuse disorders have co-occurring disorders;

(2) Reduce the gap between available chemical dependency treatment and the documented need for treatment;

(3) Improve treatment outcomes by shifting treatment, where possible, to evidence-based, research-based, and consensus-based treatment practices and by removing barriers to the use of those practices;

(4) Expand the authority for and use of therapeutic courts including drug courts, mental health courts, and therapeutic courts for dependency proceedings;

(5) Improve access to treatment for persons who are not enrolled in medicaid by improving and creating consistency in the application processes, and by minimizing the numbers of eligible confined persons who leave confinement without medical assistance;

(6) Improve access to inpatient treatment by creating expanded services facilities for persons needing intensive treatment in a secure setting who do

not need inpatient care, but are unable to access treatment under current licensing restrictions in other settings;

(7) Establish secure detoxification centers for persons involuntarily detained as gravely disabled or presenting a likelihood of serious harm due to chemical dependency and authorize combined crisis responders for both mental disorders and chemical dependency disorders on a pilot basis and study the outcomes;

(8) Slow or stop the loss of inpatient and intensive residential beds and children's long-term inpatient placements and refine the balance of state hospital and community inpatient and residential beds;

(9) Improve cross-system collaboration including collaboration with first responders and hospital emergency rooms, schools, primary care, developmental disabilities, law enforcement and corrections, and federally funded and licensed programs;

(10) Following the receipt of outcomes from the pilot programs in Part II of this act, if directed by future legislative enactment, implement a single, comprehensive, involuntary treatment act with a unified set of standards, rights, obligations, and procedures for adults and children with mental disorders, chemical dependency disorders, and co-occurring disorders; and

(11) Amend existing state law to address organizational and structural barriers to effective use of state funds for treating persons with mental and substance abuse disorders, minimize internal inconsistencies, clarify policy and requirements, and maximize the opportunity for effective and cost-effective outcomes." [2005 c 504 § 101.]

Additional notes found at www.leg.wa.gov

71.05.027 Integrated comprehensive screening and assessment process for substance use and mental disorders. ***(Effective January 1, 2020.)*** All persons providing treatment under this chapter shall also provide an integrated comprehensive screening and assessment process for substance use disorders and mental disorders adopted pursuant to RCW 71.24.630. [2019 c 325 § 3004; 2018 c 201 § 3003; 2014 c 225 § 82; 2005 c 504 § 103.]

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

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

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

Findings—Intent—2005 c 504: "The legislature finds that persons with mental disorders, chemical dependency disorders, or co-occurring mental and substance abuse disorders are disproportionately more likely to be confined in a correctional institution, become homeless, become involved with child protective services or involved in a dependency proceeding, or lose those state and federal benefits to which they may be entitled as a result of their disorders. The legislature finds that prior state policy of addressing mental health and chemical dependency in isolation from each other has not been cost-effective and has often resulted in longer-term, more costly treatment that may be less effective over time. The legislature finds that a substantial number of persons have co-occurring mental and substance abuse disorders and that identification and integrated treatment of co-occurring disorders is critical to successful outcomes and recovery. Consequently, the legislature intends, to the extent of available funding, to:

(1) Establish a process for determining which persons with mental disorders and substance abuse disorders have co-occurring disorders;

(2) Reduce the gap between available chemical dependency treatment and the documented need for treatment;

(3) Improve treatment outcomes by shifting treatment, where possible, to evidence-based, research-based, and consensus-based treatment practices and by removing barriers to the use of those practices;

(4) Expand the authority for and use of therapeutic courts including drug courts, mental health courts, and therapeutic courts for dependency proceedings;

(5) Improve access to treatment for persons who are not enrolled in medicaid by improving and creating consistency in the application processes, and by minimizing the numbers of eligible confined persons who leave confinement without medical assistance;

(6) Improve access to inpatient treatment by creating expanded services facilities for persons needing intensive treatment in a secure setting who do not need inpatient care, but are unable to access treatment under current licensing restrictions in other settings;

(7) Establish secure detoxification centers for persons involuntarily detained as gravely disabled or presenting a likelihood of serious harm due to chemical dependency and authorize combined crisis responders for both mental disorders and chemical dependency disorders on a pilot basis and study the outcomes;

(8) Slow or stop the loss of inpatient and intensive residential beds and children's long-term inpatient placements and refine the balance of state hospital and community inpatient and residential beds;

(9) Improve cross-system collaboration including collaboration with first responders and hospital emergency rooms, schools, primary care, developmental disabilities, law enforcement and corrections, and federally funded and licensed programs;

(10) Following the receipt of outcomes from the pilot programs in Part II of this act, if directed by future legislative enactment, implement a single, comprehensive, involuntary treatment act with a unified set of standards, rights, obligations, and procedures for adults and children with mental disorders, chemical dependency disorders, and co-occurring disorders; and

(11) Amend existing state law to address organizational and structural barriers to effective use of state funds for treating persons with mental and substance abuse disorders, minimize internal inconsistencies, clarify policy and requirements, and maximize the opportunity for effective and cost-effective outcomes." [2005 c 504 § 101.]

Additional notes found at www.leg.wa.gov

71.05.030 Commitment laws applicable. Persons suffering from a mental disorder may not be involuntarily committed for treatment of such disorder except pursuant to provisions of this chapter, chapter 10.77 RCW, chapter 71.06 RCW, chapter 71.34 RCW, transfer pursuant to RCW 72.68.031 through 72.68.037, or pursuant to court ordered evaluation and treatment not to exceed ninety days pending a criminal trial or sentencing. [1998 c 297 § 4; 1985 c 354 § 31; 1983 c 3 § 179; 1974 ex.s. c 145 § 4; 1973 2nd ex.s. c 24 § 2; 1973 1st ex.s. c 142 § 8.]

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

71.05.040 Detention or judicial commitment of persons with developmental disabilities, impaired by substance use disorder, or suffering from dementia. Persons with developmental disabilities, impaired by substance use disorder, or suffering from dementia shall not be detained for evaluation and treatment or judicially committed solely by reason of that condition unless such condition causes a person to be gravely disabled or as a result of a mental disorder such condition exists that constitutes a likelihood of serious harm. However, persons with developmental disabilities, impaired by substance use disorder, or suffering from dementia and who otherwise meet the criteria for detention or judicial commitment are not ineligible for detention or commitment based on this condition alone. [2018 c 201 § 3004; 2004 c 166 § 2; 1997 c 112 § 4; 1987 c 439 § 1; 1977 ex.s. c 80 § 41; 1975 1st ex.s. c 199 § 1; 1974 ex.s. c 145 § 5; 1973 1st ex.s. c 142 § 9.]

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

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Additional notes found at www.leg.wa.gov

71.05.050 Voluntary application for mental disorder or substance use disorder treatment—Rights—Review of condition and status—Detention—Person refusing voluntary admission, temporary detention. (1) Nothing in this chapter shall be construed to limit the right of any person to apply voluntarily to any public or private agency or practitioner for treatment of a mental disorder or substance use dis-

order, either by direct application or by referral. Any person voluntarily admitted for inpatient treatment to any public or private agency shall be released immediately upon his or her request. Any person voluntarily admitted for inpatient treatment to any public or private agency shall orally be advised of the right to immediate discharge, and further advised of such rights in writing as are secured to them pursuant to this chapter and their rights of access to attorneys, courts, and other legal redress. Their condition and status shall be reviewed at least once each one hundred eighty days for evaluation as to the need for further treatment or possible discharge, at which time they shall again be advised of their right to discharge upon request.

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

(3) If a person is brought to the emergency room of a public or private agency or hospital for observation or treatment, the person refuses voluntary admission, and the professional staff of the public or private agency or hospital regard such person as presenting as a result of a mental disorder or substance use disorder an imminent likelihood of serious harm, or as presenting an imminent danger because of grave disability, they may detain such person for sufficient time to notify the designated crisis responder of such person's condition to enable the designated crisis responder to authorize such person being further held in custody or transported to an evaluation treatment center, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program pursuant to the conditions in this chapter, but which time shall be no more than six hours from the time the professional staff notify the designated crisis responder of the need for evaluation, not counting time periods prior to medical clearance.

(4) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated crisis responder has totally disregarded the requirements of this section. [2019 c 446 § 3; 2016 sp.s. c 29 § 207; 2015 c 269 § 5; 2000 c 94 § 3; 1998 c 297 § 6; 1997 c 112 § 5; 1979 ex.s. c 215 § 6; 1975 1st ex.s. c 199 § 2; 1974 ex.s. c 145 § 6; 1973 1st ex.s. c 142 § 10.]

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

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

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

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

71.05.100 Financial responsibility. In addition to the responsibility provided for by RCW 43.20B.330, any person, or his or her estate, or his or her spouse, or the parents of a minor person who is involuntarily detained pursuant to this chapter for the purpose of treatment and evaluation outside of a facility maintained and operated by the department of social and health services shall be responsible for the cost of such care and treatment. In the event that an individual is unable to pay for such treatment or in the event payment would result in a substantial hardship upon the individual or his or her family, then the county of residence of such person shall be responsible for such costs. If it is not possible to determine the county of residence of the person, the cost shall be borne by the county where the person was originally detained. The department of social and health services, or the authority, as appropriate, shall, pursuant to chapter 34.05 RCW, adopt standards as to (1) inability to pay in whole or in part, (2) a definition of substantial hardship, and (3) appropriate payment schedules. Financial responsibility with respect to services and facilities of the department of social and health services shall continue to be as provided in RCW 43.20B.320 through 43.20B.360 and 43.20B.370. [2018 c 201 § 3005; 1997 c 112 § 6; 1987 c 75 § 18; 1973 2nd ex.s. c 24 § 4; 1973 1st ex.s. c 142 § 15.]

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

Additional notes found at www.leg.wa.gov

71.05.110 Compensation of appointed counsel. ***(Effective until January 1, 2020.)*** Attorneys appointed for persons pursuant to this chapter shall be compensated for their services as follows: (1) The person for whom an attorney is appointed shall, if he or she is financially able pursuant to standards as to financial capability and indigency set by the superior court of the county in which the proceeding is held, bear the costs of such legal services; (2) if such person is indigent pursuant to such standards, the behavioral health organization shall reimburse the county in which the proceeding is held for the direct costs of such legal services, as provided in RCW 71.05.730. [2014 c 225 § 83; 2011 c 343 § 5; 1997 c 112 § 7; 1973 1st ex.s. c 142 § 16.]

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

Intent—Effective date—2011 c 343: See notes following RCW 71.05.730.

71.05.110 Compensation of appointed counsel. ***(Effective January 1, 2020.)*** Attorneys appointed for persons pursuant to this chapter shall be compensated for their services as follows: (1) The person for whom an attorney is appointed shall, if he or she is financially able pursuant to standards as to financial capability and indigency set by the superior court of the county in which the proceeding is held, bear the costs of such legal services; (2) if such person is indigent pursuant to such standards, the behavioral health administrative services organization shall reimburse the county in which the proceeding is held for the direct costs of such legal services, as provided in RCW 71.05.730. [2019 c 325 § 3005; 2014 c 225 § 83; 2011 c 343 § 5; 1997 c 112 § 7; 1973 1st ex.s. c 142 § 16.]

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

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

Intent—Effective date—2011 c 343: See notes following RCW 71.05.730.

71.05.120 Exemptions from liability. (1) No officer of a public or private agency, nor the superintendent, professional person in charge, his or her professional designee, or attending staff of any such agency, nor any public official performing functions necessary to the administration of this chapter, nor peace officer responsible for detaining a person pursuant to this chapter, nor any designated crisis responder, nor the state, a unit of local government, an evaluation and treatment facility, a secure withdrawal management and stabilization facility, or an approved substance use disorder treatment program shall be civilly or criminally liable for performing duties pursuant to this chapter with regard to the decision of whether to admit, discharge, release, administer antipsychotic medications, or detain a person for evaluation and treatment: PROVIDED, That such duties were performed in good faith and without gross negligence.

(2) Peace officers and their employing agencies are not liable for the referral of a person, or the failure to refer a person, to a mental health agency pursuant to a policy adopted pursuant to RCW 71.05.457 if such action or inaction is taken in good faith and without gross negligence.

(3) This section does not relieve a person from giving the required notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn or to take reasonable precautions to provide protection from violent behavior where the patient has communicated an actual threat of physical violence against a reasonably identifiable victim or victims. The duty to warn or to take reasonable precautions to provide protection from violent behavior is discharged if reasonable efforts are made to communicate the threat to the victim or victims and to law enforcement personnel. [2019 c 446 § 22. Prior: 2016 sp.s. c 29 § 208; 2016 c 158 § 4; 2000 c 94 § 4; 1991 c 105 § 2; 1989 c 120 § 3; 1987 c 212 § 301; 1979 ex.s. c 215 § 7; 1974 ex.s. c 145 § 7; 1973 2nd ex.s. c 24 § 5; 1973 1st ex.s. c 142 § 17.]

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

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

Finding—Intent—2016 c 158: See note following RCW 71.05.455.

Additional notes found at www.leg.wa.gov

71.05.130 Duties of prosecuting attorney and attorney general. In any judicial proceeding for involuntary commitment or detention except under RCW 71.05.201, or in any proceeding challenging involuntary commitment or detention, the prosecuting attorney for the county in which the proceeding was initiated shall represent the individuals or agencies petitioning for commitment or detention and shall defend all challenges to such commitment or detention, except that the attorney general shall represent and provide legal services and advice to state hospitals or institutions with regard to all provisions of and proceedings under this chapter other than proceedings initiated by such hospitals and institutions seeking fourteen day detention. [2015 c 258 § 4; 1998 c 297 § 7; 1991 c 105 § 3; 1989 c 120 § 4; 1979 ex.s. c 215 § 8; 1973 1st ex.s. c 142 § 18.]

Short title—2015 c 258: See note following RCW 71.05.201.

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

Additional notes found at www.leg.wa.gov

71.05.132 Court-ordered treatment—Required notifications. When any court orders a person to receive treatment under this chapter, the order shall include a statement that if the person is, or becomes, subject to supervision by the department of corrections, the person must notify the treatment provider and the person's mental health treatment information and substance use disorder treatment information must be shared with the department of corrections for the duration of the offender's incarceration and supervision, under RCW 71.05.445. Upon a petition by a person who does not have a history of one or more violent acts, the court may, for good cause, find that public safety would not be enhanced by the sharing of this person's information. [2016 sp.s. c 29 § 209; 2004 c 166 § 12.]

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

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

Additional notes found at www.leg.wa.gov

71.05.135 Mental health commissioners—Appointment. In each county the superior court may appoint the following persons to assist the superior court in disposing of its business: PROVIDED, That such positions may not be created without prior consent of the county legislative authority:

(1) One or more attorneys to act as mental health commissioners; and

(2) Such investigators, stenographers, and clerks as the court shall find necessary to carry on the work of the mental health commissioners.

The appointments provided for in this section shall be made by a majority vote of the judges of the superior court of the county and may be in addition to all other appointments of commissioners and other judicial attaches otherwise authorized by law. Mental health commissioners and investigators shall serve at the pleasure of the judges appointing them and shall receive such compensation as the county legislative authority shall determine. The appointments may be full or part-time positions. A person appointed as a mental health commissioner may also be appointed to any other commissioner position authorized by law. [1993 c 15 § 2; 1991 c 363 § 146; 1989 c 174 § 1.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Additional notes found at www.leg.wa.gov

71.05.137 Mental health commissioners—Authority. The judges of the superior court of the county by majority vote may authorize mental health commissioners, appointed pursuant to RCW 71.05.135, to perform any or all of the following duties:

(1) Receive all applications, petitions, and proceedings filed in the superior court for the purpose of disposing of them pursuant to this chapter or RCW 10.77.094;

(2) Investigate the facts upon which to base warrants, subpoenas, orders to directions in actions, or proceedings filed pursuant to this chapter or RCW 10.77.094;

(3) For the purpose of this chapter, exercise all powers and perform all the duties of a court commissioner appointed pursuant to RCW 2.24.010;

(4) Hold hearings in proceedings under this chapter or RCW 10.77.094 and make written reports of all proceedings under this chapter or RCW 10.77.094 which shall become a part of the record of superior court;

(5) Provide such supervision in connection with the exercise of its jurisdiction as may be ordered by the presiding judge; and

(6) Cause the orders and findings to be entered in the same manner as orders and findings are entered in cases in the superior court. [2013 c 27 § 1; 1989 c 174 § 2.]

Additional notes found at www.leg.wa.gov

71.05.140 Records maintained. A record of all applications, petitions, and proceedings under this chapter shall be maintained by the county clerk in which the application, petition, or proceeding was initiated. [1973 1st ex.s. c 142 § 19.]

71.05.145 Offenders with mental illness who are believed to be dangerous—Less restrictive alternative. The legislature intends that, when evaluating a person who is identified under RCW 72.09.370(7), the professional person at the evaluation and treatment facility shall, when appropriate after consideration of the person's mental condition and relevant public safety concerns, file a petition for a ninety-day less restrictive alternative in lieu of a petition for a fourteen-day commitment. [1999 c 214 § 4.]

Intent—Effective date—1999 c 214: See notes following RCW 72.09.370.

71.05.148 Petition for assisted outpatient behavioral health treatment—Ninety days of less restrictive alternative treatment—Procedure. This section establishes a process for initial evaluation and filing of a petition for assisted outpatient behavioral health treatment, but however does not preclude the filing of a petition for assisted outpatient behavioral health treatment following a period of inpatient detention in appropriate circumstances:

(1) The designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at a mental health facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program.

(2) The designated crisis responder must investigate and evaluate the specific facts alleged and the reliability or credibility of any person providing information. The designated crisis responder may spend up to forty-eight hours to complete the investigation, provided that the person may not be held for investigation for any period except as authorized by RCW 71.05.050 or 71.05.153.

(3) If the designated crisis responder finds that the person is in need of assisted outpatient behavioral health treatment, they may file a petition requesting the court to enter an order for up to ninety days of less restrictive alternative treatment. The petition must include:

(a) A statement of the circumstances under which the person's condition was made known and stating that there is evidence, as a result of the designated crisis responder's personal observation or investigation, that the person is in need of assisted outpatient behavioral health treatment, and stating the specific facts known as a result of personal observation or investigation, upon which the designated crisis responder bases this belief;

(b) The declaration of additional witnesses, if any, supporting the petition for assisted outpatient behavioral health treatment;

(c) A designation of retained counsel for the person or, if counsel is appointed, the name, business address, and telephone number of the attorney appointed to represent the person;

(d) The name of an agency or facility which agreed to assume the responsibility of providing less restrictive alternative treatment if the petition is granted by the court;

(e) A summons to appear in court at a specific time and place within five judicial days for a probable cause hearing, except as provided in subsection (4) of this section.

(4) If the person is in the custody of jail or prison at the time of the investigation, a petition for assisted outpatient behavioral health treatment may be used to facilitate continuity of care after release from custody or the diversion of criminal charges as follows:

(a) If the petition is filed in anticipation of the person's release from custody, the summons may be for a date up to five judicial days following the person's anticipated release date, provided that a clear time and place for the hearing is provided; or

(b) The hearing may be held prior to the person's release from custody, provided that (i) the filing of the petition does not extend the time the person would otherwise spend in the custody of jail or prison; (ii) the charges or custody of the person is not a pretext to detain the person for the purpose of the involuntary commitment hearing; and (iii) the person's release from custody must be expected to swiftly follow the adjudication of the petition. In this circumstance, the time for hearing is shortened to three judicial days after the filing of the petition.

(5) The petition must be served upon the person and the person's counsel with a notice of applicable rights. Proof of service must be filed with the court.

(6) A petition for assisted outpatient behavioral health treatment filed under this section must be adjudicated under RCW 71.05.240. [2019 c 446 § 21; 2018 c 291 § 3.]

Effective date—2018 c 291 §§ 1-4, 6, 7, 9, 11, 12, 13, and 15: See note following RCW 71.05.020.

71.05.150 Petition for initial detention of persons with mental disorders or substance use disorders—Seventy-two hour evaluation and treatment period—Procedure. ***(Effective until July 1, 2026.)*** (1) When a designated crisis responder receives information alleging that a person, as a result of a mental disorder, substance use disorder, or both presents a likelihood of serious harm or is gravely disabled, or that a person is in need of assisted outpatient behavioral health treatment; the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention or involuntary outpatient treatment, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a

petition for initial detention under this section or a petition for involuntary outpatient behavioral health treatment under RCW 71.05.148. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, triage facility, or approved substance use disorder treatment program.

(2)(a) An order to detain a person with a mental disorder to a designated evaluation and treatment facility, or to detain a person with a substance use disorder to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, for not more than a seventy-two-hour evaluation and treatment period may be issued by a judge of the superior court upon request of a designated crisis responder, subject to (d) of this subsection, whenever it appears to the satisfaction of a judge of the superior court:

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

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

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

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

(d) A court may not issue an order to detain a person to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program unless there is an available secure withdrawal management and stabilization facility or approved substance use disorder treatment program that has adequate space for the person.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention. After service on such person the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention. [2019 c 446 § 4; 2018 c 291 § 4; 2016 sp.s. c 29 § 210; 2015 c 250 § 3; 2011 c 148 § 5; 2007 c 375 § 7; 1998 c 297 § 8; 1997 c 112 § 8; 1984 c 233 § 1; 1979 ex.s. c 215 § 9; 1975 1st ex.s. c 199 § 3; 1974 ex.s. c 145 § 8; 1973 1st ex.s. c 142 § 20.]

Expiration date—2019 c 446 §§ 4, 6, 8, 11, 14, 30, 32, 34, 37, 39, and 41: "Sections 4, 6, 8, 11, 14, 30, 32, 34, 37, 39, and 41 of this act expire July 1, 2026." [2019 c 446 § 55.]

Expiration date—2018 c 291 §§ 4, 7, and 9: "Sections 4, 7, and 9 of this act expire July 1, 2026." [2018 c 291 § 20.]

Effective date—2018 c 291 §§ 1-4, 6, 7, 9, 11, 12, 13, and 15: See note following RCW 71.05.020.

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

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

Certification of triage facilities—Effective date—2011 c 148: See notes following RCW 71.05.020.

Findings—Purpose—Construction—Severability—2007 c 375: See notes following RCW 10.31.110.

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

Additional notes found at www.leg.wa.gov

71.05.150 Petition for initial detention of persons with mental disorders or substance use disorders—Seventy-two hour evaluation and treatment period—Procedure. ***(Effective July 1, 2026.)*** (1) When a designated crisis responder receives information alleging that a person, as a result of a mental disorder, substance use disorder, or both presents a likelihood of serious harm or is gravely disabled, or that a person is in need of assisted outpatient behavioral health treatment; the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention or involuntary outpatient treatment, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention under this section or a petition for involuntary outpatient behavioral health treatment under RCW 71.05.148. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, triage facility, or approved substance use disorder treatment program.

(2)(a) An order to detain a person with a mental disorder to a designated evaluation and treatment facility, or to detain a person with a substance use disorder to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, for not more than a seventy-two-hour evaluation and treatment period may be issued by a

judge of the superior court upon request of a designated crisis responder whenever it appears to the satisfaction of a judge of the superior court:

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

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

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

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

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention. After service on such person the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention. [2019 c 446 § 5; 2018 c 291 § 5; 2016 sp.s. c 29 § 211; 2016 sp.s. c 29 § 210; 2015 c 250 § 3; 2011 c 148 § 5; 2007 c 375 § 7; 1998 c 297 § 8; 1997 c 112 § 8; 1984 c 233 § 1; 1979 ex.s. c 215 § 9; 1975 1st ex.s. c 199 § 3; 1974 ex.s. c 145 § 8; 1973 1st ex.s. c 142 § 20.]

Effective date—2019 c 446 §§ 5, 7, 9, 12, 15, 31, 33, 35, 38, 40, and 42: "Sections 5, 7, 9, 12, 15, 31, 33, 35, 38, 40, and 42 of this act take effect July 1, 2026." [2019 c 446 § 56.]

Effective date—2018 c 291 §§ 5, 8, and 10: "Sections 5, 8, and 10 of this act take effect July 1, 2026." [2018 c 291 § 19.]

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

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

Certification of triage facilities—Effective date—2011 c 148: See notes following RCW 71.05.020.

Findings—Purpose—Construction—Severability—2007 c 375: See notes following RCW 10.31.110.

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

Additional notes found at www.leg.wa.gov

71.05.153 Emergency detention of persons with mental disorders or substance use disorders—Procedure. ***(Effective until July 1, 2026.)*** (1) When a designated crisis responder receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

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

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

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

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

(b) A peace officer's delivery of a person, based on a substance use disorder, to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program is subject to the availability of a secure withdrawal management and stabilization facility or approved substance use disorder treatment program with adequate space for the person.

(4) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, triage facility that has elected to operate as an invol-

untary facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program by peace officers pursuant to subsection (3) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

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

(6) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated mental health professional has totally disregarded the requirements of this section. [2019 c 446 § 6; 2016 sp.s. c 29 § 212; 2015 c 269 § 6. Prior: 2011 c 305 § 8; 2011 c 148 § 2; 2007 c 375 § 8.]

Expiration date—2019 c 446 §§ 4, 6, 8, 11, 14, 30, 32, 34, 37, 39, and 41: See note following RCW 71.05.150.

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

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

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

Findings—2011 c 305: See note following RCW 74.09.295.

Certification of triage facilities—Effective date—2011 c 148: See notes following RCW 71.05.020.

Findings—Purpose—Construction—Severability—2007 c 375: See notes following RCW 10.31.110.

Additional notes found at www.leg.wa.gov

71.05.153 Emergency detention of persons with mental disorders or substance use disorders—Procedure. ***(Effective July 1, 2026.)*** (1) When a designated crisis responder receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

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

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

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

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

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

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

(6) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated mental health professional has totally disregarded the requirements of this section. [2019 c 446 § 7; 2016 sp.s. c 29 § 213; 2016 sp.s. c 29 § 212; 2015 c 269 § 6. Prior: 2011 c 305 § 8; 2011 c 148 § 2; 2007 c 375 § 8.]

Effective date—2019 c 446 §§ 5, 7, 9, 12, 15, 31, 33, 35, 38, 40, and 42: See note following RCW 71.05.150.

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

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

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

Findings—2011 c 305: See note following RCW 74.09.295.

Certification of triage facilities—Effective date—2011 c 148: See notes following RCW 71.05.020.

Findings—Purpose—Construction—Severability—2007 c 375: See notes following RCW 10.31.110.

Additional notes found at www.leg.wa.gov

71.05.154 Detention of persons with mental disorders—Evaluation—Consultation with emergency room physician. If a person subject to evaluation under RCW 71.05.150 or 71.05.153 is located in an emergency room at the time of evaluation, the designated crisis responder conducting the evaluation shall take serious consideration of observations and opinions by an examining emergency room physician, advanced registered nurse practitioner, or physician assistant in determining whether detention under this chapter is appropriate. The designated crisis responder must document his or her consultation with this professional, if the professional is available, or his or her review of the professional's written observations or opinions regarding whether detention of the person is appropriate. [2017 3rd sp.s. c 14 § 12; (2017 3rd sp.s. c 14 § 11 expired April 1, 2018); 2016 sp.s. c 29 § 214; 2013 c 334 § 1.]

Effective date—2017 3rd sp.s. c 14 §§ 9, 12, 14, 15, and 17-21: See note following RCW 71.05.590.

Expiration date—2017 3rd sp.s. c 14 §§ 8, 11, and 13: See note following RCW 71.05.590.

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

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

71.05.156 Evaluation for imminent likelihood of serious harm or imminent danger—Individual with grave disability. A designated crisis responder who conducts an evaluation for imminent likelihood of serious harm or imminent danger because of being gravely disabled under RCW 71.05.153 must also evaluate the person under RCW 71.05.150 for likelihood of serious harm or grave disability that does not meet the imminent standard for emergency detention, and to determine whether the person is in need of assisted outpatient behavioral health treatment. [2018 c 291 § 12; 2016 sp.s. c 29 § 215; 2015 c 250 § 4; 2013 c 334 § 2.]

Effective date—2018 c 291 §§ 1-4, 6, 7, 9, 11, 12, 13, and 15: See note following RCW 71.05.020.

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

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

71.05.157 Evaluation by designated crisis responder—When required—Required notifications. (1) When a designated crisis responder is notified by a jail that a defendant or offender who was subject to a discharge review under RCW 71.05.232 is to be released to the community, the designated crisis responder shall evaluate the person within seventy-two hours of release.

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

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

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

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

(6) No jail or state correctional facility may be considered a less restrictive alternative to an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. [2019 c 446 § 20; 2016 sp.s. c 29 § 216; 2007 c 375 § 9; 2005 c 504 § 507; 2004 c 166 § 16.]

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

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

Findings—Purpose—Construction—Severability—2007 c 375: See notes following RCW 10.31.110.

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

Additional notes found at www.leg.wa.gov

71.05.160 Petition for initial detention. Any facility receiving a person pursuant to RCW 71.05.150 or 71.05.153 shall require the designated crisis responder to prepare a petition for initial detention stating the circumstances under which the person's condition was made known and stating that there is evidence, as a result of his or her personal observation or investigation, that the actions of the person for which application is made constitute a likelihood of serious harm, or that he or she is gravely disabled, and stating the specific facts known to him or her as a result of his or her personal observation or investigation, upon which he or she bases the belief that such person should be detained for the purposes and under the authority of this chapter.

If a person is involuntarily placed in an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program pursuant to RCW 71.05.150 or 71.05.153, on the next judicial day following the initial detention, the designated crisis responder shall file with the court and serve the designated attorney of the detained person the petition or supplemental petition for initial detention, proof of service of notice, and a copy of a notice of emergency detention. [2019 c 446 § 19; 2016 sp.s. c 29 § 217; 2007 c 375 § 13; 1998 c 297 § 9; 1997 c 112 § 10; 1974 ex.s. c 145 § 9; 1973 1st ex.s. c 142 § 21.]

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

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

Findings—Purpose—Construction—Severability—2007 c 375: See notes following RCW 10.31.110.

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

71.05.170 Acceptance of petition—Notice—Duty of state hospital. Whenever the designated crisis responder petitions for detention of a person whose actions constitute a likelihood of serious harm, or who is gravely disabled, the facility providing seventy-two hour evaluation and treatment must immediately accept on a provisional basis the petition and the person. The facility shall then evaluate the person's condition and admit, detain, transfer, or discharge such person in accordance with RCW 71.05.210. The facility shall notify in writing the court and the designated crisis responder of the date and time of the initial detention of each person involuntarily detained in order that a probable cause hearing shall be held no later than seventy-two hours after detention.

The duty of a state hospital to accept persons for evaluation and treatment under this section shall be limited by chapter 71.24 RCW. [2016 sp.s. c 29 § 218; 2000 c 94 § 5; 1998 c 297 § 10; 1997 c 112 § 11; 1989 c 205 § 10; 1974 ex.s. c 145 § 10; 1973 1st ex.s. c 142 § 22.]

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

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

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

71.05.180 Detention period for evaluation and treatment. If the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program admits the person, it may detain him or her for evaluation and treatment for a period not to exceed seventy-two hours from the time of acceptance as set forth in RCW 71.05.170. The computation of such seventy-two hour period shall exclude Saturdays, Sundays and holidays. [2019 c 446 § 18; 2016 sp.s. c 29 § 219; 1997 c 112 § 12; 1979 ex.s. c 215 § 11; 1974 ex.s. c 145 § 11; 1973 1st ex.s. c 142 § 23.]

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

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

71.05.182 Six-month suspension of right to possess firearms after seventy-two-hour detention for evaluation and treatment of person who presents likelihood of serious harm as a result of mental disorder, substance use disorder, or both—Automatic restoration of right at expiration of six-month period. (1) A person who under RCW 71.05.150 or 71.05.153 has been detained at a facility for seventy-two-hour evaluation and treatment on the grounds that the person presents a likelihood of serious harm, but who has not been subsequently committed for involuntary treatment under RCW 71.05.240, may not have in his or her possession or control any firearm for a period of six months after the date that the person is detained.

(2) Before the discharge of a person who has been initially detained under RCW 71.05.150 or 71.05.153 on the grounds that the person presents a likelihood of serious harm, but has not been subsequently committed for involuntary treatment under RCW 71.05.240, the designated crisis responder shall inform the person orally and in writing that:

(a) He or she is prohibited from possessing or controlling any firearm for a period of six months;

(b) He or she must immediately surrender, for the six-month period, any concealed pistol license and any firearms that the person possesses or controls to the sheriff of the county or the chief of police of the municipality in which the person is domiciled;

(c) After the six-month suspension, the person's right to control or possess any firearm or concealed pistol license shall be automatically restored, absent further restrictions imposed by other law; and

(d) Upon discharge, the person may petition the superior court to have his or her right to possess a firearm restored before the six-month suspension period has elapsed by following the procedures provided in RCW 9.41.047(3).

(3)(a) A law enforcement agency holding any firearm that has been surrendered pursuant to this section shall, upon the request of the person from whom it was obtained, return the firearm at the expiration of the six-month suspension period, or prior to the expiration of the six-month period if the person's right to possess firearms has been restored by the court under RCW 9.41.047. The law enforcement agency must comply with the provisions of RCW 9.41.345 when returning a firearm pursuant to this section.

(b) Any firearm surrendered pursuant to this section that remains unclaimed by the lawful owner shall be disposed of in accordance with the law enforcement agency's policies and procedures for the disposal of firearms in police custody. [2019 c 247 § 1.]

71.05.190 Persons not admitted—Transportation—Detention of arrested person pending return to custody. If the person is not approved for admission by a facility providing seventy-two hour evaluation and treatment, and the individual has not been arrested, the facility shall furnish transportation, if not otherwise available, for the person to his or her place of residence or other appropriate place. If the individual has been arrested, the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program shall detain the individual for not more than eight hours at the request of the peace officer. The facility shall make reasonable attempts to contact the requesting peace officer during this time to inform the peace officer that the person is not approved for admission in order to enable a peace officer to return to the facility and take the individual back into custody. [2019 c 446 § 17; 2016 sp.s. c 29 § 220; 2011 c 305 § 3; 1997 c 112 § 13; 1979 ex.s. c 215 § 12; 1974 ex.s. c 145 § 12; 1973 1st ex.s. c 142 § 24.]

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

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

Findings—2011 c 305: See note following RCW 74.09.295.

71.05.195 Not guilty by reason of insanity—Detention of persons who have fled from state of origin—Probable cause hearing. (1) A civil commitment may be initiated under the procedures described in RCW 71.05.150 or

71.05.153 for a person who has been found not guilty by reason of insanity in a state other than Washington and who has fled from detention, commitment, or conditional release in that state, on the basis of a request by the state in which the person was found not guilty by reason of insanity for the person to be detained and transferred back to the custody or care of the requesting state. A finding of likelihood of serious harm or grave disability is not required for a commitment under this section. The detention may occur at either an evaluation and treatment facility or a state hospital. The petition for seventy-two hour detention filed by the designated crisis responder must be accompanied by the following documents:

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

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

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

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

(3) For the purposes of this section, "not guilty by reason of insanity" shall be construed to include any provision of law which is generally equivalent to a finding of criminal insanity within the state of Washington; and "state" shall be construed to mean any state, district, or territory of the United States. [2016 sp.s. c 29 § 221; 2010 c 208 § 1.]

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

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

71.05.201 Petition for initial detention by family member, guardian, or conservator when designated crisis responder does not detain—Procedure—Court review. (1) If a designated crisis responder decides not to detain a person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since a designated crisis responder received a request for investigation and the designated crisis responder has not taken action to have the person detained, an immediate family member or guardian or conservator of the person may petition the superior court for the person's initial detention.

(2) A petition under this section must be filed within ten calendar days following the designated crisis responder investigation or the request for a designated crisis responder investigation. If more than ten days have elapsed, the immediate family member, guardian, or conservator may request a new designated crisis responder investigation.

(3)(a) The petition must be filed in the county in which the designated crisis responder investigation occurred or was requested to occur and must be submitted on forms developed by the administrative office of the courts for this purpose. The petition must be accompanied by a sworn declaration from the petitioner, and other witnesses if desired, describing why the person should be detained for evaluation and treatment. The description of why the person should be detained may contain, but is not limited to, the information identified in RCW 71.05.212.

(b) The petition must contain:

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

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

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

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

(6) The court shall dismiss the petition at any time if it finds that a designated crisis responder has filed a petition for the person's initial detention under RCW 71.05.150 or 71.05.153 or that the person has voluntarily accepted appropriate treatment.

(7) The court must issue a final ruling on the petition within five judicial days after it is filed. After reviewing all of the information provided to the court, the court may enter an order for initial detention or an order instructing the designated crisis responder to file a petition for assisted outpatient behavioral health treatment if the court finds that: (a) There is probable cause to support a petition for detention or assisted outpatient behavioral health treatment; and (b) the person has refused or failed to accept appropriate evaluation and treatment voluntarily. The court shall transmit its final decision to the petitioner.

(8) If the court enters an order for initial detention, it shall provide the order to the designated crisis responder agency and issue a written order for apprehension of the person by a peace officer for delivery of the person to a facility or emergency room determined by the designated crisis responder. The designated crisis responder agency serving the jurisdiction of the court must collaborate and coordinate with law enforcement regarding apprehensions and detentions under this subsection, including sharing of information

relating to risk and which would assist in locating the person. A person may not be detained to jail pursuant to a written order issued under this subsection. An order for detention under this section should contain the advisement of rights which the person would receive if the person were detained by a designated crisis responder. An order for initial detention under this section expires one hundred eighty days from issuance.

(9) Except as otherwise expressly stated in this chapter, all procedures must be followed as if the order had been entered under RCW 71.05.150. RCW 71.05.160 does not apply if detention was initiated under the process set forth in this section.

(10) For purposes of this section, "immediate family member" means a spouse, domestic partner, child, stepchild, parent, stepparent, grandparent, or sibling. [2018 c 291 § 11; 2017 3rd sp.s. c 14 § 2. Prior: 2016 sp.s. c 29 § 222; 2016 c 107 § 1; 2015 c 258 § 2.]

Effective date—2018 c 291 §§ 1-4, 6, 7, 9, 11, 12, 13, and 15: See note following RCW 71.05.020.

Effective date—2017 3rd sp.s. c 14 §§ 2 and 4: "Sections 2 and 4 of this act take effect April 1, 2018." [2017 3rd sp.s. c 14 § 7.]

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

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

Short title—2015 c 258: "This act may be known and cited as Joel's Law." [2015 c 258 § 1.]

71.05.203 Notice—Petition for detention by family member, guardian, or conservator. ***(Effective until January 1, 2020.)*** (1) The authority and each behavioral health organization or agency employing designated crisis responders shall publish information in an easily accessible format describing the process for an immediate family member, guardian, or conservator to petition for court review of a detention decision under RCW 71.05.201.

(2) A designated crisis responder or designated crisis responder agency that receives a request for investigation for possible detention under this chapter must inquire whether the request comes from an immediate family member, guardian, or conservator who would be eligible to petition under RCW 71.05.201. If the designated crisis responder decides not to detain the person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since the request for investigation was received and the designated crisis responder has not taken action to have the person detained, the designated crisis responder or designated crisis responder agency must inform the immediate family member, guardian, or conservator who made the request for investigation about the process to petition for court review under RCW 71.05.201 and, to the extent feasible, provide the immediate family member, guardian, or conservator with written or electronic information about the petition process. If provision of written or electronic information is not feasible, the designated crisis responder or designated crisis responder agency must refer the immediate family member, guardian, or conservator to a web site where published information on the petition process may be accessed. The designated crisis responder or designated crisis responder agency must document the manner and date on which the information required under this subsection was provided to the immediate family member, guardian, or conservator.

(3) A designated crisis responder or designated crisis responder agency must, upon request, disclose the date of a designated crisis responder investigation under this chapter to an immediate family member, guardian, or conservator of a person to assist in the preparation of a petition under RCW 71.05.201. [2018 c 201 § 3006; 2017 3rd sp.s. c 14 § 4; (2017 3rd sp.s. c 14 § 3 expired April 1, 2018); 2016 sp.s. c 29 § 223; 2015 c 258 § 3.]

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

Effective date—2017 3rd sp.s. c 14 §§ 2 and 4: See note following RCW 71.05.201.

Expiration date—2017 3rd sp.s. c 14 §§ 1 and 3: See note following RCW 71.05.201.

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

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

Short title—2015 c 258: See note following RCW 71.05.201.

71.05.203 Notice—Petition for detention by family member, guardian, or conservator. ***(Effective January 1, 2020.)*** (1) The authority and each behavioral health administrative services organization or agency employing designated crisis responders shall publish information in an easily accessible format describing the process for an immediate family member, guardian, or conservator to petition for court review of a detention decision under RCW 71.05.201.

(2) A designated crisis responder or designated crisis responder agency that receives a request for investigation for possible detention under this chapter must inquire whether the request comes from an immediate family member, guardian, or conservator who would be eligible to petition under RCW 71.05.201. If the designated crisis responder decides not to detain the person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since the request for investigation was received and the designated crisis responder has not taken action to have the person detained, the designated crisis responder or designated crisis responder agency must inform the immediate family member, guardian, or conservator who made the request for investigation about the process to petition for court review under RCW 71.05.201 and, to the extent feasible, provide the immediate family member, guardian, or conservator with written or electronic information about the petition process. If provision of written or electronic information is not feasible, the designated crisis responder or designated crisis responder agency must refer the immediate family member, guardian, or conservator to a web site where published information on the petition process may be accessed. The designated crisis responder or designated crisis responder agency must document the manner and date on which the information required under this subsection was provided to the immediate family member, guardian, or conservator.

(3) A designated crisis responder or designated crisis responder agency must, upon request, disclose the date of a designated crisis responder investigation under this chapter to an immediate family member, guardian, or conservator of a person to assist in the preparation of a petition under RCW

71.05.201. [2019 c 325 § 3006; 2018 c 201 § 3006; 2017 3rd sp.s. c 14 § 4; (2017 3rd sp.s. c 14 § 3 expired April 1, 2018); 2016 sp.s. c 29 § 223; 2015 c 258 § 3.]

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

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

Effective date—2017 3rd sp.s. c 14 §§ 2 and 4: See note following RCW 71.05.201.

Expiration date—2017 3rd sp.s. c 14 §§ 1 and 3: See note following RCW 71.05.201.

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

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

Short title—2015 c 258: See note following RCW 71.05.201.

71.05.210 Evaluation—Treatment and care—Release or other disposition. ***(Effective until July 1, 2026.)*** (1) Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program:

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

(i) One physician, physician assistant, or advanced registered nurse practitioner; and

(ii) One mental health professional. If the person is detained for substance use disorder evaluation and treatment, the person may be examined by a chemical dependency professional instead of a mental health professional; and

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

(2) If, after examination and evaluation, the mental health professional or chemical dependency professional and licensed physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the person, if detained to an evaluation and treatment facility, would be better served by placement in a substance use disorder treatment program, or, if detained to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility then the person shall be referred to the more appropriate placement; however, a person may only be referred to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program if there is an available secure withdrawal management and stabilization facility or approved substance use disorder treatment program with adequate space for the person.

(3) An evaluation and treatment center, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program admitting or accepting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for evaluation or admission for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated crisis responder and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days. [2019 c 446 § 8; 2017 3rd sp.s. c 14 § 15. Prior: 2016 sp.s. c 29 § 224; 2016 c 155 § 2; prior: 2015 c 269 § 7; 2015 c 250 § 20; 2009 c 217 § 1; 2000 c 94 § 6; 1998 c 297 § 12; 1997 c 112 § 15; 1994 sp.s. c 9 § 747; prior: 1991 c 364 § 11; 1991 c 105 § 4; 1989 c 120 § 6; 1987 c 439 § 2; 1975 1st ex.s. c 199 § 4; 1974 ex.s. c 145 § 14; 1973 1st ex.s. c 142 § 26.]

Expiration date—2019 c 446 §§ 4, 6, 8, 11, 14, 30, 32, 34, 37, 39, and 41: See note following RCW 71.05.150.

Effective date—2017 3rd sp.s. c 14 §§ 9, 12, 14, 15, and 17-21: See note following RCW 71.05.590.

Expiration date—2017 3rd sp.s. c 14 §§ 9 and 15: See note following RCW 71.05.590.

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

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

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

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

Findings—1991 c 364: "The legislature finds that the use of alcohol and illicit drugs continues to be a primary crippler of our youth. This translates into incredible costs to individuals, families, and society in terms of traffic fatalities, suicides, criminal activity including homicides, sexual promiscuity, familial incorrigibility, and conduct disorders, and educational fallout. Among children of all socioeconomic groups lower expectations for the future, low motivation and self-esteem, alienation, and depression are associated with alcohol and drug abuse.

Studies reveal that deaths from alcohol and other drug-related injuries rise sharply through adolescence, peaking in the early twenties. But second peak occurs in later life, where it accounts for three times as many deaths from chronic diseases. A young victim's life expectancy is likely to be reduced by an average of twenty-six years.

Yet the cost of treating alcohol and drug addicts can be recouped in the first three years of abstinence in health care savings alone. Public money spent on treatment saves not only the life of the chemical abuser, it makes us safer as individuals, and in the long-run costs less.

The legislature further finds that many children who abuse alcohol and other drugs may not require involuntary treatment, but still are not adequately served. These children remain at risk for future chemical dependency, and may become mentally ill or a juvenile offender or need out-of-home placement. Children placed at risk because of chemical abuse may be better served by the creation of a comprehensive integrated system for children in crisis.

The legislature declares that an emphasis on the treatment of youth will pay the largest dividend in terms of preventable costs to individuals themselves, their families, and to society. The provision of augmented involuntary alcohol treatment services to youths, as well as involuntary treatment for youths addicted by other drugs, is in the interest of the public health and safety." [1991 c 364 § 7.]

Additional notes found at www.leg.wa.gov

71.05.210 Evaluation—Treatment and care—Release or other disposition. ***(Effective July 1, 2026.)*** (1) Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program:

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

(i) One physician, physician assistant, or advanced registered nurse practitioner; and

(ii) One mental health professional. If the person is detained for substance use disorder evaluation and treatment, the person may be examined by a chemical dependency professional instead of a mental health professional; and

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

(2) If, after examination and evaluation, the mental health professional or chemical dependency professional and licensed physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the person, if detained to an evaluation and treatment facility, would be better served by placement in a substance use disorder treatment program, or, if detained to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility then the person shall be referred to the more appropriate placement.

(3) An evaluation and treatment center, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program admitting or accepting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for evaluation or admission for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated crisis responder and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days. [2019 c 446 § 9; 2017 3rd sp.s. c 14 § 16; 2016 sp.s. c 29 § 225; 2016 sp.s. c 29 § 224; 2016 c 155 § 2. Prior: 2015 c 269 § 7; 2015 c 250 § 20; 2009 c 217 § 1; 2000 c 94 § 6; 1998 c 297 § 12; 1997 c 112 § 15; 1994 sp.s. c 9 § 747; prior: 1991 c 364 § 11; 1991 c 105 § 4; 1989 c 120 § 6; 1987 c 439 § 2; 1975 1st ex.s. c 199 § 4; 1974 ex.s. c 145 § 14; 1973 1st ex.s. c 142 § 26.]

Effective date—2019 c 446 §§ 5, 7, 9, 12, 15, 31, 33, 35, 38, 40, and 42: See note following RCW 71.05.150.

Effective date—2017 3rd sp.s. c 14 §§ 10 and 16: See note following RCW 71.05.590.

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

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

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

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

Findings—1991 c 364: "The legislature finds that the use of alcohol and illicit drugs continues to be a primary crippler of our youth. This translates into incredible costs to individuals, families, and society in terms of traffic fatalities, suicides, criminal activity including homicides, sexual promiscuity, familial incorrigibility, and conduct disorders, and educational fallout. Among children of all socioeconomic groups lower expectations for the future, low motivation and self-esteem, alienation, and depression are associated with alcohol and drug abuse.

Studies reveal that deaths from alcohol and other drug-related injuries rise sharply through adolescence, peaking in the early twenties. But second peak occurs in later life, where it accounts for three times as many deaths from chronic diseases. A young victim's life expectancy is likely to be reduced by an average of twenty-six years.

Yet the cost of treating alcohol and drug addicts can be recouped in the first three years of abstinence in health care savings alone. Public money spent on treatment saves not only the life of the chemical abuser, it makes us safer as individuals, and in the long-run costs less.

The legislature further finds that many children who abuse alcohol and other drugs may not require involuntary treatment, but still are not adequately served. These children remain at risk for future chemical dependency, and may become mentally ill or a juvenile offender or need out-of-home placement. Children placed at risk because of chemical abuse may be better served by the creation of a comprehensive integrated system for children in crisis.

The legislature declares that an emphasis on the treatment of youth will pay the largest dividend in terms of preventable costs to individuals themselves, their families, and to society. The provision of augmented involuntary alcohol treatment services to youths, as well as involuntary treatment for youths addicted by other drugs, is in the interest of the public health and safety." [1991 c 364 § 7.]

Additional notes found at www.leg.wa.gov

71.05.212 Evaluation—Consideration of information and records. (1) Whenever a designated crisis responder or professional person is conducting an evaluation under this chapter, consideration shall include all reasonably available information from credible witnesses and records regarding:

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

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

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

(d) Prior commitments under this chapter.

(2) Credible witnesses may include family members, landlords, neighbors, or others with significant contact and history of involvement with the person. If the designated crisis responder relies upon information from a credible witness in reaching his or her decision to detain the individual, then he or she must provide contact information for any such witness to the prosecutor. The designated crisis responder or

prosecutor shall provide notice of the date, time, and location of the probable cause hearing to such a witness.

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

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

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

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

(4) When conducting an evaluation for offenders identified under RCW 72.09.370, the designated crisis responder or professional person shall consider an offender's history of judicially required or administratively ordered antipsychotic medication while in confinement. [2018 c 291 § 13; 2016 sp.s. c 29 § 226; 2015 c 250 § 5; (2011 2nd sp.s. c 6 § 2 expired July 1, 2014); 2010 c 280 § 2; 1999 c 214 § 5; 1998 c 297 § 19.]

Effective date—2018 c 291 §§ 1-4, 6, 7, 9, 11, 12, 13, and 15: See note following RCW 71.05.020.

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

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

Effective date—2013 c 335; 2011 2nd sp.s. c 6; 2010 c 280 §§ 2 and 3: "Sections 2 and 3 of this act take effect July 1, 2014." [2013 c 335 § 1; 2011 2nd sp.s. c 6 § 1; 2010 c 280 § 5.]

Expiration date—2013 c 335; 2011 2nd sp.s. c 6 § 2: "Section 2 of this act expires July 1, 2014." [2013 c 335 § 2; 2011 2nd sp.s. c 6 § 3.]

Effective date—2011 2nd sp.s. c 6: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [December 20, 2011], except for section 2 of this act which takes effect January 1, 2012." [2011 2nd sp.s. c 6 § 4.]

Intent—Effective date—1999 c 214: See notes following RCW 72.09.370.

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

71.05.214 Protocols—Development—Submission to governor and legislature. The authority shall develop statewide protocols to be utilized by professional persons and designated crisis responders in administration of this chapter and chapter 10.77 RCW. The protocols shall be updated at least every three years. The protocols shall provide uniform development and application of criteria in evaluation and commitment recommendations, of persons who have, or are alleged to have, mental disorders or substance use disorders and are subject to this chapter.

The initial protocols shall be developed not later than September 1, 1999. The authority shall develop and update the protocols in consultation with representatives of designated crisis responders, the department of social and health services, local government, law enforcement, county and city prosecutors, public defenders, and groups concerned with mental illness and substance use disorders. The protocols shall be submitted to the governor and legislature upon adoption by the authority. [2018 c 201 § 3007; 2016 sp.s. c 29 § 227; 1998 c 297 § 26.]

Addendum to designated crisis responder statewide protocols—2019 c 446: "Within existing resources, the health care authority shall develop an addendum to the designated crisis responder statewide protocols adopted pursuant to RCW 71.05.214 in consultation with representatives of designated crisis responders, the department of social and health services, local government, law enforcement, county and city prosecutors, public defenders, and groups concerned with mental illness and substance use disorders. The addendum must update the current protocols to address the implementation of the integration of mental health and substance use disorder treatment systems, to include general processes for referrals and investigations of individuals with substance use disorders and the applicability of commitment criteria to individuals with substance use disorders. The authority shall adopt and submit the addendum to the governor and the legislature by December 1, 2019." [2019 c 446 § 1.]

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

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

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

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

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

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

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

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

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

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

(e) Documentation in the medical record of the attempt by the physician, physician assistant, or psychiatric advanced registered nurse practitioner to obtain informed consent and the reasons why antipsychotic medication is being administered over the person's objection or lack of consent. [2018 c

201 § 3008. Prior: 2016 sp.s. c 29 § 228; 2016 c 155 § 3; 2008 c 156 § 2; 1997 c 112 § 16; 1991 c 105 § 1.]

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

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

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

Additional notes found at www.leg.wa.gov

71.05.217 Rights—Posting of list. Insofar as danger to the individual or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights, a list of which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

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

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

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

(4) To have visitors at reasonable times;

(5) To have reasonable access to a telephone, both to make and receive confidential calls;

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

(7) Not to consent to the administration of antipsychotic medications beyond the hearing conducted pursuant to RCW 71.05.320(4) or the performance of electroconvulsant therapy or surgery, except emergency lifesaving surgery, unless ordered by a court of competent jurisdiction pursuant to the following standards and procedures:

(a) The administration of antipsychotic medication or electroconvulsant therapy shall not be ordered unless the petitioning party proves by clear, cogent, and convincing evidence that there exists a compelling state interest that justifies overriding the patient's lack of consent to the administration of antipsychotic medications or electroconvulsant therapy, that the proposed treatment is necessary and effective, and that medically acceptable alternative forms of treatment are not available, have not been successful, or are not likely to be effective.

(b) The court shall make specific findings of fact concerning: (i) The existence of one or more compelling state interests; (ii) the necessity and effectiveness of the treatment; and (iii) the person's desires regarding the proposed treatment. If the patient is unable to make a rational and informed decision about consenting to or refusing the proposed treatment, the court shall make a substituted judgment for the patient as if he or she were competent to make such a determination.

(c) The person shall be present at any hearing on a request to administer antipsychotic medication or electroconvulsant therapy filed pursuant to this subsection. The person has the right: (i) To be represented by an attorney; (ii) to present evidence; (iii) to cross-examine witnesses; (iv) to have the rules of evidence enforced; (v) to remain silent; (vi) to view and copy all petitions and reports in the court file; and (vii) to be given reasonable notice and an opportunity to prepare for the hearing. The court may appoint a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, physician assistant, or physician to examine and testify on behalf of such person. The court shall appoint a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, physician assistant, or physician designated by such person or the person's counsel to testify on behalf of the person in cases where an order for electroconvulsant therapy is sought.

(d) An order for the administration of antipsychotic medications entered following a hearing conducted pursuant to this section shall be effective for the period of the current involuntary treatment order, and any interim period during which the person is awaiting trial or hearing on a new petition for involuntary treatment or involuntary medication.

(e) Any person detained pursuant to RCW 71.05.320(4), who subsequently refuses antipsychotic medication, shall be entitled to the procedures set forth in this subsection.

(f) Antipsychotic medication may be administered to a nonconsenting person detained or committed pursuant to this chapter without a court order pursuant to RCW 71.05.215(2) or under the following circumstances:

(i) A person presents an imminent likelihood of serious harm;

(ii) Medically acceptable alternatives to administration of antipsychotic medications are not available, have not been successful, or are not likely to be effective; and

(iii) In the opinion of the physician, physician assistant, or psychiatric advanced registered nurse practitioner with responsibility for treatment of the person, or his or her designee, the person's condition constitutes an emergency requiring the treatment be instituted before a judicial hearing as authorized pursuant to this section can be held.

If antipsychotic medications are administered over a person's lack of consent pursuant to this subsection, a petition for an order authorizing the administration of antipsychotic medications shall be filed on the next judicial day. The hearing shall be held within two judicial days. If deemed necessary by the physician, physician assistant, or psychiatric advanced registered nurse practitioner with responsibility for the treatment of the person, administration of antipsychotic medications may continue until the hearing is held;

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

(9) Not to have psychosurgery performed on him or her under any circumstances. [2016 c 155 § 4; 2008 c 156 § 3; 1997 c 112 § 31; 1991 c 105 § 5; 1989 c 120 § 8; 1974 ex.s. c 145 § 26; 1973 1st ex.s. c 142 § 42. Formerly RCW 71.05.370.]

Additional notes found at www.leg.wa.gov

71.05.220 Property of committed person. At the time a person is involuntarily admitted to an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, the professional person in charge or his or her designee shall take reasonable precautions to inventory and safeguard the personal property of the person detained. A copy of the inventory, signed by the staff member making it, shall be given to the person detained and shall, in addition, be open to inspection to any responsible relative, subject to limitations, if any, specifically imposed by the detained person. For purposes of this section, "responsible relative" includes the guardian, conservator, attorney, spouse, parent, adult child, or adult brother or sister of the person. The facility shall not disclose the contents of the inventory to any other person without the consent of the patient or order of the court. [2019 c 446 § 10; 2016 sp.s. c 29 § 229; 1997 c 112 § 17; 1973 1st ex.s. c 142 § 27.]

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

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

71.05.230 Commitment beyond initial seventy-two hour evaluation and treatment period—Petition for fourteen day involuntary treatment or ninety days of less restrictive alternative treatment—Procedure. A person detained for seventy-two hour evaluation and treatment may be committed for not more than fourteen additional days of involuntary intensive treatment or ninety additional days of a less restrictive alternative treatment. A petition may only be filed if the following conditions are met:

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

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

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

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

(A) One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(B) One physician, physician assistant, psychiatric advanced registered nurse practitioner, or mental health professional.

(ii) If the petition is for substance use disorder treatment, the petition may be signed by a *chemical dependency professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner. The persons signing the petition must have examined the person.

(b) If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of a mental disorder or substance use disorder, presents a likelihood of serious harm, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of a mental disorder or as a result of a substance use disorder, presents a likelihood of serious harm, is gravely disabled, or is in need of assisted outpatient behavioral health treatment, and shall set forth any recommendations for less restrictive alternative treatment services; and

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

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

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

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

(9) If the hospital or facility designated to provide less restrictive alternative treatment is other than the facility providing involuntary treatment, the outpatient facility so designated to provide less restrictive alternative treatment has agreed to assume such responsibility. [2018 c 291 § 6; 2017 3rd sp.s. c 14 § 17. Prior: 2016 sp.s. c 29 § 230; 2016 c 155 § 5; 2016 c 45 § 1; 2015 c 250 § 6; 2011 c 343 § 9; prior: 2009 c 293 § 3; 2009 c 217 § 2; 2006 c 333 § 302; 1998 c 297 § 13; 1997 c 112 § 18; 1987 c 439 § 3; 1975 1st ex.s. c 199 § 5; 1974 ex.s. c 145 § 15; 1973 1st ex.s. c 142 § 28.]

***Reviser's note:** RCW 71.05.020 was amended by 2019 c 444 § 16, deleting the definition of "chemical dependency professional."

Effective date—2018 c 291 §§ 1-4, 6, 7, 9, 11, 12, 13, and 15: See note following RCW 71.05.020.

Effective date—2017 3rd sp.s. c 14 §§ 9, 12, 14, 15, and 17-21: See note following RCW 71.05.590.

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

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

Intent—Effective date—2011 c 343: See notes following RCW 71.05.730.

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

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

71.05.232 Discharge reviews—Consultations, notifications required. (1) When a state hospital admits a person for evaluation or treatment under this chapter who has a history of one or more violent acts and:

(a) Has been transferred from a correctional facility; or

(b) Is or has been under the authority of the department of corrections or the indeterminate sentence review board,

the state hospital shall consult with the appropriate corrections and *chemical dependency personnel and the appropriate forensic staff at the state hospital to conduct a discharge review to determine whether the person presents a likelihood of serious harm and whether the person is appropriate for release to a less restrictive alternative.

(2) When a state hospital returns a person who was reviewed under subsection (1) of this section to a correctional facility, the hospital shall notify the correctional facility that the person was subject to a discharge review pursuant to this section. [2004 c 166 § 18.]

***Reviser's note:** RCW 71.05.020 was amended by 2019 c 325 § 3001, deleting the definition of "chemical dependency," effective January 1, 2020.

Additional notes found at www.leg.wa.gov

71.05.235 Examination, evaluation of criminal defendant—Hearing. (1) If an individual is referred to a designated crisis responder under *RCW 10.77.088(1)(c)(i), the designated crisis responder shall examine the individual within forty-eight hours. If the designated crisis responder determines it is not appropriate to detain the individual or petition for a ninety-day less restrictive alternative under RCW 71.05.230(4), that decision shall be immediately presented to the superior court for hearing. The court shall hold a hearing to consider the decision of the designated crisis responder not later than the next judicial day. At the hearing the superior court shall review the determination of the designated crisis responder and determine whether an order should be entered requiring the person to be evaluated at an evaluation and treatment facility. No person referred to an evaluation and treatment facility may be held at the facility longer than seventy-two hours.

(2) If an individual is placed in an evaluation and treatment facility under *RCW 10.77.088(1)(c)(ii), a professional person shall evaluate the individual for purposes of determining whether to file a ninety-day inpatient or outpatient petition under this chapter. Before expiration of the seventy-two hour evaluation period authorized under *RCW 10.77.088(1)(c)(ii), the professional person shall file a petition or, if the recommendation of the professional person is to release the individual, present his or her recommendation to the superior court of the county in which the criminal charge was dismissed. The superior court shall review the recommendation not later than forty-eight hours, excluding Saturdays, Sundays, and holidays, after the recommendation is presented. If the court rejects the recommendation to unconditionally release the individual, the court may order the individual detained at a designated evaluation and treatment facility for not more than a seventy-two hour evaluation and treatment period and direct the individual to appear at a surety hearing before that court within seventy-two hours, or the court may release the individual but direct the individual to appear at a surety hearing set before that court within eleven days, at which time the prosecutor may file a petition under this chapter for ninety-day inpatient or outpatient treatment. If a petition is filed by the prosecutor, the court may order that the person named in the petition be detained at the evaluation and treatment facility that performed the evaluation under this subsection or order the respondent to be in outpatient treatment. If a petition is filed but the individual fails to appear in court for the surety hearing, the court shall order that a mental health professional or peace officer shall take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility to be brought before the court the next judicial day after detention. Upon the individual's first appearance in court after a petition has been filed, proceedings under RCW 71.05.310 and 71.05.320 shall commence. For an individual subject to this subsection, the prosecutor or professional person may directly file a petition for ninety-day inpatient or outpatient treatment and no petition for initial detention or fourteen-day detention is required before such a petition may be filed.

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

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

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

(4) The individual shall have the rights specified in RCW 71.05.360 (8) and (9). [2016 sp.s. c 29 § 231; 2015 1st sp.s. c 7 § 14; 2008 c 213 § 5; 2005 c 504 § 708; 2000 c 74 § 6; 1999 c 11 § 1; 1998 c 297 § 18.]

***Reviser's note:** RCW 10.77.088 was amended by 2019 c 326 § 5, changing subsection (1)(c)(i) and (ii) to subsection (2)(d)(i) and (ii).

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

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

Finding—2015 1st sp.s. c 7: See note following RCW 10.77.075.

Effective dates—2015 1st sp.s. c 7: See note following RCW 10.77.075.

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

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

Additional notes found at www.leg.wa.gov

71.05.237 Judicial proceedings—Court to enter findings when recommendations of professional person not followed. In any judicial proceeding in which a professional person has made a recommendation regarding whether an

individual should be committed for treatment under this chapter, and the court does not follow the recommendation, the court shall enter findings that state with particularity its reasoning, including a finding whether the state met its burden of proof in showing whether the person presents a likelihood of serious harm. [1998 c 297 § 25.]

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

71.05.240 Petition for fourteen day involuntary treatment or ninety days of less restrictive alternative treatment—Probable cause hearing. ***(Effective until July 1, 2026.)*** (1) If a petition is filed for fourteen day involuntary treatment or ninety days of less restrictive alternative treatment, the court shall hold a probable cause hearing within seventy-two hours of the initial detention of such person as determined in RCW 71.05.180, or at a time determined under RCW 71.05.148. If requested by the person or his or her attorney, the hearing may be postponed for a period not to exceed forty-eight hours. The hearing may also be continued subject to the conditions set forth in RCW 71.05.210 or subject to the petitioner's showing of good cause for a period not to exceed twenty-four hours.

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

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

(b) Commitment for up to fourteen days based on a substance use disorder must be to either a secure withdrawal management and stabilization facility or an approved substance use disorder treatment program. A court may only enter a commitment order based on a substance use disorder if there is an available secure withdrawal management and stabilization facility or approved substance use disorder treatment program with adequate space for the person.

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

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

(4) An order for less restrictive alternative treatment must name the mental health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the mental health service provider.

(5) The court shall specifically state to such person and give such person notice in writing that if involuntary treatment beyond the fourteen day period or beyond the ninety days of less restrictive treatment is to be sought, such person will have the right to a full hearing or jury trial as required by RCW 71.05.310. If the commitment is for mental health treatment, the court shall also state to the person and provide written notice that the person is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047. [2019 c 446 § 11. Prior: 2018 c 291 § 7; 2018 c 201 § 3009; prior: 2016 sp.s. c 29 § 232; 2016 c 45 § 2; 2015 c 250 § 7; 2009 c 293 § 4; 1997 c 112 § 19; 1992 c 168 § 3; 1987 c 439 § 5; 1979 ex.s. c 215 § 13; 1974 ex.s. c 145 § 16; 1973 1st ex.s. c 142 § 29.]

Expiration date—2019 c 446 §§ 4, 6, 8, 11, 14, 30, 32, 34, 37, 39, and 41: See note following RCW 71.05.150.

Effective date—2018 c 291 §§ 1-4, 6, 7, 9, 11, 12, 13, and 15: See note following RCW 71.05.020.

Expiration date—2018 c 291 §§ 4, 7, and 9: See note following RCW 71.05.150.

Expiration date—2018 c 201 §§ 3009, 3012, 3026, 5017, and 5020: "Sections 3009, 3012, 3026, 5017, and 5020 of this act expire July 1, 2026." [2018 c 201 § 11004.]

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

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

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

Additional notes found at www.leg.wa.gov

71.05.240 Petition for fourteen day involuntary treatment or ninety days of less restrictive alternative treatment—Probable cause hearing. ***(Effective July 1, 2026.)*** (1) If a petition is filed for fourteen day involuntary treatment or ninety days of less restrictive alternative treatment, the court shall hold a probable cause hearing within seventy-two hours of the initial detention of such person as determined in RCW 71.05.180, or at a time determined under RCW 71.05.148. If requested by the person or his or her attorney, the hearing may be postponed for a period not to exceed forty-eight hours. The hearing may also be continued subject to the conditions set forth in RCW 71.05.210 or subject to the petitioner's showing of good cause for a period not to exceed twenty-four hours.

(2) If the petition is for mental health treatment, the court at the time of the probable cause hearing and before an order of commitment is entered shall inform the person both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.05.230 will result in the loss of his or her firearm rights if the person is

subsequently detained for involuntary treatment under this section.

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

(b) Commitment for up to fourteen days based on a substance use disorder must be to either a secure withdrawal management and stabilization facility or an approved substance use disorder treatment program.

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

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

(4) An order for less restrictive alternative treatment must name the mental health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the mental health service provider.

(5) The court shall specifically state to such person and give such person notice in writing that if involuntary treatment beyond the fourteen day period or beyond the ninety days of less restrictive treatment is to be sought, such person will have the right to a full hearing or jury trial as required by RCW 71.05.310. If the commitment is for mental health treatment, the court shall also state to the person and provide written notice that the person is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047. [2019 c 446 § 12. Prior: 2018 c 291 § 8; 2018 c 201 § 3010; 2016 sp.s. c 29 § 233; 2016 sp.s. c 29 § 232; 2016 c 45 § 2; 2015 c 250 § 7; 2009 c 293 § 4; 1997 c 112 § 19; 1992 c 168 § 3; 1987 c 439 § 5; 1979 ex.s. c 215 § 13; 1974 ex.s. c 145 § 16; 1973 1st ex.s. c 142 § 29.]

Effective date—2019 c 446 §§ 5, 7, 9, 12, 15, 31, 33, 35, 38, 40, and 42: See note following RCW 71.05.150.

Effective date—2018 c 291 §§ 5, 8, and 10: See note following RCW 71.05.150.

Effective date—2018 c 201 §§ 3010, 3013, 3027, 5018, and 5021: "Sections 3010, 3013, 3027, 5018, and 5021 of this act take effect July 1, 2026." [2018 c 201 § 11005.]

Findings—Intent—2018 c 201: See note following RCW 41.05.018.

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

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

Additional notes found at www.leg.wa.gov

71.05.245 Determination of grave disability, likelihood of serious harm, or need of assisted outpatient treatment—Use of recent history evidence. (1) In making a determination of whether a person is gravely disabled, presents a likelihood of serious harm, or is in need of assisted outpatient behavioral health treatment in a hearing conducted under RCW 71.05.240 or 71.05.320, the court must consider the symptoms and behavior of the respondent in light of all available evidence concerning the respondent's historical behavior.

(2) Symptoms or behavior which standing alone would not justify civil commitment may support a finding of grave disability or likelihood of serious harm, or a finding that the person is in need of assisted outpatient behavioral health treatment, when: (a) Such symptoms or behavior are closely associated with symptoms or behavior which preceded and led to a past incident of involuntary hospitalization, severe deterioration, or one or more violent acts; (b) these symptoms or behavior represent a marked and concerning change in the baseline behavior of the respondent; and (c) without treatment, the continued deterioration of the respondent is probable.

(3) In making a determination of whether there is a likelihood of serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320, the court shall give great weight to any evidence before the court regarding whether the person has: (a) A recent history of one or more violent acts; or (b) a recent history of one or more commitments under this chapter or its equivalent provisions under the laws of another state which were based on a likelihood of serious harm. The existence of prior violent acts or commitments under this chapter or its equivalent shall not be the sole basis for determining whether a person presents a likelihood of serious harm.

For the purposes of this subsection "recent" refers to the period of time not exceeding three years prior to the current hearing. [2018 c 291 § 14; 2015 c 250 § 8; 2010 c 280 § 3; 1999 c 13 § 6; 1998 c 297 § 14.]

Effective date—2013 c 335; 2011 2nd sp.s. c 6; 2010 c 280 §§ 2 and 3: See note following RCW 71.05.212.

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

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

71.05.260 Release from involuntary intensive treatment—Exception. (1) Involuntary intensive treatment ordered at the time of the probable cause hearing shall be for no more than fourteen days, and shall terminate sooner when, in the opinion of the professional person in charge of the facility or his or her professional designee, (a) the person no longer constitutes a likelihood of serious harm, or (b) no longer is gravely disabled, or (c) is prepared to accept voluntary treatment upon referral, or (d) is to remain in the facility providing intensive treatment on a voluntary basis.

(2) A person who has been detained for fourteen days of intensive treatment shall be released at the end of the fourteen

days unless one of the following applies: (a) Such person agrees to receive further treatment on a voluntary basis; or (b) such person is a patient to whom RCW 71.05.280 is applicable. [1997 c 112 § 20; 1987 c 439 § 7; 1974 ex.s. c 145 § 18; 1973 1st ex.s. c 142 § 31.]

71.05.270 Temporary release. Nothing in this chapter shall prohibit the professional person in charge of a treatment facility, or his or her professional designee, from permitting a person detained for intensive treatment to leave the facility for prescribed periods during the term of the person's detention, under such conditions as may be appropriate. [1997 c 112 § 21; 1973 1st ex.s. c 142 § 32.]

71.05.280 Additional commitment—Grounds. At the expiration of the fourteen-day period of intensive treatment, a person may be committed for further treatment pursuant to RCW 71.05.320 if:

(1) Such person after having been taken into custody for evaluation and treatment has threatened, attempted, or inflicted: (a) Physical harm upon the person of another or himself or herself, or substantial damage upon the property of another, and (b) as a result of mental disorder or substance use disorder presents a likelihood of serious harm; or

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

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

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

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

(4) Such person is gravely disabled; or

(5) Such person is in need of assisted outpatient behavioral health treatment. [2018 c 291 § 15; 2016 sp.s. c 29 § 234; 2015 c 250 § 9; 2013 c 289 § 4; 2008 c 213 § 6; 1998 c 297 § 15; 1997 c 112 § 22; 1986 c 67 § 3; 1979 ex.s. c 215 § 14; 1974 ex.s. c 145 § 19; 1973 1st ex.s. c 142 § 33.]

Effective date—2018 c 291 §§ 1-4, 6, 7, 9, 11, 12, 13, and 15: See note following RCW 71.05.020.

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

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

Findings—2013 c 289: See note following RCW 10.77.086.

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

71.05.285 Additional confinement—Prior history evidence. In determining whether an inpatient or less restrictive alternative commitment under the process provided in RCW 71.05.280 and 71.05.320(4) is appropriate, great weight shall be given to evidence of a prior history or pattern of decompensation and discontinuation of treatment resulting in: (1) Repeated hospitalizations; or (2) repeated peace officer interventions resulting in juvenile offenses, criminal charges, diversion programs, or jail admissions. Such evidence may be used to provide a factual basis for concluding that the individual would not receive, if released, such care as is essential for his or her health or safety. [2018 c 201 § 3011; 2001 c 12 § 1; 1997 c 112 § 23.]

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

71.05.290 Petition for additional commitment—Affidavit. (1) At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his or her professional designee or the designated crisis responder may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2)(a)(i) The petition shall summarize the facts which support the need for further commitment and shall be supported by affidavits based on an examination of the patient and signed by:

(A) One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(B) One physician, physician assistant, psychiatric advanced registered nurse practitioner, or mental health professional.

(ii) If the petition is for substance use disorder treatment, the petition may be signed by a *chemical dependency professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner.

(b) The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter. If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.086(4), then the professional person in charge of the treatment facility or his or her professional designee or the designated crisis responder may directly file a petition for one hundred eighty day treatment under RCW 71.05.280(3). No petition for initial detention or fourteen day detention is required before such a petition may be filed. [2017 3rd sp.s. c 14 § 18. Prior: 2016 sp.s. c 29 § 235; 2016 c 155 § 6; 2016 c 45 § 3; 2015 c 250 § 10; 2009 c 217 § 3; 2008 c 213 § 7; 1998 c 297 § 16; 1997 c 112 § 24; 1986 c 67 § 4; 1975 1st ex.s. c 199 § 6; 1974 ex.s. c 145 § 20; 1973 1st ex.s. c 142 § 34.]

***Reviser's note:** RCW 71.05.020 was amended by 2019 c 444 § 16, deleting the definition of "chemical dependency professional."

Effective date—2017 3rd sp.s. c 14 §§ 9, 12, 14, 15, and 17-21: See note following RCW 71.05.590.

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

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

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

71.05.300 Filing of petition—Appearance—Notice—Advice as to rights—Appointment of attorney, expert, or professional person. ***(Effective until January 1, 2020.)*** (1) The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of intensive treatment. At the time of filing such petition, the clerk shall set a time for the person to come before the court on the next judicial day after the day of filing unless such appearance is waived by the person's attorney, and the clerk shall notify the designated crisis responder. The designated crisis responder shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, the prosecuting attorney, and the behavioral health organization administrator, and provide a copy of the petition to such persons as soon as possible. The behavioral health organization administrator or designee may review the petition and may appear and testify at the full hearing on the petition.

(2) At the time set for appearance the detained person shall be brought before the court, unless such appearance has been waived and the court shall advise him or her of his or her right to be represented by an attorney, his or her right to a jury trial, and, if the petition is for commitment for mental health treatment, his or her loss of firearm rights if involuntarily committed. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, physician assistant, psychiatric advanced registered nurse practitioner, psychologist, psychiatrist, or other professional person, designated by the detained person to examine and testify on behalf of the detained person.

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

(4) The court shall also set a date for a full hearing on the petition as provided in RCW 71.05.310. [2017 3rd sp.s. c 14 § 19. Prior: 2016 sp.s. c 29 § 236; 2016 c 155 § 7; 2014 c 225 § 84; prior: 2009 c 293 § 5; 2009 c 217 § 4; 2008 c 213 § 8; 2006 c 333 § 303; 1998 c 297 § 17; 1997 c 112 § 25; 1989 c 420 § 14; 1987 c 439 § 8; 1975 1st ex.s. c 199 § 7; 1974 ex.s. c 145 § 21; 1973 1st ex.s. c 142 § 35.]

Effective date—2017 3rd sp.s. c 14 §§ 9, 12, 14, 15, and 17-21: See note following RCW 71.05.590.

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

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

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

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

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

71.05.300 Filing of petition—Appearance—Notice—Advice as to rights—Appointment of attorney, expert, or professional person. ***(Effective January 1, 2020.)*** (1) The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of intensive treatment. At the time of filing such petition, the clerk shall set a time for the person to come before the court on the next judicial day after the day of filing unless such appearance is waived by the person's attorney, and the clerk shall notify the designated crisis responder. The designated crisis responder shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, the prosecuting attorney, and the behavioral health administrative services organization administrator, and provide a copy of the petition to such persons as soon as possible. The behavioral health administrative services organization administrator or designee may review the petition and may appear and testify at the full hearing on the petition.

(2) At the time set for appearance the detained person shall be brought before the court, unless such appearance has been waived and the court shall advise him or her of his or her right to be represented by an attorney, his or her right to a jury trial, and, if the petition is for commitment for mental health treatment, his or her loss of firearm rights if involuntarily committed. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, physician assistant, psychiatric advanced registered nurse practitioner, psychologist, psychiatrist, or other professional person, designated by the detained person to examine and testify on behalf of the detained person.

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

(4) The court shall also set a date for a full hearing on the petition as provided in RCW 71.05.310. [2019 c 325 § 3007; 2017 3rd sp.s. c 14 § 19. Prior: 2016 sp.s. c 29 § 236; 2016 c 155 § 7; 2014 c 225 § 84; prior: 2009 c 293 § 5; 2009 c 217 § 4; 2008 c 213 § 8; 2006 c 333 § 303; 1998 c 297 § 17; 1997 c 112 § 25; 1989 c 420 § 14; 1987 c 439 § 8; 1975 1st ex.s. c 199 § 7; 1974 ex.s. c 145 § 21; 1973 1st ex.s. c 142 § 35.]

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

Effective date—2017 3rd sp.s. c 14 §§ 9, 12, 14, 15, and 17-21: See note following RCW 71.05.590.

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

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

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

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

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

71.05.310 Time for hearing—Due process—Jury trial—Continuation of treatment. The court shall conduct a hearing on the petition for ninety-day treatment within five judicial days of the first court appearance after the probable cause hearing, or within ten judicial days for a petition filed under RCW 71.05.280(3). The court may continue the hearing for good cause upon the written request of the person named in the petition or the person's attorney. The court may continue for good cause the hearing on a petition filed under RCW 71.05.280(3) upon written request by the person named in the petition, the person's attorney, or the petitioner. If the person named in the petition requests a jury trial, the trial shall commence within ten judicial days of the first court appearance after the probable cause hearing. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The person shall be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence pursuant to RCW 71.05.360 (8) and (9).

During the proceeding, the person named in the petition shall continue to be treated until released by order of the superior court. If no order has been made within thirty days after the filing of the petition, not including extensions of time requested by the detained person or his or her attorney, or the petitioner in the case of a petition filed under RCW 71.05.280(3), the detained person shall be released. [2012 c 256 § 8; 2005 c 504 § 709; 1987 c 439 § 9; 1975 1st ex.s. c 199 § 8; 1974 ex.s. c 145 § 22; 1973 1st ex.s. c 142 § 36.]

Purpose—Effective date—2012 c 256: See notes following RCW 10.77.068.

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

Additional notes found at www.leg.wa.gov

71.05.320 Remand for additional treatment—Less restrictive alternatives—Duration—Grounds—Hearing. ***(Effective until July 1, 2026.)*** (1)(a) Subject to (b) of this subsection, if the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment.

(b) If the order for inpatient treatment is based on a substance use disorder, treatment must take place at an approved substance use disorder treatment program. The court may only enter an order for commitment based on a substance use disorder if there is an available approved substance use disorder treatment program with adequate space for the person.

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

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

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

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

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

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

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

(ii) In cases under this subsection where the court has made an affirmative special finding under RCW 71.05.280(3)(b), the commitment shall continue for up to an additional one hundred eighty day period whenever the petition presents prima facie evidence that the person continues to suffer from a mental disorder or developmental disability that results in a substantial likelihood of committing acts sim-

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

(d) Continues to be gravely disabled; or

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

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

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

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

(6)(a) The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this section are present, subject to subsection (1)(b) of this section, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment, except as provided in subsection (7) of this section. If the court's order is based solely on the grounds identified in subsection (4)(e) of this section, the court may enter an order for less restrictive alternative treatment not to exceed one hundred eighty days from the date of judgment, and may not enter an order for inpatient treatment. An order for less restrictive alternative treatment must name the mental health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the mental health service provider.

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

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

(8) No person committed as provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length except as provided in subsection (7) of this section. [2018 c 201 § 3012. Prior: 2016 sp.s. c 29 § 237; 2016 c 45 § 4; 2015 c 250 § 11; 2013 c 289 § 5; 2009 c 323 § 2; 2008 c 213 § 9; 2006 c 333 § 304; 1999 c 13 § 7; 1997 c 112 § 26; 1989 c 420 § 15; 1986 c 67 § 5; 1979 ex.s. c 215 § 15; 1975 1st ex.s. c 199 § 9; 1974 ex.s. c 145 § 23; 1973 1st ex.s. c 142 § 37.]

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

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

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

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

Findings—2013 c 289: See note following RCW 10.77.086.

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

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

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

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

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

71.05.320 Remand for additional treatment—Less restrictive alternatives—Duration—Grounds—Hearing. ***(Effective July 1, 2026.)*** (1) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment.

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

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment. If the order for less restrictive treatment is based on a substance use disorder, treatment must be provided by an approved substance use disorder treatment program. If the grounds set forth in RCW 71.05.280(3) are the basis of com-

mitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment. If the court or jury finds that the grounds set forth in RCW 71.05.280(5) have been proven, and provide the only basis for commitment, the court must enter an order for less restrictive alternative treatment for up to ninety days from the date of judgment and may not order inpatient treatment.

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

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

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

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

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

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

(d) Continues to be gravely disabled; or

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

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

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

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

(6)(a) The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this section are present, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment, except as provided in subsection (7) of this section. If the court's order is based solely on the grounds identified in subsection (4)(e) of this section, the court may enter an order for less restrictive alternative treatment not to exceed one hundred eighty days from the date of judgment, and may not enter an order for inpatient treatment. An order for less restrictive alternative treatment must name the mental health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the mental health service provider.

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

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

(8) No person committed as provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length except as provided in subsection (7) of this section. [2018 c 201 § 3013; 2016 sp.s. c 29 § 238; 2016 sp.s. c 29 § 237; 2016 c 45 § 4; 2015 c 250 § 11; 2013 c 289 § 5; 2009 c 323 § 2; 2008 c 213 § 9; 2006 c 333 § 304; 1999 c 13 § 7; 1997 c 112 § 26; 1989 c 420 § 15; 1986 c 67 § 5; 1979 ex.s. c 215 § 15; 1975 1st ex.s. c 199 § 9; 1974 ex.s. c 145 § 23; 1973 1st ex.s. c 142 § 37.]

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

Findings—Intent—2018 c 201: See note following RCW 41.05.018.

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

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

Findings—2013 c 289: See note following RCW 10.77.086.

Findings—Intent—2015 c 250; 2009 c 323: "(1) The legislature finds that many persons who are released from involuntary mental health treatment in an inpatient setting would benefit from an order for less restrictive

treatment in order to provide the structure and support necessary to facilitate long-term stability and success in the community.

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

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

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

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

71.05.325 Release—Authorized leave—Notice to prosecuting attorney. (1) Before a person committed under grounds set forth in RCW 71.05.280(3) is released because a new petition for involuntary treatment has not been filed under RCW 71.05.320(4), the superintendent, professional person, or designated crisis responder responsible for the decision whether to file a new petition shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision not to file a new petition for involuntary treatment. Notice shall be provided at least forty-five days before the period of commitment expires.

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

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

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

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

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

(6) The notice provisions of this section are in addition to those provided in RCW 71.05.425. [2018 c 201 § 3014; 2016 sp.s. c 29 § 239; 2000 c 94 § 7; 1994 c 129 § 8; 1990 c 3 § 111; 1989 c 401 § 1; 1986 c 67 § 2.]

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

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

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

Findings—Intent—1994 c 129: See note following RCW 4.24.550.

Additional notes found at www.leg.wa.gov

71.05.330 Early release—Notice to court and prosecuting attorney—Petition for hearing. (1) Nothing in this chapter shall prohibit the superintendent or professional person in charge of the hospital or facility in which the person is being involuntarily treated from releasing him or her prior to the expiration of the commitment period when, in the opinion of the superintendent or professional person in charge, the person being involuntarily treated no longer presents a likelihood of serious harm.

Whenever the superintendent or professional person in charge of a hospital or facility providing involuntary treatment pursuant to this chapter releases a person prior to the expiration of the period of commitment, the superintendent or professional person in charge shall in writing notify the court which committed the person for treatment.

(2) Before a person committed under grounds set forth in RCW 71.05.280(3) or 71.05.320(4)(c) is released under this section, the superintendent or professional person in charge shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the release date. Notice shall be provided at least thirty days before the release date. Within twenty days after receiving notice, the prosecuting attorney may petition the court in the county in which the person is being involuntarily treated for a hearing to determine whether the person is to be released. The prosecuting attorney shall provide a copy of the petition to the superintendent or professional person in charge of the hospital or facility providing involuntary treatment, the attorney, if any, and the guardian or conservator of the committed person. The court shall conduct a hearing on the petition within ten days of filing the petition. The committed person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as set forth in this subsection and except that there shall be no right to jury trial. The issue to be determined at the hearing is whether or not the person may be released without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security. If the court disapproves of the release, it may do so only on the basis of substantial evidence. Pursuant to the determination of the court upon the hearing, the committed person shall be released or shall be returned for involuntary treatment subject to release at the end of the period for which he or she was committed, or otherwise in accordance with the provisions of this chapter. [2018 c 201 § 3015; 1998 c 297 § 20; 1997 c 112 § 27; 1986 c 67 § 1; 1973 1st ex.s. c 142 § 38.]

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

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

71.05.335 Modification of order for inpatient treatment—Intervention by prosecuting attorney. In any proceeding under this chapter to modify a commitment order of a person committed to inpatient treatment under grounds set forth in RCW 71.05.280(3) or 71.05.320(4)(c) in which the requested relief includes treatment less restrictive than detention, the prosecuting attorney shall be entitled to intervene. The party initiating the motion to modify the commitment order shall serve the prosecuting attorney of the county in

which the criminal charges against the committed person were dismissed with written notice and copies of the initiating papers. [2018 c 201 § 3016; 1986 c 67 § 7.]

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

71.05.340 Outpatient treatment or care—Conditional release. (1)(a) When, in the opinion of the superintendent or the professional person in charge of the hospital or facility providing involuntary treatment, the committed person can be appropriately served by outpatient treatment prior to or at the expiration of the period of commitment, then such outpatient care may be required as a term of conditional release for a period which, when added to the inpatient treatment period, shall not exceed the period of commitment. If the facility or agency designated to provide outpatient treatment is other than the facility providing involuntary treatment, the outpatient facility so designated must agree in writing to assume such responsibility. A copy of the terms of conditional release shall be given to the patient, the designated crisis responder in the county in which the patient is to receive outpatient treatment, and to the court of original commitment.

(b) Before a person committed under grounds set forth in RCW 71.05.280(3) or 71.05.320(4)(c) is conditionally released under (a) of this subsection, the superintendent or professional person in charge of the hospital or facility providing involuntary treatment shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision to conditionally release the person. Notice and a copy of the terms of conditional release shall be provided at least thirty days before the person is released from inpatient care. Within twenty days after receiving notice, the prosecuting attorney may petition the court in the county that issued the commitment order to hold a hearing to determine whether the person may be conditionally released and the terms of the conditional release. The prosecuting attorney shall provide a copy of the petition to the superintendent or professional person in charge of the hospital or facility providing involuntary treatment, the attorney, if any, and guardian or conservator of the committed person, and the court of original commitment. If the county in which the committed person is to receive outpatient treatment is the same county in which the criminal charges against the committed person were dismissed, then the court shall, upon the motion of the prosecuting attorney, transfer the proceeding to the court in that county. The court shall conduct a hearing on the petition within ten days of the filing of the petition. The committed person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as set forth in this subsection and except that there shall be no right to jury trial. The issue to be determined at the hearing is whether or not the person may be conditionally released without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security. If the court disapproves of the conditional release, it may do so only on the basis of substantial evidence. Pursuant to the determination of the court upon the hearing, the conditional release of the person shall be approved by the court on the same or modified conditions or the person shall be returned for involuntary treatment on an inpatient basis subject to release at the end of the period for which he or she was committed, or otherwise in accordance with the provisions of this chapter.

(2) The facility or agency designated to provide outpatient care or the secretary of the department of social and health services may modify the conditions for continued release when such modification is in the best interest of the person. Notification of such changes shall be sent to all persons receiving a copy of the original conditions. Enforcement or revocation proceedings related to a conditional release order may occur as provided under RCW 71.05.590. [2018 c 201 § 3017; 2016 sp.s. c 29 § 240; 2015 c 250 § 12; 2009 c 322 § 1; 2000 c 94 § 8; 1998 c 297 § 21; 1997 c 112 § 28; 1987 c 439 § 10; 1986 c 67 § 6; 1979 ex.s. c 215 § 16; 1974 ex.s. c 145 § 24; 1973 1st ex.s. c 142 § 39.]

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

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

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

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

71.05.350 Assistance to released persons. No indigent patient shall be conditionally released or discharged from involuntary treatment without suitable clothing, and the superintendent of a state hospital shall furnish the same, together with such sum of money as he or she deems necessary for the immediate welfare of the patient. Such sum of money shall be the same as the amount required by RCW 72.02.100 to be provided to persons in need being released from correctional institutions. As funds are available, the secretary of the department of social and health services may provide payment to indigent persons conditionally released pursuant to this chapter consistent with the optional provisions of RCW 72.02.100 and 72.02.110, and may adopt rules and regulations to do so. [2018 c 201 § 3018; 1997 c 112 § 29; 1973 1st ex.s. c 142 § 40.]

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

71.05.360 Rights of involuntarily detained persons. (1)(a) Every person involuntarily detained or committed under the provisions of this chapter shall be entitled to all the rights set forth in this chapter, which shall be prominently posted in the facility, and shall retain all rights not denied him or her under this chapter except as chapter 9.41 RCW may limit the right of a person to purchase or possess a firearm or to qualify for a concealed pistol license if the person is committed under RCW 71.05.240 or 71.05.320 for mental health treatment.

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

(c) Any person who leaves a public or private agency following evaluation or treatment for a mental disorder or

substance use disorder shall be given a written statement setting forth the substance of this section.

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

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

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

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

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

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

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

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

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

(6) When proceedings are initiated under RCW 71.05.153, no later than twelve hours after such person is admitted to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program the personnel of the facility or the designated crisis responder shall serve on such person a copy of the petition for initial detention and the name, business address, and phone number of the designated attorney and shall forthwith commence service of a copy of the petition for initial detention on the designated attorney.

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

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

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

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

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

(d) To remain silent;

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

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

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

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

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

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

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

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

(d) To have visitors at reasonable times;

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

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

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

(h) Not to consent to the administration of antipsychotic medications and not to thereafter be administered antipsychotic medications unless ordered by a court under RCW

71.05.217 or pursuant to an administrative hearing under RCW 71.05.215;

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

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

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

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

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

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

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

(15) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or an active condition of supervision by the department of corrections. [2019 c 446 § 13; 2017 3rd sp.s. c 14 § 20. Prior: 2016 sp.s. c 29 § 244; 2016 c 155 § 8; 2009 c 217 § 5; 2007 c 375 § 14; 2005 c 504 § 107; 1997 c 112 § 30; 1974 ex.s. c 145 § 25; 1973 1st ex.s. c 142 § 41.]

***Reviser's note:** Chapter 11.88 RCW was repealed by 2019 c 437 § 801, effective January 1, 2021.

Effective date—2017 3rd sp.s. c 14 §§ 9, 12, 14, 15, and 17-21: See note following RCW 71.05.590.

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

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

Findings—Purpose—Construction—Severability—2007 c 375: See notes following RCW 10.31.110.

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

Additional notes found at www.leg.wa.gov

71.05.365 Involuntary commitment—Individualized discharge plan. ***(Effective until January 1, 2020.)*** When a person has been involuntarily committed for treatment to a hospital for a period of ninety or one hundred eighty days, and the superintendent or professional person in charge of the hospital determines that the person no longer requires active psychiatric treatment at an inpatient level of care, the behavioral health organization, full integration entity under RCW 71.24.380, or agency providing oversight of long-term care or developmental disability services that is responsible for resource management services for the person must work with the hospital to develop an individualized discharge plan and arrange for a transition to the community in accordance with the person's individualized discharge plan within fourteen days of the determination. [2016 sp.s. c 37 § 15; 2014 c 225 § 85; 2013 c 338 § 4.]

Effective date—2016 sp.s. c 37 § 15: "Section 15 of this act takes effect July 1, 2018." [2016 sp.s. c 37 § 16.]

Effective date—2014 c 225 § 85: "Section 85 of this act takes effect July 1, 2018." [2014 c 225 § 113.]

Effective date—2013 c 338 § 4: "Section 4 of this act takes effect July 1, 2018." [2013 c 338 § 8.]

71.05.365 Involuntary commitment—Individualized discharge plan. ***(Effective January 1, 2020.)*** When a person has been involuntarily committed for treatment to a hospital for a period of ninety or one hundred eighty days, and the superintendent or professional person in charge of the hospital determines that the person no longer requires active psychiatric treatment at an inpatient level of care, the behavioral health administrative services organization, managed care organization, or agency providing oversight of long-term care or developmental disability services that is responsible for resource management services for the person must work with the hospital to develop an individualized discharge plan and arrange for a transition to the community in accordance with the person's individualized discharge plan within fourteen days of the determination. [2019 c 325 § 3008; 2016 sp.s. c 37 § 15; 2014 c 225 § 85; 2013 c 338 § 4.]

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

Effective date—2016 sp.s. c 37 § 15: "Section 15 of this act takes effect July 1, 2018." [2016 sp.s. c 37 § 16.]

Effective date—2014 c 225 § 85: "Section 85 of this act takes effect July 1, 2018." [2014 c 225 § 113.]

Effective date—2013 c 338 § 4: "Section 4 of this act takes effect July 1, 2018." [2013 c 338 § 8.]

71.05.380 Rights of voluntarily committed persons. All persons voluntarily entering or remaining in any facility, institution, or hospital providing evaluation and treatment for mental disorders or substance use disorders shall have no less than all rights secured to involuntarily detained persons by RCW 71.05.360 and 71.05.217. [2016 sp.s. c 29 § 245; 1973 1st ex.s. c 142 § 43.]

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

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

71.05.425 Persons committed following dismissal of sex, violent, or felony harassment offense—Notification of conditional release, final release, leave, transfer, or escape—To whom given—Definitions. (1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before conditional release, final release, authorized leave under RCW 71.05.325(2), or transfer to a facility other than a state mental hospital, the superintendent shall send written notice of conditional release, release, authorized leave, or transfer of a person committed under RCW 71.05.280(3) or 71.05.320(4)(c)

following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4) to the following:

(i) The chief of police of the city, if any, in which the person will reside;

(ii) The sheriff of the county in which the person will reside; and

(iii) The prosecuting attorney of the county in which the criminal charges against the committed person were dismissed.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under RCW 71.05.280(3) or 71.05.320(4)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4):

(i) The victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(4)(c) or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings;

(iii) Any person specified in writing by the prosecuting attorney. Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter; and

(iv) The chief of police of the city, if any, and the sheriff of the county, if any, which had jurisdiction of the person on the date of the applicable offense.

(c) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical transfers.

(d) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2) If a person committed under RCW 71.05.280(3) or 71.05.320(4)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4) escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person escaped and in which the person resided immediately before the person's arrest and the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed. If previously requested, the superintendent shall also notify the witnesses and the victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(4) or the victim's next of kin if the crime was a homicide. In addition, the secretary shall also notify appropriate parties pursuant to RCW 70.02.230(2)(n). If the person is recaptured, the superintendent shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department of social and health services learns of such recapture.

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parent or legal guardian of the child.

(4) The superintendent shall send the notices required by this chapter to the last address provided to the department of social and health services by the requesting party. The requesting party shall furnish the department of social and health services with a current address.

(5) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Next of kin" means a person's spouse, state registered domestic partner, parents, siblings, and children;

(d) "Felony harassment offense" means a crime of harassment as defined in RCW 9A.46.060 that is a felony. [2018 c 201 § 3019. Prior: 2013 c 289 § 6; 2013 c 200 § 30; 2011 c 305 § 5; 2009 c 521 § 158; 2008 c 213 § 10; 2005 c 504 § 710; 2000 c 94 § 10; 1999 c 13 § 8; 1994 c 129 § 9; 1992 c 186 § 9; 1990 c 3 § 109.]

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

Findings—2013 c 289: See note following RCW 10.77.086.

Effective date—2013 c 200: See note following RCW 70.02.010.

Findings—2011 c 305: See note following RCW 74.09.295.

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

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

Findings—Intent—1994 c 129: See note following RCW 4.24.550.

Additional notes found at www.leg.wa.gov

71.05.435 Discharge of person from treatment entity—Notice to designated crisis responder office. (1) Whenever a person who is the subject of an involuntary commitment order under this chapter is discharged from an evaluation and treatment facility, state hospital, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program providing involuntary treatment services, the entity discharging the person shall provide notice of the person's discharge to the designated crisis responder office responsible for the initial commitment and the designated crisis responder office that serves the county in which the person is expected to reside. The entity discharging the person must also provide these offices with a copy of any less restrictive order or conditional release order entered in conjunction with the discharge of the person, unless the entity discharging the person has entered into a memorandum of understanding obligating another entity to provide these documents.

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

(3) The authority shall maintain and make available an updated list of contact information for designated crisis responder offices around the state. [2019 c 446 § 26; 2018 c 201 § 3020; 2016 sp.s. c 29 § 246; 2010 c 280 § 4.]

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

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

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

71.05.445 Court-ordered mental health treatment of persons subject to department of corrections supervision—Initial assessment inquiry—Required notifications—Rules. ***(Effective until January 1, 2020.)*** (1)(a) When a mental health service provider conducts its initial assessment for a person receiving court-ordered treatment, the service provider shall inquire and shall be told by the offender whether he or she is subject to supervision by the department of corrections.

(b) When a person receiving court-ordered treatment or treatment ordered by the department of corrections discloses to his or her mental health service provider that he or she is subject to supervision by the department of corrections, the mental health service provider shall notify the department of corrections that he or she is treating the offender and shall notify the offender that his or her community corrections officer will be notified of the treatment, provided that if the offender has received relief from disclosure pursuant to RCW 9.94A.562 or 71.05.132 and the offender has provided the mental health service provider with a copy of the order granting relief from disclosure pursuant to RCW 9.94A.562 or 71.05.132, the mental health service provider is not required to notify the department of corrections that the mental health service provider is treating the offender. The notification may be written or oral and shall not require the consent of the offender. If an oral notification is made, it must be confirmed by a written notification. For purposes of this section, a written notification includes notification by email or facsimile, so long as the notifying mental health service provider is clearly identified.

(2) The information to be released to the department of corrections shall include all relevant records and reports, as defined by rule, necessary for the department of corrections to carry out its duties.

(3) The authority and the department of corrections, in consultation with behavioral health organizations, mental health service providers as defined in RCW 71.05.020, mental health consumers, and advocates for persons with mental illness, shall adopt rules to implement the provisions of this section related to the type and scope of information to be released. These rules shall:

(a) Enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A or 9.95 RCW, including accessing and releasing or disclosing information of persons who received mental health services as a minor; and

(b) Establish requirements for the notification of persons under the supervision of the department of corrections regarding the provisions of this section.

(4) The information received by the department of corrections under this section shall remain confidential and subject to the limitations on disclosure outlined in this chapter, except as provided in RCW 72.09.585.

(5) No mental health service provider or individual employed by a mental health service provider shall be held responsible for information released to or used by the department of corrections under the provisions of this section or rules adopted under this section.

(6) Whenever federal law or federal regulations restrict the release of information and records related to mental health services for any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(7) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under chapter 70.24 RCW.

(8) The authority shall, subject to available resources, electronically, or by the most cost-effective means available, provide the department of corrections with the names, last dates of services, and addresses of specific behavioral health organizations and mental health service providers that delivered mental health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the authority and the department of corrections. [2018 c 201 § 3021. Prior: 2014 c 225 § 86; 2014 c 220 § 14; 2013 c 200 § 31; 2009 c 320 § 4; 2005 c 504 § 711; 2004 c 166 § 4; 2002 c 39 § 2; 2000 c 75 § 3.]

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

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

Effective date—2014 c 220: See note following RCW 70.02.290.

Effective date—2013 c 200: See note following RCW 70.02.010.

Conflict with federal requirements—2009 c 320: See note following RCW 71.05.020.

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

Intent—2000 c 75: "It is the intent of the legislature to enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A RCW by authorizing access to, and release or disclosure of, necessary information related to mental health services. This includes accessing and releasing or disclosing information of persons who received mental health services as a minor. The legislature does not intend this act to readdress access to information and records regarding continuity of care.

The legislature recognizes that persons with mental illness have a right to the confidentiality of information related to mental health services, including the fact of their receiving such services, unless there is a state interest that supersedes this right. It is the intent of the legislature to balance that right of the individual with the state interest to enhance public safety." [2000 c 75 § 1.]

Additional notes found at www.leg.wa.gov

71.05.445 Court-ordered mental health treatment of persons subject to department of corrections supervision—Initial assessment inquiry—Required notifications—Rules. ***(Effective January 1, 2020.)*** (1)(a) When a mental health service provider conducts its initial assessment for a person receiving court-ordered treatment, the service provider shall inquire and shall be told by the offender whether he or she is subject to supervision by the department of corrections.

(b) When a person receiving court-ordered treatment or treatment ordered by the department of corrections discloses to his or her mental health service provider that he or she is

subject to supervision by the department of corrections, the mental health service provider shall notify the department of corrections that he or she is treating the offender and shall notify the offender that his or her community corrections officer will be notified of the treatment, provided that if the offender has received relief from disclosure pursuant to RCW 9.94A.562 or 71.05.132 and the offender has provided the mental health service provider with a copy of the order granting relief from disclosure pursuant to RCW 9.94A.562 or 71.05.132, the mental health service provider is not required to notify the department of corrections that the mental health service provider is treating the offender. The notification may be written or oral and shall not require the consent of the offender. If an oral notification is made, it must be confirmed by a written notification. For purposes of this section, a written notification includes notification by email or facsimile, so long as the notifying mental health service provider is clearly identified.

(2) The information to be released to the department of corrections shall include all relevant records and reports, as defined by rule, necessary for the department of corrections to carry out its duties.

(3) The authority and the department of corrections, in consultation with behavioral health administrative services organizations, managed care organizations, mental health service providers as defined in RCW 71.05.020, mental health consumers, and advocates for persons with mental illness, shall adopt rules to implement the provisions of this section related to the type and scope of information to be released. These rules shall:

(a) Enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A or 9.95 RCW, including accessing and releasing or disclosing information of persons who received mental health services as a minor; and

(b) Establish requirements for the notification of persons under the supervision of the department of corrections regarding the provisions of this section.

(4) The information received by the department of corrections under this section shall remain confidential and subject to the limitations on disclosure outlined in this chapter, except as provided in RCW 72.09.585.

(5) No mental health service provider or individual employed by a mental health service provider shall be held responsible for information released to or used by the department of corrections under the provisions of this section or rules adopted under this section.

(6) Whenever federal law or federal regulations restrict the release of information and records related to mental health services for any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(7) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under chapter 70.24 RCW.

(8) The authority shall, subject to available resources, electronically, or by the most cost-effective means available, provide the department of corrections with the names, last dates of services, and addresses of specific behavioral health administrative services organizations, managed care organizations, and mental health service providers that delivered mental health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the authority and the department of corrections. [2019 c 325 § 3009; 2018 c 201 § 3021. Prior: 2014 c 225 § 86; 2014 c 220 § 14; 2013 c 200 § 31; 2009 c 320 § 4; 2005 c 504 § 711; 2004 c 166 § 4; 2002 c 39 § 2; 2000 c 75 § 3.]

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

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

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

Effective date—2014 c 220: See note following RCW 70.02.290.

Effective date—2013 c 200: See note following RCW 70.02.010.

Conflict with federal requirements—2009 c 320: See note following RCW 71.05.020.

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

Intent—2000 c 75: "It is the intent of the legislature to enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A RCW by authorizing access to, and release or disclosure of, necessary information related to mental health services. This includes accessing and releasing or disclosing information of persons who received mental health services as a minor. The legislature does not intend this act to readdress access to information and records regarding continuity of care.

The legislature recognizes that persons with mental illness have a right to the confidentiality of information related to mental health services, including the fact of their receiving such services, unless there is a state interest that supersedes this right. It is the intent of the legislature to balance that right of the individual with the state interest to enhance public safety." [2000 c 75 § 1.]

Additional notes found at www.leg.wa.gov

71.05.455 Law enforcement referrals to mental health agencies—Reports of threatened or attempted suicide—Model policy. When funded, the Washington association of sheriffs and police chiefs, in consultation with the criminal justice training commission, must develop and adopt a model policy for use by law enforcement agencies relating to a law enforcement officer's referral of a person to a mental health agency after receiving a report of threatened or attempted suicide. The model policy must complement the criminal justice training commission's crisis intervention training curriculum. [2016 c 158 § 2.]

Finding—Intent—2016 c 158: "The legislature finds that law enforcement officers may respond to situations in which an individual has threatened harm to himself or herself, but that individual does not meet the criteria to be taken into custody for an evaluation under the involuntary treatment act. In these situations, officers are encouraged to facilitate contact between the individual and a mental health professional in order to protect the individual and the community. While the legislature acknowledges that some law enforcement officers receive mental health training, law enforcement officers are not mental health professionals. It is the intent of the legislature that mental health incidents are addressed by mental health professionals." [2016 c 158 § 1.]

71.05.457 Law enforcement referrals to mental health agencies—Reports of threatened or attempted suicide—General authority law enforcement policy. By July 1, 2017, all general authority Washington law enforcement agencies must adopt a policy establishing criteria and procedures for a law enforcement officer to refer a person to a men-

tal health agency after receiving a report of threatened or attempted suicide. [2016 c 158 § 3.]

Finding—Intent—2016 c 158: See note following RCW 71.05.455.

71.05.458 Law enforcement referral—Threatened or attempted suicide—Contact by mental health professional. ***(Effective until January 1, 2020.)*** As soon as possible, but no later than twenty-four hours from receiving a referral from a law enforcement officer or law enforcement agency, excluding Saturdays, Sundays, and holidays, a mental health professional contacted by the *designated mental health professional agency must attempt to contact the referred person to determine whether additional mental health intervention is necessary including, if needed, an assessment by a *designated mental health professional for initial detention under RCW 71.05.150 or 71.05.153. Documentation of the mental health professional's attempt to contact and assess the person must be maintained by the *designated mental health professional agency. [2016 c 158 § 5.]

***Reviser's note:** The term "designated mental health professional" as defined in RCW 71.05.020 was changed to "designated crisis responder" by 2016 sp.s. c 29 § 204, effective April 1, 2018.

Finding—Intent—2016 c 158: See note following RCW 71.05.455.

71.05.458 Law enforcement referral—Threatened or attempted suicide—Contact by designated crisis responder. ***(Effective January 1, 2020.)*** As soon as possible, but no later than twenty-four hours from receiving a referral from a law enforcement officer or law enforcement agency, excluding Saturdays, Sundays, and holidays, a mental health professional contacted by the designated crisis responder agency must attempt to contact the referred person to determine whether additional mental health intervention is necessary, including, if needed, an assessment by a designated crisis responder for initial detention under RCW 71.05.150 or 71.05.153. Documentation of the mental health professional's attempt to contact and assess the person must be maintained by the designated crisis responder agency. [2019 c 325 § 3010; 2016 c 158 § 5.]

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

Finding—Intent—2016 c 158: See note following RCW 71.05.455.

71.05.500 Liability of applicant. Any person making or filing an application alleging that a person should be involuntarily detained, certified, committed, treated, or evaluated pursuant to this chapter shall not be rendered civilly or criminally liable where the making and filing of such application was in good faith. [1973 1st ex.s. c 142 § 55.]

71.05.510 Damages for excessive detention. Any individual who knowingly, willfully or through gross negligence violates the provisions of this chapter by detaining a person for more than the allowable number of days shall be liable to the person detained in civil damages. It shall not be a prerequisite to an action under this section that the plaintiff shall have suffered or be threatened with special, as contrasted with general damages. [2018 c 201 § 3022; 1974 ex.s. c 145 § 30; 1973 1st ex.s. c 142 § 56.]

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

71.05.520 Protection of rights—Staff. The authority as the state's behavioral health authority, the department of social and health services in its operation of the state hospitals, and the department of health in exercising its function of licensing and certification of behavioral health providers and facilities shall have the responsibility to determine whether all rights of individuals recognized and guaranteed by the provisions of this chapter and the Constitutions of the state of Washington and the United States are in fact protected and effectively secured. To this end, each agency shall assign appropriate staff who shall from time to time as may be necessary have authority to examine records, inspect facilities, attend proceedings, and do whatever is necessary to monitor, evaluate, and assure adherence to such rights. Such persons shall also recommend such additional safeguards or procedures as may be appropriate to secure individual rights set forth in this chapter and as guaranteed by the state and federal Constitutions. [2018 c 201 § 3023; 1973 1st ex.s. c 142 § 57.]

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

71.05.525 Transfer of person committed to juvenile correction institution to institution or facility for juveniles with mental illnesses. When, in the judgment of the department of social and health services, the welfare of any person committed to or confined in any state juvenile correctional institution or facility necessitates that such a person be transferred or moved for observation, diagnosis or treatment to any state institution or facility for the care of juveniles with mental illness the secretary of the department of social and health services, or his or her designee, is authorized to order and effect such move or transfer: PROVIDED, HOWEVER, That the secretary of the department of social and health services shall adopt and implement procedures to assure that persons so transferred shall, while detained or confined in such institution or facility for the care of juveniles with mental illness, be provided with substantially similar opportunities for parole or early release evaluation and determination as persons detained or confined in state juvenile correctional institutions or facilities: PROVIDED, FURTHER, That the secretary of the department of social and health services shall notify the original committing court of such transfer. [2018 c 201 § 3024; 1997 c 112 § 36; 1975 1st ex.s. c 199 § 12.]

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

71.05.530 Facilities part of comprehensive mental health program. Evaluation and treatment facilities and secure detoxification facilities authorized pursuant to this chapter may be part of the comprehensive community mental health services program conducted in counties pursuant to chapter 71.24 RCW, and may receive funding pursuant to the provisions thereof. [2016 sp.s. c 29 § 247; 1998 c 297 § 23; 1973 1st ex.s. c 142 § 58.]

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

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

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

71.05.560 Adoption of rules. The department, the department of social and health services, and the authority shall adopt such rules as may be necessary to effectuate the intent and purposes of this chapter, which shall include but not be limited to evaluation of the quality of the program and facilities operating pursuant to this chapter, evaluation of the effectiveness and cost effectiveness of such programs and facilities, and procedures and standards for licensing or certification and other action relevant to evaluation and treatment facilities, secure detoxification facilities, and approved substance use disorder treatment programs. [2018 c 201 § 3025; 2016 sp.s. c 29 § 248; 1998 c 297 § 24; 1973 1st ex.s. c 142 § 61.]

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

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

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

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

71.05.570 Rules of court. The supreme court of the state of Washington shall adopt such rules as it shall deem necessary with respect to the court procedures and proceedings provided for by this chapter. [1973 1st ex.s. c 142 § 62.]

71.05.575 Less restrictive alternative treatment—Consideration by court. (1) When making a decision under this chapter whether to require a less restrictive alternative treatment, the court shall consider whether it is appropriate to include or exclude time spent in confinement when determining whether the person has committed a recent overt act.

(2) When determining whether an offender is a danger to himself or herself or others under this chapter, a court shall give great weight to any evidence submitted to the court regarding an offender's recent history of judicially required or administratively ordered involuntary antipsychotic medication while in confinement. [1999 c 214 § 6.]

Intent—Effective date—1999 c 214: See notes following RCW 72.09.370.

71.05.585 Less restrictive alternative treatment. (1) Less restrictive alternative treatment, at a minimum, includes the following services:

(a) Assignment of a care coordinator;

(b) An intake evaluation with the provider of the less restrictive alternative treatment;

(c) A psychiatric evaluation;

(d) A schedule of regular contacts with the provider of the less restrictive alternative treatment services for the duration of the order;

(e) A transition plan addressing access to continued services at the expiration of the order;

(f) An individual crisis plan; and

(g) Notification to the care coordinator assigned in (a) of this subsection if reasonable efforts to engage the client fail to produce substantial compliance with court-ordered treatment conditions.

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

(a) Medication management;

(b) Psychotherapy;

(c) Nursing;

(d) Substance abuse counseling;

(e) Residential treatment; and

(f) Support for housing, benefits, education, and employment.

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

(4) The care coordinator assigned to a person ordered to less restrictive alternative treatment must submit an individualized plan for the person's treatment services to the court that entered the order. An initial plan must be submitted as soon as possible following the intake evaluation and a revised plan must be submitted upon any subsequent modification in which a type of service is removed from or added to the treatment plan.

(5) For the purpose of this section, "care coordinator" means a clinical practitioner who coordinates the activities of less restrictive alternative treatment. The care coordinator coordinates activities with the designated crisis responders that are necessary for enforcement and continuation of less restrictive alternative orders and is responsible for coordinating service activities with other agencies and establishing and maintaining a therapeutic relationship with the individual on a continuing basis. [2018 c 291 § 2. Prior: 2016 sp.s. c 29 § 241; 2016 c 45 § 5; 2015 c 250 § 16.]

Effective date—2018 c 291 §§ 1-4, 6, 7, 9, 11, 12, 13, and 15: See note following RCW 71.05.020.

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

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

71.05.590 Enforcement, modification, or revocation of less restrictive alternative or conditional release orders—Initiation of inpatient detention procedures. ***(Effective until July 1, 2026.)*** (1) Either an agency or facility designated to monitor or provide services under a less restrictive alternative order or conditional release order, or a designated crisis responder, may take action to enforce, modify, or revoke a less restrictive alternative or conditional release order. The agency, facility, or designated crisis responder must determine that:

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

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

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

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

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

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

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

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

(d) To cause the person to be transported by a peace officer, designated crisis responder, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emergency department, or to an evaluation and treatment facility if the person is committed for mental health treatment, or to a secure withdrawal management and stabilization facility with available space or an approved substance use disorder treatment program with available space if the person is committed for substance use disorder treatment. The person may be detained at the facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical judgment of a designated crisis responder or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation procedures under subsection (4) of this section in appropriate circumstances; and

(e) To initiate revocation procedures under subsection (4) of this section or, if the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, initiate initial inpatient detention procedures under subsection (6) of this section.

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

(4)(a) Except as provided in subsection (6) of this section, a designated crisis responder or the secretary of the department of social and health services may upon their own motion or notification by the facility or agency designated to provide outpatient care order a person subject to a court order under this chapter to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment if the person is committed for mental health treatment, or, if the person is committed for substance use disorder treatment, in a secure withdrawal management and stabilization facility or approved substance use disorder treatment program if either is available in or near the county in which he or she is receiving outpatient treatment and has adequate space. Proceedings under this subsection (4) may be initiated without ordering the apprehension and detention of the person.

(b) Except as provided in subsection (6) of this section, a person detained under this subsection (4) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated crisis responder or the secretary of the department of social and health services may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The designated crisis responder or secretary of the department of social and health services shall file a revocation petition and order of apprehension and detention with the court of the county where the person is currently located or being detained. The designated crisis responder shall serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings is the county where the petition is filed. Notice of the filing must be provided to the court that originally ordered commitment, if different from the court where the petition for revocation is filed, within two judicial days of the person's detention.

(d) Except as provided in subsection (6) of this section, the issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the court order; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether the court should reinstate or modify the person's less restrictive alternative or conditional release order or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period may be for no longer than the period authorized in the original court order. A court may not issue an order to detain a person for inpatient treatment in a secure withdrawal management and stabilization facility or approved substance use disorder treatment program under this subsection unless there is a secure withdrawal management and stabilization facility or approved substance use disorder treatment program available and with adequate space for the person.

(5) In determining whether or not to take action under this section the designated crisis responder, agency, or facil-

ity must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

(6)(a) If the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, a designated crisis responder may initiate inpatient detention procedures under RCW 71.05.150 or 71.05.153 when appropriate. A designated crisis responder or the secretary may, upon their own motion or notification by the facility or agency designated to provide outpatient care to a person subject to a less restrictive alternative treatment order under RCW 71.05.320 subsequent to an order for assisted outpatient behavioral health treatment entered under RCW 71.05.148, order the person to be apprehended and taken into custody and temporary detention for inpatient evaluation in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment if the person is committed for mental health treatment, or, if the person is committed for substance use disorder treatment, in a secure withdrawal management and stabilization facility or approved substance use disorder treatment program if either is available in or near the county in which he or she is receiving outpatient treatment. Proceedings under this subsection may be initiated without ordering the apprehension and detention of the person.

(b) A person detained under this subsection may be held for evaluation for up to seventy-two hours, excluding weekends and holidays, pending a court hearing. If the person is not detained, the hearing must be scheduled within seventy-two hours of service on the person. The designated crisis responder or the secretary may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The issues for the court to determine are whether to continue the detention of the person for inpatient treatment or whether the court should reinstate or modify the person's less restrictive alternative order or order the person's detention for inpatient treatment. To continue detention after the seventy-two hour period, the court must find that the person, as a result of a mental disorder or substance use disorder, presents a likelihood of serious harm or is gravely disabled and, after considering less restrictive alternatives to involuntary detention and treatment, that no such alternatives are in the best interest of the person or others.

(d) A court may not issue an order to detain a person for inpatient treatment in a secure withdrawal management and stabilization facility or approved substance use disorder program under this subsection unless there is a secure withdrawal management and stabilization facility or approved substance use disorder treatment program available and with adequate space for the person. [2019 c 446 § 14. Prior: 2018 c 291 § 9; 2018 c 201 § 3026; 2017 3rd sp.s. c 14 § 9; (2017 3rd sp.s. c 14 § 8 expired April 1, 2018); 2016 sp.s. c 29 § 242; 2015 c 250 § 13.]

Expiration date—2019 c 446 §§ 4, 6, 8, 11, 14, 30, 32, 34, 37, 39, and 41: See note following RCW 71.05.150.

Effective date—2018 c 291 §§ 1-4, 6, 7, 9, 11, 12, 13, and 15: See note following RCW 71.05.020.

Expiration date—2018 c 291 §§ 4, 7, and 9: See note following RCW 71.05.150.

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

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

Effective date—2017 3rd sp.s. c 14 §§ 9, 12, 14, 15, and 17-21: "Sections 9, 12, 14, 15, and 17 through 21 of this act take effect April 1, 2018." [2017 3rd sp.s. c 14 § 24.]

Expiration date—2017 3rd sp.s. c 14 §§ 9 and 15: "Sections 9 and 15 of this act expire July 1, 2026." [2017 3rd sp.s. c 14 § 25.]

Expiration date—2017 3rd sp.s. c 14 §§ 8, 11, and 13: "Sections 8, 11, and 13 of this act expire April 1, 2018." [2017 3rd sp.s. c 14 § 23.]

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

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

71.05.590 Enforcement, modification, or revocation of less restrictive alternative or conditional release orders—Initiation of inpatient detention procedures. ***(Effective July 1, 2026.)*** (1) Either an agency or facility designated to monitor or provide services under a less restrictive alternative order or conditional release order, or a designated crisis responder, may take action to enforce, modify, or revoke a less restrictive alternative or conditional release order. The agency, facility, or designated crisis responder must determine that:

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

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

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

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

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

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

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

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

(d) To cause the person to be transported by a peace officer, designated crisis responder, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emer-

gency department, or to an evaluation and treatment facility if the person is committed for mental health treatment, or to a secure withdrawal management and stabilization facility or an approved substance use disorder treatment program if the person is committed for substance use disorder treatment. The person may be detained at the facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical judgment of a designated crisis responder or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation procedures under subsection (4) of this section in appropriate circumstances; and

(e) To initiate revocation procedures under subsection (4) of this section or, if the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, initial inpatient detention procedures under subsection (6) of this section.

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

(4)(a) Except as provided in subsection (6) of this section, a designated crisis responder or the secretary of the department of social and health services may upon their own motion or notification by the facility or agency designated to provide outpatient care order a person subject to a court order under this chapter to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment if the person is committed for mental health treatment, or, if the person is committed for substance use disorder treatment, in a secure withdrawal management and stabilization facility or approved substance use disorder treatment program if either is available in or near the county in which he or she is receiving outpatient treatment. Proceedings under this subsection (4) may be initiated without ordering the apprehension and detention of the person.

(b) Except as provided in subsection (6) of this section, a person detained under this subsection (4) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated crisis responder or the secretary of the department of social and health services may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The designated crisis responder or secretary of the department of social and health services shall file a revocation petition and order of apprehension and detention with the court of the county where the person is currently located or being detained. The designated crisis responder shall serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings is the county where the petition is filed. Notice of the filing must be provided to the court that originally ordered commitment, if different from the court where the petition for revocation is filed, within two judicial days of the person's detention.

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

(5) In determining whether or not to take action under this section the designated crisis responder, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

(6)(a) If the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, a designated crisis responder may initiate inpatient detention procedures under RCW 71.05.150 or 71.05.153 when appropriate. A designated crisis responder or the secretary may, upon their own motion or notification by the facility or agency designated to provide outpatient care to a person subject to a less restrictive alternative treatment order under RCW 71.05.320 subsequent to an order for assisted outpatient behavioral health treatment entered under RCW 71.05.148, order the person to be apprehended and taken into custody and temporary detention for inpatient evaluation in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment if the person is committed for mental health treatment, or, if the person is committed for substance use disorder treatment, in a secure withdrawal management and stabilization facility or approved substance use disorder treatment program if either is available in or near the county in which he or she is receiving outpatient treatment. Proceedings under this subsection may be initiated without ordering the apprehension and detention of the person.

(b) A person detained under this subsection may be held for evaluation for up to seventy-two hours, excluding weekends and holidays, pending a court hearing. The designated crisis responder or the secretary may modify or rescind the

order at any time prior to commencement of the court hearing.

(c) The issues for the court to determine are whether to continue the detention of the person for inpatient treatment or whether the court should reinstate or modify the person's less restrictive alternative order or order the person's detention for inpatient treatment. To continue detention after the seventy-two hour period, the court must find that the person, as a result of a mental disorder or substance use disorder, presents a likelihood of serious harm or is gravely disabled and, after considering less restrictive alternatives to involuntary detention and treatment, that no such alternatives are in the best interest of the person or others.

(d) A court may not issue an order to detain a person for inpatient treatment in a secure withdrawal management and stabilization facility or approved substance use disorder program under this subsection unless there is a secure withdrawal management and stabilization facility or approved substance use disorder treatment program available and with adequate space for the person. [2019 c 446 § 15. Prior: 2018 c 291 § 10; 2018 c 201 § 3027; 2017 3rd sp.s. c 14 § 10; (2017 3rd sp.s. c 14 § 8 expired April 1, 2018); 2016 sp.s. c 29 § 243; 2016 sp.s. c 29 § 242; 2015 c 250 § 13.]

Effective date—2019 c 446 §§ 5, 7, 9, 12, 15, 31, 33, 35, 38, 40, and 42: See note following RCW 71.05.150.

Effective date—2018 c 291 §§ 5, 8, and 10: See note following RCW 71.05.150.

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

Findings—Intent—2018 c 201: See note following RCW 41.05.018.

Effective date—2017 3rd sp.s. c 14 §§ 10 and 16: "Sections 10 and 16 of this act take effect July 1, 2026." [2017 3rd sp.s. c 14 § 26.]

Expiration date—2017 3rd sp.s. c 14 §§ 8, 11, and 13: "Sections 8, 11, and 13 of this act expire April 1, 2018." [2017 3rd sp.s. c 14 § 23.]

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

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

71.05.595 Less restrictive alternative treatment order—Termination. A court order for less restrictive alternative treatment for a person found to be in need of assisted outpatient behavioral health treatment must be terminated prior to the expiration of the order when, in the opinion of the professional person in charge of the less restrictive alternative treatment provider, (1) the person is prepared to accept voluntary treatment, or (2) the outpatient treatment ordered is no longer necessary to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time. [2018 c 291 § 16; 2015 c 250 § 17.]

71.05.620 Court files and records closed—Exceptions—Rules. (1) The files and records of court proceedings under this chapter and chapter 71.34 RCW shall be closed but shall be accessible to:

(a) The department;

(b) The department of social and health services;

(c) The authority;

(d) The state hospitals as defined in RCW 72.23.010;

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

(f) The attorney or guardian of the person;

(g) Resource management services for that person; and

(h) Service providers authorized to receive such information by resource management services.

(2) The authority shall adopt rules to implement this section. [2018 c 201 § 3028; 2016 sp.s. c 29 § 249; 2015 c 269 § 16; 2013 c 200 § 23; 2005 c 504 § 111; 1989 c 205 § 12.]

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

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

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

Effective date—2013 c 200: See note following RCW 70.02.010.

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

Additional notes found at www.leg.wa.gov

71.05.660 Treatment records—Privileged communications unaffected. Nothing in this chapter or chapter 70.02 or 71.34 RCW shall be construed to interfere with communications between physicians, physician assistants, psychiatric advanced registered nurse practitioners, or psychologists and patients and attorneys and clients. [2016 sp.s. c 29 § 420; 2016 c 155 § 9; 2013 c 200 § 21; 2009 c 217 § 9; 2005 c 504 § 114; 1989 c 205 § 16.]

Reviser's note: This section was amended by 2016 c 155 § 9 and by 2016 sp.s. c 29 § 420, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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

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

Effective date—2013 c 200: See note following RCW 70.02.010.

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

Additional notes found at www.leg.wa.gov

71.05.680 Treatment records—Access under false pretenses, penalty. Any person who requests or obtains confidential information pursuant to RCW 71.05.620 under false pretenses shall be guilty of a gross misdemeanor. [2013 c 200 § 22; 2005 c 504 § 713; 1999 c 13 § 11. Prior: 1989 c 205 § 18.]

Effective date—2013 c 200: See note following RCW 70.02.010.

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

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

Additional notes found at www.leg.wa.gov

71.05.700 Home visit by designated crisis responder or crisis intervention worker—Accompaniment by second trained individual. No designated crisis responder or crisis intervention worker shall be required to respond to a private home or other private location to stabilize or treat a person in crisis, or to evaluate a person for potential detention under the state's involuntary treatment act, unless a second trained individual, determined by the clinical team supervisor, on-call supervisor, or individual professional acting

alone based on a risk assessment for potential violence, accompanies them. The second individual may be a law enforcement officer, a mental health professional, a mental health paraprofessional who has received training under RCW 71.05.715, or other first responder, such as fire or ambulance personnel. No retaliation may be taken against a worker who, following consultation with the clinical team, refuses to go on a home visit alone. [2016 sp.s. c 29 § 250; 2007 c 360 § 2.]

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

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

Findings—2007 c 360: "The legislature finds that designated mental health professionals go out into the community to evaluate people for potential detention under the state's involuntary treatment act. Also, designated mental health professionals and other mental health workers do crisis intervention work intended to stabilize a person in crisis and provide immediate treatment and intervention in communities throughout Washington state. In many cases, the presence of a second trained individual on outreach to a person's private home or other private location will enhance safety for consumers, families, and mental health professionals and will advance the legislature's interest in quality mental health care services." [2007 c 360 § 1.]

Additional notes found at www.leg.wa.gov

71.05.705 Provider of designated crisis responder or crisis outreach services—Policy for home visits. Each provider of designated crisis responder or crisis outreach services shall maintain a written policy that, at a minimum, describes the organization's plan for training, staff backup, information sharing, and communication for crisis outreach staff who respond to private homes or nonpublic settings. [2016 sp.s. c 29 § 251; 2007 c 360 § 3.]

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

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

Findings—Short title—2007 c 360: See notes following RCW 71.05.700.

71.05.710 Home visit by mental health professional—Wireless telephone to be provided. Any mental health professional who engages in home visits to clients shall be provided by their employer with a wireless telephone or comparable device for the purpose of emergency communication. [2007 c 360 § 4.]

Findings—Short title—2007 c 360: See notes following RCW 71.05.700.

71.05.715 Crisis visit by mental health professional—Access to information. Any mental health professional who is dispatched on a crisis visit, as described in RCW 71.05.700, shall have prompt access to information about any history of dangerousness or potential dangerousness on the client they are being sent to evaluate that is documented in crisis plans or commitment records and is available without unduly delaying a crisis response. [2007 c 360 § 5.]

Findings—Short title—2007 c 360: See notes following RCW 71.05.700.

71.05.720 Training for community mental health employees. Annually, all community mental health employees who work directly with clients shall be provided with training on safety and violence prevention topics described in RCW 49.19.030. The curriculum for the training shall be developed collaboratively among the authority, the department, contracted mental health providers, and employee organizations that represent community mental health workers. [2018 c 201 § 3029; 2007 c 360 § 6.]

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

Findings—Short title—2007 c 360: See notes following RCW 71.05.700.

71.05.730 Judicial services—Civil commitment cases—Reimbursement. ***(Effective until January 1, 2020.)*** (1) A county may apply to its behavioral health organization on a quarterly basis for reimbursement of its direct costs in providing judicial services for civil commitment cases under this chapter and chapter 71.34 RCW. The behavioral health organization shall in turn be entitled to reimbursement from the behavioral health organization that serves the county of residence of the individual who is the subject of the civil commitment case. Reimbursements under this section shall be paid out of the behavioral health organization's nonmedicaid appropriation.

(2) Reimbursement for judicial services shall be provided per civil commitment case at a rate to be determined based on an independent assessment of the county's actual direct costs. This assessment must be based on an average of the expenditures for judicial services within the county over the past three years. In the event that a baseline cannot be established because there is no significant history of similar cases within the county, the reimbursement rate shall be equal to eighty percent of the median reimbursement rate of counties included in the independent assessment.

(3) For the purposes of this section:

(a) "Civil commitment case" includes all judicial hearings related to a single episode of hospitalization or less restrictive alternative treatment, except that the filing of a petition for a one hundred eighty-day commitment under this chapter or a petition for a successive one hundred eighty-day commitment under chapter 71.34 RCW shall be considered to be a new case regardless of whether there has been a break in detention. "Civil commitment case" does not include the filing of a petition for a one hundred eighty-day commitment under this chapter on behalf of a patient at a state psychiatric hospital.

(b) "Judicial services" means a county's reasonable direct costs in providing prosecutor services, assigned counsel and defense services, court services, and court clerk services for civil commitment cases under this chapter and chapter 71.34 RCW.

(4) To the extent that resources have shared purpose, the behavioral health organization may only reimburse counties to the extent such resources are necessary for and devoted to judicial services as described in this section.

(5) No filing fee may be charged or collected for any civil commitment case subject to reimbursement under this section. [2015 c 250 § 15; (2015 c 250 § 14 expired April 1, 2016); 2014 c 225 § 87; 2011 c 343 § 2.]

Effective date—2015 c 250 §§ 2, 15, and 19: See note following RCW 71.05.020.

Expiration date—2015 c 250 §§ 1, 14, and 18: See note following RCW 71.05.020.

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

Intent—2011 c 343: "The legislature recognizes that counties that host evaluation and treatment beds incur costs by providing judicial services associated with civil commitments under chapters 71.05 and 71.34 RCW. Because evaluation and treatment beds are not evenly distributed across the state, these commitments frequently occur in a different county from the county in which the person was originally detained. The intent of this act is to create a process for the state to reimburse counties through the regional support networks for the counties' reasonable direct costs incurred in providing these judicial services, and to prevent the burden of these costs from falling disproportionately on the counties or regional support networks in which the commitments are most likely to occur. The legislature recognizes that the costs of judicial services may vary across the state based on different factors and conditions." [2011 c 343 § 1.]

Effective date—2011 c 343: "Except for section 3 of this act, this act takes effect July 1, 2012." [2011 c 343 § 10.]

71.05.730 Judicial services—Civil commitment cases—Reimbursement. ***(Effective January 1, 2020.)*** (1) A county may apply to its behavioral health administrative services organization on a quarterly basis for reimbursement of its direct costs in providing judicial services for civil commitment cases under this chapter and chapter 71.34 RCW. The behavioral health administrative services organization shall in turn be entitled to reimbursement from the behavioral health administrative services organization that serves the county of residence of the individual who is the subject of the civil commitment case.

(2) Reimbursement for judicial services shall be provided per civil commitment case at a rate to be determined based on an independent assessment of the county's actual direct costs. This assessment must be based on an average of the expenditures for judicial services within the county over the past three years. In the event that a baseline cannot be established because there is no significant history of similar cases within the county, the reimbursement rate shall be equal to eighty percent of the median reimbursement rate of counties included in the independent assessment.

(3) For the purposes of this section:

(a) "Civil commitment case" includes all judicial hearings related to a single episode of hospitalization or less restrictive alternative treatment, except that the filing of a petition for a one hundred eighty-day commitment under this chapter or a petition for a successive one hundred eighty-day commitment under chapter 71.34 RCW shall be considered to be a new case regardless of whether there has been a break in detention. "Civil commitment case" does not include the filing of a petition for a one hundred eighty-day commitment under this chapter on behalf of a patient at a state psychiatric hospital.

(b) "Judicial services" means a county's reasonable direct costs in providing prosecutor services, assigned counsel and defense services, court services, and court clerk services for civil commitment cases under this chapter and chapter 71.34 RCW.

(4) To the extent that resources have a shared purpose, the behavioral health administrative services organization may only reimburse counties to the extent such resources are necessary for and devoted to judicial services as described in this section.

(5) No filing fee may be charged or collected for any civil commitment case subject to reimbursement under this section. [2019 c 325 § 3011; 2015 c 250 § 15; (2015 c 250 § 14 expired April 1, 2016); 2014 c 225 § 87; 2011 c 343 § 2.]

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

Effective date—2015 c 250 §§ 2, 15, and 19: See note following RCW 71.05.020.

Expiration date—2015 c 250 §§ 1, 14, and 18: See note following RCW 71.05.020.

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

Intent—2011 c 343: "The legislature recognizes that counties that host evaluation and treatment beds incur costs by providing judicial services associated with civil commitments under chapters 71.05 and 71.34 RCW. Because evaluation and treatment beds are not evenly distributed across the state, these commitments frequently occur in a different county from the county in which the person was originally detained. The intent of this act is to create a process for the state to reimburse counties through the regional support networks for the counties' reasonable direct costs incurred in providing these judicial services, and to prevent the burden of these costs from falling disproportionately on the counties or regional support networks in which the commitments are most likely to occur. The legislature recognizes that the costs of judicial services may vary across the state based on different factors and conditions." [2011 c 343 § 1.]

Effective date—2011 c 343: "Except for section 3 of this act, this act takes effect July 1, 2012." [2011 c 343 § 10.]

71.05.732 Reimbursement for judicial services—Assessment. (1) The joint legislative audit and review committee shall conduct an independent assessment of the direct costs of providing judicial services under this chapter and chapter 71.34 RCW as defined in RCW 71.05.730. The assessment shall include a review and analysis of the reasons for differences in costs among counties. The assessment shall be conducted for any county in which more than twenty civil commitment cases were conducted during the year prior to the study. The assessment must be completed by June 1, 2012.

(2) The administrative office of the courts, the authority, and the department of social and health services shall provide the joint legislative audit and review committee with assistance and data required to complete the assessment.

(3) The joint legislative audit and review committee shall present recommendations as to methods for updating the costs identified in the assessment to reflect changes over time. [2018 c 201 § 3030; 2011 c 343 § 3.]

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

Intent—2011 c 343: See note following RCW 71.05.730.

71.05.740 Reporting of commitment data. ***(Effective until January 1, 2020.)*** All behavioral health organizations in the state of Washington must forward historical mental health involuntary commitment information retained by the organization including identifying information and dates of commitment to the authority. As soon as feasible, the behavioral health organizations must arrange to report new commitment data to the authority within twenty-four hours. Commitment information under this section does not need to be resent if it is already in the possession of the authority. Behavioral health organizations and the authority shall be immune from liability related to the sharing of commitment information under this section. [2018 c 201 § 3031; 2014 c 225 § 88; 2013 c 216 § 2.]

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

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

71.05.740 Reporting of commitment data. ***(Effective January 1, 2020.)*** All behavioral health administrative services organizations in the state of Washington must forward historical mental health involuntary commitment information retained by the organization, including identifying information and dates of commitment to the authority. As soon as feasible, the behavioral health administrative services organizations must arrange to report new commitment data to the authority within twenty-four hours. Commitment information under this section does not need to be resent if it is already in the possession of the authority. Behavioral health administrative services organizations and the authority shall be immune from liability related to the sharing of commitment information under this section. [2019 c 325 § 3012; 2018 c 201 § 3031; 2014 c 225 § 88; 2013 c 216 § 2.]

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

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

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

71.05.745 Single bed certification. (1) The authority may use a single bed certification process as outlined in rule to provide additional treatment capacity for a person suffering from a mental disorder for whom an evaluation and treatment bed is not available. The facility that is the proposed site of the single bed certification must be a facility that is willing and able to provide the person with timely and appropriate treatment either directly or by arrangement with other public or private agencies.

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

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

(4) The authority may adopt rules implementing this section and continue to enforce rules it has already adopted except where inconsistent with this section. [2018 c 201 § 3032; 2016 sp.s. c 29 § 252; 2015 c 269 § 2.]

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

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

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

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

71.05.750 Report—Person meets detention criteria—Unavailable detention facilities. ***(Effective until January 1, 2020.)*** (1) A designated crisis responder shall make a report to the authority when he or she determines a person meets detention criteria under RCW 71.05.150, 71.05.153, 71.34.700, or 71.34.710 and there are not any beds available at an evaluation and treatment facility, the person has not been provisionally accepted for admission by a facility, and the person cannot be served on a single bed certification or less restrictive alternative. Starting at the time when the designated crisis responder determines a person meets detention criteria and the investigation has been completed, the designated crisis responder has twenty-four hours to submit a completed report to the authority.

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

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

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

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

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

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

(3) The authority shall develop a standardized reporting form or modify the current form used for single bed certifications for the report required under subsection (2) of this section and may require additional reporting elements as it determines are necessary or supportive. The authority shall also determine the method for the transmission of the completed report from the designated crisis responder to the authority.

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

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

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

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

(b) A licensed or certified inpatient evaluation and treatment facility that is already at capacity. [2018 c 201 § 3033; 2016 sp.s. c 29 § 253; 2015 c 269 § 3.]

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

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

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

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

71.05.750 Report—No bed available for person who meets detention criteria. ***(Effective January 1, 2020.)*** (1) A designated crisis responder shall make a report to the authority when he or she determines a person meets detention criteria under RCW 71.05.150, 71.05.153, 71.34.700, or

71.34.710 and there are not any beds available at an evaluation and treatment facility, the person has not been provisionally accepted for admission by a facility, and the person cannot be served on a single bed certification or less restrictive alternative. Starting at the time when the designated crisis responder determines a person meets detention criteria and the investigation has been completed, the designated crisis responder has twenty-four hours to submit a completed report to the authority.

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

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

(b) The identity of the responsible behavioral health administrative services organization and managed care organization, if applicable;

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

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

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

(3) The authority shall develop a standardized reporting form or modify the current form used for single bed certifications for the report required under subsection (2) of this section and may require additional reporting elements as it determines are necessary or supportive. The authority shall also determine the method for the transmission of the completed report from the designated crisis responder to the authority.

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

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

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

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

(b) A licensed or certified inpatient evaluation and treatment facility that is already at capacity. [2019 c 325 § 3013; 2018 c 201 § 3033; 2016 sp.s. c 29 § 253; 2015 c 269 § 3.]

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

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

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

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

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

71.05.755 Report—Unavailable detention facilities—Responsibility of regional support network or behavioral health organization—Corrective actions. ***(Effective until January 1, 2020.)*** (1) The authority shall promptly share reports it receives under RCW 71.05.750 with the responsible regional support network or behavioral health organization. The regional support network or behavioral health organization receiving this notification must attempt to engage the person in appropriate services for which the person is eligible and report back within seven days to the authority.

(2) The authority shall track and analyze reports submitted under RCW 71.05.750. The authority must initiate corrective action when appropriate to ensure that each regional support network or behavioral health organization has implemented an adequate plan to provide evaluation and treatment services. Corrective actions may include remedies under RCW 71.24.330 and 74.09.871, including requiring expenditure of reserve funds. An adequate plan may include development of less restrictive alternatives to involuntary commitment such as crisis triage, crisis diversion, voluntary treatment, or prevention programs reasonably calculated to reduce demand for evaluation and treatment under this chapter. [2018 c 201 § 3034; 2015 c 269 § 4.]

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

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

71.05.755 Duties upon receipt of no bed available report—Corrective actions. ***(Effective January 1, 2020.)*** (1) The authority shall promptly share reports it receives under RCW 71.05.750 with the responsible behavioral health administrative services organization or managed care organization, if applicable. The behavioral health administrative services organization or managed care organization, if applicable, receiving this notification must attempt to engage the person in appropriate services for which the person is eligible and report back within seven days to the authority.

(2) The authority shall track and analyze reports submitted under RCW 71.05.750. The authority must initiate corrective action when appropriate to ensure that each behavioral health administrative services organization or managed care organization, if applicable, has implemented an adequate plan to provide evaluation and treatment services. Corrective actions may include remedies under the authority's contract with such entity. An adequate plan may include development of less restrictive alternatives to involuntary commitment such as crisis triage, crisis diversion, voluntary treatment, or prevention programs reasonably calculated to reduce demand for evaluation and treatment under this chapter. [2019 c 325 § 3014; 2018 c 201 § 3034; 2015 c 269 § 4.]

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

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

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

71.05.760 Designated crisis responders—Training—Transition process—Secure withdrawal management and stabilization facility capacity. ***(Effective until January 1, 2020.)*** (1)(a) By April 1, 2018, the authority, by rule, must combine the functions of a designated mental health professional and designated chemical dependency specialist by establishing a designated crisis responder who is authorized to conduct investigations, detain persons up to seventy-two hours to the proper facility, and carry out the other functions identified in this chapter and chapter 71.34 RCW. The behavioral health organizations shall provide training to the designated crisis responders as required by the authority.

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

(A) Psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or social worker;

(B) Person who is licensed by the department as a mental health counselor or mental health counselor associate, or marriage and family therapist or marriage and family therapist associate;

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

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

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

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

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

(c) The authority must develop a transition process for any person who has been designated as a designated mental health professional or a designated chemical dependency specialist before April 1, 2018, to be converted to a designated crisis responder. The behavioral health organizations shall provide training, as required by the authority, to persons converting to designated crisis responders, which must include both mental health and chemical dependency training applicable to the designated crisis responder role.

(2)(a) The authority must ensure that at least one sixteen-bed secure withdrawal management and stabilization facility is operational by April 1, 2018, and that at least two sixteen-bed secure withdrawal management and stabilization facilities are operational by April 1, 2019.

(b) If, at any time during the implementation of secure withdrawal management and stabilization facility capacity, federal funding becomes unavailable for federal match for services provided in secure withdrawal management and stabilization facilities, then the authority must cease any expansion of secure withdrawal management and stabilization facilities until further direction is provided by the legislature. [2019 c 446 § 16; 2018 c 201 § 3035; 2017 3rd sp.s. c 14 § 21; 2016 sp.s. c 29 § 201.]

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

Effective date—2017 3rd sp.s. c 14 §§ 9, 12, 14, 15, and 17-21: See note following RCW 71.05.590.

Effective dates—2016 sp.s. c 29: "(1) Sections 501, 503 through 532, and 701 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect *April 1, 2016.

(2) Sections 201 through 210, 212, 214 through 224, 226 through 232, 234 through 237, 239 through 242, 244 through 267, 269, 271, 273, 274, 276, 278, 279, 281, 401 through 429, and 502 of this act take effect April 1, 2018.

(3) Sections 211, 213, 225, 233, 238, 243, 268, 270, 272, 275, 277, and 280 of this act take effect July 1, 2026." [2016 sp.s. c 29 § 803.]

***Reviser's note:** 2016 sp.s. c 29 was signed by the governor on April 18, 2016.

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

71.05.760 Designated crisis responders—Training—Qualifications—Secure withdrawal management and stabilization facility capacity. ***(Effective January 1, 2020.)*** (1)(a) The authority or its designee shall provide training to the designated crisis responders.

(b)(i) To qualify as a designated crisis responder, a person must have received substance use disorder training as determined by the authority and be a:

(A) Psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or social worker;

(B) Person who is licensed by the department as a mental health counselor or mental health counselor associate, or marriage and family therapist or marriage and family therapist associate;

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

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

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

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

(ii) Training must include training specific to the duties of a designated crisis responder, including diagnosis of substance abuse and dependence and assessment of risk associated with substance use.

(2)(a) The authority must ensure that at least one sixteen-bed secure withdrawal management and stabilization facility is operational by April 1, 2018, and that at least two sixteen-bed secure withdrawal management and stabilization facilities are operational by April 1, 2019.

(b) If, at any time during the implementation of secure withdrawal management and stabilization facility capacity, federal funding becomes unavailable for federal match for

services provided in secure withdrawal management and stabilization facilities, then the authority must cease any expansion of secure withdrawal management and stabilization facilities until further direction is provided by the legislature. [2019 c 446 § 16; 2019 c 325 § 3015; 2018 c 201 § 3035; 2017 3rd sp.s. c 14 § 21; 2016 sp.s. c 29 § 201.]

Reviser's note: This section was amended by 2019 c 325 § 3015 and by 2019 c 446 § 16, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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

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

Effective date—2017 3rd sp.s. c 14 §§ 9, 12, 14, 15, and 17-21: See note following RCW 71.05.590.

Effective dates—2016 sp.s. c 29: "(1) Sections 501, 503 through 532, and 701 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect *April 1, 2016.

(2) Sections 201 through 210, 212, 214 through 224, 226 through 232, 234 through 237, 239 through 242, 244 through 267, 269, 271, 273, 274, 276, 278, 279, 281, 401 through 429, and 502 of this act take effect April 1, 2018.

(3) Sections 211, 213, 225, 233, 238, 243, 268, 270, 272, 275, 277, and 280 of this act take effect July 1, 2026." [2016 sp.s. c 29 § 803.]

***Reviser's note:** 2016 sp.s. c 29 was signed by the governor on April 18, 2016.

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

71.05.801 Persons with developmental disabilities—Service plans—Habilitation services. When appropriate and subject to available funds, the treatment and training of a person with a developmental disability who is committed to the custody of the department of social and health services or to a facility licensed or certified for ninety day treatment by the department for a further period of intensive treatment under RCW 71.05.320 must be provided in a program specifically reserved for the treatment and training of persons with developmental disabilities. A person so committed shall receive habilitation services pursuant to an individualized service plan specifically developed to treat the behavior which was the subject of the criminal proceedings. The treatment program shall be administered by developmental disabilities professionals and others trained specifically in the needs of persons with developmental disabilities. The department of social and health services may limit admissions to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department of social and health services for such services. The department of social and health services may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department of social and health services. [2018 c 201 § 3036; 2009 c 323 § 3.]

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

Findings—Intent—2009 c 323: See note following RCW 71.05.320.

71.05.810 Integration evaluation. ***(Expires August 1, 2023.)*** (1) The Washington state institute for public policy shall evaluate the effect of the integration of the involuntary treatment systems for substance use disorders and mental health and make preliminary reports to appropriate committees of the legislature by December 1, 2020, and June 30, 2021, and a final report by June 30, 2023.

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

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

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

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

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

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

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

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

(3) This section expires August 1, 2023. [2016 sp.s. c 29 § 202.]

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

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

71.05.940 Equal application of 1989 c 420—Evaluation for developmental disability. The provisions of chapter 420, Laws of 1989 shall apply equally to persons in the custody of the department of social and health services on May 13, 1989, who were found by a court to be not guilty by reason of insanity or incompetent to stand trial, or who have been found to have committed acts constituting a felony pursuant to RCW 71.05.280(3) and present a substantial likelihood of repeating similar acts, and the secretary of the department of social and health services shall cause such persons to be evaluated to ascertain if such persons have a developmental disability for placement in a program specifically reserved for the treatment and training of persons with developmental disabilities. [2018 c 201 § 3037; 1999 c 13 § 13; 1989 c 420 § 18.]

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

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

71.05.950 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where

necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 157.]

Chapter 71.06 RCW
SEXUAL PSYCHOPATHS

Sections

Council for children and families: Chapter 43.121 RCW.

Nonresident sexual psychopaths and psychopathic delinquents: Chapter 72.25 RCW.

Telephone calls soliciting immoral acts: RCW 9.61.230 through 9.61.250.

71.06.005 Application of chapter. With respect to sexual psychopaths, this chapter applies only to crimes or offenses committed before July 1, 1984. [1984 c 209 § 27.]

Additional notes found at www.leg.wa.gov

71.06.010 Definitions. As used in this chapter, the following terms shall have the following meanings:

"Psychopathic personality" means the existence in any person of such hereditary, congenital, or acquired condition affecting the emotional or volitional rather than the intellectual field and manifested by anomalies of such character as to render satisfactory social adjustment of such person difficult or impossible.

"Sexual psychopath" means any person who is affected in a form of psychoneurosis or in a form of psychopathic personality, which form predisposes such person to the commission of sexual offenses in a degree constituting him or her a menace to the health or safety of others.

"Sex offense" means one or more of the following: Abduction, incest, rape, assault with intent to commit rape, indecent assault, contributing to the delinquency of a minor involving sexual misconduct, sodomy, indecent exposure, indecent liberties with children, carnal knowledge of children, soliciting or enticing or otherwise communicating with a child for immoral purposes, vagrancy involving immoral or sexual misconduct, or an attempt to commit any of the said offenses.

"Minor" means any person under eighteen years of age.

"Department" means department of social and health services.

"Court" means the superior court of the state of Washington.

"Superintendent" means the superintendent of a state institution designated for the custody, care, and treatment of sexual psychopaths or psychopathic delinquents. [2012 c 117 § 430; 1985 c 354 § 32; 1977 ex.s. c 80 § 42; 1971 ex.s. c 292 § 65; 1961 c 65 § 1; 1959 c 25 § 71.06.010. Prior: 1957 c 184 § 1; 1951 c 223 § 2; 1949 c 198 §§ 25 and 40; Rem. Supp. 1949 §§ 6953-25 and 6953-40.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Additional notes found at www.leg.wa.gov

71.06.020 Sexual psychopaths—Petition. Where any person is charged in the superior court in this state with a sex offense and it appears that such person is a sexual psychopath, the prosecuting attorney may file a petition in the criminal proceeding, alleging that the defendant is a sexual psychopath and stating sufficient facts to support such allegation. Such petition must be filed and served on the defendant or his or her attorney at least ten days prior to hearing on the criminal charge. [2012 c 117 § 431; 1959 c 25 § 71.06.020. Prior: 1951 c 223 § 3; 1949 c 198 § 26; Rem. Supp. 1949 § 6953-26.]

71.06.030 Procedure on petition—Effect of acquittal on criminal charge. The court shall proceed to hear the criminal charge. If the defendant is convicted or has previously pleaded guilty to such charge, judgment shall be pronounced, but the execution of the sentence may be deferred or suspended, as in other criminal cases, and the court shall then proceed to hear and determine the allegation of sexual psychopathy. Acquittal on the criminal charge shall not operate to suspend the hearing on the allegation of sexual psychopathy: PROVIDED, That the provisions of RCW 71.06.140 authorizing transfer of a committed sexual psychopath to a correctional institution shall not apply to the committed sexual psychopath who has been acquitted on the criminal charge. [1967 c 104 § 1; 1959 c 25 § 71.06.030. Prior: 1951 c 223 § 4.]

71.06.040 Preliminary hearing—Evidence—Detention in hospital for observation. At a preliminary hearing upon the charge of sexual psychopathy, the court may require the testimony of two duly licensed physicians, physician assistants, or psychiatric advanced registered nurse practitioners who have examined the defendant. If the court finds that there are reasonable grounds to believe the defendant is a sexual psychopath, the court shall order said defendant confined at the nearest state hospital for observation as to the existence of sexual psychopathy. Such observation shall be for a period of not to exceed ninety days. The defendant shall be detained in the county jail or other county facilities pending execution of such observation order by the department. [2016 c 155 § 10; 2009 c 217 § 10; 1959 c 25 § 71.06.040. Prior: 1951 c 223 § 5.]

71.06.050 Preliminary hearing—Report of findings. Upon completion of said observation period, the superintendent of the state hospital shall return the defendant to the court, together with a written report of his or her findings as to whether or not the defendant is a sexual psychopath and the facts upon which his or her opinion is based. [2012 c 117 § 432; 1959 c 25 § 71.06.050. Prior: 1951 c 223 § 6.]

71.06.060 Preliminary hearing—Commitment, or other disposition of charge. After the superintendent's report has been filed, the court shall determine whether or not the defendant is a sexual psychopath. If said defendant is found to be a sexual psychopath, the court shall commit him or her to the secretary of social and health services for designation of the facility for detention, care, and treatment of the sexual psychopath. If the defendant is found not to be a sexual psychopath, the court shall order the sentence to be executed, or may discharge the defendant as the case may merit. [2012 c 117 § 433; 1979 c 141 § 129; 1967 c 104 § 2; 1959 c 25 § 71.06.060. Prior: 1951 c 223 § 7.]

71.06.070 Preliminary hearing—Jury trial. A jury may be demanded to determine the question of sexual psychopathy upon hearing after return of the superintendent's report. Such demand must be in writing and filed with the court within ten days after filing of the petition alleging the defendant to be a sexual psychopath. [1959 c 25 § 71.06.070. Prior: 1951 c 223 § 14; 1949 c 198 § 38; Rem. Supp. 1949 § 6953-38.]

71.06.080 Preliminary hearing—Construction of chapter—Trial, evidence, law relating to criminally insane. Nothing in this chapter shall be construed as to affect the procedure for the ordinary conduct of criminal trials as otherwise set up by law. Nothing in this chapter shall be construed to prevent the defendant, his or her attorney, or the court of its own motion, from producing evidence and witnesses at the hearing on the probable existence of sexual psychopathy or at the hearing after the return of the superintendent's report. Nothing in this chapter shall be construed as affecting the laws relating to the criminally insane or the insane criminal, nor shall this chapter be construed as preventing the defendant from raising the defense of insanity as in other criminal cases. [2012 c 117 § 434; 1959 c 25 § 71.06.080. Prior: 1951 c 223 § 15.]

Criminally insane: Chapter 10.77 RCW.

71.06.091 Postcommitment proceedings, releases, and further dispositions. A sexual psychopath committed pursuant to RCW 71.06.060 shall be retained by the superintendent of the institution involved until in the superintendent's opinion he or she is safe to be at large, or until he or she has received the maximum benefit of treatment, or is not amenable to treatment, but the superintendent is unable to render an opinion that he or she is safe to be at large. Thereupon, the superintendent of the institution involved shall so inform whatever court committed the sexual psychopath. The court then may order such further examination and investigation of such person as seems necessary, and may at its discretion, summon such person before it for further hearing, together with any witnesses whose testimony may be pertinent, and together with any relevant documents and other evidence. On the basis of such reports, investigation, and possible hearing, the court shall determine whether the person before it shall be released unconditionally from custody as a sexual psychopath, released conditionally, returned to the custody of the institution as a sexual psychopath, or transferred to the department of corrections to serve the original sentence imposed upon him or her. The power of the court to grant conditional release for any such person before it shall be the same as its power to grant, amend, and revoke probation as provided by chapter 9.95 RCW. When the sexual psychopath has entered upon the conditional release, the indeterminate sentence review board shall supervise such person pursuant to the terms and conditions of the conditional release, as set by the court: PROVIDED, That the superintendent of the institution involved shall never release the sexual psychopath from custody without a court release as herein set forth. [2012 c 117 § 435; 1981 c 136 § 64; 1979 c 141 § 130; 1967 c 104 § 3.]

Additional notes found at www.leg.wa.gov

71.06.100 Postcommitment proceedings, releases, and further dispositions—Hospital record to be furnished court, indeterminate sentence review board. Where under RCW 71.06.091 the superintendent renders his or her opinion to the committing court, he or she shall provide the committing court, and, in the event of conditional release, the indeterminate sentence review board, with a copy of the hospital medical record concerning the sexual psychopath. [2012 c 117 § 436; 1967 c 104 § 4; 1959 c 25 § 71.06.100. Prior: 1951 c 223 § 10.]

71.06.120 Credit for time served in hospital. Time served by a sexual psychopath in a state hospital shall count as part of his or her sentence whether such sentence is pronounced before or after adjudication of his or her sexual psychopathy. [2012 c 117 § 437; 1959 c 25 § 71.06.120. Prior: 1951 c 223 § 13.]

71.06.130 Discharge pursuant to conditional release. Where a sexual psychopath has been conditionally released by the committing court, as provided by RCW 71.06.091 for a period of five years, the court shall review his or her record and when the court is satisfied that the sexual psychopath is safe to be at large, said sexual psychopath shall be discharged. [2012 c 117 § 438; 1967 c 104 § 5; 1959 c 25 § 71.06.130. Prior: 1951 c 223 § 12; 1949 c 198 § 28, part; Rem. Supp. 1949 § 6953-28, part.]

71.06.135 Sexual psychopaths—Release of information authorized. In addition to any other information required to be released under this chapter, the department is authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to protect the public, concerning a specific sexual psychopath committed under this chapter. [1990 c 3 § 120.]

Additional notes found at www.leg.wa.gov

71.06.140 State hospitals for care of sexual psychopaths—Transfers to correctional institutions—Examinations, reports. The department may designate one or more

state hospitals for the care and treatment of sexual psychopaths: PROVIDED, That a committed sexual psychopath who has been determined by the superintendent of such mental hospital to be a custodial risk, or a hazard to other patients may be transferred by the secretary of social and health services, with the consent of the secretary of corrections, to one of the correctional institutions within the department of corrections which has psychiatric care facilities. A committed sexual psychopath who has been transferred to a correctional institution shall be observed and treated at the psychiatric facilities provided by the correctional institution. A complete psychiatric examination shall be given to each sexual psychopath so transferred at least twice annually. The examinations may be conducted at the correctional institution or at one of the mental hospitals. The examiners shall report in writing the results of said examinations, including recommendations as to future treatment and custody, to the superintendent of the mental hospital from which the sexual psychopath was transferred, and to the committing court, with copies of such reports and recommendations to the superintendent of the correctional institution. [1981 c 136 § 65; 1979 c 141 § 131; 1967 c 104 § 6; 1959 c 25 § 71.06.140. Prior: 1951 c 223 § 11; 1949 c 198 § 37; Rem. Supp. 1949 § 6953-37.]

Additional notes found at www.leg.wa.gov

71.06.260 Hospitalization costs—Sexual psychopaths—Financial responsibility. At any time any person is committed as a sexual psychopath the court shall, after reasonable notice of the time, place and purpose of the hearing has been given to persons subject to liability under this section, inquire into and determine the financial ability of said person, or his or her parents if he or she is a minor, or other relatives to pay the cost of care, meals and lodging during his or her period of hospitalization. Such cost shall be determined by the department of social and health services. Findings of fact shall be made relative to the ability to pay such cost and a judgment entered against the person or persons found to be financially responsible and directing the payment of said cost or such part thereof as the court may direct. The person committed, or his or her parents or relatives, may apply for modification of said judgment, or the order last entered by the court, if a proper showing of equitable grounds is made therefor. [2012 c 117 § 439; 1985 c 354 § 33; 1979 c 141 § 132; 1959 c 25 § 71.06.260. Prior: 1957 c 26 § 1; 1951 c 223 § 27.]

71.06.270 Availability of records. The records, files, and other written information prepared by the department of social and health services for individuals committed under this chapter shall be made available upon request to the department of corrections or the *board of prison terms and paroles for persons who are the subject of the records who are committed to the custody of the department of corrections or the board of prison terms and paroles. [1983 c 196 § 5.]

***Reviser's note:** The "board of prison terms and paroles" was redesignated the "indeterminate sentence review board" by 1986 c 224, effective July 1, 1986.

Chapter 71.09 RCW
SEXUALLY VIOLENT PREDATORS

Sections

71.09.010 Findings. The legislature finds that a small but extremely dangerous group of sexually violent predators exist who do not have a mental disease or defect that renders them appropriate for the existing involuntary treatment act, chapter 71.05 RCW, which is intended to be a short-term civil commitment system that is primarily designed to provide short-term treatment to individuals with serious mental disorders and then return them to the community. In contrast to persons appropriate for civil commitment under chapter 71.05 RCW, sexually violent predators generally have personality disorders and/or mental abnormalities which are unamenable to existing mental illness treatment modalities and those conditions render them likely to engage in sexually violent behavior. The legislature further finds that sex offenders' likelihood of engaging in repeat acts of predatory sexual violence is high. The existing involuntary commitment act, chapter 71.05 RCW, is inadequate to address the risk to reoffend because during confinement these offenders do not have access to potential victims and therefore they will not engage in an overt act during confinement as required by the involuntary treatment act for continued confinement. The legislature further finds that the prognosis for curing sexually violent offenders is poor, the treatment needs of this population are very long term, and the treatment modalities for this population are very different than the traditional treatment modalities for people appropriate for commitment under the involuntary treatment act. [2001 c 286 § 3; 1990 c 3 § 1001.]

Additional notes found at www.leg.wa.gov

71.09.015 Finding—Intent—Clarification. The legislature finds that presentation of evidence related to conditions of a less restrictive alternative that are beyond the authority of the court to order, and that would not exist in the absence of a court order, reduces the public respect for the rule of law and for the authority of the courts. Consequently, the legislature finds that the decision in *In re the Detention of Casper Ross*, 102 Wn. App 108 (2000), is contrary to the legislature's intent. The legislature hereby clarifies that it intends, and has always intended, in any proceeding under this chapter that the court and jury be presented only with conditions that would exist or that the court would have the authority to order in the absence of a finding that the person is a sexually violent predator. [2001 c 286 § 1.]

Additional notes found at www.leg.wa.gov

71.09.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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

(2) "Health care facility" means any hospital, hospice care center, licensed or certified health care facility, health maintenance organization regulated under chapter 48.46 RCW, federally qualified health maintenance organization, federally approved renal dialysis center or facility, or federally approved blood bank.

(3) "Health care practitioner" means an individual or firm licensed or certified to engage actively in a regulated health profession.

(4) "Health care services" means those services provided by health professionals licensed pursuant to RCW 18.120.020(4).

(5) "Health profession" means those licensed or regulated professions set forth in RCW 18.120.020(4).

(6) "Less restrictive alternative" means court-ordered treatment in a setting less restrictive than total confinement which satisfies the conditions set forth in RCW 71.09.092. A less restrictive alternative may not include placement in the community protection program as pursuant to RCW 71A.12.230.

(7) "Likely to engage in predatory acts of sexual violence if not confined in a secure facility" means that the person more probably than not will engage in such acts if released unconditionally from detention on the sexually violent predator petition. Such likelihood must be evidenced by a recent overt act if the person is not totally confined at the time the petition is filed under RCW 71.09.030.

(8) "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting such person a menace to the health and safety of others.

(9) "Personality disorder" means an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has onset in adolescence or early adulthood, is stable over time and leads to distress or impairment. Purported evidence of a personality disorder must be supported by testimony of a licensed forensic psychologist or psychiatrist.

(10) "Predatory" means acts directed towards: (a) Strangers; (b) individuals with whom a relationship has been established or promoted for the primary purpose of victimization; or (c) persons of casual acquaintance with whom no substantial personal relationship exists.

(11) "Prosecuting agency" means the prosecuting attorney of the county where the person was convicted or charged or the attorney general if requested by the prosecuting attorney, as provided in RCW 71.09.030.

(12) "Recent overt act" means any act, threat, or combination thereof that has either caused harm of a sexually violent nature or creates a reasonable apprehension of such harm in the mind of an objective person who knows of the history and mental condition of the person engaging in the act or behaviors.

(13) "Risk potential activity" or "risk potential facility" means an activity or facility that provides a higher incidence of risk to the public from persons conditionally released from the special commitment center. Risk potential activities and facilities include: Public and private schools, school bus stops, licensed day care and licensed preschool facilities, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, public libraries, public and private youth camps, and others identified by the department following the hearings on a potential site required in RCW 71.09.315. For purposes of this chapter, "school bus stops"

does not include bus stops established primarily for public transit.

(14) "Secretary" means the secretary of social and health services or the secretary's designee.

(15) "Secure community transition facility" means a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under this chapter. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facility established pursuant to RCW 71.09.250(1)(a)(i) and any community-based facilities established under this chapter and operated by the secretary or under contract with the secretary.

(16) "Secure facility" means a residential facility for persons civilly confined under the provisions of this chapter that includes security measures sufficient to protect the community. Such facilities include total confinement facilities, secure community transition facilities, and any residence used as a court-ordered placement under RCW 71.09.096.

(17) "Sexually violent offense" means an act committed on, before, or after July 1, 1990, that is: (a) An act defined in Title 9A RCW as rape in the first degree, rape in the second degree by forcible compulsion, rape of a child in the first or second degree, statutory rape in the first or second degree, indecent liberties by forcible compulsion, indecent liberties against a child under age fourteen, incest against a child under age fourteen, or child molestation in the first or second degree; (b) a felony offense in effect at any time prior to July 1, 1990, that is comparable to a sexually violent offense as defined in (a) of this subsection, or any federal or out-of-state conviction for a felony offense that under the laws of this state would be a sexually violent offense as defined in this subsection; (c) an act of murder in the first or second degree, assault in the first or second degree, assault of a child in the first or second degree, kidnapping in the first or second degree, burglary in the first degree, residential burglary, or unlawful imprisonment, which act, either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to this chapter, has been determined beyond a reasonable doubt to have been sexually motivated, as that term is defined in RCW 9.94A.030; or (d) an act as described in chapter 9A.28 RCW, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the felonies designated in (a), (b), or (c) of this subsection.

(18) "Sexually violent predator" means any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility.

(19) "Total confinement facility" means a secure facility that provides supervision and sex offender treatment services in a total confinement setting. Total confinement facilities include the special commitment center and any similar facility designated as a total confinement facility by the secretary.

(20) "Treatment" means the sex offender specific treatment program at the special commitment center or a specific course of sex offender treatment pursuant to RCW 71.09.092 (1) and (2). [2015 c 278 § 2; 2009 c 409 § 1; 2006 c 303 § 10. Prior: 2003 c 216 § 2; 2003 c 50 § 1; 2002 c 68 § 4; 2002 c 58 § 2; 2001 2nd sp.s. c 12 § 102; 2001 c 286 § 4; 1995 c 216 § 1; 1992 c 145 § 17; 1990 1st ex.s. c 12 § 2; 1990 c 3 § 1002.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—2015 c 278 §§ 1 and 2: See note following RCW 71.09.070.

Application—2009 c 409: "This act applies to all persons currently committed or awaiting commitment under chapter 71.09 RCW either on, before, or after May 7, 2009, whether confined in a secure facility or on conditional release." [2009 c 409 § 15.]

Effective date—2009 c 409: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 7, 2009]." [2009 c 409 § 16.]

Purpose—Severability—Effective date—2002 c 68: See notes following RCW 36.70A.200.

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Additional notes found at www.leg.wa.gov

71.09.025 Notice to prosecuting attorney prior to release. (1)(a) When it appears that a person may meet the criteria of a sexually violent predator as defined in *RCW 71.09.020(16), the agency with jurisdiction shall refer the person in writing to the prosecuting attorney of the county in which an action under this chapter may be filed pursuant to RCW 71.09.030 and the attorney general, three months prior to:

(i) The anticipated release from total confinement of a person who has been convicted of a sexually violent offense;

(ii) The anticipated release from total confinement of a person found to have committed a sexually violent offense as a juvenile;

(iii) Release of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial pursuant to RCW 10.77.086(4); or

(iv) Release of a person who has been found not guilty by reason of insanity of a sexually violent offense pursuant to **RCW 10.77.020(3).

(b) The agency shall provide the prosecuting agency with all relevant information including but not limited to the following information:

(i) A complete copy of the institutional records compiled by the department of corrections relating to the person, and any such out-of-state department of corrections' records, if available;

(ii) A complete copy, if applicable, of any file compiled by the indeterminate sentence review board relating to the person;

(iii) All records relating to the psychological or psychiatric evaluation and/or treatment of the person;

(iv) A current record of all prior arrests and convictions, and full police case reports relating to those arrests and convictions; and

(v) A current mental health evaluation or mental health records review.

(c) The prosecuting agency has the authority, consistent with ***RCW 72.09.345(3), to obtain all records relating to the person if the prosecuting agency deems such records are necessary to fulfill its duties under this chapter. The prosecuting agency may only disclose such records in the course of

performing its duties pursuant to this chapter, unless otherwise authorized by law.

(d) The prosecuting agency has the authority to utilize the inquiry judge procedures of chapter 10.27 RCW prior to the filing of any action under this chapter to seek the issuance of compulsory process for the production of any records necessary for a determination of whether to seek the civil commitment of a person under this chapter. Any records obtained pursuant to this process may only be disclosed by the prosecuting agency in the course of performing its duties pursuant to this chapter, or unless otherwise authorized by law.

(2) The agency, its employees, and officials shall be immune from liability for any good-faith conduct under this section.

(3) As used in this section, "agency with jurisdiction" means that agency with the authority to direct the release of a person serving a sentence or term of confinement and includes the department of corrections, the indeterminate sentence review board, and the department of social and health services. [2009 c 409 § 2; 2008 c 213 § 11; 2001 c 286 § 5; 1995 c 216 § 2; 1992 c 45 § 3.]

Reviser's note: *(1) RCW 71.09.020 was amended by 2009 c 409 § 1, changing subsection (16) to subsection (18).

**(2) RCW 10.77.020 was amended by 1998 c 297 § 30, deleting subsection (3).

***(3) RCW 72.09.345 was amended by 2011 c 338 § 5, changing subsection (3) to subsection (4).

Application—Effective date—2009 c 409: See notes following RCW 71.09.020.

Additional notes found at www.leg.wa.gov

71.09.030 Sexually violent predator petition—Filing. (1) A petition may be filed alleging that a person is a sexually violent predator and stating sufficient facts to support such allegation when it appears that: (a) A person who at any time previously has been convicted of a sexually violent offense is about to be released from total confinement; (b) a person found to have committed a sexually violent offense as a juvenile is about to be released from total confinement; (c) a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial is about to be released, or has been released, pursuant to RCW 10.77.086(4); (d) a person who has been found not guilty by reason of insanity of a sexually violent offense is about to be released, or has been released, pursuant to RCW *10.77.020 (3), 10.77.110 (1) or (3), or 10.77.150; or (e) a person who at any time previously has been convicted of a sexually violent offense and has since been released from total confinement and has committed a recent overt act.

(2) The petition may be filed by:

(a) The prosecuting attorney of a county in which:

(i) The person has been charged or convicted with a sexually violent offense;

(ii) A recent overt act occurred involving a person covered under subsection (1)(e) of this section; or

(iii) The person committed a recent overt act, or was charged or convicted of a criminal offense that would qualify as a recent overt act, if the only sexually violent offense charge or conviction occurred in a jurisdiction other than Washington; or

(b) The attorney general, if requested by the county prosecuting attorney identified in (a) of this subsection. If the county prosecuting attorney requests that the attorney general file and prosecute a case under this chapter, then the county shall charge the attorney general only the fees, including filing and jury fees, that would be charged and paid by the county prosecuting attorney, if the county prosecuting attorney retained the case. [2009 c 409 § 3; 2008 c 213 § 12; 1995 c 216 § 3; 1992 c 45 § 4; 1990 1st ex.s. c 12 § 3; 1990 c 3 § 1003.]

***Reviser's note:** RCW 10.77.020 was amended by 1998 c 297 § 30, deleting subsection (3).

Application—Effective date—2009 c 409: See notes following RCW 71.09.020.

Additional notes found at www.leg.wa.gov

71.09.040 Sexually violent predator petition—Probable cause hearing—Judicial determination—Transfer to total confinement facility upon probable cause determination. (1) Upon the filing of a petition under RCW 71.09.030, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If such determination is made the judge shall direct that the person be taken into custody and notify the office of public defense of the potential need for representation.

(2) Within seventy-two hours after a person is taken into custody pursuant to subsection (1) of this section, the court shall provide the person with notice of, and an opportunity to appear in person at, a hearing to contest probable cause as to whether the person is a sexually violent predator. In order to assist the person at the hearing, within twenty-four hours of service of the petition, the prosecuting agency shall provide to the person or his or her counsel a copy of all materials provided to the prosecuting agency by the referring agency pursuant to RCW 71.09.025, or obtained by the prosecuting agency pursuant to RCW 71.09.025(1) (c) and (d). At this hearing, the court shall (a) verify the person's identity, and (b) determine whether probable cause exists to believe that the person is a sexually violent predator. At the probable cause hearing, the state may rely upon the petition and certification for determination of probable cause filed pursuant to RCW 71.09.030. The state may supplement this with additional documentary evidence or live testimony. The person may be held in total confinement at the county jail until the trial court renders a decision after the conclusion of the seventy-two hour probable cause hearing. The county shall be entitled to reimbursement for the cost of housing and transporting the person pursuant to rules adopted by the secretary.

(3) At the probable cause hearing, the person shall have the following rights in addition to the rights previously specified: (a) To be represented by counsel, and if the person is indigent as defined in RCW 10.101.010, to have office of public defense contracted counsel appointed as provided in RCW 10.101.020; (b) to present evidence on his or her behalf; (c) to cross-examine witnesses who testify against him or her; (d) to view and copy all petitions and reports in the court file. The court must permit a witness called by either party to testify by telephone. Because this is a special proceeding, discovery pursuant to the civil rules shall not occur until after the hearing has been held and the court has issued its decision.

(4) If the probable cause determination is made, the judge shall direct that the person be transferred to the custody of the department of social and health services for placement in a total confinement facility operated by the department. In no event shall the person be released from confinement prior to trial. [2012 c 257 § 4; 2009 c 409 § 4; 2001 c 286 § 6; 1995 c 216 § 4; 1990 c 3 § 1004.]

Effective date—2012 c 257: See note following RCW 2.70.020.

Application—Effective date—2009 c 409: See notes following RCW 71.09.020.

Additional notes found at www.leg.wa.gov

71.09.045 Indigent defense services—Activities beyond the scope of representation by the office of public defense. The following activities, unless provided as part of investigation and preparation for any hearing or trial under this chapter, are beyond the scope of representation of an attorney under contract with the office of public defense pursuant to chapter 2.70 RCW for the purposes of providing indigent defense services in sexually violent predator civil commitment proceedings:

(1) Investigation or legal representation challenging the conditions of confinement at the special commitment center or any secure community transition facility;

(2) Investigation or legal representation for making requests under the public records act, chapter 42.56 RCW;

(3) Legal representation or advice regarding filing a grievance with the department as part of its grievance policy or procedure;

(4) Such other activities as may be excluded by policy or contract with the office of public defense. [2012 c 257 § 8.]

Effective date—2012 c 257: See note following RCW 2.70.020.

71.09.050 Trial—Rights of parties. (1) Within forty-five days after the completion of any hearing held pursuant to RCW 71.09.040, the court shall conduct a trial to determine whether the person is a sexually violent predator. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and when the respondent will not be substantially prejudiced. The prosecuting agency shall have a right to a current evaluation of the person by experts chosen by the state. The judge may require the person to complete any or all of the following procedures or tests if requested by the evaluator: (a) A clinical interview; (b) psychological testing; (c) plethysmograph testing; and (d) polygraph testing. The judge may order the person to complete any other procedures and tests relevant to the evaluation. The state is responsible for the costs of the evaluation. At all stages of the proceedings under this chapter, any person subject to this chapter shall be entitled to the assistance of counsel, and if the person is indigent as defined in RCW 10.101.010, the court, as provided in RCW 10.101.020, shall appoint office of public defense contracted counsel to assist him or her. The person shall be confined in a secure facility for the duration of the trial.

(2) Whenever any indigent person is subjected to an evaluation under this chapter, the office of public defense is responsible for the cost of one expert or professional person to conduct an evaluation on the person's behalf. When the person wishes to be evaluated by a qualified expert or professional person of his or her own choice, the expert or professional person must be permitted to have reasonable access to the person for the purpose of such evaluation, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall, upon the person's request, assist the person in obtaining an expert or professional person to perform an evaluation or participate in the trial on the person's behalf. Nothing in this chapter precludes the person from paying for additional expert services at his or her own expense.

(3) The person, the prosecuting agency, or the judge shall have the right to demand that the trial be before a twelve-person jury. If no demand is made, the trial shall be before the court. [2012 c 257 § 5; 2010 1st sp.s. c 28 § 1; 2009 c 409 § 5; 1995 c 216 § 5; 1990 c 3 § 1005.]

Effective date—2012 c 257: See note following RCW 2.70.020.

Application—Effective date—2009 c 409: See notes following RCW 71.09.020.

71.09.055 Expert evaluations of indigent persons—Costs. (1) The office of public defense is responsible for the cost of one expert or professional person conducting an evaluation on an indigent person's behalf as provided in RCW 71.09.050, 71.09.070, or 71.09.090.

(2) Expert evaluations are capped at ten thousand dollars, to include all professional fees, travel, per diem, and other costs. Partial evaluations are capped at five thousand five hundred dollars and expert services apart from an evaluation, exclusive of testimony at trial or depositions, are capped at six thousand dollars.

(3) The office of public defense will pay for the costs related to the evaluation of an indigent person by an additional examiner or in excess of the stated fee caps only upon a finding by the superior court that such appointment or extraordinary fees are for good cause. [2012 c 257 § 9.]

Effective date—2012 c 257: See note following RCW 2.70.020.

71.09.060 Trial—Determination—Commitment procedures. (1) The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. In determining whether or not the person would be likely to engage in predatory acts of sexual violence if not confined in a secure facility, the fact finder may consider only placement conditions and voluntary treatment options that would exist for the person if unconditionally released from detention on the sexually violent predator petition. The community protection program under RCW 71A.12.230 may not be considered as a placement condition or treatment option available to the person if unconditionally released from detention on a sexually violent predator petition. When the determination is made by a jury, the verdict must be unanimous.

If, on the date that the petition is filed, the person was living in the community after release from custody, the state must also prove beyond a reasonable doubt that the person had committed a recent overt act. If the state alleges that the prior sexually violent offense that forms the basis for the petition for commitment was an act that was sexually motivated as provided in *RCW 71.09.020(15)(c), the state must prove beyond a reasonable doubt that the alleged sexually violent act was sexually motivated as defined in RCW 9.94A.030.

If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the department of social and health services for placement in a secure facility operated by the department of social and health services for control, care, and treatment until such time as: (a) The person's condition has so changed that the person no longer meets the definition of a sexually violent predator; or (b) conditional release to a less restrictive alternative as set forth in RCW 71.09.092 is in the best interest of the person and conditions can be imposed that would adequately protect the community.

If the court or unanimous jury decides that the state has not met its burden of proving that the person is a sexually violent predator, the court shall direct the person's release.

If the jury is unable to reach a unanimous verdict, the court shall declare a mistrial and set a retrial within forty-five days of the date of the mistrial unless the prosecuting agency earlier moves to dismiss the petition. The retrial may be continued upon the request of either party accompanied by a showing of good cause, or by the court on its own motion in the due administration of justice provided that the respondent will not be substantially prejudiced. In no event may the person be released from confinement prior to retrial or dismissal of the case.

(2) If the person charged with a sexually violent offense has been found incompetent to stand trial, and is about to be or has been released pursuant to RCW 10.77.086(4), and his or her commitment is sought pursuant to subsection (1) of this section, the court shall first hear evidence and determine whether the person did commit the act or acts charged if the court did not enter a finding prior to dismissal under RCW 10.77.086(4) that the person committed the act or acts charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on his or her own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, it shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this section.

(3) Except as otherwise provided in this chapter, the state shall comply with RCW 10.77.220 while confining the person. During all court proceedings where the person is present, the person shall be detained in a secure facility. If the proceedings last more than one day, the person may be held in the county jail for the duration of the proceedings, except the person may be returned to the department's custody on weekends and court holidays if the court deems such a transfer feasible. The county shall be entitled to reimbursement for the cost of housing and transporting the person pursuant to rules adopted by the secretary. The department shall not place the person, even temporarily, in a facility on the grounds of any state mental facility or regional habilitation center because these institutions are insufficiently secure for this population.

(4) A court has jurisdiction to order a less restrictive alternative placement only after a hearing ordered pursuant to RCW 71.09.090 following initial commitment under this section and in accord with the provisions of this chapter. [2009 c 409 § 6; 2008 c 213 § 13; 2006 c 303 § 11; 2001 c 286 § 7; 1998 c 146 § 1; 1995 c 216 § 6; 1990 1st ex.s. c 12 § 4; 1990 c 3 § 1006.]

***Reviser's note:** RCW 71.09.020 was amended by 2009 c 409 § 1, changing subsection (15) to subsection (17).

Application—Effective date—2009 c 409: See notes following RCW 71.09.020.

Additional notes found at www.leg.wa.gov

71.09.070 Annual examinations of persons committed under chapter—Suspension of section. (1) Each person committed under this chapter shall have a current examination of his or her mental condition made by the department at least once every year.

(2) The evaluator must prepare a report that includes consideration of whether:

(a) The committed person currently meets the definition of a sexually violent predator;

(b) Conditional release to a less restrictive alternative is in the best interest of the person; and

(c) Conditions can be imposed that would adequately protect the community.

(3) The department, on request of the committed person, shall allow a record of the annual review interview to be preserved by audio recording and made available to the committed person.

(4) The evaluator must indicate in the report whether the committed person participated in the interview and examination.

(5) The department shall file the report with the court that committed the person under this chapter. The report shall be in the form of a declaration or certification in compliance with the requirements of chapter 5.50 RCW and shall be prepared by a professionally qualified person as defined by rules adopted by the secretary. A copy of the report shall be served on the prosecuting agency involved in the initial commitment and upon the committed person and his or her counsel.

(6)(a) The committed person may retain, or if he or she is indigent and so requests, the court may appoint a qualified expert or a professional person to examine him or her, and such expert or professional person shall have access to all records concerning the person.

(b) Any report prepared by the expert or professional person and any expert testimony on the committed person's behalf is not admissible in a proceeding pursuant to RCW 71.09.090, unless the committed person participated in the most recent interview and evaluation completed by the department.

(7) If an unconditional release trial is ordered pursuant to RCW 71.09.090, this section is suspended until the completion of that trial. If the individual is found either by jury or the court to continue to meet the definition of a sexually violent predator, the department must conduct an examination pursu-

ant to this section no later than one year after the date of the order finding that the individual continues to be a sexually violent predator. The examination must comply with the requirements of this section.

(8) During any period of confinement pursuant to a criminal conviction, or for any period of detention awaiting trial on criminal charges, this section is suspended. Upon the return of the person committed under this chapter to the custody of the department, the department shall initiate an examination of the person's mental condition. The examination must comply with the requirements of subsection (1) of this section. [2019 c 232 § 25; 2015 c 278 § 1; 2011 2nd sp.s. c 7 § 1; 2001 c 286 § 8; 1995 c 216 § 7; 1990 c 3 § 1007.]

Effective date—2015 c 278 §§ 1 and 2: "Sections 1 and 2 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2015." [2015 c 278 § 4.]

Effective date—2011 2nd sp.s. c 7: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [December 20, 2011]." [2011 2nd sp.s. c 7 § 3.]

Additional notes found at www.leg.wa.gov

71.09.080 Rights of persons committed under this chapter—Use of personal computers regulated. (1) Any person subjected to restricted liberty as a sexually violent predator pursuant to this chapter shall not forfeit any legal right or suffer any legal disability as a consequence of any actions taken or orders made, other than as specifically provided in this chapter, or as otherwise authorized by law.

(2)(a) Any person committed or detained pursuant to this chapter shall be prohibited from possessing or accessing a personal computer if the resident's individualized treatment plan states that access to a computer is harmful to bringing about a positive response to a specific and certain phase or course of treatment.

(b) A person who is prohibited from possessing or accessing a personal computer under (a) of this subsection shall be permitted to access a limited functioning personal computer capable of word processing and limited data storage on the computer only that does not have: (i) Internet access capability; (ii) an optical drive, external drive, universal serial bus port, or similar drive capability; or (iii) the capability to display photographs, images, videos, or motion pictures, or similar display capability from any drive or port capability listed under (b)(ii) of this subsection.

(3) Any person committed pursuant to this chapter has the right to adequate care and individualized treatment. The department of social and health services shall keep records detailing all medical, expert, and professional care and treatment received by a committed person, and shall keep copies of all reports of periodic examinations made pursuant to this chapter. All such records and reports shall be made available upon request only to: The committed person, his or her attorney, the prosecuting agency, the court, the protection and advocacy agency, or another expert or professional person who, upon proper showing, demonstrates a need for access to such records.

(4) At the time a person is taken into custody or transferred into a facility pursuant to a petition under this chapter, the professional person in charge of such facility or his or her designee shall take reasonable precautions to inventory and safeguard the personal property of the persons detained or transferred. A copy of the inventory, signed by the staff member making it, shall be given to the person detained and shall, in addition, be open to inspection to any responsible relative, subject to limitations, if any, specifically imposed by the detained person. For purposes of this subsection, "responsible relative" includes the guardian, conservator, attorney, spouse, parent, adult child, or adult brother or sister of the person. The facility shall not disclose the contents of the inventory to any other person without consent of the patient or order of the court.

(5) Nothing in this chapter prohibits a person presently committed from exercising a right presently available to him or her for the purpose of obtaining release from confinement, including the right to petition for a writ of habeas corpus.

(6) No indigent person may be conditionally released or unconditionally discharged under this chapter without suitable clothing, and the secretary shall furnish the person with such sum of money as is required by RCW 72.02.100 for persons without ample funds who are released from correctional institutions. As funds are available, the secretary may provide payment to the indigent persons conditionally released pursuant to this chapter consistent with the optional provisions of RCW 72.02.100 and 72.02.110, and may adopt rules to do so.

(7) If a civil commitment petition is dismissed, or a trier of fact determines that a person does not meet civil commitment criteria, the person shall be released within twenty-four hours of service of the release order on the superintendent of the special commitment center, or later by agreement of the person who is the subject of the petition. [2012 c 257 § 6; 2010 c 218 § 2; 2009 c 409 § 7; 1995 c 216 § 8; 1990 c 3 § 1008.]

Effective date—2012 c 257: See note following RCW 2.70.020.

Findings—2010 c 218: "The legislature finds that there have been ongoing, egregious examples of certain residents of the special commitment center having illegal child pornography, other prohibited pornography, and other banned materials on their computers. The legislature also finds that activities at the special commitment center must be designed and implemented to meet the treatment goals of the special commitment center, and proper and appropriate computer usage is one such activity. The legislature also finds that by linking computer usage to treatment plans, residents are less likely to have prohibited materials on their computers and are more likely to successfully complete their treatment plans. Therefore, the legislature finds that residents' computer usage in compliance with conditions placed on computer usage is essential to achieving their therapeutic goals. If residents' usage of computers is not in compliance or is not related to meeting their treatment goals, computer usage will be limited in order to prevent or reduce residents' access to prohibited materials." [2010 c 218 § 1.]

Application—Effective date—2009 c 409: See notes following RCW 71.09.020.

71.09.085 Medical care—Contracts for services—Authorization to act on behalf of civilly committed residents. (1) Notwithstanding any other provisions of law, the secretary may enter into contracts with health care practitioners, health care facilities, and other entities or agents as may be necessary to provide basic medical care to residents. The contracts shall not cause the termination of classified employees of the department rendering the services at the time the contract is executed.

(2) In contracting for services, the secretary is authorized to provide for indemnification of health care practitioners who cannot obtain professional liability insurance through reasonable effort, from liability on any action, claim, or pro-

ceeding instituted against them arising out of the good faith performance or failure of performance of services on behalf of the department. The contracts may provide that for the purposes of chapter 4.92 RCW only, those health care practitioners with whom the department has contracted shall be considered state employees.

(3) To the extent that federal law allows and financial participation is available, the secretary or secretary's designee is authorized to act on behalf of a civilly committed resident for the purposes of applying for medicare and medicaid benefits, veterans health benefits, or other health care benefits or reimbursement available as a result of participation in a health care exchange as defined by the affordable care act. [2015 c 271 § 1; 2002 c 58 § 1.]

Additional notes found at www.leg.wa.gov

71.09.090 Petition for conditional release to less restrictive alternative or unconditional discharge—Procedures—Suspension of section. (1) If the secretary determines that the person's condition has so changed that either: (a) The person no longer meets the definition of a sexually violent predator; or (b) conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that adequately protect the community, the secretary shall authorize the person to petition the court for conditional release to a less restrictive alternative or unconditional discharge. The petition shall be filed with the court and served upon the prosecuting agency responsible for the initial commitment. The court, upon receipt of the petition for conditional release to a less restrictive alternative or unconditional discharge, shall within forty-five days order a hearing.

(2)(a) Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court for conditional release to a less restrictive alternative or unconditional discharge without the secretary's approval. The secretary shall provide the committed person with an annual written notice of the person's right to petition the court for conditional release to a less restrictive alternative or unconditional discharge over the secretary's objection. The notice shall contain a waiver of rights. The secretary shall file the notice and waiver form and the annual report with the court. If the person does not affirmatively waive the right to petition, the court shall set a show cause hearing to determine whether probable cause exists to warrant a hearing on whether the person's condition has so changed that: (i) He or she no longer meets the definition of a sexually violent predator; or (ii) conditional release to a proposed less restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community.

(b)(i) The committed person shall have a right to have an attorney represent him or her at the show cause hearing, which may be conducted solely on the basis of affidavits or declarations, but the person is not entitled to be present at the show cause hearing. At the show cause hearing, the prosecuting agency shall present prima facie evidence establishing: (A) That the committed person continues to meet the definition of a sexually violent predator; and (B) that a less restrictive alternative is not in the best interest of the person and conditions cannot be imposed that adequately protect the community.

(ii)(A) If the state produces prima facie evidence that the committed person continues to be a sexually violent predator, then the state's burden under (b)(i)(A) of this subsection is met and an unconditional release trial may not be ordered unless the committed person produces evidence satisfying: Subsection (4)(a) of this section; and subsection (4)(b) (i) or (ii) of this section.

(B) If the state produces prima facie evidence that a less restrictive alternative is not appropriate for the committed person, then the state's burden under (b)(i)(B) of this subsection is met, and a conditional release trial may not be ordered unless the committed person:

(I) Produces evidence satisfying: Subsection (4)(a) of this section; and subsection (4)(b) (i) or (ii) of this section; and

(II) Presents the court with a specific placement satisfying the requirements of RCW 71.09.092.

(iii) In making the showing required under (b)(i) of this subsection, the state may rely exclusively upon the annual report prepared pursuant to RCW 71.09.070. The committed person may present responsive affidavits or declarations to which the state may reply.

(c) If the court at the show cause hearing determines that either: (i) The state has failed to present prima facie evidence that the committed person continues to meet the definition of a sexually violent predator and that no proposed less restrictive alternative is in the best interest of the person and conditions cannot be imposed that would adequately protect the community; or (ii) probable cause exists to believe that the person's condition has so changed that: (A) The person no longer meets the definition of a sexually violent predator; or (B) release to a proposed less restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community, then the court shall set a hearing on either or both issues.

(d) If the court has not previously considered the issue of release to a less restrictive alternative, either through a trial on the merits or through the procedures set forth in RCW 71.09.094(1), the court shall consider whether release to a less restrictive alternative would be in the best interests of the person and conditions can be imposed that would adequately protect the community, without considering whether the person's condition has changed. The court may not find probable cause for a trial addressing less restrictive alternatives unless a proposed less restrictive alternative placement meeting the conditions of RCW 71.09.092 is presented to the court at the show cause hearing.

(3)(a) At the hearing resulting from subsection (1) or (2) of this section, the committed person shall be entitled to be present and to the benefit of all constitutional protections that were afforded to the person at the initial commitment proceeding. The prosecuting agency shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by experts chosen by the state. The prosecuting agency shall have a right to a current evaluation of the person by experts chosen by the state. The judge may require the person to complete any or all of the following procedures or tests if requested by the evaluator: (i) A clinical interview; (ii) psychological testing; (iii) plethysmograph testing; and (iv) polygraph testing. The judge may order the person to complete any other procedures and tests relevant to the eval-

uation. The state is responsible for the costs of the evaluation. The committed person shall also have the right to a jury trial and the right to have experts evaluate him or her on his or her behalf and the court shall appoint an expert if the person is indigent and requests an appointment.

(b) Whenever any indigent person is subjected to an evaluation under (a) of this subsection, the office of public defense is responsible for the cost of one expert or professional person conducting an evaluation on the person's behalf. When the person wishes to be evaluated by a qualified expert or professional person of his or her own choice, such expert or professional person must be permitted to have reasonable access to the person for the purpose of such evaluation, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall, upon the person's request, assist the person in obtaining an expert or professional person to perform an evaluation or participate in the hearing on the person's behalf. Nothing in this chapter precludes the person from paying for additional expert services at his or her own expense.

(c) If the issue at the hearing is whether the person should be unconditionally discharged, the burden of proof shall be upon the state to prove beyond a reasonable doubt that the committed person's condition remains such that the person continues to meet the definition of a sexually violent predator. Evidence of the prior commitment trial and disposition is admissible. The recommitment proceeding shall otherwise proceed as set forth in RCW 71.09.050 and 71.09.060.

(d) If the issue at the hearing is whether the person should be conditionally released to a less restrictive alternative, the burden of proof at the hearing shall be upon the state to prove beyond a reasonable doubt that conditional release to any proposed less restrictive alternative either: (i) Is not in the best interest of the committed person; or (ii) does not include conditions that would adequately protect the community. Evidence of the prior commitment trial and disposition is admissible.

(4)(a) Probable cause exists to believe that a person's condition has "so changed," under subsection (2) of this section, only when evidence exists, since the person's last commitment trial, or less restrictive alternative revocation proceeding, of a substantial change in the person's physical or mental condition such that the person either no longer meets the definition of a sexually violent predator or that a conditional release to a less restrictive alternative is in the person's best interest and conditions can be imposed to adequately protect the community.

(b) A new trial proceeding under subsection (3) of this section may be ordered, or a trial proceeding may be held, only when there is current evidence from a licensed professional of one of the following and the evidence presents a change in condition since the person's last commitment trial proceeding:

(i) An identified physiological change to the person, such as paralysis, stroke, or dementia, that renders the committed person unable to commit a sexually violent act and this change is permanent; or

(ii) A change in the person's mental condition brought about through positive response to continuing participation in treatment which indicates that the person meets the standard for conditional release to a less restrictive alternative or that the person would be safe to be at large if unconditionally released from commitment.

(c) For purposes of this section, a change in a single demographic factor, without more, does not establish probable cause for a new trial proceeding under subsection (3) of this section. As used in this section, a single demographic factor includes, but is not limited to, a change in the chronological age, marital status, or gender of the committed person.

(5) The jurisdiction of the court over a person civilly committed pursuant to this chapter continues until such time as the person is unconditionally discharged.

(6) During any period of confinement pursuant to a criminal conviction, or for any period of detention awaiting trial on criminal charges, this section is suspended. [2018 c 131 § 2; 2012 c 257 § 7; 2011 2nd sp.s. c 7 § 2; 2010 1st sp.s. c 28 § 2; 2009 c 409 § 8; 2005 c 344 § 2; 2001 c 286 § 9; 1995 c 216 § 9; 1992 c 45 § 7; 1990 c 3 § 1009.]

Findings—Intent—2018 c 131: "(1) The legislature finds that the decision in *In re Det. of Marcum*, 189 Wn.2d 1 (2017) conflicts with the legislature's intent in RCW 71.09.090. The legislature's intent has always been that there are two independent issues at a postcommitment show cause hearing: Whether the individual continues to meet statutory criteria; and if so, whether conditional release to a less restrictive alternative placement is appropriate. Lack of proof of one issue should not affect the finding on the other issue. The supreme court's holding is not only a mistaken interpretation, but it will also lead to absurd results, where sexually violent predators could petition and receive a trial for unconditional release when they clearly do not qualify for it under chapter 71.09 RCW. The outcome places an unnecessary burden on the courts and risks releasing persons who are still sexually violent predators into the community.

(2) The legislature finds that the purpose of a show cause hearing under RCW 71.09.090 is to provide the court with an opportunity to determine whether probable cause exists to warrant a hearing on whether the person's condition has so changed as it relates either to the person's status as a sexually violent predator or to whether conditional release to a less restrictive alternative would be appropriate. If the court finds probable cause as to one or both of the issues, the court should set a hearing. However, as the dissent in *Marcum* correctly asserts, the statute also specifies that the court should not find probable cause if the state presents prima facie evidence to meet its burdens and the committed person does not meet his or her respective burdens. The legislature further finds that this safeguard was built into the statutory framework to prevent the outcome in *Marcum.*

(3) The intent of the statute is evident when evaluated in its entirety. The legislature intends that if the state produces prima facie evidence proving that a committed person is still a sexually violent predator, then the first prong of the state's burden is met, and an unconditional release trial may not be ordered unless the committed person produces evidence satisfying: RCW 71.09.090(4)(a); and RCW 71.09.090(4)(b) (i) or (ii). Further, the legislature intends that if the state produces prima facie evidence that a less restrictive alternative is not appropriate for the committed person, then the second prong of the state's burden is met, and a conditional release trial may not be ordered unless the committed person:

(a) Produces evidence satisfying: RCW 71.09.090(4)(a); and RCW 71.09.090(4)(b) (i) or (ii); and

(b) Presents the court with a proposed less restrictive alternative placement meeting the conditions under RCW 71.09.092.

(4) The legislature finds that the state's interest in avoiding costly and unnecessary trials is substantial. Therefore, the legislature intends to overturn the *Marcum* decision in favor of the original intent of the statute. The purpose of this act is curative and remedial, and it applies retroactively and prospectively to all petitions filed under chapter 71.09 RCW, regardless of when they were filed." [2018 c 131 § 1.]

Retroactive application—2018 c 131: "This act is curative and remedial, and it applies retroactively and prospectively to all petitions filed under this chapter." [2018 c 131 § 3.]

Effective date—2018 c 131: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 21, 2018]." [2018 c 131 § 5.]

Effective date—2012 c 257: See note following RCW 2.70.020.

Effective date—2011 2nd sp.s. c 7: See note following RCW 71.09.070.

Application—Effective date—2009 c 409: See notes following RCW 71.09.020.

Findings—Intent—2005 c 344: "The legislature finds that the decisions in *In re Young,* 120 Wn. App. 753, *review denied,* 152 Wn.2d 1007 (2004) and *In re Ward,* 125 Wn. App. 381 (2005) illustrate an unintended consequence of language in chapter 71.09 RCW.

The *Young* and *Ward* decisions are contrary to the legislature's intent set forth in RCW 71.09.010 that civil commitment pursuant to chapter 71.09 RCW address the "very long-term" needs of the sexually violent predator population for treatment and the equally long-term needs of the community for protection from these offenders. The legislature finds that the mental abnormalities and personality disorders that make a person subject to commitment under chapter 71.09 RCW are severe and chronic and do not remit due solely to advancing age or changes in other demographic factors.

The legislature finds, although severe medical conditions like stroke, paralysis, and some types of dementia can leave a person unable to commit further sexually violent acts, that a mere advance in age or a change in gender or some other demographic factor after the time of commitment does not merit a new trial proceeding under RCW 71.09.090. To the contrary, the legislature finds that a new trial ordered under the circumstances set forth in *Young* and *Ward* subverts the statutory focus on treatment and reduces community safety by removing all incentive for successful treatment participation in favor of passive aging and distracting committed persons from fully engaging in sex offender treatment.

The *Young* and *Ward* decisions are contrary to the legislature's intent that the risk posed by persons committed under chapter 71.09 RCW will generally require prolonged treatment in a secure facility followed by intensive community supervision in the cases where positive treatment gains are sufficient for community safety. The legislature has, under the guidance of the federal court, provided avenues through which committed persons who successfully progress in treatment will be supported by the state in a conditional release to a less restrictive alternative that is in the best interest of the committed person and provides adequate safeguards to the community and is the appropriate next step in the person's treatment.

The legislature also finds that, in some cases, a committed person may appropriately challenge whether he or she continues to meet the criteria for commitment. Because of this, the legislature enacted RCW 71.09.070 and 71.09.090, requiring a regular review of a committed person's status and permitting the person the opportunity to present evidence of a relevant change in condition from the time of the last commitment trial proceeding. These provisions are intended only to provide a method of revisiting the indefinite commitment due to a relevant change in the person's condition, not an alternate method of collaterally attacking a person's indefinite commitment for reasons unrelated to a change in condition. Where necessary, other existing statutes and court rules provide ample opportunity to resolve any concerns about prior commitment trials. Therefore, the legislature intends to clarify the "so changed" standard." [2005 c 344 § 1.]

Additional notes found at www.leg.wa.gov

71.09.092 Conditional release to less restrictive alternative—Findings. Before the court may enter an order directing conditional release to a less restrictive alternative, it must find the following: (1) The person will be treated by a treatment provider who is qualified to provide such treatment in the state of Washington under chapter 18.155 RCW; (2) the treatment provider has presented a specific course of treatment and has agreed to assume responsibility for such treatment and will report progress to the court on a regular basis, and will report violations immediately to the court, the prosecutor, the supervising community corrections officer, and the superintendent of the special commitment center; (3) housing exists in Washington that is sufficiently secure to protect the community, and the person or agency providing housing to the conditionally released person has agreed in writing to accept the person, to provide the level of security required by the court, and immediately to report to the court, the prosecutor, the supervising community corrections officer, and the superintendent of the special commitment center if the person leaves the housing to which he or she has been assigned without authorization; (4) the person is willing to comply with the treatment provider and all requirements imposed by the treatment provider and by the court; and (5) the person will be under the supervision of the department of corrections and is willing to comply with supervision requirements imposed by the department of corrections. [2009 c 409 § 9; 1995 c 216 § 10.]

Application—Effective date—2009 c 409: See notes following RCW 71.09.020.

71.09.094 Conditional release to less restrictive alternative—Verdict. (1) Upon the conclusion of the evidence in a hearing held pursuant to RCW 71.09.090 or through summary judgment proceedings prior to such a hearing, if the court finds that there is no legally sufficient evidentiary basis for a reasonable jury to find that the conditions set forth in RCW 71.09.092 have been met, the court shall grant a motion by the state for a judgment as a matter of law on the issue of conditional release to a less restrictive alternative.

(2) Whenever the issue of conditional release to a less restrictive alternative is submitted to the jury, the court shall instruct the jury to return a verdict in substantially the following form: Has the state proved beyond a reasonable doubt that either: (a) The proposed less restrictive alternative is not in the best interests of respondent; or (b) does not include conditions that would adequately protect the community? Answer: Yes or No. [2001 c 286 § 11; 1995 c 216 § 11.]

Additional notes found at www.leg.wa.gov

71.09.096 Conditional release to less restrictive alternative—Judgment—Conditions—Annual review. (1) If the court or jury determines that conditional release to a less restrictive alternative is in the best interest of the person and includes conditions that would adequately protect the community, and the court determines that the minimum conditions set forth in RCW 71.09.092 and in this section are met, the court shall enter judgment and direct a conditional release.

(2) The court shall impose any additional conditions necessary to ensure compliance with treatment and to protect the community. If the court finds that conditions do not exist that will both ensure the person's compliance with treatment and protect the community, then the person shall be remanded to the custody of the department of social and health services for control, care, and treatment in a secure facility as designated in RCW 71.09.060(1).

(3) If the service provider designated by the court to provide inpatient or outpatient treatment or to monitor or supervise any other terms and conditions of a person's placement in a less restrictive alternative is other than the department of social and health services or the department of corrections, then the service provider so designated must agree in writing to provide such treatment, monitoring, or supervision in accord with this section. Any person providing or agreeing to provide treatment, monitoring, or supervision services pursuant to this chapter may be compelled to testify and any privilege with regard to such person's testimony is deemed waived.

(4) Prior to authorizing any release to a less restrictive alternative, the court shall impose such conditions upon the

person as are necessary to ensure the safety of the community. The court shall order the department of corrections to investigate the less restrictive alternative and recommend any additional conditions to the court. These conditions shall include, but are not limited to the following: Specification of residence, prohibition of contact with potential or past victims, prohibition of alcohol and other drug use, participation in a specific course of inpatient or outpatient treatment that may include monitoring by the use of polygraph and plethysmograph, monitoring through the use of global positioning satellite [global positioning system] technology, supervision by a department of corrections community corrections officer, a requirement that the person remain within the state unless the person receives prior authorization by the court, and any other conditions that the court determines are in the best interest of the person or others. A copy of the conditions of release shall be given to the person and to any designated service providers.

(5)(a) Prior to authorizing release to a less restrictive alternative, the court shall consider whether it is appropriate to release the person to the person's county of commitment. To ensure equitable distribution of releases, and prevent the disproportionate grouping of persons subject to less restrictive orders in any one county, or in any one jurisdiction or community within a county, the legislature finds it is appropriate for releases to a less restrictive alternative to occur in the person's county of commitment, unless the court determines that the person's return to his or her county of commitment would be inappropriate considering any court-issued protection orders, victim safety concerns, the availability of appropriate treatment or facilities that would adequately protect the community, negative influences on the person, or the location of family or other persons or organizations offering support to the person. When the department or court assists in developing a placement under this section which is outside of the county of commitment, and there are two or more options for placement, it shall endeavor to develop the placement in a manner that does not have a disproportionate effect on a single county.

(b) If the committed person is not conditionally released to his or her county of commitment, the department shall provide the law and justice council of the county in which the person is conditionally released with notice and a written explanation.

(c) For purposes of this section, the person's county of commitment means the county of the court which ordered the person's commitment.

(d) This subsection (5) does not apply to releases to a secure community transition facility under RCW 71.09.250.

(6) Any service provider designated to provide inpatient or outpatient treatment shall monthly, or as otherwise directed by the court, submit to the court, to the department of social and health services facility from which the person was released, to the prosecuting agency, and to the supervising community corrections officer, a report stating whether the person is complying with the terms and conditions of the conditional release to a less restrictive alternative.

(7) Each person released to a less restrictive alternative shall have his or her case reviewed by the court that released him or her no later than one year after such release and annually thereafter until the person is unconditionally discharged. Review may occur in a shorter time or more frequently, if the court, in its discretion on its own motion, or on motion of the person, the secretary, or the prosecuting agency so determines. The sole question to be determined by the court is whether the person shall continue to be conditionally released to a less restrictive alternative. The court in making its determination shall be aided by the periodic reports filed pursuant to subsection (6) of this section and the opinions of the secretary and other experts or professional persons. [2015 c 278 § 3; 2009 c 409 § 10; 2001 c 286 § 12; 1995 c 216 § 12.]

Application—Effective date—2009 c 409: See notes following RCW 71.09.020.

Additional notes found at www.leg.wa.gov

71.09.098 Revoking or modifying terms of conditional release to less restrictive alternative—Hearing—Custody pending hearing on revocation or modification. (1) Any service provider submitting reports pursuant to *RCW 71.09.096(6), the supervising community corrections officer, the prosecuting agency, or the secretary's designee may petition the court for an immediate hearing for the purpose of revoking or modifying the terms of the person's conditional release to a less restrictive alternative if the petitioner believes the released person: (a) Violated or is in violation of the terms and conditions of the court's conditional release order; or (b) is in need of additional care, monitoring, supervision, or treatment.

(2) The community corrections officer or the secretary's designee may restrict the person's movement in the community until the petition is determined by the court. The person may be taken into custody if:

(a) The supervising community corrections officer, the secretary's designee, or a law enforcement officer reasonably believes the person has violated or is in violation of the court's conditional release order; or

(b) The supervising community corrections officer or the secretary's designee reasonably believes that the person is in need of additional care, monitoring, supervision, or treatment because the person presents a danger to himself or herself or others if his or her conditional release under the conditions imposed by the court's release order continues.

(3)(a) Persons taken into custody pursuant to subsection (2) of this section shall:

(i) Not be released until such time as a hearing is held to determine whether to revoke or modify the person's conditional release order and the court has issued its decision; and

(ii) Be held in the county jail, at a secure community transition facility, or at the total confinement facility, at the discretion of the secretary's designee.

(b) The court shall be notified before the close of the next judicial day that the person has been taken into custody and shall promptly schedule a hearing.

(4) Before any hearing to revoke or modify the person's conditional release order, both the prosecuting agency and the released person shall have the right to request an immediate mental examination of the released person. If the conditionally released person is indigent, the court shall, upon request, assist him or her in obtaining a qualified expert or professional person to conduct the examination.

(5) At any hearing to revoke or modify the conditional release order:

(a) The prosecuting agency shall represent the state, including determining whether to proceed with revocation or modification of the conditional release order;

(b) Hearsay evidence is admissible if the court finds that it is otherwise reliable; and

(c) The state shall bear the burden of proving by a preponderance of the evidence that the person has violated or is in violation of the court's conditional release order or that the person is in need of additional care, monitoring, supervision, or treatment.

(6)(a) If the court determines that the state has met its burden referenced in subsection (5)(c) of this section, and the issue before the court is revocation of the court's conditional release order, the court shall consider the evidence presented by the parties and the following factors relevant to whether continuing the person's conditional release is in the person's best interests or adequate to protect the community:

(i) The nature of the condition that was violated by the person or that the person was in violation of in the context of the person's criminal history and underlying mental conditions;

(ii) The degree to which the violation was intentional or grossly negligent;

(iii) The ability and willingness of the released person to strictly comply with the conditional release order;

(iv) The degree of progress made by the person in community-based treatment; and

(v) The risk to the public or particular persons if the conditional release continues under the conditional release order that was violated.

(b) Any factor alone, or in combination, shall support the court's determination to revoke the conditional release order.

(7) If the court determines the state has met its burden referenced in subsection (5)(c) of this section, and the issue before the court is modification of the court's conditional release order, the court shall modify the conditional release order by adding conditions if the court determines that the person is in need of additional care, monitoring, supervision, or treatment. The court has authority to modify its conditional release order by substituting a new treatment provider, requiring new housing for the person, or imposing such additional supervision conditions as the court deems appropriate.

(8) A person whose conditional release has been revoked shall be remanded to the custody of the secretary for control, care, and treatment in a total confinement facility as designated in RCW 71.09.060(1). The person is thereafter eligible for conditional release only in accord with the provisions of RCW 71.09.090 and related statutes. [2009 c 409 § 11; 2006 c 282 § 1; 2001 c 286 § 13; 1995 c 216 § 13.]

***Reviser's note:** RCW 71.09.096 was amended by 2015 c 278 § 3, changing subsection (6) to subsection (7).

Application—Effective date—2009 c 409: See notes following RCW 71.09.020.

Additional notes found at www.leg.wa.gov

71.09.110 Department of social and health services—Duties—Reimbursement. The department of social and health services shall be responsible for the costs relating to the treatment of persons committed to their custody whether in a secure facility or under a less restrictive alternative as provided in this chapter. Reimbursement may be obtained by the department for the cost of care and treatment of persons committed to its custody whether in a secure facility or under a less restrictive alternative pursuant to RCW 43.20B.330 through 43.20B.370. [2012 c 257 § 10; 2010 1st sp.s. c 28 § 3; 1995 c 216 § 14; 1990 c 3 § 1011.]

Effective date—2012 c 257: See note following RCW 2.70.020.

71.09.111 Department of social and health services—Disclosures to the prosecuting agency. The department of social and health services shall provide to the prosecuting agency a copy of all reports made by the department to law enforcement in which a person detained or committed under this chapter is named or listed as a suspect, witness, or victim, as well as a copy of all reports received from law enforcement. [2009 c 409 § 12.]

Application—Effective date—2009 c 409: See notes following RCW 71.09.020.

71.09.112 Department of social and health services—Jurisdiction and revocation of conditional release after criminal conviction—Exception. A person subject to court order under the provisions of this chapter who is thereafter convicted of a criminal offense remains under the jurisdiction of the department and shall be returned to the custody of the department following: (1) Completion of the criminal sentence; or (2) release from confinement in a state, federal, or local correctional facility. Any conditional release order shall be immediately revoked upon conviction for a criminal offense.

This section does not apply to persons subject to a court order under the provisions of this chapter who are thereafter sentenced to life without the possibility of release. [2009 c 409 § 13; 2002 c 19 § 1.]

Application—Effective date—2009 c 409: See notes following RCW 71.09.020.

71.09.115 Record check required for employees of secure facility. (1) The safety and security needs of the secure facility operated by the department of social and health services pursuant to RCW 71.09.060(1) make it vital that employees working in the facility meet necessary character, suitability, and competency qualifications. The secretary shall require a record check through the Washington state patrol criminal identification system under chapter 10.97 RCW and through the federal bureau of investigation. The record check must include a fingerprint check using a complete Washington state criminal identification fingerprint card. The criminal history record checks shall be at the expense of the department. The secretary shall use the information only in making the initial employment or engagement decision, except as provided in subsection (2) of this section. Further dissemination or use of the record is prohibited.

(2) This section applies to all current employees hired prior to June 6, 1996, who have not previously submitted to a department of social and health services criminal history records check. The secretary shall use the information only in determining whether the current employee meets the necessary character, suitability, and competency requirements for employment or engagement. [1996 c 27 § 1.]

71.09.120 Release of information authorized. (1) In addition to any other information required to be released under this chapter, the department is authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to protect the public, concerning a specific sexually violent predator committed under this chapter.

(2) The department and the courts are authorized to release to the office of public defense records needed to implement the office's administration of public defense in these cases, including research, reports, and other functions as required by RCW 2.70.020 and 2.70.025. The office of public defense shall maintain the confidentiality of all confidential information included in the records.

(3) The inspection or copying of any nonexempt public record by persons residing in a civil commitment facility for sexually violent predators may be enjoined following procedures identified in RCW 42.56.565. The injunction may be requested by:

(a) An agency or its representative;

(b) A person named in the record or his or her representative;

(c) A person to whom the request specifically pertains or his or her representative. [2012 c 257 § 11; 1990 c 3 § 1012.]

Effective date—2012 c 257: See note following RCW 2.70.020.

71.09.130 Notice of escape or disappearance. In the event of an escape by a person committed under this chapter from a state institution or the disappearance of such a person while on conditional release, the superintendent or community corrections officer shall notify the following as appropriate: Local law enforcement officers, other governmental agencies, the person's relatives, and any other appropriate persons about information necessary for the public safety or to assist in the apprehension of the person. [1995 c 216 § 16.]

71.09.135 McNeil Island—Escape planning, response. The emergency response team for McNeil Island shall plan, coordinate, and respond in the event of an escape from the special commitment center or the secure community transition facility. [2003 c 216 § 6.]

Additional notes found at www.leg.wa.gov

71.09.140 Notice of conditional release or unconditional discharge—Notice of escape and recapture. (1) At the earliest possible date, and in no event later than thirty days before conditional release or unconditional discharge, except in the event of escape, the department of social and health services shall send written notice of conditional release, unconditional discharge, or escape, to the following:

(a) The chief of police of the city, if any, in which the person will reside or in which placement will be made under a less restrictive alternative;

(b) The sheriff of the county in which the person will reside or in which placement will be made under a less restrictive alternative; and

(c) The sheriff of the county where the person was last convicted of a sexually violent offense, if the department does not know where the person will reside.

The department shall notify the state patrol of the release of all sexually violent predators and that information shall be placed in the Washington crime information center for dissemination to all law enforcement.

(2) The same notice as required by subsection (1) of this section shall be sent to the following if such notice has been requested in writing about a specific person found to be a sexually violent predator under this chapter:

(a) The victim or victims of any sexually violent offenses for which the person was convicted in the past or the victim's next of kin if the crime was a homicide. "Next of kin" as used in this section means a person's spouse, parents, siblings, and children;

(b) Any witnesses who testified against the person in his or her commitment trial under RCW 71.09.060; and

(c) Any person specified in writing by the prosecuting agency.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting agency to receive the notice, and the notice are confidential and shall not be available to the committed person.

(3) If a person committed as a sexually violent predator under this chapter escapes from a department of social and health services facility, the department shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the committed person resided immediately before his or her commitment as a sexually violent predator, or immediately before his or her incarceration for his or her most recent offense. If previously requested, the department shall also notify the witnesses and the victims of the sexually violent offenses for which the person was convicted in the past or the victim's next of kin if the crime was a homicide. If the person is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(4) If the victim or victims of any sexually violent offenses for which the person was convicted in the past or the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(5) The department of social and health services shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(6) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section. [2012 c 257 § 12; 1995 c 216 § 17.]

Effective date—2012 c 257: See note following RCW 2.70.020.

71.09.200 Escorted leave—Definitions. For purposes of RCW 71.09.210 through 71.09.230:

(1) "Escorted leave" means a leave of absence from a facility housing persons detained or committed pursuant to this chapter under the continuous supervision of an escort.

(2) "Escort" means a correctional officer or other person approved by the superintendent or the superintendent's designee to accompany a resident on a leave of absence and be in visual or auditory contact with the resident at all times.

(3) "Resident" means a person detained or committed pursuant to this chapter. [1995 c 216 § 18.]

71.09.210 Escorted leave—Conditions. The superintendent of any facility housing persons detained or committed pursuant to this chapter may, subject to the approval of the secretary, grant escorted leaves of absence to residents confined in such institutions to:

(1) Go to the bedside of the resident's wife, husband, child, mother or father, or other member of the resident's immediate family who is seriously ill;

(2) Attend the funeral of a member of the resident's immediate family listed in subsection (1) of this section; and

(3) Receive necessary medical or dental care which is not available in the institution. [1995 c 216 § 19.]

71.09.220 Escorted leave—Notice. A resident shall not be allowed to start a leave of absence under RCW 71.09.210 until the secretary, or the secretary's designee, has notified any county and city law enforcement agency having jurisdiction in the area of the resident's destination. [1995 c 216 § 20.]

71.09.230 Escorted leave—Rules. (1) The secretary is authorized to adopt rules providing for the conditions under which residents will be granted leaves of absence and providing for safeguards to prevent escapes while on leaves of absence. Leaves of absence granted to residents under RCW 71.09.210, however, shall not allow or permit any resident to go beyond the boundaries of this state.

(2) The secretary shall adopt rules requiring reimbursement of the state from the resident granted leave of absence, or the resident's family, for the actual costs incurred arising from any leave of absence granted under the authority of RCW 71.09.210 (1) and (2). No state funds shall be expended in connection with leaves of absence granted under RCW 71.09.210 (1) and (2) unless the resident and the resident's immediate family are indigent and without resources sufficient to reimburse the state for the expenses of such leaves of absence. [1995 c 216 § 21.]

71.09.250 Transition facility—Siting. (1)(a) The secretary is authorized to site, construct, occupy, and operate (i) a secure community transition facility on McNeil Island for persons authorized to petition for a less restrictive alternative under RCW 71.09.090(1) and who are conditionally released; and (ii) a special commitment center on McNeil Island with up to four hundred four beds as a total confinement facility under this chapter, subject to appropriated funding for those purposes. The secure community transition facility shall be authorized for the number of beds needed to ensure compliance with the orders of the superior courts under this chapter and the federal district court for the western district of Washington. The total number of beds in the secure community transition facility shall be limited to twenty-four, consisting of up to fifteen transitional beds and up to nine pretransitional beds. The residents occupying the transitional beds shall be the only residents eligible for transitional services occurring in Pierce county. In no event shall more than fifteen residents of the secure community transition facility be participating in off-island transitional, educational, or employment activity at the same time in Pierce county. The department shall provide the Pierce county sheriff, or his or her designee, with a list of the fifteen residents so designated, along with their photographs and physical descriptions, and the list shall be immediately updated whenever a residential change occurs. The Pierce county sheriff, or his or her designee, shall be provided an opportunity to confirm the residential status of each resident leaving McNeil Island.

(b) For purposes of this subsection, "transitional beds" means beds only for residents who are judged by a qualified expert to be suitable to leave the island for treatment, education, and employment.

(2)(a) The secretary is authorized to site, either within the secure community transition facility established pursuant to subsection (1)(a)(i) of this section, or within the special commitment center, up to nine pretransitional beds.

(b) Residents assigned to pretransitional beds shall not be permitted to leave McNeil Island for education, employment, treatment, or community activities in Pierce county.

(c) For purposes of this subsection, "pretransitional beds" means beds for residents whose progress toward a less secure residential environment and transition into more complete community involvement is projected to take substantially longer than a typical resident of the special commitment center.

(3) Notwithstanding RCW 36.70A.103 or any other law, this statute preempts and supersedes local plans, development regulations, permitting requirements, inspection requirements, and all other laws as necessary to enable the secretary to site, construct, occupy, and operate a secure community transition facility on McNeil Island and a total confinement facility on McNeil Island.

(4) To the greatest extent possible, until June 30, 2003, persons who were not civilly committed from the county in which the secure community transition facility established pursuant to subsection (1) of this section is located may not be conditionally released to a setting in that same county less restrictive than that facility.

(5) As of June 26, 2001, the state shall immediately cease any efforts in effect on such date to site secure community transition facilities, other than the facility authorized by subsection (1) of this section, and shall instead site such facilities in accordance with the provisions of this section.

(6) The department must:

(a) Identify the minimum and maximum number of secure community transition facility beds in addition to the facility established under subsection (1) of this section that may be necessary for the period of May 2004 through May 2007 and provide notice of these numbers to all counties by August 31, 2001; and

(b) Develop and publish policy guidelines for the siting and operation of secure community transition facilities.

(7)(a) The total number of secure community transition facility beds that may be required to be sited in a county between June 26, 2001, and June 30, 2008, may be no greater than the total number of persons civilly committed from that county, or detained at the special commitment center under a pending civil commitment petition from that county where a finding of probable cause had been made on April 1, 2001. The total number of secure community transition facility beds required to be sited in each county between July 1, 2008,

and June 30, 2015, may be no greater than the total number of persons civilly committed from that county or detained at the special commitment center under a pending civil commitment petition from that county where a finding of probable cause had been made as of July 1, 2008.

(b) Counties and cities that provide secure community transition facility beds above the maximum number that they could be required to site under this subsection are eligible for a bonus grant under the incentive provisions in RCW 71.09.255. The county where the special commitment center is located shall receive this bonus grant for the number of beds in the facility established in subsection (1) of this section in excess of the maximum number established by this subsection.

(c) No secure community transition facilities in addition to the one established in subsection (1) of this section may be required to be sited in the county where the special commitment center is located until after June 30, 2008, provided however, that the county and its cities may elect to site additional secure community transition facilities and shall be eligible under the incentive provisions of RCW 71.09.255 for any additional facilities meeting the requirements of that section.

(8) In identifying potential sites within a county for the location of a secure community transition facility, the department shall work with and assist local governments to provide for the equitable distribution of such facilities. In coordinating and deciding upon the siting of secure community transition facilities, great weight shall be given by the county and cities within the county to:

(a) The number and location of existing residential facility beds operated by the department of corrections or the mental health division of the department of social and health services in each jurisdiction in the county; and

(b) The number of registered sex offenders classified as level II or level III and the number of sex offenders registered as homeless residing in each jurisdiction in the county.

(9)(a) "Equitable distribution" means siting or locating secure community transition facilities in a manner that will not cause a disproportionate grouping of similar facilities either in any one county, or in any one jurisdiction or community within a county, as relevant; and

(b) "Jurisdiction" means a city, town, or geographic area of a county in which distinct political or judicial authority may be exercised. [2003 c 216 § 3; 2001 2nd sp.s. c 12 § 201.]

Intent—2001 2nd sp.s. c 12: "The legislature intends the following omnibus bill to address the management of sex offenders in the civil commitment and criminal justice systems for purposes of public health, safety, and welfare. Provisions address siting of and continued operation of facilities for persons civilly committed under chapter 71.09 RCW and sentencing of persons who have committed sex offenses. Other provisions address the need for sex offender treatment providers with specific credentials. Additional provisions address the continued operation or authorized expansion of criminal justice facilities at McNeil Island, because these facilities are impacted by the civil facilities on McNeil Island for persons committed under chapter 71.09 RCW." [2001 2nd sp.s. c 12 § 101.]

Additional notes found at www.leg.wa.gov

71.09.252 Transition facilities—Agreements for regional facilities. (1) To encourage economies of scale in the siting and operation of secure community transition facilities, the department may enter into an agreement with two or more counties to create a regional secure community transition facility. The agreement must clearly identify the number of beds from each county that will be contained in the regional secure community transition facility. The agreement must specify which county must contain the regional secure community transition facility and the facility must be sited accordingly. No county may withdraw from an agreement under this section unless it has provided an alternative acceptable secure community transition facility to house any displaced residents that meets the criteria established for such facilities in this chapter and the guidelines established by the department.

(2) A regional secure community transition facility must meet the criteria established for secure community transition facilities in this chapter and the guidelines established by the department.

(3) The department shall count the beds identified for each participating county in a regional secure community transition facility against the maximum number of beds that could be required for each county under RCW 71.09.250(7)(a).

(4) An agreement for a regional secure community transition facility does not alter the maximum number of beds for purposes of the incentive grants under RCW 71.09.255 for the county containing the regional facility. [2002 c 68 § 18.]

Purpose—Severability—Effective date—2002 c 68: See notes following RCW 36.70A.200.

71.09.255 Transition facilities—Incentive grants and payments. (1) Upon receiving the notification required by RCW 71.09.250, counties must promptly notify the cities within the county of the maximum number of secure community transition facility beds that may be required and the projected number of beds to be needed in that county.

(2) The incentive grants and payments provided under this section are subject to the following provisions:

(a) Counties and the cities within the county must notify each other of siting plans to promote the establishment and equitable distribution of secure community transition facilities;

(b) Development regulations, ordinances, plans, laws, and criteria established for siting must be consistent with statutory requirements and rules applicable to siting and operating secure community transition facilities;

(c) The minimum size for any facility is three beds; and

(d) The department must approve any sites selected.

(3) Any county or city that makes a commitment to initiate the process to site one or more secure community transition facilities by one hundred twenty days after March 21, 2002, shall receive a planning grant as proposed and approved by the *department of community, trade, and economic development.

(4) Any county or city that has issued all necessary permits by May 1, 2003, for one or more secure community transition facilities that comply with the requirements of this section shall receive an incentive grant in the amount of fifty thousand dollars for each bed sited.

(5) To encourage the rapid permitting of sites, any county or city that has issued all necessary permits by January 1, 2003, for one or more secure community transition facilities that comply with the requirements of this section

shall receive a bonus in the amount of twenty percent of the amount provided under subsection (4) of this section.

(6) Any county or city that establishes secure community transition facility beds in excess of the maximum number that could be required to be sited in that county shall receive a bonus payment of one hundred thousand dollars for each bed established in excess of the maximum requirement.

(7) No payment shall be made under subsection (4), (5), or (6) of this section until all necessary permits have been issued.

(8) The funds available to counties and cities under this section are contingent upon funds being appropriated by the legislature. [2002 c 68 § 8; 2001 2nd sp.s. c 12 § 204.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Purpose—Severability—Effective date—2002 c 68: See notes following RCW 36.70A.200.

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

71.09.260 Transition facilities not limited to residential neighborhoods. The provisions of chapter 12, Laws of 2001 2nd sp. sess. shall not be construed to limit siting of secure community transition facilities to residential neighborhoods. [2001 2nd sp.s. c 12 § 206.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

71.09.265 Transition facilities—Distribution of impact. (1) The department shall make reasonable efforts to distribute the impact of the employment, education, and social services needs of the residents of the secure community transition facility established pursuant to RCW 71.09.250(1) among the adjoining counties and not to concentrate the residents' use of resources in any one community.

(2) The department shall develop policies to ensure that, to the extent possible, placement of persons eligible in the future for conditional release to a setting less restrictive than the facility established pursuant to RCW 71.09.250(1) will be equitably distributed among the counties and within jurisdictions in the county. [2001 2nd sp.s. c 12 § 208.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

71.09.275 Transition facility—Transportation of residents. (1) If the department does not provide a separate vessel for transporting residents of the secure community transition facility established in RCW 71.09.250(1) between McNeil Island and the mainland, the department shall:

(a) Separate residents from minors and vulnerable adults, except vulnerable adults who have been found to be sexually violent predators.

(b) Not transport residents during times when children are normally coming to and from the mainland for school.

(2) The department shall designate a separate waiting area at the points of debarkation, and residents shall be required to remain in this area while awaiting transportation.

(3) The department shall provide law enforcement agencies in the counties and cities in which residents of the secure community transition facility established pursuant to RCW 71.09.250(1)(a)(i) regularly participate in employment, education, or social services, or through which these persons are regularly transported, with a copy of the court's order of conditional release with respect to these persons. [2003 c 216 § 4; 2001 2nd sp.s. c 12 § 211.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Additional notes found at www.leg.wa.gov

71.09.280 Transition facility—Release to less restrictive placement. When considering whether a person civilly committed under this chapter and conditionally released to a secure community transition facility is appropriate for release to a placement that is less restrictive than that facility, the court shall comply with the procedures set forth in RCW 71.09.090 through 71.09.096. In addition, the court shall consider whether the person has progressed in treatment to the point that a significant change in the person's routine, including but not limited to a change of employment, education, residence, or sex offender treatment provider will not cause the person to regress to the point that the person presents a greater risk to the community than can reasonably be addressed in the proposed placement. [2001 2nd sp.s. c 12 § 212.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

71.09.285 Transition facility—Siting policy guidelines. (1) Except with respect to the secure community transition facility established pursuant to RCW 71.09.250, the secretary shall develop policy guidelines that balance the average response time of emergency services to the general area of a proposed secure community transition facility against the proximity of the proposed site to risk potential activities and facilities in existence at the time the site is listed for consideration.

(2) In no case shall the policy guidelines permit location of a facility adjacent to, immediately across a street or parking lot from, or within the line of sight of a risk potential activity or facility in existence at the time a site is listed for consideration. "Within the line of sight" means that it is possible to reasonably visually distinguish and recognize individuals.

(3) The policy guidelines shall require that great weight be given to sites that are the farthest removed from any risk potential activity.

(4) The policy guidelines shall specify how distance from the location is measured and any variations in the measurement based on the size of the property within which a proposed facility is to be located.

(5) The policy guidelines shall establish a method to analyze and compare the criteria for each site in terms of public safety and security, site characteristics, and program components. In making a decision regarding a site following the analysis and comparison, the secretary shall give priority to public safety and security considerations. The analysis and comparison of the criteria are to be documented and made available at the public hearings prescribed in RCW 71.09.315.

(6) Policy guidelines adopted by the secretary under this section shall be considered by counties and cities when providing for the siting of secure community transition facilities

as required under RCW 36.70A.200. [2002 c 68 § 5; 2001 2nd sp.s. c 12 § 213.]

Purpose—Severability—Effective date—2002 c 68: See notes following RCW 36.70A.200.

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

71.09.290 Other transition facilities—Siting policy guidelines. The secretary shall establish policy guidelines for the siting of secure community transition facilities, other than the secure community transition facility established pursuant to RCW 71.09.250(1)(a)(i), which shall include at least the following minimum requirements:

(1) The following criteria must be considered prior to any real property being listed for consideration for the location of or use as a secure community transition facility:

(a) The proximity and response time criteria established under RCW 71.09.285;

(b) The site or building is available for lease for the anticipated use period or for purchase;

(c) Security monitoring services and appropriate backup systems are available and reliable;

(d) Appropriate mental health and sex offender treatment providers must be available within a reasonable commute; and

(e) Appropriate permitting for a secure community transition facility must be possible under the zoning code of the local jurisdiction.

(2) For sites which meet the criteria of subsection (1) of this section, the department shall analyze and compare the criteria in subsections (3) through (5) of this section using the method established in RCW 71.09.285.

(3) Public safety and security criteria shall include at least the following:

(a) Whether limited visibility between the facility and adjacent properties can be achieved prior to placement of any person;

(b) The distance from, and number of, risk potential activities and facilities, as measured using the policies adopted under RCW 71.09.285;

(c) The existence of or ability to establish barriers between the site and the risk potential facilities and activities;

(d) Suitability of the buildings to be used for the secure community transition facility with regard to existing or feasibly modified features; and

(e) The availability of electronic monitoring that allows a resident's location to be determined with specificity.

(4) Site characteristics criteria shall include at least the following:

(a) Reasonableness of rental, lease, or sale terms including length and renewability of a lease or rental agreement;

(b) Traffic and access patterns associated with the real property;

(c) Feasibility of complying with zoning requirements within the necessary time frame; and

(d) A contractor or contractors are available to install, monitor, and repair the necessary security and alarm systems.

(5) Program characteristics criteria shall include at least the following:

(a) Reasonable proximity to available medical, mental health, sex offender, and chemical dependency treatment providers and facilities;

(b) Suitability of the location for programming, staffing, and support considerations;

(c) Proximity to employment, educational, vocational, and other treatment plan components.

(6) For purposes of this section "available" or "availability" of qualified treatment providers includes provider qualifications and willingness to provide services, average commute time, and cost of services. [2003 c 216 § 5; 2001 2nd sp.s. c 12 § 214.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Additional notes found at www.leg.wa.gov

71.09.295 Transition facilities—Security systems. (1) Security systems for all secure community transition facilities shall meet the following minimum qualifications:

(a) The security panel must be a commercial grade panel with tamper-proof switches and a key-lock to prevent unauthorized access.

(b) There must be an emergency electrical supply system which shall include a battery backup system and a generator.

(c) The system must include personal panic devices for all staff.

(d) The security system must be capable of being monitored and signaled either by telephone through either a land or cellular telephone system or by private radio network in the event of a total dial-tone failure or through equivalent technologies.

(e) The department shall issue photo-identification badges to all staff which must be worn at all times.

(2) Security systems for the secure community transition facility established pursuant to RCW 71.09.250(1) shall also include a fence and provide the maximum protection appropriate in a civil facility for persons in less than total confinement. [2001 2nd sp.s. c 12 § 215.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

71.09.300 Transition facilities—Staffing. Secure community transition facilities shall meet the following minimum staffing requirements:

(1) At any time the census of a facility is six or fewer residents, all staff shall be classified as residential rehabilitation counselor II or have a classification that indicates an equivalent or higher level of skill, experience, and training.

(2)(a) For the secure transition facility located on McNeil Island, the direct care staffing level shall be at least three qualified, trained staff as described in subsection (3) of this section, unless there are no residents housed at the facility, in which case the facility need not staff to this ratio.

(b) For the secure community transition facility located in Seattle, the direct care staffing level shall be at least two qualified, trained staff as described in subsection (3) of this section, unless there are no residents housed at the facility, in which case the facility need not staff to this ratio.

(3) Before being assigned to a facility, all staff must have received training in sex offender issues, self-defense, and crisis de-escalation skills in addition to departmental orientation

and, as appropriate, management training. All staff with resident treatment or care duties must participate in ongoing in-service training.

(4) All staff must pass a departmental background check and the check is not subject to the limitations in chapter 9.96A RCW. A person who has been convicted of a felony, or any sex offense, may not be employed at the secure community transition facility or be approved as an escort for a resident of the facility. [2011 c 19 § 1; 2003 c 216 § 1; 2001 2nd sp.s. c 12 § 216.]

Effective date—2011 c 19: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 11, 2011]." [2011 c 19 § 2.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Additional notes found at www.leg.wa.gov

71.09.305 Transition facility residents—Monitoring, escorting. (1) Unless otherwise ordered by the court:

(a) Residents of a secure community transition facility shall wear electronic monitoring devices at all times. To the extent that electronic monitoring devices that employ global positioning system technology are available and funds for this purpose are appropriated by the legislature, the department shall use these devices.

(b) At least one staff member, or other court-authorized and department-approved person must escort each resident when the resident leaves the secure community transition facility for appointments, employment, or other approved activities. Escorting persons must supervise the resident closely and maintain close proximity to the resident. The escort must immediately notify the department of any serious violation, as defined in RCW 71.09.325, by the resident and must immediately notify law enforcement of any violation of law by the resident. The escort may not be a relative of the resident or a person with whom the resident has, or has had, a dating relationship as defined in RCW 26.50.010.

(2) Staff members of the special commitment center and any other total confinement facility and any secure community transition facility must be trained in self-defense and appropriate crisis responses including incident de-escalation. Prior to escorting a person outside of a facility, staff members must also have training in the offense pattern of the offender they are escorting.

(3) Any escort must carry a cellular telephone or a similar device at all times when escorting a resident of a secure community transition facility.

(4) The department shall require training in offender pattern, self-defense, and incident response for all court-authorized escorts who are not employed by the department or the department of corrections. [2002 c 68 § 6; 2001 2nd sp.s. c 12 § 217.]

Purpose—Severability—Effective date—2002 c 68: See notes following RCW 36.70A.200.

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

71.09.310 Transition facility residents—Mandatory escorts. Notwithstanding the provisions of RCW 71.09.305, residents of the secure community transition facility established pursuant to RCW 71.09.250(1) must be escorted at any time the resident leaves the facility. [2001 2nd sp.s. c 12 § 218.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

71.09.315 Transition facilities—Public notice, review, and comment. (1) Whenever the department operates, or the secretary enters into a contract to operate, a secure community transition facility except the secure community transition facility established pursuant to RCW 71.09.250(1), the secure community transition facility may be operated only after the public notification and opportunities for review and comment as required by this section.

(2) The secretary shall establish a process for early and continuous public participation in establishing or relocating secure community transition facilities. The process shall include, at a minimum, public meetings in the local communities affected, as well as opportunities for written and oral comments, in the following manner:

(a) If there are more than three sites initially selected as potential locations and the selection process by the secretary or a service provider reduces the number of possible sites for a secure community transition facility to no fewer than three, the secretary or the chief operating officer of the service provider shall notify the public of the possible siting and hold at least two public hearings in each community where a secure community transition facility may be sited.

(b) When the secretary or service provider has determined the secure community transition facility's location, the secretary or the chief operating officer of the service provider shall hold at least one additional public hearing in the community where the secure community transition facility will be sited.

(c) When the secretary has entered negotiations with a service provider and only one site is under consideration, then at least two public hearings shall be held.

(d) To provide adequate notice of, and opportunity for interested persons to comment on, a proposed location, the secretary or the chief operating officer of the service provider shall provide at least fourteen days' advance notice of the meeting to all newspapers of general circulation in the community, all radio and television stations generally available to persons in the community, any school district in which the secure community transition facility would be sited or whose boundary is within two miles of a proposed secure community transition facility, any library district in which the secure community transition facility would be sited, local business or fraternal organizations that request notification from the secretary or agency, and any person or property owner within a one-half mile radius of the proposed secure community transition facility. Before initiating this process, the department of social and health services shall contact local government planning agencies in the communities containing the proposed secure community transition facility. The department of social and health services shall coordinate with local government agencies to ensure that opportunities are provided for effective citizen input and to reduce the duplication of notice and meetings.

(3) If local government land use regulations require that a special use or conditional use permit be submitted and approved before a secure community transition facility can

be sited, and the process for obtaining such a permit includes public notice and hearing requirements similar to those required under this section, the requirements of this section shall not apply to the extent they would duplicate requirements under the local land use regulations.

(4) This section applies only to secure community transition facilities sited after June 26, 2001. [2001 2nd sp.s. c 12 § 219.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

71.09.320 Transition facilities—Operational advisory boards. (1) The secretary shall develop a process with local governments that allows each community in which a secure community transition facility is located to establish operational advisory boards of at least seven persons for the secure community transition facilities. The department may conduct community awareness activities to publicize this opportunity. The operational advisory boards developed under this section shall be implemented following the decision to locate a secure community transition facility in a particular community.

(2) The operational advisory boards may review and make recommendations regarding the security and operations of the secure community transition facility and conditions or modifications necessary with relation to any person who the secretary proposes to place in the secure community transition facility.

(3) The facility management must consider the recommendations of the community advisory boards. Where the facility management does not implement an operational advisory board recommendation, the management must provide a written response to the operational advisory board stating its reasons for its decision not to implement the recommendation.

(4) The operational advisory boards, their members, and any agency represented by a member shall not be liable in any cause of action as a result of its recommendations unless the advisory board acts with gross negligence or bad faith in making a recommendation. [2001 2nd sp.s. c 12 § 220.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

71.09.325 Transition facilities—Conditional release—Reports—Violations. (1) The secretary shall adopt a violation reporting policy for persons conditionally released to less restrictive alternative placements. The policy shall require written documentation by the department and service providers of all violations of conditions set by the department, the department of corrections, or the court and establish criteria for returning a violator to the special commitment center or a secure community transition facility with a higher degree of security. Any conditionally released person who commits a serious violation of conditions shall be returned to the special commitment center, unless arrested by a law enforcement officer, and the court shall be notified immediately and shall initiate proceedings under RCW 71.09.098 to revoke or modify the less restrictive alternative placement. Nothing in this section limits the authority of the department to return a person to the special commitment center based on a violation that is not a serious violation as defined in this section. For the purposes of this section, "serious violation" includes but is not limited to:

(a) The commission of any criminal offense;

(b) Any unlawful use or possession of a controlled substance; and

(c) Any violation of conditions targeted to address the person's documented pattern of offense that increases the risk to public safety.

(2) When a person is conditionally released to a less restrictive alternative under this chapter and is under the supervision of the department of corrections, notice of any violation of the person's conditions of release must also be made to the department of corrections.

(3) Whenever the secretary contracts with a service provider to operate a secure community transition facility, the contract shall include a requirement that the service provider must report to the department of social and health services any known violation of conditions committed by any resident of the secure community transition facility.

(4) The secretary shall document in writing all violations, penalties, actions by the department of social and health services to remove persons from a secure community transition facility, and contract terminations. The secretary shall compile this information and submit it to the appropriate committees of the legislature on an annual basis. The secretary shall give great weight to a service provider's record of violations, penalties, actions by the department of social and health services or the department of corrections to remove persons from a secure community transition facility, and contract terminations in determining whether to execute, renew, or renegotiate a contract with a service provider. [2001 2nd sp.s. c 12 § 221.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

71.09.330 Transition facilities—Contracted operation—Enforcement remedies. Whenever the secretary contracts with a provider to operate a secure community transition facility, the secretary shall include in the contract provisions establishing intermediate contract enforcement remedies. [2001 2nd sp.s. c 12 § 222.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

71.09.335 Conditional release from total confinement—Community notification. A conditional release from a total confinement facility to a less restrictive alternative is a release that subjects the conditionally released person to the registration requirements specified in RCW 9A.44.130 and to community notification under RCW 4.24.550.

When a person is conditionally released to the secure community transition facility established pursuant to RCW 71.09.250(1), the sheriff must provide each household on McNeil Island with the community notification information provided for under RCW 4.24.550. [2001 2nd sp.s. c 12 § 223.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

71.09.340 Conditionally released persons—Employment, educational notification. An employer who hires a person who has been conditionally released to a less restrictive alternative must notify all other employees of the conditionally released person's status. Notification for conditionally released persons who enroll in an institution of higher education shall be made pursuant to the provisions of RCW 9A.44.130 related to sex offenders enrolled in institutions of higher education and RCW 4.24.550. This section applies only to conditionally released persons whose court-approved treatment plan includes permission or a requirement for the person to obtain education or employment and to employment positions or educational programs that meet the requirements of the court-approved treatment plan. [2001 2nd sp.s. c 12 § 224.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

71.09.341 Transition facilities—Authority of department—Effect of local regulations. The minimum requirements set out in RCW 71.09.285 through 71.09.340 are minimum requirements to be applied by the department. Nothing in this section is intended to prevent a city or county from adopting development regulations, as defined in RCW 36.70A.030, unless the proposed regulation imposes requirements more restrictive than those specifically addressed in RCW 71.09.285 through 71.09.340. Regulations that impose requirements more restrictive than those specifically addressed in these sections are void. Nothing in these sections prevents the department from adding requirements to enhance public safety. [2002 c 68 § 7.]

Purpose—Severability—Effective date—2002 c 68: See notes following RCW 36.70A.200.

71.09.342 Transition facilities—Siting—Local regulations preempted, when—Consideration of public safety measures. (1) After October 1, 2002, notwithstanding RCW 36.70A.103 or any other law, this section preempts and supersedes local plans, development regulations, permitting requirements, inspection requirements, and all other laws as necessary to enable the department to site, construct, renovate, occupy, and operate secure community transition facilities within the borders of the following:

(a) Any county that had five or more persons civilly committed from that county, or detained at the special commitment center under a pending civil commitment petition from that county where a finding of probable cause has been made, on April 1, 2001, if the department determines that the county has not met the requirements of RCW 36.70A.200 with respect to secure community transition facilities. This subsection does not apply to the county in which the secure community transition facility authorized under RCW 71.09.250(1) is located; and

(b) Any city located within a county listed in (a) of this subsection that the department determines has not met the requirements of RCW 36.70A.200 with respect to secure community transition facilities.

(2) The department's determination under subsection (1)(a) or (b) of this section is final and is not subject to appeal under chapter 34.05 or 36.70A RCW.

(3) When siting a facility in a county or city that has been preempted under this section, the department shall consider the policy guidelines established under RCW 71.09.285 and 71.09.290 and shall hold the hearings required in RCW 71.09.315.

(4) Nothing in this section prohibits the department from:

(a) Siting a secure community transition facility in a city or county that has complied with the requirements of RCW 36.70A.200 with respect to secure community transition facilities, including a city that is located within a county that has been preempted. If the department sites a secure community transition facility in such a city or county, the department shall use the process established by the city or county for siting such facilities; or

(b) Consulting with a city or county that has been preempted under this section regarding the siting of a secure community transition facility.

(5)(a) A preempted city or county may propose public safety measures specific to any finalist site to the department. The measures must be consistent with the location of the facility at that finalist site. The proposal must be made in writing by the date of:

(i) The second hearing under RCW 71.09.315(2)(a) when there are three finalist sites; or

(ii) The first hearing under RCW 71.09.315(2)(b) when there is only one site under consideration.

(b) The department shall respond to the city or county in writing within fifteen business days of receiving the proposed measures. The response shall address all proposed measures.

(c) If the city or county finds that the department's response is inadequate, the city or county may notify the department in writing within fifteen business days of the specific items which it finds inadequate. If the city or county does not notify the department of a finding that the response is inadequate within fifteen business days, the department's response shall be final.

(d) If the city or county notifies the department that it finds the response inadequate and the department does not revise its response to the satisfaction of the city or county within seven business days, the city or county may petition the governor to designate a person with law enforcement expertise to review the response under RCW 34.05.479.

(e) The governor's designee shall hear a petition filed under this subsection and shall make a determination within thirty days of hearing the petition. The governor's designee shall consider the department's response, and the effectiveness and cost of the proposed measures, in relation to the purposes of this chapter. The determination by the governor's designee shall be final and may not be the basis for any cause of action in civil court.

(f) The city or county shall bear the cost of the petition to the governor's designee. If the city or county prevails on all issues, the department shall reimburse the city or county costs incurred, as provided under chapter 34.05 RCW.

(g) Neither the department's consideration and response to public safety conditions proposed by a city or county nor the decision of the governor's designee shall affect the preemption under this section or the department's authority to site, construct, renovate, occupy, and operate the secure com-

munity transition facility at that finalist site or at any finalist site.

(6) Until June 30, 2009, the secretary shall site, construct, occupy, and operate a secure community transition facility sited under this section in an environmentally responsible manner that is consistent with the substantive objectives of chapter 43.21C RCW, and shall consult with the department of ecology as appropriate in carrying out the planning, construction, and operations of the facility. The secretary shall make a threshold determination of whether a secure community transition facility sited under this section would have a probable significant, adverse environmental impact. If the secretary determines that the secure community transition facility has such an impact, the secretary shall prepare an environmental impact statement that meets the requirements of RCW 43.21C.030 and 43.21C.031 and the rules promulgated by the department of ecology relating to such statements. Nothing in this subsection shall be the basis for any civil cause of action or administrative appeal.

(7) In no case may a secure community transition facility be sited adjacent to, immediately across a street or parking lot from, or within the line of sight of a risk potential activity or facility in existence at the time a site is listed for consideration unless the site that the department has chosen in a particular county or city was identified pursuant to a process for siting secure community transition facilities adopted by that county or city in compliance with RCW 36.70A.200. "Within the line of sight" means that it is possible to reasonably visually distinguish and recognize individuals.

(8) This section does not apply to the secure community transition facility established pursuant to RCW 71.09.250(1). [2003 c 50 § 2; 2002 c 68 § 9.]

Purpose—Severability—Effective date—2002 c 68: See notes following RCW 36.70A.200.

Additional notes found at www.leg.wa.gov

71.09.343 Transition facilities—Contract between state and local governments. (1) At the request of the local government of the city or county in which a secure community transition facility is initially sited after January 1, 2002, the department shall enter into a long-term contract memorializing the agreements between the state and the city or county for the operation of the facility. This contract shall be separate from any contract regarding mitigation due to the facility. The contract shall include a clause that states:

(a) The contract does not obligate the state to continue operating any aspect of the civil commitment program under this chapter;

(b) The operation of any secure community transition facility is contingent upon sufficient appropriation by the legislature. If sufficient funds are not appropriated, the department is not obligated to operate the secure community transition facility and may close it; and

(c) This contract does not obligate the city or county to operate a secure community transition facility.

(2) Any city or county may, at their option, contract with the department to operate a secure community transition facility. [2002 c 68 § 16.]

Purpose—Severability—Effective date—2002 c 68: See notes following RCW 36.70A.200.

71.09.344 Transition facilities—Mitigation agreements. (1) Subject to funds appropriated by the legislature, the department may enter into negotiation for a mitigation agreement with:

(a) The county and/or city in which a secure community transition facility sited after January 1, 2002, is located;

(b) Each community in which the persons from those facilities will reside or regularly spend time, pursuant to court orders, for regular work or education, or to receive social services, or through which the person or persons will regularly be transported to reach other communities; and

(c) Educational institutions in the communities identified in (a) and (b) of this subsection.

(2) Mitigation agreements are limited to the following:

(a) One-time training for local law enforcement and administrative staff, upon the establishment of a secure community transition facility.

(i) Training between local government staff and the department includes training in coordination, emergency procedures, program and facility information, legal requirements, and resident profiles.

(ii) Reimbursement for training under this subsection is limited to:

(A) The salaries or hourly wages and benefits of those persons who receive training directly from the department; and

(B) Costs associated with preparation for, and delivery of, training to the department or its contracted staff by local government staff or contractors;

(b) Information coordination:

(i) Information coordination includes database infrastructure establishment and programming for the dissemination of information among law enforcement and the department related to facility residents.

(ii) Reimbursement for information coordination is limited to start-up costs;

(c) One-time capital costs:

(i) One-time capital costs are off-site costs associated with the need for increased security in specific locations.

(ii) Reimbursement for one-time capital costs is limited to actual costs; and

(d) Incident response:

(i) Incident response costs are law enforcement and criminal justice costs associated with violations of conditions of release or crimes by residents of the secure community transition facility.

(ii) Reimbursement for incident response does not include private causes of action. [2002 c 68 § 17.]

Purpose—Severability—Effective date—2002 c 68: See notes following RCW 36.70A.200.

71.09.345 Alternative placement—Authority of court. Nothing in chapter 12, Laws of 2001 2nd sp. sess. shall operate to restrict a court's authority to make less restrictive alternative placements to a committed person's individual residence or to a setting less restrictive than a secure community transition facility. A court-ordered less restrictive alternative placement to a committed person's individual residence is not a less restrictive alternative placement to a secure community transition facility. [2001 2nd sp.s. c 12 § 226.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

71.09.350 Examination and treatment only by certified providers—Exceptions. (1) Examinations and treatment of sexually violent predators who are conditionally released to a less restrictive alternative under this chapter shall be conducted only by certified sex offender treatment providers or certified affiliate sex offender treatment providers under chapter 18.155 RCW unless the court or the department of social and health services finds that: (a) The treatment provider is employed by the department; or (b)(i) all certified sex offender treatment providers or certified affiliate sex offender treatment providers become unavailable to provide treatment within a reasonable geographic distance of the person's home, as determined in rules adopted by the department of social and health services; and (ii) the evaluation and treatment plan comply with the rules adopted by the department of social and health services.

A treatment provider approved by the department of social and health services under (b) of this subsection, who is not certified by the department of health, shall consult with a certified sex offender treatment provider during the person's period of treatment to ensure compliance with the rules adopted by the department of health. The frequency and content of the consultation shall be based on the recommendation of the certified sex offender treatment provider.

(2) A treatment provider, whether or not he or she is employed or approved by the department of social and health services under subsection (1) of this section or otherwise certified, may not perform or provide treatment of sexually violent predators under this section if the treatment provider has been:

(a) Convicted of a sex offense, as defined in RCW 9.94A.030;

(b) Convicted in any other jurisdiction of an offense that under the laws of this state would be classified as a sex offense as defined in RCW 9.94A.030; or

(c) Suspended or otherwise restricted from practicing any health care profession by competent authority in any state, federal, or foreign jurisdiction.

(3) Nothing in this section prohibits a qualified expert from examining or evaluating a sexually violent predator who has been conditionally released for purposes of presenting an opinion in court proceedings. [2009 c 409 § 14; 2004 c 38 § 14; 2001 2nd sp.s. c 12 § 404.]

Application—Effective date—2009 c 409: See notes following RCW 71.09.020.

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Additional notes found at www.leg.wa.gov

71.09.800 Rules. The secretary shall adopt rules under the administrative procedure act, chapter 34.05 RCW, for the oversight and operation of the program established pursuant to this chapter. Such rules shall include provisions for an annual inspection of the special commitment center; requirements for treatment plans and the retention of records; and guidelines for attorneys to follow when bringing legal materials into secure facilities. Guidelines for attorneys shall not interfere with attorney-client privilege. [2013 c 43 § 2; 2000 c 44 § 1.]

Additional notes found at www.leg.wa.gov

71.09.903 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 159.]

Chapter 71.12 RCW
PRIVATE ESTABLISHMENTS

Sections

Cost of services, disclosure: RCW 70.41.250.

Individuals with mental illness, commitment procedures, rights, etc.: Chapter 71.05 RCW.

Minors—Mental health services, commitment: Chapter 71.34 RCW.

State hospitals for individuals with mental illness: Chapter 72.23 RCW.

71.12.455 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of health.

(2) "Establishment" and "institution" mean:

(a) Every private or county or municipal hospital, including public hospital districts, sanitarium, home, or other place receiving or caring for any person with mental illness, mentally incompetent person, or chemically dependent person; and

(b) Beginning January 1, 2019, facilities providing pediatric transitional care services.

(3) "Pediatric transitional care services" means short-term, temporary, health and comfort services for drug exposed infants according to the requirements of this chapter and provided in an establishment licensed by the department of health.

(4) "Secretary" means the secretary of the department of health.

(5) "Trained caregiver" means a noncredentialed, unlicensed person trained by the establishment providing pediatric transitional care services to provide hands-on care to drug exposed infants. Caregivers may not provide medical care to infants and may only work under the supervision of an appropriate health care professional. [2017 c 263 § 2; 2001 c 254 § 1; 2000 c 93 § 21; 1977 ex.s. c 80 § 43; 1959 c 25 § 71.12.455. Prior: 1949 c 198 § 53; Rem. Supp. 1949 § 6953-52a. Formerly RCW 71.12.010, part.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Findings—Intent—2017 c 263: "The legislature finds that more than twelve thousand infants born in Washington each year have been prenatally exposed to opiates, methamphetamines, and other drugs. Prenatal drug exposure frequently results in infants suffering from neonatal abstinence syndrome and its accompanying withdrawal symptoms after birth. Withdrawal symptoms may include sleep problems, excessive crying, tremors, seizures, poor feeding, fever, generalized convulsions, vomiting, diarrhea, and hyperactive reflexes. Consequently, the legislature finds that drug exposed infants have unique medical needs and benefit from specialized health care that addresses their withdrawal symptoms. Specialized care for infants experiencing neonatal abstinence syndrome is based on the individual needs of the infant and includes: Administration of intravenous fluids and drugs such as morphine; personalized, hands-on therapeutic care such as gentle rocking, reduction in noise and lights, and swaddling; and frequent high-calorie feedings.

The legislature further finds that drug exposed infants often require hospitalization which burdens hospitals and hospital staff who either have to increase staffing levels or require current staff to take on additional duties to administer the specialized care needed by drug exposed infants.

The legislature further finds that drug exposed infants benefit from early and consistent family involvement in their care, and families thrive when they are provided the opportunity, skills, and training to help them participate in their child's care.

The legislature further finds that infants with neonatal abstinence syndrome often can be treated in a nonhospital clinic setting where they receive appropriate medical and nonmedical care for their symptoms. The legislature, therefore, intends to encourage alternatives to continued hospitalization for drug exposed infants, including the continuation and development of pediatric transitional care services that provide short-term medical care as well as training and assistance to caregivers in order to support the transition from hospital to home for drug exposed infants." [2017 c 263 § 1.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

71.12.460 License to be obtained—Penalty. No person, association, county, municipality, public hospital district, or corporation, shall establish or keep, for compensation or hire, an establishment as defined in this chapter without first having obtained a license therefor from the department of health, complied with rules adopted under this chapter, and paid the license fee provided in this chapter. Any person who carries on, conducts, or attempts to carry on or conduct an establishment as defined in this chapter without first having obtained a license from the department of health, as in this chapter provided, is guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment. The managing and executive officers of any corporation violating the provisions of this chapter shall be liable under the provisions of this chapter in the same manner and to the same effect as a private individual violating the same. [2001 c 254 § 2; 2000 c 93 § 22; 1989 1st ex.s. c 9 § 226; 1979 c 141 § 133; 1959 c 25 § 71.12.460. Prior: 1949 c 198 § 54; Rem. Supp. 1949 § 6953-53.]

Additional notes found at www.leg.wa.gov

71.12.470 License application—Fees. Every application for a license shall be accompanied by a plan of the premises proposed to be occupied, describing the capacities of the buildings for the uses intended, the extent and location of grounds appurtenant thereto, and the number of patients proposed to be received therein, with such other information, and in such form, as the department of health requires. The application shall be accompanied by the proper license fee. The amount of the license fee shall be established by the department of health under RCW 43.70.110. [2000 c 93 § 23; 1987 c 75 § 19; 1982 c 201 § 14; 1959 c 25 § 71.12.470. Prior: 1949 c 198 § 56; Rem. Supp. 1949 § 6953-55.]

Additional notes found at www.leg.wa.gov

71.12.480 Examination of operation of establishment and premises before granting license. The department of health shall not grant any such license until it has made an examination of all phases of the operation of the establishment necessary to determine compliance with rules adopted under this chapter including the premises proposed to be licensed and is satisfied that the premises are substantially as described, and are otherwise fit and suitable for the purposes for which they are designed to be used, and that such license should be granted. [2000 c 93 § 24; 1989 1st ex.s. c 9 § 227; 1979 c 141 § 134; 1959 c 25 § 71.12.480. Prior: 1949 c 198 § 57; Rem. Supp. 1949 § 6953-56.]

Additional notes found at www.leg.wa.gov

71.12.485 Fire protection—Duties of chief of the Washington state patrol. Standards for fire protection and the enforcement thereof, with respect to all establishments to be licensed hereunder, shall be the responsibility of the chief of the Washington state patrol, through the director of fire protection, who shall adopt such recognized standards as may be applicable to such establishments for the protection of life against the cause and spread of fire and fire hazards. The department of health, upon receipt of an application for a license, or renewal of a license, shall submit to the chief of the Washington state patrol, through the director of fire protection, in writing, a request for an inspection, giving the applicant's name and the location of the premises to be licensed. Upon receipt of such a request, the chief of the Washington state patrol, through the director of fire protection, or his or her deputy shall make an inspection of the establishment to be licensed, and if it is found that the premises do not comply with the required safety standards and fire

regulations as promulgated by the chief of the Washington state patrol, through the director of fire protection, he or she shall promptly make a written report to the establishment and the department of health as to the manner and time allowed in which the premises must qualify for a license and set forth the conditions to be remedied with respect to fire regulations. The department of health, applicant or licensee shall notify the chief of the Washington state patrol, through the director of fire protection, upon completion of any requirements made by him or her, and the director of fire protection or his or her deputy shall make a reinspection of such premises. Whenever the establishment to be licensed meets with the approval of the chief of the Washington state patrol, through the director of fire protection, he or she shall submit to the department of health a written report approving same with respect to fire protection before a full license can be issued. The chief of the Washington state patrol, through the director of fire protection, shall make or cause to be made inspections of such establishments at least annually. The department of health shall not license or continue the license of any establishment unless and until it shall be approved by the chief of the Washington state patrol, through the director of fire protection, as herein provided.

In cities which have in force a comprehensive building code, the provisions of which are determined by the chief of the Washington state patrol, through the director of fire protection, to be equal to the minimum standards of the chief of the Washington state patrol, through the director of fire protection, for such establishments, the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection with the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, and they shall jointly approve the premises before a full license can be issued. [1995 c 369 § 61; 1989 1st ex.s. c 9 § 228; 1986 c 266 § 122; 1979 c 141 § 135; 1959 c 224 § 1.]

Additional notes found at www.leg.wa.gov

71.12.490 Expiration and renewal of license. All licenses issued under the provisions of this chapter shall expire on a date to be set by the department of health. No license issued pursuant to this chapter shall exceed thirty-six months in duration. Application for renewal of the license, accompanied by the necessary fee as established by the department of health under RCW 43.70.110, shall be filed with that department, not less than thirty days prior to its expiration and if application is not so filed, the license shall be automatically canceled. [1989 1st ex.s. c 9 § 229; 1987 c 75 § 20; 1982 c 201 § 15; 1971 ex.s. c 247 § 4; 1959 c 25 § 71.12.490. Prior: 1949 c 198 § 59; Rem. Supp. 1949 § 6953-58.]

Additional notes found at www.leg.wa.gov

71.12.500 Examination of premises as to compliance with the chapter, rules, and license—License changes. The department of health may at any time examine and ascertain how far a licensed establishment is conducted in compliance with this chapter, the rules adopted under this chapter, and the requirements of the license therefor. If the interests of the patients of the establishment so demand, the department may, for just and reasonable cause, suspend, modify, or revoke any such license. RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding. [2000 c 93 § 25. Prior: 1989 1st ex.s. c 9 § 230; 1989 c 175 § 137; 1979 c 141 § 136; 1959 c 25 § 71.12.500; prior: 1949 c 198 § 58; Rem. Supp. 1949 § 6953-57.]

Additional notes found at www.leg.wa.gov

71.12.510 Examination and visitation in general. The department of health may at any time cause any establishment as defined in this chapter to be visited and examined. [2000 c 93 § 26; 1959 c 25 § 71.12.510. Prior: 1949 c 198 § 60; Rem. Supp. 1949 § 6953-59.]

71.12.520 Scope of examination. Each such visit may include an inspection of every part of each establishment. The representatives of the department of health may make an examination of all records, methods of administration, the general and special dietary, the stores and methods of supply, and may cause an examination and diagnosis to be made of any person confined therein. The representatives of the department of health may examine to determine their fitness for their duties the officers, attendants, and other employees, and may talk with any of the patients apart from the officers and attendants. [2000 c 93 § 27; 1989 1st ex.s. c 9 § 231; 1979 c 141 § 137; 1959 c 25 § 71.12.520. Prior: 1949 c 198 § 61; Rem. Supp. 1949 § 6953-60.]

Additional notes found at www.leg.wa.gov

71.12.530 Conference with management—Improvement. The representatives of the department of health may, from time to time, at times and places designated by the department, meet the managers or responsible authorities of such establishments in conference, and consider in detail all questions of management and improvement of the establishments, and may send to them, from time to time, written recommendations in regard thereto. [1989 1st ex.s. c 9 § 232; 1979 c 141 § 138; 1959 c 25 § 71.12.530. Prior: 1949 c 198 § 62; Rem. Supp. 1949 § 6953-61.]

Additional notes found at www.leg.wa.gov

71.12.540 Recommendations to be kept on file—Records of inmates. The authorities of each establishment as defined in this chapter shall place on file in the office of the establishment the recommendations made by the department of health as a result of such visits, for the purpose of consultation by such authorities, and for reference by the department representatives upon their visits. Every such establishment shall keep records of every person admitted thereto as follows and shall furnish to the department, when required, the following data: Name, age, sex, marital status, date of admission, voluntary or other commitment, name of physician, physician assistant, or psychiatric advanced registered nurse practitioner, diagnosis, and date of discharge. [2016 c 155 § 11; 2009 c 217 § 11; 1989 1st ex.s. c 9 § 233; 1979 c 141 § 139; 1959 c 25 § 71.12.540. Prior: 1949 c 198 § 63; Rem. Supp. 1949 § 6953-62.]

Additional notes found at www.leg.wa.gov

71.12.550 Local authorities may also prescribe standards. This chapter shall not prevent local authorities of any city, or city and county, within the reasonable exercise of the police power, from adopting rules and regulations, by ordinance or resolution, prescribing standards of sanitation, health and hygiene for establishments as defined in this chapter, which are not in conflict with the provisions of this chapter, and requiring a certificate by the local health officer, that the local health, sanitation and hygiene laws have been complied with before maintaining or conducting any such institution within such city or city and county. [1959 c 25 § 71.12.550. Prior: 1949 c 198 § 64; Rem. Supp. 1949 § 6953-63.]

71.12.560 Voluntary patients—Receipt authorized—Application—Report. The person in charge of any private institution, hospital, or sanitarium which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill or deranged may receive therein as a voluntary patient any person suffering from mental illness or derangement who is a suitable person for care and treatment in the institution, hospital, or sanitarium, who voluntarily makes a written application to the person in charge for admission into the institution, hospital or sanitarium. At the expiration of fourteen continuous days of treatment of a patient voluntarily committed in a private institution, hospital, or sanitarium, if the period of voluntary commitment is to continue, the person in charge shall forward to the office of the department of social and health services a record of the voluntary patient showing the name, residence, date of birth, sex, place of birth, occupation, social security number, marital status, date of admission to the institution, hospital, or sanitarium, and such other information as may be required by rule of the department of social and health services. [1994 sp.s. c 7 § 441; 1974 ex.s. c 145 § 1; 1973 1st ex.s. c 142 § 1; 1959 c 25 § 71.12.560. Prior: 1949 c 198 § 65; Rem. Supp. 1949 § 6953-64.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

71.12.570 Communications by patients—Rights. No person in an establishment as defined in this chapter shall be restrained from sending written communications of the fact of his or her detention in such establishment to a friend, relative, or other person. The physician in charge of such person and the person in charge of such establishment shall send each such communication to the person to whom it is addressed. All persons in an establishment shall have no less than all rights secured to involuntarily detained persons by RCW 71.05.360 and 71.05.217 and to voluntarily admitted or committed persons pursuant to RCW 71.05.050 and 71.05.380. [2012 c 117 § 440; 1973 1st ex.s. c 142 § 2; 1959 c 25 § 71.12.570. Prior: 1949 c 198 § 66; Rem. Supp. 1949 § 6953-65.]

71.12.590 Revocation of license for noncompliance—Exemption as to Christian Science establishments. Failure to comply with any of the provisions of RCW 71.12.550 through 71.12.570 or the requirements of RCW 71.34.375 shall constitute grounds for revocation of license: PROVIDED, HOWEVER, That nothing in this chapter or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any establishment, as defined in this chapter conducted in accordance with the practice and principles of the body known as Church of Christ, Scientist. [2011 c 302 § 4; 1983 c 3 § 180; 1959 c 25 § 71.12.590. Prior: 1949 c 198 § 68; Rem. Supp. 1949 § 6953-67.]

71.12.595 Suspension of license—Noncompliance with support order—Reissuance. The department of health shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the department of health's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [1997 c 58 § 860.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

71.12.640 Prosecuting attorney shall prosecute violations. The prosecuting attorney of every county shall, upon application by the department of social and health services, the department of health, or its authorized representatives, institute and conduct the prosecution of any action brought for the violation within his or her county of any of the provisions of this chapter. [2012 c 117 § 441; 1989 1st ex.s. c 9 § 234; 1979 c 141 § 140; 1959 c 25 § 71.12.640. Prior: 1949 c 198 § 55; Rem. Supp. 1949 § 6953-54.]

Additional notes found at www.leg.wa.gov

71.12.670 Licensing, operation, inspection—Adoption of rules. The department of health shall adopt rules for the licensing, operation, and inspections of establishments and institutions and the enforcement thereof. [2000 c 93 § 28.]

71.12.680 Pediatric transitional care services—Requirements. (1) An establishment providing pediatric transitional care services to drug exposed infants must demonstrate that it is capable of providing services for children who:

(a) Are no more than one year of age;

(b) Have been exposed to drugs before birth;

(c) Require twenty-four hour continuous residential care and skilled nursing services as a result of prenatal substance exposure; and

(d) Are referred to the establishment by the department of social and health services, regional hospitals, and private parties.

(2) After January 1, 2019, no person may operate or maintain an establishment that provides pediatric transitional care services without a license under this chapter. [2017 c 263 § 3.]

Findings—Intent—2017 c 263: See note following RCW 71.12.455.

71.12.682 Pediatric transitional care services—Rules not considered new service category. For the purposes of this chapter, the rules for pediatric transitional care services are not considered as a new department of social and health services service category. [2017 c 263 § 4.]

Findings—Intent—2017 c 263: See note following RCW 71.12.455.

71.12.684 Pediatric transitional care services—Rules, requirements. The secretary must, in consultation with the department of social and health services, adopt rules on pediatric transitional care services. The rules must:

(1) Establish requirements for medical examinations and consultations which must be delivered by an appropriate health care professional;

(2) Require twenty-four hour medical supervision for children receiving pediatric transitional services in accordance with the staffing ratios established under subsection (3) of this section;

(3) Include staffing ratios that consider the number of registered nurses or licensed practical nurses employed by the establishment and the number of trained caregivers on duty at the establishment. These staffing ratios may not require more than:

(a) One registered nurse to be on duty at all times;

(b) One registered nurse or licensed practical nurse to eight infants; and

(c) One trained caregiver to four infants;

(4) Require establishments that provide pediatric transitional care services to prepare weekly plans specific to each infant in their care and in accordance with the health care professional's standing orders. The health care professional may modify an infant's weekly plan without reexamining the infant if he or she determines the modification is in the best interest of the child. This modification may be communicated to the registered nurse on duty at the establishment who must then implement the modification. Weekly plans are to include short-term goals for each infant and outcomes must be included in reports required by the department;

(5) Ensure that neonatal abstinence syndrome scoring is conducted by an appropriate health care professional;

(6) Establish drug exposed infant developmental screening tests for establishments that provide pediatric transitional care services to administer according to a schedule established by the secretary;

(7) Require the establishment to collaborate with the department of social and health services to develop an individualized safety plan for each child and to meet other contractual requirements of the department of social and health services to identify strategies to meet supervision needs, medical concerns, and family support needs;

(8) Establish the maximum amount of days an infant may be placed at an establishment;

(9) Develop timelines for initial and ongoing parent-infant visits to nurture and help develop attachment and bonding between the child and parent, if such visits are possible. Timelines must be developed upon placement of the infant in the establishment providing pediatric transitional care services;

(10) Determine how transportation for the infant will be provided, if needed;

(11) Establish on-site training requirements for caregivers, volunteers, parents, foster parents, and relatives;

(12) Establish background check requirements for caregivers, volunteers, employees, and any other person with unsupervised access to the infants under the care of the establishment; and

(13) Establish other requirements necessary to support the infant and the infant's family. [2017 c 263 § 5.]

Findings—Intent—2017 c 263: See note following RCW 71.12.455.

71.12.686 Pediatric transitional care services—Duties of the department of social and health services. After referral by the department of social and health services of an infant to an establishment approved to provide pediatric transitional care services, the department of social and health services:

(1) Retains primary responsibility for case management and must provide consultation to the establishment regarding all placements and permanency planning issues, including developing a parent-child visitation plan;

(2) Must work with the department and the establishment to identify and implement evidence-based practices that address current and best medical practices and parent participation; and

(3) Work with the establishment to ensure medicaid-eligible services are so billed. [2017 c 263 § 6.]

Findings—Intent—2017 c 263: See note following RCW 71.12.455.

71.12.688 Pediatric transitional care services—Facilities not subject to construction review. Facilities that provide pediatric transitional care services that are in existence on July 23, 2017, are not subject to construction review by the department for initial licensure. [2017 c 263 § 7.]

Findings—Intent—2017 c 263: See note following RCW 71.12.455.

71.12.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 160.]

Chapter 71.20 RCW
LOCAL FUNDS FOR COMMUNITY SERVICES

Sections

71.20.100 Expenditures of county funds subject to county fiscal laws. Expenditures of county funds under this chapter shall be subject to the provisions of chapter 36.40 RCW and other statutes relating to expenditures by counties. [1967 ex.s. c 110 § 10.]

71.20.110 Tax levy directed—Allocation of funds for federal matching funds purposes. (1) In order to provide additional funds for the coordination and provision of community services for persons with developmental disabilities or mental health services, the county governing authority of each county in the state must budget and levy annually a tax in a sum equal to the amount which would be raised by a levy of two and one-half cents per thousand dollars of assessed value against the taxable property in the county, or as such amount is modified pursuant to subsection (2) or (3) of this section, to be used for such purposes. However, all or part of the funds collected from the tax levied for the purposes of this section may be transferred to the state of Washington, department of social and health services, for the purpose of obtaining federal matching funds to provide and coordinate community services for persons with developmental disabilities and mental health services. In the event a county elects to transfer such tax funds to the state for this purpose, the state must grant these moneys and the additional funds received as matching funds to service-providing community agencies or community boards in the county which has made such transfer, pursuant to the plan approved by the county, as provided by chapters 71.24 and 71.28 RCW and by chapter 71A.14 RCW, all as now or hereafter amended.

(2) The amount of a levy allocated to the purposes specified in this section may be reduced in the same proportion as the regular property tax levy of the county is reduced by chapter 84.55 RCW.

(3)(a) The amount of a levy allocated to the purposes specified in this section may be modified from the amount required by subsection (1) of this section as follows:

(i) If the certified levy is reduced from the preceding year's certified levy, the amount of the levy allocated to the purposes specified in this section may be reduced by no more than the same percentage as the certified levy is reduced from the preceding year's certified levy;

(ii) If the certified levy is increased from the preceding year's certified levy, the amount of the levy allocated to the purposes specified in this section must be increased from the amount of the levy so allocated in the previous year by at least the same percentage as the certified levy is increased from the preceding year's certified levy. However, the amount of the levy allocated to the purposes specified in this section does not have to be increased under this subsection (3)(a)(ii) for the portion of a certified levy increase resulting from a voter-approved increase under RCW 84.55.050 that is dedicated to a specific purpose; or

(iii) If the certified levy is unchanged from the preceding year's certified levy, the amount of the levy allocated to the purposes specified in this section must be equal to or greater than the amount of the levy so allocated in the preceding year.

(b) For purposes of this subsection, "certified levy" means the property tax levy for general county purposes certified to the county assessor as required by RCW 84.52.070, excluding any amounts certified under chapters 84.69 and 84.68 RCW.

(4) Subsections (2) and (3) of this section do not preclude a county from increasing the levy amount in subsection (1) of this section to an amount that is greater than the change in the regular county levy. [2013 c 123 § 1; 1988 c 176 § 910; 1983 c 3 § 183; 1980 c 155 § 5; 1974 ex.s. c 71 § 8; 1973 1st ex.s. c 195 § 85; 1971 ex.s. c 84 § 1; 1970 ex.s. c 47 § 8; 1967 ex.s. c 110 § 16.]

Additional notes found at www.leg.wa.gov

Chapter 71.24 RCW
COMMUNITY BEHAVIORAL HEALTH SERVICES ACT

(Formerly: Community mental health services act)

Sections

Comprehensive community health centers: Chapter 70.10 RCW.

Funding: RCW 43.79.201 and 79.02.410.

71.24.011 Short title. ***(Effective until January 1, 2020.)*** This chapter may be known and cited as the community behavioral health services act. [2019 c 314 § 24; 1982 c 204 § 1.]

Declaration—2019 c 314: See note following RCW 18.22.810.

71.24.011 Short title. ***(Effective January 1, 2020.)*** This chapter may be known and cited as the community behavioral health services act. [2019 c 325 § 1001; 2019 c 314 § 24; 1982 c 204 § 1.]

Effective date—2019 c 325: "Except as provided in sections 6005 and 6007 of this act, this act takes effect January 1, 2020." [2019 c 325 § 6008.]

Declaration—2019 c 314: See note following RCW 18.22.810.

71.24.015 Legislative intent and policy. ***(Effective until January 1, 2020.)*** It is the intent of the legislature to establish a community mental health program which shall help people experiencing mental illness to retain a respected and productive position in the community. This will be accomplished through programs that focus on resilience and recovery, and practices that are evidence-based, research-based, consensus-based, or, where these do not exist, promising or emerging best practices, which provide for:

(1) Access to mental health services for adults with mental illness and children with mental illness or emotional disturbances who meet access to care standards which services recognize the special needs of underserved populations, including minorities, children, older adults, individuals with disabilities, and low-income persons. Access to mental health services shall not be limited by a person's history of confinement in a state, federal, or local correctional facility. It is also the purpose of this chapter to promote the early identification

of children with mental illness and to ensure that they receive the mental health care and treatment which is appropriate to their developmental level. This care should improve home, school, and community functioning, maintain children in a safe and nurturing home environment, and should enable treatment decisions to be made in response to clinical needs in accordance with sound professional judgment while also recognizing parents' rights to participate in treatment decisions for their children;

(2) The involvement of persons with mental illness, their family members, and advocates in designing and implementing mental health services that reduce unnecessary hospitalization and incarceration and promote the recovery and employment of persons with mental illness. To improve the quality of services available and promote the rehabilitation, recovery, and reintegration of persons with mental illness, consumer and advocate participation in mental health services is an integral part of the community mental health system and shall be supported;

(3) Accountability of efficient and effective services through state-of-the-art outcome and performance measures and statewide standards for monitoring client and system outcomes, performance, and reporting of client and system outcome information. These processes shall be designed so as to maximize the use of available resources for direct care of people with a mental illness and to assure uniform data collection across the state;

(4) Minimum service delivery standards;

(5) Priorities for the use of available resources for the care of individuals with mental illness consistent with the priorities defined in the statute;

(6) Coordination of services within the department of social and health services, including those divisions within the department of social and health services that provide services to children, between the authority, department of social and health services, and the office of the superintendent of public instruction, and among state mental hospitals, county authorities, behavioral health organizations, community mental health services, and other support services, which shall to the maximum extent feasible also include the families of individuals with mental illness, and other service providers; and

(7) Coordination of services aimed at reducing duplication in service delivery and promoting complementary services among all entities that provide mental health services to adults and children.

It is the policy of the state to encourage the provision of a full range of treatment and rehabilitation services in the state for mental disorders including services operated by consumers and advocates. The legislature intends to encourage the development of regional mental health services with adequate local flexibility to assure eligible people in need of care access to the least-restrictive treatment alternative appropriate to their needs, and the availability of treatment components to assure continuity of care. To this end, counties must enter into joint operating agreements with other counties to form regional systems of care that are consistent with the regional service areas established under RCW 74.09.870. Regional systems of care, whether operated by a county, group of counties, or another entity shall integrate planning, administration, and service delivery duties under chapter 71.05 RCW and this chapter to consolidate administration, reduce administrative layering, and reduce administrative costs. The legislature hereby finds and declares that sound fiscal management requires vigilance to ensure that funds appropriated by the legislature for the provision of needed community mental health programs and services are ultimately expended solely for the purpose for which they were appropriated, and not for any other purpose.

It is further the intent of the legislature to integrate the provision of services to provide continuity of care through all phases of treatment. To this end, the legislature intends to promote active engagement with persons with mental illness and collaboration between families and service providers. [2018 c 201 § 4001; 2014 c 225 § 6; 2005 c 503 § 1. Prior: 2001 c 334 § 6; 2001 c 323 § 1; 1999 c 214 § 7; 1991 c 306 § 1; 1989 c 205 § 1; 1986 c 274 § 1; 1982 c 204 § 2.]

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

Intent—Effective date—1999 c 214: See notes following RCW 72.09.370.

Additional notes found at www.leg.wa.gov

71.24.015 Legislative intent—Community behavioral health system. ***(Effective January 1, 2020.)*** It is the intent of the legislature to establish a community behavioral health system which shall help people experiencing mental illness or a substance use disorder to retain a respected and productive position in the community. This will be accomplished through programs that focus on resilience and recovery, and practices that are evidence-based, research-based, consensus-based, or, where these do not exist, promising or emerging best practices, which provide for:

(1) Access to behavioral health services for adults with mental illness and children with mental illness, emotional disturbances, or substance use disorders, that recognize the special needs of underserved populations, including minorities, children, older adults, individuals with disabilities, and low-income persons. Access to mental health and substance use disorder services shall not be limited by a person's history of confinement in a state, federal, or local correctional facility. It is also the purpose of this chapter to promote the early identification of children with mental illness and to ensure that they receive the mental health care and treatment which is appropriate to their developmental level. This care should improve home, school, and community functioning, maintain children in a safe and nurturing home environment, and should enable treatment decisions to be made in response to clinical needs in accordance with sound professional judgment while also recognizing parents' rights to participate in treatment decisions for their children;

(2) The involvement of persons with mental illness or substance use disorder, their family members, and advocates in designing and implementing behavioral health services that reduce unnecessary hospitalization and incarceration and promote recovery and employment. To improve the quality of services available and promote the rehabilitation, recovery, and reintegration of persons with mental illness or substance use disorder, consumer and advocate participation in behavioral health services is an integral part of the community behavioral health system and shall be supported;

(3) Accountability of efficient and effective services through state-of-the-art outcome and performance measures and statewide standards for monitoring client and system outcomes, performance, and reporting of client and system outcome information. These processes shall be designed so as to maximize the use of available resources for direct care of people with a mental illness and to assure uniform data collection across the state;

(4) Minimum service delivery standards;

(5) Priorities for the use of available resources for the care of individuals with mental illness or substance use disorder consistent with the priorities defined in the statute;

(6) Coordination of services within the department of social and health services, the authority, the department, the department of children, youth, and families, and the office of the superintendent of public instruction, and among state mental hospitals, tribes, residential treatment facilities, county authorities, behavioral health administrative services organizations, managed care organizations, community behavioral health services, and other support services, which shall to the maximum extent feasible also include the families of individuals with mental illness or substance use disorder, and other service providers, including Indian health care providers; and

(7) Coordination of services aimed at reducing duplication in service delivery and promoting complementary services among all entities that provide behavioral health services to adults and children.

It is the policy of the state to encourage the provision of a full range of treatment and rehabilitation services in the state for mental disorders, or substance use disorders, including services operated by consumers and advocates. The legislature intends to encourage the development of regional behavioral health services with adequate local flexibility to assure eligible people in need of care access to the least-restrictive treatment alternative appropriate to their needs, and the availability of treatment components to assure continuity of care. The legislature hereby finds and declares that sound fiscal management requires vigilance to ensure that funds appropriated by the legislature for the provision of needed community behavioral health system services are ultimately expended solely for the purpose for which they were appropriated, and not for any other purpose.

It is further the intent of the legislature to integrate the provision of services to provide continuity of care through all phases of treatment. To this end, the legislature intends to promote active engagement with persons with mental illness and collaboration between families and service providers. [2019 c 325 § 1002; 2018 c 201 § 4001; 2014 c 225 § 6; 2005 c 503 § 1. Prior: 2001 c 334 § 6; 2001 c 323 § 1; 1999 c 214 § 7; 1991 c 306 § 1; 1989 c 205 § 1; 1986 c 274 § 1; 1982 c 204 § 2.]

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

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

Intent—Effective date—1999 c 214: See notes following RCW 72.09.370.

Additional notes found at www.leg.wa.gov

71.24.016 Intent—Management of services—Work group on long-term involuntary inpatient care integration.

(1) The legislature intends that eastern and western state hospitals shall operate as clinical centers for handling the most complicated long-term care needs of patients with a primary diagnosis of mental disorder. It is further the intent of the legislature that the community behavioral health service delivery system focus on maintaining individuals with mental illness in the community. The program shall be evaluated and managed through a limited number of outcome and performance measures, as provided in RCW 71.24.435, 70.320.020, and 71.36.025.

(2) The legislature intends to address the needs of people with mental disorders with a targeted, coordinated, and comprehensive set of evidence-based practices that are effective in serving individuals in their community and will reduce the need for placements in state mental hospitals. The legislature further intends to explicitly hold behavioral health administrative services organizations, within available resources, and managed care organizations accountable for serving people with mental disorders within the boundaries of their regional service area.

(3) The authority shall establish a work group to determine: (a) How to appropriately manage access to adult long-term inpatient involuntary care and the children's long-term inpatient program in the community and at eastern and western state hospitals, until such a time as the risk for long-term involuntary inpatient care may be fully integrated into managed care organization contracts, and provide advice to guide the integration process; and (b) how to expand bidirectional integration through increased support for co-occurring disorder services, including recommendations related to purchasing and rates. The work group shall include representation from the department of social and health services, the department of health, behavioral health administrative services organizations, at least two managed care organizations, the Washington state association of counties, community behavioral health providers, including providers with experience providing co-occurring disorder services, and the Washington state hospital association. Managed care representation on the work group must include at least one member with financial expertise and at least one member with clinical expertise. The managed care organizations on the work group shall represent the entire managed care sector and shall collaborate with the nonrepresented managed care organizations. The work group shall provide recommendations to the office of financial management and appropriate committees of the legislature by December 15, 2019. [2019 c 325 § 1003; 2014 c 225 § 7; 2006 c 333 § 102; 2001 c 323 § 4.]

Effective date—2019 c 325 §§ 1003 and 5030: "Sections 1003 and 5030 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [May 9, 2019]." [2019 c 325 § 6007.]

Effective date—2014 c 225: "Sections 7, 10, 13 through 54, 56 through 84, and 86 through 104 of this act take effect April 1, 2016." [2014 c 225 § 112.]

Finding—Purpose—Intent—2006 c 333: "(1) The legislature finds that ambiguities have been identified regarding the appropriation and allocation of federal and state funds, and the responsibilities of the department of social and health services and the regional support networks with regard to the provision of inpatient mental health services under the community mental health services act, chapter 71.24 RCW, and the involuntary treatment act, chapter 71.05 RCW. The purpose of this 2006 act is to make retroactive,

remedial, curative, and technical amendments in order to resolve such ambiguities.

(2) In enacting the community mental health services act, the legislature intended the relationship between the state and the regional support networks to be governed solely by the terms of the regional support network contracts and did not intend these relationships to create statutory causes of action not expressly provided for in the contracts. Therefore, the legislature's intent is that, except to the extent expressly provided in contracts entered after March 29, 2006, the department of social and health services and regional support networks shall resolve existing and future disagreements regarding the subject matter identified in sections 103 and 301 of this act through nonjudicial means." [2006 c 333 § 101.]

Additional notes found at www.leg.wa.gov

71.24.025 Definitions. ***(Effective until January 1, 2020.)*** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

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

(3) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program licensed or certified by the department as meeting standards adopted under this chapter.

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

(5) "Available resources" means funds appropriated for the purpose of providing community mental health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other mental health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(6) "Behavioral health organization" means any county authority or group of county authorities or other entity recognized by the director in contract in a defined region.

(7) "Behavioral health program" means all expenditures, services, activities, or programs, including reasonable administration and overhead, designed and conducted to prevent or treat chemical dependency and mental illness.

(8) "Behavioral health services" means mental health services as described in this chapter and chapter 71.36 RCW and substance use disorder treatment services as described in this chapter.

(9) "Child" means a person under the age of eighteen years.

(10) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the authority by rule consistent with Public Law 92-603, as amended.

(11) "Clubhouse" means a community-based program that provides rehabilitation services and is licensed or certified by the department.

(12) "Community mental health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with mental disorders as defined under RCW 71.05.020 and receive funding from public sources.

(13) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by behavioral health organizations.

(14) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(15) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a community mental health program, or two or more of the county authorities specified in this subsection which have entered into an agreement to provide a community mental health program.

(16) "Department" means the department of health.

(17) "Designated crisis responder" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter.

(18) "Director" means the director of the authority.

(19) "Drug addiction" means a disease characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is

reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(20) "Early adopter" means a regional service area for which all of the county authorities have requested that the authority purchase medical and behavioral health services through a managed care health system as defined under RCW 71.24.380(6).

(21) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in subsection (22) of this section.

(22) "Evidence-based" means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(23) "Intensive behavioral health treatment facility" means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings.

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

(25) "Licensed or certified service provider" means an entity licensed or certified according to this chapter or chapter 71.05 RCW or an entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department, or tribal attestation that meets state minimum standards, or persons licensed under chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(26) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

(27) "Mental health peer respite center" means a peer-run program to serve individuals in need of voluntary, short-term, noncrisis services that focus on recovery and wellness.

(28) "Mental health services" means all services provided by behavioral health organizations and other services provided by the state for persons who are mentally ill.

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

(30) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (10), (37), and (38) of this section.

(31) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(32) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in subsection (22) of this section but does not meet the full criteria for evidence-based.

(33) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, residential treatment facilities, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(34) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(35) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined solely by a behavioral health organization to be at risk of becoming

acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated crisis responders, evaluation and treatment facilities, and others as determined by the behavioral health organization.

(36) "Secretary" means the secretary of the department of health.

(37) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(38) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the behavioral health organization to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(39) "State minimum standards" means minimum requirements established by rules adopted and necessary to implement this chapter by:

(a) The authority for:

(i) Delivery of mental health and substance use disorder services; and

(ii) Community support services and resource management services;

(b) The department of health for:

(i) Licensed or certified service providers for the provision of mental health and substance use disorder services; and

(ii) Residential services.

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

(41) "Tribal authority," for the purposes of this section and RCW 71.24.300 only, means: The federally recognized Indian tribes and the major Indian organizations recognized by the director insofar as these organizations do not have a financial relationship with any behavioral health organization that would present a conflict of interest. [2019 c 324 § 2; 2018 c 201 § 4002. Prior: 2016 sp.s. c 29 § 502; 2016 sp.s. c 29 § 501; 2016 c 155 § 12; prior: 2014 c 225 § 10; 2013 c 338 § 5; 2012 c 10 § 59; 2008 c 261 § 2; 2007 c 414 § 1; 2006 c 333 § 104; prior: 2005 c 504 § 105; 2005 c 503 § 2; 2001 c 323 § 8; 1999 c 10 § 2; 1997 c 112 § 38; 1995 c 96 § 4; prior: 1994 sp.s. c 9 § 748; 1994 c 204 § 1; 1991 c 306 § 2; 1989 c 205 § 2; 1986 c 274 § 2; 1982 c 204 § 3.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Findings—Intent—2019 c 324: See note following RCW 71.24.648.

Mental health drop-in center services pilot program—2019 c 324: See note following RCW 71.24.649.

Report—2019 c 324: See note following RCW 70.38.111.

Recommendations—Residential intensive behavioral health and developmental disability services—2019 c 324: See note following RCW 74.39A.030.

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

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

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

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

Application—2012 c 10: See note following RCW 18.20.010.

Intent—Findings—2008 c 261: See note following RCW 71.24.320.

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

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

Purpose—Intent—1999 c 10: "The purpose of this act is to eliminate dates and provisions in chapter 71.24 RCW which are no longer needed. The legislature does not intend this act to make, and no provision of this act shall be construed as, a substantive change in the service delivery system or funding of the community mental health services law." [1999 c 10 § 1.]

Additional notes found at www.leg.wa.gov

71.24.025 Definitions. *(Effective January 1, 2020.)*

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

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

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

(3) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program licensed or certified by the department as meeting standards adopted under this chapter.

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

(5) "Available resources" means funds appropriated for the purpose of providing community behavioral health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other behavioral health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(6) "Behavioral health administrative services organization" means an entity contracted with the authority to administer behavioral health services and programs under RCW 71.24.381, including crisis services and administration of chapter 71.05 RCW, the involuntary treatment act, for all individuals in a defined regional service area.

(7) "Behavioral health provider" means a person licensed under chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(8) "Behavioral health services" means mental health services as described in this chapter and chapter 71.36 RCW and substance use disorder treatment services as described in this chapter that, depending on the type of service, are provided by licensed or certified behavioral health agencies, behavioral health providers, or integrated into other health care providers.

(9) "Child" means a person under the age of eighteen years.

(10) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the authority by rule consistent with Public Law 92-603, as amended.

(11) "Clubhouse" means a community-based program that provides rehabilitation services and is licensed or certified by the department.

(12) "Community behavioral health program" means all expenditures, services, activities, or programs, including reasonable administration and overhead, designed and conducted to prevent or treat substance use disorder, mental illness, or both in the community behavioral health system.

(13) "Community behavioral health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with mental disorders, substance use disorders, or both, as defined under RCW 71.05.020 and receive funding from public sources.

(14) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally or behaviorally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by behavioral health administrative services organizations.

(15) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(16) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a behavioral health administrative services organization, or two or more of the county authorities specified in this subsection which have entered into an agreement to establish a behavioral health administrative services organization.

(17) "Department" means the department of health.

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

(19) "Director" means the director of the authority.

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

(21) "Early adopter" means a regional service area for which all of the county authorities have requested that the authority purchase medical and behavioral health services

through a managed care health system as defined under RCW 71.24.380(6).

(22) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in subsection (23) of this section.

(23) "Evidence-based" means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(24) "Indian health care provider" means a health care program operated by the Indian health service or by a tribe, tribal organization, or urban Indian organization as those terms are defined in the Indian health care improvement act (25 U.S.C. Sec. 1603).

(25) "Intensive behavioral health treatment facility" means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings.

(26) "Licensed or certified behavioral health agency" means:

(a) An entity licensed or certified according to this chapter or chapter 71.05 RCW;

(b) An entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department; or

(c) An entity with a tribal attestation that it meets state minimum standards for a licensed or certified behavioral health agency.

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

(28) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

(29) "Managed care organization" means an organization, having a certificate of authority or certificate of registration from the office of the insurance commissioner, that contracts with the authority under a comprehensive risk contract to provide prepaid health care services to enrollees under the authority's managed care programs under chapter 74.09 RCW.

(30) "Mental health peer respite center" means a peer-run program to serve individuals in need of voluntary, short-term, noncrisis services that focus on recovery and wellness.

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

(32) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (10), (39), and (40) of this section.

(33) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(34) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in subsection (23) of this section but does not meet the full criteria for evidence-based.

(35) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, residential treatment facilities, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(36) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(37) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are

acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined by a behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated crisis responders, evaluation and treatment facilities, and others as determined by the behavioral health administrative services organization or managed care organization, as applicable.

(38) "Secretary" means the secretary of the department of health.

(39) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(40) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the behavioral health administrative services organization or managed care organization, if applicable, to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(41) "State minimum standards" means minimum requirements established by rules adopted and necessary to implement this chapter by:

(a) The authority for:

(i) Delivery of mental health and substance use disorder services; and

(ii) Community support services and resource management services;

(b) The department of health for:

(i) Licensed or certified behavioral health agencies for the purpose of providing mental health or substance use disorder programs and services, or both;

(ii) Licensed behavioral health providers for the provision of mental health or substance use disorder services, or both; and

(iii) Residential services.

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

(43) "Tribe," for the purposes of this section, means a federally recognized Indian tribe. [2019 c 325 § 1004; 2019 c 324 § 2; 2018 c 201 § 4002. Prior: 2016 sp.s. c 29 § 502; 2016 sp.s. c 29 § 501; 2016 c 155 § 12; prior: 2014 c 225 § 10; 2013 c 338 § 5; 2012 c 10 § 59; 2008 c 261 § 2; 2007 c 414 § 1; 2006 c 333 § 104; prior: 2005 c 504 § 105; 2005 c 503 § 2; 2001 c 323 § 8; 1999 c 10 § 2; 1997 c 112 § 38; 1995 c 96 § 4; prior: 1994 sp.s. c 9 § 748; 1994 c 204 § 1; 1991 c 306 § 2; 1989 c 205 § 2; 1986 c 274 § 2; 1982 c 204 § 3.]

Reviser's note: (1) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

(2) This section was amended by 2019 c 324 § 2 and by 2019 c 325 § 1004, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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

Findings—Intent—2019 c 324: See note following RCW 71.24.648.

Mental health drop-in center services pilot program—2019 c 324: See note following RCW 71.24.649.

Report—2019 c 324: See note following RCW 70.38.111.

Recommendations—Residential intensive behavioral health and developmental disability services—2019 c 324: See note following RCW 74.39A.030.

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

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

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

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

Application—2012 c 10: See note following RCW 18.20.010.

Intent—Findings—2008 c 261: See note following RCW 71.24.320.

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

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

Purpose—Intent—1999 c 10: "The purpose of this act is to eliminate dates and provisions in chapter 71.24 RCW which are no longer needed. The legislature does not intend this act to make, and no provision of this act shall

be construed as, a substantive change in the service delivery system or funding of the community mental health services law." [1999 c 10 § 1.]

Additional notes found at www.leg.wa.gov

71.24.030 Grants, purchasing of services, for community mental health programs. ***(Effective until January 1, 2020.)*** The director is authorized to make grants and/or purchase services from counties, combinations of counties, or other entities, to establish and operate community mental health programs. [2018 c 201 § 4003; 2005 c 503 § 3; 2001 c 323 § 9; 1999 c 10 § 3; 1982 c 204 § 6; 1973 1st ex.s. c 155 § 5; 1972 ex.s. c 122 § 30; 1971 ex.s. c 304 § 7; 1967 ex.s. c 111 § 3.]

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

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

Additional notes found at www.leg.wa.gov

71.24.030 Grants, purchasing of services, for community behavioral health programs. ***(Effective January 1, 2020.)*** The director is authorized to make grants and/or purchase services from counties, combinations of counties, or other entities, to establish and operate community behavioral health programs. [2019 c 325 § 1005; 2018 c 201 § 4003; 2005 c 503 § 3; 2001 c 323 § 9; 1999 c 10 § 3; 1982 c 204 § 6; 1973 1st ex.s. c 155 § 5; 1972 ex.s. c 122 § 30; 1971 ex.s. c 304 § 7; 1967 ex.s. c 111 § 3.]

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

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

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

Additional notes found at www.leg.wa.gov

71.24.035 Director's powers and duties as state behavioral health authority. ***(Effective until January 1, 2020.)*** (1) The authority is designated as the state behavioral health authority which includes recognition as the single state authority for substance use disorders and state mental health authority.

(2) The director shall provide for public, client, tribal, and licensed or certified service provider participation in developing the state behavioral health program, developing contracts with behavioral health organizations, and any waiver request to the federal government under medicaid.

(3) The director shall provide for participation in developing the state behavioral health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state behavioral health program.

(4) The director shall be designated as the behavioral health organization if the behavioral health organization fails to meet state minimum standards or refuses to exercise responsibilities under its contract or RCW 71.24.045, until such time as a new behavioral health organization is designated.

(5) The director shall:

(a) Develop a biennial state behavioral health program that incorporates regional biennial needs assessments and regional mental health service plans and state services for adults and children with mental disorders or substance use disorders or both;

(b) Assure that any behavioral health organization or county community behavioral health program provides medically necessary services to medicaid recipients consistent with the state's medicaid state plan or federal waiver authorities, and nonmedicaid services consistent with priorities established by the authority;

(c) Develop and adopt rules establishing state minimum standards for the delivery of behavioral health services pursuant to RCW 71.24.037 including, but not limited to:

(i) Licensed or certified service providers. These rules shall permit a county-operated behavioral health program to be licensed as a service provider subject to compliance with applicable statutes and rules.

(ii) Inpatient services, an adequate network of evaluation and treatment services and facilities under chapter 71.05 RCW to ensure access to treatment, resource management services, and community support services;

(d) Assure that the special needs of persons who are minorities, elderly, disabled, children, low-income, and parents who are respondents in dependency cases are met within the priorities established in this section;

(e) Establish a standard contract or contracts, consistent with state minimum standards which shall be used in contracting with behavioral health organizations. The standard contract shall include a maximum fund balance, which shall be consistent with that required by federal regulations or waiver stipulations;

(f) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including managed care contracts for behavioral health services, contracts entered into under RCW 74.09.522, and contracts with public and private agencies, organizations, and individuals to pay them for behavioral health services;

(g) Establish, to the extent possible, a standardized auditing procedure which is designed to assure compliance with contractual agreements authorized by this chapter and minimizes paperwork requirements of behavioral health organizations and licensed or certified service providers. The audit procedure shall focus on the outcomes of service as provided in RCW 43.20A.895, 70.320.020, and 71.36.025;

(h) Develop and maintain an information system to be used by the state and behavioral health organizations that includes a tracking method which allows the authority and behavioral health organizations to identify behavioral health clients' participation in any behavioral health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and chapter 70.02 RCW;

(i) Periodically monitor the compliance of behavioral health organizations and their network of licensed or certified service providers for compliance with the contract between the authority, the behavioral health organization, and federal and state rules at reasonable times and in a reasonable manner;

(j) Monitor and audit behavioral health organizations as needed to assure compliance with contractual agreements authorized by this chapter;

(k) Adopt such rules as are necessary to implement the authority's responsibilities under this chapter; and

(l) Administer or supervise the administration of the provisions relating to persons with substance use disorders and intoxicated persons of any state plan submitted for federal funding pursuant to federal health, welfare, or treatment legislation.

(6) The director shall use available resources only for behavioral health organizations, except:

(a) To the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act; or

(b) To incentivize improved performance with respect to the client outcomes established in RCW 43.20A.895, 70.320.020, and 71.36.025, integration of behavioral health and medical services at the clinical level, and improved care coordination for individuals with complex care needs.

(7) Each behavioral health organization and licensed or certified service provider shall file with the secretary of the department of health or the director, on request, such data, statistics, schedules, and information as the secretary of the department of health or the director reasonably requires. A behavioral health organization or licensed or certified service provider which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may be subject to the behavioral health organization contractual remedies in RCW 74.09.871 or may have its service provider certification or license revoked or suspended.

(8) The superior court may restrain any behavioral health organization or service provider from operating without a contract, certification, or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(9) Upon petition by the secretary of the department of health or the director, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary of the department of health or the director authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any behavioral health organization or service provider refusing to consent to inspection or examination by the authority.

(10) Notwithstanding the existence or pursuit of any other remedy, the secretary of the department of health or the director may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a behavioral health organization or service provider without a contract, certification, or a license under this chapter.

(11) The authority shall distribute appropriated state and federal funds in accordance with any priorities, terms, or conditions specified in the appropriations act.

(12) The director shall assume all duties assigned to the nonparticipating behavioral health organizations under chapters 71.05 and 71.34 RCW and this chapter. Such responsibilities shall include those which would have been assigned to the nonparticipating counties in regions where there are not participating behavioral health organizations.

The behavioral health organizations, or the director's assumption of all responsibilities under chapters 71.05 and 71.34 RCW and this chapter, shall be included in all state and federal plans affecting the state behavioral health program including at least those required by this chapter, the medicaid program, and P.L. 99-660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(13) The director shall:

(a) Disburse funds for the behavioral health organizations within sixty days of approval of the biennial contract. The authority must either approve or reject the biennial contract within sixty days of receipt.

(b) Enter into biennial contracts with behavioral health organizations. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking responsibility for: (i) Short-term commitments; (ii) residential care; and (iii) emergency response systems.

(c) Notify behavioral health organizations of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(d) Deny all or part of the funding allocations to behavioral health organizations based solely upon formal findings of noncompliance with the terms of the behavioral health organization's contract with the authority. Behavioral health organizations disputing the decision of the director to withhold funding allocations are limited to the remedies provided in the authority's contracts with the behavioral health organizations.

(14) The authority, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by freestanding evaluation and treatment facilities licensed under chapter 71.12 RCW or certified under chapter 71.05 RCW. The authority shall periodically report its efforts to the appropriate committees of the senate and the house of representatives.

(15) The authority may:

(a) Plan, establish, and maintain substance use disorder prevention and substance use disorder treatment programs as necessary or desirable;

(b) Coordinate its activities and cooperate with behavioral programs in this and other states, and make contracts and other joint or cooperative arrangements with state, local, or private agencies in this and other states for behavioral health services and for the common advancement of substance use disorder programs;

(c) Solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant;

(d) Keep records and engage in research and the gathering of relevant statistics; and

(e) Acquire, hold, or dispose of real property or any interest therein, and construct, lease, or otherwise provide substance use disorder treatment programs. [2018 c 201 § 4004; 2016 sp.s. c 29 § 503; 2015 c 269 § 8; 2014 c 225 § 11; 2013 c 200 § 24; 2011 c 148 § 4. Prior: 2008 c 267 § 5; 2008

c 261 § 3; prior: 2007 c 414 § 2; 2007 c 410 § 8; 2007 c 375 § 12; 2006 c 333 § 201; prior: 2005 c 504 § 715; 2005 c 503 § 7; prior: 2001 c 334 § 7; 2001 c 323 § 10; 1999 c 10 § 4; 1998 c 245 § 137; prior: 1991 c 306 § 3; 1991 c 262 § 1; 1991 c 29 § 1; 1990 1st ex.s. c 8 § 1; 1989 c 205 § 3; 1987 c 105 § 1; 1986 c 274 § 3; 1982 c 204 § 4.]

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

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

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

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

Effective date—2013 c 200: See note following RCW 70.02.010.

Certification of triage facilities—Effective date—2011 c 148: See notes following RCW 71.05.020.

Intent—Findings—2008 c 261: See note following RCW 71.24.320.

Findings—Purpose—Construction—Severability—2007 c 375: See notes following RCW 10.31.110.

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

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

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

Additional notes found at www.leg.wa.gov

71.24.035 Director's powers and duties as state behavioral health authority. *(Effective January 1, 2020.)*

(1) The authority is designated as the state behavioral health authority which includes recognition as the single state authority for substance use disorders and state mental health authority.

(2) The director shall provide for public, client, tribal, and licensed or certified behavioral health agency participation in developing the state behavioral health program, developing related contracts, and any waiver request to the federal government under medicaid.

(3) The director shall provide for participation in developing the state behavioral health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state behavioral health program.

(4) The authority shall be designated as the behavioral health administrative services organization for a regional service area if a behavioral health administrative services organization fails to meet the authority's contracting requirements or refuses to exercise the responsibilities under its contract or state law, until such time as a new behavioral health administrative services organization is designated.

(5) The director shall:

(a) Assure that any behavioral health administrative services organization, managed care organization, or community behavioral health program provides medically necessary services to medicaid recipients consistent with the state's medicaid state plan or federal waiver authorities, and nonmedicaid services consistent with priorities established by the authority;

(b) Develop contracts in a manner to ensure an adequate network of inpatient services, evaluation and treatment services, and facilities under chapter 71.05 RCW to ensure access to treatment, resource management services, and community support services;

(c) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including managed care contracts for behavioral health services, contracts entered into under RCW 74.09.522, and contracts with public and private agencies, organizations, and individuals to pay them for behavioral health services;

(d) Define administrative costs and ensure that the behavioral health administrative services organization does not exceed an administrative cost of ten percent of available funds;

(e) Establish, to the extent possible, a standardized auditing procedure which is designed to assure compliance with contractual agreements authorized by this chapter and minimizes paperwork requirements. The audit procedure shall focus on the outcomes of service as provided in RCW 71.24.435, 70.320.020, and 71.36.025;

(f) Develop and maintain an information system to be used by the state and behavioral health administrative services organizations and managed care organizations that includes a tracking method which allows the authority to identify behavioral health clients' participation in any behavioral health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and chapter 70.02 RCW;

(g) Monitor and audit behavioral health administrative services organizations as needed to assure compliance with contractual agreements authorized by this chapter;

(h) Monitor and audit access to behavioral health services for individuals eligible for medicaid who are not enrolled in a managed care organization;

(i) Adopt such rules as are necessary to implement the authority's responsibilities under this chapter;

(j) Administer or supervise the administration of the provisions relating to persons with substance use disorders and intoxicated persons of any state plan submitted for federal funding pursuant to federal health, welfare, or treatment legislation;

(k) Require the behavioral health administrative services organizations and the managed care organizations to develop agreements with tribal, city, and county jails and the department of corrections to accept referrals for enrollment on behalf of a confined person, prior to the person's release; and

(l) Require behavioral health administrative services organizations and managed care organizations, as applicable, to provide services as identified in RCW 71.05.585 to individuals committed for involuntary commitment under less restrictive alternative court orders when:

(i) The individual is enrolled in the medicaid program; or

(ii) The individual is not enrolled in medicaid, does not have other insurance which can pay for the services, and the behavioral health administrative services organization has adequate available resources to provide the services.

(6) The director shall use available resources only for behavioral health administrative services organizations and managed care organizations, except:

(a) To the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act; or

(b) To incentivize improved performance with respect to the client outcomes established in RCW 71.24.435, 70.320.020, and 71.36.025, integration of behavioral health and medical services at the clinical level, and improved care coordination for individuals with complex care needs.

(7) Each behavioral health administrative services organization, managed care organization, and licensed or certified behavioral health agency shall file with the secretary of the department of health or the director, on request, such data, statistics, schedules, and information as the secretary of the department of health or the director reasonably requires. A behavioral health administrative services organization, managed care organization, or licensed or certified behavioral health agency which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may be subject to the contractual remedies in RCW 74.09.871 or may have its service provider certification or license revoked or suspended.

(8) The superior court may restrain any behavioral health administrative services organization, managed care organization, or service provider from operating without a contract, certification, or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(9) Upon petition by the secretary of the department of health or the director, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary of the department of health or the director authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any behavioral health administrative services organization, managed care organization, or service provider refusing to consent to inspection or examination by the authority.

(10) Notwithstanding the existence or pursuit of any other remedy, the secretary of the department of health or the director may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a behavioral health administrative services organization, managed care organization, or service provider without a contract, certification, or a license under this chapter.

(11) The authority shall distribute appropriated state and federal funds in accordance with any priorities, terms, or conditions specified in the appropriations act.

(12) The authority, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by freestanding evaluation and treatment facilities licensed under chapter 71.12 RCW or certified under chapter 71.05 RCW. The authority shall periodically share the results of its efforts with the appropriate committees of the senate and the house of representatives.

(13) The authority may:

(a) Plan, establish, and maintain substance use disorder prevention and substance use disorder treatment programs as necessary or desirable;

(b) Coordinate its activities and cooperate with behavioral programs in this and other states, and make contracts and other joint or cooperative arrangements with state, tribal, local, or private agencies in this and other states for behavioral health services and for the common advancement of substance use disorder programs;

(c) Solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant;

(d) Keep records and engage in research and the gathering of relevant statistics; and

(e) Acquire, hold, or dispose of real property or any interest therein, and construct, lease, or otherwise provide substance use disorder treatment programs. [2019 c 325 § 1006; 2018 c 201 § 4004; 2016 sp.s. c 29 § 503; 2015 c 269 § 8; 2014 c 225 § 11; 2013 c 200 § 24; 2011 c 148 § 4. Prior: 2008 c 267 § 5; 2008 c 261 § 3; prior: 2007 c 414 § 2; 2007 c 410 § 8; 2007 c 375 § 12; 2006 c 333 § 201; prior: 2005 c 504 § 715; 2005 c 503 § 7; prior: 2001 c 334 § 7; 2001 c 323 § 10; 1999 c 10 § 4; 1998 c 245 § 137; prior: 1991 c 306 § 3; 1991 c 262 § 1; 1991 c 29 § 1; 1990 1st ex.s. c 8 § 1; 1989 c 205 § 3; 1987 c 105 § 1; 1986 c 274 § 3; 1982 c 204 § 4.]

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

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

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

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

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

Effective date—2013 c 200: See note following RCW 70.02.010.

Certification of triage facilities—Effective date—2011 c 148: See notes following RCW 71.05.020.

Intent—Findings—2008 c 261: See note following RCW 71.24.320.

Findings—Purpose—Construction—Severability—2007 c 375: See notes following RCW 10.31.110.

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

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

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

Additional notes found at www.leg.wa.gov

71.24.037 Licensed or certified service providers, residential services, community support services—Minimum standards—Violation reporting—Transfer or sale of behavioral health service to family member. ***(Effective until January 1, 2020.)*** (1) The secretary shall by rule establish state minimum standards for licensed or certified behavioral health service providers and services, whether those service providers and services are licensed or certified to provide solely mental health services, substance use disorder treatment services, or services to persons with co-occurring disorders.

(2) Minimum standards for licensed or certified behavioral health service providers shall, at a minimum, establish: Qualifications for staff providing services directly to persons with mental disorders, substance use disorders, or both, the intended result of each service, and the rights and responsibilities of persons receiving behavioral health services pursuant to this chapter. The secretary shall provide for deeming of licensed or certified behavioral health service providers as meeting state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department.

(3) Minimum standards for community support services and resource management services shall include at least qualifications for resource management services, client tracking systems, and the transfer of patient information between behavioral health service providers.

(4) The department may suspend, revoke, limit, restrict, or modify an approval, or refuse to grant approval, for failure to meet the provisions of this chapter, or the standards adopted under this chapter. RCW 43.70.115 governs notice of a license or certification denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(5) No licensed or certified behavioral health service provider may advertise or represent itself as a licensed or certified behavioral health service provider if approval has not been granted, has been denied, suspended, revoked, or canceled.

(6) Licensure or certification as a behavioral health service provider is effective for one calendar year from the date of issuance of the license or certification. The license or certification must specify the types of services provided by the behavioral health service provider that meet the standards adopted under this chapter. Renewal of a license or certification must be made in accordance with this section for initial approval and in accordance with the standards set forth in rules adopted by the secretary.

(7) Licensure or certification as a licensed or certified behavioral health service provider must specify the types of services provided that meet the standards adopted under this chapter. Renewal of a license or certification must be made in accordance with this section for initial approval and in accordance with the standards set forth in rules adopted by the secretary.

(8) The department shall develop a process by which a provider may obtain dual licensure as an evaluation and treatment facility and secure withdrawal management and stabilization facility.

(9) Licensed or certified behavioral health service providers may not provide types of services for which the licensed or certified behavioral health service provider has not been certified. Licensed or certified behavioral health service providers may provide services for which approval has been sought and is pending, if approval for the services has not been previously revoked or denied.

(10) The department periodically shall inspect licensed or certified behavioral health service providers at reasonable times and in a reasonable manner.

(11) Upon petition of the department and after a hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the department authorizing him or her to enter and inspect at reasonable times, and examine the books and accounts of, any licensed or certified behavioral health service provider refusing to consent to inspection or examination by the department or which the department has reasonable cause to believe is operating in violation of this chapter.

(12) The department shall maintain and periodically publish a current list of licensed or certified behavioral health service providers.

(13) Each licensed or certified behavioral health service provider shall file with the department or the authority upon request, data, statistics, schedules, and information the department or the authority reasonably requires. A licensed or certified behavioral health service provider that without good cause fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent returns thereof, may have its license or certification revoked or suspended.

(14) The authority shall use the data provided in subsection (13) of this section to evaluate each program that admits children to inpatient substance use disorder treatment upon application of their parents. The evaluation must be done at least once every twelve months. In addition, the authority shall randomly select and review the information on individual children who are admitted on application of the child's parent for the purpose of determining whether the child was appropriately placed into substance use disorder treatment based on an objective evaluation of the child's condition and the outcome of the child's treatment.

(15) Any settlement agreement entered into between the department and licensed or certified behavioral health service providers to resolve administrative complaints, license or certification violations, license or certification suspensions, or license or certification revocations may not reduce the number of violations reported by the department unless the department concludes, based on evidence gathered by inspectors, that the licensed or certified behavioral health service provider did not commit one or more of the violations.

(16) In cases in which a behavioral health service provider that is in violation of licensing or certification standards attempts to transfer or sell the behavioral health service provider to a family member, the transfer or sale may only be made for the purpose of remedying license or certification violations and achieving full compliance with the terms of the license or certification. Transfers or sales to family members are prohibited in cases in which the purpose of the transfer or sale is to avoid liability or reset the number of license or certification violations found before the transfer or sale. If the department finds that the owner intends to transfer or sell, or has completed the transfer or sale of, ownership of the behavioral health service provider to a family member solely for the purpose of resetting the number of violations found before the transfer or sale, the department may not renew the behavioral health service provider's license or certification or issue a new license or certification to the behavioral health service provider. [2019 c 446 § 23; 2018 c 201 § 4005; 2017 c 330 § 2; 2016 sp.s. c 29 § 505; 2001 c 323 § 11; 1999 c 10 § 5.]

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

Finding—2017 c 330: "The state finds that the department should not reduce the number of license violations found by field inspectors for the pur-

pose of allowing licensed behavioral health service providers to avoid liability in a manner that permits the violating service provider to continue to provide care at the risk of public safety. The state also recognizes the need to prohibit fraudulent transfers of licenses between licensed behavioral health service providers found in violation of the terms of their license agreement and their family members." [2017 c 330 § 1.]

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

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

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

71.24.037 Licensed or certified behavioral health agencies and providers—Minimum standards—Investigations and enforcement actions—Inspections. ***(Effective January 1, 2020.)*** (1) The secretary shall license or certify any agency or facility that: (a) Submits payment of the fee established under RCW 43.70.110 and 43.70.250; (b) submits a complete application that demonstrates the ability to comply with requirements for operating and maintaining an agency or facility in statute or rule; and (c) successfully completes the prelicensure inspection requirement.

(2) The secretary shall establish by rule minimum standards for licensed or certified behavioral health agencies that must, at a minimum, establish: (a) Qualifications for staff providing services directly to persons with mental disorders, substance use disorders, or both; (b) the intended result of each service; and (c) the rights and responsibilities of persons receiving behavioral health services pursuant to this chapter and chapter 71.05 RCW. The secretary shall provide for deeming of licensed or certified behavioral health agencies as meeting state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department.

(3) The department shall review reports or other information alleging a failure to comply with this chapter or the standards and rules adopted under this chapter and may initiate investigations and enforcement actions based on those reports.

(4) The department shall conduct inspections of agencies and facilities, including reviews of records and documents required to be maintained under this chapter or rules adopted under this chapter.

(5) The department may suspend, revoke, limit, restrict, or modify an approval, or refuse to grant approval, for failure to meet the provisions of this chapter, or the standards adopted under this chapter. RCW 43.70.115 governs notice of a license or certification denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(6) No licensed or certified behavioral health service provider may advertise or represent itself as a licensed or certified behavioral health service provider if approval has not been granted or has been denied, suspended, revoked, or canceled.

(7) Licensure or certification as a behavioral health service provider is effective for one calendar year from the date of issuance of the license or certification. The license or certification must specify the types of services provided by the behavioral health service provider that meet the standards adopted under this chapter. Renewal of a license or certification must be made in accordance with this section for initial approval and in accordance with the standards set forth in rules adopted by the secretary.

(8) Licensure or certification as a licensed or certified behavioral health service provider must specify the types of services provided that meet the standards adopted under this chapter. Renewal of a license or certification must be made in accordance with this section for initial approval and in accordance with the standards set forth in rules adopted by the secretary.

(9) The department shall develop a process by which a provider may obtain dual licensure as an evaluation and treatment facility and secure withdrawal management and stabilization facility.

(10) Licensed or certified behavioral health service providers may not provide types of services for which the licensed or certified behavioral health service provider has not been certified. Licensed or certified behavioral health service providers may provide services for which approval has been sought and is pending, if approval for the services has not been previously revoked or denied.

(11) The department periodically shall inspect licensed or certified behavioral health service providers at reasonable times and in a reasonable manner.

(12) Upon petition of the department and after a hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the department authorizing him or her to enter and inspect at reasonable times, and examine the books and accounts of, any licensed or certified behavioral health service provider refusing to consent to inspection or examination by the department or which the department has reasonable cause to believe is operating in violation of this chapter.

(13) The department shall maintain and periodically publish a current list of licensed or certified behavioral health service providers.

(14) Each licensed or certified behavioral health service provider shall file with the department or the authority upon request, data, statistics, schedules, and information the department or the authority reasonably requires. A licensed or certified behavioral health service provider that without good cause fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent returns thereof, may have its license or certification revoked or suspended.

(15) The authority shall use the data provided in subsection (14) of this section to evaluate each program that admits children to inpatient substance use disorder treatment upon application of their parents. The evaluation must be done at least once every twelve months. In addition, the authority shall randomly select and review the information on individual children who are admitted on application of the child's parent for the purpose of determining whether the child was appropriately placed into substance use disorder treatment based on an objective evaluation of the child's condition and the outcome of the child's treatment.

(16) Any settlement agreement entered into between the department and licensed or certified behavioral health service providers to resolve administrative complaints, license or certification violations, license or certification suspensions, or license or certification revocations may not reduce the number of violations reported by the department unless the department concludes, based on evidence gathered by inspec-

tors, that the licensed or certified behavioral health service provider did not commit one or more of the violations.

(17) In cases in which a behavioral health service provider that is in violation of licensing or certification standards attempts to transfer or sell the behavioral health service provider to a family member, the transfer or sale may only be made for the purpose of remedying license or certification violations and achieving full compliance with the terms of the license or certification. Transfers or sales to family members are prohibited in cases in which the purpose of the transfer or sale is to avoid liability or reset the number of license or certification violations found before the transfer or sale. If the department finds that the owner intends to transfer or sell, or has completed the transfer or sale of, ownership of the behavioral health service provider to a family member solely for the purpose of resetting the number of violations found before the transfer or sale, the department may not renew the behavioral health service provider's license or certification or issue a new license or certification to the behavioral health service provider. [2019 c 446 § 23; 2019 c 325 § 1007; 2018 c 201 § 4005; 2017 c 330 § 2; 2016 sp.s. c 29 § 505; 2001 c 323 § 11; 1999 c 10 § 5.]

Reviser's note: This section was amended by 2019 c 325 § 1007 and by 2019 c 446 § 23, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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

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

Finding—2017 c 330: "The state finds that the department should not reduce the number of license violations found by field inspectors for the purpose of allowing licensed behavioral health service providers to avoid liability in a manner that permits the violating service provider to continue to provide care at the risk of public safety. The state also recognizes the need to prohibit fraudulent transfers of licenses between licensed behavioral health service providers found in violation of the terms of their license agreement and their family members." [2017 c 330 § 1.]

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

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

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

71.24.045 Behavioral health organization powers and duties. ***(Effective until January 1, 2020.)*** The behavioral health organization shall:

(1) Contract as needed with licensed or certified service providers. The behavioral health organization may, in the absence of a licensed or certified service provider entity, become a licensed or certified service provider entity pursuant to minimum standards required for licensing or certification by the department for the purpose of providing services not available from licensed or certified service providers;

(2) Operate as a licensed or certified service provider if it deems that doing so is more efficient and cost-effective than contracting for services. When doing so, the behavioral health organization shall comply with rules adopted by the director that shall provide measurements to determine when a behavioral health organization provided service is more efficient and cost-effective;

(3) Monitor and perform biennial fiscal audits of licensed or certified service providers who have contracted with the behavioral health organization to provide services required by this chapter. The monitoring and audits shall be performed by means of a formal process which insures that the licensed or certified service providers and professionals designated in this subsection meet the terms of their contracts;

(4) Establish reasonable limitations on administrative costs for agencies that contract with the behavioral health organization;

(5) Assure that the special needs of minorities, older adults, individuals with disabilities, children, and low-income persons are met within the priorities established in this chapter;

(6) Maintain patient tracking information in a central location as required for resource management services and the authority's information system;

(7) Collaborate to ensure that policies do not result in an adverse shift of persons with mental illness into state and local correctional facilities;

(8) Work with the authority to expedite the enrollment or reenrollment of eligible persons leaving state or local correctional facilities and institutions for mental diseases;

(9) Work closely with the designated crisis responder to maximize appropriate placement of persons into community services;

(10) Coordinate services for individuals who have received services through the community mental health system and who become patients at a state psychiatric hospital to ensure they are transitioned into the community in accordance with mutually agreed upon discharge plans and upon determination by the medical director of the state psychiatric hospital that they no longer need intensive inpatient care; and

(11) Allow reimbursement for time spent supervising persons working toward satisfying supervision requirements established for the relevant practice areas pursuant to RCW 18.225.090. [2018 c 201 § 4006; 2018 c 175 § 7; 2016 sp.s. c 29 § 421; 2014 c 225 § 13; 2014 c 225 § 12; 2006 c 333 § 105; 2005 c 503 § 8; 2001 c 323 § 12; 1992 c 230 § 5. Prior: 1991 c 363 § 147; 1991 c 306 § 5; 1991 c 29 § 2; 1989 c 205 § 4; 1986 c 274 § 5; 1982 c 204 § 5.]

Reviser's note: This section was amended by 2018 c 175 § 7 and by 2018 c 201 § 4006, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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

Findings—Intent—2018 c 175: See note following RCW 74.09.495.

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

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

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

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

Intent—1992 c 230: See note following RCW 72.23.025.

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Additional notes found at www.leg.wa.gov

71.24.045 Behavioral health administrative services organization powers and duties. ***(Effective January 1, 2020.)*** (1) The behavioral health administrative services organization contracted with the authority pursuant to RCW 71.24.381 shall:

(a) Administer crisis services for the assigned regional service area. Such services must include:

(i) A behavioral health crisis hotline for its assigned regional service area;

(ii) Crisis response services twenty-four hours a day, seven days a week, three hundred sixty-five days a year;

(iii) Services related to involuntary commitments under chapters 71.05 and 71.34 RCW;

(iv) Additional noncrisis behavioral health services, within available resources, to individuals who meet certain criteria set by the authority in its contracts with the behavioral health administrative services organization. These services may include services provided through federal grant funds, provisos, and general fund state appropriations;

(v) Care coordination, diversion services, and discharge planning for nonmedicaid individuals transitioning from state hospitals or inpatient settings to reduce rehospitalization and utilization of crisis services, as required by the authority in contract; and

(vi) Regional coordination, cross-system and cross-jurisdiction coordination with tribal governments, and capacity building efforts, such as supporting the behavioral health advisory board, the behavioral health ombuds, and efforts to support access to services or to improve the behavioral health system;

(b) Administer and provide for the availability of an adequate network of evaluation and treatment services to ensure access to treatment, investigation, transportation, court-related, and other services provided as required under chapter 71.05 RCW;

(c) Coordinate services for individuals under RCW 71.05.365;

(d) Administer and provide for the availability of resource management services, residential services, and community support services as required under its contract with the authority;

(e) Contract with a sufficient number, as determined by the authority, of licensed or certified providers for crisis services and other behavioral health services required by the authority;

(f) Maintain adequate reserves or secure a bond as required by its contract with the authority;

(g) Establish and maintain quality assurance processes;

(h) Meet established limitations on administrative costs for agencies that contract with the behavioral health administrative services organization; and

(i) Maintain patient tracking information as required by the authority.

(2) The behavioral health administrative services organization must collaborate with the authority and its contracted managed care organizations to develop and implement strategies to coordinate care with tribes and community behavioral health providers for individuals with a history of frequent crisis system utilization.

(3) The behavioral health administrative services organization shall:

(a) Assure that the special needs of minorities, older adults, individuals with disabilities, children, and low-income persons are met;

(b) Collaborate with local government entities to ensure that policies do not result in an adverse shift of persons with mental illness into state and local correctional facilities; and

(c) Work with the authority to expedite the enrollment or reenrollment of eligible persons leaving state or local correctional facilities and institutions for mental diseases. [2019 c 325 § 1008. Prior: 2018 c 201 § 4006; 2018 c 175 § 7; 2016 sp.s. c 29 § 421; 2014 c 225 § 13; 2014 c 225 § 12; 2006 c 333 § 105; 2005 c 503 § 8; 2001 c 323 § 12; 1992 c 230 § 5; prior: 1991 c 363 § 147; 1991 c 306 § 5; 1991 c 29 § 2; 1989 c 205 § 4; 1986 c 274 § 5; 1982 c 204 § 5.]

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

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

Findings—Intent—2018 c 175: See note following RCW 74.09.495.

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

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

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

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

Intent—1992 c 230: See note following RCW 72.23.025.

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Additional notes found at www.leg.wa.gov

71.24.049 Identification by behavioral health organization—Children's mental health services. ***(Effective until January 1, 2020.)*** By January 1st of each odd-numbered year, the behavioral health organization shall identify: (1) The number of children in each priority group, as defined by this chapter, who are receiving mental health services funded in part or in whole under this chapter, (2) the amount of funds under this chapter used for children's mental health services, (3) an estimate of the number of unserved children in each priority group, and (4) the estimated cost of serving these additional children and their families. [2014 c 225 § 34; 2001 c 323 § 13; 1999 c 10 § 6; 1986 c 274 § 6.]

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

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

71.24.061 Children's mental health providers—Children's mental health evidence-based practice institute—Pilot program—Partnership access line for moms and kids—Report to legislature. ***(Effective until January 1, 2020.)*** (1) The authority shall provide flexibility in provider contracting to behavioral health organizations for children's mental health services. Behavioral health organization contracts shall authorize behavioral health organizations to allow and encourage licensed or certified community mental health centers to subcontract with individual licensed mental health professionals when necessary to meet the need for an adequate, culturally competent, and qualified children's mental health provider network.

(2) To the extent that funds are specifically appropriated for this purpose or that nonstate funds are available, a children's mental health evidence-based practice institute shall be established at the University of Washington division of public behavioral health and justice policy. The institute shall closely collaborate with entities currently engaged in evaluating and promoting the use of evidence-based, research-based,

promising, or consensus-based practices in children's mental health treatment, including but not limited to the University of Washington department of psychiatry and behavioral sciences, Seattle children's hospital, the University of Washington school of nursing, the University of Washington school of social work, and the Washington state institute for public policy. To ensure that funds appropriated are used to the greatest extent possible for their intended purpose, the University of Washington's indirect costs of administration shall not exceed ten percent of appropriated funding. The institute shall:

(a) Improve the implementation of evidence-based and research-based practices by providing sustained and effective training and consultation to licensed children's mental health providers and child-serving agencies who are implementing evidence-based or researched-based practices for treatment of children's emotional or behavioral disorders, or who are interested in adapting these practices to better serve ethnically or culturally diverse children. Efforts under this subsection should include a focus on appropriate oversight of implementation of evidence-based practices to ensure fidelity to these practices and thereby achieve positive outcomes;

(b) Continue the successful implementation of the "partnerships for success" model by consulting with communities so they may select, implement, and continually evaluate the success of evidence-based practices that are relevant to the needs of children, youth, and families in their community;

(c) Partner with youth, family members, family advocacy, and culturally competent provider organizations to develop a series of information sessions, literature, and online resources for families to become informed and engaged in evidence-based and research-based practices;

(d) Participate in the identification of outcome-based performance measures under RCW 71.36.025(2) and partner in a statewide effort to implement statewide outcomes monitoring and quality improvement processes; and

(e) Serve as a statewide resource to the authority and other entities on child and adolescent evidence-based, research-based, promising, or consensus-based practices for children's mental health treatment, maintaining a working knowledge through ongoing review of academic and professional literature, and knowledge of other evidence-based practice implementation efforts in Washington and other states.

(3) To the extent that funds are specifically appropriated for this purpose, the health care authority in collaboration with the University of Washington department of psychiatry and behavioral sciences and Seattle children's hospital shall:

(a) Implement a program to support primary care providers in the assessment and provision of appropriate diagnosis and treatment of children with mental and behavioral health disorders and track outcomes of this program;

(b) Beginning January 1, 2019, implement a two-year pilot program called the partnership access line for moms and kids to:

(i) Support obstetricians, pediatricians, primary care providers, mental health professionals, and other health care professionals providing care to pregnant women and new mothers through same-day telephone consultations in the assessment and provision of appropriate diagnosis and treatment of depression in pregnant women and new mothers; and

(ii) Facilitate referrals to children's mental health services and other resources for parents and guardians with concerns related to the mental health of the parent or guardian's child. Facilitation activities include assessing the level of services needed by the child; within seven days of receiving a call from a parent or guardian, identifying mental health professionals who are in-network with the child's health care coverage who are accepting new patients and taking appointments; coordinating contact between the parent or guardian and the mental health professional; and providing postreferral reviews to determine if the child has outstanding needs. In conducting its referral activities, the program shall collaborate with existing databases and resources to identify in-network mental health professionals.

(c) The program activities described in (a) and (b)(i) of this subsection shall be designed to promote more accurate diagnoses and treatment through timely case consultation between primary care providers and child psychiatric specialists, and focused educational learning collaboratives with primary care providers.

(4) The health care authority, in collaboration with the University of Washington department of psychiatry and behavioral sciences and Seattle children's hospital, shall report on the following:

(a) The number of individuals who have accessed the resources described in subsection (3) of this section;

(b) The number of providers, by type, who have accessed the resources described in subsection (3) of this section;

(c) Demographic information, as available, for the individuals described in (a) of this subsection. Demographic information may not include any personally identifiable information and must be limited to the individual's age, gender, and city and county of residence;

(d) A description of resources provided;

(e) Average time frames from receipt of call to referral for services or resources provided; and

(f) Systemic barriers to services, as determined and defined by the health care authority, the University of Washington department of psychiatry and behavioral sciences, and Seattle children's hospital.

(5) Beginning December 30, 2019, and annually thereafter, the health care authority must submit, in compliance with RCW 43.01.036, a report to the governor and appropriate committees of the legislature with findings and recommendations for improving services and service delivery from subsection (4) of this section.

(6) The health care authority shall enforce requirements in managed care contracts to ensure care coordination and network adequacy issues are addressed in order to remove barriers to access to mental health services identified in the report described in subsection (4) of this section. [2018 c 288 § 2; 2018 c 201 § 4007; 2014 c 225 § 35; 2007 c 359 § 7.]

Reviser's note: This section was amended by 2018 c 201 § 4007 and by 2018 c 288 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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

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

Additional notes found at www.leg.wa.gov

71.24.061 Children's mental health provider networks—Children's mental health evidence-based practice institute—Partnership access line for moms and kids pilot program—Report to legislature. ***(Effective January 1, 2020.)*** (1) The authority shall provide flexibility to encourage licensed or certified community behavioral health agencies to subcontract with an adequate, culturally competent, and qualified children's mental health provider network.

(2) To the extent that funds are specifically appropriated for this purpose or that nonstate funds are available, a children's mental health evidence-based practice institute shall be established at the University of Washington division of public behavioral health and justice policy. The institute shall closely collaborate with entities currently engaged in evaluating and promoting the use of evidence-based, research-based, promising, or consensus-based practices in children's mental health treatment, including but not limited to the University of Washington department of psychiatry and behavioral sciences, Seattle children's hospital, the University of Washington school of nursing, the University of Washington school of social work, and the Washington state institute for public policy. To ensure that funds appropriated are used to the greatest extent possible for their intended purpose, the University of Washington's indirect costs of administration shall not exceed ten percent of appropriated funding. The institute shall:

(a) Improve the implementation of evidence-based and research-based practices by providing sustained and effective training and consultation to licensed children's mental health providers and child-serving agencies who are implementing evidence-based or researched-based practices for treatment of children's emotional or behavioral disorders, or who are interested in adapting these practices to better serve ethnically or culturally diverse children. Efforts under this subsection should include a focus on appropriate oversight of implementation of evidence-based practices to ensure fidelity to these practices and thereby achieve positive outcomes;

(b) Continue the successful implementation of the "partnerships for success" model by consulting with communities so they may select, implement, and continually evaluate the success of evidence-based practices that are relevant to the needs of children, youth, and families in their community;

(c) Partner with youth, family members, family advocacy, and culturally competent provider organizations to develop a series of information sessions, literature, and online resources for families to become informed and engaged in evidence-based and research-based practices;

(d) Participate in the identification of outcome-based performance measures under RCW 71.36.025(2) and partner in a statewide effort to implement statewide outcomes monitoring and quality improvement processes; and

(e) Serve as a statewide resource to the authority and other entities on child and adolescent evidence-based, research-based, promising, or consensus-based practices for children's mental health treatment, maintaining a working knowledge through ongoing review of academic and professional literature, and knowledge of other evidence-based practice implementation efforts in Washington and other states.

(3)(a) To the extent that funds are specifically appropriated for this purpose, the authority in collaboration with the University of Washington department of psychiatry and behavioral sciences and Seattle children's hospital shall:

(i) Implement a program to support primary care providers in the assessment and provision of appropriate diagnosis and treatment of children with mental and behavioral health disorders and track outcomes of this program;

(ii) Beginning January 1, 2019, implement a two-year pilot program called the partnership access line for moms and kids to:

(A) Support obstetricians, pediatricians, primary care providers, mental health professionals, and other health care professionals providing care to pregnant women and new mothers through same-day telephone consultations in the assessment and provision of appropriate diagnosis and treatment of depression in pregnant women and new mothers; and

(B) Facilitate referrals to children's mental health services and other resources for parents and guardians with concerns related to the mental health of the parent or guardian's child. Facilitation activities include assessing the level of services needed by the child; within seven days of receiving a call from a parent or guardian, identifying mental health professionals who are in-network with the child's health care coverage who are accepting new patients and taking appointments; coordinating contact between the parent or guardian and the mental health professional; and providing postreferral reviews to determine if the child has outstanding needs. In conducting its referral activities, the program shall collaborate with existing databases and resources to identify in-network mental health professionals.

(b) The program activities described in (a)(i) and (a)(ii)(A) of this subsection shall be designed to promote more accurate diagnoses and treatment through timely case consultation between primary care providers and child psychiatric specialists, and focused educational learning collaboratives with primary care providers.

(4) The authority, in collaboration with the University of Washington department of psychiatry and behavioral sciences and Seattle children's hospital, shall report on the following:

(a) The number of individuals who have accessed the resources described in subsection (3) of this section;

(b) The number of providers, by type, who have accessed the resources described in subsection (3) of this section;

(c) Demographic information, as available, for the individuals described in (a) of this subsection. Demographic information may not include any personally identifiable information and must be limited to the individual's age, gender, and city and county of residence;

(d) A description of resources provided;

(e) Average time frames from receipt of call to referral for services or resources provided; and

(f) Systemic barriers to services, as determined and defined by the health care authority, the University of Washington department of psychiatry and behavioral sciences, and Seattle children's hospital.

(5) Beginning December 30, 2019, and annually thereafter, the authority must submit, in compliance with RCW 43.01.036, a report to the governor and appropriate committees of the legislature with findings and recommendations for improving services and service delivery from subsection (4) of this section.

(6) The authority shall enforce requirements in managed care contracts to ensure care coordination and network adequacy issues are addressed in order to remove barriers to access to mental health services identified in the report described in subsection (4) of this section. [2019 c 325 § 1009. Prior: 2018 c 288 § 2; 2018 c 201 § 4007; 2014 c 225 § 35; 2007 c 359 § 7.]

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

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

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

Additional notes found at www.leg.wa.gov

71.24.100 Joint agreements of county authorities—Required provisions. ***(Effective until January 1, 2020.)*** A county authority or a group of county authorities may enter into a joint operating agreement to respond to a request for a detailed plan and contract with the state to operate a behavioral health organization whose boundaries are consistent with the regional service areas established under RCW 74.09.870. Any agreement between two or more county authorities shall provide:

(1) That each county shall bear a share of the cost of mental health services; and

(2) That the treasurer of one participating county shall be the custodian of funds made available for the purposes of such mental health services, and that the treasurer may make payments from such funds upon audit by the appropriate auditing officer of the county for which he or she is treasurer. [2018 c 201 § 4008; 2014 c 225 § 14; 2012 c 117 § 442; 2005 c 503 § 9; 1982 c 204 § 7; 1967 ex.s. c 111 § 10.]

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

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

Additional notes found at www.leg.wa.gov

71.24.100 County-run behavioral health administrative services organizations—Joint operating agreements—Requirements. ***(Effective January 1, 2020.)*** (1) A county authority or a group of county authorities may enter into a joint operating agreement to submit a request to contract with the authority to operate a behavioral health administrative services organization whose boundaries are consistent with the regional service areas established under RCW 74.09.870.

(2) All counties within the regional service area must mutually agree to enter into a contract with the authority to become a behavioral health administrative services organization and appoint a single fiscal agent for the regional service area. Similarly, in order to terminate such contract, all counties that are contracted with the authority as a behavioral health administrative services organization must mutually agree to terminate the contract with the authority.

(3) Once the authority receives a request from a county or a group of counties within a regional service area to be the designated behavioral health administrative services organization, the authority must promptly collaborate with the county or group of counties within that regional service area to determine the most feasible implementation date and coordinate readiness reviews.

(4) No behavioral health administrative services organization may contract with itself as a behavioral health agency, or contract with a behavioral health agency that has administrative linkages to the behavioral health administrative services organization in any manner that would give the agency a competitive advantage in obtaining or competing for contracts, except that a county or group of counties may provide designated crisis responder services, initial crisis services, criminal diversion services, hospital reentry services, and criminal reentry services. The county-administered service must have a clear separation of powers and duties separate from a county-run behavioral health administrative services organization and suitable accounting procedures must be followed to ensure the funding is traceable and accounted for separately from other funds.

(5) Nothing in this section limits the authority's ability to take remedial actions up to and including termination of a contract in order to enforce contract terms or to remedy nonperformance of contractual duties. [2019 c 325 § 1010; 2018 c 201 § 4008; 2014 c 225 § 14; 2012 c 117 § 442; 2005 c 503 § 9; 1982 c 204 § 7; 1967 ex.s. c 111 § 10.]

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

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

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

Additional notes found at www.leg.wa.gov

71.24.110 Joint agreements of county authorities—Permissive provisions. ***(Effective until January 1, 2020.)*** An agreement to contract with the state to operate a behavioral health organization under RCW 71.24.100 may also provide:

(1) For the joint supervision or operation of services and facilities, or for the supervision or operation of service and facilities by one participating county under contract for the other participating counties; and

(2) For such other matters as are necessary or proper to effectuate the purposes of this chapter. [2014 c 225 § 15; 1999 c 10 § 7; 1982 c 204 § 8; 1967 ex.s. c 111 § 11.]

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

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

71.24.155 Grants to behavioral health organizations—Accounting. ***(Effective until January 1, 2020.)*** Grants shall be made by the authority to behavioral health organizations for community mental health programs totaling not less than ninety-five percent of available resources. The authority may use up to forty percent of the remaining five percent to provide community demonstration projects, including early intervention or primary prevention programs for children, and the remainder shall be for emergency needs and technical assistance under this chapter. [2018 c 201 § 4009; 2014 c 225 § 36; 2001 c 323 § 14; 1987 c 505 § 65; 1986 c 274 § 9; 1982 c 204 § 9.]

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

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

Additional notes found at www.leg.wa.gov

71.24.155 Grants to behavioral health administrative services and managed care organizations—Accounting.

(Effective January 1, 2020.) Grants shall be made by the authority to behavioral health administrative services organizations and managed care organizations for community behavioral health programs totaling not less than ninety-five percent of available resources. The authority may use up to forty percent of the remaining five percent to provide community demonstration projects, including early intervention or primary prevention programs for children, and the remainder shall be for emergency needs and technical assistance under this chapter. [2019 c 325 § 1011; 2018 c 201 § 4009; 2014 c 225 § 36; 2001 c 323 § 14; 1987 c 505 § 65; 1986 c 274 § 9; 1982 c 204 § 9.]

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

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

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

Additional notes found at www.leg.wa.gov

71.24.160 Proof as to uses made of state funds—Use of maintenance of effort funds. *(Effective until January 1, 2020.)* The behavioral health organizations shall make satisfactory showing to the director that state funds shall in no case be used to replace local funds from any source being used to finance mental health services prior to January 1, 1990. Maintenance of effort funds devoted to judicial services related to involuntary commitment reimbursed under RCW 71.05.730 must be expended for other purposes that further treatment for mental health and chemical dependency disorders. [2018 c 201 § 4010; 2014 c 225 § 37; 2011 c 343 § 6; 2001 c 323 § 15; 1989 c 205 § 7; 1982 c 204 § 10; 1967 ex.s. c 111 § 16.]

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

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

Intent—Effective date—2011 c 343: See notes following RCW 71.05.730.

71.24.160 Proof as to uses made of state funds—Use of maintenance of effort funds. *(Effective January 1, 2020.)* The behavioral health administrative services organizations shall make satisfactory showing to the director that state funds shall in no case be used to replace local funds from any source being used to finance mental health services prior to January 1, 1990. Maintenance of effort funds devoted to judicial services related to involuntary commitment reimbursed under RCW 71.05.730 must be expended for other purposes that further treatment for mental health and substance use disorders. [2019 c 325 § 1012; 2018 c 201 § 4010; 2014 c 225 § 37; 2011 c 343 § 6; 2001 c 323 § 15; 1989 c 205 § 7; 1982 c 204 § 10; 1967 ex.s. c 111 § 16.]

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

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

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

Intent—Effective date—2011 c 343: See notes following RCW 71.05.730.

71.24.200 Expenditures of county funds subject to county fiscal laws. Expenditures of county funds under this chapter shall be subject to the provisions of chapter 36.40 RCW and other statutes relating to expenditures by counties. [1967 ex.s. c 111 § 20.]

71.24.215 Clients to be charged for services. *(Effective until January 1, 2020.)* Clients receiving mental health services funded by available resources shall be charged a fee under sliding-scale fee schedules, based on ability to pay, approved by the authority or the department of social and health services, as appropriate. Fees shall not exceed the actual cost of care. [2018 c 201 § 4011; 1982 c 204 § 11.]

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

71.24.215 Sliding-scale fee schedules for clients receiving behavioral health services. *(Effective January 1, 2020.)* Clients receiving behavioral health services funded by available resources shall be charged a fee under sliding-scale fee schedules, based on ability to pay, approved by the authority. Fees shall not exceed the actual cost of care. [2019 c 325 § 1013; 2018 c 201 § 4011; 1982 c 204 § 11.]

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

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

71.24.220 Reimbursement may be withheld for noncompliance with chapter or related rules. *(Effective until January 1, 2020.)* The director may withhold state grants in whole or in part for any community mental health program in the event of a failure to comply with this chapter or the related rules adopted by the authority. [2018 c 201 § 4012; 1999 c 10 § 8; 1982 c 204 § 12; 1967 ex.s. c 111 § 22.]

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

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

71.24.220 State grants may be withheld for noncompliance with chapter or related rules. *(Effective January 1, 2020.)* The director may withhold state grants in whole or in part for any community behavioral health program in the event of a failure to comply with this chapter or the related rules adopted by the authority. [2019 c 325 § 1014; 2018 c 201 § 4012; 1999 c 10 § 8; 1982 c 204 § 12; 1967 ex.s. c 111 § 22.]

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

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

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

71.24.240 County program plans to be approved by director prior to submittal to federal agency. *(Effective until January 1, 2020.)* In order to establish eligibility for funding under this chapter, any behavioral health organization seeking to obtain federal funds for the support of any aspect of a *community mental health program as defined in this chapter shall submit program plans to the director for prior review and approval before such plans are submitted to any federal agency. [2018 c 201 § 4013; 2014 c 225 § 49; 2005 c 503 § 10; 1982 c 204 § 13; 1967 ex.s. c 111 § 24.]

***Reviser's note:** RCW 71.24.025 was amended by 2016 sp.s. c 29 § 501, deleting the definition of "community mental health program."

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

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

Additional notes found at www.leg.wa.gov

71.24.240 Eligibility for funding—Community behavioral health program plans to be approved by director prior to submittal to federal agency. ***(Effective January 1, 2020.)*** In order to establish eligibility for funding under this chapter, any behavioral health administrative services organization seeking to obtain federal funds for the support of any aspect of a community behavioral health program as defined in this chapter shall submit program plans to the director for prior review and approval before such plans are submitted to any federal agency. [2019 c 325 § 1015; 2018 c 201 § 4013; 2014 c 225 § 49; 2005 c 503 § 10; 1982 c 204 § 13; 1967 ex.s. c 111 § 24.]

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

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

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

Additional notes found at www.leg.wa.gov

71.24.250 Behavioral health organizations—Gifts and grants. ***(Effective until January 1, 2020.)*** The behavioral health organization may accept and expend gifts and grants received from private, county, state, and federal sources. [2014 c 225 § 38; 2001 c 323 § 16; 1982 c 204 § 14; 1967 ex.s. c 111 § 25.]

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

71.24.250 Behavioral health administrative services organizations—Receipt of gifts and grants. ***(Effective January 1, 2020.)*** The behavioral health administrative services organization may accept and expend gifts and grants received from private, county, state, and federal sources. [2019 c 325 § 1016; 2014 c 225 § 38; 2001 c 323 § 16; 1982 c 204 § 14; 1967 ex.s. c 111 § 25.]

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

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

71.24.260 Waiver of postgraduate educational requirements. ***(Effective until January 1, 2020.)*** The department shall waive postgraduate educational requirements applicable to mental health professionals under this chapter for those persons who have a bachelor's degree and on June 11, 1986:

(1) Are employed by an agency subject to licensure under this chapter, the community mental health services act, in a capacity involving the treatment of mental illness; and

(2) Have at least ten years of full-time experience in the treatment of mental illness. [1986 c 274 § 10.]

71.24.260 Waiver of postgraduate educational requirements—Mental health professionals. ***(Effective January 1, 2020.)*** The department shall waive postgraduate educational requirements applicable to mental health professionals under this chapter for those persons who have a bachelor's degree and on June 11, 1986:

(1) Are employed by an agency subject to licensure under this chapter, the community behavioral health services act, in a capacity involving the treatment of mental illness; and

(2) Have at least ten years of full-time experience in the treatment of mental illness. [2019 c 325 § 1017; 1986 c 274 § 10.]

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

71.24.300 Behavioral health organizations—Inclusion of tribal authorities—Roles and responsibilities. ***(Effective until January 1, 2020.)*** (1) Upon the request of a tribal authority or authorities within a behavioral health organization the joint operating agreement or the county authority shall allow for the inclusion of the tribal authority to be represented as a party to the behavioral health organization.

(2) The roles and responsibilities of the county and tribal authorities shall be determined by the terms of that agreement including a determination of membership on the governing board and advisory committees, the number of tribal representatives to be party to the agreement, and the provisions of law and shall assure the provision of culturally competent services to the tribes served.

(3) The state behavioral health authority may not determine the roles and responsibilities of county authorities as to each other under behavioral health organizations by rule, except to assure that all duties required of behavioral health organizations are assigned and that counties and the behavioral health organization do not duplicate functions and that a single authority has final responsibility for all available resources and performance under the behavioral health organization's contract with the director.

(4) If a behavioral health organization is a private entity, the authority shall allow for the inclusion of the tribal authority to be represented as a party to the behavioral health organization.

(5) The roles and responsibilities of the private entity and the tribal authorities shall be determined by the authority, through negotiation with the tribal authority.

(6) Behavioral health organizations shall submit an overall six-year operating and capital plan, timeline, and budget and submit progress reports and an updated two-year plan biennially thereafter, to assume within available resources all of the following duties:

(a) Administer and provide for the availability of all resource management services, residential services, and community support services.

(b) Administer and provide for the availability of an adequate network of evaluation and treatment services to ensure access to treatment, all investigation, transportation, court-related, and other services provided by the state or counties pursuant to chapter 71.05 RCW.

(c) Provide within the boundaries of each behavioral health organization evaluation and treatment services for at least ninety percent of persons detained or committed for periods up to seventeen days according to chapter 71.05 RCW. Behavioral health organizations may contract to purchase evaluation and treatment services from other organizations if they are unable to provide for appropriate resources within their boundaries. Insofar as the original intent of serving persons in the community is maintained, the director is authorized to approve exceptions on a case-by-case basis to the requirement to provide evaluation and treatment services

within the boundaries of each behavioral health organization. Such exceptions are limited to:

(i) Contracts with neighboring or contiguous regions; or

(ii) Individuals detained or committed for periods up to seventeen days at the state hospitals at the discretion of the director.

(d) Administer and provide for the availability of all other mental health services, which shall include patient counseling, day treatment, consultation, education services, employment services as described in RCW 71.24.035, and mental health services to children.

(e) Establish standards and procedures for reviewing individual service plans and determining when that person may be discharged from resource management services.

(7) A behavioral health organization may request that any state-owned land, building, facility, or other capital asset which was ever purchased, deeded, given, or placed in trust for the care of the persons with mental illness and which is within the boundaries of a behavioral health organization be made available to support the operations of the behavioral health organization. State agencies managing such capital assets shall give first priority to requests for their use pursuant to this chapter.

(8) Each behavioral health organization shall appoint a behavioral health advisory board which shall review and provide comments on plans and policies developed under this chapter, provide local oversight regarding the activities of the behavioral health organization, and work with the behavioral health organization to resolve significant concerns regarding service delivery and outcomes. The authority shall establish statewide procedures for the operation of regional advisory committees including mechanisms for advisory board feedback to the authority regarding behavioral health organization performance. The composition of the board shall be broadly representative of the demographic character of the region and shall include, but not be limited to, representatives of consumers of substance use disorder and mental health services and their families, law enforcement, and, where the county is not the behavioral health organization, county elected officials. Composition and length of terms of board members may differ between behavioral health organizations but shall be included in each behavioral health organization's contract and approved by the director.

(9) Behavioral health organizations shall assume all duties specified in their plans and joint operating agreements through biennial contractual agreements with the director.

(10) Behavioral health organizations may receive technical assistance from the housing trust fund and may identify and submit projects for housing and housing support services to the housing trust fund established under chapter 43.185 RCW. Projects identified or submitted under this subsection must be fully integrated with the behavioral health organization six-year operating and capital plan, timeline, and budget required by subsection (6) of this section. [2018 c 201 § 4014; 2016 sp.s. c 29 § 522; 2015 c 269 § 10; 2014 c 225 § 39; 2008 c 261 § 4; 2006 c 333 § 106; 2005 c 503 § 11; 2001 c 323 § 17. Prior: 1999 c 214 § 8; 1999 c 10 § 9; 1994 c 204 § 2; 1992 c 230 § 6; prior: 1991 c 295 § 3; 1991 c 262 § 2; 1991 c 29 § 3; 1989 c 205 § 5.]

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

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

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

Effective date—2015 c 269 §§ 10 and 14: "Sections 10 and 14 of this act take effect April 1, 2016." [2015 c 269 § 19.]

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

Intent—Findings—2008 c 261: See note following RCW 71.24.320.

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

Intent—Effective date—1999 c 214: See notes following RCW 72.09.370.

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

Intent—1992 c 230: See note following RCW 72.23.025.

Additional notes found at www.leg.wa.gov

71.24.300 Behavioral health administrative services organizations—Advisory boards—Inclusion of tribes—Roles and responsibilities. ***(Effective January 1, 2020.)*** (1) Each behavioral health administrative services organization shall appoint a behavioral health advisory board which shall review and provide comments on plans and policies developed under this chapter, provide local oversight regarding the activities of the behavioral health administrative services organization, and work with the behavioral health administrative services organization to resolve significant concerns regarding service delivery and outcomes. The authority shall establish statewide procedures for the operation of regional advisory committees including mechanisms for advisory board feedback to the authority regarding behavioral health administrative services organization performance. The composition of the board shall be broadly representative of the demographic character of the region and shall include, but not be limited to, representatives of consumers of substance use disorder and mental health services and their families, law enforcement, and, where the county is not the behavioral health administrative services organization, county elected officials. Composition and length of terms of board members may differ between behavioral health administrative services organizations but shall be included in each behavioral health administrative services organization's contract and approved by the director.

(2) The authority must allow for the inclusion of tribes in any interlocal leadership structure or committees formed under RCW 71.24.880, when requested by a tribe.

(3) If an interlocal leadership structure is not formed under RCW 71.24.880, the roles and responsibilities of the behavioral health administrative services organizations, managed care organizations, counties, and each tribe shall be determined by the authority through negotiation with the tribes. [2019 c 325 § 1018; 2018 c 201 § 4014; 2016 sp.s. c 29 § 522; 2015 c 269 § 10; 2014 c 225 § 39; 2008 c 261 § 4; 2006 c 333 § 106; 2005 c 503 § 11; 2001 c 323 § 17. Prior: 1999 c 214 § 8; 1999 c 10 § 9; 1994 c 204 § 2; 1992 c 230 § 6; prior: 1991 c 295 § 3; 1991 c 262 § 2; 1991 c 29 § 3; 1989 c 205 § 5.]

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

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

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

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

Effective date—2015 c 269 §§ 10 and 14: "Sections 10 and 14 of this act take effect April 1, 2016." [2015 c 269 § 19.]

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

Intent—Findings—2008 c 261: See note following RCW 71.24.320.

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

Intent—Effective date—1999 c 214: See notes following RCW 72.09.370.

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

Intent—1992 c 230: See note following RCW 72.23.025.

Additional notes found at www.leg.wa.gov

71.24.310 Administration of chapters 71.05 and 71.24 RCW through behavioral health organizations—Implementation of chapter 71.05 RCW. ***(Effective until January 1, 2020.)*** The legislature finds that administration of chapter 71.05 RCW and this chapter can be most efficiently and effectively implemented as part of the behavioral health organization defined in RCW 71.24.025. For this reason, the legislature intends that the authority and the behavioral health organizations shall work together to implement chapter 71.05 RCW as follows:

(1) Behavioral health organizations shall recommend to the authority the number of state hospital beds that should be allocated for use by each behavioral health organization. The statewide total allocation shall not exceed the number of state hospital beds offering long-term inpatient care, as defined in this chapter, for which funding is provided in the biennial appropriations act.

(2) If there is consensus among the behavioral health organizations regarding the number of state hospital beds that should be allocated for use by each behavioral health organization, the authority shall contract with each behavioral health organization accordingly.

(3) If there is not consensus among the behavioral health organizations regarding the number of beds that should be allocated for use by each behavioral health organization, the authority shall establish by emergency rule the number of state hospital beds that are available for use by each behavioral health organization. The primary factor used in the allocation shall be the estimated number of adults with acute and chronic mental illness in each behavioral health organization area, based upon population-adjusted incidence and utilization.

(4) The allocation formula shall be updated at least every three years to reflect demographic changes, and new evidence regarding the incidence of acute and chronic mental illness and the need for long-term inpatient care. In the updates, the statewide total allocation shall include (a) all state hospital beds offering long-term inpatient care for which funding is provided in the biennial appropriations act; plus (b) the estimated equivalent number of beds or comparable diversion services contracted in accordance with subsection (5) of this section.

(5) The authority is encouraged to enter performance-based contracts with behavioral health organizations to provide some or all of the behavioral health organization's allocated long-term inpatient treatment capacity in the community, rather than in the state hospital. The performance contracts shall specify the number of patient days of care available for use by the behavioral health organization in the state hospital.

(6) If a behavioral health organization uses more state hospital patient days of care than it has been allocated under subsection (3) or (4) of this section, or than it has contracted to use under subsection (5) of this section, whichever is less, it shall reimburse the authority for that care. Reimbursements must be calculated using quarterly average census data to determine an average number of days used in excess of the bed allocation for the quarter. The reimbursement rate per day shall be the hospital's total annual budget for long-term inpatient care, divided by the total patient days of care assumed in development of that budget.

(7) One-half of any reimbursements received pursuant to subsection (6) of this section shall be used to support the cost of operating the state hospital. The authority shall distribute the remaining half of such reimbursements among behavioral health organizations that have used less than their allocated or contracted patient days of care at that hospital, proportional to the number of patient days of care not used. [2018 c 201 § 4015; 2017 c 222 § 1; 2014 c 225 § 40; 2013 2nd sp.s. c 4 § 994. Prior: 2009 c 564 § 1810; 2009 c 564 § 952; 2006 c 333 § 107; 1989 c 205 § 6.]

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

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

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Effective date—2009 c 564: See note following RCW 2.68.020.

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

Additional notes found at www.leg.wa.gov

71.24.320 Behavioral health organizations—Procurement process—Penalty for voluntary termination or refusal to renew contract. ***(Effective until January 1, 2020.)*** (1) If an existing behavioral health organization chooses not to respond to a request for a detailed plan, or is unable to substantially meet the requirements of a request for a detailed plan, or notifies the authority it will no longer serve as a behavioral health organization, the authority shall utilize a procurement process in which other entities recognized by the director may bid to serve as the behavioral health organization.

(a) The request for proposal shall include a scoring factor for proposals that include additional financial resources beyond that provided by state appropriation or allocation.

(b) The authority shall provide detailed briefings to all bidders in accordance with authority and state procurement policies.

(c) The request for proposal shall also include a scoring factor for proposals submitted by nonprofit entities that include a component to maximize the utilization of state provided resources and the leverage of other funds for the support of mental health services to persons with mental illness.

(2) A behavioral health organization that voluntarily terminates, refuses to renew, or refuses to sign a mandatory amendment to its contract to act as a behavioral health organization is prohibited from responding to a procurement under this section or serving as a behavioral health organization for five years from the date that the department of social

and health services, or the authority, as applicable, signs a contract with the entity that will serve as the behavioral health organization. [2018 c 201 § 4016; 2014 c 225 § 50; 2008 c 261 § 5; 2006 c 333 § 202; 2005 c 503 § 4.]

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

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

Intent—Findings—2008 c 261: "In the event that an existing regional support network will no longer be contracting to provide services, it is the intent of the legislature to provide flexibility to the department to facilitate a stable transition which avoids disruption of services to consumers and families, maximizes efficiency and public safety, and maintains the integrity of the public mental health system. By granting this authority and flexibility, the legislature finds that the department will be able to maximize purchasing power within allocated resources and attract high quality organizations with optimal infrastructure to perform regional support network functions through competitive procurement processes. The legislature intends for the department of social and health services to partner with political subdivisions and other entities to provide quality, coordinated, and integrated services to address the needs of individuals with behavioral health needs." [2008 c 261 § 1.]

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

Additional notes found at www.leg.wa.gov

71.24.330 Behavioral health organizations—Contracts with authority—Requirements. ***(Effective until January 1, 2020.)*** (1)(a) Contracts between a behavioral health organization and the authority shall include mechanisms for monitoring performance under the contract and remedies for failure to substantially comply with the requirements of the contract including, but not limited to, financial penalties, termination of the contract, and reprocurement of the contract.

(b) The authority shall incorporate the criteria to measure the performance of service coordination organizations into contracts with behavioral health organizations as provided in chapter 70.320 RCW.

(2) The behavioral health organization procurement processes shall encourage the preservation of infrastructure previously purchased by the community mental health service delivery system, the maintenance of linkages between other services and delivery systems, and maximization of the use of available funds for services versus profits. However, a behavioral health organization selected through the procurement process is not required to contract for services with any county-owned or operated facility. The behavioral health organization procurement process shall provide that public funds appropriated by the legislature shall not be used to promote or deter, encourage, or discourage employees from exercising their rights under Title 29, chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

(3) In addition to the requirements of RCW 71.24.035, contracts shall:

(a) Define administrative costs and ensure that the behavioral health organization does not exceed an administrative cost of ten percent of available funds;

(b) Require effective collaboration with law enforcement, criminal justice agencies, and the chemical dependency treatment system;

(c) Require substantial implementation of authority adopted integrated screening and assessment process and matrix of best practices;

(d) Maintain the decision-making independence of designated crisis responders;

(e) Except at the discretion of the secretary of the department of social and health services in consultation with the director or as specified in the biennial budget, require behavioral health organizations to pay the state for the costs associated with individuals who are being served on the grounds of the state hospitals and who are not receiving long-term inpatient care as defined in RCW 71.24.025;

(f) Include a negotiated alternative dispute resolution clause;

(g) Include a provision requiring either party to provide one hundred eighty days' notice of any issue that may cause either party to voluntarily terminate, refuse to renew, or refuse to sign a mandatory amendment to the contract to act as a behavioral health organization. If either party decides to voluntarily terminate, refuse to renew, or refuse to sign a mandatory amendment to the contract to serve as a behavioral health organization they shall provide ninety days' advance notice in writing to the other party;

(h) Require behavioral health organizations to provide services as identified in RCW 71.05.585 to individuals committed for involuntary commitment under less restrictive alternative court orders when:

(i) The individual is enrolled in the medicaid program and meets behavioral health organization access to care standards; or

(ii) The individual is not enrolled in medicaid, does not have other insurance which can pay for the services, and the behavioral health organization has adequate available resources to provide the services; and

(i) Establish caseload guidelines for care coordinators who supervise less restrictive alternative orders and guidelines for response times during and immediately following periods of hospitalization or incarceration. [2018 c 201 § 4017; 2016 sp.s. c 29 § 422; 2015 c 250 § 19; 2014 c 225 § 51; 2013 c 320 § 9; 2008 c 261 § 6; 2006 c 333 § 203; 2005 c 503 § 6.]

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

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

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

Effective date—2015 c 250 §§ 2, 15, and 19: See note following RCW 71.05.020.

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

Intent—Findings—2008 c 261: See note following RCW 71.24.320.

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

Additional notes found at www.leg.wa.gov

71.24.335 Behavioral health organizations—Provider reimbursement—Requirements—Procedure—Definitions. ***(Effective until January 1, 2020.)*** (1) Upon initiation or renewal of a contract with the department, a behavioral health organization shall reimburse a provider for a behavioral health service provided to a covered person who is under eighteen years old through telemedicine or store and forward technology if:

(a) The behavioral health organization in which the covered person is enrolled provides coverage of the behavioral health service when provided in person by the provider; and

(b) The behavioral health service is medically necessary.

(2)(a) If the service is provided through store and forward technology there must be an associated visit between the covered person and the referring provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.

(b) For purposes of this section, reimbursement of store and forward technology is available only for those services specified in the negotiated agreement between the behavioral health organization and provider.

(3) An originating site for a telemedicine behavioral health service subject to subsection (1) of this section means an originating site as defined in rule by the department or the health care authority.

(4) Any originating site, other than a home, under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement must be subject to a negotiated agreement between the originating site and the behavioral health organization. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) A behavioral health organization may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) A behavioral health organization may subject coverage of a telemedicine or store and forward technology behavioral health service under subsection (1) of this section to all terms and conditions of the behavioral health organization in which the covered person is enrolled, including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable behavioral health care service provided in person.

(7) This section does not require a behavioral health organization to reimburse:

(a) An originating site for professional fees;

(b) A provider for a behavioral health service that is not a covered benefit under the behavioral health organization; or

(c) An originating site or provider when the site or provider is not a contracted provider with the behavioral health organization.

(8) For purposes of this section:

(a) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(b) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(c) "Originating site" means the physical location of a patient receiving behavioral health services through telemedicine;

(d) "Provider" has the same meaning as in RCW 48.43.005;

(e) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical or behavioral health information from an originating site to the provider at a distant site which results in medical or behavioral health diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(f) "Telemedicine" means the delivery of health care or behavioral health services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email.

(9) The department must, in consultation with the health care authority, adopt rules as necessary to implement the provisions of this section. [2017 c 202 § 7.]

Contingent effective date—2017 c 202 § 7: "Section 7 of this act takes effect January 1, 2018, but only if neither Substitute House Bill No. 1388 (including any later amendments or substitutes) nor Substitute Senate Bill No. 5259 (including any later amendments or substitutes) is signed into law by the governor by July 23, 2017." [2017 c 202 § 10.] Neither Substitute House Bill No. 1388 nor Substitute Senate Bill No. 5259 was signed into law by July 23, 2017.

Findings—Intent—2017 c 202: See note following RCW 74.09.492.

71.24.335 Reimbursement for behavioral health services provided through telemedicine or store and forward technology—Coverage requirements. ***(Effective January 1, 2020.)*** (1) Upon initiation or renewal of a contract with the authority, behavioral health administrative services organizations and managed care organizations shall reimburse a provider for a behavioral health service provided to a covered person who is under eighteen years old through telemedicine or store and forward technology if:

(a) The behavioral health administrative services organization or managed care organization in which the covered person is enrolled provides coverage of the behavioral health service when provided in person by the provider; and

(b) The behavioral health service is medically necessary.

(2)(a) If the service is provided through store and forward technology there must be an associated visit between the covered person and the referring provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.

(b) For purposes of this section, reimbursement of store and forward technology is available only for those services specified in the negotiated agreement between the behavioral health administrative services organization, or managed care organization, and the provider.

(3) An originating site for a telemedicine behavioral health service subject to subsection (1) of this section means an originating site as defined in rule by the department or the health care authority.

(4) Any originating site, other than a home, under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement must be subject to a negotiated agreement between the originating site and the behavioral health administrative services organization, or managed care organization, as applicable. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) Behavioral health administrative services organizations and managed care organizations may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) Behavioral health administrative services organizations and managed care organizations may subject coverage of a telemedicine or store and forward technology behavioral health service under subsection (1) of this section to all terms and conditions of the behavioral health administrative services organization or managed care organization in which the covered person is enrolled, including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable behavioral health care service provided in person.

(7) This section does not require a behavioral health administrative services organization or a managed care organization to reimburse:

(a) An originating site for professional fees;

(b) A provider for a behavioral health service that is not a covered benefit; or

(c) An originating site or provider when the site or provider is not a contracted provider.

(8) For purposes of this section:

(a) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(b) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(c) "Originating site" means the physical location of a patient receiving behavioral health services through telemedicine;

(d) "Provider" has the same meaning as in RCW 48.43.005;

(e) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical or behavioral health information from an originating site to the provider at a distant site which results in medical or behavioral health diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(f) "Telemedicine" means the delivery of health care or behavioral health services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email.

(9) The authority must adopt rules as necessary to implement the provisions of this section. [2019 c 325 § 1019; 2017 c 202 § 7.]

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

Contingent effective date—2017 c 202 § 7: "Section 7 of this act takes effect January 1, 2018, but only if neither Substitute House Bill No. 1388 (including any later amendments or substitutes) nor Substitute Senate Bill No. 5259 (including any later amendments or substitutes) is signed into law by the governor by July 23, 2017." [2017 c 202 § 10.] Neither Substitute House Bill No. 1388 nor Substitute Senate Bill No. 5259 was signed into law by July 23, 2017.

Findings—Intent—2017 c 202: See note following RCW 74.09.492.

71.24.340 Behavioral health organizations—Agreements with city and county jails. ***(Effective until January 1, 2020.)*** The director shall require the behavioral health organizations to develop agreements with city and county jails to accept referrals for enrollment on behalf of a confined person, prior to the person's release. [2018 c 201 § 4018; 2014 c 225 § 16; 2005 c 503 § 13.]

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

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

Additional notes found at www.leg.wa.gov

71.24.350 Behavioral health ombuds office. ***(Effective until January 1, 2020.)*** The authority shall require each behavioral health organization to provide for a separately funded behavioral health ombuds office in each behavioral health organization that is independent of the behavioral health organization. The ombuds office shall maximize the use of consumer advocates. [2018 c 201 § 4019; 2016 sp.s. c 29 § 523; 2014 c 225 § 41; 2013 c 23 § 189; 2005 c 504 § 803.]

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

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

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

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

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

Additional notes found at www.leg.wa.gov

71.24.350 Behavioral health ombuds office. ***(Effective January 1, 2020.)*** The authority shall require each behavioral health administrative services organization to provide for a separately funded behavioral health ombuds office that is independent of the behavioral health administrative services organization and managed care organizations for the assigned regional service area. The ombuds office shall maximize the use of consumer advocates. [2019 c 325 § 1020; 2018 c 201 § 4019; 2016 sp.s. c 29 § 523; 2014 c 225 § 41; 2013 c 23 § 189; 2005 c 504 § 803.]

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

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

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

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

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

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

Additional notes found at www.leg.wa.gov

71.24.360 Establishment of new behavioral health organizations. ***(Effective until January 1, 2020.)*** (1) The authority may establish new behavioral health organization boundaries in any part of the state:

(a) Where more than one organization chooses not to respond to, or is unable to substantially meet the requirements of, the request for a detailed plan under RCW 71.24.320;

(b) Where a behavioral health organization is subject to reprocurement under RCW 71.24.330; or

(c) Where two or more behavioral health organizations propose to reconfigure themselves to achieve consolidation,

in which case the procurement process described in RCW 71.24.320 and 71.24.330(2) does not apply.

(2) The authority may establish no fewer than six and no more than fourteen behavioral health organizations under this chapter. No entity shall be responsible for more than three behavioral health organizations. [2018 c 201 § 4020; 2014 c 225 § 52; 2012 c 91 § 1; 2005 c 504 § 805.]

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

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

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

Additional notes found at www.leg.wa.gov

71.24.370 Behavioral health organizations contracts—Limitation on state liability. ***(Effective until January 1, 2020.)*** (1) Except for monetary damage claims which have been reduced to final judgment by a superior court, this section applies to all claims against the state, state agencies, state officials, or state employees that exist on or arise after March 29, 2006.

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

(3) This section applies to counties, behavioral health organizations, and entities which contract to provide behavioral health organization services and their subcontractors, agents, or employees. [2018 c 201 § 4021; 2014 c 225 § 42; 2006 c 333 § 103.]

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

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

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

71.24.370 Behavioral health services contracts—Limitation on state liability. ***(Effective January 1, 2020.)*** (1) Except for monetary damage claims which have been reduced to final judgment by a superior court, this section applies to all claims against the state, state agencies, state officials, or state employees that exist on or arise after March 29, 2006.

(2) Except as expressly provided in contracts entered into by the authority, the entities identified in subsection (3) of this section shall have no claim for declaratory relief, injunctive relief, judicial review under chapter 34.05 RCW, or civil liability against the state, state agencies, state officials, or state employees for actions or inactions performed pursuant to the administration of this chapter with regard to the following: (a) The allocation or payment of federal or state funds; (b) the use or allocation of state hospital beds; or (c) financial responsibility for the provision of inpatient mental health care.

(3) This section applies to counties, behavioral health administrative services organizations, managed care organizations, and entities which contract to provide behavioral health services and their subcontractors, agents, or employees. [2019 c 325 § 1021; 2018 c 201 § 4021; 2014 c 225 § 42; 2006 c 333 § 103.]

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

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

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

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

71.24.380 Purchase of mental health and chemical dependency treatment services—Managed care contracting—Detailed plan. ***(Effective until January 1, 2020.)*** (1) The director shall purchase mental health and chemical dependency treatment services primarily through managed care contracting, but may continue to purchase behavioral health services directly from tribal clinics and other tribal providers.

(2)(a) The director shall request a detailed plan from the entities identified in (b) of this subsection that demonstrates compliance with the contractual elements of RCW 74.09.871 and federal regulations related to medicaid managed care contracting including, but not limited to: Having a sufficient network of providers to provide adequate access to mental health and chemical dependency services for residents of the regional service area that meet eligibility criteria for services, ability to maintain and manage adequate reserves, and maintenance of quality assurance processes. Any responding entity that submits a detailed plan that demonstrates that it can meet the requirements of this section must be awarded the contract to serve as the behavioral health organization.

(b)(i) For purposes of responding to the request for a detailed plan under (a) of this subsection, the entities from which a plan will be requested are:

(A) A county in a single county regional service area that currently serves as the regional support network for that area;

(B) In the event that a county has made a decision prior to January 1, 2014, not to contract as a regional support network, any private entity that serves as the regional support network for that area;

(C) All counties within a regional service area that includes more than one county, which shall form a responding entity through the adoption of an interlocal agreement. The interlocal agreement must specify the terms by which the responding entity shall serve as the behavioral health organization within the regional service area.

(ii) In the event that a regional service area is comprised of multiple counties including one that has made a decision prior to January 1, 2014, not to contract as a regional support network the counties shall adopt an interlocal agreement and may respond to the request for a detailed plan under (a) of this subsection and the private entity may also respond to the request for a detailed plan. If both responding entities meet the requirements of this section, the responding entities shall follow the authority's procurement process established in subsection (3) of this section.

(3) If an entity that has received a request under this section to submit a detailed plan does not respond to the request, a responding entity under subsection (1) of this section is unable to substantially meet the requirements of the request for a detailed plan, or more than one responding entity substantially meets the requirements for the request for a detailed plan, the authority shall use a procurement process in which other entities recognized by the director may bid to serve as the behavioral health organization in that regional service area.

(4) Contracts for behavioral health organizations must begin on April 1, 2016.

(5) Upon request of all of the county authorities in a regional service area, the authority may purchase behavioral health services through an integrated medical and behavioral health services contract with a behavioral health organization or a managed health care system as defined in RCW 74.09.522, pursuant to standards to be developed by the authority. Any contract for such a purchase must comply with all federal medicaid and state law requirements related to managed health care contracting.

(6) As an incentive to county authorities to become early adopters of fully integrated purchasing of medical and behavioral health services, the standards adopted by the authority under subsection (5) of this section shall provide for an incentive payment to counties which elect to move to full integration by January 1, 2016. Subject to federal approval, the incentive payment shall be targeted at ten percent of savings realized by the state within the regional service area in which the fully integrated purchasing takes place. Savings shall be calculated in alignment with the outcome and performance measures established in RCW 43.20A.895, 70.320.020, and 71.36.025, and incentive payments for early adopter counties shall be made available for up to a six-year period, or until full integration of medical and behavioral health services is accomplished statewide, whichever comes sooner, according to rules to be developed by the authority. [2018 c 201 § 4022; 2014 c 225 § 5.]

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

71.24.380 Purchase of behavioral health services—Managed care contracting—Requirements. ***(Effective January 1, 2020.)*** (1) The director shall purchase behavioral health services primarily through managed care contracting, but may continue to purchase behavioral health services directly from providers serving medicaid clients who are not enrolled in a managed care organization.

(2) The director shall require that contracted managed care organizations have a sufficient network of providers to provide adequate access to behavioral health services for residents of the regional service area that meet eligibility criteria for services, and for maintenance of quality assurance processes. Contracts with managed care organizations must comply with all federal medicaid and state law requirements related to managed health care contracting, including RCW 74.09.522.

(3) A managed care organization must contract with the authority's selected behavioral health administrative services organization for the assigned regional service area for the administration of crisis services. The contract shall require the managed care organization to reimburse the behavioral health administrative services organization for behavioral health crisis services delivered to individuals enrolled in the managed care organization.

(4) A managed care organization must collaborate with the authority and its contracted behavioral health administrative services organization to develop and implement strategies to coordinate care with tribes and community behavioral health providers for individuals with a history of frequent crisis system utilization.

(5) A managed care organization must work closely with designated crisis responders, behavioral health administrative services organizations, and behavioral health providers to maximize appropriate placement of persons into community services, ensuring the client receives the least restrictive level of care appropriate for their condition. Additionally, the managed care organization shall work with the authority to expedite the enrollment or reenrollment of eligible persons leaving state or local correctional facilities and institutions for mental diseases.

(6) As an incentive to county authorities to become early adopters of fully integrated purchasing of medical and behavioral health services, the standards adopted by the authority shall provide for an incentive payment to counties which elect to move to full integration by January 1, 2016. Subject to federal approval, the incentive payment shall be targeted at ten percent of savings realized by the state within the regional service area in which the fully integrated purchasing takes place. Savings shall be calculated in alignment with the outcome and performance measures established in RCW 71.24.435, 70.320.020, and 71.36.025, and incentive payments for early adopter counties shall be made available for up to a six-year period, or until full integration of medical and behavioral health services is accomplished statewide, whichever comes sooner, according to rules to be developed by the authority. [2019 c 325 § 1022; 2018 c 201 § 4022; 2014 c 225 § 5.]

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

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

71.24.381 Contracting for crisis services and medically necessary physical and behavioral health services. ***(Effective January 1, 2020.)*** (1) The authority shall contract with one or more behavioral health administrative services organizations to carry out the duties and responsibilities set forth in this chapter and chapter 71.05 RCW to provide crisis services to assigned regional service areas.

(2) For clients eligible for medical assistance under chapter 74.09 RCW, the authority shall contract with one or more managed care organizations as set forth in RCW 71.24.380 and 74.09.871 to provide medically necessary physical and behavioral health services. [2019 c 325 § 1046.]

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

71.24.382 Mental health and chemical dependency treatment providers and programs—Vendor rate increases. ***(Effective until January 1, 2020.)*** The director shall require, in the contracts the authority negotiates pursuant to chapters 71.24 and *70.96A RCW, that any vendor rate increases provided for mental health and chemical depen-

dency treatment providers or programs who are parties to the contract or subcontractors of any party to the contract shall be prioritized to those providers and programs that maximize the use of evidence-based and research-based practices unless otherwise designated by the legislature. [2018 c 201 § 2003; 2005 c 504 § 802. Formerly RCW 43.20A.433.]

***Reviser's note:** Chapter 70.96A RCW was repealed and/or recodified in its entirety pursuant to 2016 sp.s. c 29 §§ 301, 601, and 701.

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

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

Additional notes found at www.leg.wa.gov

71.24.385 Behavioral health organizations—Mental disorder program development. ***(Effective until January 1, 2020.)*** (1) Within funds appropriated by the legislature for this purpose, behavioral health organizations shall develop the means to serve the needs of people:

(a) With mental disorders residing within the boundaries of their regional service area. Elements of the program may include:

(i) Crisis diversion services;

(ii) Evaluation and treatment and community hospital beds;

(iii) Residential treatment;

(iv) Programs for intensive community treatment;

(v) Outpatient services, including family support;

(vi) Peer support services;

(vii) Community support services;

(viii) Resource management services; and

(ix) Supported housing and supported employment services.

(b) With substance use disorders and their families, people incapacitated by alcohol or other psychoactive chemicals, and intoxicated people.

(i) Elements of the program shall include, but not necessarily be limited to, a continuum of substance use disorder treatment services that includes:

(A) Withdrawal management;

(B) Residential treatment; and

(C) Outpatient treatment.

(ii) The program may include peer support, supported housing, supported employment, crisis diversion, recovery support services, or technology-based recovery supports.

(iii) The authority may contract for the use of an approved substance use disorder treatment program or other individual or organization if the director considers this to be an effective and economical course to follow.

(2)(a) The behavioral health organization shall have the flexibility, within the funds appropriated by the legislature for this purpose and the terms of their contract, to design the mix of services that will be most effective within their service area of meeting the needs of people with behavioral health disorders and avoiding placement of such individuals at the state mental hospital. Behavioral health organizations are encouraged to maximize the use of evidence-based practices and alternative resources with the goal of substantially reducing and potentially eliminating the use of institutions for mental diseases.

(b) The behavioral health organization may allow reimbursement to providers for services delivered through a partial hospitalization or intensive outpatient program. Such payment and services are distinct from the state's delivery of wraparound with intensive services under the *T.R. v. Strange and McDermott*, formerly the *T.R. v. Dreyfus and Porter*, settlement agreement.

(3)(a) Treatment provided under this chapter must be purchased primarily through managed care contracts.

(b) Consistent with RCW 71.24.580, services and funding provided through the criminal justice treatment account are intended to be exempted from managed care contracting. [2019 c 264 § 6. Prior: 2018 c 201 § 4023; 2018 c 175 § 6; 2016 sp.s. c 29 § 510; 2014 c 225 § 9.]

Findings—2019 c 264: See note following RCW 41.05.760.

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

Findings—Intent—2018 c 175: See note following RCW 74.09.495.

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

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

71.24.385 Behavioral health administrative services and managed care organizations—Mental health and substance use disorder treatment programs—Development and design requirements. ***(Effective January 1, 2020.)*** (1) Within funds appropriated by the legislature for this purpose, behavioral health administrative services organizations and managed care organizations, as applicable, shall develop the means to serve the needs of people:

(a) With mental disorders residing within the boundaries of their regional service area. Elements of the program may include:

(i) Crisis diversion services;

(ii) Evaluation and treatment and community hospital beds;

(iii) Residential treatment;

(iv) Programs for intensive community treatment;

(v) Outpatient services, including family support;

(vi) Peer support services;

(vii) Community support services;

(viii) Resource management services; and

(ix) Supported housing and supported employment services.

(b) With substance use disorders and their families, people incapacitated by alcohol or other psychoactive chemicals, and intoxicated people.

(i) Elements of the program shall include, but not necessarily be limited to, a continuum of substance use disorder treatment services that includes:

(A) Withdrawal management;

(B) Residential treatment; and

(C) Outpatient treatment.

(ii) The program may include peer support, supported housing, supported employment, crisis diversion, recovery support services, or technology-based recovery supports.

(iii) The authority may contract for the use of an approved substance use disorder treatment program or other individual or organization if the director considers this to be an effective and economical course to follow.

(2)(a) The managed care organization and the behavioral health administrative services organization shall have the flexibility, within the funds appropriated by the legislature for this purpose and the terms of their contract, to design the mix of services that will be most effective within their service area of meeting the needs of people with behavioral health disorders and avoiding placement of such individuals at the state mental hospital. Managed care organizations and behavioral health administrative services organizations are encouraged to maximize the use of evidence-based practices and alternative resources with the goal of substantially reducing and potentially eliminating the use of institutions for mental diseases.

(b) Managed care organizations and behavioral health administrative services organizations may allow reimbursement to providers for services delivered through a partial hospitalization or intensive outpatient program. Such payment and services are distinct from the state's delivery of wraparound with intensive services under the *T.R. v. Strange and Birch* settlement agreement.

(3)(a) Treatment provided under this chapter must be purchased primarily through managed care contracts.

(b) Consistent with RCW 71.24.580, services and funding provided through the criminal justice treatment account are intended to be exempted from managed care contracting. [2019 c 325 § 1023; 2019 c 264 § 6. Prior: 2018 c 201 § 4023; 2018 c 175 § 6; 2016 sp.s. c 29 § 510; 2014 c 225 § 9.]

Reviser's note: This section was amended by 2019 c 264 § 6 and by 2019 c 325 § 1023, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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

Findings—2019 c 264: See note following RCW 41.05.760.

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

Findings—Intent—2018 c 175: See note following RCW 74.09.495.

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

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

71.24.400 Streamlining delivery system—Finding. The legislature finds that the current complex set of federal, state, and local rules and regulations, audited and administered at multiple levels, which affect the community mental health service delivery system, focus primarily on the process of providing mental health services and do not sufficiently address consumer and system outcomes. The legislature finds that the authority and the community mental health service delivery system must make ongoing efforts to achieve the purposes set forth in RCW 71.24.015 related to reduced administrative layering, duplication, elimination of process measures not specifically required by the federal government for the receipt of federal funds, and reduced administrative costs. [2018 c 201 § 4024; 2001 c 323 § 18; 1999 c 10 § 10; 1995 c 96 § 1; 1994 c 259 § 1.]

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

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

Additional notes found at www.leg.wa.gov

71.24.405 Streamlining delivery system. ***(Effective until January 1, 2020.)*** The authority shall establish a comprehensive and collaborative effort within behavioral health organizations and with local mental health service providers aimed at creating innovative and streamlined community mental health service delivery systems, in order to carry out the purposes set forth in RCW 71.24.400 and to capture the diversity of the community mental health service delivery system.

The authority must accomplish the following:

(1) Identification, review, and cataloging of all rules, regulations, duplicative administrative and monitoring functions, and other requirements that currently lead to inefficiencies in the community mental health service delivery system and, if possible, eliminate the requirements;

(2) The systematic and incremental development of a single system of accountability for all federal, state, and local funds provided to the community mental health service delivery system. Systematic efforts should be made to include federal and local funds into the single system of accountability;

(3) The elimination of process regulations and related contract and reporting requirements. In place of the regulations and requirements, a set of outcomes for mental health adult and children clients according to this chapter must be used to measure the performance of mental health service providers and behavioral health organizations. Such outcomes shall focus on stabilizing out-of-home and hospital care, increasing stable community living, increasing age-appropriate activities, achieving family and consumer satisfaction with services, and system efficiencies;

(4) Evaluation of the feasibility of contractual agreements between the authority and behavioral health organizations and mental health service providers that link financial incentives to the success or failure of mental health service providers and behavioral health organizations to meet outcomes established for mental health service clients;

(5) The involvement of mental health consumers and their representatives. Mental health consumers and their representatives will be involved in the development of outcome standards for mental health clients under *section 5 of this act; and

(6) An independent evaluation component to measure the success of the authority in fully implementing the provisions of RCW 71.24.400 and this section. [2018 c 201 § 4025; 2014 c 225 § 53; 2001 c 323 § 19; 1999 c 10 § 11; 1995 c 96 § 2; 1994 c 259 § 2.]

***Reviser's note:** Section 5 of this act (chapter 323, Laws of 2001) was vetoed by the governor.

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

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

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

Additional notes found at www.leg.wa.gov

71.24.405 Streamlining delivery system. ***(Effective January 1, 2020.)*** The authority shall work comprehensively and collaboratively with behavioral health administrative services organizations and with local behavioral health service providers to create innovative and streamlined community behavioral health service delivery systems and to capture the

diversity of the community behavioral health service delivery system. The authority shall periodically:

(1) Identify, review, and catalog all rules, regulations, duplicative administrative and monitoring functions, and other requirements that lead to inefficiencies in the community behavioral health service delivery system and, if possible, eliminate the requirements;

(2) Review regulations, contracts, and reporting requirements to ensure achievement of outcomes for behavioral health adult and children clients under RCW 71.24.435;

(3) Involve behavioral health consumers and their representatives; and

(4) Provide for an independent evaluation component to measure the success of the authority in fully implementing the provisions of RCW 71.24.400 and this section. [2019 c 325 § 1024; 2018 c 201 § 4025; 2014 c 225 § 53; 2001 c 323 § 19; 1999 c 10 § 11; 1995 c 96 § 2; 1994 c 259 § 2.]

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

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

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

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

Additional notes found at www.leg.wa.gov

71.24.415 Streamlining delivery system—Authority duties to achieve outcomes. To carry out the purposes specified in RCW 71.24.400, the authority is encouraged to utilize its authority to eliminate any unnecessary rules, regulations, standards, or contracts, to immediately eliminate duplication of audits or any other unnecessarily duplicated functions, and to seek any waivers of federal or state rules or regulations necessary to achieve the purpose of streamlining the community mental health service delivery system and infusing it with incentives that reward efficiency, positive outcomes for clients, and quality services. [2018 c 201 § 4026; 1999 c 10 § 12; 1995 c 96 § 3; 1994 c 259 § 4.]

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

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

Additional notes found at www.leg.wa.gov

71.24.420 Expenditure of federal funds. ***(Effective until January 1, 2020.)*** The authority shall operate the community mental health service delivery system authorized under this chapter within the following constraints:

(1) The full amount of federal funds for mental health services, plus qualifying state expenditures as appropriated in the biennial operating budget, shall be appropriated to the authority each year in the biennial appropriations act to carry out the provisions of the community mental health service delivery system authorized in this chapter.

(2) The authority may expend funds defined in subsection (1) of this section in any manner that will effectively accomplish the outcome measures established in RCW 43.20A.895 and 71.36.025 and performance measures linked to those outcomes.

(3) The authority shall implement strategies that accomplish the outcome measures established in RCW 43.20A.895, 70.320.020, and 71.36.025 and performance measures linked to those outcomes.

(4) The authority shall monitor expenditures against the appropriation levels provided for in subsection (1) of this section. [2018 c 201 § 4027; 2014 c 225 § 17; 2001 c 323 § 2.]

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

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

71.24.420 Expenditure of funds for operation of service delivery system—Appropriation levels—Outcome and performance measures—Report. ***(Effective January 1, 2020.)*** The authority shall operate the community behavioral health service delivery system authorized under this chapter within the following constraints:

(1) The full amount of federal funds for community behavioral health system services, plus qualifying state expenditures as appropriated in the biennial operating budget, shall be appropriated to the authority each year in the biennial appropriations act to carry out the provisions of the community behavioral health service delivery system authorized in this chapter.

(2) The authority may expend funds defined in subsection (1) of this section in any manner that will effectively accomplish the outcome measures established in RCW 71.24.435 and 71.36.025 and performance measures linked to those outcomes.

(3) The authority shall implement strategies that accomplish the outcome measures established in RCW 71.24.435, 70.320.020, and 71.36.025 and performance measures linked to those outcomes.

(4) The authority shall monitor expenditures against the appropriation levels provided for in subsection (1) of this section and report to the governor's office and the appropriate committees of the legislature once every two years, on or about December 1st, on each even-numbered year. [2019 c 325 § 1025; 2018 c 201 § 4027; 2014 c 225 § 17; 2001 c 323 § 2.]

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

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

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

71.24.430 Collaborative service delivery. ***(Effective until January 1, 2020.)*** (1) The authority shall ensure the coordination of allied services for mental health clients. The authority shall implement strategies for resolving organizational, regulatory, and funding issues at all levels of the system, including the state, the behavioral health organizations, and local service providers.

(2) The authority shall propose, in operating budget requests, transfers of funding among programs to support collaborative service delivery to persons who require services from multiple department of social and health services and authority programs. The authority shall report annually to the appropriate committees of the senate and house of representatives on actions and projects it has taken to promote collaborative service delivery. [2018 c 201 § 4028; 2014 c 225 § 54; 2001 c 323 § 3.]

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

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

71.24.430 Coordination of services for behavioral health clients—Collaborative service delivery. ***(Effective January 1, 2020.)*** (1) The authority shall ensure the coordination of allied services for behavioral health clients. The authority shall implement strategies for resolving organizational, regulatory, and funding issues at all levels of the system, including the state, the behavioral health administrative services organizations, managed care organizations, and local service providers.

(2) The authority shall propose, in operating budget requests, transfers of funding among programs to support collaborative service delivery to persons who require services from multiple department of social and health services and authority programs. The authority shall provide status reports as requested by the legislature. [2019 c 325 § 1026; 2018 c 201 § 4028; 2014 c 225 § 54; 2001 c 323 § 3.]

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

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

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

71.24.435 Behavioral health system—Improvement strategy. ***(Effective January 1, 2020.)*** (1) The systems responsible for financing, administration, and delivery of publicly funded mental health and substance use disorder services to adults must be designed and administered to achieve improved outcomes for adult clients served by those systems through increased use and development of evidence-based, research-based, and promising practices, as defined in RCW 71.24.025. For purposes of this section, client outcomes include: Improved health status; increased participation in employment and education; reduced involvement with the criminal justice system; enhanced safety and access to treatment for forensic patients; reduction in avoidable utilization of and costs associated with hospital, emergency room, and crisis services; increased housing stability; improved quality of life, including measures of recovery and resilience; and decreased population level disparities in access to treatment and treatment outcomes.

(2) The authority must implement a strategy for the improvement of the behavioral health system. [2019 c 325 § 5010; 2014 c 225 § 64; 2013 c 338 § 2. Formerly RCW 43.20A.895.]

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

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

Effective date—2014 c 225 § 1: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 4, 2014]." [2014 c 225 § 111.]

71.24.450 Offenders with mental illnesses—Findings and intent. ***(Effective until January 1, 2020.)*** (1) Many acute and chronically mentally ill offenders are delayed in their release from Washington correctional facilities due to their inability to access reasonable treatment and living accommodations prior to the maximum expiration of their sentences. Often the offender reaches the end of his or her sentence and is released without any follow-up care, funds, or housing. These delays are costly to the state, often lead to psychiatric relapse, and result in unnecessary risk to the public.

These offenders rarely possess the skills or emotional stability to maintain employment or even complete applications to receive entitlement funding. Nationwide only five percent of diagnosed schizophrenics are able to maintain part-time or full-time employment. Housing and appropriate treatment are difficult to obtain.

This lack of resources, funding, treatment, and housing creates additional stress for the mentally ill offender, impairing self-control and judgment. When the mental illness is instrumental in the offender's patterns of crime, such stresses may lead to a worsening of his or her illness, reoffending, and a threat to public safety.

(2) It is the intent of the legislature to create a pilot program to provide for postrelease mental health care and housing for a select group of mentally ill offenders entering community living, in order to reduce incarceration costs, increase public safety, and enhance the offender's quality of life. [1997 c 342 § 1.]

Additional notes found at www.leg.wa.gov

71.24.450 Offenders with mental illnesses—Findings and intent. ***(Effective January 1, 2020.)*** (1) Many offenders with acute and chronic mental illness are delayed in their release from Washington correctional facilities due to their inability to access reasonable treatment and living accommodations prior to the maximum expiration of their sentences. Often the offender reaches the end of his or her sentence and is released without any follow-up care, funds, or housing. These delays are costly to the state, often lead to psychiatric relapse, and result in unnecessary risk to the public.

Many of these offenders lack the skills or emotional stability to maintain employment or even complete applications to receive entitlement funding. Housing and appropriate treatment are difficult to obtain.

This lack of resources, funding, treatment, and housing creates additional stress for the offender with mental illness, impairing self-control and judgment. When the mental illness is instrumental in the offender's patterns of crime, such stresses may lead to a worsening of his or her illness, reoffending, and a threat to public safety.

(2) It is the intent of the legislature to create a program to provide for postrelease mental health care and housing for a select group of offenders with mental illness entering community living, in order to reduce incarceration costs, increase public safety, and enhance the offender's quality of life. [2019 c 325 § 1027; 1997 c 342 § 1.]

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

Additional notes found at www.leg.wa.gov

71.24.455 Offenders with mental illnesses—Contracts for specialized access and services. ***(Effective until January 1, 2020.)*** (1) The director shall select and contract with a behavioral health organization or private provider to provide specialized access and services to offenders with mental illness upon release from total confinement within the department of corrections who have been identified by the department of corrections and selected by the behavioral health organization or private provider as high-priority clients for services and who meet service program entrance criteria. The program shall enroll no more than twenty-five offenders at any one time, or a number of offenders that can

be accommodated within the appropriated funding level, and shall seek to fill any vacancies that occur.

(2) Criteria shall include a determination by department of corrections staff that:

(a) The offender suffers from a major mental illness and needs continued mental health treatment;

(b) The offender's previous crime or crimes have been determined by either the court or department of corrections staff to have been substantially influenced by the offender's mental illness;

(c) It is believed the offender will be less likely to commit further criminal acts if provided ongoing mental health care;

(d) The offender is unable or unlikely to obtain housing and/or treatment from other sources for any reason; and

(e) The offender has at least one year remaining before his or her sentence expires but is within six months of release to community housing and is currently housed within a work release facility or any department of corrections' division of prisons facility.

(3) The behavioral health organization or private provider shall provide specialized access and services to the selected offenders. The services shall be aimed at lowering the risk of recidivism. An oversight committee composed of a representative of the authority, a representative of the selected behavioral health organization or private provider, and a representative of the department of corrections shall develop policies to guide the pilot program, provide dispute resolution including making determinations as to when entrance criteria or required services may be waived in individual cases, advise the department of corrections and the behavioral health organization or private provider on the selection of eligible offenders, and set minimum requirements for service contracts. The selected behavioral health organization or private provider shall implement the policies and service contracts. The following services shall be provided:

(a) Intensive case management to include a full range of intensive community support and treatment in client-to-staff ratios of not more than ten offenders per case manager including: (i) A minimum of weekly group and weekly individual counseling; (ii) home visits by the program manager at least two times per month; and (iii) counseling focusing on relapse prevention and past, current, or future behavior of the offender.

(b) The case manager shall attempt to locate and procure housing appropriate to the living and clinical needs of the offender and as needed to maintain the psychiatric stability of the offender. The entire range of emergency, transitional, and permanent housing and involuntary hospitalization must be considered as available housing options. A housing subsidy may be provided to offenders to defray housing costs up to a maximum of six thousand six hundred dollars per offender per year and be administered by the case manager. Additional funding sources may be used to offset these costs when available.

(c) The case manager shall collaborate with the assigned prison, work release, or community corrections staff during release planning, prior to discharge, and in ongoing supervision of the offender while under the authority of the department of corrections.

(d) Medications including the full range of psychotropic medications including atypical antipsychotic medications may be required as a condition of the program. Medication prescription, medication monitoring, and counseling to support offender understanding, acceptance, and compliance with prescribed medication regimens must be included.

(e) A systematic effort to engage offenders to continuously involve themselves in current and long-term treatment and appropriate habilitative activities shall be made.

(f) Classes appropriate to the clinical and living needs of the offender and appropriate to his or her level of understanding.

(g) The case manager shall assist the offender in the application and qualification for entitlement funding, including medicaid, state assistance, and other available government and private assistance at any point that the offender is qualified and resources are available.

(h) The offender shall be provided access to daily activities such as drop-in centers, prevocational and vocational training and jobs, and volunteer activities.

(4) Once an offender has been selected into the pilot program, the offender shall remain in the program until the end of his or her sentence or unless the offender is released from the pilot program earlier by the department of corrections.

(5) Specialized training in the management and supervision of high-crime risk offenders with mental illness shall be provided to all participating mental health providers by the authority and the department of corrections prior to their participation in the program and as requested thereafter.

(6) The pilot program provided for in this section must be providing services by July 1, 1998. [2018 c 201 § 4029; 2014 c 225 § 43; 1997 c 342 § 2.]

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

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

Additional notes found at www.leg.wa.gov

71.24.455 Offenders with mental illnesses—Contracts for specialized access and services. ***(Effective January 1, 2020.)*** (1) The director shall select and contract with a behavioral health administrative services organization, managed care organization, behavioral health agency, or private provider to provide specialized access and services to offenders with mental illness upon release from total confinement within the department of corrections who have been identified by the department of corrections and selected by the behavioral health administrative services organization, managed care organization, behavioral health agency, or private provider as high-priority clients for services and who meet service program entrance criteria. The program shall enroll no more than twenty-five offenders at any one time, or a number of offenders that can be accommodated within the appropriated funding level, and shall seek to fill any vacancies that occur.

(2) Criteria shall include a determination by department of corrections staff that:

(a) The offender suffers from a major mental illness and needs continued mental health treatment;

(b) The offender's previous crime or crimes have been determined by either the court or department of corrections

staff to have been substantially influenced by the offender's mental illness;

(c) It is believed the offender will be less likely to commit further criminal acts if provided ongoing mental health care;

(d) The offender is unable or unlikely to obtain housing and/or treatment from other sources for any reason; and

(e) The offender has at least one year remaining before his or her sentence expires but is within six months of release to community housing and is currently housed within a work release facility or any department of corrections' division of prisons facility.

(3) The behavioral health administrative services organization, managed care organization, behavioral health agency, or private provider shall provide specialized access and services to the selected offenders. The services shall be aimed at lowering the risk of recidivism. An oversight committee composed of a representative of the authority, a representative of the selected managed care organization, behavioral health administrative services organization, or private provider, and a representative of the department of corrections shall develop policies to guide the pilot program, provide dispute resolution including making determinations as to when entrance criteria or required services may be waived in individual cases, advise the department of corrections and the managed care organization, behavioral health administrative services organization, or private provider on the selection of eligible offenders, and set minimum requirements for service contracts. The selected managed care organization, behavioral health administrative services organization, or private provider shall implement the policies and service contracts. The following services shall be provided:

(a) Intensive case management to include a full range of intensive community support and treatment in client-to-staff ratios of not more than ten offenders per case manager including: (i) A minimum of weekly group and weekly individual counseling; (ii) home visits by the program manager at least two times per month; and (iii) counseling focusing on maintaining and promoting ongoing stability, relapse prevention, and recovery.

(b) The case manager shall attempt to locate and procure housing appropriate to the living and clinical needs of the offender and as needed to maintain the psychiatric stability of the offender. The entire range of emergency, transitional, and permanent housing and involuntary hospitalization must be considered as available housing options. A housing subsidy may be provided to offenders to defray housing costs up to a maximum of six thousand six hundred dollars per offender per year and be administered by the case manager. Additional funding sources may be used to offset these costs when available.

(c) The case manager shall collaborate with the assigned prison, work release, or community corrections staff during release planning, prior to discharge, and in ongoing supervision of the offender while under the authority of the department of corrections.

(d) Medications including the full range of psychotropic medications including atypical antipsychotic medications may be required as a condition of the program. Medication prescription, medication monitoring, and counseling to support offender understanding, acceptance, and compliance with prescribed medication regimens must be included.

(e) A systematic effort to engage offenders to continuously involve themselves in current and long-term treatment and appropriate habilitative activities shall be made.

(f) Classes appropriate to the clinical and living needs of the offender and appropriate to his or her level of understanding.

(g) The case manager shall assist the offender in the application and qualification for entitlement funding, including medicaid, state assistance, and other available government and private assistance at any point that the offender is qualified and resources are available.

(h) The offender shall be provided access to daily activities such as drop-in centers, prevocational and vocational training and jobs, and volunteer activities.

(4) Once an offender has been selected into the pilot program, the offender shall remain in the program until the end of his or her sentence or unless the offender is released from the pilot program earlier by the department of corrections.

(5) Specialized training in the management and supervision of high-crime risk offenders with mental illness shall be provided to all participating mental health providers by the authority and the department of corrections prior to their participation in the program and as requested thereafter. [2019 c 325 § 1028; 2018 c 201 § 4029; 2014 c 225 § 43; 1997 c 342 § 2.]

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

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

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

Additional notes found at www.leg.wa.gov

71.24.460 Offenders with mental illnesses—Report to legislature—Contingent termination of program. ***(Effective until January 1, 2020.)*** The authority, in collaboration with the department of corrections and the oversight committee created in RCW 71.24.455, shall track outcomes and submit to the legislature annual reports regarding services and outcomes. The reports shall include the following: (1) A statistical analysis regarding the reoffense and reinstitutionalization rate by the enrollees in the program set forth in RCW 71.24.455; (2) a quantitative description of the services provided in the program set forth in RCW 71.24.455; and (3) recommendations for any needed modifications in the services and funding levels to increase the effectiveness of the program set forth in RCW 71.24.455. By December 1, 2003, the department shall certify the reoffense rate for enrollees in the program authorized by RCW 71.24.455 to the office of financial management and the appropriate legislative committees. If the reoffense rate exceeds fifteen percent, the authorization for the department to conduct the program under RCW 71.24.455 is terminated on January 1, 2004. [2018 c 201 § 4030; 1999 c 10 § 13; 1997 c 342 § 4.]

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

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

Additional notes found at www.leg.wa.gov

71.24.460 Offenders with mental illnesses—Report to legislature. ***(Effective January 1, 2020.)*** The authority, in

collaboration with the department of corrections and the oversight committee created in RCW 71.24.455, shall track outcomes and submit to the legislature annual reports regarding services and outcomes. The reports shall include the following: (1) A statistical analysis regarding the reoffense and reinstitutionalization rate by the enrollees in the program set forth in RCW 71.24.455; (2) a quantitative description of the services provided in the program set forth in RCW 71.24.455; and (3) recommendations for any needed modifications in the services and funding levels to increase the effectiveness of the program set forth in RCW 71.24.455. [2019 c 325 § 1029; 2018 c 201 § 4030; 1999 c 10 § 13; 1997 c 342 § 4.]

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

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

Purpose—Intent—1999 c 10: See note following RCW 71.24.025.

Additional notes found at www.leg.wa.gov

71.24.470 Offenders with mental illness who are believed to be dangerous—Contract for case management—Use of appropriated funds. ***(Effective until January 1, 2020.)*** (1) The director shall contract, to the extent that funds are appropriated for this purpose, for case management services and such other services as the director deems necessary to assist offenders identified under RCW 72.09.370 for participation in the offender reentry community safety program. The contracts may be with behavioral health organizations or any other qualified and appropriate entities.

(2) The case manager has the authority to assist these offenders in obtaining the services, as set forth in the plan created under RCW 72.09.370(2), for up to five years. The services may include coordination of mental health services, assistance with unfunded medical expenses, obtaining chemical dependency treatment, housing, employment services, educational or vocational training, independent living skills, parenting education, anger management services, and such other services as the case manager deems necessary.

(3) The legislature intends that funds appropriated for the purposes of RCW 72.09.370, 71.05.145, and 71.05.212, and this section and distributed to the behavioral health organizations are to supplement and not to supplant general funding. Funds appropriated to implement RCW 72.09.370, 71.05.145, and 71.05.212, and this section are not to be considered available resources as defined in RCW 71.24.025 and are not subject to the priorities, terms, or conditions in the appropriations act established pursuant to RCW 71.24.035.

(4) The offender reentry community safety program was formerly known as the community integration assistance program. [2018 c 201 § 4031; 2014 c 225 § 44; 2009 c 319 § 1; 1999 c 214 § 9.]

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

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

Intent—Effective date—1999 c 214: See notes following RCW 72.09.370.

71.24.470 Offenders with mental illness who are believed to be dangerous—Contract for case management—Use of appropriated funds. ***(Effective January 1, 2020.)*** (1) The director shall contract, to the extent that funds are appropriated for this purpose, for case management services and such other services as the director deems necessary to assist offenders identified under RCW 72.09.370 for participation in the offender reentry community safety program. The contracts may be with any qualified and appropriate entities.

(2) The case manager has the authority to assist these offenders in obtaining the services, as set forth in the plan created under RCW 72.09.370(2), for up to five years. The services may include coordination of mental health services, assistance with unfunded medical expenses, obtaining substance use disorder treatment, housing, employment services, educational or vocational training, independent living skills, parenting education, anger management services, and such other services as the case manager deems necessary.

(3) The legislature intends that funds appropriated for the purposes of RCW 72.09.370, 71.05.145, and 71.05.212, and this section are to supplement and not to supplant general funding. Funds appropriated to implement RCW 72.09.370, 71.05.145, and 71.05.212, and this section are not to be considered available resources as defined in RCW 71.24.025 and are not subject to the priorities, terms, or conditions in the appropriations act established pursuant to RCW 71.24.035.

(4) The offender reentry community safety program was formerly known as the community integration assistance program. [2019 c 325 § 1030; 2018 c 201 § 4031; 2014 c 225 § 44; 2009 c 319 § 1; 1999 c 214 § 9.]

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

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

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

Intent—Effective date—1999 c 214: See notes following RCW 72.09.370.

71.24.480 Offenders with mental illness who are believed to be dangerous—Limitation on liability due to treatment—Reporting requirements. ***(Effective until January 1, 2020.)*** (1) A licensed or certified service provider or behavioral health organization, acting in the course of the provider's or organization's duties under this chapter, is not liable for civil damages resulting from the injury or death of another caused by a participant in the offender reentry community safety program who is a client of the provider or organization, unless the act or omission of the provider or organization constitutes:

(a) Gross negligence;

(b) Willful or wanton misconduct; or

(c) A breach of the duty to warn of and protect from a client's threatened violent behavior if the client has communicated a serious threat of physical violence against a reasonably ascertainable victim or victims.

(2) In addition to any other requirements to report violations, the licensed or certified service provider and behavioral health organization shall report an offender's expressions of intent to harm or other predatory behavior, regardless of whether there is an ascertainable victim, in progress reports and other established processes that enable courts and supervising entities to assess and address the progress and appropriateness of treatment.

(3) A licensed or certified service provider's or behavioral health organization's mere act of treating a participant in

the offender reentry community safety program is not negligence. Nothing in this subsection alters the licensed or certified service provider's or behavioral health organization's normal duty of care with regard to the client.

(4) The limited liability provided by this section applies only to the conduct of licensed or certified service providers and behavioral health organizations and does not apply to conduct of the state.

(5) For purposes of this section, "participant in the offender reentry community safety program" means a person who has been identified under RCW 72.09.370 as an offender who: (a) Is reasonably believed to be dangerous to himself or herself or others; and (b) has a mental disorder. [2018 c 201 § 4032; 2014 c 225 § 45; 2009 c 319 § 2; 2002 c 173 § 1.]

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

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

71.24.480 Offenders with mental illness who are believed to be dangerous—Limitation on liability due to treatment—Reporting requirements. ***(Effective January 1, 2020.)*** (1) A licensed or certified behavioral health agency acting in the course of the provider's duties under this chapter, is not liable for civil damages resulting from the injury or death of another caused by a participant in the offender reentry community safety program who is a client of the provider or organization, unless the act or omission of the provider or organization constitutes:

(a) Gross negligence;

(b) Willful or wanton misconduct; or

(c) A breach of the duty to warn of and protect from a client's threatened violent behavior if the client has communicated a serious threat of physical violence against a reasonably ascertainable victim or victims.

(2) In addition to any other requirements to report violations, the licensed or certified behavioral health agency shall report an offender's expressions of intent to harm or other predatory behavior, regardless of whether there is an ascertainable victim, in progress reports and other established processes that enable courts and supervising entities to assess and address the progress and appropriateness of treatment.

(3) A licensed or certified behavioral health agency's mere act of treating a participant in the offender reentry community safety program is not negligence. Nothing in this subsection alters the licensed or certified behavioral health agency's normal duty of care with regard to the client.

(4) The limited liability provided by this section applies only to the conduct of licensed or certified behavioral health agencies and does not apply to conduct of the state.

(5) For purposes of this section, "participant in the offender reentry community safety program" means a person who has been identified under RCW 72.09.370 as an offender who: (a) Is reasonably believed to be dangerous to himself or herself or others; and (b) has a mental disorder. [2019 c 325 § 1031; 2018 c 201 § 4032; 2014 c 225 § 45; 2009 c 319 § 2; 2002 c 173 § 1.]

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

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

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

71.24.490 Evaluation and treatment services—Capacity needs—Regional support network or behavioral health organization. ***(Effective until January 1, 2020.)*** The authority must collaborate with regional support networks or behavioral health organizations and the Washington state institute for public policy to estimate the capacity needs for evaluation and treatment services within each regional service area. Estimated capacity needs shall include consideration of the average occupancy rates needed to provide an adequate network of evaluation and treatment services to ensure access to treatment. A regional service network or behavioral health organization must develop and maintain an adequate plan to provide for evaluation and treatment needs. [2018 c 201 § 4033; 2015 c 269 § 11.]

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

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

71.24.490 Evaluation and treatment services—Capacity needs—Behavioral health administrative services and managed care organizations. ***(Effective January 1, 2020.)*** The authority must collaborate with behavioral health administrative services organizations, managed care organizations, and the Washington state institute for public policy to estimate the capacity needs for evaluation and treatment services within each regional service area. Estimated capacity needs shall include consideration of the average occupancy rates needed to provide an adequate network of evaluation and treatment services to ensure access to treatment. Behavioral health administrative services organizations and managed care organizations must develop and maintain an adequate plan to provide for evaluation and treatment needs. [2019 c 325 § 1032; 2018 c 201 § 4033; 2015 c 269 § 11.]

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

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

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

71.24.500 Written guidance and trainings—Managed care—Incarcerated and involuntarily hospitalized persons. ***(Effective until January 1, 2020.)*** The department of social and health services and the authority shall publish written guidance and provide trainings to behavioral health organizations, managed care organizations, and behavioral health providers related to how these organizations may provide outreach, assistance, transition planning, and rehabilitation case management reimbursable under federal law to persons who are incarcerated, involuntarily hospitalized, or in the process of transitioning out of one of these services. The guidance and trainings may also highlight preventive activities not reimbursable under federal law which may be cost-effective in a managed care environment. The purpose of this written guidance and trainings is to champion best clinical practices including, where appropriate, use of care coordination and long-acting injectable psychotropic medication, and to assist the health community to leverage federal funds and standardize payment and reporting procedures. The authority and the department of social and health services shall construe governing laws liberally to effectuate the broad reme-

dial purposes of chapter 154, Laws of 2016, and provide a status update to the legislature by December 31, 2016. [2018 c 201 § 4034; 2016 c 154 § 3.]

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

Intent—2016 c 154: See note following RCW 74.09.670.

71.24.500 Written guidance and trainings—Managed care—Incarcerated and involuntarily hospitalized persons. ***(Effective January 1, 2020.)*** The authority shall periodically publish written guidance and provide trainings to behavioral health administrative services organizations, managed care organizations, and behavioral health providers related to how these organizations may provide outreach, assistance, transition planning, and rehabilitation case management reimbursable under federal law to persons who are incarcerated, involuntarily hospitalized, or in the process of transitioning out of one of these services. The guidance and trainings may also highlight preventive activities not reimbursable under federal law which may be cost-effective in a managed care environment. The purpose of this written guidance and trainings is to champion best clinical practices including, where appropriate, use of care coordination and long-acting injectable psychotropic medication, and to assist the health community to leverage federal funds and standardize payment and reporting procedures. [2019 c 325 § 1033; 2018 c 201 § 4034; 2016 c 154 § 3.]

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

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

Intent—2016 c 154: See note following RCW 74.09.670.

71.24.510 Integrated comprehensive screening and assessment process—Implementation. (1) All persons providing treatment under this chapter shall also implement the integrated comprehensive screening and assessment process for substance use and mental disorders adopted pursuant to RCW 71.24.630 and shall document the numbers of clients with co-occurring mental and substance use disorders based on a quadrant system of low and high needs.

(2) Treatment providers contracted to provide treatment under this chapter who fail to implement the integrated comprehensive screening and assessment process for substance use and mental disorders are subject to contractual penalties established under RCW 71.24.630. [2016 sp.s. c 29 § 512; 2005 c 504 § 302. Formerly RCW 70.96A.035.]

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

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

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

Additional notes found at www.leg.wa.gov

71.24.515 Chemical dependency specialist services—To be available at children and family services offices—Training in uniform screening. ***(Effective until January 1, 2020.)*** (1) The department of social and health services shall contract for chemical dependency specialist services at division of children and family services offices to enhance the timeliness and quality of child protective services assessments and to better connect families to needed treatment services.

(2) The chemical dependency specialist's duties may include, but are not limited to: Conducting on-site substance use disorder screening and assessment, facilitating progress reports to department of social and health services employees, in-service training of department of social and health services employees and staff on substance use disorder issues, referring clients from the department of social and health services to treatment providers, and providing consultation on cases to department of social and health services employees.

(3) The department of social and health services shall provide training in and ensure that each case-carrying employee is trained in uniform screening for mental health and substance use disorder. [2018 c 201 § 4035; 2016 sp.s. c 29 § 514; 2011 c 89 § 9; 2009 c 579 § 1; 2005 c 504 § 305. Formerly RCW 70.96A.037.]

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

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

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

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

Findings—2011 c 89: See RCW 18.320.005.

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

Additional notes found at www.leg.wa.gov

71.24.520 Chemical dependency program authority. ***(Effective until January 1, 2020.)*** The authority, in the operation of the chemical dependency program[,] may:

(1) Plan, establish, and maintain prevention and treatment programs as necessary or desirable;

(2) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including managed care contracts for behavioral health services, contracts entered into under RCW 74.09.522, and contracts with public and private agencies, organizations, and individuals to pay them for services rendered or furnished to persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, or intoxicated persons;

(3) Enter into agreements for monitoring of verification of qualifications of counselors employed by approved treatment programs;

(4) Adopt rules under chapter 34.05 RCW to carry out the provisions and purposes of this chapter and contract, cooperate, and coordinate with other public or private agencies or individuals for those purposes;

(5) Solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant;

(6) Administer or supervise the administration of the provisions relating to persons with substance use disorders and intoxicated persons of any state plan submitted for federal funding pursuant to federal health, welfare, or treatment legislation;

(7) Coordinate its activities and cooperate with chemical dependency programs in this and other states, and make contracts and other joint or cooperative arrangements with state, local, or private agencies in this and other states for the treatment of persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons and for the common advancement of chemical dependency programs;

(8) Keep records and engage in research and the gathering of relevant statistics;

(9) Do other acts and things necessary or convenient to execute the authority expressly granted to it;

(10) Acquire, hold, or dispose of real property or any interest therein, and construct, lease, or otherwise provide treatment programs. [2018 c 201 § 4036; 2014 c 225 § 22; 1989 c 270 § 5; 1988 c 193 § 2; 1972 ex.s. c 122 § 4. Formerly RCW 70.96A.040.]

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

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

71.24.520 Substance use disorder program authority. ***(Effective January 1, 2020.)*** The authority, in the operation of the substance use disorder program, may:

(1) Plan, establish, and maintain prevention and treatment programs as necessary or desirable;

(2) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including managed care contracts for behavioral health services, contracts entered into under RCW 74.09.522, and contracts with public and private agencies, organizations, and individuals to pay them for services rendered or furnished to persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, or intoxicated persons;

(3) Enter into agreements for monitoring of verification of qualifications of counselors employed by approved treatment programs;

(4) Adopt rules under chapter 34.05 RCW to carry out the provisions and purposes of this chapter and contract, cooperate, and coordinate with other public or private agencies or individuals for those purposes;

(5) Solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant;

(6) Administer or supervise the administration of the provisions relating to persons with substance use disorders and intoxicated persons of any state plan submitted for federal funding pursuant to federal health, welfare, or treatment legislation;

(7) Coordinate its activities and cooperate with substance use disorder programs in this and other states, and make contracts and other joint or cooperative arrangements with state, local, or private agencies in this and other states for the treatment of persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons and for the common advancement of substance use disorder programs;

(8) Keep records and engage in research and the gathering of relevant statistics;

(9) Do other acts and things necessary or convenient to execute the authority expressly granted to it;

(10) Acquire, hold, or dispose of real property or any interest therein, and construct, lease, or otherwise provide treatment programs. [2019 c 325 § 1034; 2018 c 201 § 4036; 2014 c 225 § 22; 1989 c 270 § 5; 1988 c 193 § 2; 1972 ex.s. c 122 § 4. Formerly RCW 70.96A.040.]

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

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

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

71.24.525 Agreements authorized under the interlocal cooperation act. Pursuant to the interlocal cooperation act, chapter 39.34 RCW, the authority may enter into agreements to accomplish the purposes of this chapter. [2018 c 201 § 4037; 1989 c 270 § 7. Formerly RCW 70.96A.043.]

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

71.24.530 Local funding and donative funding requirements—Facilities, plans, programs. Except as provided in this chapter, the director shall not approve any substance use disorder facility, plan, or program for financial assistance under RCW 71.24.520 unless at least ten percent of the amount spent for the facility, plan, or program is provided from local public or private sources. When deemed necessary to maintain public standards of care in the substance use disorder facility, plan, or program, the director may require the substance use disorder facility, plan, or program to provide up to fifty percent of the total spent for the program through fees, gifts, contributions, or volunteer services. The director shall determine the value of the gifts, contributions, and volunteer services. [2018 c 201 § 4038; 2016 sp.s. c 29 § 515; 1989 c 270 § 11. Formerly RCW 70.96A.047.]

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

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

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

71.24.535 Duties of authority. ***(Effective until January 1, 2020.)*** The authority shall:

(1) Develop, encourage, and foster statewide, regional, and local plans and programs for the prevention of alcoholism and other drug addiction, treatment of persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons in cooperation with public and private agencies, organizations, and individuals and provide technical assistance and consultation services for these purposes;

(2) Assure that any behavioral health organization managed care contract, or managed care contract under RCW 74.09.522 for behavioral health services or programs for the treatment of persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons provides medically necessary services to medicaid recipients. This must include

a continuum of mental health and substance use disorder services consistent with the state's medicaid plan or federal waiver authorities, and nonmedicaid services consistent with priorities established by the authority;

(3) Coordinate the efforts and enlist the assistance of all public and private agencies, organizations, and individuals interested in prevention of alcoholism and drug addiction, and treatment of persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons;

(4) Cooperate with public and private agencies in establishing and conducting programs to provide treatment for persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons who are clients of the correctional system;

(5) Cooperate with the superintendent of public instruction, state board of education, schools, police departments, courts, and other public and private agencies, organizations and individuals in establishing programs for the prevention of substance use disorders, treatment of persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons, and preparing curriculum materials thereon for use at all levels of school education;

(6) Prepare, publish, evaluate, and disseminate educational material dealing with the nature and effects of alcohol and other psychoactive chemicals and the consequences of their use;

(7) Develop and implement, as an integral part of substance use disorder treatment programs, an educational program for use in the treatment of persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of alcohol and other psychoactive chemicals, the consequences of their use, the principles of recovery, and HIV and AIDS;

(8) Organize and foster training programs for persons engaged in treatment of persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons;

(9) Sponsor and encourage research into the causes and nature of substance use disorders, treatment of persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons, and serve as a clearinghouse for information relating to substance use disorders;

(10) Specify uniform methods for keeping statistical information by public and private agencies, organizations, and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment;

(11) Advise the governor in the preparation of a comprehensive plan for treatment of persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons for inclusion in the state's comprehensive health plan;

(12) Review all state health, welfare, and treatment plans to be submitted for federal funding under federal legislation, and advise the governor on provisions to be included relating to substance use disorders;

(13) Assist in the development of, and cooperate with, programs for alcohol and other psychoactive chemical education and treatment for employees of state and local governments and businesses and industries in the state;

(14) Use the support and assistance of interested persons in the community to encourage persons with substance use disorders voluntarily to undergo treatment;

(15) Cooperate with public and private agencies in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated;

(16) Encourage general hospitals and other appropriate health facilities to admit without discrimination persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons and to provide them with adequate and appropriate treatment;

(17) Encourage all health and disability insurance programs to include substance use disorders as a covered illness; and

(18) Organize and sponsor a statewide program to help court personnel, including judges, better understand substance use disorders and the uses of substance use disorder treatment programs. [2018 c 201 § 4039; 2016 sp.s. c 29 § 504; 2014 c 225 § 23; 2001 c 13 § 2; 1989 c 270 § 6; 1979 ex.s. c 176 § 7; 1972 ex.s. c 122 § 5. Formerly RCW 70.96A.050.]

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

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

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

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

Additional notes found at www.leg.wa.gov

71.24.535 Duties of authority. ***(Effective January 1, 2020.)*** The authority shall:

(1) Develop, encourage, and foster statewide, regional, and local plans and programs for the prevention of alcoholism and other drug addiction, treatment of persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons in cooperation with public and private agencies, organizations, and individuals and provide technical assistance and consultation services for these purposes;

(2) Assure that any contract with a managed care organization for behavioral health services or programs for the treatment of persons with substance use disorders and their families provides medically necessary services to medicaid recipients. This must include a continuum of mental health and substance use disorder services consistent with the state's medicaid plan or federal waiver authorities, and nonmedicaid services consistent with priorities established by the authority;

(3) Coordinate the efforts and enlist the assistance of all public and private agencies, organizations, and individuals interested in prevention of alcoholism and drug addiction, and treatment of persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons;

(4) Cooperate with public and private agencies in establishing and conducting programs to provide treatment for persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons who are clients of the correctional system;

(5) Cooperate with the superintendent of public instruction, state board of education, schools, police departments, courts, and other public and private agencies, organizations and individuals in establishing programs for the prevention of substance use disorders, treatment of persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons, and preparing curriculum materials thereon for use at all levels of school education;

(6) Prepare, publish, evaluate, and disseminate educational material dealing with the nature and effects of alcohol and other psychoactive chemicals and the consequences of their use;

(7) Develop and implement, as an integral part of substance use disorder treatment programs, an educational program for use in the treatment of persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of alcohol and other psychoactive chemicals, the consequences of their use, the principles of recovery, and HIV and AIDS;

(8) Organize and foster training programs for persons engaged in treatment of persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons;

(9) Sponsor and encourage research into the causes and nature of substance use disorders, treatment of persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons, and serve as a clearinghouse for information relating to substance use disorders;

(10) Specify uniform methods for keeping statistical information by public and private agencies, organizations, and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment;

(11) Advise the governor in the preparation of a comprehensive plan for treatment of persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons for inclusion in the state's comprehensive health plan;

(12) Review all state health, welfare, and treatment plans to be submitted for federal funding under federal legislation, and advise the governor on provisions to be included relating to substance use disorders;

(13) Assist in the development of, and cooperate with, programs for substance use disorder education and treatment for employees of state and local governments and businesses and industries in the state;

(14) Use the support and assistance of interested persons in the community to encourage persons with substance use disorders voluntarily to undergo treatment;

(15) Cooperate with public and private agencies in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated;

(16) Encourage general hospitals and other appropriate health facilities to admit without discrimination persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons and to provide them with adequate and appropriate treatment;

(17) Encourage all health and disability insurance programs to include substance use disorders as a covered illness; and

(18) Organize and sponsor a statewide program to help court personnel, including judges, better understand substance use disorders and the uses of substance use disorder treatment programs and medications. [2019 c 325 § 1035; 2018 c 201 § 4039; 2016 sp.s. c 29 § 504; 2014 c 225 § 23; 2001 c 13 § 2; 1989 c 270 § 6; 1979 ex.s. c 176 § 7; 1972 ex.s. c 122 § 5. Formerly RCW 70.96A.050.]

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

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

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

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

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

Additional notes found at www.leg.wa.gov

71.24.540 Drug courts. ***(Effective until January 1, 2020.)*** The authority shall contract with counties operating drug courts and counties in the process of implementing new drug courts for the provision of substance use disorder treatment services. [2018 c 201 § 4040; 2016 sp.s. c 29 § 516; 1999 c 197 § 10. Formerly RCW 70.96A.055.]

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

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

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

Additional notes found at www.leg.wa.gov

71.24.540 Drug courts. ***(Effective January 1, 2020.)*** The authority shall contract with behavioral health administrative services organizations, managed care organizations, or counties, as applicable, for the provision of substance use disorder treatment services ordered by a county-operated drug court. [2019 c 325 § 1036; 2018 c 201 § 4040; 2016 sp.s. c 29 § 516; 1999 c 197 § 10. Formerly RCW 70.96A.055.]

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

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Additional notes found at www.leg.wa.gov

71.24.545 Comprehensive program for treatment—Regional facilities. ***(Effective until January 1, 2020.)*** (1) The authority shall establish by appropriate means a comprehensive and coordinated program for the treatment of persons

with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons.

(2)(a) The program shall include, but not necessarily be limited to, a continuum of chemical dependency treatment services that includes:

(i) Withdrawal management;

(ii) Residential treatment; and

(iii) Outpatient treatment.

(b) The program may include peer support, supported housing, supported employment, crisis diversion, or recovery support services.

(3) All appropriate public and private resources shall be coordinated with and used in the program when possible.

(4) The authority may contract for the use of an approved treatment program or other individual or organization if the director considers this to be an effective and economical course to follow.

(5) By April 1, 2016, treatment provided under this chapter must be purchased primarily through managed care contracts. Consistent with RCW 71.24.580, services and funding provided through the criminal justice treatment account are intended to be exempted from managed care contracting. [2018 c 201 § 4041; 2014 c 225 § 25; 1989 c 270 § 18; 1972 ex.s. c 122 § 8. Formerly RCW 70.96A.080.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective date—2014 c 225: See note following RCW 71.24.016.

71.24.545 Comprehensive program for treatment—Regional facilities. ***(Effective January 1, 2020.)*** (1) The authority shall establish by appropriate means a comprehensive and coordinated program for the treatment of persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons.

(2)(a) The program shall include, but not necessarily be limited to, a continuum of substance use disorder treatment services that includes:

(i) Withdrawal management;

(ii) Residential treatment; and

(iii) Outpatient treatment.

(b) The program may include peer support, supported housing, supported employment, crisis diversion, or recovery support services.

(3) All appropriate public and private resources shall be coordinated with and used in the program when possible.

(4) The authority may contract for the use of an approved treatment program or other individual or organization if the director considers this to be an effective and economical course to follow.

(5) Treatment provided under this chapter must be purchased primarily through managed care contracts. Consistent with RCW 71.24.580, services and funding provided through the criminal justice treatment account are intended to be exempted from managed care contracting. [2019 c 325 § 1037; 2018 c 201 § 4041; 2014 c 225 § 25; 1989 c 270 § 18; 1972 ex.s. c 122 § 8. Formerly RCW 70.96A.080.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective date—2014 c 225: See note following RCW 71.24.016.

71.24.550 City, town, or county without facility—Contribution of liquor taxes prerequisite to use of another's facility. A city, town, or county that does not have its own facility or program for the treatment and rehabilitation of persons with substance use disorders may share in the use of a facility or program maintained by another city or county so long as it contributes no less than two percent of its share of liquor taxes and profits to the support of the facility or program. [2014 c 225 § 26; 1989 c 270 § 12. Formerly RCW 70.96A.085.]

Effective date—2014 c 225: See note following RCW 71.24.016.

71.24.555 Liquor taxes and profits—City and county eligibility conditioned. ***(Effective until January 1, 2020.)*** To be eligible to receive its share of liquor taxes and profits, each city and county shall devote no less than two percent of its share of liquor taxes and profits to the support of a substance use disorder program approved by the behavioral health organization and the director, and licensed or certified by the department of health. [2018 c 201 § 4042; 2016 sp.s. c 29 § 517; 1989 c 270 § 13. Formerly RCW 70.96A.087.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.24.555 Liquor taxes and profits—City and county eligibility conditioned. ***(Effective January 1, 2020.)*** To be eligible to receive its share of liquor taxes and profits, each city and county shall devote no less than two percent of its share of liquor taxes and profits to the support of a substance use disorder program licensed or certified by the department of health. [2019 c 325 § 1038; 2018 c 201 § 4042; 2016 sp.s. c 29 § 517; 1989 c 270 § 13. Formerly RCW 70.96A.087.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.24.560 Opioid treatment programs—Pregnant individuals—Information and education. (1) All approved opioid treatment programs that provide services to individuals who are pregnant are required to disseminate up-to-date and accurate health education information to all their pregnant individuals concerning the effects opioid use and opioid use disorder medication may have on their baby, including the development of dependence and subsequent withdrawal. All pregnant individuals must also be advised of the risks to both themselves and their babies associated with discontinuing an opioid treatment program. The information must be provided to these individuals both verbally and in writing. The health education information provided to the pregnant individuals must include referral options for a baby who has been exposed to opioids in utero.

(2) The department shall adopt rules that require all opioid treatment programs to educate all pregnant individuals in

their program on the benefits and risks of medication-assisted treatment to a developing fetus before they are prescribed these medications, as part of their treatment. The department shall also adopt rules requiring all opioid treatment programs to educate individuals who become pregnant about the risks to both the expecting parent and the fetus of not treating opioid use disorder. The department shall meet the requirements under this subsection within the appropriations provided for opioid treatment programs. The department, working with treatment providers and medical experts, shall develop and disseminate the educational materials to all certified opioid treatment programs.

(3) For pregnant individuals who participate in medicaid, the authority, through its managed care organizations, must ensure that pregnant individuals receive outreach related to opioid use disorder when identified as a person at risk. [2019 c 314 § 26; 2017 c 297 § 11; 2016 sp.s. c 29 § 506; 2005 c 70 § 2; 1995 c 312 § 46; 1990 c 151 § 5. Prior: 1989 c 270 § 19; 1989 c 175 § 131; 1972 ex.s. c 122 § 9. Formerly RCW 70.96A.090.]

Declaration—2019 c 314: See note following RCW 18.22.810.

Findings—Intent—2017 c 297: See note following RCW 18.22.800.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Findings—Intent—2019 c 314; 2005 c 70: "The legislature finds that drug use among pregnant individuals is a significant and growing concern statewide. Evidence-informed group prenatal care reduces preterm birth for infants, and increases maternal social cohesion and support during pregnancy and postpartum, which is good for maternal mental health.

It is the intent of the legislature to notify all pregnant individuals who are receiving medication for the treatment of opioid use disorder of the risks and benefits such medication could have on their baby during pregnancy through birth and to inform them of the potential need for the newborn baby to be treated in a hospital setting or in a specialized supportive environment designed specifically to address and manage neonatal opioid or other drug withdrawal syndromes." [2019 c 314 § 2; 2005 c 70 § 1.]

Additional notes found at www.leg.wa.gov

71.24.565 Acceptance for approved treatment—Rules. ***(Effective until January 1, 2020.)*** The director shall adopt and may amend and repeal rules for acceptance of persons into the approved treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons. In establishing the rules, the *secretary shall be guided by the following standards:

(1) If possible a patient shall be treated on a voluntary rather than an involuntary basis.

(2) A patient shall be initially assigned or transferred to outpatient treatment, unless he or she is found to require residential treatment.

(3) A person shall not be denied treatment solely because he or she has withdrawn from treatment against medical advice on a prior occasion or because he or she has relapsed after earlier treatment.

(4) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(5) Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available and use other appropriate treatment. [2018 c 201 § 4043; 2014 c 225 § 27; 1989 c 270 § 23; 1972 ex.s. c 122 § 10. Formerly RCW 70.96A.100.]

***Reviser's note:** The powers, duties, and functions of the secretary of the department of social and health services pertaining to the behavioral health system and purchasing function of the behavioral health administration, except for oversight and management of state-run mental health institutions and licensing and certification activities, were transferred to the director of the health care authority by chapter 201, Laws of 2018.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective date—2014 c 225: See note following RCW 71.24.016.

71.24.565 Acceptance for approved treatment—Rules. ***(Effective January 1, 2020.)*** The director shall adopt and may amend and repeal rules for acceptance of persons into the approved treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons. In establishing the rules, the director shall be guided by the following standards:

(1) If possible a patient shall be treated on a voluntary rather than an involuntary basis.

(2) A patient shall be initially assigned or transferred to outpatient treatment, unless he or she is found to require residential treatment.

(3) A person shall not be denied treatment solely because he or she has withdrawn from treatment against medical advice on a prior occasion or because he or she has relapsed after earlier treatment.

(4) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(5) Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available and use other appropriate treatment. [2019 c 325 § 1039; 2018 c 201 § 4043; 2014 c 225 § 27; 1989 c 270 § 23; 1972 ex.s. c 122 § 10. Formerly RCW 70.96A.100.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective date—2014 c 225: See note following RCW 71.24.016.

71.24.570 Emergency service patrol—Establishment—Rules. (1) The state and counties, cities, and other municipalities may establish or contract for emergency service patrols which are to be under the administration of the appropriate jurisdiction. A patrol consists of persons trained to give assistance in the streets and in other public places to persons who are intoxicated. Members of an emergency service patrol shall be capable of providing first aid in emergency situations and may transport intoxicated persons to their homes and to and from substance use disorder treatment programs.

(2) The secretary shall adopt rules pursuant to chapter 34.05 RCW for the establishment, training, and conduct of emergency service patrols. [2016 sp.s. c 29 § 518; 1989 c 270 § 30; 1972 ex.s. c 122 § 17. Formerly RCW 70.96A.170.]

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.24.575 Criminal laws limitations. (1) No county, municipality, or other political subdivision may adopt or enforce a local law, ordinance, resolution, or rule having the force of law that includes drinking, being an individual with a substance use disorder, or being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty or sanction.

(2) No county, municipality, or other political subdivision may interpret or apply any law of general application to circumvent the provision of subsection (1) of this section.

(3) Nothing in this chapter affects any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol or other psychoactive chemicals, or other similar offense involving the operation of a vehicle, aircraft, boat, machinery, or other equipment, or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages or other psychoactive chemicals at stated times and places or by a particular class of persons; nor shall evidence of intoxication affect, other than as a defense, the application of any law, ordinance, resolution, or rule to conduct otherwise establishing the elements of an offense. [2014 c 225 § 30; 1989 c 270 § 32; 1972 ex.s. c 122 § 19. Formerly RCW 70.96A.190.]

Effective date—2014 c 225: See note following RCW 71.24.016.

71.24.580 Criminal justice treatment account. ***(Effective until January 1, 2020.)*** (1) The criminal justice treatment account is created in the state treasury. Moneys in the account may be expended solely for: (a) Substance use disorder treatment and treatment support services for offenders with a substance use disorder that, if not treated, would result in addiction, against whom charges are filed by a prosecuting attorney in Washington state; (b) the provision of substance use disorder treatment services and treatment support services for nonviolent offenders within a drug court program; and (c) the administrative and overhead costs associated with the operation of a drug court. Amounts provided in this subsection must be used for treatment and recovery support services for criminally involved offenders and authorization of these services shall not be subject to determinations of medical necessity. During the 2017-2019 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the criminal justice treatment account to the state general fund. During the 2019-2021 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the criminal justice treatment account to the home security fund account created in RCW 43.185C.060. It is the intent of the legislature to continue the policy of transferring moneys from the criminal justice treatment account to the home security fund account in subsequent biennia. Moneys in the account may be spent only after appropriation.

(2) For purposes of this section:

(a) "Treatment" means services that are critical to a participant's successful completion of his or her substance use disorder treatment program, including but not limited to the recovery support and other programmatic elements outlined in RCW 2.30.030 authorizing therapeutic courts; and

(b) "Treatment support" includes transportation to or from inpatient or outpatient treatment services when no viable alternative exists, and child care services that are necessary to ensure a participant's ability to attend outpatient treatment sessions.

(3) Revenues to the criminal justice treatment account consist of: (a) Funds transferred to the account pursuant to this section; and (b) any other revenues appropriated to or deposited in the account.

(4)(a) For the fiscal year beginning July 1, 2005, and each subsequent fiscal year, the state treasurer shall transfer eight million two hundred fifty thousand dollars from the general fund to the criminal justice treatment account, divided into four equal quarterly payments. For the fiscal year beginning July 1, 2006, and each subsequent fiscal year, the amount transferred shall be increased on an annual basis by the implicit price deflator as published by the federal bureau of labor statistics.

(b) In each odd-numbered year, the legislature shall appropriate the amount transferred to the criminal justice treatment account in (a) of this subsection to the department for the purposes of subsection (5) of this section.

(5) Moneys appropriated to the authority from the criminal justice treatment account shall be distributed as specified in this subsection. The authority may retain up to three percent of the amount appropriated under subsection (4)(b) of this section for its administrative costs.

(a) Seventy percent of amounts appropriated to the authority from the account shall be distributed to counties pursuant to the distribution formula adopted under this section. The authority, in consultation with the department of corrections, the Washington state association of counties, the Washington state association of drug court professionals, the superior court judges' association, the Washington association of prosecuting attorneys, representatives of the criminal defense bar, representatives of substance use disorder treatment providers, and any other person deemed by the authority to be necessary, shall establish a fair and reasonable methodology for distribution to counties of moneys in the criminal justice treatment account. County or regional plans submitted for the expenditure of formula funds must be approved by the panel established in (b) of this subsection.

(b) Thirty percent of the amounts appropriated to the authority from the account shall be distributed as grants for purposes of treating offenders against whom charges are filed by a county prosecuting attorney. The authority shall appoint a panel of representatives from the Washington association of prosecuting attorneys, the Washington association of sheriffs and police chiefs, the superior court judges' association, the Washington state association of counties, the Washington defender's association or the Washington association of criminal defense lawyers, the department of corrections, the Washington state association of drug court professionals, and substance use disorder treatment providers. The panel shall review county or regional plans for funding under (a) of this subsection and grants approved under this subsection. The panel shall attempt to ensure that treatment as funded by the grants is available to offenders statewide.

(6) The county alcohol and drug coordinator, county prosecutor, county sheriff, county superior court, a substance abuse treatment provider appointed by the county legislative authority, a member of the criminal defense bar appointed by the county legislative authority, and, in counties with a drug court, a representative of the drug court shall jointly submit a

plan, approved by the county legislative authority or authorities, to the panel established in subsection (5)(b) of this section, for disposition of all the funds provided from the criminal justice treatment account within that county. The submitted plan should incorporate current evidence-based practices in substance use disorder treatment. The funds shall be used solely to provide approved alcohol and substance use disorder treatment pursuant to RCW 71.24.560 and treatment support services. No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent for treatment support services.

(7) Counties are encouraged to consider regional agreements and submit regional plans for the efficient delivery of treatment under this section.

(8) Moneys allocated under this section shall be used to supplement, not supplant, other federal, state, and local funds used for substance abuse treatment.

(9) If a region or county uses criminal justice treatment account funds to support a therapeutic court, the therapeutic court must allow the use of all medications approved by the federal food and drug administration for the treatment of opioid use disorder as deemed medically appropriate for a participant by a medical professional. If appropriate medication-assisted treatment resources are not available or accessible within the jurisdiction, the health care authority's designee for assistance must assist the court with acquiring the resource.

(10) Counties must meet the criteria established in RCW 2.30.030(3). [2019 c 415 § 980; 2019 c 314 § 27. Prior: 2018 c 205 § 2; 2018 c 201 § 4044; 2017 3rd sp.s. c 1 § 981; 2016 sp.s. c 29 § 511; prior: 2015 3rd sp.s. c 4 § 968; 2015 c 291 § 10; 2013 2nd sp.s. c 4 § 990; 2011 2nd sp.s. c 9 § 910; 2011 1st sp.s. c 40 § 34; prior: 2009 c 479 § 50; 2009 c 445 § 1; 2008 c 329 § 918; 2003 c 379 § 11; 2002 c 290 § 4. Formerly RCW 70.96A.350.]

Reviser's note: This section was amended by 2019 c 314 § 27 and by 2019 c 415 § 980, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 415: See note following RCW 28B.20.476.

Declaration—2019 c 314: See note following RCW 18.22.810.

Finding—Intent—2018 c 205: "Drug courts remove a defendant's or respondent's case from the criminal and civil court traditional trial track and allow those defendants or respondents the opportunity to obtain treatment services to address particular issues that may have contributed to the conduct that led to their arrest or other issues before the court. Such courts, by focusing on specific individuals' needs, provide treatment for the issues presented and ensure rapid and appropriate accountability for program violations, which decreases recidivism, improves the safety of the community, and improves the life of the program participant and the lives of the participant's family members by decreasing the severity and frequency of the specific behavior addressed by the therapeutic court. Therefore, the legislature finds compelling the research conducted by the Washington state institute for public policy and the research and data analysis division of the department of social and health services showing that providing recovery support services to clients in drug courts creates a benefit to the state of approximately seven dollars and sixty cents in reduced public expenditures and reduced costs of victimization for each dollar spent. Therefore, it is the intent of the legislature to allow the use of a portion of the criminal justice treatment account to provide such services to foster increased success in drug courts." [2018 c 205 § 1.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Conflict with federal requirements—2015 c 291: See note following RCW 2.30.010.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Effective dates—2011 2nd sp.s. c 9: See note following RCW 28B.50.837.

Application—Recalculation of community custody terms—2011 1st sp.s. c 40: See note following RCW 9.94A.501.

Effective date—2009 c 479: See note following RCW 2.56.030.

Intent—2002 c 290: See note following RCW 9.94A.517.

Additional notes found at www.leg.wa.gov

71.24.580 Criminal justice treatment account. ***(Effective January 1, 2020.)*** (1) The criminal justice treatment account is created in the state treasury. Moneys in the account may be expended solely for: (a) Substance use disorder treatment and treatment support services for offenders with a substance use disorder that, if not treated, would result in addiction, against whom charges are filed by a prosecuting attorney in Washington state; (b) the provision of substance use disorder treatment services and treatment support services for nonviolent offenders within a drug court program; and (c) the administrative and overhead costs associated with the operation of a drug court. Amounts provided in this subsection must be used for treatment and recovery support services for criminally involved offenders and authorization of these services shall not be subject to determinations of medical necessity. During the 2017-2019 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the criminal justice treatment account to the state general fund. During the 2019-2021 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the criminal justice treatment account to the home security fund account created in RCW 43.185C.060. It is the intent of the legislature to continue the policy of transferring moneys from the criminal justice treatment account to the home security fund account in subsequent biennia. Moneys in the account may be spent only after appropriation.

(2) For purposes of this section:

(a) "Treatment" means services that are critical to a participant's successful completion of his or her substance use disorder treatment program, including but not limited to the recovery support and other programmatic elements outlined in RCW 2.30.030 authorizing therapeutic courts; and

(b) "Treatment support" includes transportation to or from inpatient or outpatient treatment services when no viable alternative exists, and child care services that are necessary to ensure a participant's ability to attend outpatient treatment sessions.

(3) Revenues to the criminal justice treatment account consist of: (a) Funds transferred to the account pursuant to this section; and (b) any other revenues appropriated to or deposited in the account.

(4)(a) For the fiscal year beginning July 1, 2005, and each subsequent fiscal year, the state treasurer shall transfer

eight million two hundred fifty thousand dollars from the general fund to the criminal justice treatment account, divided into four equal quarterly payments. For the fiscal year beginning July 1, 2006, and each subsequent fiscal year, the amount transferred shall be increased on an annual basis by the implicit price deflator as published by the federal bureau of labor statistics.

(b) In each odd-numbered year, the legislature shall appropriate the amount transferred to the criminal justice treatment account in (a) of this subsection to the department for the purposes of subsection (5) of this section.

(5) Moneys appropriated to the authority from the criminal justice treatment account shall be distributed as specified in this subsection. The authority may retain up to three percent of the amount appropriated under subsection (4)(b) of this section for its administrative costs.

(a) Seventy percent of amounts appropriated to the authority from the account shall be distributed to counties pursuant to the distribution formula adopted under this section. The authority, in consultation with the department of corrections, the Washington state association of counties, the Washington state association of drug court professionals, the superior court judges' association, the Washington association of prosecuting attorneys, representatives of the criminal defense bar, representatives of substance use disorder treatment providers, and any other person deemed by the authority to be necessary, shall establish a fair and reasonable methodology for distribution to counties of moneys in the criminal justice treatment account. County or regional plans submitted for the expenditure of formula funds must be approved by the panel established in (b) of this subsection.

(b) Thirty percent of the amounts appropriated to the authority from the account shall be distributed as grants for purposes of treating offenders against whom charges are filed by a county prosecuting attorney. The authority shall appoint a panel of representatives from the Washington association of prosecuting attorneys, the Washington association of sheriffs and police chiefs, the superior court judges' association, the Washington state association of counties, the Washington defender's association or the Washington association of criminal defense lawyers, the department of corrections, the Washington state association of drug court professionals, and substance use disorder treatment providers. The panel shall review county or regional plans for funding under (a) of this subsection and grants approved under this subsection. The panel shall attempt to ensure that treatment as funded by the grants is available to offenders statewide.

(6) The county alcohol and drug coordinator, county prosecutor, county sheriff, county superior court, a substance abuse treatment provider appointed by the county legislative authority, a member of the criminal defense bar appointed by the county legislative authority, and, in counties with a drug court, a representative of the drug court shall jointly submit a plan, approved by the county legislative authority or authorities, to the panel established in subsection (5)(b) of this section, for disposition of all the funds provided from the criminal justice treatment account within that county. The submitted plan should incorporate current evidence-based practices in substance use disorder treatment. The funds shall be used solely to provide approved alcohol and substance use disorder treatment pursuant to RCW 71.24.560 and treatment support services. No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent for treatment support services.

(7) Counties are encouraged to consider regional agreements and submit regional plans for the efficient delivery of treatment under this section.

(8) Moneys allocated under this section shall be used to supplement, not supplant, other federal, state, and local funds used for substance abuse treatment.

(9) If a region or county uses criminal justice treatment account funds to support a therapeutic court, the therapeutic court must allow the use of all medications approved by the federal food and drug administration for the treatment of opioid use disorder as deemed medically appropriate for a participant by a medical professional. If appropriate medication-assisted treatment resources are not available or accessible within the jurisdiction, the health care authority's designee for assistance must assist the court with acquiring the resource.

(10) Counties must meet the criteria established in RCW 2.30.030(3).

(11) The authority shall annually review and monitor the expenditures made by any county or group of counties that receives appropriated funds distributed under this section. Counties shall repay any funds that are not spent in accordance with the requirements of its contract with the authority. [2019 c 415 § 980; 2019 c 325 § 1040; 2019 c 314 § 27. Prior: 2018 c 205 § 2; 2018 c 201 § 4044; 2017 3rd sp.s. c 1 § 981; 2016 sp.s. c 29 § 511; prior: 2015 3rd sp.s. c 4 § 968; 2015 c 291 § 10; 2013 2nd sp.s. c 4 § 990; 2011 2nd sp.s. c 9 § 910; 2011 1st sp.s. c 40 § 34; prior: 2009 c 479 § 50; 2009 c 445 § 1; 2008 c 329 § 918; 2003 c 379 § 11; 2002 c 290 § 4. Formerly RCW 70.96A.350.]

Reviser's note: This section was amended by 2019 c 314 § 27, 2019 c 325 § 1040, and by 2019 c 415 § 980, without reference to one another. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—2019 c 325: See note following RCW 71.24.011.

Declaration—2019 c 314: See note following RCW 18.22.810.

Finding—Intent—2018 c 205: "Drug courts remove a defendant's or respondent's case from the criminal and civil court traditional trial track and allow those defendants or respondents the opportunity to obtain treatment services to address particular issues that may have contributed to the conduct that led to their arrest or other issues before the court. Such courts, by focusing on specific individuals' needs, provide treatment for the issues presented and ensure rapid and appropriate accountability for program violations, which decreases recidivism, improves the safety of the community, and improves the life of the program participant and the lives of the participant's family members by decreasing the severity and frequency of the specific behavior addressed by the therapeutic court. Therefore, the legislature finds compelling the research conducted by the Washington state institute for public policy and the research and data analysis division of the department of social and health services showing that providing recovery support services to clients in drug courts creates a benefit to the state of approximately seven dollars and sixty cents in reduced public expenditures and reduced costs of victimization for each dollar spent. Therefore, it is the intent of the legislature to allow the use of a portion of the criminal justice treatment account to provide such services to foster increased success in drug courts." [2018 c 205 § 1.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Conflict with federal requirements—2015 c 291: See note following RCW 2.30.010.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Effective dates—2011 2nd sp.s. c 9: See note following RCW 28B.50.837.

Application—Recalculation of community custody terms—2011 1st sp.s. c 40: See note following RCW 9.94A.501.

Effective date—2009 c 479: See note following RCW 2.56.030.

Intent—2002 c 290: See note following RCW 9.94A.517.

Additional notes found at www.leg.wa.gov

71.24.582 Review of expenditures for drug and alcohol treatment. ***(Effective until January 1, 2020.)*** The authority shall annually review and monitor the expenditures made by any county or group of counties which is funded, in whole or in part, with funds provided by chapter 290, Laws of 2002. Counties shall repay any funds that are not spent in accordance with the requirements of chapter 290, Laws of 2002. [2018 c 201 § 2002; 2002 c 290 § 6. Formerly RCW 43.20A.065.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Intent—2002 c 290: See note following RCW 9.94A.517.

Additional notes found at www.leg.wa.gov

71.24.585 Opioid and substance use disorder treatment—State response. (1)(a) The state of Washington declares that substance use disorders are medical conditions. Substance use disorders should be treated in a manner similar to other medical conditions by using interventions that are supported by evidence, including medications approved by the federal food and drug administration for the treatment of opioid use disorder. It is also recognized that many individuals have multiple substance use disorders, as well as histories of trauma, developmental disabilities, or mental health conditions. As such, all individuals experiencing opioid use disorder should be offered evidence-supported treatments to include federal food and drug administration approved medications for the treatment of opioid use disorders and behavioral counseling and social supports to address them. For behavioral health agencies, an effective plan of treatment for most persons with opioid use disorder integrates access to medications and psychosocial counseling and should be consistent with the American society of addiction medicine patient placement criteria. Providers must inform patients with opioid use disorder or substance use disorder of options to access federal food and drug administration approved medications for the treatment of opioid use disorder or substance use disorder. Because some such medications are controlled substances in chapter 69.50 RCW, the state of Washington maintains the legal obligation and right to regulate the uses of these medications in the treatment of opioid use disorder.

(b) The authority must work with other state agencies and stakeholders to develop value-based payment strategies to better support the ongoing care of persons with opioid and other substance use disorders.

(c) The department of corrections shall develop policies to prioritize services based on available grant funding and funds appropriated specifically for opioid use disorder treatment.

(2) The authority must promote the use of medication therapies and other evidence-based strategies to address the opioid epidemic in Washington state. Additionally, by January 1, 2020, the authority must prioritize state resources for the provision of treatment and recovery support services to inpatient and outpatient treatment settings that allow patients to start or maintain their use of medications for opioid use disorder while engaging in services.

(3) The state declares that the main goals of treatment for persons with opioid use disorder are the cessation of unprescribed opioid use, reduced morbidity, and restoration of the ability to lead a productive and fulfilling life.

(4) To achieve the goals in subsection (3) of this section, to promote public health and safety, and to promote the efficient and economic use of funding for the medicaid program under Title XIX of the social security act, the authority may seek, receive, and expend alternative sources of funding to support all aspects of the state's response to the opioid crisis.

(5) The authority must partner with the department of social and health services, the department of corrections, the department of health, the department of children, youth, and families, and any other agencies or entities the authority deems appropriate to develop a statewide approach to leveraging medicaid funding to treat opioid use disorder and provide emergency overdose treatment. Such alternative sources of funding may include:

(a) Seeking a section 1115 demonstration waiver from the federal centers for medicare and medicaid services to fund opioid treatment medications for persons eligible for medicaid at or during the time of incarceration and juvenile detention facilities; and

(b) Soliciting and receiving private funds, grants, and donations from any willing person or entity.

(6)(a) The authority shall work with the department of health to promote coordination between medication-assisted treatment prescribers, federally accredited opioid treatment programs, substance use disorder treatment facilities, and state-certified substance use disorder treatment agencies to:

(i) Increase patient choice in receiving medication and counseling;

(ii) Strengthen relationships between opioid use disorder providers;

(iii) Acknowledge and address the challenges presented for individuals needing treatment for multiple substance use disorders simultaneously; and

(iv) Study and review effective methods to identify and reach out to individuals with opioid use disorder who are at high risk of overdose and not involved in traditional systems of care, such as homeless individuals using syringe service programs, and connect such individuals to appropriate treatment.

(b) The authority must work with stakeholders to develop a set of recommendations to the governor and the legislature that:

(i) Propose, in addition to those required by federal law, a standard set of services needed to support the complex treatment needs of persons with opioid use disorder treated in opioid treatment programs;

(ii) Outline the components of and strategies needed to develop opioid treatment program centers of excellence that provide fully integrated care for persons with opioid use disorder;

(iii) Estimate the costs needed to support these models and recommendations for funding strategies that must be included in the report;

(iv) Outline strategies to increase the number of waivered health care providers approved for prescribing buprenorphine by the substance abuse and mental health services administration; and

(v) Outline strategies to lower the cost of federal food and drug administration approved products for the treatment of opioid use disorder.

(7) State agencies shall review and promote positive outcomes associated with the accountable communities of health funded opioid projects and local law enforcement and human services opioid collaborations as set forth in the Washington state interagency opioid working plan.

(8) The authority must partner with the department and other state agencies to replicate effective approaches for linking individuals who have had a nonfatal overdose with treatment opportunities, with a goal to connect certified peer counselors with individuals who have had a nonfatal overdose.

(9) State agencies must work together to increase outreach and education about opioid overdoses to non-English-speaking communities by developing a plan to conduct outreach and education to non-English-speaking communities. The department must submit a report on the outreach and education plan with recommendations for implementation to the appropriate legislative committees by July 1, 2020. [2019 c 314 § 28; 2017 c 297 § 12; 2016 sp.s. c 29 § 519; 2001 c 242 § 1; 1995 c 321 § 1; 1989 c 270 § 20. Formerly RCW 70.96A.400.]

Declaration—2019 c 314: See note following RCW 18.22.810.

Findings—Intent—2017 c 297: See note following RCW 18.22.800.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.24.587 Opioid use disorder treatment—Possession or use of lawfully prescribed medication—Declaration by state. The state declares that a person lawfully possessing or using lawfully prescribed medication for the treatment of opioid use disorder must be treated the same in judicial and administrative proceedings as a person lawfully possessing or using other lawfully prescribed medications. [2017 c 297 § 13.]

Findings—Intent—2017 c 297: See note following RCW 18.22.800.

71.24.589 Substance use disorders—Law enforcement assisted diversion—Pilot project. (1) Subject to funds appropriated by the legislature, the authority shall implement a pilot project for law enforcement assisted diversion which shall adhere to law enforcement assisted diversion core principles recognized by the law enforcement assisted diversion national support bureau, the efficacy of which have been demonstrated in peer-reviewed research studies.

(2) Under the pilot project, the authority must partner with the law enforcement assisted diversion national support bureau to award a contract, subject to appropriation, for two or more geographic areas in the state of Washington for law enforcement assisted diversion. Cities, counties, and tribes may compete for participation in a pilot project.

(3) The pilot projects must provide for comprehensive technical assistance from law enforcement assisted diversion implementation experts to develop and implement a law enforcement assisted diversion program in the pilot project's geographic areas in a way that ensures fidelity to the research-based law enforcement assisted diversion model.

(4) The key elements of a law enforcement assisted diversion pilot project must include:

(a) Long-term case management for individuals with substance use disorders;

(b) Facilitation and coordination with community resources focusing on overdose prevention;

(c) Facilitation and coordination with community resources focused on the prevention of infectious disease transmission;

(d) Facilitation and coordination with community resources providing physical and behavioral health services;

(e) Facilitation and coordination with community resources providing medications for the treatment of substance use disorders;

(f) Facilitation and coordination with community resources focusing on housing, employment, and public assistance;

(g) Twenty-four hours per day and seven days per week response to law enforcement for arrest diversions; and

(h) Prosecutorial support for diversion services. [2019 c 314 § 29.]

Declaration—2019 c 314: See note following RCW 18.22.810.

71.24.590 Opioid treatment—Program licensing or certification by department, department duties—Use of medications by program—Definition. (1) When making a decision on an application for licensing or certification of a program, the department shall:

(a) Consult with the county legislative authorities in the area in which an applicant proposes to locate a program and the city legislative authority in any city in which an applicant proposes to locate a program;

(b) License or certify only programs that will be sited in accordance with the appropriate county or city land use ordinances. Counties and cities may require conditional use permits with reasonable conditions for the siting of programs. Pursuant to RCW 36.70A.200, no local comprehensive plan or development regulation may preclude the siting of essential public facilities;

(c) Not discriminate in its licensing or certification decision on the basis of the corporate structure of the applicant;

(d) Consider the size of the population in need of treatment in the area in which the program would be located and license or certify only applicants whose programs meet the necessary treatment needs of that population;

(e) Consider the availability of other certified opioid treatment programs near the area in which the applicant proposes to locate the program;

(f) Consider the transportation systems that would provide service to the program and whether the systems will provide reasonable opportunities to access the program for persons in need of treatment;

(g) Consider whether the applicant has, or has demonstrated in the past, the capability to provide the appropriate services to assist the persons who utilize the program in meeting goals established by the legislature in RCW 71.24.585. The department shall prioritize licensing or certification to applicants who have demonstrated such capability and are able to measure their success in meeting such outcomes;

(h) Hold one public hearing in the community in which the facility is proposed to be located. The hearing shall be held at a time and location that are most likely to permit the largest number of interested persons to attend and present testimony. The department shall notify all appropriate media outlets of the time, date, and location of the hearing at least three weeks in advance of the hearing.

(2) A county may impose a maximum capacity for a program of notless than three hundred fifty participants if necessary to addressspecific local conditions cited by the county.

(3) A program applying for licensing or certification from the department and a program applying for a contract from a state agency that has been denied the licensing or certification or contract shall be provided with a written notice specifying the rationale and reasons for the denial.

(4) Opioid treatment programs may order, possess, dispense, and administer medications approved by the United States food and drug administration for the treatment of opioid use disorder, alcohol use disorder, tobacco use disorder, and reversal of opioid overdose. For an opioid treatment program to order, possess, and dispense any other legend drug, including controlled substances, the opioid treatment program must obtain additional licensure as required by the department, except for patient-owned medications.

(5) Opioid treatment programs may accept, possess, and administer patient-owned medications.

(6) Registered nurses and licensed practical nurses may dispense up to a thirty-one day supply of medications approved by the United States food and drug administration for the treatment of opioid use disorder to patients of the opioid treatment program, under an order or prescription and in compliance with 42 C.F.R. Sec. 8.12.

(7) For the purpose of this chapter, "opioid treatment program" means a program that:

(a) Engages in the treatment of opioid use disorder with medications approved by the United States food and drug administration for the treatment of opioid use disorder and reversal of opioid overdose; and

(b) Provides a comprehensive range of medical and rehabilitative services. [2019 c 314 § 30; 2018 c 201 § 4045; 2017 c 297 § 14; 2001 c 242 § 2; 1995 c 321 § 2; 1989 c 270 § 21. Formerly RCW 70.96A.410.]

Declaration—2019 c 314: See note following RCW 18.22.810.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Contingent effective date—2017 c 297 §§ 14 and 16: "Sections 14 and 16 of this act take effect only if neither Substitute House Bill No. 1388 (including any later amendments or substitutes) nor Substitute Senate Bill No. 5259 (including any later amendments or substitutes) is signed into law by the governor by July 23, 2017." [2017 c 297 § 18.] Neither Substitute House Bill No. 1388 nor Substitute Senate Bill No. 5259 was signed into law by July 23, 2017.

Findings—Intent—2017 c 297: See note following RCW 18.22.800.

71.24.593 Opioid use disorder treatment—Care of individuals and their newborns—Authority recommendations required. (1) Recognizing that treatment strategies and modalities for the treatment of individuals with opioid use disorder and their newborns continue to evolve, and that improved health outcomes are seen when birth parents and their infants are allowed to room together, the authority must provide recommendations to the office of financial management by October 1, 2019, to better support the care of individuals who have recently delivered and their newborns.

(2) These recommendations must support:

(a) Successful transition from the early postpartum and newborn period for the birth parent and infant to the next level of care;

(b) Reducing the risk of parental infant separation; and

(c) Increasing the chance of uninterrupted recovery of the parent and foster the development of positive parenting practices.

(3) The authority's recommendations must include:

(a) How these interventions could be supported in hospitals, birthing centers, or other appropriate sites of care and descriptions as to current barriers in providing these interventions;

(b) Estimates of the costs needed to support this enhanced set of services; and

(c) Mechanisms for funding the services. [2019 c 314 § 25.]

Declaration—2019 c 314: See note following RCW 18.22.810.

71.24.595 Statewide treatment and operating standards for opioid treatment programs—Evaluation and report. (1) To achieve more medication options, the authority must work with the department and the authority's medicaid managed care organizations, to eliminate barriers and promote access to effective medications known to address opioid use disorders at state-certified opioid treatment programs. Medications include, but are not limited to: Methadone, buprenorphine, and naltrexone. The authority must encourage the distribution of naloxone to patients who are at risk of an opioid overdose.

(2) The department, in consultation with opioid treatment program service providers and counties and cities, shall establish statewide treatment standards for licensed or certified opioid treatment programs. The department shall enforce these treatment standards. The treatment standards shall include, but not be limited to, reasonable provisions for all appropriate and necessary medical procedures, counseling requirements, urinalysis, and other suitable tests as needed to ensure compliance with this chapter.

(3) The department, in consultation with opioid treatment programs and counties, shall establish statewide operating standards for certified opioid treatment programs. The department shall enforce these operating standards. The operating standards shall include, but not be limited to, reasonable provisions necessary to enable the department and counties to

monitor certified or licensed opioid treatment programs for compliance with this chapter and the treatment standards authorized by this chapter and to minimize the impact of the opioid treatment programs upon the business and residential neighborhoods in which the program is located.

(4) The department shall analyze and evaluate the data submitted by each treatment program and take corrective action where necessary to ensure compliance with the goals and standards enumerated under this chapter. Opioid treatment programs are subject to the oversight required for other substance use disorder treatment programs, as described in this chapter. [2019 c 314 § 31; 2018 c 201 § 4046; 2017 c 297 § 16; 2003 c 207 § 6; 2001 c 242 § 3; 1998 c 245 § 135; 1995 c 321 § 3; 1989 c 270 § 22. Formerly RCW 70.96A.420.]

Declaration—2019 c 314: See note following RCW 18.22.810.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Contingent effective date—2017 c 297 §§ 14 and 16: See note following RCW 71.24.590.

Findings—Intent—2017 c 297: See note following RCW 18.22.800.

71.24.597 Opioid overdose reversal medication—Coordinated purchasing and distribution. By October 1, 2019, the authority must work with the department, the accountable communities of health, and community stakeholders to develop a plan for the coordinated purchasing and distribution of opioid overdose reversal medication across the state of Washington. The plan must be developed in consultation with the University of Washington's alcohol and drug abuse institute and community agencies participating in the federal demonstration grant titled Washington state project to prevent prescription drug or opioid overdose. [2019 c 314 § 32.]

Declaration—2019 c 314: See note following RCW 18.22.810.

71.24.598 Drug overdose response team. (1) The department, in coordination with the authority, must develop a strategy to rapidly deploy a response team to a local community identified as having a high number of fentanyl-related or other drug overdoses by the local emergency management system, hospital emergency department, local health jurisdiction, law enforcement agency, or surveillance data. The response team must provide technical assistance and other support to the local health jurisdiction, health care clinics, hospital emergency departments, substance use disorder treatment providers, and other community-based organizations, and are expected to increase the local capacity to provide medication-assisted treatment and overdose education.

(2) The department and the authority must reduce barriers and promote medication treatment therapies for opioid use disorder in emergency departments and same-day referrals to opioid treatment programs, substance use disorder treatment facilities, and community-based medication treatment prescribers for individuals experiencing an overdose. [2019 c 314 § 33.]

Declaration—2019 c 314: See note following RCW 18.22.810.

71.24.599 Opioid use disorder—City and county jails—Funding. (1) Subject to funds appropriated by the legislature, or approval of a section 1115 demonstration waiver from the federal centers for medicare and medicaid services, to fund opioid treatment medications for persons eligible for medicaid at or during the time of incarceration and juvenile detention facilities, the authority shall establish a methodology for distributing funds to city and county jails to provide medication for the treatment of opioid use disorder to individuals in the custody of the facility in any status. The authority must prioritize funding for the services required in (a) of this subsection. To the extent that funding is provided, city and county jails must:

(a) Provide medication for the treatment of opioid use disorder to individuals in the custody of the facility, in any status, who were receiving medication for the treatment of opioid use disorder through a legally authorized medical program or by a valid prescription immediately before incarceration; and

(b) Provide medication for the treatment of opioid use disorder to incarcerated individuals not less than thirty days before release when treatment is determined to be medically appropriate by a health care practitioner.

(2) City and county jails must make reasonable efforts to directly connect incarcerated individuals receiving medication for the treatment of opioid use disorder to an appropriate provider or treatment site in the geographic region in which the individual will reside before release. If a connection is not possible, the facility must document its efforts in the individual's record. [2019 c 314 § 34.]

Declaration—2019 c 314: See note following RCW 18.22.810.

71.24.600 Inability to contribute to cost no bar to admission—Authority may limit admissions. ***(Effective until January 1, 2020.)*** The authority shall not refuse admission for diagnosis, evaluation, guidance or treatment to any applicant because it is determined that the applicant is financially unable to contribute fully or in part to the cost of any services or facilities available under the program on alcoholism.

The authority may limit admissions of such applicants or modify its programs in order to ensure that expenditures for services or programs do not exceed amounts appropriated by the legislature and are allocated by the authority for such services or programs. The authority may establish admission priorities in the event that the number of eligible applicants exceeds the limits set by the authority. [2018 c 201 § 4047. Prior: 1989 c 271 § 308; 1959 c 85 § 15. Formerly RCW 70.96A.430, 70.96.150.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Additional notes found at www.leg.wa.gov

71.24.600 Inability to contribute to cost of services no bar to admission—Authority may limit admissions for nonmedicaid clients. ***(Effective January 1, 2020.)*** The authority shall not refuse admission for diagnosis, evaluation, guidance[,] or treatment to any applicant because it is determined that the applicant is financially unable to contribute fully or in part to the cost of any services or facilities available under the community behavioral health program.

For nonmedicaid clients, through its contracts with the behavioral health administrative services organizations, the authority may limit admissions of such applicants or modify

its programs in order to ensure that expenditures for services or programs do not exceed amounts appropriated by the legislature and are allocated by the authority for such services or programs. For nonmedicaid clients, the authority may establish admission priorities in the event that the number of eligible applicants exceeds the limits set by the authority. [2019 c 325 § 1041; 2018 c 201 § 4047. Prior: 1989 c 271 § 308; 1959 c 85 § 15. Formerly RCW 70.96A.430, 70.96.150.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Additional notes found at www.leg.wa.gov

71.24.605 Fetal alcohol screening and assessment services. The authority shall contract with the University of Washington fetal alcohol syndrome clinic to provide fetal alcohol exposure screening and assessment services. The University indirect charges shall not exceed ten percent of the total contract amount. The contract shall require the University of Washington fetal alcohol syndrome clinic to provide the following services:

(1) Training for health care staff in community-based fetal alcohol exposure clinics to ensure the accurate diagnosis of individuals with fetal alcohol exposure and the development and implementation of appropriate service referral plans;

(2) Development of written or visual educational materials for the individuals diagnosed with fetal alcohol exposure and their families or caregivers;

(3) Systematic information retrieval from each community clinic to (a) maintain diagnostic accuracy and reliability across all community clinics, (b) facilitate the development of effective and efficient screening tools for population-based identification of individuals with fetal alcohol exposure, (c) facilitate identification of the most clinically efficacious and cost-effective educational, social, vocational, and health service interventions for individuals with fetal alcohol exposure;

(4) Based on available funds, establishment of a network of community-based fetal alcohol exposure clinics across the state to meet the demand for fetal alcohol exposure diagnostic and referral services; and

(5) Preparation of an annual report for submission to the authority, the department of health, the department of social and health services, the department of corrections, and the office of the superintendent of public instruction which includes the information retrieved under subsection (3) of this section. [2018 c 201 § 4048; 1998 c 245 § 136; 1995 c 54 § 2. Formerly RCW 70.96A.500.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Findings—Purpose—1995 c 54: "The legislature finds that fetal alcohol exposure is among the leading known causes of mental retardation in the children of our state. The legislature further finds that individuals with undiagnosed fetal alcohol exposure suffer substantially from secondary disabilities such as child abuse and neglect, separation from families, multiple foster placements, depression, aggression, school failure, juvenile detention, and job instability. These secondary disabilities come at a high cost to the individuals, their family, and society. The legislature finds that these problems can be reduced substantially by early diagnosis and receipt of appropriate, effective intervention.

The purpose of this act is to support current public and private efforts directed at the early identification of and intervention into the problems associated with fetal alcohol exposure through the creation of a fetal alcohol exposure clinical network." [1995 c 54 § 1.]

71.24.610 Interagency agreement on fetal alcohol exposure programs. The authority, the department of social and health services, the department of health, the department of corrections, and the office of the superintendent of public instruction shall execute an interagency agreement to ensure the coordination of identification, prevention, and intervention programs for children who have fetal alcohol exposure, and for women who are at high risk of having children with fetal alcohol exposure.

The interagency agreement shall provide a process for community advocacy groups to participate in the review and development of identification, prevention, and intervention programs administered or contracted for by the agencies executing this agreement. [2018 c 201 § 4049; 1995 c 54 § 3. Formerly RCW 70.96A.510.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Findings—Purpose—1995 c 54: See note following RCW 71.24.605.

71.24.615 Chemical dependency treatment expenditures—Prioritization. The authority shall prioritize expenditures for treatment provided under RCW 13.40.165. The authority shall provide funds for inpatient and outpatient treatment providers that are the most successful, using the standards developed by the University of Washington under section 27, chapter 338, Laws of 1997. The authority may consider variations between the nature of the programs provided and clients served but must provide funds first for those programs that demonstrate the greatest success in treatment within categories of treatment and the nature of the persons receiving treatment. [2018 c 201 § 4050; 2003 c 207 § 7; 1997 c 338 § 28. Formerly RCW 70.96A.520.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Finding—Evaluation—Report—1997 c 338: See note following RCW 13.40.0357.

Additional notes found at www.leg.wa.gov

71.24.620 Persons with substance use disorders—Intensive case management pilot projects. ***(Effective until January 1, 2020.)*** (1) Subject to funds appropriated for this specific purpose, the director shall select and contract with behavioral health organizations to provide intensive case management for persons with substance use disorders and histories of high utilization of crisis services at two sites. In selecting the two sites, the director shall endeavor to site one in an urban county, and one in a rural county; and to site them in counties other than those selected pursuant to *RCW 70.96B.020, to the extent necessary to facilitate evaluation of pilot project results. Subject to funds appropriated for this specific purpose, the secretary may contract with additional counties to provide intensive case management.

(2) The contracted sites shall implement the pilot programs by providing intensive case management to persons with a primary substance use disorder diagnosis or dual primary substance use disorder and mental health diagnoses, through the employment of substance use disorder case managers. The substance use disorder case managers shall:

(a) Be trained in and use the integrated, comprehensive screening and assessment process adopted under RCW 71.24.630;

(b) Reduce the use of crisis medical, substance use disorder treatment and mental health services, including but not limited to emergency room admissions, hospitalizations, withdrawal management programs, inpatient psychiatric admissions, involuntary treatment petitions, emergency medical services, and ambulance services;

(c) Reduce the use of emergency first responder services including police, fire, emergency medical, and ambulance services;

(d) Reduce the number of criminal justice interventions including arrests, violations of conditions of supervision, bookings, jail days, prison sanction day for violations, court appearances, and prosecutor and defense costs;

(e) Where appropriate and available, work with therapeutic courts including drug courts and mental health courts to maximize the outcomes for the individual and reduce the likelihood of reoffense;

(f) Coordinate with local offices of the economic services administration to assist the person in accessing and remaining enrolled in those programs to which the person may be entitled;

(g) Where appropriate and available, coordinate with primary care and other programs operated through the federal government including federally qualified health centers, Indian health programs, and veterans' health programs for which the person is eligible to reduce duplication of services and conflicts in case approach;

(h) Where appropriate, advocate for the client's needs to assist the person in achieving and maintaining stability and progress toward recovery;

(i) Document the numbers of persons with co-occurring mental and substance use disorders and the point of determination of the co-occurring disorder by quadrant of intensity of need; and

(j) Where a program participant is under supervision by the department of corrections, collaborate with the department of corrections to maximize treatment outcomes and reduce the likelihood of reoffense.

(3) The pilot programs established by this section shall begin providing services by March 1, 2006. [2018 c 201 § 4051; 2016 sp.s. c 29 § 520; 2014 c 225 § 33; 2008 c 320 § 1; 2005 c 504 § 220. Formerly RCW 70.96A.800.]

***Reviser's note:** RCW 70.96B.020 was repealed by 2016 sp.s. c 29 § 301.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Effective date—2014 c 225: See note following RCW 71.24.016.

Findings—Intent—Severability—Application—Construction—Captions, part headings, subheadings not law—Adoption of rules—Effective dates—2005 c 504: See notes following RCW 71.05.027.

Additional notes found at www.leg.wa.gov

71.24.625 Uniform application of chapter—Training for behavioral health organization-designated chemical dependency specialists. ***(Effective until January 1, 2020.)*** The authority shall ensure that the provisions of this chapter are applied by the behavioral health organizations in a consistent and uniform manner. The authority shall also ensure that, to the extent possible within available funds, the behavioral health organization-designated chemical dependency specialists are specifically trained in adolescent chemical dependency issues, the chemical dependency commitment laws, and the criteria for commitment, as specified in this chapter and *chapter 70.96A RCW. [2018 c 201 § 4052; 2016 sp.s. c 29 § 521; 1992 c 205 § 306. Formerly RCW 70.96A.905.]

***Reviser's note:** Chapter 70.96A RCW was repealed and/or recodified in its entirety pursuant to 2016 sp.s. c 29 §§ 301, 601, and 701.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Additional notes found at www.leg.wa.gov

71.24.625 Uniform application of chapter—Training for designated crisis responders. ***(Effective January 1, 2020.)*** The authority shall ensure that the provisions of this chapter are applied by behavioral health administrative services organizations and managed care organizations in a consistent and uniform manner. The authority shall also ensure that, to the extent possible within available funds, the designated crisis responders are specifically trained in adolescent substance use disorder issues, the substance use disorder commitment laws, and the criteria for commitment. [2019 c 325 § 1042; 2018 c 201 § 4052; 2016 sp.s. c 29 § 521; 1992 c 205 § 306. Formerly RCW 70.96A.905.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Additional notes found at www.leg.wa.gov

71.24.630 Integrated, comprehensive screening and assessment process for substance use and mental disorders. ***(Effective until January 1, 2020.)*** (1) The authority shall maintain an integrated and comprehensive screening and assessment process for substance use and mental disorders and co-occurring substance use and mental disorders.

(a) The process adopted shall include, at a minimum:

(i) An initial screening tool that can be used by intake personnel system-wide and which will identify the most common types of co-occurring disorders;

(ii) An assessment process for those cases in which assessment is indicated that provides an appropriate degree of assessment for most situations, which can be expanded for complex situations;

(iii) Identification of triggers in the screening that indicate the need to begin an assessment;

(iv) Identification of triggers after or outside the screening that indicate a need to begin or resume an assessment;

(v) The components of an assessment process and a protocol for determining whether part or all of the assessment is necessary, and at what point; and

(vi) Emphasis that the process adopted under this section is to replace and not to duplicate existing intake, screening, and assessment tools and processes.

(b) The authority shall consider existing models, including those already adopted by other states, and to the extent possible, adopt an established, proven model.

(c) The integrated, comprehensive screening and assessment process shall be implemented statewide by all substance use disorder and mental health treatment providers as well as all designated mental health professionals, designated chemical dependency specialists, and designated crisis responders.

(2) The authority shall provide adequate training to effect statewide implementation by the dates designated in this section and shall report the rates of co-occurring disorders and the stage of screening or assessment at which the co-occurring disorder was identified to the appropriate committees of the legislature.

(3) The authority shall establish contractual penalties to contracted treatment providers, the behavioral health organizations, and their contracted providers for failure to implement the integrated screening and assessment process. [2018 c 201 § 4053; 2016 sp.s. c 29 § 513; 2014 c 225 § 77; 2005 c 504 § 601. Formerly RCW 70.96C.010.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Effective date—2014 c 225: See note following RCW 71.24.016.

Findings—Intent—Severability—Application—Construction—Captions, part headings, subheadings not law—Adoption of rules—Effective dates—2005 c 504: See notes following RCW 71.05.027.

Additional notes found at www.leg.wa.gov

71.24.630 Integrated, comprehensive screening and assessment process for substance use and mental disorders. ***(Effective January 1, 2020.)*** (1) The authority shall maintain an integrated and comprehensive screening and assessment process for substance use and mental disorders and co-occurring substance use and mental disorders.

(a) The process adopted shall include, at a minimum:

(i) An initial screening tool that can be used by intake personnel system-wide and which will identify the most common types of co-occurring disorders;

(ii) An assessment process for those cases in which assessment is indicated that provides an appropriate degree of assessment for most situations, which can be expanded for complex situations;

(iii) Identification of triggers in the screening that indicate the need to begin an assessment;

(iv) Identification of triggers after or outside the screening that indicate a need to begin or resume an assessment;

(v) The components of an assessment process and a protocol for determining whether part or all of the assessment is necessary, and at what point; and

(vi) Emphasis that the process adopted under this section is to replace and not to duplicate existing intake, screening, and assessment tools and processes.

(b) The authority shall consider existing models, including those already adopted by other states, and to the extent possible, adopt an established, proven model.

(c) The integrated, comprehensive screening and assessment process shall be implemented statewide by all substance use disorder and mental health treatment providers and designated crisis responders.

(2) The authority shall provide for adequate training to effect statewide implementation and, upon request, shall report the rates of co-occurring disorders [and] the stage of screening or assessment at which the co-occurring disorder was identified to the appropriate committees of the legislature.

(3) The authority shall establish performance-based contracts with managed care organizations and behavioral health administrative services organizations and implement the integrated screening and assessment process. [2019 c 325 § 1043; 2018 c 201 § 4053; 2016 sp.s. c 29 § 513; 2014 c 225 § 77; 2005 c 504 § 601. Formerly RCW 70.96C.010.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Effective date—2014 c 225: See note following RCW 71.24.016.

Findings—Intent—Severability—Application—Construction—Captions, part headings, subheadings not law—Adoption of rules—Effective dates—2005 c 504: See notes following RCW 71.05.027.

Additional notes found at www.leg.wa.gov

71.24.640 Standards for certification or licensure of evaluation and treatment facilities. The secretary shall license or certify evaluation and treatment facilities that meet state minimum standards. The standards for certification or licensure of evaluation and treatment facilities by the department must include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter and chapters 71.05 and 71.34 RCW, and must otherwise assure the effectuation of the purposes of these chapters. [2018 c 201 § 4054; 2016 sp.s. c 29 § 507.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.24.645 Standards for certification or licensure of crisis stabilization units. The secretary shall license or certify crisis stabilization units that meet state minimum standards. The standards for certification or licensure of crisis stabilization units by the department must include standards that:

(1) Permit location of the units at a jail facility if the unit is physically separate from the general population of the jail;

(2) Require administration of the unit by mental health professionals who direct the stabilization and rehabilitation efforts; and

(3) Provide an environment affording security appropriate with the alleged criminal behavior and necessary to protect the public safety. [2018 c 201 § 4055; 2016 sp.s. c 29 § 508.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.24.647 Standards for certification or licensure of triage facilities. The secretary shall license or certify triage facilities that meet state minimum standards. The standards for certification or licensure of triage facilities by the department must include standards related to the ability to assess and stabilize an individual or determine the need for involuntary commitment of an individual. [2018 c 201 § 4056.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

71.24.648 Standards for certification or licensure of intensive behavioral health treatment facilities. The secretary shall license or certify intensive behavioral health treatment facilities that meet state minimum standards. The secretary must establish rules working with the authority and the department of social and health services to create standards for licensure or certification of intensive behavioral health treatment facilities. The rules, at a minimum, must:

(1) Clearly define clinical eligibility criteria in alignment with how "intensive behavioral health treatment facility" is defined in RCW 71.24.025;

(2) Require twenty-four hour supervision of residents;

(3) Establish staffing requirements that provide an appropriate response to the acuity of the residents, including a clinical team and a high staff to patient ratio;

(4) Establish requirements for the ability to provide services and an appropriate level of care to individuals with intellectual or developmental disabilities. The requirements must include staffing and training;

(5) Require access to regular psychosocial rehabilitation services including, but not limited to, skills training in daily living activities, social interaction, behavior management, impulse control, and self-management of medications;

(6) Establish requirements for the ability to use limited egress;

(7) Limit services to persons at least eighteen years of age; and

(8) Establish resident rights that are substantially similar to the rights of residents in long-term care facilities. [2019 c 324 § 3.]

Findings—Intent—2019 c 324: "The legislature finds that there is a need for additional bed capacity and services for individuals with behavioral health needs. The legislature further finds that for many individuals, it is best for them to receive treatment in their communities and in smaller facilities that help them stay closer to home. The legislature further finds that the state hospitals are struggling to keep up with rising demand; there are challenges to finding appropriate placements for patients ready to discharge, and there are a shortage of appropriate facilities for individuals with complex behavioral health needs.

Therefore, the legislature intends to provide more options in the continuum of care for behavioral health clients by creating new facility types and by expanding the capacity of current provider types in the community." [2019 c 324 § 1.]

Mental health drop-in center services pilot program—2019 c 324: See note following RCW 71.24.649.

Report—2019 c 324: See note following RCW 70.38.111.

Recommendations—Residential intensive behavioral health and developmental disability services—2019 c 324: See note following RCW 74.39A.030.

71.24.649 Standards for certification or licensure of mental health peer respite centers. The secretary shall license or certify mental health peer respite centers that meet state minimum standards. In consultation with the authority and the department of social and health services, the secretary must:

(1) Establish requirements for licensed and certified community behavioral health agencies to provide mental health peer respite center services and establish physical plant and service requirements to provide voluntary, short-term, noncrisis services that focus on recovery and wellness;

(2) Require licensed and certified agencies to partner with the local crisis system including, but not limited to, evaluation and treatment facilities and designated crisis responders;

(3) Establish staffing requirements, including rules to ensure that facilities are peer-run;

(4) Limit services to a maximum of seven days in a month;

(5) Limit services to individuals who are experiencing psychiatric distress, but do not meet legal criteria for involuntary hospitalization under chapter 71.05 RCW; and

(6) Limit services to persons at least eighteen years of age. [2019 c 324 § 5.]

Mental health drop-in center services pilot program—2019 c 324: "(1) The health care authority shall establish a pilot program to provide mental health drop-in center services. The mental health drop-in center services shall provide a peer-focused recovery model during daytime hours through a community-based, therapeutic, less restrictive alternative to hospitalization for acute psychiatric needs. The program shall assist clients in need of voluntary, short-term, noncrisis services that focus on recovery and wellness. Clients may refer themselves, be brought to the center by law enforcement, be brought to the center by family members, or be referred by an emergency department.

(2) The pilot program shall be conducted in the largest city in a regional service area that has at least nine counties. Funds to support the pilot program shall be distributed through the behavioral health administrative service organization that serves the pilot program.

(3) The pilot program shall begin on January 1, 2020, and conclude July 1, 2022.

(4) By December 1, 2020, the health care authority shall submit a preliminary report to the governor and the appropriate committees of the legislature. The preliminary report shall include a survey of peer mental health programs that are operating in the state, including the location, type of services offered, and number of clients served. By December 1, 2021, the health care authority shall report to the governor and the appropriate committees of the legislature on the results of the pilot program. The report shall include information about the number of clients served, the needs of the clients, the method of referral for the clients, and recommendations on how to expand the program statewide, including any recommendations to account for different needs in urban and rural areas." [2019 c 324 § 12.]

Findings—Intent—2019 c 324: See note following RCW 71.24.648.

Report—2019 c 324: See note following RCW 70.38.111.

Recommendations—Residential intensive behavioral health and developmental disability services—2019 c 324: See note following RCW 74.39A.030.

71.24.650 Standards for certification or licensure of a clubhouse. The secretary shall license or certify clubhouses that meet state minimum standards. The standards for certification or licensure of a clubhouse by the department must at a minimum include:

(1) The facilities may be peer-operated and must be recovery-focused;

(2) Members and employees must work together;

(3) Members must have the opportunity to participate in all the work of the clubhouse, including administration, research, intake and orientation, outreach, hiring, training and evaluation of staff, public relations, advocacy, and evaluation of clubhouse effectiveness;

(4) Members and staff and ultimately the clubhouse director must be responsible for the operation of the clubhouse, central to this responsibility is the engagement of members and staff in all aspects of clubhouse operations;

(5) Clubhouse programs must be comprised of structured activities including but not limited to social skills training, vocational rehabilitation, employment training and job placement, and community resource development;

(6) Clubhouse programs must provide in-house educational programs that significantly utilize the teaching and tutoring skills of members and assist members by helping them to take advantage of adult education opportunities in the community;

(7) Clubhouse programs must focus on strengths, talents, and abilities of its members;

(8) The work-ordered day may not include medication clinics, day treatment, or other therapy programs within the clubhouse. [2018 c 201 § 4057; 2016 sp.s. c 29 § 509.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.24.660 Recovery residences—Referrals by licensed or certified service providers. Beginning January 1, 2023, a licensed or certified service provider may not refer a client who is appropriate for housing in a recovery residence, to support the client's recovery from a substance use disorder, to a recovery residence that is not included in the registry of approved recovery residences maintained by the authority under RCW 41.05.760. This section does not otherwise limit the discharge or referral options available for a person in recovery from a substance use disorder to any other appropriate placements or services. [2019 c 264 § 5.]

Findings—2019 c 264: See note following RCW 41.05.760.

71.24.700 Long-term inpatient care and mental health placements—Contracting with community hospitals and evaluation and treatment facilities. (1) The authority and the entities identified in *RCW 71.24.310 and 71.24.380 shall: (a) Work with willing community hospitals licensed under chapters 70.41 and 71.12 RCW and evaluation and treatment facilities licensed or certified under chapter 71.05 RCW to assess their capacity to become licensed or certified to provide long-term inpatient care and to meet the requirements of this chapter; and (b) enter into contracts and payment arrangements with such hospitals and evaluation and treatment facilities choosing to provide long-term mental health placements, to the extent that willing licensed or certified facilities are available.

(2) Nothing in this section requires any community hospital or evaluation and treatment facility to be licensed or certified to provide long-term mental health placements. [2019 c 324 § 6.]

***Reviser's note:** RCW 71.24.310 was repealed by 2019 c 325 § 6004, effective January 1, 2020.

Findings—Intent—2019 c 324: See note following RCW 71.24.648.

Mental health drop-in center services pilot program—2019 c 324: See note following RCW 71.24.649.

Report—2019 c 324: See note following RCW 70.38.111.

Recommendations—Residential intensive behavioral health and developmental disability services—2019 c 324: See note following RCW 74.39A.030.

71.24.805 Mental health system review—Performance audit recommendations affirmed. ***(Effective until January 1, 2020.)*** The legislature affirms its support for those recommendations of the performance audit of the public mental health system conducted by the joint legislative audit and review committee relating to: Improving the coordination of services for clients with multiple needs; improving the consistency of client, service, and fiscal data collected by the authority; replacing process-oriented accountability activities with a uniform statewide outcome measurement system; and using outcome information to identify and provide incentives for best practices in the provision of public mental health services. [2018 c 201 § 4058; 2001 c 334 § 1.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Additional notes found at www.leg.wa.gov

71.24.810 Mental health system review—Implementation of performance audit recommendations. ***(Effective until January 1, 2020.)*** The legislature supports recommendations 1 through 10 and 12 through 14 of the mental health system performance audit conducted by the joint legislative audit and review committee. The legislature expects the authority to work diligently within available funds to implement these recommendations. [2018 c 201 § 4059; 2001 c 334 § 2.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Additional notes found at www.leg.wa.gov

71.24.840 Mental health system review—Study of long-term outcomes. ***(Effective until January 1, 2020.)*** The Washington institute for public policy shall conduct a longitudinal study of long-term client outcomes to assess any changes in client status at two, five, and ten years. The measures tracked shall include client change as a result of services, employment and/or education, housing stability, criminal justice involvement, and level of services needed. The institute shall report these long-term outcomes to the appropriate policy and fiscal committee of the legislature annually beginning not later than December 31, 2005. [2001 c 334 § 5.]

Additional notes found at www.leg.wa.gov

71.24.845 Behavioral health organizations—Transfers between organizations. ***(Effective until January 1, 2020.)*** The behavioral health organizations shall jointly develop a uniform transfer agreement to govern the transfer of clients between behavioral health organizations. By Sep-

tember 1, 2013, the behavioral health organizations shall submit the uniform transfer agreement to the department. By December 1, 2013, the department shall establish guidelines to implement the uniform transfer agreement and may modify the uniform transfer agreement as necessary to avoid impacts on state administrative systems. [2014 c 225 § 46; 2013 c 230 § 1.]

Effective date—2014 c 225: See note following RCW 71.24.016.

71.24.845 Transfer of clients between behavioral health administrative services organizations—Uniform transfer agreement. ***(Effective January 1, 2020.)*** The authority, in consultation with the established behavioral health administrative services organizations, shall develop a uniform transfer agreement to govern the transfer of clients between behavioral health administrative services organizations, taking into account the needs of the regional service area. [2019 c 325 § 1044; 2014 c 225 § 46; 2013 c 230 § 1.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Effective date—2014 c 225: See note following RCW 71.24.016.

71.24.850 Regional service areas—Report—Managed care integration. (1) By December 1, 2018, the department of social and health services and the authority shall report to the governor and the legislature regarding the preparedness of each regional service area to provide mental health services, chemical dependency services, and medical care services to medicaid clients under a fully integrated managed care health system.

(2) By January 1, 2020, the community behavioral health program must be fully integrated in a managed care health system that provides mental health services, chemical dependency services, and medical care services to medicaid clients. [2018 c 201 § 4060; 2014 c 225 § 8.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

71.24.852 Intensive behavioral health treatment facilities—Resident rights and access to ombuds services—Recommendations to governor and legislature. By December 1, 2019, the secretary of health, in consultation with the department of social and health services, the department of commerce, the long-term care ombuds, and relevant stakeholders must provide recommendations to the governor and the appropriate committees of the legislature on providing resident rights and access to ombuds services to the residents of the intensive behavioral health treatment facilities. [2019 c 324 § 4.]

Findings—Intent—2019 c 324: See note following RCW 71.24.648.

Mental health drop-in center services pilot program—2019 c 324: See note following RCW 71.24.649.

Report—2019 c 324: See note following RCW 70.38.111.

Recommendations—Residential intensive behavioral health and developmental disability services—2019 c 324: See note following RCW 74.39A.030.

71.24.855 Finding—Intent—State hospitals. The legislature finds that the growing demand for state hospital beds has strained the state's capacity to meet the demand while providing for a sufficient workforce to operate the state hospitals safely. It is the intent of the legislature that the executive and legislative branches work collaboratively to maximize access to, safety of, and the therapeutic role of the state hospitals to best serve patients while ensuring the safety of patients and employees. [2016 sp.s. c 37 § 1.]

71.24.860 Task force—Integrated behavioral health services. ***(Effective until January 1, 2020.)*** (1) The department of social and health services and the authority shall convene a task force including participation by a representative cross-section of behavioral health organizations and behavioral health providers to align regulations between behavioral health and primary health care settings and simplify regulations for behavioral health providers. The alignment must support clinical integration from the standpoint of standardizing practices and culture in a manner that to the extent practicable reduces barriers to access, including reducing the paperwork burden for patients and providers. Brief integrated behavioral health services must not, in general, take longer to document than to provide. Regulations should emphasize the desired outcome rather than how they should be achieved. The task force may also make recommendations to the department of social and health services concerning subsections (2) and (3) of this section.

(2) The department of social and health services shall collaborate with the department of health, the Washington state health care authority, and other appropriate government partners to reduce unneeded costs and burdens to health plans and providers associated with excessive audits, the licensing process, and contracting. In pursuit of this goal, the department of social and health services shall consider steps such as cooperating across divisions and agencies to combine audit functions when multiple audits of an agency or site are scheduled, sharing audit information across divisions and agencies to reduce redundancy of audits, and treating organizations with multiple sites and programs as single entities instead of as multiple agencies.

(3) The department of social and health services shall review its practices under RCW 71.24.035(5)(c)(i) to determine whether its practices comply with the statutory mandate to deem accreditation by recognized behavioral health accrediting bodies as equivalent to meeting licensure requirements, comport with standard practices used by other state divisions or agencies, and properly incentivize voluntary accreditation to the highest industry standards.

(4) The task force described in subsection (1) of this section must consider means to provide notice to parents when a minor requests chemical dependency treatment, which are consistent with federal privacy laws and consistent with the best interests of the minor and the minor's family. The department of social and health services must provide a report to the relevant committees of the legislature by December 1, 2016. [2018 c 201 § 4061; 2016 sp.s. c 29 § 533.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.24.861 Behavioral health system coordination committee. ***(Effective January 1, 2020.)*** (1) The legislature finds that ongoing coordination between state agencies, the counties, and the behavioral health administrative services

organizations is necessary to coordinate the behavioral health system. To this end, the authority shall establish a committee to meet quarterly to address systemic issues.

(2) The committee established in subsection (1) of this section must be convened by the authority, meet quarterly, and include representatives from:

(a) The authority;

(b) The department of social and health services;

(c) The department;

(d) The office of the governor;

(e) One representative from the behavioral health administrative services organization per regional service area; and

(f) One county representative per regional service area. [2019 c 325 § 1047.]

Effective date—2019 c 325: See note following RCW 71.24.011.

71.24.870 Behavioral health services—Review of rules, policies, and procedures by department—Adoption of rules—Audit. ***(Effective until January 1, 2020.)*** (1) Subject to the availability of amounts appropriated for this specific purpose, the department must immediately perform a review of its rules, policies, and procedures related to the documentation requirements for behavioral health services. Rules adopted by the department relating to the provision of behavioral health services must:

(a) Identify areas in which duplicative or inefficient documentation requirements can be eliminated or streamlined for providers;

(b) Limit prescriptive requirements for individual initial assessments to allow clinicians to exercise professional judgment to conduct age-appropriate, strength-based psychosocial assessments, including current needs and relevant history according to current best practices;

(c) By April 1, 2018, provide a single set of regulations for agencies to follow that provide mental health, substance use disorder, and co-occurring treatment services;

(d) Exempt providers from duplicative state documentation requirements when the provider is following documentation requirements of an evidence-based, research-based, or state-mandated program that provides adequate protection for patient safety; and

(e) Be clear and not unduly burdensome in order to maximize the time available for the provision of care.

(2) Subject to the availability of amounts appropriated for this specific purpose, audits conducted by the department relating to provision of behavioral health services must:

(a) Rely on a sampling methodology to conduct reviews of personnel files and clinical records based on written guidelines established by the department that are consistent with the standards of other licensing and accrediting bodies;

(b) Treat organizations with multiple locations as a single entity. The department must not require annual visits at all locations operated by a single entity when a sample of records may be reviewed from a centralized location;

(c) Share audit results with behavioral health organizations to assist with their review process and, when appropriate, take steps to coordinate and combine audit activities;

(d) Coordinate audit functions between the department and the department of health to combine audit activities into a single site visit and eliminate redundancies;

(e) Not require information to be provided in particular documents or locations when the same information is included or demonstrated elsewhere in the clinical file, except where required by federal law; and

(f) Ensure that audits involving manualized programs such as wraparound with intensive services or other evidence or research-based programs are conducted to the extent practicable by personnel familiar with the program model and in a manner consistent with the documentation requirements of the program. [2017 c 207 § 2.]

Contingent effective date—2017 c 207 § 2: "Section 2 of this act takes effect only if neither Substitute House Bill No. 1388 (including any later amendments or substitutes) nor Substitute Senate Bill No. 5259 (including any later amendments or substitutes) is signed into law by the governor by July 23, 2017." [2017 c 207 § 5.] Neither Substitute House Bill No. 1388 nor Substitute Senate Bill No. 5259 was signed into law by July 23, 2017.

Findings—Intent—2017 c 207: "The legislature finds that a prioritized recommendation of the children's mental health work group, as reported in December 2016, is to reduce burdensome and duplicative paperwork requirements for providers of children's mental health services. This recommendation is consistent with the recommendations of the behavioral health workforce assessment of the workforce training and education coordinating board to reduce time-consuming documentation requirements and the behavioral and primary health regulatory alignment task force to streamline regulations and reduce the time spent responding to inefficient and excessive audits.

The legislature further finds that duplicative and overly prescriptive documentation and audit requirements negatively impact the adequacy of the provider network by reducing workforce morale and limiting the time available for patient care. Such requirements create costly barriers to the efficient provision of services for children and their families. The legislature also finds that current state regulations are often duplicative or conflicting with research-based models and other state-mandated treatment models intended to improve the quality of services and ensure positive outcomes. These barriers can be reduced while creating a greater emphasis on quality, outcomes, and safety.

The legislature further finds that social workers serving children are encumbered by burdensome paperwork requirements which can interfere with the effective delivery of services.

Therefore, the legislature intends to require the department of social and health services to take steps to reduce paperwork, documentation, and audit requirements that are inefficient or duplicative for social workers who serve children and for providers of mental health services to children and families, and to encourage the use of effective treatment models to improve the quality of services." [2017 c 207 § 1.]

71.24.870 Behavioral health services—Adoption of rules—Audit. ***(Effective January 1, 2020.)*** (1) Rules adopted by the department relating to the provision of behavioral health services must:

(a) Identify areas in which duplicative or inefficient documentation requirements can be eliminated or streamlined for providers;

(b) Limit prescriptive requirements for individual initial assessments to allow clinicians to exercise professional judgment to conduct age-appropriate, strength-based psychosocial assessments, including current needs and relevant history according to current best practices;

(c) Exempt providers from duplicative state documentation requirements when the provider is following documentation requirements of an evidence-based, research-based, or state-mandated program that provides adequate protection for patient safety; and

(d) Be clear and not unduly burdensome in order to maximize the time available for the provision of care.

(2) Subject to the availability of amounts appropriated for this specific purpose, audits conducted by the department relating to provision of behavioral health services must:

(a) Rely on a sampling methodology to conduct reviews of personnel files and clinical records based on written guidelines established by the department that are consistent with the standards of other licensing and accrediting bodies;

(b) Treat organizations with multiple locations as a single entity. The department must not require annual visits at all locations operated by a single entity when a sample of records may be reviewed from a centralized location;

(c) Share audit results with behavioral health administrative services organizations and managed care organizations to assist with their review process and, when appropriate, take steps to coordinate and combine audit activities;

(d) Not require information to be provided in particular documents or locations when the same information is included or demonstrated elsewhere in the clinical file, except where required by federal law; and

(e) Ensure that audits involving manualized programs such as wraparound with intensive services or other evidence or research-based programs are conducted to the extent practicable by personnel familiar with the program model and in a manner consistent with the documentation requirements of the program. [2019 c 325 § 1045; 2017 c 207 § 2.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Contingent effective date—2017 c 207 § 2: "Section 2 of this act takes effect only if neither Substitute House Bill No. 1388 (including any later amendments or substitutes) nor Substitute Senate Bill No. 5259 (including any later amendments or substitutes) is signed into law by the governor by July 23, 2017." [2017 c 207 § 5.] Neither Substitute House Bill No. 1388 nor Substitute Senate Bill No. 5259 was signed into law by July 23, 2017.

Findings—Intent—2017 c 207: "The legislature finds that a prioritized recommendation of the children's mental health work group, as reported in December 2016, is to reduce burdensome and duplicative paperwork requirements for providers of children's mental health services. This recommendation is consistent with the recommendations of the behavioral health workforce assessment of the workforce training and education coordinating board to reduce time-consuming documentation requirements and the behavioral and primary health regulatory alignment task force to streamline regulations and reduce the time spent responding to inefficient and excessive audits.

The legislature further finds that duplicative and overly prescriptive documentation and audit requirements negatively impact the adequacy of the provider network by reducing workforce morale and limiting the time available for patient care. Such requirements create costly barriers to the efficient provision of services for children and their families. The legislature also finds that current state regulations are often duplicative or conflicting with research-based models and other state-mandated treatment models intended to improve the quality of services and ensure positive outcomes. These barriers can be reduced while creating a greater emphasis on quality, outcomes, and safety.

The legislature further finds that social workers serving children are encumbered by burdensome paperwork requirements which can interfere with the effective delivery of services.

Therefore, the legislature intends to require the department of social and health services to take steps to reduce paperwork, documentation, and audit requirements that are inefficient or duplicative for social workers who serve children and for providers of mental health services to children and families, and to encourage the use of effective treatment models to improve the quality of services." [2017 c 207 § 1.]

71.24.872 Regulatory parity between primary care and behavioral health care settings—Initial documentation requirements for patients—Administrative burdensomeness. ***(Effective January 1, 2020.)*** (1) The legislature finds that behavioral health integration requires parity in the approach to regulation between primary care providers and behavioral health agencies.

(2) Neither the authority nor the department may provide initial documentation requirements for patients receiving care in a behavioral health agency, either in contract or rule, which are substantially more administratively burdensome to complete than initial documentation requirements in primary care settings, unless such documentation is required by federal law or to receive federal funds. [2019 c 325 § 5032.]

Effective date—2019 c 325: See note following RCW 71.24.011.

71.24.880 Interlocal leadership structure—Transition to fully integrated managed care within a regional service area. (1) The authority shall, upon the request of a county authority or authorities within a regional service area, collaborate with counties to create an interlocal leadership structure that includes participation from counties and the managed health care systems serving that regional service area. The interlocal leadership structure must include representation from physical and behavioral health care providers, tribes, and other entities serving the regional service area as necessary.

(2) The interlocal leadership structure regional organization must be chaired by the counties and jointly administered by the authority, managed health care systems, and counties. It must design and implement the fully integrated managed care model for that regional service area to assure clients are at the center of care delivery and support integrated delivery of physical and behavioral health care at the provider level.

(3) The interlocal leadership structure may address, but is not limited to addressing, the following topics:

(a) Alignment of contracting, administrative functions, and other processes to minimize administrative burden at the provider level to achieve outcomes;

(b) Monitoring implementation of fully integrated managed care in the regional service area, including design of an early warning system to monitor ongoing success to achieve better outcomes and to make adjustments to the system as necessary;

(c) Developing regional coordination processes for capital infrastructure requests, local capacity building, and other community investments;

(d) Identifying, using, and building on measures and data consistent with, but not limited to, RCW 70.320.030 and 41.05.690, for tracking and maintaining regional accountability for delivery system performance; and

(e) Discussing whether the managed health care systems awarded the contract by the authority for a regional service area should subcontract with a county-based administrative service organization or other local organization, which may include and determine, in partnership with that organization, which value-add services will best support a bidirectional system of care.

(4) To ensure an optimal transition, regional service areas that enter as mid-adopters must be allowed a transition period of up to one year during which the interlocal leadership structure develops and implements a local plan, including measurable milestones, to transition to fully integrated managed care. The transition plan may include provisions for the counties' organization to maintain existing contracts during some or all of the transition period if the managed care

design begins during 2017 to 2018, with the mid-adopter transition year occurring in 2019.

(5) Nothing in this section may be used to compel contracts between a provider, integrated managed health care system, or administrative service organization.

(6) The interlocal leadership group expires December 1, 2021, unless the interlocal leadership group decides locally to extend it. [2018 c 201 § 4062.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

71.24.902 Construction. ***(Effective until January 1, 2020.)*** Nothing in this chapter shall be construed as prohibiting the secretary of the department of social and health services from consolidating children's mental health services with other services related to children. [2018 c 201 § 4063; 1986 c 274 § 7.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Chapter 71.28 RCW
MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES SERVICES—INTERSTATE CONTRACTS

Sections

Council for children and families: Chapter 43.121 RCW.

71.28.010 Contracts by boundary counties or cities therein. Any county, or city within a county which is situated on the state boundaries is authorized to contract for mental health services with a county situated in either the states of Oregon or Idaho, located on the boundaries of such states with the state of Washington. [1988 c 176 § 911; 1977 ex.s. c 80 § 44; 1967 c 84 § 1.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Chapter 71.32 RCW
MENTAL HEALTH ADVANCE DIRECTIVES

Sections

71.32.010 Legislative declaration—Findings. (1) The legislature declares that an individual with capacity has the ability to control decisions relating to his or her own mental health care. The legislature finds that:

(a) Some mental illnesses cause individuals to fluctuate between capacity and incapacity;

(b) During periods when an individual's capacity is unclear, the individual may be unable to access needed treatment because the individual may be unable to give informed consent;

(c) Early treatment may prevent an individual from becoming so ill that involuntary treatment is necessary; and

(d) Mentally ill individuals need some method of expressing their instructions and preferences for treatment and providing advance consent to or refusal of treatment.

The legislature recognizes that a mental health advance directive can be an essential tool for an individual to express his or her choices at a time when the effects of mental illness have not deprived him or her of the power to express his or her instructions or preferences.

(2) The legislature further finds that:

(a) A mental health advance directive must provide the individual with a full range of choices;

(b) Mentally ill individuals have varying perspectives on whether they want to be able to revoke a directive during periods of incapacity;

(c) For a mental health advance directive to be an effective tool, individuals must be able to choose how they want their directives treated during periods of incapacity; and

(d) There must be clear standards so that treatment providers can readily discern an individual's treatment choices.

Consequently, the legislature affirms that, pursuant to other provisions of law, a validly executed mental health advance directive is to be respected by agents, guardians, and other surrogate decision makers, health care providers, professional persons, and health care facilities. [2003 c 283 § 1.]

71.32.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult" means any individual who has attained the age of majority or is an emancipated minor.

(2) "Agent" has the same meaning as an attorney-in-fact or agent as provided in chapter 11.125 RCW.

(3) "Capacity" means that an adult has not been found to be incapacitated pursuant to this chapter or *RCW 11.88.010(1)(e).

(4) "Court" means a superior court under chapter 2.08 RCW.

(5) "Health care facility" means a hospital, as defined in RCW 70.41.020; an institution, as defined in RCW 71.12.455; a state hospital, as defined in RCW 72.23.010; a nursing home, as defined in RCW 18.51.010; or a clinic that

is part of a community mental health service delivery system, as defined in RCW 71.24.025.

(6) "Health care provider" means an osteopathic physician or osteopathic physician's assistant licensed under chapter 18.57 or 18.57A RCW, a physician or physician's assistant licensed under chapter 18.71 or 18.71A RCW, or an advanced registered nurse practitioner licensed under RCW 18.79.050.

(7) "Incapacitated" means an adult who: (a) Is unable to understand the nature, character, and anticipated results of proposed treatment or alternatives; understand the recognized serious possible risks, complications, and anticipated benefits in treatments and alternatives, including nontreatment; or communicate his or her understanding or treatment decisions; or (b) has been found to be incompetent pursuant to *RCW 11.88.010(1)(e).

(8) "Informed consent" means consent that is given after the person: (a) Is provided with a description of the nature, character, and anticipated results of proposed treatments and alternatives, and the recognized serious possible risks, complications, and anticipated benefits in the treatments and alternatives, including nontreatment, in language that the person can reasonably be expected to understand; or (b) elects not to be given the information included in (a) of this subsection.

(9) "Long-term care facility" has the same meaning as defined in RCW 43.190.020.

(10) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions.

(11) "Mental health advance directive" or "directive" means a written document in which the principal makes a declaration of instructions or preferences or appoints an agent to make decisions on behalf of the principal regarding the principal's mental health treatment, or both, and that is consistent with the provisions of this chapter.

(12) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(13) "Principal" means an adult who has executed a mental health advance directive.

(14) "Professional person" means a mental health professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(15) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010. [2016 c 209 § 407; 2011 c 89 § 15; 2003 c 283 § 2.]

***Reviser's note:** Chapter 11.88 RCW was repealed in its entirety by 2019 c 437 § 801, effective January 1, 2021.

Short title—Application—Uniformity—Federal law application—Federal electronic signatures in global and national commerce act—Application—Dates—Effective date—2016 c 209: See RCW 11.125.010 and 11.125.900 through 11.125.903.

Effective date—2011 c 89: See note following RCW 18.320.005.

Findings—2011 c 89: See RCW 18.320.005.

71.32.030 Construction of definitions. (1) The definition of informed consent is to be construed to be consistent with that term as it is used in chapter 7.70 RCW.

(2) The definitions of mental disorder, mental health professional, and professional person are to be construed to be consistent with those terms as they are defined in RCW 71.05.020. [2003 c 283 § 3.]

71.32.040 Adult presumed to have capacity. For the purposes of this chapter, an adult is presumed to have capacity. [2003 c 283 § 4.]

71.32.050 Execution of directive—Scope. (1) An adult with capacity may execute a mental health advance directive.

(2) A directive executed in accordance with this chapter is presumed to be valid. The inability to honor one or more provisions of a directive does not affect the validity of the remaining provisions.

(3) A directive may include any provision relating to mental health treatment or the care of the principal or the principal's personal affairs. Without limitation, a directive may include:

(a) The principal's preferences and instructions for mental health treatment;

(b) Consent to specific types of mental health treatment;

(c) Refusal to consent to specific types of mental health treatment;

(d) Consent to admission to and retention in a facility for mental health treatment for up to fourteen days;

(e) Descriptions of situations that may cause the principal to experience a mental health crisis;

(f) Suggested alternative responses that may supplement or be in lieu of direct mental health treatment, such as treatment approaches from other providers;

(g) Appointment of an agent pursuant to chapter 11.125 RCW to make mental health treatment decisions on the principal's behalf, including authorizing the agent to provide consent on the principal's behalf to voluntary admission to inpatient mental health treatment; and

(h) The principal's nomination of a guardian or limited guardian as provided in RCW 11.125.080 for consideration by the court if guardianship proceedings are commenced.

(4) A directive may be combined with or be independent of a nomination of a guardian or other durable power of attorney under chapter 11.125 RCW, so long as the processes for each are executed in accordance with its own statutes. [2016 c 209 § 408; 2003 c 283 § 5.]

Short title—Application—Uniformity—Federal law application—Federal electronic signatures in global and national commerce act—Application—Dates—Effective date—2016 c 209: See RCW 11.125.010 and 11.125.900 through 11.125.903.

71.32.060 Execution of directive—Elements—Effective date—Expiration. (1) A directive shall:

(a) Be in writing;

(b) Contain language that clearly indicates that the principal intends to create a directive;

(c) Be dated and signed by the principal or at the principal's direction in the principal's presence if the principal is unable to sign;

(d) Designate whether the principal wishes to be able to revoke the directive during any period of incapacity or wishes to be unable to revoke the directive during any period of incapacity; and

(e) Be witnessed in writing by at least two adults, each of whom shall declare that he or she personally knows the principal, was present when the principal dated and signed the directive, and that the principal did not appear to be incapacitated or acting under fraud, undue influence, or duress.

(2) A directive that includes the appointment of an agent pursuant to a power of attorney under chapter 11.125 RCW shall contain the words "This power of attorney shall not be affected by the incapacity of the principal," or "This power of attorney shall become effective upon the incapacity of the principal," or similar words showing the principal's intent that the authority conferred shall be exercisable notwithstanding the principal's incapacity.

(3) A directive is valid upon execution, but all or part of the directive may take effect at a later time as designated by the principal in the directive.

(4) A directive may:

(a) Be revoked, in whole or in part, pursuant to the provisions of RCW 71.32.080; or

(b) Expire under its own terms. [2016 c 209 § 409; 2003 c 283 § 6.]

Short title—Application—Uniformity—Federal law application—Federal electronic signatures in global and national commerce act—Application—Dates—Effective date—2016 c 209: See RCW 11.125.010 and 11.125.900 through 11.125.903.

71.32.070 Prohibited elements. A directive may not:

(1) Create an entitlement to mental health or medical treatment or supersede a determination of medical necessity;

(2) Obligate any health care provider, professional person, or health care facility to pay the costs associated with the treatment requested;

(3) Obligate any health care provider, professional person, or health care facility to be responsible for the nontreatment personal care of the principal or the principal's personal affairs outside the scope of services the facility normally provides;

(4) Replace or supersede the provisions of any will or testamentary document or supersede the provisions of intestate succession;

(5) Be revoked by an incapacitated principal unless that principal selected the option to permit revocation while incapacitated at the time his or her directive was executed; or

(6) Be used as the authority for inpatient admission for more than fourteen days in any twenty-one day period. [2003 c 283 § 7.]

71.32.080 Revocation—Waiver. (1)(a) A principal with capacity may, by written statement by the principal or at the principal's direction in the principal's presence, revoke a directive in whole or in part.

(b) An incapacitated principal may revoke a directive only if he or she elected at the time of executing the directive to be able to revoke when incapacitated.

(2) The revocation need not follow any specific form so long as it is written and the intent of the principal can be discerned. In the case of a directive that is stored in the health care declarations registry created by RCW 70.122.130, the revocation may be by an online method established by the department of health. Failure to use the online method of revocation for a directive that is stored in the registry does not invalidate a revocation that is made by another method described under this section.

(3) The principal shall provide a copy of his or her written statement of revocation to his or her agent, if any, and to each health care provider, professional person, or health care facility that received a copy of the directive from the principal.

(4) The written statement of revocation is effective:

(a) As to a health care provider, professional person, or health care facility, upon receipt. The professional person, health care provider, or health care facility, or persons acting under their direction shall make the statement of revocation part of the principal's medical record; and

(b) As to the principal's agent, upon receipt. The principal's agent shall notify the principal's health care provider, professional person, or health care facility of the revocation and provide them with a copy of the written statement of revocation.

(5) A directive also may:

(a) Be revoked, in whole or in part, expressly or to the extent of any inconsistency, by a subsequent directive; or

(b) Be superseded or revoked by a court order, including any order entered in a criminal matter. A directive may be superseded by a court order regardless of whether the order contains an explicit reference to the directive. To the extent a directive is not in conflict with a court order, the directive remains effective, subject to the provisions of RCW 71.32.150. A directive shall not be interpreted in a manner that interferes with: (i) Incarceration or detention by the department of corrections, in a city or county jail, or by the department of social and health services; or (ii) treatment of a principal who is subject to involuntary treatment pursuant to chapter 10.77, 71.05, 71.09, or 71.34 RCW.

(6) A directive that would have otherwise expired but is effective because the principal is incapacitated remains effective until the principal is no longer incapacitated unless the principal has elected to be able to revoke while incapacitated and has revoked the directive.

(7) When a principal with capacity consents to treatment that differs from, or refuses treatment consented to in, the provisions of his or her directive, the consent or refusal constitutes a waiver of that provision and does not constitute a revocation of the provision or directive unless the principal also revokes the directive or provision. [2016 sp.s. c 29 § 423; 2006 c 108 § 5; 2003 c 283 § 8.]

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Finding—Intent—2006 c 108: See note following RCW 70.122.130.

71.32.090 Witnesses. A witness may not be any of the following:

(1) A person designated to make health care decisions on the principal's behalf;

(2) A health care provider or professional person directly involved with the provision of care to the principal at the time the directive is executed;

(3) An owner, operator, employee, or relative of an owner or operator of a health care facility or long-term care facility in which the principal is a patient or resident;

(4) A person who is related by blood, marriage, or adoption to the person or with whom the principal has a dating relationship, as defined in RCW 26.50.010;

(5) A person who is declared to be an incapacitated person; or

(6) A person who would benefit financially if the principal making the directive undergoes mental health treatment. [2003 c 283 § 9.]

71.32.100 Appointment of agent. (1) If a directive authorizes the appointment of an agent, the provisions of chapter 11.125 RCW and RCW 7.70.065 shall apply unless otherwise stated in this chapter.

(2) The principal who appoints an agent must notify the agent in writing of the appointment.

(3) An agent must act in good faith.

(4) An agent may make decisions on behalf of the principal. Unless the principal has revoked the directive, the decisions must be consistent with the instructions and preferences the principal has expressed in the directive, or if not expressed, as otherwise known to the agent. If the principal's instructions or preferences are not known, the agent shall make a decision he or she determines is in the best interest of the principal.

(5) Except to the extent the right is limited by the appointment or any federal or state law, the agent has the same right as the principal to receive, review, and authorize the use and disclosure of the principal's health care information when the agent is acting on behalf of the principal and to the extent required for the agent to carry out his or her duties. This subsection shall be construed to be consistent with chapters 70.02, 70.24, *70.96A, 71.05, and 71.34 RCW, and with federal law regarding health care information.

(6) Unless otherwise provided in the appointment and agreed to in writing by the agent, the agent is not, as a result of acting in the capacity of agent, personally liable for the cost of treatment provided to the principal.

(7) An agent may resign or withdraw at any time by giving written notice to the principal. The agent must also give written notice to any health care provider, professional person, or health care facility providing treatment to the principal. The resignation or withdrawal is effective upon receipt unless otherwise specified in the resignation or withdrawal.

(8) If the directive gives the agent authority to act while the principal has capacity, the decisions of the principal supersede those of the agent at any time the principal has capacity.

(9) Unless otherwise provided in the durable power of attorney, the principal may revoke the agent's appointment as provided under other state law. [2016 c 209 § 410; 2003 c 283 § 10.]

***Reviser's note:** Chapter 70.96A RCW was repealed and/or recodified in its entirety pursuant to 2016 sp.s. c 29 §§ 301, 601, and 701.

Short title—Application—Uniformity—Federal law application—Federal electronic signatures in global and national commerce act—Application—Dates—Effective date—2016 c 209: See RCW 11.125.010 and 11.125.900 through 11.125.903.

71.32.110 Determination of capacity. (1) For the purposes of this chapter, a principal, agent, professional person, or health care provider may seek a determination whether the principal is incapacitated or has regained capacity.

(2)(a) For the purposes of this chapter, no adult may be declared an incapacitated person except by:

(i) A court, if the request is made by the principal or the principal's agent;

(ii) One mental health professional and one health care provider; or

(iii) Two health care providers.

(b) One of the persons making the determination under (a)(ii) or (iii) of this subsection must be a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, or a psychiatric advanced registered nurse practitioner.

(3) When a professional person or health care provider requests a capacity determination, he or she shall promptly inform the principal that:

(a) A request for capacity determination has been made; and

(b) The principal may request that the determination be made by a court.

(4) At least one mental health professional or health care provider must personally examine the principal prior to making a capacity determination.

(5)(a) When a court makes a determination whether a principal has capacity, the court shall, at a minimum, be informed by the testimony of one mental health professional familiar with the principal and shall, except for good cause, give the principal an opportunity to appear in court prior to the court making its determination.

(b) To the extent that local court rules permit, any party or witness may testify telephonically.

(6) When a court has made a determination regarding a principal's capacity and there is a subsequent change in the principal's condition, subsequent determinations whether the principal is incapacitated may be made in accordance with any of the provisions of subsection (2) of this section. [2016 c 155 § 13; 2003 c 283 § 11.]

71.32.120 Action to contest directive. A principal may bring an action to contest the validity of his or her directive. If an action under this section is commenced while an action to determine the principal's capacity is pending, the court shall consolidate the actions and decide the issues simultaneously. [2003 c 283 § 12.]

71.32.130 Determination of capacity—Reevaluations of capacity. (1) An initial determination of capacity must be completed within forty-eight hours of a request made by a person authorized in RCW 71.32.110. During the period between the request for an initial determination of the principal's capacity and completion of that determination, the principal may not be treated unless he or she consents at the time or treatment is otherwise authorized by state or federal law.

(2)(a)(i) When an incapacitated principal is admitted to inpatient treatment pursuant to the provisions of his or her directive, his or her capacity must be reevaluated within seventy-two hours or when there has been a change in the princi-

pal's condition that indicates that he or she appears to have regained capacity, whichever occurs first.

(ii) When an incapacitated principal has been admitted to and remains in inpatient treatment for more than seventy-two hours pursuant to the provisions of his or her directive, the principal's capacity must be reevaluated when there has been a change in his or her condition that indicates that he or she appears to have regained capacity.

(iii) When a principal who is being treated on an inpatient basis and has been determined to be incapacitated requests, or his or her agent requests, a redetermination of the principal's capacity the redetermination must be made within seventy-two hours.

(b) When a principal who has been determined to be incapacitated is being treated on an outpatient basis and there is a request for a redetermination of his or her capacity, the redetermination must be made within five days of the first request following a determination.

(3)(a) When a principal who has appointed an agent for mental health treatment decisions requests a determination or redetermination of capacity, the agent must make reasonable efforts to obtain the determination or redetermination.

(b) When a principal who does not have an agent for mental health treatment decisions is being treated in an inpatient facility and requests a determination or redetermination of capacity, the mental health professional or health care provider must complete the determination or, if the principal is seeking a determination from a court, must make reasonable efforts to notify the person authorized to make decisions for the principal under RCW 7.70.065 of the principal's request.

(c) When a principal who does not have an agent for mental health treatment decisions is being treated on an outpatient basis, the person requesting a capacity determination must arrange for the determination.

(4) If no determination has been made within the time frames established in subsection (1) or (2) of this section, the principal shall be considered to have capacity.

(5) When an incapacitated principal is being treated pursuant to his or her directive, a request for a redetermination of capacity does not prevent treatment. [2003 c 283 § 13.]

71.32.140 Refusal of admission to inpatient treatment—Effect of directive. (1) A principal who:

(a) Chose not to be able to revoke his or her directive during any period of incapacity;

(b) Consented to voluntary admission to inpatient mental health treatment, or authorized an agent to consent on the principal's behalf; and

(c) At the time of admission to inpatient treatment, refuses to be admitted,

may only be admitted into inpatient mental health treatment under subsection (2) of this section.

(2) A principal may only be admitted to inpatient mental health treatment under his or her directive if, prior to admission, a member of the treating facility's professional staff who is a physician, physician assistant, or psychiatric advanced registered nurse practitioner:

(a) Evaluates the principal's mental condition, including a review of reasonably available psychiatric and psychological history, diagnosis, and treatment needs, and determines, in conjunction with another health care provider or mental health professional, that the principal is incapacitated;

(b) Obtains the informed consent of the agent, if any, designated in the directive;

(c) Makes a written determination that the principal needs an inpatient evaluation or is in need of inpatient treatment and that the evaluation or treatment cannot be accomplished in a less restrictive setting; and

(d) Documents in the principal's medical record a summary of the physician's, physician assistant's, or psychiatric advanced registered nurse practitioner's findings and recommendations for treatment or evaluation.

(3) In the event the admitting physician is not a psychiatrist, the admitting physician assistant is not supervised by a psychiatrist, or the advanced registered nurse practitioner is not a psychiatric advanced registered nurse practitioner, the principal shall receive a complete psychological assessment by a mental health professional within twenty-four hours of admission to determine the continued need for inpatient evaluation or treatment.

(4)(a) If it is determined that the principal has capacity, then the principal may only be admitted to, or remain in, inpatient treatment if he or she consents at the time or is detained under the involuntary treatment provisions of chapter 71.05 or 71.34 RCW.

(b) If a principal who is determined by two health care providers or one mental health professional and one health care provider to be incapacitated continues to refuse inpatient treatment, the principal may immediately seek injunctive relief for release from the facility.

(5) If, at the end of the period of time that the principal or the principal's agent, if any, has consented to voluntary inpatient treatment, but no more than fourteen days after admission, the principal has not regained capacity or has regained capacity but refuses to consent to remain for additional treatment, the principal must be released during reasonable daylight hours, unless detained under chapter 71.05 or 71.34 RCW.

(6)(a) Except as provided in (b) of this subsection, any principal who is voluntarily admitted to inpatient mental health treatment under this chapter shall have all the rights provided to individuals who are voluntarily admitted to inpatient treatment under chapter 71.05, 71.34, or 72.23 RCW.

(b) Notwithstanding RCW 71.05.050 regarding consent to inpatient treatment for a specified length of time, the choices an incapacitated principal expressed in his or her directive shall control, provided, however, that a principal who takes action demonstrating a desire to be discharged, in addition to making statements requesting to be discharged, shall be discharged, and no principal shall be restrained in any way in order to prevent his or her discharge. Nothing in this subsection shall be construed to prevent detention and evaluation for civil commitment under chapter 71.05 RCW.

(7) Consent to inpatient admission in a directive is effective only while the professional person, health care provider, and health care facility are in substantial compliance with the material provisions of the directive related to inpatient treatment. [2016 sp.s. c 29 § 424; 2016 c 155 § 14; 2009 c 217 § 12; 2004 c 39 § 2; 2003 c 283 § 14.]

Reviser's note: This section was amended by 2016 c 155 § 14 and by 2016 sp.s. c 29 § 424, each without reference to the other. Both amendments

are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Finding—Intent—2004 c 39: "Questions have been raised about the intent of the legislature in cross-referencing RCW 71.05.050 without further clarification in RCW 71.32.140. The legislature finds that because RCW 71.05.050 pertains to a variety of rights as well as the procedures for detaining a voluntary patient for evaluation for civil commitment, and the legislature intended only to address the right of release upon request, there is ambiguity as to whether an incapacitated person admitted pursuant to his or her mental health advance directive and seeking release can be held for evaluation for civil commitment under chapter 71.05 RCW. The legislature therefore intends to clarify the ambiguity without making any change to its intended policy as laid out in chapter 71.32 RCW." [2004 c 39 § 1.]

71.32.150 Compliance with directive—Conditions for noncompliance. (1) Upon receiving a directive, a health care provider, professional person, or health care facility providing treatment to the principal, or persons acting under the direction of the health care provider, professional person, or health care facility, shall make the directive a part of the principal's medical record and shall be deemed to have actual knowledge of the directive's contents.

(2) When acting under authority of a directive, a health care provider, professional person, or health care facility shall act in accordance with the provisions of the directive to the fullest extent possible, unless in the determination of the health care provider, professional person, or health care facility:

(a) Compliance with the provision would violate the accepted standard of care established in RCW 7.70.040;

(b) The requested treatment is not available;

(c) Compliance with the provision would violate applicable law; or

(d) It is an emergency situation and compliance would endanger any person's life or health.

(3)(a) In the case of a principal committed or detained under the involuntary treatment provisions of chapter 10.77, 71.05, 71.09, or 71.34 RCW, those provisions of a principal's directive that, in the determination of the health care provider, professional person, or health care facility, are inconsistent with the purpose of the commitment or with any order of the court relating to the commitment are invalid during the commitment.

(b) Remaining provisions of a principal's directive are advisory while the principal is committed or detained.

The treatment provider is encouraged to follow the remaining provisions of the directive, except as provided in (a) of this subsection or subsection (2) of this section.

(4) In the case of a principal who is incarcerated or committed in a state or local correctional facility, provisions of the principal's directive that are inconsistent with reasonable penological objectives or administrative hearings regarding involuntary medication are invalid during the period of incarceration or commitment. In addition, treatment may be given despite refusal of the principal or the provisions of the directive: (a) For any reason under subsection (2) of this section; or (b) if, without the benefit of the specific treatment measure, there is a significant possibility that the person will harm self or others before an improvement of the person's condition occurs.

(5)(a) If the health care provider, professional person, or health care facility is, at the time of receiving the directive, unable or unwilling to comply with any part or parts of the directive for any reason, the health care provider, professional person, or health care facility shall promptly notify the principal and, if applicable, his or her agent and shall document the reason in the principal's medical record.

(b) If the health care provider, professional person, or health care facility is acting under authority of a directive and is unable to comply with any part or parts of the directive for the reasons listed in subsection (2) or (3) of this section, the health care provider, professional person, or health care facility shall promptly notify the principal and if applicable, his or her agent, and shall document the reason in the principal's medical record.

(6) In the event that one or more parts of the directive are not followed because of one or more of the reasons set forth in subsection (2) or (4) of this section, all other parts of the directive shall be followed.

(7) If no provider-patient relationship has previously been established, nothing in this chapter requires the establishment of a provider-patient relationship. [2016 sp.s. c 29 § 425; 2003 c 283 § 15.]

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.32.160 Electroconvulsive therapy. Where a principal consents in a directive to electroconvulsive therapy, the health care provider, professional person, or health care facility, or persons acting under the direction of the health care provider, professional person, or health care facility, shall document the therapy and the reason it was used in the principal's medical record. [2003 c 283 § 16.]

71.32.170 Providers—Immunity from liability—Conditions. (1) For the purposes of this section, "provider" means a private or public agency, government entity, health care provider, professional person, health care facility, or person acting under the direction of a health care provider or professional person, health care facility, or long-term care facility.

(2) A provider is not subject to civil liability or sanctions for unprofessional conduct under the uniform disciplinary act, chapter 18.130 RCW, when in good faith and without negligence:

(a) The provider provides treatment to a principal in the absence of actual knowledge of the existence of a directive, or provides treatment pursuant to a directive in the absence of actual knowledge of the revocation of the directive;

(b) A health care provider or mental health professional determines that the principal is or is not incapacitated for the purpose of deciding whether to proceed according to a directive, and acts upon that determination;

(c) The provider administers or does not administer mental health treatment according to the principal's directive in good faith reliance upon the validity of the directive and the directive is subsequently found to be invalid;

(d) The provider does not provide treatment according to the directive for one of the reasons authorized under RCW 71.32.150; or

(e) The provider provides treatment according to the principal's directive. [2003 c 283 § 17.]

71.32.180 Multiple directives, agents—Effect—Disclosure of court orders. (1) Where an incapacitated principal has executed more than one valid directive and has not revoked any of the directives:

(a) The directive most recently created shall be treated as the principal's mental health treatment preferences and instructions as to any inconsistent or conflicting provisions, unless provided otherwise in either document.

(b) Where a directive executed under this chapter is inconsistent with a directive executed under any other chapter, the most recently created directive controls as to the inconsistent provisions.

(2) Where an incapacitated principal has appointed more than one agent under chapter 11.125 RCW with authority to make mental health treatment decisions, RCW 11.125.400 controls.

(3) The treatment provider shall inquire of a principal whether the principal is subject to any court orders that would affect the implementation of his or her directive. [2016 c 209 § 411; 2003 c 283 § 18.]

Short title—Application—Uniformity—Federal law application—Federal electronic signatures in global and national commerce act—Application—Dates—Effective date—2016 c 209: See RCW 11.125.010 and 11.125.900 through 11.125.903.

71.32.190 Preexisting, foreign directives—Validity. (1) Directives validly executed before July 27, 2003, shall be given full force and effect until revoked, superseded, or expired.

(2) A directive validly executed in another political jurisdiction is valid to the extent permitted by Washington state law. [2003 c 283 § 19.]

71.32.200 Fraud, duress, undue influence—Appointment of guardian. Any person with reasonable cause to believe that a directive has been created or revoked under circumstances amounting to fraud, duress, or undue influence may petition the court for appointment of a guardian for the person or to review the actions of the agent or person alleged to be involved in improper conduct under RCW 11.125.160 or 74.34.110. [2016 c 209 § 412; 2003 c 283 § 20.]

Short title—Application—Uniformity—Federal law application—Federal electronic signatures in global and national commerce act—Application—Dates—Effective date—2016 c 209: See RCW 11.125.010 and 11.125.900 through 11.125.903.

71.32.210 Execution of directive not evidence of mental disorder or lack of capacity. The fact that a person has executed a directive does not constitute an indication of mental disorder or that the person is not capable of providing informed consent. [2003 c 283 § 21.]

71.32.220 Requiring directive prohibited. A person shall not be required to execute or to refrain from executing a directive, nor shall the existence of a directive be used as a criterion for insurance, as a condition for receiving mental or physical health services, or as a condition of admission to or discharge from a health care facility or long-term care facility. [2003 c 283 § 22.]

71.32.230 Coercion, threats prohibited. No person or health care facility may use or threaten abuse, neglect, financial exploitation, or abandonment of the principal, as those terms are defined in RCW 74.34.020, to carry out the directive. [2003 c 283 § 23.]

71.32.240 Other authority not limited. A directive does not limit any authority otherwise provided in Title 10, 70, or 71 RCW, or any other applicable state or federal laws to detain a person, take a person into custody, or to admit, retain, or treat a person in a health care facility. [2003 c 283 § 24.]

71.32.250 Long-term care facility residents—Readmission after inpatient mental health treatment—Evaluation, report to legislature. (1) If a principal who is a resident of a long-term care facility is admitted to inpatient mental health treatment pursuant to his or her directive, the principal shall be allowed to be readmitted to the same long-term care facility as if his or her inpatient admission had been for a physical condition on the same basis that the principal would be readmitted under state or federal statute or rule when:

(a) The treating facility's professional staff determine that inpatient mental health treatment is no longer medically necessary for the resident. The determination shall be made in writing by a psychiatrist, physician assistant working with a supervising psychiatrist, or a psychiatric advanced registered nurse practitioner, or (i) one physician and a mental health professional; (ii) one physician assistant and a mental health professional; or (iii) one psychiatric advanced registered nurse practitioner and a mental health professional; or

(b) The person's consent to admission in his or her directive has expired.

(2)(a) If the long-term care facility does not have a bed available at the time of discharge, the treating facility may discharge the resident, in consultation with the resident and agent if any, and in accordance with a medically appropriate discharge plan, to another long-term care facility.

(b) This section shall apply to inpatient mental health treatment admission of long-term care facility residents, regardless of whether the admission is directly from a facility, hospital emergency room, or other location.

(c) This section does not restrict the right of the resident to an earlier release from the inpatient treatment facility. This section does not restrict the right of a long-term care facility to initiate transfer or discharge of a resident who is readmitted pursuant to this section, provided that the facility has complied with the laws governing the transfer or discharge of a resident.

(3) The joint legislative audit and review committee shall conduct an evaluation of the operation and impact of this section. The committee shall report its findings to the appropriate committees of the legislature by December 1, 2004. [2016 c 155 § 15; 2009 c 217 § 13; 2003 c 283 § 25.]

71.32.260 Form. The directive shall be in substantially the following form:

Mental Health Advance Directive

NOTICE TO PERSONS
CREATING A MENTAL HEALTH ADVANCE DIRECTIVE

This is an important legal document. It creates an advance directive for mental health treatment. Before signing this document you should know these important facts:

(1) This document is called an advance directive and allows you to make decisions in advance about your mental health treatment, including medications, short-term admission to inpatient treatment and electroconvulsive therapy.

YOU DO NOT HAVE TO FILL OUT OR SIGN THIS FORM.
IF YOU DO NOT SIGN THIS FORM, IT WILL NOT TAKE EFFECT.

If you choose to complete and sign this document, you may still decide to leave some items blank.

(2) You have the right to appoint a person as your agent to make treatment decisions for you. You must notify your agent that you have appointed him or her as an agent. The person you appoint has a duty to act consistently with your wishes made known by you. If your agent does not know what your wishes are, he or she has a duty to act in your best interest. Your agent has the right to withdraw from the appointment at any time.

(3) The instructions you include with this advance directive and the authority you give your agent to act will only become effective under the conditions you select in this document. You may choose to limit this directive and your agent's authority to times when you are incapacitated or to times when you are exhibiting symptoms or behavior that you specify. You may also make this directive effective immediately. No matter when you choose to make this directive effective, your treatment providers must still seek your informed consent at all times that you have capacity to give informed consent.

(4) You have the right to revoke this document in writing at any time you have capacity.

YOU MAY NOT REVOKE THIS DIRECTIVE WHEN YOU HAVE BEEN FOUND TO BE INCAPACITATED UNLESS YOU HAVE SPECIFICALLY STATED IN THIS DIRECTIVE THAT YOU WANT IT TO BE REVOCABLE WHEN YOU ARE INCAPACITATED.

(5) This directive will stay in effect until you revoke it unless you specify an expiration date. If you specify an expiration date and you are incapacitated at the time it expires, it will remain in effect until you have capacity to make treatment decisions again unless you chose to be able to revoke it while you are incapacitated and you revoke the directive.

(6) You cannot use your advance directive to consent to civil commitment. The procedures that apply to your advance directive are different than those provided for in the Involuntary Treatment Act. Involuntary treatment is a different process.

(7) If there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.

(8) You should be aware that there are some circumstances where your provider may not have to follow your directive.

(9) You should discuss any treatment decisions in your directive with your provider.

(10) You may ask the court to rule on the validity of your directive.

PART I.
STATEMENT OF INTENT TO CREATE A
MENTAL HEALTH ADVANCE DIRECTIVE

I, ... being a person with capacity, willfully and voluntarily execute this mental health advance directive so that my choices regarding my mental health care will be carried out in circumstances when I am unable to express my instructions and preferences regarding my mental health care. If a guardian is appointed by a court to make mental health decisions for me, I intend this document to take precedence over all other means of ascertaining my intent.

The fact that I may have left blanks in this directive does not affect its validity in any way. I intend that all completed sections be followed. If I have not expressed a choice, my agent should make the decision that he or she determines is in my best interest. I intend this directive to take precedence over any other directives I have previously executed, to the extent that they are inconsistent with this document, or unless I expressly state otherwise in either document.

I understand that I may revoke this directive in whole or in part if I am a person with capacity. I understand that I cannot revoke this directive if a court, two health care providers, or one mental health professional and one health care provider find that I am an incapacitated person, unless, when I executed this directive, I chose to be able to revoke this directive while incapacitated.

I understand that, except as otherwise provided in law, revocation must be in writing. I understand that nothing in this directive, or in my refusal of treatment to which I consent in this directive, authorizes any health care provider, professional person, health care facility, or agent appointed in this directive to use or threaten to use abuse, neglect, financial exploitation, or abandonment to carry out my directive.

I understand that there are some circumstances where my provider may not have to follow my directive.

PART II.
WHEN THIS DIRECTIVE IS EFFECTIVE

YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.

I intend that this directive become effective (*YOU MUST CHOOSE ONLY ONE*):

. . . . . . Immediately upon my signing of this directive.

. . . . . . If I become incapacitated.

. . . . . . When the following circumstances, symptoms, or behaviors occur: . . . . . .

PART III.
DURATION OF THIS DIRECTIVE

YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.

I want this directive to (*YOU MUST CHOOSE ONLY ONE*):

. . . . . . Remain valid and in effect for an indefinite period of time.

. . . . . . Automatically expire . . . . . . years from the date it was created.

PART IV.
WHEN I MAY REVOKE THIS DIRECTIVE

YOU MUST COMPLETE THIS PART FOR THIS DIRECTIVE TO BE VALID.

I intend that I be able to revoke this directive (*YOU MUST CHOOSE ONLY ONE*):

. . . . . . Only when I have capacity.
I understand that choosing this option means I may only revoke this directive if I have capacity. I further understand that if I choose this option and become incapacitated while this directive is in effect, I may receive treatment that I specify in this directive, even if I object at the time.

. . . . . . Even if I am incapacitated.
I understand that choosing this option means that I may revoke this directive even if I am incapacitated. I further understand that if I choose this option and revoke this directive while I am incapacitated I may not receive treatment that I specify in this directive, even if I want the treatment.

PART V.
PREFERENCES AND INSTRUCTIONS ABOUT TREATMENT, FACILITIES, AND PHYSICIANS [, PHYSICIAN ASSISTANTS,] OR PSYCHIATRIC ADVANCED REGISTERED NURSE PRACTITIONERS

A. Preferences and Instructions About Physician(s), Physician Assistant(s), or Psychiatric Advanced Registered Nurse Practitioner(s) to be Involved in My Treatment

I would like the physician(s), physician assistant(s), or psychiatric advanced registered nurse practitioner(s) named below to be involved in my treatment decisions:

Dr., PA-C, or PARNP . . . . . Contact information: . . . . . .
Dr., PA-C, or PARNP . . . . . Contact information: . . . . . .

I do not wish to be treated by Dr. or PARNP . . . . . .

B. Preferences and Instructions About Other Providers

I am receiving other treatment or care from providers who I feel have an impact on my mental health care. I would like the following treatment provider(s) to be contacted when this directive is effective:

Name . . . . . Profession . . . . . Contact information . . . . . .

Name . . . . . Profession . . . . . Contact information . . . . . .

C. Preferences and Instructions About Medications for Psychiatric Treatment (*initial and complete all that apply*)

. . . . . . I consent, and authorize my agent (if appointed) to consent, to the following medications: . . . . . .

. . . . . . I do not consent, and I do not authorize my agent (if appointed) to consent, to the administration of the following medications:. . . . . .

. . . . . . I am willing to take the medications excluded above if my only reason for excluding them is the side effects which include. . . . . .
and these side effects can be eliminated by dosage adjustment or other means

. . . . . I am willing to try any other medication the hospital doctor, physician assistant, or psychiatric advanced registered nurse practitioner recommends

. . . . . I am willing to try any other medications my outpatient doctor, physician assistant, or psychiatric advanced registered nurse practitioner recommends

. . . . . I do not want to try any other medications.

Medication Allergies

I have allergies to, or severe side effects from, the following: . . . . . .

Other Medication Preferences or Instructions

. . . . . I have the following other preferences or instructions about medications . . . . . .

D. Preferences and Instructions About Hospitalization and Alternatives

(*initial all that apply and, if desired, rank "1" for first choice, "2" for second choice, and so on*)

. . . . . In the event my psychiatric condition is serious enough to require 24-hour care and I have no physical conditions that require immediate access to emergency medical care, I prefer to receive this care in programs/facilities designed as alternatives to psychiatric hospitalizations.

. . . . . I would also like the interventions below to be tried before hospitalization is considered:

. . . . . Calling someone or having someone call me when needed.

Name: . . . . . Telephone: . . . . . .

. . . . . Staying overnight with someone

Name: . . . . . Telephone: . . . . . .

. . . . . Having a mental health service provider come to see me

. . . . . Going to a crisis triage center or emergency room

. . . . . Staying overnight at a crisis respite (temporary) bed

. . . . . Seeing a service provider for help with psychiatric medications

. . . . . Other, specify: . . . . . .

Authority to Consent to Inpatient Treatment

I consent, and authorize my agent (if appointed) to consent, to voluntary admission to inpatient mental health treatment for . . . . . days (*not to exceed 14 days*)

(Sign one):

. . . . . If deemed appropriate by my agent (if appointed) and treating physician, physician assistant, or psychiatric advanced registered nurse practitioner

. . . . . .
(Signature)

or

. . . . . Under the following circumstances (specify symptoms, behaviors, or circumstances that indicate the need for hospitalization) . . . . . .

. . . . . .
(Signature)

. . . . . I do **not** consent, or authorize my agent (if appointed) to consent, to inpatient treatment

. . . . . .
(Signature)

Hospital Preferences and Instructions

If hospitalization is required, I prefer the following hospitals: . . . . . .

I do not consent to be admitted to the following hospitals: . . . . . .

E. Preferences and Instructions About Preemergency

I would like the interventions below to be tried before use of seclusion or restraint is considered (*initial all that apply*):

. . . . . "Talk me down" one-on-one

. . . . . More medication

. . . . . Time out/privacy

. . . . . Show of authority/force

. . . . . Shift my attention to something else

. . . . . Set firm limits on my behavior

. . . . . Help me to discuss/vent feelings

. . . . . Decrease stimulation

. . . . . Offer to have neutral person settle dispute

. . . . . Other, specify . . . . . .

F. Preferences and Instructions About Seclusion, Restraint, and Emergency Medications

If it is determined that I am engaging in behavior that requires seclusion, physical restraint, and/or emergency use of medication, I prefer these interventions in the order I have chosen (*choose "1" for first choice, "2" for second choice, and so on*):

. . . . . Seclusion

. . . . . Seclusion and physical restraint (combined)

. . . . . Medication by injection

. . . . . Medication in pill or liquid form

In the event that my attending physician, physician assistant, or psychiatric advanced registered nurse practitioner decides to use medication in response to an emergency situation after due consideration of my preferences and instructions for emergency treatments stated above, I expect the choice of medication to reflect any preferences and instructions I have expressed in Part III C of this form. The preferences and instructions I express in this section regarding medication in emergency situations do not constitute consent to use of the medication for nonemergency treatment.

G. Preferences and Instructions About Electroconvulsive Therapy (ECT or Shock Therapy)

My wishes regarding electroconvulsive therapy are (*sign one*):

. . . . . I do not consent, nor authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

. . . . . .
(Signature)

. . . . . I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

. . . . . .
(Signature)

. . . . . I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy, but only under the following conditions: . . . . . .

. . . . . .
(Signature)

H. Preferences and Instructions About Who is Permitted to Visit

If I have been admitted to a mental health treatment facility, the following people are not permitted to visit me there:

Name: . . . . . .

Name: . . . . . .

Name: . . . . . .

I understand that persons not listed above may be permitted to visit me.

I. Additional Instructions About My Mental Health Care

Other instructions about my mental health care: . . . . . .

In case of emergency, please contact:

Name: . . . . . Address: . . . . . .

Work telephone: . . . . . Home telephone: . . . . . .

Physician, Physician Assistant, or Psychiatric Advanced Registered Nurse Practitioner: . . . . . Address: . . . . . .

Telephone: . . . . . .

The following may help me to avoid a hospitalization: . . . . . .

I generally react to being hospitalized as follows: . . . . . .

Staff of the hospital or crisis unit can help me by doing the following: . . . . . .

J. Refusal of Treatment

I do not consent to any mental health treatment.

. . . . . .
(Signature)

PART VI.
DURABLE POWER OF ATTORNEY (APPOINTMENT OF MY AGENT)

(*Fill out this part only if you wish to appoint an agent or nominate a guardian.*)

I authorize an agent to make mental health treatment decisions on my behalf. The authority granted to my agent includes the right to consent, refuse consent, or withdraw consent to any mental health care, treatment, service, or procedure, consistent with any instructions and/or limitations I have set forth in this directive. I intend that those decisions should be made in accordance with my expressed wishes as set forth in this document. If I have not expressed a choice in this document **and my agent does not otherwise know my wishes**, I authorize my agent to make the decision that my agent determines is in my best interest. This agency shall not be affected by my incapacity. Unless I state otherwise in this durable power of attorney, I may revoke it unless prohibited by other state law.

A. Designation of an Agent

I appoint the following person as my agent to make mental health treatment decisions for me as authorized in this document and request that this person be notified immediately when this directive becomes effective:

Name: . . . . . Address: . . . . . .

Work telephone: . . . . . Home telephone: . . . . . .

Relationship: . . . . . .

B. Designation of Alternate Agent

If the person named above is unavailable, unable, or refuses to serve as my agent, or I revoke that person's authority to serve as my agent, I hereby appoint the following person as my alternate agent and request that this person be notified immediately when this directive becomes effective or when my original agent is no longer my agent:

Name: . . . . . Address: . . . . . .

Work telephone: . . . . . Home telephone: . . . . . .

Relationship: . . . . . .

C. When My Spouse is My Agent (*initial if desired*)

. . . . . If my spouse is my agent, that person shall remain my agent even if we become legally separated or our marriage is dissolved, unless there is a court order to the contrary or I have remarried.

D. Limitations on My Agent's Authority

I do not grant my agent the authority to consent on my behalf to the following:

E. Limitations on My Ability to Revoke this Durable Power of Attorney

I choose to limit my ability to revoke this durable power of attorney as follows:

F. Preference as to Court-Appointed Guardian

In the event a court appoints a guardian who will make decisions regarding my mental health treatment, I **nominate** the following person **as my guardian**:

Name: . . . . . Address: . . . . . .

Work telephone: . . . . . Home telephone: . . . . . .

Relationship: . . . . . .

The appointment of a guardian of my estate or my person or any other decision maker shall not give the guardian or decision maker the power to revoke, suspend, or terminate this directive or the powers of my agent, except as authorized by law.

. . . . . .
(Signature required if nomination is made)

PART VII.
OTHER DOCUMENTS

(*Initial all that apply*)

I have executed the following documents that include the power to make decisions regarding health care services for myself:

. . . . . Health care power of attorney (chapter 11.125 RCW)

. . . . . "Living will" (Health care directive; chapter 70.122 RCW)

. . . . . I have appointed more than one agent. I understand that the most recently appointed agent controls except as stated below:

PART VIII.
NOTIFICATION OF OTHERS AND CARE OF PERSONAL AFFAIRS

(*Fill out this part only if you wish to provide nontreatment instructions.*)

I understand the preferences and instructions in this part are **NOT** the responsibility of my treatment provider and that no treatment provider is required to act on them.

A. Who Should Be Notified

I desire my agent to notify the following individuals as soon as possible when this directive becomes effective:

Name: . . . . . Address: . . . . .

Day telephone: . . . . . Evening telephone: . . . . .

Name: . . . . . Address: . . . . .

Day telephone: . . . . . Evening telephone: . . . . .

B. Preferences or Instructions About Personal Affairs

I have the following preferences or instructions about my personal affairs (e.g., care of dependents, pets, household) if I am admitted to a mental health treatment facility:

C. Additional Preferences and Instructions:

PART IX.
SIGNATURE

By signing here, I indicate that I understand the purpose and effect of this document and that I am giving my informed consent to the treatments and/or admission to which I have consented or authorized my agent to consent in this directive. I intend that my consent in this directive be construed as being consistent with the elements of informed consent under chapter 7.70 RCW.

Signature: . . . . . Date: . . . . .

Printed Name: . . . . .

This directive was signed and declared by the "Principal," to be his or her directive, in our presence who, at his or her request, have signed our names below as witnesses. We declare that, at the time of the creation of this instrument, the Principal is personally known to us, and, according to our best knowledge and belief, has capacity at this time and does not appear to be acting under duress, undue influence, or fraud. We further declare that none of us is:

(A) A person designated to make medical decisions on the principal's behalf;

(B) A health care provider or professional person directly involved with the provision of care to the principal at the time the directive is executed;

(C) An owner, operator, employee, or relative of an owner or operator of a health care facility or long-term care facility in which the principal is a patient or resident;

(D) A person who is related by blood, marriage, or adoption to the person, or with whom the principal has a dating relationship as defined in RCW 26.50.010;

(E) An incapacitated person;

(F) A person who would benefit financially if the principal undergoes mental health treatment; or

(G) A minor.

Witness 1: Signature: . . . . . Date: . . . . .

Printed Name: . . . . .

Telephone: . . . . . Address: . . . . .

Witness 2: Signature: . . . . . Date: . . . . .

Printed Name: . . . . .

Telephone: . . . . . Address: . . . . .

PART X.
RECORD OF DIRECTIVE

I have given a copy of this directive to the following persons: . . . . .

DO NOT FILL OUT PART XI UNLESS YOU INTEND TO REVOKE
THIS DIRECTIVE IN PART OR IN WHOLE

PART XI.
REVOCATION OF THIS DIRECTIVE

(*Initial any that apply*):

. . . . . I am revoking the following part(s) of this directive (specify): . . . . . .

. . . . . I am revoking all of this directive.

By signing here, I indicate that I understand the purpose and effect of my revocation and that no person is bound by any revoked provision(s). I intend this revocation to be interpreted as if I had never completed the revoked provision(s).

Signature: . . . . . Date: . . . . . .

Printed Name: . . . . . .

DO NOT SIGN THIS PART UNLESS YOU INTEND TO REVOKE THIS DIRECTIVE IN PART OR IN WHOLE

[2016 c 209 § 413; 2016 c 155 § 16; 2009 c 217 § 14; 2003 c 283 § 26.]

Reviser's note: This section was amended by 2016 c 155 § 16 and by 2016 c 209 § 413, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Short title—Application—Uniformity—Federal law application—Federal electronic signatures in global and national commerce act—Application—Dates—Effective date—2016 c 209: See RCW 11.125.010 and 11.125.900 through 11.125.903.

71.32.902 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 161.]

Chapter 71.34 RCW
BEHAVIORAL HEALTH SERVICES FOR MINORS

(Formerly: Mental health services for minors)

Sections

Court files and records closed—Exceptions: RCW 71.05.620.

71.34.010 Purpose—Parental participation in treatment decisions concerning minor children and adolescents. It is the purpose of this chapter to assure that minors in need of mental health care and treatment receive an appropriate continuum of culturally relevant care and treatment, including prevention and early intervention, self-directed care, parent-directed care, and involuntary treatment. To facilitate the continuum of care and treatment to minors in out-of-home placements, all divisions of the authority and the department that provide mental health services to minors shall jointly plan and deliver those services.

It is also the purpose of this chapter to protect the rights of adolescents to confidentiality and to independently seek services for mental health and substance use disorders. Mental health and chemical dependency professionals shall guard against needless hospitalization and deprivations of liberty, enable treatment decisions to be made in response to clinical needs in accordance with sound professional judgment, and encourage the use of voluntary services. Mental health and chemical dependency professionals shall, whenever clinically appropriate, offer less restrictive alternatives to inpatient treatment. Additionally, all mental health care and treatment providers shall assure that minors' parents are given an opportunity to participate in the treatment decisions for their minor children. The mental health care and treatment providers shall, to the extent possible, offer services that involve minors' parents or family.

It is also the purpose of this chapter to assure the ability of parents to exercise reasonable, compassionate care and control of their minor children when there is a medical necessity for treatment and without the requirement of filing a petition under this chapter, including the ability to request and receive medically necessary treatment for their adolescent children without the consent of the adolescent. [2019 c 381 § 1; 2018 c 201 § 5001; 1998 c 296 § 7; 1992 c 205 § 302; 1985 c 354 § 1.]

Short title—2019 c 381: See note following RCW 71.34.500.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Findings—Intent—Part headings not law—Short title—1998 c 296: See notes following RCW 74.13.025.

Additional notes found at www.leg.wa.gov

71.34.020 Definitions ***(as amended by 2019 c 325). (Effective January 1, 2020.)*** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(2) "Approved substance use disorder treatment program" means a program for minors with substance use disorders provided by a treatment program licensed or certified by the department of health as meeting standards adopted under chapter 71.24 RCW.

(3) "Authority" means the Washington state health care authority.

(4) ((~~"Chemical dependency" means:~~

~~(a) Alcoholism;~~

~~(b) Drug addiction; or~~

~~(c) Dependence on alcohol and one or more other psychoactive chemicals, as the context requires.~~

~~(5)~~)) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

(((~~6~~))) (5) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(((~~7~~))) (6) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(((~~8~~))) (7) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(((~~9~~))) (8) "Department" means the department of social and health services.

(((~~10~~))) (9) "Designated crisis responder" ((~~means a person designated by a behavioral health organization to perform the duties specified in this chapter~~)) has the same meaning as provided in RCW 71.05.020.

(((~~11~~))) (10) "Director" means the director of the authority.

(((~~12) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning~~)) (11) "Behavioral health administrative services organization" has the same meaning as provided in RCW 71.24.025.

(((~~13~~))) (12) "Evaluation and treatment facility" means a public or private facility or unit that is licensed or certified by the department of health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately-operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(((~~14~~))) (13) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or com-

bination of counties for the evaluation and treatment of minors under this chapter.

(((~~(15)~~))) (14) "Gravely disabled minor" means a minor who, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals, is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(((~~(16)~~))) (15) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, residential treatment facility licensed or certified by the department of health as an evaluation and treatment facility for minors, secure detoxification facility for minors, or approved substance use disorder treatment program for minors.

(((~~(17)~~))) (16) "Intoxicated minor" means a minor whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(((~~(18)~~))) (17) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor who is not residing in a facility providing inpatient treatment as defined in this chapter.

(((~~(19)~~))) (18) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others.

(((~~(20)~~))) (19) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder or substance use disorder; or (b) prevent the progression of a mental disorder or substance use disorder that endangers life or causes suffering and pain, or results in illness or infirmity or threatens to cause or aggravate a handicap, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(((~~(21)~~))) (20) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

(((~~(22)~~))) (21) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a supervising psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary of the department of health under this chapter.

(((~~(23)~~))) (22) "Minor" means any person under the age of eighteen years.

(((~~(24)~~))) (23) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified ((~~service providers~~)) behavioral health agencies as identified by RCW 71.24.025.

(((~~(25)~~))) (24) "Parent" means:

(a) A biological or adoptive parent who has legal custody of the child, including either parent if custody is shared under a joint custody agreement; or

(b) A person or agency judicially appointed as legal guardian or custodian of the child.

(((~~(26)~~))) (25) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders.

(((~~(27)~~))) (26) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW.

(((~~(28)~~))) (27) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

(((~~(29)~~))) (28) "Psychiatric nurse" means a registered nurse who has experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional.

(((~~(30)~~))) (29) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

(((~~(31)~~))) (30) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(((~~(32)~~))) (31) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved substance use disorder treatment program that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

(((~~(33)~~))) (32) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(((~~(34)~~))) (33) "Secretary" means the secretary of the department or secretary's designee.

(((~~(35)~~))) (34) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that:

(a) Provides for intoxicated minors:

(i) Evaluation and assessment, provided by certified chemical dependency professionals;

(ii) Acute or subacute detoxification services; and

(iii) Discharge assistance provided by certified chemical dependency professionals, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the minor;

(b) Includes security measures sufficient to protect the patients, staff, and community; and

(c) Is licensed or certified as such by the department of health.

(((~~(36)~~))) (35) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(((~~(37)~~))) (36) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

(((~~(38)~~))) (37) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(38) "Managed care organization" has the same meaning as provided in RCW 71.24.025. [2019 c 325 § 2001; 2018 c 201 § 5002. Prior: 2016 sp.s. c 29 § 254; 2016 c 155 § 17; 2011 c 89 § 16; 2010 c 94 § 20; 2006 c 93 § 2; 1998 c 296 § 8; 1985 c 354 § 2.]

Effective date—2019 c 325: See note following RCW 71.24.011.

71.34.020 Definitions *(as amended by 2019 c 381).* Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(2) "Approved substance use disorder treatment program" means a program for minors with substance use disorders provided by a treatment program licensed or certified by the department of health as meeting standards adopted under chapter 71.24 RCW.

(3) "Authority" means the Washington state health care authority.

(4) "Chemical dependency" means:

(a) Alcoholism;

(b) Drug addiction; or

(c) Dependence on alcohol and one or more other psychoactive chemicals, as the context requires.

(5) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW, or a person certified as a *chemical dependency professional trainee under RCW 18.205.095 working under the direct supervision of a *certified chemical dependency professional.

(6) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(7) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(8) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(9) "Department" means the department of social and health services.

(10) "Designated crisis responder" means a person designated by a behavioral health organization to perform the duties specified in this chapter.

(11) "Director" means the director of the authority.

(12) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(13) "Evaluation and treatment facility" means a public or private facility or unit that is licensed or certified by the department of health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately-operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(14) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(15) "Gravely disabled minor" means a minor who, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals, is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(16) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, residential treatment facility licensed or certified by the department of health as an evaluation and treatment facility for minors, secure detoxification facility for minors, or approved substance use disorder treatment program for minors.

(17) "Intoxicated minor" means a minor whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(18) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor who is not residing in a facility providing inpatient treatment as defined in this chapter.

(19) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others.

(20) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder or substance use disorder; or (b) prevent the progression of a substance use disorder that endangers life or causes suffering and pain, or results in illness or infirmity or threatens to cause or aggravate a handicap, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(21) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

(22) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a supervising psychiatrist, psychologist, psychiatric nurse, ((~~or~~)) social worker, and such other mental health professionals as ((~~may be~~)) defined by rules adopted by the secretary of the department of health under this chapter.

(23) "Minor" means any person under the age of eighteen years.

(24) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified service providers as identified by RCW 71.24.025.

(25)(a) "Parent" ((~~means:~~

~~(a) A biological or adoptive parent who has legal custody of the child~~)) has the same meaning as defined in RCW 26.26A.010, including either parent if custody is shared under a joint custody agreement((~~;~~)), or (((~~(b)~~))) a person or agency judicially appointed as legal guardian or custodian of the child.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "parent" also includes a person to whom a parent defined in (a) of this subsection has given a signed authorization to make health care decisions for the adolescent, a stepparent who is involved in caring for the adolescent, a kinship caregiver who is involved in caring for the adolescent, or another relative who is responsible for the health care of the adolescent, who may be required to provide a declaration under penalty of perjury stating that he or she is a relative responsible for the health care of the adolescent pursuant to **RCW 9A.72.085. If a dispute arises between individuals authorized to act as a parent for the purpose of RCW 71.34.600 through 71.34.670, the disagreement must be resolved according to the priority established under RCW 7.70.065(2)(a).

(26) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders.

(27) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW.

(28) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

(29) "Psychiatric nurse" means a registered nurse who has experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional.

(30) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

(31) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(32) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved substance use disorder treatment program that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

(33) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(34) "Secretary" means the secretary of the department or secretary's designee.

(35) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that:

(a) Provides for intoxicated minors:

(i) Evaluation and assessment, provided by certified chemical dependency professionals;

(ii) Acute or subacute detoxification services; and

(iii) Discharge assistance provided by certified chemical dependency professionals, including facilitating transitions to appropriate voluntary or

involuntary inpatient services or to less restrictive alternatives as appropriate for the minor;

(b) Includes security measures sufficient to protect the patients, staff, and community; and

(c) Is licensed or certified as such by the department of health.

(36) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(37) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

(38) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(39) "Adolescent" means a minor thirteen years of age or older.

(40) "Kinship caregiver" has the same meaning as in RCW 74.13.031(19)(a). [2019 c 381 § 2; 2018 c 201 § 5002. Prior: 2016 sp.s. c 29 § 254; 2016 c 155 § 17; 2011 c 89 § 16; 2010 c 94 § 20; 2006 c 93 § 2; 1998 c 296 § 8; 1985 c 354 § 2.]

Reviser's note: *(1) The terms "certified chemical dependency professional" and "certified chemical dependency professional trainee" were replaced, respectively, with the terms "certified substance use disorder professional" and "certified substance use disorder professional trainee" throughout RCW 18.205.095 by 2019 c 444 § 6.

**(2) RCW 9A.72.085 was repealed by 2019 c 232 § 6, effective July 1, 2021, without reference to its amendment by 2019 c 132 § 2. For rule of construction, see RCW 1.12.025.

Short title—2019 c 381: See note following RCW 71.34.500.

71.34.020 Definitions *(as amended by 2019 c 444)*. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(2) "Approved substance use disorder treatment program" means a program for minors with substance use disorders provided by a treatment program licensed or certified by the department of health as meeting standards adopted under chapter 71.24 RCW.

(3) "Authority" means the Washington state health care authority.

(4) "Chemical dependency" means:

(a) Alcoholism;

(b) Drug addiction; or

(c) Dependence on alcohol and one or more other psychoactive chemicals, as the context requires.

(5) ((~~"Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.~~

~~(6)~~)) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(((~~(7)~~))) (6) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(((~~(8)~~))) (7) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(((~~(9)~~))) (8) "Department" means the department of social and health services.

(((~~(10)~~))) (9) "Designated crisis responder" means a person designated by a behavioral health organization to perform the duties specified in this chapter.

(((~~(11)~~))) (10) "Director" means the director of the authority.

(((~~(12)~~))) (11) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(((~~(13)~~))) (12) "Evaluation and treatment facility" means a public or private facility or unit that is licensed or certified by the department of health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately-operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(((~~(14)~~))) (13) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(((~~(15)~~))) (14) "Gravely disabled minor" means a minor who, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals, is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(((~~(16)~~))) (15) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, residential treatment facility licensed or certified by the department of health as an evaluation and treatment facility for minors, secure detoxification facility for minors, or approved substance use disorder treatment program for minors.

(((~~(17)~~))) (16) "Intoxicated minor" means a minor whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(((~~(18)~~))) (17) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor who is not residing in a facility providing inpatient treatment as defined in this chapter.

(((~~(19)~~))) (18) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others.

(((~~(20)~~))) (19) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder or substance use disorder; or (b) prevent the progression of a substance use disorder that endangers life or causes suffering and pain, or results in illness or infirmity or threatens to cause or aggravate a handicap, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(((~~(21)~~))) (20) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

(((~~(22)~~))) (21) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a supervising psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary of the department of health under this chapter.

(((~~(23)~~))) (22) "Minor" means any person under the age of eighteen years.

(((~~(24)~~))) (23) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified service providers as identified by RCW 71.24.025.

(((~~(25)~~))) (24) "Parent" means:

(a) A biological or adoptive parent who has legal custody of the child, including either parent if custody is shared under a joint custody agreement; or

(b) A person or agency judicially appointed as legal guardian or custodian of the child.

(((~~(26)~~))) (25) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders.

(((~~(27)~~))) (26) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW.

(((~~(28)~~))) (27) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

(((~~(29)~~))) (28) "Psychiatric nurse" means a registered nurse who has experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional.

(((~~(30)~~))) (29) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

(((~~(31)~~))) (30) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(((~~(32)~~))) (31) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved substance use disorder treatment program that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

(((~~(33)~~))) (32) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(((~~(34)~~))) (33) "Secretary" means the secretary of the department or secretary's designee.

(((~~(35)~~))) (34) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that:

(a) Provides for intoxicated minors:

(i) Evaluation and assessment, provided by certified ((~~chemical dependency~~)) substance use disorder professionals or co-occurring disorder specialists;

(ii) Acute or subacute detoxification services; and

(iii) Discharge assistance provided by certified ((~~chemical dependency~~)) substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the minor;

(b) Includes security measures sufficient to protect the patients, staff, and community; and

(c) Is licensed or certified as such by the department of health.

(((~~(36)~~))) (35) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(((~~(37)~~))) (36) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

(((~~(38)~~))) (37) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(38) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105.

(39) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW. [2019 c 444 § 17; 2018 c 201 § 5002. Prior: 2016 sp.s. c 29 § 254; 2016 c 155 § 17; 2011 c 89 § 16; 2010 c 94 § 20; 2006 c 93 § 2; 1998 c 296 § 8; 1985 c 354 § 2.]

71.34.020 Definitions *(as amended by 2019 c 446)*. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(2) "Approved substance use disorder treatment program" means a program for minors with substance use disorders provided by a treatment program licensed or certified by the department of health as meeting standards adopted under chapter 71.24 RCW.

(3) "Authority" means the Washington state health care authority.

(4) "Chemical dependency" means:

(a) Alcoholism;

(b) Drug addiction; or

(c) Dependence on alcohol and one or more other psychoactive chemicals, as the context requires.

(5) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

(6) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(7) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(8) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(9) "Department" means the department of social and health services.

(10) "Designated crisis responder" means a person designated by a behavioral health organization to perform the duties specified in this chapter.

(11) "Director" means the director of the authority.

(12) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(13) "Evaluation and treatment facility" means a public or private facility or unit that is licensed or certified by the department of health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately-operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(14) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(15) "Gravely disabled minor" means a minor who, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals, is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(16) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, residential treatment facility licensed or certified by the department of health as an evaluation and treatment facility for minors, secure ((~~detoxification~~)) with-

drawal management and stabilization facility for minors, or approved substance use disorder treatment program for minors.

(17) "Intoxicated minor" means a minor whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(18) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor who is not residing in a facility providing inpatient treatment as defined in this chapter.

(19) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others.

(20) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder or substance use disorder; or (b) prevent the progression of a substance use disorder that endangers life or causes suffering and pain, or results in illness or infirmity or threatens to cause or aggravate a handicap, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(21) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

(22) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a supervising psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary of the department of health under this chapter.

(23) "Minor" means any person under the age of eighteen years.

(24) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified service providers as identified by RCW 71.24.025.

(25) "Parent" means:

(a) A biological or adoptive parent who has legal custody of the child, including either parent if custody is shared under a joint custody agreement; or

(b) A person or agency judicially appointed as legal guardian or custodian of the child.

(26) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders.

(27) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW.

(28) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure ((~~detoxification~~)) withdrawal management and stabilization facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

(29) "Psychiatric nurse" means a registered nurse who has experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional.

(30) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

(31) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(32) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved substance use disorder treatment program that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

(33) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(34) "Secretary" means the secretary of the department or secretary's designee.

(35) "Secure ((~~detoxification~~)) withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency ((~~that~~)) which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) ((~~Provides for intoxicated minors~~)) Provide the following services:

(i) ((~~Evaluation and~~)) Assessment and treatment, provided by certified chemical dependency professionals;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(((~~iii~~))) (iv) Discharge assistance provided by certified chemical dependency professionals, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the ((~~minor~~)) individual;

(b) Include((~~s~~)) security measures sufficient to protect the patients, staff, and community; and

(c) ((~~Is~~)) Be licensed or certified as such by the department of health.

(36) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(37) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure ((~~detoxification~~)) withdrawal management and stabilization facility, or approved substance use disorder treatment program offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

(38) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances. [2019 c 446 § 24; 2018 c 201 § 5002. Prior: 2016 sp.s. c 29 § 254; 2016 c 155 § 17; 2011 c 89 § 16; 2010 c 94 § 20; 2006 c 93 § 2; 1998 c 296 § 8; 1985 c 354 § 2.]

Reviser's note: RCW 71.34.020 was amended four times during the 2019 legislative session, without reference to one another. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Effective date—2011 c 89: See note following RCW 18.320.005.

Findings—2011 c 89: See RCW 18.320.005.

Purpose—2010 c 94: See note following RCW 44.04.280.

Findings—Intent—Part headings not law—Short title—1998 c 296: See notes following RCW 74.13.025.

GENERAL

71.34.300 Responsibility of counties for evaluation and treatment services for minors. ***(Effective until January 1, 2020.)*** (1) The county or combination of counties is responsible for development and coordination of the evaluation and treatment program for minors, for incorporating the program into the mental health plan, and for coordination of evaluation and treatment services and resources with the community mental health program required under chapter 71.24 RCW.

(2) The county shall be responsible for maintaining its support of involuntary treatment services for minors at its 1984 level, adjusted for inflation, with the authority responsible for additional costs to the county resulting from this chapter. Maintenance of effort funds devoted to judicial services related to involuntary commitment reimbursed under RCW 71.05.730 must be expended for other purposes that further treatment for mental health and chemical dependency disorders. [2018 c 201 § 5003; 2011 c 343 § 7; 1985 c 354 § 14. Formerly RCW 71.34.140.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Intent—Effective date—2011 c 343: See notes following RCW 71.05.730.

71.34.300 Evaluation and treatment program for minors—Authority's responsibility. ***(Effective January 1, 2020.)*** The authority is responsible for development and coordination of the evaluation and treatment program for minors and for coordination of evaluation and treatment services and resources with the community behavioral health program required under chapter 71.24 RCW. [2019 c 325 § 2002; 2018 c 201 § 5003; 2011 c 343 § 7; 1985 c 354 § 14. Formerly RCW 71.34.140.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Intent—Effective date—2011 c 343: See notes following RCW 71.05.730.

71.34.305 Notice to parents, school contacts for referring students to inpatient treatment. School district personnel who contact a mental health or substance use disorder inpatient treatment program or provider for the purpose of referring a student to inpatient treatment shall provide the parents with notice of the contact within forty-eight hours. [2016 sp.s. c 29 § 255; 1996 c 133 § 6. Formerly RCW 71.34.032.]

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Findings—Short title—Intent—Construction—1996 c 133: See notes following RCW 13.32A.197.

71.34.310 Jurisdiction over proceedings under chapter—Venue. (1) The superior court has jurisdiction over proceedings under this chapter.

(2) A record of all petitions and proceedings under this chapter shall be maintained by the clerk of the superior court in the county in which the petition or proceedings was initiated.

(3) Petitions for commitment shall be filed and venue for hearings under this chapter shall be in the county in which the minor is being detained. The court may, for good cause, transfer the proceeding to the county of the minor's residence, or to the county in which the alleged conduct evidencing need for commitment occurred. If the county of detention is changed, subsequent petitions may be filed in the county in which the minor is detained without the necessity of a change of venue. [1985 c 354 § 26. Formerly RCW 71.34.250.]

71.34.315 Mental health commissioners—Authority. The judges of the superior court of the county by majority vote may authorize mental health commissioners, appointed pursuant to RCW 71.05.135, to perform any or all of the following duties:

(1) Receive all applications, petitions, and proceedings filed in the superior court for the purpose of disposing of them pursuant to this chapter or RCW 10.77.094;

(2) Investigate the facts upon which to base warrants, subpoenas, orders to directions in actions, or proceedings filed pursuant to this chapter or RCW 10.77.094;

(3) For the purpose of this chapter, exercise all powers and perform all the duties of a court commissioner appointed pursuant to RCW 2.24.010;

(4) Hold hearings in proceedings under this chapter or RCW 10.77.094 and make written reports of all proceedings under this chapter or RCW 10.77.094 which shall become a part of the record of superior court;

(5) Provide such supervision in connection with the exercise of its jurisdiction as may be ordered by the presiding judge; and

(6) Cause the orders and findings to be entered in the same manner as orders and findings are entered in cases in the superior court. [2013 c 27 § 2; 1989 c 174 § 3. Formerly RCW 71.34.280.]

Additional notes found at www.leg.wa.gov

71.34.320 Transfer of superior court proceedings to juvenile department. For purposes of this chapter, a superior court may transfer proceedings under this chapter to its juvenile department. [1985 c 354 § 28. Formerly RCW 71.34.260.]

71.34.325 Court proceedings under chapter subject to rules of state supreme court. Court procedures and proceedings provided for in this chapter shall be in accordance with rules adopted by the supreme court of the state of Washington. [1985 c 354 § 24. Formerly RCW 71.34.240.]

71.34.330 Attorneys appointed for minors—Compensation. ***(Effective until January 1, 2020.)*** Attorneys appointed for minors under this chapter shall be compensated for their services as follows:

(1) Responsible others shall bear the costs of such legal services if financially able according to standards set by the court of the county in which the proceeding is held.

(2) If all responsible others are indigent as determined by these standards, the behavioral health organization shall reimburse the county in which the proceeding is held for the direct costs of such legal services, as provided in RCW 71.05.730. [2014 c 225 § 89; 2011 c 343 § 8; 1985 c 354 § 23. Formerly RCW 71.34.230.]

Effective date—2014 c 225: See note following RCW 71.24.016.

Intent—Effective date—2011 c 343: See notes following RCW 71.05.730.

71.34.330 Attorneys appointed for minors—Compensation. ***(Effective January 1, 2020.)*** Attorneys appointed for minors under this chapter shall be compensated for their services as follows:

(1) Responsible others shall bear the costs of such legal services if financially able according to standards set by the court of the county in which the proceeding is held.

(2) If all responsible others are indigent as determined by these standards, the behavioral health administrative services organization shall reimburse the county in which the proceeding is held for the direct costs of such legal services, as provided in RCW 71.05.730. [2019 c 325 § 2003; 2014 c 225 § 89; 2011 c 343 § 8; 1985 c 354 § 23. Formerly RCW 71.34.230.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Effective date—2014 c 225: See note following RCW 71.24.016.

Intent—Effective date—2011 c 343: See notes following RCW 71.05.730.

71.34.335 Court records and files confidential—Availability. The records and files maintained in any court proceeding under this chapter are confidential and available only to the minor, the minor's parent, and the minor's attorney. In addition, the court may order the subsequent release or use of these records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality will be maintained. [1985 c 354 § 21. Formerly RCW 71.34.210.]

71.34.355 Rights of minors undergoing treatment—Posting. Absent a risk to self or others, minors treated under this chapter have the following rights, which shall be prominently posted in the evaluation and treatment facility:

(1) To wear their own clothes and to keep and use personal possessions;

(2) To keep and be allowed to spend a reasonable sum of their own money for canteen expenses and small purchases;

(3) To have individual storage space for private use;

(4) To have visitors at reasonable times;

(5) To have reasonable access to a telephone, both to make and receive confidential calls;

(6) To have ready access to letter-writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(7) To discuss treatment plans and decisions with mental health professionals;

(8) To have the right to adequate care and individualized treatment;

(9) Not to consent to the performance of electroconvulsive treatment or surgery, except emergency lifesaving surgery, upon him or her, and not to have electroconvulsive treatment or nonemergency surgery in such circumstance unless ordered by a court pursuant to a judicial hearing in which the minor is present and represented by counsel, and the court shall appoint a psychiatrist, physician assistant, psychologist, psychiatric advanced registered nurse practitioner, or physician designated by the minor or the minor's counsel to testify on behalf of the minor. The minor's parent may exercise this right on the minor's behalf, and must be informed of any impending treatment;

(10) Not to have psychosurgery performed on him or her under any circumstances. [2016 c 155 § 18; 2009 c 217 § 15; 1985 c 354 § 16. Formerly RCW 71.34.160.]

71.34.360 No detention of minors after eighteenth birthday—Exceptions. No minor received as a voluntary patient or committed under this chapter may be detained after his or her eighteenth birthday unless the person, upon reaching eighteen years of age, has applied for admission to an appropriate evaluation and treatment facility or unless involuntary commitment proceedings under chapter 71.05 RCW have been initiated: PROVIDED, That a minor may be detained after his or her eighteenth birthday for purposes of completing the fourteen-day diagnosis, evaluation, and treatment. [1985 c 354 § 20. Formerly RCW 71.34.190.]

71.34.365 Release of minor—Requirements. (1) If a minor is not accepted for admission or is released by an inpatient evaluation and treatment facility, the facility shall release the minor to the custody of the minor's parent or other responsible person. If not otherwise available, the facility shall furnish transportation for the minor to the minor's residence or other appropriate place.

(2) If the minor is released to someone other than the minor's parent, the facility shall make every effort to notify the minor's parent of the release as soon as possible.

(3) No indigent minor may be released to less restrictive alternative treatment or setting or discharged from inpatient treatment without suitable clothing, and the authority shall furnish this clothing. As funds are available, the director may provide necessary funds for the immediate welfare of indigent minors upon discharge or release to less restrictive alternative treatment. [2018 c 201 § 5004; 1985 c 354 § 17. Formerly RCW 71.34.170.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

71.34.370 Antipsychotic medication and shock treatment. For the purposes of administration of antipsychotic medication and shock treatment, the provisions of chapter 120, Laws of 1989 apply to minors pursuant to chapter 71.34 RCW. [1989 c 120 § 9. Formerly RCW 71.34.290.]

71.34.375 Family-initiated treatment—Notice to parents of available treatment options. (1) If a parent or guardian, for the purpose of mental health treatment, substance use disorder treatment, or evaluation, brings his or her minor child to an evaluation and treatment facility, a hospital emergency room, an inpatient facility licensed under chapter 72.23 RCW, an inpatient facility licensed under chapter 70.41 or 71.12 RCW operating inpatient psychiatric beds for minors, a secure withdrawal management and stabilization facility, or an approved substance use disorder treatment program, the facility is required to promptly provide written and verbal notice of all statutorily available treatment options contained in this chapter. The notice need not be given more than once if written and verbal notice has already been provided and documented by the facility.

(2) The provision of notice must be documented by the facilities required to give notice under subsection (1) of this section and must be accompanied by a signed acknowledgment of receipt by the parent or guardian. The notice must contain the following information:

(a) All current statutorily available treatment options including but not limited to those provided in this chapter; and

(b) The procedures to be followed to utilize the treatment options described in this chapter.

(3) The department of health shall produce, and make available, the written notification that must include, at a minimum, the information contained in subsection (2) of this section. The department of health must revise the written notification as necessary to reflect changes in the law. [2019 c 446 § 25; 2018 c 201 § 5005; 2016 sp.s. c 29 § 256; 2011 c 302 § 1; 2003 c 107 § 1. Formerly RCW 71.34.056.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.34.377 Failure to notify parent or guardian of treatment options—Civil penalty. An evaluation and treatment facility that fails to comply with the requirement to provide verbal and written notice to a parent or guardian of a child under RCW 71.34.375 is subject to a civil penalty of one thousand dollars for each failure to provide adequate notice, unless the evaluation and treatment facility is a hospital licensed under chapter 70.41 RCW or a psychiatric hospital licensed under chapter 71.12 RCW in which case the department of health may enforce the notice requirements using its existing enforcement authority provided in chapters 70.41 and 71.12 RCW. [2011 c 302 § 2.]

71.34.379 Notice to parent or guardian—Treatment options—Policy and protocol adoption—Report. ***(Effective until January 1, 2020.)*** (1) By December 1, 2011, facilities licensed under chapter 70.41, 71.12, or 72.23 RCW are required to adopt policies and protocols regarding the notice requirements described in RCW 71.34.375; and

(2) By December 1, 2012, the department, in collaboration with the department of health, shall provide a detailed report to the legislature regarding the facilities' compliance with RCW 71.34.375 and subsection (1) of this section. [2011 c 302 § 5.]

71.34.379 Notice to parent or guardian—Treatment options—Policy and protocol adoption—Report. ***(Effective January 1, 2020.)*** Facilities licensed under chapter 70.41, 71.12, or 72.23 RCW are required to adopt policies and protocols regarding the notice requirements described in RCW 71.34.375. [2019 c 325 § 2004; 2011 c 302 § 5.]

Effective date—2019 c 325: See note following RCW 71.24.011.

71.34.380 Department, department of health, and authority to adopt rules to effectuate chapter. (1) The department, department of health, and the authority shall adopt such rules pursuant to chapter 34.05 RCW as may be necessary to effectuate the intent and purposes of this chapter.

(2) The authority shall evaluate the quality, effectiveness, efficiency, and use of services, procedures and standards for commitment, and establish criteria and procedures for placement and transfer of committed minors.

(3) The department of health shall regulate the evaluation and treatment facilities and programs.

(4) The department shall operate and maintain the child study and treatment center. [2018 c 201 § 5006; 1985 c 354 § 25. Formerly RCW 71.34.800.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

71.34.385 Uniform application of chapter—Training for designated crisis responders. ***(Effective until January 1, 2020.)*** The authority shall ensure that the provisions of this chapter are applied by the counties in a consistent and uniform manner. The authority shall also ensure that, to the extent possible within available funds, the designated crisis responders are specifically trained in adolescent mental health issues, the mental health and substance use disorder civil commitment laws, and the criteria for civil commitment. [2018 c 201 § 5007; 2016 sp.s. c 29 § 257; 1992 c 205 § 304. Formerly RCW 71.34.805.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Additional notes found at www.leg.wa.gov

71.34.385 Uniform application of chapter—Training for designated crisis responders. ***(Effective January 1, 2020.)*** The authority shall ensure that the provisions of this chapter are applied in a consistent and uniform manner. The authority shall also ensure that, to the extent possible within available funds, the designated crisis responders are specifically trained in adolescent mental health issues, the mental health and substance use disorder civil commitment laws, and the criteria for civil commitment. [2019 c 325 § 2005; 2018 c 201 § 5007; 2016 sp.s. c 29 § 257; 1992 c 205 § 304. Formerly RCW 71.34.805.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Additional notes found at www.leg.wa.gov

71.34.387 Online training for behavioral health providers—State law and best practices when providing behavioral health services to children, youth, and families. Subject to the availability of amounts appropriated for this specific purpose, the authority must provide an online training for behavioral health providers regarding state law and best practices when providing behavioral health services to children, youth, and families. The training must be free for providers and must include information related to family-initiated treatment, adolescent-initiated treatment, other treatment services provided under this chapter, and standards for sharing of information about behavioral health services received by an adolescent under RCW 70.02.240 and 70.02.265. [2019 c 381 § 23.]

Short title—2019 c 381: See note following RCW 71.34.500.

71.34.3871 Annual survey to measure impacts of the adolescent behavioral health care access act (2019 c 381) —Reports to governor and legislature. ***(Expires December 31, 2022.)*** (1) Subject to the availability of amounts appropriated for this specific purpose, the authority must conduct an annual survey of a sample group of parents, youth, and behavioral health providers to measure the impacts of implementing policies resulting from chapter 381, Laws of 2019 during the first three years of implementation. The first survey must be complete by July 1, 2020, followed by subsequent annual surveys completed by July 1, 2021, and by July 1, 2022. The authority must report on the results of the surveys annually to the governor and the legislature beginning November 1, 2020. The final report is due November 1, 2022, and must include any recommendations for statutory changes identified as needed based on survey results.

(2) This section expires December 31, 2022. [2019 c 381 § 24.]

Short title—2019 c 381: See note following RCW 71.34.500.

71.34.390 Redirection of Title XIX funds to fund placements within the state. For the purpose of encouraging the expansion of existing evaluation and treatment facilities and the creation of new facilities, the authority shall endeavor to redirect federal Title XIX funds which are expended on out-of-state placements to fund placements within the state. [2018 c 201 § 5008; 1992 c 205 § 303. Formerly RCW 71.34.810.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Additional notes found at www.leg.wa.gov

71.34.395 Availability of treatment does not create right to obtain public funds. The ability of a parent to bring his or her minor child to a licensed or certified evaluation and treatment program for evaluation and treatment does not create a right to obtain or benefit from any funds or resources of the state. The state may provide services for indigent minors to the extent that funds are available. [2018 c 201 § 5009; 1998 c 296 § 21. Formerly RCW 71.34.015.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Findings—Intent—Part headings not law—Short title—1998 c 296: See notes following RCW 74.13.025.

71.34.400 Eligibility for medical assistance under chapter 74.09 RCW—Payment by authority. For purposes of eligibility for medical assistance under chapter 74.09 RCW, minors in inpatient mental health or inpatient substance use disorder treatment shall be considered to be part of their parent's or legal guardian's household, unless the minor has been assessed by the authority or its designee as likely to require such treatment for at least ninety consecutive days, or is in out-of-home care in accordance with chapter 13.34 RCW, or the parents are found to not be exercising responsibility for care and control of the minor. Payment for such care by the authority shall be made only in accordance with rules, guidelines, and clinical criteria applicable to inpatient treatment of minors established by the authority. [2018 c 201 § 5010; 2016 sp.s. c 29 § 258; 1998 c 296 § 11. Formerly RCW 71.34.027.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Findings—Intent—Part headings not law—Short title—1998 c 296: See notes following RCW 74.13.025.

71.34.405 Liability for costs of minor's treatment and care—Rules. (1) A minor receiving treatment under the provisions of this chapter and responsible others shall be liable for the costs of treatment, care, and transportation to the extent of available resources and ability to pay.

(2) The secretary or director, as appropriate, shall establish rules to implement this section and to define income, resources, and exemptions to determine the responsible person's or persons' ability to pay. [2018 c 201 § 5011; 1985 c 354 § 13. Formerly RCW 71.34.130.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

71.34.410 Liability for performance of duties under this chapter limited. No public or private agency or governmental entity, nor officer of a public or private agency, nor the superintendent, or professional person in charge, his or her professional designee or attending staff of any such agency, nor any public official performing functions necessary to the administration of this chapter, nor peace officer responsible for detaining a person under this chapter, nor any designated crisis responder, nor professional person, nor evaluation and treatment facility, nor secure withdrawal management and stabilization facility, nor approved substance use disorder treatment program shall be civilly or criminally liable for performing actions authorized in this chapter with regard to the decision of whether to admit, release, or detain a person for evaluation and treatment: PROVIDED, That such duties were performed in good faith and without gross negligence. [2019 c 446 § 27; 2016 sp.s. c 29 § 259; 2005 c 371 § 5; 1985 c 354 § 27. Formerly RCW 71.34.270.]

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Finding—Intent—Severability—2005 c 371: See notes following RCW 71.34.600.

71.34.415 Judicial services—Civil commitment cases—Reimbursement. ***(Effective until January 1, 2020.)*** A county may apply to its behavioral health organization for reimbursement of its direct costs in providing judicial services for civil commitment cases under this chapter, as provided in RCW 71.05.730. [2014 c 225 § 90; 2011 c 343 § 4.]

Effective date—2014 c 225: See note following RCW 71.24.016.

Intent—Effective date—2011 c 343: See notes following RCW 71.05.730.

71.34.415 Judicial services—Civil commitment cases—Reimbursement. ***(Effective January 1, 2020.)*** A county may apply to its behavioral health administrative services organization for reimbursement of its direct costs in providing judicial services for civil commitment cases under this chapter, as provided in RCW 71.05.730. [2019 c 325 § 2006; 2014 c 225 § 90; 2011 c 343 § 4.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Effective date—2014 c 225: See note following RCW 71.24.016.

Intent—Effective date—2011 c 343: See notes following RCW 71.05.730.

71.34.420 Evaluation and treatment services—Unavailability—Single bed certification. (1) The authority may use a single bed certification process as outlined in rule to provide additional treatment capacity for a minor suffering from a mental disorder for whom an evaluation and treatment bed is not available. The facility that is the proposed site of the single bed certification must be a facility that is willing and able to provide the person with timely and appropriate treatment either directly or by arrangement with other public or private agencies.

(2) A single bed certification must be specific to the minor receiving treatment.

(3) A designated crisis responder who submits an application for a single bed certification for treatment at a facility that is willing and able to provide timely and appropriate mental health treatment in good faith belief that the single bed certification is appropriate may presume that the single bed certification will be approved for the purpose of completing the detention process and responding to other emergency calls.

(4) The authority may adopt rules implementing this section and continue to enforce rules it has already adopted except where inconsistent with this section. [2018 c 201 § 5012; 2016 sp.s. c 29 § 260; 2015 c 269 § 12.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Effective date—2015 c 269 §§ 1-9 and 11-13: See note following RCW 71.05.010.

71.34.430 Release of adolescent's mental health information to parent without adolescent's consent. A mental health agency, psychiatric hospital, or evaluation and treatment facility may release mental health information about an adolescent to a parent of the adolescent without the consent of the adolescent by following the limitations and restrictions of RCW 70.02.240 and 70.02.265. [2019 c 381 § 22.]

Short title—2019 c 381: See note following RCW 71.34.500.

ADOLESCENT-INITIATED TREATMENT

71.34.500 Self-admission of adolescent for inpatient mental health treatment or substance use disorder treatment—Requirements. (1) An adolescent may admit himself or herself to an evaluation and treatment facility for inpatient mental health treatment or an approved substance use disorder treatment program for inpatient substance use disorder treatment without parental consent. The admission shall occur only if the professional person in charge of the facility concurs with the need for inpatient treatment. Parental authorization, or authorization from a person who may consent on behalf of the minor pursuant to RCW 7.70.065, is required for inpatient treatment of a minor under the age of thirteen.

(2) When, in the judgment of the professional person in charge of an evaluation and treatment facility or approved substance use disorder treatment program, there is reason to believe that a minor is in need of inpatient treatment because of a mental disorder or substance use disorder, and the facility provides the type of evaluation and treatment needed by the minor, and it is not feasible to treat the minor in any less restrictive setting or the minor's home, the minor may be admitted to the facility.

(3) Written renewal of voluntary consent must be obtained from the applicant no less than once every twelve months. The minor's need for continued inpatient treatments shall be reviewed and documented no less than every one hundred eighty days. [2019 c 381 § 3; 2016 sp.s. c 29 § 261; 2006 c 93 § 3; 2005 c 371 § 2; 1998 c 296 § 14. Formerly RCW 71.34.042.]

Short title—2019 c 381: "This act may be known and cited as the adolescent behavioral health care access act." [2019 c 381 § 25.]

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Finding—Intent—Severability—2005 c 371: See notes following RCW 71.34.600.

Findings—Intent—Part headings not law—Short title—1998 c 296: See notes following RCW 74.13.025.

71.34.510 Notice to parents of adolescent voluntarily admitted to inpatient treatment—When required—Duties of professional person in charge—Form of notice. (1) The professional person in charge of an evaluation and treatment facility shall provide notice to the parent of an adolescent when the adolescent is voluntarily admitted to inpatient treatment under RCW 71.34.500 solely for mental health treatment and not for substance use disorder treatment, unless the professional person has a compelling reason to believe that such disclosure would be detrimental to the adolescent or contact cannot be made, in which case the professional person must document the reasons in the adolescent's medical record.

(2) The professional person in charge of an evaluation and treatment facility or an approved substance use disorder treatment program shall provide notice to the parent of an adolescent voluntarily admitted to inpatient treatment under RCW 71.34.500 for substance use disorder treatment only if: (a) The adolescent provides written consent to the disclosure of the fact of admission and such other substance use disorder treatment information in the notice; or (b) permitted by federal law.

(3) If the professional person withholds notice to a parent under subsection (1) of this section, or such notice cannot be provided, the professional person in charge of the facility must consult the information that the Washington state patrol makes publicly available under RCW 43.43.510(2) at least once every eight hours for the first seventy-two hours of treatment and once every twenty-four hours thereafter while the adolescent continues to receive inpatient services and until the time that the professional person contacts a parent of the adolescent. If the adolescent is publicly listed as missing, the professional person must immediately notify the department of children, youth, and families of its contact with the youth listed as missing. The notification must include a

description of the adolescent's physical and emotional condition.

(4) The notice required under subsections (1) and (2) of this section shall be in the form most likely to reach the parent within twenty-four hours of the adolescent's voluntary admission and shall advise the parent: (a) That the adolescent has been admitted to inpatient treatment; (b) of the location and telephone number of the facility providing such treatment; (c) of the name of a professional person on the staff of the facility providing treatment who is designated to discuss the adolescent's need for inpatient treatment with the parent; and (d) of the medical necessity for admission. Notification efforts under subsections (1) and (2) of this section shall begin as soon as reasonably practicable, considering the adolescent's immediate medical needs. [2019 c 381 § 4; 1998 c 296 § 15. Formerly RCW 71.34.044.]

Short title—2019 c 381: See note following RCW 71.34.500.

Findings—Intent—Part headings not law—Short title—1998 c 296: See notes following RCW 74.13.025.

71.34.520 Notice of intent to leave inpatient treatment by adolescent voluntarily admitted—Duties of receiving staff member—Time frame for discharge of adolescent. (1) Any adolescent voluntarily admitted to an evaluation and treatment facility or approved substance use disorder treatment program under RCW 71.34.500 may give notice of intent to leave at any time. The notice need not follow any specific form so long as it is written and the intent of the adolescent can be discerned.

(2) The staff member receiving the notice shall date it immediately and record its existence in the adolescent's clinical record.

(a) If the evaluation and treatment facility is providing the adolescent solely with mental health treatment and not substance use disorder treatment, copies of the notice must be sent to the adolescent's attorney, if any, the designated crisis responders, and the parent.

(b) If the evaluation and treatment facility or substance use disorder treatment program is providing the adolescent with substance use disorder treatment, copies of the notice must be sent to the adolescent's attorney, if any, the designated crisis responders, and the parent only if: (i) The adolescent provides written consent to the disclosure of the adolescent's notice of intent to leave and such other substance use disorder information; or (ii) permitted by federal law.

(3) The professional person shall discharge the adolescent from the facility by the second judicial day following receipt of the adolescent's notice of intent to leave. [2019 c 381 § 5; 2016 sp.s. c 29 § 262; 2003 c 106 § 1; 1998 c 296 § 16. Formerly RCW 71.34.046.]

Short title—2019 c 381: See note following RCW 71.34.500.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Findings—Intent—Part headings not law—Short title—1998 c 296: See notes following RCW 74.13.025.

71.34.530 Outpatient treatment of adolescent. Any adolescent may request and receive outpatient treatment without the consent of the adolescent's parent. Parental authorization, or authorization from a person who may consent on behalf of the minor pursuant to RCW 7.70.065, is required for outpatient treatment of a minor under the age of thirteen. [2019 c 381 § 6; 2006 c 93 § 4; 1998 c 296 § 12; 1995 c 312 § 52; 1985 c 354 § 3. Formerly RCW 71.34.030.]

Short title—2019 c 381: See note following RCW 71.34.500.

Findings—Intent—Part headings not law—Short title—1998 c 296: See notes following RCW 74.13.025.

Additional notes found at www.leg.wa.gov

FAMILY-INITIATED TREATMENT

71.34.600 Parental request for determination of whether adolescent has a mental disorder or substance use disorder requiring inpatient treatment—Adolescent's consent not required for admission, evaluation, and treatment—Duties and obligations of professional person and facility. (1) A parent may bring, or authorize the bringing of, his or her adolescent child to:

(a) An evaluation and treatment facility or an inpatient facility licensed under chapter 70.41, 71.12, or 72.23 RCW and request that the professional person examine the adolescent to determine whether the adolescent has a mental disorder and is in need of inpatient treatment; or

(b) A secure withdrawal management and stabilization facility or approved substance use disorder treatment program and request that a substance use disorder assessment be conducted by a professional person to determine whether the adolescent has a substance use disorder and is in need of inpatient treatment.

(2) The consent of the adolescent is not required for admission, evaluation, and treatment if a parent provides consent.

(3) An appropriately trained professional person may evaluate whether the adolescent has a mental disorder or has a substance use disorder. The evaluation shall be completed within twenty-four hours of the time the adolescent was brought to the facility, unless the professional person determines that the condition of the adolescent necessitates additional time for evaluation. In no event shall an adolescent be held longer than seventy-two hours for evaluation. If, in the judgment of the professional person, it is determined it is a medical necessity for the adolescent to receive inpatient treatment, the adolescent may be held for treatment. The facility shall limit treatment to that which the professional person determines is medically necessary to stabilize the adolescent's condition until the evaluation has been completed. Within twenty-four hours of completion of the evaluation, the professional person shall notify the authority if the adolescent is held solely for mental health and not substance use disorder treatment and of the date of admission. If the adolescent is held for substance use disorder treatment only, the professional person shall provide notice to the authority which redacts all patient identifying information about the adolescent unless: (a) The adolescent provides written consent to the disclosure of the fact of admission and such other substance use disorder treatment information in the notice; or (b) permitted by federal law.

(4) No provider is obligated to provide treatment to an adolescent under the provisions of this section except that no provider may refuse to treat an adolescent under the provisions of this section solely on the basis that the adolescent has

not consented to the treatment. No provider may admit an adolescent to treatment under this section unless it is medically necessary.

(5) No adolescent receiving inpatient treatment under this section may be discharged from the facility based solely on his or her request.

(6) Prior to the review conducted under RCW 71.34.610, the professional person shall notify the adolescent of his or her right to petition superior court for release from the facility.

(7) For the purposes of this section "professional person" means "professional person" as defined in RCW 71.05.020. [2019 c 446 § 28; 2019 c 381 § 7; 2018 c 201 § 5013; 2016 sp.s. c 29 § 263; 2007 c 375 § 11; 2005 c 371 § 4; 1998 c 296 § 17. Formerly RCW 71.34.052.]

Reviser's note: This section was amended by 2019 c 381 § 7 and by 2019 c 446 § 28, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Short title—2019 c 381: See note following RCW 71.34.500.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Findings—Purpose—Construction—Severability—2007 c 375: See notes following RCW 10.31.110.

Finding—Intent—2005 c 371: "The legislature finds that, despite explicit statements in statute that the consent of a minor child is not required for a parent-initiated admission to inpatient or outpatient mental health treatment, treatment providers consistently refuse to accept a minor aged thirteen or over if the minor does not also consent to treatment. The legislature intends that the parent-initiated treatment provisions, with their accompanying due process provisions for the minor, be made fully available to parents." [2005 c 371 § 1.]

Findings—Intent—Part headings not law—Short title—1998 c 296: See notes following RCW 74.13.025.

Additional notes found at www.leg.wa.gov

71.34.610 Authority's review of medical necessity of inpatient treatment of adolescent admitted to a facility due to parental request—Required considerations in making determination—Procedures for release—At-risk youth petition—Costs—Public funds. (1) The authority shall assure that, for any adolescent admitted to inpatient treatment under RCW 71.34.600, a review is conducted by a physician or other mental health professional who is employed by the authority, or an agency under contract with the authority, and who neither has a financial interest in continued inpatient treatment of the adolescent nor is affiliated with the facility providing the treatment. The physician or other mental health professional shall conduct the review not less than seven nor more than fourteen days following the date the adolescent was brought to the facility under RCW 71.34.600 to determine whether it is a medical necessity to continue the adolescent's treatment on an inpatient basis.

(2) In making a determination under subsection (1) of this section, the authority shall consider the opinion of the treatment provider, the safety of the adolescent, and the likelihood the adolescent's mental health will deteriorate if released from inpatient treatment. The authority shall consult with the parent in advance of making its determination.

(3) If, after any review conducted by the authority under this section, the authority determines it is no longer a medical necessity for an adolescent to receive inpatient treatment, the authority shall immediately notify the parents and the facility. The facility shall release the adolescent to the parents within twenty-four hours of receiving notice. If the professional person in charge and the parent believe that it is a medical necessity for the adolescent to remain in inpatient treatment, the adolescent shall be released to the parent on the second judicial day following the authority's determination in order to allow the parent time to file an at-risk youth petition under chapter 13.32A RCW. If the authority determines it is a medical necessity for the adolescent to receive outpatient treatment and the adolescent declines to obtain such treatment, such refusal shall be grounds for the parent to file an at-risk youth petition.

(4) If the evaluation conducted under RCW 71.34.600 is done by the authority, the reviews required by subsection (1) of this section shall be done by contract with an independent agency.

(5) The authority may, subject to available funds, contract with other governmental agencies to conduct the reviews under this section. The authority may seek reimbursement from the parents, their insurance, or medicaid for the expense of any review conducted by an agency under contract.

(6) In addition to the review required under this section, the authority may periodically determine and redetermine the medical necessity of treatment for purposes of payment with public funds. [2019 c 381 § 8; 2018 c 201 § 5014; 1998 c 296 § 9; 1995 c 312 § 56. Formerly RCW 71.34.025.]

Short title—2019 c 381: See note following RCW 71.34.500.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Findings—Intent—Part headings not law—Short title—1998 c 296: See notes following RCW 74.13.025.

Additional notes found at www.leg.wa.gov

71.34.620 Adolescent's court petition for release from inpatient treatment facility—Judicial review of medical necessity. Following the review conducted under RCW 71.34.610, an adolescent may petition the superior court for his or her release from the facility. The petition may be filed not sooner than five days following the review. The court shall release the adolescent unless it finds, upon a preponderance of the evidence, that it is a medical necessity for the adolescent to remain at the facility. [2019 c 381 § 9; 1998 c 296 § 19. Formerly RCW 71.34.162.]

Short title—2019 c 381: See note following RCW 71.34.500.

Findings—Intent—Part headings not law—Short title—1998 c 296: See notes following RCW 74.13.025.

71.34.630 Adolescent not released from inpatient treatment facility by court petition—Release within thirty days—Initiation of proceedings to stop release. If the adolescent is not released as a result of the petition filed under RCW 71.34.620, he or she shall be released not later than thirty days following the later of: (1) The date of the authority's determination under RCW 71.34.610(2); or (2) the filing of a petition for judicial review under RCW 71.34.620, unless a professional person or the designated cri-

sis responder initiates proceedings under this chapter. [2019 c 381 § 10; 2018 c 201 § 5015; 2016 sp.s. c 29 § 264; 1998 c 296 § 20. Formerly RCW 71.34.164.]

Short title—2019 c 381: See note following RCW 71.34.500.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Findings—Intent—Part headings not law—Short title—1998 c 296: See notes following RCW 74.13.025.

71.34.640 Evaluation of treatment of adolescents. The authority shall randomly select and review the information on adolescents who are admitted to inpatient treatment on application of the adolescent's parent regardless of the source of payment, if any, subject to the limitations under RCW 71.34.600(3). The review shall determine whether the adolescents reviewed were appropriately admitted into treatment based on an objective evaluation of the adolescent's condition and the outcome of the adolescent's treatment. [2019 c 381 § 11; 2018 c 201 § 5016; 1996 c 133 § 36; 1995 c 312 § 58. Formerly RCW 71.34.035.]

Short title—2019 c 381: See note following RCW 71.34.500.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Findings—Short title—Intent—Construction—1996 c 133: See notes following RCW 13.32A.197.

Additional notes found at www.leg.wa.gov

71.34.650 Parental request for determination of whether adolescent has a mental disorder or substance use disorder requiring outpatient treatment—Adolescent's consent not required for evaluation and certain treatment—Treatment reviews—Discharge. (1) A parent may bring, or authorize the bringing of, his or her adolescent child to:

(a) A provider of outpatient mental health treatment and request that an appropriately trained professional person examine the adolescent to determine whether the adolescent has a mental disorder and is in need of outpatient treatment; or

(b) A provider of outpatient substance use disorder treatment and request that an appropriately trained professional person examine the adolescent to determine whether the adolescent has a substance use disorder and is in need of outpatient treatment.

(2) The consent of the adolescent is not required for evaluation if a parent provides consent.

(3) The professional person may evaluate whether the adolescent has a mental disorder or substance use disorder and is in need of outpatient treatment.

(4) If a determination is made by a professional person under this section that an adolescent is in need of outpatient mental health or substance use disorder treatment, a parent of an adolescent may request and receive such outpatient treatment for his or her adolescent without the consent of the adolescent for up to twelve outpatient sessions occurring within a three-month period.

(5) Following the treatment periods under subsection (4) of this section, an adolescent must provide his or her consent for further treatment with that specific professional person.

(6) If a determination is made by a professional person under this section that an adolescent is in need of treatment in a less restrictive setting, including partial hospitalization or intensive outpatient treatment, a parent of an adolescent may request and receive such treatment for his or her adolescent without the consent of the adolescent.

(a) A professional person providing solely mental health treatment to an adolescent under this subsection (6) must convene a treatment review at least every thirty days after treatment begins that includes the adolescent, parent, and other treatment team members as appropriate to determine whether continued care under this subsection is medically necessary.

(b) A professional person providing solely mental health treatment to an adolescent under this subsection (6) shall provide notification of the adolescent's treatment to an independent reviewer at the authority within twenty-four hours of the adolescent's first receipt of treatment under this subsection. At least every forty-five days after the adolescent's first receipt of treatment under this subsection, the authority shall conduct a review to determine whether the current level of treatment is medically necessary.

(c) A professional person providing substance use disorder treatment under this subsection (6) shall convene a treatment review under (a) of this subsection and provide the notification of the adolescent's receipt of treatment to an independent reviewer at the authority as described in (b) of this subsection only if: (i) The adolescent provides written consent to the disclosure of substance use disorder treatment information including the fact of his or her receipt of such treatment; or (ii) permitted by federal law.

(7) Any adolescent admitted to inpatient treatment under RCW 71.34.500 or 71.34.600 shall be discharged immediately from inpatient treatment upon written request of the parent. [2019 c 381 § 12; 2016 sp.s. c 29 § 265; 1998 c 296 § 18. Formerly RCW 71.34.054.]

Short title—2019 c 381: See note following RCW 71.34.500.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Findings—Intent—Part headings not law—Short title—1998 c 296: See notes following RCW 74.13.025.

71.34.660 Limitation on liability for admitting or accepting adolescent. An adolescent shall have no cause of action against an evaluation and treatment facility, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, inpatient facility, or provider of outpatient mental health treatment or outpatient substance use disorder treatment for admitting or accepting the adolescent in good faith for evaluation or treatment under RCW 71.34.600 or 71.34.650 based solely upon the fact that the adolescent did not consent to evaluation or treatment if the adolescent's parent has consented to the evaluation or treatment. [2019 c 446 § 29; 2019 c 381 § 13; 2016 sp.s. c 29 § 266; 2005 c 371 § 3.]

Reviser's note: This section was amended by 2019 c 381 § 13 and by 2019 c 446 § 29, each without reference to the other. Both amendments are

incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Short title—2019 c 381: See note following RCW 71.34.500.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Finding—Intent—Severability—2005 c 371: See notes following RCW 71.34.600.

71.34.670 "Appropriately trained professional person" defined by rule. ***(Effective until January 1, 2020.)*** The authority shall adopt rules defining "appropriately trained professional person" for the purposes of conducting mental health and chemical dependency evaluations under RCW 71.34.600(3) and 71.34.650(1). [2018 c 201 § 2001; 2016 sp.s. c 29 § 415; 1998 c 296 § 34. Formerly RCW 43.20A.025.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Findings—Intent—Part headings not law—Short title—1998 c 296: See notes following RCW 74.13.025.

71.34.670 "Appropriately trained professional person" defined by rule. ***(Effective January 1, 2020.)*** The authority shall adopt rules defining "appropriately trained professional person" operating within their scope of practice within Title 18 RCW for the purposes of conducting mental health and substance use disorder evaluations under RCW 71.34.600(3) and 71.34.650(1). [2019 c 325 § 2007; 2018 c 201 § 2001; 2016 sp.s. c 29 § 415; 1998 c 296 § 34. Formerly RCW 43.20A.025.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Findings—Intent—Part headings not law—Short title—1998 c 296: See notes following RCW 74.13.025.

INVOLUNTARY COMMITMENT

71.34.700 Evaluation of adolescent brought for immediate inpatient treatment—Temporary detention. ***(Effective until July 1, 2026.)*** (1) If an adolescent is brought to an evaluation and treatment facility or hospital emergency room for immediate mental health services, the professional person in charge of the facility shall evaluate the adolescent's mental condition, determine whether the adolescent suffers from a mental disorder, and whether the adolescent is in need of immediate inpatient treatment.

(2) If an adolescent is brought to a secure withdrawal management and stabilization facility with available space, or a hospital emergency room for immediate substance use disorder treatment, the professional person in charge of the facility shall evaluate the adolescent's condition, determine whether the adolescent suffers from a substance use disorder, and whether the adolescent is in need of immediate inpatient treatment.

(3) If it is determined under subsection (1) or (2) of this section that the adolescent suffers from a mental disorder or substance use disorder, inpatient treatment is required, the adolescent is unwilling to consent to voluntary admission, and the professional person believes that the adolescent meets the criteria for initial detention set forth herein, the facility may detain or arrange for the detention of the adolescent for up to twelve hours in order to enable a designated crisis responder to evaluate the adolescent and commence initial detention proceedings under the provisions of this chapter. [2019 c 446 § 30; 2019 c 381 § 14; 2016 sp.s. c 29 § 267; 1985 c 354 § 4. Formerly RCW 71.34.040.]

Reviser's note: This section was amended by 2019 c 381 § 14 and by 2019 c 446 § 30, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date—2019 c 446 §§ 4, 6, 8, 11, 14, 30, 32, 34, 37, 39, and 41: See note following RCW 71.05.150.

Expiration date—2019 c 381 §§ 14 and 16: "Sections 14 and 16 of this act expire July 1, 2026." [2019 c 381 § 26.]

Short title—2019 c 381: See note following RCW 71.34.500.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.34.700 Evaluation of adolescent brought for immediate inpatient treatment—Temporary detention. ***(Effective July 1, 2026.)*** (1) If an adolescent is brought to an evaluation and treatment facility or hospital emergency room for immediate mental health services, the professional person in charge of the facility shall evaluate the adolescent's mental condition, determine whether the adolescent suffers from a mental disorder, and whether the adolescent is in need of immediate inpatient treatment.

(2) If an adolescent is brought to a secure withdrawal management and stabilization facility or a hospital emergency room for immediate substance use disorder treatment, the professional person in charge of the facility shall evaluate the adolescent's condition, determine whether the adolescent suffers from a substance use disorder, and whether the adolescent is in need of immediate inpatient treatment.

(3) If it is determined under subsection (1) or (2) of this section that the adolescent suffers from a mental disorder or substance use disorder, inpatient treatment is required, the adolescent is unwilling to consent to voluntary admission, and the professional person believes that the adolescent meets the criteria for initial detention set forth herein, the facility may detain or arrange for the detention of the adolescent for up to twelve hours in order to enable a designated crisis responder to evaluate the adolescent and commence initial detention proceedings under the provisions of this chapter. [2019 c 446 § 31; 2019 c 381 § 15; 2016 sp.s. c 29 § 268; 2016 sp.s. c 29 § 267; 1985 c 354 § 4. Formerly RCW 71.34.040.]

Reviser's note: This section was amended by 2019 c 381 § 15 and by 2019 c 446 § 31, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 446 §§ 5, 7, 9, 12, 15, 31, 33, 35, 38, 40, and 42: See note following RCW 71.05.150.

Effective date—2019 c 381 §§ 15 and 17: "Sections 15 and 17 of this act take effect July 1, 2026." [2019 c 381 § 27.]

Short title—2019 c 381: See note following RCW 71.34.500.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.34.710 Adolescent who presents likelihood of serious harm or is gravely disabled—Transport to inpatient facility—Petition for initial detention—Notice of commitment hearing—Facility to evaluate and admit or release adolescent. ***(Effective until July 1, 2026.)*** (1)(a)(i) When a designated crisis responder receives information that an adolescent as a result of a mental disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the adolescent, or cause the adolescent to be taken, into custody and transported to an evaluation and treatment facility providing inpatient treatment.

(ii) When a designated crisis responder receives information that an adolescent as a result of a substance use disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the adolescent, or cause the adolescent to be taken, into custody and transported to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, if a secure withdrawal management and stabilization facility or approved substance use disorder treatment program is available and has adequate space for the adolescent.

(b) If the adolescent is not taken into custody for evaluation and treatment, the parent who has custody of the adolescent may seek review of that decision made by the designated crisis responder in court. The parent shall file notice with the court and provide a copy of the designated crisis responder's report or notes.

(2) Within twelve hours of the adolescent's arrival at the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, the designated crisis responder shall serve on the adolescent a copy of the petition for initial detention, notice of initial detention, and statement of rights. The designated crisis responder shall file with the court on the next judicial day following the initial detention the original petition for initial detention, notice of initial detention, and statement of rights along with an affidavit of service. The designated crisis responder shall commence service of the petition for initial detention and notice of the initial detention on the adolescent's parent and the adolescent's attorney as soon as possible following the initial detention.

(3) At the time of initial detention, the designated crisis responder shall advise the adolescent both orally and in writing that if admitted to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program for inpatient treatment, a commitment hearing shall be held within seventy-two hours of the adolescent's provisional acceptance to determine whether probable cause exists to commit the adolescent for further treatment.

The adolescent shall be advised that he or she has a right to communicate immediately with an attorney and that he or she has a right to have an attorney appointed to represent him or her before and at the hearing if the adolescent is indigent.

(4) Subject to subsection (5) of this section, whenever the designated crisis responder petitions for detention of an adolescent under this chapter, an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program providing seventy-two hour evaluation and treatment must immediately accept on a provisional basis the petition and the person. Within twenty-four hours of the adolescent's arrival, the facility must evaluate the adolescent's condition and either admit or release the adolescent in accordance with this chapter.

(5) A designated crisis responder may not petition for detention of an adolescent to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program unless there is a secure withdrawal management and stabilization facility or approved substance use disorder treatment program available and that has adequate space for the adolescent.

(6) If an adolescent is not approved for admission by the inpatient evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, the facility shall make such recommendations and referrals for further care and treatment of the adolescent as necessary. [2019 c 446 § 32; 2019 c 381 § 16; 2016 sp.s. c 29 § 269; 1995 c 312 § 53; 1985 c 354 § 5. Formerly RCW 71.34.050.]

Reviser's note: This section was amended by 2019 c 381 § 16 and by 2019 c 446 § 32, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date—2019 c 446 §§ 4, 6, 8, 11, 14, 30, 32, 34, 37, 39, and 41: See note following RCW 71.05.150.

Expiration date—2019 c 381 §§ 14 and 16: See note following RCW 71.34.700.

Short title—2019 c 381: See note following RCW 71.34.500.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Additional notes found at www.leg.wa.gov

71.34.710 Adolescent who presents likelihood of serious harm or is gravely disabled—Transport to inpatient facility—Petition for initial detention—Notice of commitment hearing—Facility to evaluate and admit or release adolescent. ***(Effective July 1, 2026.)*** (1)(a)(i) When a designated crisis responder receives information that an adolescent as a result of a mental disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the adolescent, or cause the adolescent to be taken, into custody and transported to an evaluation and treatment facility providing inpatient treatment.

(ii) When a designated crisis responder receives information that an adolescent as a result of a substance use disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the adolescent, or cause the adolescent to be taken, into custody and transported to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program.

(b) If the adolescent is not taken into custody for evaluation and treatment, the parent who has custody of the adolescent may seek review of that decision made by the designated crisis responder in court. The parent shall file notice with the court and provide a copy of the designated crisis responder's report or notes.

(2) Within twelve hours of the adolescent's arrival at the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, the designated crisis responder shall serve on the adolescent a copy of the petition for initial detention, notice of initial detention, and statement of rights. The designated crisis responder shall file with the court on the next judicial day following the initial detention the original petition for initial detention, notice of initial detention, and statement of rights along with an affidavit of service. The designated crisis responder shall commence service of the petition for initial detention and notice of the initial detention on the adolescent's parent and the adolescent's attorney as soon as possible following the initial detention.

(3) At the time of initial detention, the designated crisis responder shall advise the adolescent both orally and in writing that if admitted to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program for inpatient treatment, a commitment hearing shall be held within seventy-two hours of the adolescent's provisional acceptance to determine whether probable cause exists to commit the adolescent for further treatment.

The adolescent shall be advised that he or she has a right to communicate immediately with an attorney and that he or she has a right to have an attorney appointed to represent him or her before and at the hearing if the adolescent is indigent.

(4) Whenever the designated crisis responder petitions for detention of an adolescent under this chapter, an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program providing seventy-two hour evaluation and treatment must immediately accept on a provisional basis the petition and the person. Within twenty-four hours of the adolescent's arrival, the facility must evaluate the adolescent's condition and either admit or release the adolescent in accordance with this chapter.

(5) If an adolescent is not approved for admission by the inpatient evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, the facility shall make such recommendations and referrals for further care and treatment of the adolescent as necessary. [2019 c 446 § 33; 2019 c 381 § 17; 2016 sp.s. c 29 § 270; 2016 sp.s. c 29 § 269; 1995 c 312 § 53; 1985 c 354 § 5. Formerly RCW 71.34.050.]

Reviser's note: This section was amended by 2019 c 381 § 17 and by 2019 c 446 § 33, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 446 §§ 5, 7, 9, 12, 15, 31, 33, 35, 38, 40, and 42: See note following RCW 71.05.150.

Effective date—2019 c 381 §§ 15 and 17: See note following RCW 71.34.700.

Short title—2019 c 381: See note following RCW 71.34.500.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Additional notes found at www.leg.wa.gov

71.34.720 Examination and evaluation of minor approved for inpatient admission—Referral to a secure withdrawal management and stabilization facility or substance use disorder treatment program—Right to communication, exception—Evaluation and treatment period. ***(Effective until July 1, 2026.)*** (1) Each minor approved by the facility for inpatient admission shall be examined and evaluated by a children's mental health specialist, for minors admitted as a result of a mental disorder, or by a substance use disorder professional or co-occurring disorder specialist, for minors admitted as a result of a substance use disorder, as to the child's mental condition and by a physician, physician assistant, or psychiatric advanced registered nurse practitioner as to the child's physical condition within twenty-four hours of admission. Reasonable measures shall be taken to ensure medical treatment is provided for any condition requiring immediate medical attention.

(2) If, after examination and evaluation, the children's mental health specialist or substance use disorder specialist and the physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the minor, if detained to an evaluation and treatment facility, would be better served by placement in a substance use disorder treatment program or, if detained to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility, then the minor shall be referred to the more appropriate placement; however a minor may only be referred to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program if there is a secure withdrawal management and stabilization facility or approved substance use disorder treatment program available and that has adequate space for the minor.

(3) The admitting facility shall take reasonable steps to notify immediately the minor's parent of the admission.

(4) During the initial seventy-two hour treatment period, the minor has a right to associate or receive communications from parents or others unless the professional person in charge determines that such communication would be seriously detrimental to the minor's condition or treatment and so indicates in the minor's clinical record, and notifies the minor's parents of this determination. In no event may the minor be denied the opportunity to consult an attorney.

(5) If the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved

substance use disorder treatment program admits the minor, it may detain the minor for evaluation and treatment for a period not to exceed seventy-two hours from the time of provisional acceptance. The computation of such seventy-two hour period shall exclude Saturdays, Sundays, and holidays. This initial treatment period shall not exceed seventy-two hours except when an application for voluntary inpatient treatment is received or a petition for fourteen-day commitment is filed.

(6) Within twelve hours of the admission, the facility shall advise the minor of his or her rights as set forth in this chapter. [2019 c 446 § 34; 2019 c 444 § 18; 2018 c 201 § 5017. Prior: 2016 sp.s. c 29 § 271; 2016 c 155 § 19; 2009 c 217 § 16; 1991 c 364 § 12; 1985 c 354 § 6. Formerly RCW 71.34.060.]

Reviser's note: This section was amended by 2019 c 444 § 18 and by 2019 c 446 § 34, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date—2019 c 446 §§ 4, 6, 8, 11, 14, 30, 32, 34, 37, 39, and 41: See note following RCW 71.05.150.

Expiration dates—2019 c 444 §§ 12 and 18: See note following RCW 43.70.442.

Expiration date—2018 c 201 §§ 3009, 3012, 3026, 5017, and 5020: See note following RCW 71.05.240.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Findings—Construction—Conflict with federal requirements—1991 c 364: See notes following RCW 71.05.210.

71.34.720 Examination and evaluation of minor approved for inpatient admission—Referral to a secure withdrawal management and stabilization facility or substance use disorder treatment program—Right to communication, exception—Evaluation and treatment period. ***(Effective July 1, 2026.)*** (1) Each minor approved by the facility for inpatient admission shall be examined and evaluated by a children's mental health specialist, for minors admitted as a result of a mental disorder, or by a substance use disorder professional or co-occurring disorder specialist, for minors admitted as a result of a substance use disorder, as to the child's mental condition and by a physician, physician assistant, or psychiatric advanced registered nurse practitioner as to the child's physical condition within twenty-four hours of admission. Reasonable measures shall be taken to ensure medical treatment is provided for any condition requiring immediate medical attention.

(2) If, after examination and evaluation, the children's mental health specialist or substance use disorder specialist and the physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the minor, if detained to an evaluation and treatment facility, would be better served by placement in a substance use disorder treatment program or, if detained to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility, then the minor shall be referred to the more appropriate placement.

(3) The admitting facility shall take reasonable steps to notify immediately the minor's parent of the admission.

(4) During the initial seventy-two hour treatment period, the minor has a right to associate or receive communications from parents or others unless the professional person in charge determines that such communication would be seriously detrimental to the minor's condition or treatment and so indicates in the minor's clinical record, and notifies the minor's parents of this determination. In no event may the minor be denied the opportunity to consult an attorney.

(5) If the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program admits the minor, it may detain the minor for evaluation and treatment for a period not to exceed seventy-two hours from the time of provisional acceptance. The computation of such seventy-two hour period shall exclude Saturdays, Sundays, and holidays. This initial treatment period shall not exceed seventy-two hours except when an application for voluntary inpatient treatment is received or a petition for fourteen-day commitment is filed.

(6) Within twelve hours of the admission, the facility shall advise the minor of his or her rights as set forth in this chapter. [2019 c 446 § 35; 2019 c 444 § 19; 2018 c 201 § 5018; 2016 sp.s. c 29 § 272; 2016 sp.s. c 29 § 271; 2016 c 155 § 19; 2009 c 217 § 16; 1991 c 364 § 12; 1985 c 354 § 6. Formerly RCW 71.34.060.]

Reviser's note: This section was amended by 2019 c 444 § 19 and by 2019 c 446 § 35, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 446 §§ 5, 7, 9, 12, 15, 31, 33, 35, 38, 40, and 42: See note following RCW 71.05.150.

Effective dates—2019 c 444 §§ 13 and 19: See note following RCW 43.70.442.

Effective date—2018 c 201 §§ 3010, 3013, 3027, 5018, and 5021: See note following RCW 71.05.240.

Findings—Intent—2018 c 201: See note following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Findings—Construction—Conflict with federal requirements—1991 c 364: See notes following RCW 71.05.210.

71.34.730 Petition for fourteen-day commitment—Requirements. (1) The professional person in charge of an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program where a minor has been admitted involuntarily for the initial seventy-two hour treatment period under this chapter may petition to have a minor committed to an evaluation and treatment facility or, in the case of a minor with a substance use disorder, to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program for fourteen-day diagnosis, evaluation, and treatment.

If the professional person in charge of the facility does not petition to have the minor committed, the parent who has custody of the minor may seek review of that decision in court. The parent shall file notice with the court and provide a copy of the treatment and evaluation facility's report.

(2) A petition for commitment of a minor under this section shall be filed with the superior court in the county where the minor is residing or being detained.

(a) A petition for a fourteen-day commitment shall be signed by:

(i) One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(ii) One physician, physician assistant, psychiatric advanced registered nurse practitioner, or mental health professional.

(b) If the petition is for substance use disorder treatment, the petition may be signed by a *chemical dependency professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner. The person signing the petition must have examined the minor, and the petition must contain the following:

(i) The name and address of the petitioner;

(ii) The name of the minor alleged to meet the criteria for fourteen-day commitment;

(iii) The name, telephone number, and address if known of every person believed by the petitioner to be legally responsible for the minor;

(iv) A statement that the petitioner has examined the minor and finds that the minor's condition meets required criteria for fourteen-day commitment and the supporting facts therefor;

(v) A statement that the minor has been advised of the need for voluntary treatment but has been unwilling or unable to consent to necessary treatment;

(vi) If the petition is for mental health treatment, a statement that the minor has been advised of the loss of firearm rights if involuntarily committed;

(vii) A statement recommending the appropriate facility or facilities to provide the necessary treatment; and

(viii) A statement concerning whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(c) A copy of the petition shall be personally delivered to the minor by the petitioner or petitioner's designee. A copy of the petition shall be sent to the minor's attorney and the minor's parent. [2019 c 446 § 36. Prior: 2016 sp.s. c 29 § 273; 2016 c 155 § 20; prior: 2009 c 293 § 6; 2009 c 217 § 17; 1995 c 312 § 54; 1985 c 354 § 7. Formerly RCW 71.34.070.]

***Reviser's note:** The definition of "chemical dependency professional" in RCW 71.34.020 was removed and the definition of "substance use disorder professional" was added by 2019 c 444 § 17.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Additional notes found at www.leg.wa.gov

71.34.740 Commitment hearing—Requirements—Findings by court—Commitment—Release. ***(Effective until July 1, 2026.)*** (1) A commitment hearing shall be held within seventy-two hours of the minor's admission, excluding Saturday, Sunday, and holidays, unless a continuance is requested by the minor or the minor's attorney.

(2) The commitment hearing shall be conducted at the superior court or an appropriate place at the facility in which the minor is being detained.

(3) At the commitment hearing, the evidence in support of the petition shall be presented by the county prosecutor.

(4) The minor shall be present at the commitment hearing unless the minor, with the assistance of the minor's attorney, waives the right to be present at the hearing.

(5) If the parents are opposed to the petition, they may be represented at the hearing and shall be entitled to court-appointed counsel if they are indigent.

(6) At the commitment hearing, the minor shall have the following rights:

(a) To be represented by an attorney;

(b) To present evidence on his or her own behalf;

(c) To question persons testifying in support of the petition.

(7) If the hearing is for commitment for mental health treatment, the court at the time of the commitment hearing and before an order of commitment is entered shall inform the minor both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.34.730 will result in the loss of his or her firearm rights if the minor is subsequently detained for involuntary treatment under this section.

(8) If the minor has received medication within twenty-four hours of the hearing, the court shall be informed of that fact and of the probable effects of the medication.

(9) Rules of evidence shall not apply in fourteen-day commitment hearings.

(10) For a fourteen-day commitment, the court must find by a preponderance of the evidence that:

(a) The minor has a mental disorder or substance use disorder and presents a likelihood of serious harm or is gravely disabled;

(b) The minor is in need of evaluation and treatment of the type provided by the inpatient evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program to which continued inpatient care is sought or is in need of less restrictive alternative treatment found to be in the best interests of the minor;

(c) The minor is unwilling or unable in good faith to consent to voluntary treatment; and

(d) If commitment is for a substance use disorder, there is an available secure withdrawal management and stabilization facility or approved substance use disorder treatment program with adequate space for the minor.

(11) If the court finds that the minor meets the criteria for a fourteen-day commitment, the court shall either authorize commitment of the minor for inpatient treatment or for less restrictive alternative treatment upon such conditions as are necessary. If the court determines that the minor does not meet the criteria for a fourteen-day commitment, the minor shall be released.

(12) Nothing in this section prohibits the professional person in charge of the facility from releasing the minor at any time, when, in the opinion of the professional person in charge of the facility, further inpatient treatment is no longer necessary. The release may be subject to reasonable conditions if appropriate.

Whenever a minor is released under this section, the professional person in charge shall within three days, notify the court in writing of the release.

(13) A minor who has been committed for fourteen days shall be released at the end of that period unless a petition for one hundred eighty-day commitment is pending before the court. [2019 c 446 § 37; 2016 sp.s. c 29 § 274; 2009 c 293 § 7; 1985 c 354 § 8. Formerly RCW 71.34.080.]

Expiration date—2019 c 446 §§ 4, 6, 8, 11, 14, 30, 32, 34, 37, 39, and 41: See note following RCW 71.05.150.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.34.740 Commitment hearing—Requirements—Findings by court—Commitment—Release. ***(Effective July 1, 2026.)*** (1) A commitment hearing shall be held within seventy-two hours of the minor's admission, excluding Saturday, Sunday, and holidays, unless a continuance is requested by the minor or the minor's attorney.

(2) The commitment hearing shall be conducted at the superior court or an appropriate place at the facility in which the minor is being detained.

(3) At the commitment hearing, the evidence in support of the petition shall be presented by the county prosecutor.

(4) The minor shall be present at the commitment hearing unless the minor, with the assistance of the minor's attorney, waives the right to be present at the hearing.

(5) If the parents are opposed to the petition, they may be represented at the hearing and shall be entitled to court-appointed counsel if they are indigent.

(6) At the commitment hearing, the minor shall have the following rights:

(a) To be represented by an attorney;

(b) To present evidence on his or her own behalf;

(c) To question persons testifying in support of the petition.

(7) If the hearing is for commitment for mental health treatment, the court at the time of the commitment hearing and before an order of commitment is entered shall inform the minor both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.34.730 will result in the loss of his or her firearm rights if the minor is subsequently detained for involuntary treatment under this section.

(8) If the minor has received medication within twenty-four hours of the hearing, the court shall be informed of that fact and of the probable effects of the medication.

(9) Rules of evidence shall not apply in fourteen-day commitment hearings.

(10) For a fourteen-day commitment, the court must find by a preponderance of the evidence that:

(a) The minor has a mental disorder or substance use disorder and presents a likelihood of serious harm or is gravely disabled;

(b) The minor is in need of evaluation and treatment of the type provided by the inpatient evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program to which continued inpatient care is sought or is in need of less restrictive alternative treatment found to be in the best interests of the minor; and

(c) The minor is unwilling or unable in good faith to consent to voluntary treatment.

(11) If the court finds that the minor meets the criteria for a fourteen-day commitment, the court shall either authorize commitment of the minor for inpatient treatment or for less restrictive alternative treatment upon such conditions as are necessary. If the court determines that the minor does not meet the criteria for a fourteen-day commitment, the minor shall be released.

(12) Nothing in this section prohibits the professional person in charge of the facility from releasing the minor at any time, when, in the opinion of the professional person in charge of the facility, further inpatient treatment is no longer necessary. The release may be subject to reasonable conditions if appropriate.

Whenever a minor is released under this section, the professional person in charge shall within three days, notify the court in writing of the release.

(13) A minor who has been committed for fourteen days shall be released at the end of that period unless a petition for one hundred eighty-day commitment is pending before the court. [2019 c 446 § 38; 2016 sp.s. c 29 § 275; 2016 sp.s. c 29 § 274; 2009 c 293 § 7; 1985 c 354 § 8. Formerly RCW 71.34.080.]

Effective date—2019 c 446 §§ 5, 7, 9, 12, 15, 31, 33, 35, 38, 40, and 42: See note following RCW 71.05.150.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.34.750 Petition for one hundred eighty-day commitment—Hearing—Requirements—Findings by court—Commitment order—Release—Successive commitments. ***(Effective until January 1, 2020.)*** (1) At any time during the minor's period of fourteen-day commitment, the professional person in charge may petition the court for an order requiring the minor to undergo an additional one hundred eighty-day period of treatment. The evidence in support of the petition shall be presented by the county prosecutor unless the petition is filed by the professional person in charge of a state-operated facility in which case the evidence shall be presented by the attorney general.

(2) The petition for one hundred eighty-day commitment shall contain the following:

(a) The name and address of the petitioner or petitioners;

(b) The name of the minor alleged to meet the criteria for one hundred eighty-day commitment;

(c) A statement that the petitioner is the professional person in charge of the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program responsible for the treatment of the minor;

(d) The date of the fourteen-day commitment order; and

(e) A summary of the facts supporting the petition.

(3) The petition shall be supported by accompanying affidavits signed by: (a) Two examining physicians, one of whom shall be a child psychiatrist, or two psychiatric advanced registered nurse practitioners, one of whom shall be a child and adolescent or family psychiatric advanced registered nurse practitioner. If the petition is for substance use disorder treatment, the petition may be signed by a *chemical dependency professional instead of a mental health professional and by an advanced registered nurse practitioner

instead of a psychiatric advanced registered nurse practitioner, or two physician assistants, one of whom must be supervised by a child psychiatrist; (b) one children's mental health specialist and either an examining physician, physician assistant, or a psychiatric advanced registered nurse practitioner; or (c) two among an examining physician, physician assistant, and a psychiatric advanced registered nurse practitioner, one of which needs to be a child psychiatrist, a physician assistant supervised by a child psychiatrist, or a child and adolescent psychiatric nurse practitioner. The affidavits shall describe in detail the behavior of the detained minor which supports the petition and shall state whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(4) The petition for one hundred eighty-day commitment shall be filed with the clerk of the court at least three days before the expiration of the fourteen-day commitment period. The petitioner or the petitioner's designee shall within twenty-four hours of filing serve a copy of the petition on the minor and notify the minor's attorney and the minor's parent. A copy of the petition shall be provided to such persons at least twenty-four hours prior to the hearing.

(5) At the time of filing, the court shall set a date within seven days for the hearing on the petition. The court may continue the hearing upon the written request of the minor or the minor's attorney for not more than ten days. The minor or the parents shall be afforded the same rights as in a fourteen-day commitment hearing. Treatment of the minor shall continue pending the proceeding.

(6) For one hundred eighty-day commitment:

(a) The court must find by clear, cogent, and convincing evidence that the minor:

(i) Is suffering from a mental disorder or substance use disorder;

(ii) Presents a likelihood of serious harm or is gravely disabled; and

(iii) Is in need of further treatment that only can be provided in a one hundred eighty-day commitment.

(b) If commitment is for a substance use disorder, the court must find that there is an available approved substance use disorder treatment program that has adequate space for the minor.

(7) If the court finds that the criteria for commitment are met and that less restrictive treatment in a community setting is not appropriate or available, the court shall order the minor committed to the custody of the secretary for further inpatient mental health treatment, to an approved substance use disorder treatment program for further substance use disorder treatment, or to a private treatment and evaluation facility for inpatient mental health or substance use disorder treatment if the minor's parents have assumed responsibility for payment for the treatment. If the court finds that a less restrictive alternative is in the best interest of the minor, the court shall order less restrictive alternative treatment upon such conditions as necessary.

If the court determines that the minor does not meet the criteria for one hundred eighty-day commitment, the minor shall be released.

(8) Successive one hundred eighty-day commitments are permissible on the same grounds and under the same procedures as the original one hundred eighty-day commitment. Such petitions shall be filed at least five days prior to the expiration of the previous one hundred eighty-day commitment order. [2019 c 446 § 39. Prior: 2016 sp.s. c 29 § 276; 2016 c 155 § 21; 2009 c 217 § 18; 1985 c 354 § 9. Formerly RCW 71.34.090.]

***Reviser's note:** The definition of "chemical dependency professional" in RCW 71.34.020 was removed and the definition of "substance use disorder professional" was added by 2019 c 444 § 17.

Expiration date—2019 c 446 §§ 4, 6, 8, 11, 14, 30, 32, 34, 37, 39, and 41: See note following RCW 71.05.150.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.34.750 Petition for one hundred eighty-day commitment—Hearing—Requirements—Findings by court—Commitment order—Release—Successive commitments. ***(Effective January 1, 2020, until July 1, 2026.)*** (1) At any time during the minor's period of fourteen-day commitment, the professional person in charge may petition the court for an order requiring the minor to undergo an additional one hundred eighty-day period of treatment. The evidence in support of the petition shall be presented by the county prosecutor unless the petition is filed by the professional person in charge of a state-operated facility in which case the evidence shall be presented by the attorney general.

(2) The petition for one hundred eighty-day commitment shall contain the following:

(a) The name and address of the petitioner or petitioners;

(b) The name of the minor alleged to meet the criteria for one hundred eighty-day commitment;

(c) A statement that the petitioner is the professional person in charge of the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program responsible for the treatment of the minor;

(d) The date of the fourteen-day commitment order; and

(e) A summary of the facts supporting the petition.

(3) The petition shall be supported by accompanying affidavits signed by: (a) Two examining physicians, one of whom shall be a child psychiatrist, or two psychiatric advanced registered nurse practitioners, one of whom shall be a child and adolescent or family psychiatric advanced registered nurse practitioner. If the petition is for substance use disorder treatment, the petition may be signed by a *chemical dependency professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner, or two physician assistants, one of whom must be supervised by a child psychiatrist; (b) one children's mental health specialist and either an examining physician, physician assistant, or a psychiatric advanced registered nurse practitioner; or (c) two among an examining physician, physician assistant, and a psychiatric advanced registered nurse practitioner, one of which needs to be a child psychiatrist, a physician assistant supervised by a child psychiatrist, or a child and adolescent psychiatric nurse practitioner. The affidavits shall describe in detail the behavior of the detained minor which supports the petition and shall state whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(4) The petition for one hundred eighty-day commitment shall be filed with the clerk of the court at least three days before the expiration of the fourteen-day commitment period. The petitioner or the petitioner's designee shall within twenty-four hours of filing serve a copy of the petition on the minor and notify the minor's attorney and the minor's parent. A copy of the petition shall be provided to such persons at least twenty-four hours prior to the hearing.

(5) At the time of filing, the court shall set a date within seven days for the hearing on the petition. The court may continue the hearing upon the written request of the minor or the minor's attorney for not more than ten days. The minor or the parents shall be afforded the same rights as in a fourteen-day commitment hearing. Treatment of the minor shall continue pending the proceeding.

(6) For one hundred eighty-day commitment:

(a) The court must find by clear, cogent, and convincing evidence that the minor:

(i) Is suffering from a mental disorder or substance use disorder;

(ii) Presents a likelihood of serious harm or is gravely disabled; and

(iii) Is in need of further treatment that only can be provided in a one hundred eighty-day commitment.

(b) If commitment is for a substance use disorder, the court must find that there is an available approved substance use disorder treatment program that has adequate space for the minor.

(7) If the court finds that the criteria for commitment are met and that less restrictive treatment in a community setting is not appropriate or available, the court shall order the minor committed to the custody of the director for further inpatient mental health treatment, to an approved substance use disorder treatment program for further substance use disorder treatment, or to a private treatment and evaluation facility for inpatient mental health or substance use disorder treatment if the minor's parents have assumed responsibility for payment for the treatment. If the court finds that a less restrictive alternative is in the best interest of the minor, the court shall order less restrictive alternative treatment upon such conditions as necessary.

If the court determines that the minor does not meet the criteria for one hundred eighty-day commitment, the minor shall be released.

(8) Successive one hundred eighty-day commitments are permissible on the same grounds and under the same procedures as the original one hundred eighty-day commitment. Such petitions shall be filed at least five days prior to the expiration of the previous one hundred eighty-day commitment order. [2019 c 446 § 39; 2019 c 325 § 2008. Prior: 2016 sp.s. c 29 § 276; 2016 c 155 § 21; 2009 c 217 § 18; 1985 c 354 § 9. Formerly RCW 71.34.090.]

Reviser's note: *(1) The definition of "chemical dependency professional" in RCW 71.34.020 was removed and the definition of "substance use disorder professional" was added by 2019 c 444 § 17.

(2) This section was amended by 2019 c 325 § 2008 and by 2019 c 446 § 39, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date—2019 c 446 §§ 4, 6, 8, 11, 14, 30, 32, 34, 37, 39, and 41: See note following RCW 71.05.150.

Expiration date—2019 c 325 § 2008: "Section 2008 of this act expires July 1, 2026." [2019 c 325 § 6006.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.34.750 Petition for one hundred eighty-day commitment—Hearing—Requirements—Findings by court—Commitment order—Release—Successive commitments. ***(Effective July 1, 2026.)*** (1) At any time during the minor's period of fourteen-day commitment, the professional person in charge may petition the court for an order requiring the minor to undergo an additional one hundred eighty-day period of treatment. The evidence in support of the petition shall be presented by the county prosecutor unless the petition is filed by the professional person in charge of a state-operated facility in which case the evidence shall be presented by the attorney general.

(2) The petition for one hundred eighty-day commitment shall contain the following:

(a) The name and address of the petitioner or petitioners;

(b) The name of the minor alleged to meet the criteria for one hundred eighty-day commitment;

(c) A statement that the petitioner is the professional person in charge of the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program responsible for the treatment of the minor;

(d) The date of the fourteen-day commitment order; and

(e) A summary of the facts supporting the petition.

(3) The petition shall be supported by accompanying affidavits signed by: (a) Two examining physicians, one of whom shall be a child psychiatrist, or two psychiatric advanced registered nurse practitioners, one of whom shall be a child and adolescent or family psychiatric advanced registered nurse practitioner. If the petition is for substance use disorder treatment, the petition may be signed by a *chemical dependency professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner, or two physician assistants, one of whom must be supervised by a child psychiatrist; (b) one children's mental health specialist and either an examining physician, physician assistant, or a psychiatric advanced registered nurse practitioner; or (c) two among an examining physician, physician assistant, and a psychiatric advanced registered nurse practitioner, one of which needs to be a child psychiatrist, a physician assistant supervised by a child psychiatrist, or a child and adolescent psychiatric nurse practitioner. The affidavits shall describe in detail the behavior of the detained minor which supports the petition and shall state whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(4) The petition for one hundred eighty-day commitment shall be filed with the clerk of the court at least three days before the expiration of the fourteen-day commitment period. The petitioner or the petitioner's designee shall within twenty-four hours of filing serve a copy of the petition on the minor and notify the minor's attorney and the minor's parent.

A copy of the petition shall be provided to such persons at least twenty-four hours prior to the hearing.

(5) At the time of filing, the court shall set a date within seven days for the hearing on the petition. The court may continue the hearing upon the written request of the minor or the minor's attorney for not more than ten days. The minor or the parents shall be afforded the same rights as in a fourteen-day commitment hearing. Treatment of the minor shall continue pending the proceeding.

(6) For one hundred eighty-day commitment, the court must find by clear, cogent, and convincing evidence that the minor:

(a) Is suffering from a mental disorder or substance use disorder;

(b) Presents a likelihood of serious harm or is gravely disabled; and

(c) Is in need of further treatment that only can be provided in a one hundred eighty-day commitment.

(7) If the court finds that the criteria for commitment are met and that less restrictive treatment in a community setting is not appropriate or available, the court shall order the minor committed to the custody of the director for further inpatient mental health treatment, to an approved substance use disorder treatment program for further substance use disorder treatment, or to a private treatment and evaluation facility for inpatient mental health or substance use disorder treatment if the minor's parents have assumed responsibility for payment for the treatment. If the court finds that a less restrictive alternative is in the best interest of the minor, the court shall order less restrictive alternative treatment upon such conditions as necessary.

If the court determines that the minor does not meet the criteria for one hundred eighty-day commitment, the minor shall be released.

(8) Successive one hundred eighty-day commitments are permissible on the same grounds and under the same procedures as the original one hundred eighty-day commitment. Such petitions shall be filed at least five days prior to the expiration of the previous one hundred eighty-day commitment order. [2019 c 446 § 40; 2019 c 325 § 2009; 2016 sp.s. c 29 § 277; 2016 sp.s. c 29 § 276; 2016 c 155 § 21; 2009 c 217 § 18; 1985 c 354 § 9. Formerly RCW 71.34.090.]

Reviser's note: *(1) The definition of "chemical dependency professional" in RCW 71.34.020 was removed and the definition of "substance use disorder professional" was added by 2019 c 444 § 17.

(2) This section was amended by 2019 c 325 § 2009 and by 2019 c 446 § 40, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 446 §§ 5, 7, 9, 12, 15, 31, 33, 35, 38, 40, and 42: See note following RCW 71.05.150.

Effective date—2019 c 325 § 2009: "Section 2009 of this act takes effect July 1, 2026." [2019 c 325 § 6005.]

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.34.760 Placement of minor in state evaluation and treatment facility or substance use disorder treatment program—Placement committee—Facility or program to report to committee. (1) If a minor is committed for one hundred eighty-day inpatient treatment and is to be placed in a state-supported program, the director shall accept immediately and place the minor in a state-funded long-term evaluation and treatment facility or state-funded approved substance use disorder treatment program.

(2) The director's placement authority shall be exercised through a designated placement committee appointed by the director and composed of children's mental health specialists and substance use disorder professionals, including at least one child psychiatrist who represents the state-funded, long-term, evaluation and treatment facility for minors and one substance use disorder professional who represents the state-funded approved substance use disorder treatment program. The responsibility of the placement committee will be to:

(a) Make the long-term placement of the minor in the most appropriate, available state-funded evaluation and treatment facility or approved substance use disorder treatment program, having carefully considered factors including the treatment needs of the minor, the most appropriate facility able to respond to the minor's identified treatment needs, the geographic proximity of the facility to the minor's family, the immediate availability of bed space, and the probable impact of the placement on other residents of the facility;

(b) Approve or deny requests from treatment facilities for transfer of a minor to another facility;

(c) Receive and monitor reports required under this section;

(d) Receive and monitor reports of all discharges.

(3) The director may authorize transfer of minors among treatment facilities if the transfer is in the best interests of the minor or due to treatment priorities.

(4) The responsible state-funded evaluation and treatment facility or approved substance use disorder treatment program shall submit a report to the authority's designated placement committee within ninety days of admission and no less than every one hundred eighty days thereafter, setting forth such facts as the authority requires, including the minor's individual treatment plan and progress, recommendations for future treatment, and possible less restrictive treatment. [2019 c 444 § 20; 2018 c 201 § 5019; 2016 sp.s. c 29 § 278; 1985 c 354 § 10. Formerly RCW 71.34.100.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.34.770 Release of minor—Conditional release—Discharge. (1) The professional person in charge of the inpatient treatment facility may authorize release for the minor under such conditions as appropriate. Conditional release may be revoked pursuant to RCW 71.34.780 if leave conditions are not met or the minor's functioning substantially deteriorates.

(2) Minors may be discharged prior to expiration of the commitment period if the treating physician, physician assistant, psychiatric advanced registered nurse practitioner, or professional person in charge concludes that the minor no longer meets commitment criteria. [2016 c 155 § 22; 2009 c 217 § 19; 1985 c 354 § 12. Formerly RCW 71.34.120.]

71.34.780 Minor's failure to adhere to outpatient conditions—Deterioration of minor's functioning—Transport to facility or program—Order of apprehension and detention—Revocation of alternative treatment or conditional release—Hearings. ***(Effective until July 1, 2026.)*** (1) If the professional person in charge of an outpatient treatment program, a designated crisis responder, or the director or secretary, as appropriate, determines that a minor is failing to adhere to the conditions of the court order for less restrictive alternative treatment or the conditions for the conditional release, or that substantial deterioration in the minor's functioning has occurred, the designated crisis responder, or the director or secretary, as appropriate, may order that the minor, if committed for mental health treatment, be taken into custody and transported to an inpatient evaluation and treatment facility or, if committed for substance use disorder treatment, be taken into custody and transported to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program if there is an available secure withdrawal management and stabilization facility or approved substance use disorder treatment program that has adequate space for the minor.

(2) The designated crisis responder or the director or secretary, as appropriate, shall file the order of apprehension and detention and serve it upon the minor and notify the minor's parent and the minor's attorney, if any, of the detention within two days of return. At the time of service the minor shall be informed of the right to a hearing and to representation by an attorney. The designated crisis responder or the director or secretary, as appropriate, may modify or rescind the order of apprehension and detention at any time prior to the hearing.

(3) A petition for revocation of less restrictive alternative treatment shall be filed by the designated crisis responder or the director or secretary, as appropriate, with the court in the county ordering the less restrictive alternative treatment. The court shall conduct the hearing in that county. A petition for revocation of conditional release may be filed with the court in the county ordering inpatient treatment or the county where the minor on conditional release is residing. A petition shall describe the behavior of the minor indicating violation of the conditions or deterioration of routine functioning and a dispositional recommendation. Upon motion for good cause, the hearing may be transferred to the county of the minor's residence or to the county in which the alleged violations occurred. The hearing shall be held within seven days of the minor's return. The issues to be determined are whether the minor did or did not adhere to the conditions of the less restrictive alternative treatment or conditional release, or whether the minor's routine functioning has substantially deteriorated, and, if so, whether the conditions of less restrictive alternative treatment or conditional release should be modified or, subject to subsection (4) of this section, whether the minor should be returned to inpatient treatment. Pursuant to the determination of the court, the minor shall be returned to less restrictive alternative treatment or conditional release on the same or modified conditions or shall be returned to inpatient treatment. If the minor is returned to inpatient treatment, RCW 71.34.760 regarding the director's placement responsibility shall apply. The hearing may be waived by the minor and the minor returned to inpatient treatment or to less restrictive alternative treatment or conditional release on the same or modified conditions.

(4) A court may not order the return of a minor to inpatient treatment in a secure withdrawal management and stabilization facility or approved substance use disorder treatment program unless there is a secure withdrawal management and stabilization facility or approved substance use disorder treatment program available with adequate space for the minor. [2019 c 446 § 41; 2018 c 201 § 5020; 2016 sp.s. c 29 § 279; 1985 c 354 § 11. Formerly RCW 71.34.110.]

Expiration date—2019 c 446 §§ 4, 6, 8, 11, 14, 30, 32, 34, 37, 39, and 41: See note following RCW 71.05.150.

Expiration date—2018 c 201 §§ 3009, 3012, 3026, 5017, and 5020: See note following RCW 71.05.240.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.34.780 Minor's failure to adhere to outpatient conditions—Deterioration of minor's functioning—Transport to facility or program—Order of apprehension and detention—Revocation of alternative treatment or conditional release—Hearings. ***(Effective July 1, 2026.)*** (1) If the professional person in charge of an outpatient treatment program, a designated crisis responder, or the director or secretary, as appropriate, determines that a minor is failing to adhere to the conditions of the court order for less restrictive alternative treatment or the conditions for the conditional release, or that substantial deterioration in the minor's functioning has occurred, the designated crisis responder, or the director or secretary, as appropriate, may order that the minor, if committed for mental health treatment, be taken into custody and transported to an inpatient evaluation and treatment facility or, if committed for substance use disorder treatment, be taken into custody and transported to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program.

(2) The designated crisis responder or the director or secretary, as appropriate, shall file the order of apprehension and detention and serve it upon the minor and notify the minor's parent and the minor's attorney, if any, of the detention within two days of return. At the time of service the minor shall be informed of the right to a hearing and to representation by an attorney. The designated crisis responder or the director or secretary, as appropriate, may modify or rescind the order of apprehension and detention at any time prior to the hearing.

(3) A petition for revocation of less restrictive alternative treatment shall be filed by the designated crisis responder or the director or secretary, as appropriate, with the court in the county ordering the less restrictive alternative treatment. The court shall conduct the hearing in that county. A petition for revocation of conditional release may be filed with the court in the county ordering inpatient treatment or the county where the minor on conditional release is residing. A petition shall describe the behavior of the minor indicating violation of the conditions or deterioration of routine functioning and a dispositional recommendation. Upon motion for good cause, the hearing may be transferred to the county of the minor's residence or to the county in which the alleged violations

occurred. The hearing shall be held within seven days of the minor's return. The issues to be determined are whether the minor did or did not adhere to the conditions of the less restrictive alternative treatment or conditional release, or whether the minor's routine functioning has substantially deteriorated, and, if so, whether the conditions of less restrictive alternative treatment or conditional release should be modified or whether the minor should be returned to inpatient treatment. Pursuant to the determination of the court, the minor shall be returned to less restrictive alternative treatment or conditional release on the same or modified conditions or shall be returned to inpatient treatment. If the minor is returned to inpatient treatment, RCW 71.34.760 regarding the director's placement responsibility shall apply. The hearing may be waived by the minor and the minor returned to inpatient treatment or to less restrictive alternative treatment or conditional release on the same or modified conditions. [2019 c 446 § 42; 2018 c 201 § 5021; 2016 sp.s. c 29 § 280; 2016 sp.s. c 29 § 279; 1985 c 354 § 11. Formerly RCW 71.34.110.]

Effective date—2019 c 446 §§ 5, 7, 9, 12, 15, 31, 33, 35, 38, 40, and 42: See note following RCW 71.05.150.

Effective date—2018 c 201 §§ 3010, 3013, 3027, 5018, and 5021: See note following RCW 71.05.240.

Findings—Intent—2018 c 201: See note following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

71.34.790 Transportation for minors committed to state facility for one hundred eighty-day treatment. Necessary transportation for minors committed to the director under this chapter for one hundred eighty-day treatment shall be provided by the authority in the most appropriate and cost-effective means. [2018 c 201 § 5022; 1985 c 354 § 15. Formerly RCW 71.34.150.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

71.34.795 Transferring or moving persons from juvenile correctional institutions or facilities to evaluation and treatment facilities. When in the judgment of the department of children, youth, and families the welfare of any person committed to or confined in any state juvenile correctional institution or facility necessitates that the person be transferred or moved for observation, diagnosis, or treatment to an evaluation and treatment facility, the secretary of children, youth, and families or the secretary's designee is authorized to order and effect such move or transfer for a period of up to fourteen days, provided that the secretary notifies the original committing court of the transfer and the evaluation and treatment facility is in agreement with the transfer. No person committed to or confined in any state juvenile correctional institution or facility may be transferred to an evaluation and treatment facility for more than fourteen days unless that person has been admitted as a voluntary patient or committed for one hundred eighty-day treatment under this chapter or ninety-day treatment under chapter 71.05 RCW if eighteen years of age or older. Underlying jurisdiction of minors transferred or committed under this section remains with the state correctional institution. A voluntary admitted minor or minors committed under this section and no longer meeting the criteria for one hundred eighty-day commitment shall be returned to the state correctional institution to serve the remaining time of the underlying dispositional order or sentence. The time spent by the minor at the evaluation and treatment facility shall be credited towards the minor's juvenile court sentence. [2017 3rd sp.s. c 6 § 725; 1985 c 354 § 19. Formerly RCW 71.34.180.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Chapter 71.36 RCW
COORDINATION OF CHILDREN'S MENTAL HEALTH SERVICES

Sections

71.36.005 Intent. The legislature intends to substantially improve the delivery of children's mental health services in Washington state through the development and implementation of a children's mental health system that:

(1) Values early identification, intervention, and prevention;

(2) Coordinates existing categorical children's mental health programs and funding, through efforts that include elimination of duplicative care plans and case management;

(3) Treats each child in the context of his or her family, and provides services and supports needed to maintain a child with his or her family and community;

(4) Integrates families into treatment through choice of treatment, participation in treatment, and provision of peer support;

(5) Focuses on resiliency and recovery;

(6) Relies to a greater extent on evidence-based practices;

(7) Is sensitive to the unique cultural circumstances of children of color and children in families whose primary language is not English;

(8) Integrates educational support services that address students' diverse learning styles; and

(9) To the greatest extent possible, blends categorical funding to offer more service and support options to each child. [2007 c 359 § 1; 1991 c 326 § 11.]

Additional notes found at www.leg.wa.gov

71.36.010 Definitions. ***(Effective until January 1, 2020.)*** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means a state, tribal, or local governmental entity or a private not-for-profit organization.

(2) "Behavioral health organization" means a county authority or group of county authorities or other nonprofit entity that has entered into contracts with the health care authority pursuant to chapter 71.24 RCW.

(3) "Child" means a person under eighteen years of age, except as expressly provided otherwise in state or federal law.

(4) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(5) "County authority" means the board of county commissioners or county executive.

(6) "Early periodic screening, diagnosis, and treatment" means the component of the federal medicaid program established pursuant to 42 U.S.C. Sec. 1396d(r), as amended.

(7) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population.

(8) "Family" means a child's biological parents, adoptive parents, foster parents, guardian, legal custodian authorized pursuant to Title 26 RCW, a relative with whom a child has been placed by the department of social and health services, or a tribe.

(9) "Promising practice" or "emerging best practice" means a practice that presents, based upon preliminary information, potential for becoming a research-based or consensus-based practice.

(10) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(11) "Wraparound process" means a family driven planning process designed to address the needs of children and youth by the formation of a team that empowers families to make key decisions regarding the care of the child or youth in partnership with professionals and the family's natural community supports. The team produces a community-based and culturally competent intervention plan which identifies the strengths and needs of the child or youth and family and defines goals that the team collaborates on achieving with respect for the unique cultural values of the family. The "wraparound process" shall emphasize principles of persistence and outcome-based measurements of success. [2018 c 201 § 5023. Prior: 2014 c 225 § 91; 2007 c 359 § 2; 1991 c 326 § 12.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective date—2014 c 225: See note following RCW 71.24.016.

Additional notes found at www.leg.wa.gov

71.36.010 Definitions. ***(Effective January 1, 2020.)*** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means a state, tribal, or local governmental entity or a private not-for-profit organization.

(2) "Behavioral health administrative services organization" means an entity contracted with the health care authority to administer behavioral health services and programs under RCW 71.24.381, including crisis services and administration of the involuntary treatment act, chapter 71.05 RCW, for all individuals in a defined regional service area under chapter 71.24 RCW.

(3) "Child" means a person under eighteen years of age, except as expressly provided otherwise in state or federal law.

(4) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(5) "County authority" means the board of county commissioners or county executive.

(6) "Early periodic screening, diagnosis, and treatment" means the component of the federal medicaid program established pursuant to 42 U.S.C. Sec. 1396d(r), as amended.

(7) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population.

(8) "Family" means a child's biological parents, adoptive parents, foster parents, guardian, legal custodian authorized pursuant to Title 26 RCW, a relative with whom a child has been placed by the department of social and health services, or a tribe.

(9) "Managed care organization" means an organization, having a certificate of authority or certificate of registration from the office of the insurance commissioner, that contracts with the health care authority under a comprehensive risk contract to provide prepaid health care services to enrollees under the authority's managed care programs under chapter 74.09 RCW.

(10) "Promising practice" or "emerging best practice" means a practice that presents, based upon preliminary information, potential for becoming a research-based or consensus-based practice.

(11) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(12) "Wraparound process" means a family driven planning process designed to address the needs of children and youth by the formation of a team that empowers families to make key decisions regarding the care of the child or youth in partnership with professionals and the family's natural community supports. The team produces a community-based and culturally competent intervention plan which identifies the strengths and needs of the child or youth and family and defines goals that the team collaborates on achieving with respect for the unique cultural values of the family. The "wraparound process" shall emphasize principles of persistence and outcome-based measurements of success. [2019 c 325 § 2010; 2018 c 201 § 5023. Prior: 2014 c 225 § 91; 2007 c 359 § 2; 1991 c 326 § 12.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective date—2014 c 225: See note following RCW 71.24.016.

Additional notes found at www.leg.wa.gov

71.36.025 Elements of a children's mental health system. ***(Effective until January 1, 2020.)*** (1) It is the goal of the legislature that, by 2012, the children's mental health system in Washington state include the following elements:

(a) A continuum of services from early identification, intervention, and prevention through crisis intervention and inpatient treatment, including peer support and parent mentoring services;

(b) Equity in access to services for similarly situated children, including children with co-occurring disorders;

(c) Developmentally appropriate, high quality, and culturally competent services available statewide;

(d) Treatment of each child in the context of his or her family and other persons that are a source of support and stability in his or her life;

(e) A sufficient supply of qualified and culturally competent children's mental health providers;

(f) Use of developmentally appropriate evidence-based and research-based practices;

(g) Integrated and flexible services to meet the needs of children who, due to mental illness or emotional or behavioral disturbance, are at risk of out-of-home placement or involved with multiple child-serving systems.

(2) The effectiveness of the children's mental health system shall be determined through the use of outcome-based performance measures. The health care authority and the evidence-based practice institute established in RCW 71.24.061, in consultation with parents, caregivers, youth, behavioral health organizations, mental health services providers, health plans, primary care providers, tribes, and others, shall develop outcome-based performance measures such as:

(a) Decreased emergency room utilization;

(b) Decreased psychiatric hospitalization;

(c) Lessening of symptoms, as measured by commonly used assessment tools;

(d) Decreased out-of-home placement, including residential, group, and foster care, and increased stability of such placements, when necessary;

(e) Decreased runaways from home or residential placements;

(f) Decreased rates of chemical dependency;

(g) Decreased involvement with the juvenile justice system;

(h) Improved school attendance and performance;

(i) Reductions in school or child care suspensions or expulsions;

(j) Reductions in use of prescribed medication where cognitive behavioral therapies are indicated;

(k) Improved rates of high school graduation and employment; and

(l) Decreased use of mental health services upon reaching adulthood for mental disorders other than those that require ongoing treatment to maintain stability.

Performance measure reporting for children's mental health services should be integrated into existing performance measurement and reporting systems developed and implemented under chapter 71.24 RCW. [2018 c 201 § 5024; 2014 c 225 § 92; 2007 c 359 § 3.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective date—2014 c 225: See note following RCW 71.24.016.

Additional notes found at www.leg.wa.gov

71.36.025 Elements of a children's mental health system. ***(Effective January 1, 2020.)*** (1) It is the goal of the legislature that the children's mental health system in Washington state include the following elements:

(a) A continuum of services from early identification, intervention, and prevention through crisis intervention and inpatient treatment, including peer support and parent mentoring services;

(b) Equity in access to services for similarly situated children, including children with co-occurring disorders;

(c) Developmentally appropriate, high quality, and culturally competent services available statewide;

(d) Treatment of each child in the context of his or her family and other persons that are a source of support and stability in his or her life;

(e) A sufficient supply of qualified and culturally competent children's mental health providers;

(f) Use of developmentally appropriate evidence-based and research-based practices;

(g) Integrated and flexible services to meet the needs of children who, due to mental illness or emotional or behavioral disturbance, are at risk of out-of-home placement or involved with multiple child-serving systems.

(2) The effectiveness of the children's mental health system shall be determined through the use of outcome-based performance measures. The health care authority and the evidence-based practice institute established in RCW 71.24.061, in consultation with parents, caregivers, youth, behavioral health administrative services organizations, managed care organizations contracted with the authority under chapter 74.09 RCW, mental health services providers, health plans, primary care providers, tribes, and others, shall develop outcome-based performance measures such as:

(a) Decreased emergency room utilization;

(b) Decreased psychiatric hospitalization;

(c) Lessening of symptoms, as measured by commonly used assessment tools;

(d) Decreased out-of-home placement, including residential, group, and foster care, and increased stability of such placements, when necessary;

(e) Decreased runaways from home or residential placements;

(f) Decreased rates of substance use disorder;

(g) Decreased involvement with the juvenile justice system;

(h) Improved school attendance and performance;

(i) Reductions in school or child care suspensions or expulsions;

(j) Reductions in use of prescribed medication where cognitive behavioral therapies are indicated;

(k) Improved rates of high school graduation and employment; and

(l) Decreased use of mental health services upon reaching adulthood for mental disorders other than those that require ongoing treatment to maintain stability.

Performance measure reporting for children's mental health services should be integrated into existing performance measurement and reporting systems developed and implemented under chapter 71.24 RCW. [2019 c 325 § 2011; 2018 c 201 § 5024; 2014 c 225 § 92; 2007 c 359 § 3.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective date—2014 c 225: See note following RCW 71.24.016.

Additional notes found at www.leg.wa.gov

71.36.040 Issue identification, data collection, plan revision—Coordination with other state agencies. ***(Effective until January 1, 2020.)*** (1) The legislature supports recommendations made in the August 2002 study of the public mental health system for children conducted by the joint legislative audit and review committee.

(2) The health care authority shall, within available funds:

(a) Identify internal business operation issues that limit the agency's ability to meet legislative intent to coordinate existing categorical children's mental health programs and funding;

(b) Collect reliable mental health cost, service, and outcome data specific to children. This information must be used to identify best practices and methods of improving fiscal management;

(c) Revise the early periodic screening diagnosis and treatment plan to reflect the mental health system structure in place on July 27, 2003, and thereafter revise the plan as necessary to conform to subsequent changes in the structure.

(3) The health care authority and the office of the superintendent of public instruction shall jointly identify school districts where mental health and education systems coordinate services and resources to provide public mental health care for children. The health care authority and the office of the superintendent of public instruction shall work together to share information about these approaches with other school districts, behavioral health organizations, and state agencies. [2018 c 201 § 5025; 2014 c 225 § 93; 2003 c 281 § 2.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective date—2014 c 225: See note following RCW 71.24.016.

Additional notes found at www.leg.wa.gov

71.36.040 Issue identification, data collection, plan revision—Coordination and information sharing with other state agencies. ***(Effective January 1, 2020.)*** (1) The health care authority shall, within available funds:

(a) Identify internal business operation issues that limit the authority's ability to meet legislative intent to coordinate existing categorical children's mental health programs and funding;

(b) Collect reliable mental health cost, service, and outcome data specific to children. This information must be used to identify best practices and methods of improving fiscal management;

(c) Revise the early and periodic screening diagnosis and treatment plan to reflect the mental health system structure in place as necessary to conform to changes in the structure.

(2) The health care authority and the office of the superintendent of public instruction shall jointly identify school districts where mental health and education systems coordinate services and resources to provide public mental health care for children. The health care authority and the office of the superintendent of public instruction shall work together to share information about these approaches with other school districts, managed care organizations, behavioral health administrative services organizations, and state agencies. [2019 c 325 § 2012; 2018 c 201 § 5025; 2014 c 225 § 93; 2003 c 281 § 2.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective date—2014 c 225: See note following RCW 71.24.016.

Additional notes found at www.leg.wa.gov

71.36.060 Medicaid eligible children in temporary juvenile detention. The health care authority shall explore the feasibility of obtaining a medicaid state plan amendment to allow the state to receive medicaid matching funds for health services provided to medicaid enrolled youth who are temporarily placed in a juvenile detention facility. Temporary placement shall be defined as until adjudication or up to sixty continuous days, whichever occurs first. [2018 c 201 § 5026; 2007 c 359 § 6.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Additional notes found at www.leg.wa.gov

Chapter 71.98 RCW
CONSTRUCTION

Sections

71.98.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. [1959 c 25 § 71.98.010.]

71.98.020 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law. [1959 c 25 § 71.98.020.]

71.98.030 Invalidity of part of title not to affect remainder. If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected. [1959 c 25 § 71.98.030.]

71.98.040 Repeals and saving. See 1959 c 25 s 71.98.040.

71.98.050 Emergency—1959 c 25. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately. [1959 c 25 § 71.98.050.]