

FIFTIETH DAY

MORNING SESSION

Senate Chamber, Olympia
Monday, March 1, 2021

The Senate was called to order at 11:03 a.m. by the President of the Senate, Lt. Governor Heck presiding. The Secretary called the roll and announced to the President that all Senators were present.

The Washington State Patrol Honor Guard presented the Colors.

Mr. Cannon Johnson led the Senate in the Pledge of Allegiance. Mr. Johnson is the grandson of Senator Lynda Johnson.

The prayer was offered by Reverend Terry Murray of Unity Church of Olympia.

MOTIONS

On motion of Senator Liias, the reading of the Journal of the previous day was dispensed with and it was approved.

On motion of Senator Liias, the Senate advanced to the third order of business.

MESSAGE FROM OTHER STATE OFFICERS

The following reports were submitted to and received by the office of the Secretary of the Senate:

**MESSAGES FROM THE GOVERNOR
GUBERNATORIAL APPOINTMENTS**

January 15, 2021

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

KENNETH W. KENYON JR., reappointed January 20, 2021, for the term ending January 19, 2025, as Member of the Pharmacy Quality Assurance Commission.

Sincerely,
JAY INSLEE, Governor

Referred to Committee on Health & Long Term Care as Senate Gubernatorial Appointment No. 9271.

January 22, 2021

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

HENRIK KROMBEEN, reappointed January 22, 2021, for the term ending December 26, 2024, as Member of the Board of Pilotage Commissioners.

Sincerely,
JAY INSLEE, Governor

Referred to Committee on Transportation as Senate Gubernatorial Appointment No. 9272.

February 4, 2021

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

TIMOTHY RASMUSSEN, reappointed February 4, 2021, for the term ending October 1, 2024, as Member of the Small Business Export Finance Assistance Center Board of Directors.

Sincerely,
JAY INSLEE, Governor

Referred to Committee on Business, Financial Services & Trade as Senate Gubernatorial Appointment No. 9273.

February 8, 2021

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

HUNTER R. STUEHM, reappointed February 8, 2021, for the term ending June 30, 2021, as Member of the Western Washington University Board of Trustees.

Sincerely,
JAY INSLEE, Governor

Referred to Committee on Higher Education & Workforce Development as Senate Gubernatorial Appointment No. 9274.

February 12, 2021

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

WILL HALL, appointed February 12, 2021, for the term ending June 25, 2021, as Member of the Puget Sound Partnership Leadership Council.

Sincerely,
JAY INSLEE, Governor

Referred to Committee on Environment, Energy & Technology as Senate Gubernatorial Appointment No. 9275.

February 17, 2021

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

JEFF SBANH, appointed February 17, 2021, for the term ending June 17, 2025, as Member of the Human Rights Commission.

Sincerely,
JAY INSLEE, Governor

Referred to Committee on Law & Justice as Senate Gubernatorial Appointment No. 9276.

February 18, 2021

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

ERIN L. BLACK, reappointed February 18, 2021, for the term ending September 30, 2026, as Member of the Central

Washington University Board of Trustees.

Sincerely,
JAY INSLEE, Governor

Referred to Committee on Higher Education & Workforce Development as Senate Gubernatorial Appointment No. 9277.

February 18, 2021

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

JUDY F. KUSCHEL, reappointed February 18, 2021, for the term ending December 31, 2023, as Member of the State Investment Board.

Sincerely,
JAY INSLEE, Governor

Referred to Committee on Ways & Means as Senate Gubernatorial Appointment No. 9278.

MOTIONS

On motion of Senator Liias, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

On motion of Senator Liias, the Senate advanced to the fourth order of business.

MESSAGES FROM THE HOUSE

February 24, 2021

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1078,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1184,
ENGROSSED HOUSE BILL NO. 1271,

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

February 26, 2021

MR. PRESIDENT:

The House has passed:

HOUSE BILL NO. 1022,
HOUSE BILL NO. 1023,
SECOND SUBSTITUTE HOUSE BILL NO. 1061,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1160,

SUBSTITUTE HOUSE BILL NO. 1166,

SUBSTITUTE HOUSE BILL NO. 1208,

SUBSTITUTE HOUSE BILL NO. 1225,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.
1295,

SECOND SUBSTITUTE HOUSE BILL NO. 1325,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1329,

SUBSTITUTE HOUSE BILL NO. 1348,

HOUSE BILL NO. 1393,

HOUSE BILL NO. 1430,

SUBSTITUTE HOUSE BILL NO. 1502,

SUBSTITUTE HOUSE BILL NO. 1510,

HOUSE BILL NO. 1525,

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

February 27, 2021

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1054,
ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 1091,
and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

On motion of Senator Liias, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5468 by Senators Mullet, Hobbs, Braun, Brown, Hawkins, Holy, King, Muzzall, Padden, Rivers, Salomon, Schoesler, Short, Wagoner, Warnick, and Wilson, L.

AN ACT Relating to knowing possession of a controlled substance; reenacting and amending RCW 69.50.4013; and declaring an emergency.

Referred to Committee on Law & Justice.

SHB 1016 by House Committee on Appropriations (originally sponsored by Morgan, Lovick, Ryu, Wicks, Ortiz-Self, Berry, Leavitt, J. Johnson, Kloba, Shewmake, Simmons, Bateman, Lekanoff, Duerr, Fitzgibbon, Chopp, Slatter, Ramos, Ramel, Peterson, Gregerson, Valdez, Callan, Young, Hackney, Cody, Ormsby, Riccelli, Rude, Stonier, Fey, Frame, Santos, Macri, Taylor, Davis, Pollet, Bergquist and Harris-Talley)

AN ACT Relating to making Juneteenth a legal holiday; amending RCW 1.16.050; and creating new sections.

Referred to Committee on State Government & Elections.

HB 1031 by Representatives Walen, Valdez, Leavitt, Ortiz-Self, Springer, Stonier and Santos

AN ACT Relating to the government issuance of a certificate of birth resulting in stillbirth; amending RCW 70.58A.530; creating a new section; and providing an effective date.

Referred to Committee on Health & Long Term Care.

2SHB 1044 by House Committee on Appropriations (originally sponsored by Leavitt, Simmons, J. Johnson, Eslick, Lovick, Kloba, Lekanoff, Wylie, Bateman, Senn, Goodman, Bronoske, Valdez, Callan, Ramos, Hackney, Morgan, Ormsby, Fey, Frame, Santos, Davis, Pollet and Bergquist)

AN ACT Relating to creating prison to postsecondary education pathways; amending RCW 72.09.270, 72.09.460, 72.09.465, 72.68.010, and 28B.15.067; amending 2019 c 397 s 1 (uncodified); adding a new section to chapter 72.68 RCW; adding a new section to chapter 72.09 RCW; creating new sections; and providing an expiration date.

Referred to Committee on Human Services, Reentry & Rehabilitation.

E2SHB 1069 by House Committee on Finance (originally sponsored by Pollet, Duerr, Leavitt, Wylie, Tharinger, Kloba, Senn, Ryu, Callan and Fey)

AN ACT Relating to local government fiscal flexibility; amending RCW 82.14.310, 82.14.320, 82.14.330, 82.14.340, 82.14.450, 82.14.460, 82.04.050, 82.04.050, 82.46.010, 82.46.015, 82.46.035, 82.46.037, 84.55.050,

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35.21.290, and 35.67.210; creating a new section; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Housing & Local Government.

ESHB 1070 by House Committee on Finance (originally sponsored by Ryu, Macri, Walen, Chopp, Santos, Fitzgibbon, Ramel, Wylie, Ramos, Bateman, Tharinger, Simmons, Kloba, Peterson, Gregerson, Goodman, Sells, Bronoske, Valdez, Callan, Hackney, Cody, Ormsby, Riccelli, Springer, Fey, Davis, Pollet and Harris-Talley)

AN ACT Relating to modifying allowed uses of local tax revenue for affordable housing and related services to include the acquisition and construction of affordable housing and facilities; amending RCW 82.14.530 and 67.28.180; and declaring an emergency.

Referred to Committee on Housing & Local Government.

E2SHB 1083 by House Committee on Appropriations (originally sponsored by Gregerson, Peterson, Wylie, Bateman, Tharinger, Ramel, Ortiz-Self, Valdez, Kloba, Morgan, Chopp, Ormsby, Santos, Macri, Orwall, Bergquist, Pollet and Harris-Talley)

AN ACT Relating to relocation assistance for tenants of closed or converted manufactured/mobile home parks; amending RCW 59.21.005, 59.21.021, and 59.21.050; and repealing RCW 59.21.025.

Referred to Committee on Housing & Local Government.

SHB 1085 by House Committee on Education (originally sponsored by Kloba, Vick, Volz, Leavitt, Ramel, Hoff, Graham, Chopp, Lovick, Stokesbary and Pollet)

AN ACT Relating to promoting a safe learning environment for students with seizure disorders; amending RCW 28A.210.260 and 28A.210.350; adding a new section to chapter 28A.210 RCW; and adding a new section to chapter 28A.235 RCW.

Referred to Committee on Early Learning & K-12 Education.

HB 1104 by Representatives Ryu and Kloba

AN ACT Relating to extending the operation of the mortgage lending fraud prosecution account until June 30, 2027; amending RCW 36.22.181 and 43.320.140; providing expiration dates; and declaring an emergency.

Referred to Committee on Business, Financial Services & Trade.

ESHB 1109 by House Committee on Public Safety (originally sponsored by Orwall, Mosbrucker, Simmons, Goodman, Leavitt, Valdez, Kloba, Graham, Morgan, Caldier, Rule and Macri)

AN ACT Relating to supporting victims of sexual assault; amending RCW 43.101.278 and 70.125.110; and adding a new section to chapter 5.70 RCW.

Referred to Committee on Law & Justice.

SHB 1114 by House Committee on Environment & Energy (originally sponsored by Dye and Ramel)

AN ACT Relating to encouraging utility mitigation of urban heat island effects; amending RCW 35.92.355, 35.92.390, 54.16.400, 80.28.260, and 80.28.300; adding a new section to chapter 54.16 RCW; and creating a new section.

Referred to Committee on Environment, Energy & Technology.

HB 1122 by Representatives Lovick, Klippert, Ryu, Goodman, MacEwen and Orwall

AN ACT Relating to the retirement age for state guard members; amending RCW 38.16.015; and declaring an emergency.

Referred to Committee on State Government & Elections.

ESHB 1141 by House Committee on Health Care & Wellness (originally sponsored by Rude, Macri, Stonier, Tharinger, Ormsby, Frame, Pollet, Goodman, Peterson, Thai, Ramel, J. Johnson, Bateman, Simmons, Fitzgibbon and Valdez)

AN ACT Relating to increasing access to the provisions of the Washington death with dignity act; amending RCW 70.245.010, 70.245.010, 70.245.020, 70.245.030, 70.245.040, 70.245.050, 70.245.060, 70.245.070, 70.245.080, 70.245.090, 70.245.100, 70.245.110, 70.245.120, 70.245.150, 70.245.180, 70.245.190, 70.245.220, and 70.41.520; adding a new section to chapter 70.245 RCW; adding a new section to chapter 70.41 RCW; providing effective dates; and providing an expiration date.

Referred to Committee on Health & Long Term Care.

2SHB 1148 by House Committee on Appropriations (originally sponsored by Cody, Macri, Stonier, Lekanoff and Pollet)

AN ACT Relating to protecting patient safety in acute care hospitals through improvements in licensing and enforcement; and amending RCW 70.41.020 and 70.41.130.

Referred to Committee on Health & Long Term Care.

SHB 1151 by House Committee on Housing, Human Services & Veterans (originally sponsored by Leavitt, Shewmake, Peterson, Bronoske, Entenman, Stonier, Bateman, Chopp, Frame, Hackney, Callan, Pollet, Gregerson, Senn and J. Johnson)

AN ACT Relating to bolstering economic recovery by providing public assistance to households in need; amending RCW 74.04.660 and 74.04.770; adding a new section to chapter 74.04 RCW; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Human Services, Reentry & Rehabilitation.

SHB 1162 by House Committee on Education (originally sponsored by Stonier, Harris, Lekanoff, Hackney, Pollet, Dolan and Callan)

AN ACT Relating to creating new graduation credit and pathway options; amending RCW 28A.230.090 and 28A.655.250; and declaring an emergency.

Referred to Committee on Early Learning & K-12 Education.

HB 1172 by Representatives Lekanoff, Kloba, Ramel, Leavitt, Davis, Dolan, Fitzgibbon, Riccelli, Bateman, Gregerson and Duerr

AN ACT Relating to recognizing judicially affirmed and treaty-reserved fishing rights and promoting state-tribal cooperative agreements in the management of salmon, trout, and steelhead resources; creating a new section; and repealing RCW 77.110.010, 77.110.020, 77.110.030, 77.110.040, and 77.110.900.

Referred to Committee on Agriculture, Water, Natural Resources & Parks.

2SHB 1173 by House Committee on Capital Budget (originally sponsored by Berry, Frame, Dolan and Lekanoff)

AN ACT Relating to state lands development authorities; and adding a new chapter to Title 43 RCW.

Referred to Committee on Business, Financial Services & Trade.

E2SHB 1194 by House Committee on Appropriations (originally sponsored by Ortiz-Self, Senn, Young, Santos, Callan, Morgan, Davis and Harris-Talley)

AN ACT Relating to strengthening parent-child visitation during child welfare proceedings; amending RCW 13.34.065, 13.34.136, and 13.34.138; and creating a new section.

Referred to Committee on Human Services, Reentry & Rehabilitation.

E2SHB 1272 by House Committee on Appropriations (originally sponsored by Macri, Cody, Fitzgibbon, Davis, Hackney, Thai, Kloba, Rule, Simmons, Pollet, Dolan, Slatter, Riccelli and Harris-Talley)

AN ACT Relating to health system transparency; amending RCW 43.70.052, 70.01.040, and 70.41.470; adding a new section to chapter 43.70 RCW; adding a new section to chapter 70.41 RCW; creating a new section; and providing an effective date.

Referred to Committee on Health & Long Term Care.

ESHB 1273 by House Committee on Appropriations (originally sponsored by Berg, Caldier, Ramel, Simmons, Taylor, Lovick, Bateman, Senn, Leavitt, Fitzgibbon, Wicks, Berry, Peterson, Goodman, Valdez, Hackney, Thai, Kloba, Frame, Ryu, Bronoske, Macri, Callan, Ormsby, Pollet, Slatter, Harris-Talley and Stonier)

AN ACT Relating to menstrual hygiene products in school and postsecondary institution bathrooms; adding a new section to chapter 28A.210 RCW; adding a new chapter to Title 28B RCW; and creating a new section.

Referred to Committee on Early Learning & K-12 Education.

E2SHB 1274 by House Committee on Appropriations (originally sponsored by Hackney, Stokesbary,

Robertson, Bateman, Springer, Walen, Leavitt, Berg and Slatter)

AN ACT Relating to cloud computing solutions; amending RCW 43.105.020 and 43.105.375; creating new sections; and providing an expiration date.

Referred to Committee on Environment, Energy & Technology.

2SHB 1359 by House Committee on Appropriations (originally sponsored by Stonier, MacEwen, Robertson, Shewmake, Ormsby and Macri)

AN ACT Relating to temporarily reducing liquor license fees; amending RCW 66.24.420, 66.24.590, 66.24.600, 66.24.655, 66.24.690, 66.24.140, and 66.24.146; creating a new section; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Labor, Commerce & Tribal Affairs.

SHB 1363 by House Committee on Education (originally sponsored by Ortiz-Self, Callan, Davis, Ramos, Simmons, Berg, Morgan, Bergquist, Harris-Talley and Pollet)

AN ACT Relating to policies and resources to address secondary traumatic stress in the K-12 workforce; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 28A.400 RCW; and creating a new section.

Referred to Committee on Early Learning & K-12 Education.

SHB 1373 by House Committee on Education (originally sponsored by Callan, Steele, Ortiz-Self, Dolan, J. Johnson, Slatter, Bergquist, Leavitt, Davis, Fey, Simmons, Berry, Thai, Wicks, Ryu, Kloba, Chambers, Berg, Wylie, Santos, Paul, Ormsby, Ramel, Macri, Pollet, Morgan and Harris-Talley)

AN ACT Relating to promoting student access to information about behavioral health resources; adding a new section to chapter 28A.320 RCW; and creating a new section.

Referred to Committee on Early Learning & K-12 Education.

SHB 1391 by House Committee on Capital Budget (originally sponsored by Goehner, Senn and Pollet)

AN ACT Relating to prime contractor bidding submission requirements on public works contracts; and amending RCW 39.30.060.

Referred to Committee on Housing & Local Government.

SHB 1425 by House Committee on College & Workforce Development (originally sponsored by Taylor, Leavitt, Valdez, Santos, J. Johnson, Ortiz-Self, Simmons, Rule, Ramel, Chopp, Pollet, Hackney and Morgan)

AN ACT Relating to amending the opportunity scholarship act to expand scholarships for community and technical college students; amending RCW 28B.145.010 and 28B.145.100; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

E2SHB 1480 by House Committee on Appropriations (originally sponsored by MacEwen, Kloba, Sutherland, Robertson, Ormsby, Chambers, Eslick and Tharinger) AN ACT Relating to extending certain privileges granted to liquor licensees to mitigate the impact of the coronavirus pandemic; amending RCW 66.24.175, 66.24.630, and 82.08.150; adding a new section to chapter 66.08 RCW; creating new sections; providing expiration dates; and declaring an emergency.

Referred to Committee on Labor, Commerce & Tribal Affairs.

HB 1491 by Representatives Orcutt, Fitzgibbon and Lekanoff AN ACT Relating to rights-of-way for the transport of timber, minerals, stone, sand, gravel, or other valuable materials; and amending RCW 79.36.350.

Referred to Committee on Agriculture, Water, Natural Resources & Parks.

SHB 1508 by House Committee on Rural Development, Agriculture & Natural Resources (originally sponsored by Chapman and Pollet) AN ACT Relating to the sanitary control of shellfish; adding a new section to chapter 69.30 RCW; and declaring an emergency.

Referred to Committee on Agriculture, Water, Natural Resources & Parks.

MOTION

On motion of Senator Liias, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

Senator Hasegawa announced a meeting of the Democratic Caucus.

Senator Rivers announced a meeting of the Republican Caucus.

PARLIAMENTARY INQUIRY

Senator Padden: "Earlier I am not sure you saw me and that is part of the problem with this system. I just wanted to inquire on the bill that was referred to Agriculture, if you could read the title of that bill that Senator Hobbs introduced. I want to make sure it is not the one dealing with the recent *State v. Blake* case."

The Secretary read the title of Senate Bill No. 5468.

MOTION

At 11:12 a.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:36 p.m. by President Heck.

MOTION

On motion of Senator Liias, the Senate advanced to the sixth order of business.

SENATE BILL NO. 5036, by Senators Dhingra, Carlyle, Darneille, Das, Hasegawa, Mullet, Nguyen, Pedersen, Stanford, Wellman, and Wilson, C.

Concerning conditional commutation by the clemency and pardons board.

MOTION

On motion of Senator Dhingra, Second Substitute Senate Bill No. 5036 was substituted for Senate Bill No. 5036 and the substitute bill was placed on the second reading and read the second time.

Revised for 2nd Substitute: Concerning the release of incarcerated individuals from total confinement prior to the expiration of a sentence.

MOTION

Senator Wagoner moved that the following floor amendment no. 265 by Senator Wilson, L. be adopted:

Beginning on page 1, line 7, strike all of sections 1 through 4 Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 8, line 22, after "(2)" strike all material through "(4)" on page 9, line 3

Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 9, line 3, after "terms of" strike "~~((four))~~ five" and insert "four"

On page 9, at the beginning of line 4, strike "~~((and)), but may serve more than one term~~" and insert "and"

On page 9, line 5, after "confirmed." strike "~~((However, the)) The"~~ and insert "However, the"

On page 9, at the beginning of line 6, after "the" strike "initial"

On page 9, beginning on line 12, after "shall" strike all material through "technology" on line 21 and insert "receive no compensation but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended"

On page 9, beginning on line 22, after "provide" strike "~~((a staff as needed for the operation of))~~ legal counsel to" and insert "a staff as needed for the operation of"

Beginning on page 9, line 24, strike all of sections 6 through 8 Correct any internal references accordingly.

On page 1, line 1 of the title, after "the" strike all material through "date." on line 5 and insert "clemency and pardons board; and amending RCW 9.94A.880."

Senator Wagoner spoke in favor of adoption of the amendment.

Senator Dhingra spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 265 by Senator Wilson, L. on page 1, line 7 to Second Substitute Senate Bill No. 5036.

The motion by Senator Wagoner did not carry and floor amendment no. 265 was not adopted by voice vote.

MOTION

Senator Wagoner moved that the following floor amendment no. 294 by Senator Wagoner be adopted:

On page 1, beginning on line 9, after "following" strike "~~((offenders))~~ individuals" and insert "offenders"

On page 1, line 12, after "(a)" strike "~~((Offenders))~~ Individuals" and insert "Offenders"

On page 1, line 17, after "(b)" strike "~~((Offenders))~~ Individuals" and insert "Offenders"

On page 2, beginning on line 4, after "(2)" strike all material through "individual" on line 14 and insert "Misdemeanor and gross misdemeanor offenders supervised by the department pursuant to this section shall be placed on community custody."

(3) The department shall supervise every felony offender sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702 whose risk assessment classifies the offender as one who is at a high risk to reoffend.

(4) Notwithstanding any other provision of this section, the department shall supervise an offender sentenced to community custody regardless of risk classification if the offender"

On page 2, line 34, after "of an" strike "~~((offender))~~ individual" and insert "offender"

On page 3, beginning on line 4, after "any" strike "~~((offender who is))~~ individual" and insert "offender who is"

On page 3, at the beginning of line 6, strike "~~((and))~~" and insert "and"

On page 3, line 8, after "any" strike "individual" and insert "offender"

On page 3, line 11, after "any" strike "~~((offender))~~ individual" and insert "offender"

On page 3, line 12, after "unless the" strike "~~((offender))~~ individual" and insert "offender"

On page 3, line 16, after "every" strike all material through "and" and insert "felony offender"

On page 3, line 20, after "supervise an" strike "~~((offender))~~ individual" and insert "offender"

On page 3, line 26, after "supervise an" strike "~~((offender))~~ individual" and insert "offender"

On page 3, at the beginning of line 34, strike "~~((offender))~~ incarcerated individual" and insert "offender"

On page 3, line 36, after "Any" strike "incarcerated individual" and insert "offender"

On page 3, line 38, after "until the" strike "~~((offender))~~ incarcerated individual" and insert "offender"

On page 4, line 3, after "if the" strike "incarcerated individual" and insert "offender"

On page 4, line 5, after "(b)" strike "Incarcerated individuals" and insert "Offenders"

On page 4, line 13, after "progress of" strike "~~((offenders))~~ individuals" and insert "offenders"

On page 4, line 17, after "of the" strike "~~((offender))~~ individual" and insert "offender"

On page 4, line 18, after "released" strike "~~((offender))~~ individual" and insert "offender"

On page 4, line 21, after "An" strike "~~((offender))~~ individual" and insert "offender"

On page 4, line 26, after "an" strike "~~((offender))~~ individual" and insert "offender"

On page 4, line 32, after "an" strike "~~((offender))~~ individual" and insert "offender"

On page 4, beginning on line 33, after "statutes, the" strike "~~((offender))~~ individual" and insert "offender"

On page 4, line 35, after "If the" strike "~~((offender))~~ individual" and insert "offender"

On page 4, line 37, after "the" strike "~~((offender))~~ individual" and insert "offender"

On page 5, line 3, after "If the" strike "~~((offender))~~ individual" and insert "offender"

On page 5, at the beginning of line 5, strike "~~((offender))~~ individual" and insert "offender"

On page 5, line 7, after "If the" strike "~~((offender))~~ individual" and insert "offender"

On page 5, at the beginning of line 9, strike "~~((offender))~~ individual" and insert "offender"

On page 5, line 11, after "If the" strike "~~((offender))~~ individual" and insert "offender"

On page 5, line 13, after "and the" strike "~~((offender))~~ individual" and insert "offender"

On page 5, line 15, after "If the" strike "~~((offender))~~ individual" and insert "offender"

On page 5, line 16, after "the" strike "~~((offender))~~ individual" and insert "offender"

On page 5, beginning on line 19, after "If" strike all material through "individual" on line 21 and insert "a sex offender was sentenced pursuant to RCW 9.94A.507, the offender"

On page 5, line 25, after "If the" strike "individual" and insert "offender"

On page 5, line 26, after "the" strike "individual" and insert "offender"

On page 5, line 35, after "an" strike "~~((offender))~~ individual" and insert "offender"

On page 6, line 1, after "of an" strike "~~((offender))~~ individual" and insert "offender"

On page 6, at the beginning of line 3, strike "~~((offender))~~ individual" and insert "offender"

On page 6, line 5, after "The" strike "~~((offender))~~ individual" and insert "offender"

On page 6, line 7, after "The" strike "~~((offender))~~ individual" and insert "offender"

On page 6, line 12, after "No" strike "~~((person))~~ incarcerated individual" and insert "person"

On page 6, line 17, after "An" strike "~~((offender))~~ incarcerated individual" and insert "offender"

On page 6, line 19, after "An" strike "~~((offender))~~ incarcerated individual" and insert "offender"

On page 6, line 21, after "addition," strike "~~((offenders))~~ incarcerated individuals" and insert "offenders"

On page 6, line 25, after "for an" strike "~~((offender))~~ incarcerated individual" and insert "offender"

On page 6, line 27, after "The" strike "~~((offender))~~ incarcerated individual" and insert "offender"

On page 6, beginning on line 30, after "The" strike all material through "assessed as" on line 31 and insert "offender poses a"

On page 6, line 36, after "An" strike "~~((offender))~~ incarcerated individual" and insert "offender"

On page 7, at the beginning of line 2, strike "~~((offenders))~~ individuals" and insert "offenders"

On page 7, at the beginning of line 4, strike "individual's" and insert "offender's"

On page 7, at the beginning of line 5, strike "~~((offender's))~~ individual's" and insert "offender's"

On page 7, line 6, after "for the" strike "~~((offender's))~~ individual's" and insert "offender's"

On page 7, line 11, after "by the" strike "individual's" and insert "offender's"

On page 7, line 12, after "prevents the" strike "individual" and insert "offender"

On page 7, at the beginning of line 24, strike "~~((offender's))~~ incarcerated individual's" and insert "offender's"

On page 7, beginning on line 25, after "aiding the" strike "~~((offender))~~ incarcerated individual" and insert "offender"

On page 7, beginning on line 32, after "of the" strike "~~((offender's))~~ incarcerated individual's" and insert "offender's"

On page 7, beginning on line 36, after "any" strike "~~((offender))~~"

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incarcerated individual" and insert "offender"
 On page 7, beginning on line 38, after "an" strike "~~((offender))~~ incarcerated individual" and insert "offender"
 On page 8, line 1, after "An" strike "~~((offender))~~ incarcerated individual" and insert "offender"
 On page 8, at the beginning of line 5, strike "~~((offender))~~ incarcerated individual" and insert "offender"
 On page 8, line 10, after "Any" strike "~~((person))~~ individual" and insert "person"
 On page 8, line 13, after "(2)" strike "~~((Offenders))~~ Individuals" and insert "Offenders"
 On page 9, beginning on line 29, after "pardoning of" strike "~~((offenders))~~ incarcerated individuals" and insert "offenders"
 On page 10, beginning on line 31, after "to the" strike "~~((offender))~~ incarcerated individual" and insert "offender"
 On page 10, at the beginning of line 39, strike "incarcerated individual" and insert "offender"
 On page 11, line 6, after "released" strike "individual" and insert "offender"
 On page 11, line 7, after "released" strike "individual's" and insert "offender's"
 On page 11, at the beginning of line 18, strike "incarcerated individual" and insert "offender"
 On page 11, line 19, after "if the" strike "incarcerated individual" and insert "offender"
 On page 11, at the beginning of line 22, strike "incarcerated individual's" and insert "offender's"
 On page 11, line 26, after "An" strike "incarcerated individual" and insert "offender"
 On page 11, line 30, after "An" strike "incarcerated individual" and insert "offender"
 On page 11, line 36, after "which the" strike "incarcerated individual" and insert "offender"
 On page 12, beginning on line 1, after "date the" strike "incarcerated individual" and insert "offender"
 On page 12, line 4, after "Notify the" strike "incarcerated individual" and insert "offender"
 On page 12, line 6, after "of the" strike "incarcerated individual" and insert "offender"
 On page 12, line 8, after "prepare the" strike "incarcerated individual" and insert "offender"
 On page 12, line 11, after "If the" strike "incarcerated individual" and insert "offender"
 On page 12, beginning on line 15, after "assist the" strike "incarcerated individual" and insert "offender"
 On page 12, beginning on line 18, after "that the" strike "incarcerated individual" and insert "offender"
 On page 12, beginning on line 20, after "and the" strike "incarcerated individual" and insert "offender"
 On page 12, beginning on line 21, after "of the" strike "incarcerated individual" and insert "offender"
 On page 12, line 23, after "of the" strike "incarcerated individual" and insert "offender"
 On page 12, beginning on line 25, after "that the" strike "incarcerated individual" and insert "offender"
 On page 12, at the beginning of line 28, strike "incarcerated individual's" and insert "offender's"
 On page 12, at the beginning of line 30, strike "incarcerated individual" and insert "offender"
 On page 12, line 31, after "recommend the" strike "incarcerated individual" and insert "offender"
 On page 12, line 35, after "that the" strike "incarcerated individual" and insert "offender"
 On page 12, line 38, after "because the" strike "incarcerated individual" and insert "offender"

On page 13, line 6, after "The" strike "incarcerated individual's" and insert "offender's"
 On page 13, line 9, after "The" strike "incarcerated individual's" and insert "offender's"
 On page 13, line 10, after "If the" strike "individual" and insert "offender"
 On page 13, line 11, after "on an" strike "individual's" and insert "offender's"
 On page 13, line 13, after "of the" strike "incarcerated individual's" and insert "offender's"
 On page 13, line 18, after "regarding the" strike "incarcerated individual" and insert "offender"
 On page 13, line 21, after "where the" strike "incarcerated individual's" and insert "offender's"
 On page 13, line 23, after "the" strike "incarcerated individual" and insert "offender"
 On page 13, at the beginning of line 25, strike "incarcerated individual" and insert "offender"
 On page 13, at the beginning of line 32, after "the" strike "incarcerated individual showing where the incarcerated individual" and insert "offender showing where the offender"
 On page 13, line 36, after "ensure the" strike "incarcerated individual" and insert "offender"
 On page 14, line 7, after "released" strike "individual" and insert "offender"
 On page 14, line 8, after "An" strike "incarcerated individual" and insert "offender"
 On page 14, line 12, after "The" strike "incarcerated individual" and insert "offender"
 On page 14, at the beginning of line 14, strike "incarcerated individual" and insert "offender"
 On page 14, line 26, after "resentencing of" strike "incarcerated individuals" and insert "offenders"
 On page 14, line 34, after "consideration to" strike "incarcerated individuals" and insert "offenders"
 On page 14, line 37, after "that the" strike "incarcerated individual" and insert "offender"

Senators Wagoner, Padden and Fortunato spoke in favor of adoption of the amendment.

Senator Dhingra spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 294 by Senator Wagoner on page 1, line 9 to Second Substitute Senate Bill No. 5036.

The motion by Senator Wagoner did not carry and floor amendment no. 294 was not adopted by voice vote.

MOTION

At 1:46 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President to deal with some TVW audio issues.

The Senate was called to order at 1:49 p.m. by President Heck.

MOTION

Senator Wagoner moved that the following floor amendment no. 295 by Senator Wagoner be adopted:

On page 3, beginning on line 31, after "~~1994~~)" strike "or chapter 10.95 RCW"

Senator Wagoner spoke in favor of adoption of the amendment.

Senator Dhingra spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 295 by Senator Wagoner on page 3, line 31 to Second Substitute Senate Bill No. 5036.

The motion by Senator Wagoner did not carry and floor amendment no. 295 was not adopted by voice vote.

MOTION

Senator Rivers moved that the following floor amendment no. 264 by Senator Rivers be adopted:

On page 9, line 3, after "(4)" insert "Board members must be knowledgeable regarding the impact of crime upon victims and communities.

(5)"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

Senators Rivers and Padden spoke in favor of adoption of the amendment.

Senator Dhingra spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 264 by Senator Rivers on page 9, line 3 to Second Substitute Senate Bill No. 5036.

The motion by Senator Rivers did not carry and floor amendment no. 264 was not adopted by voice vote.

MOTION

Senator Padden moved that the following floor amendment no. 291 by Senator Padden be adopted:

On page 11, beginning on line 11, after "(6)" strike all material through "(7)" on line 13

Correct any internal references accordingly.

Senator Padden spoke in favor of adoption of the amendment.

Senator Darneille spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 291 by Senator Padden on page 11, line 11 to Second Substitute Senate Bill No. 5036.

The motion by Senator Padden did not carry and floor amendment no. 291 was not adopted by voice vote.

MOTION

Senator Padden moved that the following floor amendment no. 292 by Senator Padden be adopted:

On page 11, line 27, after "degree" insert "as their third conviction towards being designated as a persistent offender"

Senators Padden and Dhingra spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 292 by Senator Padden on page 11, line 27 to Second Substitute Senate Bill No. 5036.

The motion by Senator Padden carried and floor amendment no. 292 was adopted by voice vote.

MOTION

Senator Wilson, L. moved that the following floor amendment no. 266 by Senator Wilson, L. be adopted:

On page 12, beginning on line 31, strike all of subsection (5) Renumber the remaining subsections consecutively and correct any internal references accordingly.

Senators Wilson, L., Wagoner, Holy and Braun spoke in favor of adoption of the amendment.

Senator Dhingra spoke against adoption of the amendment.

Senator Braun demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

MOTION

On motion of Senator Wagoner, Senator Ericksen was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senator Wilson, L. on page 12, line 31 to Second Substitute Senate Bill No. 5036.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Wilson, L. and the amendment was not adopted by the following vote: Yeas, 21; Nays, 28; Absent, 0; Excused, 0.

Voting yea: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frocht, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Van De Wege, Wellman and Wilson, C.

MOTION

Senator Warnick moved that the following floor amendment no. 269 by Senator Warnick be adopted:

On page 13, line 10, after "(e)" insert "The incarcerated individual's acceptance of responsibility, remorse, and atonement."

Senators Warnick and Dhingra spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 269 by Senator Warnick on page 13, line 10 to Second Substitute Senate Bill No. 5036.

The motion by Senator Warnick carried and floor amendment no. 269 was adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 301 by Senator Short be adopted:

On page 13, line 38, after "safety," insert "If the offender's release plan results in the offender residing within 50 miles of the victim or the victim's children or dependents, the board must reject the petition."

Senator Short spoke in favor of adoption of the amendment.

Senator Dhingra spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 301 by Senator Short on page

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13, line 38 to Second Substitute Senate Bill No. 5036.

The motion by Senator Short did not carry and floor amendment no. 301 was not adopted by voice vote.

MOTION

Senator Wagoner moved that the following floor amendment no. 296 by Senator Wagoner be adopted:

On page 14, line 2 after "up to" strike "six" and insert "twelve"

Senators Wagoner and Padden spoke in favor of adoption of the amendment.

Senator Dhingra spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 296 by Senator Wagoner on page 14, line 2 to Second Substitute Senate Bill No. 5036.

The motion by Senator Wagoner did not carry and floor amendment no. 296 was not adopted by voice vote.

MOTION

Senator Brown moved that the following floor amendment no. 268 by Senator Brown be adopted:

On page 15, line 1, strike all of subsection (3)

On page 15, after line 1, insert the following:

"NEW SECTION. Sec. 9. This act expires December 31, 2023."

Senator Brown spoke in favor of adoption of the amendment.

Senator Dhingra spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 268 by Senator Brown on page 15, line 1 to Second Substitute Senate Bill No. 5036.

The motion by Senator Brown did not carry and floor amendment no. 268 was not adopted by voice vote.

MOTION

On motion of Senator Dhingra, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5036 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Dhingra spoke in favor of passage of the bill.

Senator Padden spoke against passage of the bill.

MOTION

On motion of Senator Randall, Senator Liias was excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5036.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5036 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 21; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Van De Wege,

Wellman and Wilson, C.

Voting nay: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

Excused: Senator Liias

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5036, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5164, by Senators Darneille, Das, Kuderer, Hasegawa, Liias, Saldaña, Salomon, and Wilson, C.

Resentencing of individuals sentenced as a persistent offender due to a robbery in the second degree conviction.

The measure was read the second time.

MOTION

Senator Darneille moved that the following striking floor amendment no. 253 by Senator Darneille be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) In any criminal case wherein an offender has been sentenced as a persistent offender, the offender must have a resentencing hearing if a current or past conviction for robbery in the second degree was used as a basis for the finding that the offender was a persistent offender. The prosecuting attorney for the county in which any offender was sentenced as a persistent offender shall review each sentencing document. If a current or past conviction for robbery in the second degree was used as a basis for a finding that an offender was a persistent offender, the prosecuting attorney shall, or the offender may, make a motion for relief from sentence to the original sentencing court.

(2) The sentencing court shall grant the motion if it finds that a current or past conviction for robbery in the second degree was used as a basis for a finding that the offender was a persistent offender and shall immediately set an expedited date for resentencing. At resentencing, the court shall sentence the offender as if robbery in the second degree was not a most serious offense at the time the original sentence was imposed.

(3) Notwithstanding the provisions of RCW 9.94A.345, for purposes of resentencing under this section or sentencing any person as a persistent offender after the effective date of this section, robbery in the second degree shall not be considered a most serious offense regardless of whether the offense was committed before, on, or after the effective date of chapter 187, Laws of 2019.

Sec. 2. RCW 9.94A.345 and 2000 c 26 s 2 are each amended to read as follows:

~~(Any)~~ Except as otherwise provided in this chapter, any sentence imposed under this chapter shall be determined in accordance with the law in effect when the current offense was committed."

On page 1, line 2 of the title, after "conviction;" strike the remainder of the title and insert "amending RCW 9.94A.345; and creating a new section."

MOTION

Senator Holy moved that the following floor amendment no. 263 by Senator Holy be adopted:

On page 1, beginning on line 3, after "wherein" strike all of the material through "If" on line 9

On page 1, line 12, after "attorney" strike "shall, or the offender may," and insert "for the county in which the offender was sentenced as a persistent offender may"

Senators Holy and Padden spoke in favor of adoption of the amendment to the striking amendment.

Senator Dhingra spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 263 by Senator Holy on page 1, line 3 to striking floor amendment no. 253.

The motion by Senator Holy did not carry and floor amendment no. 263 was not adopted by voice vote.

MOTION

Senator Padden moved that the following floor amendment no. 290 by Senator Padden be adopted:

On page 1, line 5, after "current" strike "or past"

On page 1, line 9, after "current" strike "or past"

On page 1, line 15, after "current" strike "or past"

Senator Padden spoke in favor of adoption of the amendment to the striking amendment.

Senator Dhingra spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 290 by Senator Padden on page 1, line 5 to striking floor amendment no. 253.

The motion by Senator Padden did not carry and floor amendment no. 290 was not adopted by voice vote.

MOTION

Senator Dozier moved that the following floor amendment no. 267 by Senator Dozier be adopted:

On page 1, after line 26, insert the following:

"(4) The state shall reimburse the counties for the cost of resentencing offenders under this section."

POINT OF INQUIRY

Senator Dozier: "Just a quick easy question Senator. Do you know how many people/offenders this bill pertains to?"

Senator Darneille: "I believe when we passed legislation 2 years ago, the estimate was 64 people would be effected by this legislation. So, they would become eligible for review."

Senator Dozier spoke in favor of adoption of the amendment to the striking amendment.

Senator Pedersen spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 267 by Senator Dozier on page 1, line 26 to striking floor amendment no. 253.

The motion by Senator Dozier did not carry and floor amendment no. 267 was not adopted by voice vote.

MOTION

Senator Warnick moved that the following floor amendment no. 270 by Senator Warnick be adopted:

On page 1, after line 31, insert the following:

"NEW SECTION. Sec. 3. The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation."

On page 2, beginning on line 2, after "9.94A.345;" strike all material through "section" on line 3 and insert "creating a new section; and providing for submission of this act to a vote of the people"

Senators Warnick, Padden, Short and Sheldon spoke in favor of adoption of the amendment to the striking amendment.

Senator Pedersen spoke against adoption of the amendment to the striking amendment.

Senator Short demanded a roll call.

The President declared that one-sixth of the members supported the demand, and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Warnick on page 1, line 31 to striking floor amendment no. 253.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Warnick and the amendment was not adopted by the following vote: Yeas, 21; Nays, 28; Absent, 0; Excused, 0.

Voting yea: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Van De Wege, Wellman and Wilson, C.

MOTION

Senator Short moved that the following floor amendment no. 272 by Senator Short be adopted:

On page 1, after line 31, insert the following:

"NEW SECTION. Sec. 3. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void."

On page 2, line 3, after "creating" strike "a new section" and insert "new sections"

Senators Short, Rivers, Dozier and Sheldon spoke in favor of adoption of the amendment to the striking amendment.

Senator Pedersen spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 272 by Senator Short on page 1, line 31 to striking floor amendment no. 253.

The motion by Senator Short did not carry and floor

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amendment no. 272 was not adopted by voice vote.

Senator Darneille spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of striking floor amendment no. 253 by Senator Darneille to Senate Bill No. 5164.

The motion by Senator Darneille carried and striking floor amendment no. 253 was adopted by voice vote.

MOTION

On motion of Senator Darneille, the rules were suspended, Engrossed Senate Bill No. 5164 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Darneille spoke in favor of passage of the bill.

Senators Padden and Schoesler spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5164.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5164 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

ENGROSSED SENATE BILL NO. 5164, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5071, by Senators Dhingra, Darneille, Das, Hunt, Kuderer, Nguyen, and Wilson, C.

Creating transition teams to assist specified persons under civil commitment.

MOTIONS

On motion of Senator Dhingra, Second Substitute Senate Bill No. 5071 was substituted for Senate Bill No. 5071 and the substitute bill was placed on the second reading and read the second time.

Senator Dhingra moved that the following striking floor amendment no. 303 by Senator Dhingra be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 10.77.150 and 2010 c 263 s 5 are each amended to read as follows:

(1) Persons examined pursuant to RCW 10.77.140 may make

application to the secretary for conditional release. The secretary shall, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, forward to the court of the county which ordered the person's commitment the person's application for conditional release as well as the secretary's recommendations concerning the application and any proposed terms and conditions upon which the secretary reasonably believes the person can be conditionally released. Conditional release may also contemplate partial release for work, training, or educational purposes.

(2) In instances in which persons examined pursuant to RCW 10.77.140 have not made application to the secretary for conditional release, but the secretary, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, reasonably believes the person may be conditionally released, the secretary may submit a recommendation for release to the court of the county that ordered the person's commitment. The secretary's recommendation must include any proposed terms and conditions upon which the secretary reasonably believes the person may be conditionally released. Conditional release may also include partial release for work, training, or educational purposes. Notice of the secretary's recommendation under this subsection must be provided to the person for whom the secretary has made the recommendation for release and to his or her attorney.

(3)(a) The court of the county which ordered the person's commitment, upon receipt of an application or recommendation for conditional release with the secretary's recommendation for conditional release terms and conditions, shall within thirty days schedule a hearing. The court may schedule a hearing on applications recommended for disapproval by the secretary.

(b) The prosecuting attorney shall represent the state at such hearings and shall have the right to have the ~~((patient))~~ person examined by an expert or professional person of the prosecuting attorney's choice. If the committed person is indigent, and he or she so requests, the court shall appoint a qualified expert or professional person to examine the person on his or her behalf.

(c) The issue to be determined at such a hearing is whether or not the person may be released conditionally to less restrictive alternative treatment under the supervision of a multidisciplinary transition team under conditions imposed by the court, including access to services under section 4 of this act without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security.

(d) ~~((The court, after the hearing, shall rule on the secretary's recommendations, and if it disapproves of conditional release, may do so))~~ In cases that come before the court under subsection (1) or (2) of this section, the court may deny conditional release to a less restrictive alternative only on the basis of substantial evidence. The court may modify the suggested terms and conditions on which the person is to be conditionally released. Pursuant to the determination of the court after hearing, the committed person shall thereupon be released on such conditions as the court determines to be necessary, or shall be remitted to the custody of the secretary.

(4) If the order of conditional release ~~((includes a))~~ provides for the conditional release of the person to a less restrictive alternative, including residential treatment or treatment in the community, the conditional release order must also include:

(a) A requirement for the committed person to ~~((report to a))~~ be supervised by a multidisciplinary transition team, including a specially trained community corrections officer, ~~((the order shall also specify that the conditionally released person shall be under the supervision of the secretary of corrections or such person as the secretary of corrections may designate and shall follow~~

~~explicitly the instructions of the secretary of corrections including~~) a representative of the department of social and health services, and a representative of the community behavioral health agency providing treatment to the person under section 4 of this act.

(i) ~~The court may omit appointment of the representative of the community behavioral health agency if the conditional release order does not require participation in behavioral health treatment;~~

(ii) ~~The court may omit the appointment of a community corrections officer if it makes a special finding that the appointment of a community corrections officer would not facilitate the success of the person, or the safety of the person and the community;~~

(b) ~~A requirement for the person to comply with conditions of supervision established by the court which shall include at a minimum reporting as directed to a ((community corrections officer)) designated member of the transition team, remaining within prescribed geographical boundaries, and notifying the ((community corrections officer)) transition team prior to making any change in the ((offender's)) person's address or employment. If the ((order of conditional release includes a requirement for the committed person to report to a community corrections officer, the community corrections officer shall notify the secretary or the secretary's designee, if the)) person is not in compliance with the court-ordered conditions of release((-)), the community corrections officer or another designated transition team member shall notify the secretary or the secretary's designee; and~~

~~((4)) (c) If the court ((determines that receiving regular or periodic medication or other medical treatment shall be a condition of the committed person's release, then the court shall require him or her to report to a physician or other medical or mental health practitioner for the medication or treatment. In addition to submitting any report required by RCW 10.77.160, the physician or other medical or mental health practitioner shall immediately upon the released person's failure to appear for the)) requires participation in behavioral health treatment, the name of the licensed or certified behavioral health agency responsible for identifying the services the person will receive under section 4 of this act, and a requirement that the person cooperate with the services planned by the licensed or certified behavioral health agency. The licensed or certified behavioral health agency must comply with the reporting requirements of RCW 10.77.160, and must immediately report to the court, prosecutor, and defense counsel any substantial withdrawal or disengagement from medication or treatment, or ((upon a)) any change in the person's mental health condition that renders ((the patient)) him or her a potential risk to the public ((report to the court, to the prosecuting attorney of the county in which the released person was committed, to the secretary, and to the supervising community corrections officer)).~~

(5) The role of the transition team appointed under subsection (4) of this section shall be to facilitate the success of the person on the conditional release order by monitoring the person's progress in treatment, compliance with court-ordered conditions, and to problem solve around extra support the person may need or circumstances that may arise that threaten the safety of the person or the community. The transition team may develop a monitoring plan that may be carried out by any member of the team. The transition team shall meet according to a schedule developed by the team, and shall communicate as needed if issues arise that require the immediate attention of the team.

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

entry of a conditional release order. Another community corrections officer may be appointed if no specially trained officer is available.

(7) Any person, whose application for conditional release has been denied, may reapply after a period of six months from the date of denial, or sooner with the support of the department.

(8) A person examined under RCW 10.77.140 or the department may make a motion for limited conditional release under this section, on the grounds that there is insufficient evidence that the person may be released conditionally to less restrictive alternative treatment under subsection (3)(c) of this section, but the person would benefit from the opportunity to exercise increased privileges while remaining under the custody and supervision of the department and with the supervision of the department these increased privileges can be exercised without substantial danger to other persons or substantial likelihood of committing criminal acts jeopardizing public safety or security. The department may respond to a person's application for conditional release by instead supporting limited conditional release.

Sec. 2. RCW 71.05.320 and 2020 c 302 s 45 are each amended to read as follows:

(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 or under RCW 71.05.745.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment. If the court has made an affirmative special finding under RCW 71.05.280(3)(b), the court shall appoint a multidisciplinary transition team as provided in subsection (6)(a)(i) of this section. 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 behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services

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planned by the behavioral health service provider.

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

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

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

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

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

(d) Continues to be gravely disabled; or

(e) Is in need of assisted outpatient behavioral 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 behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the behavioral health service provider.

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

(ii) The role of the transition team shall be to facilitate the success of the person on the less restrictive alternative order by monitoring the person's progress in treatment, compliance with court-ordered conditions, and to problem solve around extra support the person may need or circumstances which may arise that threaten the safety of the person or the community. The transition team may develop a monitoring plan which may be carried out by any member of the team. The transition team shall meet according to a schedule developed by the team, and shall communicate as needed if issues arise that require the immediate attention of the team.

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

(b) At the end of the 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.

Sec. 3. RCW 71.05.320 and 2020 c 302 s 46 are each amended to read as follows:

(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 or under RCW 71.05.745.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment. If the court has made an affirmative special finding under RCW 71.05.280(3)(b), the court shall appoint a multidisciplinary transition team as provided in subsection (6)(a)(i) of this section. 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 behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the behavioral health service provider.

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

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

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

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

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

from the state hospital; or

(d) Continues to be gravely disabled; or

(e) Is in need of assisted outpatient behavioral 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 behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the behavioral health service provider.

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

(ii) The role of the transition team shall be to facilitate the success of the person on the less restrictive alternative order by monitoring the person's progress in treatment, compliance with court-ordered conditions, and to problem solve around extra support the person may need or circumstances which may arise that threaten the safety of the person or the community. The transition team may develop a monitoring plan which may be carried out by any member of the team. The transition team shall meet according to a schedule developed by the team, and shall communicate as needed if issues arise that require the immediate attention of the team.

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

(b) At the end of the 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

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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.

NEW SECTION. Sec. 4. A new section is added to chapter 10.77 RCW to read as follows:

(1) Conditional release planning should start at admission and proceed in coordination between the department and the person's managed care organization, or behavioral health administrative services organization if the person is not eligible for medical assistance under chapter 74.09 RCW. If needed, the department shall assist the person to enroll in medical assistance in suspense status under RCW 74.09.670. The state hospital liaison for the managed care organization or behavioral health administrative services organization shall facilitate conditional release planning in collaboration with the department.

(2) Less restrictive alternative treatment pursuant to a conditional release order, at a minimum, includes the following services:

- (a) Assignment of a care coordinator;
- (b) An intake evaluation with the provider of the conditional treatment;
- (c) A psychiatric evaluation or a substance use disorder evaluation, or both;
- (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;
- (g) Consultation about the formation of a mental health advance directive under chapter 71.32 RCW; and
- (h) Appointment of a transition team under RCW 10.77.150;
- (i) Notification to the care coordinator assigned in (a) of this subsection and to the transition team as provided in RCW 10.77.150 if reasonable efforts to engage the client fail to produce substantial compliance with court-ordered treatment conditions.

(3) Less restrictive alternative treatment pursuant to a conditional release order may additionally include requirements to participate in the following services:

- (a) Medication management;
- (b) Psychotherapy;
- (c) Nursing;
- (d) Substance use disorder counseling;
- (e) Residential treatment;
- (f) Support for housing, benefits, education, and employment; and
- (g) Periodic court review.

(4) Nothing in this section prohibits items in subsection (2) of this section from beginning before the conditional release of the individual.

(5) If the person was provided with involuntary medication under RCW 10.77.094 or pursuant to a judicial order during the involuntary commitment period, the less restrictive alternative treatment pursuant to the conditional release order may authorize the less restrictive alternative treatment provider or its designee to administer involuntary antipsychotic medication to the person if the provider has attempted and failed to obtain the informed

consent of the person and there is a concurring medical opinion approving the medication by a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with an independent mental health professional with prescribing authority.

(6) Less restrictive alternative treatment pursuant to a conditional release order 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.

(7) The care coordinator assigned to a person ordered to less restrictive alternative treatment pursuant to a conditional release order 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.

(8) A care coordinator may disclose information and records related to mental health treatment under RCW 70.02.230(2)(k) for purposes of implementing less restrictive alternative treatment pursuant to a conditional release order.

(9) For the purpose of this section, "care coordinator" means a clinical practitioner within the community behavioral health agency providing less restrictive alternative treatment who coordinates the activities of less restrictive alternative treatment pursuant to a conditional release order. The care coordinator coordinates activities with the person's transition team that are necessary for enforcement and continuation of the conditional release order and is responsible for coordinating service activities with other agencies and establishing and maintaining a therapeutic relationship with the individual on a continuing basis.

Sec. 5. RCW 10.77.060 and 2016 sp.s. c 29 s 408 are each amended to read as follows:

(1)(a) Whenever a defendant has pleaded not guilty by reason of insanity, or there is reason to doubt his or her competency, the court on its own motion or on the motion of any party shall either appoint or request the secretary to designate a qualified expert or professional person, who shall be approved by the prosecuting attorney, to evaluate and report upon the mental condition of the defendant.

(b) The signed order of the court shall serve as authority for the evaluator to be given access to all records held by any mental health, medical, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant. If the court is advised by any party that the defendant may have a developmental disability, the evaluation must be performed by a developmental disabilities professional.

(c) The evaluator shall assess the defendant in a jail, detention facility, in the community, or in court to determine whether a period of inpatient commitment will be necessary to complete an accurate evaluation. If inpatient commitment is needed, the signed order of the court shall serve as authority for the evaluator to request the jail or detention facility to transport the defendant to a hospital or secure mental health facility for a period of commitment not to exceed fifteen days from the time of admission to the facility. Otherwise, the evaluator shall complete the evaluation.

(d) The court may commit the defendant for evaluation to a hospital or secure mental health facility without an assessment if: (i) The defendant is charged with murder in the first or second degree; (ii) the court finds that it is more likely than not that an evaluation in the jail will be inadequate to complete an accurate evaluation; or (iii) the court finds that an evaluation outside the

jail setting is necessary for the health, safety, or welfare of the defendant. The court shall not order an initial inpatient evaluation for any purpose other than a competency evaluation.

(e) The order shall indicate whether, in the event the defendant is committed to a hospital or secure mental health facility for evaluation, all parties agree to waive the presence of the defendant or to the defendant's remote participation at a subsequent competency hearing or presentation of an agreed order if the recommendation of the evaluator is for continuation of the stay of criminal proceedings, or if the opinion of the evaluator is that the defendant remains incompetent and there is no remaining restoration period, and the hearing is held prior to the expiration of the authorized commitment period.

(f) When a defendant is ordered to be ~~((committed for inpatient evaluation))~~ evaluated under this subsection (1), or when a party or the court determines at first appearance that an order for evaluation under this subsection will be requested or ordered if charges are pursued, the court may delay granting bail until the defendant has been evaluated for competency or sanity and appears before the court. Following the evaluation, in determining bail the court shall consider: (i) Recommendations of the evaluator regarding the defendant's competency, sanity, or diminished capacity; (ii) whether the defendant has a recent history of one or more violent acts; (iii) whether the defendant has previously been acquitted by reason of insanity or found incompetent; (iv) whether it is reasonably likely the defendant will fail to appear for a future court hearing; and (v) whether the defendant is a threat to public safety.

(2) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the evaluation authorized by subsection (1) of this section, and that the defendant shall have access to all information obtained by the court appointed experts or professional persons. The defendant's expert or professional person shall have the right to file his or her own report following the guidelines of subsection (3) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

(3) The report of the evaluation shall include the following:

- (a) A description of the nature of the evaluation;
- (b) A diagnosis or description of the current mental status of the defendant;
- (c) If the defendant suffers from a mental disease or defect, or has a developmental disability, an opinion as to competency;
- (d) If the defendant has indicated his or her intention to rely on the defense of insanity pursuant to RCW 10.77.030, and an evaluation and report by an expert or professional person has been provided concluding that the defendant was criminally insane at the time of the alleged offense, an opinion as to the defendant's sanity at the time of the act, and an opinion as to whether the defendant presents a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions, provided that no opinion shall be rendered under this subsection (3)(d) unless the evaluator or court determines that the defendant is competent to stand trial;

(e) When directed by the court, if an evaluation and report by an expert or professional person has been provided concluding that the defendant lacked the capacity at the time of the offense to form the mental state necessary to commit the charged offense, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

(f) An opinion as to whether the defendant should be evaluated by a designated crisis responder under chapter 71.05 RCW.

(4) The secretary may execute such agreements as appropriate

and necessary to implement this section and may choose to designate more than one evaluator.

Sec. 6. RCW 70.02.230 and 2020 c 256 s 402 are each amended to read as follows:

(1) ~~((Except as provided in this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and 70.02.265, or pursuant to a valid authorization under RCW 70.02.030, the))~~ The fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies ((~~must be confidential~~)) may not be disclosed except as provided in this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and 70.02.265, or pursuant to a valid authorization under RCW 70.02.030.

(2) Information and records related to mental health services, other than those obtained through treatment under chapter 71.34 RCW, may be disclosed ~~((only))~~:

(a) In communications between qualified professional persons to meet the requirements of chapter 71.05 RCW, including Indian health care providers, in the provision of services or appropriate referrals, or in the course of guardianship proceedings if provided to a professional person:

- (i) Employed by the facility;
- (ii) Who has medical responsibility for the patient's care;
- (iii) Who is a designated crisis responder;
- (iv) Who is providing services under chapter 71.24 RCW;
- (v) Who is employed by a state or local correctional facility where the person is confined or supervised; or
- (vi) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW;

(b) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside;

(c)(i) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such a designation;

(ii) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(A) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(B) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator;

(d)(i) To the courts, including tribal courts, as necessary to the administration of chapter 71.05 RCW or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

(ii) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(iii) Disclosure under this subsection is mandatory for the purpose of the federal health insurance portability and accountability act;

(e)(i) When a mental health professional or designated crisis

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responder is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional or designated crisis responder shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. The written report must be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(f) To the attorney of the detained person;

(g) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information must be disclosed only after giving notice to the committed person and the person's counsel;

(h)(i) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(i)(i) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act;

(j) To the persons designated in RCW 71.05.425 for the purposes described in those sections;

(k) By a care coordinator under RCW 71.05.585 or section 4 of this act assigned to a person ordered to receive less restrictive alternative treatment for the purpose of sharing information to parties necessary for the implementation of proceedings under chapter 71.05 or 10.77 RCW;

(l) Upon the death of a person. The person's next of kin, personal representative, guardian, or conservator, if any, must be notified. Next of kin who are of legal age and competent must be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing

services to a deceased patient are governed by RCW 70.02.140;

~~((H))~~ (m) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient;

~~((H))~~ (n) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(iv). The extent of information that may be released is limited as follows:

(i) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(ii) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(iv);

(iii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

~~((H))~~ (o) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of the disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee;

~~((H))~~ (p) Pursuant to lawful order of a court, including a tribal court;

~~((H))~~ (q) To qualified staff members of the department, to the authority, to behavioral health administrative services organizations, to managed care organizations, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility;

~~((H))~~ (r) Within the mental health service agency or Indian health care provider facility where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties;

~~((H))~~ (s) Within the department and the authority as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or substance use disorder of persons who are under the supervision of the department;

~~((H))~~ (t) Between the department of social and health services, the department of children, youth, and families, and the health care authority as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of persons who are under the supervision of the department of social and health services or the department of children, youth, and families;

~~((H))~~ (u) To a licensed physician or psychiatric advanced registered nurse practitioner who has determined that the life or health of the person is in danger and that treatment without the

information and records related to mental health services could be injurious to the patient's health. Disclosure must be limited to the portions of the records necessary to meet the medical emergency;

~~((+))~~ (v)(i) Consistent with the requirements of the federal health insurance portability and accountability act, to:

(A) A health care provider, including an Indian health care provider, who is providing care to a patient, or to whom a patient has been referred for evaluation or treatment; or

(B) Any other person who is working in a care coordinator role for a health care facility, health care provider, or Indian health care provider, or is under an agreement pursuant to the federal health insurance portability and accountability act with a health care facility or a health care provider and requires the information and records to assure coordinated care and treatment of that patient.

(ii) A person authorized to use or disclose information and records related to mental health services under this subsection (2)~~((+))~~ (v) must take appropriate steps to protect the information and records relating to mental health services.

(iii) Psychotherapy notes may not be released without authorization of the patient who is the subject of the request for release of information;

~~((+))~~ (w) To administrative and office support staff designated to obtain medical records for those licensed professionals listed in ~~((+))~~ (v) of this subsection;

~~((+))~~ (x) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the person from one evaluation and treatment facility to another. The release of records under this subsection is limited to the information and records related to mental health services required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record;

~~((+))~~ (y) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or commitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW;

~~((+))~~ (z) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information must notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information;

~~((+))~~ (aa) To all current treating providers, including Indian health care providers, of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. For purposes of coordinating health care, the department or the authority may release without written authorization of the patient, information acquired for billing and

collection purposes as described in RCW 70.02.050(1)(d). The department, or the authority, if applicable, shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. Neither the department nor the authority may release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client;

~~((+))~~ (bb)(i) To the secretary of social and health services and the director of the health care authority for either program evaluation or research, or both so long as the secretary or director, where applicable, adopts rules for the conduct of the evaluation or research, or both. Such rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/"

(ii) Nothing in this chapter may be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary, or director, where applicable;

~~((+))~~ (cc) To any person if the conditions in RCW 70.02.205 are met;

~~((+))~~ (dd) To the secretary of health for the purposes of the maternal mortality review panel established in RCW 70.54.450;

~~((+))~~ (ee) To a tribe or Indian health care provider to carry out the requirements of RCW 71.05.150(7).

(3) Whenever federal law or federal regulations restrict the release of information contained in the information and records related to mental health services of any patient who receives treatment for a substance use disorder, the department or the authority may restrict the release of the information as necessary to comply with federal law and regulations.

(4) Civil liability and immunity for the release of information about a particular person who is committed to the department of social and health services or the authority under RCW 71.05.280(3) and 71.05.320(4)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(5) The fact of admission to a provider of mental health services, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to chapter 71.05 RCW are not admissible as evidence in any legal proceeding outside that chapter without the written authorization of the person who was the subject of the proceeding except as provided in RCW 70.02.260, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to chapter 71.05 RCW must be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that

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appropriate safeguards for strict confidentiality are and will be maintained.

(6)(a) Except as provided in RCW 4.24.550, any person may bring an action against an individual who has willfully released confidential information or records concerning him or her in violation of the provisions of this section, for the greater of the following amounts:

- (i) One thousand dollars; or
- (ii) Three times the amount of actual damages sustained, if any.

(b) It is not a prerequisite to recovery under this subsection that the plaintiff suffered or was threatened with special, as contrasted with general, damages.

(c) Any person may bring an action to enjoin the release of confidential information or records concerning him or her or his or her ward, in violation of the provisions of this section, and may in the same action seek damages as provided in this subsection.

(d) The court may award to the plaintiff, should he or she prevail in any action authorized by this subsection, reasonable attorney fees in addition to those otherwise provided by law.

(e) If an action is brought under this subsection, no action may be brought under RCW 70.02.170.

Sec. 7. RCW 70.02.240 and 2019 c 381 s 20 are each amended to read as follows:

The fact of admission and all information and records related to mental health services obtained through inpatient or outpatient treatment of a minor under chapter 71.34 RCW must be kept confidential, except as authorized by this section or under RCW 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265. Confidential information under this section may be disclosed only:

(1) In communications between mental health professionals to meet the requirements of chapter 71.34 RCW, in the provision of services to the minor, or in making appropriate referrals;

(2) In the course of guardianship or dependency proceedings;

(3) To the minor, the minor's parent, including those acting as a parent as defined in RCW 71.34.020 for purposes of family-initiated treatment, and the minor's attorney, subject to RCW 13.50.100;

(4) To the courts as necessary to administer chapter 71.34 RCW;

(5) By a care coordinator under RCW 71.34.755 or section 4 of this act assigned to a person ordered to receive less restrictive alternative treatment for the purpose of sharing information to parties necessary for the implementation of proceedings under chapter 71.34 or 10.77 RCW;

(6) To law enforcement officers or public health officers as necessary to carry out the responsibilities of their office. However, only the fact and date of admission, and the date of discharge, the name and address of the treatment provider, if any, and the last known address must be disclosed upon request;

~~((6))~~ (7) To law enforcement officers, public health officers, relatives, and other governmental law enforcement agencies, if a minor has escaped from custody, disappeared from an evaluation and treatment facility, violated conditions of a less restrictive treatment order, or failed to return from an authorized leave, and then only such information as may be necessary to provide for public safety or to assist in the apprehension of the minor. The officers are obligated to keep the information confidential in accordance with this chapter;

~~((7))~~ (8) To the secretary of social and health services and the director of the health care authority for assistance in data collection and program evaluation or research so long as the secretary or director, where applicable, adopts rules for the conduct of such evaluation and research. The rules must include, but need not be limited to, the requirement that all evaluators and

researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding minors who have received services in a manner such that the minor is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law.

/s/";

~~((8))~~ (9) To appropriate law enforcement agencies, upon request, all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

~~((9))~~ (10) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

~~((10))~~ (11) To a minor's next of kin, attorney, guardian, or conservator, if any, the information that the minor is presently in the facility or that the minor is seriously physically ill and a statement evaluating the mental and physical condition of the minor as well as a statement of the probable duration of the minor's confinement;

~~((11))~~ (12) Upon the death of a minor, to the minor's next of kin;

~~((12))~~ (13) To a facility in which the minor resides or will reside;

~~((13))~~ (14) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(iv). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(iv);

(c) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

~~((14))~~ (15) This section may not be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the director of the health care authority or the secretary of the department of social and health services, where applicable. The fact of

admission and all information obtained pursuant to chapter 71.34 RCW are not admissible as evidence in any legal proceeding outside chapter 71.34 RCW, except guardianship or dependency, without the written consent of the minor or the minor's parent;

~~((45))~~ (16) For the purpose of a correctional facility participating in the postinstitutional medical assistance system supporting the expedited medical determinations and medical suspensions as provided in RCW 74.09.555 and 74.09.295;

~~((46))~~ (17) Pursuant to a lawful order of a court.

Sec. 8. RCW 71.24.035 and 2020 c 256 s 202 are each amended to read as follows:

(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;

(l) Require behavioral health administrative services organizations and managed care organizations, as applicable, to provide services as identified in RCW 71.05.585 and section 4 of this act to individuals committed for involuntary ~~((commitment))~~ treatment 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; and

(m) Coordinate with the centers for medicare and medicaid services to provide that behavioral health aide services are eligible for federal funding of up to one hundred percent.

(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

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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.

Sec. 9. RCW 10.77.010 and 2019 c 325 s 5005 are each amended to read as follows:

As used in this chapter:

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

(2) "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.

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

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

(5) "Department" means the state department of social and

health services.

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

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

(8) "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 or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(9) "Developmental disability" means the condition as defined in RCW 71A.10.020(5).

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

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

(12) "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.

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

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

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

(16) "Indigent" means any person who is financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to the person or his or her family.

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

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

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

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

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

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

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

(g) The type of residence immediately anticipated for the

person and possible future types of residences.

(18) "Professional person" means:

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

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

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

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

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

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

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

(23) "Violent act" means behavior that: (a)(i) Resulted in; (ii) if completed as intended would have resulted in; or (iii) was threatened to be carried out by a person who had the intent and opportunity to carry out the threat and would have resulted in, homicide, nonfatal injuries, or substantial damage to property; or (b) recklessly creates an immediate risk of serious physical injury to another person. As used in this subsection, "nonfatal injuries" means physical pain or injury, illness, or an impairment of physical condition. "Nonfatal injuries" shall be construed to be consistent with the definition of "bodily injury," as defined in RCW 9A.04.110.

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

Sec. 10. RCW 10.77.195 and 2010 c 263 s 9 are each amended to read as follows:

For persons who have received court approval for conditional release, the secretary or the secretary's designee shall supervise the person's compliance with the court-ordered conditions of release in coordination with the multidisciplinary transition team appointed under RCW 10.77.150. The level of supervision provided by the secretary shall correspond to the level of the person's public safety risk. In undertaking supervision of persons under this section, the secretary shall coordinate with any treatment providers ~~((designated pursuant to RCW 10.77.150(3), any))~~ or department of corrections staff designated pursuant to RCW 10.77.150~~((2))~~, and local law enforcement, if appropriate. The secretary shall adopt rules to implement this section.

Sec. 11. RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301, and 2020 c 5 s 1 are each reenacted and amended to read as follows:

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) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(8) "Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health 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;

(9) "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;

(10) "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;

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

(12) "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;

(13) "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;

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

(15) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an

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Indian health care provider, to perform the duties specified in this chapter;

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

(17) "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;

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

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

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

(21) "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;

(22) "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;

(23) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (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;

(24) "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;

(25) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(26) "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 behavioral health facility, or in confinement as a result of a criminal conviction;

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

(28) "In need of assisted outpatient behavioral health

treatment" means that a person, as a result of a behavioral health 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;

(29) "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;

(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 behavioral health 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) "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 behavioral health 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 behavioral health 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-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 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) "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;

(52) "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;

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

(54) "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;

(55) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for behavioral health disorders, 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;

(56) "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;

(57) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(58) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to

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property;

(59) "Written order of apprehension" means an order of the court for a peace officer to deliver the named person in the order to a facility or emergency room as determined by the designated crisis responder. Such orders shall be entered into the Washington crime information center database.

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

Sec. 12. RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301, 2020 c 80 s 51, and 2020 c 5 s 1 are each reenacted and amended to read as follows:

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) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(8) "Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health 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;

(9) "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;

(10) "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;

(11) "Conditional release" means a revocable modification of a

commitment, which may be revoked upon violation of any of its terms;

(12) "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;

(13) "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;

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

(15) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in this chapter;

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

(17) "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;

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

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

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

(21) "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;

(22) "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;

(23) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (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;

(24) "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;

(25) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(26) "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 behavioral health facility, or in confinement as a result of a criminal conviction;

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

(28) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a behavioral health 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;

(29) "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;

(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 behavioral health 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) "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 18.71A 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 behavioral health 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 behavioral health 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

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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-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 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) "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;

(52) "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;

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

(54) "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;

(55) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for behavioral health disorders, 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;

(56) "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

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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;

(57) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(58) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property;

(59) "Written order of apprehension" means an order of the court for a peace officer to deliver the named person in the order to a facility or emergency room as determined by the designated crisis responder. Such orders shall be entered into the Washington crime information center database.

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

Sec. 13. RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020 c 256 s 301, and 2020 c 5 s 1 are each reenacted and amended to read as follows:

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) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(8) "Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health 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;

(9) "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;

(10) "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;

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

(12) "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;

(13) "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;

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

(15) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in this chapter;

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

(17) "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;

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

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

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

(21) "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;

(22) "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;

(23) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (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 from safe behavior 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;

(24) "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;

(25) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(26) "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 behavioral health facility, or in confinement as a result of a criminal conviction;

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

(28) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a behavioral health 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;

(29) "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;

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(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 behavioral health 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 harm, substantial pain, or which places another person or persons in reasonable fear of harm to themselves or others; 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) "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 behavioral health 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 behavioral health 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-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 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) "Severe deterioration from safe behavior" means that a person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior;

(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 behavioral health disorders, 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) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(59) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property;

(60) "Written order of apprehension" means an order of the court for a peace officer to deliver the named person in the order to a facility or emergency room as determined by the designated crisis responder. Such orders shall be entered into the Washington crime information center database.

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

Sec. 14. RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020 c 256 s 301, 2020 c 80 s 51, and 2020 c 5 s 1 are each reenacted and amended to read as follows:

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) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(8) "Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health 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;

(9) "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;

(10) "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;

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

(12) "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;

(13) "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;

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

(15) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in this chapter;

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

(17) "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

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developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

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

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

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

(21) "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;

(22) "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;

(23) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (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 from safe behavior 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;

(24) "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;

(25) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(26) "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 behavioral health facility, or in confinement as a result of a criminal conviction;

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

(28) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a behavioral health 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;

(29) "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;

(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 behavioral health 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 harm, substantial pain, or which places another person or persons in reasonable fear of harm to themselves or others; 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) "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 18.71A 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 behavioral health 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 behavioral health 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-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 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) "Severe deterioration from safe behavior" means that a person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior;

(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 behavioral health disorders, 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) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(59) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property;

(60) "Written order of apprehension" means an order of the court for a peace officer to deliver the named person in the order to a facility or emergency room as determined by the designated

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crisis responder. Such orders shall be entered into the Washington crime information center database.

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

Sec. 15. RCW 71.05.740 and 2020 c 302 s 58 are each amended to read as follows:

(1) All behavioral health administrative services organizations in the state of Washington must forward historical behavioral 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.

(2) All superior courts must share hearing outcomes in all hearings under this chapter with the local behavioral health administrative services organization that serves the region where the superior court is located, including in cases in which the designated crisis responder investigation occurred outside the region. The hearing outcome data must include the name of the facility to which a person has been committed.

Sec. 16. RCW 71.24.035 and 2020 c 256 s 202 are each amended to read as follows:

(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;

(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(,) and 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~~); and

(m) Coordinate with the centers for medicare and medicaid services to provide that behavioral health aide services are eligible for federal funding of up to one hundred percent.

(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.

Sec. 17. RCW 71.24.045 and 2019 c 325 s 1008 are each amended to read as follows:

(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) Tracking of less restrictive alternative orders issued within the region by superior courts, and providing notification to a managed care organization in the region when one of its enrollees receives a less restrictive alternative order so that the managed care organization may ensure that the person is connected to services and that the requirements of RCW 71.05.585 are complied with. If the person receives a less restrictive alternative order and is returning to another region, the behavioral health administrative services organization shall notify the behavioral health administrative services organization in the home region of the less restrictive alternative order so that the home behavioral health administrative services organization may notify the person's managed care organization or provide services if the person is not enrolled in medicaid and does not have other insurance which can pay for those services.

(v) 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;

~~((iv))~~ (vi) 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

~~((v))~~ (vii) 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.

NEW SECTION. Sec. 18. A new section is added to chapter 71.24 RCW to read as follows:

The authority shall coordinate with the department of social and health services to offer contracts to community behavioral health agencies to support the nonmedicaid costs entailed in fulfilling the agencies' role as transition team members for a person recommended for conditional release to a less restrictive alternative under RCW 10.77.150, or for a person who qualifies for multidisciplinary transition team services under RCW 71.05.320(6)(a)(i). The authority may establish requirements, provide technical assistance, and provide training as appropriate and within available funding.

NEW SECTION. Sec. 19. The Washington state health care authority shall revise its behavioral health data system for tracking involuntary commitment orders to distinguish less restrictive alternative orders from other types of involuntary commitment orders, including being able to distinguish between initial orders and extensions.

NEW SECTION. Sec. 20. The provisions of this act apply to persons who are committed for inpatient treatment under chapter 10.77 or 71.05 RCW as of the effective date of this section.

Sec. 21. 2020 c 302 s 110 (uncodified) is amended to read as follows:

(1) Sections 4 and 28 (~~of this act~~), chapter 302, Laws of 2020 and sections 13 and 14 of this act take effect when monthly single-bed certifications authorized under RCW 71.05.745 fall below 200 reports for 3 consecutive months.

(2) The health care authority must provide written notice of the effective date of sections 4 and 28 (~~of this act~~), chapter 302, Laws of 2020 and sections 13 and 14 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the authority.

NEW SECTION. Sec. 22. Section 2 of this act expires July 1, 2026.

NEW SECTION. Sec. 23. Section 3 of this act takes effect July 1, 2026.

NEW SECTION. Sec. 24. Sections 11 and 13 of this act expire July 1, 2022.

NEW SECTION. Sec. 25. Sections 12 and 14 of this act take effect July 1, 2022."

On page 1, line 2 of the title, after "commitment;" strike the remainder of the title and insert "amending RCW 10.77.150, 71.05.320, 71.05.320, 10.77.060, 70.02.230, 70.02.240, 71.24.035, 10.77.010, 10.77.195, 71.05.740, 71.24.035, and 71.24.045; amending 2020 c 302 s 110 (uncodified); reenacting and amending RCW 71.05.020, 71.05.020, 71.05.020, and 71.05.020; adding a new section to chapter 10.77 RCW; adding a new section to chapter 71.24 RCW; creating new sections; providing effective dates; providing a contingent effective date; and providing expiration dates."

Senators Dhingra and Wagoner spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of striking floor amendment no. 303 by Senator Dhingra to Second Substitute Senate Bill No. 5071.

The motion by Senator Dhingra carried and striking floor amendment no. 303 was adopted by voice vote.

MOTION

On motion of Senator Dhingra, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5071 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Dhingra and Wagoner spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5071.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5071 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5071, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5259, by Senators Nobles, Carlyle, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, Nguyen, Pedersen, Randall, Robinson, Saldaña, Stanford, Wellman, and Wilson, C.

Concerning law enforcement data collection.

MOTION

On motion of Senator Nobles, Second Substitute Senate Bill No. 5259 was substituted for Senate Bill No. 5259 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Padden moved that the following floor amendment no. 284 by Senator Padden be adopted:

On page 7, beginning on line 14, after "bidders." strike "The office of the attorney general is the sole authority to select and

award the contract to the institution of higher education."

Senators Padden and Pedersen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 284 by Senator Padden on page 7, line 14 to Second Substitute Senate Bill No. 5259.

The motion by Senator Padden carried and floor amendment no. 284 was adopted by voice vote.

MOTION

On motion of Senator Nobles, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5259 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Nobles, Padden and Wagoner spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5259.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5259 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 1; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senators Honeyford and Schoesler
Absent: Senator Ericksen

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5259, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5054, by Senators Padden, Frockt, Conway, McCune and Short

Concerning impaired driving.

The measure was read the second time.

MOTION

On motion of Senator Padden, the rules were suspended, Senate Bill No. 5054 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Padden and Pedersen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5054.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5054 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 1; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Keiser, King, Kuderer, Lovelett, McCune, Muzzall, Nobles, Padden, Pedersen, Rivers, Rolfes, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senators Hunt, Liias, Mullet, Nguyen, Randall, Robinson and Saldaña

Absent: Senator Ericksen

SENATE BILL NO. 5054, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 3:53 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 5:45 p.m. by President Heck.

SECOND READING

SENATE BILL NO. 5141, by Senators Saldaña, Lovelett, Carlyle, Das, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Nobles, Pedersen, Rolfes, Stanford, and Wilson, C.

Implementing the recommendations of the environmental justice task force.

MOTION

On motion of Senator Saldaña, Second Substitute Senate Bill No. 5141 was substituted for Senate Bill No. 5141 and the substitute bill was placed on the second reading and read the second time.

Revised for 2nd Substitute: Reducing environmental and health disparities and improving the health of all Washington state residents by implementing the recommendations of the environmental justice task force.

MOTION

Senator Short moved that the following floor amendment no. 222 by Senator Short be adopted:

On page 2, after line 22, insert the following:

"NEW SECTION. **Sec. 2.** No application, approval, permit, or project may be subject to challenge before an agency or court on the basis of an agency's alleged failure to comply with the procedural or substantive requirements of this act."

Re-number the remaining sections consecutively and correct any internal references accordingly.

Senator Short spoke in favor of adoption of the amendment.
Senator Saldaña spoke against adoption of the amendment.

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The President declared the question before the Senate to be the adoption of floor amendment no. 222 by Senator Short on page 2, line 22 to Second Substitute Senate Bill No. 5141.

The motion by Senator Short did not carry and floor amendment no. 222 was not adopted by voice vote.

MOTION

Senator Fortunato moved that the following floor amendment no. 226 by Senator Fortunato be adopted:

On page 2, after line 22, insert the following:

"NEW SECTION. Sec. 2. An environmental justice assessment may not be used by an agency as the basis for denying any application for a permit or other similar approval."

Re-number the remaining sections consecutively and correct any internal references accordingly.

Senators Fortunato and Short spoke in favor of adoption of the amendment.

Senators Saldaña and Carlyle spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 226 by Senator Fortunato on page 2, line 22 to Second Substitute Senate Bill No. 5141.

The motion by Senator Fortunato did not carry and floor amendment no. 226 was not adopted by voice vote.

MOTION

Senator Wilson, J. moved that the following floor amendment no. 229 by Senator Wilson, J. be adopted:

On page 3, line 6, after "chapter" insert ", including the creation of jobs through agencies' approval of economic development projects"

Senator Wilson, J. spoke in favor of adoption of the amendment.

Senator Saldaña spoke against adoption of the amendment.

POINT OF INQUIRY

Senator Short: "Thank you Mr. President and with the gentleness, one of the comments that you made was that the community, you know the overburden community, and those within it, would be able to have projects you know that support their communities and my question to you as the prime sponsor is would anybody from outside of that community be able to use this law against that community who wants those jobs?"

Senator Saldaña: "Well I mean I think we have to look at the definitions and the and the specificity I mean the jobs for instance overburden community means a geographic area we're vulnerable populations face combined multiple environmental harms and health impacts and my apologies Mr. President for not asking first to be able to read the definitions in the underlying bill. May I proceed?"

President Heck: "Please proceed."

Senator Saldaña: "Thank you. And so, it's so vulnerable populations face combined multiple environmental harms and health impacts and includes but is not limited to highly impacted

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communities as defined in RCW 19.405.020. I think it's important for the benefit to be considered in terms of does it add more environmental health impacts and does it add communal impacts and so that would be part of the conversation as they are setting up criteria for that benefit so I'm not sure because we've pushed this out and they will report back to us about specifics around significant agency actions about which programs will be included I think it's a little premature for me to be able to definitively answer Senator Short's question but I do hope that it's clear that if it's identified benefit from that community that that is something that would take precedent in how they think about the programs and policies."

The President declared the question before the Senate to be the adoption of floor amendment no. 229 by Senator Wilson, J. on page 3, line 6 to Second Substitute Senate Bill No. 5141.

The motion by Senator Wilson, J. did not carry and floor amendment no. 229 was not adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 223 by Senator Short be adopted:

On page 3, line 7, after "(6)" insert "(a)"

On page 3, at the beginning of line 10, strike "(a)" and insert "(i)"

On page 3, at the beginning of line 13, strike "(b)" and insert "(ii)"

On page 3, at the beginning of line 17, strike "(c)" and insert "(iii)"

On page 3, after line 17, insert the following:

"(b) 'Environmental harm' also includes job loss or loss of purchasing power resulting from government regulation."

Senators Short and Wilson, J. spoke in favor of adoption of the amendment.

Senator Saldaña spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 223 by Senator Short on page 3, line 7 to Second Substitute Senate Bill No. 5141.

The motion by Senator Short did not carry and floor amendment no. 223 was not adopted by voice vote.

MOTION

Senator Warnick moved that the following floor amendment no. 230 by Senator Warnick be adopted:

On page 3, line 14, after "substances," insert "including exposure to rare earth elements, as described in RCW 28B.156.005, in energy or transportation technologies,"

Senators Warnick, Braun, Brown and Rivers spoke in favor of adoption of the amendment.

Senator Saldaña spoke against adoption of the amendment.

PARLIAMENTARY INQUIRY

Senator Wilson, J.: "Thank you Mr. President. I would just like to note the previous speaker may have made an unintentional reference to a Port of Longview project. I believe that is a Port of Kalama project Mr. President, yet it still is on the same border that there is no, there is no border for the environment and jobs. And I hope that I am, that I did not make a mistake by the point

of inquiry.”

REMARKS BY SENATOR RIVERS

Senator Rivers: “Thank you Mr. President. The Millennium Bulk Terminal or rather the demised Millennium Bulk Terminal is in the Port of Longview. Thank you.”

REMARKS BY SENATOR BRAUN

Senator Braun: “Thank you Mr. President. Just to make sure we are all clear, I think the confusion was, the confusion is between two different projects, both of which were killed by overregulation. One, the Millennium Terminal in the Port of Longview and Two, not quite dead but attempting to kill it is the methanol plant in the Port of Kalama. Thank you, Mr. President.”

The President declared the question before the Senate to be the adoption of floor amendment no. 230 by Senator Warnick on page 3, line 14 to Second Substitute Senate Bill No. 5141.

The motion by Senator Warnick did not carry and floor amendment no. 230 was not adopted by voice vote.

MOTION

Senator Mullet moved that the following floor amendment no. 271 by Senator Mullet be adopted:

On page 4, line 4, after "population," strike "consistent" and insert "in consideration"

On page 8, line 16, after "section" strike "and the" and insert ", and while considering the suggested"

On page 8, line 18, after "agency" strike "following" and insert "considering"

On page 10, line 21, after "populations," strike "consistent with" and insert "while considering"

On page 15, line 36, after "developing a" insert "suggested"

Senator Mullet spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 271 by Senator Mullet on page 4, line 4 to Second Substitute Senate Bill No. 5141.

The motion by Senator Mullet carried and floor amendment no. 271 was adopted by voice vote.

MOTION

Senator Saldaña moved that the following floor amendment no. 231 by Senator Saldaña be adopted:

On page 4, beginning on line 28, after "includes" strike all material through "risks" on line 30 and insert ", but is not limited to, racial or ethnic minority, low-income populations disproportionately impacted by environmental harms or pollution, and populations of workers experiencing environmental risks"

Senator Saldaña spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 231 by Senator Saldaña on page 4, line 28 to Second Substitute Senate Bill No. 5141.

The motion by Senator Saldaña carried and floor amendment no. 231 was adopted by voice vote.

MOTION

Senator Fortunato moved that the following floor amendment no. 227 by Senator Fortunato be adopted:

On page 4, line 30, after "risks" insert ", including blue collar workers who face job loss resulting from the just transition to a clean energy economy"

Senators Fortunato and Braun spoke in favor of adoption of the amendment.

Senator Saldaña spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 227 by Senator Fortunato on page 4, line 30 to Second Substitute Senate Bill No. 5141.

The motion by Senator Fortunato did not carry and floor amendment no. 227 was not adopted by voice vote.

MOTION

Senator Dozier moved that the following floor amendment no. 232 by Senator Dozier be adopted:

On page 9, line 2, after "action;" strike "and"

On page 9, line 3, after "(f)" insert "Identify any economic benefits and losses that may be affected by the proposed action and the impact of those benefits and losses on the overburdened communities and vulnerable populations identified in (c) of this subsection;

(g) Identify any economic benefits and losses to local governments that may be effected by the proposed action and the impact of those benefits and losses on the overburdened communities and vulnerable populations identified in (c) of this subsection; and

(h)"

Senators Dozier and Short spoke in favor of adoption of the amendment.

Senator Saldaña spoke against adoption of the amendment.

MOTION

On motion of Senator Wagoner, Senators Ericksen and Muzzall were excused.

The President declared the question before the Senate to be the adoption of floor amendment no. 232 by Senator Dozier on page 9, line 2 to Second Substitute Senate Bill No. 5141.

The motion by Senator Dozier did not carry and floor amendment no. 232 was not adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 224 by Senator Short be adopted:

On page 10, after line 10, insert the following:

"(8) No project that is proposed for the purpose of complying with the Washington clean energy transformation act, chapter 19.405 RCW, may be approved until an environmental justice assessment is conducted and concludes that the project will not result in environmental harms to an overburdened community."

Senator Short spoke in favor of adoption of the amendment.

Senator Saldaña spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 224 by Senator Short on page 10, line 10 to Second Substitute Senate Bill No. 5141.

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The motion by Senator Short did not carry and floor amendment no. 224 was not adopted by voice vote.

MOTION

Senator Fortunato moved that the following floor amendment no. 228 by Senator Fortunato be adopted:

On page 10, after line 10, insert the following:

"(8) No project that would generate credits under a clean fuel standard program may be approved until an environmental justice assessment is conducted and concludes that the project will not result in environmental harms to an overburdened community."

Senator Fortunato spoke in favor of adoption of the amendment.

Senator Saldaña spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 228 by Senator Fortunato on page 10, line 10 to Second Substitute Senate Bill No. 5141.

The motion by Senator Fortunato did not carry and floor amendment no. 228 was not adopted by voice vote.

WITHDRAWAL OF AMENDMENT

On motion of Senator Mullet and without objection, floor amendment no. 261 by Senator Mullet on page 10, line 15 to Second Substitute Senate Bill No. 5141 was withdrawn.

MOTION

Senator Hobbs moved that the following floor amendment no. 262 by Senator Hobbs be adopted:

On page 11, after line 18, insert the following:

"(5) Expenditure and funding decisions made under this section by state transportation agencies funded in the omnibus transportation appropriations act must be restricted solely to the agency's discretionary spending authority and must be made consistent with the appropriations provided in that act."

Senator Hobbs spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 262 by Senator Hobbs on page 11, line 18 to Second Substitute Senate Bill No. 5141.

The motion by Senator Hobbs carried and floor amendment no. 262 was adopted by voice vote.

MOTION

Senator Saldaña moved that the following floor amendment no. 233 by Senator Saldaña be adopted:

On page 17, after line 18, insert the following:

"(9) By November 30, 2022, the council must submit a report to the governor and the appropriate committees of the house of representatives and the senate on:

(a) The council's recommendations to agencies on the identification of significant agency actions requiring an environmental justice assessment under subsection (8)(d)(i) of this section;

(b) The summary of agency progress reports provided to the council under section 17(1) of this act, including status of agency plans for performing environmental justice assessments required by section 14 of this act; and

(c) Guidance for environmental justice implementation into agency strategic plans, environmental justice assessments, budgeting and funding criteria, and community engagement plans under subsection (8)(c)(i) of this section."

Renumber the remaining subsections consecutively and correct any internal references accordingly.

Senator Saldaña spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 233 by Senator Saldaña on page 17, line 18 to Second Substitute Senate Bill No. 5141.

The motion by Senator Saldaña carried and floor amendment no. 233 was adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 225 by Senator Short be adopted:

On page 17, after line 34, insert the following:

"(10) Notwithstanding any other provision of this act, the role of the council is purely advisory and council decisions are not binding on an agency, individual, or organization."

Renumber the remaining subsections consecutively and correct any internal references accordingly.

Senators Short and Braun spoke in favor of adoption of the amendment.

Senators Saldaña and Carlyle spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 225 by Senator Short on page 17, line 34 to Second Substitute Senate Bill No. 5141.

The motion by Senator Short carried and floor amendment no. 225 was adopted by voice vote.

MOTION

On motion of Senator Saldaña, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5141 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Saldaña, Lovelett and Hobbs spoke in favor of passage of the bill.

Senators Schoesler, Wilson, J., Fortunato, King, Short, Wilson, L. and Braun spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5141.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5141 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liiias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner,

Warnick, Wilson, J. and Wilson, L.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5141, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Braun: “Thank you, Mr. President. I would just like to recognize for the body that today is the anniversary of the first Covid death in our state and the date that we declared an emergency a year ago and just take a couple moments to think back on the challenges we have faced over the course of the last year. Of course, the tragic death of many of our fellow citizens and residents, but also some of the successes. I mean we started this knowing very little about the Covid virus and even once we started to get more data there were certainly different interpretations of how best to use that data. But, nonetheless, Mr. President, I think we should be proud of the people of the state of Washington, that broadly they have made good choices to protect their families and their neighbors, their employees and their customers, and while we certainly have challenges ahead of us Mr. President and in particular, I think we have a big challenge in getting our children back into school, in the classroom, and catch up on the learning loss. Nonetheless, I, I think we have done well overall, and we should, we should celebrate that success,

recognize where we have got it wrong, and take action to learn from that. Cause I think you know if anyone was to take, no one would take the bet that we won’t have something that this happen in the future, and we should prepare. I just want to take a moment to remind folks where we’ve been over the last year and a and help us think about where it might take us in the future. Thank you, Mr. President.”

REMARKS BY THE PRESIDENT

President Heck: “Senator, the President would also like to remind the members of the body that today is both officially and unofficially recognized as national “x” day, fill in the “x” for about eight different categories. But the one we are going to adjourn in recognition on today is that it is Baby Sleep Day.”

MOTION

At 7:41 p.m., on motion of Senator Liias, the Senate adjourned until 10:00 o'clock a.m. Tuesday, March 2, 2021.

DENNY HECK, President of the Senate

BRAD HENDRICKSON, Secretary of the Senate

1016-S	Introduction & 1st Reading.....	2	1173-S2	Introduction & 1st Reading.....	4
1022	Messages.....	2	1184-S.E	Messages.....	2
1023	Messages.....	2	1194-S2.E	Introduction & 1st Reading.....	4
1031	Introduction & 1st Reading.....	2	1208-S	Messages.....	2
1044-S2	Introduction & 1st Reading.....	2	1225-S	Messages.....	2
1054-S.E	Messages.....	2	1271.E	Messages.....	2
1061-S2	Messages.....	2	1272-S2.E	Introduction & 1st Reading.....	4
1069-S2.E	Introduction & 1st Reading.....	2	1273-S.E	Introduction & 1st Reading.....	4
1070-S.E	Introduction & 1st Reading.....	3	1274-S2.E	Introduction & 1st Reading.....	4
1078-S.E	Messages.....	2	1295-S2.E	Messages.....	2
1083-S2.E	Introduction & 1st Reading.....	3	1325-S2	Messages.....	2
1085-S	Introduction & 1st Reading.....	3	1329-S.E	Messages.....	2
1091-S3.E	Messages.....	2	1348-S	Messages.....	2
1104	Introduction & 1st Reading.....	3	1359-S2	Introduction & 1st Reading.....	4
1109-S.E	Introduction & 1st Reading.....	3	1363-S	Introduction & 1st Reading.....	4
1114-S	Introduction & 1st Reading.....	3	1373-S	Introduction & 1st Reading.....	4
1122	Introduction & 1st Reading.....	3	1391-S	Introduction & 1st Reading.....	4
1141-S.E	Introduction & 1st Reading.....	3	1393	Messages.....	2
1148-S2	Introduction & 1st Reading.....	3	1425-S	Introduction & 1st Reading.....	4
1151-S	Introduction & 1st Reading.....	3	1430	Messages.....	2
1160-S2.E	Messages.....	2	1480-S2.E	Introduction & 1st Reading.....	5
1162-S	Introduction & 1st Reading.....	3	1491	Introduction & 1st Reading.....	5
1166-S	Messages.....	2	1502-S	Messages.....	2
1172					

1508-S		5468	
Introduction & 1st Reading.....	5	Introduction & 1st Reading.....	2
1510-S		9271 Kenyon Jr., Kenneth W.	
Messages.....	2	Introduction.....	1
1525		9272 Krombeen, Henrik	
Messages.....	2	Introduction.....	1
5036		9273 Rasmussen, Timothy	
Second Reading	5	Introduction.....	1
5036-S2		9274 Stuehm, Hunter R.	
Second Reading	5, 7, 8, 9	Introduction.....	1
5036-S2.E		9275 Hall, Will	
Third Reading Final Passage	9	Introduction.....	1
5054		9276 Sbah, Jeff	
Second Reading	36	Introduction.....	1
Third Reading Final Passage	36	9277 Black, Erin L.	
5071		Introduction.....	2
Second Reading	11	9278 Kuschel, Judy F.	
5071-S2		Introduction.....	2
Second Reading	11	CHAPLAIN OF THE DAY	
5071-S2.E		Murray, Ms. Terry, Reverend, Unity Church	
Third Reading Final Passage	35	of Olympia	1
5141		FLAG BEARERS	
Second Reading	36	Washington State Patrol Honor Guard	1
5141-S2		GUESTS	
Other Action.....	39	Johnson, Mr. Cannon, Pledge of Allegiance. 1	
Second Reading	36, 37, 38, 39	MESSAGE FROM GOVERNOR	
5141-S2.E		Gubernatorial Appointments.....	1
Third Reading Final Passage	40	PRESIDENT OF THE SENATE	
5164		Remarks by the President.....	40
Second Reading	9, 10	WASHINGTON STATE SENATE	
5164.E		Parliamentary Inquiry, Senator Padden	5
Third Reading Final Passage	11	Parliamentary Inquiry, Senator Wilson, J. ..	37
5259		Personal Privilege, Senator Braun	40
Second Reading	35	Point of Inquiry, Senator Dozier.....	10
5259-S2		Point of Inquiry, Senator Short.....	37
Second Reading	35	Remarks by Senator Braun	38
5259-S2.E		Remarks by Senator Rivers.....	38
Third Reading Final Passage	36		