

AN ACT Relating to Indian health care in Washington state; adding a new chapter to Title 70 RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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Sec. 1. RCW 71.05.020 and 2017 3rd sp.s. c 14 s 14 are each 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

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

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

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

10 (6) "Chemical dependency" means:

11 (a) Alcoholism;

12 (b) Drug addiction; or

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

15 (7) "Chemical dependency professional" means a person certified
16 as a chemical dependency professional by the department of health
17 under chapter 18.205 RCW;

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

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

23 (10) "Crisis stabilization unit" means a short-term facility or
24 a portion of a facility licensed by the department of health and
25 certified by the department of social and health services under RCW
26 71.24.035, such as an evaluation and treatment facility or a
27 hospital, which has been designed to assess, diagnose, and treat
28 individuals experiencing an acute crisis without the use of long-
29 term hospitalization;

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

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1 (12) "Department" means the department of social and health
2 services;

3 (13) "Designated crisis responder" means a mental health
4 professional appointed by a tribe, Indian health care provider, or
5 the behavioral health organization to perform the duties specified
6 in this chapter;

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

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

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

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

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

28 (19) "Evaluation and treatment facility" means any facility
29 which can provide directly, or by direct arrangement with other
30 public or private agencies, emergency evaluation and treatment,
31 outpatient care, and timely and appropriate inpatient care to
32 persons suffering from a mental disorder, and which is certified as
33 such by the department. The department may certify single beds as
34 temporary evaluation and treatment beds under RCW 71.05.745. A

1 physically separate and separately operated portion of a state
2 hospital may be designated as an evaluation and treatment facility.
3 A facility which is part of, or operated by, the department or any
4 federal agency will not require certification. No correctional
5 institution or facility, or jail, shall be an evaluation and
6 treatment facility within the meaning of this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

19 (25) "Information related to mental health services" means all
20 information and records compiled, obtained, or maintained in the
21 course of providing services to either voluntary or involuntary
22 recipients of services by a mental health service provider. This may
23 include documents of legal proceedings under this chapter or chapter
24 71.34 or 10.77 RCW, or somatic health care information;

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

28 (27) "In need of assisted outpatient mental health treatment"
29 means that a person, as a result of a mental disorder: (a) Has been
30 committed by a court to detention for involuntary mental health
31 treatment at least twice during the preceding thirty-six months, or,
32 if the person is currently committed for involuntary mental health
33 treatment, the person has been committed to detention for
34 involuntary mental health treatment at least once during the thirty-

1 six months preceding the date of initial detention of the current
2 commitment cycle; (b) is unlikely to voluntarily participate in
3 outpatient treatment without an order for less restrictive
4 alternative treatment, in view of the person's treatment history or
5 current behavior; (c) is unlikely to survive safely in the community
6 without supervision; (d) is likely to benefit from less restrictive
7 alternative treatment; and (e) requires less restrictive alternative
8 treatment to prevent a relapse, decompensation, or deterioration
9 that is likely to result in the person presenting a likelihood of
10 serious harm or the person becoming gravely disabled within a
11 reasonably short period of time. For purposes of (a) of this
12 subsection, time spent in a mental health facility or in confinement
13 as a result of a criminal conviction is excluded from the thirty-six
14 month calculation;

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

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

21 (30) "Less restrictive alternative treatment" means a program of
22 individualized treatment in a less restrictive setting than
23 inpatient treatment that includes the services described in RCW
24 71.05.585;

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

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

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

1 harm; or (iii) physical harm will be inflicted by a person upon the
2 property of others, as evidenced by behavior which has caused
3 substantial loss or damage to the property of others; or

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

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

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

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

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

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

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

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

12 (40) "Professional person" means a mental health professional,
13 chemical dependency professional, or designated crisis responder and
14 shall also mean a physician, physician assistant, psychiatric
15 advanced registered nurse practitioner, registered nurse, and such
16 others as may be defined by rules adopted by the secretary pursuant
17 to the provisions of this chapter;

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

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

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

31 (44) "Public agency" means any evaluation and treatment facility
32 or institution, secure detoxification facility, approved substance
33 use disorder treatment program, or hospital which is conducted for,
34 or includes a department or ward conducted for, the care and

1 treatment of persons with mental illness, substance use disorders,
2 or both mental illness and substance use disorders, if the agency is
3 operated directly by federal, state, county, or municipal
4 government, or a combination of such governments;

5 (45) "Registration records" include all the records of the
6 department, behavioral health organizations, treatment facilities,
7 and other persons providing services to the department, county
8 departments, or facilities which identify persons who are receiving
9 or who at any time have received services for mental illness or
10 substance use disorders;

11 (46) "Release" means legal termination of the commitment under
12 the provisions of this chapter;

13 (47) "Resource management services" has the meaning given in
14 chapter 71.24 RCW;

15 (48) "Secretary" means the secretary of the department of social
16 and health services, or his or her designee;

17 (49) "Secure detoxification facility" means a facility operated
18 by either a public or private agency or by the program of an agency
19 that:

20 (a) Provides for intoxicated persons:

21 (i) Evaluation and assessment, provided by certified chemical
22 dependency professionals;

23 (ii) Acute or subacute detoxification services; and

24 (iii) Discharge assistance provided by certified chemical
25 dependency professionals, including facilitating transitions to
26 appropriate voluntary or involuntary inpatient services or to less
27 restrictive alternatives as appropriate for the individual;

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

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

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

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

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

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

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

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

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

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7 **Sec. 2.** RCW 71.05.150 and 2016 sp.s. c 29 s 210 are each
8 amended to read as follows:

9 (1) (a) When a designated crisis responder receives information
10 alleging that a person, as a result of a mental disorder, substance
11 use disorder, or both presents a likelihood of serious harm or is
12 gravely disabled, or that a person is in need of assisted outpatient
13 mental health treatment; the designated crisis responder may, after
14 investigation and evaluation of the specific facts alleged and of
15 the reliability and credibility of any person providing information
16 to initiate detention or involuntary outpatient evaluation, if
17 satisfied that the allegations are true and that the person will not
18 voluntarily seek appropriate treatment, file a petition for initial
19 detention or involuntary outpatient evaluation. If the petition is
20 filed solely on the grounds that the person is in need of assisted
21 outpatient mental health treatment, the petition may only be for an
22 involuntary outpatient evaluation. An involuntary outpatient
23 evaluation may be conducted by any combination of licensed
24 professionals authorized to petition for involuntary commitment
25 under RCW 71.05.230 and must include involvement or consultation
26 with the agency or facility which will provide monitoring or
27 services under the proposed less restrictive alternative treatment
28 order. If the petition is for an involuntary outpatient evaluation
29 and the person is being held in a hospital emergency department, the
30 person may be released once the hospital has satisfied federal and
31 state legal requirements for appropriate screening and stabilization
32 of patients.

33 (b) Before filing the petition, the designated crisis responder
34 must personally interview the person, unless the person refuses an

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

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

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

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

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

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

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

30 (3) The designated crisis responder shall then serve or cause to
31 be served on such person, his or her guardian, and conservator, if
32 any, a copy of the order together with a notice of rights, and a
33 petition for initial detention or involuntary outpatient evaluation.
34 After service on such person the designated crisis responder shall

1 file the return of service in court and provide copies of all papers
2 in the court file to the evaluation and treatment facility, secure
3 detoxification facility, or approved substance use disorder
4 treatment program, and the designated attorney. The designated
5 crisis responder shall notify the court and the prosecuting attorney
6 that a probable cause hearing will be held within seventy-two hours
7 of the date and time of outpatient evaluation or admission to the
8 evaluation and treatment facility, secure detoxification facility,
9 or approved substance use disorder treatment program. The person
10 shall be permitted to be accompanied by one or more of his or her
11 relatives, friends, an attorney, a personal physician, or other
12 professional or religious advisor to the place of evaluation. An
13 attorney accompanying the person to the place of evaluation shall be
14 permitted to be present during the admission evaluation. Any other
15 individual accompanying the person may be present during the
16 admission evaluation. The facility may exclude the individual if his
17 or her presence would present a safety risk, delay the proceedings,
18 or otherwise interfere with the evaluation.

19 (4) The designated crisis responder may notify a peace officer
20 to take such person or cause such person to be taken into custody
21 and placed in an evaluation and treatment facility, secure
22 detoxification facility, or approved substance use disorder
23 treatment program. At the time such person is taken into custody
24 there shall commence to be served on such person, his or her
25 guardian, and conservator, if any, a copy of the original order
26 together with a notice of rights and a petition for initial
27 detention.

28 (5) An Indian tribe shall have jurisdiction exclusive to the
29 state as to any involuntary commitment of an American Indian to an
30 evaluation and treatment facility located within the boundaries of
31 that tribe, except where such jurisdiction is otherwise vested in
32 the state by existing federal law.

33 (6) In any state court proceeding for the involuntary treatment
34 of an American Indian or Alaska Native to an evaluation and

1 treatment facility located outside the boundaries of the American
2 Indian or Alaska Native's tribe, the American Indian or Alaska
3 Native's Indian health care provider shall have a right to intervene
4 at any point in the proceeding.

5 (7) If a designated crisis responder performs an investigation
6 and evaluation under RCW 71.05.150(1) (a) of an American Indian or
7 Alaska Native, the designated crisis responder shall make reasonable
8 efforts to inform, when applicable, the American Indian or Alaska
9 Native's Indian health care provider regarding whether or not a
10 petition for initial detention or involuntary outpatient evaluation
11 will be filed under RCW 71.05.150.

12 (8) If a designated crisis responder performs an investigation
13 and evaluation under RCW 71.05.150 and does not file a petition for
14 initial detention or involuntary outpatient evaluation, the American
15 Indian or Alaska Native's Indian health care provider may request a
16 designated crisis responder of their choosing to review the
17 designated crisis responder's initial evaluation. If the Indian
18 health care provider's requested designated crisis responder finds
19 the requirements under RCW 71.05.150(1) (a) for initial detention or
20 involuntary outpatient evaluation have been met, the designated
21 crisis responder may file a petition for initial detention or
22 involuntary outpatient evaluation under RCW 71.05.150(1) (a).

23 (9) Decisions regarding discharge or release of a person
24 detained under the petition of an Indian health care provider's
25 designated crisis responder shall be made by the evaluation and
26 treatment facility providing involuntary treatment. Prior to
27 discharge or release, the evaluation and treatment facility shall
28 provide reasonable notice to the Indian health care provider's
29 designated crisis responder of the evaluation and treatment
30 facility's intention to discharge or release the person. Any
31 necessary outpatient follow-up and transportation for the person to
32 the Indian health care provider's facility, within the time set
33 forth in the notice, shall be provided for in an agreement between
34 the Indian health care provider and the state.

1 (10) The authority shall assure that inpatient psychiatric and
2 evaluation and treatment beds are available to American Indian and
3 Alaska Natives patients on at least the same proportionate basis as
4 the American Indian and Alaska Native population is to the medicaid
5 population. The authority shall provide a report on psychiatric
6 treatment and evaluation and bed utilization for American Indians
7 and Alaska Natives. The report shall be available for review by the
8 tribes, urban Indian health programs, and the American Indian health
9 commission for Washington state.

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11 **Sec. 3.** RCW 71.05.150 and 2016 sp.s. c 29 s 211 are each
12 amended to read as follows:

13 (1) (a) When a designated crisis responder receives information
14 alleging that a person, as a result of a mental disorder, substance
15 use disorder, or both presents a likelihood of serious harm or is
16 gravely disabled, or that a person is in need of assisted outpatient
17 mental health treatment; the designated crisis responder may, after
18 investigation and evaluation of the specific facts alleged and of
19 the reliability and credibility of any person providing information
20 to initiate detention or involuntary outpatient evaluation, if
21 satisfied that the allegations are true and that the person will not
22 voluntarily seek appropriate treatment, file a petition for initial
23 detention or involuntary outpatient evaluation. If the petition is
24 filed solely on the grounds that the person is in need of assisted
25 outpatient mental health treatment, the petition may only be for an
26 involuntary outpatient evaluation. An involuntary outpatient
27 evaluation may be conducted by any combination of licensed
28 professionals authorized to petition for involuntary commitment
29 under RCW 71.05.230 and must include involvement or consultation
30 with the agency or facility which will provide monitoring or
31 services under the proposed less restrictive alternative treatment
32 order. If the petition is for an involuntary outpatient evaluation
33 and the person is being held in a hospital emergency department, the
34 person may be released once the hospital has satisfied federal and

1 state legal requirements for appropriate screening and stabilization
2 of patients.

3 (b) Before filing the petition, the designated crisis responder
4 must personally interview the person, unless the person refuses an
5 interview, and determine whether the person will voluntarily receive
6 appropriate evaluation and treatment at an evaluation and treatment
7 facility, crisis stabilization unit, triage facility, or approved
8 substance use disorder treatment program.

9 (2) (a) An order to detain a person with a mental disorder to a
10 designated evaluation and treatment facility, or to detain a person
11 with a substance use disorder to a secure detoxification facility or
12 approved substance use disorder treatment program, for not more than
13 a seventy-two-hour evaluation and treatment period, or an order for
14 an involuntary outpatient evaluation, may be issued by a judge of
15 the superior court upon request of a designated crisis responder
16 whenever it appears to the satisfaction of a judge of the superior
17 court:

- 18 (i) That there is probable cause to support the petition; and
19 (ii) That the person has refused or failed to accept appropriate
20 evaluation and treatment voluntarily.

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

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

29 (3) The designated crisis responder shall then serve or cause to
30 be served on such person, his or her guardian, and conservator, if
31 any, a copy of the order together with a notice of rights, and a
32 petition for initial detention or involuntary outpatient evaluation.
33 After service on such person the designated crisis responder shall
34 file the return of service in court and provide copies of all papers

1 in the court file to the evaluation and treatment facility, secure
2 detoxification facility, or approved substance use disorder
3 treatment program, and the designated attorney. The designated
4 crisis responder shall notify the court and the prosecuting attorney
5 that a probable cause hearing will be held within seventy-two hours
6 of the date and time of outpatient evaluation or admission to the
7 evaluation and treatment facility, secure detoxification facility,
8 or approved substance use disorder treatment program. The person
9 shall be permitted to be accompanied by one or more of his or her
10 relatives, friends, an attorney, a personal physician, or other
11 professional or religious advisor to the place of evaluation. An
12 attorney accompanying the person to the place of evaluation shall be
13 permitted to be present during the admission evaluation. Any other
14 individual accompanying the person may be present during the
15 admission evaluation. The facility may exclude the individual if his
16 or her presence would present a safety risk, delay the proceedings,
17 or otherwise interfere with the evaluation.

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

27 (5) An Indian tribe shall have jurisdiction exclusive to the
28 state as to any involuntary commitment of an American Indian to an
29 evaluation and treatment facility located within the boundaries of
30 that tribe, except where such jurisdiction is otherwise vested in
31 the state by existing federal law.

32 (6) In any state court proceeding for the involuntary treatment
33 of an American Indian or Alaska Native to an evaluation and
34 treatment facility located outside the boundaries of the American

1 Indian or Alaska Native's tribe, the American Indian or Alaska
2 Native's Indian health care provider shall have a right to intervene
3 at any point in the proceeding.

4 (7) If a designated crisis responder performs an investigation
5 and evaluation under RCW 71.05.150(1) (a) of an American Indian or
6 Alaska Native, the designated crisis responder shall make reasonable
7 efforts to inform, when applicable, the American Indian or Alaska
8 Native's Indian health care provider regarding whether or not a
9 petition for initial detention or involuntary outpatient evaluation
10 will be filed under RCW 71.05.150.

11 (8) If a designated crisis responder performs an investigation
12 and evaluation under RCW 71.05.150 and does not file a petition for
13 initial detention or involuntary outpatient evaluation, the American
14 Indian or Alaska Native's Indian health care provider may request a
15 designated crisis responder of their choosing to review the
16 designated crisis responder's initial evaluation. If the Indian
17 health care provider's requested designated crisis responder finds
18 the requirements under RCW 71.05.150(1) (a) for initial detention or
19 involuntary outpatient evaluation have been met, the designated
20 crisis responder may file a petition for initial detention or
21 involuntary outpatient evaluation under RCW 71.05.150(1) (a).

22 (9) Decisions regarding discharge or release of a person
23 detained under the petition of an Indian health care provider's
24 designated crisis responder shall be made by the evaluation and
25 treatment facility providing involuntary treatment. Prior to
26 discharge or release, the evaluation and treatment facility shall
27 provide reasonable notice to the Indian health care provider's
28 designated crisis responder of the evaluation and treatment
29 facility's intention to discharge or release the person. Any
30 necessary outpatient follow-up and transportation for the person to
31 the Indian health care provider's facility, within the time set
32 forth in the notice, shall be provided for in an agreement between
33 the Indian health care provider and the state.

34

1 (10) The authority shall assure that inpatient psychiatric and
2 evaluation and treatment beds are available to American Indian and
3 Alaska Natives patients on at least the same proportionate basis as
4 the American Indian and Alaska Native population is to the medicaid
5 population. The authority shall provide a report on psychiatric
6 treatment and evaluation and bed utilization for American Indians
7 and Alaska Natives. The report shall be available for review by the
8 tribes, urban Indian health programs, and the American Indian health
9 commission for Washington state.

10

11 **Sec. 4.** RCW 71.05.212 and 2016 sp.s. c 29 s 226 are each
12 amended to read as follows:

13 (1) Whenever a designated crisis responder or professional
14 person is conducting an evaluation under this chapter, consideration
15 shall include all reasonably available information from credible
16 witnesses and records regarding:

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

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

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

24 (d) Prior commitments under this chapter.

25 (2) Credible witnesses may include family members, landlords,
26 neighbors, or others with significant contact and history of
27 involvement with the person. If the designated crisis responder
28 relies upon information from a credible witness in reaching his or
29 her decision to detain the individual, then he or she must provide
30 contact information for any such witness to the prosecutor. The
31 designated crisis responder or prosecutor shall provide notice of
32 the date, time, and location of the probable cause hearing to such a
33 witness.

34

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

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

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

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

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

19 (5) The authority, in consultation with tribes and coordination
20 with Indian health care providers, the Indian policy advisory
21 committee of the department of social and health services, and the
22 American Indian Health Commission for Washington State, shall
23 establish written guidelines for conducting culturally appropriate
24 evaluations of American Indian or Alaska Natives. The authority, in
25 coordination with the Indian policy advisory committee of the
26 department of social and health services, and the American Indian
27 Health Commission for Washington State shall provide annual training
28 to all designated crisis responders on these guidelines.

29 (6) Medicaid managed care entities will accept assessments and
30 evaluations from Indian health care providers completed by a
31 physician for purposes of treatment determinations.

32
33 NEW SECTION. Sec. 5. Sections 1 through 13 of this act constitute
34 a new chapter in Title 70 RCW.

1 NEW SECTION. **Sec. 6.** Section 17 of this act expires July 1, 2026.
2
3 NEW SECTION. **Sec. 7.** Section 18 of this act takes effect July 1,
4 2026.

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