
SENATE BILL 5048

State of Washington

66th Legislature

2019 Regular Session

By Senator O'Ban

Prefiled 12/24/18.

1 AN ACT Relating to establishing a reentry community safety
2 program for state hospital patients; amending RCW 71.24.470,
3 72.09.370, 71.05.320, 71.05.320, 71.05.340, 10.77.163, and 71.24.330;
4 reenacting and amending RCW 71.24.385; adding a new section to
5 chapter 71.05 RCW; creating a new section; providing an effective
6 date; and providing an expiration date.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that state hospital
9 patients who are civilly committed after prosecution for a violent
10 offense or who are civilly committed based on criminal insanity share
11 characteristics with clients served by the offender reentry community
12 safety program, the most effective anti-recidivism program in the
13 state of Washington. The Washington state institute for public policy
14 categorizes the offender reentry community safety program,
15 established in 1999, as a program which produces statistically
16 significant reductions in recidivism in its May 2017 publication "The
17 Effectiveness of Reentry Programs for Incarcerated Persons: Findings
18 for the Washington Statewide Reentry Council." The Washington state
19 institute for public policy's analysis finds a higher average effect
20 size on recidivism reduction for the offender reentry community
21 safety program than for any other reviewed program. The Washington

1 state institute for public policy further identifies the offender
2 reentry community safety program in a December 2017 report as a cost-
3 effective program which provides one dollar and ninety cents of
4 taxpayer benefits for every one dollar expended.

5 The legislature further finds that expanding the scope of the
6 offender reentry community safety program to include the specified
7 state hospital patients will improve reentry services and stability
8 for these patients while substantially reducing recidivism and
9 improving public safety. Mandating inclusion of the offender reentry
10 community safety program in the health network of every health
11 purchasing region will make the program more effective and increase
12 security and welfare. The expansion of the offender reentry community
13 safety program to include state hospitals, under the new name
14 "reentry community safety program," will also provide community
15 supervision for patients who are conditionally released and establish
16 oversight by the public safety review panel.

17 **Sec. 2.** RCW 71.24.470 and 2018 c 201 s 4031 are each amended to
18 read as follows:

19 (1) The director shall contract, to the extent that funds are
20 appropriated for this purpose, for case management services and such
21 other services as the director deems necessary to assist offenders
22 identified under RCW 72.09.370, persons committed as criminally
23 insane under chapter 10.77 RCW, and persons committed under chapter
24 71.05 RCW with an affirmative special finding under RCW
25 71.05.280(3)(b) for participation in the ((offender)) reentry
26 community safety program. The contracts may be with behavioral health
27 organizations, full integration entities under RCW 71.24.380 and
28 71.24.850, or any other qualified and appropriate entities.

29 (2) The case manager has the authority to assist these offenders
30 in obtaining the services, as set forth in the plan created under RCW
31 72.09.370(2), for up to five years. The services may include
32 coordination of mental health services, assistance with unfunded
33 medical expenses, obtaining chemical dependency treatment, housing,
34 employment services, educational or vocational training, independent
35 living skills, parenting education, anger management services, and
36 such other services as the case manager deems necessary.

37 (3) The legislature intends that funds appropriated for the
38 purposes of RCW 72.09.370, 71.05.145, and 71.05.212, and this section
39 and distributed to the behavioral health organizations are to

1 supplement and not to supplant general funding. Funds appropriated to
2 implement RCW 72.09.370, 71.05.145, and 71.05.212, and this section
3 are not to be considered available resources as defined in RCW
4 71.24.025 and are not subject to the priorities, terms, or conditions
5 in the appropriations act established pursuant to RCW 71.24.035.

6 (4) The (~~offender~~) reentry community safety program was
7 formerly known as the community integration assistance program.

8 **Sec. 3.** RCW 71.24.385 and 2018 c 201 s 4023 and 2018 c 175 s 6
9 are each reenacted and amended to read as follows:

10 (1) Within funds appropriated by the legislature for this
11 purpose, behavioral health organizations and full integration
12 entities under RCW 71.24.380 and 71.24.850 shall develop the means to
13 serve the needs of people:

14 (a) With mental disorders residing within the boundaries of their
15 regional service area. Elements of the program may include:

- 16 (i) Crisis diversion services;
- 17 (ii) Evaluation and treatment and community hospital beds;
- 18 (iii) Residential treatment;
- 19 (iv) Programs for intensive community treatment;
- 20 (v) Outpatient services, including family support;
- 21 (vi) Peer support services;
- 22 (vii) Community support services;
- 23 (viii) Reentry services;
- 24 (ix) Resource management services; and
- 25 (~~(ix)~~) (x) Supported housing and supported employment services.

26 (b) With substance use disorders and their families, people
27 incapacitated by alcohol or other psychoactive chemicals, and
28 intoxicated people.

29 (i) Elements of the program shall include, but not necessarily be
30 limited to, a continuum of substance use disorder treatment services
31 that includes:

- 32 (A) Withdrawal management;
- 33 (B) Residential treatment; and
- 34 (C) Outpatient treatment.

35 (ii) The program may include peer support, supported housing,
36 supported employment, crisis diversion, reentry services, or recovery
37 support services.

38 (iii) The authority may contract for the use of an approved
39 substance use disorder treatment program or other individual or

1 organization if the director considers this to be an effective and
2 economical course to follow.

3 (2) (a) The behavioral health organization or full integration
4 entities under RCW 71.24.380 and 71.24.850 shall have the
5 flexibility, within the funds appropriated by the legislature for
6 this purpose and the terms of their contract, to design the mix of
7 services that will be most effective within their service area of
8 meeting the needs of people with behavioral health disorders and
9 avoiding placement of such individuals at the state mental hospital.
10 Behavioral health organizations and full integration entities under
11 RCW 71.24.380 and 71.24.850 are encouraged to maximize the use of
12 evidence-based practices and alternative resources with the goal of
13 substantially reducing and potentially eliminating the use of
14 institutions for mental diseases.

15 (b) The behavioral health organization or full integration
16 entities under RCW 71.24.380 and 71.24.850 may allow reimbursement to
17 providers for services delivered through a partial hospitalization or
18 intensive outpatient program. Such payment and services are distinct
19 from the state's delivery of wraparound with intensive services under
20 the *T.R. v. Strange and McDermott*, formerly the *T.R. v. Dreyfus and*
21 *Porter*, settlement agreement.

22 (3) (a) Treatment provided under this chapter must be purchased
23 primarily through managed care contracts.

24 (b) Consistent with RCW 71.24.580, services and funding provided
25 through the criminal justice treatment account are intended to be
26 exempted from managed care contracting.

27 **Sec. 4.** RCW 72.09.370 and 2018 c 201 s 9012 are each amended to
28 read as follows:

29 (1) The ~~((offender))~~ reentry community safety program is
30 established to ~~((provide))~~ promote community safety by providing
31 intensive services to offenders identified under this subsection
32 ~~((and to thereby promote public safety))~~, persons committed as
33 criminally insane under chapter 10.77 RCW, and persons committed
34 under chapter 71.05 RCW with an affirmative special finding under RCW
35 71.05.280(3)(b). The secretary shall:

36 (a) Identify offenders in confinement or partial confinement who:
37 ~~((a))~~ (i) Are reasonably believed to be dangerous to themselves or
38 others; and ~~((b))~~ (ii) have a mental disorder. In determining an
39 offender's dangerousness, the secretary shall consider behavior known

1 to the department and factors, based on research, that are linked to
2 an increased risk for dangerousness of offenders with mental
3 illnesses and shall include consideration of an offender's chemical
4 dependency or abuse;

5 (b) Collaborate with the health care authority and department of
6 social and health services to provide training, consultation, and
7 support during the implementation of the expansion of the reentry
8 community safety program under section 5 of this act; and

9 (c) Ensure that community corrections officers engaged in
10 supervision of offenders released under this section and of persons
11 ordered to receive supervision by a community corrections officer
12 under RCW 10.77.150(3)(d), 71.05.320, or 71.05.340 receive
13 appropriate training related to the monitoring of and engagement with
14 persons with behavioral health disorders, collaboration with
15 available community behavioral health and state hospital resources to
16 support the recovery of the person under supervision, and appropriate
17 measures to protect the safety of the person under supervision and
18 the public.

19 (2) Prior to release of an offender identified under this
20 section, a team consisting of representatives of the department of
21 corrections, the health care authority, the behavioral health
22 administration, and, as necessary, the indeterminate sentence review
23 board, divisions or administrations within the department of social
24 and health services, specifically including the division of
25 developmental disabilities, the appropriate behavioral health
26 organization, full integration entities under RCW 71.24.380 and
27 71.24.850, and the providers, as appropriate, shall develop a plan,
28 as determined necessary by the team, for delivery of treatment and
29 support services to the offender upon release. In developing the
30 plan, the offender shall be offered assistance in executing a mental
31 health directive under chapter 71.32 RCW, after being fully informed
32 of the benefits, scope, and purposes of such directive. The team may
33 include a school district representative for offenders under the age
34 of twenty-one. The team shall consult with the offender's counsel, if
35 any, and, as appropriate, the offender's family and community. The
36 team shall notify the crime victim/witness program, which shall
37 provide notice to all people registered to receive notice under RCW
38 72.09.712 of the proposed release plan developed by the team.
39 Victims, witnesses, and other interested people notified by the
40 department may provide information and comments to the department on

1 potential safety risk to specific individuals or classes of
2 individuals posed by the specific offender. The team may recommend:
3 (a) That the offender be evaluated by the designated crisis
4 responder, as defined in chapter 71.05 RCW; (b) department-supervised
5 community treatment; or (c) voluntary community mental health or
6 chemical dependency or abuse treatment.

7 (3) Prior to release of an offender identified under this
8 section, the team shall determine whether or not an evaluation by a
9 designated crisis responder is needed. If an evaluation is
10 recommended, the supporting documentation shall be immediately
11 forwarded to the appropriate designated crisis responder. The
12 supporting documentation shall include the offender's criminal
13 history, history of judicially required or administratively ordered
14 involuntary antipsychotic medication while in confinement, and any
15 known history of involuntary civil commitment.

16 (4) If an evaluation by a designated crisis responder is
17 recommended by the team, such evaluation shall occur not more than
18 ten days, nor less than five days, prior to release.

19 (5) A second evaluation by a designated crisis responder shall
20 occur on the day of release if requested by the team, based upon new
21 information or a change in the offender's mental condition, and the
22 initial evaluation did not result in an emergency detention or a
23 summons under chapter 71.05 RCW.

24 (6) If the designated crisis responder determines an emergency
25 detention under chapter 71.05 RCW is necessary, the department shall
26 release the offender only to a state hospital or to a consenting
27 evaluation and treatment facility. The department shall arrange
28 transportation of the offender to the hospital or facility.

29 (7) If the designated crisis responder believes that a less
30 restrictive alternative treatment is appropriate, he or she shall
31 seek a summons, pursuant to the provisions of chapter 71.05 RCW, to
32 require the offender to appear at an evaluation and treatment
33 facility. If a summons is issued, the offender shall remain within
34 the corrections facility until completion of his or her term of
35 confinement and be transported, by corrections personnel on the day
36 of completion, directly to the identified evaluation and treatment
37 facility.

38 (8) The secretary shall adopt rules to implement this section.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 71.05
2 RCW to read as follows:

3 (1) The reentry community safety program established under RCW
4 72.09.370 is expanded on the effective date of this section to
5 include services for persons committed as criminally insane under
6 chapter 10.77 RCW and persons committed under chapter 71.05 RCW with
7 an affirmative special finding under RCW 71.05.280(3)(b). The
8 secretary shall:

9 (a) Identify persons who meet eligibility criteria under this
10 section who have been recommended by their treatment teams as
11 potentially ready for discharge or conditional release to a community
12 placement within six months if an appropriate community placement and
13 discharge plan can be established providing appropriate treatment,
14 monitoring, and, if warranted, supervision to support the recovery of
15 the person and to protect the safety of the person and the public;

16 (b) Notify the public safety review panel under RCW 10.77.270
17 when a person is referred for reentry community safety program
18 services and provide full placement and discharge plan information
19 related to the person to the public safety review panel when it is
20 available;

21 (c) Work with the director to ensure that reentry community
22 safety program contracts with community providers require the
23 contract holders to provide information to the public safety review
24 panel upon request of the public safety review panel, department, or
25 authority relating to a proposed discharge or conditional release
26 plan, and require the contract holders to provide testimony relating
27 to such a plan to the superior court charged with reviewing an
28 application for less restrictive alternative order or conditional
29 release made by or on behalf of a person.

30 (2) The secretary shall collaborate with the director, secretary
31 of the department of corrections, and behavioral health care experts
32 as appropriate to model the expansion of the reentry community safety
33 program off the successful elements of the program as applied to
34 offenders within the jurisdiction of the department of corrections,
35 with appropriate adaptations to account for the differences inherent
36 in commitments under this chapter and chapter 10.77 RCW. This group
37 must establish procedures including interagency training and
38 consultation as are necessary to sustain the expanded program, and
39 including training in how to collaborate effectively across agencies
40 and appropriately share information with program partners.

1 (3) On the effective date of this section, appropriations made to
2 support individuals committed under RCW 71.05.320 with an affirmative
3 special finding under RCW 71.05.280(3)(b) must be applied to support
4 the expansion of the reentry community safety program.

5 **Sec. 6.** RCW 71.05.320 and 2018 c 201 s 3012 are each amended to
6 read as follows:

7 (1)(a) Subject to (b) of this subsection, if the court or jury
8 finds that grounds set forth in RCW 71.05.280 have been proven and
9 that the best interests of the person or others will not be served by
10 a less restrictive treatment which is an alternative to detention,
11 the court shall remand him or her to the custody of the department of
12 social and health services or to a facility certified for ninety day
13 treatment by the department for a further period of intensive
14 treatment not to exceed ninety days from the date of judgment.

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

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

26 (2) If the court or jury finds that grounds set forth in RCW
27 71.05.280 have been proven, but finds that treatment less restrictive
28 than detention will be in the best interest of the person or others,
29 then the court shall remand him or her to the custody of the
30 department of social and health services or to a facility certified
31 for ninety day treatment by the department or to a less restrictive
32 alternative for a further period of less restrictive treatment not to
33 exceed ninety days from the date of judgment. If the order for less
34 restrictive treatment is based on a substance use disorder, treatment
35 must be provided by an approved substance use disorder treatment
36 program. If the grounds set forth in RCW 71.05.280(3) are the basis
37 of commitment, then the period of treatment may be up to but not
38 exceed one hundred eighty days from the date of judgment. If the
39 court or jury finds that the grounds set forth in RCW 71.05.280(5)

1 have been proven, and provide the only basis for commitment, the
2 court must enter an order for less restrictive alternative treatment
3 for up to ninety days from the date of judgment and may not order
4 inpatient treatment.

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

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

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

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

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

33 (ii) In cases under this subsection where the court has made an
34 affirmative special finding under RCW 71.05.280(3)(b), the commitment
35 shall continue for up to an additional one hundred eighty day period
36 whenever the petition presents prima facie evidence that the person
37 continues to suffer from a mental disorder or developmental
38 disability that results in a substantial likelihood of committing
39 acts similar to the charged criminal behavior, unless the person
40 presents proof through an admissible expert opinion that the person's

1 condition has so changed such that the mental disorder or
2 developmental disability no longer presents a substantial likelihood
3 of the person committing acts similar to the charged criminal
4 behavior. The initial or additional commitment period may include
5 transfer to a specialized program of intensive support and treatment,
6 which may be initiated prior to or after discharge from the state
7 hospital; or

8 (d) Continues to be gravely disabled; or

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

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

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

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

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

38 (b) At the end of the one hundred eighty day period of
39 commitment, or one-year period of commitment if subsection (7) of
40 this section applies, the committed person shall be released unless a

1 petition for an additional one hundred eighty day period of continued
2 treatment is filed and heard in the same manner as provided in this
3 section. Successive one hundred eighty day commitments are
4 permissible on the same grounds and pursuant to the same procedures
5 as the original one hundred eighty day commitment.

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

10 (8) A less restrictive alternative order under this section for a
11 person committed to inpatient treatment in a case where the court has
12 made an affirmative special finding under RCW 71.05.280(3)(b) may
13 include a condition requiring supervision by the department of
14 corrections if recommended as a component of the person's
15 participation in the reentry community safety program under section 5
16 of this act.

17 (9) No person committed as provided in this section may be
18 detained unless a valid order of commitment is in effect. No order of
19 commitment can exceed one hundred eighty days in length except as
20 provided in subsection (7) of this section.

21 **Sec. 7.** RCW 71.05.320 and 2018 c 201 s 3013 are each amended to
22 read as follows:

23 (1) If the court or jury finds that grounds set forth in RCW
24 71.05.280 have been proven and that the best interests of the person
25 or others will not be served by a less restrictive treatment which is
26 an alternative to detention, the court shall remand him or her to the
27 custody of the department of social and health services or to a
28 facility certified for ninety day treatment by the department for a
29 further period of intensive treatment not to exceed ninety days from
30 the date of judgment.

31 If the order for inpatient treatment is based on a substance use
32 disorder, treatment must take place at an approved substance use
33 disorder treatment program. If the grounds set forth in RCW
34 71.05.280(3) are the basis of commitment, then the period of
35 treatment may be up to but not exceed one hundred eighty days from
36 the date of judgment to the custody of the department of social and
37 health services or to a facility certified for one hundred eighty day
38 treatment by the department.

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

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

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

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

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

1 substance use disorder, or developmental disability a likelihood of
2 serious harm; or

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

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

23 (d) Continues to be gravely disabled; or

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

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

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

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

37 (6) (a) The hearing shall be held as provided in RCW 71.05.310,
38 and if the court or jury finds that the grounds for additional
39 confinement as set forth in this section are present, the court may
40 order the committed person returned for an additional period of

1 treatment not to exceed one hundred eighty days from the date of
2 judgment, except as provided in subsection (7) of this section. If
3 the court's order is based solely on the grounds identified in
4 subsection (4)(e) of this section, the court may enter an order for
5 less restrictive alternative treatment not to exceed one hundred
6 eighty days from the date of judgment, and may not enter an order for
7 inpatient treatment. An order for less restrictive alternative
8 treatment must name the mental health service provider responsible
9 for identifying the services the person will receive in accordance
10 with RCW 71.05.585, and must include a requirement that the person
11 cooperate with the services planned by the mental health service
12 provider.

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

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

25 (8) A less restrictive alternative order under this section for a
26 person committed to inpatient treatment in a case where the court has
27 made an affirmative special finding under RCW 71.05.280(3)(b) may
28 include a condition requiring supervision by the department of
29 corrections if recommended as a component of the person's
30 participation in the reentry community safety program under section 5
31 of this act.

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

36 **Sec. 8.** RCW 71.05.340 and 2018 c 201 s 3017 are each amended to
37 read as follows:

38 (1)(a) When, in the opinion of the superintendent or the
39 professional person in charge of the hospital or facility providing

1 involuntary treatment, the committed person can be appropriately
2 served by outpatient treatment prior to or at the expiration of the
3 period of commitment, then such outpatient care may be required as a
4 term of conditional release for a period which, when added to the
5 inpatient treatment period, shall not exceed the period of
6 commitment. If the facility or agency designated to provide
7 outpatient treatment is other than the facility providing involuntary
8 treatment, the outpatient facility so designated must agree in
9 writing to assume such responsibility. A copy of the terms of
10 conditional release shall be given to the patient, the designated
11 crisis responder in the county in which the patient is to receive
12 outpatient treatment, and to the court of original commitment. A
13 conditional release under this section for a person committed to
14 inpatient treatment in a case where the court has made an affirmative
15 special finding under RCW 71.05.280(3)(b) may include a condition
16 requiring supervision by the department of corrections if recommended
17 as a component of the person's participation in the reentry community
18 safety program under section 5 of this act.

19 (b) Before a person committed under grounds set forth in RCW
20 71.05.280(3) or 71.05.320(4)(c) is conditionally released under (a)
21 of this subsection, the superintendent or professional person in
22 charge of the hospital or facility providing involuntary treatment
23 shall in writing notify the prosecuting attorney of the county in
24 which the criminal charges against the committed person were
25 dismissed, of the decision to conditionally release the person.
26 Notice and a copy of the terms of conditional release shall be
27 provided at least thirty days before the person is released from
28 inpatient care. Within twenty days after receiving notice, the
29 prosecuting attorney may petition the court in the county that issued
30 the commitment order to hold a hearing to determine whether the
31 person may be conditionally released and the terms of the conditional
32 release. The prosecuting attorney shall provide a copy of the
33 petition to the superintendent or professional person in charge of
34 the hospital or facility providing involuntary treatment, the
35 attorney, if any, and guardian or conservator of the committed
36 person, and the court of original commitment. If the county in which
37 the committed person is to receive outpatient treatment is the same
38 county in which the criminal charges against the committed person
39 were dismissed, then the court shall, upon the motion of the
40 prosecuting attorney, transfer the proceeding to the court in that

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

18 (2) The facility or agency designated to provide outpatient care
19 or the secretary of the department of social and health services may
20 modify the conditions for continued release when such modification is
21 in the best interest of the person. Notification of such changes
22 shall be sent to all persons receiving a copy of the original
23 conditions. Enforcement or revocation proceedings related to a
24 conditional release order may occur as provided under RCW 71.05.590.

25 **Sec. 9.** RCW 10.77.163 and 2008 c 213 s 4 are each amended to
26 read as follows:

27 (1) Before a person committed under this chapter is permitted
28 temporarily to leave a treatment facility for any period of time
29 without constant accompaniment by ~~((facility))~~ staff of the facility,
30 department, authority, or entity responsible for providing services
31 or supervision under the reentry community safety program, the
32 superintendent, professional person in charge of a treatment
33 facility, or his or her professional designee shall in writing notify
34 the prosecuting attorney of any county to which the person is
35 released and the prosecuting attorney of the county in which the
36 criminal charges against the committed person were dismissed, of the
37 decision conditionally to release the person. The notice shall be
38 provided at least forty-five days before the anticipated release and
39 shall describe the conditions under which the release is to occur.

1 (2) In addition to the notice required by subsection (1) of this
2 section, the superintendent of each state institution designated for
3 the custody, care, and treatment of persons committed under this
4 chapter shall notify appropriate law enforcement agencies through the
5 state patrol communications network of the furloughs of persons
6 committed under RCW 10.77.086 or 10.77.110. Notification shall be
7 made at least thirty days before the furlough, and shall include the
8 name of the person, the place to which the person has permission to
9 go, and the dates and times during which the person will be on
10 furlough.

11 (3) Upon receiving notice that a person committed under this
12 chapter is being temporarily released under subsection (1) of this
13 section, the prosecuting attorney may seek a temporary restraining
14 order to prevent the release of the person on the grounds that the
15 person is dangerous to self or others.

16 (4) The notice requirements contained in this section shall not
17 apply to emergency medical furloughs.

18 (5) The existence of the notice requirements contained in this
19 section shall not require any extension of the release date in the
20 event the release plan changes after notification.

21 (6) The notice provisions of this section are in addition to
22 those provided in RCW 10.77.205.

23 **Sec. 10.** RCW 71.24.330 and 2018 c 201 s 4017 are each amended to
24 read as follows:

25 (1)(a) Contracts between a behavioral health organization or full
26 integration entities under RCW 71.24.380 and 71.24.850 and the
27 authority shall include mechanisms for monitoring performance under
28 the contract and remedies for failure to substantially comply with
29 the requirements of the contract including, but not limited to,
30 financial penalties, termination of the contract, and procurement
31 of the contract.

32 (b) The authority shall incorporate the criteria to measure the
33 performance of service coordination organizations into contracts with
34 behavioral health organizations and full integration entities under
35 RCW 71.24.380 and 71.24.850 as provided in chapter 70.320 RCW.

36 (2) The behavioral health organization procurement processes
37 shall encourage the preservation of infrastructure previously
38 purchased by the community mental health service delivery system, the
39 maintenance of linkages between other services and delivery systems,

1 and maximization of the use of available funds for services versus
2 profits. However, a behavioral health organization selected through
3 the procurement process is not required to contract for services with
4 any county-owned or operated facility. The behavioral health
5 organization procurement process shall provide that public funds
6 appropriated by the legislature shall not be used to promote or
7 deter, encourage, or discourage employees from exercising their
8 rights under Title 29, chapter 7, subchapter II, United States Code
9 or chapter 41.56 RCW.

10 (3) In addition to the requirements of RCW 71.24.035, contracts
11 shall:

12 (a) Define administrative costs and ensure that the behavioral
13 health organization (~~does~~) and full integration entities under RCW
14 71.24.380 and 71.24.850 do not exceed an administrative cost of ten
15 percent of available funds;

16 (b) Require effective collaboration with law enforcement,
17 criminal justice agencies, and the chemical dependency treatment
18 system;

19 (c) Require substantial implementation of authority adopted
20 integrated screening and assessment process and matrix of best
21 practices;

22 (d) Maintain the decision-making independence of designated
23 crisis responders;

24 (e) Except at the discretion of the secretary of the department
25 of social and health services in consultation with the director or as
26 specified in the biennial budget, require behavioral health
27 organizations and full integration entities under RCW 71.24.380 and
28 71.24.850 to pay the state for the costs associated with individuals
29 who are being served on the grounds of the state hospitals and who
30 are not receiving long-term inpatient care as defined in RCW
31 71.24.025;

32 (f) Include a negotiated alternative dispute resolution clause;

33 (g) Include a provision requiring either party to provide one
34 hundred eighty days' notice of any issue that may cause either party
35 to voluntarily terminate, refuse to renew, or refuse to sign a
36 mandatory amendment to the contract to act as a behavioral health
37 organization or full integration entity under RCW 71.24.380 and
38 71.24.850. If either party decides to voluntarily terminate, refuse
39 to renew, or refuse to sign a mandatory amendment to the contract to

1 serve as a behavioral health organization they shall provide ninety
2 days' advance notice in writing to the other party;

3 (h) Require behavioral health organizations and full integration
4 entities under RCW 71.24.380 and 71.24.850 to provide services as
5 identified in RCW 71.05.585 and 10.77.150 to individuals (~~committed~~
6 ~~for involuntary commitment~~) ordered by a court to receive treatment
7 under a less restrictive alternative (~~court orders~~) order or
8 conditional release order when:

9 (i) The individual is enrolled in the medicaid program and meets
10 behavioral health organization access to care standards; or

11 (ii) The individual is not enrolled in medicaid, does not have
12 other insurance which can pay for the services, and the behavioral
13 health organization has adequate available resources to provide the
14 services; (~~and~~)

15 (i) Establish caseload guidelines for care coordinators who
16 supervise less restrictive alternative orders and guidelines for
17 response times during and immediately following periods of
18 hospitalization or incarceration; and

19 (j) Require behavioral health organizations and full integration
20 entities under RCW 71.24.380 and 71.24.850 to ensure that adequate
21 capacity exists in each regional service area to support the
22 operation of the reentry community safety program under RCW 72.09.370
23 and section 5 of this act.

24 NEW SECTION. Sec. 11. Section 6 of this act expires July 1,
25 2026.

26 NEW SECTION. Sec. 12. Section 7 of this act takes effect July
27 1, 2026.

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