

Joel's Law Petition for Initial Detention by Family, Guardian, or Conservator

This packet contains the:

- User Guide
- Petition
- Declaration
- Order(s)

Mandatory Forms in Washington State Courts



WASHINGTON
COURTS
ADMINISTRATIVE OFFICE OF THE COURTS

The Committee wishes to thank the ad hoc Joel's Law Petition Workgroup members for their expertise in developing these forms and instructions.

Washington Pattern Forms Committee and the
Administrative Office of the Courts
Olympia, Washington

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User Guide for the Petition for Initial Detention by Family, Guardian, or Conservator

What is a Petition for Initial Detention by Family, Guardian, or Conservator?

If a person thirteen years of age or older has a behavioral health disorder and is a danger to themselves, others, property, or is gravely disabled, and a Designated Crisis Responder (DCR) does not act to detain that person for evaluation and treatment or secure withdrawal management and stabilization services, then this petition allows an immediate family member, guardian, or conservator of a person to ask the superior court to review that DCR decision and consider an order to detain that person for initial detention.

Who Can File A Petition for Initial Detention?

An immediate family member, guardian, or conservator of a person can file such a petition with the court. The person filing the petition is called the petitioner, and the person for whom detention and treatment is sought is called the respondent.

How Do I File a Petition for Initial Detention?

Follow these instructions. They will: (1) tell you what facts must exist in order for you to be able to file the petition; (2) tell you how to file the petition; and (3) explain what happens after you file the petition.

Definitions

"Behavioral health disorder" means either a mental disorder, a substance use disorder, or a co-occurring mental disorder and substance use disorder.

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

"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 substance.

An immediate family member is the spouse, domestic partner, child, stepchild, parent, stepparent, grandparent, brother, or sister of the person that is the subject of the *Petition for Initial Detention by Family, Guardian, or Conservator*.

A guardian is a person appointed by a court to manage someone's person or estate.

A conservator is a person appointed by a court to manage someone's daily and/or financial affairs.

DCR means a Designated Crisis Responder.

1. You can file a petition if:

- A. You are an immediate family member, guardian, or conservator of the person that you seek to have detained; **and**
- B. You or someone else asked for an investigation of the person that you seek to have detained; **and**
- C. Either:
 - 1. A DCR conducted the Involuntary Treatment Act (ITA) investigation and decided not to detain the person for evaluation and treatment; **or**
 - 2. 48 hours passed since the DCR received the request for investigation and the DCR has not taken action to have the person detained; **and**
- D. You file your petition within 10 calendar days following the:
 - 1. DCR ITA Investigation, **or**
 - 2. Request for investigation, if the DCR has not taken any action to have the person detained.

If it has been more than 10 calendar days, you cannot file a petition but you may request a new DCR investigation. How can you find out the date? If you ask the DCR or agency for the date of the investigation, they must give you the date to help you prepare the petition.

2. How to complete the petition:

- A. Fill out the *Petition* (the form begins following the last page of this information sheet). Provide all of the information requested, including:
 - 1. A description of the relationship between you and the person; **and**
 - 2. The date on which an investigation was requested from the DCR; **and**
 - 3. The date of the DCR investigation, if there was one.
 - 4. Fill out the *Declaration* to describe why the person should be detained (this declaration will be part of the petition once complete). For each category, check yes, no, or don't know.
 - For each question that you answer yes, provide a description of the person's behavior in the space provided on the form. Be as detailed as you can.

For example, you may describe a history of one or more violent acts, such as behavior that resulted in death, attempted suicide, nonfatal injuries, or substantial damage to property.
 - If you have any documents that support the petition, list the documents and attach copies.

5. You must sign your petition and declaration under penalty of perjury under the laws of the State of Washington, and you must state the date when signed and place (city and state) where you signed it.

Complete your petition with as much information as you can to describe why you think the respondent should be detained.

- B. In support of your petition, other family members, landlords, neighbors, teachers, school personnel, or anyone else with significant contact and a history of involvement with the person may also provide a declaration. They must sign their declaration under penalty of perjury under the laws of the State of Washington, and they must state the date when signed and place (city and state) where they signed it.

3. Where Do You File Your Petition?

File your petition and any witness declarations with the clerk of the superior court in the county where the DCR ITA investigation:

- occurred; or
- was requested to occur.

Go to this web page for a list of county courts and clerks offices:

http://www.courts.wa.gov/court_dir/?fa=court_dir.county

Note: If at any time a DCR files a petition for the initial detention of the same person you are seeking to have detained, the court will dismiss your petition and the petition filed by the DCR will move forward.

4. What Happens After You File the Petition?

- A. Within one judicial day, a judicial officer (either a judge or commissioner) will review your petition and any other declarations. That judicial officer will decide whether the documents raise sufficient evidence to support your request for the detention of the person.
 1. If there is not sufficient evidence, the judicial officer will dismiss your petition. You will receive a copy of the court's dismissal order.
 2. If there is sufficient evidence, the judicial officer will provide a copy of the petition to the DCR agency. The court will order the agency, within one judicial day, to file a written sworn statement describing the basis for the decision not to seek the initial detention. The agency must provide documents supporting its decision.
- B. After you file your petition and before the judicial officer makes a decision, anyone may file a written sworn declaration in support of or in opposition to your petition.
- C. The judicial officer will review all information provided to the court.
- D. No later than five judicial days after the date you file the petition, the judicial officer will issue a final decision.

1. If there is insufficient probable cause to support the petition, the court will deny the petition. You will receive a copy of the court's dismissal order.
 2. If there is probable cause to support the petition, and the person refuses or does not accept voluntary evaluation and treatment, the court will grant the petition.
 3. If the person is 18 or older, the court may issue:
 - An order directing the DCR to file a Petition for Assisted Outpatient Behavioral Health Treatment;
- OR
- An order for initial detention for evaluation and treatment for not more than 72 hours, and a written order of apprehension by law enforcement for delivery to the facility or emergency room determined by the DCR.
 4. If the person is an adolescent, the court must issue an order for initial detention for evaluation and treatment for not more than 72 hours, and an order of apprehension by law enforcement for delivery to the facility determined by the DCR.
 5. The initial detention order remains valid for up to 180 days.
 6. You will receive a copy of the court's order/s.

Superior Court of Washington
County of _____

In re the detention of

Case No.

**Petition for Initial Detention by
Family, Guardian, or Conservator**

(PMIR, PMINE, paragraph 3)
(Cause code – MIF)

Respondent (person to be detained) **DOB**

To ask the court to detain the respondent, complete and file with the clerk of the court:

1. this petition **and**
2. the Declaration in Support of Petition for Initial Detention by Family, Guardian, or Conservator

You may also file signed declarations from family members, landlords, neighbors, teachers, school personnel, or anyone else with significant contact and a history of involvement with the respondent.

I, (name of petitioner) _____, am filing this Petition for Initial Detention to ask the court to detain the respondent for behavioral health disorder evaluation and treatment.

1. Petitioner's Relationship to the Respondent

I am the respondent's:

- spouse domestic partner child stepchild parent
 stepparent grandparent brother sister
 guardian* conservator*

*The Guardianship/Conservator case number is _____ and it is filed in _____ County Superior Court.

2. Petitioner's Contact Information

My contact information is:

Telephone: _____

Email address: _____

Mailing address: _____

3. Information about the Designated Crisis Responder (DCR) Investigation

An investigation by a DCR was requested on (date): _____.

Name of DCR and agency: _____

County: _____

Telephone number: _____

What happened:

(PMIR) [] The DCR investigated the respondent on (date) _____ and decided not to detain the respondent for evaluation and treatment.

or

(PMINE) [] 48 hours or more have passed since the DCR received a request for investigation and the DCR has not taken any action to detain the respondent.

4. Time for Filing the Petition

I am filing this petition within 10 calendar days following the DCR investigation, or following the request for DCR investigation if the DCR has not taken any action.

5. Correct County

I am filing the petition in this county because this is where the DCR investigation occurred or where the investigation was requested to occur.

Petitioner signs here:

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at _____ Date: _____
City State

▶ _____
Petitioner signs here Print name Date

Petitioner's lawyer (if any) fills out below:

▶ _____
Petitioner's lawyer signs here Print name and WSBA No. Date

Name: _____ Case #: _____

Firearm Identification Worksheet

1. Does the respondent own or have access to firearm(s)? Yes No Unknown

2. Has the respondent used the firearm to threaten or intimidate you? Yes No

- When did they last threaten you with it? _____
- Did you report the incident to the police? Yes No
- Which Law Enforcement Agency? _____

3. When was the last time you saw the firearm(s)? _____

4. Where does the respondent keeps the firearm(s)?

On His/Her Person In their Car In their Home Storage Unit In a Safe

5. What does the respondent generally use the firearm for? (Circle all that apply)

Hunting Collecting Target Shooting Protection Other: _____

6. Does the respondent possess explosives? Yes No Unknown

If you recognize any of the guns below as similar to the one(s) the respondent has, **please circle it and write in the circle how many you think they have.**

Semi-automatic Handgun



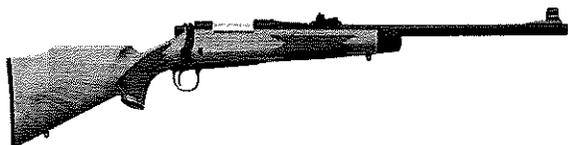
Revolver



Shotgun



Rifle



Semi-automatic Rifle



Signed: _____ Dated: _____

Superior Court of Washington

County of _____

In re the detention of

Case No.:

**Declaration in Support of Petition for
Initial Detention by Family, Guardian, or
Conservator
(DCLR)**

Respondent (person to be detained) **DOB**

My name is: _____

My relationship to the respondent is *(for example: spouse, domestic partner, child, stepchild, parent, stepparent, grandparent, brother, sister, guardian/conservator, landlord, neighbor, teacher, school personnel, or friend)*:

My contact information is:

Telephone: _____

Email address: _____

Mailing address: _____

Read carefully and answer each question below:

Recent Behaviors

As a result of a behavioral health disorder:

Harm to self: Is there is a substantial risk that 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 (for example, has the respondent recently threatened or attempted to kill or badly hurt themselves)? [] yes [] no [] don't know

Harm to others: Is there a substantial risk that 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 (for example, has the respondent

recently hurt someone, and/or threatened or attempted to hurt someone)? [] yes [] no
[] don't know

Harm to others' property: Is there a substantial risk that 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 (for example, has the respondent recently damaged someone's property, and/or threatened or attempted to damage someone's property)?
[] yes [] no [] don't know

Gravely disabled (a): Is the respondent in danger of serious physical harm resulting from a **failure to provide for his or her essential human needs** of health or safety (for example, is the respondent unable to provide for her/his basic needs of food, clothing, shelter, and/or medical care)? [] yes [] no [] don't know

Is there a high probability of serious physical harm within the near future without adequate treatment? [] yes [] no [] don't know

Gravely disabled (b): Does the respondent manifest severe deterioration in routine functioning, evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions, and is the respondent **not receiving such care as is essential for his or her health or safety** (for example, is the respondent's mental control or decision-making ability getting worse and preventing the respondent from receiving care for the basic needs of food, clothing shelter, and/or medical care)? [] yes [] no [] don't know

Will harmful consequences occur to the respondent without treatment?
[] yes [] no [] don't know

Refused evaluation and treatment: Has the respondent refused or failed to accept evaluation and treatment voluntarily? [] yes [] no [] don't know

Statement

For each question you answered with yes, describe the behavior, starting with the most recent, that caused you to answer yes. Be as detailed in your descriptions as possible and include dates for each event or example, if you can, and explain how you know the information (for example, the respondent told you the information, or you saw the respondent do the things you are describing):

Past Behaviors or Actions

Does the respondent have a history of one or more violent acts (for example, within the last ten years, has the respondent killed or caused nonfatal injuries to someone, attempted to kill themselves, or caused substantial damage to property)? yes no don't know

Are the symptoms and behaviors you described above closely associated with symptoms or behavior which preceded and led to a past incident of involuntary hospitalization, severe deterioration, or one or more violent acts (for example, is the respondent acting now in a way that respondent previously acted when: (a) respondent was detained or committed, (b) had a major worsening of her/his symptoms and/or behavior, or (c) killed or hurt someone, attempted to kill themselves, or caused substantial damage to property)? yes no don't know

Do the symptoms and behaviors you described above represent a marked and concerning change in the baseline behavior of the respondent (for example, is the respondent's behavior or symptoms worse compared to how the respondent usually acts or behaves)? yes no don't know

Without treatment for the symptoms and behaviors you described above, is the continued deterioration of the respondent probable (for example, will the respondent continue to get worse without help)? yes no don't know

For each question you answered with yes, give recent examples below of the symptoms or behavior that supports the risk, harm, or deterioration that caused you to answer yes. Be as specific in your descriptions as possible. Include dates for each event or example, if possible.

Also, please explain how you know the information you are providing in this declaration (for example, the respondent told you the information, or you saw the respondent do the things you are describing). Attach additional paper (preferably lined paper) if you need more space to write:

Is there any other past behavior, including violent acts, the respondent committed that you want the court to know about? If yes, please give recent examples below of that behavior. Be as specific in your descriptions as possible. Include dates for each event or example, if possible.

Also, please explain how you know the information you are providing in this declaration (for example, the respondent told you the information, or you saw the respondent do the things you are describing). Attach additional paper (preferably lined paper) if you need more space to write:

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE**

In re the Detention of:

Cause No.

Respondent:

ORDER:

DENYING INITIAL PETITION

Petitioner(s):

**DIRECTING RESPONSE FROM
DESIGNATED MENTAL HEALTH
PROFESSIONAL AGENCY**

BASIS:

This matter comes before the court on the Petition made by an immediate family member for the involuntary detention of the above-named Respondent. The Court has been advised that a designated mental health professional has elected not to detain the Respondent for evaluation and treatment or that more than forty-eight (48) hours have elapsed since a designated mental health professional received a request for investigation and that the designated mental health professional has not taken action to have the person detained.

Jurisdiction: The Court has jurisdiction over the person and subject matter of this action.

COURT HAS REVIEWED PETITION OF IMMEDIATE FAMILY MEMBERS:

A review of the Petition shows there is sufficient evidence to require a response from the designated mental health agency.

The Petition does not raise sufficient evidence to support the request for detention of the Respondent.

Other:

ORDER:

The Petition is denied.

The designated mental health professional agency **SHALL** provide to the court, within one judicial day of receiving this order, the following:

1. A written, sworn statement describing the basis for the decision not to seek the initial detention; and
2. A copy of all information material to the designated mental health professional's decision on detention; and
3. Any other sworn declarations that the designated mental health professional agency believes will assist the court and are either in support of or in opposition to an initial detention.

The Petitioner shall make their best efforts to have the Petition served on the Respondent.

Other:

DATE PETITION RECEIVED BY COURT _____

DATE ORDER DIRECTING RESPONSE SENT TO AGENCY _____

The court will review the Petition and all other information submitted on _____,
_____ at _____ a.m./p.m

DONE IN OPEN COURT this _____ day of _____, _____.

JUDGE/COMMISSIONER

**Superior Court of Washington
County of _____**

In re the detention of

Respondent (person to be detained) **DOB**

Petitioner

Case No.

Joel's Law

Order

**For DCR to File Petition for
Assisted Outpatient Behavioral
Health Treatment (ORDFAOT)**

**For Initial Detention
(ORDTCOC)**

**Clerk's Action Required:
Order, paragraph 2**

Basis

On (date) _____, a Petition was filed by an immediate family member/s, guardian, or conservator for the involuntary detention of the Respondent. On (date) _____, the Court found sufficient evidence to support the allegation and ordered the Designated Crisis Responder (DCR) agency to provide a written sworn statement describing the basis for the decision not to seek initial detention and a copy of all information material to that decision within one judicial day.

Findings of Fact

Jurisdiction: The Court has jurisdiction over the person and subject matter of this action.

The Court has reviewed the following:

Petition for Initial Detention by Immediate Family Member, Guardian, or Conservator.

Declaration/s of: _____

Cause No. _____

Written sworn statement of the Designated Crisis Responder.

Other:

A review of the Petition shows that there is sufficient evidence to conclude that Petitioner is an immediate family member, the guardian, or the conservator.

A review of the Petition and all of the supporting documentation shows sufficient evidence to support the allegation/s as follows:

The Respondent has a behavioral health disorder history consisting of (insert facts specific to the case):

An immediate family member, guardian, or conservator of the Respondent filed a Petition in accordance with RCW 71.05.201 or 71.34.710.

There is probable cause to order the DCR to file a petition for assisted outpatient behavioral health treatment because the Respondent as a result of a

mental disorder substance use disorder co-occurring disorder:

Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months;

Cause No. _____

- Is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment based on a history of nonadherence with threat or in view of the respondent's current behavior;
 - Is likely to benefit from less restrictive alternative treatment; and
 - Requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the respondent presenting a likelihood of serious harm or the respondent becoming gravely disabled within a reasonably short period of time.
- There is probable cause to support an order to detain the Respondent pursuant to the petition because the Respondent, as a result of a mental disorder substance use disorder co-occurring disorder:
- presents a likelihood of serious harm to themselves;
 - presents a likelihood of serious harm to others;
 - presents a likelihood of serious harm to the property of others; or
 - is gravely disabled (*check all that apply*):
 - is in danger of serious physical harm resulting from a failure to provide for their essential human needs of health or safety.
 - manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over their actions and is not receiving such care as is essential for their health or safety.
 - The Respondent has refused or failed to accept appropriate evaluation and treatment voluntarily.
 - A DCR has not filed a petition for initial detention of the Respondent under RCW 71.05.150, 71.05.153, or 71.34.700.

Conclusions of Law

On the basis of the foregoing Findings of Fact, the Court makes the following Conclusions of Law:

1. The Court has jurisdiction over the Respondent and subject matter of this action;
2. Probable cause exists to order:
 - the DCR to file a petition for assisted outpatient behavioral health treatment (RCW 71.05.201);
 - the Respondent be detained to an evaluation and treatment facility secure withdrawal management and stabilization facility approved substance use disorder treatment program for no more than 72 hours (excluding Saturdays, Sundays, and legal holidays) of evaluation and treatment pursuant to ch. 71.05 or 71.34 RCW;
3. Respondent has refused or failed to accept evaluation and treatment voluntarily.

Cause No. _____

Order

[] The DCR is directed to File a Petition for Assisted Outpatient Behavioral Health Treatment.

[] For Initial Detention of a Person 18 Years or Older:

1. The Respondent shall be detained for initial detention by a DCR for _____ County and delivered to a facility or emergency room determined by the DCR pursuant to ch. 71.05 RCW.
2. The clerk of the court is directed to transmit a copy of this Order to the DCR Agency. Law Enforcement shall apprehend and deliver the Respondent to a facility or emergency room determined by the DCR. This Order expires 180 days from the date of issuance.
3. Unless further evaluation and treatment is sought, the Respondent shall be released from the evaluation and treatment facility not more than 72 hours from the time of detention. The 72 hours shall exclude Saturdays, Sundays, and holidays.
4. At the time the Respondent is taken into custody, the Respondent shall be served with a copy of the original:
 - Petition for Initial Detention and any Declarations filed with the Petition,
 - Declaration of the DCR and any materials filed with the Declaration/s,
 - this Order and the Order directing action and today's hearing, and
 - Notice of Rights.

[] For Initial Detention of an Adolescent:

1. The Respondent shall be detained for initial detention by a DCR for _____ County and delivered to a facility determined by the DCR under ch. 71.34 RCW.
2. The clerk of the court is directed to transmit a copy of this Order to the DCR Agency. Law Enforcement shall apprehend and deliver the Respondent to a facility determined by the DCR. This Order expires 180 days from the date of issuance.
3. Unless further evaluation and treatment is sought, the Respondent shall be released from the evaluation and treatment facility not more than 72 hours from the time of detention. The 72 hours shall exclude Saturdays, Sundays, and holidays.
4. At the time the Respondent is taken into custody, the Respondent shall be served with a copy of the original:
 - Petition for Initial Detention and any Declarations filed with the Petition,
 - Declaration of the DCR and any materials filed with the Declaration/s,
 - This Order and the Order directing action and today's hearing, and
 - Notice of Rights.

Notice of Rights

THE RESPONDENT IS GIVEN NOTICE OF THE FOLLOWING RIGHTS:

1. You have the right to communicate with an attorney immediately and the right to have an attorney represent you before and at any court hearing, and to have such attorney appointed if you cannot afford one and the right to know the name and address of said attorney. You are entitled to contact an attorney of your choosing, or in place thereof, an attorney will be appointed to represent you.
2. You have the right to remain silent, as any statement you make may be used against you.
3. You have the right to present evidence and to cross-examine witnesses who may testify about you at any probable cause hearing.
4. You have the right to a judicial hearing in a court of law within the next 72 hours (excludes Saturday, Sunday, and legal holidays) to determine whether there is probable cause to commit you for further mental health treatment for up to 14 days of inpatient or 90 days of outpatient treatment for the reason that you are a person whose behavioral health disorder presents a likelihood of serious harm to yourself or others or that you are gravely disabled.

(Commitment for 90 days of outpatient treatment is not an option for adolescents detained under RCW 71.34.)
5. You have the right to apply for voluntary admission for treatment of a behavioral health disorder.
6. You have the right, within 24 hours of admission, to be examined and evaluated by a physician, physician assistant, or advanced registered nurse practitioner, and a mental health or substance use disorder professional and shall receive such treatment and care as your condition requires for the period that you are detained.
7. You have the right, at the time you are involuntarily admitted to an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program that reasonable precautions will be taken to inventory and safeguard your personal property. A copy of the inventory, signed by the staff member making it, will be given to you and will also be open to inspection by any responsible relative, subject to any limitations you may impose. "Responsible relative" includes the guardian, conservator, attorney, spouse, parent, adult child, or adult brother or sister of the person. The facility will not disclose the contents of the inventory to any other person without your consent or an order of the court.
8. A person age 18 or older has the right to dispose of property and sign contracts unless you have been adjudicated incompetent in a court proceeding directed to that particular issue.
9. You have the right to refuse psychiatric medication, including antipsychotic medications, beginning 24 hours prior to the probable cause hearing, except for adolescents detained per RCW 71.34. You also have the right to refuse the performance of electroconvulsive therapy or surgery, except emergency lifesaving surgery, unless ordered by a court of competent jurisdiction under the appropriate legal standards and procedures.

Cause No. _____

10. If antipsychotic medications are administered in an emergency, you have the right to a review of that decision within 24 hours.
11. You have the right not to have psychosurgery performed on yourself under any circumstances.
12. You have the right to receive the necessary papers pursuant to the law.
13. Except when deprivation is essential to protect your safety or the safety of others, you have the right to:
 - wear your own clothes and to keep and use your own personal possessions.
 - keep and be allowed to spend a reasonable sum of your own money for canteen expenses and small purchases.
 - have access to individual storage space for your private use.
 - have visitors at reasonable times.
 - have reasonable access to a telephone, to both make and receive confidential calls.
 - have the right to have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mail.

Dated: _____

Judge / Court Commissioner