

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

This packet contains the:

- User Guide
- Petition
- Declaration
- Order

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 somebody has a mental disorder or a substance use disorder and is a danger to themselves, others, property or is gravely disabled, and a Designed Crisis Responder (DCR) does not act to detain that person for evaluation and treatment, 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

"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 <i>Petition for Initial Detention by Family, Guardian, or Conservator</i> .
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 adult person that you seek to have detained; **and**
- B. You or someone else asked for an investigation of the adult 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, or anyone else with significant contact and 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](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. 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
  - An order of apprehension by law enforcement for delivery to the facility or emergency room determined by the DCR.
  - The initial detention order remains valid for up to 180 days.
- 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**

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

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

*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, or anyone else with significant contact and 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  mental disorder  substance use 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: \_\_\_\_\_



**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, 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  mental disorder  substance use 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 him/herself)?  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 him/her from receiving care for his/her 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):

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**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 himself or herself, 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 s/he previously acted when: (a) s/he 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 himself or herself, 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:

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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:

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**Prior Court Actions**

Has the respondent previously been found to be incompetent or insane by a court?  yes  
 no  don't know

If yes, provide as much information as you can, include the name of court, case number and date:

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Has the respondent previously been committed by a court to detention for mental disorder or substance use disorder treatment during the preceding thirty-six months?  yes  no Was the respondent involuntarily committed for mental disorder or substance use disorder treatment more than thirty-six months ago?  yes  no

If yes, provide as much information as you can, include the name of court, case number and date:

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**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) for the involuntary detention of the Respondent. On \_\_\_\_\_ (date) the Court found sufficient evidence to support the allegation and ordered the Designated Crisis Responder 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.

Cause No. \_\_\_\_\_

The Court has reviewed the following:

- Petition for Initial Detention by Immediate Family Member, Guardian or Conservator.
- Declarations of:

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- Written sworn statement of the Designated Crisis Responder.
- Other:

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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:

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The Respondent has a mental disorder or substance use disorder history consisting of (insert facts specific to the case):

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

There is probable cause to order the Designated Crisis Reponder to file a petition for assisted outpatient behavioral health treatment because the Respondent as a result of a  mental disorder  substance use disorder:

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

- presents a likelihood of serious harm to him/herself;
- presents a likelihood of serious harm to others;
- presents a likelihood of serious harm to the property of others; or
- is gravely disabled.
- The Respondent has refused or failed to accept appropriate evaluation and treatment voluntarily.



- A Designated Crisis Responder has not filed a petition for initial detention of the Respondent under RCW 71.05.150 or 71.05.153.

**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 Designated Crisis Responder to file a petition for assisted outpatient behavioral health treatment pursuant to RCW 71.05;
  - the Respondent detained to an evaluation and treatment facility for up to 72 hours of evaluation and treatment pursuant to RCW 71.05;
3. Respondent has refused or failed to accept evaluation and treatment voluntarily.

**Order**

- The Designated Crisis Responder is directed to File a Petition for Assisted Outpatient Behavioral Health Treatment.
- For Initial Detention:
1. The Respondent shall be detained for initial detention by a Designated Crisis Responder for \_\_\_\_\_ County and delivered to a facility or emergency room determined by the Designated Crisis Responder (DCR) pursuant to RCW 71.05.
  2. The clerk of the court is directed to transmit a copy of this Order to the Designated Crisis Responder Agency. Law Enforcement shall apprehend and deliver the Respondent to a facility or emergency room determined by the DCR. This Order expires one hundred and eighty days from the date of issuance. Any Law Enforcement Officer is authorized to break and enter the Respondent's residence to effectuate the Respondent's Detention as provided in this Order.
  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 computation of such 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 (1) Petition for Initial Detention and any Declarations filed with the Petition, (2) Declaration of the DCR and any materials

filed with said Declaration, (3) this Order and the Order directing action and today's Hearing, and (4) 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 mental disorder presents a likelihood of serious harm to yourself or others or that you are gravely disabled.
5. You have the right to apply for voluntary admission for treatment of a mental disorder.
6. You have the right, within 24 hours of admission, to be examined and evaluated by a licensed physician and a licensed mental health professional and shall receive such treatment and care as your condition requires for the period that you are detained.
7. You have the right to wear your own clothes and to keep and use your own personal possessions, except when deprivation is essential to protect your safety or the safety of others.
8. You have the right to keep and be allowed to spend a reasonable sum of your own money for canteen expenses and small purchases.
9. You have the right to have access to individual storage space for your private use.
10. You have the right, at the time you are involuntarily admitted to an evaluation and treatment facility, 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.

11. You have the right to dispose of property and sign contracts unless you have been adjudicated incompetent in a court proceeding directed to that particular issue.
12. You have the right to have visitors at reasonable times.
13. You have the right to have reasonable access to a telephone, both to make and receive confidential calls.
14. You have the right to have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mail.
15. You have the right to refuse psychiatric medication, including antipsychotic medications, beginning 24 hours prior to the probable cause hearing, or 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.  
(This does not apply to minors detained per RCW 71.34.)
16. If antipsychotic medications are administered in an emergency, you have the right to a review of that decision within twenty-four hours.
17. You have the right not to have psychosurgery performed on yourself under any circumstances.
18. You have the right to receive the necessary papers pursuant to the law.

Dated: \_\_\_\_\_

\_\_\_\_\_  
**Judge / Court Commissioner**