

## **How to file a Petition for Initial Involuntary Detention of a Family Member (Joel's Law)**

### **Background**

On July 24, 2015, a new section of Washington State's involuntary mental health treatment law, [Chapter 71.05 Revised Code of Washington](#) (RCW), goes into effect. This new section is called *Joel's Law*. This allows a person's immediate family member, legal guardian, or conservator to petition the superior court for initial detention under certain conditions, which are outlined below.

### **When can someone file a *Joel's Law* Petition?**

A Joel's Law Petition may be filed under the following circumstances:

- You are an immediate family member, legal guardian, or conservator of the person that you seek to have detained. The law defines "immediate family member" as a spouse, domestic partner, child, stepchild, parent, stepparent, grandparent, or sibling;
- A Designated Mental Health Professional (DMHP) has conducted an investigation and decided not to detain that person for evaluation and treatment; or
- It has been 48 hours since the DMHP received a request for investigation, and the DMHP has not taken action to have the person detained.

### **How do I petition the court under *Joel's Law*?**

Here are the steps to follow:

1. Go to your county's Superior Court and ask the clerk for a *Joel's Law* Petition for Initial Detention." The petition requires the following:
  - A description of the relationship between you and the person you are seeking to have detained; and
  - The date the investigation was requested from the DMHP. In the petition, the person you are seeking to have detained will be called the "Respondent."
2. Complete a written and sworn declaration in support of your petition that describes why the person should be detained. You may describe past behavior, including a history of one or more violent acts, such as behavior that resulted in death, attempted suicide,

nonfatal injuries, or substantial damage to property. You may also list prior commitments or determinations of incompetency or insanity.

**Your declaration must include:**

- (a) Your certification that the statement is true, under penalty of perjury, and under the laws of the state of Washington;
- (b) Your signature; and
- (c) The date, city and state where you signed it.

You may also provide written and sworn declarations prepared and signed by family members, landlords, neighbors, or anyone else with significant contact and a history of involvement with the person you wish to detain. Their declarations must include the same content listed above for your declaration.

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

3. File your petition and any written and sworn declarations with the clerk of the superior court in the county where the DMHP is located who decided not to detain the person, or did not take action to have the person detained within 48 hours. Click [here](#) for a list of county Superior Court offices.

**Note:** If a DMHP files a petition for the initial detention of the person you are seeking to have detained, the court will dismiss your petition. The petition filed by the DMHP will move forward.

**What happens after I file my petition?**

1. A judge or court commissioner will review your petition within one judicial day (a day the court is open) from the date you filed it. The judge or court commissioner will decide whether your petition has sufficient evidence to support your request. If the judge or court commissioner does not find sufficient evidence exists, your petition will be dismissed.
2. If the judge or court commissioner finds that sufficient evidence exists, a copy of your petition will be sent to the DMHP agency. That agency must file with the court – within one judicial day – a written and sworn statement describing their decision not to seek the initial detention. The agency must also provide a copy of all information that supports their decision.
3. After you have filed your petition, and before the judge or court commissioner makes a decision, anyone may file with the court a written and sworn declaration that either supports or opposes your petition.

4. After reviewing all of the information provided to the court, the judge or court commissioner will issue a final decision on your petition, no later than five judicial days from the day you filed it. That judge or court commissioner may enter an order for initial detention if:

(a) there is probable cause to support the person's detention; and

(b) the person has refused to voluntarily accept the appropriate evaluation and treatment. You will receive a copy of the court's final decision on your *Joel's Law* Petition.

#### **What happens after the court orders an initial detention?**

- The court must provide the order to the DMHP agency.
- That agency must execute the order without delay, and the order remains valid for 180 days from the date the judge or court commissioner enters it.
- The order will provide for the initial detention of the person to a designated evaluation and treatment facility, for not more than a 72 hour period.
- During the 72 hour period, the evaluation and treatment facility may decide to discharge the person, or the person may voluntarily agree to remain in the facility, or a less restrictive alternative, such as outpatient treatment, under a court order.
- If a facility wishes to hold the person beyond the 72 hour period, the person will be entitled to a hearing before a judge or court commissioner.
- At that hearing, the judge or court commissioner will decide whether to dismiss the petition, order a less restrictive alternative, or commit the person for up to 14 days of additional inpatient treatment.