

Instructions for the Petition for Initial Detention by Family, Guardian, or Conservator

On July 24, 2015, a new section of Washington State's Mental Illness laws (Chapter 71.05 RCW), called "Joel's Law," became effective. It allows an immediate family member, guardian, or conservator of a person (whom the petition refers to as the "respondent") to file a petition asking the superior court to detain that person for initial involuntary civil commitment. The petition is called the *Petition for Initial Detention by Family, Guardian, or Conservator*. These instructions: (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 it.

I. Facts that must exist to file the petition

In order for you to be able to file the petition, the following facts must exist:

1. You are an immediate family member,¹ guardian,² or conservator³ of the person that you seek to have detained; **and**
2. Either: (a) a Designated Mental Health Professional decided not to detain the person for evaluation and treatment; **or** (b) 48 hours passed since the Designated Mental Health Professional received a request for investigation and the Designated Mental Health Professional has not taken action to have the person detained.

II. Instructions on how to file the petition

1. Fill out the petition (the form begins following the last page of this information sheet). Provide all of the information requested, including: (a) a description of the relationship between you and the person; **and** (b) the date on which an investigation was requested from the Designated Mental Health Professional.
2. Fill out the *Declaration in Support of Petition for Initial Detention by Family, Guardian, or Conservator* to describe why the person should be detained. For example, 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. As another example, you may list prior commitments or determinations of incompetency/insanity.

Your declaration must: (a) state that you certify or declare that the statement is true under penalty of perjury under the laws of the State of Washington; (b) be signed by you; **and** (c) state the date when and place (city and state) where you signed it.

In support of your petition, you may also provide a *Declaration in Support of Petition for Initial Detention by Family, Guardian, or Conservator* signed by family members, landlords, neighbors, or anyone else with significant contact and history of involvement with the person. Their declarations must: (a) state they certify or declare that the statement is true under the laws of the State of Washington; (b) be signed by them; **and** (c) state the date when and place (city and state) where they signed it.

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

¹ 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*.

² A guardian is someone a person appointed by a court to manage someone's person or estate.

³ A conservator is generally a person appointed by a court to manage someone's daily and/or financial affairs.

3. File your petition, your declaration, and any other declarations with the clerk of the superior court in the county where the Designated Mental Health Professional asked to perform the investigation, named in paragraph 3 of your petition, is located.

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 Designated Mental Health Professional 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 Designated Mental Health Professional will move forward.

III. What happens after you file your Petition

1. A judicial officer (either a judge or commissioner) will review your petition within one judicial day from the day you filed it. That judicial officer will decide whether your petition, your declaration, and any other declaration(s) filed in support raise sufficient evidence to support your request for the detention of the person. *If the judicial officer does not find sufficient evidence exists, that judicial officer will dismiss your petition.* You will receive a copy of the court's dismissal order.
2. If the judicial officer does find sufficient evidence exists, that judicial officer will provide a copy of your petition to the Designated Mental Health Professional agency with an order for that agency to file with the court within one judicial day a written sworn statement describing the basis for the decision not to seek the initial detention along with a copy of all information material to that Designated Mental Health Professional's current decision.
3. After you filed your petition and before the judicial officer makes a decision, anyone may file a written sworn declaration in support of or opposition to your petition.
4. After reviewing all of the information provided to the court, the judicial officer will issue a final decision on your petition no later than five judicial days from the day you filed it. That judicial officer may enter an order for initial detention if: (a) There is probable cause to support a petition for detention; **and** (b) the person has refused or failed to accept appropriate evaluation and treatment voluntarily. You will receive a copy of the court's final decision on your petition.
5. If the judicial officer enters an order for initial detention, the court shall provide the order to the Designated Mental Health Professional agency. That agency must execute the order without delay and the order remains valid for 180 days from the date the judicial officer 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 evaluation and treatment period.

During the 72 hour evaluation and treatment period, the evaluation and treatment facility may decide not to detain the person, or the person may agree to detention or a less restrictive alternative. Should the facility wish to continue holding the person beyond that 72 hour period, the person will be entitled to a hearing before a judicial officer. At that hearing, the judicial officer will decide whether to dismiss the petition, order a less restrictive alternative, or commit the respondent for up to 14 days.