

Joel's Law Petition for Initial Detention by Family, Guardian, Conservator, or Federally Recognized Indian Tribe

This packet contains the:

- User Guide
- Petition
- Declaration

Mandatory Forms in Washington State Courts



WASHINGTON
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ADMINISTRATIVE OFFICE OF THE COURTS

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, Conservator, or Federally Recognized Indian Tribe

What is a Petition for Initial Detention by Family, Guardian, Conservator, or Federal Recognized Indian Tribe?

If a person 13 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, or a federally recognized Indian tribe, if the person is a member of the tribe, 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, or a federally recognized Indian tribe, if the person is a member of the tribe, 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.
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"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.
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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, Conservator, or Federally Recognized Indian Tribe</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, a mental health professional appointed by the county, by an entity appointed by the county, or by the Washington State Health Care Authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in chapter 71.05 RCW.

1. You can file a Joel's Law petition if:

- A. You are an immediate family member, guardian, or conservator of the person that you seek to have detained, or a federally recognized Indian tribe if the person is a member of the tribe; **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 120 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 120 hours, and an order of apprehension by law enforcement for delivery of the person to the facility as 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, Conservator, or
Federally Recognized Indian Tribe**

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, Conservator, or Federally Recognized Indian Tribe

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.

I am an authorized representative of a federally recognized Indian tribe, of which the Respondent is a member.

Name of federally recognized Indian tribe: _____

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)* _____ in _____ County.

Name of DCR and agency: _____

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*

Superior Court of Washington

County of _____

In re the detention of

Case No.

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

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

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 a substantial risk that physical harm will be inflicted by a person upon themselves, as evidenced by threats or attempts to commit suicide or inflict physical harm on themselves (for example, has the Respondent recently threatened or attempted to kill, or badly and physically hurt themselves)? [] yes [] no [] don't know

Harm to others: Is there a substantial risk that physical harm will be inflicted by this 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 physically hurt someone, and/or threatened or attempted to physically 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 physically damaged someone's property, and/or threatened or attempted to physically 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 their essential human needs** of health or safety (for example, is the Respondent unable to provide for their 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 their 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 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:

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:

