



# Frequently Asked Questions: Filing a Petition for Initial Involuntary Detention of a Family Member (Joel's Law)

Updated July 29, 2015

A new section of Washington State's involuntary mental health treatment law or ITA (Revised Code of Washington 71.05) went into effect July 24, 2015. This new section is known as **Joel's Law**. It provides a formal legal mechanism by which family members, guardians, or conservators may petition directly to the court when a DMHP has decided not to detain an adult, or when a DMHP's investigation is not completed within 48 hours.

## **Who can file a Joel's Law petition?**

- If you are a spouse, registered domestic partner, child, stepchild, parent, stepparent, grandparent, sibling, legal guardian, or conservator of an adult that you seek to have detained, you may file a petition under Joel's Law.

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

- A DMHP has conducted an investigation and decided not to detain that person for involuntary evaluation and treatment; *or*
- It has been 48 hours since the DMHPs (known in King County as Crisis and Commitment Services) received a request for investigation, and the DMHP has not taken action to have the person detained.

**Note:** If you have new information about someone that would support detention, that was not available, known, or shared with the DMHPs at the time of the initial referral or investigation, you are encouraged to re-refer the person to the DMHPs by calling 206-263-9200. DMHPs will then investigate again and reconsider detaining the person in light of the new information. However, for the individuals named above, the Joel's Law petition process is available as well.

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

1. Go to the King County Superior Court\* and ask the clerk for a "Joel's Law Petition for Initial Detention by Family, Guardian, or Conservator." 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, using the Court's declaration form.
  3. Include any written and sworn declarations prepared and signed by other family members, landlords, neighbors, case managers, doctors, or anyone else with significant contact and a history of involvement with the person you wish to have detained. Their declarations must include the same content listed above for your declaration. If at all possible, these additional declarations should be filed with your petition.
  4. File your petition and any written and sworn declarations with the clerk of the King County Superior Court:\*
- King County Courthouse, 516 3<sup>rd</sup> Av. #E609, Seattle 98104;
  - Maleng Regional Justice Center, 401 4<sup>th</sup> Av. N. #2C, Kent 98032; or
  - Juvenile Division, 1211 E. Alder St. #307, Seattle 98122.
  - Phone: 206-296-9300. Website: <http://www.kingcounty.gov/courts/Clerk.aspx>.

\* If the DMHP decision not to detain (or lack of action) occurred in a different county, Joel's Law petitions should be filed in that county instead.

## **What is included in the declaration that accompanies a Joel's Law petition?**

### Your declaration **must** include:

- Your certification that the statement is true, under penalty of perjury, and under the laws of the state of Washington; your signature; the date, city and state where you signed it; and
- Specific information describing why the person should be detained, including recent behaviors or statements that you believe show the person's likelihood of serious harm or grave disability.

### Your declaration **may** include:

- Past behavior if applicable, 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;
- Prior commitments or determinations of incompetency or insanity if applicable; *and/or*
- Documents that support your petition and declaration.

**Note:** If at any point 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 new petition filed by the DMHP will move forward instead. (continued on reverse side)

**What happens after I file the 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 and you will receive a notice of the dismissal.
2. If the judge or court commissioner finds that sufficient evidence exists, a copy of your petition will be sent to the DMHP agency. The DMHP must file with the court, within one judicial day, a written and sworn statement describing their decision not to seek the initial detention, and must also provide a copy of all information that supports their decision. If DMHP has not completed the investigation and made a decision within 48 hours, this will also be addressed in the sworn statement.
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:
  - There is probable cause to support the person's detention; *and*
  - The person has refused to voluntarily accept the appropriate evaluation and treatment.
5. You will receive a copy of the court's final decision on your *Joel's Law* petition.

**What happens if the court orders an initial detention?**

1. The court must provide the order to the DMHP agency.
2. 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.
3. The DMHP agency must execute the order to detain without delay, and the order remains valid for 180 days from the date the judge or court commissioner enters it.

**Note:** Because the Joel's Law petition process and court decision occurs without the person being present, detention in such instances would occur once the person is successfully located by the DMHP. As a result, despite DMHPs' efforts to execute the order promptly, the person's evaluation and treatment services may not begin immediately.

**What happens after the person is detained for evaluation and treatment services?**

1. 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.
2. 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.
3. 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.
4. After the 14 days of additional inpatient treatment, longer periods of involuntary inpatient care, including possible treatment at a state hospital, may be ordered by the court in some cases, although this occurs less frequently.

**Note:** Joel's Law petition rights apply only to the initial detention of adults. The Joel's Law process does not apply to children, to decisions by treatment facilities to discharge a person, or to decisions by courts to order less restrictive alternative treatment including outpatient care.