

Petition for initial detention of persons with mental disorders or substance use disorders / 72-hour evaluation and treatment period – Procedure

(1) When a designated crisis responder receives information alleging that a person, as a result of a mental disorder, substance use disorder, or both presents a likelihood of serious harm or is gravely disabled, or that a person is in need of assisted outpatient behavioral health treatment; the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention or involuntary outpatient treatment, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention under this section or a petition for involuntary outpatient behavioral health treatment under RCW 71.05.148. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, triage facility, or approved substance use disorder treatment program.

(2)(a) **An order to detain** a person with a mental disorder to a designated evaluation and treatment facility, or to detain a person with a substance use disorder to a secure detoxification facility or approved substance use disorder treatment program, for not more than a seventy-two-hour evaluation and treatment period **may be issued by a judge of the superior court upon request of a designated crisis responder**, subject to (d) of this subsection, whenever it appears to the satisfaction of a judge of the superior court:

(i) That there is probable cause to support the petition; **and**

(ii) That the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention, signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(d) A court may not issue an order to detain a person to a secure detoxification facility or approved substance use disorder treatment program unless there is an available secure detoxification facility or approved substance use disorder treatment program that has adequate space for the person.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention. After service on such person the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The **designated crisis responder may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program.** At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention.

RCW 71.05.153

Emergent detention of persons with mental disorders – Procedure

(1) When a designated crisis responder (DCR) receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the **designated crisis responder** may take such person, or cause by **oral or written order** such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(3)(a) Subject to (b) of this subsection, a **peace officer** may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, secure detoxification facility, approved substance use disorder treatment program, or the emergency department of a local hospital under the following circumstances:

(ii) When he or she has reasonable cause to believe that such person is suffering from a **mental disorder or substance use disorder** and presents an **imminent likelihood of serious harm** or is in imminent danger because of being gravely disabled.

(4) Persons delivered to ... a facility... by peace officers pursuant to subsection (3) of this section may be held by the facility for a period of **up to twelve hours**, not counting time periods prior to medical clearance.

(5) **Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional.** Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated crisis responder must determine whether the individual meets detention criteria. If the individual is detained, the designated crisis responder shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the mental health service provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

RCW 71.05.020

“Definitions”

“Commitment” means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

“Custody” means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

"Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

"Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. The department may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter

"Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals: **(a)** Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or **(b)** manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

"Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

"Likelihood of serious harm" means:

(a) A substantial risk that: (i) 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; (ii) 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; or (iii) 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; **(b)** The person has threatened the physical safety of another and has a history of one or more violent acts;

"Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

"Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

"Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

RCW 71.05.500

Liability of applicant

Any person making or filing an application alleging that a person should be involuntarily detained, certified, committed, treated, or evaluated pursuant to this chapter **shall not be rendered civilly or criminally liable** where the **making and filing of such application was in good faith.**

RCW 71.05.120

Exemptions from liability (Good Faith)

(1) **No officer** of a public or private agency, ..., **nor peace officer** responsible for detaining a person pursuant to this chapter, nor any designated crisis responder, nor the state, a unit of local government, an evaluation and treatment facility, a secure detoxification facility, or an approved substance use disorder treatment program **shall be civilly or criminally liable** for performing duties pursuant to this chapter **with regard to the decision** of whether to admit, discharge, **release**, administer antipsychotic medications, **or detain** a person for evaluation and treatment:

PROVIDED, That such duties were **performed in good faith and without gross negligence**.

(2) Peace officers and their employing agencies are not liable for the referral of a person, or the failure to refer a person, to a mental health agency pursuant to a policy adopted pursuant to RCW 71.05.457 (Sheena's Law) if such action or inaction is taken in good faith and without gross negligence.

RCW 9A.16.020

Use of force – When lawful

The use, attempt, or offer to use force upon or toward the person of another is not unlawful in the following cases:

(1) Whenever necessarily used by a public officer in the performance of a legal duty, or a person assisting the officer and acting under the officer's direction;

(6) Whenever used by any person to prevent a **mentally ill, mentally incompetent, or mentally disabled** person from committing an act dangerous to any person, or in **enforcing necessary restraint** for the protection or restoration to health of the person, during such period only as is necessary to obtain **legal authority for the restraint or custody of the person**

RCW 71.05.040

Detention or judicial commitment of persons with developmental disabilities, impaired by substance use disorder, or suffering from dementia.

Persons with developmental disabilities, impaired by substance use disorder, or suffering from dementia **shall not be detained** for evaluation and treatment or judicially committed **solely by reason of that condition unless** such condition causes a person to be **gravely disabled or** as a result of a mental disorder such condition exists that constitutes **a likelihood of serious harm**. However, persons with developmental disabilities, impaired by substance use disorder, or suffering from dementia and who otherwise meet the criteria for detention or judicial commitment are not ineligible for detention or commitment based on this condition alone.