

RCW 71.05.150 Petition for initial detention of persons with behavioral health disorders—Evaluation and treatment period—Procedure—Tribal jurisdiction. (Effective until July 1, 2026.)

(1) When a designated crisis responder receives information alleging that a person, as a result of a behavioral health disorder, presents a likelihood of serious harm or is gravely disabled, 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, 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. 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, 23-hour crisis relief center, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. As part of the assessment, the designated crisis responder must attempt to ascertain if the person has executed a mental health advance directive under chapter 71.32 RCW. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview.

(2) (a) A superior court judge may issue a warrant to detain a person with a behavioral health disorder to a designated evaluation and treatment facility, a secure withdrawal management and stabilization facility, or an approved substance use disorder treatment program, for a period of not more than one hundred twenty hours for evaluation and treatment upon request of a designated crisis responder, subject to (d) of this subsection, whenever it appears to the satisfaction of the judge that:

(i) There is probable cause to support the petition; and

(ii) 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 withdrawal management and stabilization facility or approved substance use disorder treatment program unless there is an available secure withdrawal management and stabilization facility or approved substance use disorder treatment program that has adequate space for the person.

(e) If the court does not issue an order to detain a person pursuant to this subsection (2), the court shall issue an order to dismiss the initial petition.

(3) The designated crisis responder shall then serve or cause to be served on such person and his or her guardian, 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 withdrawal management and stabilization 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 one hundred twenty hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure withdrawal management and stabilization 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 withdrawal management and stabilization 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.

(5) Tribal court orders for involuntary commitment shall be recognized and enforced in accordance with superior court civil rule 82.5.

(6) In any investigation and evaluation of an individual under this section or RCW 71.05.153 in which the designated crisis responder knows, or has reason to know, that the individual is an American Indian or Alaska Native who receives medical or behavioral health services from a tribe within this state, the designated crisis responder shall notify the tribe and Indian health care provider regarding whether or not a petition for initial detention or involuntary outpatient treatment will be filed. Notification shall be made in person or by telephonic or electronic communication to the tribal contact listed in the authority's tribal crisis coordination plan as soon as possible but no later than three hours subject to the requirements in RCW 70.02.230 (2)(ee) and (3). A designated crisis responder may restrict the release of information as necessary to comply with 42 C.F.R. Part 2. [2023 c 433 § 6; 2022 c 210 § 5; 2021 c 264 § 1. Prior: 2020 c 302 § 13; (2020 c 302 § 12 expired January 1, 2021); 2020 c 256 § 302; 2020 c 5 § 2; 2019 c 446 § 4; 2018 c 291 § 4; 2016 sp.s. c 29 § 210; 2015 c 250 § 3; 2011 c 148 § 5; 2007 c 375 § 7; 1998 c 297 § 8; 1997 c 112 § 8; 1984 c 233 § 1; 1979 ex.s. c 215 § 9; 1975 1st ex.s. c 199 § 3; 1974 ex.s. c 145 § 8; 1973 1st ex.s. c 142 § 20.]

Expiration date—2023 c 433 §§ 6, 8, and 10: "Sections 6, 8, and 10 of this act expire July 1, 2026." [2023 c 433 § 24.]

Expiration date—2022 c 210 §§ 5, 12, 17, and 23: "Sections 5, 12, 17, and 23 of this act expire July 1, 2026." [2022 c 210 § 32.]

Expiration date—2021 c 264 §§ 1, 3, 6, 8, 10, 14, 31, and 33: "Sections 1, 3, 6, 8, 10, 14, 31, and 33 of this act expire July 1, 2026." [2021 c 264 § 35.]

Expiration date—2020 c 302 §§ 12, 15, 25, 31, 33, 35, 38, 54, 75, 82, 85, 88, and 91: "Sections 12, 15, 25, 31, 33, 35, 38, 54, 75, 82, 85, 88, and 91 of this act expire January 1, 2021." [2020 c 302 § 106.]

Effective date—2020 c 302 §§ 13, 16, 19-23, 26, 32, 34, 36, 39, 55, 59, 76, 83, 86, 89, and 92: "Sections 13, 16, 19 through 23, 26, 32, 34, 36, 39, 55, 59, 76, 83, 86, 89, and 92 of this act take effect January 1, 2021." [2020 c 302 § 107.]

Expiration date—2020 c 302 §§ 13, 16, 26, 39, 45, 55, 78, 83, 86, 92, 94, and 97: "Sections 13, 16, 26, 39, 45, 55, 78, 83, 86, 92, 94, and 97 of this act expire July 1, 2026." [2020 c 302 § 108.]

Expiration date—2020 c 256 § 302: "Section 302 of this act expires July 1, 2026." [2020 c 256 § 501.]

Expiration date—2020 c 5 §§ 2 and 4: "Sections 2 and 4 of this act expire July 1, 2026." [2020 c 5 § 6.]

Expiration date—2019 c 446 §§ 4, 6, 8, 11, 14, 30, 32, 34, 37, 39, and 41: "Sections 4, 6, 8, 11, 14, 30, 32, 34, 37, 39, and 41 of this act expire July 1, 2026." [2019 c 446 § 55.]

Expiration date—2018 c 291 §§ 4, 7, and 9: "Sections 4, 7, and 9 of this act expire July 1, 2026." [2018 c 291 § 20.]

Effective date—2018 c 291 §§ 1-4, 6, 7, 9, 11, 12, 13, and 15: See note following RCW 71.05.020.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Certification of triage facilities—Effective date—2011 c 148: See notes following RCW 71.05.020.

Findings—Purpose—Construction—Severability—2007 c 375: See notes following RCW 10.31.110.

Captions not law—2007 c 375: See note following RCW 10.77.084.

Effective dates—Severability—Intent—1998 c 297: See notes following RCW 71.05.010.

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(ii) 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) If the court does not issue an order to detain a person pursuant to this subsection (2), the court shall issue an order to dismiss the initial petition.

(3) The designated crisis responder shall then serve or cause to be served on such person and his or her guardian, 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 withdrawal management and stabilization 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 one hundred twenty hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure withdrawal management and stabilization 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.

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Effective date—2023 c 433 §§ 7, 9, and 11: "Sections 7, 9, and 11 of this act take effect July 1, 2026." [2023 c 433 § 25.]

Effective date—2022 c 210 §§ 6, 13, 18, and 24: "Sections 6, 13, 18, and 24 of this act take effect July 1, 2026." [2022 c 210 § 33.]

Effective date—2021 c 264 §§ 2, 4, 7, 9, 11, 15, 32, and 34: "Sections 2, 4, 7, 9, 11, 15, 32, and 34 of this act take effect July 1, 2026." [2021 c 264 § 36.]

Expiration date—2020 c 302 §§ 12, 15, 25, 31, 33, 35, 38, 54, 75, 82, 85, 88, and 91: "Sections 12, 15, 25, 31, 33, 35, 38, 54, 75, 82, 85, 88, and 91 of this act expire January 1, 2021." [2020 c 302 § 106.]

Effective date—2020 c 302 §§ 14, 17, 27, 40, 46, 56, 79, 84, 87, 93, 95, and 98: "Sections 14, 17, 27, 40, 46, 56, 79, 84, 87, 93, 95, and 98 of this act take effect July 1, 2026." [2020 c 302 § 109.]

Effective date—2020 c 256 § 303: "Section 303 of this act takes effect July 1, 2026." [2020 c 256 § 502.]

Effective date—2020 c 5 §§ 3 and 5: "Sections 3 and 5 of this act take effect July 1, 2026." [2020 c 5 § 7.]

Effective date—2019 c 446 §§ 5, 7, 9, 12, 15, 31, 33, 35, 38, 40, and 42: "Sections 5, 7, 9, 12, 15, 31, 33, 35, 38, 40, and 42 of this act take effect July 1, 2026." [2019 c 446 § 56.]

Effective date—2018 c 291 §§ 5, 8, and 10: "Sections 5, 8, and 10 of this act take effect July 1, 2026." [2018 c 291 § 19.]

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Certification of triage facilities—Effective date—2011 c 148: See notes following RCW 71.05.020.

Findings—Purpose—Construction—Severability—2007 c 375: See notes following RCW 10.31.110.

Captions not law—2007 c 375: See note following RCW 10.77.084.

Effective dates—Severability—Intent—1998 c 297: See notes following RCW 71.05.010.