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SENATE BILL 5103

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State of Washington

65th Legislature

2017 Regular Session

By Senator O'Ban

Read first time 01/12/17. Referred to Committee on Human Services,  
Mental Health & Housing.

1 AN ACT Relating to petitions for review of involuntary commitment  
2 decisions filed by an immediate family member, guardian, or  
3 conservator; amending RCW 71.05.201, 71.05.203, and 71.05.203;  
4 reenacting and amending RCW 71.05.201; creating a new section;  
5 providing an effective date; and providing an expiration date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 71.05.201 and 2016 c 107 s 1 are each amended to  
8 read as follows:

9 (1) If a designated mental health professional decides not to  
10 detain a person for evaluation and treatment under RCW 71.05.150 or  
11 71.05.153 or forty-eight hours have elapsed since a designated mental  
12 health professional received a request for investigation and the  
13 designated mental health professional has not taken action to have  
14 the person detained, an immediate family member or guardian or  
15 conservator of the person may petition the superior court for the  
16 person's initial detention.

17 (2) A petition under this section must be filed within ten  
18 calendar days following the designated mental health professional  
19 investigation or the request for a designated mental health  
20 professional investigation. If more than ten days have elapsed, the

1 immediate family member, guardian, or conservator must request a new  
2 designated mental health professional investigation.

3 (3)(a) The petition must be filed in the county in which the  
4 designated mental health professional investigation occurred or was  
5 requested to occur and must be submitted on forms developed by the  
6 administrative office of the courts for this purpose. The petition  
7 must be accompanied by a sworn declaration from the petitioner, and  
8 other witnesses if desired, describing why the person should be  
9 detained for evaluation and treatment. The description of why the  
10 person should be detained may contain, but is not limited to, the  
11 information identified in RCW 71.05.212.

12 (b) The petition must contain:

13 (i) A description of the relationship between the petitioner and  
14 the person; and

15 (ii) The date on which an investigation was requested from the  
16 designated mental health professional.

17 (~~(3)~~) (4) The court shall, within one judicial day, review the  
18 petition to determine whether the petition raises sufficient evidence  
19 to support the allegation. If the court so finds, it shall provide a  
20 copy of the petition to the designated mental health professional  
21 agency with an order for the agency to provide the court, within one  
22 judicial day, with a written sworn statement describing the basis for  
23 the decision not to seek initial detention and a copy of all  
24 information material to the designated mental health professional's  
25 current decision.

26 (~~(4)~~) (5) Following the filing of the petition and before the  
27 court reaches a decision, any person, including a mental health  
28 professional, may submit a sworn declaration to the court in support  
29 of or in opposition to initial detention.

30 (~~(5)~~) (6) The court shall dismiss the petition at any time if  
31 it finds that a designated mental health professional has filed a  
32 petition for the person's initial detention under RCW 71.05.150 or  
33 71.05.153 or that the person has voluntarily accepted appropriate  
34 treatment.

35 (~~(6)~~) (7) The court must issue a final ruling on the petition  
36 within five judicial days after it is filed. After reviewing all of  
37 the information provided to the court, the court may enter an order  
38 for initial detention if the court finds that: (a) There is probable  
39 cause to support a petition for detention; and (b) the person has  
40 refused or failed to accept appropriate evaluation and treatment

1 voluntarily. The court shall transmit its final decision to the  
2 petitioner.

3 ~~((7))~~ (8) If the court enters an order for initial detention,  
4 it shall provide the order to the designated mental health  
5 professional agency(~~(, which shall execute the order without delay)~~)  
6 and issue a written order for apprehension of the person by a peace  
7 officer for delivery of the person to a facility or emergency room  
8 determined by the designated mental health professional. The  
9 designated mental health agency serving the jurisdiction of the court  
10 must collaborate and coordinate with law enforcement regarding  
11 apprehensions and detentions under this subsection, including sharing  
12 of information relating to risk and which would assist in locating  
13 the person. A person may not be detained to jail pursuant to a  
14 written order issued under this subsection. An order for detention  
15 under this section should contain the advisement of rights which the  
16 person would receive if the person were detained by a designated  
17 mental health professional. An order for initial detention under this  
18 section expires one hundred eighty days from issuance.

19 ~~((8))~~ (9) Except as otherwise expressly stated in this chapter,  
20 all procedures must be followed as if the order had been entered  
21 under RCW 71.05.150. RCW 71.05.160 does not apply if detention was  
22 initiated under the process set forth in this section.

23 ~~((9))~~ (10) For purposes of this section, "immediate family  
24 member" means a spouse, domestic partner, child, stepchild, parent,  
25 stepparent, grandparent, or sibling.

26 **Sec. 2.** RCW 71.05.201 and 2016 sp.s. c 29 s 222 and 2016 c 107 s  
27 1 are each reenacted and amended to read as follows:

28 (1) If a designated crisis responder decides not to detain a  
29 person for evaluation and treatment under RCW 71.05.150 or 71.05.153  
30 or forty-eight hours have elapsed since a designated crisis responder  
31 received a request for investigation and the designated crisis  
32 responder has not taken action to have the person detained, an  
33 immediate family member or guardian or conservator of the person may  
34 petition the superior court for the person's initial detention.

35 (2) A petition under this section must be filed within ten  
36 calendar days following the designated crisis responder investigation  
37 or the request for a designated crisis responder investigation. If  
38 more than ten days have elapsed, the immediate family member,

1 guardian, or conservator must request a new designated crisis  
2 responder investigation.

3 (3)(a) The petition must be filed in the county in which the  
4 designated ((mental—health—professional)) crisis responder  
5 investigation occurred or was requested to occur and must be  
6 submitted on forms developed by the administrative office of the  
7 courts for this purpose. The petition must be accompanied by a sworn  
8 declaration from the petitioner, and other witnesses if desired,  
9 describing why the person should be detained for evaluation and  
10 treatment. The description of why the person should be detained may  
11 contain, but is not limited to, the information identified in RCW  
12 71.05.212.

13 (b) The petition must contain:

14 (i) A description of the relationship between the petitioner and  
15 the person; and

16 (ii) The date on which an investigation was requested from the  
17 designated crisis responder.

18 ((+3)) (4) The court shall, within one judicial day, review the  
19 petition to determine whether the petition raises sufficient evidence  
20 to support the allegation. If the court so finds, it shall provide a  
21 copy of the petition to the designated crisis responder agency with  
22 an order for the agency to provide the court, within one judicial  
23 day, with a written sworn statement describing the basis for the  
24 decision not to seek initial detention and a copy of all information  
25 material to the designated crisis responder's current decision.

26 ((+4)) (5) Following the filing of the petition and before the  
27 court reaches a decision, any person, including a mental health  
28 professional, may submit a sworn declaration to the court in support  
29 of or in opposition to initial detention.

30 ((+5)) (6) The court shall dismiss the petition at any time if  
31 it finds that a designated crisis responder has filed a petition for  
32 the person's initial detention under RCW 71.05.150 or 71.05.153 or  
33 that the person has voluntarily accepted appropriate treatment.

34 ((+6)) (7) The court must issue a final ruling on the petition  
35 within five judicial days after it is filed. After reviewing all of  
36 the information provided to the court, the court may enter an order  
37 for initial detention if the court finds that: (a) There is probable  
38 cause to support a petition for detention; and (b) the person has  
39 refused or failed to accept appropriate evaluation and treatment

1 voluntarily. The court shall transmit its final decision to the  
2 petitioner.

3 ~~((7))~~ (8) If the court enters an order for initial detention,  
4 it shall provide the order to the designated crisis responder  
5 agency(~~(, which shall execute the order without delay)~~) and issue a  
6 written order for apprehension of the person by a peace officer for  
7 delivery of the person to a facility or emergency room determined by  
8 the designated crisis responder. The designated crisis responder  
9 agency serving the jurisdiction of the court must collaborate and  
10 coordinate with law enforcement regarding apprehensions and  
11 detentions under this subsection, including sharing of information  
12 relating to risk and which would assist in locating the person. A  
13 person may not be detained to jail pursuant to a written order issued  
14 under this subsection. An order for detention under this section  
15 should contain the advisement of rights which the person would  
16 receive if the person were detained by a designated crisis responder.  
17 An order for initial detention under this section expires one hundred  
18 eighty days from issuance.

19 ~~((8))~~ (9) Except as otherwise expressly stated in this chapter,  
20 all procedures must be followed as if the order had been entered  
21 under RCW 71.05.150. RCW 71.05.160 does not apply if detention was  
22 initiated under the process set forth in this section.

23 ~~((9))~~ (10) For purposes of this section, "immediate family  
24 member" means a spouse, domestic partner, child, stepchild, parent,  
25 stepparent, grandparent, or sibling.

26 **Sec. 3.** RCW 71.05.203 and 2015 c 258 s 3 are each amended to  
27 read as follows:

28 (1) The department and each ~~((regional support network))~~  
29 behavioral health organization or agency employing designated mental  
30 health professionals shall publish information in an easily  
31 accessible format describing the process for an immediate family  
32 member, guardian, or conservator to petition for court review of a  
33 detention decision under RCW 71.05.201.

34 (2) A designated mental health professional or designated mental  
35 health professional agency that receives a request for investigation  
36 for possible detention under this chapter must inquire whether the  
37 request comes from an immediate family member, guardian, or  
38 conservator who would be eligible to petition under RCW 71.05.201. If  
39 the designated mental health professional decides not to detain the

1 person for evaluation and treatment under RCW 71.05.150 or 71.05.153  
2 or forty-eight hours have elapsed since the request for investigation  
3 was received and the designated mental health professional has not  
4 taken action to have the person detained, the designated mental  
5 health professional or designated mental health professional agency  
6 must inform the immediate family member, guardian, or conservator who  
7 made the request for investigation about the process to petition for  
8 court review under RCW 71.05.201.

9 (3) A designated mental health professional or designated mental  
10 health professional agency must, upon request, disclose the date of a  
11 designated mental health professional investigation under this  
12 chapter to an immediate family member, guardian, or conservator of a  
13 person to assist in the preparation of a petition under RCW  
14 71.05.201.

15 **Sec. 4.** RCW 71.05.203 and 2016 sp.s. c 29 s 223 are each amended  
16 to read as follows:

17 (1) The department and each behavioral health organization or  
18 agency employing designated crisis responders shall publish  
19 information in an easily accessible format describing the process for  
20 an immediate family member, guardian, or conservator to petition for  
21 court review of a detention decision under RCW 71.05.201.

22 (2) A designated crisis responder or designated crisis responder  
23 agency that receives a request for investigation for possible  
24 detention under this chapter must inquire whether the request comes  
25 from an immediate family member, guardian, or conservator who would  
26 be eligible to petition under RCW 71.05.201. If the designated crisis  
27 responder decides not to detain the person for evaluation and  
28 treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have  
29 elapsed since the request for investigation was received and the  
30 designated crisis responder has not taken action to have the person  
31 detained, the designated crisis responder or designated crisis  
32 responder agency must inform the immediate family member, guardian,  
33 or conservator who made the request for investigation about the  
34 process to petition for court review under RCW 71.05.201.

35 (3) A designated crisis responder or designated crisis responder  
36 agency must, upon request, disclose the date of a designated crisis  
37 responder investigation under this chapter to an immediate family  
38 member, guardian, or conservator of a person to assist in the  
39 preparation of a petition under RCW 71.05.201.

1        NEW SECTION.    **Sec. 5.**    By December 15, 2017, the administrative  
2 office of the courts, in collaboration with stakeholders, including  
3 but not limited to judges, prosecutors, defense attorneys, the  
4 department of social and health services, behavioral health  
5 advocates, and families, shall: (1) Develop a user's guide to assist  
6 pro se litigants in the preparation and filing of a Joel's law  
7 petition; and (2) develop a model order of detention under RCW  
8 71.05.201 which contains an advisement of rights for the detained  
9 person.

10        NEW SECTION.    **Sec. 6.**    Sections 1 and 3 of this act expire April  
11 1, 2018.

12        NEW SECTION.    **Sec. 7.**    Sections 2 and 4 of this act take effect  
13 April 1, 2018.

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