

RCW 71.34.815 Assisted outpatient treatment—Findings—Petition, court order for less restrictive alternative treatment—Procedure.

(1) An adolescent is in need of assisted outpatient treatment if the court finds by clear, cogent, and convincing evidence in response to a petition filed under this section that:

(a) The adolescent has a behavioral health disorder;

(b) Based on a clinical determination and in view of the adolescent's treatment history and current behavior, at least one of the following is true:

(i) The adolescent is unlikely to survive safely in the community without supervision and the adolescent's condition is substantially deteriorating; or

(ii) The adolescent is in need of assisted outpatient treatment in order to prevent a relapse or deterioration that would be likely to result in grave disability or a likelihood of serious harm to the adolescent or to others;

(c) The adolescent has a history of lack of compliance with treatment for his or her behavioral health disorder that has:

(i) At least twice within the 36 months prior to the filing of the petition been a significant factor in necessitating hospitalization of the adolescent, or the adolescent's receipt of services in a forensic or other mental health unit of a state, local, or tribal correctional facility, provided that the 36-month period shall be extended by the length of any hospitalization or incarceration of the adolescent that occurred within the 36-month period;

(ii) At least twice within the 36 months prior to the filing of the petition been a significant factor in necessitating emergency medical care or hospitalization for behavioral health-related medical conditions including overdose, infected abscesses, sepsis, endocarditis, or other maladies, or a significant factor in behavior which resulted in the adolescent's incarceration in a state, local, or tribal correctional facility; or

(iii) Resulted in one or more violent acts, threats, or attempts to cause serious physical harm to the adolescent or another within the 48 months prior to the filing of the petition, provided that the 48-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred during the 48-month period;

(d) Participation in an assisted outpatient treatment program would be the least restrictive alternative necessary to ensure the adolescent's recovery and stability; and

(e) The adolescent will benefit from assisted outpatient treatment.

(2) The following individuals may directly file a petition for less restrictive alternative treatment on the basis that an adolescent is in need of assisted outpatient treatment:

(a) The director of a hospital where the adolescent is hospitalized or the director's designee;

(b) The director of a behavioral health service provider providing behavioral health care or residential services to the adolescent or the director's designee;

(c) The adolescent's treating mental health professional or substance use disorder professional or one who has evaluated the person;

(d) A designated crisis responder;

(e) A release planner from a juvenile detention or rehabilitation facility; or

(f) An emergency room physician.

(3) A court order for less restrictive alternative treatment on the basis that the adolescent is in need of assisted outpatient treatment may be effective for up to 18 months. The petitioner must personally interview the adolescent, unless the adolescent refuses an interview, to determine whether the adolescent will voluntarily receive appropriate treatment.

(4) The petitioner must allege specific facts based on personal observation, evaluation, or investigation, and must consider the reliability or credibility of any person providing information material to the petition.

(5) The petition must include:

(a) A statement of the circumstances under which the adolescent's condition was made known and the basis for the opinion, from personal observation or investigation, that the adolescent is in need of assisted outpatient treatment. The petitioner must state which specific facts come from personal observation and specify what other sources of information the petitioner has relied upon to form this belief;

(b) A declaration from a physician, physician assistant, or *advanced registered nurse practitioner, or the adolescent's treating mental health professional or substance use disorder professional, who has examined the adolescent no more than 10 days prior to the submission of the petition and who is willing to testify in support of the petition, or who alternatively has made appropriate attempts to examine the adolescent within the same period but has not been successful in obtaining the adolescent's cooperation, and who is willing to testify to the reasons they believe that the adolescent meets the criteria for assisted outpatient treatment. If the declaration is provided by the adolescent's treating mental health professional or substance use disorder professional, it must be cosigned by a supervising physician, physician assistant, or *advanced registered nurse practitioner who certifies that they have reviewed the declaration;

(c) The declarations of additional witnesses, if any, supporting the petition for assisted outpatient treatment;

(d) The name of an agency, provider, or facility that agrees to provide less restrictive alternative treatment if the petition is granted by the court; and

(e) If the adolescent is detained in a state hospital, inpatient treatment facility, or juvenile detention or rehabilitation facility at the time the petition is filed, the anticipated release date of the adolescent and any other details needed to facilitate successful reentry and transition into the community.

(6) (a) Upon receipt of a petition meeting all requirements of this section, the court shall fix a date for a hearing:

(i) No sooner than three days or later than seven days after the date of service or as stipulated by the parties or, upon a showing of good cause, no later than 30 days after the date of service; or

(ii) If the adolescent is hospitalized at the time of filing of the petition, before discharge of the adolescent and in sufficient time to arrange for a continuous transition from inpatient treatment to assisted outpatient treatment.

(b) A copy of the petition and notice of hearing shall be served, in the same manner as a summons, on the petitioner, the adolescent,

the qualified professional whose affidavit accompanied the petition, a current provider, if any, and a surrogate decision maker or agent under chapter 71.32 RCW, if any.

(c) If the adolescent has a surrogate decision maker or agent under chapter 71.32 RCW who wishes to provide testimony at the hearing, the court shall afford the surrogate decision maker or agent an opportunity to testify.

(d) The adolescent shall be represented by counsel at all stages of the proceedings.

(e) If the adolescent fails to appear at the hearing after notice, the court may conduct the hearing in the adolescent's absence; provided that the adolescent's counsel is present.

(f) If the adolescent has refused to be examined by the qualified professional whose affidavit accompanied the petition, the court may order a mental examination of the adolescent. The examination of the adolescent may be performed by the qualified professional whose affidavit accompanied the petition. If the examination is performed by another qualified professional, the examining qualified professional shall be authorized to consult with the qualified professional whose affidavit accompanied the petition.

(g) If the adolescent has refused to be examined by a qualified professional and the court finds reasonable grounds to believe that the allegations of the petition are true, the court may issue a written order directing a peace officer who has completed crisis intervention training to detain and transport the adolescent to a provider for examination by a qualified professional. An adolescent detained pursuant to this subsection shall be detained no longer than necessary to complete the examination and in no event longer than 24 hours. All papers in the court file must be provided to the adolescent's designated attorney.

(7) If the petition involves an adolescent whom the petitioner or behavioral health administrative services organization knows, or has reason to know, is an American Indian or Alaska Native who receives medical or behavioral health services from a tribe within this state, the petitioner or behavioral health administrative services organization shall notify the tribe and Indian health care provider. 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 before the hearing and no later than 24 hours from the time the petition is served upon the person and the person's guardian. The notice to the tribe or Indian health care provider must include a copy of the petition, together with any orders issued by the court and a notice of the tribe's right to intervene. The court clerk shall provide copies of any court orders necessary for the petitioner or the behavioral health administrative services organization to provide notice to the tribe or Indian health care provider under this section.

(8) A petition for assisted outpatient treatment filed under this section shall be adjudicated under RCW 71.34.740.

(9) After January 1, 2023, a petition for assisted outpatient treatment must be filed on forms developed by the administrative office of the courts. [2024 c 209 s 10; 2022 c 210 s 4.]

***Reviser's note:** The term "advanced registered nurse practitioner" was changed to "advanced practice registered nurse" by 2024 c 239 s 1, effective June 30, 2027.