



EVALUTATION AND TREATMENT RIGHTS

These rights apply to **all individuals**, regardless of whether an individual is or is not a Medicaid recipient.

1. Every person involuntarily detained or committed under the provisions of this chapter shall be entitled to all the rights set forth in this chapter, which shall be prominently posted in the facility, and shall retain all rights not denied him or her under this chapter except as chapter [9.41](#) RCW may limit the right of a person to purchase or possess a firearm or to qualify for a concealed pistol license.
 - (a) No person shall be presumed incompetent as a consequence of receiving an evaluation or voluntary or involuntary treatment for a mental disorder, under this chapter or any prior laws of this state dealing with mental illness. Competency shall not be determined or withdrawn except under the provisions of chapter [10.77](#) or [11.88](#) RCW.
 - (b) Any person who leaves a public or private agency following evaluation or treatment for mental disorder shall be given a written statement setting forth the substance of this section.
2. Each person involuntarily detained or committed pursuant to this chapter shall have the right to adequate care and individualized treatment.
3. The provisions of this chapter shall not be construed to deny to any person treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.
4. Persons receiving evaluation or treatment under this chapter shall be given a reasonable choice of an available physician, psychiatric advanced registered nurse practitioner, or other professional person qualified to provide such services.
5. Whenever any person is detained for evaluation and treatment pursuant to this chapter, both the person and, if possible, a responsible member of his or her immediate family, personal representative, guardian, or conservator, if any, shall be advised as soon as possible in writing or orally, by the officer or person taking him or her into custody or by personnel of the evaluation and treatment facility where the person is detained that unless the person is released or voluntarily admits himself or herself for treatment within seventy-two hours of the initial detention:
 - (a) A judicial hearing in a superior court, either by a judge or court commissioner thereof, shall be held not more than seventy-two hours after the initial detention to determine whether there is probable cause to detain the person after the seventy-two hours have expired for up to an additional fourteen days without further automatic hearing for the reason that the person is a person whose mental disorder presents a likelihood of serious harm or that the person is gravely disabled;
 - (b) The person has a right to communicate immediately with an attorney; has a right to have an attorney appointed to represent him or her before and at the probable cause hearing if he or she is indigent; and has the right to be told the name and address of the attorney that the mental health professional has designated pursuant to this chapter;
 - (c) The person has the right to remain silent and that any statement he or she makes may be used against him or her;
 - (d) The person has the right to present evidence and to cross-examine witnesses who testify against him or her at the probable cause hearing; and
 - (e) The person has the right to refuse psychiatric medications, including antipsychotic medication beginning twenty-four hours prior to the probable cause hearing.
6. When proceedings are initiated under RCW [71.05.153](#), no later than twelve hours after such person is admitted to the evaluation and treatment facility the personnel of the evaluation and treatment facility or the designated mental health professional shall serve on such person a copy of the petition for initial detention and the name, business address, and phone number of the designated attorney and shall forthwith commence service of a copy of the petition for initial detention on the designated attorney.
7. The judicial hearing described in subsection (5) of this section is hereby authorized, and shall be held according to the provisions of subsection (5) of this section and rules promulgated by the supreme court.
8. At the probable cause hearing the detained person shall have the following rights in addition to the rights previously specified:
 - (a) To present evidence on his or her behalf;
 - (b) To cross-examine witnesses who testify against him or her;
 - (c) To be proceeded against by the rules of evidence;
 - (d) To remain silent;

- (e) To view and copy all petitions and reports in the court file.
9. Privileges between patients and physicians, psychologists, or psychiatric advanced registered nurse practitioners are deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under this chapter, the privileges shall be waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.

The waiver of a privilege under this section is limited to records or testimony relevant to evaluation of the detained person for purposes of a proceeding under this chapter. Upon motion by the detained person or on its own motion, the court shall examine a record or testimony sought by a petitioner to determine whether it is within the scope of the waiver.

The record maker shall not be required to testify in order to introduce medical or psychological records of the detained person so long as the requirements of RCW [5.45.020](#) are met except that portions of the record which contain opinions as to the detained person's mental state must be deleted from such records unless the person making such conclusions is available for cross-examination.

10. Insofar as danger to the person or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights:
- (a) Immediate release, unless involuntary commitment proceedings are initiated.
 - (b) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;
 - (c) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;
 - (d) To have access to individual storage space for his or her private use;
 - (e) To have visitors at reasonable times;
 - (f) To have reasonable access to a telephone, both to make and receive confidential calls, consistent with an effective treatment program;
 - (g) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;
 - (h) To discuss treatment plans and decisions with professional persons;
 - (i) Not to consent to the administration of antipsychotic medications and not to thereafter be administered antipsychotic medications unless ordered by a court under RCW [71.05.217](#) or pursuant to an administrative hearing under RCW [71.05.215](#);
 - (j) Not to consent to the performance of electroconvulsant therapy or surgery, except emergency lifesaving surgery, unless ordered by a court under RCW [71.05.217](#);
 - (k) Not to have psychosurgery performed on him or her under any circumstances;
 - (l) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue.
11. Every person involuntarily detained shall immediately be informed of his or her right to a hearing to review the legality of his or her detention and of his or her right to counsel, by the professional person in charge of the facility providing evaluation and treatment, or his or her designee, and, when appropriate, by the court. If the person so elects, the court shall immediately appoint an attorney to assist him or her.
12. A person challenging his or her detention or his or her attorney shall have the right to designate and have the court appoint a reasonably available independent physician, psychiatric advanced registered nurse practitioner, or licensed mental health professional to examine the person detained, the results of which examination may be used in the proceeding. The person shall, if he or she is financially able, bear the cost of such expert examination, otherwise such expert examination shall be at public expense.
13. Nothing contained in this chapter shall prohibit the patient from petitioning by writ of habeas corpus for release.
14. Nothing in this chapter shall prohibit a person committed on or prior to January 1, 1974, from exercising a right available to him or her at or prior to January 1, 1974, for obtaining release from confinement.
15. Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or an active condition of supervision by the department of corrections.