# HOT TOPICS IN MENTAL HEALTH & LAW: CIVIL COMMITMENT

## “Designated Crisis Responders and the Involuntary Treatment Act in Washington State”

Presented by Dawn Macready-Santos, LICSW, and Laura Pippin, MSP

January 7, 2025

CENTER FOR MENTAL HEALTH, POLICY & THE LAW
UNIVERSITY of WASHINGTON

# LAND & LABOR ACKNOWLEDGEMENT

Based in Seattle, The University of Washington acknowledges the Coast Salish peoples of this land, the land which touches the shared waters of all tribes and bands within the Suquamish, Tulalip and Muckleshoot nations.

May we always honor their spirit and heritage while working for justice in these communities.

To identify the stewards of your land, visit https://native-land.ca/

We also acknowledge the unaddressed legacy of stolen labor and slavery, and we recognize our debt to exploited workers past and present.  This legacy remains and is a current reality for many today.

# ABOUT THE CENTER FOR MENTAL HEALTH, POLICY & THE LAW

The Center for Mental Health, Policy, and the Law (CMHPL) is housed within the University of Washington (UW) Department of Psychiatry and Behavioral Sciences in the UW School of Medicine.

Our Center fosters integrative scholarship to advance empirical knowledge, training, and practice in forensic mental health. The CMHPL's mission is to address the most urgent issues arising at the interface of mental health and the law, in order to help justice-involved people with mental illness lead full and productive lives.

We have organized our center around three pillars of excellence: education and training, research and policy, and service. These pillars are intended to facilitate interdisciplinary collaboration and innovation by removing barriers between researchers, policymakers, educators, and clinicians.

# HOT TOPICS IN MENTAL HEALTH & LAW: CIVIL COMMITMENT

**November 12, 12:00–1:00 p.m. PT**
"Civil Commitment 101: Overview of History and Current Practices"
*Shadoe Jones, JD*

**December 13, 12:00–1:00 p.m. PT**
"Civil Commitment Through the Ethics Lens: How We Got Here"
*Philip Candilis, MD*

**January 7, 12:00–1:00 p.m. PT**
"Designated Crisis Responders and the Involuntary Treatment Act in Washington State"
*Dawn Macready-Santos, LICSW and Laura Pippin, MSP*

**February 4, 12:00–1:00 p.m. PT**
"Lived Experiences with Civil Commitment"
*Carolynn Ponzoha, Karen Schilde, Laura Van Tosh*

**Learn more and register: bit.ly/cmhpl**

**March 4, 12:00–1:00 p.m. PT**
"An Academic-State-Community Partnership to Create a CBT Continuum of Care for Involuntary Committees in Washington State"
*Sarah Kopelovich, PhD, ABPP*

**April 1, 12:00–1:00 p.m. PT**
Youth civil commitment in WA
*Dawn Macready-Santos, LICSW, DCR*

**May 13, 12:00–1:00 p.m. PT**
"Policy Perspectives on Washington's Continuum of Care for Severe Mental Illness"
*Manka Dhingra, JD*

**June 10, 12:00–1:00 p.m. PT**
Final panel and Q&A
*Manka Dhingra, Shadoe Jones, Sarah Kopelovich, Dawn Macready-Santos, Laura Pippin, Laura Van Tosh*

# RECORDINGS & CONTINUING EDUCATION

- The recording and presentation slides will be made available on our website within 1 week. We will email attendees with the link.
- Certificates of attendance will be available for attendees who indicated interest. You will receive an email from cmhpl@uw.edu with additional details.
- Continuing education is only available for attendees who attend the live Zoom session, not for those who watch the recording.
- Continuing Medical Education is available:
  - UW faculty and staff ONLY: You received an email from cmhpl@uw.edu with instructions and will need to sign-in via text by 2:00 p.m. PT.
  - For non-UW learners, we will track attendance via Zoom — Please update your name if needed.

# DISCLOSURES

Today's speakers, Dawn Macready-Santos and Laura Pippin, have no financial relationships with an ineligible company relevant to this presentation to disclose.

A planner of the series, Dr. Sarah Kopelovich, has the following relevant relationship:

> Paid consultant, Lyssn.io, Inc.

None of the other planners have relevant financial relationship(s) to disclose with ineligible companies whose primary business is producing, marketing, selling, re-selling, or distributing healthcare products used by or on patients.

**All relevant financial relationships have been mitigated.**

# FINAL LOGISTICS

- The opinions expressed herein are the views of the speakers, and do not reflect an official position of the CMHPL or the UW. No official support or endorsement of the opinions described in this presentation from the CMHPL or the UW is intended or should be inferred.
- Automated captions are available. In the meeting controls toolbar, click the Show Captions icon. CC
- To submit questions, please use the Q&A function on Zoom. Questions will be answered at the end.
- Please complete the evaluation poll at the end of this session.
- Reminder: The series will conclude with a panel discussion and Q&A on **June 6, 2025**.

# DAWN MACREADY-SANTOS, LICSW

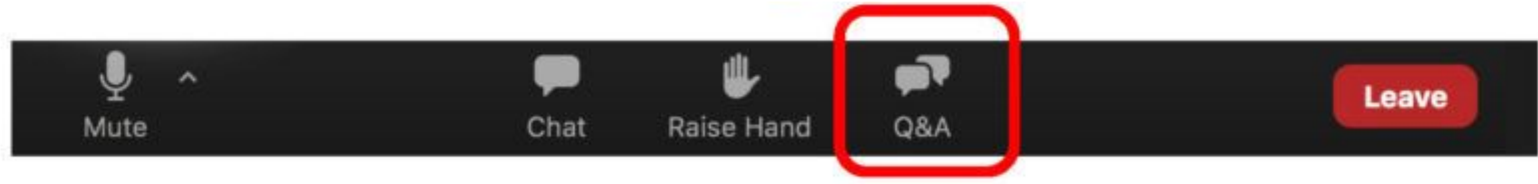
Dawn Macready-Santos, LICSW, is the co-president of the Washington Association of Designated Crisis Responders and has been a designated crisis responder (DCR) in Clark County for eight years. She is a licensed clinical social worker at Oregon Health And Science University at the Institute for Intellectual and Developmental Disabilities. She has worked for two decades in the crisis and complex medical and mental health needs community in Washington and Oregon. She has extensive experience coordinating services and navigating complex legal, medical, and court systems with individuals. Dawn routinely teaches professionals about involuntary commitment law.

# LAURA PIPPIN, MSP

Laura Pippin, MSP, is the co-president of the Washington Association of Designated Crisis Responders and the program manager of Crisis Services in Central Washington. She has been a member of the Crisis Response Improvement Strategy committee for the past three years. Laura has been a designated crisis responder in Washington since 2012 and previously was a designated crisis responder in Oregon for over twenty years. She is invested in communities and individuals in Washington and advocating for their safety and quality of life. She holds a Master of Science in psychology.

# QUESTIONS

To submit a question, please click the Q&A icon on Zoom.



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# DESIGNATED CRISIS RESPONDERS AND THE INVOLUNTARY TREATMENT ACT IN WASHINGTON STATE

## RCW 71.05 AND RCW 71.34

Presented by
Dawn Macready-Santos, LICSW, LCSW
DCR Co-President WADCR Association

and

Laura Pippin, MS, SUDPT,
DCR Co-President WADCR Association

January 7, 2025
Presentation for the University of Washington Center for Mental Health, Policy, and the Law

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# LEARNING OBJECTIVES

- Describe the civil commitment process in Washington and the role of designated crisis responders.
- Identify elements of assisted outpatient treatment practice in Washington state.
- Discuss additional routes to civil commitment in Washington state, including Joel's Law, Sheena's Law, and Ricky's Law.

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# TOPICS COVERED

- Involuntary Treatment Act (ITA) process in Washington state and the role of designated crisis responders
- ITA hold vs. commitment
- Substance use disorder (SUD) vs. mental health ITA
- Assisted outpatient treatment (AOT) practice In Washington state
- Less restrictive alternative (LRA) options in Washington state
- Alternative routes to involuntary treatment in Washington state
- Joel's law, Sheena's Law and Ricky's Law

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# DESIGNATED CRISIS RESPONDERS IN WASHINGTON STATE

- Designated crisis responders (DCRs) must possess a master's degree or higher credential.
- DCRs must be licensed by the Department of Health.
- DCRs must receive specialized training in Washington state's Involuntary Treatment Act (ITA).
- DCRs are designated and provided with the authority to place an individual on an emergency behavioral health hold through the civil court system.

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# TRAINING FOR DCRS

- 40 hours of DCR Academy Training by Washington Association of Designated Crisis Responders (WADCR) for new DCRs.
- Training provided by individual agencies managing DCRs in each county.
- Yearly DCR conference for DCRs through WADCR (optional).
- Continuing education units (CEUs) are generally required by licensing organization and licensing requirements.
- Ongoing quarterly meetings for DCR agency managers to ensure all changes and updates to ITA law are provided on a quarterly basis.
- Consultation with WADCR for ongoing technical questions.

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# EXPECTED EDUCATION/TRAINING

- Psychopathology and psychopharmacology
- Knowledge of individual and family dynamics, life span development, psychotherapy and family crisis intervention
- Crisis intervention and assessment of risk associated with both mental health disorders and substance use disorders, including suicide risk assessment and assessment of danger to others
- Assessment of grave disability, health and safety, cognitive and volitional functions
- Competency with special populations
- Substance use disorder
- Training in adolescent mental health issues
- *RCW 71.34.805*

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# TRIBAL DCRS

- Tribal DCRs are part of the **Washington Indian Behavioral Health Act** (2020) and **Washington Administrative Code 182-125-0100** (2022).
- They represent a partnership between Tribes and the Health Care Authority (HCA) to offer culturally attuned care for Tribal communities

www.hca.wa.gov

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# BEST PRACTICES FOR AI/AN INDIVIDUALS

- If the individual is identified as American Indian or Alaska Native (AI/AN), ask and determine tribal affiliation.
- Identify if there is a Tribal Crisis Coordination Plan in place.
- Notify the tribal contact of the decision to detain or not to detain according to protocols, if any.
- Consult the guidance developed to conduct culturally appropriate evaluations for AI/AN individuals published by the Health Care Authority (HCA).
- For questions or concerns, contact the Tribal Crisis Coordination Hub or the Health Care Authority

*-HCA WA Protocols-for-DCRS-2020*

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# WHEN TO MAKE A REFERRAL TO A DCR

a) There is evidence that a referred person may suffer from a **behavioral health disorder**, <u>and</u>

b) There is evidence that the person, as a result of a behavioral health disorder, presents a likelihood of serious harm to themselves, other persons, other's property, or the referred person may be gravely disabled, and

c) The referred person refuses to seek appropriate treatment options

*RCW 71.05.150(1), RCW 71.05.153(1) and RCW 71.34.710*

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# COMPONENTS OF THE ITA INVESTIGATION

**Face-to-Face Evaluation:**

- Reading of Rights
- Mental Status Exam
- Voluntary Treatment/Safety Plan/Least Restrictive Options

**Medical Clearance (if applicable)**

**Collateral Information Gathering**

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# READING RIGHTS

This is an opportunity for the DCR to explain the legal process simply and clearly, to include a description of the DCR's role and responsibilities, inpatient facilities, and a brief explanation of timelines and court process.

If the individual chooses to remain silent or requests an attorney, the DCR is obligated to stop the interview. However, the DCR is **not obligated to stop the investigation**.

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# READING OF RIGHTS MUST INCLUDE:

- DCR must identify self by name and position
- Inform the individual of the purpose and possible consequences of the investigation
- Inform the individual that they have the right to **remain silent**
- Inform the individual that any statement made may be used against them
- Inform the individual being investigated that they may speak immediately with an attorney
- Inform the individual that if they are detained as harm to self, others or property, their right to possess a **firearm will be suspended** for six months

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# MENTAL STATUS EXAM

To evaluate the presence of a mental disorder or substances used disorder, a DCR must assess:

- Behavior
- Judgement
- Presentation
- Orientation
- Memory
- Thought process
- Affect
- Impulse control

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# OTHER CONSIDERATIONS

- Principles of trauma informed care
- Individual's age, developmental, and cognitive functioning
- Culture and ethnicity
- Language spoken and communication
- History of diagnosis, treatment, and periods of recovery
- The duration, frequency, and intensity of any behavioral health symptoms
- Any medical conditions or diagnosis

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# MEDICAL CLEARANCE

- It is best practice that a medical screening be conducted and that the individual is able to be medically discharged from the medical hospital and/or emergency department prior to referral to a DCR.
- Medical assessment and clearance are the determination of the treating physician and include multiple factors, of which intoxication is one.
- Labs to rule out medical conditions. Mental status exam
- *If patient has ongoing medical problems, facilities can decline to accept pt and they will need to stay at the hospital until stabilized.*

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# Voluntary Treatment/Safety Plan/Least Restrictive Options

- Will the individual agree to attend treatment voluntarily?

- Is there a safety plan that can be created to ensure safety?

- Less restrictive alternatives to detention
  - When considering whether to utilize alternatives to emergent detention, the DCR assesses whether those alternatives are reasonably available, and if voluntary, if individual is willing and able to accept those services and if environmental controls and supports are in place to reasonably ensure the safety of the individual and community.

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# VOLUNTARY TREATMENT

The lack of a voluntary bed is not grounds for involuntary detention.
[RCW 71.05.050]

No jail or state correctional facility may be considered a less restrictive alternative to detention.
[RCW 71.05.157(6)]

Voluntary placement is what we aim for. We cannot detain based on "not a good faith voluntary."

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# COMPONENTS OF THE ITA INVESTIGATION

- Collateral Information Gathering
- Referral Acceptance
- Credible Witnesses
- Written Documentation and Records
- Copies of Mental Health Directives, Guardianship Paperwork, Power of Attorney
- Crisis Plans and Treatment Plans

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# GATHERING INFORMATION

RCW 71.05.212 Consideration of information and records

Types of information to gather:

- Forensic evaluations under RCW 10.77, with or without a recommendation for evaluation for civil commitment
- Historical behavior, including history of one or more violent acts
- Prior detentions & commitments
- Risk assessments and/or discharge summaries from the Department of Corrections (DOC)
- Crisis plan & mental health advance directive
- Other available treatment records (for both mental health and substance use treatment)
- Criminal history records
- Prior civil commitments
- Medical records or EDI information
- Any information collected in a prior evaluations documenting cultural considerations

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# INTERVIEWING WITNESSES

Interview reasonably available, potentially credible witnesses who may have pertinent information – ( family members, landlords, neighbors or others with significant contact or history of involvement with the individual).

Interview professionals and other treatment providers, including Tribal providers and IHCPs

If the evaluation takes place in an emergency room, the DCR must consider the observations and opinions of an examining emergency room physician, ARNP, or physician assistant when making a determination regarding detention. This consideration must be in consultation with the professional, or a review of their notes. The DCR must document this consultation, or the reason for lack of consultation, both in the petition and in case documentation. [RCW 71.05.154]

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# DETERMINING THE PRESENCE OF A BEHAVIORAL HEALTH DISORDER

A formal diagnosis of a behavioral health disorder is not required to establish a mental, emotional or organic impairment, but only that the disorder has a substantial adverse effect on cognitive or volitional functioning

The DCR reviews all information regarding symptoms and presentation gathered from the face-to-face evaluation, collateral sources, and any history and documentation available regarding past diagnosis, treatment, and intervention

Use of the DSM-5 framework for substance use disorder: this framework and criteria can be used to establish the presence of a substance use disorder <u>for the purposes of a petition for detention</u>

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# DETERMINING THE PRESENCE OF A SUBSTANCE USE DISORDER

1. Substance is taken in larger amounts, or over a longer period than was intended.
2. Persistent desire or unsuccessful attempts to cut down or control use of the substance.
3. Great deal of time is spent in activities necessary to obtain the substance, use the substance, or recover from its effects.
4. Craving, or a strong desire or urge to use the substance.
5. Recurrent use of the substance despite having persistent or recurrent social or interpersonal problems caused its use.
6. Important social, occupational, or recreational activities are given up or reduced because of use of the substance.
7. Recurrent use of the substance in situations in which it is physically hazardous.
8. Substance use is continued despite knowledge of having a persistent or recurrent physical or psychological problem
9. Tolerance
10. Withdrawal

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# DETERMINING IMMINENT DANGER

The DCR assesses the available information to determine whether or not, as a result of the behavioral health disorder, there is a danger to the individual, to others, the property of others, or the individual is gravely disabled, and if so, if it is imminent.

Is the individual at risk?

Does this risk result from a behavioral health disorder?

The DCR makes this assessment:

- Using their professional judgment
- Based on an evaluation of the individual, review of reasonably available history and interviews of any witnesses
- Consistent with statutory and other legally determined criteria

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# DETERMINING DANGER TO SELF OR OTHERS

"**Likelihood of serious harm**" means a substantial risk that:

- Physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;
- Physical harm will be inflicted by an individual 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;
- Physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or
- Individual has threatened the physical safety of another and has a history of one or more violent acts

*RCW 71.05.020(36)*

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# GRAVE DISABILITY

“**Gravely disabled**” means a condition resulting from a mental disorder, in which the person:

- Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety RCW 71.05.020(24)(a); or
- 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

*RCW 71.05.020(24)(b)*

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# ITA HOLD (INDIVIDUAL HELD DURING INVESTIGATION)

- The Involuntary Treatment Act process may be initiated for **individuals 13 years and older** within the state of Washington.
- An individual is typically referred by family members, first responders, caregivers, medical providers, or care providers for an ITA investigation/evaluation.
- The referrals for ITA investigation arise from concerns regarding an individual's safety, history, and presentation of mental disorder or substance use disorder symptoms.

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# ITA DETENTION (120 HOURS)

- An individual detained for mental disorder may be moved to an Evaluation and Treatment (E&T) facility.
- An individual detained for substance use disorder may be detained to a Secure Withdrawal and Management Stabilization (SWMS) facility.
- A facility may be dually credentialed.
- Individuals may be treated and stabilized at these licensed facilities for up to 120 hours, excluding weekends and holidays, for further evaluation and treatment.
- There must be a release after the initial 120 hours, unless the treatment team determines that the individual is still at risk and petitions the court.

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# 14 DAY, 90 AND 180 DAY COMMITMENT

- If the individual does not stabilize within the 14-day commitment, the facility may petition the court, who may then order a 90-day commitment. Subsequent petitions for continued treatment may be filed and these orders are for 180-day commitments.
- An individual may be transitioned to a long-term community bed or a state hospital bed when a 90/180-day commitment is ordered by the court

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# LEAST RESTRICTIVE ALTERNATIVE

**Must include:**

- Care coordinator, intake evaluation with provider of LRA Tx psychiatric and/or SUD evaluation
- Schedule/regular contacts with the treatment services for the duration of the order
- Transition plan for end or order; individual crisis plan; consultation about a mental health advance directive
- Notify care coordinator if reasonable efforts fail to provide substantial compliance with ordered treatment

**May include:** Medication management, psychotherapy, nursing, SUD counseling, residential treatment/partial hospitalization, intensive outpatient treatment, support for housing, benefits, education and employment, periodic court review.

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# ASSISTED OUTPATIENT TREATMENT

**Assisted Outpatient Treatment (AOT):**

A form of civil commitment that delivers community-based behavioral health services under court order to individuals with severe mental illness who have demonstrated difficulty adhering to treatment on a voluntary basis and have difficulty living safely in the community without close monitoring.

**Purpose:**

- To improve the health, safety, and welfare of both the individual under AOT and the public.
- To help restore the mental health system so that individuals with severe behavioral health disorders are not left to deteriorate until their actions provoke a police response.

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# SHEENA'S LAW

RCW 71.05.458: Law Enforcement Referral- Threatened or attempted suicide- Contact by Designated Crisis Responder.

"As soon as possible, but no later than twenty-four hours from receiving a referral from a law enforcement officer or law enforcement agency, excluding Saturdays, Sundays, and holidays, a mental health professional contacted by the designated crisis responder agency must attempt to contact the referred person to determine whether additional mental health intervention is necessary, including, if needed, an assessment by a designated crisis responder for initial detention under RCW 71.05.150 or 71.05.153. Documentation of the mental health professional's attempt to contact and assess the person must be maintained by the designated crisis responder agency."

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# IN MEMORY OF SHEENA HENDERSON

**Sheena Henderson was a 30-year-old mother of 2 and Phlebotomist at the Rockwood Cancer Treatment Center at Deaconess Hospital. Co-workers of hers said that she was bright, bubbly, and that patients used to request her by name.**

Law enforcement can detain individuals who present clear threats to themselves or others, but do not always have enough evidence to do so. This was the case with Christopher Henderson, who Spokane Valley Police initially took to the ER, but then released from their custody.

Sheena's Law mandates that officers must alert mental health professionals about individuals who express suicidality, but do not meet criteria for detainment ("police hold").

The same rationale applies to individuals who may have met law enforcement's criteria for a hold due to suicidal ideation, but officers were unable to locate.

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# RICKY'S LAW

- Ricky's Law, House Bill 1713, aligns Washington's substance use and mental health statutes addressing the way we deliver care to individuals.
- Involuntary commitment law for substance use
- When secure detoxification facility beds are not available, patients like Ricky ended up in emergency rooms, mental health facilities or even jail cells where they were not always able get the appropriate care.
- **The law**

  In 2016, House Bill 1713 made changes to the behavioral health system and significantly amended RCW 71.05 and RCW 71.34 — effective April 1, 2018 — to include substance use in the ITA process.

  DCR's are now able to detain a person who meets the criteria for involuntary treatment due to a substance use disorder to a secure withdrawal management and stabilization facility if there is space available. – www.HCA.WA.gov

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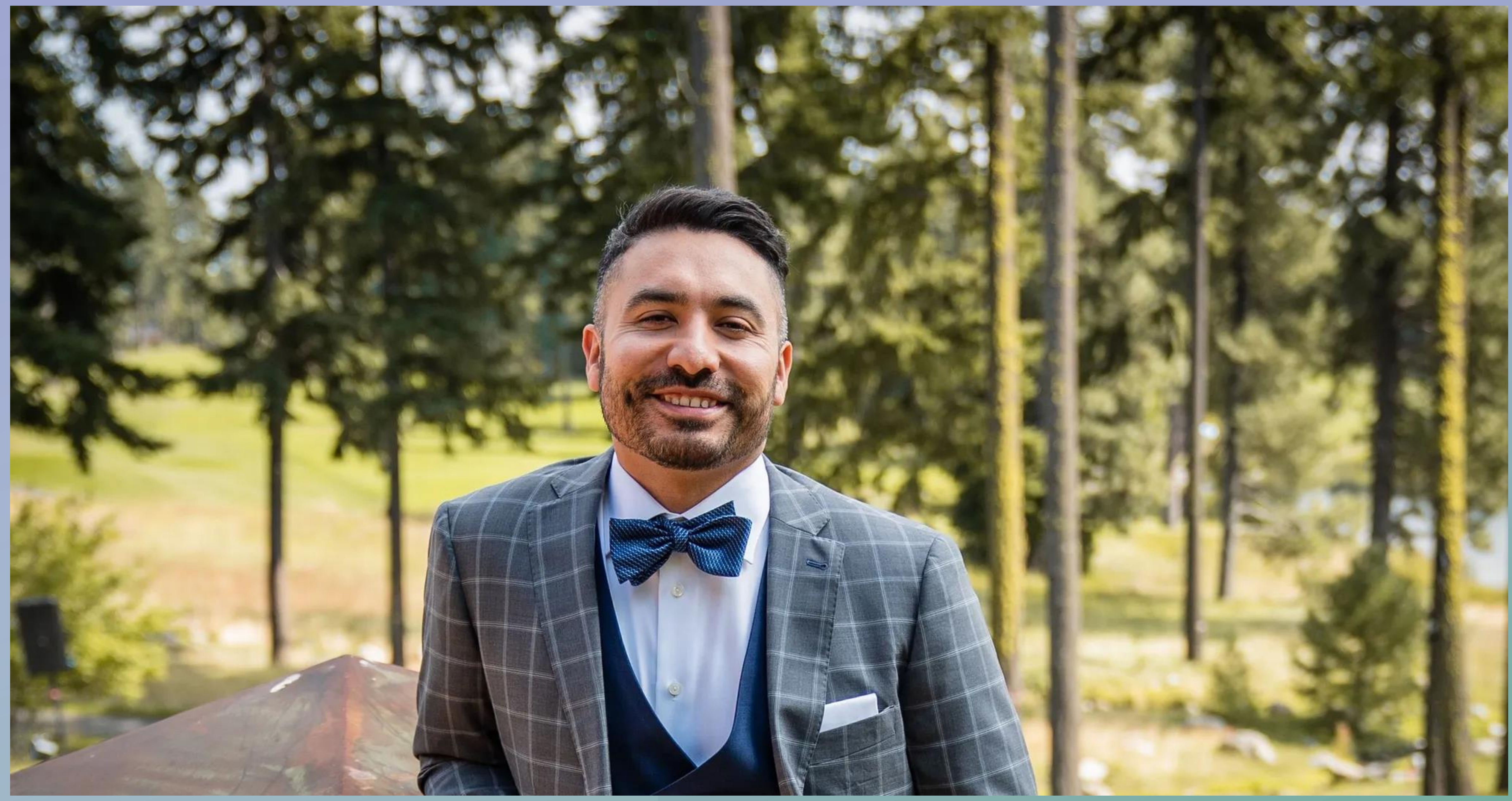

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# ENRIQUE "RICKY" KLAUSMEYER-GARCIA,

- Ricky advocated for support for individuals with mental health and addictions in Washington State.
- Ricky struggled with substance use disorder and was hospitalized multiple times for both mental health and substance use disorder.
- Ricky ultimately passed away at age 37 in a residential substance use facility in Kirkland, Washington.

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# JOEL'S LAW

- Joel's Law – SB 5269, passed in the 2015 legislative session
- Created a process by which specific individuals (immediate family, guardian or conservator, or federally recognized Indian tribe) can directly petition the court for detention
- RCW 71.05.201, RCW 71.05.203, RCW 71.34.710
- The RCW describes process and responsibilities for DCRs, rights of petitioners, and role of the court

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# ORIGINS OF JOEL'S LAW

- "In 2013, a 28 year old named Joel Reuter was killed in a standoff with police while suffering from a mental health crisis. When Joel started showing signs of crisis, his parents tried 48 times to get their son the help he needed. After his death his family organized and pushed for legislation to prevent such a situation from happening again.
- Joel's Law was approved by the Legislature in 2015. It allows courts to order involuntary commitment if, after reviewing a family member's petition and statement, the court finds that detention is warranted. The court essentially overrules the designated mental health professional's decision to not commit a family member to a facility. If the court reviews and finds that there is probable cause, an individual can be picked up and brought to a facility. The case then follows the usual procedure of the Involuntary Treatment Act."

- https://www.thurstoncountywa.gov/departments/superior-court/court-cases/joels-law#:~:text=Joel's%20Law-,Joel's%20Law,son%20the%20help%20he%20needed.

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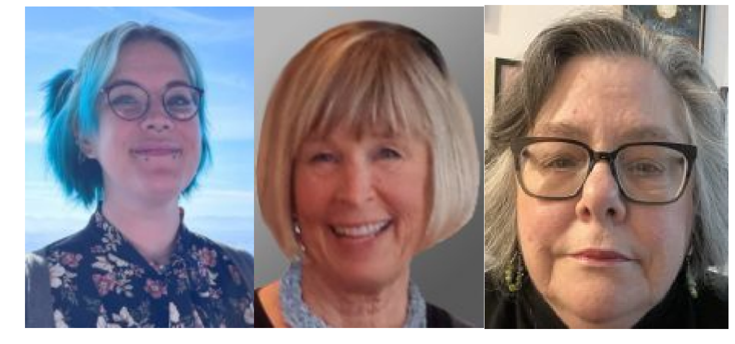
# LEARNING OBJECTIVES

- Describe the civil commitment process in Washington and the role of designated crisis responders.
- Identify elements of assisted outpatient treatment practice in Washington state.
- Discuss additional routes to civil commitment in Washington state, including Joel's Law, Sheena's Law, and Ricky's Law.

# LIVED EXPERIENCES WITH CIVIL COMMITMENT

## February 4, 2025, 12:00–1:00 p.m. PT

**Carolynn Ponzoha, Karen Schilde, and Laura Van Tosh**



Peer and family advocates who have lived experience of being civilly committed will spend a session detailing aspects of their experience with civil commitment and the broader mental health care continuum.

**Learn more and get Zoom link:** bit.ly/cmhpl

# FEEDBACK

Post-event surveys are critical, and your feedback helps us to improve and develop future events.