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Comparison of CO's Emergency 72-hour Holds & Petition Process for Mental Health Evaluation

Disclaimer: This information is provided for informational purposes only. We attempted to ensure that all information is up-to-date and accurate.

However, we disclaim any liability, and urge individuals to seek legal counsel for individual situations.



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<h3>Topic</h3>	<h3>Emergency 72-Hour Holds</h3> <p>CRS 27-65-105. Emergency procedure</p>	<h3>Non-Emergency Court-Ordered Evaluations</h3> <p>CRS 27-65-106. Court-ordered evaluation for persons with mental health disorders</p>
<p>Grounds for:</p> <ul style="list-style-type: none"> • Emergency 72-Hour Holds, & • Court Ordered Evaluations 	<p>Grounds: CRS 27-65-105(1)(a)</p> <ul style="list-style-type: none"> • Imminent danger to self or others • Gravely Disabled 	<p>Grounds: CRS 27-65-106(1)</p> <ul style="list-style-type: none"> • Danger to Self or Others • Gravely Disabled



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<p>Who is authorized to seek mental health evaluations under emergency & Court-Ordered procedures</p>	<p>CRS 27-65-105(1)</p> <p>The following persons may act as intervening professionals to effect a seventy-two-hour hold, as provided in subsections (1)(a)(I) and (1)(a)(I.5) of this section:</p> <ul style="list-style-type: none">• A certified peace officer;• A professional person;• A registered professional nurse as defined in section 12-38-103 (11) who by reason of postgraduate education and additional nursing preparation has gained knowledge, judgment, and skill in psychiatric or mental health nursing;• A licensed marriage and family therapist, licensed professional counselor, or addiction counselor licensed under part 5, 6, or 8 of article 43 of title 12, who by reason of postgraduate education and additional preparation has gained knowledge, judgment, and skill in psychiatric or clinical mental health therapy, forensic psychotherapy, or the evaluation of mental health disorders; or• A licensed clinical social worker licensed under the provisions of part 4 of article 43 of title 12.	<p>CRS 27-65-106(2)</p> <p>(2) Any individual may petition the court in the county in which the respondent resides or is physically present alleging that there is a person who appears to have a mental health disorder, appears to be a danger to others or to himself or herself or appears to be gravely disabled and requesting an evaluation of the person's condition.</p>
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	Also provides a process for an affidavit to be submitted to the District Court.	
Required Elements for a Petition for Court-Ordered Evaluation		CRS 27-65-106(3) (3) The petition for a court-ordered evaluation must contain the following: (a) The name and address of the petitioner and his or her interest in the case; (b) The name of the person for whom evaluation is sought, who shall be designated as the respondent, and, if known to the petitioner, the address, age, sex, marital status, and occupation of the respondent; (c) Allegations of fact indicating that the respondent may have a mental health disorder and, as a result of the mental health disorder, be a danger to others or to himself or herself or be gravely disabled and showing reasonable grounds to warrant an evaluation; (d) The name and address of every person known or believed by the petitioner to be legally responsible for the care, support, and maintenance of the respondent, if available;



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		<p>(e) The name, address, and telephone number of the attorney, if any, who has most recently represented the respondent.</p> <p>If there is no attorney, there shall be a statement as to whether, to the best knowledge of the petitioner, the respondent meets the criteria established by the legal aid agency operating in the county or city and county for it to represent a client.</p>
Screening		<p>Screening to Determine if there is “probable cause” to believe the allegations in the petition – CRS 27-65-106(4)</p> <p>Upon receipt of a petition satisfying the requirements of subsection (3) of this section, the court shall designate a facility, approved by the executive director, or a professional person to provide screening of the respondent to determine whether there is <u>probable cause</u> to believe the allegations.</p>
Screening Report		<p>Screening Report – CRS 27-65-106(5)</p>



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		<p>(5) Following screening, the facility or professional person designated by the court shall file his or her report with the court.</p> <p>The report must include a recommendation as to whether there is probable cause to believe that the respondent has a mental health disorder and, as a result of the mental health disorder, is a danger to others or to himself or herself or is gravely disabled and whether the respondent will voluntarily receive evaluation or treatment.</p> <p>The screening report submitted to the court is confidential in accordance with section 27-65-121 and must be furnished to the respondent or his or her attorney or personal representative.</p>
<p>Probable Cause for:</p> <ul style="list-style-type: none"> • Emergency 72-hour Holds • Court Order for Evaluation 	<p>CRS 27-65-105</p> <p>(1) Emergency procedure may be invoked under one of the following conditions:</p> <p>(a) (I) When any person appears to have a mental health disorder and, as a result of such mental health disorder, appears to be an imminent danger to others or to himself or herself or appears to be gravely disabled, then an intervening professional, as specified in subsection (1)(a)(II) of this section, upon probable cause and with such assistance as may be required, may take the person into custody,</p>	<p>CRS 27-65-106(6)</p> <p>Whenever it appears, by petition and screening pursuant to this section, to the satisfaction of the court that probable cause exists to believe that the respondent has a mental health disorder and, as a result of the mental health disorder, is a danger to others or to himself or herself or is gravely disabled and that efforts have been made to secure the cooperation of the respondent, who has refused or failed to accept evaluation voluntarily, the court shall issue an order for evaluation authorizing a certified peace officer to take the respondent into custody and place him or her in a</p>



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	<p>or cause the person to be taken into custody, and placed in a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation. If such a facility is not available, the person may be taken to an emergency medical services facility.</p> <p>(1.5) When any person appears to have a mental health disorder and, as a result of such mental health disorder, is in need of immediate evaluation for treatment in order to prevent physical or psychiatric harm to others or to himself or herself, then an intervening professional, as specified in subsection (1)(a)(II) of this section, upon probable cause and with such assistance as may be required, may immediately transport the person to an outpatient mental health facility or other clinically appropriate facility designated or approved by the executive director. If such a facility is not available, the person may be taken to an emergency medical services facility.</p>	<p>facility designated by the executive director for seventy-two-hour treatment and evaluation.</p> <p>At the time of taking the respondent into custody, a copy of the petition and the order for evaluation must be given to the respondent, and promptly thereafter to any one person designated by the respondent and to the person in charge of the seventy-two-hour treatment and evaluation facility named in the order or his or her designee.</p>
72-Hour Examination		<p>CRS 27-65-106(7)</p> <p>The respondent shall be evaluated as promptly as possible and shall in no event be detained longer than</p>



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		<p>seventy-two hours under the court order, excluding Saturdays, Sundays, and holidays if treatment and evaluation services are not available on those days.</p> <p>Within that time, the respondent shall be released, referred for further care and treatment on a voluntary basis, or certified for short-term treatment.</p>
Reasonable precautions to preserve and safeguard personal property		<p>CRS 27-65-106(8)</p> <p>At the time the respondent is taken into custody for evaluation or within a reasonable time thereafter, unless a responsible relative is in possession of the respondent's personal property, the certified peace officer taking him or her into custody shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by the respondent.</p>
Advisement of Mental Health Examination		<p>CRS 27-65-106(9)</p> <p>When a person is involuntarily admitted to a seventy-two-hour treatment and evaluation facility under the provisions of this section or section 27-65-105, the</p>



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		<p>person shall be advised by the facility director or his or her duly appointed representative that the person is going to be examined with regard to his or her mental condition.</p>
Right to An Attorney		<p>Right to an attorney whenever person is admitted to a 72-hour treatment & evaluation facility CRS 27-65-106(10)</p> <p>Whenever a person is involuntarily admitted to a seventy-two-hour treatment and evaluation facility, he or she shall be advised by the facility director or his or her duly appointed representative of his or her right to retain and consult with any attorney at any time and that, if he or she cannot afford to pay an attorney, upon proof of indigency, one will be appointed by the court without cost.</p>



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Mental Health Disorder—CRS 27-65-101(11.5)

(11.5) "Mental health disorder" includes one or more substantial disorders of the cognitive, volitional, or emotional processes **that grossly impairs judgment or capacity to recognize reality or to control behavior**. An intellectual or developmental disability is insufficient to either justify or exclude a finding of a mental health disorder pursuant to the provisions of this article 65.

Danger to Self or Others---CRS 27-65-101(4.5)

"Danger to self or others" means:

- (a) With respect to an individual, that the individual poses a substantial risk of physical harm to himself or herself as manifested by evidence of recent threats of or attempts at suicide or serious bodily harm to himself or herself; or
- (b) With respect to other persons, that the individual poses a substantial risk of physical harm to another person or persons, as manifested by evidence of recent homicidal or other violent behavior by the person in question, or by evidence **that others are placed in reasonable fear of violent behavior and serious physical harm to them, as evidenced by a recent overt act, attempt, or threat to do serious physical harm by the person in question.**



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Gravely Disabled---CRS 27-65-101(9)

"Gravely disabled" means a condition in which a person, as a result of a mental health disorder, is incapable of making informed decisions about or providing for his or her essential needs without significant supervision and assistance from other people.

As a result of being incapable of making these informed decisions, a person who is gravely disabled is at risk of:

- substantial bodily harm,
- dangerous worsening of any concomitant serious physical illness,
- significant psychiatric deterioration, or
- mismanagement of his or her essential needs that could result in substantial bodily harm.

A person of any age may be "gravely disabled", but such term does not include a person whose decision-making capabilities are limited solely by his or her developmental disability.



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Screening---CRS 27-65-101(20)

"Screening" means a review of all petitions, to consist of an interview with the petitioner and, whenever possible, the respondent, an assessment of the problem, an explanation of the petition to the respondent, and a determination of whether the respondent needs and, if so, will accept, on a voluntary basis, comprehensive evaluation, treatment, referral, and other appropriate services, either on an inpatient or an outpatient basis.