



CHAPTER 51 CIVIL COMMITMENTS



Chapter 51 - Mental Health Act

Provides legal procedures for voluntary and involuntary admission, treatment and rehabilitation of individuals (adults and minor children) afflicted with mental illness, developmental disability, drug dependency, or alcoholism.



Mental Illness

A substantial disorder of thought, mood, perception, orientation, or memory which grossly impairs judgement, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life, but does not include alcoholism.

- *Alcoholism or intoxication is not a basis for emergency detention, only protective custody under Ch 51.45.*



Elements of an Emergency Detention (ED)

Mental illness, drug dependency, or developmental disability

Danger to self or others

Unable or unwilling to cooperate with voluntary treatment

ED is least restrictive intervention to meet individual's needs



Emergency Detention (ED) 51.15

51.15(1) Basis For Detention – A law enforcement officer is authorized to take into custody a subject whom the officer has **cause to believe** is mentally ill, or drug dependent, or developmentally disabled, and that person evidences...**substantial probability** of harm to self or others.

- **Cause to believe** – do not need to have documented diagnosis, can rely on observations of subject and/or reliable reports of others.
- **Substantial probability** – a subject does not have to commit a dangerous act, rather there must be threats or behaviors which indicate the probability of dangerousness.



Standards of Dangerousness

- 1) Recent acts, attempts or threats of suicide or serious bodily harm to self.
- 2) Recent acts, attempts, or threats of serious bodily harm to others, or violent behavior which places others in reasonable fear of serious physical harm.
- 3) Impaired judgement evidenced by a pattern of recent acts or omissions causing the individual to be an inadvertent danger.
- 4) Mental illness causes the individual to be so gravely disabled that they are unable to satisfy life's basic needs for nourishment, medical care, shelter, or safety.



Standards of Dangerousness Cont'd

5) Individual is likely to suffer severe harm and lose ability to function independently in the community without intervention, as evidenced by:

- psychiatric treatment history
- current mental decompensation
- recent acts or omissions
- refusal of voluntary treatment

*5th standard requires doctor's evaluation of the patient's capacity to understand the risks and benefits of medications and apply to themselves.

*5th standard can only be used in 3-party petition, not ED.



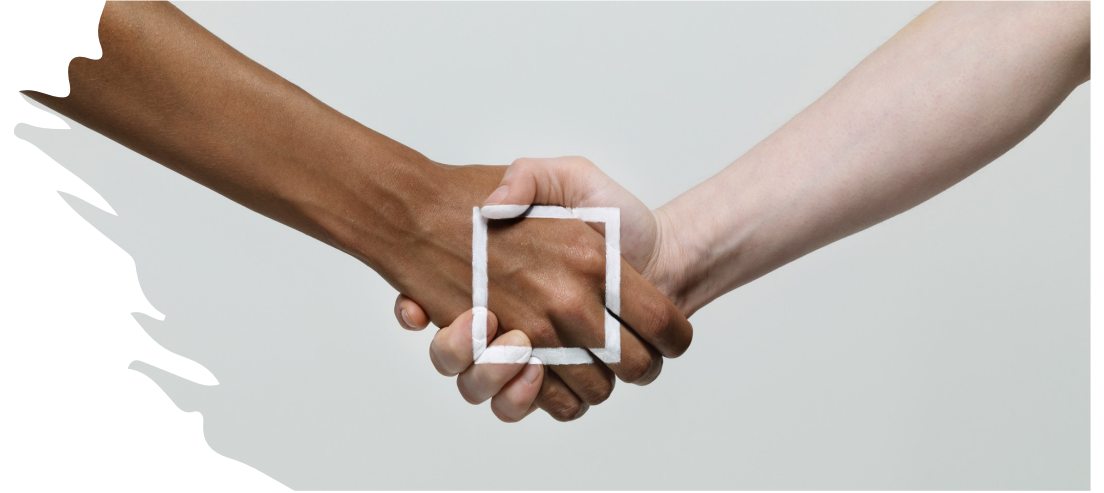
What is Considered Recent?

- Not defined in statutes
- 24-48 hours is general guideline
- Questions to consider:
 - What is the reason for delay between dangerous behavior and detaining the individual?
 - Is current presentation part of a continuous acute psychiatric episode, or was there a period of stability?
 - Has any intervention occurred to mitigate risk?



ED: A Mutual Decision

- Law enforcement can place an individual into protective custody for the purpose of ED evaluation.
- Law enforcement officers must consult with crisis/mental health staff of the county designated department of community programs.
- Crisis staff must approve the need for involuntary detention of the individual before law enforcement officers can complete an ED.
- Neither LE/Crisis can do ED without approval of the other.



Least Restrictive Disposition

Must identify ***least restrictive intervention*** necessary to address treatment needs and safety.

- Most Restrictive: ED to state mental health institution
- ED to locked psych unit at community hospital
- Voluntary admission at community hospital
- Admission to hospital diversion facility (unlocked, voluntary)
- Least Restrictive: community-based safety plan/outpatient follow-up



Why Might Crisis Decline to ED?

- Patient is voluntarily engaged in treatment.
- Dangerousness is not believed to be imminent.
- Risk is presumed/projected, not based on any behavioral observations.
- No reliable witness to testify to dangerousness.
- Reasonable less restrictive disposition is available.
- Patient is intoxicated (will re-evaluate when sober).
- Patient's history indicates inpatient psychiatric treatment does not reduce risk.
- No treatable mental illness.



Treatability – What Does This Mean?



- Purpose of Chapter 51 is to provide psychiatric treatment.
- TBIs, degenerative diseases such as dementia, and other conditions that cannot be treated/rehabilitated are not appropriate for Chapter 51 commitment.
- The proper legal avenue for such cases is Chapter 54/55 guardianship/protective placement.



What Happens After ED?

Probable Cause Hearing

- Must be held within 72 hours of detention
- **Witnesses testify to dangerousness**
 - *Must have directly observed behavior*
- Doctor testifies about mental illness and level of care needed
- Patient has defense counsel who advocates for what the patient wants (not necessarily what is in their best interests)
- Court commissioner determines whether there is sufficient reason (i.e. probable cause) to believe the allegations and continue to detain and treat the individual



What Happens After ED?

Probable Cause Hearing – Possible Outcomes

- Dismissal
- Settlement Agreement
- Conversion to temporary guardianship
- Probable cause is found:
 - Final hearing scheduled within 14 days of initial detention
 - Two doctors appointed to examine individual and submit findings and recommendations to the court



What Happens After ED?

Final Hearing – Possible Outcomes

- Dismissal
- Settlement Agreement (up to 90 days)
- Conversion to guardianship
- Involuntary civil commitment (up to 6 months):
 - Patient informed of outpatient conditions
 - Crisis/county dept monitors compliance
 - Individual can be returned to hospital for noncompliance
 - Order to Treat may be implemented by court, allowing psychotropic medications to be forcibly administered
 - Commitment can be extended (up to 12 months)



Other Ways to Pursue Commitment

- Three-Party Petition
 - Three individuals sign a petition to the court, drafted by Corporation Counsel, stating their belief that the person is mentally ill and a danger to self or others.
 - Petition is presented to judge for signature, body attachment order is issued, law enforcement detain the individual at treatment facility.
- Treatment Director's Hold
 - Patient voluntarily admits to psychiatric facility, requests discharge or refuses treatment; medical director can initiate hold if patient is believed to be imminent risk to self or others without continued treatment.

**Both must meet same standards of dangerousness as ED.*

**Subsequent court proceedings are same as ED.*



Monitoring Compliance

- Crisis elicits information from patient, family, providers, etc. re individual's stability and compliance with treatment.
- Violation of court order does not automatically result in return to more restrictive level of care (RTMR).
- RTMR can be based on noncompliance with outpatient conditions OR clinical judgement that return to inpatient is needed to stabilize (and patient is refusing admission).
- Decision to pursue re-detention is based on level of noncompliance, decompensation, dangerousness.
- Patient can seek voluntary admission at any time.
- Petition may be filed to EXTEND commitment if patient has displayed noncompliance or dangerous behavior.



QUESTIONS?

24/7 Crisis Line
608-280-2600

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