

Typical ways a person enters the mental health system:

1) PC (**Protective Custody**) by law enforcement

- a. Pursuant to 53-21-129 a peace officer may take into protective custody any person they believe to be suffering from a mental disorder. A mental health professional may ask a peace officer to take the person into protective custody. and
 1. Appears to be a imminent danger of death or bodily injury to themselves or others OR is unable to provide for their own basic needs
- b. This hold is to allow evaluation by a mental health professional. If a mental health professional agrees, the person can be held until the next business day; this hold is referred to as an **emergency detention**. In Lewis and Clark County before a person may be put on an ED the County Attorney's Office is contacted and must agree with the professional an **ED** is appropriate.
- c. If a patient is in protective custody during business hours there will not technically be an emergency detention. Rather the county attorney's office is contacted as to whether a petition is warranted.
- d. The next business day the mental health professional provides an update to the County Attorney's Office. If the situation still meets criteria for commitment a petitions is filed by the County Attorney's Office.
 1. The patient is brought before the judge to be read their rights and then is court ordered to remain at a specific mental health facility until the second hearing.
- e. Between the first and second hearing the patient may receive treatment in an attempt to stabilize, but has a right to refuse all but life saving medication. If the patient no longer meets

commitment criteria at the time of the second hearing the petition is dismissed.

- f. At any time after the filing of the petition the patient may present a voluntary option to the commitment to the State Hospital. This voluntary option will be vetted by the mental health professionals. If the voluntary option is acceptable the petition can also be dismissed.

2) Transfer to the ER

- a. In other situations peace officers are not involved and an individual may be brought to the ER by friends or family. Under this situation the patient is not under protective custody because law enforcement is not involved.
 - 1. This situation follows a similar track as above. If a person does decided to leave against medical advice before consultation has been completed they could be put under protective custody.
 - 2. A petition could be directly filed if during regular business hours, bypassing the need for an emergency detention. The patient would then be brought before the judge and could be held on a court order.
 - 3. The same outcome options are available in this situation as are available under an ED.

3) Voluntary

- a. Often a patient agrees to go to a mental health facility voluntarily and then changes their mind or the facility is unable to meet the level of care the patient requires. In these cases the facility itself can ask for a petition to be filed or for the patient
- b. If authorized by County Attorney, patient may be held on an ED until the next business day.

There are two types of holds which can be placed on a patient:

- 1) Emergency Detention: hold placed on a person on a night, weekend or holiday when court is not session and a patient cannot be brought before the court on a petition.
- 2) Court Ordered: This hold is ordered by the judge after the petition is filed and then a second hold is ordered between the first and second hearing.
 - a. While there is a distinction in name, they both have the same result; a person is not free to leave the facility they are detained in.

Hearings:

- After a petition has been filed the judge will review and determine if cause exists, by reading the first report from the mental health professional, to have a 2nd hearing. If they determine cause exists, they will set a time for an initial appearance. During the initial appearance the respondent will be read their rights.
- The initial appearance will either be done with the respondent personally present or they will appear via vision net.
- The 2nd hearing will be held at least 24 hours after the first and needs to be held within 5 business days.
 - o Between the hearings treatment can be facilitated
 - o If an acceptable voluntary option is presented the petition may be dismissed
 - o The respondent has the opportunity to request a friend be appointed to assist in the process
 - o Prior to the second hearing an independent evaluator and an evaluator for the State re-evaluate the respondent to determine if they continue to meet criteria

- If the respondent continues to meet criteria and a lesser restrictive alternative is not available a hearing is held and commitment to the State Hospital is requested
- If there is a lesser restrictive alternative or criteria is not met the petition is dismissed