

How to Obtain an Order for Detention and Examination in a Mental Health Emergency (“Writ”)

The County Division of the Circuit Court of Cook County hears matters arising under the Illinois Mental Health & Developmental Disabilities Code, 405 ILCS 5/1-1—*et seq.*, hereinafter the “Mental Health Code.” These matters include requests to have individuals transported to a hospital for a mental health evaluation, as well as petitions for involuntary commitment and petitions for involuntary treatment.

What Kinds of Mental Illness Does the Mental Health Code Address?

The Mental Health Code addresses serious mental illness which often includes schizophrenia, schizoaffective disorder, bipolar disorder and major depression. Specifically excluded from the Mental Health Code are substance abuse (unless co-occurring and not the primary diagnosis) and dementia, absent psychosis.

What Are My Options in an Emergency?

If you are concerned about the mental health and safety of someone, and believe an emergency situation exists where either the family or individual with mental illness is at risk of serious physical harm, the Mental Health Code allows you to petition the court for an Order of Detention and Examination. This Order for Detention and Examination, which is sometimes referred to as a “Writ,” directs law enforcement to transport an individual to the hospital for a psychiatric evaluation.

How Do You Obtain an Order For Detention and Examination?

If you are 18 or older contact the State’s Attorney’s office where the person with a mental illness (referred to as the “respondent”) resides or is located. In Cook County, the State’s Attorney’s Office, Special Prosecutions Bureau, Seniors & Persons with Disabilities Unit, can assist you in determining whether a Petition is appropriate and help complete the necessary court paperwork. There is no charge for this service.

The phone number of this Unit is 312-603-8600 and its office is located at 69 W. Washington, Suite 3130 Chicago, IL 60602. (The office location will change sometime in July 2017 to the 27th floor of the Richard J. Daley Center, 50 W. Washington, Chicago, IL 60602.) Office hours are from 8:30am through 4:30pm and same day walk-ins are accepted until 1:30pm. It is advisable to call prior to traveling downtown so that the office staff is prepared for your arrival and has the preliminary facts of your emergency situation.

You may also hire a private attorney who specializes in mental health law by calling one of your local legal bar associations and asking for referrals. A private attorney can advise

and assist with completing the necessary paperwork, the filing of the Petition on the 12th floor of the Daley Center, and coordination with the State's Attorney, if appropriate.

You may also file the Petition on your own.

How long is the Intake/Judicial Process and What Information Will the Court Require?

Expect to spend several hours completing the interview and intake process with the State's Attorney, as well as the completion of the Petition paperwork. If the facts of your case meet the requirements of the Mental Health Code, the State's Attorney will then escort you to the 17th floor of the Daley Center where you will give testimony under oath before the judge. If the judge determines that the legal criteria has been established the judge will then sign an Order for Detention and Examination.

In completing the Petition, it is important to document past and current behaviors that demonstrate that your loved one, who is referred to as the "respondent" in judicial proceedings, may be in need of hospitalization because of his/her mental illness. Be prepared to give testimony regarding any threats (past and present), aggressive, dangerous, bizarre or unusual behavior, inability to perform activities of daily living, non-compliance with medication or refusal to follow-up with treatment in the community or past hospitalizations. Be as specific as possible in completing the Petition. You will also need to identify the names and addresses of others who might have information regarding the facts asserted and you must disclose whether you have financial or legal dealings with the respondent.

On the same day, the State's Attorney will then file the Petition with the court (there is no filing fee) and you will appear before the judge. In addition to answering specific questions from the State's Attorney, understand that the judge may also ask you questions.

The court may consider the Petition on an *ex parte* basis, meaning without notice to the respondent, only if you allege and testify to those facts which show an emergency exists such that immediate hospitalization is necessary. 405 ILCS 5/3-701.

If the judge finds that no emergency exists, your Petition will not be granted without notice to the respondent. If that is the case, the Petition and request for examination may be entered and continued to a later date for notice to the respondent.

What If the Court Grants An Order for Detention and Examination?

If the Order for Detention and Examination or "Writ" is granted, it directs law enforcement, generally the police of the municipality where the respondent is located, to transport the respondent to the identified hospital for a mental health examination.

You must hand over the Order for Detention and Examination which you received after the court hearing to the appropriate law enforcement agency. It is suggested that you call ahead and advise the police that you have such an order and if possible ask that the order be executed by a CIT or crisis intervention trained police officer. Some families prefer to hire a private ambulance to transport instead of transportation in a police vehicle.

It is also suggested that the identified hospital be contacted, especially if it is a State facility such as Chicago Read Mental Health Center or Madden Mental Health Center, prior to the execution of the Order for Detention and Examination to determine that there is a bed available. The State's Attorney may advise you on how to navigate this process.

The Order for Detention and Examination is good for 72 hours from the time signed by the judge. If the 72 hours have expired without your loved one being detained at the hospital, you may start the process again by filing a new Petition based on new facts.

What Happens When My Loved One Gets to the Hospital? Will She/he Be Kept at the Hospital and Treated?

Not every individual brought to the hospital on an Order for Detention and Examination is admitted at the facility and treated. Many individuals are released after 24 hours.

According to the Mental Health Code, the individual may be detained for no more than 24 hours to determine whether or not she/he is subject to involuntary admission and in need of immediate hospitalization. The individual will be examined by a psychiatrist or other mental health professional such as a physician or clinical psychologist. After the evaluation, the medical personnel decide whether the individual must be kept at the facility. Upon completion of the examination, the individual is released unless the medical examiner executes a "certificate" stating that the person is subject to involuntary admission on an inpatient basis and in need of immediate hospitalization to protect such person or others from physical harm.

What If the Hospital Files A Certificate?

Upon receiving the first certificate and a timely filed second certificate from another qualified examiner, the court will set a hearing to decide if the respondent may be involuntarily held at the hospital. At any time before hearing, the facility director may determine that it is appropriate to discharge the respondent or the respondent may voluntarily agree to inpatient admission. If this happens, then no trial/hearing will take place.

If the matter does go to trial, you will be contacted by the State's Attorney's Office. If the petitioner meets its burden of proof by clear and convincing evidence, the court may order that the respondent be admitted for up to 90 days.