

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

If you are concerned about the mental health and safety of someone, and believe an emergency situation exists where either the family or the 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, you may 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 St., Suite 3130 Chicago, IL 60602. (Call first as this location may change.) Office hours are from 8:30 a.m. through 4:30 p.m., and same day walk-ins are accepted until 1:30 p.m. It is advisable to call first 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, filing the petition in the Clerk’s Office on the 12th floor of the Daley Center, and coordinating 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, intake process, and petition paperwork with the State’s Attorney. If the State’s Attorney determines that 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 have 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 the person who is the subject of the petition (referred to as the “respondent” in judicial proceedings) may be in need of hospitalization because of his or

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 you complete the paperwork, 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, 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 granted, the Order for Detention and Examination or "Writ" 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 turn 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 instead of requesting transportation in a police vehicle.

It is also suggested that the identified hospital be contacted, especially if it is a State of Illinois 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 whether a bed is available. The State's Attorney may advise you on how to navigate this process.

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

What happens when the respondent gets to the hospital? Will she or 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 she or 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.