

## Civil Involuntary Mental Health Commitment Process based on Statutes

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Event	Time Frame	Whose authority	Where	Standard	MCA Reference
Emergency Custody	"Only for sufficient time to contact a professional person for emergency evaluation"	Peace Officer	<p>"into custody" (frequently a local ER)</p> <ul style="list-style-type: none"> <li>• "least restrictive environment required to protect the life and physical safety of the person detained or members of the public"</li> <li>• "Whenever possible . . . in a MH facility and in the county of residence"</li> <li>• "not . . . in a jail or other correctional facility"</li> </ul>	<p>"Emergency Situation" exists;</p> <ul style="list-style-type: none"> <li>• person appears to have a mental disorder and</li> <li>• imminent danger of death or bodily harm to the person or to others</li> </ul>	<p>53-21-129(1) 53-21-102(7)  53-21-120(1)  53-21-120(2)  53-21-120(3)</p>

Event	Time Frame	Whose authority	Where	Standard	MCA Reference
Emergency Detention	"until the next regular business day"  Then must either release or file "findings" with County Attorney	Professional Person (MD, APRN, or DPHHS- certified as PP)  PP defined: 53-21-102(16)	generally in a local hospital, MHC crisis center, or MSH. County attorney "may make arrangements" with state, federal or private MH Facility.  <ul style="list-style-type: none"> <li>• "least restrictive environment required to protect the life and physical safety of the person detained or members of the public"</li> <li>• "Whenever possible . . . in a MH facility and in the county of residence"</li> <li>• "not . . . in a jail or other correctional facility"</li> </ul>	"PP agrees . . . the person is a danger to the person or others because of a mental disorder and that an emergency situation exists"  "must be detained and treated"	53-21-129(2),(3),(4)  53-21-129(2)  53-21-120(1)  53-21-120(2)  53-21-120(3)

Event	Time Frame	Whose authority	Where	Standard	MCA Reference
Report of Professional Person (First report)	by the next business day after evaluation - regardless of whether released or found in need of detention/ commitment	Professional Person	to the county attorney if recommending commitment AND to the court "in either case"	<ul style="list-style-type: none"> <li>explaining why released, or</li> <li>"findings" of need for commitment</li> </ul>	53-21-129(2)
Petition- may include request for continued detention	by next business day after detention	County Attorney	Venue = county of residence of R if R is detained; otherwise county where "person" is found	Contents specified Notice to specified individuals.	53-21-121(1),(2) 53-21-121(3) 53-21-129(2)
Notice to Judge	"immediately"	Clerk of court	Change of venue if not available in person, contact a "resident judge" by phone	Good cause, best interests of R	53-21-126(5) 53-21-122(1), (3)
Probable Cause Review		Judge	In person or by phone with clerk	probable cause review: dismiss or take next steps	53-21-122(2)

Event	Time Frame	Whose authority	Where	Standard	MCA Reference
Appointment of Counsel and set initial hearing	immediately*	Judge			53-21-122(2)
Initial Appearance	immediately*	Judge, or Justice of the Peace	"brought before the court"	Advised of rights Appoint Professional Person Appoint Friend of Respondent Set trial/hearing	53-21-122(2)
Enter/continue order of detention pending hearing or trial	any time after filing	Judge, at request of County Attorney	May be by video conference	Court's discretion	53-21-140
			<ul style="list-style-type: none"> <li>"least restrictive setting necessary to ensure the respondent's presence and ensure the safety of the respondent and of others as provided in 53-21-120"</li> </ul>	<ul style="list-style-type: none"> <li>"may not order detention... unless requested by the county attorney and upon the existence of probable cause for detention"</li> <li>R's counsel must be orally notified immediately</li> </ul>	53-21-124
			<ul style="list-style-type: none"> <li>(see page 2 for 53-21-120 detention requirements)</li> </ul>		53-21-120

Event	Time Frame	Whose authority	Where	Standard	MCA Reference
Detention Hearing	R may request "immediate relief" "Immediately" upon counsel's request	Requested by "person being detained prior to commitment"		"With respect to the need for detention or the adequacy of the facility being utilized to detain."	53-21-120(4)  53-21-124((1))
Set Hearing	not on the same day as the initial appearance, and not more than 5 days later, including weekends and holidays, unless 5 <sup>th</sup> day falls on weekend or holiday, or unless additional time is requested by respondent.	Judge	Change of venue May be by video conference	Respondent must be present at hearing, unless waived with consent of counsel and Friend with concurrence of Professional Person and Judge (for minor, additional consent of parent or guardian or g.a.l.) if presence would adversely affect R's mental condition and there is no alternative location which would prevent adverse effects  good cause, best interests of R court's discretion	53-21-122(2) 53-21-126(1)  53-21-110(2)  3-21-126(5)  53-21-140

Event	Time Frame	Whose authority	Where	Standard	MCA Reference
Request for Jury Trial	<p>R may request "at any time prior to the date set for hearing"</p> <p>hearing must be set "at the earliest date possible, taking precedence over all other matters" – no later than 7 days from request, exclusive of Sat, Sun, Holidays</p> <p>OR</p> <p>"must be held within 30 days"</p>	R or counsel request			53-21-125
Examination of Respondent following Initial hearing	"without unreasonable delay" duration not to exceed 4 hours	by the Professional Person appointed by the court.	Usually takes place where R is detained	Report to court and if PP recommends dismissal, "R must be released" unless CA requests additional exam	53-21-123

Event	Time Frame	Whose authority	Where	Standard	MCA Reference
Additional examination		<ul style="list-style-type: none"> <li>• No court order needed for R, R's attorney or appointed Friend at own expense</li> <li>• By court order</li> <li>• On request of County Atty</li> <li>• On request of R if detained</li> <li>• On request of R if unable to afford</li> </ul>		<p>"sound medical reasons require additional time"</p> <ul style="list-style-type: none"> <li>• if first PP recommends dismissal and</li> <li>• "good cause shown"</li> </ul> <p>by PP of R's choice, and "may not depend on . . . ability to pay"</p> <p>if R is "unable to do so because of financial reasons. . . the court shall allow . . . a reasonable choice of an available PP" who will be "compensated from public funds of the county where the R resides"</p>	<p>53-20-118(1)</p> <p>53-21-123(3)</p> <p>53-21-123</p> <p>53-21-124</p> <p>53-20-118(2)</p>

Event	Time Frame	Whose authority	Where	Standard	MCA Reference
Trial or Hearing	see above for time	PP appointed by the court must be present for trial	see above for venue	<p>Standard of Proof:</p> <p>Beyond a Reasonable Doubt for physical facts</p> <p>Clear and Convincing for other matters</p> <p>"Reasonable medical certainty" for mental disorder or mental disorder</p> <p>"Injury" or "imminent threat"</p> <p>"must be proved by overt acts or omissions sufficiently recent in time as to be material and relevant" to present condition.</p> <p>"predictable deterioration" must be based on "recent acts or omissions" and "relevant medical history"</p>	53-21-126(2)
					53-20-126(1)(d)

Event	Time Frame	Whose authority	Where	Standard	MCA Reference
Decision as to whether R requires commitment	Outcome of Trial or Hearing	Judge OR Jury		<p>Commitment criteria -- Because of a mental disorder,</p> <ul style="list-style-type: none"> <li>• (a) R is "substantially unable to provide for . . . basic needs of food, clothing, shelter, health, or safety;</li> <li>• (b) R has "recently . . . caused self-injury or injury to others";</li> <li>• (c) there is "imminent threat of injury to the respondent or to others;" or</li> <li>• (d) R's "mental disorder. . . will, if untreated, predictably result in deterioration . . . to the point at which R will become a danger to self or to others or will be unable to provide for R's own basic needs of food, clothing, shelter, health, or safety."</li> </ul>	53-21-126(1) and (4)

Event	Time Frame	Whose authority	Where	Standard	MCA Reference
Disposition Hearing (if R requires commitment)	within 5 days of Trial or Hearing, including Saturday, Sunday, Holiday, unless fifth day falls on Saturday, Sunday or Holiday	Judge (there is no jury for disposition hearing)	see above for venue	<p>Least Restrictive Alternative Required:</p> <p>If meets inpatient criteria, 53-20-126 (1)(a),(b), or (c), R may be committed to:</p> <ul style="list-style-type: none"> <li>• Mt St Hosp or BHIF (none currently exist) for up to 3 months</li> <li>• Mt. Mental Health Nursing Care Center for up to 3 months - must meet admission criteria and have authorized admission date</li> <li>• "Community Facility or program" for up to 3 months or 6 months if prior history of inpatient commitment</li> </ul> <p>If meets <u>only</u> the criteria of "predictable deterioration," (53-20-126(1)(d)), then may be committed <u>only</u> to a "Community Facility or program" as above</p> <p>Court must give written notice of right to appeal "at the conclusion of [the] hearing"</p> <p>Order must contain specific findings</p>	<p>53-21-127(5)</p> <p>53-21-127(3)(a)</p> <p>53-21-127(3)(c)</p> <p>53-21-127(3)(b)</p> <p>53-20-127(7)</p> <p>53-21-114(2)</p> <p>53-21-126(8)</p>

Event	Time Frame	Whose authority	Where	Standard	MCA Reference
Involuntary Medication		Judge	At disposition hearing	<p>"Involuntary medication is necessary to protect the R or the public or to facilitate effective treatment"</p> <p>Triggers administrative hearing process at facility prior to actual administration of medication without consent</p>	<p>53-21-127(6)</p> <p>53-20-127(h)</p>
Extension of Commitment	Petition must be filed 2 calendar weeks prior to expiration	Initiated by treating PP	<p>Venue = County where person is committed, "unless otherwise ordered by original committing court"</p> <p>(E.g., Anaconda-Deer Lodge County for MSH)</p>	essentially same standards plus demonstrable treatment plan	53-21-128
Conditional Release	Any time prior to expiration of commitment	Professional Person in charge of MH Facility		"Can be appropriately served by outpatient care" and community provider "agrees in writing to assume responsibility"	53-20-183

Event	Time Frame	Whose authority	Where	Standard	MCA Reference
Rehospitalization after Conditional Release	Petition filed before expiration of current order of commitment	Initiated by CA, outpatient PP provider, or R's next of kin	Venue = "in any district court"	<p>Similar process to initial commitment, including detention</p> <p>Revocation standard:</p> <p>(1) R has violated a condition of the release,</p> <p>(2) the violation has caused a deterioration of the patient's mental condition, and</p> <p>(3) the patient can no longer be appropriately served as an outpatient.</p>	53-21-195, 196, 197  53-21-197(1)
Appeal (of any type commitment order)	Later of: 90 days from service of written notice of right to appeal OR 90 d after discharge			<p>No release pending appeal "unless ordered by the court"</p> <p>"priority above all other matters before the supreme court"</p>	53-21-131