

C.R.S. 27-81-112

Copy Citation

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- [Colorado Revised Statutes Annotated](#)
- [Title 27. Behavioral Health \(§§ 27-1-101 — 27-94-106\)](#)
- [Alcohol and Substance Use - Alcohol and Substance Use Disorders \(Arts. 80 — 82\)](#)
- [Article 81. Alcohol Use Education, Prevention, and Treatment \(§§ 27-81-101 — 27-81-118\)](#)

27-81-112. Involuntary commitment of a person with a substance use disorder

(1) The court may commit a person to the custody of the office of behavioral health upon the petition of the person's spouse or guardian, a relative, a physician, an advanced practice nurse, the administrator in charge of an approved treatment facility, or any other responsible person. The petition must allege that the person has a substance use disorder and that the person has threatened or attempted to inflict or inflicted physical harm on himself or herself or on another and that unless committed the person is likely to inflict physical harm on himself or herself or on another or that the person is incapacitated by substances. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment. The petition must be accompanied by a certificate of a licensed physician who has examined the person within ten days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal must be alleged in the petition, or an examination cannot be made of the person due to the person's condition. The certificate must set forth the physician's findings in support of the petition's allegations.

(2) A court shall not accept a petition submitted pursuant to subsection (1) of this section unless there is documentation of the refusal by the person to be committed to accessible and affordable voluntary treatment. The documentation may include, but is not limited to, notations in the person's medical or law enforcement records or statements by a physician, advanced practice nurse, or witness.

(3)

(a) Upon filing the petition, the person whose commitment is sought must be notified of the person's right to:

(I) Enter into a stipulated order of the court for committed treatment in order to expedite placement in an approved treatment facility by the office of behavioral health; or

(II) Contest the commitment proceeding.

(b) If a stipulated order is entered, the office of behavioral health shall place the person in an approved treatment program that reflects the level of need of the person.

(c) If the person whose commitment is sought exercises the right to contest the petition, the court shall fix a date for a hearing no later than ten days, excluding weekends and holidays, after the date the petition was filed. A copy of the petition and the notice of the hearing, including the date fixed by the court, must be personally served on the petitioner, the person whose commitment is sought, and one of the person's parents or the person's legal guardian if the person is a minor. A copy of the petition and notice of hearing must be provided to the office of behavioral health, to counsel for the person whose commitment is sought, to the administrator in charge of the approved treatment facility to which the person may have been committed for emergency treatment, and to any other person the court believes advisable.

(4) At the hearing, the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. The person must be present unless the court believes that the person's presence is likely to be injurious to the person; in this event, the court shall appoint a guardian ad litem to represent the person throughout the proceeding. If the person has refused to be examined by a licensed physician, the

person must be given an opportunity to be examined by a court-appointed licensed physician. If the person refuses and there is sufficient evidence to believe that the allegations of the petition are true or if the court believes that more medical evidence is necessary, the court may commit the person to a licensed hospital for a period of not more than five days for a diagnostic examination. In such event, the court shall schedule a further hearing for final determination of commitment, in no event later than five days after the first hearing.

(5) If after hearing all relevant evidence, including the results of any diagnostic examination by the licensed hospital, the court finds that grounds for involuntary commitment have been established by clear and convincing proof, the court shall make an order of commitment to the office of behavioral health. The office of behavioral health has the right to delegate physical custody of the person to an appropriate approved treatment facility. The court may not order commitment of a person unless it determines that the office of behavioral health is able to provide adequate and appropriate treatment for the person, and the treatment is likely to be beneficial.

(6) Upon the court's commitment of a person to the office of behavioral health, the court may issue an order to the sheriff to transport the person to the facility designated by the office of behavioral health.

(7) A person committed as provided for in this section remains in the custody of the office of behavioral health for treatment for a period of up to ninety days. At the end of the ninety-day period, the treatment facility shall automatically discharge the person unless the office of behavioral health, before expiration of the ninety-day period, obtains a court order for the person's recommitment on the grounds set forth in subsection (1) of this section for a further period of ninety days unless discharged sooner. If a person has been committed because the person is a person with a substance use disorder who is likely to inflict physical harm on another, the office of behavioral health shall apply for recommitment if, after examination, it is determined that the likelihood to inflict physical harm on another still exists.

(8) A person who is recommitted as provided for in subsection (7) of this section and who has not been discharged by the office of behavioral health before the end of the ninety-day period is discharged at the expiration of that ninety-day period unless the office of behavioral health, before expiration of the ninety-day period, obtains a court order on the grounds set forth in subsection (1) of this section for recommitment for a further period, not to exceed ninety days. If a person has been committed because the person is a person with a substance use disorder who is likely to inflict physical harm on another, the office of behavioral health shall apply for recommitment if, after examination, it is determined that the likelihood to inflict physical harm on another still exists. Only two recommitment orders pursuant to subsection (7) of this section and this subsection (8) are permitted.

(9) Upon the filing of a petition for recommitment under subsections (7) and (8) of this section, the court shall fix a date for hearing not later than ten days, excluding weekends and holidays, after the date the petition was filed unless a valid medical reason exists for delaying the hearing. A copy of the petition and of the notice of hearing shall be served and provided as required in subsection (3) of this section. At the hearing, the court shall proceed as provided in subsection (4) of this section.

(10) The office of behavioral health shall provide adequate and appropriate treatment of a person committed to its custody. The office of behavioral health may transfer any person committed to its custody from one approved treatment facility to another, if transfer is advisable.

(11) The office of behavioral health shall discharge a person committed to its custody for treatment at any time before the end of the period for which the person has been committed if either of the following conditions is met:

(a) In the case of a person with a substance use disorder committed on the grounds that the person is likely to inflict physical harm upon another, that the person no longer has a substance use disorder that requires treatment or the likelihood to inflict physical harm upon another no longer exists; or

(b) In the case of a person with a substance use disorder committed on the grounds of the need of treatment and incapacity, that the incapacity no longer exists, or in the case of a person with a substance use disorder committed on any grounds pursuant to this section, that further treatment is not likely to bring about significant improvement in the person's condition, or treatment is no longer appropriate, or that further treatment is unlikely to be beneficial.

(12) The court shall inform the person whose commitment or recommitment is sought of the person's right to contest the application, to be represented by counsel at every stage of any proceedings relating to the person's commitment and recommitment, and to have counsel appointed by the court or provided by the court if the person wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for the person regardless of the person's wishes. The person whose

commitment or recommitment is sought shall be informed of the person's right to be examined by a licensed physician of the person's choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

(13) If a private treatment facility agrees with the request of a competent patient or the patient's parent, sibling, adult child, or guardian to accept the patient for treatment, the administrator of the public treatment facility shall transfer the patient to the private treatment facility.

(14) A person committed under this article 81 may at any time seek to be discharged from commitment by an order in the nature of habeas corpus.

(15) The venue for proceedings under this section is the county in which the person to be committed resides or is present.

(16) All proceedings conducted pursuant to this article 81 are conducted by the district attorney of the county where the proceeding is held or by an attorney acting for the district attorney appointed by the court for that purpose; except that, in any county or in any city and county having a population exceeding one hundred thousand persons, the proceedings shall be conducted by the county attorney or by an attorney acting for the county attorney appointed by the court.

History

Source: **L. 2010:** Entire article added with relocations, (SB 10-175), ch. 188, p. 741, § 2, effective April 29. **L. 2017:** (1), (3), (5), (6), (7), (8), (10), and (11) amended, (SB 17-242), ch. 263, p. 1368, § 279, effective May 25. **L. 2020:** Entire section amended, (SB 20-007), ch. 286, p. 1401, § 21, effective July 13.

▼ Annotations

State Notes

Notes

Editor's note:

This section is similar to former § 25-1-311 as it existed prior to 2010.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.