

**Arizona Department of Health Services  
Division of Behavioral Health Services  
PROVIDER MANUAL**

**Section 3.18**      **Pre-Petition Screening, Court-Ordered  
Evaluation and Court-Ordered Treatment**

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**3.18.1**      **Introduction**

This section is only applicable to behavioral health providers under contract with a Regional Behavioral Health Authority.

At times, it may be necessary to initiate a civil court action to ensure the safety of a person, or the safety of other persons, due to a person's mental disorder when that person is unable or unwilling to participate in treatment. In Arizona, state law permits any responsible person to submit an application for pre-petition screening when another person may be, as a result of a mental disorder:

- A danger to self (DTS);
- A danger to others (DTO);
- Persistently or acutely disabled (PAD); or
- Gravely disabled (GD).

Pre-petition screening includes an examination of the person's mental status and/or other relevant circumstances by a designated screening agency. Upon review of the application, examination of the person and review of other pertinent information, a licensed screening agency's medical director or designee will determine if the person meets criteria for DTS, DTO, PAD or GD as a result of a mental disorder.

If the pre-petition screening indicates that the person may be DTS, DTO, PAD or GD, the screening agency will file an application for a court-ordered evaluation. Based on the immediate safety of the person or others, an emergency admission for evaluation may be necessary. Otherwise, an evaluation will be arranged for the person by a designated evaluation agency within timeframes specified by state law.

Based on the court-ordered evaluation, the evaluating agency may petition for court-ordered treatment on behalf of the person. A hearing, with the person and his/her legal representative and the physician(s) treating the person, will be conducted to determine whether the person will be released and/or whether the agency will petition the court for court-ordered treatment. For the court to order ongoing treatment, the person must be

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determined, as a result of the evaluation, to be DTS, DTO, PAD or GD. A mental health agency, which in some cases may be a RBHA, will be identified by the court as the party responsible for managing the person's court-ordered treatment. Court-ordered treatment may include a combination of inpatient and outpatient treatment. Inpatient treatment days are limited contingent on the person's designation as DTS, DTO, PAD or GD. Persons identified as:

- DTS may be ordered up to 90 inpatient days per year;
- DTO and PAD may be ordered up to 180 inpatient days per year; and
- GD may be ordered up to 365 inpatient days per year.

At every stage of the pre-petition screening, court-ordered evaluation and court-ordered treatment process, a person will be provided an opportunity to change his/her status to voluntary. Under voluntary status, the person is no longer considered to be at risk for DTS/DTO and agrees in writing to receive a voluntary evaluation.

County agencies and RBHA contracted agencies responsible for pre-petition screening and court-ordered evaluations must use the following forms prescribed in 9 A.A.C. 21, Article 5 for persons determined to have a serious mental illness:

- [ADHS/DBHS Form MH-100, Application for Involuntary Evaluation;](#)
- [ADHS/DBHS Form MH-103, Application for Voluntary Evaluation;](#)
- [ADHS/DBHS Form MH-104, Application for Emergency Admission for Evaluation;](#)
- [ADHS/DBHS Form MH-105, Petition for Court-Ordered Evaluation;](#)
- [ADHS/DBHS Form MH-110, Petition for Court-Ordered Treatment;](#) and
- [ADHS/DBHS Form MH-112, Affidavit, Addendum No. 1 and Addendum No. 2.](#)

Agencies may also use these forms for all other populations.

The intent of this section is to provide a broad overview of the pre-petition screening, court-ordered evaluation and court-ordered treatment process. Depending on a behavioral health provider's designation as a screening, evaluation or court-ordered treatment agency, the extent of involvement with persons receiving pre-petition screening, court-ordered evaluation and court-ordered treatment services will vary. RBHAs will provide explicit expectations for behavioral health providers regarding this content area within sub-section 3.18.7.

#### **3.18.2 References**

The following citations can serve as additional resources for this content area:

[A.R.S. Title 36, Chapter 5](#)

[A.R.S. § 36-2005](#)

[A.R.S. Title 14, Chapter 5](#)

[R9-20-802](#)

[R9-20-803](#)

[9 A.A.C 21, Article 5](#)

[ADHS/RBHA Contract](#)

[Transition of Persons Section](#)

[General and Informed Consent to Treatment Section](#)

[Behavioral Health Medical Record Standards Section](#)

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#### [Information Sharing with Family Members of Adult Behavioral Health Recipients](#) [Technical Assistance Document](#)

#### **3.18.3 Scope**

##### **To whom does this apply?**

All persons who are unwilling or unable to seek behavioral health treatment, who may be DTS, DTO, PAD or GD due to a mental disorder, and who may require pre-petition screening, court-ordered evaluation and/or court-ordered treatment.

#### **3.18.4 Did you know...?**

- Arizona Counties are responsible for managing, providing and paying for pre-petition screening and court-ordered evaluations and are required to coordinate provision of behavioral health services with the ADHS/DBHS system. Some counties contract with RBHAs to process pre-petition screenings and petitions for court-ordered evaluations.
- ALTCS Program Contractors are responsible for providing and funding services under court-ordered treatment of elderly and physically disabled (EPD) ALTCS-enrolled persons.
- Upon determination that a person is gravely disabled, the person must be recommended for appointment of a guardian and/or conservator if one is not already assigned to the person.
- A person found to be gravely disabled and who is undergoing court-ordered treatment receives an annual examination and review to determine whether the continuation of court-ordered treatment is appropriate.
- The medical director of the agency providing court-ordered treatment must inform persons of their right to judicial review and their right to consult with counsel at least once each sixty days while undergoing court-ordered treatment. This notification must be recorded in the clinical record of the person by the individual who gave the notice.

#### **3.18.5 Definitions**

[Danger to Self \(DTS\)](#)

[Danger to Others \(DTO\)](#)

[Persistently or Acutely Disabled \(PAD\)](#)

[Gravely Disabled \(GD\)](#)

[Pre-petition Screening](#)

[Court-Ordered Evaluation](#)

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#### Mental Disorder

#### **3.18.6 Objectives**

To inform behavioral health providers of the pre-petitioning screening, court-ordered evaluation and court-ordered treatment process for persons who are unable or unwilling to seek behavioral health treatment and, due to a mental disorder, may be DTS, DTO, PAD or GD.

#### **3.18.7 Procedures**

##### **3.18.7-A. Licensure Requirements**

Behavioral health providers who are licensed by the Arizona Department of Health Services/Division of Assurance and Licensure Services/Office of Behavioral Health Licensure (OBHL) as a court-ordered evaluation or court-ordered treatment agency must adhere to OBHL requirements.

##### **3.18.7-B. Pre-Petition Screening**

Counties may contract with RBHAs for pre-petition screening services, or counties may provide their own pre-petition screening services. Procedures for pre-petition screening are outlined below.

The pre-petition screening includes an examination of the person's mental status and/or other relevant circumstances by a designated screening agency. The designated screening agency must follow these procedures:

- The pre-petition screening agency must offer assistance, if needed, to the applicant in the preparation of the application for court-ordered evaluation (see [ADHS/DBHS Form MH-100, Application for Involuntary Evaluation](#)).
- Any behavioral health provider that receives an application for court-ordered evaluation (see [ADHS/DBHS Form MH-100, Application for Involuntary Evaluation](#)) must immediately refer the applicant for pre-petition screening and petitioning for court-ordered evaluation to the RBHA designated pre-petition screening agency or county facility.

**[The following actions include requirements for RBHAs contracting with the county for pre-petition screening and for RBHAs who do not contract with the county for pre-petition screening. Both sections may be applicable to RBHAs whose GSAs include multiple counties. In the event that only one section applies, please remove the section that does not apply.]**

When the county is contracted with the RBHA for pre-petition screening services  
**[RBHA, if applicable, indicate which counties contract with the RBHA to provide pre-petition screening services.]**

When the county is contracted with a RBHA for pre-petition screening and petitioning for court-ordered evaluation, the RBHA must refer the applicant to a designated pre-petition screening agency. The pre-petition screening agency must follow these procedures:

- Provide pre-petition screening within forty-eight hours excluding weekends and holidays;

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- Prepare a report of opinions and conclusions. If pre-petition screening was not possible, the screening agency must report reasons why the screening was not possible, including opinions and conclusions of staff members who attempted to conduct the pre-petition screening;
- Have the medical director or designee of the RBHA review the report if it indicates that there is no reasonable cause to believe the allegations of the applicant for the court-ordered evaluation;
- Prepare a petition for court-ordered evaluation and file the petition if the RBHA determines that the person, due to a mental disorder, including a primary diagnosis of dementia and other cognitive disorders, is DTS, DTO, PAD or GD. [ADHS/DBHS Form MH-105, Petition for Court-Ordered Evaluation](#) documents pertinent information for court-ordered evaluation;
- If the RBHA determines that there is reasonable cause to believe that the person, without immediate hospitalization, is likely to harm himself/herself or others, the RBHA must ensure completion of [ADHS/DBHS Form MH-104, Application for Emergency Admission for Evaluation](#), and take all reasonable steps to procure hospitalization on an emergency basis;
- Contact the county attorney prior to filing a petition if it alleges that a person is DTO; and
- **[RBHA insert additional language here about what procedures the designated pre-petition screening agencies and all other providers must follow].**

When the county is not contracted with the RBHA for pre-petition screening services  
**[RBHAs, if applicable, indicate which counties do not contract with the RBHA to provide pre-petition screening services.]**

When the county is not contracted with a RBHA for pre-petition screening and petitioning for court-ordered evaluation; **[RBHA insert language here regarding specifically where a behavioral health provider would file pre-petition screens and COEs if other than the RBHA's contracted, designated pre-petition screening agency].**

#### **3.18.7-C. Court-Ordered Evaluation**

If the pre-petition screening indicates that the person may be DTS, DTO, PAD or GD, the screening agency will file an application for a court-ordered evaluation. The procedures for court-ordered evaluations are outlined below:

**[The following actions include requirements for RBHAs contracting with the county for court-ordered evaluations and for RBHAs who do not contract with the county for court-ordered evaluations. Both sections may be applicable to RBHAs whose GSAs include multiple counties. In the event that only one section applies, please remove the section that does not apply.]**

When the county is contracted with the RBHA for court-ordered evaluations  
**[RBHA, if applicable, indicate which counties contract with the RBHA to provide court-ordered evaluation services.]**

When the county is contracted with the RBHA to perform court-ordered evaluations, the RBHA or its subcontracted behavioral health provider must follow these procedures:

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- A person being evaluated on an inpatient basis must be released within seventy-two hours if further evaluation is not appropriate, unless the person makes application for further care and treatment on a voluntary basis;
- A person who is determined to be DTO, DTS, PAD or GD as a result of a mental disorder must have a petition for court-ordered treatment prepared, signed and filed by the RBHA medical director or designee;
- Title XIX/XXI funds must not be used to reimburse court-ordered evaluation services; and
- **[RBHA insert additional language here about what procedures the behavioral health provider must follow].**

#### Voluntary Evaluation

- Any RBHA contracted behavioral health provider that receives an application for voluntary evaluation must immediately refer the person to the facility responsible for voluntary evaluations. **[RBHA insert language here regarding specifically where a behavioral health provider would refer a person for a voluntary evaluation].**
- The RBHA contracted behavioral health provider must follow these procedures:
  - The evaluation agency must obtain the individual's informed consent prior to the evaluation (see [ADHS/DBHS Form MH-103, Application for Voluntary Evaluation](#)) and provide evaluation at a scheduled time and place within five days of the notice that the person will voluntarily receive an evaluation;
  - For inpatient evaluations, the evaluation agency must complete evaluations in less than seventy-two hours of receiving notice that the person will voluntarily receive an evaluation; and
  - **[RBHA insert additional information here].**
- If a behavioral health provider conducts a voluntary evaluation service as described in this section, the comprehensive clinical record (see [Section 4.2, Behavioral Health Medical Record Standards](#)) must include:
  - A copy of the application for voluntary evaluation, [ADHS/DBHS Form MH-103, Application for Voluntary Evaluation](#);
  - A completed informed consent form (see [Section 3.11, General and Informed Consent to Treatment](#)); and
  - A written statement of the person's present medical condition.

When the county is not contracted with the RBHA for court-ordered evaluations  
**[RBHAs, if applicable, indicate which counties do not contract with the RBHA to provide court-ordered evaluation services.]**

**[RBHA insert language here to indicate procedures followed when the county is responsible for court-ordered evaluations and voluntary evaluations.]**

#### **3.18.7-D. Court-Ordered Treatment**

Based on the court-ordered evaluation, the evaluating agency may petition for court-ordered treatment. The behavioral health provider must follow these procedures:

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- Upon determination that an individual is DTS, DTO, GD, or PAD, and if no alternatives to court-ordered treatment exist, the medical director of the agency that provided the court-ordered evaluation must file a petition for court-ordered treatment (see [ADHS/DBHS Form MH-110, Petition for Court-Ordered Treatment](#));
- Any behavioral health provider filing a petition for court-ordered treatment must do so in consultation with the person's clinical team prior to filing the petition;
- The petition must be accompanied by the affidavits of the two physicians who conducted the examinations during the evaluation period and by the affidavit of the applicant for the evaluation (see [ADHS/DBHS Form MH-112, Affidavit and attached addenda](#));
- A copy of the petition, in cases of grave disability, must be mailed to the public fiduciary in the county of the patient's residence, or in which the patient was found before evaluation, and to any person nominated as guardian or conservator; and
- A copy of all petitions must be mailed to the superintendent of the Arizona State Hospital.

RBHAs must perform, either directly or by contract, all treatment required by A.R.S. Title 36, Chapter 5, Article 5 and 9 A.A.C. 21, Article 5.

#### Persons who are Title XIX/XXI eligible and/or determined to have a serious mental illness (SMI).

- When a person referred for court-ordered treatment is Title XIX/XXI eligible and/or determined or suspected to have a serious mental illness, the RBHA must:
  - Conduct an evaluation to determine if the person has a serious mental illness in accordance with [Section 3.10, SMI Eligibility Determination](#), and conduct a behavioral health assessment to identify the person's service needs in conjunction with the person's clinical team, as described in [Section 3.9, Intake, Assessment and Service Planning](#); and
  - Provide necessary court-ordered treatment and other covered behavioral health services in accordance with the person's needs, as determined by the person's clinical team, with input from the clinical liaison, the behavioral health recipient, family members, and other involved parties(see [Section 3.9, Intake, Assessment and Service Planning](#)).

#### Persons who are Non-Title XIX/XXI eligible and not determined to have a serious mental illness (SMI).

- RBHAs receive limited funds to provide court-ordered treatment services to Non-Title XIX/XXI eligible, Non-SMI persons. The following services must be provided based upon available funding:
  - Court-ordered DUI screening,
  - Court-ordered DUI education,
  - Court-ordered treatment for drug and alcohol use disorders, and
  - Other Non-SMI court-ordered treatment.

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Transfer from one behavioral health provider to another.

- A person ordered by the court to undergo treatment can be transferred from a behavioral health provider to another behavioral health provider if:
  - The person does not have a court appointed guardian;
  - The medical director of the receiving behavioral health provider accepts the transfer; and
  - The consent of the court for the transfer is obtained as necessary (see [Section 3.17, Transition of Persons](#), for more details).

**[RBHA insert specific language here]**