

Emergency Detention F.A.Q.

What is emergency detention (ED)?

Emergency detention is a temporary legal process that keeps people in mental health crises safe.

If someone appears to have a mental disorder and...

- *is in imminent danger of harming themselves and/or others*
- *is substantially unable to provide for their basic needs (food, clothing, shelter, health, safety)*

... a peace officer (police officer, sheriff, etc.) may take the individual in crisis into custody.

A mental health professional person (MHPP) will evaluate the individual once they are in custody. If the professional finds that they meet the criteria listed above, the individual can be held and treated until the next business day. This can take place at a crisis care facility, hospital, or jail.

Within 24 hours of that hold, the MHPP must either deem the individual safe for release or contact the county attorney. If the county attorney agrees with the MHPP's assessment, they can file a petition for emergency detention with the court.

After a petition is filed, the individual is read their rights at a hearing. Within the next 5 days, the individual receives treatment, is evaluated again, and has a second hearing. A judge will decide to release or commit the individual to treatment at that second hearing.

My loved one has been put on emergency detention. What do I do?

Where are they? Can I see my loved one?

Throughout the ED process, they will stay in a secure location (crisis facility, hospital, jail, or the Montana State Hospital). For their safety and the safety of those around them, visits are rarely allowed.

How can I get information about the situation?

The court assigns a "friend of the respondent" in commitment legal proceedings. This allows a relative to be involved in the process and informed of the details of the case. A notice of petition, which includes names of the friend of respondent, legal counsel, and the professional person, is delivered to the next of kin and persons responsible for care and support.

Unless you have been listed as an emergency contact, the facility won't be able to confirm or deny that your loved one is there. The Health Insurance Portability and Accountability Act (HIPAA) does not allow the release of an adult's information to anyone without consent. You have the right to provide information (i.e. history, health needs, supports) to the staff, and your loved one will be able to make phone calls to you.

Do I need to get them a lawyer?

No—at the first hearing, your loved one was/will be read their rights and a public defender was/will be assigned to them. An individual also has the right to their own attorney.

How long are they on ED?

Emergency detention typically lasts for 5 days once a petition has been filed, but the process may be extended depending on the circumstances.

Can they wear their own clothes?

At a crisis home, yes, so long as it is safe (not too restrictive, no laces/ strings, etc.). If they do not have anything safe to wear, they will be provided clothing. Crisis homes do laundry on-site.

What happens afterwards?

At the second hearing, the MHPP and judge may decide to:

- Have your loved one's ED dismissed so they can go home
- Set up a 14 Day Diversion for voluntary treatment at a crisis facility
- Admit your loved one into a category D assisted living facility
- Commit your loved one to the Montana State Hospital (MSH) for no more than 90 days

If the petition is dismissed, or your loved one is released from MSH, the court's case file is sealed and that information will not be readily available.

For more information: See MCA's [53-21-129](#), [53-21-102](#), [53-21-121](#), [53-21-122](#), [53-21-120](#), [53-21-125](#), [53-21-116](#), [53-21-119](#), [53-21-123](#), [53-21-126](#), [53-21-127](#) // Contact Mary Collins: 406-444-9635; Mary.Collins@mt.gov