

**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 (RBHA).

At times, it may be necessary to initiate civil commitment proceedings 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. 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.

If the court orders a combination of inpatient and outpatient treatment, a mental health agency may be identified by the court to supervise the person's outpatient treatment. In some cases, the mental health agency may be a RBHA; however, before the court can order a mental health agency to supervise the person's outpatient treatment, the agency medical director must agree and accept responsibility by submitting a written treatment plan to the court.

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.

In addition to court ordered treatment as a result of civil action, an individual may be ordered by a court for evaluation and/or treatment upon: 1) conviction of a domestic violence offense; or 2) upon being charged with a crime when it is determined that the individual is court ordered to treatment, or programs, as a result of being charged with a crime and appears to be an "alcoholic." RBHAs and RBHA providers responsibilities for the provision and coverage of those services, is described in subsection [3.18.7-E](#).

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 subsection [3.18.7](#).

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3.18.2 References

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

[A.R.S. § 13-3601.01](#)

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

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

[A.R.S. § 36-2005](#)

[A.R.S. § 36-2027](#)

[A.A.C. R9-20-802](#)

[A.A.C. R9-20-803](#)

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

[AHCCCS Contractor Operations Manual, Policy 423](#)

[ADHS/RBHA Contracts](#)

[Section 3.4, Premiums and Co-payments](#)

[Section 3.9, Assessment and Service Planning](#)

[Section 3.10, SMI Eligibility Determination](#)

[Section 3.11, General and Informed Consent to Treatment](#)

[Section 3.17, Transition of Persons](#)

[Section 4.2, Behavioral Health Medical Record Standards](#)

[TAD 5, Information Sharing with Family Members of Adult Behavioral Health Recipients](#)

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 Arizona Department of Health Services/Division of Behavioral Health Services (ADHS/DBHS) system. Some counties contract with RBHAs to process pre-petition screenings and petitions for court-ordered evaluations.
- Arizona Health Care Cost Containment System/ Arizona Long Term Care Services (AHCCCS/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.

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- 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](#)

[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:

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- 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 Northern Arizona Geographic Service Area is comprised of Apache, Navajo, Coconino, Yavapai, and Mohave Counties. None of these counties contract with NARBHA for pre-petition screenings and petitioning for court-ordered evaluations. NARBHA has been informed either by the counties or by its subcontractors that the counties have made the following arrangements for pre-petition screening and court ordered evaluation services;

- Apache County has made arrangements with Little Colorado Behavioral Health Services, Inc. to accept pre-petition screenings and to assist with the court ordered evaluation process
- Navajo County has contracted with Community Counseling Centers, Inc. to provide pre-petition screenings and court-ordered evaluations
- Coconino County has contracted with The Guidance Center, Inc. to provide pre-petition screenings and court-ordered evaluations; The Guidance Center has made arrangements for Community Behavioral Health Services, Inc. in Page Arizona to provide pre-petition screenings in the northern part of Coconino County
- Yavapai County has contracted with The Mingus Center to provide pre-petition screenings and court-ordered evaluations
- Mohave County has contracted with Mohave Mental Health Centers, Inc. to provide pre-petition screenings and court-ordered evaluations

Based upon the county of location of the person to be screened and or evaluated behavioral health providers should contact the entities listed above to refer for pre-petition screening or court-ordered evaluation.

When the RBHA is contracted to provide pre-petition screening services

When the county contracts 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;
- 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;

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- 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

When the RBHA is not contracted to provide pre-petition screening services

When the county does not contract with a RBHA for pre-petition screening and petitioning for court-ordered evaluation; NARBHA is informed either by the counties or by its subcontractors that the counties have made the following arrangements for pre-petition screening and court ordered evaluation services.

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 Northern Arizona Geographic Service Area is comprised of Apache, Navajo, Coconino, Yavapai, and Mohave Counties. None of these counties contract with NARBHA for pre-petition screenings and petitioning for court-ordered evaluations. NARBHA has been informed either by the counties or by its subcontractors that the counties have made the following arrangements for pre-petition screening and court ordered evaluation services;

- Apache County has made arrangements with Little Colorado Behavioral Health Services, Inc. to accept pre-petition screenings and to assist with the court ordered evaluation process
- Navajo County has contracted with Community Counseling Centers, Inc. to provide pre-petition screenings and court-ordered evaluations
- Coconino County has contracted with The Guidance Center, Inc. to provide pre-petition screenings and court-ordered evaluations; The Guidance Center has made arrangements for Community Behavioral Health Services, Inc. in Page Arizona to provide pre-petition screenings in the northern part of Coconino County
- Yavapai County has contracted with The Mingus Center to provide pre-petition screenings and court-ordered evaluations
- Mohave County has contracted with Mohave Mental Health Centers, Inc. to provide pre-petition screenings and court-ordered evaluations

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Based upon the county of location of the person to be screened and or evaluated behavioral health providers should contact the entities listed above to refer for pre-petition screening or court-ordered evaluation.

When the RBHA is contracted to provide court-ordered evaluations

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

- 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

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.

The Northern Arizona Geographic Service Area is comprised of Apache, Navajo, Coconino, Yavapai, and Mohave Counties. None of these counties contract with NARBHA for pre-petition screenings and petitioning for court-ordered evaluations. NARBHA has been informed either by the counties or by its subcontractors that the counties have made the following arrangements for pre-petition screening and court ordered evaluation services;

- Apache County has made arrangements with Little Colorado Behavioral Health Services, Inc. to accept pre-petition screenings and to assist with the court ordered evaluation process
- Navajo County has contracted with Community Counseling Centers, Inc. to provide pre-petition screenings and court-ordered evaluations
- Coconino County has contracted with The Guidance Center, Inc. to provide pre-petition screenings and court-ordered evaluations; The Guidance Center has made arrangements for Community Behavioral Health Services, Inc. in Page Arizona to provide pre-petition screenings in the northern part of Coconino County
- Yavapai County has contracted with The Mingus Center to provide pre-petition screenings and court-ordered evaluations
- Mohave County has contracted with Mohave Mental Health Centers, Inc. to provide pre-petition screenings and court-ordered evaluations

Based upon the county of location of the person to be screened and or evaluated behavioral health providers should contact the entities listed above to refer for pre-petition screening or court-ordered evaluation.

- The RBHA contracted behavioral health provider must follow these procedures:

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- 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
- 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 does not contract with the RBHA for court-ordered evaluations

The Northern Arizona Geographic Service Area is comprised of Apache, Navajo, Coconino, Yavapai, and Mohave Counties. None of these counties contract with NARBHA for pre-petition screenings and petitioning for court-ordered evaluations. NARBHA has been informed either by the counties or by its subcontractors that the counties have made the following arrangements for pre-petition screening and court ordered evaluation services;

- Apache County has made arrangements with Little Colorado Behavioral Health Services, Inc. to accept pre-petition screenings and to assist with the court ordered evaluation process
- Navajo County has contracted with Community Counseling Centers, Inc. to provide pre-petition screenings and court-ordered evaluations
- Coconino County has contracted with The Guidance Center, Inc. to provide pre-petition screenings and court-ordered evaluations; The Guidance Center has made arrangements for Community Behavioral Health Services, Inc. in Page Arizona to provide pre-petition screenings in the northern part of Coconino County
- Yavapai County has contracted with The Mingus Center to provide pre-petition screenings and court-ordered evaluations
- Mohave County has contracted with Mohave Mental Health Centers, Inc. to provide pre-petition screenings and court-ordered evaluations

Based upon the county of location of the person to be screened and or evaluated behavioral health providers should contact the entities listed above to refer for pre-petition screening or court-ordered evaluation.

3.18.7-D. Court-Ordered Treatment following Civil Proceedings

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

- 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

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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 the county 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.

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, 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, the behavioral health recipient, family members, and other involved parties (see [Section 3.9, Assessment and Service Planning](#)).
- 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](#).

Transfer from one behavioral health provider to another.

- A person ordered by the court to undergo treatment can be transferred from one 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).

3.18.7-E. Court-Ordered Treatment for persons charged with, or convicted of, a crime

T/RBHAs or T/RBHA providers may be responsible for providing evaluation and/or treatment services when an individual has been ordered by a court due to: 1) conviction of a domestic violence offense; or 2) upon being charged with a crime when it is

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determined that the individual is court ordered to treatment, or programs, as a result of being charged with a crime and appears to be an “alcoholic.”

Domestic Violence Offender Treatment

Domestic violence offender treatment may be ordered by a court when an individual is convicted of a misdemeanor domestic violence offense. Although the order may indicate that the domestic violence (DV) offender treatment is the financial responsibility of the offender under [A.R.S. § 13-3601.01](#), the T/RBHA will cover DV services with Title XIX/XXI funds when the person is Title XIX/XXI eligible, the service is medically necessary, required prior authorization is obtained if necessary, and/or the service is provided by an in-network provider. Additionally, T/RBHAs will cover DV services for Non-Title XIX/XXI eligible persons determined to have SMI who pay premiums for behavioral health coverage in accordance with requirements in [PM Section 3.4, Premiums and Co-payments](#). For Non-TXIX/XXI eligible persons court ordered for DV treatment, the individual can be billed for the DV services.

Court ordered substance abuse evaluation and treatment

Substance abuse evaluation and/or treatment (i.e., DUI services) ordered by a court under [A.R.S. §36-2027](#) is the financial responsibility of the county, city, town or charter city whose court issued the order for evaluation and/or treatment. Accordingly, if ADHS/DBHS or a T/RBHA receives a claim for such services, the claim will be denied with instructions to the provider to bill the responsible county, city or town.