

**6011 EMERGENCY PROTECTIVE CUSTODY for MENTAL HEALTH DISORDERS and  
ALCOHOL and/or DRUG INTOXICATION - C.R.S. §§ 27-65-105 & 27-81-111**

**PROBABLE CAUSE – INTERVENING PROFESSIONAL**  
**(Terms in Yellow-Highlight Defined on Back)**

Does **intervening professional** have **probable cause** to believe (based on own observations and/or those of other professional reasonably believed to be reliable) the person has **mental health disorder** causing person to be:

- Imminent **danger to self or others** OR
- **Gravely disabled** OR
- In need of immediate evaluation for treatment to prevent physical or psychiatric harm to self or others?

**Yes<sup>1</sup>**

**No<sup>2</sup>**

**TRANSPORT:**  
**NONVIOLENT MEANS / REASONABLE FORCE**

With such assistance as may be required from others and using reasonable physical force if **nonviolent means** are first unsuccessful or would be ineffective, the intervening professional may take or cause the person to be taken into custody and transported to an **emergency medical facility**.

**PROBABLE CAUSE – POLICE OFFICER ONLY**

Does police officer have probable cause to believe person is **under the influence of or incapacitated by alcohol or drugs** to the point of being clearly dangerous to the health and safety of self or others?

**Yes**

**No**

**TRANSPORT:**  
**NONVIOLENT MEANS / REASONABLE FORCE**

The police officer must take the person into custody and transport to an **emergency medical facility**. When taking into custody, the officer may use reasonable physical force if **nonviolent means** are first unsuccessful or would be ineffective. Officer may also use reasonable methods to protect him/herself when taking the person into custody but must make every reasonable effort to protect the detained person's health and safety in doing so.

**NON-TRANSPORT**

Person may not be taken into protective custody by intervening professional or police officer.

<sup>1</sup> If the intervening professional finding probable cause for protective custody based on a mental disorder is **not** a police officer, but the intervening professional is requesting a police officer's help in taking the person into custody, the officer should request the professional to document in writing or by electronic recording the professional's basis for finding probable cause. If the officer **disagrees** with the professional's probable cause determination, the officer should contact his or her supervisor for further direction before assisting with taking the person into custody.

<sup>2</sup> Except for police officers, intervening professionals are not legally authorized upon their own determination of probable cause to take or cause a person to be taken into protective custody for alcohol and/or drug intoxication. Only police officers can make such a decision in the field.

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**Probable cause**

Probable cause exists when the facts and circumstances known first hand by the intervening professional (including a police officer), and/or received by him/her from others who the professional reasonably believes to be reliable, are sufficient to cause a reasonably cautious and prudent intervening professional to believe the existing condition of the person in question satisfies applicable legal criteria for being taken into emergency protective custody under Colorado law. This is a practical, nontechnical standard measured by reasonableness and not by mathematical probability.

**Intervening professional**

Includes the following Colorado certified or licensed professionals:

- Certified peace officer;
- Person licensed to practice medicine;
- Certified psychologist;
- Registered professional nurse who by reason of postgraduate education and additional nursing preparation has gained knowledge, judgment, and skill in psychiatric or mental health nursing;
- Licensed marriage and family therapist, licensed professional counselor, or licensed addiction counselor who, by reason of postgraduate education and additional preparation, has gained knowledge, judgment, and skill in psychiatric or clinical mental health therapy, forensic psychotherapy, or the evaluation of mental health disorders; and
- Licensed clinical social worker.

**Mental health disorder**

Includes one or more substantial disorders of the cognitive, volitional, or emotional processes that grossly impairs judgment or capacity to recognize reality or to control behavior. An intellectual or developmental disability is insufficient to either justify or exclude a finding of a mental health disorder.

**Danger to self or others**

At least one of these circumstances exists:

- The person poses a substantial risk of physical harm to self as manifested by recent threats of or attempts at suicide or serious bodily harm to self.
- The person poses a substantial risk of physical harm to another person(s), as manifested by evidence of recent homicidal or other violent behavior by this person, or by evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them, as evidenced by a recent overt act, attempt, or threat to do serious physical harm by this person.

**Gravely disabled**

A condition in which a person is incapable of making informed decisions about, or providing for, his/her essential needs without significant supervision and assistance from other people and, as a result, the person is at risk of any of the following:

- substantial bodily harm;
- dangerous worsening of any concomitant or existing serious physical illness;
- significant psychiatric deterioration; or
- mismanagement of his/her essential needs that could result in substantial bodily harm.

However, "gravely disabled" does not include a person whose decision-making capabilities are limited solely by his/her development disability.

**Nonviolent means**

Use of physical contact or force that is not intended nor likely to harm or injure the person upon whom such contact or force is applied.

**Under the influence of alcohol or drugs**

As the result of the presence of alcohol and/or drugs in a person's body, the person's mental or physical functioning is temporarily but substantially impaired.

**Incapacitated by alcohol or drugs**

As the result of using alcohol or drugs, the person is unconscious, or his/her judgment is so impaired that he/she:

- is incapable of realizing and making a rational decision concerning his/her need for treatment;
- is unable to take care of his/her basic personal needs or safety; or
- lacks sufficient understanding or capacity to make or communicate rational decisions about him/herself.

**Emergency medical facility**

A licensed or certified facility that provides emergency medical services.