

# **STATE STANDARDS FOR ASSISTED TREATMENT**

Civil Commitment Criteria for Inpatient or Outpatient Psychiatric Treatment

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200 NORTH GLEBE ROAD, SUITE 730  
ARLINGTON, VIRGINIA 22203  
(703) 294-6001

[TreatmentAdvocacyCenter.org](http://TreatmentAdvocacyCenter.org)

This document captures essential information about the legal criteria for court-ordered treatment of mental illness in each state. Criteria for inpatient commitment, outpatient commitment and emergency evaluation are included, along with who may initiate each type of intervention.

All states and the District of Columbia have laws governing court-ordered hospital (inpatient) commitment of individuals with severe mental illness and emergency hospitalization for psychiatric evaluation. Additionally, 44 states and the District have assisted outpatient treatment (AOT) laws authorizing court-ordered community-based (outpatient) treatment for those who meet strict legal criteria. Each state law is distinct from the others, utilizing its own terminology and standards. Every reasonable effort should be made to encourage individuals in psychiatric crisis to seek treatment on their own. Assisted treatment is designed for those individuals unable to access mental health treatment voluntarily.

**While we hope that this information is helpful, it is not legal advice and should not be regarded as such in any way. Every case is different. The information provided should not be relied on without seeking the advice of a lawyer who can properly advise you about the unique needs of your situation.**

**We further caution that the statutes excerpted herein are selectively edited to maintain the specific focus of this document. Much detail that is critical in the application of these laws has been excised or paraphrased, as indicated by ellipses and brackets. An attorney should always review these statutes in full before taking legal action or advising a client.**

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Note that six states do not have assisted outpatient treatment laws as of June 2011:  
Connecticut, Maryland, Massachusetts, Nevada, New Mexico and Tennessee.

## Alabama

### For inpatient commitment:

ALA. CODE § 22-52-10.4

(a). A respondent may be committed to inpatient treatment if the probate court finds, based upon clear and convincing evidence that:

- (i) the respondent is mentally ill;
- (ii) as a result of the mental illness the respondent poses a real and present threat of substantial harm to self and/or others;
- (iii) the respondent will, if not treated, continue to suffer mental distress and will continue to experience deterioration of the ability to function independently; and
- (iv) the respondent is unable to make a rational and informed decision as to whether or not treatment for mental illness would be desirable.

(b) If the probate judge finds that no treatment is presently available for the respondent's mental illness, but that confinement is necessary to prevent the respondent from causing substantial harm to himself or to others, the order committing the respondent shall provide that, should treatment for the respondent's

mental illness become available at any time during the period of the respondent's confinement, such treatment shall be made available to him immediately.

**For outpatient commitment (“court-ordered outpatient treatment”):**

ALA. CODE § 22-52-10.2. A respondent may be committed to outpatient treatment if the probate court finds, based upon clear and convincing evidence that:

- (i) the respondent is mentally ill;
- (ii) as a result of the mental illness the respondent will, if not treated, continue to suffer mental distress and will continue to experience deterioration of the ability to function independently; and
- (iii) the respondent is unable to make a rational and informed decision as to whether or not treatment for mental illness would be desirable.

**For emergency evaluation:**

ALA. CODE § 22-52-91(a). If [a] community mental health officer determines from the conditions, symptoms, and behavior that the person appears to be mentally ill and poses an immediate danger to self or others, [a] law enforcement officer shall take the person into custody and, together with the community mental health officer, deliver the person directly to the designated mental health facility[.]

ALA. CODE § § 22-52-7(b). No limitations shall be placed upon the respondent's liberty nor treatment imposed upon the respondent unless such limitations are necessary to prevent the respondent from doing substantial and immediate harm to himself or to others or to prevent the respondent from leaving the jurisdiction of the court.

**Who may initiate:**

**For inpatient or outpatient commitment:**

ALA. CODE § 22-52-1.2(a). Any person may file a petition seeking the involuntary commitment of another person.

**For emergency evaluation:**

ALA. CODE § 22-52-91(a) When a law enforcement officer is confronted by circumstances and has reasonable cause for believing that a person within the county [meets the criteria for emergency evaluation], the law enforcement officer shall contact a community mental health officer.

<h2>Alaska</h2>
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**For inpatient commitment:**

ALASKA STAT. § 47.30.755(a). "[T]he court may commit the respondent to a treatment facility ... if the court or jury finds by clear and convincing evidence that the respondent is mentally ill and as a result is likely to cause harm to self or others, or is gravely disabled."

ALASKA STAT. § 47.30.915(10). "likely to cause serious harm" means a person who

(A) poses a substantial risk of bodily harm to that person's self, as manifested by recent behavior causing, attempting, or threatening that harm;

(B) poses a substantial risk of harm to others as manifested by recent behavior causing, attempting, or threatening harm, and is likely in the near future to cause physical injury, physical abuse, or substantial property damage to another person; or

(C) manifests a current intent to carry out plans of serious harm to that person's self or another

ALASKA STAT. § 47.30.915(7). "gravely disabled" means a condition in which a person as a result of mental illness

(A) is in danger of physical harm arising from such complete neglect of basic needs for food, clothing, shelter, or personal safety as to render serious accident, illness, or death highly probable if care by another is not taken; or

(B) will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior causing a substantial deterioration of the person's previous ability to function independently.

**For outpatient commitment ("court-ordered outpatient treatment"):**

ALASKA STAT. § 47.30.755(b). If the court finds that there is a less restrictive alternative [to inpatient commitment] available [to a person who meets the inpatient commitment criteria] and that the respondent has been advised of and refused voluntary treatment through the alternative, the court may order the less restrictive alternative treatment after acceptance by the program of the respondent for a period not to exceed 90 days.

**For emergency evaluation:**

ALASKA STAT. § 47.30.705(a). [Where there is] probable cause to believe that a person is gravely disabled or is suffering from mental illness and is likely to cause serious harm to self or others of such immediate nature that considerations of safety do not allow initiation of involuntary commitment procedures set out in AS 47.30.700, ... the person [may] be taken into custody and delivered to the nearest evaluation facility.

**Who may initiate:**

**For involuntary commitment:**

ALASKA STAT. § 47.30.700(a). Upon petition of any adult, a judge shall immediately conduct a screening investigation or direct a local mental health professional ... to conduct a screening investigation of the person.

**For emergency evaluation:**

ALASKA STAT. § 47.30.705(a). A peace officer, a psychiatrist or physician who is licensed to practice in this state or employed by the federal government, or a clinical psychologist licensed by the state Board of Psychologist and Psychological Associate Examiners who has probable cause to believe that a person [meets the criteria for emergency evaluation] may cause the person to be taken into custody and delivered to the nearest evaluation facility.

# Arizona

## **For both inpatient and outpatient commitment (“court ordered outpatient treatment”):**

ARIZ. REV. STAT. § 36-540 (A). If the court finds by clear and convincing evidence that the proposed patient, as a result of mental disorder, is a danger to self, is a danger to others, is persistently or acutely disabled or is gravely disabled and in need of treatment, and is either unwilling or unable to accept voluntary treatment, the court shall order the patient to undergo [inpatient and/or outpatient treatment].

ARIZ. REV. STAT. § 36-501(5). "Danger to others" means that the judgment of a person who has a mental disorder is so impaired that the person is unable to understand the person's need for treatment and as a result of the person's mental disorder the person's continued behavior can reasonably be expected, on the basis of competent medical opinion, to result in serious physical harm.

ARIZ. REV. STAT. § 36-501(6). "Danger to self" means:

(a) Behavior that, as a result of a mental disorder:

(i) Constitutes a danger of inflicting serious physical harm on oneself, including attempted suicide or the serious threat thereof, if the threat is such that, when considered in the light of its context and in light of the individual's previous acts, it is substantially supportive of an expectation that the threat will be carried out.

(ii) Without hospitalization will result in serious physical harm or serious illness to the person.

(b) Does not include behavior which establishes only the condition of gravely disabled.

ARIZ. REV. STAT. § 36-501(16). "Gravely disabled" means a condition evidenced by behavior in which a person, as a result of a mental disorder, is likely to come to serious physical harm or serious illness because he is unable to provide for his basic physical needs.

ARIZ. REV. STAT. § 36-501(33). "Persistently or acutely disabled" means a severe mental disorder that meets all the following criteria:

(a) If not treated has a substantial probability of causing the person to suffer or continue to suffer severe and abnormal mental, emotional or physical harm that significantly impairs judgment, reason, behavior or capacity to recognize reality.

(b) Substantially impairs the person's capacity to make an informed decision regarding treatment and this impairment causes the person to be incapable of understanding and expressing an understanding of the advantages and disadvantages of accepting treatment and understanding and expressing an understanding of the alternatives to the particular treatment offered after the advantages, disadvantages and alternatives are explained to that person.

(c) Has a reasonable prospect of being treatable by outpatient, inpatient or combined inpatient and outpatient treatment.

**For emergency evaluation:**

ARIZ. REV. STAT. § 36-524(C). The application [to an evaluation agency for emergency evaluation] ... shall include the following:

1. A statement by the applicant that he believes on the basis of personal observation that the person is, as a result of a mental disorder, a danger to self or others, and that during the time necessary to complete the [standard] prepetition screening procedures ... the person is likely without immediate hospitalization to suffer serious physical harm or serious illness or is likely to inflict serious physical harm upon another person.
2. The specific nature of the danger.
3. A summary of the observations upon which the statement of danger is based.
4. The signature of the applicant.

ARIZ. REV. STAT. § 36-525(B). In those instances in which the [emergency evaluation application] procedures ... are not available, a peace officer may take into custody any individual he has probable cause to believe, based on his own observations, is, as a result of mental disorder, a danger to self or others, and that during the time necessary to complete the [standard] prepetition screening procedures ... the person is likely without immediate hospitalization to suffer serious physical harm or serious illness or to inflict serious physical harm on another person.

**Who may initiate:**

**For inpatient or outpatient commitment:**

ARIZ. REV. STAT. § 36-520(A). Any responsible individual may apply for a court-ordered evaluation of a person who is alleged to be, as a result of a mental disorder, a danger to self or to others, persistently or acutely disabled, or gravely disabled and who is unwilling or unable to undergo a voluntary evaluation.

**For emergency evaluation:**

ARIZ. REV. STAT. § 36-524.

- A. A written application for emergency admission shall be made to an evaluation agency before a person may be hospitalized in the agency.
- B. The application for emergency admission shall be made by a person with knowledge of the facts requiring emergency admission. The applicant may be a relative or friend of the person, a peace officer, the admitting officer or another responsible person.

# Arkansas

## **For both inpatient and outpatient commitment (“outpatient treatment”):**

ARK. CODE ANN. § 20-47-207(c). A person shall be eligible for involuntary admission if he or she is in such a mental condition as a result of mental illness, disease, or disorder that he or she poses a clear and present danger to himself or herself or others;

(1) As used in this subsection, "a clear and present danger to himself or herself" is established by demonstrating that:

(A) The person has inflicted serious bodily injury on himself or herself or has attempted suicide or serious self-injury, and there is a reasonable probability that the conduct will be repeated if admission is not ordered;

(B) The person has threatened to inflict serious bodily injury on himself or herself, and there is a reasonable probability that the conduct will occur if admission is not ordered;

(C) The person's recent behavior or behavior history demonstrates that he or she so lacks the capacity to care for his or her own welfare that there is a reasonable probability of death, serious bodily injury, or serious physical or mental debilitation if admission is not ordered; or

(D) (i) The person's understanding of the need for treatment is impaired to the point that he or she is unlikely to participate in treatment voluntarily;

(ii) The person needs mental health treatment on a continuing basis to prevent a relapse or harmful deterioration of his or her condition; and

(iii) The person's noncompliance with treatment has been a factor in the individual's placement in a psychiatric hospital, prison, or jail at least two (2) times within the last forty-eight (48) months or has been a factor in the individual's committing one (1) or more acts, attempts, or threats of serious violent behavior within the last forty-eight (48) months; and

(2) As used in this subsection, "a clear and present danger to others" is established by demonstrating that the person has inflicted, attempted to inflict, or threatened to inflict serious bodily harm on another, and there is a reasonable probability that such conduct will occur if admission is not ordered.

## **For emergency evaluation:**

ARK. CODE ANN. § 20-47-210 (a). Whenever it appears that a person is of danger to himself or herself or others, as defined in § 20-47-207, and immediate confinement appears necessary to avoid harm to the person or others ...

## **Who may initiate:**

### **For inpatient or outpatient commitment:**

ARK. CODE ANN. § 20-47-207(a). Any person having reason to believe that a person meets the criteria for involuntary admission as defined in subsection (c) of this section may file a verified petition with the probate clerk of the county in which the person alleged to have mental illness resides or is detained.

**For emergency evaluation:**

ARK. CODE ANN. § 20-47-210 (a). Whenever it appears that a person [meets the criteria for emergency evaluation]:

(1) An interested citizen may take the person to a hospital or to a receiving facility or program. If no other safe means of transporting the individual is available, it shall be the responsibility of the law enforcement agency that exercises jurisdiction at the site where the individual is physically located and requiring transportation, or unless otherwise ordered by the judge. A petition, as provided in § 20-47-207, shall be filed in the probate court of the county in which the person resides or is detained within seventy-two (72) hours, excluding weekends and holidays, and a hearing, as provided in § 20-47-209(a)(1) shall be held; or

(2) Any person filing a petition for involuntary admission may append to the petition a request for immediate confinement which shall state with particularity facts personally known to the affiant which establish reasonable cause to believe that the person sought to be involuntarily admitted is in imminent danger of death or serious bodily harm or that the lives of others are in imminent danger of death or serious bodily harm due to the mental state of the person sought to be involuntarily admitted.

<h2>California</h2>
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**For both inpatient commitment and outpatient commitment via conservatorship:**

CALIF. WELF. & INST. CODE § 5250. [A person who has been detained and evaluated] may be certified for not more than 14 days of intensive treatment related to the mental disorder ... under the following conditions:

[T]he person is, as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled.

(b) The facility providing intensive treatment ... agrees to admit the person.

(c) The person has been advised of the need for, but has not been willing or able to accept, treatment on a voluntary basis.

CALIF. WELF. & INST. CODE § 5008(h)(1). "gravely disabled" means either of the following:

(A) A condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(B) A condition in which a person, has been found mentally incompetent [to stand trial on criminal charges] and all of the following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him or her and to assist counsel in the conduct of his or her defense in a rational manner.

CALIF. WELF. & INST. CODE § 5250(d)(1). Notwithstanding paragraph (1) of subdivision (h) of Section 5008, a person is not "gravely disabled" if that person can survive safely without involuntary detention with the help of responsible family, friends, or others who are both willing and able to help provide for the person's basic personal needs for food, clothing, or shelter.

(2) However, unless they specifically indicate in writing their willingness and ability to help, family, friends, or others shall not be considered willing or able to provide this help.

(3) The purpose of this subdivision is to avoid the necessity for, and the harmful effects of, requiring family, friends, and others to publicly state, and requiring the certification review officer to publicly find, that no one is willing or able to assist the mentally disordered person in providing for the person's basic needs for food, clothing, or shelter.

**For outpatient commitment ("assisted outpatient treatment")\***

CALIF. WELF. & INST. CODE § 5346. (a) In any county in which services are available as provided in Section 5348, a court may order a person who is the subject of a petition filed pursuant to this section to obtain assisted outpatient treatment if the court finds, by clear and convincing evidence, that the facts stated in the verified petition filed in accordance with this section are true and establish that all of the requisite criteria set forth in this section are met, including, but not limited to, each of the following:

(1) The person is 18 years of age or older.

(2) The person is suffering from a mental illness[.]

(3) There has been a clinical determination that the person is unlikely to survive safely in the community without supervision.

(4) The person has a history of lack of compliance with treatment for his or her mental illness, in that at least one of the following is true:

(A) The person's mental illness has, at least twice within the last 36 months, been a substantial factor in necessitating hospitalization, or receipt of services in a forensic or other mental health unit of a state correctional facility or local correctional facility, not including any period during which the person was hospitalized or incarcerated immediately preceding the filing of the petition.

(B) The person's mental illness has resulted in one or more acts of serious and violent behavior toward himself or herself or another, or threats, or attempts to cause serious physical harm to himself or herself or another within the last 48 months, not including any period in which the person was hospitalized or incarcerated immediately preceding the filing of the petition.

(5) The person has been offered an opportunity to participate in a treatment plan by the director of the local mental health department, or his or her designee, provided the treatment plan includes all of the services described in Section 5348, and the person continues to fail to engage in treatment.

(6) The person's condition is substantially deteriorating.

(7) Participation in the assisted outpatient treatment program would be the least restrictive placement necessary to ensure the person's recovery and stability.

(8) In view of the person's treatment history and current behavior, the person is in need of assisted outpatient treatment in order to prevent a relapse or deterioration that would be likely to result in grave disability or serious harm to himself or herself, or to others, as defined in Section 5150.

(9) It is likely that the person will benefit from assisted outpatient treatment.

*\* Standard only applies in counties that have adopted provisions established by Assembly Bill 1421 (2002) ("Laura's Law"); otherwise outpatient commitment only permitted via conservatorship process.*

**For emergency evaluation:**

CALIF. WELF. & INST. CODE § 5150. When any person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, [designated persons] may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a ... facility for 72-hour treatment and evaluation.

**Who may initiate:**

**For both inpatient commitment and outpatient commitment via conservatorship::**

CALIF. WELF. & INST. CODE § 5250. If a person is detained for 72 hours ... and has received an evaluation, he or she may be certified for not more than 14 days of intensive treatment [if:]

(a) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and has found the person [meets the criteria].

(b) The facility providing intensive treatment ... agrees to admit the person. CALIF. WELF. & INST. CODE § 5251. For a person to be certified under this article, a notice of certification shall be signed by two people. The first person shall be the professional person, or his or her designee, in charge of the agency or facility providing evaluation services. A designee of the professional person in charge of the agency or facility shall be a physician or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

The second person shall be a physician or psychologist who participated in the evaluation. The physician shall be, if possible, a board certified psychiatrist. The psychologist shall be licensed and have at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

If the professional person in charge, or his or her designee, is the physician who performed the medical evaluation or a psychologist, the second person to sign may be another physician or psychologist unless one is not available, in which case a licensed clinical social worker or a registered nurse who participated in the evaluation shall sign the notice of certification.

**For outpatient commitment ("assisted outpatient treatment"):**

CALIF. WELF. & INST. CODE § 5346. Petition for order authorizing outpatient treatment

(b) (1) A petition for an order authorizing assisted outpatient treatment may be filed by the county mental health director, or his or her designee, in the superior court in the county in which the person who is the subject of the petition is present or reasonably believed to be present.

(2) A request may be made only by any of the following persons to the county mental health department for the filing of a petition to obtain an order authorizing assisted outpatient treatment:

(A) Any person 18 years of age or older with whom the person who is the subject of the petition resides.

(B) Any person who is the parent, spouse, or sibling or child 18 years of age or older of the person who is the subject of the petition.

(C) The director of any public or private agency, treatment facility, charitable organization, or licensed residential care facility providing mental health services to the person who is the subject of the petition in whose institution the subject of the petition resides.

(D) The director of a hospital in which the person who is the subject of the petition is hospitalized.

(E) A licensed mental health treatment provider who is either supervising the treatment of, or treating for a mental illness, the person who is the subject of the petition.

(F) A peace officer, parole officer, or probation officer assigned to supervise the person who is the subject of the petition.

(3) Upon receiving a request pursuant to paragraph (2), the county mental health director shall conduct an investigation into the appropriateness of the filing of the petition. The director shall file the petition only if he or she determines that there is a reasonable likelihood that all the necessary elements to sustain the petition can be proven in a court of law by clear and convincing evidence.

**For emergency evaluation:**

CALIF. WELF. & INST. CODE § 5201. Any individual may apply to the person or agency designated by the county for a petition alleging that there is in the county a person who is, as a result of mental disorder a danger to others, or to himself, or is gravely disabled, and requesting that an evaluation of the person's condition be made.

CALIF. WELF. & INST. CODE § 5150. When any person [meets the criteria for emergency evaluation], a peace officer, member of the attending staff... of an evaluation facility..., designated members of a mobile crisis team ..., or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in ... a facility for 72-hour treatment and evaluation.

<h2>Colorado</h2>
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**For both inpatient and outpatient commitment (“court-ordered outpatient treatment”):**

COLO. REV. STAT. § 27-65-111(1). The court or jury shall determine that the respondent is in need of care and treatment only if the court or jury finds by clear and convincing evidence that the person has a mental illness and, as a result of such mental illness, is a danger to others or to himself or herself or is gravely disabled.

COLO. REV. STAT. § 27-65-102(9)

(a) "Gravely disabled" means a condition in which a person, as a result of mental illness:

(l) Is in danger of serious physical harm due to his or her inability or failure to provide himself or herself with the essential human needs of food, clothing, shelter, and medical care; or

(II) Lacks judgment in the management of his or her resources and in the conduct of his or her social relations to the extent that his or her health or safety is significantly endangered and lacks the capacity to understand that this is so.

(b) A person who, because of care provided by a family member or by an individual with a similar relationship to the person, is not in danger of serious physical harm or is not significantly endangered in accordance with paragraph (a) of this subsection (9) may be deemed "gravely disabled" if there is notice given that the support given by the family member or other individual who has a similar relationship to the person is to be terminated and the individual with a mental illness:

(I) Is diagnosed by a professional person as suffering from: Schizophrenia; a major affective disorder; a delusional disorder; or another mental disorder with psychotic features; and

(II) Has been certified, pursuant to this article, for treatment of the disorder or has been admitted as an inpatient to a treatment facility for treatment of the disorder at least twice during the last thirty-six months with a period of at least thirty days between certifications or admissions; and

(III) Is exhibiting a deteriorating course leading toward danger to self or others or toward the conditions described in paragraph (a) of this subsection (9) with symptoms and behavior that are substantially similar to those that preceded and were associated with his or her hospital admissions or certifications for treatment; and

(IV) Is not receiving treatment that is essential for his or her health or safety.

(c) A person of any age may be "gravely disabled", but such term shall not include a person who has a developmental disability by reason of the person's developmental disability alone.

(d) For purposes of paragraph (b) of this subsection (9), an individual with a relationship to a person that is similar to that of a family member shall not include an employee or agent of a boarding home or treatment facility.

**For emergency evaluation ("72-hour hold"):**

COLO. REV. STAT. § 27-65-105(1) Emergency procedure may be invoked under either one of the following two conditions:

- (a) (I) When any person appears to have a mental illness and, as a result of such mental illness, appears to be an imminent danger to others or to himself or herself or appears to be gravely disabled, then a person ... referred to in this section as the "intervening professional," upon probable cause and with such assistance as may be required, may take the person into custody, or cause the person to be taken into custody, and placed in a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation.
- (b) Upon an affidavit sworn to or affirmed before a judge that relates sufficient facts to establish that a person appears to have a mental illness and, as a result of the mental illness, appears to be an imminent danger to others or to himself or herself or appears to be gravely disabled, the court may order the person described in the affidavit to be taken into custody and placed in a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation.

**Who may initiate:**

**For inpatient or outpatient commitment:**

COLO. REV. STAT. § 27-65-107. If a person detained for seventy-two hours ... or a respondent under court order for evaluation ... has received an evaluation, he or she may be certified for not more than three months of short-term treatment. ... The notice of certification must be signed by a professional person on the staff of the evaluation facility who participated in the evaluation and shall state facts sufficient to establish reasonable grounds to believe that the person has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled.

COLO. REV. STAT. § 27-65-108. If the professional person in charge of the evaluation and treatment believes that a period longer than three months is necessary for treatment of the respondent, he or she shall file with the court an extended certification.

COLO. REV. STAT. § 27-65-109(1). Whenever a respondent has received short-term treatment for five consecutive months ..., the professional person in charge of the evaluation and treatment may file a petition with the court for long-term care and treatment of the respondent[.]

**For emergency evaluation (“72-hour hold”):**

COLO. REV. STAT. § 27-65-105(1)(a)(II). The following persons [“intervening professionals,” see above] may effect a seventy-two-hour hold:

(A) A certified peace officer;

(B) A professional person;

(C) A 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;

(D) A licensed marriage and family therapist or licensed professional counselor ... or an 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 disorders; or

(E) A licensed clinical social worker[.]

COLO. REV. STAT. § 27-65-106(2). Any individual may petition the court in the county in which the respondent resides or is physically present alleging that there is a person who appears to have a mental illness and, as a result of the mental illness, appears to be a danger to others or to himself or herself or appears to be gravely disabled and requesting that an evaluation of the person's condition be made.

<b>Connecticut *</b>
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**\* Connecticut does not have an assisted outpatient treatment law.**

**For inpatient commitment:**

CONN. GEN. STAT. ANN. § 17a-498(c). ... If, on such hearing, the court finds by clear and convincing evidence that the person complained of has psychiatric disabilities and is dangerous to himself or herself

or others or gravely disabled, it shall make an order for his or her commitment, considering whether or not a less restrictive placement is available, to a hospital for psychiatric disabilities[.]

CONN. GEN. STAT. ANN. § 17a-495(a). "dangerous to himself or herself or others" means there is a substantial risk that physical harm will be inflicted by an individual upon his or her own person or upon another person, and "gravely disabled" means that a person, as a result of mental or emotional impairment, is in danger of serious harm as a result of an inability or failure to provide for his or her own basic human needs such as essential food, clothing, shelter or safety and that hospital treatment is necessary and available and that such person is mentally incapable of determining whether or not to accept such treatment because his judgment is impaired by his psychiatric disabilities.

**For emergency evaluation:**

CONN. GEN. STAT. ANN. § 17a-502(a). Any person who a physician concludes has psychiatric disabilities and is dangerous to himself or others or gravely disabled, and is in need of immediate care and treatment in a hospital for psychiatric disabilities, may be confined in such a hospital, either public or private[.]

**Who may initiate:**

**For inpatient commitment:**

CONN. GEN. STAT. ANN. § 17a-497(a). [S]uch application may be made by any person and, if any person with psychiatric disabilities is at large and dangerous to the community, the first selectman or chief executive officer of the town in which he or she resides or in which he or she is at large shall make such application.

**For emergency evaluation:**

CONN. GEN. STAT. ANN. §17a-503

(a). Any police officer who has reasonable cause to believe that a person [meets the criteria for emergency evaluation] may take such person into custody and take or cause such person to be taken to a general hospital for emergency examination[.] (b) Upon application by any person to the court of probate ... alleging that any respondent [meets the criteria for emergency evaluation] such court may issue a warrant for the apprehension and bringing before it of such respondent and examine such respondent. If the court determines that there is probable cause to believe that such person [meets the criteria for emergency evaluation], the court shall order that such respondent be taken to a general hospital for examination[.]

(c) Any psychologist ... who has reasonable cause to believe that a person [meets the criteria for emergency evaluation] may issue an emergency certificate in writing that authorizes and directs that such person be taken to a general hospital for purposes of a medical examination[.]

(d) Any clinical social worker ... or advanced practice registered nurse ... who (1) has received a minimum of eight hours of specialized training in the conduct of direct evaluations as a member of (A) any mobile crisis team, jail diversion program, crisis intervention team, advanced supervision and intervention support team, or assertive case management program operated by or under contract with the Department of Mental Health and Addiction Services, or (B) a community support program certified by the Department of Mental Health and Addiction Services, and (2) based upon the direct evaluation of a person, has reasonable cause to believe that such person [meets the criteria for emergency evaluation] may issue an emergency certificate in writing that authorizes and directs that such person be taken to a general hospital for purposes of a medical examination[.]

## Delaware

### **For both inpatient and outpatient commitment (“court-ordered outpatient treatment”):**

DEL. CODE ANN. tit. 16 § 5010. As a result of the hearing to determine mental illness, the court shall make specific findings:

(2) That based upon clear and convincing evidence, the involuntary patient is a mentally ill person in which case the court shall enter an order of disposition, which disposition shall be effective for a period not to exceed 3 months. In determining the disposition of the involuntary patient the court shall consider all available alternatives, including inpatient confinement at the hospital, and shall order such disposition as imposes the least restraint upon the involuntary patient's liberty and dignity consistent both with affording mental health treatment and care with protecting the safety of the involuntary patient and the public.

DEL. CODE ANN. tit. 16 § 5001(6). "Mentally ill person" means a person suffering from a mental disease or condition which requires such person to be observed and treated at a mental hospital for the person's own welfare and which both

(i) renders such person unable to make responsible decisions with respect to the person's hospitalization, and

(ii) poses a real and present threat, based upon manifest indications, that such person is likely to commit or suffer serious harm to that person's own self or others or to property if not given immediate hospital care and treatment.

### **For emergency evaluation (“provisional hospitalization):**

DEL. CODE ANN. tit. 16 § 5003. Upon the signed complaint of any person stating the person has knowledge that a designated person appears to be so mentally ill as to be likely to cause injury to oneself or others and to require immediate care, treatment or restraint, setting forth a description of the behavior and symptoms which led the person to the person's conclusion, such alleged mentally ill person shall be promptly taken into custody by any peace officer of the State to whom the complaint is delivered without the necessity of a warrant.

### **Who may initiate:**

#### **For inpatient commitment:**

DEL. CODE ANN. tit. 16, § 5007(a). Forthwith, but not more than 2 working days from the date of provisional admission, the hospital shall file a verified complaint in the Superior Court[.] The complaint shall aver that the hospital, as petitioner, reasonably and in good faith believes that the involuntary patient (who shall be named as respondent) is a mentally ill person who should be continued as a patient at the hospital pursuant to this chapter until the patient is determined no longer to be a mentally ill person.

DEL. CODE ANN. Tit. 16 § 5003. No person shall be involuntarily admitted to the hospital as a patient except pursuant to the written certification of a psychiatrist that based upon the psychiatrist's examination of such person, such person suffers from a disease or condition which requires the person to be observed

and treated at a mental hospital for the person's own welfare and which either renders such person unable to make responsible decisions with respect to the person's hospitalization, or poses a present threat, based upon manifest indications, that such person is likely to commit or suffer serious harm to that person's own self or others or to property, if not given immediate hospital care and treatment[meets the criteria for commitment].

**For emergency evaluation (“provisional hospitalization):**

DEL. CODE ANN. tit. 16 § 5122(b). Upon the signed complaint of any person stating the person has knowledge that a designated person appears to be so mentally ill as to [meet the criteria for emergency evaluation], such alleged mentally ill person shall be promptly taken into custody by any peace officer of the State to whom the complaint is delivered without the necessity of a warrant.

<h2>District of Columbia</h2>
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**For both inpatient and outpatient commitment (“court-ordered outpatient treatment”):**

D.C. CODE ANN. § 21-545(b)(2). If the Court or jury finds that the person is mentally ill and, because of that mental illness, is likely to injure himself or others if not committed, the Court may order the person's commitment to the Department or to any other facility, hospital, or mental health provider that the Court believes is the least restrictive alternative consistent with the best interests of the person and the public.

**For emergency evaluation:**

D.C. CODE ANN. § 21-521. An accredited officer or agent of the Department of Mental Health of the District of Columbia, or an officer authorized to make arrests in the District of Columbia, or a physician or qualified psychologist of the person in question, who has reason to believe that a person is mentally ill and, because of the illness, is likely to injure himself or others if he is not immediately detained may, without a warrant, take the person into custody.

**Who may initiate:**

**For inpatient or outpatient commitment:**

D.C. CODE ANN. § 21-541(a). Proceedings for the judicial commitment of a person in the District of Columbia may be commenced by the filing of a petition with the Commission by his spouse, parent, or legal guardian, by a physician or a qualified psychologist, by a duly accredited officer or agent of the Department, by the Director of the Department or the Director's designee, or by an officer authorized to make arrests in the District of Columbia.

**For emergency evaluation:**

D.C. CODE ANN. § 21-521. An accredited officer or agent of the Department of Mental Health of the District of Columbia, or an officer authorized to make arrests in the District of Columbia, or a physician or qualified psychologist of the person in question, who has reason to believe that a person is mentally ill and, because of the illness, is likely to injure himself or others if he is not immediately detained may, without a warrant, take the person into custody.

# Florida

## **For inpatient commitment:**

FLA. STAT. § 394.467(1). [A] person may be placed in involuntarily inpatient placement for treatment upon a finding of the court by clear and convincing evidence that:

- (a) He or she is mentally ill and because of his or her mental illness:
  - 1. a. He or she has refused voluntary placement for treatment after sufficient and conscientious explanation and disclosure of the purpose of placement for treatment; or
  - b. He or she is unable to determine for himself or herself whether placement is necessary; AND
  - 2. a. He or she is manifestly incapable of surviving alone or with the help of willing and responsible family or friends, including available alternative services, and, without treatment, is likely to suffer from neglect or refuse to care for himself or herself, and such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; or
  - b. There is substantial likelihood that in the near future he or she will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm; and
- (b) All available less restrictive treatment alternatives which would offer an opportunity for improvement of his or her condition have been judged to be inappropriate.

## **For outpatient commitment (“involuntary outpatient placement”):**

FLA. STAT. § 394.4655(1). *Criteria for involuntary outpatient placement.* A person may be ordered to involuntary outpatient placement upon a finding of the court that by clear and convincing evidence: (a) The person is 18 years of age or older;

- (b) The person has a mental illness;
- (c) The person is unlikely to survive safely in the community without supervision, based on a clinical determination;
- (d) The person has a history of lack of compliance with treatment for mental illness;
- (e) The person has:
  - 1. At least twice within the immediately preceding 36 months been involuntarily admitted to a receiving facility or treatment facility ..., or has received mental health services in a forensic or correctional facility. The 36-month period does not include any period during which the person was admitted or incarcerated; or
  - 2. Engaged in one or more acts of serious violent behavior toward self or others, or attempts at serious bodily harm to himself or herself or others, within the preceding 36 months;
- (f) The person is, as a result of his or her mental illness, unlikely to voluntarily participate in the recommended treatment plan and either he or she has refused voluntary placement for treatment after

sufficient and conscientious explanation and disclosure of the purpose of placement for treatment or he or she is unable to determine for himself or herself whether placement is necessary;

(g) In view of the person's treatment history and current behavior, the person is in need of involuntary outpatient placement in order to prevent a relapse or deterioration that would be likely to result in serious bodily harm to himself or herself or others, or a substantial harm to his or her well-being as set forth in s. 394.463(1);

(h) It is likely that the person will benefit from involuntary outpatient placement; and

(i) All available less restrictive alternatives that would offer an opportunity for improvement of his or her condition have been judged to be inappropriate or unavailable.

**For emergency evaluation ("involuntary examination"):**

FLA. STAT. § 394.463(1). [A] person may be taken to a receiving facility for involuntary examination if there is reason to believe that the person has a mental illness and because of his or her mental illness:

(a) 1. The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination; or

2. The person is unable to determine for himself or herself whether examination is necessary; and

(b) 1. Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or

2. There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.

**Who may initiate:**

**For inpatient commitment:**

FLA. STAT. § 394.467(3). *Petition for involuntary inpatient placement.* --The administrator of the facility shall file a petition for involuntary inpatient placement in the court in the county where the patient is located.

**For outpatient commitment ("involuntary outpatient placement"):**

FLA. STAT. § 394.4655(3). *Petition for involuntary outpatient placement.*

(a) A petition for involuntary outpatient placement may be filed by:

1. The administrator of a receiving facility; or

2. The administrator of a treatment facility.

**For emergency evaluation (“involuntary examination”):**

FLA. STAT. § 394.463(2)(a). An involuntary examination may be initiated by any one of the following means:

1. A court may enter an ex parte order stating that a person appears to meet the criteria for involuntary examination, giving the findings on which that conclusion is based. The ex parte order for involuntary examination must be based on sworn testimony, written or oral.

2. A law enforcement officer shall take a person who appears to meet the criteria for involuntary examination into custody and deliver the person or have him or her delivered to the nearest receiving facility for examination.

3. A physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker may execute a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination and stating the observations upon which that conclusion is based.

<h2>Georgia</h2>
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**For inpatient commitment:**

GA. CODE ANN. § 37-3-1(9.1). "Inpatient" means a person who is mentally ill and:

(A)(i) Who presents a substantial risk of imminent harm to that person or others, as manifested by either recent overt acts or recent expressed threats of violence which present a probability of physical injury to that person or other persons; or

(ii) Who is so unable to care for that person's own physical health and safety as to create an imminently life-endangering crisis; and

(B) Who is in need of involuntary inpatient treatment.

**For outpatient commitment (“involuntary outpatient treatment”):**

GA. CODE ANN. § 37-3-1(12.1). "Outpatient" means a person who is mentally ill and:

(A) Who is not an inpatient but who, based on the person's treatment history or current mental status, will require outpatient treatment in order to avoid predictably and imminently becoming an inpatient;

(B) Who because of the person's current mental status, mental history, or nature of the person's mental illness is unable voluntarily to seek or comply with outpatient treatment; and

(C) Who is in need of involuntary treatment.

**For emergency evaluation:**

GA. CODE ANN. § 37-3-41(a). “Any physician within this state may execute a certificate stating that he has personally examined a person within the preceding 48 hours and found that, based upon

observations set forth in the certificate, the person appears to be a 'mentally ill person requiring involuntary treatment'."

GA. CODE ANN. § 37-3-42(a). "A peace officer may take any person to a physician within the county or an adjoining county for emergency examination by the physician, or directly to an emergency receiving facility if (1) the person is committing a penal offense, and (2) the peace officer has probable cause for believing that the person is a 'mentally ill person requiring involuntary treatment'."

**Who may initiate:**

**For inpatient or outpatient commitment:**

GA. CODE ANN. § 37-3-61(2). Any person may file with the court a petition executed under oath alleging that a person within the county is a mentally ill person requiring involuntary treatment. The petition must be accompanied by the certificate of a physician or psychologist stating that he has examined the patient within the preceding five days and has found that the patient may be a mentally ill person requiring involuntary treatment and that a full evaluation of the patient is necessary.

**For emergency evaluation:**

GA. CODE ANN. § 37-3-41(a). "Any physician within this state may execute a certificate stating that he has personally examined a person within the preceding 48 hours and found that, based upon observations set forth in the certificate, the person appears to be a 'mentally ill person requiring involuntary treatment'."

GA. CODE ANN. § 37-3-42(a). "A peace officer may take any person to a physician within the county or an adjoining county for emergency examination by the physician, or directly to an emergency receiving facility if (1) the person is committing a penal offense, and (2) the peace officer has probable cause for believing that the person is a 'mentally ill person requiring involuntary treatment'."

<h2>Hawaii</h2>
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**For inpatient commitment:**

HAW. REV. STAT. § 334-60.2. A person may be committed to a psychiatric facility for involuntary hospitalization, if the court finds:

- (1) That the person is mentally ill or suffering from substance abuse.
- (2) That the person is imminently dangerous to self or others, is gravely disabled or is obviously ill; and
- (3) That the person is in need of care or treatment, or both, and there is no suitable alternative available through existing facilities and programs which would be less restrictive than hospitalization.

HAW. REV. STAT. § 334-1. "Dangerous to others" means likely to do substantial physical or emotional injury on another, as evidenced by a recent act, attempt or threat.

"Dangerous to property" means inflicting, attempting or threatening imminently to inflict damage to any property in a manner which constitutes a crime, as evidenced by a recent act, attempt or threat.

"Dangerous to self" means the person recently has threatened or attempted suicide or serious bodily harm; or the person recently has behaved in such a manner as to indicate that the person is unable, without supervision and the assistance of others, to satisfy the need for nourishment, essential medical care, shelter or self-protection, so that it is probable that death, substantial bodily injury, or serious physical debilitation or disease will result unless adequate treatment is afforded.

"Gravely disabled" means a condition in which a person, as a result of a mental disorder,

- (1) is unable to provide for that individual's basic personal needs for food, clothing, or shelter;
- (2) is unable to make or communicate rational or responsible decisions concerning the individual's personal welfare; and
- (3) lacks the capacity to understand that this is so.

"Obviously ill" means a condition in which a person's current behavior and previous history of mental illness, if known, indicate a disabling mental illness, and the person is incapable of understanding that there are serious and highly probable risks to health and safety involved in refusing treatment, the advantages of accepting treatment, or of understanding the advantages of accepting treatment and the alternatives to the particular treatment offered, after the advantages, risks, and alternatives have been explained to the person.

**For outpatient commitment ("involuntary outpatient treatment"):**

HAW. REV. STAT. § 334-121. A person may be ordered to obtain involuntary outpatient treatment if the family court finds that:

- (1) The person is suffering from a severe mental disorder or from substance abuse; and
- (2) The person is capable of surviving safely in the community with available supervision from family, friends, or others; and
- (3) The person, at some time in the past:
  - (A) has received inpatient hospital treatment for a severe mental disorder or substance abuse, or
  - (B) has been imminently dangerous to self or others, or is gravely disabled, as a result of a severe mental disorder or substance abuse; and
- (4) The person, based on the person's treatment history and current behavior, is now in need of treatment in order to prevent a relapse or deterioration which would predictably result in the person becoming imminently dangerous to self or others, and
- (5) The person's current mental status or the nature of the person's disorder limits or negates the person's ability to make an informed decision to voluntarily seek or comply with recommended treatment; and
- (6) There is a reasonable prospect that the outpatient treatment ordered will be beneficial to the person.

**For emergency evaluation:**

HAW. REV. STAT. § 334-59(a)(1). If a police officer has reason to believe that a person is imminently dangerous to self or others, or is gravely disabled, or is obviously ill, the officer shall call for assistance from the mental health emergency workers designated by the director.

**Who may initiate:**

**For inpatient commitment:**

HAW. REV. STAT. § 334-60.3(a). Any person may file a petition alleging that a person located in the county meets the criteria for commitment to a psychiatric facility.

**For outpatient commitment:**

HAW. REV. STAT. § 334-123(a). Any person may file a petition with the family court alleging that another person meets the criteria for involuntary outpatient treatment.

**For emergency evaluation:**

HAW. REV. STAT. § 334-59(a)(1). If a police officer has reason to believe that a person is imminently dangerous to self or others, or is gravely disabled, or is obviously ill, the officer shall call for assistance from the mental health emergency workers designated by the director.

<h2>Idaho</h2>
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**For both inpatient and outpatient commitment (“court-ordered outpatient treatment”):**

IDAHO CODE § 66-329(11). If, upon completion of the hearing and consideration of the record, and after consideration of reasonable alternatives ... the court finds by clear and convincing evidence that the proposed patient:

- (a) is mentally ill; and
- (b) is, because of such condition, likely to injure himself or others, or is gravely disabled due to mental illness;

the court shall order the proposed patient committed to the custody of the department director for observation, care and treatment for an indeterminate period of time not to exceed one (1) year.

IDAHO CODE § 66-317(11). "Likely to injure himself or others" means either:

- (a) A substantial risk that physical harm will be inflicted by the proposed patient upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or
- (b) A substantial risk that physical harm will be inflicted by the proposed patient upon another as evidenced by behavior which has cause such harm or which places another person or persons in reasonable fear of sustaining such harm; or

(c) The proposed patient lacks insight into his need for treatment and is unable or unwilling to comply with treatment and, based on his psychiatric history, clinical observation or other clinical evidence, if he does not receive and comply with treatment, there is a substantial risk he will continue to physically, emotionally or mentally deteriorate to the point that the person will, in the reasonably near future, inflict physical harm on himself or another person.

IDAHO CODE § 66-317(12). "Mentally ill" means a person, who as a result of a substantial disorder of thought, mood, perception, orientation, or memory, which grossly impairs judgment, behavior, capacity to recognize and adapt to reality, requires care and treatment at a facility or through outpatient treatment.

IDAHO CODE § 66-317(13). "Gravely disabled" means a person who, as the result of mental illness, is:

(a) In danger of serious physical harm due to the person's inability to provide for any of his own basic personal needs, such as nourishment, or essential clothing, medical care, shelter or safety; or

(b) Lacking insight into his need for treatment and is unable or unwilling to comply with treatment and, based on his psychiatric history, clinical observation or other clinical evidence, if he does not receive and comply with treatment, there is a substantial risk he will continue to physically, emotionally or mentally deteriorate to the point that the person will, in the reasonably near future, be in danger of serious physical harm due to the person's inability to provide for any of his own basic personal needs such as nourishment, essential clothing, medical care, shelter or safety.

**For emergency evaluation:**

IDAHO CODE § 66-326(1). [A] person may be taken into custody ... [or] detained [for emergency evaluation upon] reason to believe that the person is gravely disabled due to mental illness or the person's continued liberty poses an imminent danger to that person or others, as evidenced by a threat of substantial physical harm[.]

IDAHO CODE § 66-326(2). If the court finds the individual to be gravely disabled due to mental illness or imminently dangerous under subsection (1) of this section, the court shall issue a temporary custody order[.]

**Who may initiate:**

**For inpatient or outpatient commitment:**

IDAHO CODE § 66-329(1). Proceedings for the involuntary care and treatment of mentally ill persons by the department of health and welfare may be commenced by the filing of a written application with a court of competent jurisdiction by a friend, relative, spouse or guardian of the proposed patient, or by a licensed physician, prosecuting attorney, or other public official of a municipality, county or of the state of Idaho, or the director of any facility in which such patient may be.

**For emergency evaluation:**

IDAHO CODE § 66-326(1). [A] person may be taken into custody by a peace officer and placed in a facility, or the person may be detained at a hospital at which the person presented or was brought to receive medical or mental health care, if the peace officer or a physician medical staff member of such hospital has reason to believe that the person [meets the criteria for emergency evaluation].

# Illinois

## **For inpatient commitment:**

405 ILL. COMP. STAT. 5/1-119. "Person subject to involuntary admission on an inpatient basis" means:

(1) A person with mental illness who because of his or her illness is reasonably expected, unless treated on an inpatient basis, to engage in conduct placing such person or another in physical harm or in reasonable expectation of being physically harmed;

(2) A person with mental illness who because of his or her illness is unable to provide for his or her basic physical needs so as to guard himself or herself from serious harm without the assistance of family or others, unless treated on an inpatient basis; or

(3) A person with mental illness who

(i) refuses treatment or is not adhering adequately to prescribed treatment;

(ii) because of the nature of his or her illness, is unable to understand his or her need for treatment; and

(iii) if not treated on an inpatient basis, is reasonably expected, based on his or her behavioral history, to suffer mental or emotional deterioration and is reasonably expected, after such deterioration, to meet the criteria of either paragraph (1) or paragraph (2) of this Section.

In determining whether a person meets the criteria specified in paragraph (1) or (2), or (3), the court may consider evidence of the person's repeated past pattern of specific behavior and actions related to the person's illness.

## **For outpatient commitment ("involuntary admission on an outpatient basis"):**

405 ILL. COMP. STAT. 5/1-119.1. "Person subject to involuntary admission on an outpatient basis" means:

(1) A person who would meet the criteria for admission on an inpatient basis as specified in Section 1-119 in the absence of treatment on an outpatient basis and for whom treatment on an outpatient basis can only be reasonably ensured by a court order mandating such treatment; or

(2) A person with a mental illness which, if left untreated, is reasonably expected to result in an increase in the symptoms caused by the illness to the point that the person would meet the criteria for commitment under Section 1-119, and whose mental illness has, on more than one occasion in the past, caused that person to refuse needed and appropriate mental health services in the community.

## **For emergency evaluation:**

405 ILL. COMP. STAT. 5/3-600. A person 18 years of age or older who is subject to involuntary admission on an inpatient basis and in need of immediate hospitalization may be admitted to a mental health facility pursuant to this Article.

**Who may initiate:**

**For inpatient commitment:**

405 ILL. COMP. STAT. 5/3-701(a). Any person 18 years of age or older may execute a petition asserting that another person is subject to involuntary admission on an inpatient basis.

**For outpatient commitment (“involuntary admission on an outpatient basis”):**

405 ILL. COMP. STAT. 5/3-751(a). Any person 18 years of age or older may execute a petition asserting that another person is subject to involuntary admission on an outpatient basis.

**For emergency evaluation:**

405 ILL. COMP. STAT. 5/3-601(a). When a person is asserted to be subject to involuntary admission on an inpatient basis and in such a condition that immediate hospitalization is necessary for the protection of such person or others from physical harm, any person 18 years of age or older may present a petition to the facility director of a mental health facility in the county where the respondent resides or is present. The petition may be prepared by the facility director of the facility.

405 ILL. COMP. STAT. 5/3-606. A peace officer may take a person into custody and transport him to a mental health facility when the peace officer has reasonable grounds to believe that the person is subject to involuntary admission on an inpatient basis and in need of immediate hospitalization to protect such person or others from physical harm.

405 ILL. COMP. STAT. 5/3-607. Court ordered temporary detention and examination. When, as a result of personal observation and testimony in open court, any court has reasonable grounds to believe that a person appearing before it is subject to involuntary admission on an inpatient basis and in need of immediate hospitalization to protect such person or others from physical harm, the court may enter an order for the temporary detention and examination of such person.

<h2>Indiana</h2>
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**For both inpatient and outpatient commitment (see below for additional outpatient criteria):**

IND. CODE ANN. § 12-26-6-8(a) [*temporary commitment, up to 90 days*] and IND. CODE ANN. § 12-26-7-5(a) [*regular commitment, beyond 90 days*]. If at the completion of the hearing ... the court finds that the individual is mentally ill and either dangerous or gravely disabled, the court may order the individual to [inpatient or outpatient commitment].

IND. CODE ANN. § 12-7-2-53. "Dangerous," ... means a condition in which an individual as a result of mental illness, presents a substantial risk that the individual will harm the individual or others.

IND. CODE ANN. § 12-7-2-96. "Gravely disabled", ... means a condition in which an individual, as a result of mental illness, is in danger of coming to harm because the individual:

(1) is unable to provide for that individual's food, clothing, shelter, or other essential human needs; or

(2) has a substantial impairment or an obvious deterioration of that individual's judgment, reasoning, or behavior that results in the individual's inability to function independently.

**For outpatient commitment (“court-ordered outpatient therapy program”):**

IND. CODE ANN. § 12-26-14-1. If a hearing has been held ... and the court finds that the individual is:

- (1) Mentally ill and either dangerous or gravely disabled;
- (2) Likely to benefit from an outpatient therapy program that is designed to decrease the individual's dangerousness or disability;
- (3) Not likely to be either dangerous or gravely disabled if the individual complies with the therapy program; and
- (4) Recommended for an outpatient therapy program by the individual's examining physician;

the court may order the individual to enter a therapy program as an outpatient.

**For emergency evaluation:**

IND. CODE ANN. § 12-26-5-1(b). An application [for emergency evaluation] must contain both of the following:

- (1) A statement of the applicant's belief that the individual is:
  - (A) mentally ill and either dangerous or gravely disabled; and
  - (B) in need of immediate restraint.
- (2) A statement by at least one (1) physician that, based on:
  - (A) an examination; or
  - (B) information given the physician;

the individual may be mentally ill and either dangerous or gravely disabled.

**Who may initiate:**

**For inpatient or outpatient commitment:**

IND. CODE ANN. § 12-26-7-2(b). A proceeding for the commitment of an individual who appears to be suffering from a chronic mental illness may be begun by filing with a court having jurisdiction a written petition by any of the following:

- (1) A health officer.
- (2) A police officer.
- (3) A friend of the individual.
- (4) A relative of the individual.
- (5) The spouse of the individual.

(6) A guardian of the individual.

(7) The superintendent of a facility where the individual is present.

(8) A prosecuting attorney in accordance with IC 35-36-2-4.

(9) A prosecuting attorney or the attorney for a county office if civil commitment proceedings are initiated under IC 31-34-19-3 or IC 31-37-18-3.

(10) A third party that contracts with the division of mental health and addiction to provide competency restoration services to a defendant under IC 35-36-3-3 or IC 35-36-3-4.

**For emergency evaluation:**

IND. CODE ANN. § 12-26-6-2(b). A petitioner under subsection (a)(3) must be at least eighteen (18) years of age.

<b>Iowa</b>
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**For both inpatient and outpatient commitment:**

IOWA CODE § 229.1(17). "Seriously mentally impaired" or "serious mental impairment" describes the condition of a person with mental illness and because of that illness lacks sufficient judgment to make responsible decisions with respect to the person's hospitalization or treatment, and who because of that illness meets any of the following criteria:

- a. Is likely to physically injure the person's self or others if allowed to remain at liberty without treatment.
- b. Is likely to inflict serious emotional injury on members of the person's family or others who lack reasonable opportunity to avoid contact with the person with mental illness if the person with mental illness is allowed to remain at liberty without treatment.
- c. Is unable to satisfy the person's needs for nourishment, clothing, essential medical care, or shelter so that it is likely that the person will suffer physical injury, physical debilitation, or death.

IOWA CODE § 229.1(16). "Serious emotional injury" is an injury which does not necessarily exhibit any physical characteristics, but which can be recognized and diagnosed by a licensed physician or other qualified mental health professional and which can be causally connected with the act or omission of a person who is, or is alleged to be, mentally ill.

**For emergency evaluation:**

IOWA CODE 229.11(1) If ... the judge ... finds probable cause to believe that the respondent has a serious mental impairment and is likely to injure the respondent or other persons if allowed to remain at liberty, the judge may enter a written order directing that the respondent be taken into immediate custody by the sheriff or the sheriff's deputy and be detained until the hospitalization hearing.

IOWA CODE § 229.22(1)-(2a) [Where] it appears that a person should be immediately detained due to serious mental impairment, but that person cannot be immediately detained by the procedure prescribed in sections 229.6 and 229.11 because there is no means of immediate access to the district court ... any

peace officer who has reasonable grounds to believe that a person is mentally ill, and because of that illness is likely to physically injure the person's self or others if not immediately detained, may without a warrant take or cause that person to be taken to the nearest available facility or hospital.

**Who may initiate:**

**For inpatient or outpatient commitment, or emergency evaluation:**

IOWA CODE § 229.6. Proceedings for the involuntary hospitalization of an individual may be commenced by any interested person by filing a verified application with the clerk of the district court of the county where the respondent is presently located, or which is the respondent's place of residence[.]

**For emergency evaluation, alternatively:**

IOWA CODE § 229.22(2a). In the [absence of immediate access to the district court], any peace officer who has reasonable grounds to believe that a person [meets the criteria for emergency evaluation] may without a warrant take or cause that person to be taken to the nearest available facility or hospital.

<h2>Kansas</h2>
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**For both inpatient and outpatient commitment ("court-ordered outpatient treatment") (see *below for additional outpatient criteria*):**

KAN. STAT. ANN. § 59-2946(f)

(1) "Mentally ill person subject to involuntary commitment for care and treatment" means a mentally ill person ... who also lacks capacity to make an informed decision concerning treatment, is likely to cause harm to self or others, and whose diagnosis is not solely one of the following mental disorders: Alcohol or chemical substance abuse; antisocial personality disorder; mental retardation; organic personality syndrome; or an organic mental disorder.

(2) "Lacks capacity to make an informed decision concerning treatment" means that the person, by reason of the person's mental disorder, is unable, despite conscientious efforts at explanation, to understand basically the nature and effects of hospitalization or treatment or is unable to engage in a rational decision-making process regarding hospitalization or treatment, as evidenced by an inability to weigh the possible risks and benefits.

(3) "Likely to cause harm to self or others" means that the person, by reason of the person's mental disorder:

(a) Is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state's interest in protecting the property from such harm outweighs the person's interest in personal liberty; or

(b) is substantially unable, except for reason of indigency, to provide for any of the person's basic needs, such as food, clothing, shelter, health or safety, causing a substantial deterioration of the person's ability to function on the person's own.

No person who is being treated by prayer in the practice of the religion of any church which teaches reliance on spiritual means alone through prayer for healing shall be determined to be a mentally ill person subject to involuntary commitment for care and treatment under this act unless substantial evidence is produced upon which the district court finds that the proposed patient is likely in the reasonably foreseeable future to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state's interest in protecting the property from such harm outweighs the person's interest in personal liberty.

**Additional criteria for outpatient commitment:**

KAN. STAT. ANN. § 59-2967(a). An order for outpatient treatment may be entered by the court at any time in lieu of any type of order which would have required inpatient care and treatment if the court finds that the patient is likely to comply with an outpatient treatment order and that the patient will not likely be a danger to the community or be likely to cause harm to self or others while subject to an outpatient treatment order.

**For emergency evaluation:**

KAN. STAT. ANN. § 59-2953(a). [A] mentally ill person [who] because of such person's mental illness is likely to cause harm to self or others if allowed to remain at liberty may [be taken by a law enforcement officer] into custody without a warrant.

KAN. STAT. ANN. § 59-2954(c)(3). [An application to a treatment facility for emergency detention of a person shall state] the applicant's belief that the person may be a mentally ill person subject to involuntary commitment and because of the person's mental illness is likely to cause harm to self or others if not immediately detained[.]

**Who may initiate:**

**For inpatient or outpatient commitment:**

KAN. STAT. ANN. § 59-2957(a). A verified petition to determine whether or not a person is a mentally ill person subject to involuntary commitment for care and treatment under this act may be filed in the district court of the county wherein that person resides or wherein such person may be found. *[Statute places no limitation upon whom may petition the court.]*

**For emergency evaluation:**

KAN. STAT. ANN. § 59-2953(a). Any law enforcement officer who has a reasonable belief formed upon investigation that a person [meets the criteria for emergency evaluation] may take the person into custody without a warrant. The officer shall transport the person to a treatment facility where the person shall be examined by a physician or psychologist on duty at the treatment facility.

KAN. STAT. ANN. § 59-2954(c). A treatment facility may admit and detain any person presented for emergency observation and treatment upon the written application of any individual, except that a state psychiatric hospital shall not admit and detain any such person, unless a written statement from a qualified mental health professional authorizing such admission to a state psychiatric hospital has been obtained.

KAN. STAT. ANN. § 59-2958(a). At the time the petition for the determination of whether a person is a mentally ill person subject to involuntary commitment for care and treatment under this act is filed, or any

time thereafter prior to the trial upon the petition ..., the petitioner may request in writing that the district court issue an ex parte emergency order including either or both of the following: (1) An order directing any law enforcement officer to take the person named in the order into custody and transport the person to a designated treatment facility or other suitable place willing to receive and detain the person; (2) an order authorizing any named treatment facility or other place to detain or continue to detain the person until the further order of the court or until the ex parte emergency custody order shall expire.

## Kentucky

### **For both inpatient and outpatient commitment (“court-ordered outpatient treatment”):**

KY. REV. STAT. ANN. § 202A.026. No person shall be involuntarily hospitalized unless such person is a mentally ill person:

- (1) Who presents a danger or threat of danger to self, family or others as a result of the mental illness;
- (2) Who can reasonably benefit from treatment; and
- (3) For whom hospitalization is the least restrictive alternative mode of treatment presently available.

KY. REV. STAT. ANN. § 202A.011(2). "Danger" or "threat of danger to self, family or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food or clothing;

### **For emergency evaluation (“72-hour emergency admission”):**

KY. REV. STAT. ANN. § 202A.041(1). [A] individual [who] is mentally ill and presents a danger or threat of danger to self, family, or others if not restrained shall [be taken by a peace officer] into custody and transport[ed] without necessary delay to a hospital or psychiatric facility.

KY. REV. STAT. ANN. § 202A.028(1). Following an examination by a qualified mental health professional and a certification by that professional that the person meets the criteria for involuntary hospitalization, a judge may order the person hospitalized for a period not to exceed seventy-two (72) hours, excluding weekends and holidays.

### **Who may initiate:**

#### **For inpatient or outpatient commitment:**

KY. REV. STAT. ANN. § 202A.051(3). The petition shall be filed by a qualified mental health professional, peace officer, county attorney, Commonwealth's attorney, spouse, relative, friend, or guardian of the individual concerning whom the petition is filed, or any other interested person.

#### **For emergency evaluation (“72-hour emergency admission”):**

KY. REV. STAT. ANN. § 202A.041(1). Any peace officer who has reasonable grounds to believe that an individual [meets the criteria for emergency evaluation] shall take the individual into custody and transport the individual without necessary delay to a hospital or psychiatric facility.

KY. REV. STAT. ANN. § 202A.031(1). An authorized staff physician may order the admission of any person who is present at, or is presented at, a hospital. Within twenty-four hours (excluding weekends and holidays) of the admission under this section, the authorized staff physician ordering the admission of the individual shall certify in the record of the individual that in his opinion the individual should be involuntarily hospitalized.

## Louisiana

### **For inpatient commitment:**

LA. REV. STAT. ANN. § 28:55(E)(1). If the court finds by clear and convincing evidence that the respondent is dangerous to self or others or is gravely disabled, as a result of substance abuse or mental illness, it shall render a judgment for his commitment.

LA. REV. STAT. ANN. § 28:2(3). "Dangerous to others" means the condition of a person whose behavior or significant threats support a reasonable expectation that there is a substantial risk that he will inflict physical harm upon another person in the near future.

LA. REV. STAT. ANN. § 28:2(4). "Dangerous to self" means the condition of a person whose behavior, significant threats or inaction supports a reasonable expectation that there is a substantial risk that he will inflict physical or severe emotional harm upon his own person.

LA. REV. STAT. ANN. § 28:2(10). "Gravely disabled" means the condition of a person who is unable to provide for his own basic physical needs, such as essential food, clothing, medical care, and shelter, as a result of serious mental illness or substance abuse and is unable to survive safely in freedom or protect himself from serious harm; the term also includes incapacitation by alcohol, which means the condition of a person who, as a result of the use of alcohol, is unconscious or whose judgment is otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment.

### **For outpatient commitment ("assistive outpatient treatment or involuntary outpatient treatment"):**

LA. REV. STAT. ANN. § 28:66 (A) A patient may be ordered to obtain involuntary outpatient treatment if the court finds that all of the following conditions apply:

- (1) The patient is 18 years of age or older.
- (2) The patient is suffering from a mental illness.
- (3) The patient is unlikely to survive safely in the community without supervision, based on a clinical determination.
- (4) The patient has a history of lack of compliance with treatment for mental illness that has resulted in either of the following:
  - (a) At least twice within the last thirty-six months, the lack of compliance with treatment for mental illness has been a significant factor resulting in an emergency certificate for hospitalization, or receipt of services in a forensic or other mental health unit of a correctional facility or a local correctional facility, not including any period during which the person was hospitalized or incarcerated immediately preceding the filing of the petition.

(b) One or more acts of serious violent behavior toward self or others or threats of, or attempts of, serious physical harm to self or others within the last thirty-six months as a result of mental illness, not including any period in which the person was hospitalized or incarcerated immediately preceding the filing of the petition.

(5) The patient is, as a result of his mental illness, unlikely to voluntarily participate in the recommended treatment pursuant to the treatment plan.

(6) In view of the treatment history and current behavior of the patient, the patient is in need of involuntary outpatient treatment in order to prevent a relapse or deterioration which would be likely to result in the patient becoming dangerous to self or others as defined in R.S. 28:2.

(7) It is likely that the patient will benefit from involuntary outpatient treatment.

**For emergency evaluation:**

LA. REV. STAT. ANN. § 28:54(D)(3). If the respondent refuses to be examined by the court appointed physician ... or if the judge, after reviewing the petition and an affidavit ... or the report of the treating physician or the court appointed physician, finds that the respondent is mentally ill or suffering from substance abuse and is in need of immediate hospitalization to protect the person or others from physical harm, or that the respondent's condition may be markedly worsened by delay, then the court may issue a court order for custody of the respondent[.]

LA. REV. STAT. ANN. § 28:53. Admission by emergency certificate; extension

B. (1) Any [designated examiner] may execute an emergency certificate only after an actual examination of a person alleged to be mentally ill or suffering from substance abuse who is determined to be in need of immediate care and treatment in a treatment facility because the [designated examiner] determines the person to be dangerous to self or others or to be gravely disabled.

L.(1) A peace officer or a peace officer accompanied by an emergency medical service trained technician may take a person into protective custody... when, as a result of his personal observation, the peace officer or emergency medical service technician has reasonable grounds to believe the person is a proper subject for involuntary admission to a treatment facility because the person is acting in a manner dangerous to himself or dangerous to others, is gravely disabled, and is in need of immediate hospitalization to protect such a person or others from physical harm.

**Who may initiate:**

**For inpatient commitment:**

LA. REV. STAT. ANN. § 28:54 (A). Any person of legal age may file with the court a petition which asserts his belief that a person is suffering from mental illness which contributes or causes that person to be a danger to himself or others or to be gravely disabled, or is suffering from substance abuse which contributes or causes that person to be a danger to himself or others or to be gravely disabled and may thereby request a hearing. The petition may be filed in the judicial district in which the respondent is confined, or if not confined, in the judicial district where he resides or may be found.

**For outpatient commitment:**

LA. REV. STAT. ANN. § 28:67. A petition to obtain an order authorizing involuntary outpatient treatment may be initiated by one of the following persons:

(1) The director of a hospital in which the patient is hospitalized.

(2) The director of an emergency receiving center in which the patient is receiving services.

(3) The director of the human service district, or his designee, or the manager of the regional office of the Department of Health and Hospitals, office of behavioral health, or his designee, in the parish in which the patient is present or reasonably believed to be present.

**For emergency evaluation:**

LA. REV. STAT. ANN. § 28:53.2 (A). Any parish coroner or judge of a court of competent jurisdiction may order a person to be taken into protective custody and transported to a treatment facility or the office of the coroner for immediate examination when a peace officer or other credible person executes a statement under private signature specifying that, to the best of his knowledge and belief, the person [meets the criteria for emergency evaluation].

<h2>Maine</h2>
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**For inpatient commitment:**

ME. REV. STAT. ANN. tit. 34-B, § 3864(6)(A). The District Court shall so state in the record, if it finds upon completion of the hearing and consideration of the record:

(1) Clear and convincing evidence that the person is mentally ill and that the person's recent actions and behavior demonstrate that the person's illness poses a likelihood of serious harm;

(1-A) That adequate community resources for care and treatment of the person's mental illness are unavailable;

(2) That inpatient hospitalization is the best available means for treatment of the patient; and

(3) That it is satisfied with the individual treatment plan offered by the psychiatric hospital to which the applicant seeks the patient's involuntary commitment.

ME. REV. STAT. ANN. tit. 34B, § 3801(4). "Likelihood of serious harm" means:

A. A substantial risk of physical harm to the person as manifested by recent threats of, or attempts at, suicide or serious self inflicted harm;

B. A substantial risk of physical harm to other persons as manifested by recent homicidal or violent behavior or recent conduct placing others in reasonable fear of serious physical harm;

C. A reasonable certainty that the person will suffer severe physical or mental harm as manifested by recent behavior demonstrating an inability to avoid risk or to protect the person adequately from impairment or injury

**For outpatient commitment ("progressive treatment program"):**

ME. REV. STAT. ANN. tit. 34B, § 3873-A

1. Application. [A]n order from the District Court to admit a patient to a progressive treatment program [may be obtained] upon the following conditions:

- A. The patient suffers from a severe and persistent mental illness;
- B. The patient poses a likelihood of serious harm;
- C. The patient has the benefit of a suitable individualized treatment plan;
- D. Community resources are available to support the treatment plan;
- E. The patient is unlikely to follow the treatment plan voluntarily;
- F. Court-ordered compliance will help to protect the patient from interruptions in treatment, relapses or deterioration of mental health; and
- G. Compliance will enable the patient to survive more safely in a community setting without posing a likelihood of serious harm.

ME. REV. STAT. ANN. tit. 34B, § 3801(4)(D). "Likelihood of serious harm" means ... [f]or the purposes of [determining eligibility for a progressive treatment program], in view of the person's treatment history, current behavior and inability to make an informed decision, a reasonable likelihood that the person's mental health will deteriorate and that the person will in the foreseeable future pose a likelihood of serious harm as defined [for purposes of inpatient commitment]. [*See definitions above.*]

**For emergency evaluation:**

ME. REV. STAT. ANN. tit. 34B, § 3862. Protective custody.

- A. 1. If a law enforcement officer has probable cause to believe that a person may be mentally ill and that due to that condition the person presents a threat of imminent and substantial physical harm to that person or to other persons, or if a law enforcement officer knows that a person has an advance health care directive authorizing mental health treatment and the officer has probable cause to believe that the person lacks capacity, the law enforcement officer...[m]ay take the person into protective custody

...

ME. REV. STAT. ANN. tit. 34B, § 3863. Emergency procedure;

1. Any health officer, law enforcement officer or other person may apply to admit a person to a psychiatric hospital, subject to the prohibitions and penalties of section 3805, stating:

- A. The applicant's belief that the person is mentally ill and, because of the person's illness, poses a likelihood of serious harm; and
- B. The grounds for this belief.

**Who may initiate:**

**For inpatient commitment:**

ME. REV. STAT. ANN. tit. 34B, § 3863(5-A)

CONTINUATION OF HOSPITALIZATION. If there is need for further hospitalization of the person as determined by the chief administrative officer of the hospital, the chief administrative officer shall first determine if the person may be informally admitted[.] ... If informal admission is not suitable or is refused by the person, the chief administrative officer may seek involuntary commitment in accordance with this

subsection.

A. If the person is at a state mental health institute, the chief administrative officer may seek involuntary commitment by applying for an order under section 3864.

B. If the person is at a designated nonstate mental health institution, the chief administrative officer may seek involuntary commitment only by requesting the commissioner to apply for an order under section 3864[.]

**For outpatient commitment:**

ME. REV. STAT. ANN. tit. 34B, § 3873-A. Progressive treatment program

1. APPLICATION. The superintendent or chief administrative officer of a psychiatric hospital, the commissioner or the director of an ACT team, except as limited by subsection 10, may obtain an order from the District Court to admit a patient to a progressive treatment program[.]

**For emergency evaluation:**

ME. REV. STAT. ANN. tit. 34B, § 3863(1). Any health officer, law enforcement officer or other person may apply to admit a person to a psychiatric hospital [on an emergency basis].

<b>Maryland*</b>
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***\*Maryland does not have an assisted outpatient treatment law.***

**For inpatient commitment:**

MD. CODE ANN., HEALTH-GEN. § 10-632(e)(2).

- (i) The individual has a mental disorder;
- (ii) The individual needs in-patient care or treatment;
- (iii) The individual presents a danger to the life or safety of the individual or of others;
- (iv) The individual is unable or unwilling to be voluntarily admitted to the facility;
- (v) There is no available less restrictive form of intervention that is consistent with the welfare and safety of the individual; and
- (vi) If the individual is 65 years old or older and is to be admitted to a State facility, the individual has been evaluated by a geriatric evaluation team and no less restrictive form of care or treatment was determined by the team to be appropriate.

**For emergency evaluation:**

MD. CODE ANN., HEALTH-GEN. § 10-622(a). A petition for emergency evaluation of an individual may be made under this section only if the petitioner has reason to believe that the individual:

- (1) Has a mental disorder; and
- (2) The individual presents a danger to the life or safety of the individual or of others

**Who may initiate:**

**For inpatient commitment:**

MD. CODE ANN., HEALTH-GEN. § 10-614(a). Except as provided in subsection (b) of this section, application for involuntary admission of an individual to a facility or Veterans' Administration hospital may be made ... by any person who has a legitimate interest in the welfare of the individual.

**For emergency evaluation:**

MD. CODE ANN., HEALTH-GEN. § 10-622(b)(1) The petition for emergency evaluation of an individual may be made by:

- (i) A physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage and family therapist, or health officer or designee of a health officer who has examined the individual;
- (ii) A peace officer who personally has observed the individual or the individual's behavior; or
- (iii) Any other interested person.

<b>Massachusetts*</b>
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***\*Massachusetts does not have an assisted outpatient treatment law.***

**For inpatient commitment:**

MASS. GEN. LAWS ANN. ch. 123, § 8(a). [T]he district court ... shall not order the commitment of a person at a facility or shall not renew such order unless it finds after a hearing that

- (1) such person is mentally ill, and
- (2) the discharge of such person from a facility would create a likelihood of serious harm.

MASS. GEN. LAWS ANN. ch. 123, § 1. "Likelihood of serious harm",

- (1) a substantial risk of physical harm to the person himself as manifested by evidence of, threats of, or attempts at, suicide or serious bodily harm;
- (2) a substantial risk of physical harm to other persons as manifested by evidence of homicidal or other violent behavior or evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them; or

(3) a very substantial risk of physical impairment or injury to the person himself as manifested by evidence that such person's judgment is so affected that he is unable to protect himself in the community and that reasonable provision for his protection is not available in the community.

**For emergency evaluation:**

MASS. GEN. LAWS ANN. ch. 123, § 12. Commitment by Physicians or Police Officers for Limited Period; Notices; Extension of Term of Commitment.

(a) [Emergency evaluation of a person permitted upon specified professional's] reason to believe that failure to hospitalize such person would create a likelihood of serious harm by reason of mental illness[.]

**Who may initiate:**

**For inpatient commitment:**

MASS. GEN. LAWS ANN. ch. 123, § 12. Commitment by Physicians or Police Officers for Limited Period; Notices; Extension of Term of Commitment.

(a) Any physician or qualified psychiatric nurse mental health clinical specialist who after examining a person has reason to believe that failure to hospitalize such person would create a likelihood of serious harm by reason of mental illness may restrain or authorize the restraint of such person and apply for the hospitalization of such person for a three day period at a public facility or at a private facility authorized for such purposes by the department.

(e) Any person may make application to a district court justice or a justice of the juvenile court department for a three day commitment to a facility of a mentally ill person whom the failure to confine would cause a likelihood of serious harm.

**For emergency evaluation:**

(a) Any physician ..., or a qualified psychologist ..., or a licensed independent clinical social worker ... who, after examining a person, has reason to believe that [the person meets the emergency evaluation criteria] may restrain or authorize the restraint of such person and apply for the hospitalization of such person for a 3-day period at a public facility or at a private facility authorized for such purposes by the department. *If an examination is not possible because of the emergency nature of the case and because of the refusal of the person to consent to such examination, the physician, qualified psychologist, qualified psychiatric nurse mental health clinical specialist or licensed independent clinical social worker on the basis of the facts and circumstances may determine that hospitalization is necessary and may apply therefore.* In an emergency situation, if a physician, qualified psychologist, qualified psychiatric nurse mental health clinical specialist or licensed independent clinical social worker is not available, a police officer, who believes that [the person meets the emergency evaluation criteria] may restrain such person and apply for the hospitalization of such person for a 3-day period at a public facility or a private facility authorized for such purpose by the department[.]

<h2>Michigan</h2>
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**For both inpatient and outpatient commitment (“assisted outpatient treatment”) (except that if the court relies exclusively on criteria in (1)(d), only outpatient commitment may be ordered):**

MICH. COMP. LAWS § 330.1401(1). As used in this chapter, "person requiring treatment" means (a), (b), (c), or (d):

(a) An individual who has mental illness, and who as a result of that mental illness can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another individual, and who has engaged in an act or acts or made significant threats that are substantially supportive of the expectation. (b) An individual who has mental illness, and who as a result of that mental illness is unable to attend to those of his or her basic physical needs such as food, clothing, or shelter that must be attended to in order for the individual to avoid serious harm in the near future, and who has demonstrated that inability by failing to attend to those basic physical needs.

(c) An individual who has mental illness, whose judgment is so impaired that he or she is unable to understand his or her need for treatment and whose continued behavior as the result of this mental illness can reasonably be expected, on the basis of competent clinical opinion, to result in significant physical harm to himself, herself, or others.

(d) An individual who has mental illness, whose understanding of the need for treatment is impaired to the point that he or she is unlikely to participate in treatment voluntarily, who is currently noncompliant with treatment that has been recommended by a mental health professional and that has been determined to be necessary to prevent a relapse or harmful deterioration of his or her condition, and whose noncompliance with treatment has been a factor in the individual's placement in a psychiatric hospital, prison, or jail at least 2 times within the last 48 months or whose noncompliance with treatment has been a factor in the individual's committing 1 or more acts, attempts, or threats of serious violent behavior within the last 48 months. An individual under this subdivision is only eligible to receive assisted outpatient treatment[.]

**For emergency evaluation:**

MICH. COMP. LAWS § 330.1427(1). If a peace officer observes an individual conducting himself or herself in a manner that causes the peace officer to reasonably believe that the individual is a person requiring treatment ..., the peace officer may take the individual into protective custody and transport the individual ... for examination ... or for mental health intervention services.

MICH. COMP. LAWS § 330.1438. If it appears to the court that the individual requires immediate involuntary mental health treatment in order to prevent physical harm to himself or herself, or others, the court may order the individual hospitalized and may order a peace officer to take the individual into protective custody and transport the individual to a preadmission screening unit designated by the community mental health services program.

**Who may initiate:**

**For inpatient commitment:**

MICH. COMP. LAWS § 330.1423. Hospitalization pending certification by psychiatrist. A [designated] hospital ... shall hospitalize an individual presented to the hospital, pending receipt of a clinical certificate by a psychiatrist stating that the individual is a person requiring treatment, if an application, a physician's or a licensed psychologist's clinical certificate, and an authorization by a preadmission screening unit have been executed.

**For inpatient or outpatient commitment:**

MICH. COMP. LAWS § 330.1434(1). Any individual 18 years of age or over may file with the court a petition that asserts that an individual is a person requiring treatment.

**For emergency evaluation:**

MICH. COMP. LAWS § 330.1427(1). [A] peace officer may take [an] individual [who appears to meet the criteria for emergency evaluation] into protective custody and transport the individual to a preadmission screening unit designated by a community mental health services program for examination ... or for mental health intervention services. ... Upon arrival at the preadmission screening unit or site designated by the preadmission screening unit, the peace officer shall execute an application for hospitalization of the individual.

## Minnesota

**For inpatient commitment:**

MINN. STAT. § 253B.09(1). If the court finds by clear and convincing evidence that the proposed patient is a person who is mentally ill, ... and after careful consideration of reasonable alternative dispositions, including but not limited to, dismissal of petition, voluntary outpatient care, voluntary admission to a treatment facility, appointment of a guardian or conservator, or release before commitment as provided for in subdivision 4, it finds that there is no suitable alternative to judicial commitment, the court shall commit the patient to the least restrictive treatment program or alternative programs which can meet the patient's treatment needs[.]

MINN. STAT. § 253B.02(13). Person who is mentally ill.

(a) A "person who is mentally ill" means any person who has an organic disorder of the brain or a substantial psychiatric disorder of thought, mood, perception, orientation, or memory which grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand, which is manifested by instances of grossly disturbed behavior or faulty perceptions and poses a substantial likelihood of physical harm to self or others as demonstrated by:

- (1) a failure to obtain necessary food, clothing, shelter, or medical care as a result of the impairment;
- (2) an inability for reasons other than indigence to obtain necessary food, clothing, shelter, or medical care as a result of the impairment and it is more probable than not that the person will suffer substantial harm, significant psychiatric deterioration or debilitation, or serious illness, unless appropriate treatment and services are provided;
- (3) a recent attempt or threat to physically harm self or others; or
- (4) recent and volitional conduct involving significant damage to substantial property.

(b) A person is not mentally ill under this section if the impairment is solely due to:

- (1) epilepsy;
- (2) developmental disability;
- (3) brief periods of intoxication caused by alcohol, drugs, or other mind-altering substances; or
- (4) dependence upon or addiction to any alcohol, drugs, or other mind-altering substances.

MINN. STAT. § 253B.18(a). If the court finds by clear and convincing evidence that the proposed patient is a person who is mentally ill and dangerous to the public, it shall commit the person to a secure treatment facility or to a treatment facility willing to accept the patient under commitment. The court shall commit the patient to a secure treatment facility unless the patient establishes by clear and convincing evidence that a less restrictive treatment program is available that is consistent with the patient's treatment needs and the requirements of public safety.

MINN. STAT. § 253B.02(17)(a). A "person who is mentally ill and dangerous to the public" is a person

(1) who is mentally ill; and

(2) who as a result of that mental illness presents a clear danger to the safety of others as demonstrated by the facts that (i) the person has engaged in an overt act causing or attempting to cause serious physical harm to another and (ii) there is a substantial likelihood that the person will engage in acts capable of inflicting serious physical harm on another.

*Note: The critical distinction between a patient committed as a "person who is mentally ill" and one committed as a "person who is mentally ill and dangerous to the public" is that the latter is not permitted to transfer to voluntary status per MINN. STAT. § 253B.10(5).*

**For outpatient commitment ("early intervention treatment"):**

MINN. STAT. § 253B.065(5)

(a) A court shall order early intervention treatment of a proposed patient who meets the criteria under paragraph (b). The early intervention treatment must be less intrusive than long-term inpatient commitment and must be the least restrictive treatment program available that can meet the patient's treatment needs.

(b) The court shall order early intervention treatment if the court finds all of the elements of the following factors by clear and convincing evidence:

(1) the proposed patient is mentally ill;

(2) the proposed patient refuses to accept appropriate mental health treatment; and

(3) the proposed patient's mental illness is manifested by instances of grossly disturbed behavior or faulty perceptions and either:

(i) the grossly disturbed behavior or faulty perceptions significantly interfere with the proposed patient's ability to care for self and the proposed patient, when competent, would have chosen substantially similar treatment under the same circumstances; or

(ii) due to the mental illness, the proposed patient received court-ordered inpatient treatment under section 253B.09 at least two times in the previous three years; the patient is exhibiting symptoms or behavior substantially similar to those that precipitated one or more of the court-ordered treatments; and the patient is reasonably expected to physically or mentally deteriorate to the point of meeting the criteria for commitment under section 253B.09 unless treated.

For purposes of this paragraph, a proposed patient who was released [prior to commitment] and whose release was not revoked is not considered to have received court-ordered inpatient treatment[.] under section 253B.09.

...

(d) For purposes of [paragraph] (b) ..., none of the following constitute a refusal to accept appropriate mental health treatment:

- (1) a willingness to take medication but a reasonable disagreement about type or dosage;
- (2) a good faith effort to follow a reasonable alternative treatment plan, including treatment as specified in a valid advance directive[;]
- (3) an inability to obtain access to appropriate treatment because of inadequate health care coverage or an insurer's refusal or delay in providing coverage for the treatment; or
- (4) an inability to obtain access to needed mental health services because the provider will only accept patients who are under a court order or because the provider gives persons under a court order a priority over voluntary patients in obtaining treatment and services.

**For emergency evaluation:**

MINN. STAT. § 253B.05(1)(a). Any person may be admitted or held for emergency care and treatment in a treatment facility ... with the consent of the head of the treatment facility upon a written statement by an examiner that:

- (1) the examiner has examined the person not more than 15 days prior to admission,
- (2) the examiner is of the opinion, for stated reasons, that the person is mentally ill, developmentally disabled, or chemically dependent, and is in danger of causing injury to self or others if not immediately detained, and
- (3) an order of the court cannot be obtained in time to prevent the anticipated injury.

MINN. STAT. § 253B.05(2). A peace or health officer may take a person into custody and transport the person to a licensed physician or treatment facility if the officer has reason to believe, either through direct observation of the person's behavior, or upon reliable information of the person's recent behavior and knowledge of the person's past behavior or psychiatric treatment, that the person is mentally ill or developmentally disabled and in danger of injuring self or others if not immediately detained.

**Who may initiate:**

**For inpatient commitment:**

MINN. STAT. § 253B.07(2)(a). Any interested person, except a member of the prepetition screening team, may file a petition for commitment in the district court of the county of financial responsibility or the county where the proposed patient is present. If the head of the treatment facility believes that commitment is required and no petition has been filed, the head of the treatment facility shall petition for the commitment of the person.

**For outpatient commitment ("early intervention treatment"):**

MINN. STAT. § 253B.064(1)(A). An interested person may apply to the designated agency for early intervention of a proposed patient in the county of financial responsibility or the county where the patient

is present. If the designated agency determines that early intervention may be appropriate, a prepetition screening report must be prepared [as required with candidates for inpatient commitment]. The county attorney may file a petition for early intervention following the procedures [set forth for inpatient commitment].

**For emergency evaluation:**

MINN. STAT. § 253B.05(1)(a). Any person may be admitted or held for emergency care and treatment in a treatment facility ... with the consent of the head of the treatment facility upon a written statement by an examiner[.]

MINN. STAT. § 253B.05(2). A peace or health officer may take a person into custody and transport the person to a licensed physician or treatment facility if the officer has reason to believe ... that the person [meets the criteria for emergency evaluation].

## Mississippi

**For both inpatient and outpatient commitment (“court-ordered outpatient commitment for treatment”):**

MISS. CODE ANN. § 41-21-73(4). "If the court finds by clear and convincing evidence that the proposed patient is a person with mental illness .... and, if after careful consideration of reasonable alternative dispositions .... the court finds that there is no suitable alternative to judicial commitment, the court shall commit the patient for treatment.

MISS. CODE ANN. § 41-21-61(e). "Person with mental illness" means any person who has a substantial psychiatric disorder of thought, mood, perception, orientation, or memory which grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand, which

(i) is manifested by instances of grossly disturbed behavior or faulty perceptions; and

(ii) poses a substantial likelihood of physical harm to himself or others as demonstrated by

(A) a recent attempt or threat to physically harm himself or others, or

(B) a failure to provide necessary food, clothing, shelter or medical care for himself, as a result of the impairment.

"Person with mental illness" includes a person who, based on treatment history and other applicable psychiatric indicia, is in need of treatment in order to prevent further disability or deterioration which would predictably result in dangerousness to himself or others when his current mental illness limits or negates his ability to make an informed decision to seek or comply with recommended treatment.

MISS. CODE ANN. § 41-21-61 (j) "Substantial likelihood of bodily harm" means that:

(i) The person has threatened or attempted suicide or to inflict serious bodily harm to himself; or

(ii) The person has threatened or attempted homicide or other violent behavior; or

(iii) The person has placed others in reasonable fear of violent behavior and serious physical harm to

them; or

(iv) The person is unable to avoid severe impairment or injury from specific risks; and

(v) There is substantial likelihood that serious harm will occur unless the person is placed under emergency treatment.

**For emergency evaluation:**

MISS. CODE ANN. § 41-21-67(5). Whenever a [designated professional] has reason to believe that a person poses an immediate substantial likelihood of physical harm to himself or others or is gravely disabled and unable to care for himself by virtue of mental illness, then the [designated professional] may hold the person or may admit the person to and treat the person in a licensed medical facility, without a civil order or warrant for a period not to exceed seventy-two (72) hours.

**Who may initiate:**

**For inpatient or outpatient commitment:**

MISS. CODE ANN. § 41-21-65(2). If any person is alleged to be in need of treatment, any relative of the person, or any interested person, may make affidavit of that fact and shall file the affidavit with the clerk of the chancery court of the county in which the person alleged to be in need of treatment resides.

**For emergency evaluation:**

MISS. CODE ANN. § 41-21-67(5). Whenever a licensed psychologist, nurse practitioner or physician assistant who is certified to complete examinations for the purpose of commitment or a licensed physician has reason to believe that a person [meets the criteria for emergency evaluation], then the physician, psychologist, nurse practitioner or physician assistant may hold the person or may admit the person to and treat the person in a licensed medical facility, without a civil order or warrant for a period not to exceed seventy-two hours.

<h2>Missouri</h2>
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**For both inpatient and outpatient commitment (“outpatient detention and treatment”):**

MO. ANN. STAT. 632.350(5). At the conclusion of the hearing, if the court or jury finds that the respondent, as the result of mental illness, presents a likelihood of serious harm to himself or to others, and the court finds that a program appropriate to handle the respondent's condition has agreed to accept him, the court shall order the respondent to be detained for involuntary treatment in the least restrictive environment for a period not to exceed ninety days or for outpatient detention and treatment under the supervision of a mental health program in the least restrictive environment for a period not to exceed one hundred eighty days.

MO. ANN. STAT. § 632.005(10). "Likelihood of serious harm" means any one or more of the following but does not require actual physical injury to have occurred:

(a) A substantial risk that serious physical harm will be inflicted by a person upon his own person, as evidenced by recent threats, including verbal threats, or attempts to commit suicide or inflict physical

harm on himself. Evidence of substantial risk may also include information about patterns of behavior that historically have resulted in serious harm previously being inflicted by a person upon himself;

(b) A substantial risk that serious physical harm to a person will result or is occurring because of an impairment in his capacity to make decisions with respect to his hospitalization and need for treatment as evidenced by his current mental disorder or mental illness which results in an inability to provide for his own basic necessities of food, clothing, shelter, safety or medical care or his inability to provide for his own mental health care which may result in a substantial risk of serious physical harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in serious harm to the person previously taking place because of a mental disorder or mental illness which resulted in his inability to provide for his basic necessities of food, clothing, shelter, safety or medical or mental health care; or

(c) A substantial risk that serious physical harm will be inflicted by a person upon another as evidenced by recent overt acts, behavior or threats, including verbal threats, which have caused such harm or which would place a reasonable person in reasonable fear of sustaining such harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in physical harm previously being inflicted by a person upon another person.

**For emergency evaluation:**

MO. ANN. STAT. § 632.305(2). If the court finds that there is probable cause to believe that the respondent may be suffering from a mental disorder and presents a likelihood of serious harm to himself or others, it shall direct a peace officer to take the respondent into custody and transport him to a mental health facility for detention for evaluation and treatment for a period not to exceed ninety-six hours.

MO. ANN. STAT. § 632.305(3) A mental health coordinator ... or a peace officer may [initiate emergency evaluation] only when such mental health coordinator or peace officer has reasonable cause to believe that such person is suffering from a mental disorder and that the likelihood of serious harm by such person to himself or others is imminent unless such person is immediately taken into custody.

**Who may initiate:**

**For inpatient or outpatient commitment, or emergency evaluation:**

MO. ANN. STAT. § 632.305(1). An application for detention for evaluation and treatment may be executed by any adult person[.]

<h2>Montana</h2>
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**For both inpatient and outpatient commitment (*except that if the court relies exclusively on criteria in (1)(d), only outpatient treatment may be ordered*) (“outpatient care”):**

MONT. CODE ANN. § 53-21-126(1). If the court determines that the respondent is suffering from a mental disorder, the court shall then determine whether the respondent requires commitment. In determining whether the respondent requires commitment ... the court shall consider the following:

(a) whether the respondent, because of a mental disorder, is substantially unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety;

(b) whether the respondent has recently, because of a mental disorder and through an act or an omission, caused self-injury or injury to others;

(c) whether, because of a mental disorder, there is an imminent threat of injury to the respondent or to others because of the respondent's acts or omissions; and

(d) whether the respondent's mental disorder, as demonstrated by the respondent's recent acts or omissions, will, if untreated, predictably result in deterioration of the respondent's mental condition to the point at which the respondent will become a danger to self or to others or will be unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety. Predictability may be established by the respondent's relevant medical history.

MONT. CODE ANN. § 53-21-127 (7) Satisfaction of any one of the criteria listed in 53-21-126(1) justifies commitment pursuant to this chapter. However, if the court relies solely upon the criterion provided in 53-21-126(1)(d), the court may require commitment only to a community facility and may not require commitment at the state hospital, a behavioral health inpatient facility, or the Montana mental health nursing care center.

MONT. CODE ANN. § 53-21-102(9)(a). "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions.

**For emergency evaluation:**

MONT. CODE ANN. § 53-21-129(2). If the professional person agrees that the person detained is a danger to the person or to others because of a mental disorder and that an emergency situation exists, then the person may be detained and treated until the next regular business day.

**Who may initiate:**

**For inpatient or outpatient commitment:**

MONT. CODE ANN. § 53-21-121.(1) The county attorney, upon the written request of any person having direct knowledge of the facts, may file a petition with the court alleging that there is a person within the county who is suffering from a mental disorder and who requires commitment pursuant to this chapter.

**For emergency evaluation:**

MONT. CODE ANN. § 53-21-129. (1) When an emergency situation exists, a peace officer may take any person who appears to have a mental disorder and to present an imminent danger of death or bodily harm to the person or to others into custody only for sufficient time to contact a professional person for emergency evaluation. If possible, a professional person should be called prior to taking the person into custody.

<h2>Nebraska</h2>
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**For both inpatient and outpatient commitment ("outpatient treatment"):**

NEB. REV. STAT. § 71-925(1). The state has the burden to prove by clear and convincing evidence that (a) the subject is mentally ill and dangerous and (b) neither voluntary hospitalization nor other treatment

alternatives less restrictive of the subject's liberty than inpatient or outpatient treatment ordered by the mental health board are available or would suffice to prevent the harm described in section 71-908.

(4) If the subject admits the allegations of the petition or the mental health board finds that the subject is mentally ill and dangerous and that neither voluntary hospitalization nor other treatment alternatives less restrictive of the subject's liberty than inpatient or outpatient treatment ordered by the board are available or would suffice to prevent the harm described in section 71-908, the board shall, within forty-eight hours, (a) order the subject to receive outpatient treatment or (b) order the subject to receive inpatient treatment.

NEB. REV. STAT. § 71-908. Mentally ill and dangerous person means a person who is mentally ill ... and because of such mental illness... presents:

(1) A substantial risk of serious harm to another person or persons within the near future as manifested by evidence of recent violent acts or threats of violence or by placing others in reasonable fear of such harm; or

(2) A substantial risk of serious harm to himself or herself within the near future as manifested by evidence of recent attempts at, or threats of, suicide or serious bodily harm or evidence of inability to provide for his or her basic human needs, including food, clothing, shelter, essential medical care, or personal safety.

**For emergency evaluation:**

NEB. REV. STAT. § 71-919(1). A law enforcement officer who has probable cause to believe that a person is mentally ill and dangerous ... and that the harm is likely to occur before mental health board proceedings may be initiated to obtain custody of the person may take such person into emergency protective custody, cause him or her to be taken into emergency protective custody, or continue his or her custody if he or she is already in custody.

**Who may initiate:**

**For inpatient or outpatient commitment:**

NEB. REV. STAT. § 71-921(1). Any person who believes that another person is mentally ill and dangerous may communicate such belief to the county attorney. If the county attorney concurs ... he or she shall file a petition as provided in this section.

**For emergency evaluation:**

NEB. REV. STAT. § 71-919(1). A law enforcement officer who has probable cause to believe that a person is mentally ill and [meets the criteria for emergency evaluation] may take such person into emergency protective custody, cause him or her to be taken into emergency protective custody, or continue his or her custody if he or she is already in custody.

**Nevada\***

***\*Nevada does not have an assisted outpatient treatment law.***

**For inpatient commitment:**

NEV. REV. STAT. § 433A.310(1). If the district court finds, after proceedings for the involuntary court-ordered admission of a person to a . . . mental health facility: . . . (b) That there is clear and convincing

evidence that the person with respect to whom the hearing was held has a mental illness and, because of that illness, is likely to harm himself or others if allowed his liberty, the court may order the involuntary admission of the person for the most appropriate course of treatment.

NEV. REV. STAT. § 433A.115 "Person with mental illness" defined.

1. As used . . . unless the context otherwise requires, "mentally ill person" means any person whose capacity to exercise self-control, judgment and discretion in the conduct of the person's affairs and social relations or to care for his or her personal needs is diminished, as a result of a mental illness, to the extent that the person presents a clear and present danger of harm to himself or herself or others, but does not include any person in whom that capacity is diminished by epilepsy, mental retardation, Alzheimer's disease, brief periods of intoxication caused by alcohol or drugs, or dependence upon or addiction to alcohol or drugs, unless a mental illness that can be diagnosed is also present which contributes to the diminished capacity of the person.

2. A person presents a clear and present danger of harm to himself or herself if, within the immediately preceding 30 days, the person has, as a result of a mental illness:

(a) Acted in a manner from which it may reasonably be inferred that, without the care, supervision or continued assistance of others, the person will be unable to satisfy his or her need for nourishment, personal or medical care, shelter, self-protection or safety, and if there exists a reasonable probability that the person's death, serious bodily injury or physical debilitation will occur within the next following 30 days unless he or she is admitted to a mental health facility . . . and adequate treatment is provided to the person;

(b) Attempted or threatened to commit suicide or committed acts in furtherance of a threat to commit suicide, and if there exists a reasonable probability that the person will commit suicide unless he or she is admitted to a mental health facility . . . and adequate treatment is provided to the person; or

(c) Mutilated himself or herself, attempted or threatened to mutilate himself or herself or committed acts in furtherance of a threat to mutilate himself, or herself reasonable probability that he or she will mutilate himself or herself unless the person is admitted to a mental health facility . . . and adequate treatment is provided to the person.

3. A person presents a clear and present danger of harm to others if, within the immediately preceding 30 days, the person has, as a result of a mental illness, inflicted or attempted to inflict serious bodily harm on any other person, or made threats to inflict harm and committed acts in furtherance of those threats, and if there exists a reasonable probability that he or she will do so again unless the person is admitted to a mental health facility . . . and adequate treatment is provided to him or her.

**For emergency evaluation:**

NEV. REV. STAT. § 433A.160. [A designated person] may: (a) Without a warrant: (1) Take a person alleged to be a person with mental illness into custody to apply for the emergency admission of the person for evaluation, observation and treatment . . . only if [the designated person] has, based upon his or her personal observation of the person alleged to be a person with mental illness, probable cause to believe that the person has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty.

NEV. REV. STAT. § 433A.170. An application for an emergency admission [must be] accompanied by a certificate of a psychiatrist or a licensed psychologist stating that he or she has examined the person alleged to be a person with mental illness and that he or she has concluded that the person has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her

liberty. If a psychiatrist or licensed psychologist is not available to conduct an examination, a physician may conduct the examination.

**Who may initiate:**

**For inpatient commitment:**

NEV. REV. STAT. § 433A.200. A proceeding for an involuntary court-ordered admission of any person in the State of Nevada may be commenced by the filing of a petition with the clerk of the district court of the county where the person who is to be treated resides. The petition may be filed by the spouse, parent, adult children or legal guardian of the person to be treated or by any physician, psychologist, social worker or registered nurse, by an accredited agent of the Department or by any officer authorized to make arrests in the State of Nevada.

**For emergency evaluation:**

NEV. REV. STAT. § 433A.160. [A]n application for the emergency admission of a person alleged to be a person with mental illness for evaluation, observation and treatment may only be made by an accredited agent of the Department, an officer authorized to make arrests in the State of Nevada or a physician, psychologist, marriage and family therapist, clinical professional counselor, social worker or registered nurse[.]

## New Hampshire

**For inpatient and outpatient commitment (“outpatient treatment”):**

N.H. REV. STAT. ANN. § 135-C:34. Involuntary Treatment Standard. The standard to be used by a court, physician, or psychiatrist in determining whether a person should be admitted to a receiving facility for treatment on an involuntary basis shall be whether the person is in such mental condition as a result of mental illness as to create a potentially serious likelihood of danger to himself or to others.

N.H. REV. STAT. ANN. § 135-C:27.

I. As used in this section "danger to himself" is established by demonstrating that:

(a) Within 40 days of the completion of the petition, the person has inflicted serious bodily injury on himself or has attempted suicide or serious self-injury and there is a likelihood the act or attempted act will recur if admission is not ordered;

(b) Within 40 days of the completion of the petition, the person has threatened to inflict serious bodily injury on himself and there is likelihood that an act or attempt of serious self-injury will occur if admission is not ordered; or

(c) The person's behavior demonstrates that he so lacks the capacity to care for his own welfare that there is a likelihood of death, serious bodily injury, or serious debilitation if admission is not ordered.

(d) The person meets all of the following criteria:

(1) The person has been determined to be severely mentally disabled in accordance with rules authorized by RSA 135-C:61 for a period of at least one year;

(2) The person has had at least one involuntary admission, within the last 2 years, pursuant to RSA 135-C:34-54;

(3) The person has no guardian of the person appointed pursuant to RSA 464-A;

(4) The person is not subject to a conditional discharge granted pursuant to RSA 135-C:49, II;

(5) The person has refused the treatment determined necessary by a mental health program approved by the department; and

(6) A psychiatrist at a mental health program approved by the department has determined, based upon the person's clinical history, that there is a substantial probability that the person's refusal to accept necessary treatment will lead to death, serious bodily injury, or serious debilitation if admission is not ordered.

II. As used in this section "danger to others" is established by demonstrating that within 40 days of the completion of the petition, the person has inflicted, attempted to inflict, or threatened to inflict serious bodily harm on another.

**For emergency evaluation:**

N.H. REV. STAT. ANN. § 135-C:27. A person shall be eligible for involuntary emergency admission if he is in such mental condition as a result of mental illness to pose a likelihood of danger to himself or others.

N.H. REV. STAT. ANN. § 135-C:28. [I]f the person sought to be admitted refuses to consent to a mental examination, a petitioner or a law enforcement officer may sign a complaint which shall be sworn to before a justice of the peace... The petition shall state in detail the acts or actions of the person sought to be admitted which the petitioner has personally observed or which have been personally reported to the petitioner and in his or her opinion require a compulsory mental examination. If the justice of the peace finds that a compulsory mental examination is necessary, the justice may order the examination[.]

When a peace officer observes a person engaging in behavior which gives the peace officer reasonable suspicion to believe that the person may be suffering from a mental illness and probable cause to believe that unless the person is placed in protective custody the person poses an immediate danger of bodily injury to himself or others, the police officer may place the person in protective custody[.]

**Who may initiate:**

**For inpatient or outpatient commitment:**

N.H. REV. STAT. ANN. § 135-C:35. Any responsible person may petition for a hearing relative to the need for admission on an involuntary basis of another person due to mental illness.

**For emergency evaluation:**

N.H. REV. STAT. ANN. § 135-C:28 Involuntary Emergency Admission Examination.

I. The involuntary emergency admission of a person shall be to the state mental health services system under the supervision of the commissioner. The admission may be ordered upon the certificate of a physician or A.P.R.N. ...The physician or A.P.R.N. must find that the person to be admitted meets the

criteria ... [Petitioner] means any individual, including a physician or A.P.R.N. completing a certificate, who has requested that a physician or A.P.R.N. conduct or who has conducted an examination for purposes of involuntary emergency admission[.]

II. [I]f the person sought to be admitted refuses to consent to a mental examination, a petitioner or a law enforcement officer may sign a complaint which shall be sworn to before a justice of the peace. The complaint shall be submitted to the justice of the peace with the petition... If the justice of the peace finds that a compulsory mental examination is necessary, the justice may order the examination.

III. When a peace officer observes a person engaging in behavior which gives the peace officer reasonable suspicion to believe that the person may [meet the criteria for emergency evaluation] the police officer may place the person in protective custody[.]

## New Jersey

### **For inpatient and \*outpatient commitment (“involuntary outpatient commitment”):**

N.J. STAT. ANN. § 30:4-27.2(m). "In need of involuntary commitment" or "in need of involuntary commitment to treatment" means that an adult with mental illness, whose mental illness causes the person to be dangerous to self or dangerous to others or property and who is unwilling to accept appropriate treatment voluntarily after it has been offered, needs outpatient treatment or inpatient care at a short-term care or psychiatric facility or special psychiatric hospital because other services are not appropriate or available to meet the person's mental health care needs.

N.J. STAT. ANN. § 30:4-27.2(r). "Mental illness" means a current, substantial disturbance of thought, mood, perception or orientation which significantly impairs judgment, capacity to control behavior or capacity to recognize reality, but does not include simple alcohol intoxication, transitory reaction to drug ingestion, organic brain syndrome or developmental disability unless it results in the severity of impairment described herein. The term mental illness is not limited to "psychosis" or "active psychosis," but shall include all conditions that result in the severity of impairment described herein.

N.J. STAT. ANN. § 30:4-27.2(h). "Dangerous to self" means that by reason of mental illness the person has threatened or attempted suicide or serious bodily harm, or has behaved in such a manner as to indicate that the person is unable to satisfy his need for nourishment, essential medical care or shelter, so that it is probable that substantial bodily injury, serious physical harm or death will result within the reasonably foreseeable future; however, no person shall be deemed to be unable to satisfy his need for nourishment, essential medical care or shelter if he is able to satisfy such needs with the supervision and assistance of others who are willing and available. This determination shall take into account a person's history, recent behavior and any recent act or threat.

N.J. STAT. ANN. § 30:4-27.2(i) "Dangerous to others or property" means that by reason of mental illness there is a substantial likelihood that the person will inflict serious bodily harm upon another person or cause serious property damage within the reasonably foreseeable future. This determination shall take into account a person's history, recent behavior and any recent act, threat, or serious psychiatric deterioration.

### **For emergency evaluation:**

N.J. STAT. ANN. § 30:4-27.6. A State or local law enforcement officer shall take custody of a person and take the person immediately and directly to a screening service if:

a. On the basis of personal observation, the law enforcement officer has reasonable cause to believe that the person is in need of involuntary commitment to treatment;

b. A mental health screener has certified on a form prescribed by the division that based on a screening outreach visit the person is in need of involuntary commitment to treatment and has requested the person be taken to the screening service for a complete assessment;

c. The court orders that a person subject to an order of conditional discharge ... who has failed to follow the conditions of the discharge be taken to a screening service for an assessment; or

d. An outpatient treatment provider has certified on a form prescribed by the division that the provider has reasonable cause to believe the person is in need of evaluation for commitment to treatment.

**Who may initiate:**

**For inpatient or outpatient commitment:**

N.J. STAT. ANN. § 30:4-27.10.

a. (1) A short-term care or psychiatric facility or a special psychiatric hospital shall initiate court proceedings for involuntary commitment to inpatient or outpatient treatment by submitting to the court a clinical certificate[.]

(2) A screening service or outpatient treatment provider shall initiate court proceedings for commitment to outpatient treatment by submitting to the court a clinical certificate[.]

b. Court proceedings for the involuntary commitment to treatment of any person not referred by a screening service may be initiated by the submission to the court of two clinical certificates, at least one of which is prepared by a psychiatrist. The person shall not be involuntarily committed before the court issues a temporary court order.

c. A court proceeding for involuntary commitment to treatment of an inmate who is scheduled for release upon expiration of a maximum term of incarceration shall be initiated by the Attorney General or county prosecutor by submission to the court of two clinical certificates...

d. The Attorney General, in exercise of the State's authority as *parens patriae*, may initiate a court proceeding for the involuntary commitment to treatment of any person in accordance with the procedures set forth ...

**For emergency evaluation:**

N.J. STAT. ANN. § 30:4-27.6. A State or local law enforcement officer shall take custody of a person and take the person immediately and directly to a screening service if [the person meets the criteria].

*\* Outpatient law was effective August 11, 2010, but implementation has been delayed. The law is scheduled to be phased in over the next three years.*

<b>New Mexico*</b>
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***\*New Mexico does not have an assisted outpatient treatment law.***

**For inpatient commitment:**

N.M. STAT. ANN. § 43-1-11(E). Upon completion of the hearing, the court may order a commitment for evaluation and treatment not to exceed thirty days if the court finds by clear and convincing evidence that:

- (1) as a result of a mental disorder, the client presents a likelihood of serious harm to himself or others;
- (2) the client needs and is likely to benefit from the proposed treatment; and
- (3) the proposed commitment is consistent with the treatment needs of the client and with the least drastic means principle.

N.M. STAT. ANN. § 43-1-3(M). "likelihood of serious harm to oneself" means that it is more likely than not that in the near future the person will attempt to commit suicide or will cause serious bodily harm to the person's self by violent or other self-destructive means, including but not limited to grave passive neglect;

N.M. STAT. ANN. § 43-1-3(N). "likelihood of serious harm to others" means that it is more likely than not that in the near future a person will inflict serious, unjustified bodily harm on another person or commit a criminal sexual offense, as evidenced by behavior causing, attempting or threatening such harm, which behavior gives rise to a reasonable fear of such harm from the person;

**For emergency evaluation ("emergency mental health evaluation and care"):**

N.M. STAT. ANN. § 43-1-10(A). A peace officer may detain and transport a person for emergency mental health evaluation and care in the absence of a legally valid order from the court only if:

- (1) the person is otherwise subject to lawful arrest;
- (2) the peace officer has reasonable grounds to believe the person has just attempted suicide;
- (3) the peace officer, based upon his own observation and investigation, has reasonable grounds to believe that the person, as a result of a mental disorder, presents a likelihood of serious harm to himself or others and that immediate detention is necessary to prevent such harm; or
- (4) a licensed physician or a certified psychologist has certified that the person, as a result of a mental disorder, presents a likelihood of serious harm to himself or others and that immediate detention is necessary to prevent such harm.

N.M. STAT. ANN. § 43-1-10(C). An evaluation facility may accept for an emergency based admission any person when a licensed physician or certified psychologist certifies that such person, as a result of a mental disorder, presents a likelihood of serious harm to himself or others and that immediate detention is necessary to prevent such harm.

**Who may initiate:**

**For inpatient commitment:**

N.M. STAT. ANN. § 43-1-11(G). An interested person who reasonably believes that an adult is suffering from a mental disorder and presents a likelihood of serious harm to the adult's own self or others, but does not require emergency care, may request the district attorney to investigate and determine whether reasonable grounds exist to commit the adult for a thirty-day period of evaluation and treatment.

**For emergency evaluation:**

N.M. STAT. ANN. § 43-1-10(B). An emergency evaluation under this section shall be accomplished upon the request of a peace officer, or jail or detention facility administrator or his designee, or upon the certification of a licensed physician or certified psychologist as described in Subsection C of this section. A court order is not required under this section.

## New York

### **For inpatient commitment:**

60-day involuntary treatment based on medical certification:

N.Y. MENTAL HYG. LAW § 9.05(b) A certificate, as required by this article, must show that the person is mentally ill . . . [and] the condition of the person examined is such that he needs involuntary care and treatment in a hospital . . . .

N.Y. MENTAL HYG. LAW § 9.37(a) The director of a hospital, upon application by a director of community services or an examining physician duly designated by him or her, may receive and care for in such hospital as a patient any person who, in the opinion of the director of community services or the director's designee, has a mental illness for which immediate inpatient care and treatment in a hospital is appropriate and which is likely to result in serious harm to himself or herself or others. If a hearing on the patient's need for treatment during the 60-day involuntary treatment:

N.Y. MENTAL HYG. LAW § 9.31(c). If it be determined [by the court] that the patient is in need of retention, the court shall deny the application for the patient's release. If it be determined that the patient is not mentally ill or not in need of retention, the court shall order the release of the patient.

N.Y. MENTAL HYG. LAW § 9.01. As used in this article:

"in need of care and treatment" means that a person has a mental illness for which in-patient care and treatment in a hospital is appropriate.

"in need of involuntary care and treatment" means that a person has a mental illness for which care and treatment as a patient in a hospital is essential to such person's welfare and whose judgment is so impaired that he is unable to understand the need for such care and treatment.

"need for retention" means that a person who has been admitted to a hospital pursuant to this article is in need of involuntary care and treatment in a hospital for a further period.

"likelihood to result in serious harm" or "likely to result in serious harm" means

(a) a substantial risk of physical harm to the person as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that the person is dangerous to himself or herself, or

(b) a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm.

Case Law. Although not explicitly in the state's code, a strong majority of the New York courts addressing the issue have held that in order to retain a patient for involuntary psychiatric care under New York law a hospital must establish that the patient is (1) mentally ill; (2) in need of continued, supervised care and

treatment; and (3) that the patient poses a substantial threat of physical harm to himself and/or others. E.g., *Anonymous v. Carmichael*, 727 N.Y.S.2d (N.Y. App. Div. 2001)

**For outpatient commitment (“assisted outpatient treatment”):**

N.Y. MENTAL HYG. LAW § 9.60(C). Criteria for Assisted Outpatient Treatment. A person may be ordered to receive assisted outpatient treatment if the court finds that such person:

(1) is eighteen years of age or older; and

(2) is suffering from a mental illness; and

(3) is unlikely to survive safely in the community without supervision, based on a clinical determination; and

(4) has a history of lack of compliance with treatment for mental illness that has:

(i) prior to the filing of the petition, at least twice within the last thirty-six months been a significant factor in necessitating hospitalization in a hospital, or receipt of services in a forensic or other mental health unit of a correctional facility, not including any current period, or period ending within the last six months, in which the person was or is hospitalized or incarcerated ; or

(ii) prior to the filing of the petition, resulted in one or more acts of serious violent behavior toward self or others or threats of, or attempts at, serious physical harm to self or others within the last forty-eight months, not including any period, or period ending within the last six months, in which the person was or is hospitalized or incarcerated; and

(5) is, as a result of his or her mental illness, unlikely to voluntarily participate in the outpatient treatment that would enable him or her to live safely in the community; and

(6) in view of his or her treatment history and current behavior, is in need of assisted outpatient treatment in order to prevent a relapse or deterioration which would be likely to result in serious harm to the person or others as defined in section 9.01 of this article; and

(7) is likely to benefit from assisted outpatient treatment.

**For emergency evaluation:**

N.Y. MENTAL HYG. LAW § 9.39(a). [A]ny person alleged to have a mental illness for which immediate observation, care, and treatment in a hospital is appropriate and which is likely to result in serious harm to himself or others. "Likelihood to result in serious harm" as used in this article shall mean:

1. substantial risk of physical harm to himself as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that he is dangerous to himself, or

2. a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm.

**Who may initiate:**

**For inpatient commitment:**

N.Y. MENTAL HYG. LAW § 9.27(a). The director of a hospital may receive and retain therein as a patient any person alleged to be mentally ill and in need of involuntary care and treatment upon the certificates of two examining physicians, accompanied by an application for the admission of such person. The examination may be conducted jointly but each examining physician shall execute a separate certificate.

**For outpatient commitment:**

N.Y. MENTAL HYG. LAW § 9.60(e)(1) A petition for an order authorizing assisted outpatient treatment may be filed in the supreme or county court in the county in which the subject of the petition is present or reasonably believed to be present. Such petition may be initiated only by the following persons:

- (i) any person eighteen years of age or older with whom the subject of the petition resides; or
- (ii) the parent, spouse, sibling eighteen years of age or older, or child eighteen years of age or older of the subject of the petition; or
- (iii) the director of a hospital in which the subject of the petition is hospitalized; or
- (iv) the director of any public or charitable organization, agency or home providing mental health services to the subject of the petition in whose institution the subject of the petition resides; or
- (v) psychiatrist who is either supervising the treatment of or treating the subject of the petition for a mental illness; or
- (vi) a psychologist or a social worker who is treating the subject of the petition for a mental illness; or
- (vii) the director of community services, or his or her designee, or the social services official, as defined in the social services law, of the city or county in which the subject of the petition is present or reasonably believed to be present; or
- (viii) a parole officer or probation officer assigned to supervise the subject of the petition.

**For emergency evaluation:**

N.Y. MENTAL HYG. § 9.43 (a). Whenever any court of inferior or general jurisdiction is informed by verified statement that a person [meets the criteria for emergency evaluation], such court shall issue a warrant directing that such person be brought before it. If, when said person is brought before the court, it appears to the court, on the basis of evidence presented to it, that such person has or may have a mental illness which is likely to result in serious harm to himself or herself or others, the court shall issue a civil order directing his or her removal to any hospital specified in subdivision (a) of section [fig 2] 9.39 or any comprehensive psychiatric emergency program specified in subdivision (a) of section 9.40, willing to receive such person for a determination by the director of such hospital or program whether such person should be retained therein pursuant to such section.

## North Carolina

**For inpatient commitment:**

N.C. GEN. STAT. § 122C-268(j). To support an inpatient commitment order, the court shall find by clear, cogent, and convincing evidence that the respondent is mentally ill and dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as defined in G.S. 122C-3(11)b.

N.C. GEN. STAT. § 122C-3(11). "Dangerous to himself or others" means:

a. "Dangerous to himself" means that within the relevant past:

1. The individual has acted in such a way as to show:

I. That he would be unable, without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of his daily responsibilities and social relations, or to satisfy his need for nourishment, personal or medical care, shelter, or self-protection and safety; and

II. That there is a reasonable probability of his suffering serious physical debilitation within the near future unless adequate treatment is given pursuant to this Chapter. A showing of behavior that is grossly irrational, of actions that the individual is unable to control, of behavior that is grossly inappropriate to the situation, or of other evidence of severely impaired insight and judgment shall create a prima facie inference that the individual is unable to care for himself; or

2. The individual has attempted suicide or threatened suicide and that there is a reasonable probability of suicide unless adequate treatment is given pursuant to this Chapter; or

3. The individual has mutilated himself or attempted to mutilate himself and that there is a reasonable probability of serious self-mutilation unless adequate treatment is given pursuant to this Chapter.

Previous episodes of dangerousness to self, when applicable, may be considered when determining reasonable probability of physical debilitation, suicide, or self-mutilation.

b. "Dangerous to others" means that within the relevant past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Clear, cogent, and convincing evidence that an individual has committed a homicide in the relevant past is prima facie evidence of dangerousness to others.

#### **For outpatient commitment**

N.C. GEN. STAT. § 122C-263. (d) After the conclusion of the examination the physician or eligible psychologist shall make the following determinations:

(1) If the physician or eligible psychologist finds that:

a. The respondent is mentally ill;

b. The respondent is capable of surviving safely in the community with available supervision from family, friends, or others;

c. Based on the respondent's psychiatric history, the respondent is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness as defined by G.S. 122C-3(11); and

d. The respondent's current mental status or the nature of the respondent's illness limits or negates the respondent's ability to make an informed decision to seek voluntarily or comply with recommended treatment.

The physician or eligible psychologist shall so show on the examination report and shall recommend outpatient commitment.

N.C. GEN. STAT. § 122C-271.

(a) If an examining physician or eligible psychologist has recommended outpatient commitment and the respondent has been released pending the district court hearing, the court may make one of the following dispositions:

(1) If the court finds by clear, cogent, and convincing evidence that the respondent is mentally ill; that he is capable of surviving safely in the community with available supervision from family, friends, or others; that based on respondent's treatment history, the respondent is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness as defined in G.S. 122C-3(11); and that the respondent's current mental status or the nature of his illness limits or negates his ability to make an informed decision to seek voluntarily or comply with recommended treatment, it may order outpatient commitment for a period not in excess of 90 days.

(b) If the respondent has been held in a 24-hour facility pending the district court hearing pursuant to G.S. 122C-268, the court may make one of the following dispositions:

(1) If the court finds by clear, cogent, and convincing evidence that the respondent is mentally ill; that the respondent is capable of surviving safely in the community with available supervision from family, friends, or others; that based on respondent's psychiatric history, the respondent is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness as defined by G.S. 122C-3(11); and that the respondent's current mental status or the nature of the respondent's illness limits or negates the respondent's ability to make an informed decision voluntarily to seek or comply with recommended treatment, it may order outpatient commitment for a period not in excess of 90 days.

**For emergency evaluation:**

N.C. GEN. STAT. § 122C-262(a). Anyone, including a law enforcement officer, who has knowledge of an individual who is subject to inpatient commitment ... and who requires immediate hospitalization to prevent harm to self or others, may transport the individual directly to an area facility or other place, including a State facility for the mentally ill, for examination by a physician or eligible psychologist.

**Who may initiate:**

**For inpatient or outpatient commitment:**

N.C. GEN. STAT. § 122C-261(a). Anyone who has knowledge of an individual who is mentally ill and either (i) dangerous to self or dangerous to others, or (ii) in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness, may appear before a clerk or assistant or deputy clerk of superior court or a magistrate and execute an affidavit to this effect, and petition the clerk or magistrate for issuance of an order to take the respondent into custody for examination by a physician or eligible psychologist.

**For emergency evaluation:**

N.C. GEN. STAT. § 122C-262(a). Anyone, including a law enforcement officer, who has knowledge of an individual who is subject to inpatient commitment ... and who [meets the criteria for emergency evaluation], may transport the individual directly to an area facility or other place, including a State facility for the mentally ill, for examination by a physician or eligible psychologist.

<b>North Dakota</b>
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**For inpatient and outpatient commitment (“outpatient care”):**

N.D. CENT. CODE § 25-03.1-07. A person may be involuntarily admitted under this chapter to the state hospital or another treatment facility only if it is determined that the individual is a person requiring treatment.

N.D. CENT. CODE § 25-03.1-02(12). "Person requiring treatment" means a person who is mentally ill or chemically dependent, and there is a reasonable expectation that if the person is not treated there exists a serious risk of harm to that person, others, or property. "Serious risk of harm" means a substantial likelihood of:

- a. Suicide, as manifested by suicidal threats, attempts, or significant depression relevant to suicidal potential;
- b. Killing or inflicting serious bodily harm on another person or inflicting significant property damage, as manifested by acts or threats;
- c. Substantial deterioration in physical health, or substantial injury, disease, or death, based upon recent poor self-control or judgment in providing one's shelter, nutrition, or personal care; or
- d. Substantial deterioration in mental health which would predictably result in dangerousness to that person, others, or property, based upon evidence of objective facts to establish the loss of cognitive or volitional control over the person's thoughts or actions or based upon acts, threats, or patterns in the person's treatment history, current condition, and other relevant factors, including the person's ability to consent.

**For emergency evaluation:**

N.D. CENT. CODE § 25-03.1-25.1. A [designated person who] has reasonable cause to believe that an individual is a person requiring treatment and there exists a serious risk of harm to that person, other persons, or property of an immediate nature that considerations of safety do not allow preliminary intervention by a magistrate.

N.D. CENT. CODE § 25-03.1-25.2. The magistrate, upon reviewing the petition and accompanying documentation, finds probable cause to believe that the respondent is a person requiring treatment and there exists a serious risk of harm to the respondent, other persons, or property if allowed to remain at liberty.

**Who may initiate:**

**For inpatient or outpatient commitment:**

N.D. CENT. CODE § 25-03.1-08. Any person eighteen years of age or over shall present the information necessary for the commitment of an individual for involuntary treatment to the state's attorney of the county where the respondent is presently located, or which is the respondent's place of residence, or to an attorney retained by that person to represent the applicant throughout the proceedings.

**For emergency evaluation:**

N.D. CENT. CODE § 25-03.1-25.1. A peace officer, physician, psychiatrist, psychologist, or mental health professional [who] has reasonable cause to believe that an individual is a person requiring treatment and there exists a serious risk of harm to that person, other persons, or property of an immediate nature that considerations of safety do not allow preliminary intervention by a magistrate.

# Ohio

## **For both inpatient and outpatient commitment (“outpatient civil commitment”):**

OHIO REV. CODE ANN. § 5122.15(C). If, upon completion of the hearing, the court finds by clear and convincing evidence that the respondent is a mentally ill person subject to hospitalization by court order, the court shall order the respondent for a period not to exceed ninety days to any of the following [placement options include state or private psychiatric facilities and assisted outpatient treatment].

OHIO REV. CODE ANN. § 5122.01(B). "Mentally ill person subject to hospitalization by court order" means a mentally ill person who, because of the person's illness:

- (1) Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;
- (2) Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;
- (3) Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community; or
- (4) Would benefit from treatment in a hospital for his mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person.

## **For emergency evaluation:**

OHIO REV. CODE ANN. § 5122.10 Any [designated person] may take a person into custody.....[if they have] reason to believe that the person is a mentally ill person subject to hospitalization by court order and represents a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination.

## **Who may initiate:**

### **For inpatient or outpatient commitment:**

OHIO REV. CODE ANN. § 5122.11. Proceedings for the hospitalization of a person shall be commenced by the filing of an affidavit in the manner and form prescribed by the department of mental health, by any person or persons with the court, either on reliable information or actual knowledge.

### **For emergency evaluation:**

OHIO REV. CODE ANN. § 5122.10 Any psychiatrist, licensed clinical psychologist, licensed physician, health officer, parole officer, police officer or sheriff may take a person into custody ... [if they have] reason to believe that the person is a mentally ill person subject to hospitalization by court order and represents a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination.

# Oklahoma

## **For both inpatient and outpatient commitment (“court-ordered outpatient treatment”):**

43A OKL. ST. § 1-103(13)(a). "Person requiring treatment" means a person who because of his or her mental illness or drug or alcohol dependency:

- (1) poses a substantial risk of immediate physical harm to self as manifested by evidence or serious threats of or attempts at suicide or other significant self-inflicted bodily harm,
- (2) poses a substantial risk of immediate physical harm to another person or persons as manifested by evidence of violent behavior directed toward another person or persons,
- (3) has placed another person or persons in a reasonable fear of violent behavior directed towards such person or persons or serious physical harm to them as manifested by serious and immediate threats,
- (4) is in a condition of severe deterioration such that, without immediate intervention, there exists a substantial risk that severe impairment or injury will result to the person, or
- (5) poses a substantial risk of immediate serious physical injury to self or death as manifested by evidence that the person is unable to provide for and is not providing for his or her basic physical needs.

## **For emergency evaluation:**

43A OKL. ST. § 5-207.

A. Any person who appears to be or states that such person is mentally ill, alcohol-dependent, or drug-dependent to a degree that immediate emergency action is necessary may be taken into protective custody and detained as provided pursuant to the provisions of this section.

B. Any peace officer who reasonably believes that a person is a person requiring treatment as defined in Section 1-103 of this title shall take the person into protective custody.

## **Who may initiate:**

### **For inpatient or outpatient commitment:**

43A OKL. ST. § 5-410(A). The following persons may file or request the district attorney to file a petition with the district court, upon which is hereby conferred jurisdiction, to determine whether an individual is a person requiring treatment, and to order the least restrictive appropriate treatment for the person:

1. The father, mother, husband, wife, brother, sister, guardian or child, over the age of eighteen (18) years, of an individual alleged to be a person requiring treatment;
2. A licensed mental health professional;
3. The executive director of a facility designated by the Commissioner of Mental Health and Substance Abuse Services as appropriate for emergency detention;
4. An administrator of a hospital that is approved by the Joint Commission on Accreditation of

Healthcare Organizations; provided, however, in any involuntary commitment procedure in which a hospital is the petitioner pursuant to the provisions of this section, the hospital may participate in such hearing without retaining their own legal counsel if the hospital provides as a witness a mental health therapist or a licensed mental health professional;

5. A person in charge of any correctional institution;
6. Any peace officer within the county in which the individual alleged to be a person requiring treatment resides or may be found; or
7. The district attorney in whose district the person resides or may be found.

**For emergency evaluation:**

43A OKL. ST. § 5-207(G). The parent, brother or sister who is eighteen (18) years of age or older, child who is eighteen (18) years of age or older, or guardian of the person, or a person who appears to be or states that such person is mentally ill, alcohol-dependent, or drug-dependent to a degree that emergency action is necessary may request the administrator of a facility designated by the Commissioner as an appropriate facility for an initial assessment to conduct an initial assessment to determine whether the condition of the person is such that emergency detention is warranted and, if emergency detention is warranted, to detain the person[.]

<h2>Oregon</h2>
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**For both inpatient and outpatient commitment (“court ordered outpatient treatment”):**

OR. REV. STAT. § 426.005(1)(e). "Mentally ill person" means a person who, because of a mental disorder, is one or more of the following:

- (A) Dangerous to self or others.
- (B) Unable to provide for basic personal needs and is not receiving such care as is necessary for health or safety.
- (C) A person:
  - (i) With a chronic mental illness, as defined in ORS 426.495;
  - (ii) Who, within the previous three years, has twice been placed in a hospital or approved inpatient facility by the division under ORS 426.060;
  - (iii) Who is exhibiting symptoms or behavior substantially similar to those that preceded and led to one or more of the hospitalizations or inpatient placements referred to in sub-subparagraph (ii) of this subparagraph; and
  - (iv) Who, unless treated, will continue, to a reasonable medical probability, to physically or mentally deteriorate so that the person will become a person described under either or both subparagraph (A) or (B) of this paragraph or both.

**For emergency evaluation:**

OR. REV. STAT. § 426.228(1) A peace officer may take into custody a person who the officer has probable cause to believe is dangerous to self or to any other person and is in need of immediate care, custody or treatment for mental illness.

**Who may initiate:**

**Inpatient or outpatient commitment:**

OR. REV. STAT. § 426.070(1) Any of the following may initiate commitment procedures:

- (a) Two persons;
- (b) The county health officer; or
- (c) Any magistrate.

**For emergency evaluation:**

OR. REV. STAT. § 426.228(1) A peace officer may take into custody a person who the officer has probable cause to believe [meets the criteria for emergency evaluation].

<h2 style="margin: 0;">Pennsylvania</h2>
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**For both inpatient and outpatient commitment (“involuntary outpatient treatment”):**

50 PA CONS. STAT. ANN. § 7304(a)(1). A person who is severely mentally disabled and in need of treatment, as defined in section 301(a), may be made subject to court-ordered involuntary treatment upon a determination of clear and present danger under section 301(b)(1) (serious bodily harm to others), or section 301(b)(2)(i) (inability to care for himself, creating a danger of death or serious harm to himself), or 301(b)(2)(ii) (attempted suicide), or 301(b)(2)(iii) (self-mutilation).

50 PA. CONS. STAT. ANN. § 7304(f). Upon a finding by clear and convincing evidence that the person is severely mentally disabled and in need of treatment and subject to subsection (a), an order shall be entered directing treatment of the person in an approved facility as an inpatient or an outpatient, or a combination of such treatment as the director of the facility shall from time to time determine. Inpatient treatment shall be deemed appropriate only after full consideration has been given to less restrictive alternatives. Investigation of treatment alternatives shall include consideration of the person's relationship to his community and family, his employment possibilities, all available community resources, and guardianship services. An order for inpatient treatment shall include findings on this issue.

50 PA. CONS. STAT. ANN. § 7301 (b). Determination of Clear and Present Danger.

(1) Clear and present danger to others shall be shown by establishing that within the past 30 days the person has inflicted or attempted to inflict serious bodily harm on another and that there is a reasonable probability that such conduct will be repeated. If, however, the person has been found incompetent to be tried or has been acquitted by reason of lack of criminal responsibility on charges arising from conduct involving infliction of or attempt to inflict substantial bodily harm on another, such 30-day limitation shall not apply so long as an application for examination and treatment is filed within 30 days after the date of such determination or verdict. In such case, a clear and present danger to others may be shown by establishing that the conduct charged in the criminal proceeding did occur, and that there is a reasonable probability that such conduct will be repeated. For the purpose of this section, a clear and present danger of harm to others may be demonstrated by proof that the person has made threats of harm and has committed acts in furtherance of the threat to commit harm.

(2) Clear and present danger to himself shall be shown by establishing that within the past 30 days:

(i) the person has acted in such manner as to evidence that he would be unable, without care, supervision and the continued assistance of others, to satisfy his need for nourishment, personal or medical care, shelter, or self-protection and safety, and that there is a reasonable probability that death, serious bodily injury or serious physical debilitation would ensue within 30 days unless adequate treatment were afforded under this act; or

(ii) the person has attempted suicide and that there is the reasonable probability of suicide unless adequate treatment is afforded under this act. For the purposes of this subsection, a clear and present danger may be demonstrated by the proof that the person has made threats to commit suicide and has committed acts which are in furtherance of the threat to commit suicide; or

(iii) the person has substantially mutilated himself or attempted to mutilate himself substantially and that there is the reasonable probability of mutilation unless adequate treatment is afforded under this act. For the purposes of this subsection, a clear and present danger shall be established by proof that the person has made threats to commit mutilation and has committed acts which are in furtherance of the threat to commit mutilation.

**For emergency evaluation:**

50 PA. CONS. STAT. ANN. § 7301.

(a) Whenever a person is severely mentally disabled and in need of immediate treatment, he may be made subject to involuntary emergency examination and treatment. A person is severely mentally disabled when, as a result of mental illness, his capacity to exercise self-control, judgment and discretion in the conduct of his affairs and social relations or to care for his own personal needs is so lessened that he poses a clear and present danger of harm to others or to himself.

**Who may initiate:**

**For inpatient or outpatient commitment:**

50 PA. CONS. STAT. ANN. § 7304(c)(1). Any responsible party may file a petition in the court of common pleas requesting court-ordered involuntary treatment for any person not already in involuntary treatment.

**For emergency evaluation:**

50 PA. CONS. STAT. ANN. § 7302(a). Emergency examination may be undertaken at a treatment facility upon the certification of a physician stating the need for such examination; or upon a warrant issued by the county administrator authorizing such examination; or without a warrant upon application by a physician or other authorized person who has personally observed conduct showing the need for such examination.

<b>Rhode Island</b>
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**For both inpatient and outpatient commitment (“court-ordered outpatient treatment”):**

R.I. GEN. LAWS § 40.1-5-8(j). If the court at a final hearing finds by clear and convincing evidence that the subject of the hearing is in need of care and treatment in a facility, and is one whose continued unsupervised presence in the community would, by reason of mental disability, create a likelihood of serious harm, and that all alternatives to certification have been investigated and deemed unsuitable, it shall issue an order committing the person to the custody of the director for care and treatment or to an appropriate facility...

R.I. GEN. LAWS § 40.1-5-2

(7). "Likelihood of serious harm" means:

(i) A substantial risk of physical harm to the person himself or herself as manifested by behavior evidencing serious threats of, or attempts at, suicide;

(ii) A substantial risk of physical harm to other persons as manifested by behavior or threats evidencing homicidal or other violent behavior, or

(iii) A substantial risk of physical harm to the mentally disabled person as manifested by behavior which has created a grave, clear, and present risk to his or her physical health and safety.

(iv) In determining whether there exists a likelihood of serious harm the physician and the court may consider previous acts, diagnosis, words or thoughts of the patient. If a patient has been incarcerated, or institutionalized, or in a controlled environment of any kind, the court may give great weight to such prior acts, diagnosis, words, or thoughts.

(8). "Mental disability" means a mental disorder in which the capacity of a person to exercise self control or judgment in the conduct of his or her affairs and social relations, or to care for his or her own personal needs, is significantly impaired.

*Note: The Rhode Island law does not specify independent criteria for commitment to outpatient treatment and yet it considers court-ordered outpatient treatment to be an "alternative to certification."*

**For emergency evaluation ("emergency certification"):**

R.I. GEN. LAWS § 40.1-5-7(a) (1). Any physician, who after examining a person, has reason to believe that the person is in need of immediate care and treatment, and is one whose continued unsupervised presence in the community would create an imminent likelihood of serious harm by reason of mental disability, may apply at a facility for the emergency certification of the person thereto ... If an examination is not possible because of the emergency nature of the case and because of the refusal of the person to consent to the examination, the applicant on the basis of his or her observation may determine, in accordance with the above, that emergency certification is necessary and may apply therefor. In the event that no physician is available, a qualified mental health professional or police officer who believes the person to be in need of immediate care and treatment, and one whose continued unsupervised presence in the community would create an imminent likelihood of serious harm by reason of mental disability, may make the application for emergency certification to a facility...

**Who may initiate:**

**For inpatient or outpatient commitment:**

R.I. GEN. LAWS § 40.1-5-8(a) The petition may be filed by any person with whom the subject of the petition may reside, or at whose house he or she may be, or the father or mother, husband or wife, brother or sister, or the adult child of any such person, the nearest relative if none of the above are

available, or his or her guardian, or the attorney general, or a local director of public welfare, or the director of the department of mental health, retardation, and hospitals, the director of the department of human services, or the director of the department of corrections, the director of the department of health, the warden of the adult correctional institutions, the superintendent of the boys training school for youth, or his or her designated agent, or the director of any facility, or his or her designated agent whether or not the person shall have been admitted and is a patient at the time of the petition.

**For emergency evaluation (“emergency certification”):**

R.I. GEN. LAWS § 40.1-5-7(a)(1). Any physician, who [has reason to believe that the person meets the criteria for emergency evaluation], may apply at a facility for the emergency certification of the person thereto. The medical director, or any other physician employed by the proposed facility for certification may apply ... if no other physician is available and he or she certifies this fact ... In the event that no physician is available, a qualified mental health professional or police officer who believes the person [meets the criteria for emergency evaluation], may make the application for emergency certification to a facility[.]

<h2>South Carolina</h2>
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**For both inpatient and outpatient commitment (“out-patient treatment”):**

S.C. CODE ANN. § 44-17-580(A). If, upon completion of the hearing and consideration of the record, the court finds upon clear and convincing evidence that the person is mentally ill, needs treatment and because of his condition:

- (1) lacks sufficient insight or capacity to make responsible decisions with respect to his treatment; or
- (2) there is a likelihood of serious harm to himself or others, the court shall order in-patient or out-patient treatment at a mental health facility, public or private, designated or licensed by the Department of Mental Health and may order out-patient treatment following in-patient treatment.

S.C. CODE ANN. § 44-23-10

(12) "Likelihood of serious harm" means because of mental illness there is (a) a substantial risk of physical harm to the person himself as manifested by evidence of threats of, or attempts at, suicide or serious bodily harm; (b) a substantial risk of physical harm to other persons as manifested by evidence of homicidal or other violent behavior and serious harm to them or (c) a very substantial risk of physical impairment or injury to the person himself as manifested by evidence that such person's judgment is so affected that he is unable to protect himself in the community and that reasonable provision for his protection is not available in the community.

(20) "Person with a mental illness" means a person with a mental disease to such an extent that, for the person's own welfare or the welfare of others or of the community, the person requires care, treatment or hospitalization.

**For emergency evaluation:**

S.C. Code Ann. § 44-17-430. If a person believed to be mentally ill and because of this condition likely to cause serious harm if not immediately hospitalized cannot be examined by at least one licensed physician pursuant to Section 44-17-410 because the person's whereabouts are unknown or for any other

reason, the petitioner seeking commitment pursuant to Section 44-17-410 shall execute an affidavit stating a belief that the individual is mentally ill and because of this condition likely to cause serious harm if not hospitalized, the ground for this belief and that the usual procedure for examination cannot be followed and the reason why. Upon presentation of an affidavit, the judge of probate for the county in which the individual is present may issue an order requiring a state or local law enforcement officer to take the individual into custody for a period not exceeding twenty-four hours...

S.C. Code Ann. § 44-17-410. A person may be admitted to a public or private hospital, mental health clinic, or mental health facility for emergency admission upon:

(1) written affidavit under oath by a person stating: (a) a belief that the person is mentally ill and because of this condition is likely to cause serious harm to himself or others if not immediately hospitalized; (b) the specific type of serious harm thought probable if the person is not immediately hospitalized and the factual basis for this belief; (2) a certification in triplicate by at least one licensed physician stating that the physician has examined the person and is of the opinion that the person is mentally ill and because of this condition is likely to cause harm to himself through neglect, inability to care for himself, or personal injury, or otherwise, or to others if not immediately hospitalized. The certification must contain the grounds for the opinion...

**Who may initiate:**

**For inpatient or outpatient commitment:**

S.C. CODE ANN. § 44-17-510 Proceedings for involuntary hospitalization by judicial procedure may be commenced by filing a written petition with the probate court of the county where he is present or where he is a resident by any interested person or the superintendent of any public or private mental institution in which he may be.

**For emergency evaluation:**

S.C. CODE ANN. § 44-17-410. A person may be admitted to a public or private hospital, mental health clinic, or mental health facility for emergency admission upon: (1) written affidavit under oath by a person stating [the belief that a person meets the criteria]

<h2 style="margin: 0;">South Dakota</h2>
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**For both inpatient and outpatient commitment (“outpatient treatment”):**

S.D. CODIFIED LAWS § 27A-1-2. A person is subject to involuntary commitment if:

- (1) The person has a severe mental illness;
- (2) Due to the severe mental illness, the person is a danger to self or others; and
- (3) The individual needs and is likely to benefit from treatment.

S.D. CODIFIED LAWS § 27A-1-1

(4) "Danger to others," a reasonable expectation that the person will inflict serious physical injury upon another person in the near future, due to a severe mental illness, as evidenced by the person's treatment history and the person's recent acts or omissions which constitute a danger of serious physical injury for another individual. Such acts may include a recently expressed threat if the threat is such that, if considered in the light of its context or in light of the person's recent previous acts or omissions, it is substantially supportive of an expectation that the threat will be carried out;

(5) "Danger to self,"

(a) A reasonable expectation that the person will inflict serious physical injury upon himself or herself in the near future, due to a severe mental illness, as evidenced by the person's treatment history and the person's recent acts or omissions which constitute a danger of suicide or self-inflicted serious physical injury. Such acts may include a recently expressed threat if the threat is such that, if considered in the light of its context or in light of the person's recent previous acts or omissions, it is substantially supportive of an expectation that the threat will be carried out; or

(b) A reasonable expectation of danger of serious personal harm in the near future, due to a severe mental illness, as evidenced by the person's treatment history and the person's recent acts or omissions which demonstrate an inability to provide for some basic human needs such as food, clothing, shelter, essential medical care, or personal safety, or by arrests for criminal behavior which occur as a result of the worsening of the person's severe mental illness.

**For emergency evaluation:**

S.D. CODIFIED LAWS § 27A-10-1. If any person is alleged to be severely mentally ill and in such condition that immediate intervention is necessary for the protection from physical harm to self or others, any person, eighteen years of age or older, may complete a petition stating the factual basis for concluding that such person is severely mentally ill and in immediate need of intervention.

**Who may initiate:**

**For inpatient or outpatient commitment, or emergency evaluation:**

S.D. CODIFIED LAWS § 27A-10-1. If any person is alleged to [meet the criteria], any person, eighteen years of age or older, may complete a petition stating the factual basis for concluding that such person is severely mentally ill and in immediate need of intervention.

<b>Tennessee*</b>
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***\*Tennessee does not have an assisted outpatient treatment law.***

**For inpatient commitment:**

TENN. CODE ANN. 33-6-502. Prerequisites to judicial commitment for involuntary care and treatment.

IF AND ONLY IF

**(1)** a person has a mental illness or serious emotional disturbance, AND

**(2)** the person poses a substantial likelihood of serious harm because of the mental illness or serious

emotional disturbance, AND

(3) the person needs care, training, or treatment because of the mental illness or serious emotional disturbance, AND

(4) all available less drastic alternatives to placement in a hospital or treatment resource are unsuitable to meet the needs of the person,

THEN

(5) the person may be judicially committed to involuntary care and treatment in a hospital or treatment resource[.]

TENN. CODE ANN. § 33-6-501. "Substantial likelihood of serious harm" defined.

IF AND ONLY IF

(1)(A) a person has threatened or attempted suicide or to inflict serious bodily harm on the person,

OR

(B) the person has threatened or attempted homicide or other violent behavior, OR

(C) the person has placed others in reasonable fear of violent behavior and serious physical harm to them, OR

(D) the person is unable to avoid severe impairment or injury from specific risks, AND

(2) there is a substantial likelihood that such harm will occur unless the person is placed under involuntary treatment, THEN

(3) the person poses a "substantial likelihood of serious harm" for purposes of this title.

**For emergency evaluation:**

TENN. CODE ANN. § 33-6-401. Emergency detention.

IF AND ONLY IF

(1) a person has a mental illness or serious emotional disturbance, AND

(2) the person poses an immediate substantial likelihood of serious harm under § 33-6-501 because of the mental illness or serious emotional disturbance,

THEN

(3) the person may be detained ... to obtain examination for certification of need for care and treatment.

TENN. CODE ANN. § 33-6-403. Admission to treatment facility.

IF AND ONLY IF

(1) a person has a mental illness or serious emotional disturbance, AND

(2) the person poses an immediate substantial likelihood of serious harm, under § 33-6-501, because of the mental illness or serious emotional disturbance, AND

(3) the person needs care, training, or treatment because of the mental illness or serious emotional disturbance, AND

(4) all available less drastic alternatives to placement in a hospital or treatment resource are unsuitable to meet the needs of the person,

THEN

(5) the person may be admitted and detained by a hospital or treatment resource for emergency diagnosis, evaluation, and treatment under this part.

**Who may initiate:**

**For inpatient commitment:**

TENN. CODE ANN. § 33-6-504. Persons who may file complaint for commitment under this part.

The parent, legal guardian, legal custodian, conservator, spouse, or a responsible relative of the person alleged to be in need of care and treatment, a licensed physician, a licensed psychologist [designated as a health service provider], a health or public welfare officer, an officer authorized to make arrests in the state, or the chief officer of a facility that the person is in, may file a complaint to require involuntary care and treatment of a person with mental illness or serious emotional disturbance under this part.

**For emergency evaluation:**

TENN. CODE ANN. § 33-6-402. Detention without warrant authorized.

If an officer authorized to make arrests in the state, a licensed physician, a psychologist [designated as a health service provider], or a professional designated by the commissioner [to take actions and perform duties imposed by law upon physicians] has reason to believe that a person [meets the criteria for emergency evaluation], then the officer, physician, psychologist, or designated professional may take the person into custody without a civil order or warrant for immediate examination under § 33-6-404 for certification of need for care and treatment.

<h2>Texas</h2>
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**For inpatient commitment:**

TEX. HEALTH & SAFETY CODE § 574.034(a). Order for Temporary Mental Health Services.

The judge may order a proposed patient to receive court-ordered temporary inpatient mental health services only if the judge or jury finds, from clear and convincing evidence, that:

(1) the proposed patient is mentally ill; and

(2) as a result of that mental illness the proposed patient:

- (A) is likely to cause serious harm to himself;
- (B) is likely to cause serious harm to others; or
- (C) is:

- (i) suffering severe and abnormal mental, emotional, or physical distress;
- (ii) experiencing substantial mental or physical deterioration of the proposed patient's ability to function independently, which is exhibited by the proposed patient's inability, except for reasons of indigence, to provide for the proposed patient's basic needs, including food, clothing, health, or safety; and
- (iii) unable to make a rational and informed decision as to whether or not to submit to treatment.

TEX. HEALTH & SAFETY CODE § 574.035(a). Order for Extended Mental Health Services.

The judge may order a proposed patient to receive court-ordered extended inpatient mental health services only if the jury, or the judge if the right to a jury is waived, finds, from clear and convincing evidence, that:

- (1) the proposed patient is mentally ill;
- (2) as a result of that mental illness the proposed patient:

- (A) is likely to cause serious harm to himself;
- (B) is likely to cause serious harm to others; or
- (C) is:

- (i) suffering severe and abnormal mental, emotional, or physical distress;
- (ii) experiencing substantial mental or physical deterioration of the proposed patient's ability to function independently, which is exhibited by the proposed patient's inability, except for reasons of indigence, to provide for the proposed patient's basic needs, including food, clothing, health, or safety; and
- (iii) unable to make a rational and informed decision as to whether or not to submit to treatment;

- (3) the proposed patient's condition is expected to continue for more than 90 days; and

(4) the proposed patient has received court-ordered inpatient mental health services under this subtitle or under Article 46.02, Code of Criminal Procedure, for at least 60 consecutive days during the preceding 12 months.

**For outpatient commitment (“court-ordered outpatient mental health services”):**

TEX. HEALTH & SAFETY CODE § 574.034(b). Order for Temporary Mental Health Services

The judge may order a proposed patient to receive court-ordered temporary outpatient mental health services only if:

(1) the judge finds that appropriate mental health services are available to the patient; and

(2) the judge or jury finds, from clear and convincing evidence, that:

(A) the proposed patient is mentally ill;

(B) the nature of the mental illness is severe and persistent;

(C) as a result of the mental illness, the proposed patient will, if not treated, continue to:

(i) suffer severe and abnormal mental, emotional, or physical distress; and

(ii) experience deterioration of the ability to function independently to the extent that the proposed patient will be unable to live safely in the community without court-ordered outpatient mental health services; and

(D) the proposed patient has an inability to participate in outpatient treatment services effectively and voluntarily, demonstrated by:

(i) any of the proposed patient's actions occurring within the two-year period which immediately precedes the hearing; or

(ii) specific characteristics of the proposed patient's clinical condition that make impossible a rational and informed decision whether to submit to voluntary outpatient treatment.

TEX. HEALTH & SAFETY CODE § 574.035(b). Order for Extended Mental Health Services.

(b) The judge may order a proposed patient to receive court-ordered extended outpatient mental health services only if:

(1) the judge finds that appropriate mental health services are available to the patient; and

(2) the jury, or the judge if the right to a jury is waived, finds from clear and convincing evidence that:

(A) the proposed patient is mentally ill;

(B) the nature of the mental illness is severe and persistent;

(C) as a result of the mental illness, the proposed patient will, if not treated, continue to:

(i) suffer severe and abnormal mental, emotional, or physical distress; and

(ii) experience deterioration of the ability to function independently to the extent that the proposed patient will be unable to live safely in the community without court-ordered outpatient mental health services;

(D) the proposed patient has an inability to participate in outpatient treatment services effectively or voluntarily, demonstrated by:

(i) any of the proposed patient's actions occurring within the two-year period which immediately precedes the hearing; or

(ii) specific characteristics of the proposed patient's clinical condition that make impossible a rational and informed decision whether to submit to voluntary outpatient treatment;

(E) the proposed patient's condition is expected to continue for more than 90 days; and

(F) the proposed patient has received;

(i) court-ordered inpatient mental health services under this subtitle or under Subchapter D or E, Chapter 46B, Code of Criminal Procedure for a total of at least 60 days during the preceding 12 months; or

(ii) court-ordered outpatient mental health services under this subtitle or under Subchapter D or E, Chapter 46B, Code of Criminal Procedure, during the preceding 60 days.

**For emergency evaluation:**

TEX. HEALTH & SAFETY CODE § 573.001(a) A peace officer, without a warrant, may take a person into custody if the officer:

(1) has reason to believe and does believe that:

(A) the person is mentally ill; and

(B) because of that mental illness there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained

TEX. HEALTH & SAFETY CODE § 573.011. [ A ] written application for the emergency detention of another person ...must state:

(1) that the applicant has reason to believe and does believe that the person evidences mental illness;

(2) that the applicant has reason to believe and does believe that the person evidences a substantial risk of serious harm to himself or others;

(3) a specific description of the risk of harm;

(4) that the applicant has reason to believe and does believe that the risk of harm is imminent unless the person is immediately restrained;

(5) that the applicant's beliefs are derived from specific recent behavior, overt acts, attempts, or threats;

(6) a detailed description of the specific behavior, acts, attempts, or threats; and

(7) a detailed description of the applicant's relationship to the person whose detention is sought.

**Who may initiate:**

**For inpatient or outpatient commitment:**

TEX. HEALTH & SAFETY CODE § 574.001(a). A county or district attorney or other adult may file a sworn written application for court-ordered mental health services.

**For emergency evaluation:**

TEX. HEALTH & SAFETY CODE § 573.011(a). An adult may file a written application for the emergency detention of another person.

<h2>Utah</h2>
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**For both inpatient and outpatient commitment:**

UTAH CODE ANN. § 62A-15-631(10).

The court shall order commitment of an individual who is 18 years of age or older to a local mental health authority if, upon completion of the hearing and consideration of the information presented in accordance with Subsection (9)(e), the court finds by clear and convincing evidence that:

- (a) the proposed patient has a mental illness;
- (b) because of the proposed patient's mental illness he poses a substantial danger, as defined in Section 62A-15-602, of physical injury to others or himself, which may include the inability to provide the basic necessities of life such as food, clothing, and shelter, if allowed to remain at liberty;
- (c) the patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment;
- (d) there is no appropriate less-restrictive alternative to a court order of commitment; and
- (e) the local mental health authority can provide the individual with treatment that is adequate and appropriate to his conditions and needs. In the absence of the required findings of the court after the hearing, the court shall forthwith dismiss the proceedings.

UTAH CODE ANN. § 62A-15-602 (13) "Substantial danger" means the person, by his or her behavior, due to mental illness:

- (a) is at serious risk to:
  - (i) commit suicide,
  - (ii) inflict serious bodily injury on himself or herself; or
  - (iii) because of his or her actions or inaction, suffer serious bodily injury because he or she is incapable of providing the basic necessities of life, such as food, clothing, and shelter;
- (b) is at serious risk to cause or attempt to cause serious bodily injury; or
- (c) has inflicted or attempted to inflict serious bodily injury on another.

UTAH CODE ANN. § 62A-15-602 (12) "Serious bodily injury" means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

**For emergency evaluation:**

UTAH CODE ANN. § 62A-15-629(1)(a)(ii). [A licensed physician or designated examiner certifies] the individual as mentally ill and, because of his mental illness, is likely to injure himself or others if not immediately restrained.

UTAH CODE ANN. § 62A-15-629(2). If a duly authorized peace officer observes a person involved in conduct that gives the officer probable cause to believe that the person is mentally ill... and because of that apparent mental illness and conduct, there is a substantial likelihood of serious harm to that person or others, pending proceedings for examination and certification under this part, the officer may take that person into protective custody.

**Who may initiate:**

**For inpatient or outpatient commitment:**

UTAH CODE ANN. § 62A-15-631(1). Proceedings for involuntary commitment of an individual who is 18 years of age or older may be commenced by filing a written application with the district court of the county in which the proposed patient resides or is found, *by a responsible person* who has reason to know of the condition or circumstances of the proposed patient which lead to the belief that the individual is mentally ill and should be involuntarily committed.

**For emergency evaluation:**

UTAH CODE ANN. § 62A-15-629(1)(a) An adult may be temporarily [held] upon:

- (i) written application by a responsible person who has reason to know, stating a belief that the individual is likely to cause serious injury to himself or others if not immediately restrained, and stating the personal knowledge of the individual's condition or circumstances which lead to that belief; and
- (ii) a certification by a licensed physician or designated examiner

<h2>Vermont</h2>
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**For both inpatient and outpatient commitment ("non-hospitalization"):**

VT. STAT. ANN. tit. 18, § 7611. No person may be made subject to involuntary treatment unless he is found to be a person in need of treatment or a patient in need of further treatment.

VT. STAT. ANN. tit. 18, § 7101(17). "A person in need of treatment" means a person who is suffering from mental illness and, as a result of that mental illness, his or her capacity to exercise self-control, judgment, or discretion in the conduct of his or her affairs and social relations is so lessened that he or she poses a danger of harm to himself, to herself, or to others;

(A) A danger of harm to others may be shown by establishing that:

- (i) he or she has inflicted or attempted to inflict bodily harm on another; or
- (ii) by his or her threats or actions he or she has placed others in reasonable fear of physical harm to themselves; or
- (iii) by his or her actions or inactions he or she has presented a danger to persons in his or her care.

(B) A danger of harm to himself or herself may be shown by establishing that:

(i) he or she has threatened or attempted suicide or serious bodily harm; or

(ii) he or she has behaved in such a manner as to indicate that he or she is unable, without supervision and the assistance of others, to satisfy his or her need for nourishment, personal or medical care, shelter, or self-protection and safety, so that it is probable that death, substantial physical bodily injury, serious mental deterioration or serious physical debilitation or disease will ensue unless adequate treatment is afforded.

VT. STAT. ANN. tit. 18, § 7101(16). "A patient in need of further treatment" means:

(A) A person in need of treatment, or

(B) A patient who is receiving adequate treatment, and who, if such treatment is discontinued, presents a substantial probability that in the near future his or her condition will deteriorate and he or she will become a person in need of treatment.

**For emergency evaluation:**

VT. STAT. ANN. tit. 18, § 7504(a). A person shall be admitted to a designated hospital for an emergency examination to determine if he or she is a 'person in need of treatment' upon written application ... accompanied by a certificate by a licensed physician who is not the applicant.

VT. STAT. ANN. tit. 18, § 7505(a). In emergency circumstances where a certification by a physician is not available without serious and unreasonable delay, and when personal observation of the conduct of a person constitutes reasonable grounds to believe that the person is a person in need of treatment, and he presents an immediate risk of serious injury to himself or others if not restrained, a law enforcement officer or mental health professional may make an application, not accompanied by a physician's certificate, to any district or superior judge for a warrant for an immediate examination.

**Who may initiate:**

**For inpatient or outpatient commitment:**

VT. STAT. ANN. tit. 18, § 7612(a). An interested party may, by filing a written application, commence proceedings for the involuntary treatment of an individual by judicial process.

VT. STAT. ANN. tit. 18, § 7101(9). 'Interested party' means a guardian, spouse, parent, adult child, close adult relative, a responsible adult friend or person who has the individual in his charge or care. It also means a mental health professional, a law enforcement officer, a licensed physician, a head of a hospital, a selectman, a town service officer or a town health officer.

**For emergency evaluation:**

VT. STAT. ANN. tit. 18, § 7504(a). A person shall be admitted ... for an emergency examination ... upon written application by *an interested party* accompanied by a certificate by a licensed physician who is not the applicant.

VT. STAT. ANN. tit. 18, § 7505(a). In emergency circumstances where a certification by a physician is not available ... a law enforcement officer or mental health professional may make an application, not accompanied by a physician's certificate, to any district or superior judge for a warrant for an immediate examination.

# Virginia

## **For inpatient commitment:**

VA. CODE ANN. § 37.2-817(C). [A] judge or special justice [shall order involuntary admission if he or she] finds by clear and convincing evidence that:

(a) the person has a mental illness and there is a substantial likelihood that, as a result of mental illness, the person will, in the near future,

(1) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or

(2) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, and

(b) ["mandatory outpatient treatment" {see below} has] been investigated and determined to be inappropriate[.]

## **For outpatient commitment (Virginia has two types):**

### **For "mandatory outpatient treatment":**

VA. CODE ANN. § 37.2-817(D). (a) the person has a mental illness and ... there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future,

(1) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or

(2) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; [and]

(b) less restrictive alternatives to involuntary inpatient treatment that would offer an opportunity for improvement of his condition have been investigated and are determined to be appropriate; and

(c) the person

(A) has sufficient capacity to understand the stipulations of his treatment

(B) has expressed an interest in living in the community and has agreed to abide by his treatment plan, and

(C) is deemed to have the capacity to comply with the treatment plan and understand and adhere to conditions and requirements of the treatment and services; and

(d) the ordered treatment can be delivered on an outpatient basis by the community services board or designated provider[.]

**For “mandatory outpatient treatment following involuntary admission”:**

VA CODE ANN. § 37.2-817(C1). In the order for involuntary admission, the judge or special justice may authorize the treating physician to discharge the person to mandatory outpatient treatment not to exceed the length of such order ...if [:]

- (i) the person has a history of lack of compliance with treatment for mental illness that at least twice within the past 36 months has resulted in the person being subject to an order for involuntary admission pursuant to subsection C;
- (ii) in view of the person’s treatment history and current behavior, the person is in need of mandatory outpatient treatment following inpatient treatment in order to prevent a relapse or deterioration that would be likely to result in the person meeting the criteria for involuntary outpatient treatment;
- (iii) as a result of mental illness, the person is unlikely to voluntarily participate in outpatient treatment unless the court enters an order authorizing discharge to mandatory outpatient treatment following inpatient treatment; and
- (iv) the person is likely to benefit from mandatory outpatient treatment.

**For emergency evaluation (conducted in Virginia in two stages):**

**For “emergency custody” (removal of person to hospital):**

VA CODE ANN. § 37.2-808(A). [A] magistrate shall issue ... an emergency custody order when he has probable cause to believe that any person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment.

**For “temporary detention” (retaining person up to 48 hours for evaluation):**

VA CODE ANN. § 37.2-809(B). A magistrate shall issue ... a temporary detention order if it appears from all evidence readily available, including any recommendation from a physician or clinical psychologist treating the person, that the person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment. The magistrate shall also consider the recommendations of any treating or examining physician licensed in Virginia if available either verbally or in writing prior to rendering a decision. Any temporary detention order entered pursuant to this section shall provide for the disclosure of medical records[.]

(C) When considering whether there is probable cause to issue a temporary detention order, the magistrate may, in addition to the petition, consider (i) the recommendations of any treating or examining physician or psychologist licensed in Virginia, if available, (ii) any past actions of the person, (iii) any past mental health treatment of the person, (iv) any relevant hearsay evidence, (v) any medical records

available, (vi) any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and (vii) any other information available that the magistrate considers relevant to the determination of whether probable cause exists to issue a temporary detention order.

**Who may initiate:**

**For inpatient or outpatient commitment (“mandatory outpatient treatment”):**

*[Not specified by statute, but right to petition the court is considered open to any “responsible person.” See VA District Court Form DC-4001.]*

**For emergency evaluation (conducted in Virginia in two stages):**

**For “emergency custody” (removal of person to hospital):**

VA CODE ANN. § 37.2-808(A). [A] magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion, ... an emergency custody [upon probable cause].

**For “temporary detention” (retaining person up to 48 hours for evaluation):**

VA CODE ANN. § 37.2-809(B). A magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion and only after an evaluation conducted ... by an employee or a designee of the local community services board to determine whether the person meets the criteria for temporary detention, ... a temporary detention order if it appears [warranted] from all evidence readily available[.]

## Washington

**For inpatient commitment:**

REV. CODE WASH. § 71.05.240(3). [I]f the court finds by a preponderance of the evidence that such person, as the result of mental disorder, presents a likelihood of serious harm, or is gravely disabled, and, after considering less restrictive alternatives to involuntary detention and treatment, find that no such alternatives are in the best interests of such person or others, the court shall order that such person be detained for involuntary treatment not to exceed fourteen days in a facility certified to provide treatment by the department.

REV. CODE. WASH. § 71.05.280. Additional confinement -- Grounds

At the expiration of the fourteen-day period of intensive treatment, a person may be confined for further treatment pursuant to RCW 71.05.320 if:

- (1) Such person after having been taken into custody for evaluation and treatment has threatened, attempted, or inflicted: (a) Physical harm upon the person of another or himself or herself, or substantial damage upon the property of another, and (b) as a result of mental disorder presents a likelihood of serious harm; or
- (2) Such person was taken into custody as a result of conduct in which he or she attempted or inflicted

physical harm upon the person of another or himself or herself, or substantial damage upon the property of others, and continues to present, as a result of mental disorder, a likelihood of serious harm; or

(3) Such person has been determined to be incompetent and criminal charges have been dismissed ..., and has committed acts constituting a felony, and as a result of a mental disorder, presents a substantial likelihood of repeating similar acts. In any proceeding pursuant to this subsection it shall not be necessary to show intent, willfulness, or state of mind as an element of the crime; or

(4) Such person is gravely disabled.

REV. CODE WASH. § 71.05.020(25). "Likelihood of serious harm" means:

(a) A substantial risk that:

(i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or

(iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts."

REV. CODE WASH. § 71.05.020(17). "Gravely disabled" means a condition in which a person, as a result of a mental disorder:

(a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or

(b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

REV. CODE WASH. § 71.05.020(19). "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility or in confinement as a result of a criminal conviction;

REV. CODE WASH. § 71.05.020(45). "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

**For outpatient commitment ("less restrictive alternate treatment"):**

REV. CODE WASH. § 71.05.240(3). "If the court finds that such person, as the result of a mental disorder, presents a likelihood of serious harm, or is gravely disabled, but that treatment in a less restrictive setting than detention is in the best interest of such person or others, the court shall order an appropriate less restrictive course of treatment for not to exceed ninety days.

**For emergency evaluation:**

REV. CODE WASH. § 71.05.153. [A] person [who], as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, may ... be taken into emergency custody and immediately delivered to [an] evaluation and treatment facility.

**Who may initiate:**

**For inpatient or outpatient commitment (“less restrictive alternate treatment”):**

REV. CODE WASH. § 71.05.230. Procedures for additional treatment

A person detained for seventy-two hour evaluation and treatment may be detained for not more than fourteen additional days of involuntary intensive treatment or ninety additional days of a less restrictive alternative to involuntary intensive treatment. ... The professional staff of the agency or facility or the designated mental health professional [shall file] a petition for fourteen day involuntary detention or a ninety day less restrictive alternative with the court. The petition must be signed either by:

- (a) Two physicians;
- (b) One physician and a mental health professional;
- (c) Two psychiatric advanced registered nurse practitioners;
- (d) One psychiatric advanced registered nurse practitioner and a mental health professional; or
- (e) A physician and a psychiatric advanced registered nurse practitioner.

The persons signing the petition must have examined the person.

...

At the conclusion of the initial commitment period, the professional staff of the agency or facility or the designated mental health professional may petition for an additional period of either ninety days of less restrictive alternative treatment or ninety days of involuntary intensive treatment[.]

**For emergency evaluation or “initial detention”:**

REV. CODE WASH. § 71.05.150.

(1) When a designated mental health professional receives information alleging that a person, as a result of a mental disorder [meets the criteria for inpatient commitment], the designated mental health professional may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention. Before filing the petition, the designated mental health professional must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, or triage facility.

(2) (a) An order to detain to a designated evaluation and treatment facility for not more than a seventy-two-hour evaluation and treatment period may be issued by a judge of the superior court upon request of a designated mental health professional, whenever it appears to the satisfaction of a judge of the superior court:

- (i) That there is probable cause to support the petition; and

(ii) That the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

REV. CODE WASH. § 71.05.153

(1) When a designated mental health professional receives information alleging that a person [meets the criteria for emergency evaluation], after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated mental health professional may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours[.].

(2) A peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, or the emergency department of a local hospital under the following circumstances:

(a) Pursuant to subsection (1) of this section; or

(b) When he or she has reasonable cause to believe that such person [meets the criteria for emergency evaluation].

## West Virginia

**For both inpatient and outpatient commitment (“outpatient treatment”):**

W. VA. CODE § 27-5-4(j).

(1) The circuit court or mental hygiene commissioner shall make findings as to whether or not the individual is mentally ill or addicted and because of illness or addiction is likely to cause serious harm to himself, herself or to others if allowed to remain at liberty and is a resident of the county in which the hearing is held or currently is a patient at a mental health facility in the county.

(2) The circuit court or mental hygiene commissioner shall also make a finding as to whether or not there is a less restrictive alternative than commitment appropriate for the individual. The burden of proof of the lack of a less restrictive alternative than commitment is on the person or persons seeking the commitment of the individual.

W. VA. CODE §27-1-12.

(a) "Likely to cause serious harm" means an individual is exhibiting behaviors consistent with a medically recognized mental disorder . . . and as a result of the mental disorder . . . :

(1) The individual has inflicted or attempted to inflict bodily harm on another;

(2) The individual, by threat or action, has placed others in reasonable fear of physical harm to themselves;

(3) The individual, by action or inaction, has presented a danger to himself, herself or others in his or her care;

(4) The individual has threatened or attempted suicide or serious bodily harm to himself or herself; or

(5) The individual is behaving in such a manner as to indicate that he or she is unable, without supervision and the assistance of others, to satisfy his or her need for nourishment, medical care, shelter or self-protection and safety so that there is a substantial likelihood that death, serious bodily injury, serious physical debilitation, serious mental debilitation or life-threatening disease will ensue unless adequate treatment is afforded.

(b) In making the "likely to cause serious harm" determination, judicial, medical, psychological and other evaluators and decision makers should utilize all available information, including psychosocial, medical, hospitalization and psychiatric information and including the circumstances of any previous commitments or convalescent or conditional releases that are relevant to a current situation, in addition to the individual's current overt behavior...

**For emergency evaluation:**

W. VA. CODE §27-5-2. (a) Any adult person may make an application for involuntary hospitalization for examination of an individual when the person making the application has reason to believe that the individual to be examined is addicted ... or is mentally ill and, because of his or her addiction or mental illness, the individual is likely to cause serious harm to himself, herself or to others if allowed to remain at liberty while awaiting an examination and certification by a physician or psychologist.

**Who may initiate:**

**For inpatient or outpatient commitment:**

W. VA. CODE § 27-5-4(b). Final commitment proceedings for an individual may be commenced by [any person with] the filing of a written application under oath and the certificate or affidavit[.]

**For emergency evaluation**

W. VA. CODE §27-5-2(a). Any adult person may make an application for involuntary hospitalization for examination of an individual.

<h2>Wisconsin</h2>
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**For both inpatient and outpatient commitment ("outpatient treatment"):**

WIS. STAT. ANN. § 51.20(1)(a)

1. The individual is mentally ill, drug dependent or developmentally disabled and is a proper subject for treatment.

2. The individual is dangerous because he or she does any of the following:

a. Evidences a substantial probability of physical harm to himself or herself as manifested by evidence of recent threats of or attempts at suicide or serious bodily harm.

b. Evidences a substantial probability of physical harm to other individuals as manifested by evidence of recent homicidal or other violent behavior, 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. ...

c. Evidences such impaired judgment, manifested by evidence of a pattern of recent acts or omissions, that there is a substantial probability of physical impairment or injury to himself or herself. The probability of physical impairment or injury is not substantial under this subd. 2. c. if reasonable provision for the subject individual's protection is available in the community and there is a reasonable probability that the individual will avail himself or herself of these services, if the individual is appropriate for protective placement under s. 55.06 or, in the case of a minor, if the individual is appropriate for services or placement under s. 48.13 (4) or (11) or 938.13 (4) . The subject individual's status as a minor does not automatically establish a substantial probability of physical impairment or injury under this subd. 2. c. Food, shelter or other care provided to an individual who is substantially incapable of obtaining the care for himself or herself, by a person other than a treatment facility, does not constitute reasonable provision for the subject individual's protection available in the community under this subd. 2. c.

d. Evidences behavior manifested by recent acts or omissions that, due to mental illness, he or she is unable to satisfy basic needs for nourishment, medical care, shelter or safety without prompt and adequate treatment so that a substantial probability exists that death, serious physical injury, serious physical debilitation or serious physical disease will imminently ensue unless the individual receives prompt and adequate treatment for this mental illness. No substantial probability of harm under this subd. 2. d. exists if reasonable provision for the individual's treatment and protection is available in the community and there is a reasonable probability that the individual will avail himself or herself of these services, if the individual is appropriate for protective placement under s. 55.06 or, in the case of a minor, if the individual is appropriate for services or placement under s. 48.13 (4) or (11) or 938.13 (4) . The individual's status as a minor does not automatically establish a substantial probability of death, serious physical injury, serious physical debilitation or serious disease under this subd. 2. d. Food, shelter or other care provided to an individual who is substantially incapable of obtaining the care for himself or herself, by any person other than a treatment facility, does not constitute reasonable provision for the individual's treatment or protection available in the community under this subd. 2. d.

e. For an individual, other than an individual who is alleged to be drug dependent or developmentally disabled, after the advantages and disadvantages of and alternatives to accepting a particular medication or treatment have been explained to him or her and because of mental illness, evidences either incapability of expressing an understanding of the advantages and disadvantages of accepting medication or treatment and the alternatives, or substantial incapability of applying an understanding of the advantages, disadvantages and alternatives to his or her mental illness in order to make an informed choice as to whether to accept or refuse medication or treatment; and evidences a substantial probability, as demonstrated by both the individual's treatment history and his or her recent acts or omissions, that the individual needs care or treatment to prevent further disability or deterioration and a substantial probability that he or she will, if left untreated, lack services necessary for his or her health or safety and suffer severe mental, emotional or physical harm that will result in the loss of the individual's ability to function independently in the community or the loss of cognitive or volitional control over his or her thoughts or actions. The probability of suffering severe mental, emotional or physical harm is not substantial under this subd. 2. e. if reasonable provision for the individual's care or treatment is available in the community and there is a reasonable probability that the individual will avail himself or herself of these services or if the individual is appropriate for protective placement under s. 55.06 . Food, shelter or other care that is provided to an individual who is substantially incapable of obtaining food, shelter or other care for himself or herself by any person other than a treatment facility does not constitute reasonable provision for the individual's care or treatment in the community under this subd. 2. e.

**For emergency evaluation:**

WIS. STAT. ANN. § 51.15(1)(a) A law enforcement officer ... may detain an individual if the officer has cause to believe that the individual is mentally ill and the individual evidences any of the following:

1. A substantial probability of physical harm to himself or herself as manifested by evidence of recent threats of or attempts at suicide or serious bodily harm.
2. A substantial probability of physical harm to other persons as manifested by evidence of recent homicidal or other violent behavior on his or her part, 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 on his or her part.
3. A substantial probability of physical impairment or injury to himself or herself due to impaired judgment
4. [H]e or she is unable to satisfy basic needs for nourishment, medical care, shelter, or safety without prompt and adequate treatment so that a substantial probability exists that death, serious physical injury, serious physical debilitation, or serious physical disease will imminently ensue unless the individual receives prompt and adequate treatment for this mental illness or drug dependency.

**Who may initiate:**

**For inpatient or outpatient commitment:**

WIS. STAT. ANN. § 51.20(1)(b) Each petition for examination shall be signed by 3 adult persons, at least one of whom has personal knowledge of the conduct of the subject individual... If a petitioner is not a petitioner having personal knowledge ... the petition shall contain a statement providing the basis for his or her belief.

Each petition for examination shall be signed by 3 adult persons, at least one of whom has personal knowledge of the conduct of the subject individual.

**For emergency evaluation:**

WIS. STAT. ANN. § 51.15(1)(a) A law enforcement officer may detain an individual if the officer has cause to believe that the individual [meets the criteria for emergency evaluation] is mentally ill and the individual evidences any of the following:

## Wyoming

**For inpatient and outpatient commitment ("conditional outpatient treatment") (see below for additional outpatient criteria):**

WYO. STAT. ANN. § 25-10-110(j). If, upon completion of the hearing and consideration of the record, the court or the jury finds by clear and convincing evidence that the proposed patient is mentally ill the court shall consider the least restrictive and most therapeutic alternatives . . . .

WYO. STAT. ANN. § 25-10-101(a)(ix). "Mental illness" and "mentally ill" mean a physical, emotional, mental or behavioral disorder which causes a person to be dangerous to himself or others and which requires treatment...

WYO. STAT. ANN. § 25-10-101(a)(ii). "Dangerous to himself or others" means that, as a result of mental illness, a person:

(A) Evidences a substantial probability of physical harm to himself as manifested by evidence of recent threats of or attempts at suicide or serious bodily harm; or

(B) Evidences a substantial probability of physical harm to other individuals as manifested by a recent overt homicidal act, attempt or threat or other violent act, attempt or threat which places others in reasonable fear of serious physical harm to them; or

(C) Evidences behavior manifested by recent acts or omissions that, due to mental illness, he is unable to satisfy basic needs for nourishment, essential medical care, shelter or safety so that a substantial probability exists that death, serious physical injury, serious physical debilitation, serious mental debilitation, destabilization from lack of or refusal to take prescribed psychotropic medications for a diagnosed condition or serious physical disease will imminently ensue, unless the individual receives prompt and adequate treatment for this mental illness. No person, however, shall be deemed to be unable to satisfy his need for nourishment, essential medical care, shelter or safety if he is able to satisfy those needs with the supervision and assistance of others who are willing and available.

**Additional outpatient criteria:**

WYO. STAT. ANN. § 25-10-110(j)(ii). If the court finds that the proposed patient does not require continuous inpatient hospitalization, would be more appropriately treated in an outpatient treatment program or a combination of outpatient and inpatient treatment or will be able to appropriately control his illness by following a prescribed treatment plan, the court shall consider such treatment options. If the court finds that the proposed patient does not require continuous hospitalization and the funding is available, it shall consider conditional outpatient treatment . . . and may designate an outpatient care provider, including mental health centers...

**For emergency evaluation:**

WYO. STAT. ANN. § 25-10-109(a). When a [designated person] has reasonable cause to believe a person is mentally ill pursuant to W.S. 25-10-101 [dangerous to self or others], the person may be detained.

**Who may initiate:**

**For inpatient or outpatient commitment:**

WYO. STAT. ANN. § 25-10-110.(a) Proceedings for the involuntary hospitalization of a person may be commenced by the filing of a written application with the court in the county in which the person is initially detained...

**For emergency evaluation:**

WYO. STAT. ANN. § 25-10-109.(a) When a law enforcement officer or examiner has reasonable cause to believe a person [meets the emergency evaluation criteria] the person may be detained.