

Delaware State Report Card

Last Updated: January 1, 2024

Method and scoring: State involuntary civil commitment laws are evaluated using a 100-point grading scale. The scoring criteria are in accordance with the Treatment Advocacy Center’s values and policy preferences. Up to 50 points are awarded to a state based on the quality of its inpatient commitment law, and up to 50 points are awarded based on the state’s assisted outpatient treatment (AOT) law. Final letter grades are computed using the following scale:

97 or above	A+	87–89	B+	77–79	C+	67–69	D+	59 or below	F
93–96	A	83–86	B	73–76	C	63–66	D		
90–92	A-	80–82	B-	70–72	C-	60–62	D-		

PART ONE: Inpatient Commitment Statute (up to 50 points)

Criterion	Citation	Specifications	Points
1. Citizen access to court, emergency evaluation (5 pts)	16 Del. C. § 5004	<input type="checkbox"/> Authorizes family/enumerated adults (3 pts) <input type="checkbox"/> Authorizes any responsible adult (2 pts) “Any person” may ask a peace officer or mental health screener for assistance. A mental health screener must initiate emergency detention.	0
2. Quality of emergency petition process (5 pts)	16 Del. C. § 5004	<input checked="" type="checkbox"/> Process specified and reasonable (2 pts) <input type="checkbox"/> Timelines specified and reasonable (2 pts) <input checked="" type="checkbox"/> Responsible entities identified (1 pt) <input type="checkbox"/> Requires certification by more than one professional (-2 pts) <input type="checkbox"/> Emergency evaluation criteria inconsistent with inpatient commitment criteria (-5 pts)	3
3. Emergency hold duration (5 pts)	16 Del. C. § 5005(e)	<input type="checkbox"/> At least 48-hour hold allowed (3 pts) <input type="checkbox"/> At least 72-hour hold allowed (2 pts)	0
4. Citizen access to court, inpatient petition (5 pts)	16 Del. C. §§ 5007, 5008	<input type="checkbox"/> Authorizes family/enumerated adults (3 pts) <input type="checkbox"/> Authorizes any responsible adult (2 pts) A designated treatment facility, hospital, or outpatient provider. After provisional admission, only a hospital may petition.	0
5. Quality of criteria for harm or violence to self or others (up to 10 pts)	16 Del. C. §§ 5001(3), (4)	<input checked="" type="checkbox"/> Contains explicit criteria (10 pts) <input type="checkbox"/> Language is vague/ambiguous (-3 pts) <input checked="" type="checkbox"/> Harm must be imminent (-3 pts)	7
6. Quality of criteria for grave disability/basic needs (up to 10 pts)		<input type="checkbox"/> Contains explicit criteria (10 pts) <input type="checkbox"/> Language is vague/ambiguous (-3 pts) <input type="checkbox"/> Endangerment must be imminent (-3 pts) <input type="checkbox"/> Criteria require family to turn person out of home to receive treatment (-3 pts) <input type="checkbox"/> Unreasonably high risk of harm (-3 pts)	0
7. Quality of criteria for psychiatric deterioration (up to 10 pts)		<input type="checkbox"/> Contains explicit criteria (10 pts) <input type="checkbox"/> Language is vague/ambiguous (-3 pts)	0
SUBTOTAL			10

PART ONE: Extra Credit

1. Specifies in which court a petition for inpatient commitment shall be filed (1 pt)	16 Del. C. § 5001	The superior court or the family court of the state	1
Extra Credit			1
PART ONE TOTAL			11

PART TWO: Outpatient Commitment Statute (up to 50 points)

Criterion	Citation	Specifications	Points
1. AOT explicitly authorized (5 pts)	16 Del. C. § 5013	<input type="checkbox"/> Requires local government to adopt (-3 pts) Referred to as “involuntary outpatient treatment over objection”	5

2. Citizen access to court for AOT (5 pts)	16 Del. C. § 5007	<input type="checkbox"/> Authorizes family/enumerated adults (3 pts) <input type="checkbox"/> Authorizes any responsible adult (2 pts) <input type="checkbox"/> Authorizes citizen petition to mental health system only (-2 pts)	0
3. Criteria sufficiently broad to provide actual access (up to 10 pts)	16 Del. C. § 5013	Evaluate applicable provision only: <input type="checkbox"/> If inpatient/outpatient criteria are the same: <input type="checkbox"/> Inpatient criteria include psychiatric deterioration standard (10 pts) <u>or</u> <input type="checkbox"/> No psychiatric deterioration standard, adequate grave disability standard (5 pts) or <input checked="" type="checkbox"/> If outpatient criteria are distinct from inpatient criteria: <input checked="" type="checkbox"/> Allows consideration of length of treatment history ≥ 36 months (2 pts) <input type="checkbox"/> Does not exclude periods of incarceration or hospitalization (-1 pt) <input checked="" type="checkbox"/> Does not limit application to those currently dangerous or unstable (4 pts) <input type="checkbox"/> Does not limit application to those refusing service or currently lacking insight (4 pts) (<i>See comment below</i>)	6
4. Authorizes AOT directly from community (5 pts)	16 Del. C. § 5007	An outpatient provider may seek to have the individual placed on involuntary outpatient treatment over objection	5
5. Procedures sufficiently detailed to guide practitioners (up to 5 pts)		<input type="checkbox"/> Process specified and reasonable (1 pt) <input type="checkbox"/> Timelines specified and reasonable (1 pt) <input type="checkbox"/> Responsible entities identified (1 pt) <input type="checkbox"/> Periodic reporting to court required (1 pt) <input type="checkbox"/> Renewal process expressly specified (1 pt)	0
6. Procedures require the treatment plan to be shared with the court (5 pts)			0
7. Specifies procedures and consequences for nonadherence (5 pts)			0
8. Duration of initial order	16 Del. C. § 5013(c)	<input checked="" type="checkbox"/> = 90 days (2 pts) <u>or</u> <input type="checkbox"/> > 90 days (5 pts)	2
9. Duration of continued order		<input type="checkbox"/> = 180 days (2 pts) <u>or</u> <input type="checkbox"/> > 180 days (5 pts) 90 days	0
SUBTOTAL			18
PART TWO: Extra Credit			
1. Specifies court for AOT (1 pt)	16 Del. C. § 5001	The superior court or the family court of the state	1
2. Court monitoring of voluntary settlement agreements (5 pts)			
Extra Credit			1
PART TWO TOTAL			19

FINAL SCORE	
PART ONE TOTAL	11
PART TWO TOTAL	19
TOTAL	30
GRADE	F

Comment:

- Requires either refusal of voluntary services or current incapacity to determine whether treatment is necessary.