

Court-Ordered Treatment Inpatient and Outpatient

A Guide for Families and Caregivers 2017

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An Affiliate of NAMI Oklahoma and The National Alliance on Mental
Illness**

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INTRODUCTION

If your loved one is unwilling or incapable of making a rational decision to seek treatment, you may pursue the involuntary treatment process provided in Oklahoma Title 43A Mental Health Law 2017. This guide summarizes content from the law. It was prepared by NAMI Tulsa members and should not be considered legal advice or a legal opinion.

The involuntary admission process typically involves Protective Custody, Emergency Examination (Initial Assessment), Emergency Detention, and Civil Commitment-Inpatient and/or Outpatient. These are civil mental health proceedings that apply to individuals who are mentally ill and who are a risk of harm to self or others. This guide does not address commitment of persons in connection with criminal justice proceedings, nor does it cover treatment of minors except in regard to Assisted Outpatient Treatment.

(See “Inpatient Mental Health and Substance Abuse Treatment of Minors Act” Title 43A, §5-501.)

DEFINITION OF A PERSON SUBJECT TO EMERGENCY DETENTION AND INVOLUNTARY INPATIENT CIVIL COMMITMENT

Only an individual who meets the definition of a “person requiring treatment” is subject to Emergency Detention or involuntary Civil Commitment in an inpatient facility.

“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.**

b. The mental health or substance abuse history of the person may be used as part of the evidence to determine whether the person is a person requiring treatment or an assisted outpatient. The mental health or substance abuse history of the person shall not be the sole basis for this determination.”

c. Homelessness, dementia, developmental disability, seizure disorder, or traumatic brain injury alone is not enough to have a person placed in Emergency Detention or involuntarily committed. He or she must also meet one of the criteria of a person requiring treatment or an assisted outpatient.

d. A person who meets the criteria of person requiring treatment, but who is medically unstable should be transported to an appropriate medical facility.

DEFINITION OF A PERSON SUBJECT TO ASSISTED OUTPATIENT TREATMENT (AOT)

a. **“Assisted outpatient” means a person who:**

- (1) is either currently under the care of a facility certified by the Department of Mental Health and Substance Abuse Services as a Community Center, or is being discharged from the custody of the Oklahoma Department of Corrections, or is being discharged from a residential placement by the Office of Juvenile Affairs.**
- (2) is suffering from a mental illness,**
- (3) is unlikely to survive safely in the community without supervision, based on a clinical determination,**
- (4) has a history of lack of compliance with treatment for mental illness that has:**
 - (a) prior to the filing of a petition, at least twice within the last thirty-six (36) months been a significant factor in necessitating hospitalization or treatment in a hospital or residential facility, or receipt of services in a forensic or other mental health unit of a correctional facility, or a specialized treatment plan for treatment of mental illness in a secure juvenile facility or placement in a specialized residential program for juveniles, or**
 - (b) 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 twenty-four (24) months,**
- (5) is, as a result of his or her mental illness, unlikely to voluntarily participate in outpatient treatment that would enable him or her to live safely in the community,**
- (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 persons as defined in this section, and**
- (7) is likely to benefit from assisted outpatient treatment.**

“Assisted outpatient treatment” means outpatient services which have been ordered by the court pursuant to a treatment plan approved by the court to treat an assisted outpatient’s mental illness and to assist the person in living and functioning in the community, or to attempt to prevent a relapse or deterioration that may reasonably be predicted to result in suicide or the need for hospitalization.” TYPICAL ORDER OF EVENTS FOR EMERGENCY DETENTION AND INPATIENT CIVIL COMMITMENT

I. Protective Custody

- A peace officer takes the person who appears to be a “person requiring treatment” into Protective Custody. Protective Custody is defined as the detaining of a person by law enforcement until such time as an Emergency Examination is conducted to determine if Emergency Detention is warranted.
- The officer prepares a statement or obtains a statement from a third party and transports the person to a designated Emergency Examination facility.

- **Note to Family Members:** A family member can complete a third party statement explaining why the person is a “person requiring treatment.”

II. Emergency Examination

A Licensed Mental Health Professional (LMHP) completes an examination within 12 hours.

Note to Family Members: Family members should provide complete, detailed information regarding the person’s current behaviors and signs of deterioration or relapse, risk of danger, and history of mental illness. It is important to continually document your loved one’s illness and keep it updated with specific examples of the person’s symptoms and how they have affected his or her life. Get letters from employers, teachers, and other credible people about the person’s behavior if needed. Give this documentation to doctors and other mental health providers. Information from you is essential for a correct diagnosis and appropriate treatment, including involuntary treatment if necessary. It is also important for continuity of care by different providers. Do not assume that prior medical records will be obtained or read.

III. Emergency Detention

- If Emergency Detention is not warranted, the person is released and returned to the point of origin by the peace officer.

- If Emergency Detention is warranted and not voluntary, then an LMHP statement is completed, and law enforcement transports the person to the detention facility (if not already there). The detained person is asked to designate an individual to be notified. If the person being detained is incapable of

making such designation, the law enforcement officer holding the person in Protective Custody shall, within 24 hours, notify either the attorney, treatment advocate, parent, spouse, guardian, brother, sister, or child over the age of 18 of the person.

- **Emergency Detention (ED) is for up to 120 hours.**

- **A full examination and evaluation is conducted by two LMHPs.**

- **Note to Family Members: Talk to the hospital staff during the ED period and fax, e-mail, or hand deliver your written documentation to the detention facility. Even if your loved one has not signed a “Consent for Release of Information” form, you can talk to the mental health professionals and send them any information that you think is important.**

- **Staff must determine if the person has a Psychiatric Advance Directive.**

IV. Involuntary Commitment

- **A Petition for Involuntary Civil Commitment and a mental health evaluation by two LMHPs is filed with the court. The mental health evaluation must include the following findings:**

(1) the person has a mental illness and is a “person requiring treatment,”

(2) the person is reasonably likely to benefit from mental health treatment,

(3) inpatient treatment is the least restrictive alternative based on either the failure of efforts to provide less restrictive alternatives or a determination that less restrictive alternatives are unlikely to meet the person’s treatment needs.

- **A Pre-hearing Detention Request is also filed if necessary; that is, if the hearing date occurs after the expiration of 120 hours.**
- **The person is notified one day before the hearing.**

- **The hearing is held and the commitment order is filed. [Note: You may attend the hearing if your loved one gives permission.]**

- **The person is transported to the inpatient facility (if not already there). Hearings are usually held at TCBH, but may be held in the Courthouse or at another psychiatric facility.**

- **The person is discharged when she or he meets criteria.**

· Note to Family Members: It is important to visit your loved one while he or she is in the hospital and to let the psychiatrist know how you think he or she is progressing, i.e., whether or not the person is still exhibiting delusions, hallucinations, or making threatening statements. Again, even if your loved one has not signed a “Consent for Release of Information” form, you have the right to give (but not receive) information. The need for Assisted Outpatient Treatment should be considered prior to discharge. If your loved one has a history of not following through with outpatient treatment, request that he or she be court-ordered to treatment.

ALTERNATE FAMILY-INITIATED PETITION

Although the filing of a petition for involuntary Civil Commitment generally is preceded by Emergency Detention of the person, that is not always the case. Oklahoma Mental Health Law allows family members most closely related to the “person requiring treatment” to initiate a petition for Civil Commitment. This provision is very important when the “person requiring treatment” refuses to go to the hospital, doctor, or any place where she or he could get treatment. The treatment advocate, father, mother, husband, wife, grandparent, brother, sister, guardian, or child over the age of 18 of the person may file a petition.

A Petition for Civil Commitment must state the facts upon which the allegations of “person requiring treatment” are based. The court can issue an order authorizing any peace officer to take the person to a pre-hearing detention facility. Involuntary Civil Commitment actions can be filed in either the county in which the subject of the petition resides or the county in which the subject is found or is being held on Emergency Detention.

Note to Family Members: In Tulsa County, mental health court commitments are handled through the Probate Department at the Tulsa County Courthouse, 918-596-5440.

ASSISTED OUTPATIENT TREATMENT (AOT)

If your loved one is a client of a Community Mental Health Center (CMHC) and is not complying with treatment, i.e., not taking medication or not going to appointments, you may ask the CMHC provider to petition the court for an AOT order.

RESOURCES

OK Dept. of Mental Health & Substance Abuse Services	(405) 522-3908
Mental Health Court/Probate Department Tulsa County Courthouse	(918) 596-5440
Tulsa Center for Behavioral Health (TCBH) Crisis Line (918) 293-2100	
COPES (Community Outreach Psychiatric Emergency Services)	(918) 744-4800
Crisis Care Center	(918) 744-4800
NAMI Tulsa	(918) 587-6264
NAMI Oklahoma Helpline	(800) 583-5440