

JUDICIAL COMMITMENT

This guide relates to non-emergency proceedings. It is meant to be used by lawyers who assist clients in judicial commitment proceedings at no charge or at a reduced fee. Persons who wish to represent themselves will find that they probably will need at least limited representation by a lawyer. See our separate booklet regarding how limited representation works.

Standards for Involuntary Commitment. A person may be judicially committed to involuntary care and treatment in a hospital or treatment resource if ...

- the person has a mental illness or serious emotional disturbance, AND
- the person poses a substantial likelihood of serious harm because of the mental illness or serious emotional disturbance, AND
- the person needs care, training, or treatment because of the mental illness or serious emotional disturbance, AND
- all available less drastic alternatives to placement in a hospital or treatment resource are unsuitable to meet the needs of the person.

Determination of Substantial Likelihood of Serious Harm. A person poses a “substantial likelihood of serious harm” if . . .

- the person has threatened or attempted suicide or to inflict serious bodily harm to himself or herself, OR
- the person has threatened or attempted homicide or other violent behavior, OR
- the person has placed others in reasonable fear of violent behavior and serious physical harm to them, OR
- the person is unable to avoid severe impairment or injury from specific risks, AND
- there is a substantial likelihood that the harm will occur unless the person is placed under involuntary treatment.

Courts. Jurisdiction for involuntary commitment proceedings is given to Chancery, Circuit, and some Juvenile and Probate Courts. Cases may be filed in the county where the person resides or may be found. If the person has already been institutionalized and the case is begun in the county where the institution is located, the court may transfer the case for good cause to the county where the person resides.

Plaintiffs. All of the following persons may file a complaint to require involuntary care and treatment of a person with mental illness or serious emotional disturbance:

- a parent, legal guardian, legal custodian, conservator, spouse, or a responsible relative of the person alleged to be in need of care and treatment, and
- a licensed physician, a licensed psychologist designated as a health service provider by the board of healing arts and actively practicing as such, a health or public welfare officer, an officer authorized to make arrests in the state, and the chief officer of a facility in which the person is a patient.

Guardian Ad Litem. A judge or chancellor is permitted but not required to appoint a guardian ad litem.

Proof. No person may be judicially committed unless two licensed physicians (or one licensed physician and one licensed psychologist designated as a health service provider by the board of healing arts and actively practicing as such) file certificates of need for care and treatment. They must certify that the person satisfies the statutory requirements and show the factual foundation for the conclusions about each requirement. No defendant who is a child under 16 years of age may be judicially committed unless one of the certificates is by a physician or psychologist having experience with children. A petition may be filed without certificates from professionals so long as the petitioners state under oath that the defendant has refused to be examined by professionals.

Place of Commitment. If a licensed private or local public hospital has contracted with the Department of Health to serve persons who are committed and has available suitable accommodations, the court will commit them to the facility. Otherwise, judges have a choice between a state facility, a licensed public hospital, and a Veterans' Administration facility. The court may commit the defendant to a licensed private hospital under two conditions: (1) someone has made arrangements to pay the cost of care and treatment or the facility chooses to accept the defendant when no one has made arrangements to pay the cost and (2) placement in the facility is more appropriate to the needs of the defendant than placement in a state facility. In the case of veterans, there must be a certificate showing that VA facilities are available and that the veteran is eligible for care or treatment there.