

STATE STANDARDS FOR CIVIL COMMITMENT

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Alabama

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.

OUTPATIENT COMMITMENT

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.

Alaska

INPATIENT COMMITMENT

ALASKA STAT. § 47.30.735(c). [T]he court may commit the respondent to a treatment facility ... if it finds, by clear and convincing evidence, that the respondent is mentally ill and as a result is likely to cause harm to the respondent or others or is gravely disabled.

ALASKA STAT. § 47.30.915(12). "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.

ED. NOTE: There is a discrepancy in Alaska law. The commitment standard includes the term “likely to cause harm,” while the term defined is “likely to cause **serious** harm.” [Emph. Added.]

ALASKA STAT. § 47.30.915(9). "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.

OUTPATIENT COMMITMENT

ALASKA STAT. § 47.30.735(d). If the court finds that there is a viable 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 ... if the program accepts the respondent.

Arizona

INPATIENT OR OUTPATIENT COMMITMENT

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, has a persistent or acute disability or a grave disability and is 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(7). "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(8). "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 that establishes only the condition of having a grave disability.

ARIZ. REV. STAT. § 36-501(15). "Grave disability" 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 the person is unable to provide for the person's own basic physical needs.

ARIZ. REV. STAT. § 36-501(32). "Persistent or acute disability" 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.

Arkansas

INPATIENT OR OUTPATIENT COMMITMENT

ARK. CODE ANN. § 20-47-207(c)(1). 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;

ARK. CODE ANN. § 20-47-207(c)(2). 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 times within the last forty-eight months or has been a factor in the individual's committing one or more acts, attempts, or threats of serious violent behavior within the last forty-eight months.

ARK. CODE ANN. § 20-47-207(c)(3). 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.

California

INPATIENT COMMITMENT (OR 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:

- (a) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and has found the 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). Notwithstanding [other provision of law],, 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. 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. 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.

OUTPATIENT COMMITMENT ("ASSISTED OUTPATIENT TREATMENT")*

** Available only in counties that have “opted in” by Board of Supervisors action; otherwise outpatient commitment only permitted via conservatorship process.*

Criteria:

CALIF. WELF. & INST. CODE § 5346(a). In any county in which services are available ..., 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 [comprehensive services], 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[.]
- (9) It is likely that the person will benefit from assisted outpatient treatment.

Colorado

INPATIENT OR OUTPATIENT COMMITMENT

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(4.5). "Danger to self or others" means:

- (a) With respect to an individual, that the individual poses a substantial risk of physical harm to himself or herself as manifested by evidence of recent threats of or attempts at suicide or serious bodily harm to himself or herself; or
- (b) With respect to other persons, that the individual poses a substantial risk of physical harm to another person or persons, as manifested by evidence of recent homicidal or other violent behavior by the person in question, or by evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them, as evidenced by a recent overt act, attempt, or threat to do serious physical harm by the person in question.

COLO. REV. STAT. § 27-65-102(9). "Gravely disabled" means a condition in which a person, as a result of a mental health disorder, is incapable of making informed decisions about or providing for his or her essential needs without significant supervision and assistance from other people. As a result of being incapable of making these informed decisions, a person who is gravely disabled is at risk of substantial bodily harm, dangerous worsening of any concomitant serious physical illness, significant psychiatric deterioration, or mismanagement of his or her essential needs that could result in substantial bodily harm. A person of any age may be "gravely disabled", but such term does not include a person whose decision-making capabilities are limited solely by his or her developmental disability.

Connecticut*

** Connecticut does not have an outpatient commitment law.*

INPATIENT COMMITMENT

CONN. GEN. STAT. ANN. § 17a-498(c)(3). If the court finds by clear and convincing evidence that the respondent has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled, the court 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.

Delaware

INPATIENT COMMITMENT

DEL CODE ANN. tit. 16 § 5011(a). An individual shall be involuntarily committed for inpatient treatment only if all of the following criteria are met by clear and convincing evidence:

- (1) The individual is a person with a mental condition;

(2) Based upon manifest indications, the individual is: (i) dangerous to self; or (ii) dangerous to others;

(3) All less restrictive alternatives have been considered and determined to be clinically inappropriate at the time of the hearing; and

(4) The individual has declined voluntarily inpatient treatment, or lacks the capacity to knowingly and voluntarily consent to inpatient treatment. When evaluating capacity, the court shall consider an individual's ability to understand the significant consequences, benefits, risks, and alternatives that result from the individual's decision to voluntarily request or decline inpatient treatment.

DEL CODE ANN. tit. 16 § 5001(3). "Dangerous to others" means that by reason of mental condition there is a substantial likelihood that the person will inflict serious bodily harm upon another person within the immediate future. This determination shall take into account a person's history, recent behavior and any recent act or threat.

DEL CODE ANN. tit. 16 § 5001(4) "Dangerous to self" means that by reason of mental condition there is a substantial likelihood that the person will imminently sustain serious bodily harm to oneself. This determination shall take into account a person's history, recent behavior, and any recent act or threat.

OUTPATIENT COMMITMENT

DEL CODE ANN. tit. 16 § 5013(a). A person shall be involuntarily committed by the court for outpatient treatment over objection only if all of the following criteria are satisfied by clear and convincing evidence:

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

(2) The person has a documented mental condition.

(3) The person is reasonably expected to become dangerous to self or dangerous to others or otherwise unlikely to survive safely in the community without treatment for the person's mental condition.

(4) The person is currently refusing to voluntarily participate in the treatment plan recommended by the person's mental health treatment provider or lacks the capacity to determine whether such treatment is necessary.

(5) The person has a documented history of lack of adherence with recommended treatment for the mental condition, or poses an extreme threat of danger to self or danger to others based upon recent actions, that has either:

(i) Resulted in a deterioration of functioning that was observed to be dangerous to the individual's personal health and safety; or

(ii) Resulted in a deterioration of functioning that was observed to be imminently dangerous to self or dangerous to others, including but not limited to suicidal ideation, violent threats, or violence towards others.

(6) All less restrictive treatment options have been considered and have either been determined to be clinically inappropriate at this time or evidence is offered to show that the person is not likely to adhere to such options.

District of Columbia

INPATIENT OR OUTPATIENT COMMITMENT

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.

Florida

INPATIENT COMMITMENT

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

(a) He or she has a mental illness and because of his or her mental illness:

1. a. He or she has refused voluntary inpatient placement for treatment after sufficient and conscientious explanation and disclosure of the purpose of inpatient placement for treatment; or

b. He or she is unable to determine for himself or herself whether inpatient placement is necessary; AND
2. a. He or she is 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 self or others, as evidenced by recent behavior causing, attempting, or threatening such harm; and

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

OUTPATIENT COMMITMENT ("INVOLUNTARY OUTPATIENT SERVICES")

FLA. STAT. § 394.4655(2). A person may be ordered to involuntary outpatient services upon a finding of the court, by clear and convincing evidence, that the person meets all of the following criteria:

- (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 has refused voluntary services for treatment after sufficient and conscientious explanation and disclosure of why the services are necessary or is unable to determine for himself or herself whether services are necessary;

(g) In view of the person's treatment history and current behavior, the person is in need of involuntary outpatient services 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[;]

(h) It is likely that the person will benefit from involuntary outpatient services; 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.

Georgia

INPATIENT COMMITMENT

GA. CODE ANN. § 37-3-1(12). "Mentally ill person requiring involuntary treatment" means a mentally ill person who is an inpatient or an outpatient.

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.

OUTPATIENT COMMITMENT

GA. CODE ANN. § 37-3-1(12). "Mentally ill person requiring involuntary treatment" means a mentally ill person who is an inpatient or an outpatient.

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.

Hawaii

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; 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.

HAW. REV. STAT. § 334-1. "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.

HAW. REV. STAT. § 334-1. "Dangerous to self" means the person recently has:

(1) Threatened or attempted suicide or serious bodily harm; or

(2) 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.

HAW. REV. STAT. § 334-1. "Imminently dangerous to self or others" means that, without intervention, the person will likely become dangerous to self or dangerous to others within the next forty-five days.

OUTPATIENT COMMITMENT ("ASSISTED COMMUNITY TREATMENT")

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

(1) The person is mentally ill or suffering from substance abuse;

(2) The person is unlikely to live safely in the community without available supervision based on the professional opinion of the psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization;

(3) The person, at some time in the past:

(A) has received inpatient hospital treatment for a mental illness or substance abuse or

(B) has been found to be imminently dangerous to self or others, as a result of mental illness or substance abuse;

(4) The person, based on the person's treatment history and current condition, 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;

(5) The person has a history of lack of adherence to treatment for mental illness or substance abuse, and 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;

(6) The assisted community treatment is medically appropriate, and in the person's medical interests; and

(7) Considering less intrusive alternatives, assisted community treatment is essential to prevent the danger posed by the person.

Idaho

INPATIENT OR OUTPATIENT COMMITMENT

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[.]

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(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 caused 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(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.

Illinois

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.

OUTPATIENT COMMITMENT

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 1119 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 1119, 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.

Indiana

INPATIENT OR OUTPATIENT COMMITMENT*

*** See below for additional criteria required for outpatient commitment.**

IND. CODE ANN. § 12-26-6-8(a) [*"temporary commitment"*] and IND. CODE ANN. § 12-26-7-5(a) [*"regular commitment"*]. 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.

OUTPATIENT COMMITMENT (in addition to the criteria above)

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.

Iowa

INPATIENT OR OUTPATIENT COMMITMENT

IOWA CODE § 229.13(1). If upon completion of the hospitalization hearing the court finds by clear and convincing evidence that the respondent has a serious mental impairment, the court shall order the respondent committed as expeditiously as possible for a complete psychiatric evaluation and appropriate treatment[.]

IOWA CODE § 229.1(20). "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(19). "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 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.

Kansas

INPATIENT OR OUTPATIENT COMMITMENT*

**** See below for additional criteria required for outpatient commitment.***

KAN. STAT. ANN. § 59-2966(a). Upon the completion of the trial, if the court or jury finds by clear and convincing evidence that the proposed patient is a mentally ill person subject to involuntary commitment for care and treatment under this act, the court shall order treatment for such person[.].

KAN. STAT. ANN. § 59-2946(e). "Mentally ill person" means any person who is suffering from a mental disorder which is manifested by a clinically significant behavioral or psychological syndrome or pattern and associated with either a painful symptom or an impairment in one or more important areas of functioning, and involving substantial behavioral, psychological or biological dysfunction, to the extent that the person is in need of treatment.

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. 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.

KAN. STAT. ANN. § 59-2946(f)(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.

KAN. STAT. ANN. § 59-2946(f)(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.

OUTPATIENT COMMITMENT (in addition to the criteria above)

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.

Kentucky

INPATIENT COMMITMENT

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;

OUTPATIENT COMMITMENT

KY REV. STAT. ANN. § 202A.0815. No person shall be court-ordered to assisted outpatient mental health treatment unless the person:

(1) Has been involuntary hospitalized [by court order] at least two times in the past twelve months;

(2) Is diagnosed with a serious mental illness;

(3) Is unlikely to adequately adhere to outpatient treatment on a voluntary basis based on a qualified mental health professional's:

(a) Clinical observations;

(b) Review of treatment history, including the person's prior history of repeated treatment nonadherence; and

(c) Identification of specific characteristics of the person's clinical condition described as anosognosia, or failure to recognize his or her diagnosis of serious mental illness; and

(4) Is in need of court-ordered assisted outpatient treatment as the least restrictive alternative mode of treatment presently available and appropriate.

Louisiana

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-related or addictive disorder 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 a substance-related or addictive disorder 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.

OUTPATIENT COMMITMENT

LA. REV. STAT. ANN. § 28:66 (A) A patient may be ordered to obtain civil 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 or gravely disabled as defined in R.S. 28:2.
- (7) It is likely that the patient will benefit from involuntary outpatient treatment.

Maine

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-A). "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

OUTPATIENT COMMITMENT ("PROGRESSIVE TREATMENT PROGRAM")

ME. REV. STAT. ANN. tit. 34B, § 3873-A(1). [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. Licensed and qualified community providers 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].

Maryland*

**Maryland does not have an outpatient commitment law.*

INPATIENT COMMITMENT

MD. CODE ANN., HEALTH-GEN. § 10-632(e)(2). The hearing officer shall [o]rder the release of the individual from the facility unless the record demonstrates by clear and convincing evidence that at the time of the hearing each of the following elements exist as to the individual whose involuntary admission is sought:

- (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.

Massachusetts*

**Massachusetts does not have an outpatient commitment law.*

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" [means:]

- (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.

Michigan

INPATIENT OR OUTPATIENT COMMITMENT (ASSISTED OUTPATIENT TREATMENT)*

**** If the court relies exclusively on definition under § 330.1401(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 by that mental illness that he or she is unable to understand his or her need for treatment, and whose impaired judgment, on the basis of competent clinical opinion, presents a substantial risk of significant physical or mental harm to the individual in the near future or presents a substantial risk of physical harm to others in the near future.

(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 voluntarily participate in or adhere to treatment that has been determined 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.

Minnesota

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 ..., 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(1)(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.

Ed. 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).

OUTPATIENT COMMITMENT ("EARLY INTERVENTION TREATMENT")

MINN. STAT. § 253B.065(5)(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 ... 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 [inpatient] commitment ... 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[.]

MINN. STAT. § 253B.065(5)(d). For purposes of [determining eligibility for outpatient commitment], 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.

Mississippi

INPATIENT OR OUTPATIENT COMMITMENT

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 in the least restrictive treatment facility that can meet the patient's treatment needs.

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.

Missouri

INPATIENT OR OUTPATIENT COMMITMENT

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.

Montana

INPATIENT OR OUTPATIENT COMMITMENT*

**** If the court relies exclusively on finding under § 53-21-126(1)(d), only outpatient commitment may be ordered.***

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.

Nebraska

INPATIENT OR OUTPATIENT COMMITMENT

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.

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.

Nevada

INPATIENT OR OUTPATIENT COMMITMENT*

**** See below for additional criteria required for outpatient commitment.***

NEV. REV. STAT. § 433A.310(1). [I]f the district court finds ... clear and convincing evidence 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 or if not required to participate in a program of community-based or outpatient services, the court may order the involuntary admission of the person for the most appropriate course of treatment[.]

NEV. REV. STAT. § 433A.115(1). "[P]erson with mental illness" 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.

NEV. REV. STAT. § 433A.115(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.

NEV. REV. STAT. § 433A.115(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.

OUTPATIENT COMMITMENT (in addition to the criteria above)

NEV. REV. STAT §433A.310(2). A court shall not admit a person to a program of community-based or outpatient treatment unless:

- (a) A program of community-based or outpatient services is available in the community in which the person resides or is otherwise made available to the person;
- (b) The person is 18 years or older;
- (c) The person has a history of noncompliance with treatment for mental illness;
- (d) The person is capable of surviving safely in the community in which he or she resides with available supervision;
- (e) The court determines that, based on the person's history of treatment for mental illness, the person needs to be admitted to a program of community-based or outpatient services to prevent further disability or deterioration of the person which is likely to result in harm to himself or herself or others;
- (f) The current mental status of the person or the nature of the person's mental illness limits or negates his or her ability to make an informed decision to seek treatment for mental illness voluntarily or to comply with recommended treatment for mental illness;
- (g) The program of community-based or outpatient services is the least restrictive treatment which is in the best interest of the person; and
- (h) The court has approved a plan of treatment developed for the person[.]

New Hampshire

INPATIENT OR OUTPATIENT COMMITMENT

N.H. REV. STAT. ANN. § 135-C:34. 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:2(X). "Mental illness" means a substantial impairment of emotional processes, or of the ability to exercise conscious control of one's actions, or of the ability to perceive reality or to reason, when the impairment is manifested by instances of extremely abnormal behavior or extremely faulty perceptions. It does not include impairment primarily caused by: (a) epilepsy; (b) intellectual disability; (c) continuous or noncontinuous periods of intoxication caused by substances such as alcohol or drugs; or (d) dependence upon or addiction to any substance such as alcohol or drugs.

N.H. REV. STAT. ANN. § 135-C:27(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.

New Jersey

New Jersey

INPATIENT OR 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, threat or serious psychiatric deterioration.

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.

New Mexico

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.

OUTPATIENT COMMITMENT ("ASSISTED OUTPATIENT TREATMENT")*:

** Available only in jurisdictions that have "opted in" with a memorandum of understanding between the jurisdiction and the local district court.*

N.M. STAT. ANN. § 43-1B-3. A person may be ordered to participate in assisted outpatient treatment if the court finds by clear and convincing evidence that the person:

- A. is eighteen years of age or older and is a resident of a participating municipality or county;
- B. has a primary diagnosis of a mental disorder;
- C. has demonstrated a history of lack of compliance with treatment for a mental disorder that has:
 - (1) at least twice within the last forty-eight months, been a significant factor in necessitating hospitalization or necessitating receipt of services in a forensic or other mental health unit or a jail, prison or detention center; provided that the forty-eight-month period shall be extended by the length of any hospitalization, incarceration or detention of the person that occurred within the forty-eight-month period;
 - (2) 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; provided that the forty-eight-month period shall be extended by the length of any hospitalization, incarceration or detention of the person that occurred within the forty-eight-month period; or
 - (3) resulted in the person being hospitalized, incarcerated or detained for six months or more and the person is to be discharged or released within the next thirty days or was discharged or released within the past sixty days;
- D. is unwilling or unlikely, as a result of a mental disorder, to participate voluntarily in outpatient treatment that would enable the person to live safely in the community without court supervision;
- E. is in need of assisted outpatient treatment as the least restrictive appropriate alternative to prevent a relapse or deterioration likely to result in serious harm to self or likely to result in serious harm to others; and
- F. will likely benefit from, and the person's best interests will be served by, receiving assisted outpatient treatment.

New York

INPATIENT COMMITMENT

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.

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 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.

OUTPATIENT COMMITMENT ("ASSISTED OUTPATIENT TREATMENT")

N.Y. MENTAL HYG. LAW § 9.60(c). 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.

North Carolina

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... or dangerous to others[.]

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.

OUTPATIENT COMMITMENT

N.C. GEN. STAT. § 122C-271(a)(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 [to self or others]; 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.

N.C. GEN. STAT. § 122C-267(h). To support an outpatient commitment order, the court is required to find by clear, cogent, and convincing evidence that the respondent meets the criteria specified in G.S. 122C-263(d)(1).

N.C. GEN. STAT. § 122C-263(d)(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.

North Dakota

INPATIENT OR OUTPATIENT COMMITMENT

N.D. CENT. CODE § 25-03.1-07. An individual 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(13). "Person requiring treatment" means a person who is mentally ill or a person who is chemically dependent, and there is a reasonable expectation that if the individual is not treated for the mental illness or chemical dependency there exists a serious risk of harm to that individual, others, or property.

N.D. CENT. CODE § 25-03.1-02(12). "[P]erson who is mentally ill" means a person with an organic, mental, or emotional disorder that substantially impairs the capacity to use self-control, judgment and discretion in the conduct of personal affairs and social relations. The term does not include an individual with an intellectual disability of significantly subaverage general intellectual functioning that originates

during the developmental period and is associated with impairment in adaptive behavior, although an individual who is intellectually disabled may also be a person who is mentally ill. Chemical dependency does not per se constitute mental illness, although a person who is chemically dependent may also be a person who is mentally ill.

N.D. CENT. CODE § 25-03.1-02(20). "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 individual 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 individual, others, or property, based upon evidence of objective facts to establish the loss of cognitive or volitional control over the individual's thoughts or actions or based upon acts, threats, or patterns in the individual's treatment history, current condition, and other relevant factors, including the effect of the individual's mental condition on the individual's ability to consent.

Ohio

INPATIENT OR OUTPATIENT COMMITMENT*

**** If the court relies exclusively on definition under § 5122.01(B)(5), only outpatient commitment may be ordered.***

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 court order, the court shall order the respondent for a period not to exceed ninety days to [a period of inpatient or outpatient commitment].

OHIO REV. CODE ANN. § 5122.01(B). "Mentally ill person subject to 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;
- (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; or

- (5) (a) Would benefit from treatment as manifested by evidence of behavior that indicates all of the following:
- (i) The person is unlikely to survive safely in the community without supervision, based on a clinical determination.
 - (ii) The person has a history of lack of compliance with treatment for mental illness and one of the following applies:
 - (I) At least twice within the thirty-six months prior to the filing of an affidavit seeking court-ordered treatment of the person... the lack of compliance has 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, provided that the thirty-six-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the thirty-six-month period.
 - (II) Within the forty-eight months prior to the filing of an affidavit seeking court-ordered treatment of the person ..., the lack of compliance 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, provided that the forty-eight-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the forty-eight-month period.
 - (iii) The person, as a result of the person's mental illness, is unlikely to voluntarily participate in necessary treatment.
 - (iv) In view of the person's treatment history and current behavior, the person is in need of treatment in order to prevent a relapse or deterioration that would be likely to result in substantial risk of serious harm to the person or others.
- (b) An individual who meets only the criteria described in division (B)(5)(a) of this section is not subject to hospitalization.

Oklahoma

INPATIENT COMMITMENT

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 of 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.

OUTPATIENT COMMITMENT ("ASSISTED OUTPATIENT TREATMENT")

43A OKL. ST. § 1-103(20). "Assisted outpatient" means a person who:

(a) is eighteen (18) years of age or older,

(b) is either currently under the care of a facility certified by the Department of Mental Health and Substance Abuse Services as a Community Mental Health Center, or is being discharged from the custody of the Oklahoma Department of Corrections,

(c) is suffering from a mental illness,

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

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

(1) 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

(2) 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,

(f) 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,

(g) 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

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

Oregon

INPATIENT OR OUTPATIENT COMMITMENT

OR. REV. STAT. § 426.005(1)(f). "Person with mental illness" 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 that are necessary to avoid serious physical harm in the near future, and is not receiving such care as is necessary to avoid such harm.

(C) A person:

(i) With a chronic mental illness[;]

(ii) Who, within the previous three years, has twice been placed in a hospital or approved inpatient facility by the [Oregon Health Authority] or the Department of Human Services[;]

(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 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.

OUTPATIENT COMMITMENT: ALTERNATIVE FORM (“ASSISTED OUTPATIENT TREATMENT”)

OR. REV. STAT. § 426.133(2). A court may issue an order requiring a person to participate in assisted outpatient treatment if the court finds that the person:

(a) (A) Is 18 years of age or older;

(B) Has a mental disorder;

(C) Will not obtain treatment in the community voluntarily; and

(D) Is unable to make an informed decision to seek or to comply with voluntary treatment; and

(b) As a result of being a person described in paragraph (a) of this subsection:

(A) Is incapable of surviving safely in the community without treatment; and

(B) Requires treatment to prevent a deterioration in the person's condition that will predictably result in the person becoming a person with mental illness.

OR. REV. STAT. § 426.133(3). In determining whether to issue the order under subsection (2) of this section, the court shall consider, but is not limited to considering, the following factors:

(a) The person's ability to access finances in order to get food or medicine.

(b) The person's ability to obtain treatment for the person's medical condition.

(c) The person's ability to access necessary resources in the community without assistance.

(d) The degree to which there are risks to the person's safety.

(e) The likelihood that the person will decompensate without immediate care or treatment.

(f) The person's previous attempts to inflict physical injury on self or others.

(g) The person's history of mental health treatment in the community.

(h) The person's patterns of decompensation in the past.

- (i) The person's risk of being victimized or harmed by others.
- (j) The person's access to the means to inflict harm on self or others.

Pennsylvania

INPATIENT OR OUTPATIENT COMMITMENT

50 PA CONS. STAT. ANN. § 7304(a)(1). A person who is severely mentally disabled and in need of treatment... 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. § 7301(b)(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.

50 PA. CONS. STAT. ANN. § 7301(b)(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.

Rhode Island

INPATIENT OR OUTPATIENT COMMITMENT

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.

R.I. GEN. LAWS § 40.1-5-2(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.

South Carolina

INPATIENT OR OUTPATIENT COMMITMENT

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 ... and may order out-patient treatment following in-patient treatment.

S.C. CODE ANN. § 44-23-10(13). "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 the person is gravely disabled and that reasonable provision for his protection is not available in the community.

S.C. CODE ANN. § 44-23-10(7) "Gravely disabled" means a person who, due to mental illness, lacks sufficient insight or capacity to make responsible decisions with respect to his treatment and because of this condition is likely to cause harm to himself through neglect, inability to care for himself, personal injury, or otherwise.

S.C. CODE ANN. § 44-23-10(21). "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.

South Dakota

INPATIENT OR OUTPATIENT COMMITMENT

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 or has a chronic disability; and
- (3) The individual needs and is likely to benefit from treatment.

S.D. CODIFIED LAWS § 27A-1-1(6). "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;

S.D. CODIFIED LAWS § 27A-1-1(7). "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.

Tennessee*

**Tennessee does not have an outpatient commitment law.*

INPATIENT COMMITMENT

TENN. CODE ANN. § 33-6-502. 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. 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.

Texas

INPATIENT COMMITMENT

TEX. HEALTH & SAFETY CODE § 574.034(a). 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 a person with mental illness; and
- (2) as a result of that mental illness the proposed patient:
 - (A) is likely to cause serious harm to the proposed patient;
 - (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). 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 a person with mental illness;
- (2) as a result of that mental illness the proposed patient:
 - (A) is likely to cause serious harm to the proposed patient;
 - (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.

OUTPATIENT COMMITMENT

TEX. HEALTH & SAFETY CODE § 574.034(b). 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 proposed patient; and
- (2) the judge or jury finds, from clear and convincing evidence, that:
 - (A) the proposed patient is a person with mental illness;

- (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). 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 proposed 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 a person with mental illness;
 - (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.

Utah

INPATIENT OR OUTPATIENT COMMITMENT

UTAH CODE ANN. § 62A-15-631(16). 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 ..., 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 the proposed patient poses a substantial danger ... to self or others;

(c) the proposed 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 the individual's 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(17). "Substantial danger" means that due to mental illness, an individual is at serious risk of:

(a) suicide;

(b) serious bodily self-injury;

(c) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter;

(d) causing or attempting to cause serious bodily injury to another individual; or

(e) engaging in harmful sexual conduct.

UTAH CODE ANN. § 62A-15-602(16). "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.

Vermont

INPATIENT OR OUTPATIENT COMMITMENT

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 has a 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.

Virginia

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" has] been investigated and determined to be inappropriate[.]

OUTPATIENT COMMITMENT ("MANDATORY OUTPATIENT TREATMENT") (3 TYPES)

Criteria for "mandatory outpatient treatment" in lieu of inpatient commitment:

VA. CODE ANN. § 37.2-817(D). [I]f the judge or special justice finds by clear and convincing evidence that (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; (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; (c) the person has agreed to abide by his treatment plan and has the ability to do so; and (d) the ordered treatment will be delivered on an outpatient basis by the community services board or designated provider to the person, the judge or special justice shall ... order that the person be admitted involuntarily to mandatory outpatient treatment. Less restrictive alternatives shall not be determined to be appropriate unless the services are actually available in the community.

Criteria for "mandatory outpatient treatment" to follow simultaneously-obtained inpatient commitment order:

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 ...if the judge or special justice further finds by clear and convincing evidence that (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 inpatient 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.

Criteria for "mandatory outpatient treatment" ordered upon discharge from currently pending inpatient commitment order:

VA CODE ANN. § 37.2-817(C). Upon motion ... a hearing shall be held prior to the release date of any involuntarily admitted person to determine whether such person should be ordered to mandatory outpatient treatment pursuant to subsection D upon his release if such person, on at least two previous occasions within 36 months preceding the date of the hearing, has been (A) involuntarily admitted pursuant to this section or (B) the subject of a temporary detention order and voluntarily admitted himself[.]

Washington

INPATIENT OR OUTPATIENT 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, finds 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. At the expiration of the fourteen-day period of intensive treatment, a person may be committed for further treatment ... 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 others, 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... or
- (4) Such person is gravely disabled.

REV. CODE WASH. § 71.05.020(34). "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(22). "Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals:

- (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(24). "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, a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction;

REV. CODE WASH. § 71.05.020(57). "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

OUTPATIENT COMMITMENT: ALTERNATIVE FORM ("ASSISTED OUTPATIENT BEHAVIORAL HEALTH TREATMENT")

REV. CODE WASH. § 71.05.240(3)(d). If the court finds by a preponderance of the evidence that such person, as the result of a mental disorder or substance use disorder, is in need of assisted outpatient behavioral health treatment, and that the person does not present a likelihood of serious harm or grave disability, the court shall order an appropriate less restrictive course of treatment for not to exceed ninety days.

REV. CODE WASH. § 71.05.020(29). "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a mental disorder or substance use disorder:

(a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months;

(b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior;

(c) is likely to benefit from less restrictive alternative treatment; and

(d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time.

West Virginia

INPATIENT OR OUTPATIENT COMMITMENT

W. VA. CODE § 27-1-12. Likely to cause serious harm

(a) "Likely to cause serious harm" means an individual is exhibiting behaviors consistent with a medically recognized mental disorder, excluding, however, disorders that are manifested only through antisocial or illegal behavior, 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, presents 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 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.

Wisconsin

INPATIENT OR OUTPATIENT COMMITMENT

WIS. STAT. ANN. § 51.20(1)(a). [A] written petition for examination shall allege that all of the following apply to the subject individual to be examined:

1. The individual is mentally ill, or ... 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 ... 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[.] ... 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 a reasonable provision for the subject individual's protection available in the community[.]

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 ... 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[.] ... 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[.]

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 ... 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[.] ... 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[.]

Wyoming

INPATIENT OR OUTPATIENT COMMITMENT*

**** See below for additional criteria required for outpatient commitment.***

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). "[M]entally ill" mean a physical, emotional, mental or behavioral disorder which causes a person to be dangerous to himself or others and which requires treatment, but do not include addiction to drugs or alcohol, drug or alcohol intoxication or developmental disabilities, except when one (1) or more of those conditions co-occurs as a secondary diagnosis with a mental illness.

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.

(D) While this definition requires evidence of recent acts or omissions of endangerment, either to self or others, a court may consider a person's mental health history in determining whether directed outpatient commitment or involuntary hospitalization is warranted.

OUTPATIENT COMMITMENT (in addition to the criteria above)

WYO. STAT. ANN. § 25-10-110.1. Directed outpatient commitment proceedings.

(a) If the court finds based upon the recommendation of an examiner or on its own determination that the proposed patient is mentally ill but does not require inpatient hospitalization, the court shall consider issuing a directed outpatient commitment order.

(b) In considering whether directed outpatient commitment is appropriate, the court may consider one (1) or more of the following:

(i) The proposed patient is diagnosed as having a mental illness;

(ii) Without directed outpatient treatment, the proposed patient is likely to be dangerous to himself or others based upon noncompliance with prior medical directives;

(iii) The proposed patient is likely to suffer substantial medical or mental deterioration or become seriously disabled;

(iv) The proposed patient lacks present ability to make an informed decision concerning his need for treatment; or

(v) Any other information concerning the proposed patient's need for outpatient care.