



# OLR RESEARCH REPORT

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## INVOLUNTARY CIVIL COMMITMENT AND PATIENTS' RIGHTS

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This report provides a summary of the law on involuntary civil commitment of people age 16 and over with mental illness, updating OLR Report [2002-R-0848](#). This report also briefly describes the rights of patients who are receiving psychiatric care.

### SUMMARY

The law permits the involuntary commitment of people with psychiatric disabilities who are either dangerous to themselves or others or gravely disabled. A gravely disabled person is someone who may suffer serious harm because he or she fails to provide for basic human needs and refuses to accept necessary hospitalization.

Anyone may begin the commitment process by filing with the probate court an application alleging that someone has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled. Two court-selected physicians examine the person to be committed and the court must hold a hearing within 10 business days of the application. The court must order commitment if it finds by clear and convincing evidence that the person meets the commitment requirements. The commitment is for the duration of the psychiatric disabilities or until the patient is discharged in due course of law.

A person may be committed on an emergency basis without a prior hearing, however, if a clinical social worker or advanced practice registered nurse with certain training, physician, or psychologist signs an emergency certificate stating that the person (1) has psychiatric disabilities, (2) is dangerous or gravely disabled, and (3) needs immediate care and treatment.

A police officer may take a person with psychiatric disabilities into custody and deliver him or her to a general hospital on a court warrant or reasonable belief that the person meets the criteria for emergency commitment.

Hospitals must annually advise all committed patients of their right to a hearing on whether they can be released. Additionally, a court-appointed psychiatrist must examine each patient annually. A full hearing is required at least every two years. Patients may also apply for release at any time and receive a full hearing on the application.

The law provides a variety of protections for people receiving psychiatric treatment, whether on a voluntary or involuntary basis (CGS § [17a-540](#) et seq.). These rights are often referred to as the Patients' Bill of Rights. The rights apply to people receiving treatment at an inpatient or outpatient hospital, clinic, or other facility.

For example, patients have the right to humane and dignified treatment, and must be treated in accordance with a specialized treatment plan, including a discharge plan (CGS § [17a-542](#)). Patients must receive a physical exam within five days of being hospitalized and at least annually thereafter. They must be examined by a psychiatrist within 48 hours of being hospitalized and at least every six months thereafter (CGS § [17a-545](#)).

There are limits and established procedures regarding (1) administering medication or treatments without the patient's informed consent and (2) involuntarily placing the patient in seclusion or restraints (CGS §§ [17a-543](#) to [-544](#)). Among other things, there are also provisions describing the scope of a patient's right to communicate by mail and telephone, have visitors, maintain possessions, and access records (CGS §§ [17a-546](#) to [-548](#)). For more information, see "Your Rights as a Client or Patient" on the Department of Mental Health and Addiction Services' (DMHAS) website: <http://www.ct.gov/dmhas/LIB/dmhas/publications/ptrights.pdf>.

Patients in a DMHAS-operated or -funded facility can bring grievances pursuant to DMHAS' grievance process. (The commissioner can exempt a provider if she determines that (1) DMHAS funding for the program does not exceed 20% of the program's budget and (2) the program has an adequate procedure to address grievances.) For more information, see "Grievance Process" on DMHAS' website: <http://www.ct.gov/dmhas/cwp/view.asp?a=2902&q=335180>.

Any person aggrieved by a violation of these rights can also petition the Superior Court for appropriate relief (such as an injunction) or bring a civil action for damages (CGS § [17a-550](#)).

## **CONNECTICUT LAW ON INVOLUNTARY COMMITMENT OF ADULTS WITH MENTAL ILLNESS**

Below, we describe the process for involuntary commitment of people age 16 and over with mental illness. Not all provisions are described in full detail.

This report does not address the process of commitment of children with mental illness (under age 16). That process is governed by separate statutes (see CGS § [17a-75](#) et seq.).

### ***Definitions***

Under the commitment law, a "person with psychiatric disabilities" is anyone who has a mental or emotional condition that substantially and adversely affects his or her ability to function and who requires care and treatment. The definition excludes alcohol- or drug-dependent people. (For a summary of the law on involuntary commitment of people with substance abuse disorders, see OLR Report [2012-R-0217](#).)

"Dangerous to himself or herself or others" means there is a substantial risk that the individual will inflict physical harm upon his or her own person or upon another person.

"Gravely disabled" refers to a person who, due to mental or emotional impairment, is in danger of serious harm because he or she has failed or is unable to provide for his or her basic needs such as essential food, clothing, shelter, or safety. To be considered gravely disabled, the person must also need hospital treatment, which is available, but the person's psychiatric disabilities make him or her incapable of determining whether to accept such treatment.

A “voluntary patient” is a person (1) at least age 16 who has applied in writing and been admitted to a hospital for psychiatric disabilities or (2) under age 16 for whom a parent or guardian has obtained admission. An “involuntary patient” is one who has been hospitalized by order of a probate court after a hearing or by certification of a qualified physician for emergency diagnosis, observation, or treatment (CGS § [17a-495](#)).

### ***Involuntary Commitment Process***

***Probate Court Jurisdiction.*** The law vests jurisdiction for involuntary commitment proceedings in the probate courts (CGS § [17a-497\(a\)](#)).

***Commencement of Proceeding Upon Application.*** Sections [17a-497](#) and [17a-498](#) establish the basic commitment procedures, commencing with an application to the appropriate probate court, but mandating no actual detention until after a full hearing. Other statutes apply to emergency detentions (see below).

The law permits anyone to complete a commitment application. If a person with psychiatric disabilities is at large and is dangerous to the community, the first selectman or chief executive officer of the town in which the person resides or is at large must make the application. The probate courts can assert jurisdiction only if a written application alleges in substance that the person has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled (CGS § [17a-497\(a\)](#)).

The respondent, his or her attorney, or the probate judge having jurisdiction over the matter may ask the probate court administrator to appoint a three-judge court to hear the commitment application. If the application is heard by a three-judge court, the respondent may not be involuntarily confined without the vote of at least two of the three judges (CGS § [17a-497\(b\)](#)).

The probate court must assign a hearing date for no later than 10 business days after receipt of the application. Reasonable notice of the hearing must be given to the respondent and relatives and friends, as the court deems advisable. The notice should inform the respondent of the right to (1) be present at the hearing, (2) have counsel, (3) have counsel appointed if he or she is indigent, and (4) cross-examine witnesses testifying at the hearing (CGS § [17a-498\(a\)](#)).

The court is required to appoint counsel for an indigent respondent and must provide the respondent a reasonable opportunity to select the appointed counsel. However, the respondent can refuse court-appointed counsel if the court determines that the respondent understands the implications of doing so.

The Judicial Branch establishes a reasonable fee and pays appointed counsel if the General Assembly specifically appropriates money to the branch for that purpose. Otherwise, the probate court administrator establishes and pays the fee (CGS § [17a-498\(b\)](#)).

**Examination by Two Physicians.** Two court-selected impartial physicians must examine the respondent and provide certificates, signed under penalty of false statement, indicating that they personally examined the respondent within 10 days of the hearing. One of the physicians must be a practicing psychiatrist.

Each physician reports to the court on a form provided by DMHAS. This form must state the specific psychiatric disabilities alleged and whether (1) the respondent is dangerous to himself or herself or others, (2) the illness has or will seriously disrupt the respondent's mental and behavioral functioning, (3) hospital treatment is both necessary and available, (4) less restrictive placement is recommended and available, and (5) the respondent is incapable of understanding the need to accept the recommended treatment on a voluntary basis. Each physician must provide the reasons for his or her opinions (CGS § [17a-498\(c\)](#)).

If the respondent refuses to be examined, the probate court may issue a warrant for his or her apprehension. A police officer then must deliver the respondent to a general hospital. At the hospital, two physicians, one of whom must be a psychiatrist, will examine the respondent. If the respondent is not committed immediately on an emergency basis pursuant to § [17a-502](#) as described below, he or she must be released (CGS § [17a-498\(d\)](#)).

**Hearing.** Prior to the hearing, a respondent is entitled to access all records, including hospital records if he or she is hospitalized. All hospital records are admissible upon request in any proceeding relating to confinement or release. The admissibility of evidence may be challenged in accordance with the rules of civil procedure (CGS § [17a-498\(b\)](#)).

The respondent must be present at any commitment hearing. If the respondent is medicated, the hospital must notify the court of that fact and of the medication's common effects (CGS § [17a-498\(f\)](#)).

The respondent has the right to present evidence and cross-examine witnesses. If the respondent notifies the court at least three days before the hearing that he or she wishes to confront the examining physicians, the court must order them to appear (CGS § [17a-498\(c\)](#)).

If the respondent is confined to a hospital, the probate judge must hold the hearing at that hospital if (1) in the opinion of at least one of the examining physicians it would be detrimental to the respondent's health and welfare to travel to the court or (2) it could be dangerous to the respondent or others for him or her to travel to court (CGS § [17a-497\(a\)](#)).

***Basis for Commitment.*** 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, it must order commitment to a hospital for psychiatric disabilities. The court must consider whether a less restrictive placement is available.

The confinement is for the duration of the psychiatric disabilities or until the patient is discharged or converted to voluntary status in due course of law (CGS § [17a-498\(c\)](#)).

### ***Emergency Confinement***

***Detention by Police.*** Any person may apply to the appropriate probate court alleging that someone else (1) has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled and (2) needs immediate care and treatment in a hospital for psychiatric disabilities. The court may then issue a warrant for the person's apprehension. After the person is brought before the court, it must order that he or she be taken to a general hospital if it determines there is probable cause to believe that the person has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled. The person must be examined within 24 hours and cannot be held for more than 72 hours unless he or she is committed following a hearing under § [17a-502](#), as explained below (CGS § [17a-503\(b\)](#)).

A police officer is also authorized to take into custody any person whom the officer reasonably believes meets the criteria for commitment. The officer may take the person to a general hospital for emergency examination. The person must be examined within 24 hours and released within 72 hours, unless detained and committed under § [17a-502](#) (CGS § [17a-503\(a\)](#)).

***Commitment Under Psychologist's Emergency Certificate.*** A licensed psychologist may order a person transported to a general hospital for examination and possible emergency confinement when the psychologist has reasonable cause to believe that the person has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled and in need of immediate care and treatment. The psychologist can issue a written emergency certificate authorizing and directing that the person be taken to a general hospital for purposes of a medical examination. The person must be examined within 24 hours and released within 72 hours, unless detained and committed under § [17a-502](#) (CGS § [17a-503\(c\)](#)).

***Commitment Under Emergency Certification of Certain Licensed Clinical Social Workers and Advanced Practice Registered Nurses.*** Certain licensed clinical social workers (LCSWs) and advanced practice registered nurses (APRNs) can issue emergency certificates authorizing people with mental illness to be taken to a general hospital for examination. To do this, they must reasonably believe, based on direct evaluation, that the person has a psychiatric disability, is dangerous to himself or herself or others or gravely disabled, and needs immediate care and treatment. The person must be examined within 24 hours and released within 72 hours unless he or she is committed under § [17a-502](#).

This applies to LCSWs and APRNs who have received at least eight hours of specialized training in conducting these kinds of direct evaluations as members of a (1) DMHAS-operated or -funded mobile crisis team, jail diversion program, crisis intervention team, advanced supervision and intervention support team, or assertive case management program or (2) DHMAS-certified community support program (CGS § [17a-503\(d\)](#)).

***Fifteen Day Confinement Under Physician's Emergency Certificate.*** Under § [17a-502](#), a person may be confined for up to 15 days without a court order, pursuant to a physician's emergency certificate. The physician must have concluded that the person has psychiatric disabilities and is a danger to himself or herself or others or gravely disabled, and needs immediate care and treatment in a hospital for psychiatric disabilities. The certificate must state the (1) date of examination, which must be within three days of the certificate's date; (2) physician's findings relative to the person's physical and psychiatric condition and the history of the case, if known; (3) physician's opinion that the person meets the criteria for emergency confinement stated above; and (4) reasons for the opinion (CGS § [17a-502\(a\)](#)).

If a written application for commitment has been filed in probate court prior to the expiration of the 15 days, the emergency commitment may be continued for an additional 15 days or until completion of probate proceedings, whichever is sooner (CGS § [17a-502\(a\)](#)). Any person admitted on an emergency basis must be examined by a psychiatrist within 48 hours of admission (or 36 hours if the person is admitted at a chronic disease hospital). If the psychiatrist determines that the person does not meet the criteria for emergency detention and treatment, the person must be released (CGS § [17a-502\(b\)](#)).

**Probable Cause Hearing.** Any person detained on an emergency basis must be promptly informed of his or her right to (1) consult an attorney; (2) have an attorney appointed if he or she is indigent; and (3) have a hearing (CGS § [17a-502\(c\)](#)). This hearing must be held within 72 hours of receipt of the person's written request, excluding weekends and holidays. The detained person has the right to (1) be present at the hearing, (2) have counsel, (3) have counsel appointed if he or she is indigent, and (4) cross-examine witnesses testifying at the hearing. The hearing will be before the probate court with commitment jurisdiction.

At the hearing, the court must determine whether there is probable cause to conclude that the person is subject to involuntary confinement under this section. The court must consider the respondent's condition when admitted and at the hearing, the effects of any medications, and the advisability of continued treatment based on hospital staff testimony.

If the court finds probable cause, detention will be continued until the completion of commitment proceedings under § [17a-498](#) (see above), or the expiration of 30 days from the beginning of detention, whichever occurs first (CGS § [17a-502\(d\)](#)).

The hospital superintendent or director must immediately discharge any patient admitted and detained under this section who is later found not to meet the standards for emergency detention and treatment (CGS § [17a-502\(f\)](#)).

Private hospitals must supply DMHAS on a quarterly basis with statistics showing the number of admissions and discharges under this section (CGS § [17a-502\(f\)](#)).

If a physician concludes that a person has active suicidal or homicidal intent, the person cannot be admitted to or detained at a chronic disease hospital under a physician's emergency certificate unless the hospital is certified under Medicare as an acute care hospital with an inpatient prospective payment system excluded psychiatric unit (CGS § [17a-502\(h\)](#)).

### ***Commitment After a Voluntary Admission***

A person may elect voluntary admission to a hospital for psychiatric disabilities pursuant to CGS § [17a-506](#) at any time prior to adjudication of the commitment application. A hospital must notify a hospitalized individual within 24 hours prior to the time the application for commitment is filed, that he or she may continue as a voluntary patient. Similarly, the notice of hearing given a person not already hospitalized must state that he or she can enter a hospital voluntarily. If the person so chooses to enter voluntarily, the application for commitment must be withdrawn (CGS § [17a-498\(e\)](#)).

If, upon an application for commitment, a person agrees to become a voluntary patient and then requests release, a new application for commitment may be filed. If a voluntary patient refuses medication or treatment and is imminently dangerous to himself or herself or others, an application for involuntary commitment may be filed (CGS § [17a-498\(e\)](#)).

Whenever a voluntarily admitted patient requests to be released, any person, including the head of the hospital, may institute commitment proceedings. Confinement continues for up to 15 days from the date the patient requested release for the patient to prepare for the commitment hearings. The patient may not be confined upon an emergency certificate issued prior to discharge and within 15 business days after giving notice of his or her desire to leave. An individual confined after giving notice has the right to a probable cause hearing as described above (CGS § [17a-506\(e\)](#)).

### ***Commitment After Expiration of Period Specified in Court Order***

If any person confined to a hospital pursuant to a court order has psychiatric disabilities at the expiration of the specified confinement period, the head of the hospital must institute commitment proceedings in the probate court for the town in which the hospital is located (CGS § [17a-508](#)).

## **Hearings After Commitment**

### **Annual Review; Hearings Required At Least Every Two Years.**

Hospitals for psychiatric disabilities must notify patients at least annually of their right to a hearing. If a patient requests a hearing, the hospital must immediately file the request with the appropriate court. The probate court that ordered the confinement must conduct the hearing in the same manner and following the same procedures as the original commitment hearing.

In addition, a hospital must provide each probate court with a monthly list of all patients involuntarily confined by that court for one year since the last annual review or the original commitment. Within 15 days of this notification, if a patient's last annual review included a hearing, the probate court must appoint a psychiatrist to examine the patient. Based on this examination, the court can decide whether to hold a hearing on possible release. Every patient, however, must have a hearing at least every two years, in the same manner as specified above (CGS § [17a-498\(g\)](#)).

**On Patient's Request.** Any patient hospitalized pursuant to a probate court order may apply for release. This application must be filed in the probate court for the district in which the hospital is located. The court must assign a hearing date for no later than 10 days after receipt of the request. Reasonable notice of the hearing must be given to the applicant, hospital superintendent, and applicant's friends and relatives, as the court deems advisable. The applicant also must be notified of his or her right to be present, present evidence, have counsel, have court-appointed counsel if indigent, and cross-examine witnesses. Hospital records are admissible and the rules of civil procedure govern the admissibility of evidence (CGS § [17a-510](#)).

The court must order the patient released unless it finds by clear and convincing evidence that confinement is necessary because the person has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled.

The applicant must pay the expenses in connection with such an application for release, unless the applicant is indigent or otherwise unable to pay. In that case, the state must pay, out of DMHAS-appropriated funds. However, the state will not pay for more than two hearings for any one applicant per year (CGS § [17a-510](#)).

### ***Transferring Psychiatric Patients***

Psychiatric patients may be transferred from one psychiatric hospital to another upon the agreement of the hospitals' superintendents. The DMHAS commissioner, or Department of Children and Families' commissioner in the case of patients under age 18, must approve the transfer. Patients who are voluntarily admitted must consent to the transfer and receive a copy of the transfer agreement (CGS § [17a-511](#)).

### ***Appeal and Habeas Corpus***

Anyone aggrieved by a probate court order, denial, or decree under the involuntary commitment law (including a friend or relative of the patient on the patient's behalf) has the same right of appeal to Superior Court as in other cases (CGS § [17a-525](#)). Among other things, the probate court has the discretion on whether to allow the appeal without requiring the appellant to post a bond.

Someone confined in a hospital for psychiatric disabilities can also bring a writ of habeas corpus in Superior Court to challenge the legality of his or her confinement (CGS § [17a-524](#)).

### ***Penalty for Wrongfully Causing Commitment***

By law, anyone who commits any of the following acts is subject to a fine of up to \$1,000, up to five years in prison, or both:

1. willfully and maliciously causing, or attempting to cause, or conspiring with any other person to cause, any person who does not have psychiatric disabilities to be committed to a hospital for psychiatric disabilities;
2. willfully certifying falsely to the psychiatric disabilities of any person in a certificate provided for in the commitment statutes or other specified mental health laws; or
3. willfully reporting falsely to any court or judge that a person has psychiatric disabilities under such laws (CGS § [17a-504](#)).

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