

20 Questions About Civil Commitments

1. *What is a civil commitment?* In short, it is a court-ordered intervention for individuals who refuse voluntary help but whose condition puts them at serious risk. It serves as a last resort to ensure safety and provide necessary care.
 2. *What are the criteria for a civil commitment?* Generally, it requires proof that a person has a qualifying condition such as mental illness or chemical dependency. If the person has recently demonstrated behavior that indicates a substantial likelihood of harm to self/others or grave inability to manage personal affairs, a civil commitment may ensue.
 3. *How is it initiated?* There are three ways a civil commitment can be initiated. (1) Emergency Detention by law enforcement, (2) Emergency Detention by treatment director, or (3) Three-party petition.
 4. *What is an Emergency Detention?* It is a short-term (often 72-hour) hold initiated by law enforcement or medical professionals for immediate safety and evaluation.
 5. *Can you explain the three different ways an Emergency Detention can be initiated?*
 - a) **Emergency Detention by law enforcement.** This is a specialized form of custody where an officer takes an individual to a mental health facility for immediate evaluation without a warrant. It is used when a person is experiencing a mental health crisis and presents an imminent danger.
- Law enforcement typically responds to a crisis, often after a 911 call. They may consult with county crisis workers to determine if involuntary detention is necessary. The individual is taken into protective custody and transported to a medical or psychiatric facility, often in a patrol unit or medical vehicle.
- b) **Emergency Detention by treatment director.** This typically occurs when an person has already been admitted to a facility—often voluntarily—and then requests to be discharged or refuses treatment while still presenting an imminent risk. In other words, the patient seeks discharge, but the clinical staff believes the patient is currently dangerous to themselves or others.
 - c) **Three-party petition.** This is a legal mechanism that allows concerned adults to initiate an involuntary civil commitment process for someone in a non-emergency situation. Unlike an emergency detention initiated by police, this process is generally used when there is a pattern of dangerous behavior over time rather than an immediate crisis.
6. *What are the criteria for a three-party petition?* The following criteria must be met:
 - a) **Three Adult Signers:** The petition must be signed by three adults, typically friends, family, or other members of the public.
 - b) **Personal Knowledge:** At least one of the three petitioners must have first-hand, personal knowledge of the individual's dangerous behavior.

- c) **Recent Conduct:** The dangerous or violent behavior described in the petition must generally have occurred within the last 60 days.
- d) **Legal Standards:** The petition must allege the individual is mentally ill, drug-dependent; is a "proper subject for treatment" (meaning they can be rehabilitated); and is dangerous to themselves or others.

Furthermore, all three petitioners must meet with an official to sign the statement before a notary. A judge reviews the petition. If probable cause is found, the judge may issue an order for law enforcement to detain the individual at a treatment facility for evaluation. All petitioners must be willing to testify in court—potentially up to two times within a 21-day period—to confirm the facts in the petition.

7. *How long does an Emergency Detention last?* State laws will vary, but the maximum time someone can be held before a probable cause hearing is 48-72 hours (excluding weekends and holidays). The maximum time someone can be held before a final hearing is 14 days.
8. *What is a probable cause hearing?* This is a mandatory preliminary court appearance that determines whether there is enough evidence to continue detaining an individual for mental health treatment. It serves as a critical "due process" safeguard to ensure no one is held involuntarily without sufficient legal justification. The hearing *must* be held within 72 hours of an individual's initial detention (excluding weekends and legal holidays).

9. *What happens at a Probable Cause hearing?* A judge or court commissioner reviews evidence to decide if there is "probable cause" to believe the individual meets three specific criteria: (1) **Mental Condition:** The person has a mental illness, drug dependency, or developmental disability; (2) **Dangerousness:** The person is a danger to themselves or others; and (3) **Treatability:** The person is a "proper subject for treatment" (meaning their condition can be improved or stabilized with care). Witnesses, such as the law enforcement officers who initiated the hold or the three-party petitioners, may testify about their personal observations of the dangerous behavior. A psychiatrist or physician may also testify regarding the person's clinical status.

10. *What are the criteria for a Civil Commitment?* The three primary criteria are:

- a) The person has a mental illness, developmental disability, or drug/alcohol dependence.
- b) The person's illness/disability/dependence is treatable.
- c) The person is dangerous to him/herself or others, due to the illness/disability/dependence.

11. *How are mental illness/developmental disability/drug dependence defined?*

Mental illness: a substantial disorder of thought, mood, perception, orientation, or memory, which grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the demands of life, but does not include alcoholism.

Developmental Disability. A disability attributable to brain injury, autism, Prader-Willi syndrome, intellectual disability, or another neurological condition, which is expected to continue indefinitely, and which constitutes a substantial handicap to the individual.

Drug Dependence. A disease that is characterized by the dependency of an individual who uses one or more drugs to the extent that the individual's health is substantially impaired, or his/her social or economic functioning is substantially disrupted.

Alcoholism. A disease that is characterized by the dependency of an individual on alcohol, to the extent that his/her health is substantially impaired or endangered, *and* his/her social or economic functioning is substantially disrupted.

12. *How does the court define "dangerous?"*

- Recent acts, attempts, or threats of suicide or serious bodily harm to self.
- Recent acts, attempts, or threats of serious bodily harm to others, or violent behavior which places others in reasonable fear of serious physical harm.
- A pattern of recent acts or omissions which evidences impaired judgment causing the individual to be an inadvertent danger to self.
- Mental illness causes the individual to be so gravely disabled that he/she is unable to satisfy life's basic needs for nourishment, medical care, shelter, or safety.
- Individual's psychiatric treatment history, coupled with his/her present mental deterioration due to incompetent decision to refuse psychotropic medication, causes the likelihood that the individual will lose the ability to function independently in the community.

13. *What can be decided at probable cause hearings?*

- a) *The case may be dismissed.* If the judge finds insufficient evidence, the case is dismissed, and the person is immediately released.

- b) *A settlement agreement may be offered.* This is an alternative to a commitment in which the person enters into an agreement for voluntary treatment. If the individual agrees to a court-approved plan for voluntary treatment, the legal proceedings are paused as long as they comply with the terms.
- c) *Probable cause may be determined.* If the judge finds enough evidence, a final commitment hearing is scheduled, usually within 14 days of the original detention. The person may still be offered a settlement agreement. If the case goes to the final hearing, there may be an order of civil commitment, conversion to guardianship, or the case could be dismissed.
- d) *Guardianship or protective placement may be assigned.* The case may be converted to a guardianship or protective placement if the individual is not treatable but requires long-term care.

14. *What happens at a final hearing?* At a final hearing, the court may reach one of four conclusions:

- a) **Dismissal:** The petition is dismissed, and the individual is released immediately if the legal standards are not met.
- b) **Settlement Agreement:** The individual may agree to a court-approved voluntary treatment plan to avoid a formal commitment order.
- c) **Conversion to guardianship.** The court determines the individual does not have the ability to make informed decisions for themselves due to their illness.
- d) **Involuntary Commitment:** The individual is ordered into the care of the county department for up

to six months. This can be inpatient (hospital) or outpatient (community supervision).

15. *What is a Settlement Agreement?* A voluntary, court-approved contract where an individual agrees to a specific outpatient treatment plan (medication, appointments, therapy) for a set time (often up to 90 days) to avoid formal, involuntary commitment, with the county monitoring compliance. It's a way to transition from inpatient care to community living, but if terms are broken, it can lead back to a court-ordered commitment.
16. *What does a Settlement Agreement involve?* Key components are: **A voluntary agreement.** The individual signs, promising to follow the plan, often waiving some confidentiality for monitoring. **A treatment plan.** The person agrees to follow a plan which includes required actions, such as taking meds, attending appointments, staying sober, etc.

Court Oversight. A county department monitors the person's compliance with the plan. **Time-Limit.** The agreement usually lasts up to 90 days, with options to modify the plan or request dismissal if successful. **Consequences.** Failure to comply can trigger a hearing for a full court-ordered commitment or return to inpatient care.

17. *Why is a Settlement Agreement sometimes used?* It helps patients transitioning from a hospital to community, ensuring continuance of care. For those who are not hospitalized, it offers a "least restrictive" alternative to full commitment when someone is cooperative but needs support to stay stable in the community. It also settles the civil commitment process without a full trial.

18. *What is an "Order To Treat?"* The court orders that medication may be administered to an individual regardless of his/her consent (involuntarily and/or forcibly). This occurs either after a finding of probable cause (which is effective only until the final hearing) or after an order of commitment is granted (which is effective for the duration of the commitment).
19. *Can a Civil Commitment be extended?* Yes, prior to the expiration of a commitment, the county may file a recommendation to extend the commitment. This new petition alleges the individual continues to need treatment because they are dangerous without treatment *and* is unlikely to comply without court-ordered treatment.
20. *How long can the commitment be extended?* The Order of Extension of Commitment can be up to 12 months, if the court finds that there is a "substantial likelihood that the individual would become a proper subject for commitment if treatment was withdrawn."

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