

Alabama State Guidance

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Statutory basis and key terms

Alabama Code Title 22, Chapter 5

Follow this link to read the Statutes in full:

<https://alison.legislature.state.al.us/code-of-alabama>

Key definitions

“**Mental illness**” refers to psychiatric disorders involving thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, or a diagnosis designated as a Serious Mental Illness (SMI), as defined in the

current edition of the Diagnostic and Statistical Manual of Mental Disorders. It does not include epilepsy, substance use disorders on their own, alcoholism, intellectual disability, or developmental disabilities.

A “**real and present threat of substantial harm to self or others**” means there is a significant risk the person, as a result of the mental illness, will:

- By action or inaction, cause or allow serious bodily harm to self or others, or
- Be unable to satisfy their basic needs (nourishment, medical care, shelter, or self-protection), leading to a substantial likelihood of death, serious bodily harm, serious physical or mental debilitation, or life-threatening disease.

Key abbreviations

- Law enforcement officer (LEO)
- Community mental health officer (CMHO)

Emergency evaluation

Criteria for emergency evaluation

Has a mental illness *and* is likely to pose a real and present threat of substantial harm to self or others.

Who can initiate an emergency evaluation? Only a law enforcement officer (LEO) can initiate an emergency evaluation.

How? Have reasonable cause that the person meets the criteria.

What do they initiate? LEO shall initiate assessment by a community mental health officer (CMHO) to determine whether the person needs care of a designated mental health facility.

Where does the proposed patient go? CMHO joins LEO at the scene and location of the individual.

What’s the time limit for the response? Not specified.

What happens? If the CMHO determines that the individual appears to meet the criteria, the LEO will take the person into custody and, together with the CMHO, transport them to the designated mental health facility.

What’s next? An appropriate staff member will perform an initial examination and observation immediately upon arrival to determine whether to admit the individual for further observation

and care with a tentative diagnosis of a mental illness. Prior to admission, the individual must be examined and evaluated by a psychiatrist or other licensed physician.

If the examiner determines that the individual does not require admission, they will be released. If requested, and if the person lives within the county, the LEO shall deliver the individual there after release.

If the examiner determines that the individual should be admitted, they will proceed with admission and must notify the probate court no later than the next business day. The examiner must advise the CMHO of admission. The CMHO must ensure that a petition for commitment is filed with the probate court by parties in interest or by the CMHO no later than two business days after admission.

What is the time duration of the hold? A probate judge must hold a hearing no later than the fifth business day after the person's admission to the designated mental health facility to determine whether the civil custody is based on probable cause.

Who decides whether to continue to a hearing? The probate court, upon determination there is probable cause the individual meets criteria, will order the continued custody pending a full hearing on the need for commitment.

Is there a form? There is no statewide petition form; however, Jefferson County provides a [general petition form](#) that may be used as a reference for required information and formatting.

Inpatient treatment

Criteria for inpatient treatment

The criteria for inpatient commitment include all the following stipulations:

- The person has a mental illness, or a mental illness combined with substance use disorder.
- Because of this illness, they pose a real and present threat of substantial harm to self or others.
- Without treatment, they will continue to suffer mental distress and deterioration of the ability to function independently.
- They are unable to make a rational and informed decision regarding treatment.

Who can initiate inpatient treatment? Any person can initiate inpatient treatment, and the process does not differ based on who initiates.

How? File a written petition, completed under oath before a notary public, in the [probate court of the county](#) where the person who may need treatment is located.

Required documentation?

- Statement from the person filing the petition on why they believe the person meets criteria.
- Specify and describe in detail the behavior, acts, attempts, or threats which support this belief.

What happens? The probate judge must immediately review the petition and talk to the person who filed the petition under oath to determine if the petition has validity. If court determines there is no legal basis for the claim, it will dismiss the petition without further proceedings.

What's next?

For a petition without a request for temporary treatment pending hearing:

The judge will order the individual to appear for a hearing on the petition and may order the individual to appear for examination by qualified professionals.

If, at the hearing, the judge finds by clear and convincing evidence that the person meets the criteria, the judge may order inpatient treatment. If the judge finds by clear and convincing evidence that the person meets criteria for outpatient treatment, the judge may order outpatient commitment (see “outpatient treatment” below). Otherwise, the petition will be dismissed.

For a petition with a request for temporary treatment pending hearing:

If the person who filed the petition asks the court to limit the individual’s freedom while waiting for the final hearing, the probate judge must either have the person brought to court or have them evaluated by a licensed doctor or qualified mental-health professional.

If the judge decides that restrictions are needed to prevent a real and present threat of substantial harm to the person or others, the person can be held temporarily in a designated mental-health facility or hospital for treatment.

A hearing must be held within seven days to determine if probable cause exists that the person should be held until the final hearing. If the judge finds probable cause, the judge must order the temporary custody until a final hearing that must take place within 30 days after the petition was served.

At the final hearing, if the judge finds by clear and convincing evidence that the person meets the criteria, the judge may order inpatient treatment. If the judge finds by clear and convincing evidence that the person meets criteria for outpatient treatment, the judge may order outpatient commitment (see “outpatient treatment” below). Otherwise, the petition will be dismissed.

Who issues the treatment order? Probate judge.

Who makes discharge decisions? Not specified.

Is there a form? There is no statewide petition form; however, Jefferson County provides a [general petition form](#) that may be used as a reference for required information and formatting.

Outpatient treatment

Criteria for inpatient treatment

The criteria for inpatient commitment include all the following stipulations:

- The person has a mental illness, or a mental illness combined with substance use disorder.
- Because of this illness, they, if not treated, will experience mental distress and experience deterioration of the ability to function independently.
- They are unable to consistently engage in voluntary outpatient treatment, as demonstrated by:
 - The person's actions in the preceding two years; or
 - Aspects of the person's clinical condition that significantly impair their ability to consistently make a rational and informed decision to participate in treatment.

When can outpatient treatment be court-ordered? Upon discharge from hospital or from a community setting.

Who can initiate? Any adult.

How? File a written petition, completed under oath before a notary public, in the [probate court of the county](#) where the person who may need treatment is located.

Required documentation:

- Statement from the person filing the petition on why they believe the person meets criteria.
- Specify and describe in detail the behavior, acts, attempts, or threats which support this belief.

What's next? The probate judge must immediately review the petition and talk to the person who filed the petition under oath to determine if the petition has validity. If the court determines there is no legal basis for the claim, it will dismiss the petition without further proceedings.

The judge will order the individual to appear for a hearing on the petition and may order the individual to appear for examination by qualified professionals. If the person who files the

petition requests temporary treatment pending the hearing, the court will follow the procedures provided under inpatient treatment above.

If, at the hearing, the judge finds by clear and convincing evidence that the person meets the criteria, they may order the individual to participate in outpatient treatment at a designated mental health facility. This court order may state the specific conditions to be followed and will state the general condition that the individual follows the treatment plan established by the designated mental health facility. If the judge does not find the criteria is met by clear and convincing evidence, they will dismiss the petition.

Who issues the treatment order? The probate judge.

Who supervises the treatment plan? The designated mental health facility.

How long can the first treatment order last? Not to exceed 150 days.

What's the renewal process? A petition for renewal of an outpatient commitment order may be filed by the director of a designated mental health facility or designee at least 30 days before expiration of the current order. The petition, with the original and any renewal orders attached, shall be filed in the probate court where the order was entered, state the reasons for renewal, and include testimony that the person meets the criteria for outpatient commitment. The probate judge shall hold a hearing within 30 days of the petition.

What's the discharge process? Not specified.

Is there a form? There is no statewide petition form; however, Jefferson County provides a [general petition form](#) that may be used as a reference for required information and formatting.