

Kentucky State Guidance

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Statutory basis and key terms

Kentucky Revised Statutes Title XVII, Chapter 202A

Follow this link to read the Statutes in full here:

<https://apps.legislature.ky.gov/law/statutes/chapter.aspx?id=38119>

Key definitions

“**Authorized staff physician**” means a physician who is a member of the hospital’s medical staff.

“**Contract mental health evaluator**” means a qualified mental health professional employed or contracted by a community mental health center, crisis stabilization unit, mental institution, or other facility designated to provide mental health evaluations to determine whether an individual meets the criteria for involuntary hospitalization.

“**Danger**” or “**threat of danger to self, family, or others**” means substantial physical harm or the threat of such harm, including actions which deprive self, family, or others of basic means of survival, such as the provision of reasonable shelter, food, or clothing.

“**Mentally ill person**” means a person whose capacity to exercise self-control, judgment, or discretion in managing their affairs or social relationships is substantially impaired, and whose impairment is associated with maladaptive behavior or recognized emotional symptoms related to physiological, psychological, or social factors.

“**Petitioner**” means a person who files a petition with the court.

“**Qualified mental health professional**” (**QMHP**) means anyone licensed in Kentucky with the training and experience required to provide mental health care, such as doctors, psychiatrists, psychologists, certain nurses, social workers, therapists, counselors, and specially trained physician assistants.

Emergency evaluation

Criteria for emergency evaluation

There are two sets of criteria for emergency evaluation, based on whether the person initiating is a peace officer or is an authorized staff physician. Criteria for each are detailed below.

Who can initiate an emergency evaluation?

Only a peace officer or an authorized staff physician can initiate emergency evaluation, and the criteria and process differs based on who initiates.

Peace officer

Criteria: the person is mentally ill and presents a danger or threat of danger to self, family, or others if not held.

How? Have reasonable grounds to believe that the person meets criteria.

What do they initiate? May initiate custody and transport by peace officer.

Where does the proposed patient go? Hospital or psychiatric facility.

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

What happens? A contract mental health provider will evaluate the individual within 18 hours.

What's next? If the contract mental health provider finds the individual meets criteria for involuntary hospitalization, they will submit a written certificate to the district court requesting an order for 72-hour hospitalization. The court may issue an order granting this request.

If the contract mental health provider finds the individual does not meet the criteria, the individual must be released and transported back to their home county.

Time duration of the hold? Not to exceed 72 hours, excluding weekends and holidays.

Who decides whether to continue to a hearing? The evaluating mental health professional.

Is there a form? [Form AOC-712](#) (Certification for QMHP for 72 Hour Hospitalization)

Authorized staff physician

Criteria:

- Mentally ill;
- presents a danger or threat of danger to self, family, or others as a result of the mental illness;
- can reasonably benefit from treatment; and
- hospitalization is the least restrictive alternative mode of treatment presently available.

How? The authorized staff physician believes that the individual who is present at, or is presented at, a hospital meets criteria.

What do they initiate? May order emergency admission.

Where does the proposed patient go? Remains at the same hospital.

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

What happens? Within 24 hours (excluding weekends and holidays), the staff physician ordering the admission of the person must complete a written certification that the individual meets criteria.

What's next? The individual is subject to a temporary mental health hold in the hospital for up to 72 hours to determine whether the individual continues to meet criteria for involuntary hospitalization. Hospital staff may seek further hospitalization by seeking inpatient commitment (see inpatient commitment below).

What is the duration of the hold? Not to exceed 72 hours, excluding weekends and holidays.

Who decides whether to continue to a hearing? The evaluating mental health professional.

Is there a form? [Form AOC-712](#) (Certification for QMHP for 72 Hour Hospitalization)

Inpatient Treatment

(referred to as “involuntary hospitalization”)

Criteria for inpatient treatment

- Mentally ill;
- presents a danger or threat of danger to self, family, or others as a result of the mental illness;
- can reasonably benefit from treatment; *and*
- hospitalization is the least restrictive alternative mode of treatment presently available.

Who can initiate inpatient commitment?

- Qualified mental health professional (QMHP)
- Peace officer
- County attorney; Commonwealth’s attorney
- Spouse, relative, friend, or guardian
- Any other interested person

Any listed person

How? File a verified (under oath) petition filed with the [Circuit Court Clerk’s Office](#) in the county where the person who may need treatment lives or is present at the time of filing.

Required documentation? Statement of belief that the person meets criteria, with the factual basis for this belief.

If the petition seeks hospitalization for 360 days (rather than 60 days), the person for whom treatment is sought must have been involuntarily hospitalized for a period of 30 days within the preceding six months.

What’s next? Upon receipt of the petition, the court will talk with the petitioner under oath to confirm the information. If the petitioner is a QMHP, the court may skip this step.

The court then decides whether there is probable cause to believe the person meets criteria. If there is no probable cause, the case ends. If there is probable cause, the court orders two mental health professionals, including at least one physician, to examine the person and schedules a preliminary hearing.

If the person is already being held, the court may order them to remain held for examination. If they are not being held, the court may order law enforcement to bring them for the required examinations or issue a summons for them to appear.

The preliminary hearing must be held within six days (excluding weekends and holidays) after the person is held or examined on an outpatient basis. If the two examining QMHPs do not certify that the person meets criteria, the court must end the case and release the person.

If the court finds probable cause at the preliminary hearing, it schedules a final hearing within 21 days to determine if the person should be involuntarily hospitalized.

Before the final hearing, the court may order the person to participate in community-based outpatient treatment. If an outpatient provider accepts the person, the final hearing may be postponed for up to 60 days. The court may order the immediate holding of the person at any time if the court believes it is in the best interest of the person or others that the person be held until the final hearing to be held within 21 days of the person's further holding.

At the final hearing, if the court finds the person meets criteria beyond a reasonable doubt, the court will order the person hospitalized for a period not to exceed 60 days or a period not to exceed 360 days, depending on what the petition requested.

Who issues the treatment order? Circuit Court.

Who makes discharge decisions? Authorized staff physician.

Is there a form? [Form AOC-710](#) (Verified Petition for Involuntary Hospitalization)

Outpatient Treatment

(referred to as “court-ordered assisted outpatient treatment” — AOT)

Criteria for outpatient treatment

The person:

- Is diagnosed with a serious mental illness.
- Has a history of repeated nonadherence with mental health treatment that has:
 - At least twice in the past 48 months, been a significant factor in the person's hospitalization or arrest; *or*
 - Within the past 24 months, resulted in an act, threat, or attempt of serious physical injury to self or others.
- Is unlikely to voluntarily adhere to outpatient treatment, as determined by a qualified mental health professional (QMHP) based on:
 - Clinical observation; *and*
 - Specific characteristics of the person's clinical condition that significantly impair their ability to make and maintain a rational and informed decision about engaging in outpatient treatment; *and*
- Requires court-ordered AOT as the least restrictive available and appropriate mode of treatment.

When can outpatient treatment be court ordered?

Upon discharge from the hospital or from a community setting.

Who can initiate outpatient commitment?

- Qualified mental health professional (QMHP)
- Peace officer
- County attorney; Commonwealth's attorney
- Spouse, relative, friend, or guardian
- Any other interested person

Any listed person

How? File a verified (under oath) petition with the [Circuit Court Clerk's Office](#) in the county where the proposed patient lives or is present at the time of filing.

Required documentation? Statement of belief that the person meets criteria, with the factual basis for this belief.

Whether, within five days prior to the filing of the petition, the person has been evaluated by a QMHP to determine whether the person meets the criteria.

What's next? Upon receipt of the petition, the court will talk with the petitioner under oath to confirm the information. If the petitioner is a QMHP, the court may skip this step.

If the court determines there is probable cause to believe the person meets criteria, the court will:

- Order the person be evaluated by a QMHP to determine whether they meet criteria, unless the petition included an evaluation certificate issued within five days before the petition was filed.
- Set a hearing date within six business days.

If the court does not find probable cause, the case will be dismissed.

The evaluating QMHP will develop and provide a proposed treatment plan to the court and the person by the date of the hearing.

The hearing will be held for the court to determine whether the person meets criteria by clear and convincing evidence.

Who issues the treatment order? Circuit Court.

Who supervises the treatment plan? Court-appointed outpatient provider agency multidisciplinary team.

How long can the first treatment order last? Not to exceed 360 days.

What's the renewal process? Within 30 days of the expiration of an order for AOT, the original petitioner may file a petition for an additional period of court-ordered assisted outpatient treatment under the same procedures as the original order, except that the parties may mutually waive the requirement of a new hearing.

What's the discharge process? Not specified.

Is there a form? [Form AOC-737](#) (Verified Petition for Court-Ordered AOT)