

Texas State Guidance

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Statutory basis and key terms

Texas Health & Safety Code, Title 7, Subtitle C

Follow this link to read the Statutes in full: [Texas Health & Safety Code, Title 7, Subtitle C](#)

Key definitions and abbreviations

A “**certifying physician**” is a doctor who signs a sworn statement saying they examined the person and found that the person has a mental illness. Because of that mental illness, the doctor believes the person either:

- Is likely to seriously harm themselves or someone else, or
- Meets all of the following conditions:
 - The person is experiencing severe and unusual mental, emotional, or physical distress.
 - The person’s mental or physical condition has deteriorated to the extent that they cannot take care of themselves independently, shown by an inability to provide themselves food, clothing, health care, or maintain their own safety (unless the only reason they cannot is lack of money).
 - The person cannot make a rational, informed decision about whether to get treatment.

“**Community center**” means a center established under [Subchapter A, Chapter 534](#) that provides mental health services.

An “**inpatient mental health facility**” is a place that provides 24-hour care, including a place to live and psychiatric treatment. It can be any of the following:

- A state-run mental health facility.
- A private mental hospital licensed by the state.
- A community mental health center or any facility operated by or contracted with one.
- A local mental health authority or a facility it operates or contracts with:
 - A licensed part of a general hospital that provides mental health diagnosis, treatment, and care.
 - A hospital operated by the federal government.

“**Legal holiday**” includes a holiday listed in [Section 662.021](#), Government Code, and an officially designated county holiday applicable to the court.

A “**local mental health authority**” is an organization the state puts in charge of planning and coordinating mental health services in a certain area. This group makes policies, works with criminal justice agencies, manages resources and funding, and makes sure people with mental illness can get the services they need in the best and most appropriate setting available.

“**Mental health facility**” means an inpatient or outpatient mental health facility, a community

center or facility operated by a community center, that identifiable part of a general hospital in which diagnosis, treatment, and care for persons with mental illness is provided, or any hospital or facility designated as a place of commitment by the Department of State Health Services.

“Mental illness” means an illness, disease, or condition - other than epilepsy, dementia, substance abuse, or intellectual disability - that:

- Substantially impairs a person’s thought, perception of reality, emotional process, or judgment; *or*
- The person’s recent “disturbed behavior” shows that their behavior is “grossly impaired” by the illness.

“Physician” means:

- Someone who has a license to practice medicine in Texas.
- A doctor working for the federal government who is licensed in any U.S. state; *or*
- A doctor-in-training who is allowed to perform medical duties under a supervised training permit in an approved Texas postgraduate medical program.

“Proposed patient” means a person believed to be in need of court-ordered treatment for a mental illness.

Certificate of Medical Examination (CME)

Emergency evaluation

Follow this link to read the Statutes in full: [Texas Health & Safety Code, Title 7, Subtitle C, Ch. 573](#)

Criteria for emergency evaluation

- Has symptoms of mental illness and, due to that illness, also shows:
 - A substantial risk of harm to self or others;
 - Severe emotional distress and deterioration of mental condition; *or*
 - An inability to recognize symptoms or appreciate the risks and benefits of treatment.
- The person is likely to suffer serious risk of harm or to inflict serious harm on another person without being placed immediately on emergency hold;
- The risk of harm is imminent unless the person is immediately held for safety; *and*
- Additional criteria, specific to the category of person initiating emergency evaluation,

as specified below.

Who can initiate an emergency evaluation?

Any person can initiate emergency evaluation, and the process differs based on whether the initiator is any person, physician, or a licensed mental health professional; the person's legal guardian; or a peace officer. Additional criteria, specified below, apply based on the person initiating.

Any person, a physician, or a licensed mental health professional

Additional criteria: The necessary restraint cannot be accomplished without emergency hold.

How? File a written application in the court with probate jurisdiction. Generally, the application must be presented in person. Medical professionals may electronically submit applications.

What do they initiate? Judicial review with a potential interview of the applicant to determine if there is reasonable cause to believe the person meets criteria.

Where does the proposed patient go? Nowhere before court review.

What's the time limit for the response? As soon as practicable.

What happens? If the magistrate determines there is reasonable cause to believe that the person meets criteria, the magistrate will order immediate emergency custody and transportation, by a peace officer, to a mental health facility for a preliminary examination.

What's next? A physician must complete the preliminary examination of the person as soon as possible and within 12 hours.

If the physician determines the person meets the criteria, the facility may admit the individual based on the physician's written statement. The statement must include the physician's determination that the person meets criteria, a description of the person's illness, the specific risk of harm, and specific detailed information supporting the physician's determination.

If the physician determines the person does not meet criteria, the person must be released. If at any time the facility administrator determines that a person no longer meets criteria, the person must be released. A person entitled to release is entitled to transportation to where the person was picked up, their residence in the state, or another suitable location. If the person was transported by a peace officer without a court order, arrangements for immediate

transportation must be made. Otherwise, arrangements for reasonably prompt transportation must be made.

Time duration of the hold? The person may be held for up to 48 hours unless extended by a written order for protective custody (see Order of Protective Custody Pending Hearing on Treatment, below). If the 48 hours end on a weekend, a legal holiday, or before 4:00 p.m. on the first business day following a weekend or a legal holiday, the person can be held until 4:00 p.m. on that business day.

Who decides whether to continue to a hearing? To proceed to a hearing, a county or district attorney or other adult, such as the physician, must file an application for court-ordered mental health treatment (see Inpatient and Outpatient Treatment below). A county or district attorney or the court may file a motion for an Order for Protective Custody for further detention pending the hearing (see Order for Protective Custody Pending Hearing on Treatment below).

Is there a form? Application for Emergency Detention

<https://www.texasjcmh.gov/media/1a4d0min/application-for-emergency-detention.pdf>

Guardian

Additional criteria: No additional criteria apply for this group of initiators.

How? Transport the person to an inpatient mental health facility and file an application for “emergency detention” with the facility. The guardian must immediately provide written notice of this application filing to the court that granted the guardianship.

What do they initiate? Temporary acceptance by the facility pending preliminary examination.

Where does the proposed patient go? An inpatient mental health facility.

What’s the time limit for the response? As soon as possible.

What happens? The facility may temporarily accept the person for a preliminary examination.

What’s next? A physician must complete the preliminary examination of the person as soon as possible and within 12 hours.

If the physician determines the person meets the criteria, the facility may admit the individual based on the physician’s written statement. The statement must include the physician’s determination that the person meets criteria, a description of the person’s illness, the specific

risk of harm, and specific detailed information supporting the physician's determination.

If the physician determines the person does not meet criteria, the person must be released. If at any time the facility administrator determines that a person no longer meets criteria, the person must be released. A person entitled to release is entitled to transportation to where the person was picked up, their residence in the state, or another suitable location. If the person was transported by a peace officer without a court order, arrangements for immediate transportation must be made. Otherwise, arrangements for reasonably prompt transportation must be made.

Time duration of the hold? The person may be held for up to 48 hours unless extended by a written order for protective custody (see Order of Protective Custody Pending Hearing on Treatment, below). If the 48 hours end on a weekend, a legal holiday, or before 4:00 p.m. on the first business day following a weekend or a legal holiday, the person can be held until 4:00 p.m. on that business day.

Who decides whether to continue to a hearing? To proceed to a hearing, a county or district attorney or other adult, such as the physician, must file an application for court-ordered mental health treatment (see Inpatient and Outpatient Treatment below). A county or district attorney or the court may file a motion for an Order for Protective Custody for further detention pending the hearing (see Order for Protective Custody Pending Hearing on Treatment below).

Is there a form? Application for Emergency Detention

<https://www.texasjcmh.gov/media/1a4d0min/application-for-emergency-detention.pdf>

Peace officer

Additional criteria: There is insufficient time to obtain a mental health warrant.

How? Have reasonable belief that the person meets criteria. This belief may be based on information from a credible person, or on the person's conduct, or the circumstances under which the person is found.

What do they initiate? Emergency civil custody and transport by a peace officer. A law enforcement agency and an emergency medical services provider can enter into an agreement to permit emergency medical services personnel to transport individuals taken into emergency custody by a peace officer.

The transporting party must immediately file a notification of emergency detention with the facility.

Where does the proposed patient go? The nearest appropriate inpatient mental health facility; if one is not available, the person is taken to a mental health facility deemed appropriate by the local mental health authority.

A non-medical facility may be deemed suitable only in cases of extreme emergency.

What's the time limit for the response? Immediate.

What happens? The facility may temporarily accept the person for a preliminary examination.

What's next? A physician must complete the preliminary examination of the person as soon as possible and within 12 hours.

If the physician determines the person meets the criteria, the facility may admit the individual based on the physician's written statement. The statement must include the physician's determination that the person meets criteria, a description of the person's illness, the specific risk of harm, and specific detailed information supporting the physician's determination.

If the physician determines the person does not meet criteria, the person must be released. If at any time the facility administrator determines that a person no longer meets criteria, the person must be released. A person entitled to release is entitled to transportation to where the person was picked up, their residence in the state, or another suitable location. If the person was transported by a peace officer without a court order, arrangements for immediate transportation must be made. Otherwise, arrangements for reasonably prompt transportation must be made.

Time duration of the hold? The person may be held for up to 48 hours unless extended by a written order for protective custody (see Order of Protective Custody Pending Hearing on Treatment, below). If the 48 hours end on a weekend, a legal holiday, or before 4:00 p.m. on the first business day following a weekend or a legal holiday, the person can be held until 4:00 p.m. on that business day.

Who decides whether to continue to a hearing? To proceed to a hearing, a county or district attorney or other adult, such as the physician, must file an application for court-ordered mental health treatment (see Inpatient and Outpatient Treatment below). A county or district attorney or the court may file a motion for an Order for Protective Custody for further detention pending the hearing (see Order for Protective Custody Pending Hearing on Treatment below).

Is there a form? Notification of Emergency Evaluation

<https://www.texasjcmh.gov/media/Ostmmda1/notification-of-emergency-detention-form-from-8-29-25.pdf>

Order of Protective Custody Pending Hearing on Treatment

Follow this link to read the Statutes in full: [Texas Health & Safety Code, Title 7, Subtitle C, Ch. 574](#)

Criteria for an Order of Protective Custody Pending Hearing on Treatment:

The certifying physician stated that the proposed patient has a mental illness and provided detailed reasons supporting that opinion. The physician also concluded that the individual poses a substantial risk of serious harm to themselves or others if they are not immediately kept in a safe setting while awaiting the court hearing on treatment.

Who can initiate an Order of Protective Custody Pending Hearing on Treatment?

The county or district attorney, or the court on its own motion.

How? File a motion for an order of protective custody in the court where an application for court-ordered mental health treatment is pending (See inpatient and outpatient treatment below).

Required documentation? A Certificate of Medical Examination (CME) prepared by a certifying physician who examined the proposed patient within three days before filing the motion.

What do they initiate? Judge or magistrate review for a potential order of protective custody.

Where does the proposed patient go? Nowhere before court or magistrate determination.

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

What happens? The judge or magistrate will determine whether the proposed patient meets the criteria.

The determination that the proposed patient presents a substantial risk of serious harm may be demonstrated by the person's behavior or by evidence of severe emotional distress and deterioration of mental condition to the extent they cannot safely remain in the community.

The judge or magistrate can make this determination based upon the application and CME alone if adequately supported by the information provided. They may take into consideration additional evidence, if needed, to make a fair determination.

What's next? The judge or magistrate may issue a protective custody order if they determine the proposed patient meets criteria.

If the proposed patient is presently in a facility, the protective custody order may authorize maintaining their custody there. Otherwise, the protective custody order will direct an authorized person to take the proposed patient into protective custody and transport the person immediately to a mental health facility.

A facility must follow the order only to the extent that they have sufficient resources to provide necessary care for the proposed patient.

What's the duration of the hold? The court will hold a probable cause hearing within 72 hours (excluding weekends and legal holidays).

If, after the hearing, the court determines that there is probable cause to believe that the proposed patient meets criteria, it will order that the proposed patient remain in protective custody until the hearing on the application for court-ordered mental health treatment (see Inpatient and Outpatient treatment below).

If the court determines after the hearing that no probable cause exists, it must order the proposed patient's release. Arrangements must be made to transport the proposed patient to their pick-up location, their residence, or another suitable location.

The facility administrator or their designee must discharge the proposed patient if, at any time, they determine the proposed patient no longer meets the protective custody criteria.

Who decides whether to continue to a hearing? The hearing on the separately-filed application for court-ordered mental health treatment occurs regardless of the outcome of protective custody probable cause hearing or hold status.

Is there a form? Motion for Protective Custody

<https://www.texasjcmh.gov/media/il4lf34x/motion-for-protective-custody.pdf>

Inpatient and outpatient treatment

Follow this link to read the Statutes in full: [Texas Health & Safety Code, Title 7, Subtitle C, Ch. 574](#)

Criteria for inpatient treatment

The proposed patient has a mental illness and, as a result:

- Is likely to cause serious harm to self or others.
- Is:
 - Suffering severe and abnormal mental, emotional, or physical distress.
 - Experiencing substantial mental or physical deterioration in the ability to function independently, shown by the inability - except for reasons of financial hardship - to provide for basic needs, including food, clothing, health, or safety.
 - Unable to make a rational and informed decision regarding treatment; or
 - Is unable to recognize symptoms or to appreciate the risks and benefits of treatment; *and*
- Without court-ordered temporary inpatient mental health services, is likely to suffer serious risk of harm or to inflict serious harm on another.

Criteria for outpatient treatment

The proposed patient:

- Has a severe and persistent mental illness¹;
- As a result of the mental illness, if not treated, will experience deterioration of the ability to function independently to the extent of being unable to live safely in the community without court-ordered outpatient mental health services.
- Needs outpatient services to prevent a relapse likely to result in serious harm to self or others; *and*
- Is unable to participate in outpatient treatment services effectively and voluntarily, demonstrated by:
 - Actions occurring within the two-year period that immediately precedes the hearing; or
 - Specific characteristics of their clinical condition that significantly impair their ability to make a rational and informed decision about voluntary outpatient treatment.

¹ "Severe and persistent mental illness" is not defined.

Who can initiate inpatient treatment?

County or district attorney or any other adult.

How? File a sworn written application for court-ordered mental health services in the court with probate jurisdiction in the county where the proposed patient:

- Resides;
- Is located;
- Was placed under an emergency evaluation hold; or
- Is receiving court-ordered mental health services.

Required documentation?

- Certificate of medical examination (CME).
Exception: A district or county attorney may file without a CME.
- Statement that the proposed patient is a person with mental illness who meets the criteria.

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

What's next? The court will set a hearing date within 14 days of the application. The proposed patient has the right to a jury trial upon request. The hearing may not be held within the first three days after the application is filed if the proposed patient or their attorney objects.

The hearing may not occur unless there are two CMEs which were completed within 30 days prior to the application filed with the court. At least one of the CMEs must be completed by a psychiatrist.

If two CMEs were not filed with the application, the court may order the proposed patient to have the examination completed. It may authorize a peace officer to take the proposed patient into custody for the examination.

The court will direct the local mental health authority to file, before the hearing, its recommendation for the proposed patient's treatment.

At the hearing, the judge or jury will determine if the proposed patient meets criteria by clear and convincing evidence. If the person is determined to meet criteria, the judge will dismiss the jury before deciding whether to order that the proposed patient receives services on an inpatient or outpatient basis.

Who issues the treatment order? Probate judge.

Who makes discharge decisions? The person supervising the treatment plan; see *next row*.

Who supervises the treatment plan? Inpatient: The administrator of the facility to which the patient is committed to inpatient services.

Outpatient: The person designated by the judge² to be responsible for court-ordered outpatient mental health services

How long can the first treatment order last? Up to 45 days. However, the judge has discretion to decide a period of up to 90 days is necessary.

What's the renewal process? A county or district attorney or other adult may file an application with the court to request an extended treatment order for up to one year, subject to additional criteria.³

What's the discharge process? The facility administrator or the person designated by the judge⁴ may discharge a patient before the court order ends if they determine the patient no longer meets the criteria.

If the patient is being discharged from inpatient care and will need continued care, the physician responsible for their treatment must prepare a continuing care plan.

Is there a form? No universal form has been approved by the Texas Supreme Court. However, a [sample form](#) is provided by the Texas Judicial Commission on Mental Health.

² The person designated must be the facility administrator or an individual involved in providing court-ordered outpatient services.

³ In addition to the criteria for temporary court-ordered mental health services, extended orders require that: (1) the proposed patient's condition is expected to continue for more than 90 days; and (2) for extended inpatient orders, (a) the proposed patient has received court-ordered inpatient mental health services for at least 60 consecutive days during the preceding 12 months; or, in the case of extended outpatient orders, (b) has received court-ordered inpatient mental health services for a total of at least 60 days during the past 12 months or outpatient mental health services within the previous 60 days. Tex. Health & Safety Code §§ 574.035 and 574.0355.

⁴ The person designated must be the facility administrator or an individual involved in providing court-ordered outpatient services.