BEHAVIORAL HEALTH INNOVATION and REFORM COMMISSION
SUBCOMMITTEE on INVOLUNTARY COMMITMENT
Coverdell Legislative Office Building
18 Capitol Square SW, Atlanta, Georgia 30334
Room 515
February 7, 2020
2:00 p.m. – 5:00 p.m.

AGENDA

Call to Order

Introductions and Subcommittee Overview

Statutory Framework on Involuntary Commitment

Perspective of State Hospitals on Involuntary Commitment

Overview of Assisted Outpatient Treatment as to Involuntary Commitment

Member Feedback

Closing Remarks

Adjournment
3. Criteria sufficiently broad to provide actual access (up to 10 pts)  
Ga. Code Ann. § 37-3-1(12.1)  
Evaluate applicable provision only:  
☐ If inpatient/outpatient criteria are the same:  
☐ Inpatient criteria include psychiatric deterioration standard (10 pts) or  
☐ No psychiatric deterioration standard, adequate grave disability standard (5 pts)  
or  
☒ If outpatient criteria are distinct from inpatient criteria:  
☒ Allows consideration of length of treatment history ≥ 36 months (2 pts)  
☐ Does not exclude periods of incarceration or hospitalization (−1 pt)  
☒ Does not limit application to those currently dangerous or unstable (4 pts)  
☒ Does not limit application to those refusing service or currently lacking insight (4 pts)  
10

4. Authorizes AOT directly from community (5 pts)  
Ga. Code Ann. §§ 37-3-61(2), 37-3-41(a)  
After a period of short-term detention  
5

5. Procedures sufficiently detailed to guide practitioners (up to 5 pts)  
Ga. Code Ann. §§ 37-3-81.1(a)(2), 37-3-82, and 37-3-91(b)  
☒ Process specified and reasonable (1 pt)  
☒ Timelines specified and reasonable (1 pt)  
☒ Responsible entities identified (1 pt)  
☒ Periodic reporting to court required (1 pt)  
☒ Renewal process expressly specified (1 pt)  
5

6. Procedures require the treatment plan to be shared with the court (5 pts)  
5

7. Specifies procedures and consequences for nonadherence (5 pts)  
Ga. Code Ann. § 37-3-82  
5

8. Duration of initial order  
Ga. Code Ann. § 37-3-93(a)  
☐ = 90 days (2 pts) or  
☒ > 90 days (5 pts)  
One year  
5

9. Duration of continued order  
Ga. Code Ann. § 37-3-93(c)  
☐ = 180 days (2 pts) or  
☒ > 180 days (5 pts)  
One year  
5

SUBTOTAL  
50

PART TWO: Extra Credit

1. Specifies court for AOT (1 pt)

2. Court monitoring of voluntary settlement agreements (5 pts)

Extra Credit

PART TWO TOTAL  
50

FINAL SCORE

PART ONE TOTAL 32

PART TWO TOTAL 50

TOTAL 82

GRADE B−
|   | Criteria sufficiently broad to provide actual access (up to 10 pts) | Ga. Code Ann. § 37-3-1(12.1) | Evaluate applicable provision only:  
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**PART TWO: Extra Credit**

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**FINAL SCORE**

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Grave Disability Standard

North Carolina:

a. Dangerous to self.-- Within the relevant past, the individual has done any of the following:

1. The individual has acted in such a way as to show all of the following:
   I. The individual would be unable, without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of the individual's daily responsibilities and social relations, or to satisfy the individual's need for nourishment, personal or medical care, shelter, or self-protection and safety.
   II. There is a reasonable probability of the individual's suffering serious physical debilitation within the near future unless adequate treatment is given pursuant to this Chapter. A showing of behavior that is grossly irrational, of actions that the individual is unable to control, of behavior that is grossly inappropriate to the situation, or of other evidence of severely impaired insight and judgment shall create a prima facie inference that the individual is unable to care for himself or herself.

2. The individual has attempted suicide or threatened suicide and that there is a reasonable probability of suicide unless adequate treatment is given pursuant to this Chapter.

3. The individual has mutilated himself or herself or has attempted to mutilate himself or herself and that there is a reasonable probability of serious self-mutilation unless adequate treatment is given pursuant to this Chapter.

South Carolina:

(A) If, upon completion of the hearing and consideration of the record, the court finds upon clear and convincing evidence that the person is mentally ill, needs involuntary treatment and because of his condition:

   (1) lacks sufficient insight or capacity to make responsible decisions with respect to his treatment

   (…)

Psychiatric Deterioration

Illinois:

“Person subject to involuntary admission on an inpatient basis” means:

(1) A person with mental illness who because of his or her illness is reasonably expected, unless treated on an inpatient basis, to engage in conduct placing such person or another in physical harm or in reasonable expectation of being physically harmed;

(2) A person with mental illness who because of his or her illness is unable to provide for his or her basic physical needs so as to guard himself or herself from serious harm without the assistance of family or others, unless treated on an inpatient basis; or

(3) A person with mental illness who:
   
   (i) refuses treatment or is not adhering adequately to prescribed treatment;
   
   (ii) because of the nature of his or her illness, is unable to understand his or her need for treatment; and
   
   (iii) if not treated on an inpatient basis, is reasonably expected, based on his or her behavioral history, to suffer mental or emotional deterioration and is reasonably expected, after such deterioration, to meet the criteria of either paragraph (1) or paragraph (2) of this Section.

In determining whether a person meets the criteria specified in paragraph (1), (2), or (3), the court may consider evidence of the person’s repeated past pattern of specific behavior and actions related to the person’s illness.
Section 37-3-1. 37-3-1(9.1)(A)(i)

(9.1) "Inpatient" means a person who is mentally ill and:

Danger to Self or others

(A)(i) Who presents a substantial risk of imminent harm to that person or others, as manifested by either recent overt acts or recent expressed threats of violence which present a probability of physical injury to that person or other persons; or

Grave Disability Standard

(ii) Who is so unable to care for that person's own physical health and safety as to create an imminently life-endangering crisis; and

(B) Who is in need of involuntary inpatient treatment.

(9.2) "Inpatient treatment" or "hospitalization" means a program of treatment for mental illness within a hospital facility setting.

(9.3) "Involuntary treatment" means inpatient or outpatient treatment which a patient is required to obtain pursuant to this chapter.

(10) "Least restrictive alternative," "least restrictive environment," or "least restrictive appropriate care and treatment" means that which is the least restrictive available alternative, environment, or care and treatment, respectively, within the limits of state funds specifically appropriated therefor.

(11) Reserved.

(12) "Mentally ill person requiring involuntary treatment" means a mentally ill person who is an inpatient or an outpatient.

(12.1) "Outpatient" means a person who is mentally ill and:

(A) Who is not an inpatient but who, based on the person's treatment history or current mental status, will require outpatient treatment in order to avoid predictably and imminently becoming an inpatient;

(B) Who because of the person's current mental status, mental history, or nature of the person's mental illness is unable voluntarily to seek or comply with outpatient treatment; and

(C) Who is in need of involuntary treatment.

(12.2) "Outpatient treatment" means a program of treatment for mental illness outside a hospital facility setting which includes, without being limited to, medication and prescription monitoring, individual or group therapy, day or partial programming activities, case management services, and other services to alleviate or treat the patient's mental illness so as to maintain the patient's semi-independent functioning and to prevent the patient's becoming an inpatient.
Policy Recommendations

The state laws and policies governing involuntary treatment are varied and byzantine. There are three main components of involuntary civil commitment, each with corresponding laws: emergency psychiatric evaluation, inpatient commitment to a hospital facility, and outpatient commitment to care in the community, also known as AOT. The following policy recommendations are based on our analysis of the treatment laws in each state and identify key components of an ideally functioning system of mental illness treatment laws:

Emergency psychiatric evaluation

#1 The duration for initial emergency custody should be a minimum of 48 hours, with a strong preference given to holds of 72 hours or longer.

#2 Any responsible adult or, at a minimum, guardians and family members must be able to petition the courts to seek a court order for evaluative custody.

#3 Emergency evaluation laws should provide clear guidance for initiating a petition.

Inpatient commitment

#4 Any responsible adult or, at a minimum, guardians and family members must be able to petition the courts to seek a court order for inpatient civil commitment.

#5 Statutory language defining the “danger to self or others” standard should not require imminence of harm.

#6 Statutory language defining the “grave disability” standard should not require imminence or an unreasonably high risk of harm.

#7 Statutory language defining the “psychiatric deterioration” standard should expressly allow consideration of treatment history and the likelihood of future psychiatric deterioration without treatment.

Assisted outpatient treatment

#8 For states using one standard for both inpatient and outpatient civil commitment, statutory language authorizing AOT should allow consideration of treatment history and the likelihood of future deterioration without treatment.

#9 For states using separate criteria for inpatient and outpatient civil commitment, statutory language authorizing AOT should allow consideration of at least three years of treatment history and should not place unreasonable limitations on eligibility.

#10 Any responsible adult or, at a minimum, guardians and family members should be able to petition the courts to seek a court order for AOT.

#11 AOT procedures should be described in sufficient detail to provide guidance to practitioners and to make maximum use of the “black robe effect.”

#12 The duration for an initial AOT order should be a minimum of 90 days, and renewed orders should be for a minimum of 180 days.