

## Guide to Psychiatric Crisis and Civil Commitment Process in Virginia

The contents of this short guide describe the steps you can take to help a friend or family member who is experiencing a psychiatric crisis and in need of help, primarily focusing on the civil commitment process in Virginia. A psychiatric crisis can include, but is not limited to: suicidal or homicidal thinking and/or behavior, acute psychotic symptoms, increased drug or alcohol use, and sudden changes in mental status. The steps described in this guide progress from a person who is cooperative and voluntarily seeking help, to someone who is not seeking help on his or her own and may require mental health assistance via the civil commitment process. Please keep in mind that a psychiatric crisis and the commitment process in particular can be traumatic experiences for the individual. It is recommended to always encourage the individual to receive treatment voluntarily, as it will result in a better outcome for all involved. However, we know that at times seeking help through the commitment process is the safest course of action for the individual and his/her loved ones.

The legal age of consent for hospitalization is 14 in Virginia. This means that if the individual is a minor between the ages of 14 and 18, he or she has the legal ability to voluntarily receive services, with or without parent consent, and will be asked to sign a consent form during the facility's intake process. However, if the individual is younger than 14 years old, the processes of evaluation, admission and treatment are at the sole discretion of the parent(s)/guardian(s).

### Important Terms Defined

Commitment Hearing - a court process involving a special justice who hears evidence, and decides whether the person under consideration meets the criteria for involuntary commitment, and ultimately delivers the decision and plan that will be carried out by the CSB/BHA or other mental health care provider.

Community Services Board (CSB)/Behavioral Health Authority (BHA) - Virginia's publicly-funded system of services for mental health, intellectual disability, and substance abuse. CSB/BHAs provide pre-admission screening and crisis services 24-hours per day, 7 days per week. Contact information is online and at the end of this guide.

Emergency Custody Order (ECO) - a legal order by the court authorizing the law enforcement agency to take a person into custody for a mental health evaluation performed by a qualified mental health clinician through the local CSB/BHA.

Temporary Detention Order (TDO) - a legal document requiring an individual to receive immediate hospitalization for further evaluation and stabilization, on an involuntary basis, until a commitment hearing can be arranged to determine their future treatment needs.

Magistrate - a local, independent judicial officer who presides over hearings for minor criminal complaints and civil commitment cases. The magistrate is typically a lawyer.

Person/Individual under consideration - the individual who is in crisis, the subject of the ECO, TDO, and/or commitment hearing.

Petitioner - the individual who files or requests the ECO/TDO; this may also be the person under consideration, or a third party, such as a concerned family member, friend, neighbor, etc.

Psychiatric Crisis - can include, but not limited to: suicidal or homicidal thinking and/or behavior, acute psychotic symptoms, increased drug/alcohol use, and sudden changes in mental status.

Special Justice - the official who hears evidence during the commitment hearing, and decides whether the person under consideration meets the criteria for involuntary commitment, and delivers the decision and plan to be carried out by the CSB/BHA or other mental health care provider.

## **My loved one/friend/neighbor is in a psychiatric crisis and is cooperative, aware of his/her mental state, and interested in getting help from a mental health professional. What should I do?**

There are many options in these situations. If the person already has an established relationship with a mental health service provider such as a psychiatrist, therapist, case manager, or other mental health worker, encourage your loved one/friend/neighbor to contact him or her for professional assistance in determining appropriate action.

You can also ask the person you are concerned about if he/she has a Wellness Recovery Action Plan (WRAP), advance directive, or other written information on preferred treatment and support routine during a period of crisis. If she or he does, you should attempt to obtain and follow this, and work with the person to work through the plan.

If your loved one/friend/neighbor does not have a relationship with a mental health professional, then make every effort to identify a professional who is able to see your loved one/friend/neighbor right away. You can offer to help your friend or loved one set up the appointment. Offer to go with him or her to serve as a support system. Ways to locate professionals include contacting the phone number on the back of the person's insurance card and then asking for names and phone numbers of mental health professionals (such as a psychiatrist, clinical social worker, etc.) in the area where the person you are concerned about lives.

If the person you are concerned about does not have insurance, contact the closest community services board and ask for an immediate appointment for someone in a mental health crisis. Community services boards are local agencies that are mandated by the state to provide emergency mental health services and will assist you in locating available services. A list of CSB/BHA contacts is provided at the end of this guide. Other possible suggestions include the emergency room, a mental health clinic, a walk-in crisis center, crisis stabilization unit, a mobile crisis intervention unit, crisis mobilization team, or a psychiatric hospital.

### **My loved one/friend/neighbor is in a psychiatric crisis and is refusing to voluntarily seek help. I am really worried about him/her and think the situation might become dire very soon. What should I do?**

If you feel that there is an immediate need for help and that your loved one is in immediate danger of hurting him or herself (or someone else), call 911. A police officer will come and provide an initial assessment of the situation. The police officer's job is to ensure the safety of the individual and others involved. When you call 911, explain that you are calling about someone experiencing a psychiatric emergency and request that the responding officer be a Crisis Intervention Team (CIT)-trained officer. CIT training for law enforcement is a best practice that trains first responders like law enforcement to utilize de-escalation techniques with people who are experiencing psychiatric distress, and to appropriately triage someone to mental health care.

The officer, based on his or her observation and/or the reliable report of others, has the authority, in accordance with criteria listed below, to place the individual into custody and take him or her to a facility where a mental health evaluation will be conducted by a mental health professional. Criteria for issuing an Emergency Custody Order:

1. The person has a mental illness, and there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future
  - a. Cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or
  - b. Suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, and
2. The person is in need of hospitalization or treatment, and,
3. The person is unwilling to volunteer or incapable of volunteering for hospitalization or treatment.

If you are unsure about calling 911 or you feel you want to try another approach and you don't think there is an urgent crisis, first contact your local CSB/BHA emergency service program and

explain that you are calling about a person in psychiatric crisis and request a assistance addressing the psychiatric crisis. If you feel your loved one is in danger or that someone else is, say so. Depending on the information that you provide and/or their observations, the emergency services worker may advise that you then contact your local magistrate. The phone number is listed both in the phonebook and online. The CSB/BHA can provide initial advice and suggestions about how to proceed regarding the needs of the person in question. Depending on your locality, you may be advised to petition your local magistrate to have an Emergency Custody Order (ECO) issued on the individual.

## **What is an ECO and how do I file a petition for an ECO?**

An ECO is a short-term (up to 8 hours) order that a magistrate issues that compels a law enforcement officer to take an individual who meets certain criteria relating to the severity of mental illness into custody for further assessment. The reason it is 8 hours is because Virginia and federal law contemplates that a person has certain individual rights and liberties, and that these rights should be infringed upon no longer than necessary. Hence it has been determined in Virginia that 8 hours is sufficient time to conduct an initial evaluation of a person who meets certain criteria relating to the severity of mental illness.

Once you have contacted your local CSB/BHA and magistrate, they will tell you the necessary steps to take. This will include providing the following information the the magistrate. Based on your personal knowledge of the person and the circumstances, you will need to give them information, either verbally or in writing, about how the person under consideration meets the following criteria:

1. The person has a mental illness,
2. There exists a substantial likelihood that, as a result of mental illness, the person will, in the near future
  - a. Cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or
  - b. Suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, and
3. The person is in need of hospitalization or treatment, and
4. The person is unwilling to volunteer or incapable of volunteering for hospitalization or treatment

Other forms of information you should provide, and that the magistrate is legally required to consider, include the following:

1. The recommendations of any treating or examining physician or psychologist licensed in Virginia, if available;
2. Any past actions of the person;
3. Any past mental health treatment of the person; providers are legally required to disclose all information necessary and appropriate to the process;
4. Any relevant hearsay evidence;
5. Any medical records available;
6. Any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and;
7. Any other information available that the magistrate deems relevant

The CSB/BHA providing services to a person under consideration must make a reasonable attempt to notify a family member, personal representative, or agent named in an advance directive of the ECO, TDO, or involuntary commitment, and other information directly relevant to the individual's involvement with their health care, which may include their location/facility and general condition, unless the provider has actual knowledge such notice was provided already.<sup>1</sup>

## **What happens when an ECO is granted?**

The police are notified by the magistrate and will take the individual into custody. The individual will be provided with a written explanation of an ECO and the procedure. Once in custody, there is an eight-hour window for a qualified mental health clinician at a CSB/BHA or hospital to evaluate the individual. If the individual is under the age of 18, then there is a 24-hour window to complete the evaluation. A mental health evaluation usually occurs at a CSB/BHA or a hospital. If the person needs to be transported, the law enforcement officers would put the person in a police car, usually in handcuffs, and transport the individual for evaluation. The magistrate can also approve what is known as alternative transportation, which means that the person's family member, friend, or someone else, can do the transporting instead of the law enforcement officers. Alternative transportation can be a good idea so as to avoid a situation where the person is handcuffed, which can be a very difficult and traumatizing experience. If all parties are in agreement that alternative transportation is a safe option, then the magistrate, at his or her discretion, will allow it.

If the magistrate does not issue the ECO, the civil commitment process would end there. At this point, re-petitioning for an ECO is possible if the circumstances change related to the criteria above and there is new evidence to consider. If you believe that safety or harm is an issue, you could consider contacting the police or emergency services of the local CSB/BHA. You also want to make sure that you provide a safe environment for the individual, try to ensure that someone

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<sup>1</sup> This is a new state law that will go into effect on July 1, 2016. Until that date, the CSB/BHA may notify a family member or personal representative. After July 1, 2016, the CSB/BHA must make a reasonable attempt to contact these parties, and the specified parties expand to include any agent listed in an advanced directive or another person directly related to the care of the person under consideration.

is consistently in contact with the individual, and talk with the individual about taking action towards seeking treatment.

## **What are the criteria in Virginia for involuntary admission for psychiatric treatment?**

A Temporary Detention Order (TDO) is a legal document requiring individuals to receive immediate hospitalization for further evaluation, as well as for stabilization, on an involuntary basis until a commitment hearing can be arranged to determine future treatment needs. The TDO period cannot last longer than 72 hours. If the TDO is issued on a weekend or holiday, then the TDO will expire on the close of business the next day the court is open. If the individual is a minor, the TDO period cannot be longer than 120 hours. The criteria for a TDO includes the following:

1. The person has a mental illness,
2. There exists a substantial likelihood that, as a result of mental illness, the person will, in the near future
  - a. Cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or
  - b. Suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, and
3. The person is in need of hospitalization or treatment, and
4. The person is unwilling to volunteer or incapable of volunteering for hospitalization or treatment

When considering whether there is probable cause to issue a Temporary Detention Order, the magistrate may, in addition to the petition, consider:

1. Information provided by the person who initiated emergency custody order, if available
2. Recommendations of any treating or examining physician or psychologist licensed in Virginia, if available, including the CSB/BHA/pre-screener's evaluation and recommendation
3. Any past actions of the person,
4. Any past mental health treatment of the person,
5. Any relevant hearsay evidence,
6. Any medical records available,
7. Any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and
8. Any other information available that the magistrate considers relevant to the determination of whether probable cause exists to issue a temporary detention order.

Note- This next paragraph (describing the “opportunity to be heard”) describes a new state law that will go into effect on July 1, 2016. Prior to July 1, 2016 it is not part of state law.

*If the mental health provider/CSB/BHA does not recommend temporary detention (TDO) for the person under consideration, the provider must notify the petitioner of the ECO and the onsite treating physician of such recommendation. If the petitioner disagrees with this recommendation (the pre-screener’s recommendation of the person not needing to be involuntarily detained with a TDO) then he/she has the right to an “opportunity to be heard” (informal description). This means that the person who conducted the pre-screening must inform the petitioner, the person who initiated the ECO if the person is present, and an onsite treating physician of the recommendation and must also inform the person who initiated the ECO that the community services board will facilitate communication between the person who initiated the ECO and the magistrate. Further, if the person who initiated the ECO requests to speak to the magistrate, the community services board must arrange for that communication as soon as practicable and prior to the expiration of the ECO. The magistrate must consider any information provided by the person who initiated the ECO and any recommendations of the treating physician and the employee of the community services board who conducted the evaluation in making a consideration to issue a temporary detention order. The individual who is subject to the ECO must stay in custody and can’t be released until the communication with the magistrate has concluded and the magistrate has issued a decision.*

In the end, if the magistrate does not issue then the person is released from custody of the police. The mental health service provider may continue to pursue trying to voluntarily engage the person in treatment (e.g. develop a “safety plan”, develop a treatment plan, or provide information about available treatment services).

The CSB/BHA providing services to a person under consideration must make a reasonable attempt to notify a family member, personal representative, or agent named in an advance directive of the ECO, TDO, or involuntary commitment, and other information directly relevant to the individual's involvement with their health care, which may include their location/facility and general condition, unless the provider has actual knowledge such notice was provided already.

## **What happens if the person under consideration is issued a TDO?**

The police will escort the individual to the designated hospital sanctioned by the magistrate. The magistrate can also approve alternative transportation to the facility, if requested and arranged by the petitioner. The individual will only be placed in a state hospital after every effort has been made to find an available bed in another facility and there is no other option available other than the state hospital. During the transportation, if provided by the police, the individual may be restrained to ensure their immediate physical safety.

The individual will remain at this facility for up to 72 hours, receiving care until a commitment hearing is held. Again, if the order is issued on a weekend or holiday, the order may extend till

the close of business the next day the court is open. If the individual is a minor, then the TDO period cannot be longer than 120 hours. If the TDO is not issued, then the individual will be released.

## **What is a commitment hearing and what are the possible outcomes?**

The commitment hearing is a court process involving a special justice who hears evidence, decides whether the person meets the criteria for involuntary commitment, and ultimately delivers the decision and plan that will be carried out by the CSB/BHA or other mental health care providers. The commitment hearing is a legal proceeding and the person under consideration must be physically present at the proceeding. The individual under consideration will receive a court-appointed attorney who will represent his or her wishes. There is also the option to hire a private attorney at his or her personal expense. Family members should come prepared to provide alternative evidence if they believe the individual under consideration is not requesting the most appropriate care for himself/herself.

The CSB/BHA providing services to a person under consideration must make a reasonable attempt to notify a family member, personal representative, or agent named in an advance directive of the ECO, TDO, or involuntary commitment, and other information directly relevant to the individual's involvement with their health care, which may include their location/facility and general condition, unless the provider has actual knowledge such notice was provided already.

The special justice is legally required to initially offer the individual the opportunity to accept voluntary hospitalization. Once the Special Justice has rendered a decision, it is binding. We encourage family and friends to work with the individual to encourage voluntary hospitalization if this option is warranted. The Special Justice will hear testimony from the petitioner (person who obtained the ECO/TDO), family, friends, and hospital and CSB/BHA staff in coming to a decision. The decision may be one of the following:

- The petition may be dismissed and the individual released.
- Mandatory outpatient treatment may be ordered, for up to 90 days.
- The individual can be allowed to voluntarily remain in the hospital if they are capable and willing to do so, and if they agree to stay for a minimum of 72 hours, and give 48- hour notice of their intention to leave.
- The individual may be involuntarily committed. Legally, inpatient commitments can continue for up to 30 days.

## **How do you find out when the commitment hearing will be held?**

The prescriber who recommended issuance of the TDO should give the date and location of the hearing to the petitioner. However if that does not happen or if you are concerned that you are not receiving that information in a timely manner, contact the pre-scriber or the hospital



yourself and ask when commitment hearings take place. You might be told that due to privacy reasons they can't tell you that information, but insist that the pre-screener or hospital social worker contact you with that information because the CSB/BHA must make a reasonable attempt to notify a family member, personal representative, or agent named in an advance directive of the commitment hearing and other information directly relevant to the individual's involvement with their health care.

### Emergency Services/Civil Commitment Assessment Phone Numbers for Virginia's 40 CSBs

<b>Community Services Board/Behavioral Healthcare Auth.</b>	<b>County &amp; City Catchment Area</b>	<b>Emergency Services Number</b>
Alexandria CSB	Alexandria City	(703) 746-3400
Alleghany-Highlands CSB	Alleghany Co & Covington City	(540) 965-1770 (after 5pm) (540) 965-2100 (before 5pm)
Arlington CSB	Arlington Co	(703) 228-5160
Blue Ridge Behavioral Health	Botetourt, Craig, Roanoke Co & Roanoke City	(540) 981-9351
Chesapeake	Chesapeake City	(757) 548-7000
Chesterfield	Chesterfield Co	(804) 748-6356
Colonial Behavioral Health	James City, York Co & Poquoson, Williamsburg City	(757) 220-3200
Crossroads Community Services	Amelia, Buckingham, Charlotte, Cumberland, Lunenburg, Nottoway, Prince Edward Co	1 (800) 548-1688 (276) 935-7489
Cumberland Mountain CSB	Buchanan, Russell, Tazewell Co	(276) 964-6702
Danville-Pittsylvania	Pittsylvania Co & Danville City	1 (877) 793-4922
Dickenson County	Dickenson Co	(276) 926-1650
District 19	Dinwiddie, Emporia, Greensville, Prince George, Surry, Sussex Co & Colonial Heights, Hopewell, Petersburg City	1 (866) 365-2130
Eastern Shore	Accomack, Northampton Co	(757) 442-7707
Fairfax-Falls Church	Fairfax Co & Fairfax, Falls Church City	(703) 573-5679
Goochland-Powhatan	Goochland, Powhatan Co	(804) 556-3716
Hampton-Newport News	Hampton, Newport News City	(757) 308-9024
Hanover County	Hanover Co	(804) 365-4200
Harrisonburg-Rockingham	Rockingham Co & Harrisonburg City	(540) 434-1941 (540) 434-1766 (after 5pm)
Henrico Area	Charles City, Henrico, New Kent Co	(804) 727-8484
Highlands	Washington Co & Bristol City	1 (877) 928-9062 (276) 676-6277
Horizon Behavioral Health	Amherst, Appomattox, Bedford, Campbell Co & Bedford, Lynchburg City	(434) 847-8035
Loudoun County	Loudoun Co	(703) 777-0320
Middle Peninsula-Northern Neck	Essex, Gloucester, King & Queen, King William, Lancaster, Matthew, Middlesex, Northumberland, Richmond, Westmoreland Co	1 (800) 542-2673
Mt. Rogers	Bland, Carroll, Grayson, Smyth Co & Galax City	(276) 236-8101
New River Valley	Floyd, Giles, Montgomery, Pulaski & Radford City	(540) 961-8400
Norfolk	Norfolk City	(757) 664-7690
Northwestern	Clarke, Frederick, Page, Shenandoah, Warren Co, Winchester	(540) 635-4804
Piedmont Regional	Franklin, Henry, Patrick Co & Martinsville City	(276) 632-7128
Planning District 1	Lee, Scott, Wise Co & Norton City	(276) 523-8300
Portsmouth	Portsmouth City	(757) 393-8991

Prince William County	Prince William Co & Manassas Park, Manassas City	(703) 792-7800
Rappahannock Area CSB	Caroline, King George, Spotsylvania, Stafford Co & Fredericksburg City	(540) 373-6876
Rappahannock-Rapidan CSB	Culpeper, Fauquier, Madison, Orange, Rappahannock Co	(540) 825-5656
Rockbridge Area	Bath, Rockbridge Co & Buena Vista, Lexington City	(540) 463-3141
Region Ten CSB	Albemarle, Fluvanna, Greene, Louisa, Nelson Co & Charlottesville City	(434) 972-1800
Richmond Beh. Health Auth. (RBHA)	Richmond City	(804) 819-4100
Southside CSB	Brunswick, Halifax, Mecklenburg Co	(434) 572-2936
Valley CSB	Augusta, Highland, Staunton Co & Waynesboro City	(540) 885-0866
Virginia Beach Dept of Human Services	Virginia Beach City	(757) 385-0888
Western Tidewater CSB	Isle of Wight, Southampton Co & Franklin, Suffolk City	(757) 942-1069

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