

INVOLUNTARY CIVIL COMMITMENT FOR HOSPITALIZATION (EMERGENCY AND JUDICIAL)

There are two times when a person may be hospitalized against his/her wishes. Such hospitalization is known as *involuntary civil commitment*. (A person may also request to be hospitalized for mental health issues and this process is known as voluntary admission. See O.R.C. 5122.02.)

O.R.C. 5122.10 governs *emergency involuntary hospitalization* and O.R.C. 5122.11 governs *judicial involuntary hospitalization*.

Doctors, health officers, **probation officers**, **police officers** or sheriffs may take a person into custody if they have reason to believe that the person is mentally ill and subject to hospitalization. They must also have reason to believe that the person represents a substantial risk of harm to self or others if allowed to remain at liberty pending a psychiatric examination. The person may be transported to a hospital/general hospital. The hospital has a very short time to determine whether the person needs involuntary hospitalization. This is known as *involuntary emergency commitment*. See O.R.C. 5122.10.

Anyone, including **court personnel**, a **prosecutor**, **police officer**, family or friends may pursue a *judicial involuntary commitment*. The person seeking to cause involuntary hospitalization of another believed to be mentally ill is called the “affiant.” The person believed to be ill is called the “respondent.” This process begins by the affiant filing an affidavit with the probate court in the county where the ill person resides. The affiant must allege facts sufficient to provide the probate court probable cause to believe the respondent is mentally ill, needs hospitalization and refuses examination or treatment. The probate court judge or magistrate may then issue a “warrant” of detention. The warrant or “WOD” directs police to pick up and transport the respondent to a hospital. See O.R.C. 5122.11.

As court personnel, law enforcement or family members may need to request involuntary hospitalization of another, some general information is provided. Ohio law also contains procedures probate court must follow when a person who initially and voluntarily requested hospitalization wants to be released from treatment but the hospital does not believe the person is ready. That procedure, *voluntary hospitalization*, is not covered herein.

Probate court paperwork is confidential except to the defendant (respondent.)

For purposes of both emergency and judicial involuntary civil commitment, you will need to know some legal definitions. They are set forth below.

DEFINITIONS USED FOR INVOLUNTARY CIVIL HOSPITALIZATIONS:

The person being probated is called the **RESPONDENT** and the person filing the affidavit is called the **AFFIANT**.

MENTALLY ILL PERSON SUBJECT TO HOSPITALIZATION: Means a person suffering from mental illness who, because of the illness:

- (1) Represents a substantial risk of physical harm to self as manifested by evidence of, or attempts at, suicide or serious self-inflicted bodily harm; OR
- (2) Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness; OR
- (3) Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community; OR
- (4). Would benefit from treatment in a hospital for the person's mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person. (O.R.C. 5122.01(B))

MENTAL ILLNESS: Means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life. O.R.C. 5122.01(A).

COMMUNITY MENTAL HEALTH AGENCY: Means an agency, program or facility with which a board of mental health and board of alcohol/drug addiction contracts. For Cuyahoga County, see the Alcohol, Drug Addiction & Mental Health Services Board website at www.adamhsc.org

TYPES OF HOSPITALS:

HOSPITAL: A hospital or inpatient unit of a hospital *licensed by the department of mental health and addiction services* under section 5119.33 and any other place established, controlled or supervised by said department pursuant to O.R.C. 5119. (O.R.C. 5122.01 (F).)

For Cuyahoga County, the list of local hospitals can be found at www.adamhsc.org, on Alcohol, Drug Addiction & Mental Health Services Board's website. At the website, click on "Finding Help." Then click on "Provider Directory," then "Other Services" and look under the heading Inpatient Treatment. There under is a category called "Other Local Hospitals." Those hospitals not included at this website location are probably "general hospitals." See definition below.

A person transported to a hospital shall be examined by hospital staff within 24 hours after arrival at the hospital O.R.C. 5122.10.

GENERAL HOSPITAL: A general hospital is one not licensed by the department of mental health. If they accept a mentally ill person pursuant to O.R.C. 5122.10, by the end of 24 hours, that person must be transferred to a licensed "hospital." See definition above.

PUBLIC HOSPITAL: A hospital/facility under the jurisdiction of the department of mental health and tax-supported (O.R.C. 5122.01 (G).)

For Cuyahoga County, the public hospitals are:

MetroHealth Medical Center
(Behavioral Health Unit)
2500 MetroHealth Drive
Cleveland, Ohio 44109
(adults) (216)778-7800 (ask for psychiatrist on call)

When, pursuant to O.R.C. 5122.10, police or probation officers take a person into custody, transport them to a public hospital and apply for admission, the person must be admitted for observation, diagnosis, care and treatment. The [chief clinical officer of the] public hospital cannot require the person be evaluated elsewhere first (O.A.G. 00-004.)

This is important if the person is without health insurance or the status of that coverage is unknown.

AGENCIES: For Cuyahoga County, the list of agencies providing mental health services can be found at www.adamhsc.org.

"PROSECUTOR": Means a prosecuting attorney or a city director of law, village solicitor, or similar chief legal officer of a municipal corporation who has authority to prosecute a criminal case that is before the court or the criminal case in which a defendant in a criminal case has been found incompetent to stand trial or not guilty by reason of insanity. O.R.C. 2945.37(A)(1).

INVOLUNTARY CIVIL COMMITMENT EMERGENCY HOSPITALIZATION (“PINK SLIP”)

I. WHAT’S GOING ON WITH DEFENDANT/PERSON?

Defendant is charged with a crime and is in jail but has not yet made bond. The police think he is exhibiting characteristics that may indicate he is a mentally ill person in need of immediate treatment because the defendant’s behavior presents a threat of physical harm to himself or others.

A person at the grocery store is exhibiting characteristics that may indicate he/she is a mentally ill person in need of immediate treatment. Police respond to the situation. The person is not breaking any laws but police are concerned that the person is unable to care for him/herself or is exhibiting behaviors which present a substantial risk of harm to the person or others.

Defendant who is on probation appears for a post-conviction probation appointment at the court house and exhibits characteristics that may indicate he/she is a mentally ill person.

The defendant must be a Cuyahoga County resident or a non-resident currently residing in Cuyahoga County.

II. QUESTIONS PRESENTED:

What are the police or court personnel to do with this person who can’t just be released back into the public or left where he/she was found?

Is this defendant/person a “mentally ill person subject to hospitalization?”

In order to be eligible for involuntary hospitalization, the defendant must BOTH:

- 1) have a mental illness, and
- 2) be a current danger to self or others, be gravely disabled and at risk or be in need of hospitalization due to a said risk.

Municipal courts in Cuyahoga County should immediately arrange for Recovery Resources to do an evaluation of defendant.

III. RELEVANT STATUTES:

O.R.C. 5122.10: A health officer may take a person into custody or
A police officer may take a person into custody or
A probation officer with the approval of the judge may take a defendant on probation/ under community control into custody IF that officer has reason to believe:

1. The person is “mentally ill” and subject to hospitalization by a court (see Definitions, *supra*)

AND

2. The person represents a substantial risk of physical harm to self or others if allowed to remain at liberty pending the hospital’s examination.

A mentally ill person would be subject to hospitalization because the officer believes the person represents:

1. A substantial risk of physical harm to him/herself as *manifested by evidence* of threats of, or attempts at, suicide or serious self-inflicted bodily harm or
2. A substantial risk of physical harm to others as *manifested by evidence* of recent homicidal or other violent behavior or evidence of recent threats that place another in reasonable fear of violent behavior or physical harm or
3. A substantial and immediate risk of serious physical impairment or injury to himself as *manifested by evidence* that he is unable to provide for and is not providing for his basic physical needs because of mental illness and that appropriate provision for such needs cannot be made immediately available in the community or
4. A person who would benefit from treatment in a hospital for his mental illness and is in need of such treatment as *manifested by evidence* of behavior that creates a grave and imminent risk to substantial rights of others or himself (**R.C. 5122.01(B)**).

IV. PROCEDURE WHEN A PERSON, NOT UNDER ARREST, NEEDS EMERGENCY HOSPITALIZATION

A police officer, or a probation officer with judge's approval may take a person the officer believes is mentally ill and subject to hospitalization into custody. The criteria on which the officer must base his/her belief is set forth immediately above (**R.C. 5122.01(B)**).

In preparation for taking the person into custody, the officer must complete an Application for Emergency Admission, commonly known as a "pink slip." On the bottom of the pink slip is an area called, "Statement of Belief." Here, a written statement shall be made by the police or probation officer stating the circumstances under which the person was taken into custody and why. For a probation officer, this may include observations that the probationer appears incapable of complying with the court's or doctor's orders. The statement should be objective, informational, and address the reasons the person appears mentally ill, in need of hospitalization and a danger to self or others if not admitted to the hospital. This information provides probable cause to have the person admitted. (The hospitalized person will be entitled to read this statement.) The officer shall then sign the pink slip on the back with name, date and title. It is suggested that a probation officer's form also contain the signature, title and date of the judge who has approved the person being taken into custody. The "pink slip" containing the written statement is left with the hospital.

When taking the person into custody, the officer shall tell the person their:

1. Name and
2. Professional designation/title and
3. Agency with which they are affiliated and
4. That the person is not under arrest and
5. That the person is being taken for examination by a mental health professional at a facility and
6. The name of the facility to which the person is being taken.

The officer may immediately transport that person to a “hospital” (see, Definitions, *supra*). It is suggested that a probation officer ask the judge to write an order on the case which directs the local police to transport the defendant to the hospital. In Cuyahoga County, a request may also be made for CIT assistance with the transport. The probationer should be turned over to the police or CIT along with the original “pink slip” and any incident/medical reports the court believes might be helpful to the hospital. The probation officer should retain copies in the court’s records.

Since there are no criminal charges or probation violation charges associated with the officer’s actions, the person will not be returned to the officer’s control.

V. EVIDENCE NEEDED BY OFFICER TO SHOW PROBABLE CAUSE THAT PERSON IS MENTALLY ILL AND SUBJECT TO HOSPITALIZATION

The officer may state facts and observations he/she saw. However, the officer may also rely and list as probable cause factors the determination of a psychiatrist, licensed clinical psychologist, licensed physician, health officer or parole officer as to the existence of mental illness and risk of harm (**OAG 88-070**).

The officer may also rely upon the statements of another person who has observed the actions of the person to be admitted i.e. hearsay (**OAG-79-021**).

VI. WHAT HAPPENS TO THE PERSON AFTER THE OFFICER LEAVES?

If the person has not been charged with a crime, the transporting officer may leave and return to regular duties once the hospital is seeing the person.

If, after no more than 3 days, the hospital determines that the person needs no further treatment, the chief clinical officer shall discharge the person. If treatment is needed, the hospital will transfer the person to an appropriate care situation.

VII. THE COURT’S AND OFFICER’S LIABILITY:

According to O.R.C. 5122.34, persons and agencies acting in good faith, either upon actual knowledge or information thought by them to be reliable, who procedurally or physically assist in the hospitalization or discharge, determination of appropriate placement, or in judicial proceedings of a person, do not come within any criminal provisions, and are free from any liability to the person hospitalized or to any other person.

APPLICATION FOR EMERGENCY ADMISSION

In Accordance with Sections 5122.01 and 5122.10 ORC

TO: Hospital or Community Mental Health Agency _____

(Behavioral Healthcare Organization - BHO/Facility Name)

(Date)

The undersigned has reason to believe that:

_____ (Name of Person to be Admitted)

1. Is a mentally ill person subject to hospitalization by court order under division B of Section 51 22.01 of the Revised Code, i.e., this person (*check all that apply*)

- (1) Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;
- (2) Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;
- (3) Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community;
- (4) Would benefit from treatment in a hospital for his mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or himself.

2. Represents a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination.

Therefore, it is requested that said person be admitted to the above named facility.

STATEMENT OF BELIEF

Must be filled out by one of the following: a psychiatrist, licensed clinical psychologist, licensed physician, health or police officer, sheriff, deputy sheriff, or probation officer with his/her judge's approval.

(Statement shall include the circumstances under which the individual was taken into custody and the reason, facts, observations for the person's belief that hospitalization is necessary. The statement shall also include a reference to efforts made to secure the individual's property at his residence if he was taken into custody there. Every reasonable and appropriate effort should be made to take this person into custody in the least conspicuous manner possible.)

APPLICATION FOR EMERGENCY ADMISSION

In Accordance with Section 5122.10 ORC

Name of Person to be Admitted _____

STATEMENT OF BELIEF (continued)

Signature	
Title/Position/Badge or License No.	Place of Employment

**STATEMENT OF OBSERVATION BY PSYCHIATRIST, LICENSED PHYSICIAN,
OR LICENSED CLINICAL PSYCHOLOGIST, IF APPLICABLE**

Place of Observation (e.g., community mental health center, general hospital, office, emergency facility)

Signature	Title
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Approved <input type="checkbox"/> Yes <input type="checkbox"/> No	Signature of Chief Clinical Officer	Date
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INVOLUNTARY CIVIL COMMITMENT JUDICIAL COMMITMENT

I. WHAT'S GOING ON WITH THE DEFENDANT/PERSON?

A defendant/person currently residing in your county is behaving in a bizarre manner causing family, friends, court personnel, a prosecutor, judge or anyone else to believe the resident is a “mentally ill person subject to hospitalization by court order.” (See Definitions, above.) Anyone with knowledge of the person’s behavior may institute these proceedings.

The person is in need of help. From what you understand of the term, it would appear the person should be “probated.”

II. QUESTIONS PRESENTED:

How can the person get the mental health treatment or help he/she appears to need?

Can you help this person without long term obligation or liability to be appropriately connected and treated with the mental health services the person needs?

III. RELEVANT STATUTES AND PROCEDURES:

[Reminder: The person who needs mental health care is called the “respondent” and the person trying to get them help is called the “affiant.”]

The affiant goes to the probate court in the county where the respondent resides. In Cuyahoga County, the affiant goes to the Cuyahoga County Probate Court, 1 Lakeside Avenue, Cleveland, Ohio, Room 107 (216-443-8933). The affiant will need to have had recent contact with the respondent.

O.R.C. 5122.11: An affidavit is prepared which the affiant will sign. See sample on page 110. Probate Court will assist affiant in completing this form. It must contain a statement of alleged facts sufficient to indicate probable cause to believe that the respondent is a mentally ill person subject to hospitalization by court order.

O.R.C. 5122.01(B): See Definition of “mentally ill person subject to hospitalization,” above.

IV. WHAT NEEDS TO BE ALLEGED AND, EVENTUALLY, PROVED?

Allegations for the affidavit may be made by any person. That person should state facts based upon actual or reliable information. The affidavit should include:

- Facts about the person’s behavior (refer to definition of “mentally ill person subject to hospitalization, above, and cover those topics.
- An accurate address for where the respondent is located – this is where the police will go to execute the warrant of detention to take the respondent into custody for the Probate Court.

The affidavit must be accompanied by a separate sworn statement that the person has refused to be examined by a psychiatrist or licensed clinical psychologist or licensed physician; that the respondent has refused treatment voluntarily. If the person is currently receiving treatment, the court will ask for a recommendation about hospitalization from the treating doctor.

This affidavit, the separate sworn statement and the information contained therein is confidential and NOT public record although the respondent is entitled to see it.

V. CUYAHOGA COUNTY PROCEDURE:

Affiant will be interviewed by a probate court social worker. Based on the information given, that social worker can require further investigation by a group like the Mobile Crisis Team.

If the case is approved by the social worker, the social worker prepares the paperwork. The affiant swears to the information in the affidavit which is then given to a probate court magistrate.

If the magistrate approves the paperwork, the magistrate (or judge) issues a “**warrant of detention**” the “**WOD**” ordering that the respondent be picked up by the police.

The affiant delivers the order to the police department where the respondent is residing or to be found. The police will be ordered to pick up the respondent and take him/her to St. Vincent Charity Hospital or to the hospital where a bed has been reserved by the respondent’s doctor.

VI. FACTS ABOUT THE WARRANT OF DETENTION:

- The WOD is an order for an evaluation in a hospital setting.
- It does not expire and is good until the respondent is picked up by police.
- It is issued to either St. Vincent Charity Hospital Psychiatric Emergency Room or such bed as the respondent’s family or doctor has arranged.
- The order holds the respondent in the hospital until the doctor determines respondent needs to be hospitalized.
- It does not automatically permit forced medication.
- It expires when the respondent voluntarily signs to admit him/herself or is discharged from the hospital.
- The WOD is good only one time, for only one evaluation. Should the respondent become ill in the future, a new warrant would be needed.

The probate court will not issue a warrant of detention:

- To determine if a person is incompetent. Probating a person is about determining if he/she is mentally ill and in need of hospitalization/
- For substance abuse treatment only.
- If the affiant cannot provide an address for the respondent.
- As a means of eviction.
- As a means to prevent the respondent from returning home upon release from hospitalization.
- To stop a hospital from discharging the respondent.

- To make the hospital stay longer. The warrant is for an evaluation.
- As a preventative measure before some behavior occurs.
- For the affiant to sit on or save for the future, if ever needed.
- As a solution to domestic disputes or child custody battles.
- If the respondent is in jail.

If respondent is in jail, probate court considers that the confining police department to have “first jurisdiction” to do something about the defendant. The WOD will not authorize defendant’s release from another court’s warrant. In such circumstances, the reasons for defendant’s incarceration and possible reduction in bond or cancellation of local warrant would be a matter for the local court and the judge who has control over such matters.....not probate court.

VII. THE COURT’S AND OFFICER’S LIABILITY:

According to O.R.C. 5122.34, persons and agencies acting in good faith, either upon actual knowledge or information thought by them to be reliable, who procedurally or physically assist in the hospitalization or discharge, determination of appropriate placement, or in judicial proceedings of a person, do not come within any criminal provisions, and are free from any liability to the person hospitalized or to any other person.

AFFIDAVIT (Mental Illness)**In Accordance with
5122.01 & 5122.11 of O.R.C.****The State of Ohio, Cuyahoga County, s.s.****PROBATE COURT**

(Your name/name of person filing)

____ the undersigned, residing at _____

, says that he or she has information to believe,

Or has actual knowledge that _____

(Person needing help (Respondent))

____ Represents a substantial risk of physical harm to himself as manifested by evidence of threats of or attempts at suicide or serious self-inflicted bodily harm; OR

____ Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior or evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm; OR

____ Represents a substantial and immediate risk of physical impairment or injury to himself as manifested by evidence that he is unable to provide for and is not providing for his basic physical needs because of his mental illness and that appropriate provision for such needs cannot be made immediately available in the community; OR

____ Would benefit from treatment in a hospital for mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or himself.

(Specify category or categories above with X)

(Your name) _____ further says that the facts supporting this belief are as follows: _____

(Describe what you've seen or heard respondent do)

These facts being sufficient to indicate probable cause that the above-named person is a mentally ill person subject to hospitalization by Court order.

The name and address of patient's last physical or licensed clinical psychologist is _____
(Doctor, LCP name)
whose hospital residence address is: _____

The name and address of respondent's legal guardian or spouse is: _____

(Continued on reverse)

who resides at _____; and that the names and addresses of the competent adult next of kin of _____

(Respondent's name)

_____ who are residents of the County are as follows:

NAME	AGE	KINSHIP	ADDRESS

That the following constitutes additional information which may be necessary for the purpose of determining respondent's County of residence:

Dated this _____ day of _____, 20 _____.

Sworn to before me and signed in my presence
on the day and year above dated.

PROBATE JUDGE

DEPUTY CLERK

WAIVER

I, the undersigned affiant, hereby waive the issuing and service of Notice of the Hearing on the Affidavit and voluntarily enter my appearance herein.

Dated _____, 20 _____

