## Leading Change: Illinois Innovations

## Civil Court Pathways to Outpatient Mental Health Care



STATE OF ILLINOIS CIRCUIT COURT OF COOK COUNTY



## Welcome and Introductions

Hon. Maureen Ward Kirby Presiding Judge Cook County Circuit Court, County Division

Michelle Luburic Assistant State's Attorney Cook County State's Attorney's Office Seniors and Persons with Disabilities Unit

### Mental Illness is Overrepresented in the Courts

# serious mental illness is four to six times higher

in jail than in the general population\*

\*14.5% of men and 31% of women in jails



## **Serious Mental Illness**

### Mood D/O

- Major Depressive D/O
- Bipolar D/O

### **Psychotic disorders**

- Schizophrenia
- Schizoaffective



## How Many People in Illinois have SMI?

339,528 individuals with severe mental illness.

**140,857** individuals with SMI who receive treatment each year.

**3.4 %** of the adult population is estimated living with a SMI in the United States.

## **State Psychiatric Hospital Beds in Illinois**

- 2023 total beds: 1,359
- Civil beds: 407
- Forensic beds: 952
- 2023 beds per 100,000 people: 10.8



Minimum of 50 beds per 100,000 people is considered necessary to provide minimally adequate treatment for individuals with severe mental illness.

https://www.treatmentadvocacycenter.org/map\_directory/Illinois/

## Case Study

- Linda P is a 30-year-old female who has struggled w/ mental illness for over 10 years.
- When noncompliant with prescribed medication, Ms. P displays verbal aggression and extreme paranoia.
- Mrs. P has been hospitalized on numerous occasions for threatening behaviors toward her family.
- Mrs. P lives in the community with her parents although often goes missing for days and has been found utilizing a local homeless shelter at times.

- Ms. P is currently not taking psychiatric medications and both Ms. P's family and the case manager fear that harm is imminent should Ms. P not receive treatment for her condition.
- Due to paranoia and delusional thoughts, Ms. P refuses to apply for public benefits, including social security or Medicaid, and her parents are at wits end.

### A word on Medication Non-Compliance...

- 49% of psychiatric patients are non-adherent to their psychotropic medications
  - Schizophrenia (56%), Major Depressive D/O(50%), Bipolar D/O (44%)
- Why? Judgement, lack of insight, sociodemographic factors, side effects, SUDs, comorbidities, cost, social support, access to ongoing care
- Impact = exacerbation of illness, reduce treatment effectiveness, rehospitalization, reduced quality of life, comorbid medical conditions, suicidal ideation, psychosocial outcomes

## **Court Pathways to Care for Linda**

• Involuntary Admission on an Outpatient Basis

Agreed Care and Custody Orders

## Linda P does not agree...

Involuntary admission on an outpatient basis. (405 ILCS 5/3-750) Sec. 3-750.

A person 18 years of age or older who is subject to involuntary admission on an outpatient basis may receive alternative treatment in the community or may be placed in the care and custody of a relative or other person upon court order pursuant to this Article.

(Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

### **Procedures for Outpatient Admission**

- Procedures to initiate outpatient commitment generally track those for initiating inpatient commitment.
- Who can petition? (Linda P's Family, Psychiatrist, Care Manager, etc.)
- Requires a petition and 2 certificates (405 ILCS 5/3-750 & 752)
- Service and Notification (community or hospital)
- Treatment in the community or placed in care and custody of another person (405 ILCS 5/3-750)
- What is in a Treatment Plan/Report before Disposition? What alternatives were considered?
- Standard more relaxed than inpatient (405 ILCS 5/1-119.1)

### Legal Standards: 405 ILCS 5/1-119.1

(1) A person who would meet the criteria for admission on an inpatient basis as specified in Section 1-119 in the absence of treatment on an outpatient basis and for whom treatment on an outpatient basis can only be reasonably ensured by a court order mandating such treatment.

### Legal Standards: 405 ILCS 5/1-119.1

(2) A person with a mental illness which, if left untreated, is reasonably expected to result in an increase in the symptoms caused by the illness to the point that the person would meet the criteria for commitment under Section 1-119, and whose mental illness has, on more than one occasion in the past, caused that person to refuse needed and appropriate mental health services in the community.

### What if Linda P. Agrees?

- 405 ILCS 5/3-801.5 allows persons facing inpatient commitment to agree to an order for outpatient commitment for a period not to exceed 180 days (may be extended for additional 180 periods if agreed to by the parties. 405 ILCS 5/3-801.5 (g).)
- The order may include the administration of psychotropic medications only if there is demonstrated history of non-compliance with medication. 405 ILCS 5/3-801.5 (a)(5).
- The order may grant a custodian the right to admit the person to a hospital if the person fails to comply with the conditions of the order. 405 ILCS 5/3-801.5(b)





### Testimony Record **Medication** Status Hearings Non-Compliance Response



## **Innovations**

### **CASE MANAGEMNET & CARE COORDINATION** (Justice and Mental Health Collaboration Program)

### LOCAL OUTREACH, EDUCATION, AND PARTNERSHIPS

### **MISDEMEANANT DIVERSION**

### Resources

### **DHS Forms**

https://www.dhs.state.il.us/page.aspx?item=61585&division=DDD

### YouTube Link – Cook County Mock Hearing: https://youtu.be/EjQteaVHVsM

### **Mental Health Decisions Outline**

https://gac.illinois.gov/las/mhdo-indx.html



Human Rights Authority Legal Advocacy Service Office of State Guardian

#### CIVIL ALTERNATIVES AVAILABLE UNDER THE MENTAL HEALTH CODE

The Illinois Mental Health and Developmental Disabilities Code, at least since the 1976 revision of the Code, intended to decriminalize individuals with mental illnesses. *See, e.g., Report, Governor's Commission for Revision of the Mental Health Code of Illinois*, 1976, 52-53 (recommending enacting what is now Sec. 3-606 of the Code, that provides for peace officers to bring persons with mental illnesses to hospitals for appropriate care and treatment rather than arresting them and bringing them to jails).<sup>1</sup> A year after the Governor's Commission's *Report*, the Illinois Supreme Court plainly stated that "[m]ental illness is not a crime, and a person in need of mental treatment is not by reason thereof a criminal." *In re Stephenson*, 67 Ill. 2d 544, 556 (1977).

Importantly, persons receiving treatment for mental illnesses in mental health facilities are not intended to be treated as criminals. Mental health facilities are expected to train staff to work with and provide a therapeutic environment for recipients of services. They are also expected to have sufficient staff to meet the needs of the recipients within their facilities. Recipients who experience symptoms and respond to those symptoms, or who may react to an intervention, are not thereby criminals to be charged with a crime in the manner of someone else in a hospital who allegedly harms a healthcare provider. Instead, the Mental Health Code provides for emergency treatment interventions to address serious and imminent physical harm when no less restrictive alternative is available. 405 ILCS 5/2-107. These interventions include seclusion, restraint, and/or medication, but not police intervention. The Mental Health Code's emergency interventions apply to mental health facilities including hospitals and community facilities like nursing and group homes (or CILAs).

Persons who have been charged with crimes allegedly committed outside a mental health facility can still access civil alternatives that may render criminal proceedings no longer necessary:

- Petition for outpatient admission, 405 ILCS 5/3-750
- Petition for involuntary treatment (psychotropic medication), 405 ILCS 5/2-107.1

Copies of the form petitions are attached. If one of these petitions is filed (by any person over age 18), then the assistant State's attorney from the civil division would represent the people and bring the petition. 405 ILCS 5/3-101. The Legal Advocacy Service of the Illinois Guardianship and Advocacy Commission would represent the respondent. 405 ILCS 5/3-805.

Note too that if inpatient admission is thought to be needed, that can be pursued, but not if a person has a felony charge. 405 ILCS 5/3-100; *In re Megan G.*, 2015 IL App (2d) 140148, ¶¶14,24, *petition for leave to appeal denied*, March 30, 2016 (addressing trial court's procedural limitation on hearing civil inpatient commitment petition while respondent has pending felony charge). This feature of the Mental Health Code encourages reduction or dismissal of a felony charge so a person with a mental illness can get proper care in a mental health facility and not have to face criminal proceedings too.

Laurel Spahn, staff attorney (mobile 708-295-1295; office 708-338-7746) Laurel.Spahn@illinois.gov

<sup>&</sup>lt;sup>1</sup> The *Report, Governer's Commission for Revision of the Mental Health Code of Illinois* is recognized as "regularly relied upon by Illinois courts as a primary source for legislative history of mental health legislation." *People v. Bledsoe*, 268 Ill. App. 3d 869, 872 (1st Dist. 1994) (citations omitted).

	STATE OF ILLINOIS
CIRCUIT COU	IRT FOR THE JUDICIAL CIRCUIT
	COUNTY
IN THE MATTER OF	
	) Docket No ) )
(Name of Respondent)	)
Who is asserted to be a person subject to involuntary reason of: (select one)	outpatient admission and for whom this petition is being initiated by
$\square$ Admission on an outpatient basis by court ord	er; (405 ILCS 5/3-750).
$\Box$ Respondent submitted written notice of desire	to be discharged; (405 ILCS 5/3-403).
$\Box$ Respondent failed to reaffirm a desire to conti	nue treatment; (405 ILCS 5/3-404).
$\square$ Respondent continues to be subject to involun	atary admission; (405 ILCS 5/3-813).
l assert that	
	ission on an inpatient basis as specified in Section 1-119* in the and for whom treatment on an outpatient basis can only be reasonably tment; or
symptoms caused by the illness to the point the	treated, is reasonably expected to result in an increase in the nat the person would meet the criteria for commitment under Section re than one occasion in the past, caused that person to refuse needed community.
	e of his or her illness is reasonably expected, unless treated on an cing such person or another in physical harm or in reasonable
expectation of being physically harmed; c (2): A person with mental illness who because	or e of his or her illness is unable to provide for his or her basic herself from serious harm without the assistance of family
<ul> <li>(i) refuses treatment or is not adhering</li> <li>(ii) because of the nature of his or her il</li> <li>(iii) if not treated on an inpatient basis, is</li> </ul>	adequately to prescribed treatment; Iness, is unable to understand his or her need for treatment; and s reasonably expected, based on his or her behavioral history, ation and is reasonably expected, after such deterioration, to (1) or paragraph (2) of this section.

I base the foregoing assertion on the following (provide a detailed statement including a description of the signs and symptoms of a mental illness and of any acts, threats, or other behavior or pattern of behavior supporting the assertion and the time and place of their occurrence). ADDITIONAL PAGE(s) ATTACHED AS NECESSARY::

Below is a list of all witnesses by whom the facts asserted may be proven (include addresses and phone numbers):

Listed below are the names and addresses of the spouse, parent, guardian, or substitute decision maker, if any, and close relative or, if none, a friend of the respondent whom I have reason to believe may know or have any of the other names and addresses. If names and addresses are not listed below, I made a diligent inquiry to identify and locate these individuals and the following describes the specific steps taken by me in making this inquiry (additional page(s) may be attached as necessary):

$\bigcirc$ I do	$\bigcirc$ I do not	have a legal interest in this matter.
$\bigcirc$ I do	$\bigcirc$ I do not	have a financial interest in this matter.
$O_{Iam}$	$\odot$ I am not	involved in litigation with the respondent

Although I have indicated that I have a legal or financial interest in this matter or that I am involved in litigation with the respondent, I believe it would not be practicable or possible for someone else to be the petitioner for the following reasons:

 $\square$  No certificate is attached.

One certificate is attached.

Two certificates are attached.

\* Each certificate must be completed within 72 hours of examination of respondent.

\*\* At least one certificate must be completed by a psychiatrist.

The petitioner can request to be notified if the facility director approves the respondent's request for voluntary or informal admission prior to adjudication. The petitioner may also request to be notified of the respondent's discharge under section 3-902 (d) of the Mental Health and Developmental Disabilities Code. Failure to indicate a choice will be treated as a decision NOT to be notified.

☐ If respondent requests and is approved for voluntary or informal admission prior to adjudication, I wish to be notified using the contact information supplied below. (Hospital staff use form IL462-2203 for notification purposes).

If respondent is discharged, I wish to be notified using the contact information supplied below. (Hospital staff use form IL462-2208M for notification purposes).

I do not wish to be notified in either of the two situations described above.

Γ

The petitioner has made a good faith attempt to determine whether the recipient has executed a power of attorney for health care under the Power of Attorney for Health Care Law or a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act and to obtain copies of these instruments if they exist.

I have read and understood this petition and affirm that the statements made by me are true to the best of my knowledge. I further understand that knowingly making a false statement on this Petition is a Class A Misdemeanor.

Date:	Signed:
Relationship to Respondent:	Printed Name: Address:
have explained the Rights of Admittee to	Telephone Number: acility under this status, I gave the respondent a copy of this Petition (MHDD-5). I o the respondent and have provided him or her with a copy of it. I have also ts of Individuals Receiving Mental Health and Developmental Services (MHDD-1) o (405 ILCS 5/3-609).
Date/Time of Admission: To Mental Health Facility/Psychiatric I	

Title:

#### **RIGHTS OF ADMITTEE**

- 1. If you have been brought to this facility on the basis of this petition alone, you will not be immediately admitted, but will be detained for examination. You must be examined by a qualified professional within 24 hours or be released.
- 2. When you are first examined by a physician, clinical psychologist, qualified examiner, or psychiatrist, you do not have to talk to the examiner. Anything you say may be related by the examiner in court on the issue of whether you are subject to involuntary or judicial admission.
- 3. At the time that you have been certified, and a copy of the petition and certificate will be filed with the court and you may be admitted to the facility. A copy of the petition shall also be given to you.
- 4A. If you are alleged to be subject to involuntary admission (mentally ill) you must also be examined within 24 hours excluding Saturdays, Sundays, and holidays by a psychiatrist (different from the first examiner) or be released. If you are alleged to be subject to involuntary admission the court will set the matter for a hearing.
- 4B. If you are alleged to be subject to judicial admission (developmentally disabled) the court will set a hearing upon receipt of the diagnostic evaluation which is required to be completed within 7 days.
- 5A. If you are alleged to be subject to involuntary admission (mentally ill) and if the facility director approves, you may be admitted to the facility as a voluntary admittee upon your request any time prior to the court hearing. The court may require proof that voluntary admission is in your best interest and in the public interest.
- 5B. If you are alleged to be subject to judicial admission (developmentally disabled) and if the facility director approves, you may decide that you prefer to admit yourself to the facility rather than have the court decide whether you ought to be admitted. You may make the request for administrative admission at any time prior to the hearing. The court may require proof that administrative admission is in your best interest and the public interest.
- 6. You have the right to request a jury.
- 7. You have the right to request an examination by an independent physician, psychiatrist, clinical psychologist, or qualified examiner of your choice. If you are unable to obtain an examination, the court may appoint an examiner for you upon your request.
- 8. You have the right to be represented by an attorney. If you do not have funds or are unable to obtain an attorney, the court will appoint an attorney for you.
- 9. You have the right to be present at your court hearing.
- 10. As a general rule, you do not lose any of your legal rights, benefits, or privileges simply because you have been admitted to a mental health facility (see your copy of the "Rights of Individuals"). However, you should know that persons admitted to mental health facilities will be disqualified from obtaining Firearm Owner's Identification Cards, or may lose such cards obtained prior to admission.
- Information about the health care services you receive at a mental health or developmental disabilities facility is protected by privacy regulations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (P.O. 104-191) at 45 CFR 160 and 164. Your personally identifiable health information will only be used and/or released in accordance with HIPAA and the Illinois Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110].

A Guardianship and Advocacy Commission is a state agency consisting of three divisions: Legal Advocacy Services, Human Rights Authority and the Office of the State Guardian. The Commission is located at the following addresses:

#### East Central Regional Office

2125 S. First Street Champaign, IL 61820 Phone: (217) 278-5577 Fax: (217) 278-5588

#### Egyptian Regional Office

47 Cottage Drive Anna, Illinois 62906-1669 Phone: (618) 833-4897 Fax: (618) 833-5219

#### North Suburban Regional Office

9511 Harrison Avenue Des Plaines, Illinois 60016 Phone: (847) 294-4264 Fax: (847) 294-4263

#### Peoria Regional Office

401 N. Main Street, Suite 620 Peoria, IL 61602 Phone: (309) 671-3030 Fax: (309) 671-3060

#### West Suburban Regional Office

Madden Mental Health Center 1200 S. First Street, P.O. Box 7009 Hines, IL 60141 Phone: (708) 338-7500 Fax: (708) 338-7505

#### Chicago Regional Office

160 N. La Salle Street Suite S500 Chicago, IL 60601 Phone: (312) 793-5900 Fax: (312) 793-4311

#### **Rockford Regional Office**

4302 N. Main Street, Suite 108 Rockford, IL 61103 Phone: (815) 987-7657 Fax: (815) 987-7227

#### Metro East Regional Office

Holly Bldg., 4500 College Suite 100 Alton, IL 62002 Phone: (618) 474-5503 Fax: (618) 474-5517

#### **Springfield Regional Office**

521 Stratton Building 401 S. Spring Street Springfield, IL 62706 Phone: (217) 785-1540 Fax: (217) 524-0088

Equip for Equality, Inc. is an independent, not-for-profit organization that administers the federal protection and advocacy system to people with disabilities in Illinois. Equip for Equality, Inc., provides self-advocacy assistance, legal services, education, public policy advocacy, and abuse investigations. The offices are located at:

#### Main/Chicago Office

20 N. Michigan, Ste 300 Chicago, Illinois 60602 (800) 537-2632 or (312) 341-0022 TTY: (800) 610-2779 Fax: (312) 341-0295 <u>Central Illinois</u> 1 West Old Capitol Plaza, Suite 816 Springfield, IL 627010 Box 276 (217) 544-0464 (800) 758-0464 TTY: (800) 610-2779 Fax: (217) 523-0720

#### Northwestern Illinois

1515 Fifth Avenue, Suite 420 Moline, IL 61265 (309) 786-6868 (800) 758-6869 TTY: (800) 610-2779 Fax: (309) 797-8710 Southern Illinois

300 E. Main Street, Suite 18 Carbondale, IL 62901 (618) 457-7930 (800) 758-0559 TTY: (800) 610-2779 Fax: (618) 457-7985

Website: www.equipforequality.org

I certify that I provided respondent with a copy of this form.

⊖ English	○ Spanish	⊖Other	Specify language:	on
				Time:
			Cignature	
			Signature:	
			Title:	
			Printed Name:	

Ref.:	405 ILCS 5/3-403, 5/3-602, 5/3-607, 5/3-610,
	5/3-702, 5/3-813, 5/4-306, 5/4-402, 5/4-403,
	5/4-405, 5/4-501, 5/4-611, 5/4-705

#### **OUT-PATIENT CERTIFICATE**

Re:
(name)
I personally informed the above-named individual of the purpose of this examination and that he or she did not have to speak to me, and that any statements made might be related in court as to the individual's clinical condition or need for services. Additionally, if this examination was for the purpose of determining that the above-named individual is mentally retarded and dangerous, I informed the individual of his or her right to speak with a relative, friend or attorney before the examination, and of his or her right to have an attorney appointed for him or her if he or she so desired.
Signature of Examiner
On , , , at a.m. p.m. I personally examined the
(date) (year) (time)
above-named individual. The examination was conducted at
Based on the foregoing examination it is my opinion that he or she is:
A person who would meet the criteria for admission on an inpatient basis as specified in Section 1-119* in the absence of treatmet on an outpatient basis and for whom treatment on an outpatient basis can only be reasonably ensured by a court order mandati such treatment; or;
A person with mental illness which, if left untreated, is reasonably expected to result in an increase in the symptoms caused by t illness to the point that the person would meet the criteria for commitment under Section 1-119*, and whose mental illness has, more than one occasion in the past, caused that person to refuse needed and appropriate mental health services in the community.
<ul> <li>*-119: (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; or (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: <ul> <li>(i) refuses treatment or is not adhering adequately to prescribed treatment;</li> <li>(ii) because of the nature of his or her illness, is unable to understand his or her need for treatment; and</li> <li>(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.</li> </ul></li></ul>
I base my opinion on the following (include clinical observations, factual information):
I believe that the individual is subject to (check one): involuntary outpatient admission and is in need of immediate hospitalization
I believe that the individual is subject to (check one): O involuntary outpatient admission and is in need of immediate hospitalization
Date: Signature:
Title: Printed Name:
(check one) Psychiatrist Physician Qualified Examiner Clinical Psychologist

STATE	OF	ILL	$\mathbf{IN}$	OIS
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	CIRCUIT COURT FOR THE _	JUDICIAL CIRCUIT COUNTY
IN THE MATTER (	) ) )	

This petition for administration of authorized involuntary treatment is initiated under 405 ILCS 5/2-107.1 in that recipient meets the criteria for *each and every one of* the following:

1. That the recipient has a serious mental illness or developmental disability (*briefly describe symptoms*):

- 2. That because of said mental illness or developmental disability, the recipient CURRENTLY <u>EXHIBITS any one</u> of the following:
  - [] CURRENTLY EXHIBITS Deterioration of his/her ability to function, as compared to the recipient's ability to function prior to the current onset of symptoms of the mental illness or disability for which treatment is presently sought (*briefly explain*);

[ ] CURRENTLY EXHIBITS Suffering behavior (*briefly explain*);

[] CURRENTLY EXHIBITS Threatening behavior (*briefly explain*);

<sup>3.</sup> That the illness or disability has existed for a period marked by either the continuing presence of the symptoms set forth in item (1) above, or the repeated episodic occurrence of these symptoms (*briefly explain*);

4. That the benefits of the treatment outweigh the harm (briefly explain);

5. That the recipient lacks the capacity to make a reasoned decision about the treatment (*briefly explain*);

6. That other less restrictive services were explored and found inappropriate (briefly explain);

7. That if the petition seeks authorization for testing and other procedures, that said testing and procedures are essential for the safe and effective administration of the treatment (*briefly explain*);

8. That the Petitioner has made a good faith attempt to determine whether the recipient has executed a power of attorney for health care under the Powers of Attorney for Health Care Law or a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act (*briefly explain*). (If either of the above are available, *attach copy* to the Petition.)

9. That the recipient was advised in writing of the side effects, risks and benefits of each of the medications or treatments requested as well as alternatives thereof (*attach copy of written information provided; indicate who gave and date given*)

#### WHEREFORE,

ho	atand the persons(s) (psychiatrist's name) (facility name) rized to administer:				
]	Psychotropic medication tofor up to ninety (90) days. (recipient's name)				
	(recipient's name) The primary medication and dosage range is				
	Alternatively, the following medications and dosage ranges may be administered				
1					
]	<i>Electro-convulsive</i> therapy tofor up to ninety (90) days. (recipient's name)				
	Indicate the number and type(s) of treatments to be administered:				
	[] Bi-lateral [] Unilateral [] Maximum per week Additionally, the following electro-convulsive therapy treatments may be administered if necessary:				
]	If applicable, the specific testing and procedures necessary to be administered are: _				

best of my knowledge. My signature below reflects that I am executing this petition under penalty of perjury

as though under oath or affirmation.

Date: \_\_\_\_\_

Signed \_\_\_\_\_

Name \_\_\_\_\_\_Address \_\_\_\_\_\_ Telephone \_\_\_\_\_\_ Relationship to Respondent \_\_\_\_\_\_