



DISABILITY RIGHTS OREGON

Civil Commitment, Involuntary Treatment the Continuum of Mental Health Services

Involuntary Treatment

In Oregon, an adult can be hospitalized involuntarily in six ways.

- Civil commitment. In a civil commitment, a person has a hearing before a judge. If the judge finds that the person has a mental disorder and is a danger to his or her self or others, or is unable to care for his or her own basic needs, the person can be hospitalized for up to 180 days.
 - Guilty except for insanity. If a person is charged with a crime and is found guilty except for insanity, the person may be placed under the jurisdiction of the Psychiatric Security Review Board (PSRB) for a term equal to the maximum prison sentence for the crime.
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Involuntary Treatment

- Fitness to proceed in a criminal case. If a person is charged with a crime and there is a question about whether he or she is able to understand the charges or to help with their own defense, the person may be hospitalized for an evaluation, and if treatment is deemed possible they may be held to await a change in their condition for a maximum of three years.
 - Sexually dangerous. If a judge finds that a person is sexually dangerous after the person is convicted of a sexual offense, an evaluation and a hearing.
 - Guardian admission. If a person has a guardian and the guardian admits the person to a hospital.
 - Emergency Hospital "Holds".
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Voluntary Hospitalization

- In a state facility, a patient can be held for up to 72 hours after giving notice in writing that he or she wants to be discharged.
 - If the person requests discharge and the hospital staff believes the person is dangerous due to a mental disorder, the hospital can try to have the person civilly committed.
 - If a voluntary patient at a private hospital decides to leave, the doctors at the private hospital may place a physicians hold on the person and require them to stay and be evaluated for involuntary commitment.
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Commitment of a “person with mental illness” ORS 426.005

(f) “Person with mental illness” means a person who, because of a mental disorder, is one or more of the following:

(A) Dangerous to self or others.

(B) Unable to provide for basic personal needs that are necessary to avoid serious physical harm in the near future, and is not receiving such care as is necessary to avoid such harm.

Commitment of a “person with mental illness” ORS 426.005

- (C) A person with a “chronic mental illness” who, within the previous three years, has twice been committed and who is exhibiting symptoms or behavior substantially similar to those that preceded and led to one or more of the commitment and who, unless treated, will continue, to a reasonable medical probability, meet commitment criteria.
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Old “Basic Needs” Standard

There is a likelihood that the person probably would not **survive** in the near future because the person is unable to obtain some commodity (e.g., food and water) or service (e.g., life-saving medical care) without which he cannot sustain life. and is not receiving care necessary for health or safety.

New “Basic Needs” Standard

Unable to provide for basic personal needs that are necessary to avoid **serious physical harm** in the near future, and is not receiving such care as is necessary to avoid such harm.

(HB 3347)

- The new standard changes “survive” to “avoid serious physical harm”
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Outcomes if found mentally ill

ORS 426.130

- Discharge
 - Release for voluntary treatment
 - Commitment to OHA for facility placement or conditional release (up to 6 months)
 - Assisted Outpatient Treatment (up to 12 months)
 - Prohibition of firearms
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Assisted outpatient treatment. ORS 426.133

A court may issue an order requiring a person to participate in “assisted outpatient treatment” if the court finds that the person:

- Is 18 years or older;
 - Has a mental disorder;
 - Will not obtain treatment in the community voluntarily; and
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Assisted outpatient treatment.

ORS 426.133

- Is unable to make an informed decision to seek or to comply with voluntary treatment; and
 - Is incapable of surviving safely in the community without treatment; and
 - Requires treatment to prevent a deterioration in the person's condition that will predictably result in the person becoming a person with mental illness.
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Extremely Dangerous Person with Mental Illness

- (A) Is at least 18 years of age;
 - (B) Is exhibiting symptoms or behaviors of a mental disorder substantially similar to those that preceded an act that would otherwise be a Measure 11 crime; and
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Extremely Dangerous Person with Mental Illness

(C) Because of a mental disorder:

(i) Presents a serious danger to the safety of other persons by reason of an extreme risk that the person will inflict grave or potentially lethal physical injury on other persons; and

(ii) Unless committed, will continue to represent an extreme risk to the safety of other persons in the foreseeable future

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