



Involuntary Commitment Law

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School of
Government



Focus for Today

The application of involuntary commitment law—including upcoming changes—to an adult with serious mental illness who repeatedly cycles through mental health crises.

*Note: The IVC portion of Iryna's law does not become effective until July 1, 2028.



The Story of Mateo

- Mateo is 25 years old w/ a history of psychosis and PTSD for which he has been prescribed medication. He has a history of stopping his medication and relying on marijuana, supplements, and stimulants from online prescription providers. He is unemployed, currently living alone in a hotel paid for by family.
- Ten days ago, Mateo stopped taking his medication for mental illness and began to experience visual and audio hallucinations. More recently, he ceased eating and bathing. He is increasingly suspicious of his family and thinks, based on a dream, that his stepfather is abusing his mother. He says he plans to cut his stepfather's throat when he sleeps.



The Story of Mateo

- During the past year, Mateo was taken into IVC custody two times.
 - 1st IVC case—stopped taking his medication; a few days later got in his Mom’s car and drove erratically through the neighborhood, into neighbors’ yards where children live, crashing through bushes, narrowly missing large trees, yelling “you better watch out!”
 - 2nd IVC case—began after he ceased taking his medication, started having visual and audio hallucinations, and the police found him wandering aimlessly in a busy roadway suffering dehydration and malnourishment requiring hospitalization.
- In each case, the magistrate and 1st examiner concluded that Mateo met the criteria for commitment. In each, he proceeded to a 24-hour facility, where the 2nd examiner concluded he met the inpatient commitment criteria. Each time, however, he was discharged before having a commitment hearing. No commitment order issued.



The Story of Mateo

- Mateo's mother files a petition for adjudication of incompetence and appointment of a guardian.
- Mateo's mother files a petition for commitment.

What does it mean that Mateo is subject to two different proceedings?



Involuntary Commitment
G.S. Chapter 122C

Does Mateo
meet
commitment
criteria?

Guardianship
G.S. Chapter 35A

Is Mateo
incompetent
and in need
of a
guardian?





Two Proceedings – Two Different Purposes



Guardianship

To provide a substitute decision maker for someone who lacks the capacity to manage their own affairs or make decisions relating to healthcare, behavioral healthcare, housing, or other services.



Involuntary Commitment

To provide treatment for someone who needs treatment to prevent or ameliorate dangerous behavior but is unable to voluntarily seek and comply with treatment on their own.



IVC - Guardianship

Not IVC vs. Guardianship – not either/or

IVC and Guardianship – may be that both are needed/necessary





Role of Guardian: Be a Conduit to Care

- Give consent to treatment
- Access medical and mental health information
- Identify any government benefit applications needed
- Identify provider names
- Steps to connect Mateo to treatment
- Steps to connect Mateo to services recommendations
- Steps to connect Mateo to stable housing and a safe living environment
- Identify Mateo's other needs
- Guardian's short term goals
- Guardian's long term goals



Role of IVC

- Creates a patient-clinician encounter that:
 - Can stabilize the person in crisis and prevent danger to self or others
 - May lead to an order of commitment
 - May lead to identifying and assembling treatment resources, including referral to outpatient treatment

- Whether IVC provides anything more than “crisis response and stabilization” depends upon:
 - The quality and extent of discharge planning by IVC clinicians
 - The kinds and availability of community-based services



Question

Suppose Mateo has already been found incompetent at an incompetency proceeding before his mother, the guardian, petitions for involuntary commitment.

What is the effect of the guardianship proceeding on the IVC proceeding?



The proceedings “shall have no effect” upon each other



- Involuntary commitment for mental health or substance abuse treatment
- Voluntary admissions for mental health or substance abuse treatment

G.S. § 122C-203





Question

Does the fact that Mateo has a guardian of the person mean that he can be treated involuntarily?

Can he be forced to take his medication for mental illness?





Limits on Decision-Making Authority

A guardian of the person can:

- give informed consent to medical and mental health treatment
- help coordinate services
- arrange housing, placement, or treatment

Guardianship does not by itself authorize involuntary confinement or forced treatment.



Limits on the Effect of Guardianship

Guardianship does not guarantee compliance or resources.

Possible constraints:

- Guardian not aware of or carrying out their role
- Mateo's refusal to remain in treatment or available housing
- Lack of available treatment, housing, or other services to meet Mateo's needs



Question

Mateo's guardian wants to admit Mateo to a psychiatric inpatient facility.

Can the guardian do this without using the involuntary commitment process?



Voluntary Admission to an Inpatient Psychiatric or Substance Abuse Facility

Adult presumed
capable and
competent

Admission
pursuant to patient
consent

Adult deemed
“incapable”

Admission
pursuant to
patient’s prior
consent in an
advance instruction
or the consent of a
health care agent

Adult adjudicated
“incompetent”

- Admission with consent of the guardian
- Requires judicial proceeding separate from guardianship



Question

If Mateo does not want to be voluntarily admitted, but the guardian seeks voluntary admission, is it still “voluntary?”



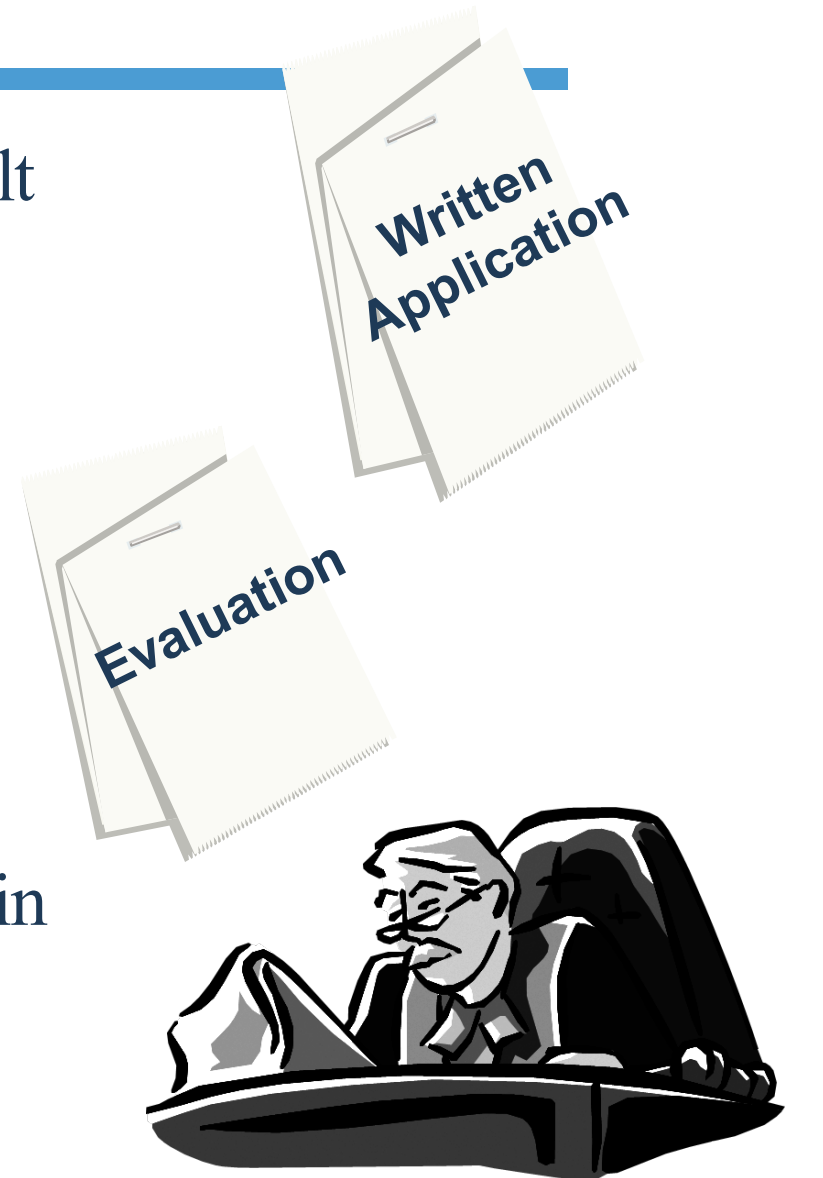
Incompetent Adult—Voluntary Admission to Inpatient MH/SA

Guardian acts on behalf of incompetent adult

1. Applying for admission to the facility
2. Consenting to treatment in the facility

Standard for admission: mentally ill or a substance abuser and in need of treatment.

District court judge must review and concur in admission





The Guardian is a “Legally Responsible Person”

The authority of a legally responsible person acting on behalf of an adult who has been adjudicated incompetent includes the right to:

- Consent to or refuse any treatment
- Access confidential information in the client record
- Authorize disclosure of confidential information regarding the adult to a third party

G.S. 122C-3(20), G.S. 122C-57(d), G.S. 122C-53(d), G.S. 122C-53(a).

Involuntary Commitment

Voluntary Admission



- Law enforcement custody and transportation
- Force & restraint authorized
- Judicial proceeding—counsel, hearing, district court order
- A finding of dangerousness is required
- Facility/court determines discharge
- Escape—law enforcement return

- **No** law enforcement custody and transportation
- **No** authority for force & restraint
- Judicial proceeding—counsel hearing, district court order
- **No** finding of dangerousness required
- Facility/court determines discharge
- Escape—law enforcement return



Mateo—IVC two times in recent months.

IVC #1

1st exam ✓ → 24-hour facility → discharged → **no hearing**

IVC #2

1st exam ✓ → 24-hour facility → discharged → **no hearing**

What does this mean?

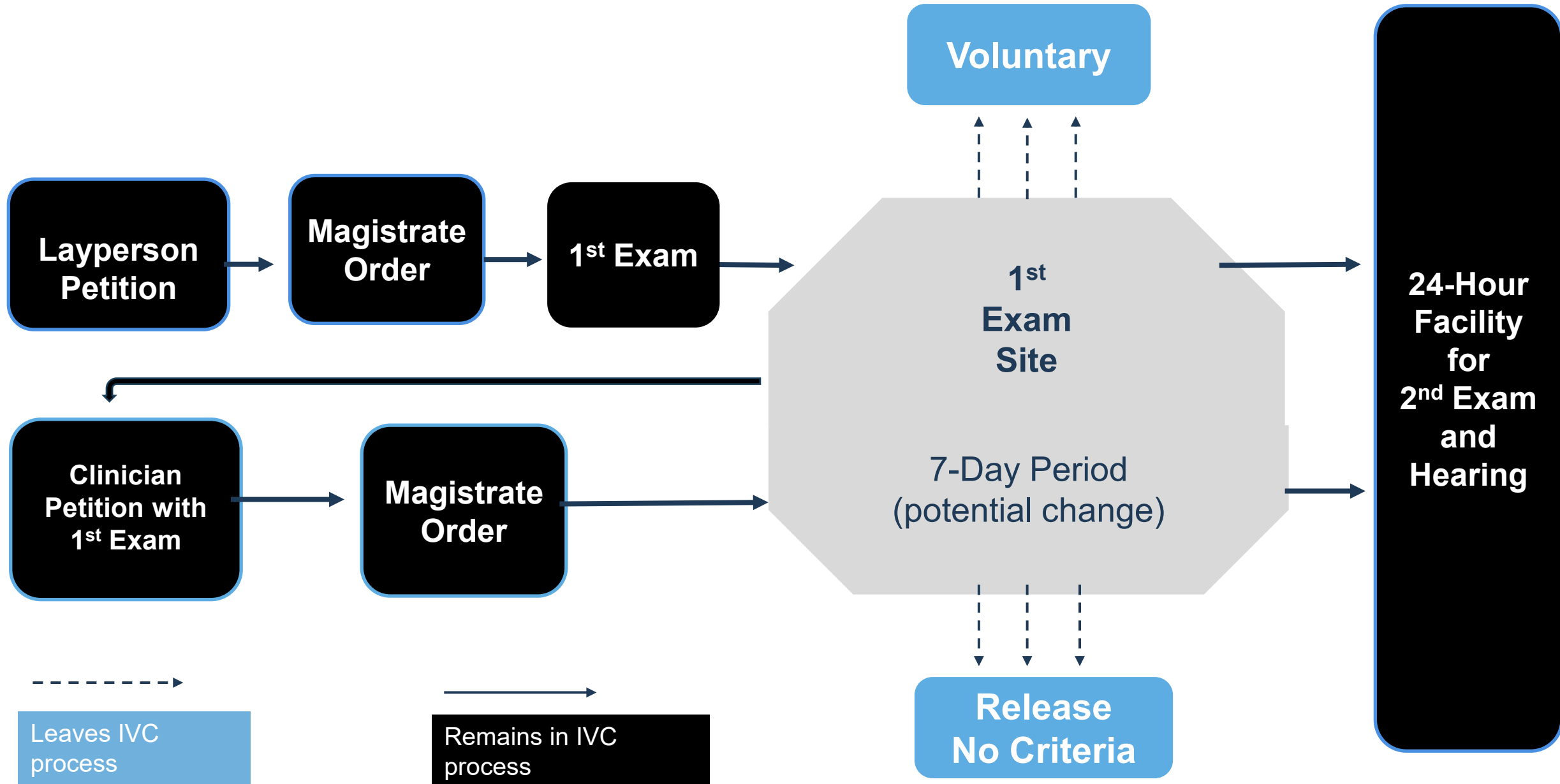


Involuntary Commitment

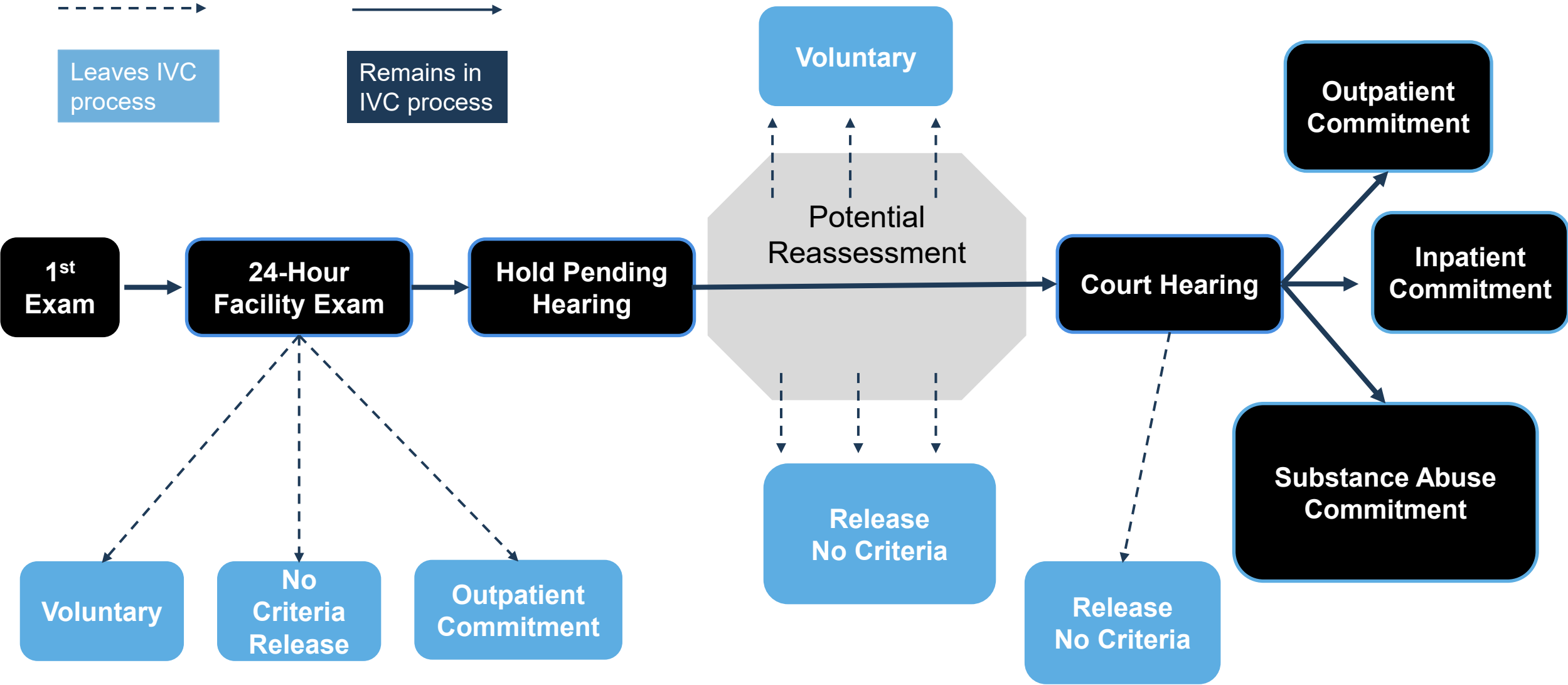
- Procedure—The process for obtaining court-ordered treatment.
- Criteria—The grounds for court-ordered treatment.



NC Involuntary Commitment Process—Custody and 1st Examination



North Carolina Involuntary Commitment Process—24-Hour Facility (Figure 3)

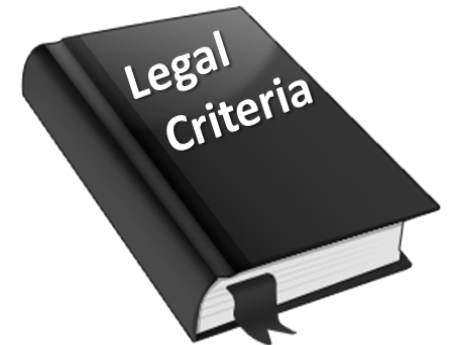




The Criteria for Commitment

1. **Inpatient commitment**—mentally ill + dangerous to self or others
2. **Substance abuse commitment**—substance abuser + dangerous to self or others

1. mental illness
2. substance abuse
3. dangerous to self
4. dangerous to others



Criteria for Involuntary Commitment in North Carolina

Mental Illness (Adults)

an illness that so lessens the capacity of the individual to use self-control, judgment, and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control.

Mental Illness (Minors)

a mental condition, other than mental retardation alone, that so impairs the youth's capacity to exercise age-adequate self-control or judgment in the conduct of his activities and social relationships that he is in need of treatment.

Substance abuse

the pathological use or abuse of alcohol or other drugs in a way or to a degree that produces an impairment in personal, social, or occupational functioning. Substance abuse may include a pattern of tolerance and withdrawal.

Dangerous to self

Within the relevant past, the individual has:

1. acted in such a way as to show that
 - a. he 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 his daily responsibilities and social relations, or to satisfy his need for nourishment, personal or medical care, shelter, or self-protection and safety; and
 - b. there is a reasonable probability of his suffering serious physical debilitation within the near future unless adequate treatment is given. Behavior that is grossly irrational, actions that the individual is unable to control, behavior that is grossly inappropriate to the situation, or other evidence of severely impaired insight and judgment creates an inference that the individual is unable to care for himself; or
2. attempted suicide or threatened suicide and there is a reasonable probability of suicide unless adequate treatment is given; or
3. mutilated himself or attempted to mutilate himself and there is a reasonable probability of serious self-mutilation unless adequate treatment is given.

Previous episodes of dangerousness to self, when applicable, may be considered when determining the reasonable probability of serious physical debilitation, suicide, or serious self-mutilation.

Dangerous to others

Within the relevant past the individual has:

1. inflicted, attempted to inflict, or threatened to inflict serious bodily harm on another and there is a reasonable probability that this conduct will be repeated, or
2. acted in a way that created a substantial risk of serious bodily harm to another and there is a reasonable probability that this conduct will be repeated, or
3. engaged in extreme destruction of property and there is a reasonable probability that this conduct will be repeated.

Previous episodes of dangerousness to others, when applicable, may be considered when determining the reasonable probability of future dangerous conduct. Clear, cogent, and convincing evidence that an individual has committed a homicide in the relevant past is evidence of dangerousness to others.



Dangerous to Self

Within the relevant past, the individual has:

1. Acted in a way to show unable to care for self + reasonable probability of serious physical debilitation in the near future unless adequate treatment is given
or
2. Attempted or threatened suicide + reasonable probability of suicide unless adequate treatment is given
or
3. Attempted or engaged in self-mutilation + reasonable probability of serious self-mutilation unless adequate treatment is given



Dangerous to Self—Lack of Self-Care Ability

A two-prong test that requires a finding of:

- a lack of self-care ability regarding one's daily affairs, and
- a probability of serious physical debilitation in the near future resulting from the more general finding of lack of self-caring ability.



Mateo

Stopped taking his medication, began to experience visual and audio hallucinations, and ceased eating and bathing.

1. Is he unable to exercise judgment and discretion in the conduct of his daily responsibilities related to nourishment and medicine?
2. Is there a reasonable probability that he will suffer serious physical debilitation in the near future?

Previous IVC: Stopped taking his meds, had visual and audio hallucinations, and found wandering aimlessly in a busy roadway suffering dehydration/malnutrition requiring hospitalization.



Question

Can you consider Mateo's previous IVC episodes when determining there whether there is a reasonable probability that he will suffer serious physical debilitation in the near future?



Criteria for Involuntary Commitment in North Carolina

Mental Illness (Adults)

an illness that so lessens the capacity of the individual to use self-control, judgment, and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control.

Mental Illness (Minors)

a mental condition, other than mental retardation alone, that so impairs the youth's capacity to exercise age-adequate self-control or judgment in the conduct of his activities and social relationships that he is in need of treatment.

Substance abuse

the pathological use or abuse of alcohol or other drugs in a way or to a degree that produces an impairment in personal, social, or occupational functioning. Substance abuse may include a pattern of tolerance and withdrawal.

Dangerous to self

Within the relevant past, the individual has:

1. acted in such a way as to show that
 - a. he 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 his daily responsibilities and social relations, or to satisfy his need for nourishment, personal or medical care, shelter, or self-protection and safety; and
 - b. there is a reasonable probability of his suffering serious physical debilitation within the near future unless adequate treatment is given. Behavior that is grossly irrational, actions that the individual is unable to control, behavior that is grossly inappropriate to the situation, or other evidence of severely impaired insight and judgment creates an inference that the individual is unable to care for himself; or
2. attempted suicide or threatened suicide and there is a reasonable probability of suicide unless adequate treatment is given; or
3. mutilated himself or attempted to mutilate himself and there is a reasonable probability of serious self-mutilation unless adequate treatment is given.

Previous episodes of dangerousness to self, when applicable, may be considered when determining the reasonable probability of serious physical debilitation, suicide, or serious self-mutilation.

Dangerous to others

Within the relevant past the individual has:

1. inflicted, attempted to inflict, or threatened to inflict serious bodily harm on another and there is a reasonable probability that this conduct will be repeated, or
2. acted in a way that created a substantial risk of serious bodily harm to another and there is a reasonable probability that this conduct will be repeated, or
3. engaged in extreme destruction of property and there is a reasonable probability that this conduct will be repeated.

Previous episodes of dangerousness to others, when applicable, may be considered when determining the reasonable probability of future dangerous conduct. Clear, cogent, and convincing evidence that an individual has committed a homicide in the relevant past is evidence of dangerousness to others.

Commitment Criteria

There is a reasonable probability of the individual suffering serious physical debilitation in the near future
...

Previous episodes of dangerousness to self, when applicable, may be considered when determining reasonable probability of physical debilitation, suicide, or self-mutilation



Dangerous to Others

Within the relevant past, the individual has:

1. Inflicted, attempted, or threatened serious bodily harm
2. Acted in a way to created a substantial risk of serious bodily harm
3. Engaged in extreme destruction of property



And there is a reasonable probability that this conduct will be repeated.

Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct.



Question

Do you have reasonable grounds to believe that Mateo is dangerous to others?





Modification to Outpatient Commitment Law

- Session Law 2026-38, H 1104
- Effective December 1, 2026
- Changes criteria for outpatient commitment

December 1, 2026: New Outpatient Commitment Law (This shows the change from current criteria)



1. mental illness
2. reasonably determined to be capable of surviving safely in the community with available supervision from family, friends or others, without posing a danger to others, when engaged in treatment for mental illness
3. based their psychiatric history, in need of treatment to prevent further disability or deterioration that would predictably result in dangerousness
4. current mental illness limits or negates ability to make an informed decision to seek or comply with treatment voluntarily

December 1, 2026: New Outpatient Commitment Law (Previous slide + these are the new standard)



5. History of declining or nonadherence to prescribed treatment by a licensed treatment provider
6. Scheduled to be discharged from an inpatient hospital or released from a county jail or state prison.
7. One or more of the following in the relevant past:
 - a demonstrated history of prior violent convictions,
 - repeated violations of a civil protective order,
 - repeated incarcerations,
 - repeated involuntary inpatient psychiatric hospitalizations

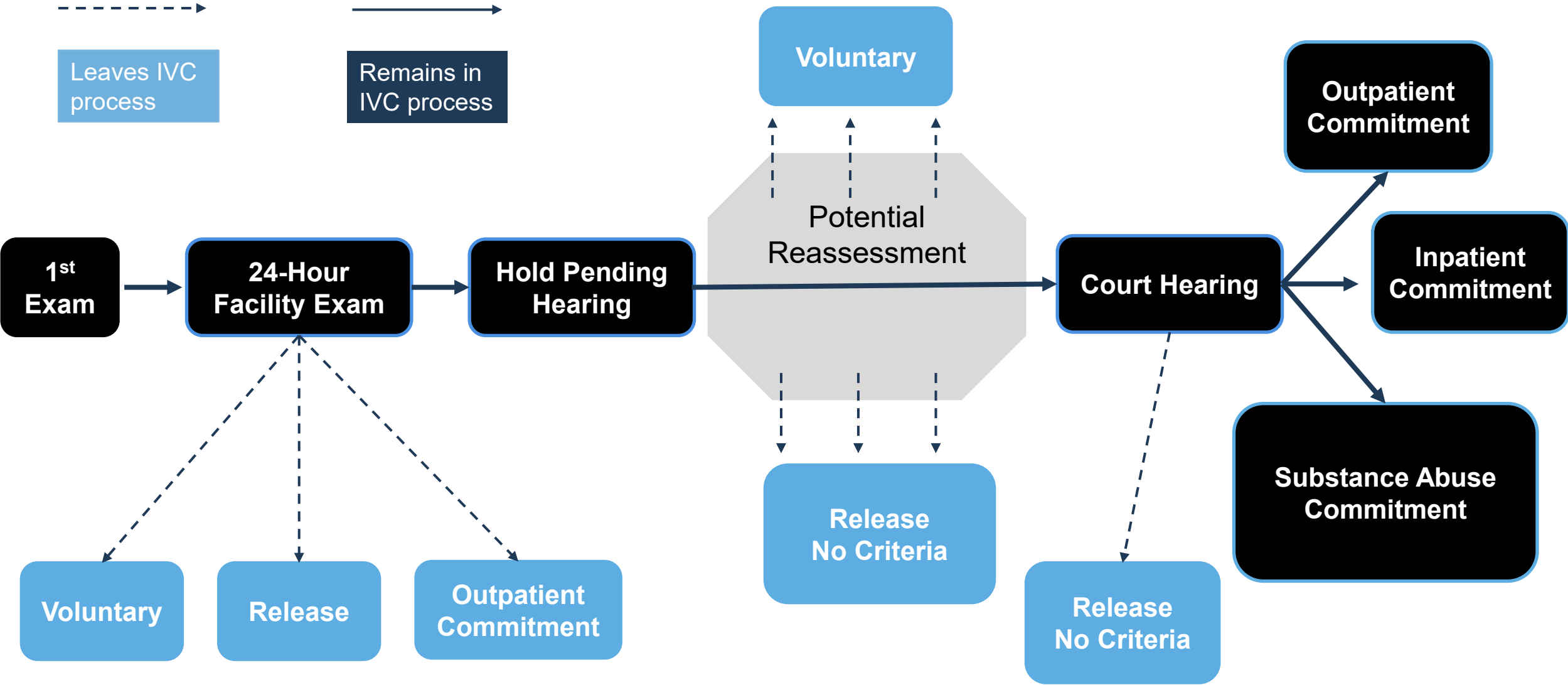


Narrowing of Target Population

Scheduled to be discharged from

- an inpatient hospital or
- released from a county jail or state prison

North Carolina Involuntary Commitment Process—24-Hour Facility (Figure 3)



Curious Result of the Legislation



Layperson petition: Current standard for OPC will continue to apply *after* December 1, 2026



Clinician petition: New standard for OPC will apply after December 1, 2026



Standard for Layperson Petition Before *and* After December 1, 2026



1. mental illness
2. based their psychiatric history, in need of treatment to prevent further disability or deterioration that would predictably result in dangerousness

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Court Division

IN THE MATTER OF

Name And Address Of Respondent

AFFIDAVIT AND PETITION FOR
INVOLUNTARY COMMITMENT

G.S. 122C-261, 122C-281

Social Security No. Of Respondent (if available)

Date Of Birth

Drivers License No. Of Respondent

State

I, the undersigned affiant, being first duly sworn, and having sufficient knowledge to believe that the respondent is a proper subject for involuntary commitment, allege that the respondent is a resident of, or can be found in the above named county, and is:

(check all that apply)

- ☐ 1. mentally ill and dangerous to self or others or mentally ill and in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness.
☐ in addition to being mentally ill, respondent is also "mentally retarded" pursuant to G.S. 122C-261.
- ☐ 2. a substance abuser and dangerous to self or others.

The facts upon which this opinion is based are as follows: (State facts, not conclusions, to support ALL blocks checked.)



Layperson Petition—Magistrate Role

If the magistrate finds reasonable grounds to believe that the commitment criteria are met for either

- outpatient commitment,
- inpatient commitment, or
- substance abuse commitment

the magistrate shall issue a custody and transportation order (AOC-SP-302A)



Clinician Petition—Forms

- “First Examination For Involuntary Commitment” (DMH 5-72-19)
 - <https://www.ncdhhs.gov/assistance/mental-health-substance-abuse/involuntary-commitments>
 - “Affidavit and Petition for Involuntary Commitment” (AOC-SP-300)
 - <https://www.nccourts.gov/documents/forms?>
- ❖ To petition the magistrate for a custody order under the clinician procedure, a clinician must complete and submit both forms

Clinician Petitioner Identifies the Recommended Commitment on the Exam Form



SECTION III - RECOMMENDATION FOR DISPOSITION

- ☐ Inpatient Commitment for _____ days (respondent must be mentally ill **and** dangerous to self or others)
- ☐ Outpatient Commitment (respondent must meet **ALL** of the first four criteria outlined in Section I, **Outpatient**)

Proposed Outpatient Treatment Center or Physician: (Name) _____
(Address and Phone Number) _____

- ☐ Substance Abuse Commitment (respondent must meet both criteria outlined in Section I, **Substance Abuse**)
 - ☐ Release respondent pending hearing - Referred to: _____
 - ☐ Hold respondent at 24-hour facility pending hearing - Facility _____

Magistrate is Guided by the Clinician's Recommendation



If the petitioning examiner recommends:

- Outpatient commitment,
 - then evaluate the facts presented in the examiner's affidavit according to the outpatient commitment criteria
- Inpatient commitment,
 - then evaluate the facts presented in the affidavit according to the inpatient commitment criteria
- Substance abuse commitment,
 - then evaluate the facts presented in the affidavit according to the substance abuse commitment criteria

Examiner Recommendation Magistrate Order



Outpatient commitment	→	Hearing Order (release)
Inpatient commitment	→	Custody Order (inpatient facility)
Substance abuse commitment and hold pending hearing	→	Custody Order (inpatient facility)
Substance abuse commitment and release pending hearing	→	Hearing Order (release)



Order that a Hearing be Held AOC-SP-305



STATE OF NORTH CAROLINA	
<div>County</div>	In The General Court Of Justice Superior Court Division
<div>IN THE MATTER OF:</div> <div>Name And Address Of Respondent</div>	<div>FINDINGS AND ORDER INVOLUNTARY COMMITMENT PHYSICIAN-PETITIONER RECOMMENDS OUTPATIENT COMMITMENT</div> <div>G.S. 122C-261</div>
<div>NOTICE: This form is to be used instead of the Findings And Custody Order (AOC-SP-302) only when the petitioner is a physician or psychologist who recommends outpatient commitment or release pending hearing for a substance abuser.</div>	
FINDINGS	
<div>The petitioner in this case is a physician/eligible psychologist who has recommended outpatient commitment/substance abuse commitment with the respondent being released pending hearing.</div> <div>The Court finds from the petition in the above matter that there are reasonable grounds to believe that the facts alleged in the petition are true and that the respondent is probably:</div> <div><div>☐ mentally ill and in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness.</div><div>☐ a substance abuser and dangerous to himself/herself or others.</div></div>	
ORDER	
<div>It is ORDERED that a hearing before the district court judge be held to determine whether the respondent will be involuntarily committed.</div>	

ter/EI. Delete if none.

Custody Order—AOC-SP-302B



IN THE MATTER OF:		FINDINGS AND CUSTODY ORDER INVOLUNTARY COMMITMENT	
Name And Address Of Respondent		(PETITIONER IS CLINICIAN WHO HAS EXAMINED RESPONDENT)	
		G.S. 122C-252, -261, -263, -281, -283	
Social Security No. Of Respondent	Date Of Birth	Drivers License No. Of Respondent	State
I. FINDINGS			
<p>The Court finds from the petition in the above matter that there are reasonable grounds to believe that the facts alleged in the petition are true and that the respondent is probably:</p> <p>(Check all that apply)</p> <p>☐ 1. mentally ill and dangerous to self or others.</p> <p>☐ In addition to being mentally ill, the respondent probably is also mentally retarded. (If this finding is made, see G.S. 122C-261(b) and (d) for special instructions.)</p> <p>☐ 2. a substance abuser and dangerous to self or others.</p>			
II. CUSTODY ORDER			
TO ANY LAW ENFORCEMENT OFFICER:			
<p>The Court ORDERS you to take the above named respondent into custody WITHIN 24 HOURS AFTER THIS ORDER IS SIGNED and transport the respondent directly to a 24-hour facility designated by the State for the custody and treatment of involuntary clients and present the respondent for custody, examination and treatment pending a district court hearing.</p>			
Date	Time	Signature	
	☐ AM ☐ PM		☐ Deputy CSC ☐ CSC ☐ Assistant CSC ☐ Magistrate
<p>This Order is valid throughout the State. If the respondent is taken into custody, this Order is valid for seven (7) days from the date and time of issuance.</p>			
III. RETURN OF SERVICE			
A. CUSTODY CERTIFICATION			
<p>☐ Respondent WAS NOT taken into custody for the following reason:</p> <p></p>			
<p>☐ I certify that this Order was received and the respondent served and taken into custody as follows:</p>			
Date Respondent Taken Into Custody	Time		
	☐ AM ☐ PM		



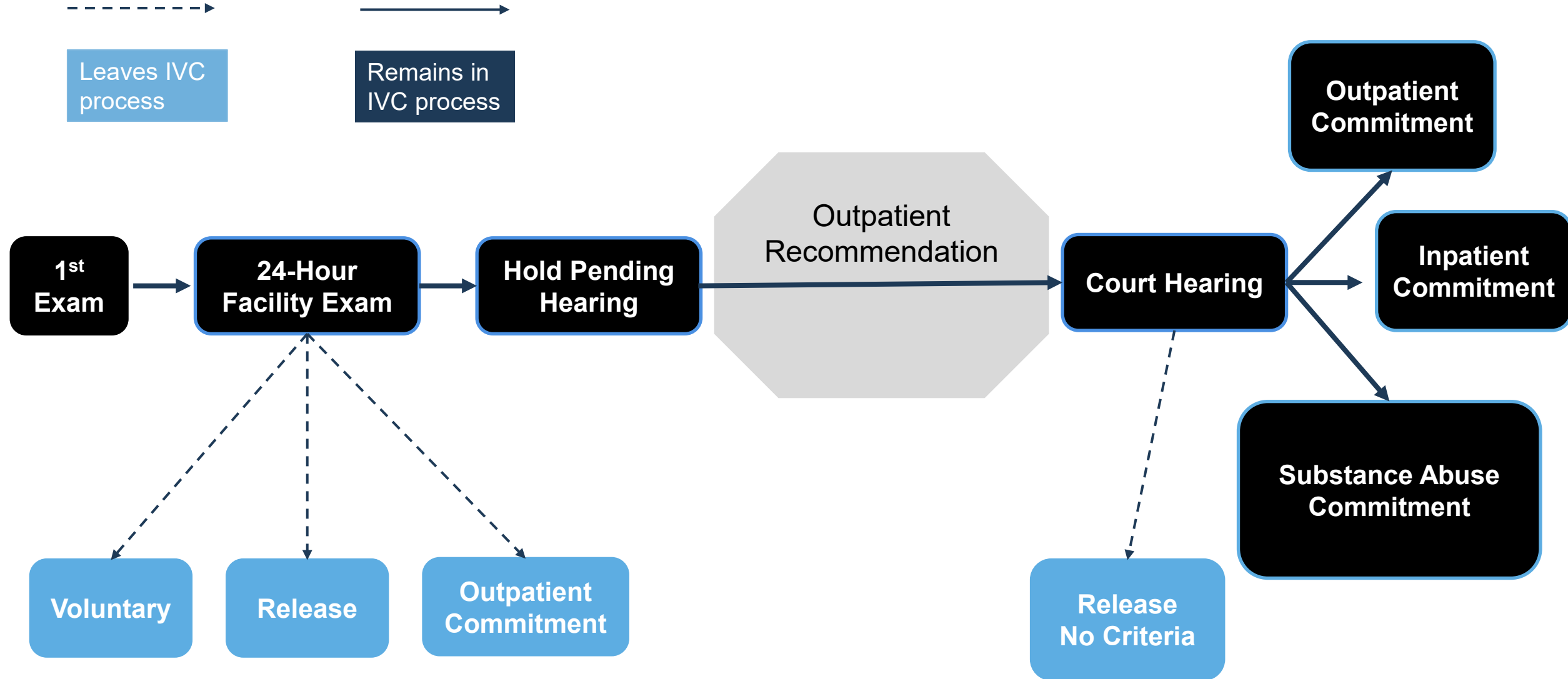
Question

What is the most probable avenue to an outpatient commitment order?

Does that process involve the magistrate?



“Scheduled to be Discharged from an Inpatient Hospital Setting”





Question

Is it possible for a commitment examiner to petition for outpatient commitment?

Does that process involve the magistrate?



Voluntarily Admitted Inpatient Scheduled to be Discharged



- Adult patient voluntarily admits self to inpatient facility for mental illness
- Adult patient subsequently requests to be discharged
- Facility
 - If believes the patient should not be discharged,
 - Can hold patient for up to 72-hours after request and petition for involuntary commitment during that period. G.S. 122C-211(b).



Possible Avenues for a Clinician Petition for OPC

Regarding an individual who is scheduled to be

- discharged from a voluntary inpatient admission
- released from a county jail
- released from a state prison



Question

How will this law affect Mateo's case?

Mateo is hospitalized again and is scheduled for discharge. He has a documented history of declining prescribed treatment.

Does Mateo meet the new outpatient commitment standard?





December 1, 2026: New Outpatient Commitment Law

1. Does Mateo have a mental illness?
2. Is he capable of surviving safely in the community without posing a danger to others when engaged in treatment for mental illness?
3. Based on his psych. history, is he in need of treatment to prevent further disability or deterioration that would likely result in dangerousness?
4. Does his mental status or illness limit or negate his ability to seek or comply with treatment voluntarily?
5. Does he have a history of declining/not adhering to prescribed treatment?
6. Has he had repeated involuntary inpatient psychiatric hospitalizations?
7. Is he scheduled to be discharged from an inpatient hospital or released from a jail or prison?



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