

Magistrate One-Day Seminar

Involuntary Commitment

Oct. 13, 2025

Mark F Botts

UNC School of
Government

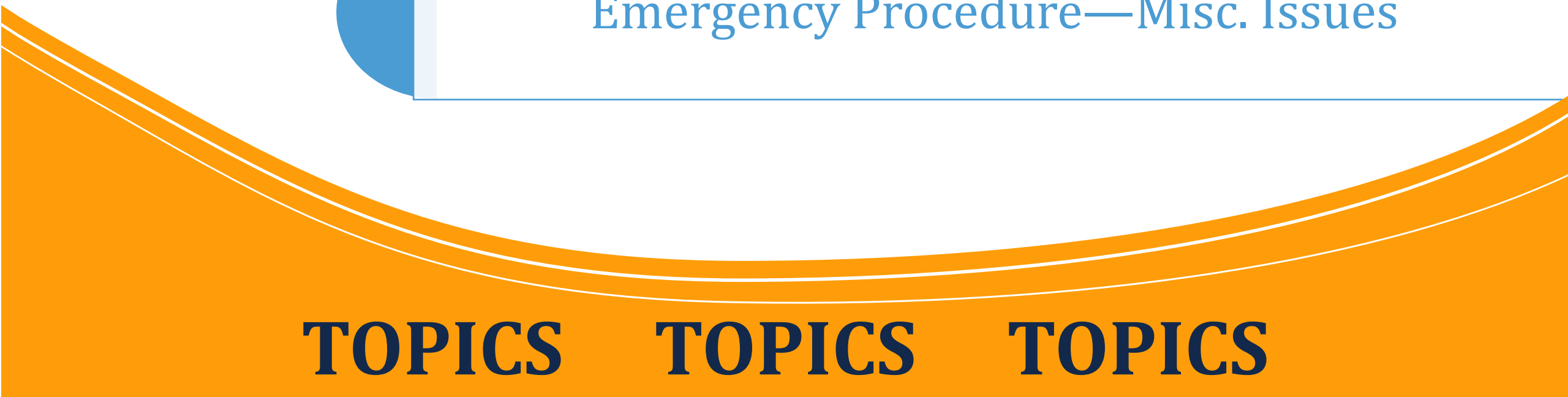
Pre-Trial Referral for an IVC Examination
S.L. 2025-93 (H307)



“Previous Episode” versus “Relevant Past”



Emergency Procedure—Misc. Issues



TOPICS

TOPICS

TOPICS

Iryna's Law



UNC
SCHOOL OF GOVERNMENT



Pre-Trial Release → IVC Exam

Effective Dec. 1, 2025, when setting conditions of pretrial release, the judicial official—in particular circumstances prescribed by statute—must order that the defendant receive an involuntary commitment examination.



When to Order an IVC Exam under Iryna's Law— GS 15A-533(b1), eff. 12/1/2025

IF CHARGED WITH A VIOLENT OFFENSE

- ❖ You determine the defendant has been subject to an “order of involuntary commitment” w/n the prior 3 years
- Applies to an involuntary commitment order issued by a district court judge
- A magistrate custody and transportation order is not sufficient

IF CHARGED WITH ANY OFFENSE

- ❖ You have reasonable grounds to believe the defendant is “dangerous to themselves or others.”
- Applies to any offense, whether violent or nonviolent.
- Applies whether or not there is prior IVC order

How will you know if there is a prior IVC order?



- ❑ Through “a search of the court records for the defendant.”

How will you search the court records?

- ❑ By December 1, 2025, the AOC shall “provide a method for judicial officials to determine if a defendant has a prior order of involuntary commitment, pursuant to Article 5 of Chapter 122C of the General Statutes” Section 1.(h) of S.L. 2025-93

Use must search records for all counties.

Danger to Self or Others



- How do you define “danger to themselves or others” for purposes of applying G.S. 15A-533(b1)?
- Do you use the definitions for dangerous to self and dangerous to others in G.S. 122C-3?
- What do you need to have “reasonable grounds to believe” the defendant is a danger to self or others?

Reasonable Grounds to Believe

The *knowledge of facts* that would lead a reasonable person of ordinary intelligence and prudence to believe the individual is dangerous to self or others.

To form the belief, you need information!

.



What information is available for determining danger?

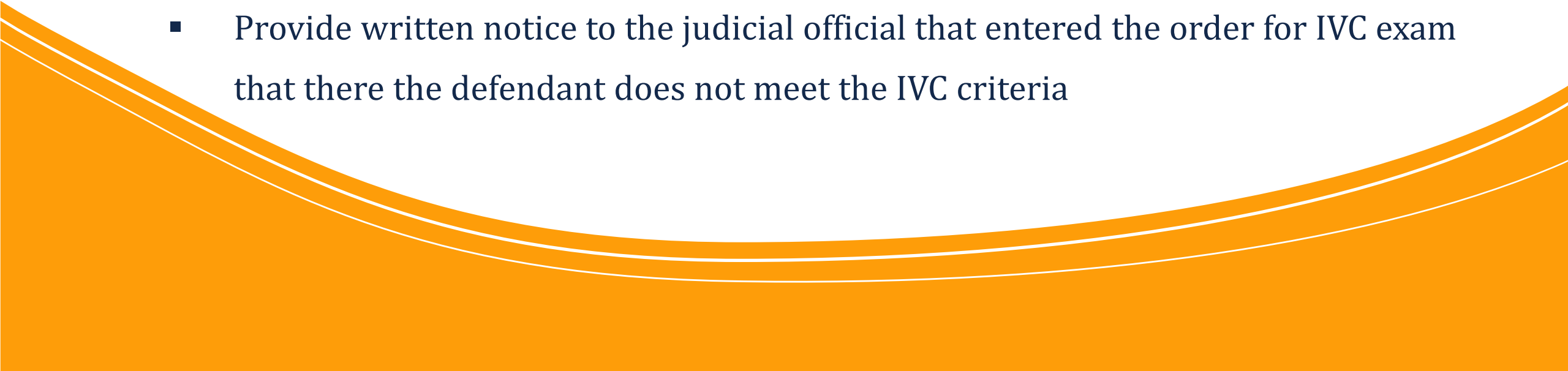


- ❑ Upon arrest , a law enforcement officer “[m]ust inform any judicial official determining conditions of pre-trial release . . . of ***any relevant behavior*** of the defendant observed by the officer prior to, during, or after the arrest that may provide reasonable grounds for the judicial official to believe the defendant is a dangerous to themselves or others.” Section 1.(a) of S.L. 2025-93.

*You depend on the arresting officer to be forthcoming and thorough. Ask questions!
Use the skills you have honed when receiving IVC petitions.*

- ❑ Defendant’s behavior and demeanor as they appear before you
- ❑ Criminal history report

The Order for IVC Examination

1. **Order** defendant to receive a commitment examination.
 2. **Order** the arresting officer or officer of the arresting officer's agency to transport defendant to a hospital ED or other crisis facility that has a certified commitment examiner.
 3. **Order** the commitment examiner, after performing the IVC exam, to either
 - Petition for involuntary commitment if there are grounds to do so, or
 - Provide written notice to the judicial official that entered the order for IVC exam that there the defendant does not meet the IVC criteria
- 

Form Order

- ❑ The AOC must develop or modify any forms necessary to implement the law.
- ❑ For any provision where a written finding of fact is required, the form must provide a blank area for those written findings to be entered. Section 1.(i) of S.G. 2025-93.
- ❑ The failure of a magistrate to make “statutorily required” written findings is grounds for suspension or removal. Sec. 3.(b) of SL 2025-93.



“Dangerous”

“Relevant Past”

“Previous Episodes”



UNC
SCHOOL OF GOVERNMENT



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
2. Attempted or threatened **suicide** + reasonable probability of suicide unless adequate treatment is given
3. Attempted or engaged in **self-mutilation** + reasonable probability of serious self-mutilation unless adequate treatment is given

Dangerous to Others

Within the relevant past, the individual has:

1. Inflicted, attempted, or threatened **serious bodily harm** + reasonable probability of the conduct repeating
2. Created a substantial risk of **serious bodily harm** + reasonable probability of the conduct repeating
3. Engaged in **extreme destruction of property** + reasonable probability of the conduct repeating

Relevant Past

- Acts that occur close enough to the present to have probative value on the question whether the conduct will continue
- Acts that are part of—or connected to—the current or ongoing episode, incident, or situation that help you assess what is happening and what is likely to happen if adequate treatment is not given

“Previous Episodes”

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

Previous episodes of dangerousness, when applicable, may be considered when determining reasonable probability of physical debilitation ...

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.

Source: NC General Statutes 122C-3

Mark Botts, Associate Professor (2009)



SCHOOL OF
GOVERNMENT



Previous Episodes

Attempted or threatened suicide
+
Reasonable probability of suicide

Previous episodes of dangerousness, when applicable, may be considered when determining reasonable probability of suicide...

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.



Source: NC General Statutes 122C-3

Previous Episodes

Inflicted, attempted to inflict, threatened to inflict, or acted in a way that created a substantial risk of, serious bodily injury + Reasonable probability of conduct repeating

Previous episodes of dangerousness, when applicable, may be considered when determining reasonable probability that this conduct will be repeated.

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.



Relevant Past v. Previous Episode

RELEVANT PAST

Acts that are **part of a current or ongoing episode** and related to the 1st prong:

- Lack of self care
- Suicide (attempt or threat)
- Self-mutilation
- Serious bodily injury (attempt, threat, inflict)
- Serious bodily injury (substantial risk of)
- Extreme destruction of property

Acts that are close enough to the present time, or sufficiently connected to a set of ongoing behaviors, that you believe they will continue or progress (2nd prong)

PREVIOUS EPISODE

Past episodes of behavior that are **not part of the current episode** (the previous episode and current episode are not one ongoing episode) that helps you determine whether the current episode (the acts comprising the first prong of dangerousness) will probably continue or progress (2nd prong).

- Serious physical debilitation
- Suicide
- Self-mutilation
- Serious bodily harm
- Extreme property destruction



Suicide—Relevant Past—Previous Episode

1. Patient says she has been “very depressed” for the last 3 years, but it has “worsened lately.”
 2. Hopeless, sad, worried. Under eating. Difficulty falling asleep. Frequent wakening. Decreased energy. She was tearful throughout and spoke of feelings of worthlessness.
 3. Says she “does not want to live anymore.”
 4. Just lost her job; daughter recently asked her to move out of her house.
 5. She first got depressed after separating from her husband 12 years ago. Attempted suicide then by taking pills. Then got therapy and medication, and depression got better.
- 
- An orange decorative wave graphic at the bottom of the slide, starting from the left, dipping down, and then rising towards the right.

Pretrial Appearance Scenario

Def. arrested for three 911 calls to report his mother is a robot and for spray painting graffiti on neighborhood sidewalks saying his mother is a robot.

Def. constantly interrupts proceeding; says he is being stalked by robots; tells officer he will take him to court to “shut him up;” babbles about intergalactic conspiracies.

According to officer, mother reports that her son

- is supposed to be on antipsychotic medication for mental illness but has been medication non-compliant for two weeks,
- was hospitalized 6 months ago after going off antipsychotic meds, talking about robots, taking an ax to their furniture and electronics, and burning them on the grill.

The Emergency Procedure



UNC
SCHOOL OF GOVERNMENT



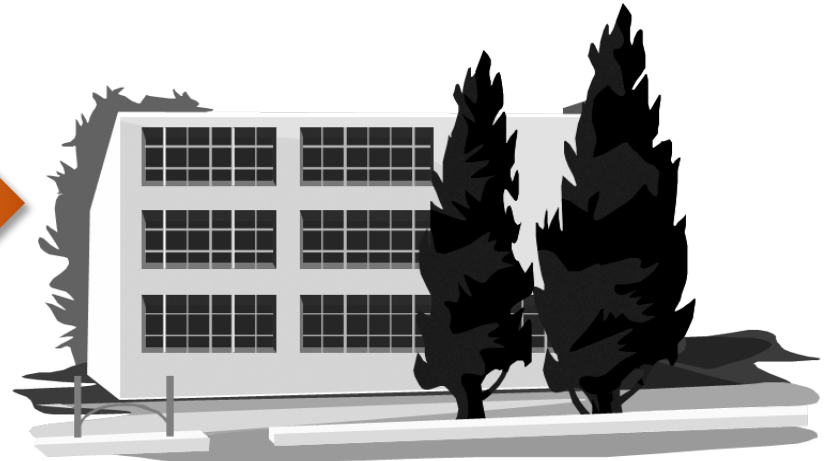
Criteria for Emergency Commitment—Mental Illness

- Mentally ill + Dangerous
- Requires immediate hospitalization to prevent harm to self or others

Transportation and Custody



- Magistrate is not involved
- No custody order needed



Emergency Procedure Forms— Commitment Examiner

- “First Examination For Involuntary Commitment” (DMH 5-72-19)
- “Supplement to Support Immediate Hospitalization” (DMH 572-01-A)

The Emergency Certificate

SUPPLEMENT TO SUPPORT IMMEDIATE HOSPITALIZATION

(To be used in addition to “Examination and Recommendation for Involuntary Commitment, Form 572-01)

CERTIFICATE

The Respondent, _____
requires immediate hospitalization to prevent harm to self or others because:

I certify that based upon my examination of the Respondent, which is attached hereto,
the Respondent is (check all that apply):

- ☐ Mentally ill and dangerous to self
- ☐ Mentally ill and dangerous to others
- ☐ In addition to being mentally ill, is also mentally retarded

The Emergency Certificate

Name of 24-hour facility:

Address of 24-hour facility:

NORTH CAROLINA

_____ County
Sworn to and subscribed before me this
_____ day of _____, 20__

(seal)

Notary Public

My commission expires:_____

Pursuant to G.S. 122C-262 (d), this certificate *shall serve as the Custody Order* and the law enforcement officer or other person *shall* provide transportation to a 24-hr. facility in accordance with G.S. 122C-251.

CC: 24-hour facility

Clerk of Court in county of 24-hour facility

Note: If it cannot be reasonably anticipated that the clerk will receive the copy within 24 hours (excluding Saturday, Sunday and holidays) of the time that it was signed, the physician or eligible psychologist shall also communicate the findings to the clerk by telephone.

TO LAW ENFORCEMENT: See back side for Return of Service

District Court Review

- Commitment examiner must send copy of certificate to the clerk of court.
- Upon receipt of the certificate, the clerk of the county where the treatment facility is located must submit the certificate to the Chief District Court Judge.
- The Court shall review the certificate w/n 24 hours for a finding of reasonable grounds that the criteria for inpatient commitment are met.
- The clerk must notify the treatment facility of the court's findings by telephone.

G.S. 122C-262(c), 122C-264(b1).

Examiner Opts to Petition for a Custody Order

If upon examination of a respondent presented under the emergency procedure, the first commitment examiner finds that the respondent

- Does *not* require immediate hospitalization to prevent harm to self or others, but
- *Does* meet the criteria for inpatient commitment

Then the commitment examiner may petition the magistrate for a custody order in accordance with the clinician petition procedure

Questions

- What should the magistrate do if the hospital insists that a custody order is needed for a respondent who has been transported to the hospital under the emergency procedure?
 - What is the magistrate's role when the respondent is already at the hospital (not brought in by LEO) and a family member is sent to the magistrate's office for a custody order by the hospital?
- 



Questions?

Thank you for your time.

botts@sog.unc.edu

919-923-3229