



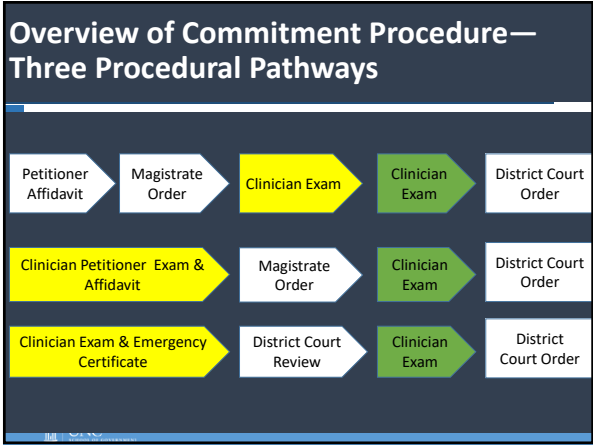
**Involuntary Commitment:
The Procedure for Commitment**

January 2021

Mark Botts





1



2


**The Layperson
Petition Procedure**



3

The Petitioner

- Anyone with knowledge may petition
- Petitioner must appear personally
- Jurisdiction is in the county where respondent resides or is found



UNC

4

Magistrate Role

If the magistrate finds 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)

UNC

5

Custody-GS 122C-261

The magistrate shall issue the order to

- a law enforcement officer or
- any other person authorized under G.S. 122C-251

to take the respondent into custody for examination by a physician or psychologist

❖ S.L. 2018-33, sec. 8, requires LME/MCOs to create a “community crisis plan,” developed with the participation of acute care hospitals and law enforcement agencies, that identifies where the respondent shall be taken for the first exam. Intended to divert some respondents from hospital ED to a mental health providers.

UNC

6

2015 Legislation

- A custody order may be delivered to the law enforcement officer by electronic or facsimile transmission.



- Applies to all custody orders including
 - Transfer from one 24-hour facility to another
 - Outpatient pick up order

7

Magistrate Must Explain Next Steps to Petitioner

- Next steps in the commitment process
- Other useful information:
 - Law enforcement protocol on restraint
 - Likely wait time at community hospital
- Useful contact information
 - Other resources/options for petitioner if the commitment process terminates at the first examination

8

Custody-GS 122C-261, -251

Upon receipt of the custody order, the law enforcement officer must take the respondent into custody within 24 hours after the order is signed




Without unnecessary delay, the officer must take the respondent to a physician or psychologist for examination.

9

Hospital ED Role

Commitment Examination—As soon as possible and w/n 24 hours after respondent is presented

- Outpatient commitment
- Inpatient commitment
- Substance abuse commitment




UNC

10

Hospital ED Role—Findings and Recommendations

Findings	Result
No commitment criteria	→ Release
Outpatient commitment	→ Release pending hearing
Inpatient commitment	→ Inpatient facility
Substance abuse commitment	→ Release or inpatient facility

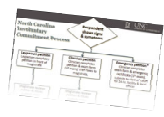


UNC

11

Summary: Procedure for the Layperson

1. Petition
2. Custody Order
3. Custody and Transportation
4. Examination and Health Screen
5. Release or 24-Hour Facility




UNC

12

The Clinician Petition Procedure

Authorized Clinicians

- Physicians
- PhD psychologists with a health services provider certificate
- If qualified through DHHS training and certification → licensed clinical social workers, masters level or higher nurse practitioners, physician assistants, licensed professional counselors, and—for substance abuse commitment only—licensed clinical addictions specialists



13

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

14

Petitioner May Avoid Personal Appearance Before Magistrate

If the petitioning commitment examiner:

- Examines the respondent (physical face to face presence or via telemedicine equipment and procedures), and
- Signs the “Affidavit and Petition” before an official authorized to administer oaths (notary),





- Then petitioner may file the examination and affidavit forms by delivering copies through facsimile transmission
- Must mail originals within 5 days to the clerk of superior court

15

Examiner Role → Magistrate Role

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)






22

Custody Order

The magistrate shall issue an order to

- a law enforcement officer or
- any other person authorized under G.S. 122C-251

To take the respondent into custody and transport to a 24-hour facility for custody, examination, and treatment pending hearing



23

Custody Order—AOC-SP-302B

IN THE MATTER OF:
Name and Address of Respondent: _____

FINDINGS AND CUSTODY ORDER INVOLUNTARY COMMITMENT (PETITIONER IS CLINICIAN WHO HAS EXAMINED RESPONDENT)
G.S. 122C-252, -261, -263, -261, -263

Social Security No. Of Respondent: _____ Date of Birth: _____ Drivers License No. Of Respondent: _____ State: _____

I. FINDINGS

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:

(Check all that apply.)

1. mentally ill and dangerous to self or others.
 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 (c) for special instructions.)

2. a substance abuser and dangerous to self or others.

II. CUSTODY ORDER

TO ANY LAW ENFORCEMENT OFFICER:
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.

Name: _____ Title: _____ AM PM Signature: _____

Deputy CSC CSC
 Assistant CSC Magistrate


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.

III. RETURN OF SERVICE
A. CUSTODY CERTIFICATION

Respondent WAS NOT taken into custody for the following reason: _____

I certify that this Order was received and the respondent served and taken into custody as follows:

Date Respondent Taken into Custody: _____ Time: _____ AM PM



24

Seven Day Limit

- Seven days after issuance of custody order, commitment must be terminated if 24-hour facility still not available or medically appropriate
 - Physician must report to clerk of court
 - Proceedings must be terminated
- New commitment proceedings may be initiated
 - Requires new petition
 - Requires new examination if petitioner is clinician
 - Requires new custody order



28

Change in Respondent's Status

1. If at any time a physician or psychologist determines respondent no longer meets the inpatient criteria:
 - Respondent must be released (proceedings terminated), or
 - Physician may recommend outpatient commitment
2. Decision to release or recommend outpatient commitment must
 - Be made in writing (conduct exam and use exam form)
 - Reported to the clerk of superior court by most reliable and expeditious means



29

Change in Respondent's Status



- Respondent was held at first evaluation site pending placement at a 24-hour facility and no longer meets criteria for inpatient commitment:
- Terminate proceedings and release respondent
 - Recommend outpatient commitment
- Proposed Outpatient Treatment Center or Physician: (Name) _____
(Address & Phone Number) _____
 LMENCO notified of appointment: (Name of LMENCO) _____ Date: _____
- Release respondent and Terminate Proceedings (insufficient findings to indicate that respondent meets commitment criteria)

Signature of Commitment Examiner	This is to certify that this is a true and exact copy of the Examination and Recommendation for Involuntary Commitment
Print Name of Examiner	
Credentials (check one): <input type="checkbox"/> MD/DO <input type="checkbox"/> Eligible Psychologist <input type="checkbox"/> PA <input type="checkbox"/> NP (Master's level or Higher) <input type="checkbox"/> LCSW <input type="checkbox"/> LPC <input type="checkbox"/> LCAS (Substance Abuse Evaluation Only)	Original Signature - Record Custodian
	Title
	Address of Facility



30


The Emergency Procedure



31




Criteria for Emergency Commitment—Mental Illness

1. Mentally ill + Dangerous
2. Requires immediate hospitalization to prevent harm to self or others







32

Transportation and Custody



- Magistrate is not involved
- No custody order needed




33

Emergency Procedure Forms— Commitment Examiner

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

www.ncdhhs.gov/assistance/mental-health-substance-abuse/involuntary-commitments



34

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



35

Emergency Certificate

Name of 24-hour facility: _____
Address of 24-hour facility: _____

CLC: 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 Saturdays, Sundays and holidays) of the time that it was signed, the physician or eligible psychologist shall also communicate the findings to the clerk by telephone.


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 (b), 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.

TO LAW ENFORCEMENT: See back side for Return of Service



36

Examiner Opts to Petition for a Custody Order

- If upon examination of a respondent presented under the emergency procedure, the 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
- The commitment examiner may petition the magistrate for a custody order in accordance with the clinician petition procedure



37

Questions?

- Mark Botts
 - 919.962.8204 (ofc)
 - 919.923.3229 (cell)
 - botts@sog.unc.edu



38
