



# 2020 Civil Commitment Legislation

# Where We Started

- Former legislator advocated for a troubling commitment bill
  - Very complicated form of Assisted Outpatient Treatment
  - Law enforcement required to find and transport patient under AOT if they miss one appointment
  - Strong opposition from community

# NAMI Convenes Task Force

- State law on civil commitment outdated and inconsistent
- NAMI Minnesota convened a task force, including people with lived experience, family members, DHS, commitment defense attorneys, law enforcement, the counties, and community-based mental health providers
- Operated by consensus. If one member organization opposed a change, then we kept the current statute intact
- Met over three years to complete a comprehensive rewrite of the commitment chapter

# Legislature Passes Commitment Bill

- Rep. Edelson from Edina and Sen. Relph from St. Cloud served as chief authors
- Passed during special session with bipartisan support and signed by the Governor
- No major changes to people committed as Mentally Ill and Dangerous or for a Substance Use Disorder
- Law went into effect on August 1, 2020

# High-Level Overview

- Criteria for emergency holds and civil commitment were NOT changed
- Definitions updated to reflect current mental health system
- Transport and emergency holds clarified
- New section on voluntary engagement services added
- Paperwork Issues resolved
- Numerous technical changes

# Definitions

- Person-first language used throughout
  - Ex: definition for person who can be committed changed from “person who is mentally ill” to “person who poses a risk of harm due to their mental illness”
  - Before someone is committed they are referred to as a “person” after commitment they are referred to as “patients”

# Definitions

- Treatment facility was used interchangeably to refer to a hospital, community-based program, or a state-operated program. Law now clarifies what part of the mental health system each section is referring to:
  - Community-Based Treatment: broader definition of community-based services now including ACT teams, ARMHS, crisis services, and more.
  - Treatment facility: now refers to hospitals, residential, crisis residential
  - State-operated treatment programs (instead of regional treatment centers): AMRTC, CBHHs, and MSH

# Definitions

- Health Officer: Medical professionals and peace officers who can initiate a transport hold
  - Definition expanded to include all mental health professionals and a practitioner on a crisis team under supervision of a mental health professional
- Examiner: Dr, Psychologist, APRN in MH, PA can initiate a 72 hour hold
  - Definition expanded to include all mental health professionals and APRN in an emergency room
- Court Examiner: New term for a physician or psychologist with a doctoral degree for legal process and rule 20s

# Voluntary Engagement

- It is always a priority for people to voluntarily engage in treatment, but Early Intervention Section in statute was not being used
- The goal of the new program is to engage someone to accept treatment voluntarily and get connected with services before a commitment becomes necessary

# Voluntary Engagement

- In order to be eligible, the person must be at least 18 years old, live with a mental illness, and either:
  - Exhibit the signs and symptoms of a serious mental illness like psychosis for the first time and not be able to care for themselves
  - Have a history of failing to adhere with treatment for their mental illness that has been a key factor in the past for a hospitalization or incarceration, and the person is now showing the symptoms that may lead to hospitalization, incarceration, or court-ordered treatment.

# Voluntary Engagement

- Families and others can contact pre-petition screening at the county and ask for help
- Engagement services can last for up to 90 days and can include:
  - Working to get the person to voluntarily seek treatment
  - Educating the families or support network, including means restriction
  - Support the person to meet immediate needs including food, housing, health insurance, disability verification, and more
- Service ends when someone voluntarily seeks treatment, or the person meets the criteria for commitment

# Voluntary Engagement

- This service is optional and it up to a county to decide to offer it
- Team members can include but are not limited to mobile crisis teams, certified peer specialists, and homeless outreach workers
- Counties that successfully divert residents from civil commitments may see cost reductions in the long-term

# Transport Hold

- A transport hold is ordered by a police officer or a health officer to transport someone involuntarily for assessment due to being a danger to themselves or others
- Rewritten for increased clarity
- Makes it clear that a health officer can initiate a transport hold, even if the police do not believe this is necessary
- Places limits on the scope of a transport hold
  - Person under a transport hold must be assessed as soon as possible but within 12 hours of arrival
  - The transport hold ends when the person agrees to treatment, an emergency hold starts, or after twelve hours

# Emergency Hold

- An emergency or 72 hour hold is ordered by an examiner to determine if a person will seek voluntary treatment, or if the person meets the criteria for a commitment
- The criteria for an emergency hold was not changed, but by expanding the definition of examiner people will spend less time waiting for an assessment

# Pre-Petition Screening

- Pre-petition screening team may seek input from the patient's health plan about their treatment history and current providers
- Pre-petition screening team must provide its decision to any person named in the examiner's statement, such as a family member or loved one
- Preference for doing in-person interviews

# Least Restrictive Treatment Setting

- Preference for placing people under a civil commitment in the least restrictive setting
  - Better for patient
  - Recognize limited resources at state operated programs
- Specific authorization in statute for a dual commitment to both the commissioner and a community-based provider
- Allows a patient under commitment to DHS and in a community program to be provisionally discharge

# Jarvis Orders

- Legal process for involuntarily administering medications to someone who lacks the capacity to make medical decisions due to their mental illness
- Allows someone to stay on their medications until there is a court order if they lack the capacity to consent
- Clarifies that jails can administer medications under a Jarvis order if they have the appropriate staff
- Bans the use of nasogastric tubes to forcibly administer a medication

# 48-Hour Rule

- No changes to 48-Hour rule
- NAMI Minnesota working with other key partners on a competency restoration task force
- For patients committed under the 48-hour rule, the commissioner of human services can request treatment records from the patient for the previous two years for preadmission planning

# Paperwork

- Commitments no longer end if a facility or county worker forgets to file the paperwork at 30, 60, or 90 days
- Court will now notify the county and remind them to submit the paperwork within five business days.
- If the report is not filed, a hearing must be held within three business days and must include, if possible, a statement from the patient

# Provisional Discharges

- When revoking a provisional discharge, the court can look at the need for a more restrictive setting or more intensive community services
- The authority to extend or modify a PD now lies with the designated agency, not the discharging facility
- In order to extend a provisional discharge, the designated agency must give the patient the opportunity to object or make suggestions for an alternative plan

# Wrapping Up

- Commitment bill was passed last session and we hope to avoid big changes for some time
- Small group currently working on potentially additional changes around Jarvis orders
- Thank you to all our partner organizations that helped us develop this consensus update to Civil Commitment in Minnesota

Any  
Questions?

# Contact Information

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November 2020