

FROM: LEGAL ASSOCIATE
TO: LEGAL SUPERVISOR
DATE: JUNE 10, 2015
RE: OUTPATIENT COMMITMENT LAWS – FIVE STATE MEMO

Introduction

This memo provides a state-by-state summary of outpatient commitment statutes for Arizona, Delaware, New Jersey, Texas and Utah. Each summary includes a discussion of the relevant and important elements of each state's outpatient commitment statutes:

- The legal criteria
- Who can initiate a hold
- How treatment is chosen
- Whether or not forced medication is permitted
- Who is exempt from outpatient commitment
- The duration of the holding
- If there are consequences for noncompliance
- If a discharge plan is required
- The patient's firearm possession rights and restrictions.

ARIZONA

Statutes:

Ariz. Rev. Stat. § 8-272; Psychiatric Acute Care Services; Outpatient and Inpatient Assessments; definition
Ariz. Rev. Stat. § 8-291.05; Misdemeanor Charges; Dismissal; Notice Ariz. Rev. Stat. § 8-291.09; Restoration Order; Commitment
Ariz. Rev. Stat. § 13-925; Restoration of Right to Possess a Firearm; Mentally Ill Persons; Petition
Ariz. Rev. Stat. § 13-3101; Definitions
Ariz. Rev. Stat. § 13-3112; Concealed Weapons; Qualification; Application; Permit to Carry; Civil Penalty; Report; Applicability
Ariz. Rev. Stat. §36-501; Definitions
Ariz. Rev. Stat. § 36-513; Seclusion Restraint; Treatment Ariz. Rev. Stat. § 36-523; Petition for Evaluation
Ariz. Rev. Stat. §36-540; Court Options
Ariz. Rev. Stat. § 36-540.01; Conditional Outpatient Treatment
Ariz. Rev. Stat. § 36-542; Discharge of Patient at Expiration of Period Ordered by Court; Change to Voluntary Status; Relief from Civil Liability

Ariz. Rev. Stat. § 36-544; Unauthorized Absences; Violation; Classification; Tolling Period; Hearing
Ariz. Rev. Stat. Rule 11.5; Hearing and Orders

What are the legal criteria for outpatient commitment?

A person must be 1) considered a danger to him or herself or others as a result of a mental disorder or 2) have an acute or persistent disability or 3) a grave disability in need of treatment and 4) is unwilling or unable to voluntarily accept treatment.¹ If the person is a defendant in a criminal trial and deemed incompetent to stand trial, the court may order outpatient commitment treatment if it is likely that the defendant will regain competency within fifteen months with treatment.²

Juveniles may also be committed to outpatient treatment if they meet the dangerous to self or others standard.³ If the child is being tried for a misdemeanor and is deemed incompetent to stand trial, the court may dismiss the charges and initiate a civil commitment proceeding.⁴ If a civil commitment proceeding is initiated, the juvenile must 1) be considered likely to restore competency within six months of either inpatient or outpatient treatment and 2) meet the dangerous to self or others standards or have an acute or persistent disability or a grave disability in need of treatment.⁵

Who is exempt from outpatient commitment?

The definition of “mental disorder” does not include conditions of drug abuse, alcoholism, or intellectual disability, declining mental abilities directly accompanying impending death, or character and personality disorders that show lifelong, antisocial behavior patterns, including abnormal and prohibited sexual behaviors.⁶ Therefore, people who fall into these categories are exempt from the outpatient commitment criteria unless they also have a mental disorder that places them within the criteria.

Who can initiate a hold for an individual?

The Arizona statutes and regulations do not specifically identify who can and cannot initiate a hold for an individual. The law does say that the person who petitions for the evaluation must state their own name, address and interest in the case and this information will be considered during the process.⁷

How is appropriate treatment determined by the court?

A judge may decide to order outpatient treatment, a combination of inpatient and outpatient treatment, or inpatient treatment.⁸ The treatment decision will be determined based on the appropriateness of the treatment, the likelihood that the patient will follow his or her treatment, that continuous inpatient treatment is unnecessary and the patient will most likely not become dangerous or suffer from physical harm or illness or further deteriorate.⁹

Is forced medication allowed in this jurisdiction?

Forced medication is potentially allowed in Arizona with some restrictions. Any patient receiving treatment under article 5, which includes outpatient treatment, may only be subjected to pharmacological restraints in a case of emergency where it is necessary to protect the safety of the person or others or if it is part of the

¹ Ariz. Rev. Stat. §36-540

² Ariz. Rev. Stat. § 11.5

³ Ariz. Rev. Stat. § 8-272

⁴ Ariz. Rev. Stat. § 8-291.05

⁵ Ariz. Rev. Stat. § 8-291.09.

⁶ Ariz. Rev. Stat. §36-501.

⁷ Ariz. Rev. Stat. § 36-523.

⁸ Id.

⁹ Ariz. Rev. Stat. §36-540.

patient's written plan.¹⁰ If outpatient commitment is a condition of release from inpatient commitment, medication specifically can be part of the outpatient commitment condition.¹¹ Furthermore, while psychosurgery, lobotomy, and other brain surgery is specifically not allowed without consent, the court order statute does not discuss medication as a limitation or as an acceptable treatment.¹²

What is the commitment duration maximum?

Outpatient commitment treatment is limited to 365 days.¹³ A new petition must be filed if the treatment period is lengthened past the period ordered by the court.¹⁴

What are the consequences for noncompliance with outpatient commitment treatment?

If a patient does not comply with his or her treatment plan, a peace officer or an employee of the evaluating agency or treatment agency may take the person into custody and deliver them to the evaluating agency or treatment agency.¹⁵ Also, anyone found helping the patient avoid treatment or not comply with the treatment will be guilty of a class 2 misdemeanor.¹⁶

Is a discharge plan required?

No discharge plan is specifically required. If the patient is assigned to a guardian, the guardian must be informed of the discharge ten days before it occurs.¹⁷ If the patient is not assigned to a guardian, he or she must be released immediately on the discharge date.¹⁸

Are firearm possession rights restricted by outpatient commitment?

Any person who is given a court order for commitment treatment, outpatient or inpatient, will have his or her information reported to the NICS.¹⁹ Also, a person cannot have a record of mental illness or show they have been adjudicated mentally incompetent or committed to a mental institution to be permitted a license to carry a concealed weapon.²⁰ Finally, the firearms statutes define a "prohibited possessor" to include a person who has been found to constitute a danger to him or herself or others or has a persistent or acute disability or a grave disability pursuant to a court order under Ariz. Rev. Stat. § 36-540.²¹

Are there ways of reinstating a person's firearm possession rights?

A person can petition to have his or her right to possess a firearm restored.²² The person must show by clear and convincing evidence that he or she is not likely to act in a manner that is dangerous to public safety and the granting of relief will not go against public interest.²³

DELAWARE

Statutes:

Del. Code tit. 11, §1448; Possession and Purchase of Deadly Weapons by Persons Prohibited; Penalties

Del. Code tit. 11, §1448A; Criminal History Record Checks for Sales of Firearms Del. Code tit. 16,

¹⁰ Ariz. Rev. Stat. § 36-513.

¹¹ Ariz. Rev. Stat. § 36-540.01.

¹² Ariz. Rev. Stat. §36-540.

¹³ Id.

¹⁴ Ariz. Rev. Stat. § 36-542.

¹⁵ Ariz. Rev. Stat. §36-544.

¹⁶ Id.

¹⁷ Ariz. Rev. Stat. § 36-542.

¹⁸ Id.

¹⁹ Ariz. Rev. Stat. § 36-540.

²⁰ Ariz. Rev. Stat. § 13-3112.

²¹ Ariz. Rev. Stat. § 13-3101.

²² Ariz. Rev. Stat. § 13-925.

²³ Id.

§1121; Patient's Rights

Del. Code tit. 16, §5001; Definitions

Del. Code tit. 16, §5004; Emergency Detention of a Person with a Mental Condition;
Justification; Procedure

Del. Code tit. 16, §5009; Probable Cause Hearing

Del. Code tit. 16, §5013; Involuntary Outpatient Treatment Over Objection

Del. Code tit. 28, §903; Shooting Galleries; Regulations; Penalties

What are the legal criteria for outpatient commitment?

For a person to be found in need of outpatient commitment, the individual must be 1) 18 years or older, 2) have a documented mental condition, 3) be reasonably expected to become dangerous for him or herself or others or are unlikely to survive safely without treatment, and 4) the person has a history of noncompliance with necessary treatment or has performed recent actions that show obvious deteriorating functions that are dangerous or are imminently dangerous.²⁴ The person must also refuse to voluntarily participate in treatment.²⁵ Furthermore, all less restrictive options must have been considered, but deemed inappropriate.²⁶

Who is exempt from outpatient commitment?

The definition of "mental condition" specifically states that people who have alcohol intoxication, are having a reaction to drug ingestion, have dementia due to nontraumatic etiologies or general medication conditions, Alzheimer's disease, or intellectual disabilities do not fall under the definition and therefore do not meet the legal criteria with any of the listed conditions.²⁷

Who can initiate a hold for an individual?

Anyone who believes the person in question suffers from a mental condition and is a danger to him or herself or others may notify a peace officer or a credentialed mental health screener.²⁸ The informed authority figure will then observe the person in question and determine if the person is likely suffering from a mental condition and is a danger to him or herself or others.²⁹ At that time, a peace officer may take the person to the appropriate facility.³⁰

How is appropriate treatment determined by the court?

The court will review the person's case at a hearing and if the judge determines that inpatient commitment is inappropriate, the judge will then determine if outpatient commitment treatment is appropriate.³¹

Is forced medication allowed in this jurisdiction?

There is no specific statute discussing forced medication and "treatment" is not defined with regards to outpatient commitment. There is a general patient's rights statute that guarantees all patients the right to refuse medication and treatment.³² There is also a statute protecting a mental health patient's rights which says he or she at least has the right to be informed about the medication and either they or their representative must participate in the treatment planning.³³

²⁴ Del. Code tit. 16, §5013.

²⁵ Id.

²⁶ Id.

²⁷ Del. Code tit. 16, §5001.

²⁸ Del. Code tit. 16, §5004.

²⁹ Id.

³⁰ Id.

³¹ Del. Code tit. 16, §5009.

³² Del. Code tit. 16, §1121.

³³ Id.

What is the commitment duration maximum?

If a court finds a person is in need to outpatient commitment treatment, the order must be for a maximum of three months.³⁴ There is no discussion about reevaluation after the three-month period for outpatient commitment.

What are the consequences for noncompliance with outpatient commitment treatment?

Delaware does not specifically discuss what consequences exist if a patient does not comply with his or her treatment. A Delaware statute does say, if the patient is found to be engaging in dangerous behavior while he or she is committed to outpatient treatment, the patient may be placed in emergency detention.³⁵

Is a discharge plan required?

Delaware does not have any statutes discussing a discharge plan.

Are firearm possession rights restricted by outpatient commitment?

In the state of Delaware, no person who has been “committed for a mental disorder to any hospital, mental institution, or sanitarium” may possess a firearm.³⁶ This term includes anyone committed by a psychiatrist or a civil court order to the custody of a hospital under Title 16, chapter 50, which includes outpatient commitment.³⁷ Furthermore, any person with a mental disability may participate in target shooting or other similar activities in a shooting gallery or booth.³⁸

Are there ways of reinstating a person’s firearm possession rights?

A person can petition the removal of their rights by submitting their mental health records and a certificate showing they no longer suffer from a mental disorder bared by the federal statute to the Disabilities Board.³⁹

NEW JERSEY

Statutes:

N.J. Stat. Ann. R.4:74-7; Civil Commitment--Adults

N.J. Stat. Ann. §30:4-24.3a; Possession or Receipt of Firearms; Collection of Data and Report to Federal Authorities

N.J. Stat. Ann. §30:4-27.1; Legislative Findings and Declarations; Involuntary Commitment to Treatment

N.J. Stat. Ann. §30:4-27.2; Definitions

N.J. Stat. Ann. §30:4-27.8a; Plan of Outpatient Treatment; Coordination of Treatment Services; Noncompliance by Patient

N.J. Stat. Ann. §30:4-27.10; Court Proceedings for Involuntary Commitment

N.J. Stat. Ann. §30:4-27.12; Hearing on Issue of Continuing Need for Involuntary Commitment to Treatment

N.J. Stat. Ann. §30:4-27.15; Court Findings and Orders

N.J. Stat. Ann. §30:4-27.15a; Court Order for Continued involuntary Commitment to Treatment; Determination of Commitment Placement; Change of Placement

N.J. Stat. Ann. §30:4-27.16; Periodic Court Review Hearings for Committed Patients

N.J. Stat. Ann. §30:4-27.17; Discharge

N.J. Stat. Ann. §2C:39-6; Exemptions

N.J. Stat. Ann. §2C:58-3; Purchase of Firearms

³⁴ Del. Code tit. 16, §5013.

³⁵ Id.

³⁶ Del. Code tit. 11, §1448.

³⁷ 27 Del. Admin. Code § 101-3.0.

³⁸ Del. Code tit. 28, §903.

³⁹ Del. Code tit. 11, §1448A.

What are the legal criteria for outpatient commitment?

A patient must be 18 years or older to receive outpatient commitment.⁴⁰ He or she must be disabled and not able to provide basic care for him or herself or be a danger to themselves, others or property.⁴¹ The patient must also not be seeking treatment or be unable to benefit from voluntary treatment, which makes it necessary for the state to involuntarily commit the patient.⁴² The outpatient commitment treatment assigned must also be the least restrictive treatment possible.⁴³

Who is exempt from outpatient commitment?

Outpatient treatment for people with a mental illness does not include people who are intoxicated, who are reacting to drug ingestion, or people with organic brain syndromes or developmental disabilities unless they are severely impaired.⁴⁴

Who can initiate a hold for an individual?

Any screening service, psychiatric facility, or provider may initiate a holding for an individual by submitting a clinical certificate.⁴⁵ Any other person may initiate a holding for a person by submitting two clinical certificates neither of which may be signed by a relative of the person being held.⁴⁶ If the person being held is an inmate scheduled for release, the holding must be initiated by the Attorney General.⁴⁷

How is appropriate treatment determined by the court?

The court must determine what the least restrictive environment is for the patient, and the likelihood of the patient responding to the treatment.⁴⁸

Is forced medication allowed in this jurisdiction?

In the definition of “Plan of outpatient treatment,” the statute specifies that medication cannot be involuntarily administered in an outpatient setting.⁴⁹

What is the commitment duration maximum?

If a patient is not found to need outpatient commitment by the court, the patient must be released within forty-eight hours or by the end of the next working day, whichever is longer.⁵⁰ Patients who are found to need outpatient commitment treatment may be committed without limitation as long as the commitment is reviewed after six months, nine months, and twelve months after the first hearing.⁵¹ Afterward the first year, the commitment order must be reviewed annually to ensure it is still appropriate.⁵²

What are the repercussions for noncompliance of the ordered outpatient commitment treatment?

If a patient does not comply with his or her treatment, the outpatient treatment provider will notify the court and the screening service about the noncompliance.⁵³ The patient will then be referred to the screening

⁴⁰ N.J. Stat. Ann. R.4:74-7; Delaware, Florida, New York, and California all also have an age restriction in which a patient must be at least 18 years old to receive outpatient commitment, Del. Code tit. 16, §5013, Fla. Stat. §394.4655, N.Y. Mental Hygiene Law §9.60, Cal. Welfare & Institution Code § 5346.

⁴¹ N.J. Stat. Ann. §30:4-27.1.

⁴² Id.

⁴³ Id.

⁴⁴ N.J. Stat. Ann. §30:4-27.2.

⁴⁵ N.J. Stat. Ann. §30:4-27.10.

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ N.J. Stat. Ann. §30:4-27.15a.

⁴⁹ N.J. Stat. Ann. §30:4-27.2.

⁵⁰ N.J. Stat. Ann. §30:4-27.15.

⁵¹ N.J. Stat. Ann. §30:4-27.16.

⁵² Id.

⁵³ N.J. Stat. Ann. §30:4-27.8a.

service to be evaluated to determine what services are appropriate.⁵⁴

Is a discharge plan necessary once outpatient commitment treatment is no longer necessary?

Once the patient is considered to be no longer in need of the outpatient treatment, a discharge plan must be developed.⁵⁵ If the patient was committed from an incarceration facility or was acquitted by reason of insanity, the Attorney General may propose a discharge delay ten days before the discharge day and a hearing will be held to determine the issue.⁵⁶

What are the restrictions on firearm ownership for people who have been ordered outpatient commitment?

A person who has been subject to outpatient commitment will not be issued a permit to purchase firearms.⁵⁷ The firearm purchaser identification card is necessary to purchase, possess, or receive any firearm.⁵⁸ Also, the state will collect all data that may prohibit a person from purchasing or receiving a firearm, including a person who has been adjudicated as a mental defective, and report the data to the Federal Bureau of Investigation.⁵⁹

Are there ways of reinstating a person's firearm possession rights?

There are no statutes that allow for the reinstatement of a person's right to possess a firearm after they have been committed to outpatient treatment. Furthermore, when the law is applied to retired officers, the statute specifies that any one subject to the disabilities in N.J. Stat. Ann. §2C:58-3, which includes being committed to outpatient treatment by court-order, will be permanently disqualified from carrying a handgun.⁶⁰ Under the same statute though, any person who is denied a handgun permit may request a hearing in the Superior Court within thirty days of being denied a permit.⁶¹

TEXAS

Statutes:

Tex. Criminal Procedure Code §46B.0095; Maximum Period of Commitment or Outpatient Treatment Program Participation Determined by Maximum Term for Offense

Tex. Government Code §411.172; Eligibility

Tex. Health and Safety Code §574.001; Application for Court-Ordered Mental Health Services

Tex. Health and Safety Code §574.034; Order for Temporary Mental Health Services

Tex. Health and Safety Code §574.035; Order for Extended Mental Health Services Tex. Health and Safety Code §574.036; Order of Care or Commitment

Tex. Health and Safety Code §574.037; Court-Ordered Outpatient Services

Tex. Health and Safety Code §574.081; Continuing Care Plan Before Furlough or Discharge

Tex. Health and Safety Code §574.088; Relief from Disabilities in Mental Health Cases

Tex. Health and Safety Code §574.103; Administration of Medication to Patient Under Court-Ordered Mental Health Services

What are the legal criteria for outpatient commitment?

Temporary outpatient commitment treatment may be ordered by the court if the appropriate mental services are available and 1) the person has a mental illness, 2) the mental illness is severe and persistent, 3) the patient will likely suffer severe and abnormal mental emotional, or physical distress and experience deterioration of

⁵⁴ Id.

⁵⁵ N.J. Stat. Ann. §30:4-27.17.

⁵⁶ Id.

⁵⁷ N.J. Stat. Ann. §2C:58-3.

⁵⁸ Id.

⁵⁹ N.J. Stat. Ann. §30:4-24.3a.

⁶⁰ N.J. Stat. Ann. §2C:39-6.

⁶¹ Id.

the ability to function independently and live safely in the community without treatment and 4) the person is unable to voluntarily participate in outpatient treatment because of their inability make rational informed decisions or based on recent actions performed by the patient in the last two years.⁶²

Who is exempt from outpatient commitment?

People who are charged with a criminal offense involving an act, attempt, or threat of serious bodily injury to another person may not be issued an order of outpatient commitment.⁶³

Who can initiate a hold for an individual?

Any adult may file an application to initiate a hold for an individual.⁶⁴ Only a district or court attorney may file an application without the accompaniment of a certificate of a medical examination.⁶⁵

How is appropriate treatment determined by the court?

The judge must consider related evidence presented at the hearing, recommendations for the most appropriate care from the local mental health facilities and professionals, and the outpatient and inpatient criteria when determining what the appropriate treatment is.⁶⁶

Is forced medication allowed in this jurisdiction?

Forced medication is not allowed for patients receiving outpatient commitment treatment unless the patient is having a medication-related emergency or the patient is under eighteen years old and their guardian consents to the administration of the medication.⁶⁷

What is the commitment duration maximum?

The maximum duration of a temporary order for outpatient commitment is ninety days.⁶⁸ If the patient has served at least sixty days of outpatient commitment treatment in the past twelve months and the patient continues to meet the outpatient commitment criteria and is expected to meet the criteria for the next ninety days, the court may order a treatment of twelve months; no more or no less.⁶⁹

If the patient is a defendant in a criminal case, the patient may not be ordered outpatient commitment treatment that extends beyond the maximum term the law sets for the offense.⁷⁰ If the patient was a defendant in a misdemeanor case and the case ordered for the outpatient commitment treatment only, the commitment period cannot exceed two years.⁷¹

What are the consequences for noncompliance with outpatient commitment treatment?

If a patient is not complying with the court order, the court may hold a treatment modification hearing and issue an order for temporary detention.⁷² The patient specifically cannot be held in contempt of court for not complying with the program.⁷³

Is a discharge plan required?

⁶² Tex. Health and Safety Code §574.034.

⁶³ Id.

⁶⁴ Tex. Health and Safety Code §574.001.

⁶⁵ Id.

⁶⁶ Tex. Health and Safety Code §574.036.

⁶⁷ Tex. Health and Safety Code §574.103.

⁶⁸ Tex. Health and Safety Code §574.034.

⁶⁹ Tex. Health and Safety Code §574.035.

⁷⁰ Tex. Criminal Procedure Code §46B.0095.

⁷¹ Id.

⁷² Tex. Health and Safety Code §574.037.

⁷³ Id.

Unless it is determined that continued care is not necessary, a discharge plan must be prepared by the physician responsible for the patient.⁷⁴ The plan must be distributed to any community centers of providers that will be aiding in the performance of the plan.⁷⁵ The patient has the right to refuse the services in the plan.⁷⁶

Are firearm possession rights restricted by outpatient commitment?

A person is not eligible to possess a firearm if the person has a psychiatric disorder or condition that causes substantial impairment in judgment, mood, perception, impulse control, or intellectual ability.⁷⁷ The disorder or condition can be evidenced by inpatient treatment, involuntary psychiatric hospitalization, or diagnosis by a physician that the person has had or does have schizophrenia or delusional disorder, bipolar disorder, chronic dementia, dissociative identity disorder, intermittent explosive disorder, or antisocial personality disorder.⁷⁸

Are there ways of reinstating a person's firearm possession rights?

Once a person is discharged from court-ordered mental health services he or she may petition the court that ordered the commitment to relieve the person from firearm disability.⁷⁹ The court must determine the person is not likely to act in a dangerous manner and the removal of the disability to purchase a firearm is in the public interest.⁸⁰

UTAH

Statutes:

Utah Code §62A-15-602; Definitions

Utah Code §62A-15-631; Involuntary Commitment Under Court Order— Examination— Hearing—Power of Court—Findings Required—Cost Utah Code §62A-15-636; Periodic Review--Discharge

Utah Code §62A-15-637; Release of Patient to Receive Other Treatment— Placement in More Restrictive Environment—Procedures

Utah Code §62A-15-705; Commitment Proceedings in Juvenile Court—Criteria— Custody

Utah Code §76-10-503; Restrictions on Possession, Purchase, Transfer, and Ownership of Dangerous Weapons by Certain Persons—Exceptions

Utah Code §76-10-532; Removal from National Instant Check System Database

What are the legal criteria for outpatient commitment?

If the patient is 18 years or older, the patient must 1) have a mental illness, 2) pose a substantial danger to him or herself or others, which may include the inability to provide the basic necessities of life, because of the mental illness, 3) be unable to engage in the rational decision-making process when it comes to mental treatment decisions, and 4) there is no less restrictive option for treatment.⁸¹

If the patient is under 18 years, the patient must 1) have a mental illness, 2) demonstrate a risk of harm to

⁷⁴ Tex. Health and Safety Code §574.081.

⁷⁵ Id.

⁷⁶ Id.

⁷⁷ Tex. Government Code §411.172.

⁷⁸ Id.

⁷⁹ Tex. Health and Safety Code §574.088.

⁸⁰ Id.

⁸¹ Utah Code §62A-15-631.

himself or others, 3) experience significant impairment in the child's ability to perform socially, 4) the child must benefit from the proposed treatment, and 5) there must be no less restrictive option.⁸²

Who is exempt from outpatient commitment?

For a person to be found that they have a mental disorder, that disorder must be found in the most current Diagnostic and Statistical Manual of Mental Disorders.⁸³ Therefore, anyone with a disorder that is not in the DSM will not meet that criterion for outpatient commitment.

Who can initiate a hold for an individual?

Any responsible person who has reason to know the conditions and circumstances of the individual being held and who believes the individual has a mental illness and should be involuntarily committed.⁸⁴ The application must also have a certificate from a physician or examiner saying the individual has a mental illness and should be involuntarily committed or a statement saying the individual refused to submit to an examination.⁸⁵

How is appropriate treatment determined by the court?

The court must consider all relevant evidence, medical records and notes, and the abilities of the local authorities to provide adequate care.⁸⁶

Is forced medication allowed in this jurisdiction?

Utah's definition of "treatment" includes medication and the administration of psychotropic medications.⁸⁷ Therefore, forced medication may be allowed if ordered by the court.

What is the commitment duration maximum?

Commitment of an individual cannot last longer than six months.⁸⁸ If the time must be extended, a review hearing must be held and a new order must be submitted.⁸⁹

What are the consequences for noncompliance with outpatient commitment treatment?

If the patient does not comply with his or her treatment orders, the local mental health authority or designee can order a more restrictive environment.⁹⁰

Is a discharge plan required?

No discharge plan is required. Once the patient is no longer in need of commitment, the patient must be discharged and the discharge report must be sent to the clerk of the court that ordered the commitment.⁹¹

Are firearm possession rights restricted by outpatient commitment?

⁸² Utah Code §62A-15-705.

⁸³ Utah Code §62A-15-602.

⁸⁴ Utah Code §62A-15-631.

⁸⁵ Id.

⁸⁶ Id.

⁸⁷ Utah Code §62A-15-602.

⁸⁸ Utah Code §62A-15-631.

⁸⁹ Id.

⁹⁰ Utah Code §62A-15-637.

⁹¹ Utah Code §62A-15-636.

Anyone who is considered mentally defective under the Brandy Handgun Violence Prevention Act or has been committed to a mental institution may not possess a firearm.⁹²

Are there ways of reinstating a person's firearm possession rights?

A person restricted from possessing a firearm due to their mental health record may petition the court.⁹³ The court must find the person is not a danger to him or herself or others, the person is unlikely to be dangerous to public safety, and the relief will not go against public interest.⁹⁴

Variation Conclusions

All of the states have similar criteria for outpatient commitment with regards to the dangerousness of the patient and the willingness of the patient to be voluntarily committed

- Delaware and New Jersey restrict outpatient commitment to legal adults who are over the age of 18 years.
- Delaware looks at the history of the patient's treatment compliance
- New Jersey and Arizona look broadly at acute, persistent, or grave disabilities, while Texas, Delaware, and Utah look specifically at mental illnesses

Delaware is the only state that does not allow anyone to initiate a holding for outpatient commitment. Instead a peace officer or a mental health screener must initiate though anyone may inform the peace officer or the screener of his or her concerns.

All of the states have similar treatment decision criteria with the variation existing in the statutes' active expression that the judge has to consider relevant evidence when making his or her decision. Most of the statutes discuss the need to look at the appropriateness of the decision, the dangerousness of the patient, and the likelihood that the patient will follow the orders.

The states are split on whether or not forced medication is allowed.

- Utah and Arizona allow forced medication
- Texas and New Jersey do not allow forced medication
- Delaware probably does not allow forced medication though it does not actively speak to a mental health patient's rights beyond his or her right to be informed about the medication being administered

The exemptions for outpatient commitment generally do not vary on drug and alcohol ingestion. There is some variation on the wording when determining exceptions for people with intellectual disabilities such as "dementia" versus "intellectual disabilities"

⁹² Utah Code §76-10-503.

⁹³ Utah Code §76-10-532.

⁹⁴ Id.

- Texas only creates an exception for people charged with some crime related to bodily injury and it is the only state that creates the exception
- Utah greatly restricts outpatient commitment by exempting anyone who's disability does not appear in the DSM
- Arizona creates an exemption of people with long-term patterns of antisocial disorder

The duration of commitment varies widely. Almost every state has a different duration maximum ranging from three months to an indefinite period as long as periodical reviews are held.

- Texas specifically states that patients who are ordered outpatient commitment because of criminal activity must be limited to the same time restriction as if they were placed in a correctional facility.

Noncompliance penalties did not vary greatly. Almost all states either had a reevaluation process, a process for increasing restriction, or a combination of the two.

- Arizona was unique in that it did have a statute that made aiding noncompliance was a misdemeanor

Only two states mandated discharge plans: New Jersey and Texas.

All of the states restricted firearm possession and most of them had a way of reinstating possession rights.

- Arizona, Texas, and Utah looked at the dangerousness of the patient to determine reinstatement of firearm possession rights.
- Delaware looked at whether or not the patient still suffered from the mental illness to determine reinstatement
- New Jersey was the only state that did not have a statute allowing reinstatement