

Information about rights during a mental health crisis

In a mental health crisis ✦ Dial 988 in Virginia

The mental health crisis system involves a variety of different agencies and processes and can be very confusing in the midst of a psychiatric crisis. Regardless of whether you are supported in the community or involuntarily committed, you have rights during every step of the process.

Emergency Custody Order (ECO)

If crisis responders believe an individual needs emergency psychiatric treatment, they may initiate an Emergency Custody Order (ECO). An ECO gives law enforcement the ability to take a person into custody to transport them to an appropriate location for assessment and treatment. The ECO is only valid for an 8-hour period and can be extended for 4-hours if needed.

**Any person taken into emergency custody shall be given a written summary of the emergency custody procedures and the statutory protections.

If you feel that a law enforcement officer violated your rights, you can:

Contact the U.S Department of Justice, Civil Rights Division

<https://www.justice.gov/crt>

**Each police department has a complaint process. You can get this information by contacting the department headquarters and asking how to make a complaint.

Pre-screening

The pre-screening is an evaluation conducted by a trained mental health clinician. It will take place at the local CSB office, hospital Emergency Room, community Crisis Receiving Center, or other location where an individual's needs can be evaluated. If an individual is under an ECO, pre-screening must occur within the 8-hours allotted.

The prescreening determines if an individual needs psychiatric inpatient treatment. At the end of this evaluation, the disposition can be release, voluntary admission, or involuntary admission, otherwise known as a temporary detention order (TDO).

If you feel that the hospital staff violated your rights, you can:

Contact the Virginia Department of Health, Office of Licensure and Certification - Phone: 1-800-955-1819

<https://www.vdh.virginia.gov/licensure-and-certification/>

Contact the Virginia Department of Health Professions, Enforcement Division - Phone: 1-800-533-1560 or (804) 367-4691

<https://www.dhp.virginia.gov/PractitionerResources/Enforcement/>

If you feel that the Community Services Board provider violated your rights, you can:

Contact the Department of Behavioral Health & Developmental Services, Office of Licensing - Phone: (804) 786-1747

<https://dbhds.virginia.gov/clinical-and-quality-management/office-of-licensing/>

Contact the Department of Behavioral Health & Developmental Services, Office of Human Rights - <https://dbhds.virginia.gov/clinical-and-quality-management/human-rights/>

**Contact the Human Rights Advocate assigned to your region - https://dbhds.virginia.gov/wp-content/uploads/2023/12/OHR-Web-Contact-List-w-SFax_12112023.pdf

Temporary Detainment Order (TDO)

If the pre-screener determines that a person is either a danger to themselves, to others, or are unable to care for themselves, they can issue a Temporary Detention Order (TDO). The TDO requires an individual to be held in a psychiatric facility for immediate treatment.

A TDO stays in effect for 72 hours (or slightly longer if the order expires on a Saturday, Sunday, or holiday). Within the 72 hours, the person must have a hearing before a judge, who will determine if the person will be subject to Involuntary Commitment.

Involuntary Commitment

During the TDO period, the hospital must evaluate the person to see if they need to be involuntarily hospitalized for a longer time. If the hospital believes this is the case, they may petition for involuntary commitment.

The possible outcomes of the Involuntary Commitment hearing include:

- Voluntary admission or Court-Mandated Admission (CMA)
- Mandatory Outpatient Therapy
- Involuntary Commitment

If the court grants involuntary commitment, the hospital can hold and provide treatment to an individual for up to 30 days. Any additional order for involuntary inpatient treatment shall not exceed 180 days.

Every individual during the commitment hearing is granted a court-appointed attorney. Under Virginia law, the attorney is required to “represent the wishes of the client.” This requirement means that if the individual wants to be discharged from the hospital, the attorney will challenge those who think they should remain in the hospital.

The right to access firearms is not lost if the TDO is dismissed and an individual is released back to the community. However, if the individual is voluntarily hospitalized under a CMA, is committed to inpatient treatment, or is ordered into mandatory outpatient treatment, the individual does lose their right to “purchase, possess, or transport a firearm.” Violation of this mandate is considered a Class 1 misdemeanor. After their release, the individual can petition the appropriate district court to restore this right.

People who are under an Order for Involuntary Commitment have the right to appeal these decisions. The individual and their attorney can appeal to the Circuit Court in the locality where they were committed. The appeal must be filed within 10 days of the order.

It is important to know that if the director of the hospital "reasonably believes that treatment is necessary to protect the life, health, or safety of a person," the facility may continue to treat the individual while the appeal is underway (unless the Court says otherwise).

If you feel that the psychiatric hospital violated your rights, you can:

Contact the Department of Behavioral Health & Developmental Services, Office of Licensing - Phone: (804) 786-1747

<https://dbhds.virginia.gov/clinical-and-quality-management/office-of-licensing/>

Contact the Department of Behavioral Health & Developmental Services, Office of Human Rights - <https://dbhds.virginia.gov/clinical-and-quality-management/human-rights/>

**Contact the Human Rights Advocate assigned to your region - https://dbhds.virginia.gov/wp-content/uploads/2023/12/OHR-Web-Contact-List-w-SFax_12112023.pdf

If you feel that your attorney or the court didn't work in your best interests, you can:

Make a complaint to the Virginia State Bar -

<https://vsb.org/Site/Site/legal-help/misconduct-claim.aspx>

Need Help?

If you or someone you know is experiencing a mental health crisis and is in imminent danger to themselves or others, please call 911 or 988

For more information:

Contact dLCV to request help www.dlcv.org/get-help or call 800-552-3962 Monday, Wednesday, or Friday to speak with an advocate.

You can also find additional resources on our website:

<https://www.dlcv.org/mental-health>