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# Commitment Issues for Law Enforcement

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## **INTRODUCTION**

In the course of their duties, law enforcement officers, both city and county, will be asked to serve orders on and to transport individuals who are the subject of involuntary commitment procedures. Involuntary mental health commitments can seem complex and overwhelming to a law enforcement officer who is unfamiliar with the process. This publication is designed to give officers a reference tool when they are fulfilling their role in the commitment process. It is recommended that agencies develop a written departmental policy for how to handle the various issues that arise during the course of involuntary commitment proceedings.

While navigating through the commitment process, it is important to keep certain underlying policies in mind. North Carolina's policy is to encourage voluntary admissions to facilities. It is State law that no individual shall be involuntarily committed to a twenty-four-hour facility unless that individual is 1) mentally ill or a substance abuser, and 2) is dangerous to self or others. All admissions and commitments must be accomplished under conditions that protect the dignity and constitutional rights of the individual. G.S. § 122C-201.

### **I. OVERVIEW OF THE INVOLUNTARY COMMITMENT PROCESS**

#### **A. NON-CLINICIAN INITIATED**

Anyone, including a law enforcement officer, who has knowledge of an individual who is mentally ill and is either dangerous to self or others, or is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness, may appear before a clerk of superior court or magistrate and execute an affidavit to this effect, and petition the clerk or magistrate for issuance of an order to take respondent into custody for examination by a commitment examiner<sup>1</sup> (AOC-SP-300). The terms "mental illness," "danger to self," and "danger to others" are all defined in G.S. § 122C-3.

Being "dangerous to self" is defined in G.S. § 122C-3(11)(a) as acting in a way to show:

- (1) The person is unable, without care, supervision and the continued assistance of others 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
- (2) That there is a reasonable probability of his suffering serious physical debilitation within the near future unless adequate treatment is given; or
- (3) The person has attempted suicide or threatened suicide and that there is a reasonable probability of suicide unless adequate treatment is given; or
- (4) The person has mutilated himself or attempted to mutilate himself and that there is a reasonable probability of self-mutilation unless adequate treatment is given.

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<sup>1</sup> For the purpose of this publication, a commitment examiner means a physician, an eligible psychologist, or any health professional or mental health professional certified by the Secretary of Health and Human Services to perform the first examination of involuntary commitment. G.S. § 122C-3(8a).

Being "dangerous to others" is defined in G.S. § 122C-3(11)(b) as, within the relevant past, the person has inflicted, attempted to inflict, or threatened to inflict serious bodily harm on another, or has created a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property and there is a reasonable probability of future dangerous conduct.

## **B. CLINICIAN INITIATED**

The commitment process may also be initiated by certain clinicians. The clinician is not required to appear before a magistrate. They may swear to an affidavit before any official authorized to administer an oath, such as a notary public (AOC-SP-300). The affidavit and petition for involuntary commitment may then be faxed or couriered to the magistrate or clerk of court.

## **C. ISSUANCE OF A CUSTODY ORDER**

Regardless of who initiates the petition for involuntary commitment, the magistrate or clerk of court shall review the affidavit and petition to determine if the involuntary commitment criteria are met. If the magistrate or clerk of court finds probable cause that the respondent is mentally ill or a substance abuser and dangerous to self and/or others, he/she must issue the Findings and Custody Order to law enforcement. If the petitioner is a non-clinician, the magistrate or clerk of court will use form AOC-SP-302A. If the petitioner is a clinician, the magistrate or clerk of court will use form AOC-SP-302B.

# **II. RESPONSIBILITY AND AUTHORITY OF THE LAW ENFORCEMENT OFFICER**

## **A. TAKING A RESPONDENT INTO CUSTODY**

G.S. § 122C-261(e) requires a law enforcement officer who receives a custody order from the clerk of court or magistrate to take the respondent into custody within twenty-four hours after the order is signed. If the respondent cannot be located and taken into custody within this twenty-four-hour period, the order should be returned unserved. If the respondent is located after this time, the order would have to be **reissued** prior to taking the respondent into custody.

### **1. FORCIBLE ENTRY TO TAKE RESPONDENT INTO CUSTODY**

In *In re Reed*, 39 N.C. App. 227, 249 S.E.2d 864 (1978), the Court found that a custody order is analogous to an arrest warrant. Both function to deprive an individual of his liberty; one in a civil context, the other in a criminal context. A law enforcement officer may enter private premises in any of the following three situations to take a respondent into custody pursuant to a custody order.

First, an officer may enter the premises of the respondent under the same circumstances allowed for executing an arrest warrant. This means the officer must:

- (1) have probable cause to believe that the person to be taken into custody is on the premises;

- (2) have given or made a reasonable effort to give the occupant notice of his presence unless there is reasonable cause to believe that giving such notice would present a clear danger to human life; and
- (3) have the signed custody order in his possession.

If, after these conditions are satisfied, the officer reasonably believes his admittance onto the premises is being denied or unreasonably delayed, the officer may use force to enter.

Second, in accordance with G.S. § 15A-285, an officer may enter buildings, vehicles, and other premises if he reasonably believes that doing so is urgently necessary to save a life, prevent serious bodily harm, or avert or control a public catastrophe.

Third, an officer may enter private premises when consent is given by an appropriate resident. Consent must be given by the person whose premises are to be entered or by a person who, by ownership or otherwise, is reasonably and apparently entitled to give or withhold consent. For example, assume the respondent and a third party share an apartment. The third party may give an officer permission to enter common areas of the apartment such as a kitchen or living room. However, the third party cannot consent to the officer entering areas of the apartment over which he does not possess common authority, such as the respondent's bedroom or private bath. If the respondent is in the residence of a third party and the third party refuses to give consent to law enforcement to enter and take custody of the respondent, the officer must weigh all the facts and circumstances to determine whether or not the situation rises to the level of urgent necessity as discussed in G.S. § 15A-285 or whether an additional court order to gain entry should be sought.

## **2. USE OF FORCE TO TAKE RESPONDENT INTO CUSTODY**

In providing transportation pursuant to a commitment order, the law enforcement officer may use reasonable force to restrain the respondent if it appears necessary to protect the officer, the respondent, or others. G.S. § 122C-251(e).

## **B. RESPONSIBILITY FOR TRANSPORTING THE RESPONDENT**

When the respondent is a resident of the city or is physically taken into custody within the city limits, G.S. § 122C-251(a) requires the city to transport the respondent. If the respondent lives outside the city limits and in the county or is physically taken into custody outside the city limits, then the county must transport the respondent. If the respondent is to be transported to a facility outside the county, then the county is responsible for the transportation regardless of whether the respondent resides in the city or the county. However, cities and counties may contract with each other to provide transportation. G.S. § 122C-251(a).

In addition, the governing body of a city or county must adopt a plan for transportation in involuntary commitment proceedings. Law enforcement personnel, volunteers, or other public or private agency personnel may be designated to provide all or parts of the transportation required by involuntary commitment proceedings. Persons so designated shall be trained and the plan shall ensure adequate safety and protection for both the public and the respondent. Law enforcement, other affected agencies, including local acute care hospitals, and other mental health providers must participate in the planning. The area authority may participate in the planning. If any person other than a law enforcement officer is designated to provide

transportation, the person designated shall follow the procedures set up for a law enforcement officer to transport. G.S. § 122C-251(g).

In certain circumstances, a magistrate or district court judge may authorize the family or immediate friends of the respondent, if they so request, to transport the respondent in accordance with the procedures of this article. This authorization should only be granted in cases where the dangers to the public, the family or friends of the respondent, or to the respondent himself are not substantial. The family or immediate friends of the respondent must bear the cost of providing this transportation. G.S. § 122C-251(f).

## C. OBTAINING THE INITIAL EXAMINATION

### 1. WHERE TO TAKE THE RESPONDENT

After taking custody of the respondent, G.S. § 122C-263 requires the officer to transport the respondent to a facility or location identified by the LME/MCO in the community crisis services plan that has an available commitment examiner who is also capable of performing a health screen "without unnecessary delay." An area facility is operated by or under contract with the area authority and constitutes an entity whose primary purpose is to provide care, treatment, habilitation, and rehabilitation to the mentally ill, developmentally disabled, or substance abusers. Law enforcement officers should contact their LME to find out where to transport respondents for an initial examination. If the respondent is already located at the site of first examination when the custody order is issued, the law enforcement officer may serve the custody order on the respondent at that facility. It is imperative that the officer complete the "Return of Service/Custody Certification" at the time the respondent is taken into custody or when the custody order is served on the respondent.

At this facility, the respondent is to be examined by a commitment examiner. If a commitment examiner is not available, whether on-site or on-call at any facility or location, the officer must take the respondent to an alternative non-hospital provider or crisis center where a first examination and health screen may be performed at the same location. If neither of these are available, the officer must take the respondent to a private hospital or clinic, a general hospital, or a state facility for the mentally ill. If a commitment examiner is not available, the respondent may be temporarily detained in an area facility if one is available. If an area facility is not available, the respondent may be detained under "appropriate supervision" in the respondent's home, a private hospital or clinic, a general hospital, or a state facility for the mentally ill. **However, the respondent may not be detained in a jail or other penal facility.**

### 2. REMAINING WITH THE RESPONDENT

A law enforcement officer shall remain with the respondent until the officer has determined that a person qualified to perform a first examination is available to conduct the examination. G.S. § 122C-263(a). While the respondent is waiting for an evaluation or waiting for an available bed at a designated 24-hour treatment facility, the law enforcement officer may leave the respondent under appropriate supervision. Determining what is

appropriate supervision will depend on the circumstances. Factors to consider include: whether the respondent appears violent, whether he or she has a history of violence, the type of facility where respondent is being examined (i.e., is it a secured facility), and the personnel available to supervise the respondent (i.e., is there a security guard or company police officer on site?). A law enforcement officer should use his or her best judgment and consult with facility staff in making this determination.

### **3. EXCEPTIONS TO THE INITIAL EXAMINATION REQUIREMENT**

The initial examination is unnecessary in two situations. The first is if a commitment examiner completed the affidavit and petition for involuntary commitment. G.S. § 122C-3 and G.S. § 263(b)(1). The second is if the custody order states that the respondent was charged with a violent crime and was found incapable of proceeding. G.S. § 122C-263(b)(2). If the initial examination is not needed, the officer must transport the respondent directly to a designated 24-hour facility. A designated twenty-four-hour facility is a facility that provides a structured living environment and services for a period of twenty-four consecutive hours or more that has been designated by the Secretary of the N.C. Department of Health and Human Services for the custody and treatment of involuntary commitment clients. A list of designated twenty-four-hour facilities may be found at the following link: <https://www.ncdhhs.gov/documents/north-carolina-facilities-designated-custody-and-treatment-individuals-under-petitions>

## **D. TRANSPORTING RESPONDENT FROM INITIAL EXAMINATION**

### **1. INPATIENT COMMITMENT RECOMMENDED**

If the first examiner recommends inpatient treatment, law enforcement is responsible for transporting the respondent to a designated twenty-four-hour facility identified by the site of the first evaluation and the LME.

### **2. OUTPATIENT OR NO COMMITMENT RECOMMENDED**

If the physician recommends outpatient treatment, the law enforcement agency that originally took the respondent into custody is responsible for returning the respondent to either his residence or the home of a consenting third party. If the physician determines that the respondent needs neither inpatient nor outpatient treatment, G.S. § 122C-263 mandates that proceedings be terminated. G.S. § 122C-263(d)(3) also mandates that the agency who originally took the respondent into custody shall return the respondent to the respondent's regular residence or, with the respondent's consent, to the home of a consenting individual located in the originating county and the respondent shall be released from custody.

**E. TRANSPORTING RESPONDENT TO AND FROM A DESIGNATED 24-HOUR FACILITY**

**1. TRANSPORTING WITHIN THE COUNTY**

The law enforcement agency who originally took the respondent into custody is responsible for transporting the respondent from the initial examination to the designated twenty-four-hour facility if the facility is located within the county. If the respondent lives in the city or is taken into custody in the city, then the city is responsible for such transportation. If the respondent lives in the county or was taken into custody in the county, then the county has the responsibility to transport.

Likewise, upon the respondent's release from a designated twenty-four-hour facility, the city has the duty to transport the respondent home if he or she lives inside city limits or was taken into custody inside city limits. Otherwise, the county is responsible for transporting the respondent home.

Cities and counties may contract with each other to provide these services. Additionally, the respondent being discharged may use his or her own transportation. G.S. § 122C-251(b).

**2. TRANSPORTING OUTSIDE THE COUNTY**

If the respondent must be transported to a designated twenty-four-hour facility in another county, then the county where the respondent was originally taken into custody is responsible for the transportation. This will be true even if the respondent lives inside the city limits or was initially taken into custody inside the city. When the designated twenty-four-hour facility is outside the county where the respondent was originally taken into custody, transportation between counties upon discharge must be provided by the county of residence of the respondent.

**F. CONSIDERATIONS IN TRANSPORTING A RESPONDENT**

It is important to remember that individuals taken into custody under the involuntary commitment statutes have not committed a criminal offense. Law enforcement officers, to the extent possible, shall advise respondents when taking them into custody that they are not under arrest, but are being transported to receive treatment and for their own safety and for the safety of others. G.S. § 122C-251(c). Because the involuntary commitment process can be frightening and disorienting to the respondent, the law enforcement officer should make every effort to assure the respondent that he or she is there to help. The statute also says that, to the extent feasible, the transporting officer should be in plain clothes and travel in an unmarked vehicle. In addition, if the transporting officer is not of the same sex as the respondent, then an attendant of the same sex should accompany the law enforcement officer during transport. There is no requirement that this attendant be a sworn law enforcement officer. It may be appropriate to allow a member of the respondent's family to accompany the respondent during transport.

In providing the required transportation, G.S. § 122C-251(e) states that the law enforcement officer "may use reasonable force to restrain the respondent if it appears

necessary to protect self, the respondent or others.” In addition, “every effort to avoid restraint of a child under the age of ten shall be made by the transporting officer unless the child’s behavior or other circumstances dictate that restraint is necessary.” G.S. § 122C-251(e). No law enforcement officer may be held criminally or civilly liable for an assault, false imprisonment, or other torts or crimes on account of reasonable measures taken under the authority of this article. G.S. § 122C-251(e). In all cases, it is our recommendation that prior to transportation of a respondent, the transporting officer should contact dispatch and provide beginning mileage, location, destination and starting time. Upon reaching the destination, the officer should again contact dispatch and give ending mileage, ending time and location.

### **G. COST OF TRANSPORTATION**

Pursuant to G.S. § 122C-251(h), the cost and expenses of transporting a respondent to or from a twenty-four-hour facility is the responsibility of the county of residence of the respondent to the extent they are not reimbursed by a third-party insurer. The State, a city, or a county that incurs expense in transporting a respondent is entitled to recover the reasonable costs of transportation from the county of residence of the respondent. The county of residence of the respondent is entitled to recover the reasonable cost of transportation it has paid to the State, a city or a county. The county of residence may recover that cost from:

- (1) the respondent, if the respondent is not indigent;
- (2) any person or entity that is legally liable for the respondent's support and maintenance provided there is sufficient property to pay the cost;
- (3) any person or entity that is contractually responsible for the cost; or
- (4) any person or entity that otherwise is liable under federal, state, or local law for the cost, provided that the respondent or other individual liable for the respondent's support is provided a reasonable notice and opportunity to object to the reimbursement.

### **III. SPECIAL EMERGENCY PROCEDURES**

**This process should only be used in the most unusual and extreme circumstances.**

Anyone, including a law enforcement officer, who has knowledge of an individual who is subject to inpatient commitment and who requires immediate hospitalization to prevent harm to self or others, may transport the individual directly to an area facility, or state facility for the mentally ill, for examination by a commitment examiner. Upon examination by a commitment examiner, if the individual meets the criteria for inpatient commitment, the commitment examiner shall so certify in writing before any official authorized to administer oaths. The form used by the examiner is commonly called the "Emergency Certificate" and is form DMH-5-72-01A. If the commitment examiner completes the emergency certificate, appearance before a magistrate is waived. The commitment examiner is required to send a copy of the certificate to the clerk of superior court as soon as possible. The emergency certificate must be presented for review by the chief district court judge within twenty-four hours (excluding weekends and holidays). G.S. § 122C-264(b1). Anyone, including a law enforcement officer, may transport the individual to a designated twenty-four-hour facility for examination and treatment pending a district court hearing. The emergency certificate shall serve as the custody order and the law enforcement officer or other designated person shall provide transportation.

G.S. § 122C-262. The law enforcement officer or other designated person shall complete the return of service on this form.

#### **IV. AUTHORITY UNDER TRANSPORTATION ORDERS**

A transportation order (AOC-SP-220) is issued when a respondent who has been recommended for outpatient commitment has failed to meet requirements of his or her outpatient commitment status. The outpatient center will notify the clerk of superior court who will issue an order to law enforcement to pick up the respondent and transport him or her to the outpatient facility for evaluation. This custody order is valid throughout the State. If the respondent resides in the city or is taken into custody in the city, then the city is responsible for transporting. Similarly, if the respondent lives in the county or is taken into custody in the county, then the county is responsible for the transportation. The officer may wait and return the respondent home after the evaluation. A law enforcement officer may use reasonable force to transport a respondent pursuant to a transportation order. If it appears that the respondent is dangerous to self and/or others, involuntary inpatient commitment proceedings may be initiated. G.S. § 122C-265(a)(c)(e).

#### **CONCLUSION**

Commitment procedures for individuals may involve officers in situations that are outside of the range of their usual law enforcement duties. We hope this publication is helpful in describing the responsibilities of law enforcement. Questions concerning officers' roles in the commitment process may be directed to the North Carolina Attorney General's Office.

## **FREQUENTLY ASKED QUESTIONS**

**Q. HOW LONG MUST THE LAW ENFORCEMENT OFFICER WAIT AFTER DELIVERING THE RESPONDENT FOR AN INITIAL EXAMINATION?**

A. A law enforcement officer must remain with the respondent until the officer has determined that a physician or eligible psychologist at the area authority is available to conduct the examination. G.S. § 122C-263(a). The law enforcement officer may then leave the respondent if the respondent will be left under appropriate supervision. Determining what is appropriate supervision will depend on the circumstances of each case. Factors to consider include: whether the respondent appears violent, whether he or she has a history of violence, the type of facility where respondent is being examined (for example, is it a secured facility?), and the personnel available to supervise the respondent (i.e., is there a security guard or company police officer on site?).

**Q. WHO IS RESPONSIBLE FOR TRANSPORTING THE RESPONDENT FROM THE INITIAL EXAMINATION IF OUTPATIENT COMMITMENT IS RECOMMENDED?**

A. If, after the initial examination, the clinician recommends outpatient treatment, the law enforcement agency that originally took the respondent into custody shall return the respondent to the respondent's regular residence or, with the respondent's consent, to the home of a consenting individual located in the originating county, and the respondent shall be released from custody. G.S. § 122C-263(d)(1)(d).

**Q. WHO HAS THE DUTY TO PROVIDE TRANSPORTATION DURING THE INVOLUNTARY COMMITMENT PROCESS?**

A. Transportation of a respondent, including admission and discharge, shall be provided by either the city or the county. The agency responsible will be based on where the respondent lives or is taken into custody. The city has the duty to provide transportation of a respondent who is a resident of the city or who is taken into custody in the city limits. The county has the duty to provide transportation for a respondent who resides in the county outside the city limits or who is taken into custody outside of the city limits. However, cities and counties may contract with each other to provide transportation. G.S. § 122C-251(a).

**Q. WHO MUST TRANSPORT THE RESPONDENT TO AND FROM THE DESIGNATED TWENTY-FOUR-HOUR FACILITY?**

A. The law enforcement officer or agency who originally took the respondent into custody will transport the respondent to and from the twenty-four-hour facility. When the respondent is being moved to a twenty-four-hour facility in another county, transportation should be provided by the county where respondent was taken into custody. Where respondent has requested a change of venue from one twenty-four-hour facility to another twenty-four-hour facility, transportation should be provided by the county where the petition for involuntary commitment was initiated. G.S. § 122C-251(b). Upon release from a twenty-four-hour facility in another county, the respondent's county of residence is

responsible for providing transportation from the twenty-four-hour facility. A discharged respondent may provide his or her own transportation.

**Q. WHAT ARE THE STATUTORY REQUIREMENTS FOR HOW A RESPONDENT SHOULD BE TRANSPORTED?**

A. G.S. § 122C-251(c) provides that law enforcement officers, to the extent possible, shall advise respondents when taking them into custody that they are not under arrest and have not committed a crime, but are being transported to receive treatment and for their own safety and for the safety of others. The statute also says that, to the extent feasible, the transporting officer should be in plain clothes and travel in an unmarked vehicle. In addition, the transporting officer or attendant should be of the same sex as the respondent unless the officer allows a member of the respondent's family to accompany the respondent. G.S. § 122C-251(d). Every effort to avoid restraint of a child under the age of ten shall be made by the transporting officer unless the child's behavior or other circumstances dictate that restraint is necessary.

**Q. HOW DO YOU HANDLE TRANSPORTATION OF A RESPONDENT WHEN THE LAW ENFORCEMENT AGENCY REQUIRED TO TRANSPORT DOES NOT HAVE AN AVAILABLE OFFICER OF THE SAME SEX AS THE RESPONDENT?**

A. G.S. § 122C-251(d) states that in providing transportation of a respondent, the agency responsible for the transportation shall provide a driver or attendant who is the same sex as the respondent, unless a family member accompanies the respondent. Agencies are encouraged to attempt to get a family member to accompany the respondent during the process. If a family member is unavailable or unwilling and an agency does not have an officer who is the same sex as the respondent, the statute allows for an "attendant" to accompany the respondent with the officer during the transportation. There is no statutory requirement that the "attendant" be a sworn law enforcement officer. If an agency does not have someone of the same sex as the respondent working as a law enforcement officer, the respondent could be accompanied by anyone of the same sex. The details of who may and will serve as an attendant should be worked out in advance by agencies that might find themselves in this position. G.S. § 122C-294 requires each area authority to develop a local plan with local law enforcement agencies and courts for the commitment process.<sup>2</sup> Such details can be worked out according to this plan or through departmental policy.

**Q. WHAT ARE THE POSSIBLE CIVIL RIGHTS VIOLATIONS OR CONCERNS THAT ARISE FROM COMMITMENT PROCEEDINGS?**

A. No law enforcement officer may be held criminally or civilly liable for an assault, false imprisonment, or other torts or crimes on account of reasonable measures taken under the authority of this article. G.S. § 122C-251(e).

Questions of law enforcement liability will most frequently arise when an officer has taken action pursuant to G.S. § 122C-262, the special emergency procedure for individual requiring immediate hospitalization. Such claims are usually based on an alleged violation of the respondent's Fourth Amendment right. *Gooden v. Howard County, MD.* 9540 F. 2d 960, 968 (4th Cir. 1992). Such

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<sup>2</sup> The newly updated G.S. § 122C-294 states that plans must be submitted to the Division of Mental Health, Developmental Disabilities and Substance Abuse services no later than August 1, 2020.

claims are scrutinized to determine if the officer had "probable cause" to believe the respondent is "both mentally ill and that her mental illness made her a danger to herself or others." *Gooden* at 1363. If the respondent claims that excessive force was used, the officer's conduct must be evaluated "from the perspective of a reasonable officer on the scene," and the "tense, uncertain, and rapidly evolving" circumstances must be taken into consideration. *Janicsko v. Pellman*, 774 F. Supp. 331, 340 (M.D.PA. 1991).

**Q. HOW MUCH FORCE MAY A LAW ENFORCEMENT OFFICER USE TO RESTRAIN A RESPONDENT DURING THE COMMITMENT PROCESS?**

A. A law enforcement officer may use reasonable force to restrain the respondent if it appears necessary to protect himself, the respondent, or others. G.S. § 122C- 251(e). However, every effort must be made to avoid restraining a child under the age of ten unless the child's behavior or other circumstances deem restraint necessary. G.S. § 122C-251(e).

**Q. WHAT IS A TRANSPORTATION ORDER AND WHAT ARE THE LAW ENFORCEMENT OFFICER'S RESPONSIBILITIES REGARDING TRANSPORTATION ORDERS FOR RESPONDENTS WHO HAVE FAILED TO COMPLY WITH OUTPATIENT TREATMENT?**

A. A transportation order is issued when a respondent who has been recommended for outpatient commitment has failed to meet requirements of his or her outpatient commitment status. The treatment provider will notify the clerk of superior court who will issue an order to law enforcement to pick up the respondent and to transport him or her to the treatment provider for evaluation. The officer may wait and return the respondent home after the evaluation. If it appears that the respondent is mentally ill and dangerous to self and/or others, involuntary inpatient commitment proceedings may be initiated. G.S. § 122C-265(a)(c)(e).

**Q. WHAT IS CONSIDERED THE RESPONDENT'S COUNTY OF RESIDENCE?**

A. The county of residence for the respondent is the county of his or her domicile at the time of his or her admission or commitment to a facility. A county of residence is not changed because the respondent is temporarily out of his or her county in a facility or otherwise. G.S. § 122C-3(10).

**Q. DO WE NEED ANY KIND OF PLAN OR AGREEMENT WITH AREA FACILITIES OR HOSPITALS TO KNOW HOW TO PROCEED WITH AN INVOLUNTARY COMMITMENT ORDER?**

A. Yes, G.S. § 122C-294 requires that each area authority shall develop a local plan with local law enforcement agencies, local courts, local hospitals, and local medical societies necessary to facilitate implementation of the involuntary commitment process. If your agency is unaware of a plan, contact your local area authority (LME/MCO) and discuss your concerns with them.

**Q. WHAT IS AN "AREA AUTHORITY?"**

- A.** G.S. § 122C-3(1) defines area authority as the area mental health, developmental disabilities, and substance abuse authority. Our LME/MCOs are the area authorities. There are currently seven in the State.

A map of the LME/MCOs and the counties they cover is located at the following link: <https://www.ncdhhs.gov/providers/lme-mco-directory>. Other DMH forms and information regarding commitment are available at: <https://www.ncdhhs.gov/ivc>.

**APPENDIX:  
ADMINISTRATIVE OFFICE OF THE COURTS (AOC) COMMITMENT FORMS**

# STATE OF NORTH CAROLINA

File No.

\_\_\_\_\_ County

In The General Court Of Justice  
District Court Division

**IN THE MATTER OF:**

Name And Current Address Of Respondent

**REQUEST FOR TRANSPORTATION ORDER  
AND ORDER  
(OUTPATIENT FAILS BUT DOES NOT CLEARLY  
REFUSE TO COMPLY WITH TREATMENT)**

G.S. 122C-273(a)(2)

Date Of Outpatient Commitment Order

Transport To (Name And Address Of Physician Or Center)

Date Period Of Commitment Expires

**NOTE:** Use this form only when (1) an Outpatient Commitment Order has been entered after a hearing in district court; (2) the respondent has failed, but has not clearly refused, to comply with all or part of the prescribed treatment, and (3) the respondent is to be taken to a physician or outpatient treatment center for examination. **DO NOT** use this form when the respondent has clearly refused to comply; instead use "Request For Supplemental Hearing (Outpatient Fails Or Clearly Refuses To Comply With Treatment)," AOC-SP-221. Other transportation orders are: "Notice Of Need For Transportation Order (From One 24-Hour Facility To Another)," AOC-SP-222; "Request For Transportation Order And Order (Committed Substance Abuser Fails To Comply Or Is Discharged From 24-Hour Facility)," AOC-SP-223; Request For Transportation Order And Order (Outpatient Fails To Appear For Prehearing Examination), AOC-SP-224.

**REQUEST**

The outpatient physician, physician's designee or outpatient treatment center named below requests that the Clerk of Superior Court enter an order pursuant to G.S. 122C-273(a)(2) to take the Respondent named above into custody and to take the Respondent immediately to the outpatient treatment physician or center specified above for examination. In support of this request the undersigned states:

1. An Outpatient Commitment Order was entered in this proceeding on the date shown above and the Respondent was ordered to comply with prescribed treatment. The period of outpatient commitment has not expired.
2. The Respondent has failed to comply, but does not clearly refuse to comply, with all or part of the prescribed treatment after reasonable efforts to solicit compliance, in that *(Summarize facts showing failure to comply and reasonable efforts to solicit compliance):*

Date

Signature Of Physician, Physician's Designee Or Representative Of Center

- Physician  
 Physician's Designee  
 Representative Of Center (Title)

Name Of Physician Or Center (Type Or Print)

Name Of Person Signing Request (Type Or Print)

**ORDER**

**TO ANY LAW ENFORCEMENT OFFICER:**

You are ORDERED to take the Respondent into custody, take the Respondent immediately to the specified outpatient treatment physician or center and turn the Respondent over to the custody of that physician or center.

Date

Signature

- Clerk Of Superior Court  
 Assistant Clerk Of Superior Court

**NOTE:** See Side Two for Officer's Return.

AOC-SP-220, New 7/04

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**OFFICER'S RETURN**

*Respondent Taken Into Custody  
Date*

*Time*

AM  PM

*Respondent Turned Over To Physician Or Center  
Date*

*Time*

AM  PM

On the date and time shown above, I took the Respondent into custody. I took the Respondent immediately to the specified outpatient treatment physician or center and turned the Respondent over to the custody of that physician or center.

I DID NOT take the Respondent named above into custody because:

*Date Of Return*

*Signature Of Deputy Sheriff Or Law Enforcement Officer Making Return*

*Name Of Deputy Sheriff Or Law Enforcement Officer Making Return (Type Or Print)*

*County Of Sheriff Or City Of Law Enforcement Officer*

**STATE OF NORTH CAROLINA**

File No.

In The General Court Of Justice  
District Court Division

\_\_\_\_\_ County

**IN THE MATTER OF****AFFIDAVIT AND PETITION FOR  
INVOLUNTARY COMMITMENT**

G.S. 122C-261, 122C-281

Name And Address Of Respondent

Social Security No. Of Respondent (if available)

Date Of Birth

Drivers License No. Of Respondent

State

I, the undersigned affiant, being first duly sworn, and having sufficient knowledge to believe that the respondent is a proper subject for involuntary commitment, allege that the respondent is a resident of, or can be found in the above named county, and:

(check all that apply)

1. has a mental illness and is dangerous to self or others or has a mental illness and is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness.  
 in addition to having a mental illness, respondent also has an intellectual disability.
2. is a substance abuser and dangerous to self or others.

The facts upon which this opinion is based are as follows: (State facts, not conclusions, to support ALL blocks checked.)

Name And Address Of Nearest Relative Or Guardian

Name And Address Of Person Other Than Petitioner Who May Testify

Home Telephone No.

Business Telephone No.

Home Telephone No.

Business Telephone No.

Petitioner requests the court to issue an order to a law enforcement officer to take the respondent into custody for examination by a person authorized by law to conduct the examination for the purpose of determining if the respondent should be involuntarily committed.

**SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME**

Signature Of Petitioner

Date

Signature

Name And Address Of Petitioner (type or print)

 Deputy CSC    Assistant CSC    Clerk Of Superior Court    Magistrate

 Notary (use only with  
commitment examiner petitioner)

Date Notary Commission Expires

Relationship To Respondent

**SEAL**

County Where Notarized

Home Telephone No.

Business Telephone No.

Original-File   Copy-Hospital   Copy-Special Counsel   Copy-Attorney General  
(Over)

**PETITIONER'S WAIVER OF NOTICE OF HEARING**

I voluntarily waive my right to notice of all hearings and rehearings in which the Court may commit the respondent or extend the respondent's commitment period, or discharge the respondent from the treatment facility.

*Signature Of Witness*

*Date*

*Signature Of Petitioner*

**NOTE:** "Upon the request of the legally responsible person or the minor admitted or committed, and after that minor has both been released and reached adulthood, the court records of that minor made in proceedings pursuant to Article 5 of [Chapter 122C] may be expunged from the files of the court." G.S. 122C-54(e).

# STATE OF NORTH CAROLINA

File No.

In The General Court Of Justice  
District Court Division

\_\_\_\_\_ County

## IN THE MATTER OF

## FINDINGS AND CUSTODY ORDER INVOLUNTARY COMMITMENT (PETITIONER APPEARS BEFORE MAGISTRATE OR CLERK)

G.S. 122C-252, -261, -263, -281, -283

Name And Address Of Respondent

Social Security No. Of Respondent

Date Of Birth

Driver's 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 probably:

(Check all that apply)

1. has a mental illness and is dangerous to self or others or has a mental illness and is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness.  
 In addition to probably having a mental illness, the respondent also probably has an intellectual disability. (If this finding is made, see G.S. 122C-261(b) and (d) for special instructions.)
2. is 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 take the respondent for examination by a person authorized by law to conduct the examination. (A COPY OF THE COMMITMENT EXAMINER'S FINDINGS SHALL BE TRANSMITTED TO THE CLERK OF SUPERIOR COURT IMMEDIATELY.)

- IF the commitment examiner finds that the respondent is NOT a proper subject for involuntary commitment, then you shall take the respondent home or to a consenting person's home in the originating county and release him/her.
- IF the commitment examiner finds that the respondent has a mental illness and is a proper subject for outpatient commitment, then you shall take the respondent home or to a consenting person's home in the originating county and release him/her.
- IF the commitment examiner finds that the respondent has a mental illness and is a proper subject for inpatient commitment, then you shall transport the respondent 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.
- IF the commitment examiner finds that the respondent is a substance abuser and subject to involuntary commitment, the commitment examiner must recommend whether the respondent be taken to a 24-hour facility or released, and then you shall either release him/her or transport the respondent 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.

|      |      |  |           |   |   |
|------|------|--|-----------|---|---|
| Date | Time | <input type="checkbox"/> AM<br><input type="checkbox"/> PM | Signature | <input type="checkbox"/> Deputy CSC<br><input type="checkbox"/> Assistant CSC | <input type="checkbox"/> CSC<br><input type="checkbox"/> 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 respondent served and taken into custody as follows:

|   |                                      |  |
|---|--------------------------------------|--|
| Date Respondent Taken Into Custody              | Time                                 | <input type="checkbox"/> AM<br><input type="checkbox"/> PM |
| Name Of Law Enforcement Officer (type or print) | Signature Of Law Enforcement Officer |  |
| Name Of Law Enforcement Agency                  | Badge No. Of Officer                 |  |

**NOTE TO LAW ENFORCEMENT OFFICER:** If respondent is not taken into custody within 24 hours after this Order is signed, check the appropriate box above and return to the Clerk of Superior Court immediately. If respondent is served and taken into custody, complete return of service on the reverse. When taking respondent into custody you must inform him or her that he or she is not under arrest and has not committed a crime, but is being transported to receive treatment and for his or her own safety and that of others.

**B. PATIENT DELIVERY TO FIRST EXAMINATION SITE**

The respondent was presented to an authorized commitment examiner as shown below:

|   |   |   |
|---|---|---|
| Date Presented                                  | Time<br><input type="checkbox"/> AM <input type="checkbox"/> PM | Name Of Commitment Examiner (type or print) |
| Name Of Examining Facility                      |   | County Of Examining Facility                |
| Name Of Law Enforcement Officer (type or print) |   | Signature Of Law Enforcement Officer        |
| Name Of Law Enforcement Agency                  |   | Badge No. Of Officer                        |

**C. FOR USE WHEN TRANSPORTING AFTER FIRST EXAMINATION:  
PATIENT RELEASED OR DELIVERED TO 24-HOUR FACILITY**

1. The commitment examiner found that the respondent does not meet the commitment criteria, or meets the criteria for outpatient commitment, or meets the criteria for substance abuse commitment and should be released pending a hearing. I returned respondent to his/her regular residence or the home of a consenting person and released respondent from custody.
2. The commitment examiner found that the respondent has a mental illness and meets the criteria for inpatient commitment, or meets the criteria for substance abuse commitment and should be held pending a district court hearing. I transported and placed the respondent in the custody of the 24-hour facility named below for observation and treatment.

|                          |                            |
|--------------------------|----------------------------|
| Name Of 24-Hour Facility | County Of 24-Hour Facility |
|--------------------------|----------------------------|

3. Respondent was temporarily detained under appropriate supervision at the site of first examination because the first commitment examiner recommended inpatient commitment and a 24-hour facility was not immediately available or medically appropriate. Upon further examination, a commitment examiner determined that the respondent no longer meets inpatient commitment criteria or meets the criteria for outpatient commitment. I returned the respondent to his/her regular residence or the home of a consenting person and released respondent from custody.

|   |   |   |
|---|---|---|
| Date Delivered                                  | Time Delivered<br><input type="checkbox"/> AM <input type="checkbox"/> PM | Name Of Commitment Examiner (type or print) |
| Name Of Examining Facility                      |   | County Of Examining Facility                |
| Name Of Law Enforcement Officer (type or print) |   | Signature Of Law Enforcement Officer        |
| Name Of Law Enforcement Agency                  |   | Badge No. Of Officer                        |

**NOTE TO LAW ENFORCEMENT OFFICER:** Upon completing this section, immediately return this form and a copy of the commitment examiner's written report (Form No. DMH 5-72-01) to the Clerk of Superior Court of the county where the petition was filed and the custody order issued (See top of reverse side).

# STATE OF NORTH CAROLINA

File No.

In The General Court Of Justice  
District Court Division

\_\_\_\_\_ County

**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, -281, -283

Social Security No. Of Respondent

Date Of Birth

Driver's 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 probably:

*(Check all that apply)*

1. has a mental illness and is dangerous to self or others.  
 In addition to probably having a mental illness, the respondent also probably has an intellectual disability. *(If this finding is made, see G.S. 122C-261(b) and (d) for special instructions.)*
2. is 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.

|      |      |  |           |   |   |
|------|------|--|-----------|---|---|
| Date | Time | <input type="checkbox"/> AM<br><input type="checkbox"/> PM | Signature | <input type="checkbox"/> Deputy CSC<br><input type="checkbox"/> Assistant CSC | <input type="checkbox"/> CSC<br><input type="checkbox"/> 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 respondent served and taken into custody as follows:

|   |                                      |  |
|---|--------------------------------------|--|
| Date Respondent Taken Into Custody              | Time                                 | <input type="checkbox"/> AM<br><input type="checkbox"/> PM |
| Name Of Law Enforcement Officer (type or print) | Signature Of Law Enforcement Officer |  |
| Name Of Law Enforcement Agency                  | Badge No. Of Officer                 |  |

**NOTE TO LAW ENFORCEMENT OFFICER:** *If respondent is not taken into custody within 24 hours after this Order is signed, check the appropriate box above and return to the Clerk of Superior Court immediately. If respondent is served and taken into custody, complete return of service on the reverse. When taking respondent into custody you must inform him or her that he or she is not under arrest and has not committed a crime, but is being transported to receive treatment and for his or her own safety and that of others.*

Original-File Copy-24-Hour Facility Copy-Special Counsel Copy-Attorney General  
(Over)

**B. FOR USE WHEN 24-HOUR FACILITY NOT IMMEDIATELY AVAILABLE OR MEDICALLY APPROPRIATE**

A 24-hour facility is not immediately available or medically appropriate. The respondent is being temporarily detained under appropriate supervision at the facility named below.

|   |   |   |
|---|---|---|
| Date  | Time<br><input type="checkbox"/> AM <input type="checkbox"/> PM | Name Of Commitment Examiner (type or print) |
| Name Of Examining Facility                      |   | County Of Examining Facility                |
| Name Of Law Enforcement Officer (type or print) |   | Signature Of Law Enforcement Officer        |
| Name Of Law Enforcement Agency                  |   | Badge No. Of Officer                        |

**C. FOR USE WHEN RESPONDENT RELEASED BEFORE TRANSPORT TO 24-HOUR FACILITY**

Respondent was temporarily detained under appropriate supervision at the site of first examination because the first commitment examiner (petitioning clinician) recommended inpatient commitment and a 24-hour facility was not immediately available or medically appropriate. Upon further examination, a commitment examiner determined that the respondent no longer meets the inpatient commitment criteria or meets the criteria for outpatient commitment. I returned the respondent to his/her regular residence or the home of a consenting person and released respondent from custody.

|   |   |   |
|---|---|---|
| Date Delivered                                  | Time Delivered<br><input type="checkbox"/> AM <input type="checkbox"/> PM | Name Of Commitment Examiner (type or print) |
| Name Of Examining Facility                      |   | County Of Examining Facility                |
| Name Of Law Enforcement Officer (type or print) |   | Signature Of Law Enforcement Officer        |
| Name Of Law Enforcement Agency                  |   | Badge No. Of Officer                        |

**NOTE TO LAW ENFORCEMENT OFFICER:** Upon completing this section, immediately return this form and the commitment examiner's written report (Form No. DMH 5-72-01) to the Clerk of Superior Court of the county where the petition was filed and the custody order issued (See top of reverse side).

**D. PATIENT DELIVERY TO 24-HOUR FACILITY**

I transported the respondent and placed him/her in the custody of the 24-hour facility named below.

|   |   |
|---|---|
| Date Delivered                                  | Time Delivered<br><input type="checkbox"/> AM <input type="checkbox"/> PM |
| Name Of 24-Hour Facility                        | County Of 24-Hour Facility  |
| Name Of Law Enforcement Officer (type or print) | Signature Of Law Enforcement Officer                                      |
| Name Of Law Enforcement Agency                  | Badge No. Of Officer  |

**NOTE TO LAW ENFORCEMENT OFFICER:** Upon completing this section, immediately return this form to the Clerk of Superior Court of the county where the petition was filed and the custody order issued (See top of reverse side).

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

\_\_\_\_\_  
Signature of Physician or Eligible Psychologist

Address: \_\_\_\_\_

City State Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Date/Time: \_\_\_\_\_

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**

| RETURN OF SERVICE   |  |  |                       |
|---|--|--|-----------------------|
| <input type="checkbox"/> <b>Respondent WAS NOT taken into custody for the following reason:</b> |  |  |                       |
| <input type="checkbox"/> <b>I certify that this Order was received and served as follows:</b>   |  |  |                       |
| <i>Date Respondent Taken into Custody</i>   | <i>Time</i>  |  |                       |
|   | <input type="checkbox"/> AM<br><input type="checkbox"/> PM |  |                       |
| <i>Name of 24-Hour Facility</i>   | <i>Date Delivered</i>                                      | <i>Time Delivered</i>                                      | <i>Date of Return</i> |
|   |  | AM <input type="checkbox"/><br>PM <input type="checkbox"/> |                       |
| <i>Name of Transporting Agency</i>  | <i>Signature of Law Enforcement Official</i>               |  |                       |
|   |  |  |                       |