



DELAWARE HEALTH AND SOCIAL SERVICES

Division of Substance Abuse and Mental Health

1901 North DuPont Highway, New Castle, Delaware 19720

OVERVIEW

24-HOUR DETENTION LAW CHANGES

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IN TODAY'S SESSION
WE WILL COVER...

- ▶ **USDOJ Settlement Agreement**
- ▶ **Who Initiates a 24-Hour Detention**
- ▶ **What Happens to the Detainee**
- ▶ **Legal Ramifications**
- ▶ **The Forms**



US DOJ

- ▶ USDOJ Settlement Agreement
<http://www.ada.gov/delaware.htm>

<http://dhss.delaware.gov/dhss/dsamh/repstats.html>

- ▶ **Goals of the Settlement Agreement**
 - Community Integration
 - Appropriate Planning
 - Support Services for Those at Risk
- ▶ **Commitment Law Changes: HB311**



USDOJ FINDINGS...

- ▶ 70%+ of DPC clients were appropriate for discharge
- ▶ Lengthy stays placed residents at increased risk for harm:
 - Institutionalization (learned helplessness from prolonged dependence on others that makes reintegration into the community more challenging)
 - Possible physical, emotional or sexual abuse by others, including staff
- ▶ Failure to protect residents from self-harm and harm by others due to inadequate treatment planning and monitoring
- ▶ Failure to address circumstances which lead to injuries and other serious incidents due to inadequate incident investigations, analysis, and follow through on corrective proposals



USDOJ FINDINGS...

- ▶ Inappropriate use of medications, isolation, and physical and pharmacological restraints
 - ▶ Inadequate treatment and discharge planning
 - ▶ Inadequate housing
 - ▶ Need to reduce caseloads in Assertive Community Treatment programs
 - ▶ Need for more crisis intervention services and crisis stabilization programs throughout the state
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USDOJ CONCLUSIONS

- ▶ *“These deficiencies have contributed to the untimely deaths of individuals confined at DPC as well as led to other preventable illnesses, injuries, and harm from a variety of sources.”*
 - ▶ *“The State’s current mental health system fails to provide services to individuals with mental illness in the most integrated setting appropriate to their needs as required by the American Disabilities Act.”*
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DELAWARE'S REMEDIAL MEASURES

- ▶ Serve individuals with mental illness in the least restrictive, most integrated setting while...

Assuring professionally-based assessment is done to avoid unnecessary involuntary commitments.



DELAWARE'S REMEDIAL MEASURES

- ▶ Serving persons with mental illness in the community by supporting, expanding and developing:
 - *Assertive Community Treatment (ACT) teams*
 - *Supported housing*
 - *Supported employment*
 - *Family and peer support services*
 - *Community crisis and stabilization services*
 - *Targeted case management services*
 - *Co-Occurring treatment and detoxification services*
 - *Crisis apartments in the community*





DELAWARE CODE

CHAPTER 51

TITLE 16

PARAGRAPH 5122



WHO INITIATES THE DETENTION?

- ▶ Crisis Intervention Services
- ▶ Credentialed Mental Health Screener
- ▶ Psychiatrists and ER Physicians
- ▶ The Police

What about Family Members?



THE NEW LAW

Who Authorizes the Detention?

OLD

- ▶ Any physician licensed to practice medicine in Delaware



NEW

- ▶ Psychiatrist/ER physician licensed in Delaware
- ▶ DE Credentialed Mental Health Screener
- ▶ DE-licensed and Credentialed physician

THE NEW LAW

How is someone transported?

OLD

- ▶ By police, in handcuffs, in a police car



NEW

- ▶ By designated transport personnel (crisis, state employees, contracted transportation service)
- ▶ As recommended by the Mental Health Screener or the EEU
- ▶ Police may make final determination to ensure public safety

TRANSPORT INFORMATION

WHEN SAFETY IS AN ISSUE

- ▶ Police
- ▶ Constables

WHEN SAFETY IS NOT AN ISSUE

- ▶ Dry Dock (Sussex County) 945-1411
- ▶ Hope Volunteers (Kent County) 233-6914
- ▶ Crisis Services 800-345-6785



THE NEW LAW

Where is someone evaluated?

OLD

- ▶ Primarily in hospital emergency departments.



NEW

- ▶ A designated psychiatric treatment facility
- ▶ Office of a credentialed mental health screener
- ▶ Mobile Crisis can go anywhere in the community



THE NEW LAW

Resulting in...

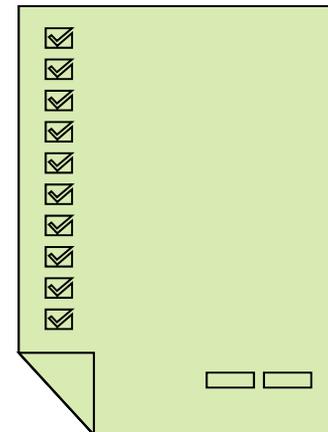
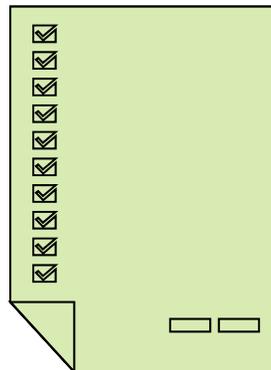
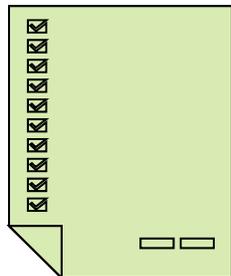
- ▶ Reduced Use of Emergency Rooms
- ▶ Decreased Police Involvement
- ▶ Fewer Court Interventions
- ▶ Recovery-Oriented Approach to Services
- ▶ Use of the Least Restricted Environment for Treatment and Services



Overcoming needless segregation, dependency, and social isolation of those with behavioral health issues.

WHAT HAPPENS NEXT ?

- ▶ Detainee is Safely Transported
- ▶ Designated Psychiatric Facility
- ▶ Evaluated Within 24 Hours after Arrival
- ▶ If Admission is Recommended, Involuntary Commitment Process Begins
- ▶ All Pertinent Paper Work is Completed



LEGAL RAMIFICATIONS



Constitutional Right to Freedom is removed which may have permanent negative effects on employment and other issues.

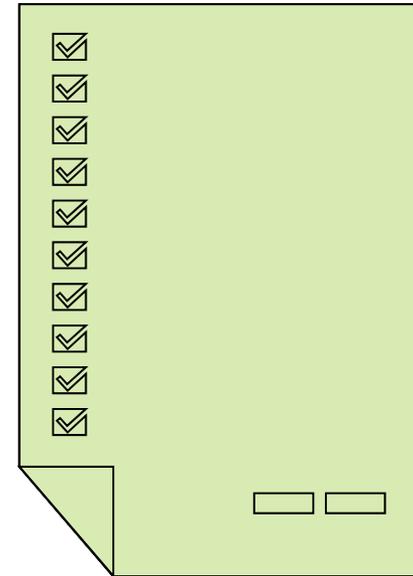
LEGAL RAMIFICATIONS

“ No peace officer, medical doctor, or credentialed mental health screener shall be subject to civil damages, or criminal penalties for any harm resulting from the performance of their functions under this section unless such harm was intentional or the result of willful or wanton misconduct on their part.” Paragraph 5122 (j)



THE FORM

- ▶ **Section I**
Initiates the Evaluation
- ▶ **Section II**
Discharges or “Holds” the Person
- ▶ **Section III**
Legalizes the Transport
- ▶ **Provisional Hospitalization
Decision Form**
Discharges or Starts the Civil
Commitment Process
- ▶ **Transportation Reimbursement
Request**



THE 24-HOUR DETENTION CRITERIA

- ▶ **Diagnosis of Mental Illness or Symptoms of Mental Illness**
 - ▶ **Danger to Self or Others**
 - ▶ **Unwilling/Incapable of Voluntarily Seeking Treatment**
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QUESTIONS

