

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

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To amend Chapter 5 of Title 21 of the District of Columbia Official Code to change the manner in which persons with mental illness are treated, to change the nomenclature for persons with mental illness, to restructure the membership of the Commission on Mental Health, to recognize outpatient treatment may be provided on a voluntary basis, to add the Department of Mental Health and mental health providers to the available options for voluntary admission for treatment, to expand the treatment options for persons with mental illness to include referrals for voluntary outpatient treatment to the Department of Mental Health, a core services agency, or another provider, to shorten the length of time for which people are held for emergency involuntary detention, to expand the available options for the admission of an emergency involuntary patient, to provide for commitments to the least restrictive environment consistent with the best interests of the patient and the public, to limit the commitment term to one year, to provide a process by which commitments may be renewed for terms not to exceed one year, to require review of commitments every 90 days, to provide that a committed person may have an independent examination conducted by a psychologist or qualified psychologist obtained by the committed person within 180 days of the beginning of any term of commitment, and to expand the civil rights of persons committed for mental illness.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Mental Health Civil Commitment Act of 2002”.

Sec. 2. Chapter 5 of Title 21 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended as follows:

(1) Strike the phrase "21-511. Voluntary hospitalization." and insert the phrase "21-511. Voluntary hospitalization and treatment." in its place.

(2) Strike the phrase "21-528. Detention of person pending judicial proceedings." and insert the phrase "21-528. Repealed." in its place.

(3) Add the phrase “21-589.01. Interim provisions for term of commitment for persons committed prior to January 1, 2003.” after the phrase “21-589. Persons hospitalized

prior to September 15, 1964.”.

(4) Strike the phrase "21-590. Discharge as cured; restoration to legal status." and insert the phrase "21-590. Repealed." in its place.

Amend
§ 21-501

(b) Section 21-501 is amended as follows:

(1) New paragraphs (1A), (3A), (4A), (4B), (4C), (8A), (8B), and (9A) are added to read as follows:

“(1A) “Chief clinical officer” means the psychiatrist or qualified psychologist for the Department who is responsible for coordinating the treatment of persons receiving mental health supports or mental health services from the Department;

“(3A) “Core services agency” means a community-based provider of mental health services and mental health supports that is certified by the Department and that acts as a clinical home for consumers of mental health services by providing a single point of access and accountability for diagnostic assessment, medication-somatic treatment, counseling and psychotherapy, community support services, and access to other needed services;

“(4A) “Department” means the Department of Mental Health;

“(4B) “Mental health services” means the services funded or regulated by the Department for the purpose of addressing mental illness or mental health problems;

“(4C) “Mental health supports” means the supports funded or regulated by the Department for the purpose of addressing mental illness or mental health problems;

“(8A) “Provider” means an individual or entity that:

“(A) Is duly licensed or certified by the Department to provide mental health services or mental health supports; or

“(B) Has entered into an agreement with the Department to provide mental health services or mental health supports;

“(8B) “Psychiatrist” means a physician who is licensed to practice medicine in the District of Columbia, or is employed by the federal government, and has completed a residency in psychiatry; and

“(9A) “Qualified physician” means a person licensed under the laws of the District of Columbia to practice medicine who is board-certified in emergency medicine and certified by the Department to examine persons and prepare admission certificates pursuant to section 21-522.”.

(2) Paragraph (6) is repealed.

(c) Section 21-501.01(b) is amended to read as follows:

Amend
§ 21-501.01

“(b) Whenever a qualified psychologist has the responsibility for the voluntary, nonprotesting, emergency, or court-ordered admission or hospitalization of a person who is mentally ill, that qualified psychologist or the provider shall, prior to or at the time of admission or commitment, identify a psychiatrist or other appropriate physician who shall be responsible for the medical evaluation and medical management of the person who is mentally ill during the period in which the person is receiving treatment from that provider. The qualified psychologist

may be responsible for all other evaluation and management of the mental health services or mental health services or supports for the person who is mentally ill.”.

Amend
§ 21-502

(d) Section 21-502 is amended to read as follows:

“§ 21-502. Commission on Mental Health; composition; appointment and terms of members; organization; chairperson; salaries.

“(a) The Commission on Mental Health is continued. The Chief Judge of the Superior Court of the District of Columbia shall appoint the members of the Commission, and the Commission shall be composed of 9 members and an alternate chairperson. One member shall be a Magistrate Judge of the Court appointed pursuant to Title 11 of the District of Columbia Official Code, who shall be a member of the bar of the Court and has engaged in active practice of law in the District of Columbia for a period of at least 5 years prior to his or her appointment. The Magistrate Judge shall be the Chairperson of the Commission and act as the administrative head of the Commission. The Chairperson shall preside at all hearings and direct all of the proceedings before the Commission. Eight members of the Commission shall be psychiatrists or qualified psychologists, as those terms are defined in section 21-501, who have not had less than 5 years of experience in the diagnosis and treatment of mental illness.

“(b)(1) Appointment of members of the Commission shall be for terms of 4 years.

“(2) The initial appointment of a psychiatrist or a qualified psychologist shall be for a probationary period of one year. After the initial one-year probationary appointment, subsequent appointments of the psychiatrist or qualified psychologist shall be for terms of 4 years.

“(c) The psychiatrist or qualified psychologist members of the Commission shall serve on a part-time basis and shall be rotated by assignment of the Chief Judge of the Court, so that at any one time the Commission shall consist of the Chairperson and 2 members, each of whom is either a psychiatrist or a qualified psychologist. Members of the Commission who are psychiatrists or qualified psychologists may practice their professions during their tenures of office, but may not participate in the disposition of a case of a person in which they have rendered professional service or advice.

“(d) The Chief Judge of the Court shall appoint a Magistrate Judge of the Court to serve as an alternate Chairperson of the Commission. The alternate Chairperson shall serve on a part-time basis and act as Chairperson in the absence of the permanent Chairperson.

“(e) The rate of compensation for the members of the Commission who are psychiatrists or qualified psychologists shall be fixed by the Executive Officer of the Court.”.

Amend
§ 21-503

(e) Section 21-503(b) is amended by striking the phrase “The Commission, or any of the members thereof,” and inserting the phrase “Commission members who are psychiatrists or qualified psychologists” in its place.

Amend
§ 21-511

(f) Section 21-511 is amended to read as follows:

“§ 21-511. Voluntary hospitalization and treatment.

ENROLLED ORIGINAL

“(a) A person may apply to a public or private hospital, the Department, or any mental health provider in the District of Columbia to become a voluntary patient for the purposes of observation, diagnosis, and care and treatment of a mental illness. Upon the request of a person 18 years of age or over, or, in the case of a person under 18 years of age, of the person’s spouse, parent, or legal guardian, the administrator of the public hospital to which application is made shall, or the administrator of a private hospital to which application is made may, admit the person as a voluntary patient to the hospital for the purposes described in this section, in accordance with this chapter, if an examination by an admitting psychiatrist or an admitting qualified psychologist reveals the need for hospitalization.

“(b) If an examination reveals that the person requesting admission is not in need of hospitalization but is in need of outpatient treatment, the administrator of the hospital to which the application was made, or his designee, shall facilitate the admission of the person for voluntary outpatient treatment to the Department, a core services agency, or another provider. A person who is under 18 years of age may, consistent with the provisions of the Mental Health Service Delivery Reform Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1131.01 *et seq.*), seek and consent to outpatient mental health services and mental health supports.”.

Amend
§ 21-512

(g) Section 21-512 is amended to read as follows:

“§ 21-512. Release of voluntary patients.

“(a) A person accepted for voluntary treatment by a hospital, the Department, or a mental health provider, pursuant to section 21-511 may, at any time, if the person is 18 years of age or over, obtain his or her release from the hospital or other treatment by filing a written request with the chief of service or, in the case of the Department, the chief clinical officer. Within a period of 48 hours after the receipt of the request, the chief of service or the chief clinical officer shall ensure that discharge planning is completed and release the person making the request. A person admitted into treatment pursuant to section 21-511 who is under 18 years of age may, at any time, obtain his or her release from the hospital or other treatment in the same manner, upon the written request of the person's spouse, parent, or legal guardian. A person under 18 years of age who has sought voluntary outpatient treatment without the consent of a parent or legal guardian may obtain his or her release from that treatment by filing a written request with the chief of service or chief clinical officer.

“(b) When the chief of service or chief clinical officer determines that the person voluntarily receiving treatment pursuant to section 21-511 has recovered or that continued treatment of the person is no longer beneficial to the person, or advisable, the chief of service or chief clinical officer may discharge the person from the hospital or from other treatment.”.

Amend
§ 21-521

(h) Section 21-521 is amended by adding the phrase “, or to the Department,” after the phrase “or private hospital”.

(i) Section 21-522 is amended to read as follows:

Amend
§ 21-522

“§ 21-522. Examination and admission to hospital; notice.

“(a) Subject to the provisions of section 21-523, the administrator of a private hospital may, and the administrator of a public hospital or the chief clinical officer of the Department or his designee shall, admit and detain for purposes of emergency observation and diagnosis a person with respect to whom application is made under section 21-521, if the application is accompanied by a certificate of a psychiatrist, qualified physician, or qualified psychologist on duty at the hospital or the Department stating that he or she:

“(1) Has examined the person;

“(2) Is of the opinion that the person has symptoms of a mental illness and, because of the mental illness, is likely to injure himself or others unless the person is immediately detained; and

“(3) Is of the opinion that hospitalization is the least restrictive form of treatment available to prevent the person from injuring himself or others.

“(b) Subject to the provisions of section 21-523, the chief clinical officer of the Department shall admit and detain, for purposes of emergency observation and diagnosis at a facility certified by the Department for emergency detention, a person with respect to whom application is made under section 21-521, if the application is accompanied by a certificate of a psychiatrist, qualified physician, or qualified psychologist on duty at the Department stating that he or she:

“(1) Has examined the person;

“(2) Is of the opinion that the person has symptoms of a mental illness and, because of the mental illness, is likely to injure himself or others unless the person is immediately detained;

“(3) Is of the opinion that hospitalization is not the least restrictive form of treatment available to ensure that the person will not injure himself or others; and

“(4) Is of the opinion that detention in a certified facility for observation and diagnosis is the least restrictive treatment alternative to prevent the person from injuring himself or others.

“(c) If the psychiatrist, qualified physician, or qualified psychologist determines, after examining the person who has been presented for emergency observation and diagnosis, that the person is not mentally ill, not likely to injure himself or others unless immediately detained, or that hospitalization or detention in a facility certified for emergency observation and diagnosis is not the least restrictive form of treatment, the psychiatrist, qualified physician, or qualified psychologist shall not admit the person to the hospital or facility as an inpatient and shall facilitate the person’s outpatient treatment through the Department or a provider, as appropriate.

“(d) Immediately upon the admission of a mentally ill person to a hospital pursuant to this subchapter, the administrator of the hospital shall notify the chief clinical officer of the Department of the admission by telephone, telefax, or electronically. Not later than 24 hours after the admission pursuant to this subchapter, the administrator of the hospital or the chief clinical officer of the Department shall serve notice of the admission to the Commission, the

parent or legal guardian of a person under 18 years of age who was admitted pursuant to this subchapter, and, if authorized by the person who was admitted to the hospital or the Department consistent with the provisions of the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01 *et seq.*), to the spouse, parent of an admitted person who is 18 years of age or older, or legal guardian of the person.”.

Amend
§ 21-523

(j) Section 21-523 is amended to read as follows:

“§ 21-523. Court order requirement for hospital detention beyond 48 hours; maximum period for observation.

“A person admitted to a hospital or the Department under section 21-522 may not be detained in the hospital or by the Department for a period in excess of 48 hours from the time of the person's admission, unless the administrator of the hospital, the chief clinical officer of the Department, or the administrator's or chief clinical officer's designee has, within that period, filed a written petition with the court for an order authorizing the continued detention of the person for emergency observation and diagnosis for a period not to exceed 7 days from the time the order is entered.”.

Amend
§ 21-524

(k) Section 21-524(a) is amended by striking the phrase “administrator of a hospital” and inserting the phrase “administrator of a hospital or chief clinical officer of the Department” in its place.

Amend
§ 21-526

(l) Section 21-526 is amended as follows:

(1) Subsection (a) is amended by striking the phrase “section 21-512, 21-523, 21-524, or 21-525” and inserting the phrase “section 21-512, 21-523, 21-524, 21-525 or 21-548” in its place.

(2) New subsections (c), (d) and (e) are added to read as follows:

“(c) The maximum period of time for detention for emergency observation and diagnosis may be extended for up to 21 days, if judicial proceedings under subchapter IV of this chapter have been commenced before the expiration of the order entered under section 21-524 and a psychiatrist or qualified psychologist has examined the person who is the subject of the judicial proceedings and is of the opinion that the person being detained remains mentally ill and is likely to injure himself or others as a result of the illness unless the emergency detention is continued. For good cause shown, the court may extend the period of detention for emergency observation and diagnosis. The period of detention for emergency observation and diagnosis may be extended pursuant to section 21-543(b) or following a hearing before the Commission pursuant to subsections (d) and (e) of this section.

“(d) If the Commission, at the conclusion of its hearing pursuant to section 21-542, has found that the person with respect to whom the hearing was held is mentally ill and, because of the mental illness, is likely to injure himself or others if not committed, and has concluded that a recommendation of inpatient commitment is the least restrictive alternative available to prevent the person from injuring himself or others, the detention for emergency observation and

diagnosis may be continued by the Department or hospital:

“(1) Pending the conclusion of judicial proceedings under subchapter IV of this chapter;

“(2) Until the court enters an order discharging the person; or

“(3) Until the Department or hospital determines that continued hospitalization is no longer the least restrictive form of treatment appropriate for the person being detained.

“(e) If the Commission, at the conclusion of its hearing, finds that the person is mentally ill, is likely to injure himself or other persons as a result of mental illness if not committed, and that outpatient treatment is the least restrictive form of commitment appropriate, then, within 14 days of the date of the hearing, the person shall be discharged from inpatient status and shall receive outpatient mental health services or mental health supports as an emergency non-voluntary patient consistent with this subchapter, pending the conclusion of judicial proceedings under subchapter IV of this chapter.”

Amend
§ 21-527

(m) Section 21-527 is amended to read as follows:

“§ 21-527. Examination and release of person; notice.

“(a)(1) The chief clinical officer of the Department or the chief of service of a hospital in which a person is hospitalized under a court order entered pursuant to section 21-524 shall, within 48 hours after the order is entered, have the person examined by a psychiatrist or qualified psychologist.

“(2) If the psychiatrist or qualified psychologist, after his examination, certifies that in his opinion the person is not mentally ill to the extent that the person is likely to injure himself or others if not presently detained, the person shall be immediately released.

“(3) After the examination required under paragraph (1) of this subsection has been completed, the chief of service of the hospital:

“(A) Shall immediately notify the chief clinical officer of the Department of the results of the examination by telephone, telefax, or other electronic means;

“(B) Shall immediately send a copy of the results of the examination by mail to the Commission;

“(C) Shall immediately send a copy of the results of the examination by mail to the parent or legal guardian of a person under 18 years of age who was committed; and

“(D) Shall, within 48 hours, send a copy of the results by mail to the spouse, parents, attorney, legal guardian, or nearest known adult relative of the person examined, if authorized by the person who was examined consistent with the provisions of the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01 *et seq.*).

“(b)(1) The chief clinical officer of the Department or the chief of service of a hospital in which a person is detained under a court order entered pursuant to section 21-524 or under section 21-526(c) shall immediately release the person from the emergency detention in a hospital if, at any time during the detention, a psychiatrist or qualified psychologist at the

hospital or the Department certifies that, based on an examination, it is his opinion that the person is no longer mentally ill to the extent that the person is likely to injure himself or others if not presently detained or that the person could be treated in a less restrictive setting.

“(2) After the examination required under paragraph (1) of this subsection has been completed, the chief of service of the hospital:

“(A) Shall immediately notify the chief clinical officer of the Department of the results of the examination by telephone, telefax, or other electronic means;

“(B) Shall immediately send a copy of the results of the examination by mail to the Commission;

“(C) Shall immediately send a copy of the results of the examination by mail to the parent or legal guardian of a person under 18 years of age who was committed; and

“(D) Shall, within 48 hours, send a copy of the results by mail to the spouse, parents, attorney, legal guardian, or nearest known adult relative of the person examined, if authorized by the person who was examined consistent with the provisions of the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01 *et seq.*)”.

(n) Section 21-528 is repealed.

Repeal
§ 21-528

(o) The title of Subchapter IV is amended by striking the word “HOSPITALIZATION” and inserting the word “COMMITMENT” in its place.

(p) Section 21-541(a) is amended as follows:

Amend
§ 21-541

(1) The lead-in language is amended to read as follows:

“(a) Proceedings for the judicial commitment of a person in the District of Columbia may be commenced by the filing of a petition with the Commission by his spouse, parent, or legal guardian, by a physician or a qualified psychologist, by a duly accredited officer or agent of the Department, by the Director of the Department or the Director’s designee, or by an officer authorized to make arrests in the District of Columbia. The petition shall be accompanied by:”.

(2) Paragraph (1) is amended by striking the phrase “allowed to remain at liberty” and inserting the phrase “not committed” in its place.

(3) Paragraph (2)(A) is amended by striking the phrase "allowed to remain at liberty" and inserting the phrase "not committed" in its place.

Amend
§ 21-542

(q) Section 21-542 is amended as follows:

(1) Subsection (a) is amended by striking the phrase “as informal a manner as may be” and inserting the phrase “a manner” in its place.

(2) Subsection (b) is amended as follows:

(A) Strike the word “hospitalization” and insert the word “commitment” in its place.

(B) Strike the word “hospitalized” and insert the word “committed” in its place.

(r) Section 21-543 is amended as follows:

ENROLLED ORIGINAL

(1) Designate the existing text as subsection (a).

**Amend
§ 21-543**

(2) Strike the phrase “alleged mentally ill person” in the newly designated subsection (a) and insert the phrase “ person alleged to be mentally ill and, because of the mental illness, likely to injure himself or others” in its place.

(3) Strike the last sentence in the newly designated subsection (a).

(4) A new subsection (b) is added to read as follows:

“(b) The Commission may not grant a continuance for counsel to prepare his case for more than 5 days. The Commission may grant continuances for good cause shown for periods of up to 14 days. If the Commission grants a continuance, the emergency observation and detention of the person about whom the hearing is being held shall be extended for the duration of the continuance.”.

(s) Section 21-544 is amended as follows:

**Amend
§ 21-544**

(1) Strike the phrase “allowed to remain at liberty” wherever it appears and insert the phrase “not committed” in its place.

(2) Strike the phrase “alleged mentally ill person” and insert the phrase “person with respect to whom the hearing was held” in its place.

(3) Strike the phrase “An alleged mentally ill person” and insert the phrase “A person” in its place.

(t) Section 21-545 is amended as follows:

**Amend
§ 21-545**

(1) Subsection (a) is amended by striking the phrase "jury trial" wherever it appears and inserting the phrase “jury trial or a trial by the court” in its place.

(2) Subsection (b) is amended to read as follows:

“(b)(1) If the court or jury finds that the person is not mentally ill or is not likely to injure himself or others as a result of mental illness, the court shall dismiss the petition and order the person’s release.

“(2) If the court or jury finds that the person is mentally ill and, because of that mental illness, is likely to injure himself or others if not committed, the court may order the person’s commitment to the Department or to any other facility, hospital, or mental health provider that the court believes is the least restrictive alternative consistent with the best interests of the person and the public. An order of commitment issued pursuant to this paragraph shall be for a period of one year.”.

(3) New subsections (c) and (d) are added to read as follows:

“(c) The psychiatrists and qualified psychologists who are members of the Commission shall be competent and compellable witnesses at a hearing or trial held pursuant to this chapter.

“(d) The jury to be used in any case where a jury trial is demanded under this chapter shall be impaneled, upon order of the court, from the jurors in attendance upon other branches of the court, who shall perform the services in addition to and as part of their duties in the court.”.

(u) A new section 21-545.01 is added to read as follows:

"§ 21-545.01. Renewal of commitment status by Commission; review by court.

“(a) At least 60 days prior to the expiration of an order of commitment issued pursuant to section 21-545 or this section, the chief clinical officer of the Department, or the chief of service of the facility, hospital, or mental health provider to which the person is committed may petition the Commission for a renewal of the order of commitment for that person. For good cause shown, a petition of commitment may be filed within the last 60 days of the one-year period of commitment. The petition for renewal of commitment shall be supported by a certificate of a psychiatrist or qualified psychologist stating that he has examined the person and is of the opinion that the person is mentally ill, and, because of the illness, is likely to injure himself or other persons if not committed. The term of the renewed commitment order shall not exceed one year.

“(b) Within 3 days of the filing of a petition under subsection (a) of this section, the Commission shall send a copy of the petition and supporting certificate by registered mail to the person with respect to whom the petition was filed and by regular mail to the person’s attorney.

“(c) The Commission shall promptly examine a person for whom a petition is filed under subsection (a) of this section, and, in accordance with the procedures described in sections 21-542 and 21-543, shall thereafter promptly hold a hearing on the issue of the person’s mental illness and whether, as a result of a mental illness, the person is likely to injure himself or other persons if not committed.

“(d) If the Commission finds, after a hearing under subsection (c) of this section, that the person with respect to whom the hearing was held is no longer mentally ill, or is not mentally ill to the extent that the person is likely to injure himself or other persons if not committed, the Commission shall immediately order the termination of the commitment and notify the Court of that fact in writing.

“(e) If the Commission finds, after a hearing under subsection (c) of this section, that the person with respect to whom the hearing was held remains mentally ill to the extent that the person is likely to injure himself or others if not committed, the Commission shall order the renewal of the commitment of the person for an additional term not to exceed one year and shall promptly report that fact, in writing, to the Court. The report shall contain the Commission’s findings of fact and conclusions of law. A copy of the report shall be served by registered mail on the person with respect to whom the hearing was held and by mail on the person's attorney.

“(f) If a petition for a renewal of an order of commitment is pending at the expiration of the commitment period ordered under section 21-545 or this section, the Court may, for good cause shown, extend the period of commitment pending resolution of the renewal petition.

“(g) Within the last 30 days of the period of commitment, the chief clinical officer of the Department, or the chief of service of the facility, hospital, or mental health provider to which a person is committed, shall notify the court which ordered the person’s commitment pursuant to section 21-545 or this section of the decision not to seek renewal of commitment. Notice to the court shall be in writing and a copy of the notice shall be mailed to the person who was

committed and the person's attorney.

"(h)(1) A person for whom the Commission orders renewed commitment pursuant to subsection (e) of this section may seek a review of the Commission's order by the Superior Court of the District of Columbia, and the Commission, orally and in writing, shall advise the person of this right.

"(2) A review of the Commission's order of renewed commitment, in whole or in part, may be made by a judge of the appropriate division sua sponte and shall be made upon a motion of one of the parties made pursuant to procedures established by rules of the Court. The reviewing judge shall conduct such proceedings as required by the rules of the Court.

"(3) An appeal to the District of Columbia Court of Appeals may be made only after a judge of the Court has reviewed the Commission's order of renewed commitment."

(v) Section 21-546 is amended to read as follows:

"§ 21-546. Periodic examinations of committed patients; procedure for examination and detention or release; petition to court.

Amend
§ 21-546

"(a) A person who has been committed for treatment pursuant to section 21-545 or section 21-545.01 shall be monitored by the chief clinical officer or the chief of service for the facility, hospital, or mental health provider to which the person has been committed. In doing so, the chief or service or chief clinical officer shall:

"(1) Arrange for, at least every 90 days from the date on which the order was issued under section 21-545 or the date on which the renewed period of commitment begins pursuant to an order issued under section 21-545.01, an examination of the mental health of the committed person by a psychiatrist or qualified psychologist; and

"(2) Promptly consider the reports of the psychiatrists or qualified psychologists conducting the examination, and order the committed person's immediate release from the commitment if the person is no longer mentally ill to the extent that the person is likely to injure himself or other persons if not committed.

"(b) At the conclusion of an examination conducted pursuant to subsection (a)(1) of this section, the psychiatrist or qualified psychologist shall:

"(1) Report his opinion as to whether the committed person is mentally ill and, if mentally ill, whether the committed person is likely to injure himself or others if not committed; and

"(2) Determine whether the committed person is being treated in the least restrictive alternative possible and, if not, identify the least restrictive alternative for the committed person at that time.

"(c)(1) Within 180 days from the date on which the order was issued under section 21-545 or the date on which the renewed period of commitment begins pursuant to an order issued under section 21-545.01, and at the committed person's own expense, the committed person may have an independent examination conducted by a psychiatrist or qualified psychologist obtained by the committed person. If a committed person who is indigent makes a written request for

assistance with an examination under this section, the chief clinical officer shall assist the person in obtaining a psychiatrist or qualified psychologist to conduct the independent examination. A psychiatrist or qualified psychologist so obtained by an indigent person shall be compensated for his services out of any unobligated funds of the Department in an amount determined by the Department to be fair and reasonable.

"(2) A psychiatrist or qualified psychologist who conducts an independent examination of the committed person under this subsection shall submit a report that includes his opinion as to whether the committed person is:

“(A) Mentally ill;

“(B) Likely to injure himself or others as a result of mental illness if not committed; and

“(C) Being treated in the least restrictive alternative possible.

"(3) If the psychiatrist or qualified psychologist who conducted the independent examination determines that the committed person is not being treated in the least restrictive alternative possible, he shall identify the least restrictive treatment appropriate for the committed person at that time.

“(d)(1) If the chief clinical officer of the Department or the chief of service for the facility, hospital, or mental health provider, after considering the reports of the psychiatrists or qualified psychologists conducting the examination pursuant to subsection (a)(1) of this section, determines that the committed person continues to be mentally ill to the extent that the person is likely to injure himself or other persons if not committed, but one or more of the psychiatrists or qualified psychologists who conducted independent examinations under subsection (c) of this section reports that the committed person is not mentally ill to that extent, the committed person may request a change of status or discharge from the chief clinical officer of the Department or the chief of service for the facility, hospital, or mental health provider, and, if denied, may petition the court for an order directing the person's release.

"(2) If the reports of the psychiatrists or qualified psychologists who have examined the committed person under subsection (a) or subsection (c) of this section identify less restrictive treatment alternatives for the committed person and the chief clinical officer of the Department or the chief of service for the hospital, facility, or mental health provider does not implement the less restrictive form of treatment within 30 days of receipt of the report, the committed person may petition the court for an order directing the person's release to a less restrictive form of commitment.

"(3) A petition filed with the court under this subsection shall be accompanied by the reports of the psychiatrists or qualified psychologists who conducted the examinations of the committed person, whether on behalf of the Department, hospital, or provider, or on behalf of the committed person.”

“(e) If the chief clinical officer of the Department or the chief of service for the facility, hospital, or mental health provider, after considering the reports of psychiatrists or qualified

psychologists conducting an examination pursuant to subsections (a)(1) or (c)(1) of this section, orders the committed person's release from the commitment pursuant to subsections (a)(2) or (d)(1) of this section, then the chief clinical officer of the Department or the chief of service for the facility, hospital, or mental health provider shall promptly notify the court that ordered the commitment of that fact. If, as a result of a report of the psychiatrists or qualified psychologists conducting an examination pursuant to subsections (a)(1) or (c)(1) of this section, the committed person is moved from an inpatient treatment setting to a less restrictive treatment setting, the chief clinical officer of the Department or the chief of service for the facility, hospital, or mental health provider shall promptly notify the court that ordered the commitment of that fact.”.

(w) Section 21-547 is amended to read as follows:

“§ 21-547. Judicial determination of petition filed under section 21-546; order; psychiatrists and qualified psychologists as witnesses.

“(a) In considering a petition filed under section 21-546, the court shall consider the testimony of the psychiatrists or qualified psychologists who participated in the examination of the committed person, and the reports of the psychiatrists or qualified psychologists accompanying the petition. After considering the testimony and reports, the court shall either:

Amend
§ 21-547

"(1) Reject the petition and order the continued commitment of the person; or

"(2) Order the chief clinical officer of the Department or the chief of service for the hospital, facility, or mental health provider to immediately implement the least restrictive treatment or immediately release the committed person from the commitment.

"(b) A psychiatrist or qualified psychologist participating in the examination of the committed person shall be a competent and compellable witness at any trial or hearing held pursuant to this chapter.”.

(x) Section 21-548 is amended to read as follows:

“§ 21-548. Request for revocation of outpatient status; confinement pending decision on revocation of outpatient status; hearing on outpatient revocation petition.

“(a) A person who has been committed under section 21-545 or section 21-545.01 and is receiving outpatient treatment may be transferred to a more restrictive treatment setting, including inpatient hospitalization, or a facility certified for emergency observation and diagnosis, pursuant to a court order, after a hearing, upon the court finding, based upon clear and convincing evidence, that:

Amend
§ 21-548

“(1) The person who is committed has failed to comply with a material condition of his outpatient treatment and a more restrictive treatment alternative is required to prevent the person from injuring himself or others; or

“(2) There has been a significant change in the mental illness of the person who is committed and a more restrictive treatment alternative is required to prevent the person from injuring himself or others.

“(b)(1) If the Department, hospital, facility, or mental health provider providing treatment to a person committed under section 21-545 or section 21-545.01 determines that a

committed person who is receiving outpatient treatment is, as a result of mental illness, likely to injure himself or others if he is not immediately detained, the chief clinical officer of the Department, or his designee, or the chief of service of a hospital, facility, or mental health provider, may take the committed person into custody and transfer the person to an inpatient hospital setting or a facility certified for emergency observation and diagnosis, or may request that an officer authorized to make arrests in the District of Columbia take the committed person into custody and transfer the person to an inpatient hospital setting or to a facility certified for emergency observation and diagnosis. If the committed person is hospitalized or detained at a facility not operated by the Department, the chief of service, or his designee, from that hospital or facility shall immediately notify the chief clinical officer for the Department of the admission by telephone.

“(2) Within 24 hours of a committed person’s transfer from outpatient to inpatient treatment, the Department, the hospital, or the facility certified for emergency observation and diagnosis where the person is detained shall notify the court of:

“(A) The committed person’s detention and provide the court with a detailed affidavit reciting the circumstances of the person’s transfer from outpatient status;

“(B) The recent actions of the committed person that brought about the inpatient detention; and

“(C) If known, whether the hospital, facility, or the Department has determined whether to seek a revocation of the committed person’s outpatient status for a period of more than 5 days.

“(3) Within 24 hours of the committed person’s transfer to a more restrictive treatment setting, the hospital or facility shall give the committed person a copy of the notice and affidavit filed with the court as well as written notice of the person’s rights to release or to an adversarial judicial hearing. The hospital or facility shall notify the attorney of record of the committed person’s hospitalization or transfer to a facility certified for emergency observation and diagnosis and provide the attorney with a copy of the notice and affidavit filed with the court.

“(4) The court shall conduct an ex parte review of the notice and affidavit within 24 hours of filing and determine whether the change from outpatient status to inpatient status at a hospital or facility certified for emergency observation and diagnosis is supported by probable cause that the committed person was likely to injure himself or other persons unless immediately hospitalized or transferred to a facility certified for emergency observation and diagnosis. If the court finds that the change in the treatment setting is supported by probable cause, the hospital may detain the committed patient for 5 days from the date of the order. If the court finds that the change in the treatment setting is not supported by probable cause, the court shall order the committed person’s immediate release from the hospital or facility certified for emergency observation and diagnosis. The court shall appoint counsel to represent the committed person if it is determined that the attorney of record is no longer available to represent the person about

whom a notice of rehospitalization has been filed.

“(5) The hospital or facility shall release the committed person at the end of 5 days from the date of the order, unless during that time the hospital, Department, or facility has filed a petition with the court to revoke outpatient treatment. The court shall schedule a hearing on the petition to revoke outpatient treatment within 21 days of the committed person’s hospitalization or detention. The court, for good cause, may continue the hearing. At the conclusion of the hearing, if the court finds that inpatient treatment at a hospital or facility certified for emergency observation and diagnosis is the least restrictive treatment alternative available and required to prevent the person from injuring himself or others as a result of mental illness, the hospital or facility may continue to detain the committed person for the remainder of the term of commitment. If the court finds that inpatient treatment at a hospital or facility certified for emergency observation and diagnosis is not supported, the court shall order the committed person’s immediate release and return to outpatient status.

“(6) The criteria set forth in section 21-526 for determining when the maximum periods of time may be extended shall apply to this section.”

(y) Section 21-549 is amended by striking the phrase “Sections 21-546 to 21-548 do not prohibit” and inserting the phrase “Nothing in this chapter prohibits” in its place.

(z) Section 21-551 is amended as follows:

(1) Subsection (a) is amended by striking the phrase “a public hospital” and inserting the phrase “the Department” in its place.

Amend
§ 21-549

(2) Subsection (b) is amended to read as follows:

Amend
§ 21-551

“(b) For the purposes of this section, the term “resident of the District of Columbia” means a person who voluntarily lives in the District of Columbia and has no present intention of removing himself from the District of Columbia. The term “resident of the District of Columbia” does not include persons who live in the District of Columbia solely for a temporary purpose. Residency is not affected by temporary absence from and the subsequent return to the District of Columbia. Residency shall not depend upon the reason that the person entered the District of Columbia, except to the extent that it bears upon whether they are in the District of Columbia for a temporary purpose.”

(aa) Section 21-561 is amended as follows:

(1) Subsection (a) is amended to read as follows:

“(a) A person hospitalized in a public or private hospital pursuant to this chapter, or committed under sections 21-545, 21-545.01, or 21-548, may exercise the right to communicate with others as set forth in the Mental Health Consumers’ Rights Protection Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1231.01 *et seq.*).”

Amend
§ 21-561

(2) Subsection (b) is repealed.

(3) Subsection (c) is amended to read as follows:

“(c) This section does not prohibit the administrator of a hospital from making reasonable rules regarding visitation hours.”

(bb) Section 21-562 is amended to read as follows:

“§ 21-562. Medical and psychiatric care and treatment; records.

“A person detained as an emergency involuntary patient by or committed to the care of the Department, a provider, or a hospital for mental illness shall, during the detention or commitment, be entitled to medical and psychiatric care and treatment. The administrator or director of the Department, a provider, or a hospital shall keep records detailing all medical and psychiatric care and treatment received by a person admitted for treatment as a voluntary, non-protesting, emergency or committed patient under this chapter and the records shall be made available, consistent with the provisions of the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01 *et seq.*), to the person's attorney, personal physician, or other treatment provider. The records shall be preserved by the administrator or director of the Department, hospital, facility, or mental health provider until the person has been released from treatment, or longer, as required by District of Columbia or federal laws and regulations.”.

Amend
§ 21-562

(cc) Section 21-563 is amended to read as follows:

"§ 21-563. Use of restraints or seclusion; record of use.

“A person who is hospitalized in a public or private hospital pursuant to this chapter has the right to be free from seclusion and restraint of any form that is not medically necessary or that is used as a means of coercion, discipline, convenience, or retaliation by staff, pursuant to the Mental Health Consumers’ Rights Protection Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1231.01 *et seq.*)”.

Amend
§ 21-563

(dd) Section 21-564(a) is amended to read as follows:

“(a) A person admitted or committed for treatment pursuant to this chapter may not, by reason of the admission or treatment, be denied the right to dispose of property, execute instruments, make purchases, enter into contractual relationships, vote, and hold a driver’s license, unless the person has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity. If the chief clinical officer of the Department or the chief of service for the public or private hospital, facility, or provider in which the committed person is housed is of the opinion that the person is unable to exercise any of the rights referred to in this section, the chief clinical officer or chief of service shall immediately notify the person and the person’s attorney, legal guardian, spouse, parents, or other nearest known adult relative, the Superior Court of the District of Columbia, the Commission, and the Mayor of that fact.”.

Amend
§ 21-564

(ee) Section 21-582 is amended as follows:

(1) Subsection (a) is amended to read as follows:

“(a) A petition, application, or certificate authorized under section 21-521, section 21-541(a), section 21-545.01, or section 21-548 may not be considered if made by a psychiatrist, physician, or qualified psychologist who:

Amend
§ 21-582

"(1) Is related by blood or marriage to the person about whom the petition, application, or certificate is made;

"(2) Is financially interested in the hospital in which the person is to be detained;
or

"(3) Except in the case of psychiatrists, physicians, or qualified psychologists employed by the United States or the District of Columbia, are professionally or officially connected with the hospital or are employed on a contract basis by the Department.”.

(2) Subsection (b) is amended by striking the phrase “alleged mentally ill”.

(ff) Section 21-586 is amended by adding a new subsection (c) to read as follows:

“(c) For purposes of this section only, the term “mentally ill person” means a person who has a mental illness, but does not include a person committed to a private or public hospital in the District of Columbia by order of the court in a criminal proceeding.”.

Amend
§ 21-586

(gg) A new section 21-589.01 is added to read as follows:

“§ 21-589.01. Interim provisions for term of commitment for persons committed prior to January 1, 2003.

New
§ 21-589.01

“Any person committed for an indeterminate period of time pursuant to section 21-545 prior to January 1, 2003 shall have his commitment terminate no more than 18 months from January 1, 2003 unless the chief clinical officer of the Department, facility, hospital, or mental health provider has petitioned for recommitment under section 21-545.01. The petition for recommitment of those persons who were committed for an indeterminate period of time prior to January 1, 2003 may be filed at any time during the 18-month period, but no later than 60 days prior to the expiration of the period.”.

(hh) Section 21-590 is repealed.

Repeal
§ 21-590

Sec. 3. Applicability.

Section 2(d), (e), (l)(2), (n), (r)(3) and (4), (t), and (u) shall apply upon the enactment of legislation by the United States Congress that states the following:

“Notwithstanding any other law, section 2(d), (e), (l)(2), (r)(3) and (4), (t), and (u) of the Mental Health Civil Commitment Act of 2002, adopted by the Council of the District of Columbia, is enacted into law.”.

Note,
§§ 21-502, 21-503, 21-526, 21-543, 21-545, 21-545.01

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of

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Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia