YOUR LEGAL RIGHTS UNDER EMERGENCY COMMITMENT

All people have certain basic legal rights, including people with mental illness and people who are in mental health facilities. In some cases, these rights can be restricted by a judge or by your doctor. The following is information you need to know about your rights if you are taken to an inpatient mental health facility on an emergency commitment.

WHEN and WHY You Can Be Committed Under Emergency Detention

You can be picked up and detained in two ways:
- a judge can order a peace officer to take you to an inpatient mental health facility based on an application filed by an adult, or
- a peace officer can detain you and take you to an inpatient mental health facility without a court order or a warrant.

The decision to detain you on an emergency basis must be based on either personal observation or another person’s reliable observation of your recent behavior that makes them believe that:
- you are mentally ill, and
- you pose a substantial and imminent risk of serious harm to yourself or others if you are not immediately detained.

Examples of this kind of behavior include attempting to commit suicide, striking another person, or a recent pattern of severe emotional distress.

WHERE You Must Be Taken

After the peace officer detains you, you must be immediately taken to the nearest appropriate mental health facility for an evaluation. This evaluation will determine whether you can be held longer or whether you must be released. Some facilities may want the peace officer to first take you to an emergency room for a medical clearance evaluation. However, unless you request or require medical attention, you should be taken straight to a mental health facility. You do not have to consent to a medical clearance evaluation.

You must be placed in the nearest appropriate inpatient mental health facility or, in some cases, you may be placed in an alternative approved facility.

After you are detained, you can only be placed in a jail or other non-medical facility in an emergency. If you are placed in a jail or other detention facility, you must be kept separate from people who have been charged with a crime.
AFTER You Have Been Taken To an Inpatient Facility

You have the following rights after you have been taken to an inpatient mental health facility following an emergency detention:

- You must be examined by a doctor as soon as possible within 12 hours of arriving at the facility.
- You may not be detained for more than 48 hours after you arrive at the facility unless a judge signs an order of protective custody. If the 48-hour period ends on a weekend or holiday, you may be detained until 4 p.m. on the next business day. If the 48-hour period ends at a different time, you may only be detained until 4 p.m. that day.
- You can only be admitted to the facility if the doctor who examines you determines that you are mentally ill, you pose a substantial and imminent risk of serious harm to yourself or others and emergency detention is the least restrictive way to restrain you from harm.

UPON ADMISSION to a Mental Health Facility

Within 24 hours after you have been admitted to the mental health facility, you must be told both orally and in writing in the language you understand best, or if you are hearing or visually impaired, in the way you communicate best, the following:

- You must be told where you are and why you have been detained.
- You must be told that this emergency detention could turn into a longer commitment if an involuntary commitment proceeding is started.
- You must be allowed to find an attorney of your choice and to talk with your attorney.
- You must be told that anything you say or how you act while you are at the facility may be used by the judge in further proceedings, such as an involuntary commitment, to decide if you need to stay in the facility and how long you need to stay.
- You must be allowed to leave the facility immediately unless the examining doctor finds that you are mentally ill and that you pose a substantial and imminent danger to yourself or others and that you cannot be treated in a less restrictive manner.
- Whenever you are released from emergency commitment, the facility must arrange, at no charge to you, to take you back to where you were picked up, or to your home in Texas, or to another suitable place.

If you are a minor or if you have a guardian, information about these rights must also be given to your parent or guardian.

If You Think Your Rights May Have Been Violated

If you believe any of these rights may have been violated, you should first contact your treatment team at the facility where you are located. You also have the right to talk to any of the following:

- the Consumer Rights Officer, located in all mental health facilities,
- the Department of State Health Services Office of Consumer Services and Rights Protection at (800) 252-8154, and/or
- Disability Rights Texas at (800) 252-9108.
Disability Rights Texas' goal is to make each handout understandable by and useful to the general public. If you have suggestions on how this handout can be improved, please contact us at info@DisabilityRightsTx.org. Thank you for your assistance.

This handout is available in Braille and/or on audio tape upon request. Disability Rights Texas strives to update its materials on a regular basis, and this handout is based upon the law at the time it was written. The law changes frequently and is subject to various interpretations by different courts. Future changes in the law may make some information in this handout inaccurate. The handout is not intended to and does not replace an attorney's advice or assistance based on your particular situation.