
Psychiatric Inpatient Treatment of Minors - MOT

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Psychiatric Inpatient Treatment of Minors Act

HB2061 (Hamilton) / SB1122 (Lucas)

Overview

- **Mandatory Outpatient Treatment (MOT) for Juveniles**
 - Adds detailed procedures for monitoring MOT for minors
 - Similar to adult MOT procedures
- **Hearing Attendance Requirements**
- **ECO/TDO criteria for minors**

Involuntary Commitment Hearings for Minors Attendance Requirements - Evaluator

- Evaluator who prepared the report pursuant to § 16.1-342, if not physically present, shall be available whenever possible for questioning during the hearing through electronic means

§ 16.1-342

- If admission of the report is objected to by the minor or the minor's attorney, the evaluator shall attend the hearing in person or by electronic means

§ 16.1-344

Involuntary Commitment Hearings for Minors Attendance Requirements

- **Electronic means - § 16.1-345.1**
 - Any two-way electronic video and audio communication system meeting requirements of § 19.2-3.1(B)
 - Persons communicating must simultaneously see and speak to one another
 - Signal transmission must be live, real time
 - Signal transmission must be secure from interception through lawful means by anyone other than persons communicating
 - Telephonic communication system

Involuntary Commitment Hearings for Minors Attendance Requirements - CSB

- CSB that arranged for the evaluation must attend the hearing in person or if not practicable, through electronic means
- If minor does not reside in jurisdiction where hearing is conducted and MOT is being considered, CSB where minor resides must also attend hearing in person or if not practicable, through electronic means

§ 16.1-344

Involuntary Commitment Hearings for Minors

Attendance Requirements - CSB

- CSB where minor resides may, instead of attending hearing, make arrangements with CSB that arranged evaluation to present on its behalf the recommendations for the provision of MOT and the initial MOT plan.
- CSB that attends on behalf of CSB where minor resides shall
 - inform CSB of residence of the disposition upon conclusion of hearing
 - transmit the disposition to the CSB of residence through certified mail, personal delivery, facsimile with return receipt acknowledged, or other electronic means

§ 16.1-344

Involuntary Commitment Hearings for Minors Attendance Requirements - CSB

- Court must provide time and location of hearing to CSB that arranged evaluation at least 12 hours prior to hearing
 - If CSB to be present by telephonic means, court to provide telephone number

§ 16.1-344

Juvenile MOT

- If, in considering the inpatient commitment criteria, the court finds that inpatient treatment is not the least restrictive treatment, the court shall consider entering an order for MOT

§ 16.1-345

Juvenile MOT Criteria

- Because of mental illness the minor
 - Presents a serious danger to self or others to the extent that severe or irremediable injury is likely to result, as evidenced by recent acts or threats, or
 - Is experiencing a serious deterioration of his ability to care for self in a developmentally age-appropriate manner, as evidenced by delusionary thinking or by a significant impairment of functioning in hydration, nutrition, self-protection, or self-control;

Juvenile MOT

Criteria (cont'd)

- The minor is in need of compulsory treatment for a mental illness and is reasonably likely to benefit from the proposed treatment;
- Less restrictive alternatives to inpatient treatment that would offer an opportunity for improvement of his condition have been investigated and are determined to be appropriate [less restrictive alternatives shall not be determined to be appropriate unless the services are actually available and providers have actually agreed to deliver the services];

Juvenile MOT

Criteria (cont'd)

- The minor, if 14 or older, and his parents
 - Have sufficient capacity to understand the stipulations of the minor's treatment
 - Have expressed interest in the minor's living in the community and have agreed to abide by the minor's treatment plan
 - Are deemed to have the capacity to comply with the treatment plan and understand and adhere to conditions and requirements of the treatment and services; and
- The ordered treatment can be delivered on an outpatient basis by the CSB or a designated provider

§ 16.1-345.2(A)

Juvenile MOT Order

- If court finds by clear and convincing evidence that MOT criteria are met, it shall order MOT for a period not to exceed 90 days

§ 16.1-345.2(A)

- Upon expiration of the MOT order, the minor shall be released from its requirements unless the order is continued in accordance with § 16.1-345.5

§ 16.1-345.2(B)

Juvenile MOT Order

- MOT order shall require CSB where minor resides to:
 - Monitor implementation of MOT plan, and
 - Report any material noncompliance to court

§ 16.1-345.2(C)

Juvenile MOT

Initial Treatment Plan

- MOT order must include initial treatment plan developed by CSB where the minor resides
- Contents of Initial MOT Plan
 - Identify specific services to be provided
 - Identify provider who has agreed to provide each service
 - Describe arrangements made for initial in-person appointment or contact with each service provider, and
 - Include any other relevant information available regarding treatment ordered

§ 16.1-345.2(C)

Juvenile MOT

Comprehensive MOT Plan

- Within 5 business days of order, CSB where minor resides must file comprehensive MOT plan with court for approval
- Upon approval, plan filed with court and incorporated into MOT order
- Any subsequent substantive modifications shall be filed with court for review and attached to order

§ 16.1-345.2(D)

Juvenile MOT

Comprehensive MOT Plan-Contents

- Identify specific type, amount, duration, and frequency of each service to be provided
- Identify provider who has agreed to provide each service
- Certify that services are most appropriate and least restrictive treatment available for the minor
- Certify that each provider has complied and continues to comply with applicable DMHMRSAS licensing regulations

Juvenile MOT

Comprehensive MOT Plan-Contents

- Be developed with fullest possible involvement and participation of the minor and his parents and reflect their preferences to greatest extent possible to support minor's recovery and self-determination
- specify particular conditions with which minor shall be required to comply, and
- describe how CSB shall monitor compliance with plan and report any material noncompliance.

§ 16.1-345.2(D)

Juvenile MOT

CSB Out

- If CSB determines necessary services not available or cannot be provided, it must notify court within 5 business days of entry of order
- Within 5 business days of receipt of notice, court must hold hearing

§ 16.1-345.2(E)

Juvenile MOT

Delivery of MOT order

- Clerk of court shall provide order to minor, his parents, his attorney, his GAL and CSB of residence
- CSB of residence must acknowledge receipt on form provided by court

§ 16.1-345.2(F)

Juvenile MOT

Transfer of Jurisdiction

- If court that entered the MOT order is not the court for the jurisdiction where the minor resides, the court shall transfer jurisdiction to the court where the minor resides.

§ 16.1-345.2(G)

Juvenile MOT Monitoring

- Monitoring includes:
 - Contacting service providers to determine if minor is complying
 - Notifying court of minor's material noncompliance
- Providers of services identified in plan shall report any material noncompliance to CSB

§ 16.1-345.3(A)

Juvenile MOT Monitoring

- If CSB determines minor materially failed to comply, the CSB must:
 - File a motion for review of MOT order with the JDR court where the minor resides within 3 business days or 24 hours if minor under TDO
 - Recommend appropriate disposition
 - Send copies of motion to minor, his parents, his GAL, and his attorney

§ 16.1-345.3(B)

Juvenile MOT Monitoring

- If CSB determines minor is not materially complying and meets juvenile inpatient commitment criteria, CSB shall immediately request a magistrate to issue an ECO or TDO

§ 16.1-345.3(C)

Juvenile MOT Monitoring

- If CSB determines prior to expiration of MOT order that minor has complied and that continued MOT is no longer necessary, it shall file a motion for review with the JDR court where the minor resides

§ 16.1-345.3(D)

Juvenile MOT Court Review

- All court hearings held to review MOT orders shall be held by a JDR judge, not a special justice
 - JDR judges available on short notice
 - Extensive experience and knowledge of juvenile behavior
 - More tools available to JDR judges to deal with noncompliance

§ 16.1-345.4(E); 16.1-345.5(E)

Juvenile MOT Court Review

- Court shall hold hearing within 15 days of receiving motion for review (or on next business day)
- If minor is detained, hearing held within timeframe of § 16.1-340 (no sooner than 24 hours, no later than 96 hours of time of issuance of TDO or filing of petition, whichever is later)
- Clerk shall provide notice to minor, his parents, CSB, all treatment providers, and original petitioner

§ 16.1-345.4(A)

Juvenile MOT Court Review

- If minor not represented by counsel, judge shall appoint an attorney giving consideration to the attorney who represented the minor at initial hearing
- Judge shall appoint GAL
- CSB shall offer to arrange minor's transportation to hearing if minor is not detained and has no other source of transportation

§ 16.1-345.4(A)

Juvenile MOT

Court Review - Evaluation

- Evaluator must be appointed only if requested by:
 - Minor's parents
 - CSB
 - Treatment provider
 - Original petitioner
- Evaluator shall certify whether or not he has probable cause to believe minor meets juvenile inpatient commitment criteria or MOT criteria

§ 16.1-345.4(B)

Juvenile MOT

Court Review - Evaluation

- Evaluator's report may be admitted without appearance of evaluator if not objected to by minor or his attorney
- If minor is not detained at inpatient facility, CSB shall arrange for minor to be examined at a convenient location and time
- CSB shall offer to arrange for transportation to examination if minor has no other source of transportation

§ 16.1-345.4(B)

Juvenile MOT

Court Review - Evaluation

- If minor fails to appear at examination, CSB must notify court
- Court shall issue mandatory examination order and civil show cause summons
- Minor to remain in custody until a TDO is issued or he is released but in no event longer than 4 hours

§ 16.1-345.4(B)

Juvenile MOT

Failure to Appear at Hearing

- If minor fails to appear at hearing, court shall:
 - Reschedule the hearing
 - Issue an ECO
 - Issue a TDO

§ 16.1-345.4(C)

Juvenile MOT Dispositions

- At conclusion of evidence, the court shall:
 - Order involuntary inpatient admission if minor meets inpatient criteria for a period not to exceed 30 days
 - Renew MOT order if minor meets MOT criteria and a continued period of MOT appears warranted, making necessary modifications acceptable to CSB or treatment providers
 - Rescind MOT order
- Transportation to inpatient treatment facility pursuant to § 16.1-345 (remember new alternative transportation provisions)

§ 16.1-345.4(D)

Juvenile MOT

Continuation of MOT Order

- Within 30 days prior to expiration of MOT order, CSB may file motion for review to continue the order with JDR court where minor resides

§ 16.1-345.5(A)

- If minor's parents and the minor if 14 or older, or the minor's parents if minor under 14 join in motion, court shall extend order without hearing. Otherwise, hearing scheduled and notice provided in accordance with § 16.1-345.4(A).

§ 16.1-345.5(B)

Juvenile MOT

Continuation of MOT Order

- Court shall appoint evaluator
§ 16.1-345.5(C)
- Court may make one of dispositions specified in § 16.1-345.4(D).
- If court finds continued period of MOT warranted, may continue order for up to 90 days
- MOT order in effect at time motion for review to continue filed shall remain in effect until court enters subsequent order
§ 16.1-345.5(D)

HB2061/SB1122

Other Amendments – ECO and TDO

- ECO and TDO shall only be issued for a minor if the minor meets the juvenile commitment criteria of § 16.1-345

§ 16.1-340

- Sections 37.2-808 (ECO) and 37.2-809 (TDO) were also amended to require a magistrate to apply the juvenile commitment criteria when determining whether to issue an ECO or TDO involving a minor

HB2061/SB1122

Other Amendments – Evaluation Report

- Reports prepared by an evaluator shall be provided to the minor's counsel and the GAL
 - Parental admission of objecting minor 14 or older
 - Involuntary commitment

§ 16.1-339(C); 16.1-342

HB2061/SB1122

Other Amendments

- A minor in a detention home who is hospitalized shall be returned to the detention home on discharge
 - Unless court with jurisdiction over the case orders minor to be released from custody
- Added to address reported problems facilities were having arranging transportation back to detention home.

§ 16.1-338(H); 16.1-339(F)

HB2061/SB1122

Other Amendments

- Director of detention home or shelter care facility shall provide, if available,
 - the charges against the minor that are the basis of the detention and
 - the names and addresses of the minor's parents and the JDR court ordering the detention or shelter care placement to the mental health facility where the minor is admitted and the J&DR court where the mental health facility is located if different than the court ordering the detention

§ 16.1-339.1

HB2061/SB1122

Other Amendments

- Petition for judicial approval of parental admission of objecting minor 14 or older and petition for involuntary commitment shall contain the information required by § 16.1-339.1

§ 16.1-339(C); 16.1-341(A)