

Research Protocol for Short-Term Emergency Commitment Laws

Prepared by the Center for Public Health Law Research Staff

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Short-Term Emergency Commitment Laws

- I. **Date of Protocol:** June 23, 2014; July 9, 2014; August 25, 2014; September 24, 2014; October 7, 2014; October 23, 2014; November 14, 2014; February 8, 2016; September 19, 2016; April 13, 2021

- II. **Scope:** To compile statutes and regulations governing emergency civil commitment. This dataset originally began as a cross-sectional dataset capturing laws effective as of October 1, 2014. During the February 2016 update, the dataset became longitudinal and now captures all relevant laws in effect from October 1, 2014 through February 1, 2016. The dataset includes coding questions about emergency civil commitment, such as: who may initiate a commitment, how long someone may be kept upon admission to a hospital without additional proceedings, what kind of information must be provided to a patient upon admission, if transportation must be provided upon discharge, if there is judicial oversight with a right to council, and if an emergency commitment disrupts a patient's right to purchase a firearm.

- III. **Primary Data Collection**
 - a. **Project Dates:** January 15, 2014 until November 14, 2014.

 - b. **Dates Covered in the Dataset:** July 16, 2003 to October 1, 2014. This is a cross-sectional dataset intended to capture present day law. There are laws within the entries themselves that were enacted prior to July 16, 2003; however they are all still effective, thus, the "effective date" is the date of the most recent law within each entry.

 - c. **Data Collection Methods:** The team building this dataset consisted of two legal researchers ("Researcher #1" and "Researcher #2" or "Researchers") and one supervisor ("Supervisor"). The two Researchers were each assigned half of the states at random. The Researchers submitted initial background policy memorandums and state summary memorandums in January 2014. The team met in mid-February 2014 to discuss and identify key research questions, including: who can initiate a commitment, how long an emergency commitment may last, the procedure for extending the commitment, the review to the commitment decisions, and the rights of the patients.

 - d. **Databases Used:** Searches were conducted using HeinOnline. LexisAcademic.
 - i. Full text versions of the laws collected were pulled from each respective state legislature's website.
 - ii. <http://www.ncsl.org/research/civil-and-criminal-justice/possession-of-a-firearm-by-the-mentally-ill.aspx> was consulted as a secondary source.

 - e. **Search Terms:** The team employed the following search terms to conduct research: mentally ill, civil commitment, emergency commitment, emergency hold, mental illness

procedures, and institutionalization procedures. The researchers used these terms to access the section of the code that governs civil commitment and subsequently reviewed all laws paying close attention to collect only the laws that pertained to short-term commitment.

- f. Information about Initial Returns and Additional Inclusion or Exclusion Criteria:** Gun laws were pulled for each state. Under federal law, guns shall not be given to those who are at risk of harming themselves or others due to mental illness. However, each state defines these terms. The relevant law was always collected, regardless of if emergency commitment would trigger the gun loss provision. Interpretation of the provision was performed at the coding stage. Gun laws are included in this dataset however we kept the scope of the question very broad.

Initially, the team included separate statutes addressing substance abuse and sexual violence since they can be a reason for emergency commitment. However, towards the end of the process the team decided to scope out both substance abuse and sexual violence. Those two reasons for commitment trigger completely different standards than the general mentally ill, danger to oneself or others standard we used while planning this dataset. In some states, substance abuse and sexual violence are included within the short-term civil commitment statute generally and sometimes they are in their own section. In the end, the team believed these two topics could be two separate datasets.

IV. Coding

- a. Development of Coding Scheme:** In March 2014, the coding development questions were reviewed and edited. The questions were also reviewed and approved by a subject matter expert. The coder entered the questions into the LawAtlas Question Development Form and Workbench. Then, the first 10 states were coded independently by two Researchers. The team decided to exclude minors from the coding scheme.
- b. Coding Methods:** Coding procedures were further developed and the questions were solidified. The team reaffirmed its decision to code only questions related to emergency commitment of adults due to the large number of laws relating to all aspect of civil commitment and time constraints.

In July 2014, the team met to discuss the preliminary coding. The team decided that peace officer and police officer are distinguishable and must not be merged under one answer choice to the question: “Who can initiate emergency commitment?” Police officer will only be coded when it is explicitly stated within the law. The team also decided that when different rules apply (regarding judicial review) depending on who initiates the commitment (i.e. a police officer vs. a friend) the Researchers code based on the general rule, and caution note exceptions as necessary.

Throughout the coding process the Researchers only code “danger to self” or “danger to others” as single answer choices when “mentally ill” is not mentioned for the question:

“Under which circumstances can an individual be held for emergency commitment?” This needs to be clarified because we have five similar but distinct answer choices “danger to self,” “danger to others,” “danger to self due to mental illness,” “danger to others due to mental illness,” and “mental illness. In many states, the law says you must be mentally ill and a danger to oneself or others. In a minority of states, mental illness stands alone as a justified reason for commitment. In other states, you can be committed for being a danger to self or others without being mentally ill. We wanted to capture this important nuance in these laws.

In August 2014, the team clarified some answer choices. When a specific professional is listed for “Who can initiate emergency commitment” the team coded that specific profession (i.e. Medical director, Psychologist) instead of just coding the general “Mental health professional” answer choice. The team added Advanced Practice Registered Nurse (APRN) as an answer choice to that question as well. The Researchers went back and re-coded as necessary based on these changes.

For the question, “Who can initiate emergency commitment,” only those individuals that can explicitly initiate a petition or request for emergency commitment of a person were selected. Those selected do not represent the individuals charged with actually determining whether someone qualifies for treatment.

V. Quality Control

In May 2014, 100% of the preliminary coding (10 records) were redundantly researched and coded. This initial redundant rate of divergence was 20%. The team met to discuss each divergence, and all divergences were resolved. In June of 2014, one Researcher re-coded for all of the changes.

In July, two records were redundantly coded, with a divergence rate of 26.5%. In August, three records were redundantly coded. The rate of divergence was 36% due to the difficulty of one outlier state. All divergences were resolved.

VI. Updated – February 2016

- a. Scope:** This dataset originally began as a cross-sectional dataset capturing laws effective as of October 1, 2014. During the February 2016 update, the dataset became longitudinal and now captures all relevant laws in effect from October 1, 2014 through February 1, 2016.
- b. Data Collection Methods:** One update Supervisor and two Researchers checked all existing legal citations on Westlaw and legislative tracking websites for pending and proposed legislation since October 1, 2014. The team determined that 34 jurisdictions had amendments to relevant laws. The Researchers created new records with updated legal text for states with new laws or changes to existing laws that affected answer choices. Researchers cloned records and updated the legal text for states with changes that did not affect answer choices.

- c. Coding Updated Findings:** During the February 2016 update, the team found that 9 states: Alabama, Delaware, Florida, Hawaii, Maine, Michigan, Nevada, North Dakota, and Oregon had substantive changes to the law, meaning that these changes affected an answer choice, which required coding. One Researcher coded the updates for these states. The other Researcher redundantly coded these states. The Supervisor reviewed the coding. All divergences were discussed and resolved. The team also found that 25 jurisdictions: Arizona, California, Connecticut, District of Columbia, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Montana, North Carolina, Ohio, Oklahoma, Rhode Island, Tennessee, Texas, Vermont, Virginia, Washington, and Wisconsin had non-substantive changes to the law, meaning these changes did not affect an answer choice. Because the changes did not affect an answer choice, these records were cloned and not coded or redundantly coded. Once these records were cloned, the legal text for each record was updated with the new law.

 - i. Coding Methods:** For the question: “Within how many hours?” the Researchers decided that the answer choice “on arrival” includes terms such as “without unnecessary delay,” “as soon as possible,” and “immediately” when no other timeframe is provided in the law. For example, Hawaii requires an emergency examination to be conducted “without unnecessary delay” following short-term emergency commitment. In that instance, the Researchers selected “on arrival” as the most appropriate answer choice.

- d. Quality Control:** The Supervisor downloaded records into Excel and ran divergence calculations on the redundantly coded records. Supervisor also compared newly coded entries to previously coded entries for consistency. The Researchers researched and coded the states in batches of 10 or 11 states (5 or 6 states for each Researcher). In batch 1, the divergence rate was 10.1%. In batch 2, the divergence rate was 14.1%. Batch 3 did not require coding because there were not changes to the law that affected coding. In batch 4, the divergence rate was 3.4%, and in the final batch, batch 5, the rate was 6.2%. All divergences were discussed and resolved. Researchers re-coded as necessary after divergences were resolved.

VII. Updated – September 2016

- a. Scope:** In this update, the response set for the question, “Under which circumstances can an individual be held for emergency commitment?” was modified. The responses, “Danger to self” and “Danger to others” were merged into “Danger to self or others”, because there were no jurisdictions which had one response but not the other. The responses, “Danger to self due to mental illness” and “Danger to others due to mental illness” were also merged into “Danger to self or others due to mental illness”, for the same reason. Finally, the response “gravely disabled” was removed, and jurisdictions with that response were recoded to “unable to meet basic needs”, because “gravely disabled” was consistently defined in the law as “unable to meet basic needs.” Relevant

documents were modified accordingly, including the data page and codebook. There were no other changes to the dataset.

VIII. Correction – April 2021

- a.** On April 13, 2021, the coding for California was corrected for the question “Does short-term civil commitment limit an individual’s right to possess a firearm?” from No to Yes.