

# North Carolina Magistrates and IVC Law

November 2025

Presentation to the Legislative Committee  
on Crime and Public Safety

# NC GENERAL STATUTE 122C-261

## AFFIDAVIT AND PETITION BEFORE CLERK OR MAGISTRATE WHEN IMMEDIATE HOSPITALIZATION IS NOT NECESSARY; CUSTODY ORDER.

Anyone who has knowledge of an individual who has a mental illness and is either (i) dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as defined in G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness, may appear before a clerk or assistant or deputy clerk of superior court or a **magistrate** and execute an affidavit to this effect, and petition the clerk or **magistrate** for issuance of an order to take the respondent into custody for examination by a commitment examiner

If the clerk or magistrate finds reasonable grounds to believe that the facts alleged in the affidavit are true and that the respondent probably has a mental illness and is either (i) dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as defined in G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness, the clerk or magistrate shall issue an order to a law enforcement officer or any other designated person under G.S. 122C-251 to take the respondent into custody for examination by a commitment examiner

# INVOLUNTARY COMMITMENT LANGUAGE



## Petitioner:

- The party filling out the "Affidavit and Petition for Involuntary Commitment" (AOC-SP-300)
- Anyone with knowledge (firsthand or hearsay) that an individual needs treatment for mental illness or substance abuse

## Respondent:

- An individual in need of treatment for mental illness, substance abuse, or both (but is unable to voluntarily comply with treatment)

# INVOLUNTARY COMMITMENT LANGUAGE



## **Danger to self 122C-11(a)**

- Unable to care for self or
- Attempted/threatened suicide
- Attempted/engaged in self mutilation

## **Reasonable probability that conduct will lead to**

- serious physical debilitation
- suicide attempt
- continued self mutilation
- Predictably becomes dangerous to self or others

# INVOLUNTARY COMMITMENT LANGUAGE



## Danger to others 122C-3(11)(b)

Inflicted, attempted or threatened serious bodily harm

- Created a substantial risk of serious bodily harm
- Engaged in extreme destruction of property
- Reasonable probability of conduct being repeated

# INVOLUNTARY COMMITMENT CRITERIA

In order to demonstrate that a respondent is a danger to self and/or others:

A petitioner must make a sworn statement of fact (not conclusions) that shows how the respondent is a danger to self and/or others

A statement of fact is more than just a statement of:

SI (suicidal ideations)

Bipolar or Schizophrenia Diagnosis

Addict

## DO:

- Believes there is a person sitting in the corner of the room
- Has access to a weapon and said they are going to use it to harm themselves
- Left the stove on and will not participate in hygiene care

## DON'T:

auditory/visual hallucination

“acting weird”

Addicted to drugs



# WHEN IS IT TIME FOR AN IVC?

- Don't wait too long if the individual's safety and the safety of others is at risk
  - Acts for the basis of an IVC are “within the relevant past” if they are close enough in time to lead a reasonable person to believe that they probably will be repeated.
  - Petitioner instructed to provide information about behaviors in the past week
  - Petitioners can include facts from the past to establish that behaviors will likely be repeated
- How close in time actions must be to create this belief will depend on the information presented in the petition, as the magistrate's finding of dangerousness will depend on the totality of the circumstances, which vary with each petition

# REASONABLE GROUNDS TO BELIEVE

The *knowledge of facts* that would lead a reasonable person of **ordinary intelligence** and prudence to believe the respondent probably meets the commitment criteria

*To have reasonable grounds to believe something, you must first have knowledge of facts that lead to that belief*

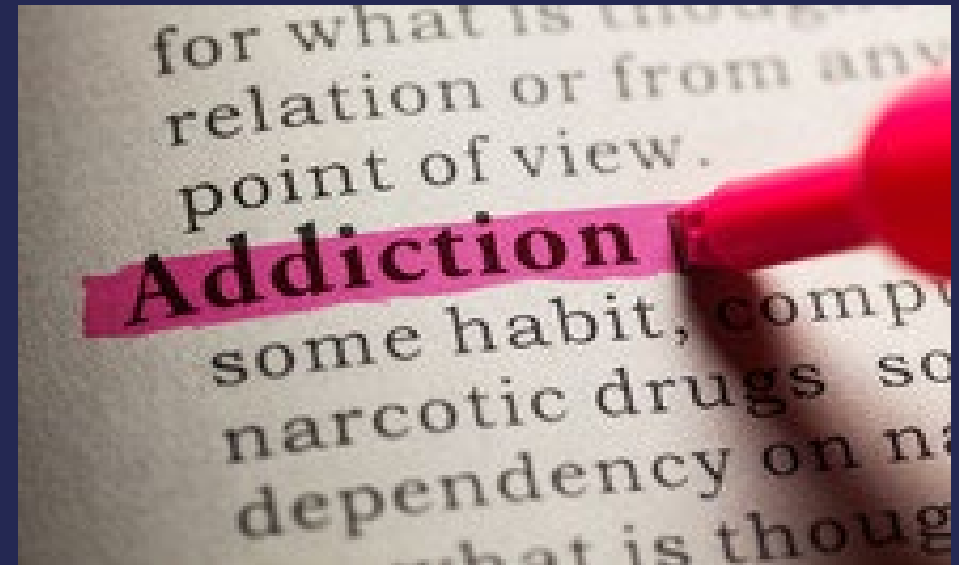
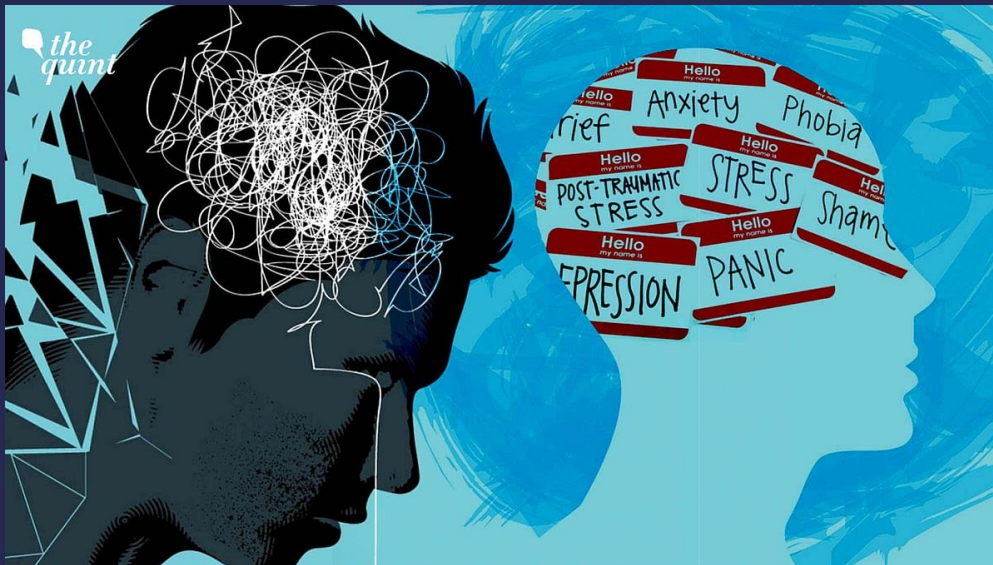
## NCGS 122C-261

(b) If the clerk or magistrate finds reasonable grounds to believe that the facts alleged in the affidavit are true and that the respondent probably has a mental illness and is either (i) dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as defined in G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness, the clerk or magistrate shall issue an order to a law enforcement officer or any other designated person under G.S. 122C-251 to take the respondent into custody for examination by a commitment examiner



# WHO ARE THE IVC'S FOR

## MENTAL ILLNESS



## SUBSTANCE ABUSERS

# CITIZEN INITIATED VS. COMMITMENT EXAMINER INITIATED

- Must arrive to the local magistrate in person
  - Must fill out Affidavit and Petition for Involuntary Commitment(AOC-SP-300) to detail facts
  - Return affidavit to magistrate
  - Magistrate determines if criteria has been met
  - If criteria met, Magistrate issues a custody order
- Individual presents to their local hospital/doctor/therapist office for concerns of mental health, substance abuse, or both
  - Medical professionals (includes LMHC, LSAC, LCSW certified through Department of Health and Human Services
  - Affidavit and Petition are filled out by medical professional, notarized, then filed with the magistrate through File & Serve

# AFTER THE CUSTODY ORDER (PUBLIC)

- Magistrate will call local law enforcement that services the area where the respondent is located
- Magistrate will communicate to officers where the respondent should be taken based on local LME plan (area hospital or mental health facility)
- Magistrate will communicate if the respondent has any potential inclination for violence to law enforcement
- Officer is either faxed the affidavit and custody order OR appear in person with the Magistrate to pick up the custody order



# AFTER THE CUSTODY ORDER (HOSPITAL)

- Magistrate will accept or reject affidavit from the medical professional via file & serve
- Magistrate will issue custody order and fax it to the respective hospital
- Magistrate will contact local law enforcement to serve the custody order on the respondent at the hospital they are located at



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# EFFECTIVE COMMUNICATION WITH POLICE

- Upon contacting dispatch for police, it's important that the Magistrate include important details that will keep police safe
- The magistrate should provide the location of the individual
- If there are any known propensities for violence
- If there are others in the home
- And where police should to be transporting the patient for care



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