



WHAT IS THE CURRENT STATUS OF H.2121?

- Filed by State Representative Mathew Muratore (R-Plymouth), with the support of 18 legislative cosponsors
- Currently under review by the Joint Committee on Mental Health, Substance Use and Recovery
- The bill received a public hearing on June 28, 2021 and is currently undergoing review by the Committee

H.2121 HAS BEEN REVISED SINCE ORIGINALLY FILED. WHAT IS THE STATUS OF THE NEW PROPOSAL AND WHAT DOES IT DO?

AOTNOW has continued to work tirelessly to revise and optimize the proposal to bring AOT to Massachusetts. A key aspect of this work includes listening to the concerns of all concerned parties, whether they support or oppose AOT.

- In June 2021, a revised version of H.2121 was submitted to the Mental Health Committee for consideration
- The new proposal further narrows the application of AOT in Massachusetts to apply only to individuals with severe mental illness (SMI) who have demonstrated their need for it through recent difficulties adhering to prescribed treatment.

ARE INDIVIDUAL RIGHTS PROTECTED UNDER THIS PROPOSAL?

A petition for AOT may be filed by:

- o A physician, after examining the respondent
- o Department of Mental Health
- o An adult family member
- o An adult residing with the respondent
- o The superintendent of any public or private facility or hospital authorized for the commitment or treatment of mentally ill persons

HOW IS AN INDIVIDUAL SUFFERING FROM SEVERE MENTAL ILLNESS ENTERED INTO AOT?

An individual authorized to seek an AOT order for another initiates the process by filing a petition with the court, alleging that the other individual meets the legal criteria. The court schedules a hearing. If the petitioner establishes at the hearing that the criteria are met, the court may issue an AOT order and maintain oversight of the case for the order period.

ARE INDIVIDUAL RIGHTS PROTECTED UNDER THIS PROPOSAL?

- Yes, this proposal provides the proper balance between individual rights of individuals with severe mental illness and the responsibility of family, friends, and caregivers to assist those trapped in the “revolving door” due to their inability to recognize their own need for care.
- This proposal establishes very narrow criteria for whom AOT would apply and provides ample due process before AOT may be ordered by the court.

WHAT CONDITIONS QUALIFY AN INDIVIDUAL FOR AOT?

The district court may grant a petition for assisted outpatient treatment upon finding by clear and convincing evidence that the respondent:

- o Is an Adult
- o Has a primary diagnosis of a severe mental illness
- o Has a history of lack of compliance with mental illness that has:

(1) at least twice within the last forty-eight months, been a significant factor in necessitating hospitalization or necessitating receipt of services in a forensic or other mental health unit of a correctional facility; provided that the forty-eight-month period shall be extended by the length of any hospitalization, incarceration or detention of the respondent that occurred within the forty-eight-month period; or

(2) resulted in one or more acts of serious violent behavior toward self or others or threats of, or attempts at, serious physical harm to self or others within the last forty-eight months; provided that the forty-eight-month period shall be extended by the length of any hospitalization, incarceration or detention of the respondent that occurred within the forty-eight-month period; or

(3) resulted in the respondent being hospitalized, incarcerated or detained for six months or more and the respondent is to be discharged or released within the next thirty days or was discharged or released within the last sixty days;

- Is unwilling or unlikely, as a result of mental illness, to maintain voluntary participation in outpatient treatment that would enable the respondent to live safely in the community without court supervision;
- Is in need of assisted outpatient treatment as the least restrictive appropriate alternative to prevent a relapse or deterioration likely to result in serious harm to self or others; and
- Is likely to benefit from receiving assisted outpatient treatment

HOW LONG DOES AOT LAST? CAN AN INDIVIDUAL REMAIN IN AOT INDEFINITELY?

An AOT order cannot last longer than 1 year. However, if at the end of the order period a clinical evaluation finds that the individual remains unwilling or unlikely to adhere to treatment on a voluntary basis, an authorized petitioner may seek renewal of the order for an additional period. The court may only grant the renewal if it finds by clear and convincing evidence that the individual continues to meet the legal criteria.

WHAT HAPPENS IF AN INDIVIDUAL UNDER AOT DOES NOT ADHERE TO THE COURT-ORDERED TREATMENT?

- If the supervising mental health professional informs the court that the individual is not in compliance with the court-ordered treatment plan, the court may potentially commit the individual to inpatient (hospital) care. However, this action requires a finding by the court that the individual has come to meet Massachusetts' usual inpatient commitment criteria ("likelihood of serious harm"). As in any circumstance, such a court finding must rely on a fresh clinical evaluation. If the court is unable to make this determination from the information available (typically, because the individual is in the community and unwilling to submit to a clinical evaluation), the supervising mental health professional may petition the court under existing law for a three-day commitment of the individual to accomplish the evaluation.
- The court is not permitted to hold an individual in contempt of court for failure to adhere to treatment. Thus, non-compliance cannot lead to the person being placed in jail or punished in any manner.
- If the individual's non-adherence takes the form of a failure to take prescribed medication, the court is not permitted to order that the medication be forcibly administered. As under current law, involuntary administration of medication may take place only while an individual is under hospital care.