

DIVISION: MHMRSA	POLICY	NO. 2.104
		EFFECTIVE DATE: 09-01-96
SUBJECT: TREATMENT AND RELEASE OF PERSONS COMMITTED TO HOSPITALS BY VIRTUE OF A FINDING OF INCOMPETENCE TO STAND TRIAL		ANNUAL REVIEW MONTH:
		REVISION EFFECTIVE: March 1, 2002
		PAGE 1 OF 4

REFERENCE: Official Code of Georgia Annotated 17-7-130, 17-7-131, 37-3, 37-4; Rules and Regulations of the Department of Human Resources, Chapter 290-4-3. DHR vs. Long, 217 Ga. App. 763 (1995).

I. PURPOSE

To outline the policy and procedures employed in the evaluation, diagnosis, treatment and release of individuals committed to State operated facilities by virtue of a finding of incompetence to stand trial pursuant, to O.C.G.A. 17-7-130.

II. APPLICABILITY


All State operated facilities of the Division of Mental Health, Mental Retardation and Substance Abuse.

III. DEFINITIONS

- A. **State Operated Facility** - Any facility operated by the Division of Mental Health, Mental Retardation and Substance Abuse.
- B. **IST Detainee** - Person found Incompetent to Stand Trial.
- C. **Obvious Threat to Society as Determined by DHR** - This determination is to be made by the treating psychiatrist, or other qualified personnel after consultation with the treatment team, based on the IST detainee's behaviors and history, regardless of diagnosis. It will include, at a minimum, any IST detainee who meets civil commitment criteria due to dangerousness to others.
- D. **Contract Provides** - Provides under contract with the Division of Mental Health, Mental Retardation and Substance Abuse, or the MHMRSA Regional Boards.
- E. **NGRI** - Not Guilty by Reason of Insanity.

IV. POLICY STATEMENT

It is the policy of the Division of Mental Health, Mental Retardation and Substance Abuse that individuals found incompetent to stand trial are received, evaluated and treated, by State operated facilities, pursuant to court order, with the court being informed of condition and prognosis.

Prepared: Facility Operation -Forensic Services	Approved:  Acting Director	Date: 4/2/02
---------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------	----------------------------

V. PROCEDURES

- A.** Persons found incompetent to stand trial are transferred to the appropriate state operated facility which serves the area in which the court is located. Each facility designates an appropriate unit or units to receive, evaluate, and diagnose these persons.
- B.** It is the ongoing responsibility of each state operated facility to assess whether the IST detainee is an "obvious threat to society as determined by DHR" (see definitions). If at any time, the facility determines that the IST detainee is an "obvious threat to society," the facility shall notify the criminal court of this opinion. The facility need not follow the procedures set forth in paragraph C below under these circumstances. Similarly, the facility need not follow the procedures set forth in paragraph C below if the IST detainee has been charged with one of the crimes enumerated in O.C.G.A. 17-7-130(e)(2).
- C.** If at any time, the facility determines that the IST detainee is not competent to stand trial and there is not a substantial probability that the IST detainee will become competent in the foreseeable future AND the facility has not received an order from the criminal court with the specific findings required by O.C.G.A. 17-7-130(e)(2), the facility informs the court of the lack of findings. The facility also notifies the court of the IST detainee's continued incompetency and requests clarification as to the appropriate court for an involuntary civil commitment determination. See Appendix I for a form letter. See Appendix II for a sample order containing the specific findings.
- D.** Within ninety (90) days after the IST detainee is received by the facility, an evaluation and a diagnosis is made as to whether the person is presently mentally competent to stand trial. If the IST detainee is found competent to stand trial, this finding and the reasons for it is immediately reported to the criminal court and the IST detainee shall be returned to the court pursuant to paragraphs G, H, and I below. If the IST detainee is found not competent to stand trial, an evaluation and a diagnosis is made as to whether or not there is a substantial probability that competency to stand trial will be attained in the foreseeable future.
- E.** If it is determined that the IST detainee is not competent to stand trial and there is not a substantial probability that competency to stand trial will be attained in the foreseeable future, the procedures outlined in paragraphs J through M shall be followed.
- F.** If it is determined that the IST detainee is not competent to stand trial, but there is a substantial probability that competency to stand trial will be attained in the foreseeable future, this finding and the reasons for this conclusion are reported to the criminal court during the ninety (90) day evaluation period. The IST detainee remains for treatment in the facility for an additional period not to exceed nine (9) months. If by the end of this nine (9) month period, it is determined that the IST detainee is still not competent to stand trial, irrespective of the probability of attaining competency in the foreseeable future, the procedures outlined in paragraphs J through M is followed.
- G.** Release of an IST detainee is to the custody of a law enforcement officer of the jurisdiction of the criminal court, unless bond is posted (requires written confirmation) or charges are dismissed by the criminal court (requires written confirmation), in which case the person is discharged or treated on the basis of clinical needs in accordance with O.C.G.A. 37, Ch. 3,4,or 7.

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- H.** If a law enforcement officer does not appear and take custody of an IST detainee within twenty (20) days after appropriate notice is given to the presiding judge of the criminal court, the law enforcement facility and the prosecuting attorney for the court, the facility shall return the IST detainee to one of the criminal court's detention facilities. All notifications are sent by certified mail, return receipt requested.
- I.** With the concurrence of the criminal court, and upon the recommendation of the attending physician, any IST detainee reported to the court to be competent to stand trial may be held by the facility whenever, in the attending physician's opinion such detention in the court's facilities would be detrimental to the IST detainee. Such detention continues only until the date of the trial.
- J.** Whenever a determination is made that there is no substantial probability that an IST detainee attains competency in the foreseeable future, the physical custody of the IST detainee is returned to the criminal court utilizing the procedures outlined in paragraphs G and H above.
- K.** With the written concurrence of the criminal court, and upon the recommendation of the attending physician, any IST detainee reported to the court as not likely to become competent in the foreseeable future may be held by the facility whenever, in the attending physician's opinion, such detention in the court's facilities are detrimental to the IST detainee. Such detention continues until the date of the civil commitment hearing. See Appendix III for sample petition and Appendix IV for sample orders.
- L.** If an IST detainee is not likely to become competent in the foreseeable future and the criminal court had remanded the matter to the probate court for a determination of civil commitment, the following procedures are followed:
1. If the IST detainee meets civil commitment criteria or if the charges have not been dismissed, the facility initiates the civil commitment procedures pursuant to O.C.G.A. 37, Ch. 3, 4 or 7 and routine procedures using the forms in Appendix V B -D. Notify the criminal judge of the probate court hearing using the form in Appendix V A.
 2. If the IST detainee does not meet civil commitment criteria and the charges have been dismissed, the patient is discharged unless a voluntary admission is appropriate.
- M.** If an IST detainee is not likely to become competent in the foreseeable future and the criminal court retained jurisdiction of the civil commitment, a petition is filed in the criminal court using the forms attached in Appendix VI B-C. Send a courtesy copy of all forms to the judge. See Appendix VI A for a sample cover letter. File the original with the clerk of the criminal court and send copies to both attorneys. The facility may request the assistance of the Special Assistant Attorney General who routinely handles civil commitment cases. A sample civil commitment order is attached as Appendix
- N.** If an IST detainee who was civilly committed becomes competent to stand trial, this is reported to the criminal court. The IST detainee is returned to the court as outlined in paragraphs G, H and I.

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- O. If the probate court civilly commits the IST detainee, the facility follows the continued civil commitment procedures outlined in Title 37, Chapter 3 of the Official Code of Georgia. Once the person no longer meets the inpatient civil commitment criteria, the person is either
 - 1. Discharged to the community if the charges have been dropped, or
 - 2. Returned to the jail if the charges have not been dropped.

- P. If the criminal court civilly commits the IST detainee, the facility follows the NGRI release procedures set forth in O.C.G.A. 17-7-131 as required by O.C.G.A. 17-7-130(e). A sample civil commitment order by the criminal court is attached as Appendix VI D.

SAMPLE

Date

Judge, _____ County _____ Court

RE: _____, Indictment Nos. _____

Dear Judge _____:

Mr./Ms. _____ was found incompetent to stand trial on _____ and was admitted to this hospital on _____. It now appears that _____ is not likely to become competent to stand trial in the foreseeable future and the hospital needs to initiate civil commitment procedures. Therefore, we are seeking clarification regarding which court to petition.

This is to request that the court make a finding as to whether _____ meets any of the criteria of O.C.G.A. § 17-7-130(e)(2). Specifically, we need to know whether the Court considers the accused to be "an obvious threat to society".

In the event that the court determines that _____ does not meet the criteria set out in said subsection, this hospital also is requesting guidance from the court as to whether the civil commitment issue should be heard in the probate court pursuant to DHR v. Long, 217 Ga. App. 763 (1995).

Your assistance in this matter will be greatly appreciated. If you have any questions please feel free to call _____ at _____. We look forward to hearing from you soon.

Sincerely,

Forensic Services

c: Defense Attorney
Assistant District Attorney

NOW THEREFORE, the Court hereby ORDERS that the Defendant be confined in a State facility for the mentally ill and that within ninety (90) days after the Department of Human Resources has received custody of the Defendant, the Defendant shall be evaluated and a diagnosis made as to whether he/she is presently competent to stand trial or whether there is a substantial probability that the Defendant will at some future time attain mental competency to stand trial in the said case.

IT IS THE FURTHER ORDER OF THIS Court that, if DHR finds there is no substantial probability that the Defendant will at some future time attain mental competency, the matter *is/is not* remanded to the _____ County Probate Court for consideration of the Defendant's civil commitment pursuant to DHR v. Long, 217 Ga. App. 763 (1995).

IT IS FURTHER ORDERED that the Department of Human Resources shall report their findings and the reasons therefore to this Court.

IT IS THE FURTHER ORDER of this Court that the Sheriff of _____ County shall transport and deliver said Defendant to the State hospital for the mentally ill to be selected by the Department of Human Resources, along with two (2) copies of this Order.

The Court FURTHER ORDERS that the Defendant be confined and treatment rendered in accordance with O.C.G.A. § 17-7-130.

This the _____ day of _____, _____.

JUDGE, _____ COURT

JUDICIAL CIRCUIT

IN THE _____ COURT OF _____ COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

V.

INDICTMENT NO. _____

PETITION OF DEPARTMENT OF HUMAN RESOURCES
TO RETAIN PHYSICAL CUSTODY OF DEFENDANT
PENDING CIVIL COMMITMENT HEARING

The Petition of _____ (Chief Medical Officer or Designee)
_____ shows:

1.
The Defendant in the above-styled matter was found mentally incompetent to stand trial and physical custody was transferred to the Department of Human Resources by order of this Court dated _____.

2.
The Defendant was admitted to _____ (Hospital)
on _____.

3.
That, based on the opinion of the Petitioner, the Defendant is not competent to stand trial and is not likely to become competent to stand trial in the foreseeable future.

4.
Simultaneously with the filing of this petition, the Petitioner has filed a petition to civilly commit the Defendant in the _____ (Criminal or Probate) Court pursuant to O.C.G.A. § 17-7-130(e)(2) and Chapter 3 of Title 37 of the Official Code of Georgia.

5.
Pursuant to O.C.G.A. § 17-7-130, the Department of Human Resources

is now required to return the Defendant to the _____ (County) jail.

6.

That, based on the opinion of the Petitioner, it is not in the best clinical interest of the Defendant to be returned to the jail for the following reasons: _____

7.

That the Petitioner has contacted both the Defendant's attorney and the attorney for the State who have no objection to the Court's granting the relief requested in this petition. [THIS PARAGRAPH MUST BE DELETED IF UNTRUE.]

WHEREFORE, Petitioner prays that the this Court order the Department of Human Resources retain physical custody of the Defendant until the Defendant's civil commitment hearing.

_____, M.D.
Petitioner

Personally appeared before the undersigned attesting officer, _____, who on oath says that the statements in the above and foregoing petition are true.

Sworn and subscribed before me, this ____ day of _____, ____.

_____ County
Georgia Notary Public
My commission expires _____.

CERTIFICATE OF SERVICE

I do hereby certify that I have this _____ day of _____, _____ served the within and foregoing PETITION OF DEPARTMENT OF HUMAN RESOURCES TO RETAIN PHYSICAL CUSTODY OF DEFENDANT PENDING CIVIL COMMITMENT HEARING, prior to filing same by depositing a copy thereof, postage prepaid, in the United States Mail, properly addressed upon:

(Prosecuting Attorney)
(Address)

(Defense Attorney)
(Address)

_____, M.D.
Petitioner

IN THE _____ COURT OF _____ COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

v.

INDICTMENT NO. _____

ORDER

The Department of Human Resources has petitioned this Court for an order authorizing the hospital to retain the Defendant at the hospital until the Defendant's civil commitment hearing. There being no objection from the Defendant or the State, *(DELETE THE FINAL PHRASE IF NOT TRUE)*

IT IS HEREBY ORDERED that the Department of Human Resources shall retain physical custody of the Defendant until the Defendant's civil commitment hearing.

This the _____ day of _____, _____.

JUDGE, _____ COURT

JUDICIAL CIRCUIT

Presented By: DHR Address

IN THE _____ COURT OF _____ COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

V.

INDICTMENT NO. _____

ORDER

The Defendant in the above-styled case, while represented by counsel, has petitioned this Court for an order authorizing the Department of Human Resources to retain physical custody of the Defendant until the Defendant's civil commitment hearing. There being no objection from the Department of Human Resources or the State,

IT IS HEREBY ORDERED that the Department of Human Resources shall retain physical custody of the Defendant until the Defendant's civil commitment hearing.

This the _____ day of _____, 19__.

JUDGE, _____ COURT

JUDICIAL CIRCUIT

Presented By: Defense Attorney Address

SAMPLE

Date

Judge, _____ County (Criminal) Court

RE: _____, Indictment Nos. _____

Dear Judge _____:

The accused in the above referenced case was committed to this hospital on a Special Plea of Incompetency to Stand Trial pursuant to your order dated _____. On this date, I filed a Petition for Hearing to Determine Need for Civil Commitment Pursuant to O.C.G.A. § 17-7-130 in the _____ County Probate Court. A courtesy copy of the petition and accompanying documents is enclosed for your information. I anticipate that I will testify that _____ does/does not meet commitment criteria for the following reasons: _____

If you have any questions please feel free to call _____ at _____.

Sincerely,

Forensic Services

c: Defense Attorney
Assistant District Attorney

GA. REGIONAL HOSPITAL AT ATLANTA

PATIENT IDENTIFICATION

PETITION FOR HEARING TO DETERMINE
NEED FOR CIVIL COMMITMENT
PURSUANT TO O.C.G.A. § 17-7-130

STATE OF GEORGIA, _____ COUNTY

To the _____ Court of said county:

The Petition of _____ shows:
(Chief Medical Officer or designee)

1. Petitioner is the duly authorized agent for Georgia Regional Hospital at Atlanta which is a treating facility within the meaning of § 37-3-60 of the Official Code of Georgia Annotated and is charged with the duty of making this petition.

2. That the Honorable _____, Judge, _____ County _____ Court, entered an Order on _____ 19 _____ transferring _____ to the custody of DHR for the purpose of evaluation and treatment pursuant to O.C.G.A. § 17-7-130(a).

3. That the above-named patient was received into the actual custody of the Department of Human Resources on _____.

4. That the following person(s) serve as the patient's representatives, guardian, or guardian ad litem:

(Name & Address) _____

(Name & Address) _____

5. That the above-named patient has been evaluated and a diagnosis has been made as to the person's present mental competency to stand trial and as to whether there is a substantial probability that the person will obtain mental competency to stand trial in the foreseeable future pursuant to O.C.G.A. § 17-7-130(b).

6. That, based on the medical opinion of the Petitioner, the above-named patient is not presently mentally competent to stand trial and there is not a substantial probability that the patient will obtain competency in the foreseeable future. Said opinion has been entered on a certificate which is attached hereto and incorporated by reference.

(OVER)

STATE OF GEORGIA, _____ COUNTY

WHEREFORE, Petitioner prays that a hearing be scheduled to determine if the above-named patient meets the criteria for civil commitment pursuant to Chapter 3 of Title 37 of the Official Code of Georgia Annotated, as required by O.C.G.A. § 17-7-130 (c) and (d).

Personally appeared before the undersigned attesting officer, _____, who on oath says that the statements in the above and foregoing petition are true.

_____, M.D.
Petitioner

Sworn to and subscribed before me, this _____ day of _____, 19____.

Georgia NOTARY PUBLIC County,

My commission expires _____.

(REVERSE)

GA. REGIONAL HOSPITAL AT ATLANTA

PATIENT IDENTIFICATION

CERTIFICATE OF MENTAL
INCOMPETENCY TO STAND TRIAL

TO: (A) _____
Patient

(E) _____
Probate Court

(B) _____
Criminal Court

(F) _____
Guardian Ad Litem
(if applicable)

(C) _____
Defense Attorney

(G) _____
First Representative

(D) _____
Prosecuting Attorney

(H) _____
Second Representative

The undersigned physician has personally examined the above-named patient at Georgia Regional Hospital at Atlanta. The evaluation and diagnosis as to present mental competency to stand trial was completed within _____ days/months (circle one) after actual custody of said patient was received by DHR.

It is my opinion that the above-named person is not presently competent to stand trial and that there is not a substantial probability that the person will obtain mental competency to stand trial in the foreseeable future. This opinion is based upon the following observations: _____

My diagnosis of this person is _____

_____, M.D.

ORIGINAL TO BE FILED WITH THE COURT

RHA Form 280.5 (Rev. 7/95) By Authority O.C.G.A. § 17-7-130 & 37-7-81

GA. REGIONAL HOSPITAL AT ATLANTA

PATIENT IDENTIFICATION

NOTICE ACCOMPANYING PETITION FOR
CIVIL COMMITMENT AFTER A SPECIAL
PLEA OF INCOMPETENCY TO STAND TRIAL

TO: _____
Patient

This is to let you know that the staff at Georgia Regional Hospital at Atlanta has petitioned the _____ County _____ Court and requested a hearing to determine if you presently meet the criteria for civil commitment pursuant to Chapter 3 of Title 37 of the Official Code of Georgia Annotated. This notice is to let you know you are to be given certain information and to be told about your rights concerning this process. Ask the staff if you have any questions.

1. Attached to this form is a copy of the certificate that has been sent to the court.
2. The court will hold a hearing to decide whether you meet civil commitment criteria. This hearing will be held at _____ on _____ at _____ m. If the exact time and date is not known, you will be told as soon as it is set.
3. At the hearing, you have a right to a lawyer. If you cannot pay for one, you may ask the court to appoint one. This staff will give you a form so that you can let the court know whether or not you want a lawyer appointed.
4. You have the right to be examined by a doctor of your choice at your expense.

If the patient has any questions he/she should ask the staff on the unit.

Attorneys may call _____ at _____
(Social Worker)
_____ for more information.
(Telephone Number)

(OVER)

I have received this form and the Petition for Hearing to Determine Civil Commitment. I have had a chance to ask questions.

Signature of Patient 19

Witness 19

COPIES SENT TO: (Check appropriate boxes)

Criminal Court	<input type="checkbox"/>	Probate Court	<input type="checkbox"/>
Defense Attorney	<input type="checkbox"/>	Prosecuting Attorney	<input type="checkbox"/>
Patient/Guardian	<input type="checkbox"/>	Guardian Ad Litem (if applicable)	<input type="checkbox"/>
1st Representative	<input type="checkbox"/>	2nd Representative	<input type="checkbox"/>

Signature of Staff 19

(REVERSE)

BRHA Form 280.4 (7/95) By Authority of O.C.G.A. §§ 17-7-130 & 37-3-81

SAMPLE

Date

Judge, _____ County (Criminal) Court

RE: _____, Indictment Nos. _____

Dear Judge _____:

The accused in the above referenced case was committed to this hospital on a Special Plea of Incompetency to Stand Trial pursuant to your order dated _____. On this date, I filed a Petition for Hearing to Determine Need for Civil Commitment Pursuant to O.C.G.A. § 17-7-130. A courtesy copy of the petition and accompanying documents is enclosed for your information.

If you have any questions please feel free to call _____ at _____.

Sincerely,

Forensic Services

c: Defense Attorney (w/enc)
Assistant District Attorney (w/enc)

Enclosures

IN THE _____ COURT OF _____ COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,

V.

_____,
DEFENDANT.

) Indictment No. _____
)
) Booking No. _____
)
) Date of Birth _____
)

PETITION FOR HEARING TO DETERMINE
NEED FOR CIVIL COMMITMENT
PURSUANT TO O.C.G.A. § 17-7-130

The Petition of _____
shows: (Chief Medical Officer or designee)

1.

Petitioner is the duly authorized agent for _____ which is a treating facility within the meaning of § 37-3-60 of the Official Code of Georgia Annotated and is charged with the duty of making this petition.

2.

That this Court, entered an Order on _____ 19____ transferring _____ to the custody of DHR for the purpose of evaluation and treatment pursuant to O.C.G.A. § 17-7-130(a).

3.

That the above-named patient was received into the actual custody of the Department of Human Resources on _____.

4.

That the following person(s) serve as the patient's representatives, guardian, or guardian ad litem:

(Name & Address) _____

(Name & Address) _____

5.

That the above-named patient has been evaluated and a diagnosis has been made as to the person's present mental competency to stand trial and as to whether there is a substantial probability that the person will obtain mental competency to stand trial in the foreseeable future pursuant to O.C.G.A. § 17-7-130(b).

6.

That, based on the medical opinion of the Petitioner, the above-named patient is not presently mentally competent to stand trial and there is not a substantial probability that the patient will obtain competency in the foreseeable future. Said opinion has been entered on a certificate which is attached hereto and incorporated by reference.

WHEREFORE, Petitioner prays that a hearing be scheduled to determine if the above-named patient meets the criteria for civil commitment pursuant to Chapter 3 of Title 37 of the Official Code of Georgia Annotated, as required by O.C.G.A. §§ 17-7-130 (c), (d), and (e).

_____, M.D.
Petitioner

Personally appeared before the undersigned
attesting officer, _____,
who on oath says that the statements in the
above and foregoing petition are true.

Sworn to and subscribed before me,
this _____ day of _____, 19____.

_____ County,
Georgia NOTARY PUBLIC

My commission expires _____.

IN THE ____ COURT OF _____ COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,

V.

_____,
DEFENDANT.

) Indictment No. _____
)
) Booking No. _____
)
) Date of Birth _____
)

CERTIFICATE OF MENTAL INCOMPETENCY TO STAND TRIAL

The undersigned physician has personally examined the above-named patient at _____
_____. The evaluation and diagnosis as to present mental competency to
stand trial was completed within _____ days/months (*circle one*) after actual custody of
said patient was received by DHR. It is my opinion that the above-named person is not
presently competent to stand trial and that there is not a substantial probability that the
person will obtain mental competency to stand trial in the foreseeable future. This opinion is
based upon the following observations:

My diagnosis of this person is _____.

In my opinion _____ *does/does not* meet the criteria for civil commitment
for the following reasons:

_____, M.D.

Personally appeared before the undersigned
attesting officer, _____,
who on oath says that the statements in the
above and foregoing certification are true.

Sworn to and subscribed before me,
this _____ day of _____, 19____.

Georgia NOTARY PUBLIC

My commission expires _____.

CERTIFICATE OF SERVICE

I do hereby certify that I have this ____ day of _____, _____, served the within and foregoing PETITION FOR HEARING TO DETERMINE NEED FOR CIVIL COMMITMENT PURSUANT TO O.C.G.A. § 17-7-130 and CERTIFICATE OF MENTAL INCOMPETENCY TO STAND TRIAL, prior to filing same by depositing a copy thereof, postage prepaid, in the United States Mail, properly addressed upon:

(Prosecuting Attorney)
(Address)

(Defense Attorney)
(Address)

_____, M.D.
Petitioner

IN THE _____ COURT OF _____ COUNTY

STATE OF GEORGIA

State of Georgia,)	Indictment No. _____
)	
vs.)	Booking No. _____
)	
_____ ,)	Date of Birth _____
Defendant.)	

NOTICE ACCOMPANYING PETITION FOR CIVIL COMMITMENT
AFTER A SPECIAL PLEA OF MENTAL
INCOMPETENCY TO STAND TRIAL

TO: _____
Patient

This is to let you know that the staff at _____
_____ has petitioned the _____ County _____
Court and requested a hearing to determine if you presently meet
the criteria for civil commitment pursuant to Chapter 3 of Title 37
of the Official Code of Georgia Annotated. This notice is to let
you know you are to be given certain information and to be told
about your rights concerning this process. Ask the staff if you
have any questions.

1. Attached to this form is a copy of the certificate that has been sent to the court.
2. The court will hold a hearing to decide whether you meet civil commitment criteria. You will be told as soon as the exact time and date is known.
3. At the hearing, you have a right to a lawyer. If you cannot pay for one, you may ask the court to appoint one. The staff will give you a form so that you can let the court know whether or not you want a lawyer appointed.
4. You have the right to be examined by a doctor of your choice at your expense.

If you have any questions you should ask the staff on the unit.

Attorneys may call _____ at
(Social Worker)

_____ for more information.
(Telephone Number)

I have received this form and Petition for Hearing to Determine Civil Commitment. I have had a chance to ask questions.

Signature of Patient 19

Witness 19

COPIES SENT TO: (Check appropriate items)

Criminal Court _____ Probate Court _____

Defense Attorney _____ Prosecuting Attorney _____

Patient/Guardian _____ Guardian Ad Litem _____
(if applicable)

1st Representative _____ 2nd Representative _____

Signature of Staff 19

IN THE _____ COURT OF _____ COUNTY
STATE OF GEORGIA

State of Georgia) Case No. _____
)
vs.)
)
_____,)
Defendant.)

JUDGEMENT AND ORDER OF CIVIL COMMITMENT

This matter came before the undersigned judge on the Petition for Hearing to Determine Need for Civil Commitment Pursuant to O.C.G.A. § 17-7-130 of the Department of Human Resources. A hearing was held as scheduled on _____ (insert date). The defendant was represented by _____ (insert attorney's name) and the State was represented by _____ (insert prosecutor's name). The court having heard clear and convincing evidence of the Defendant's mental condition at said hearing makes the following findings of facts and considerations of law:

1. The defendant is mentally ill with a diagnosis of _____.
 2. The patient presents a substantial risk of imminent harm to self or others or is so unable to care for his/her own physical health and safety as to create an imminently life-endangering crisis, as evidenced by the following recent overt acts or expressed threats of violence: _____
-

Old # : 1.101

New # : 2.104

*Attachments
all not included
with March, 2002
policy review*

3. Petition has filed with the court plan outlining objectives sought w the defendant geared toward achiev inpatient hospitalization.
4. Commitment to DHR is the least restrictive alternative necessary and available for the defendant's illness.
5. The Court finds the defendant is a mentally ill person who meets the statutory criteria requiring involuntary treatment as set out in O.C.G.A. § 37-3-1(9.1).

The court having found the Defendant meets the civil commitment criteria of O.C.G.A. § T.37,Ch.3, it is THEREFORE ORDERED, that the Sheriff of _____ County transport and deliver said Defendant to a State hospital for the mentally ill, to be selected by the Department of Human Resources, along with two (2) copies of this Order.

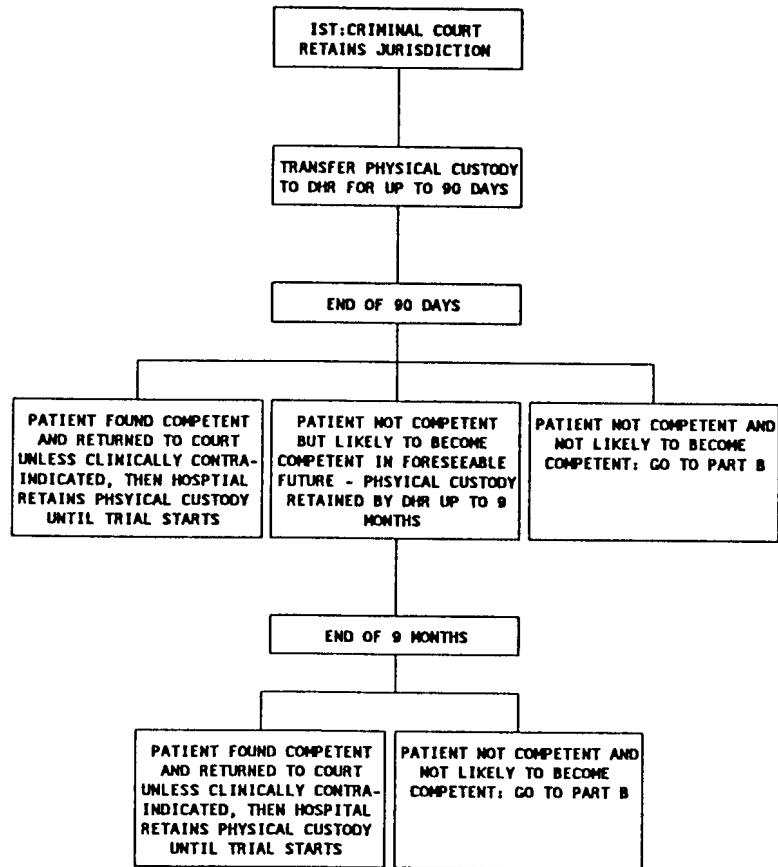
IT IS FURTHER ORDERED, that the Defendant shall be confined in said facility until this Court, pursuant to the procedures outlined in O.C.G.A. § 17-7-131, shall find and determine that said Defendant no longer meets the civil commitment criteria.

This, the _____ day of _____, _____.

THE HONORABLE _____
JUDGE, _____ COURT

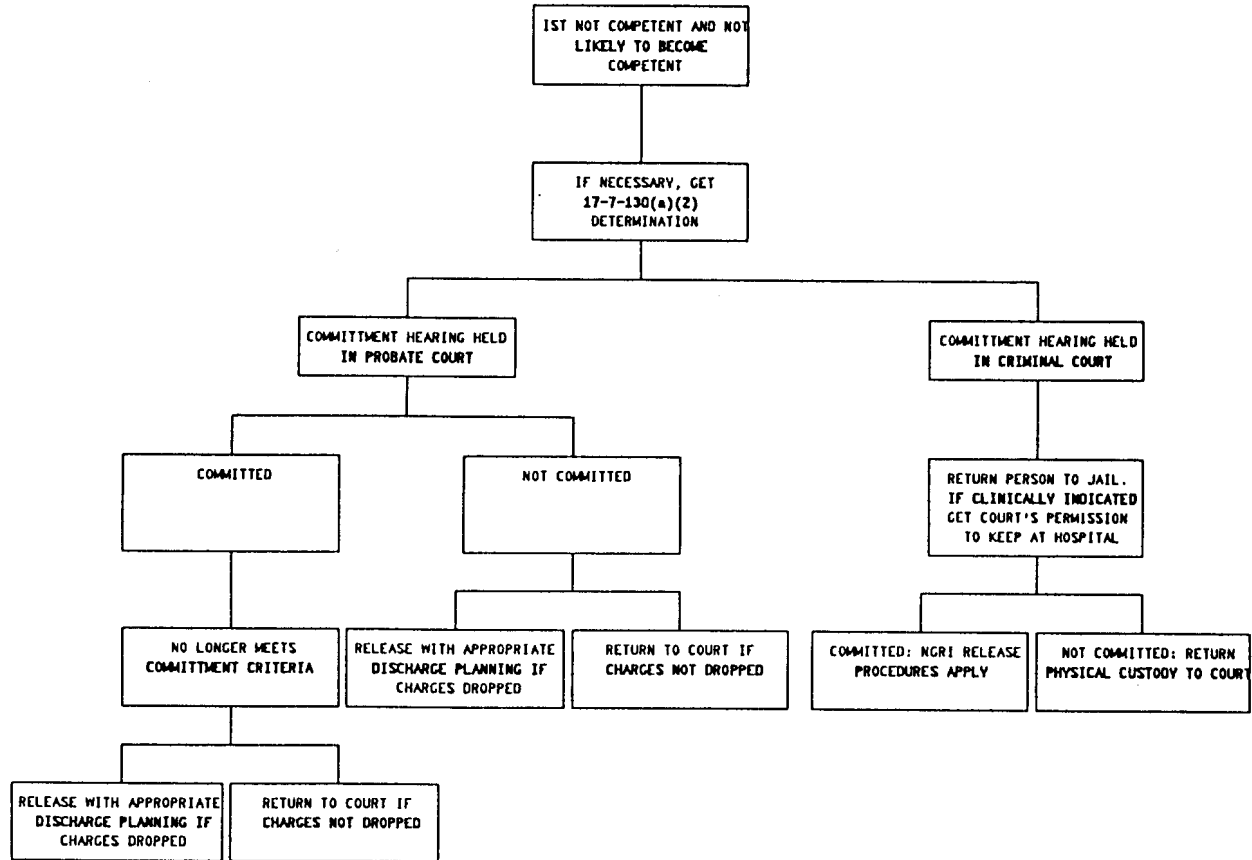
JUDICIAL CIRCUIT

17-7-130
PART A



APPENDIX VII
(PAGE 1 OF 2 PAGES)

17-7-130
PART B



APPENDIX VII
(PAGE 2 OF 2 PAGES)

THE FORENSIC CHECKLIST

DOCUMENT	USAGE
Appendix I	Use this if an IST detainee is determined to be not likely to become competent to stand trial and the criminal court has not made a finding pursuant to O.C.G.A. § 17-7-130(e)(2). Appendix IV
Appendix II	Hand this out to attorneys when they request a sample judgement and order in plea of mental incompetency to stand trial.
Appendix III	Use this to petition the criminal court to retain physical custody of a defendant who is incompetent to stand trial pending a civil commitment hearing.
Appendix IV A & IV B	Provide these to attorneys if they request sample orders permitting the hospital to retain a defendant who is incompetent to stand trial pending a civil commitment hearing.
Appendix V A	Use this to write the criminal court judge telling them of the date of a probate court civil commitment hearing.
Appendix V B & V C	Use these forms to request a probate court civil commitment hearing of an IST detainee who is not likely to become competent to stand trial.
Appendix V D	Give this notice of a probate court hearing to the IST detainee prior to the civil commitment hearing.
Appendix VI A	Use this letter to provide the criminal court judge with a courtesy copy of the civil commitment petition when the case is being heard in the criminal court.
Appendix VI B	Use these forms to petition the criminal court for a civil commitment hearing of an IST detainee who is not likely to become competent to stand trial.
Appendix VI C	Give this notice to the IST detainee who is not likely to become competent prior to the civil commitment hearing in criminal court.
Appendix VI D	Give this sample judgement and order to attorneys who request samples of civil commitment by criminal court orders.