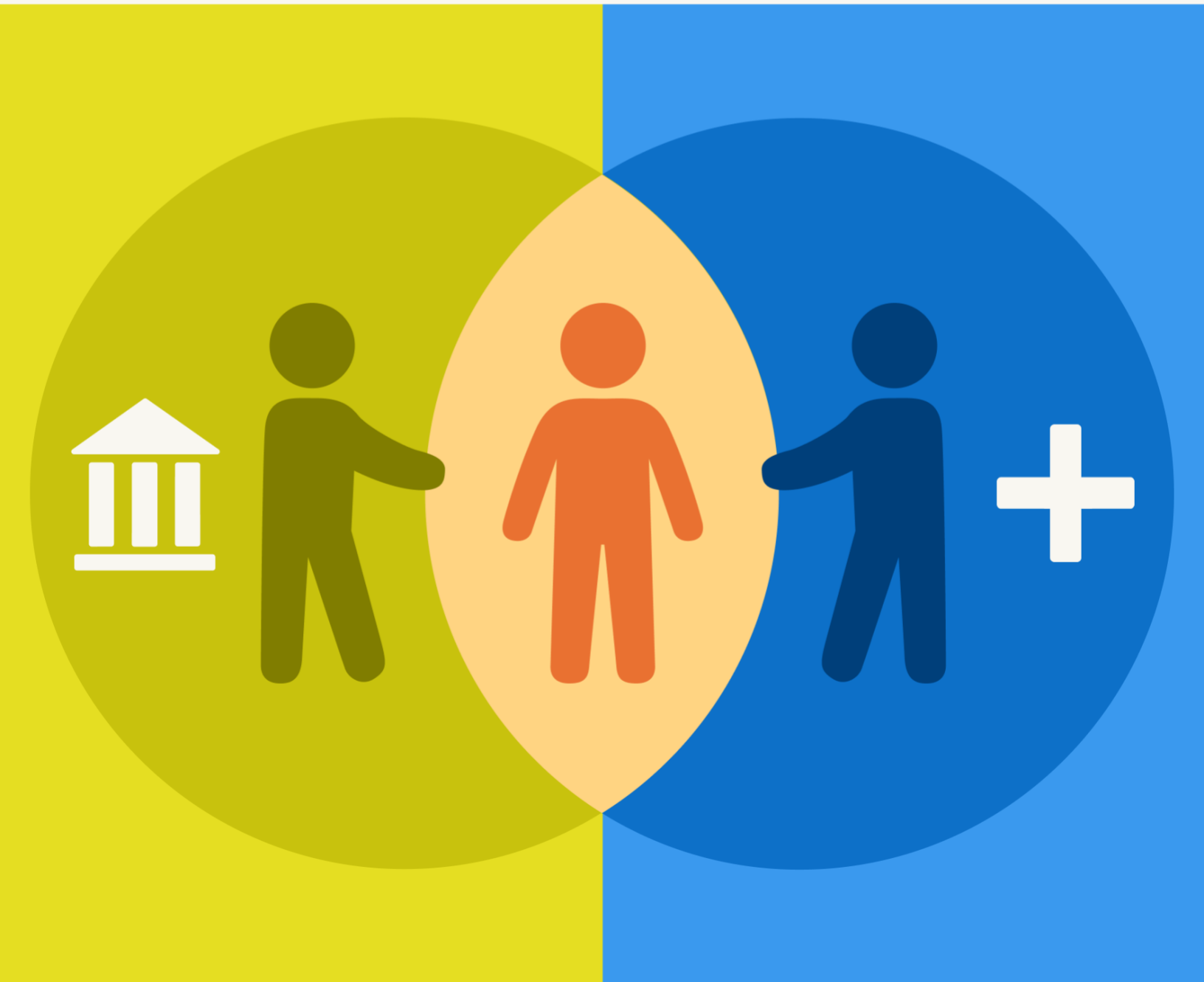
IDHS

Forensic Handbook

This handbook serves as a resource for understanding the forensic system, its governing processes, and the roles of the individuals and organization involved in its operation.



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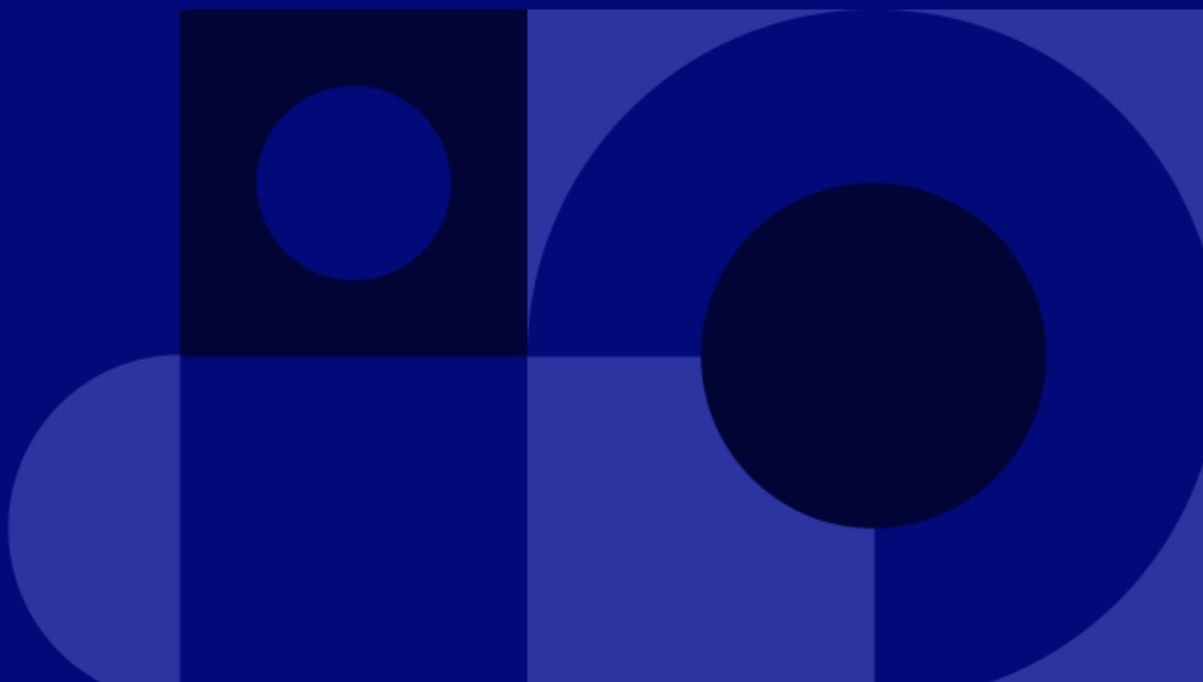
Forensic System Orientation



1.1 Introduction

This handbook reflects a shared commitment to strengthening the connection between the court system and forensic treatment providers across Illinois. It was developed with collaboration from clinicians, court personnel, advocates, and justice system partners; this document represents a coordinated and thoughtful approach to supporting individuals involved in the forensic system.

At its core is a belief that meaningful progress happens when stakeholders work together, each playing a clear role. This effort underscores our continued focus on building a collaborative system that ensures individuals receive the support they need at every step.

The scope of forensic treatment services is mandated by statute. Navigating the requirements and processes can be daunting. The goal of this handbook is to provide orientation information and practical direction to interested parties about forensic treatment services in Illinois.

Structure and Scope of this Handbook

1. **Structure:**

   The information included in this handbook provides orientation to the scope of forensic treatment services, the populations served, and forensic treatment locations. For each forensic legal status, this handbook outlines relevant legal and clinical context and introduces the associated statutory requirements.

   Additional Clinical Resources and Court Resources including templates and detailed procedures are available in separate editable word documents available for download at https://dhsforensics.illinois.gov/resources.

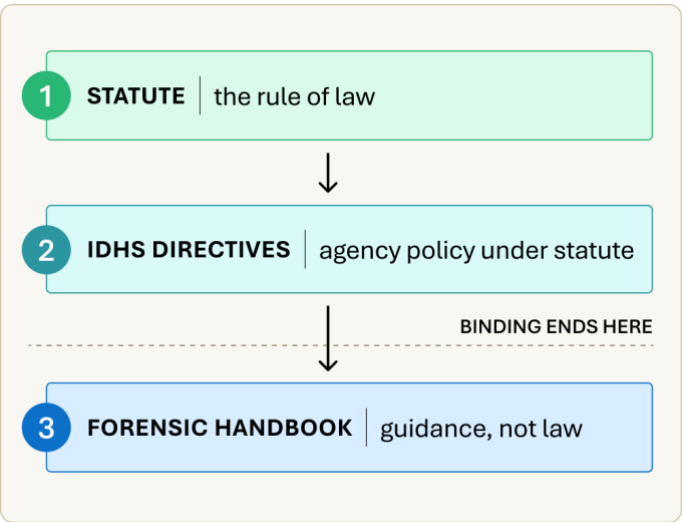
2. **Scope:**

   This guidebook is for ***informational purposes only***, and it is not intended for legal or clinical decision making nor is it a legally binding policy document. Forensic stakeholders should refer to the statutes and approved clinical directives and court specific procedures as their primary sources.

   Because forensic statutes, policies, and procedures are subject to change, this handbook will be periodically reviewed and updated to reflect current law and practice. Questions regarding interpretation or application of the information contained herein should be directed to IDHS staff for clarification and guidance (see Section 1.2 for contacts).

Layers of Truth

The sources that guide forensic practice do not all carry the same authority. Statutes establish the legal requirements, and IDHS directives define agency policy under those laws. This handbook is intended to support consistent understanding and application of those requirements by providing practical guidance and context. It should be viewed as guidance, not legal advice, agency policy, or a substitute for professional judgment. When questions arise, statutes and directives take precedence over handbook guidance.



Version Log

VERSION DATE	SECTION(S) REVISED	REVISION DESCRIPTION
2026-07-09	N/A	New Document
2026-07-17	1.2 2.4	Updated Civil vs Forensic image. Corrected court order emails.

1.2 The Forensic System

What is Forensic Treatment?

Each day in Illinois and in the nation, many people with mental illness and intellectual disabilities come into contact with the criminal justice system. Forensic Treatment represents the critical intersection of the legal and behavioral health systems, encompassing the evaluation, treatment, and case management of individuals with mental illness or intellectual disabilities who are involved in criminal proceedings. It is important for courts, attorneys, law enforcement, correctional facilities, administrators, and other community partners to understand the specialized services required by law at this intersection—including evaluations, fitness restoration for individuals who have been found Unfit to Stand Trial (UST), and risk mitigation for individuals acquitted as Not Guilty by Reason of Insanity (NGRI) in preparation for reintegration into the community.

Historical Context

Across the United States, the number of state psychiatric hospital beds for the severely mentally ill (SMI) has steadily declined since the 1950s as part of the broader movement toward deinstitutionalization. This transition was driven by important reforms aimed at addressing poor hospital conditions, protecting human rights, and expanding community-based treatment alongside advances in antipsychotic drugs. Many individuals benefited from greater independence and community supports; however, over time, the reduction in inpatient psychiatric capacity outpaced the development of sufficient community resources for many living with SMI.

As a result, states across the country have experienced increasing pressure on psychiatric systems. Nationally, psychiatric bed availability reached a historic low in recent years, while demand for forensic services has continued to grow.

Illinois has also experienced these challenges and taken deliberate steps to respond to them through multiple initiatives designed to improve access to care. These efforts include partnering with community-based hospitals to increase inpatient treatment options, expanding outpatient forensic service capacity, improving internal processes to have more efficient movement through the system, evaluating how existing state-operated hospitals resources can be utilized more effectively, and investing in future capacity at existing locations. While no single initiative can resolve the national psychiatric bed shortage, Illinois is working through these collective efforts to move its forensic system in a positive direction and create a foundation for continued improvement.

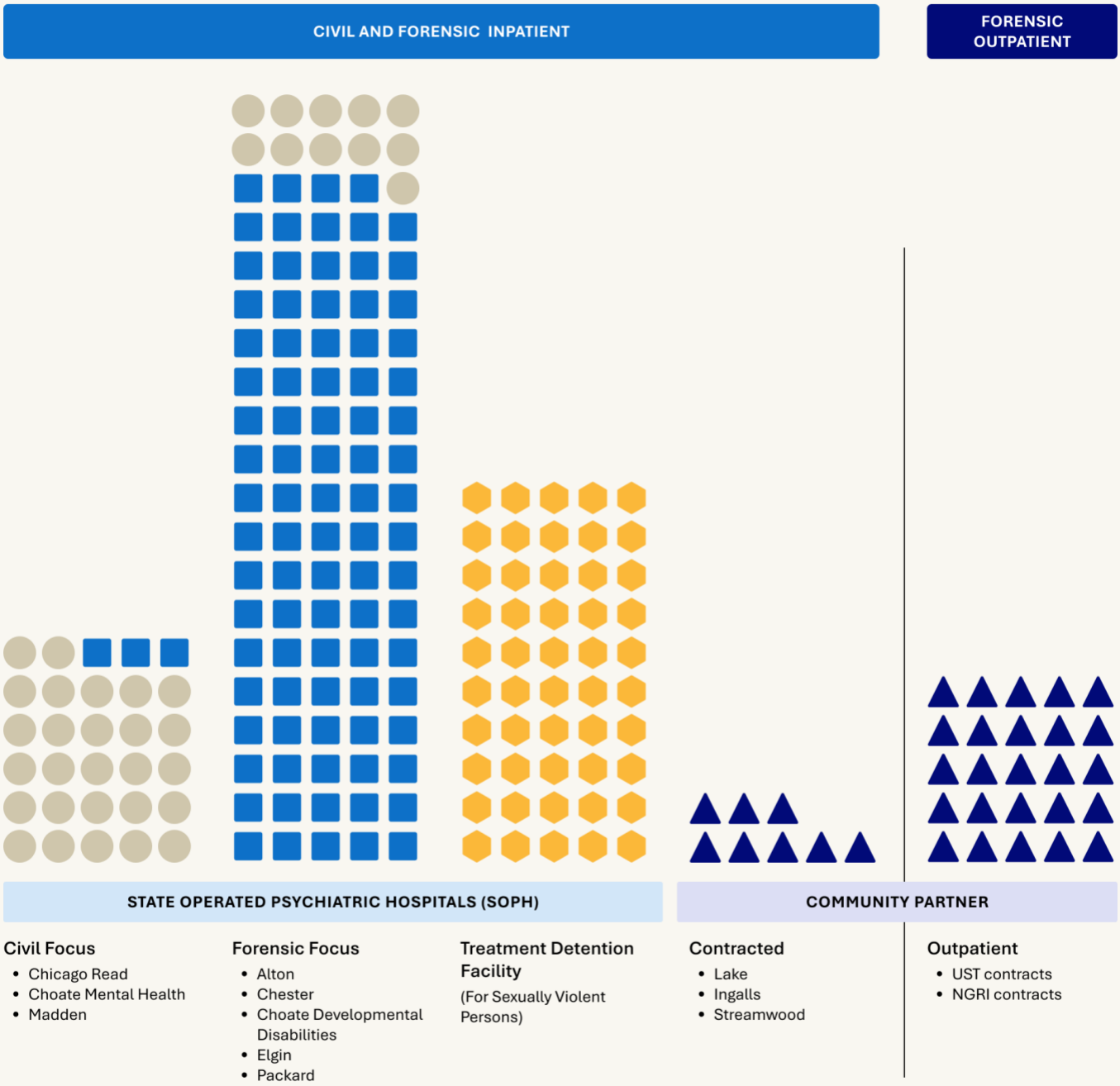
Illinois Department of Human Services (IDHS), Forensic and Justice Services

The **Forensic and Justice Services Bureau** serves as the primary administrative authority for forensic treatment in Illinois and operates within the Division of Behavioral Health & Recovery (DBHR), a division of the Illinois Department of Human Services (IDHS).

Under Illinois statute, individuals involved in the forensic system are remanded to IDHS, not DBHR nor any specific division. This distinction is important. While DBHR administers and coordinates many forensic treatment services, it does so as a part of the broader IDHS system. Within that system, multiple divisions have responsibility for forensic populations, including the Division of Developmental Disabilities (DD). Certain individuals and services fall under DD, even though DBHR may coordinate or help triage aspects of that work.

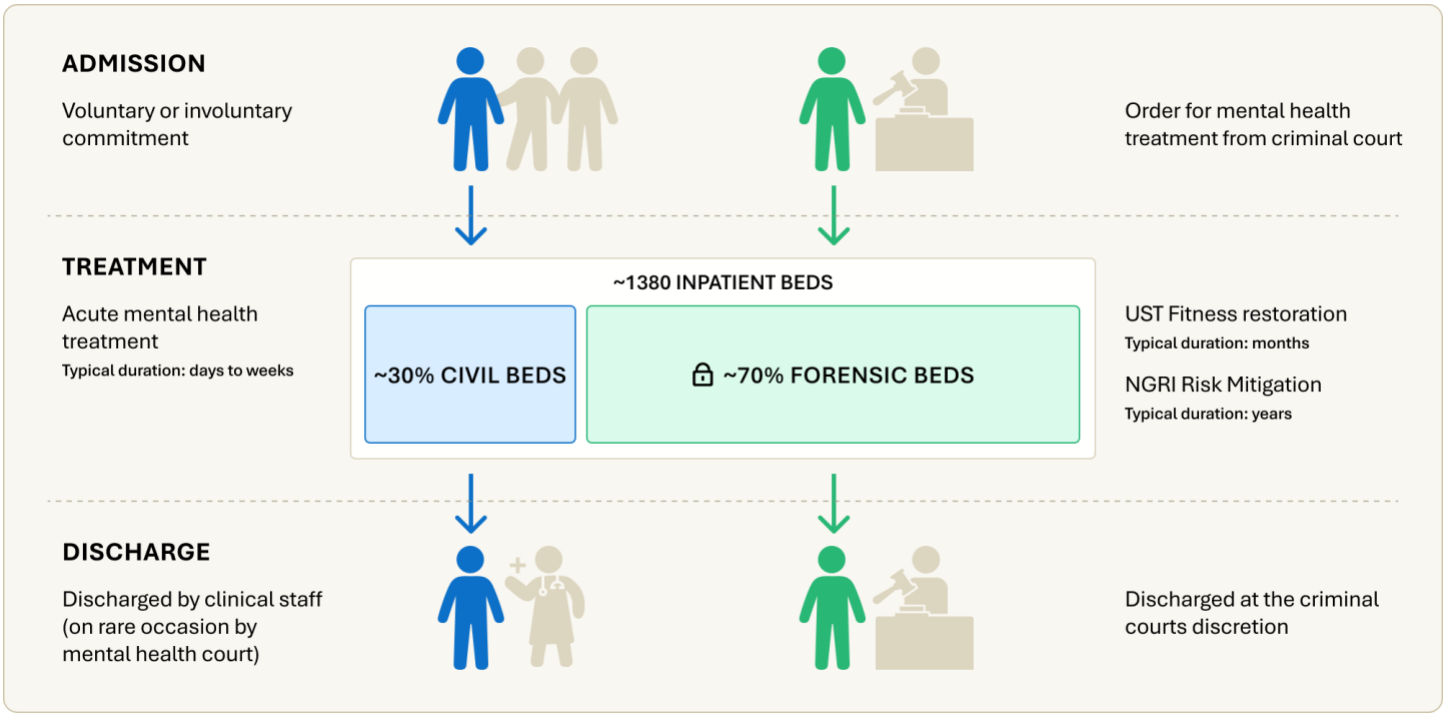
DBHR, through the Bureau of Forensic and Justice Services, manages the infrastructure supporting court-ordered evaluation and treatment, secure placement, and continuity of care for individuals transitioning back into the community through conditional release. This management includes a statewide system of State Operated Psychiatric Hospitals (SOPHs), partner inpatient programs, and contracts with outpatient providers. Understanding this structure helps clarify roles, set appropriate expectations, and ensure the right parts of the system are engaged in supporting individuals across the continuum of care.

IDHS CIVIL AND FORENSIC SERVICE LOCATIONS



Civil Treatment Services vs Forensic Treatment Services

Forensic treatment is distinct from civil behavioral health care in that it considers how a person's mental health or intellectual disability affects their legal situation. Forensic individuals are those who the criminal court has remanded for inpatient or outpatient treatment because of their involvement with the criminal justice system. Forensic treatment stabilizes an individual to return to their court proceedings or to continue recovery in the community. Individuals who require inpatient psychiatric treatment and are not involved with the criminal justice system can be treated in State Operated Psychiatric Hospitals as civil patients.



	CIVIL TREATMENT	FORENSIC TREATMENT
FOCUS	Stabilizing acute psychiatric illness and preparing for recovery in the community	Understanding how mental health or intellectual disability affects a legal case, and what care is required as a result
ENTRY POINTS	Voluntary (self-admission) or involuntary if someone is a danger to themselves or others	Court ordered
EXIT	Discharged by IDHS (on rare occasions by mental health court if civil courts are involved)	Discharged at the criminal court discretion

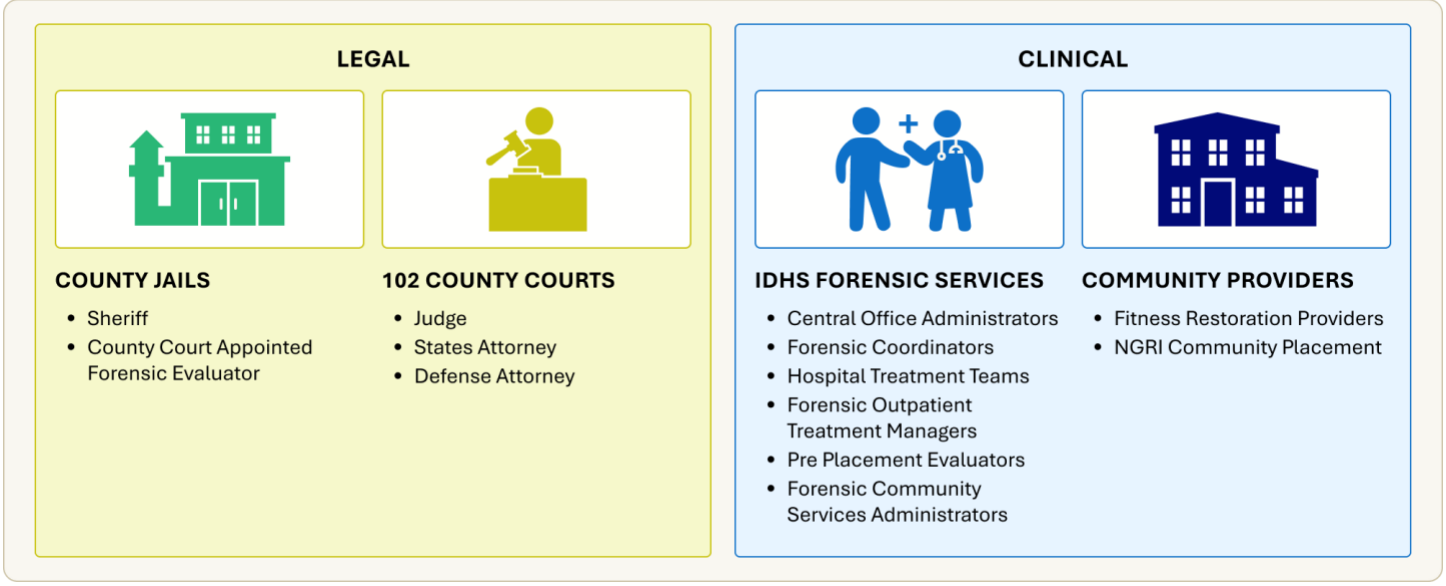
Populations the Forensic Treatment System Serves

The forensic treatment system serves criminal justice-involved individuals who have one of the following legal statuses:

- **Unfit to Stand Trial (UST):**
  - § "a defendant, who due to mental disorder, illness, or cognitive impairment, cannot understand the nature / consequences of court proceedings or cannot rationally assist in their own defense." 725 ILCS 5/104
- **Not Guilty by Reason of Insanity (NGRI):**
  - § "a legal defense in criminal cases where a defendant is acquitted because a severe mental disease or defect made them unable to understand the wrongfulness of their actions at the time of the offense." 730 ILCS 5/5-2-4
- **Sexually Violent Persons (SVP):**
  - § "a person who has been convicted of a sexually violent offense, has been adjudicated delinquent for a sexually violent offense, or has been found not guilty of a sexually violent offense by reason of insanity and who is dangerous because he or she suffers from a mental disorder that makes it substantially probable that the person will engage in acts of sexual violence." 725 ILCS 207/5

Forensic System Roles

The forensic system brings together legal and clinical partners who share responsibility for supporting individuals involved in the justice system. Each role contributes at different points in the process, from court decision-making to clinical assessment, treatment, and community supervision. While responsibilities are distinct, effective coordination across these roles is essential to ensure continuity of care, compliance with court orders, commitment to public safety, and appropriate outcomes for individuals.



IDHS, Forensic and Justice Services Central Office Contacts

ROLE DESCRIPTION	POSSIBLE REASONS FOR CONTACTING	EMAIL
Deputy Director of Forensic & Justice Services Provides executive oversight of statewide forensic programs, policy, operations, and strategic initiatives.	• High-level operational concerns • System barriers • Interagency issues • Matters requiring executive review or approval	Dr. Sharon Coleman Sharon.Coleman@illinois.gov
Forensic Court Services Administrator Oversees court coordination, statutory compliance, forensic referrals, and communication processes with the courts.	• Court orders • Statutory timelines • Placement coordination • Court-related procedural questions	Dr. Agoritsa Barczak Agoritsa.Barczak@illinois.gov
Statewide Forensic Medical Director Provides medical and psychiatric leadership for forensic services statewide.	• Complex clinical, psychiatric, medication, or medical issues impacting forensic individual care or placement	Dr. James Corcoran James.Corcoran@illinois.gov
Forensic Outpatient Manager Oversees outpatient forensic restoration and community-based forensic treatment services.	• Outpatient restoration services • Community treatment coordination • Outpatient provider concerns • Program operations	Dr. Tima Smith Tima.Smith@illinois.gov
Forensic Clinical Reviewer Reviews forensic referrals, evaluations, and clinical & legal documentation to support placement and treatment determinations.	• Referral reviews • Clinical clarification needs • Placement recommendations • IDHS court appearances • Documentation concerns	Cary Kasten, LCSW Cary.Kasten@illinois.gov
Forensic Services Community Administrators Coordinate community-based forensic services, conditional release oversight, and transitions to less restrictive settings.	• Community placements • Outpatient monitoring, • Conditional release compliance • Community provider coordination	Tracey Thomas, LCSW Tracey.Thomas@illinois.gov Rachel Nelson, LCSW, CADC, CPAIP, LSOTP Rachel.Nelson@illinois.gov Audrey Brantner, LCSW Audrey.Brantner@illinois.gov

Additional IDHS roles

- **Hospital CEOs:** Provide executive oversight of hospital operations, clinical services, safety, and regulatory compliance.
- **Pre-Placement Evaluator**: An IDHS clinician who performs statutory placement evaluations to determine the appropriate treatment setting.
- **Forensic Coordinators**: Facilitate admissions, transport, and discharge of forensic individuals to and from the hospitals. See Section 2.3 for contacts by inpatient treatment location.
- **Hospital Treatment Teams**: Multidisciplinary teams who provide inpatient treatment and support services to forensic individuals receiving forensic behavioral health care.
    - **Psychiatrist**: Treatment team leader who oversees psychiatric evaluation, diagnosis, medication management, and treatment planning to address patients' mental health needs and support competency restoration, stabilization, and risk reduction.
    - **Clinical Psychologist**: Conducts psychological assessment, diagnostic evaluation, risk assessment, competency-related evaluation and treatment, and therapeutic interventions to support patients' clinical stabilization, recovery, and progression through the forensic treatment process.
    - **Nurse**: Provides 24-hour medical and psychiatric nursing care, medication administration, health monitoring, and coordination of clinical interventions to support patient stabilization and recovery within the secure forensic environment.
    - **Social Worker**: Provides fitness education, case management, discharge, and coordination of continued care services for individuals.
    - **Activity Therapist**: Develops and facilitates structured therapeutic, recreational, and rehabilitative activities designed to enhance patients' social, emotional, cognitive, and coping skills in support of treatment goals and recovery.
    - **Security Therapy Aid (STA)**: Maintains unit safety and security while providing direct therapeutic support, patient supervision, crisis intervention, and assistance with daily structure and behavioral management on the forensic treatment unit.
- **Certified Recovery Support Specialist**: Patient liaison and advocate who promotes patient involvement and engagement in treatment and facilitates collaboration between patient and the treatment team.
- **Contracted Community Provider**: Delivers community-based services through IDHS-funded community behavioral health agencies and hospitals.

Legal roles

- **Judge**: Determines fitness to stand trial, orders mental health examinations, rules on insanity defenses, and manages treatment related decisions.
- **States Attorney**: Decides which cases to prosecute.
- **Defense Attorney**: A public defender or a private attorney who advocates for the defendant.
- **Sheriff**: Oversees care and custody of individuals in jails and coordinates transfer to and from hospitals.
- **County Court Appointed Forensic Evaluator**: Conducts independent court-ordered evaluations of defendants to assist the judicial system in making legal decisions, focusing on fitness to stand trial, sanity, and mental state rather than treatment.

1.3 Statutory Responsibilities

IDHS's treatment responsibilities within the forensic system are statutorily determined and include:

- **Evaluation & Placement:** Ensures timely, appropriate and least restrictive placement that maximizes individual liberty while meeting safety, treatment, and legal needs.
    - Coordinates least restrictive placement for court-remanded adults and juveniles
    - Reviews and authorizes emergency transfers to maximum security
    - Conducts placement review of individual pending civil commitment at release from Illinois Department of Corrections
- **Clinical Care & Restoration (Core Services):** Oversees delivery of legally-informed treatment across the continuum of care.
    - Delivers inpatient treatment for individuals evaluated as UST (Unfit to Stand Trial) or NGRI (Not Guilty by Reason of Insanity)
    - Coordinates with approved outpatient providers to ensure proper UST or NGRI treatment
- **System Oversight:** Monitors individuals, ensures compliance, and oversees system integrity.
    - Monitors individual status
        - UST in outpatient restoration
        - NGRI on conditional release
    - Oversees programs and providers
        - Juvenile residential and inpatient forensic programs
        - Community hospital partners providing UST services
    - Oversees facilities
        - Sexually Violent Persons Treatment and Detention Facility
    - Proposes legislative initiatives
        - Proposes and reviews legislative proposals that impact forensic treatment system

The following are the relevant statutes that guide the coordination between the forensic treatment system and the legal system. References are made to these statutes throughout the handbook to orient system stakeholders, but the use of this handbook should not replace consulting the statute directly.

LAW	LEGAL STATUS	ARTICLE TOPIC (LAW TITLE)
725 ILCS 5/104	UST	**Fitness for trial, to plead or to be sentenced (Code of Criminal Procedure of 1963)** Governs placement, IDHS notification, and the 60-day admission standard for defendants found Unfit to Stand Trial.
725 ILCS 5/104-23(b)(3)	UST	**Civil Commitment Pathway** Applies when the court determines there is not a substantial probability of restoration to fitness. This process does not require a Pre-Placement Evaluation and is governed by the Mental Health and Developmental Disabilities Code.
725 ILCS 5/104-21(c)	UST	**Medication Petition (UST statute)** The criminal court judge may ultimately sign an order authorizing involuntary medication, but only after following the legal procedures and due process protections set forth in the Illinois Mental Health and Developmental Disabilities Code—not merely because the individual has a criminal case or has been found Unfit to Stand Trial.
720 ILCS 5/6-2	NGRI	**Insanity (Criminal Code of 2012)** A person is not criminally responsible for a crime if, because of a serious mental illness or intellectual disability, they were unable to understand that their actions were wrong at the time of the offense.
730 ILCS 5/5-2-4	NRGI	**Proceedings after acquittal by reason of insanity (Uniform Code of Correction)** Governs individuals found Not Guilty by Reason of Insanity (NGRI). It explains how the court can order treatment, hospitalization, supervision, conditional release, or discharge for someone acquitted of a crime because of mental illness.
725 ILCS 207	SVP	**Sexually Violent Persons Commitment Act** Allows the State to keep certain individuals in treatment and secure custody after their prison sentence ends if they have a mental disorder that makes them substantially likely to commit future acts of sexual violence.
405 ILCS 5/3	General	**Admission, transfer, and discharge procedures for the mentally ill (Mental Health and Developmental Disabilities Code)** Governs involuntary civil admission. Explains when a person with a mental illness can be hospitalized against their will because they are considered a danger to themselves, a danger to others, or unable to care for their basic physical needs due to their mental condition.
405 ILCS 5/2-107.1	General	**Medication Petition (Mental Health and Developmental Disabilities Code)** Governs involuntary medication. Explains the legal process the court must follow before a person receiving mental health treatment can be given psychotropic medication against their will, including the evidence, testimony, and due process protections required under the Mental Health and Developmental Disabilities Code.

1.4 Deflection and Diversion

Behavioral Health Service Gaps Contribute to Justice Involvement

Forensic and Justice Services at DBHR sits within a larger system of social services in Illinois, which is adapting to meet Illinoisans' behavioral health needs. System stakeholders are actively working toward addressing gaps in services such as:

- Lack of timely access to behavioral health services
- Poor crisis response
- Inadequate diversion programs that result in significant mental illness in county jails
- Deficit of community resources and sites to discharge the individuals in IDHS care

The Sequential Intercept Model (SIM) provides a useful framework for understanding this dynamic. It illustrates how individuals move through the justice system and identifies key intercept points where deflection and diversion to treatment can occur. This includes community services (Intercept 0), through law enforcement, courts, incarceration, and reentry into the community (Intercept 4). When effective services are not available at early intercepts, (e.g., accessible outpatient care, crisis stabilization, or diversion programs) individuals are more likely to progress deeper into the justice system.

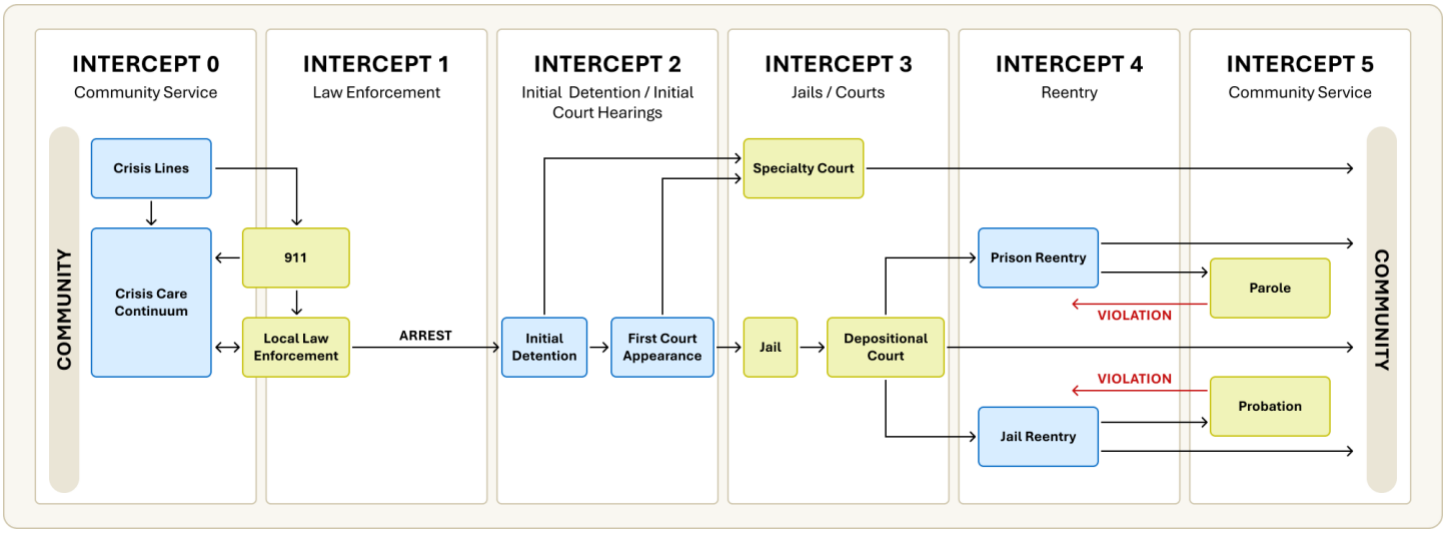


Image source: https://www.samhsa.gov/communities/criminal-juvenile-justice/sequential-intercept-model

Forensics and Justice Services primarily operate in the later intercepts—particularly the courts, jails, and community reentry—often after multiple missed opportunities for diversion. The result is a system where the lack of preventative off-ramps contributes to increased justice involvement, longer inpatient stays, and challenges due to limited community resources, including waitlists for services.

While forensic services play an essential role, the drivers of justice involvement begin upstream. Strengthening early intervention, deflection and diversion pathways, and community capacity is essential to reducing unnecessary justice system involvement and improving outcomes across the full continuum of care. The following sections outline example deflection and diversion pathways that behavioral health system stakeholders are actively working to build out and reinforce.

Crisis Continuum

The Illinois Crisis Care System is a statewide behavioral health crisis continuum designed to provide rapid, community-based responses to individuals experiencing mental health or substance use crises. The system is built around three core components:

1. 988 Crisis Call Centers
2. Mobile Crisis Response (MCR) teams
3. Crisis Stabilization Services

The goal of the Crisis Care System is to treat behavioral health crises as health care emergencies rather than criminal justice events. Individuals, family members, law enforcement officers, courts, or providers can access crisis services through 988, which connects callers to trained behavioral health professionals who can assess needs, provide immediate support, dispatch a mobile crisis team, and link individuals to appropriate treatment and community resources.

For individuals with mental illness and involved with the justice system, the crisis care system serves as an important diversion and stabilization resource. Mobile Crisis Response teams can respond directly in the community to assess risk, de-escalate crises, develop safety plans, and connect individuals to services. This response helps to

- Divert people from arrest when behavioral health symptoms are driving the crisis
- Reduce unnecessary emergency department visits and jail admissions
- Connect individuals to outpatient treatment, medication management, housing, and recovery supports
- Provide early intervention before symptoms escalate into criminal behavior or violations of court conditions
- Support continuity of care for individuals transitioning from jails, hospitals, or forensic programs back into the community
- By expanding access to timely crisis intervention and treatment, the Illinois Crisis Care System helps improve public safety, promotes recovery, and reduces reliance on the justice system as a response to behavioral health needs.

Assisted Outpatient Treatment (AOT)

Assisted Outpatient Treatment (AOT), under Illinois statute 405 ILCS 5/3-801.5, provides a legal framework to support treatment among individuals with a history of non-adherence and repeated, frequent hospitalization or incarceration. An AOT is a civil—not criminal—court order that legally requires a person to participate in a community-based treatment plan while simultaneously obligating the behavioral health system to actively provide and monitor that care. It is a shared agreement between providers, individuals, and families, typically overseen by a judge within a Mental Health Court.

In counties and municipalities where AOT orders are supported by outpatient services, the services may include care planning, mental health and substance use programming, peer support, family support, and access to resources for food, housing, and basic health services in exchange for the patient with SMI adhering to their treatment plan. While there are statutory options for involuntary AOTs, most Illinois AOT orders are voluntary in nature. Most orders include a provision that, should a person be out of compliance with their medication regimen and care, they may be brought (in collaboration with crisis response teams or law enforcement) to a hospital for a behavioral health evaluation—and from there, if warranted, to either a voluntary or involuntary hospitalization.

Diversion Programs

In January 2026, Public Act 104-0318 updated the fitness statute to *permit* diversion options for unfit misdemeanants.

§ "The court shall require an eligibility screening and an assessment of the defendant to determine whether the defendant may be able to receive mental health services under the Mental Health and Developmental Disabilities Code which shall reasonably assure his or her safety and that of the public and his or her continued participation in treatment. If, following this screening, the State and the defendant agree to the diversion and the court determines that the defendant is appropriate for diversion, the criminal charges may be dismissed. If the parties do not agree or the court does not approve, the court shall order a fitness examination under Section 104-13 of this Code and the matter shall be governed by any other relevant provisions of Article 104." 725 ILCS 5/104A-3

Criminal justice diversion programs can be designed to provide an alternative to traditional criminal prosecution for certain individuals, usually non-violent offenders, with the goal of addressing underlying issues that may contribute to criminal behavior. Diversion program options vary by county.

In Illinois, diversion options such as Mental Health Courts and deferred prosecution programs exist in some counties and offer structured, treatment-focused alternatives through coordinated partnerships between the legal system and service providers. These programs connect individuals to treatment, services, and community-based support with potential for charges to be reduced or dismissed upon successful completion. Ideally, additional diversion programs can be developed across the state over time.

☆ Diversion should be considered whenever legally and clinically appropriate. The forensic mental health system plays a critical role, but it is best reserved as a path of last resort used only when diversion is not viable.

Dismiss and Transfer to Civil

Dismiss and transfer is the practice by which criminal charges are dismissed prior to a competency determination or in lieu of competency restoration and held in abeyance while an application for civil commitment is filed, typically in the probate (civil) court. Local leaders may consider using dismiss and transfer procedures for people with SMI who have committed low level, misdemeanor crimes to reduce the competency restoration backlog. Once a civil commitment order has been issued, the individual is released to an outpatient commitment program for community treatment and monitoring usually after spending a short time in the hospital for stabilization.

1.5 Principles of Forensic Treatment

The forensic treatment system exists at the intersection of behavioral health, public safety, and the justice system. Individuals served within the system, clinical teams, courts, attorneys, community providers, and state agencies each play a distinct role in supporting recovery, due process, and public safety. The following principles reflect the values and practices IDHS strives to uphold to ensure forensic treatment services are delivered in a manner that is clinically appropriate, just, equitable, and respectful of individual rights:

- **Providing care, ensuring safety**: Forensic treatment staff at state operated psychiatric hospitals and partner providers employ clinical expertise with compassion. Their policies are in place to care for and protect patients and staff, not penalize them.
- **Complexity communicated clearly**: The legal system decides who enters and leaves forensic care. Clinical staff are committed to providing clear, pragmatic information to stakeholders in the judicial and outpatient care systems to support just, clinically informed decisions.
    - Court reports should honor the individual complexity of patients without obscuring answers to the specific questions posed by state statute: Is this person fit to stand trial? Does this person require inpatient care due to risk of harm to self or others?
- **Focused on forensic insight**: The clinical teams' role in a patient's recovery is to leverage a period of temporary forensic-focused care to support their successful navigation of the court system.
    - Patients may have numerous challenges, but in order to honor their right to self-determination and freedom, clinical staff focus must remain on fitness restoration, reducing risk of harm to self or others, and successful discharge into less restrictive treatment environments in the community.
- **Treatment fidelity & applied flexibly**: Clinical staff follow best practices and standards for quality care and apply them thoughtfully to individual patients. Consistent application of assessments assures care teams that they are providing the focused, quality care patients deserve.

SECTION 2

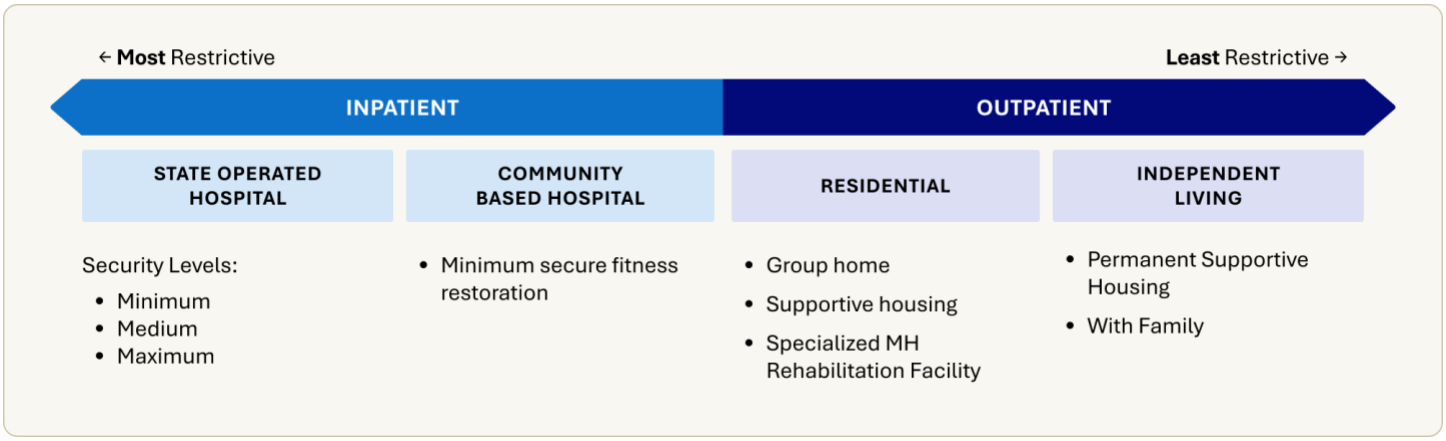
Forensic Service Locations

2.1 Treatment in the Least Restrictive Environment

The principle of treatment in the least restrictive setting is a core tenet of behavioral health care. In forensic treatment (i.e., treatment ordered by a criminal court), the "least restrictive" approach means providing care in a setting that preserves an individual's liberty, autonomy, and dignity to the greatest extent possible, while still ensuring safety, effective treatment, and compliance with legal requirements.

The primary factors for determining placement are whether an individual poses a risk of harm to themselves or others and the level of support and monitoring needed to maintain stability. Generally, treatment should occur on an outpatient basis unless the court determines that treatment on an outpatient basis is reasonably expected to result in serious physical harm upon the individual or another person.

In practice, levels of care exist on a continuum with more restrictive settings providing greater structure, supervision, and security. The most restrictive setting is a secure inpatient psychiatric hospital where individuals may be treated in a locked environment when necessary to ensure safety. Other treatment and residential settings are designed to provide varying levels of support and monitoring while allowing individuals to remain in the community to the greatest extent possible.



2.2 Outpatient Forensic Treatment Locations

IDHS contracts community providers to offer fitness restoration services for individuals with UST legal status and monitoring services for individual with NGRI legal status under conditional release.

Contact the Forensic Outpatient Manager, Dr. Tima Smith (tima.smith@illinois.gov), for questions regarding treatment options. Send court orders and referrals to IDHS regional emails listed in Section 2.4.

1 Lake County Health Department
3010 Grand Avenue, 1st Floor, Waukegan, IL 60085

2 Stepping Stones of Rockford
706 North Main Street, Rockford, IL 61103

3 Sinnissippi Centers
325 Illinois Route 2, Dixon, IL 61021

4 Ecker Center for Behavioral Health
1845 Grandstand Place, Elgin, IL 60123

5 DuPage County Health Department
1111 West Lake Street, Addison, IL 60101
1111 Jackson Street, Lombard, IL 60148
111 North County Farm Road, Wheaton, IL 60187
245 West Roosevelt Road, West Chicago, IL 60185
422 North Cass Avenue, Westmont, IL 60559

6 Northwestern Memorial Hospital
676 N. St. Clair Street Chicago, IL 60611 Floor 11

7 Kendall County Health Department
811 John Street, Yorkville, IL 60560

8 The Robert Young Center for Community Mental Health
4600 Third Street, Moline, IL 61265

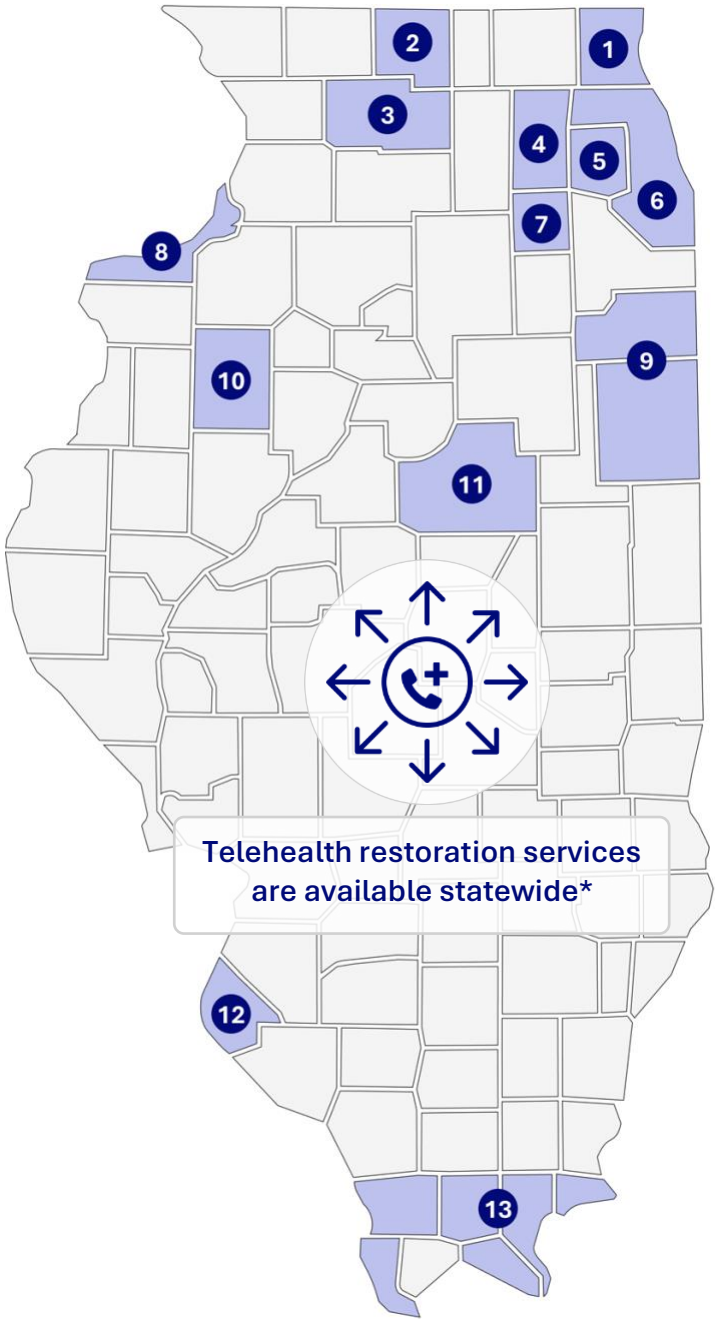
9 Iroquois Mental Health Center
323 West Mulberry Street Watseka, IL 60970
411 West Division Street Manteno, IL 60950

10 Bridgeway Inc.
2323 Windish Drive, Galesburg, IL 61401

11 McLean County Health Department
108 W. Market St., Bloomington, IL 61701

12 Human Support Services
988 North Illinois Route, Waterloo, IL 62298

13 Arrowleaf
204 South Street, Anna, IL 62906, UCO
300 Red Bud Lane (Johnson), (JCO-R), PO Box 1328, Vienna, IL 62995
125 North Market Street, Golconda, IL 62938
147 N. Main St. , Elizabethtown, IL 62931
1401 Washington Ave, Cairo, IL 62914
101 Oliver St. Vienna, IL 62995
501 Catherine St. Metropolis, IL 62960



**In counties where provider contracts are not established, IDHS will make a reasonable effort to assign IDHS staff to provide in-person fitness restoration services where operationally feasible.*

IDHS Funded Outpatient Location Details

COMMUNITY PROVIDER	COUNTIES SERVED	NOTES
Lake County Health Department (Lake County)	• Lake, Cook, McHenry, and additional counties on a case-by-case basis	• In-person, hybrid, and telehealth • Lake County Court sends referrals directly from court
Stepping Stones of Rockford (Winnebago County)	• Boone, Stephenson, Winnebago	• In-person only
Sinnissippi Centers (Ogle County)	• Carroll, Jo Daviess, Lee, Ogle, Stephenson, Whiteside and other counties on a case-by-case basis	• Not an IDHS funded program but will accept outpatient referrals • Offers 30 programs including Community Service Team (CST)
Ecker Center For Behavioral Health (Kane County)	• Kane and surrounding counties	• Initial psychiatric and intake visits must be in person; other sessions may be hybrid
DuPage County Health Department (DuPage County)	• DuPage County • Cannot accept referrals for individuals that live outside of DuPage County	• In-person only • Only accepts Medicaid or uninsured
Northwestern Memorial Hospital (Cook County)	• Cook and surrounding counties	• In-person treatment only • Cannot provide services for anyone under the age of 18
Kendall County Health Department (Kendall County)	• Kendall and surrounding counties	• In-person, hybrid, and telehealth
The Robert Young Center for Community Mental Health (Rock Island County)	• Henry, Mercer, Rock Island	• In-person only
Iroquois Mental Health Center (Iroquois Country)	• Statewide	• Telehealth only • No in-person treatment
Bridgeway Inc. (Knox Island County)	• Fulton, Henderson, Henry, Knox, McDonough, Peoria, Stark, Warren	• In-person, hybrid, and telehealth
McLean County Health Department: McLean County Center for Human Services (McLean County)	• McLean • Will only accept referrals for individuals who physically reside in McLean and are remanded for outpatient treatment through McLean County	• In-person only
Human Support Services (Monroe County)	• Monroe, Randolph, St. Clair • Will consider other counties on a case-by-case basis	• In-person and hybrid
Arrowleaf	• Alexander, Hardin, Johnson, Massac, Pope, Pulaski, Union Counties (and others as needed)	• In-person and hybrid

2.3 Inpatient Forensic Treatment Locations

Inpatient treatment locations offer secure placement for individuals who pose a risk of harm to themselves or others. IDHS operates seven hospitals serving forensic populations and contracts additional services through community partners. Send court orders and referrals to IDHS regional emails listed in Section 2.4.

STATE OPERATED PSYCHIATRIC HOSPITALS

1 **Elgin Mental Health Center**
750 South State Street, Elgin, IL 60123-7692, Kane County
Phone: (847) 742-1040 x3364
Contact: Jennifer Schilling

2 **Chicago-Read Mental Health Center**
4200 N. Oak Park Avenue, Chicago, IL 60634, Cook County
Phone: (773) 794-3707
Contact: Dr. Deb Marsico

3 **Packard Mental Health Center**
901 Southwind Drive, Springfield, IL 62703, Sangamon County
Phone: (217) 786-0136
Contact: Cindy Raddatz

4 **Alton Mental Health Center**
4500 College Avenue, Alton, IL 62002-5099, Madison County
Phone: (618) 474-3247
Contact: Katie Young

5 **Chester Mental Health Center**
1315 Lehmen Drive, Chester, IL 62233
Phone: (618) 861-0260
Contact: Angela Kongeal

6 **Choate Mental Health Center, DD**
1000 North Main Street, Anna, IL 62906, Union County
Phone: (618) 202-6459
Contact: Tali Myers

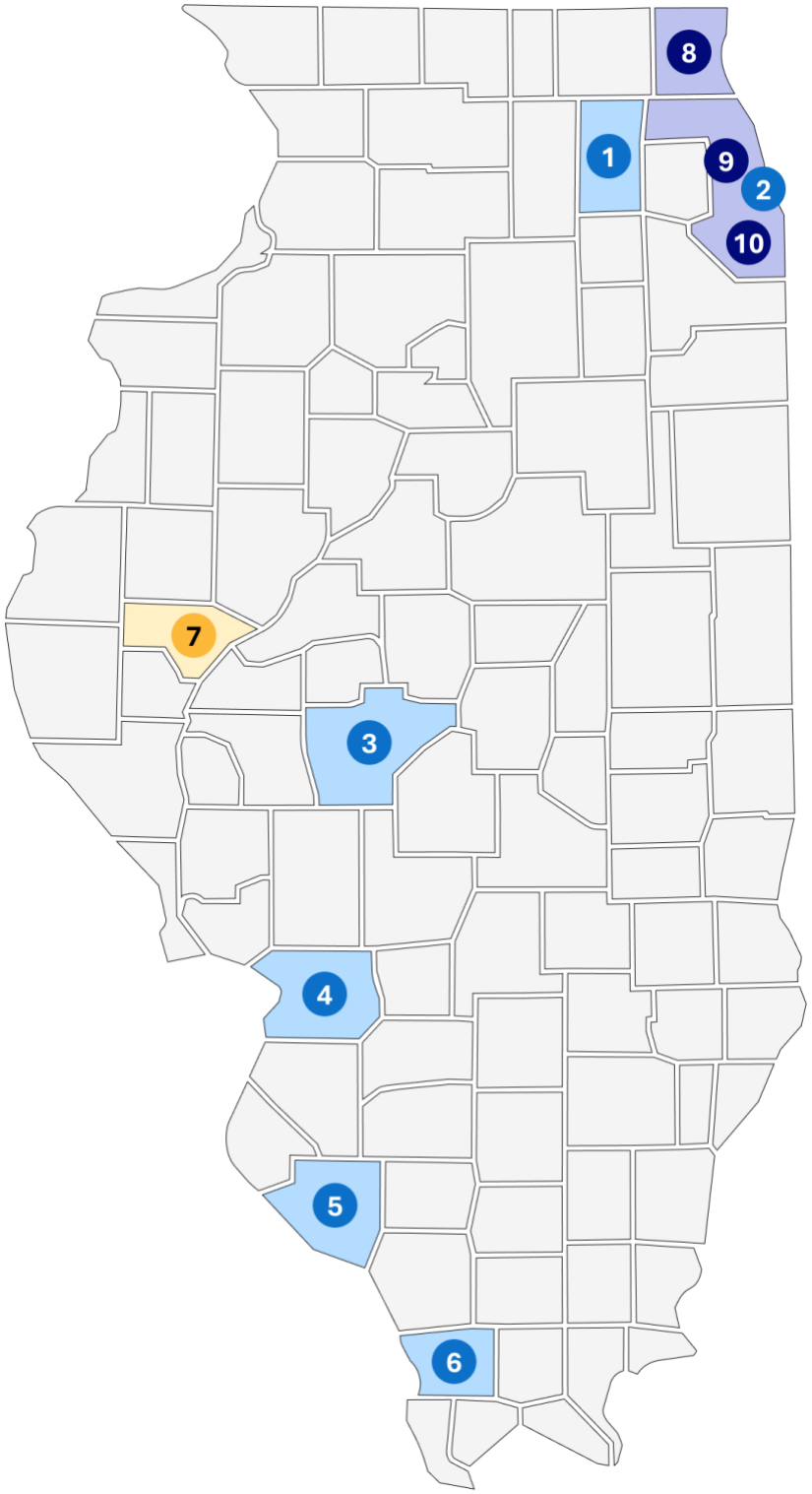
7 **Rushville Treatment Detention Facility**
17019 County Farm Rd, Rushville, IL 62681
Phone: (217) 322-3204
Contact: Dr. Mara Sheldon

COMMUNITY INPATIENT

8 **Lake Behavioral Hospital**
2615 Washington Street, Waukegan, IL 60085, Lake County
Phone: (779) 227-0928
Contact: Carie Pasenelli

9 **Streamwood Behavioral Health Services**
1400 East Irving Park Rd, Streamwood, IL 60107, Cook County
Phone: (630) 540-4298
Contact: Dr. Sue Ellen Foley

10 **Ingalls Memorial Hospital**
1 Ingalls Drive, Harvey, IL 60426, Cook County
Phone: (708) 915-5483
Contact: T'cia Chatman



Forensic Populations Served in a Secure Inpatient Setting

		POPULATIONS SERVED	LEGAL STATUS				TREATMENT SECURITY		
		Type	DD	SVP	NGRI	UST	Minimum	Medium	Maximum
STATE OPERATED PSYCHIATRIC HOSPITALS	1 Elgin	Adult Males, Adult Females	✗	✗	✓	✓	✓	✓	✗
	2 Chicago Read	Adult Males, Adult Females	✗	✗	✓	✓	✓	✓	✗
	3 Packard	Adult Males, Adult Females	✗	✗	✓	✓	✓	✓	✗
	4 Alton	Adult Males, Adult Females	✗	✗	✓	✓	✓	✓	✗
	5 Chester*	Adult Males	✗	✗	✓	✓	✗	✓	✓
	6 Choate DD**	Adult Males	✓	✗	✓	✓	✓	✓	✗
	7 TDF***	Adult Males, Adult Females	✗	✓	✗	✗	N/A	N/A	N/A
COMMUNITY INPATIENT	8 Lake	Adult Males, Adult Females	✓	✗	✗	✓	✓	✗	✗
	9 Streamwood	Juveniles	✗	✗	✓	✓	✗	✗	✗
	10 Ingalls	Adult Males, Adult Females	✓	✗	✗	✓	✓	✗	✗

Key: DD – Developmental Disability SVP – Sexually Violent Person NGRI – Not Guilty by Reason of Insanity UST – Unfit to Stand Trial

**Chester is the only maximum-security setting and is only available for male individuals. See 20 ILCS 1705/14 for placement criteria.*

***Choate is operated as an ICF/DD (Intermediate Care Facility for the Developmentally Disabled). This forensic unit is administered by IDHS Department of Developmental Disabilities.*

****Treatment Detention Facility in Rushville is the only setting available for sexually violent persons. See 725 ILCS 207 for placement criteria.*

Forensic Populations Served in a Secure Inpatient Setting—Formatted for Accessibility

STATE OPERATED PSYCHIATRIC HOSPITALS

Elgin, Packard, Alton, and Chicago Read:

Populations Served:

- Adult Males and Adult Females

Legal Status:

- Not Guilty by Reason of Insanity
- Unfit to Stand Trial

Treatment Security:

- Minimum
- Medium

Chester:

Populations Served

- Adult Males

Legal Status

- Not Guilty by Reason of Insanity
- Unfit to Stand Trial

Treatment Security:

- Medium
- Maximum

Choate DD:

Populations Served

- Adult Males
- Developmental Disability

Legal Status

- Not Guilty by Reason of Insanity
- Unfit to Stand Trial

Treatment Security:

- Minimum
- Medium

Rushville Treatment & Detention Facility:

Populations Served:

- Adult Males and Adult Females

Legal Status:

- Sexually Violent Person

COMMUNITY INPATIENT

Streamwood:

Populations Served:

- Juveniles

Legal Status:

- Not Guilty by Reason of Insanity
- Unfit to Stand Trial

Ingalls and Lake:

Populations Served:

- Adult Males and Adult Females
- Developmental Disability

Legal Status

- Unfit to Stand Trial

Treatment Security:

- Minimum

Inpatient Placement Treatment Security Levels

Inpatient placement is reserved for individuals who pose a risk for harming themselves or others. The Illinois Department of Human Services, Forensic & Justice Services has three general security levels for forensic inpatient treatment that are assigned based on an individuals' risk profile, treatment needs, and required level of security.

SECURITY LEVEL	SECURITY FEATURES	TYPICAL POPULATION ATTRIBUTES
MINIMUM	• Secure with locked doors • 24/7 staff supervision and security services • Controlled access through the facility	• Male and female individuals • Civil inpatients • Misdemeanor offenses • Non-violent felony offenses • Low elopement risk
MEDIUM	• All minimum-level features, plus: • Fenced recreation areas • Security screening procedures • Increased limitations on personal property	• Male and female individuals • Felony or misdemeanor offenses or both • Acute psychiatric symptoms • Dual diagnosis of Mental Illness (MI) and Intellectual Disability (ID)
MAXIMUM	• All medium-level features, plus: • Significantly restricted movement • Specialized layout • Specialized monitoring • Near-continuous observation	• Adult males only • Illinois does not have a maximum-security facility for females • Physically dangerous or assaultive behavior • High elopement risk

2.4 Court Order Submission

Forensic court orders and documents should be submitted to IDHS regional emails. Editable court order templates are available for download at https://dhsforensics.illinois.gov/resources.

Region 1, 2, & 3-North

Email: DHS.DBHR.Forensics@Illinois.gov
Fax: (312) 338-0326

Region 3-South

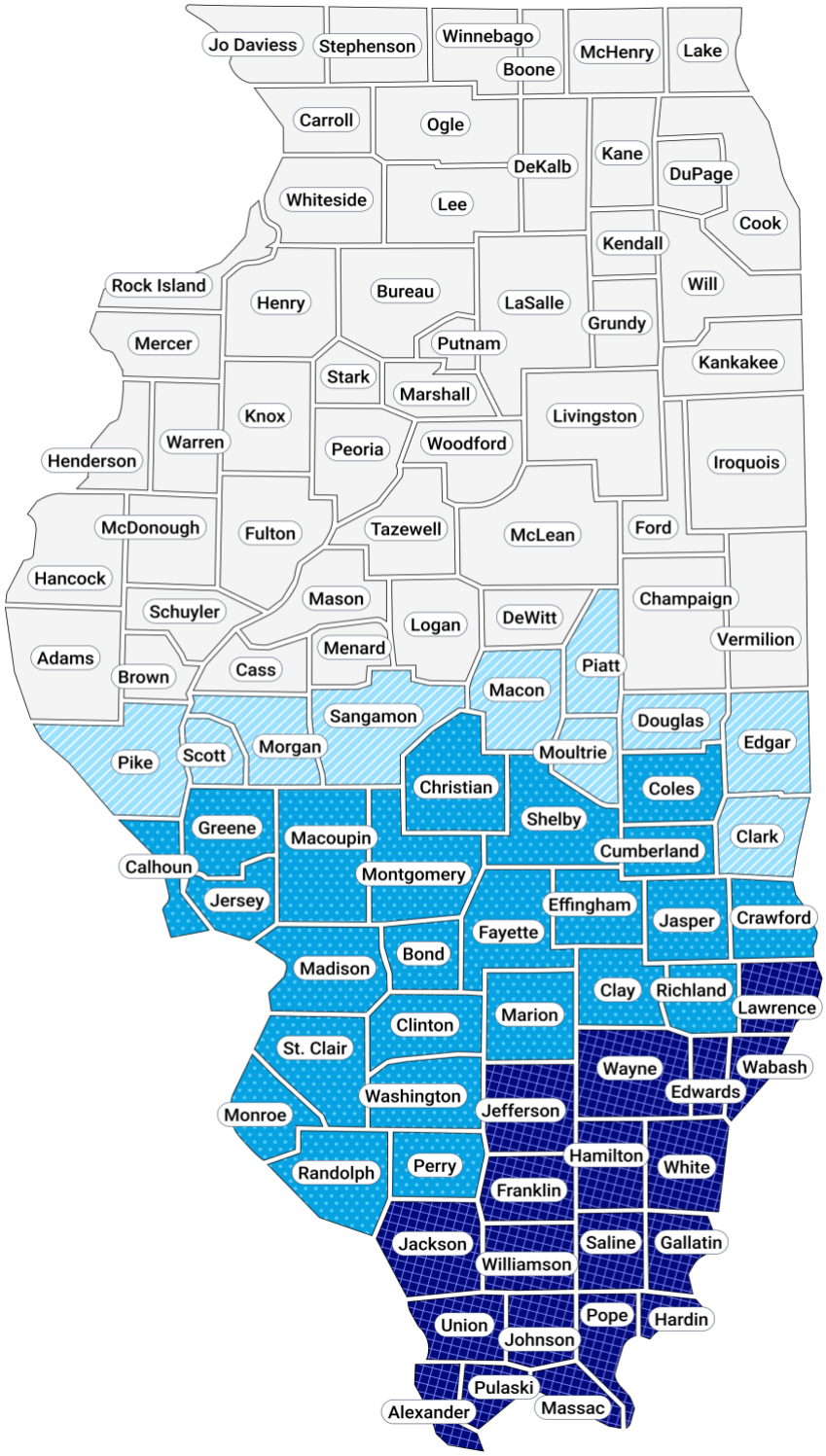
Email:
DHS.DBHR.CourtOrdersReg3S@Illinois.gov
Fax: (630) 954-3505

Region 4

Email:
DHS.DBHR.CourtOrdersReg4@Illinois.gov
Fax: (217) 557-4962

Region 5

Email:
DHS.DBHR.CourtOrdersReg5@Illinois.gov
Fax: (630) 954-3506



Counties Listed Alphabetically by Region

Region 1, 2, & 3-North	Region 3-South	Region 4	Region 5
Email: DHS.DBHR.Forensics@Illinois.gov **Fax:** (312) 338-0326	**Email:** DHS.DBHR.CourtOrdersReg3S@Illinois.gov **Fax:** (630) 954-3505	**Email:** DHS.DBHR.CourtOrdersReg4@Illinois.gov **Fax:** (217) 557-4962	**Email:** DHS.DBHR.CourtOrdersReg5@Illinois.gov **Fax:** (630) 954-3506
• Adams • Boone • Brown • Bureau • Carroll • Cass • Champaign • Cook • Dekalb • Dewitt • DuPage • Ford • Fulton • Grundy • Hancock • Henderson • Henry • Iroquois • Jo Daviess • Kane • Kankakee • Kendall • Knox • Lake • Lasalle • Lee • Livingston • Logan • Marshall • Mason • Mcdonough • McHenry • Mclean • Menard • Mercer • Ogle • Peoria • Putnam • Rock Island • Schuyler • Stark • Stephenson • Tazewell • Vermilion • Warren • Whiteside • Will • Winnebago • Woodford	• Clark • Douglas • Edgar • Macon • Morgan • Moultrie • Piatt • Pike • Sangamon • Scott	• Bond • Calhoun • Christian • Clay • Clinton • Coles • Crawford • Cumberland • Effingham • Fayette • Greene • Jasper • Jersey • Macoupin • Madison • Marion • Monroe • Montgomery • Randolph • Richland • Shelby • St. Clair • Washington	• Alexander • Edwards • Franklin • Gallatin • Hamilton • Hardin • Jackson • Jefferson • Johnson • Lawrence • Massac • Perry • Pope • Pulaski • Saline • Union • Wabash • Wayne • White • Williamson

SECTION 3

Unfit to Stand Trial (UST)

3.1 Legal Context

History of the Law Defining the Standard

The United States Supreme Court held in *Dusky v. United States* that a criminal defendant must be able to understand the nature of the proceedings and cooperate with defense counsel. Subsequently in *Pate v. Robinson,* the Supreme Court held that a hearing concerning the defendant's fitness must be held when a bona fide doubt exists as her or his fitness. These requirements are codified in the Illinois law at 725 ILCS 5/104-10, which provides that a "*defendant is unfit if, because of his mental or physical condition, he is unable to understand the nature and purpose of the proceedings against him or to assist in his defense.*"

In *Jackson v. Indiana,* the Supreme Court upheld the confinement of unfit defendants to restore fitness. However, the court limited such confinement to:

> *"the reasonable period of time necessary to determine whether there is a substantial probability that he will attain that [fitness] in the foreseeable future. If it is determined that this is not the case, then the State must either institute the customary civil commitment proceeding that would be required to commit indefinitely any other citizen or release the defendant. . . . [E]ven if it is determined that the defendant probably soon will be able to stand trial, his continued commitment must be justified by progress toward that goal."*

In response, Illinois has created a detailed statutory system for confining unfit defendants (often referred to in Illinois as "USTs") codified at 725 ILCS 5/104-15 through 104-31. The Illinois law gives every unfit defendant who remains confined for more than one year, the right to a "discharge hearing" to challenge the sufficiency of the evidence in the case 725 ILCS 5/104-23, 104-25.

Illinois' Fitness Standard

The Illinois Fitness standard is based on the Dusky standard.

§ "A defendant is presumed to be fit to stand trial or to plead, and be sentenced. A defendant is unfit if, because of his mental or physical condition, he is unable to understand the nature and purpose of the proceedings against him or to assist in his defense." 725 ILCS 5/104-10.

The standard describes a two-pronged approach to fitness restoration:

1. **Factual understanding**: The individual can accurately identify the basic facts of the court process, including the charges, possible outcomes, and the roles of courtroom participants. It reflects an ability to know what is happening in court, even if the individual may not fully understand what it means for them.

2. **Rational understanding**: The individual can apply basic courtroom information to their own case in a reality based and meaningful way. It reflects an ability to understand what is happening, why it matters, and how it personally affects them. With rational understanding the individual has the ability to collaborate with the attorney.

☆ Fitness does NOT require perfect legal knowledge or flawless reasoning, just enough understanding and ability to participate meaningfully in their own defense.

☆ Fitness is a present-tense legal standard, not a clinical diagnosis.

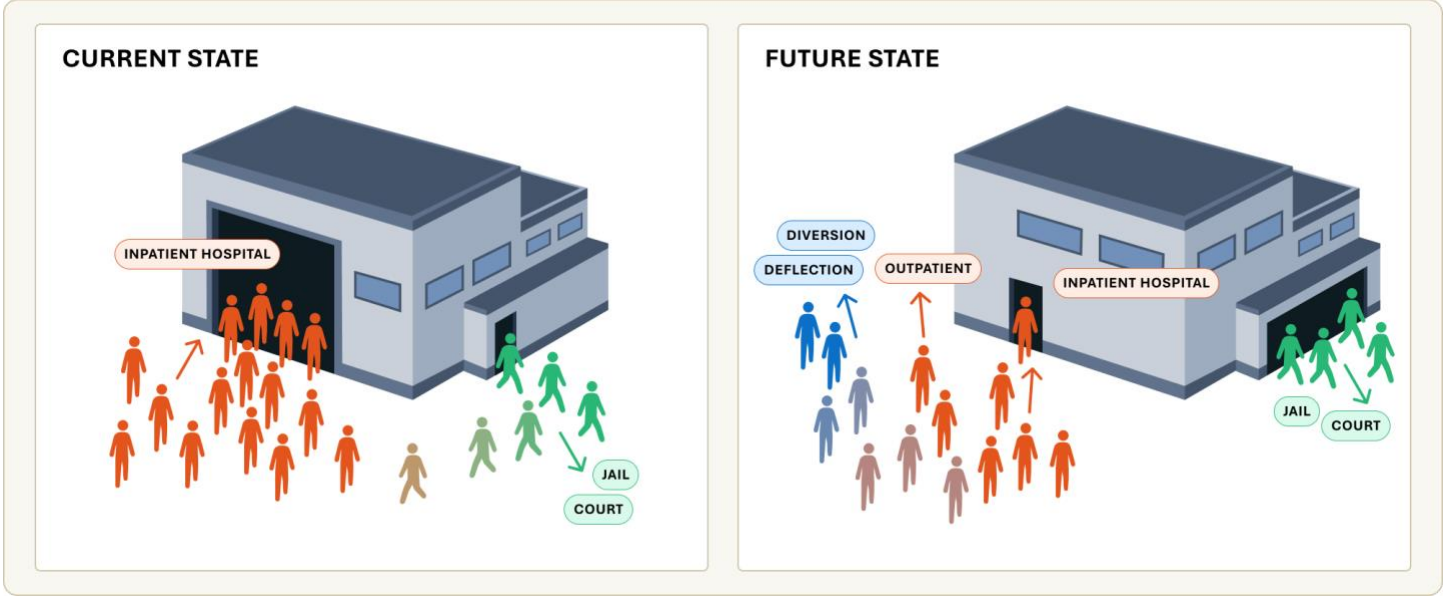
“Outpatient-First” Approach to Fitness Restoration

Across the nation, states are facing increased demands for fitness restoration services. There are concerns regarding individuals waiting for restoration services for extended periods, often in jail, before conviction and while presumed innocent. Recent litigation and reform efforts across multiple states have focused on reducing unnecessary detention, expanding community-based treatment options, and ensuring restoration services are delivered in the least restrictive setting.

The growing shortage of forensic inpatient beds is a significant challenge. States have been encouraged to expand outpatient restoration pathways where appropriate, with many reevaluating traditional inpatient-only restoration models in response to constitutional concerns, resource limitations, and the recognition that not all individuals require hospital-level treatment to participate meaningfully in legal proceedings.

Illinois has actively worked to address these national challenges through expanding deflection and diversion pathways and both inpatient and community-based restoration options. Consistent with broader national trends, Illinois recognizes that not all individuals found Unfit to Stand Trial (UST) require inpatient restoration and that many individuals can safely and appropriately receive services in community settings with appropriate supports and oversight. Illinois updated its fitness statutes (**Public Act** 104-0318 HB2572) to support an outpatient-first restoration framework. The updated law emphasizes use of the least restrictive, therapeutically appropriate setting and creates a presumption toward outpatient restoration when clinically and legally appropriate. The changes also encourage greater consideration of individualized treatment needs, risk factors, available community services, and whether inpatient-level care is truly necessary to restore fitness.

The statutory updates reflect a broader shift occurring nationally toward balancing constitutional protections, public safety, clinical needs, and access to treatment while reducing unnecessary reliance on inpatient forensic hospitalization. Illinois continues to expand both inpatient and outpatient restoration capacity as part of ongoing statewide efforts to improve access to timely, appropriate, and least restrictive restoration services.



The Evolving Legal Landscape for Misdemeanor Fitness Approach

As mentioned above in Deflection and Diversion Programs (section 1.4), **Public Act** 104-0318 HB2572, also known as the **Diversion of Unfit Misdemeanants Act**, permits diversion and community-based responses for certain individuals charged with misdemeanors found Unfit to Stand Trial (UST). The Act recognizes that many individuals found unfit remain involved in the criminal justice system longer than they would have if convicted of the underlying misdemeanor offense, and because of this, they do not receive the long-term behavioral health treatment or community support needed to reduce future system involvement. The legislation further emphasizes the importance of connecting individuals to behavioral health services, case management, substance use treatment, and ongoing community-based supports where appropriate. It does note that individuals charged with petty offenses or infraction of a municipal ordinance are not eligible for fitness restoration services.

At the county level, Illinois supports a range of diversion and deflection services designed to reduce justice system involvement for individuals with mental illness. These services commonly include:

- Crisis Intervention Team (CIT)-trained law enforcement officers
- Co-responder models that pair law enforcement officers with mental health professionals
- 988 and Mobile Crisis Response services
- Mental Health Courts
- Pretrial diversion programs
- Jail-based behavioral health screening and linkage services
- Community treatment providers offering:
    - Outpatient care
    - Case management
    - Housing supports
    - Assertive Community Treatment (ACT) services

Together, these programs seek to identify behavioral health needs early, divert individuals from arrest or incarceration when appropriate, connect them to treatment and supports, and reduce recidivism by addressing the underlying factors contributing to justice involvement.

3.2 Clinical Context

When an individual is found Unfit to Stand Trial (UST), their legal case is put on hold. The goal for individuals with UST legal status is to restore their ability to participate meaningfully in court and in their defense to resolve their legal case.

Restoration services include:

- Symptom stabilization
- Fitness assessment and education
- Continued care planning related to return to custody of the county
- Case management related to return to custody of the county

> ☆ Holistic treatment is not the focus of fitness restoration, and fitness restoration does not resolve long-term behavioral health needs.

Symptom Stabilization

Psychotropic medications are the most common form of treatment for people found Unfit to Stand Trial (UST). A psychiatrist may initiate or optimize a psychotropic medication regimen (e.g., antipsychotics, mood stabilizers) to reduce psychiatric symptoms that impair an individual's rational understanding (e.g., psychosis, mood disturbances) while minimizing side effects that could hinder courtroom functioning.

The treatment team or case manager or both monitor and support medication adherence through education, supervision, or motivational strategies to maintain psychiatric stability and legal readiness.

Medication Petition

A medication petition is generally appropriate when a person with serious mental illness is refusing psychiatric medication, lacks the ability to make informed treatment decisions, and their untreated symptoms are significantly impairing their safety, functioning, or ability to participate in legal proceedings. Medication petitions are most commonly considered when an unfit individual's mental illness is preventing restoration to fitness and less restrictive treatment efforts have been unsuccessful.

> Example: *An individual found Unfit to Stand Trial has schizophrenia, is actively delusional, and refuses medication. A medication petition may be filed by the treating psychiatrist when the patient lacks the capacity to make a reasoned treatment decision and is exhibiting deterioration, suffering, or exhibiting threatening behavior making the proposed medication clinically appropriate and necessary.*

Procedures to pursue a medication petition include:

- **Clinical Team Identification**: Treating clinicians determine that the individual is refusing recommended psychiatric medication, lacks the capacity to make a reasoned treatment decision, and meets statutory criteria for medication over objection.
- **Clinical Evaluation & Documentation**: The treating psychiatrist and treatment team document the person's symptoms, treatment history, risks of non-treatment, alternatives attempted, and rationale for the proposed medication plan.
- **Petition Preparation**: The hospital or treatment facility prepares a formal petition for involuntary treatment under the Illinois Mental Health and Developmental Disabilities Code 405 ILCS 5/2-107.1.
- **State's Attorney Involvement**: The State's Attorney's Office reviews and files the petition with the court and represents the State at the hearing.
- **Appointment of Defense Counsel**: The individual is represented by counsel, typically a Guardianship and Advocacy Commission attorney (GAC) or an Assistant Public Defender (APD), who protects the respondent's legal rights and may challenge the petition.
- **Scheduling of Hearing**: Illinois law generally requires the hearing to occur within **7 days** of filing the petition, excluding weekends, and holidays, unless continued for good cause.
- **Court Hearing**: The treating clinician testifies regarding diagnosis, capacity, clinical deterioration, risks and benefits, and medication recommendations. Defense counsel may cross-examine witnesses, present evidence, or argue against involuntary treatment.
- **Judicial Determination**: The judge determines whether the statutory criteria for medication over objection have been proven by clear and convincing evidence.
- **Court Order**: If granted, the judge issues a time-limited order authorizing involuntary medication, typically for up to **90 days**, after which a new petition is required if continued treatment over objection is sought.

Fitness Education and Assessment

The education component of fitness restoration includes skills training on the legal process and how to manage stress or other adverse experiences that can occur before, during, or after court.

Treatment should address the two prongs of the fitness standard (see UST Legal Context Section 3.1):

1. **Factual understanding: Comprehends the nature and purpose of the proceedings**
    - Knows the charges
    - Understand the courtroom roles
    - Grasps possible outcomes
2. **Rational understanding: Ability to consult with counsel**
    - Communicates relevant information
    - Follows the trial
    - Makes decisions based on a basic understanding of the case
    - Ability (not willingness) to collaborate with attorney
    - Manages paranoid or disorganized thinking

> ☆ The treatment team assesses understanding of legal concepts and application but should not offer legal advice or strategy. If individuals have questions regarding legal guidance, the treatment team refers the individual to their attorney.

Continued Care Planning

Outpatient:

Outpatient competency restoration discharge planning involves preparing an individual for successful transition out of competency restoration services by coordinating ongoing mental health treatment, medication management, housing, entitlement benefits, community supports, and follow-up care. The process also includes communication with the court, attorneys, and community providers to support continued stability, reduce risk of decompensation or re-involvement with the legal system, and promote long-term functioning in the community.For additional outpatient information visit http://dhsforensics.illinois.gov/resources.

Inpatient:

Continued care planning emphasizes continuity of care and discharge follow-up. Inpatient fitness restoration is reserved for individuals who pose a risk of harm to themselves or others. As such, after restoration treatment, these individuals are likely to return to jail to await trial or discharge hearing. Continued care planning is limited in scope, focusing mainly on discharge planning.

Discharge planning begins at admission and focuses on identifying community resources and supports that may be needed when the individual is ultimately released from court custody. This may include housing, entitlement benefits, family support, established medical and mental health providers, health insurance coverage, and transportation, and other community-based services.

The discharge summary should document existing supports, identified resource needs, and information the individual can use upon release to the community. In general, the social worker will provide the individual with a discharge plan and instructions in writing to refer to once the individual is released to the community by the criminal court. If the social worker is aware that the court is going to release the individual, the social worker can schedule appointments to add in to the discharge plan.

Case Management

Outpatient:

Case management in the outpatient setting will focus on supporting the individual to be successful in the outpatient setting. This may include arranging transportation for rides to appointments, setting up medication boxes, providing reminders for appointments, and following up on appointments. Case management will work closely with the treatment team to determine the needs of the individual. For additional outpatient information visit http://dhsforensics.illinois.gov/resources.

Inpatient:

Case management is aimed at supporting the individual during the inpatient fitness restoration process and the transition back to jail once restored. The case management role overlaps with the role of the social worker in the inpatient setting. This includes coordinating care and services that will help the individual progress toward becoming fit including scheduling trips to court for hearings or facilitating phone calls with the defense attorney. It could include advocating for the individual to get an appointment for eyeglasses or hearing aids to support fitness restoration education.

Intellectual Disability and Fitness

When considering placement, special provisions, and treatment approaches for individuals found Unfit to Stand Trial due to an intellectual disability, important clinical factors include:

- The severity of cognitive and adaptive functioning deficits
- Communication abilities
- The individual's capacity to understand court proceedings and participate in restoration services
- Co-occurring mental illness or behavioral disorders
- Vulnerability in correctional or inpatient settings
- Ability to benefit from restoration
- Need for structured supports or specialized educational approaches
- The availability of developmentally appropriate community-based services and supervision

Physical Disability and Fitness

When considering placement, special provisions, and treatment approaches for individuals found Unfit to Stand Trial due to a physical disability, important clinical factors include:

- The extent to which the disability affects communication, cognition, mobility, stamina, sensory functioning, or the ability to meaningfully participate in legal proceedings
- Medical care
- Accessibility accommodations
- Assistive devices
- Transportation needs
- Vulnerability in custodial settings
- Whether specialized supports or modifications can allow the individual to participate in court proceedings in the least restrictive setting possible

Malingering

Malingering is when an individual intentionally feigns, fabricates, or exaggerates physical or psychological symptoms based on external motivations (e.g., financial gain, avoidance of legal repercussions, access to resources, etc.) When malingering is suspected in an Unfit to Stand Trial case, clinical evaluation typically includes review of records, collateral information, behavioral observations, symptom consistency over time, response to treatment, and use of structured malingering assessment measures to determine whether the reported impairments genuinely interfere with the individual's ability to understand the proceedings or assist counsel.

3.3 UST Periods of Treatment

This section explains the statute in plain language, presented in four periods corresponding to the structure of the proceedings outlined in the statute.

Period 1: Leading Up to UST Finding

- Fitness Issues Raised: 725 ILCS 5/104-11
- Examination Ordered: 725 ILCS 5/104-13
- Examination & Report: 725 ILCS 5/104-15
- Fitness Hearing: 725 ILCS 5/104-16
- Treatment Ordered: 725 ILCS 5/104-17
- IDHS Pre-Placement Evaluation: 725 ILCS 5/104-17(b)

Period 2: Standard (Initial) Fitness Restoration

- Admission Report and Treatment Plan: 725 ILCS 5/104-17 (b)(e)
- Treatment and Progress Reports: 725 ILCS 5/104-18
- Fitness Review Hearings: 725 ILCS 5/104-20(a)
- Fit or Fit with Special Provisions: 725 ILCS 5/104-20 (e), 104-22
- State's Attorneys Options: 725 ILCS 5/104-23

Period 3: Extended Treatment, “Not Not Guilty” (NNG)

- Extended Treatment Ordered, "Not Not Guilty:" 725 ILCS 5/104-25(d)
- Treatment and Progress Reports (Extended): 725 ILCS 5/104-18
- Fitness Review Hearings (Extended): 725 ILCS 5/104-20 (a)
- End-of-Extended Treatment Period Hearing: 725 ILCS 5/104-25(g)

Period 4: Post-Extended Treatment (g)(2)

- Civil Commitment: 725 ILCS 5/104-25(g)(2)
- Treatment and Progress Reports (Post-Extended): 725 ILCS 5/104-25(g)
- Fitness Review Hearings (Post-Extended): 725 ILCS 5/104-25(g)(2)(i)

Throughout this process, it is important to remember the underlying purpose of fitness restoration. The goal of UST treatment is to restore a person’s ability to participate meaningfully in their own defense, not as punishment or long-term care.

Two factors drive how an individual UST case unfolds:

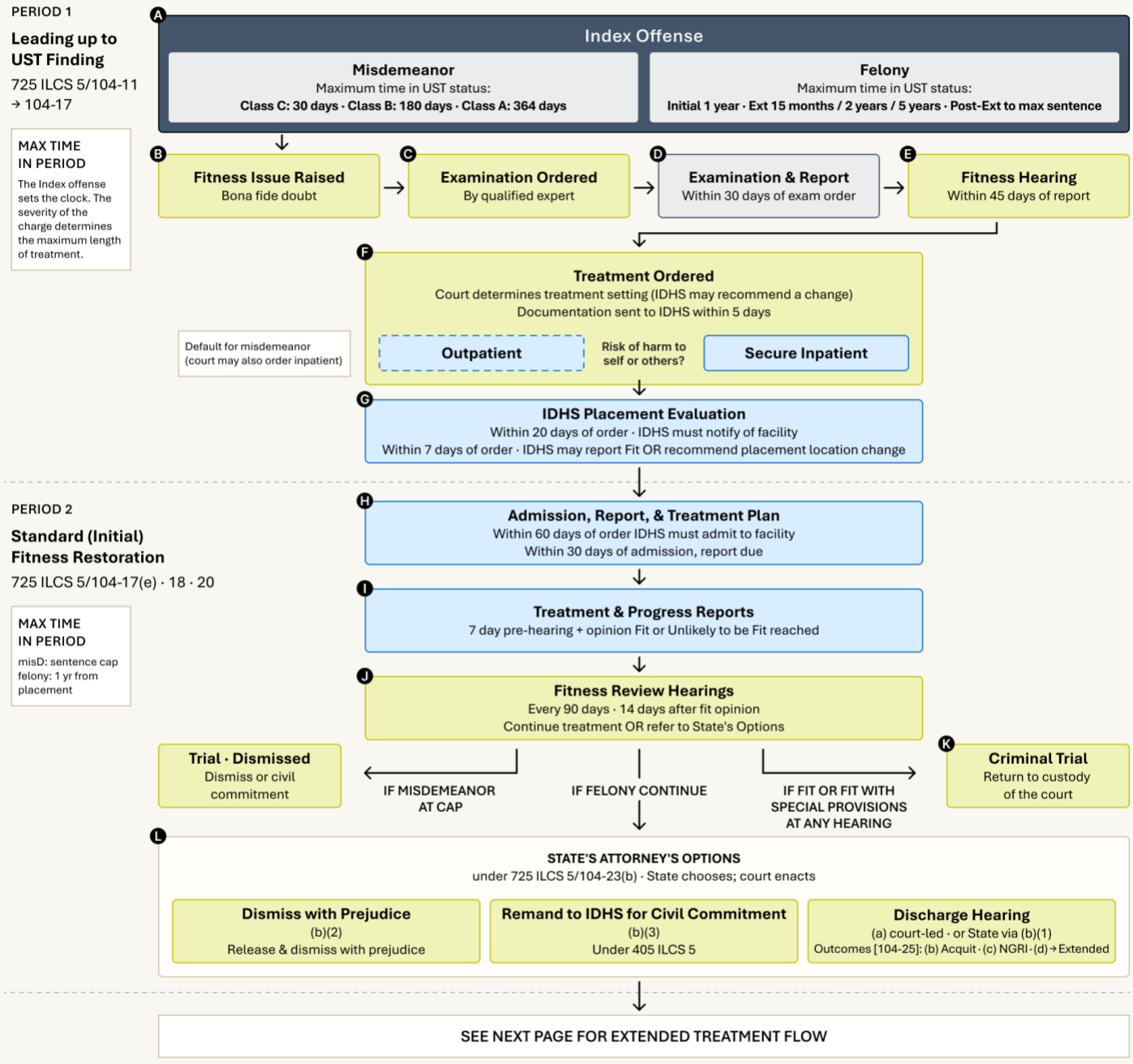
1. **The index offense sets the clock:** The severity of the charge determines the maximum length of treatment.
2. **Outpatient is the statutory default:** The court must select the least restrictive treatment therapeutically appropriate.

From there, statute 725 ILCS 5/104 lays out the sequence: where treatment happens, how long it can last, when hearings are scheduled, and what reports are due.

UST Process Flowchart

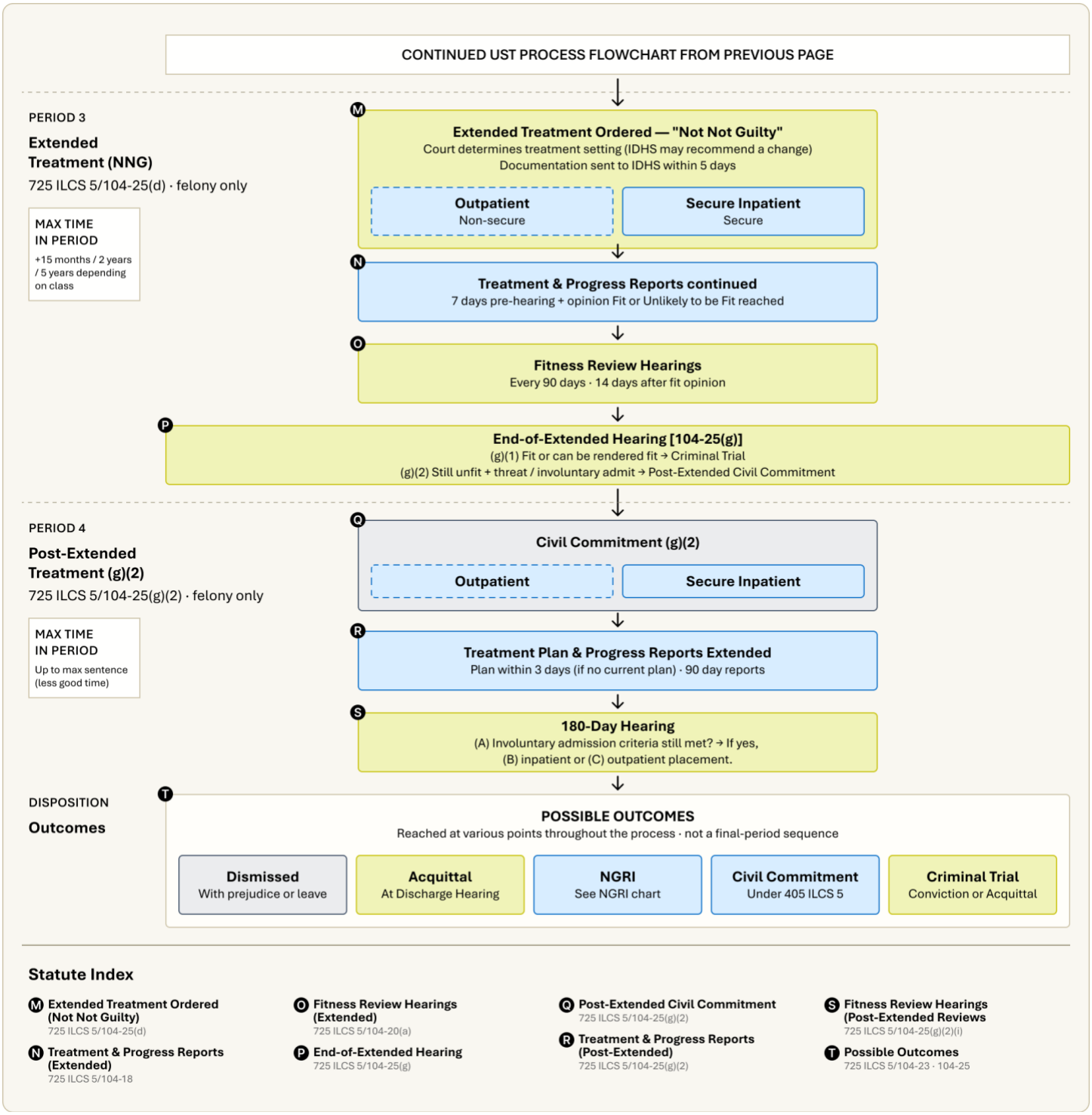
Fitness to Stand Trial · 725 ILCS 5/104

Illinois Department of Human Services · v.2026-07-09



Statute Index

- **A Index Offense** — 725 ILCS 5/104-24 (Time Credit)
- **B Fitness Issue Raised** — 725 ILCS 5/104-11
- **C Examination Ordered** — 725 ILCS 5/104-13
- **D Examination & Report** — 725 ILCS 5/104-15
- **E Fitness Hearing** — 725 ILCS 5/104-16
- **F Treatment Ordered** — 725 ILCS 5/104-17
- **G IDHS Pre-Placement Evaluation** — 725 ILCS 5/104-17(b)
- **H Admission, Report, & Treatment Plan** — 725 ILCS 5/104-17(b)(e)
- **I Treatment & Progress Reports** — 725 ILCS 5/104-18
- **J Fitness Review Hearings** — 725 ILCS 5/104-20(a)
- **K Fit or Fit with Special Provisions** — 725 ILCS 5/104-20(e) · 104-22
- **L State's Attorneys Options** — 725 ILCS 5/104-23



Statute Index

- **M Extended Treatment Ordered (Not Not Guilty)** — 725 ILCS 5/104-25(d)
- **N Treatment & Progress Reports (Extended)** — 725 ILCS 5/104-18
- **O Fitness Review Hearings (Extended)** — 725 ILCS 5/104-20(a)
- **P End-of-Extended Hearing** — 725 ILCS 5/104-25(g)
- **Q Post-Extended Civil Commitment** — 725 ILCS 5/104-25(g)(2)
- **R Treatment & Progress Reports (Post-Extended)** — 725 ILCS 5/104-25(g)(2)
- **S Fitness Review Hearings (Post-Extended Reviews** — 725 ILCS 5/104-25(g)(2)(i)
- **T Possible Outcomes** — 725 ILCS 5/104-23 · 104-25

Period 1: Leading up to UST Finding

A Index Offense

For any index offense, there is a maximum duration of treatment time depending on the severity of the index offense and the resulting charge. The durations below reflect the timeframe for the s**tandard (initial) period of treatment:**

Felony → max 365 days
Class A misdemeanor → max 364 days, less with good-conduct credit
Class B misdemeanor → max 6 months, less with good-conduct credit
Class C misdemeanor → max 30 days, less with good-conduct credit

After the **standard (initial) period of treatment**, if an individual continues to be in need of extended "**Not Not Guilty (NNG)"** or post-extended "**(g)(2)**" treatment, the length of treatment time cannot exceed the maximum sentence duration of the initial offense.

☆ **The index offense sets the clock.** The severity of the charge determines the maximum length of treatment.

B Fitness Issue Raised: 725 ILCS 5/104-11

The court, defense, or prosecution may raise concerns about an individual's mental fitness at any time. If there is a bona fide ("in good faith") doubt about fitness, the court shall order a determination of the issue before proceeding further. When a bona fide doubt of the individual's fitness has been raised, the burden of proving that the individual is fit by a preponderance of the evidence and the burden of going forward with the evidence are on the State.

☆ An individual charged with one or more misdemeanors and for whom a court has determined under Section 104-11 that a bona fide doubt of the individual's fitness has been raised may be admitted into an unfit misdemeanant diversion program only upon the approval of the court. (HB3572 eff 1/1/2026).

C Examination Ordered: 725 ILCS 5/104-13

After bona fide doubt is raised, a fitness evaluation is conducted by a qualified examiner such as a psychiatrist, clinical psychologist, or licensed physician. Each county funds its own qualified examiner.

☆ IDHS staff (in their official capacity) are prohibited from conducting fitness examinations.

D Examination & Report: 725 ILCS 5/104-15

The qualified examiner then submits an official evaluation report to the court. It is important to note that the written report must be filed with the court within 30 days of the court's order for an examination. The qualified examiner may be called to testify at the hearing regarding fitness.

⏱ A written report is filed with the court within 30 days of the court's order.

The report shall include pursuant to 725 ILCS 5/104-15:

- A diagnosis and an explanation as to how it was reached and the facts upon which it is based.
- A description of the individual's mental or physical disability, if any; its severity; and an opinion as to whether and to what extent it impairs the individual's ability to understand the nature and purpose of the proceedings against him or her or to assist in his or defense, or both.

If the report indicates that the individual is not fit to stand trial or to plead because of a disability, the report shall include:

- An opinion as to the likelihood of the individual attaining fitness within the statutory period of time from the date of the finding of unfitness if provided with a course of treatment. If the person or persons preparing the initial fitness report are unable to form such an opinion, the report shall state such and provide reasons.
- General description of the type of treatment needed and of the least physically restrictive form of treatment therapeutically appropriate. If inpatient treatment is recommended, the report must articulate the evaluator's assessment of risk, protective factors, and treatment needs as related to the individual's mental disorder. Risk shall not be determined solely by the nature of the individual's criminal charges.

See statute for additional requirements for how information from reports may or may not be used and disclosed.

§ "Defendants charged with petty offenses or infraction of a municipal ordinance are not eligible for fitness restoration services." 725 ILCS 5/104-15 (b).

E Fitness Hearing: 725 ILCS 5/104-16

The court shall conduct a hearing to determine the issue of the individual's fitness within 45 days of receipt of the final written report of the person or persons conducting the examination or upon conclusion of the matter then pending before it, subject to continuances allowed pursuant to 725 ILCS 5/114-4.

If the individual is found unfit, the trier of fact shall determine whether there is substantial probability that the individual, if provided with a course of treatment, will attain fitness within one year.

If an individual is found unfit, and if such probability is found or if the court or the jury is unable to determine whether a substantial probability exists, the court shall order the individual to undergo treatment for the purpose of rendering him or her fit.

The goal for individuals who are Unfit to Stand Trial (UST) is not punishment or long-term care, but to restore their ability to participate meaningfully in court and in their defense to resolve their legal case.

If an individual is found unfit and **not likely to obtain fitness** in the statutory time period, the court shall proceed as provided in 725 ILCS 5/104-23.

Pursuant to 725 ILCS 5/104-23 the State shall request the court:

- To set the matter for hearing pursuant to Section pursuant to section 104-25 unless a hearing has already been held pursuant to paragraph (a) of this section.
- To release the individual from custody and dismiss with prejudice the charges against him.
- To remand the individual to the custody of IDHS and order a hearing to be conducted pursuant to the provisions of the Mental Health and Developmental Disabilities Code.

F Treatment Ordered: 725 ILCS 5/104-17

After the fitness hearing, if treatment is deemed the correct approach for an individual, the court shall select the least physically restrictive form of treatment therapeutically appropriate and consistent with the recommended treatment plan. **Placement shall be on an outpatient basis unless the court determines that:**

1. Treatment on an outpatient basis is **reasonably expected to inflict serious physical harm** upon the defendant or another. 725 ILCS 5/104-17(a)(1)
2. Treatment that will restore the defendant to fitness within a reasonable period of time is not available on an outpatient basis. 725 ILCS 5/104-17(a)(2)

☆ The court has the final authority to determine the type of treatment ordered. Before placement, IDHS conducts a pre-placement evaluation and provides treatment recommendations to the court. The court may choose to follow those recommendations, or it may decide on a different course of treatment.

☆ "**If the most serious charge faced by the defendant is a misdemeanor, the court shall order outpatient treatment**, unless the court finds on the record that the defendant is reasonably expected to inflict serious physical harm on the defendant or another due to mental illness."

The following criteria may help determine whether an individual is appropriate for outpatient fitness restoration and able to safely and consistently participate in treatment while living in the community:

- Stability and support
  - Has identified, stable housing
  - Has reliable contact information
  - Has a supportive family environment
  - Has community connection (i.e., engagement with behavioral health agencies and case managers)
- Treatment readiness
  - Is open to psychiatric medication
  - Is willing to engage in treatment and restoration processes
- Access and logistics
  - Has stable transportation
  - Has technology access for virtual sessions (if applicable)
  - Is able to attend weekly or bi-weekly sessions
- Engagement and consistency
  - Demonstrates motivation, follow-through, and responsiveness to interventions
  - Has a history of compliance with outpatient services if applicable

☆ See map (Section 2.2) for list of locations where outpatient in-person fitness restoration is available. Telehealth fitness restoration services are available across the state.

After the judge orders treatment, the clerk of the circuit court shall send the following documentation to the IDHS regional email (Section 2.4):

1. A certified copy of the order to undergo treatment with a complete copy of any report prepared under 725 ILCS 5/104-15 or other report prepared by a forensic examiner for the court
2. The county and municipality in which the offense was committed
3. The county and municipality in which the arrest took place
4. A copy of the arrest report, criminal charges, arrest record
5. All additional matters which the Court directs the clerk to transmit

⏱ The Clerk of the Circuit Court shall submit supporting documentation to IDHS within 5 days of the entry of the order for treatment.

G IDHS Pre-Placement Evaluation: 725 ILCS 5/104-17(b)

Once IDHS receives an order for placement, a Pre-Placement Evaluator is assigned.

The Pre-Placement Evaluator functions as the clinical and forensic link between the court, the jail, treatment systems, and IDHS. The work they perform supports statutory compliance, court processes, patient rights, and the safety of treatment staff, custodial staff, and the broader community.

A pre-placement evaluation (PPE) is usually completed for individuals remanded to inpatient treatment, and it is completed before admission. Its purpose is to help determine the most appropriate facility for their treatment needs, security risk, and other clinical or operational considerations before the individual is admitted. For individuals ordered directly to outpatient treatment, IDHS Forensic Outpatient Manager and Community Administrators do a clinical placement review to determine the appropriate community provider assignment.

The pre-placement evaluation must be completed within 15 calendar days of IDHS receiving the court's remand order. Pre-Placement Evaluation Letter designating the hospital or community provider must be issued within 20 calendar days of IDHS receiving the remand order.

☆ If documentation is incomplete, formal requests must be made to the appropriate clerk or attorney of record. All requests and responses must be documented in the case file.

Tips for Evaluation of In-Custody Individuals:

- Coordinate with the jail. Each county jail maintains its own procedures for evaluator access and scheduling. Evaluators must follow the county-specific contact protocols maintained by IDHS.
- Ensure privacy and security.
- Clarify legal status before starting.
- Focus on current functioning, not just history.
- Evaluations may be conducted in person or remotely, subject to clinical appropriateness, jail policy, and supervisory approval. All contact attempts and scheduling actions must be documented.

Tips for Evaluation of Out-of-Custody Individuals:

- Coordinate through attorneys.
- Use secure locations when possible.
- Document all contact attempts.
- Notify the court after three failed good-faith attempts.

If during the course of evaluating the individual for placement, the Illinois Department of Human Services determines that the individual is currently fit to stand trial, it shall immediately notify the court and shall submit a written report within 7 days.

Period 2: Standard (Initial) Fitness Restoration

H Admission, Report, and Treatment Plan: 725 ILCS 5/104-17 (b)(e)

Once the placement location is confirmed the Forensic Coordinator for each hospital or the Forensic Outpatient Manager coordinates the transition of the individual from custody to treatment.

> Individual must be admitted for treatment within 60 days of the court order.

If placement cannot be made within 60 days of the transmittal of the court's placement order and IDHS has demonstrated good faith efforts at placement and a lack of bed and placement availability, IDHS shall provide an update to the ordering court every 30 days until the individual is placed.

> A report and treatment plan is due within 30 days of admission.

The report shall provide an assessment of the facility's or program's capacity to provide appropriate treatment to the individual and include an opinion as to the probability of the individual attaining fitness within the statutory period of time from the date of the finding of unfitness.

If there is probability that an individual is likely to obtain fitness within the statutory time frame, the treatment supervisor shall also file a treatment plan, which includes all of the following:

1. A diagnosis of the individual's disability
2. A description of treatment goals with respect to rendering the individual fit, a specification of the proposed treatment modalities, and an estimated timetable for attainment of the goals
3. An identification of the person in charge of supervising the individual's treatment

I Treatment and Progress Reports: 725 ILCS 5/104-18

A report prepared by IDHS outlining progress in treatment and an opinion on fitness shall be sent to the Court, the State's Attorney, and the individual's counsel in preparation for each fitness review hearing:

- Every 90 days from the date of the initial order for treatment
- Whenever she or he believes that the individual has attained fitness;
- Whenever she or he believes that there is not a substantial probability that the individual will attain fitness, with treatment, within the statutory time period

> Progress reports are due 7 days before scheduled hearings.

The progress report shall contain:

1. **Clinical findings** of the treatment supervisor and the **facts upon which the findings are based**
2. The opinion of the treatment supervisor as to **whether the defendant has attained fitness** or as to **whether the defendant is making progress toward attaining fitness**
3. If the defendant is receiving **medication**, information from the prescribing physician indicating the **type**, the **dosage** and the **effect** of the medication on the defendant's appearance, actions and demeanor.

J Fitness Review Hearings: 725 ILCS 5/104-20(a)

> Fitness hearing is held every 90 days or within 14 days of an opinion of fit.

Possible outcomes of a fitness hearing include:

- **Fit:** Set the matter to trial.
- **Fit with Special Provisions** 725 ILCS 5/104-22 : Set the matter to trial accounting for provisions such as the support of a translator or qualified expert.
- **Unfit, but making progress:** Continue or modify treatment plan.
- **Unfit, unlikely to become fit** 725 ILCS 5/104-23: Set matter for discharge hearing OR dismiss charges and release from custody OR pursue civil commitment.

K Fit or Fit with Special Provisions: 725 ILCS 5/104-20(e), 104-22

When the court receives a report of fitness from the supervisor of the individual's treatment, the judge shall immediately enter an order directing the sheriff to return the individual to the county jail and set the matter for trial.

Special provisions or assistance may include but are not limited to:

- Appointment of qualified translators who shall simultaneously translate all testimony at trial into language understood by the individual.
- Appointment of experts qualified to assist an individual who because of a disability is unable to understand the proceedings or communicate with his or her attorney.

L State's Attorneys Options: 725 ILCS 5/104-23

If it is determined that it is unlikely that an individual will attain fitness within the statutory timeframe, the state's attorney may pursue one of the following options pursuant to 725 ILCS 5/104-23

- Dismiss with Prejudice: (b)(2)
- Remand to IDHS for Civil Commitment: (b)(3)
- Discharge Hearing: 725 ILCS 5/104-25

The possible outcomes of the discharge hearing include:

- Acquittal, Not Guilty
- Acquittal, Not Guilty by Reason of Insanity
- Not Acquitted (often referred to as Not Not Guilty)

Period 3: Extended Treatment (NNG)

M Extended Treatment Ordered, "Not Not Guilty:" 725 ILCS 5/104-25(d)

If after one year of treatment an individual remains unfit for trial, he or she may be remanded by the court for further treatment, and the one-year time limit shall be extended anywhere between 1 to 5 years based on the index offense.

- Misdemeanor → not eligible for extended treatment
- Felony Class 2, 3, 4 → max 15 months
- Class 1, X → max 2 years
- 1st Degree Murder → max 5 years

N Treatment and Progress Reports (Extended): 725 ILCS 5/104-18

As in the initial period of treatment, progress reports are sent to the court every 90 days (7 days before the hearing) or when the treatment supervisor opines that the individual has attained fitness or is unlikely to attain fitness.

O Fitness Review Hearings (Extended): 725 ILCS 5/104-20 (a)

As in the initial period of treatment, a fitness hearing is held every 90 days or when a treatment supervisor provides an opinion on fitness achieved or unlikeliness to become fit.

Possible outcomes of a fitness hearing include:

- **Fit:** Set the matter to trial.
- **Fit with Special Provisions** (725 ILCS 5/104-22): Set the matter to trial accounting for provisions such as the support of a translator or qualified expert.
- **Unfit, but making progress:** Continue or modify treatment plan.
- **Unfit, unlikely to become fit (**725 ILCS 5/104-23): Set matter for discharge hearing OR dismiss charges and release from custody OR pursue civil commitment.

P End-of-Extended Treatment Period Hearing: 725 ILCS 5/104-25(g)

Possible outcomes **at the end** of this period include:

- **Fit or can be rendered fit:** Proceed to criminal trial (g)(1)
- **Unfit and subject to involuntary admission under the Mental Health and Developmental Disabilities Code or constitutes a serious threat to the public safety:** pursue Post-Extended Period of Treatment (g)(2)

Period 4: Post-Extended Treatment (g)(2)

Q Civil Commitment: 725 ILCS 5/104-25(g)(2)

If, at the end of an extended period of treatment under 725 ILCS 104-25(d), the individual remains either Unfit to Stand Trial or a serious threat to public safety, the court may remand the individual to IDHS for continued treatment under 725 ILCS 104-25(g)(2).

R Treatment and Progress Reports (Post-Extended): 725 ILCS 5/104-25(g)(2)

The individual shall be treated in the same manner as a civilly committed patient, except that the original court with jurisdiction over the individual shall be required to approve any conditional release or discharge during the commitment period. The commitment period is up to the maximum sentence the individual could have received if convicted of the charged offense.

> If the individual does not have a current Treatment Plan, one shall be prepared and entered into his or her record **within 3 days** of the "(g)(2)" designation.

The individual is treated in the same manner as a civilly committed patient for all purposes, except the original court with jurisdiction over the individual is required to approve any conditional release or discharge.

S Fitness Review Hearing (Post-Extended): 725 ILCS 5/104-25(g)(2)(i)

> Hearings shift from every 90 days to every 180 days in the post-extended period of treatment.

Possible outcomes of a fitness hearing include:

- **Is subject to involuntary admission on an inpatient basis** (based on one or more of the following situations)**:**
    - An individual with mental illness who because of her or his illness is reasonably expected, unless treated on an inpatient basis, to engage in conduct placing him or her or another in physical harm or in reasonable expectation of being physically harmed.
    - An individual with mental illness who because of his or her illness is unable to provide for his or her basic physical needs so as to guard himself or herself from serious harm without the assistance of family or others, unless treated on an inpatient basis.
    - An individual with mental illness who refuses treatment or is not adhering adequately to prescribed treatment or because of the nature of her or his illness, is unable to understand her or his need for treatment; and, if not treated on an inpatient basis, is reasonably expected, based on her or his behavioral history, to suffer mental or emotional deterioration and is reasonably expected, after such deterioration, to either engage in conduct placing herself or himself or another in physical harm or, to be unable to provide for her or his basic physical needs so as to guard herself or himself from serious harm without the assistance of family or others.
- **Is in need of mental health services in the form of inpatient care.**
    - An individual who would benefit from inpatient treatment and are not sufficiently improved to be treated on an outpatient basis. This may include individuals who do not meet the definition of mental illness under 405 ILCS 5/1-129 of the Illinois Mental Health Code (developmental disability, dementia or Alzheimer's disease absent psychosis, substance use disorder, or an abnormality manifested only by repeated criminal or otherwise antisocial conduct) but would still benefit from inpatient services.
- **Is not in need of inpatient hospitalization but is in need of mental health services on an outpatient basis.**
- **Is no longer in need of mental health services.**

3.4 Outpatient Referrals

IDHS contracts community providers statewide to deliver fitness restoration services on an outpatient basis, either in person or through telehealth.

Forensic Outpatient Manager

The Forensic Outpatient Manager (FOM) is the DBHR Bureau of Forensic & Justice Services point of contact for outpatient Unfit to Stand Trail (UST) referrals. The FOM receives the referral, identifies the appropriate treatment agency, forwards the court order and supporting materials, and provides ongoing consultation to the clinical team.

Forensic Outpatient Manager Contact

Tima Smith, PsyD, PSA
Email: Tima.Smith@illinois.gov
Phone: (312) 636-7302

Recommending Inpatient

Outpatient restoration is the preferred placement when clinically appropriate. However, treatment needs may change over time, and some individuals may require a higher or lower level of care as their condition, engagement, or stability changes. If an individual decompensates (not an emergency) or is unable to safely or effectively participate in outpatient restoration, the treatment team should notify the court and contact the Forensic Placement Manager to discuss whether inpatient treatment should be recommended. Notification may occur through a letter to the court or as part of the 90-day update report, depending on the urgency of the situation. Likewise, individuals receiving inpatient restoration may later be considered appropriate for outpatient restoration as their condition stabilizes.

Emergency Situations

In the event of an emergency, the contracted agency staff should assess mental health and safety and then prioritize emergency mental health needs over restoration. The agency should act immediately if emergency hospitalization is needed and then notify the Forensic Outpatient Manager, court, and attorneys.

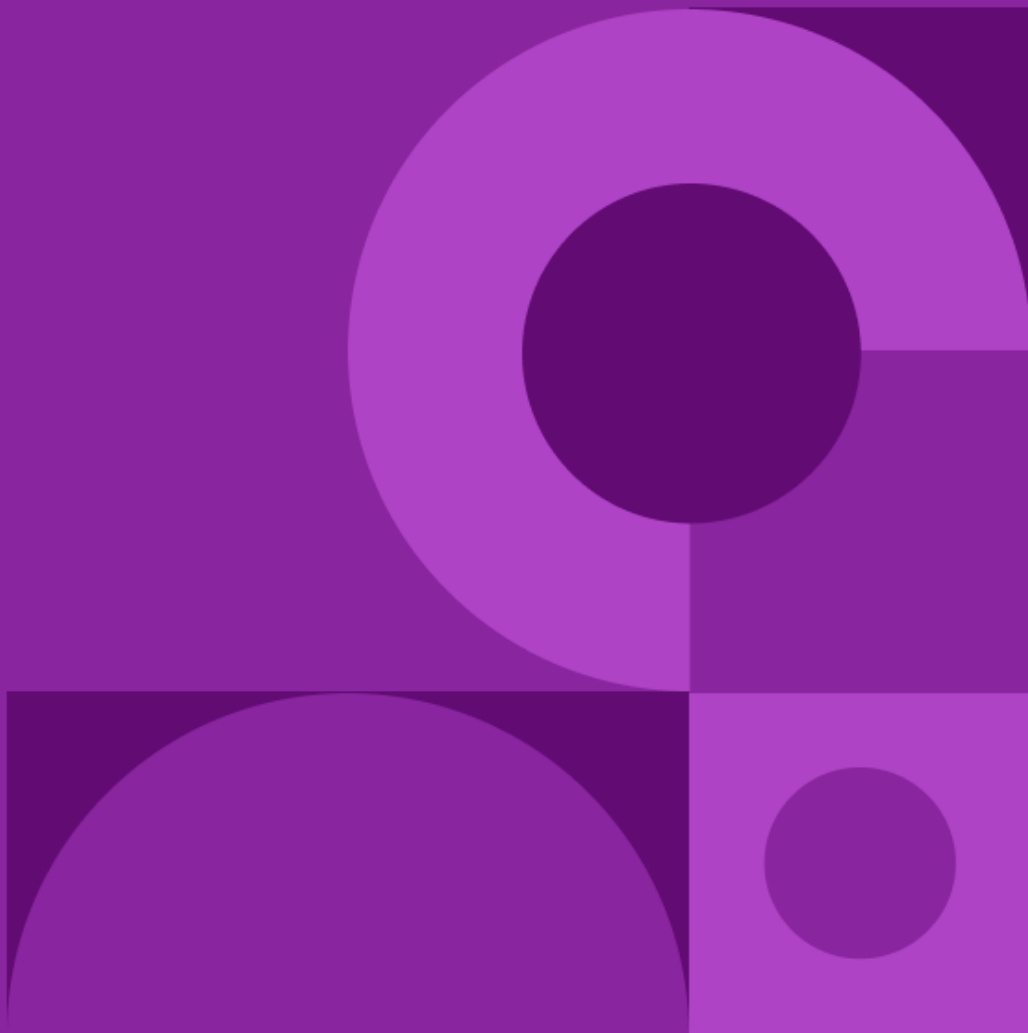
Additional Outpatient Resources

See https://dhsforensics.illinois.gov/resources for procedures and templates including:

- Forensic Outpatient Workflow Overview | Procedures
- Outpatient Forensic Consumer Referral | Template
- 30-Day Outpatient Narrative & Progress Report | Template
- 90-Day Outpatient Narrative & Progress Report | Template

SECTION 4

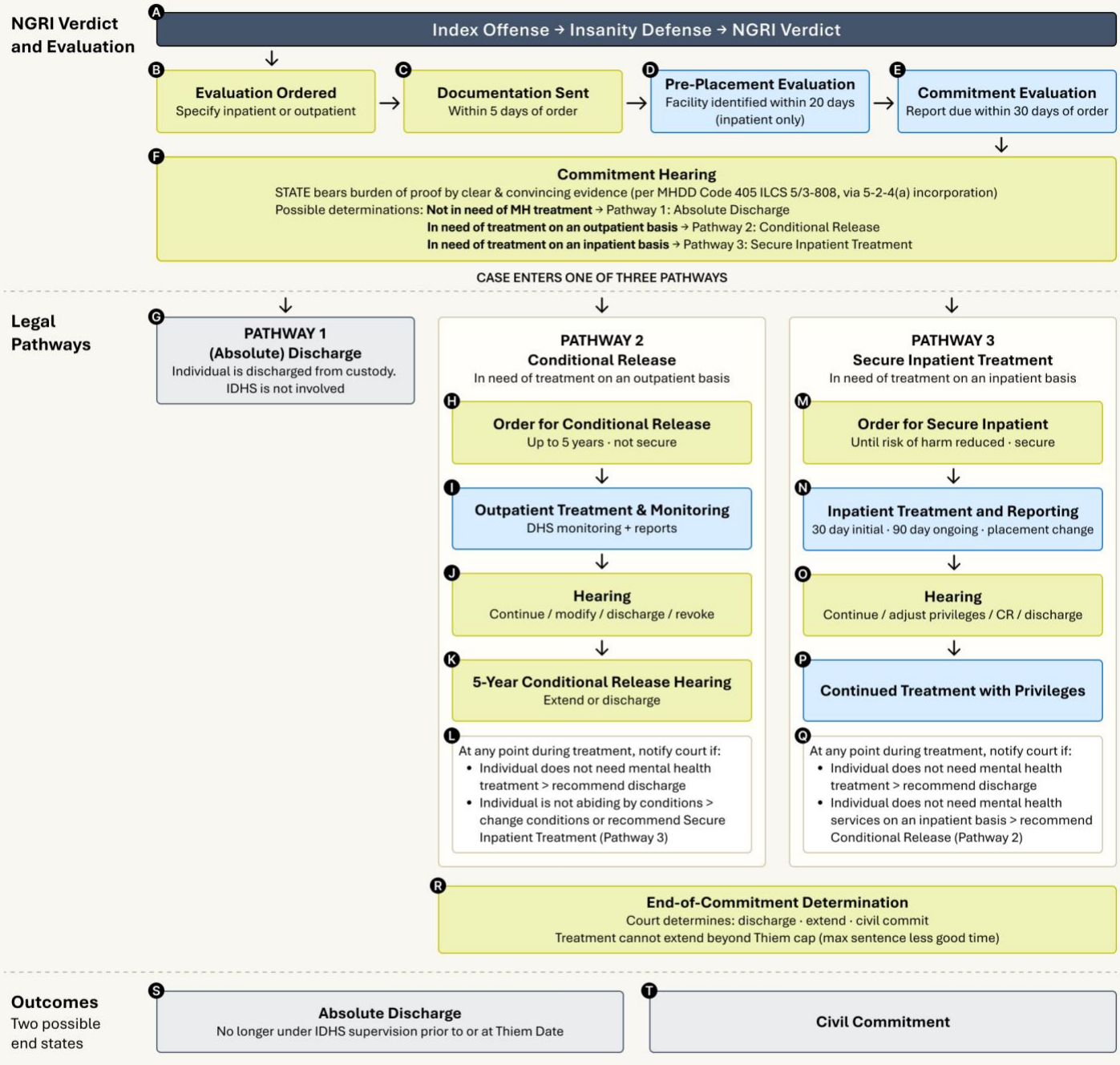
Not Guilty by Reason of Insanity (NGRI)



NGRI Process Flowchart

Proceedings After Not Guilty by Reason of Insanity Verdict · 730 ILCS 5/5-2-4

Illinois Department of Human Services · v.2026-07-09



Statute Index

- **A Index Offense → NGRI Verdict** — 725 ILCS 104-25(c) · 725 ILCS 115-3/4
- **B Evaluation Ordered** — 730 ILCS 5/5-2-4(a)
- **C Documentation Sent** — 730 ILCS 5/5-2-4(a)
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- **F Commitment Hearing** — 730 ILCS 5/5-2-4(a) · (a-1)(B) · (a-1)(C)
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- **K 5-Year Conditional Release Review** — 730 ILCS 5/5-2-4(a-1)(D)
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- **M Secure Inpatient** — 730 ILCS 5/5-2-4(a-1)(B) · (b)
- **N Inpatient Treatment Plan Report** — 730 ILCS 5/5-2-4(b)
- **O Hearing (Pathway 3)** — 730 ILCS 5/5-2-4(b) · (e) · (g)
- **P Continued Treatment with Privileges** — 730 ILCS 5/5-2-4(b)
- **Q Conditional Release from Inpatient** — 730 ILCS 5/5-2-4(d) · (g) · (m)
- **R End of Commitment Determination** — 730 ILCS 5/5-2-4(b) · (d)· (h)
- **S Absolute Discharge** — 730 ILCS 5/5-2-4(m)
- **T Civil Commitment**

4.1 Legal Context

History of the Insanity Defense

The United States Supreme Court held in *Kahler v. Kansas* that states need not have an insanity defense and have wide latitude in determining the scope of that defense. However, forty-five states, including Illinois, provide the defense of insanity. Some years ago, Illinois narrowed its defense, eliminating "volitional" impairments (i.e., intoxicated or drugged condition) and recognizing only "cognitive" impairments:

§ "A person is not criminally responsible for conduct if at the time of such conduct, as a result of mental disease or mental defect, he lacks substantial capacity to appreciate the criminality of his conduct." 720 ILCS 5/6-2(a).

Both the United States Supreme Court and the Illinois Supreme Court have held that an acquittal by reasons of insanity is a complete acquittal, not a sentencing alternative (*Jones v. United States* and *People v. Harrison)*. In *Jones v. United States,* the Supreme Court authorized the automatic commitment of persons found Not Guilty by Reasons of Insanity (often referred to in Illinois as "NGRIs"). However, in *Foucha v. Louisiana* the Supreme Court held that an NGRI cannot continue to be confined unless she or he remains both dangerous and mentally ill.

Illinois law does not permit the automatic commitment of an individual with NGRI status. Rather, following an acquittal, an individual with NGRI legal status must be given a prompt hearing and released unless the State proves by clear and convincing evidence that:

§ " due to mental illness, [he] is reasonably expected to inflict serious physical harm upon himself or another and who would benefit from inpatient care or is in need of inpatient care." 730 ILCS 5/5-2-4(a-1)(B)

Illinois has a complex statute governing the confinement of individuals with NGRI legal status which includes provisions for court approval of on-grounds and off-grounds passes, home visits, and conditional and unconditional release.

Illinois Insanity Defense Standard

The Illinois insanity defense statute is codified under *Illinois Criminal Code* 720 ILCS 5/6-2:

§ " A person is **not criminally responsible** for conduct if at the time of such conduct, as a result of mental disease or mental defect, he lacks substantial capacity to appreciate the criminality of his conduct." 720 ILCS 5/6-2

The burden of proof is on the individual to provide clear and convincing evidence to support a NGRI finding.

Thiem Date

The **Thiem Date** refers to the maximum period of time that an individual found NGRI may remain under court jurisdiction and IDHS supervision. The Thiem date is when the criminal case and conditions of the conditional release officially expire, and IDHS monitoring and court jurisdiction must end. The term originates from *People v. Thiem*, which established that a person acquitted by reason of insanity cannot remain committed or under conditional release supervision longer than the maximum sentence they could have received if convicted of the underlying offense. (*People v. Thiem* 82 Ill. App. 3d 956, 403 N.E.2d 647 (Ill. App. Ct. 1980)).

☆ The Thiem date serves as an important legal safeguard that balances public safety interests with constitutional protections against indefinite confinement. While all individuals must be discharged by the Thiem Date, it's common for individuals to be discharged sooner.

4.2 Clinical Context

The treatment goal for NGRI individuals is to mitigate their risk of harm to themselves or others so they can be reintegrated into the community. The key treatment areas include:

- Symptom stabilization
- Risk assessment and mitigation
- Individualized treatment to develop strategies to address risk factors
- Continued care planning

Symptom Stabilization

The treatment team works with the individual to select and adjust medications (e.g., antipsychotics, mood stabilizers) that help reduce symptoms that impair insight while minimizing other risk factors.

The individual is supported in maintaining consistent medication intake through education, supervision, and motivational strategies designed to promote psychiatric stability and support risk reduction.

Medication Petition

A medication petition is generally appropriate when a person with serious mental illness is refusing psychiatric medication, lacks the ability to make informed treatment decisions, and their untreated symptoms are significantly impairing their safety, functioning, or ability to participate in legal proceedings. Procedures to pursue a medication petition include:

- **Clinical Team Identification**: Treating clinicians determine that the individual is refusing recommended psychiatric medication, lacks the capacity to make a reasoned treatment decision, and meets statutory criteria for medication over objection.

- **Clinical Evaluation & Documentation**: The treating psychiatrist and treatment team document the person's symptoms, treatment history, risks of non-treatment, alternatives attempted, and rationale for the proposed medication plan.

- **Petition Preparation**: The hospital or treatment facility prepares a formal petition for involuntary treatment under the Illinois Mental Health and Developmental Disabilities Code 405 ILCS 5/2-107.1.

- **State's Attorney Involvement**: The State's Attorney's Office reviews and files the petition with the court and represents the State at the hearing.

- **Appointment of Defense Counsel**: The individual is represented by counsel, typically a Guardianship and Advocacy Commission attorney (GAC) or an Assistant Public Defender (APD), who protects the respondent's legal rights and may challenge the petition.

- **Scheduling of Hearing**: Illinois law generally requires the hearing to occur within **7 days** of filing the petition, excluding weekends, and holidays, unless continued for good cause.

- **Court Hearing**: The treating clinician testifies regarding diagnosis, capacity, clinical deterioration, risks and benefits, and medication recommendations. Defense counsel may cross-examine witnesses, present evidence, or argue against involuntary treatment.

- **Judicial Determination**: The judge determines whether the statutory criteria for medication over objection have been proven by clear and convincing evidence.

- **Court Order**: If granted, the judge issues a time-limited order authorizing involuntary medication, typically for up to **90 days**, after which a new petition is required if continued treatment over objection is sought.

Risk Assessment and Mitigation

Forensic treatment for NGRI focuses on individuals developing insight into the factors that influence their risk of violence and how they can be successful in community-based recovery. Three aspects of risk are typically assessed:

- Historical Risk: What factors led to the index offense?
- Clinical Risk: How is the individual progressing in recovery? How stable is that recovery?
- Future Risk: What environmental factors will support the individual in maintaining stability in a less restrictive setting?

Privileges are also an essential tool to assess and mitigate risk in an inpatient setting. Privileges allow the team to observe the individual's stability in increasingly less restrictive settings, mitigating risks by ensuring they can handle increasing level of freedom. Some of these include:

- Building passes: These are managed entirely at the clinical discretion of the treatment team without requiring a court order.
- Court approved privileges: Supervised on-grounds, unsupervised on-grounds, supervised off-grounds, and unsupervised off grounds passes allows the team to continue to monitor stability in new settings.

Even when a court has ordered privileges, the treatment team maintains the authority to restrict them based on their clinical discretion if risk increases. For principles guiding privileges see Section 4.3 (P).

Individualized Treatment

Treatment and the timeline for community reintegration for forensic individuals is individualized, primarily through the assessment of personal progress, the development of tailored plans, and selection of appropriate levels of care based on specific needs.

Continued Care Planning

Continued care planning focuses on finding a community placement for individuals transitioning from inpatient treatment to outpatient treatment under conditional release or discharge. Continued care planning is vital for a successful transition to the community. By addressing potential barriers early (initiating Medicaid redetermination, applying for Social Security benefits 8–10 months in advance, etc.), treatment teams prevent administrative delays that could keep a stabilized individual in a more restrictive setting longer than necessary. This leads to a tailored aftercare and risk management plan which identifies the specific level of structure and supervision required to mitigate an individual's unique risk factors and reduce the likelihood of them deteriorating once they leave the hospital.

Levels of Care

Behavioral health care options range in level of restriction with the least restrictive being outpatient services and independent living while the most restrictive is a secure inpatient hospital with monitored programming.

TYPES OF CARE	RESTRICTION LEVEL	SUPPORT FEATURES	TYPICAL POPULATION ATTRIBUTES
Outpatient Services & Independent Living	Least restrictive	• Routine outpatient therapy • Medication management • Self-directed living	• Clinically stable • High independence • Low risk • Able to self-manage
Permanent Supportive Housing (PSH)	Least–Moderate (housing + services) restriction	• Subsidized housing • Voluntary supportive services • Case management	• Chronic homelessness and SMI • Needs housing stability with light-to-moderate supports
Supervised Apartment Program	Moderate restriction	• Independent apartment with staff oversight • Medication monitoring • Life skills support	• Moderate functional impairment • Needs supervision to maintain stability
Residential Group Home	Moderate restriction	• 24-hour staff • Structured environment • Activities of daily living (ADL) support • Medication supervision	• Limited independent living skills • Ongoing clinical and behavioral needs
Community Integrated Living Arrangement (CILA) (Run by Illinois Department of Developmental Disabilities)	Moderate–High restriction	• 24-hour supports • Habilitation services • Behavioral supports • Assistance with activities of daily living	• Individuals with developmental disabilities and co-occurring behavioral and mental health needs
Supervised Residential	High restriction	• Intensive staffing • Structured daily programming • Close supervision	• Individuals with persistent instability or elevated risk requiring ongoing oversight
Specialized Mental Health Rehabilitation Facility (SMHRF)	High (sub-acute institutional) restriction	• 24-hour nursing • Psychiatric care • Rehabilitation services • Structured milieu	• Significant psychiatric impairment • Not appropriate for community settings but not acute hospital level
Skilled Nursing Facility (SNF)	High (medical + custodial) restriction	• 24-hour nursing care • Medical management • Assistance with activities of daily living	• Medically complex • Aging • Physically impaired individuals with co-occurring behavioral health needs
Secure Inpatient Hospital	Most restrictive	• 24-hour psychiatric and nursing care • Secure environment, intensive behavioral monitoring • Medication management • Multidisciplinary treatment • Structured programming • Safety supervision	• Individuals with acute or severe psychiatric impairment • Significant safety or violence risk • Inability to be safely managed in less restrictive settings • Court-ordered forensic treatment needs

4.3 NGRI Commitment Pathways

There are three potential pathways a judge can order at the commitment hearing following a Not Guilty by Reason of Insanity (NGRI) verdict, depending on the individual's clinical needs, level of risk, and treatment recommendations. As outlined in 730 ILCS 5/5-2-4 , potential pathways include:

- **Pathway 1: Absolute Discharge:** If mental health treatment is not needed.
- **Pathway 2: Conditional Release:** If mental health treatment is needed on an outpatient basis.
- **Pathway 3: Secure Inpatient Treatment:** If mental treatment is needed on an inpatient basis.

IDHS qualifies discharge as absolute to denote discharge from custody and subsequently no involvement from IDHS. The treatment team may recommend step down from pathway 3 secure inpatient treatment to pathway 2 conditional release. Less frequently, the States Attorney may petition and judge approve a revocation of conditional release and increase supervision of treatment in a secure inpatient setting. The period leading up to commitment for treatment followed by the three possible pathways are outlined below from least restrictive to most restrictive.

Period Leading Up to Commitment for Treatment

A Index Offense, Insanity Defense, NGRI Verdict

In Illinois, the commitment of an individual found NGRI is not automatic. An individual found NGRI may be confined to a mental health facility only if they are committed pursuant to the statutes 725 ILCS104-25(c) or 725 ILCS 115-3/4 set forth in 730 ILCS 5/5-2-4.

B Evaluation Ordered: 730 ILCS 5/5-2-4(a)

After a finding or verdict of Not Guilty by Reason of Insanity the individual is ordered to the Illinois Department of Human Services for an evaluation as to whether he or she is in need of mental health services.

> ☆ The evaluation order shall specify whether the commitment evaluation shall be conducted on an inpatient or outpatient basis.

C Documentation Sent: 730 ILCS 5/5-2-4(a)

Within 5 days of the evaluation order, the Circuit Court shall submit the order finding NGRI as well as the following support documentation pursuant to statute:

- Arrest report
- Criminal charges
- Arrest record
- Jail record
- Any report prepared under section 725 ILCS 5/115-6 of the Code of Criminal Procedure of 1963 (i.e., examination reports by clinical experts)
- Any statement prepared under Section 6 of the **Rights of Crime Victims and Witnesses Act**

> ⏱ Supporting documentation is due within 5 days of the evaluation order.

D Pre-Placement Evaluation (Inpatient Only): 730 ILCS 5/5-2-4(a)

If the court orders that the commitment evaluation must be completed on an inpatient basis, IDHS first completes a pre-placement evaluation to determine the appropriate hospital for that commitment evaluation to take place. In other words, the pre-placement evaluation is not the commitment evaluation itself, but a preliminary step.

Upon receipt of that notice, the sheriff promptly transports the individual to the designated facility. The individual remains in jail during the period of time required to determine appropriate placement.

> ⏱ Within 20 days of inpatient evaluation order, IDHS notifies the sheriff of the designated facility where the evaluation will be completed.

E Commitment Evaluation: 730 ILCS 5/5-2-4(a)

If the court order allows the commitment evaluation to occur on an outpatient basis, or does not specify that inpatient placement is required, IDHS generally proceeds directly with the commitment evaluation.

> ⏱ Commitment Evaluation Report is due within 30 days of the evaluation order.

F Commitment Hearing: 730 ILCS 5/5-2-4(a)

The court holds a hearing, as provided under the **Mental Health and Developmental Disabilities Code** to determine if the individual is:

- **In need of mental health services on an inpatient basis means:**

  > § "a defendant who has been found not guilty by reason of insanity but who, due to mental illness, is reasonably expected to inflict serious physical harm upon himself or another and who would benefit from inpatient care or is in need of inpatient care" 730 ILCS 5/5-2-4(a),(a-1)(B).

- **In need of mental health services on an outpatient basis means:**

  > § "a defendant who has been found not guilty by reason of insanity who is not in need of mental health services on an inpatient basis, but is in need of outpatient care, drug and/or alcohol rehabilitation programs, community adjustment programs, individual, group, or family therapy, or chemotherapy." 730 ILCS 5/5-2-4(a),(a-1)(C).

- **Not in need of mental health services:** An individual who does not meet criteria for involuntary admission.

Following the hearing, and if mental health services are needed, the court issues an order to IDHS for outpatient treatment under conditional release or secure inpatient treatment.

Pathway 1: Absolute Discharge

G Discharge: 730 ILCS 5/5-2-4(a)

As provided in the statute:

> § "If the Court finds the person **not in need of mental health services**, then the Court shall order the defendant discharged from custody." 730 ILCS 5/5-2-4(a).

In these cases, the individual is released from custody and is no longer subject to court supervision or IDHS monitoring. Before discharge, the court shall order the facility director to establish a discharge plan that addresses the individual's shelter, support, and medication needs, and may include self-medication training when appropriate.

Pathway 2: Conditional Release

H Order for Conditional Release: 730 ILCS 5/5-2-4(a-1)(D)

Conditional release to outpatient treatment is a statutory pathway that may be considered at the time of the NGRI finding if the individual is determined to be in need of mental health services, but not on an inpatient care basis. This pathway is intended to support treatment, recovery, and community integration while maintaining court oversight and appropriate safeguards for public safety. Courts should send orders and accompanying documentation to regional emails (Section 2.4). All referrals for conditional release from jail or out-of-custody are forwarded to the Forensic Community Service Administrators (FCSA) for review of appropriateness.

Forensic Community Services Administrators

- Tracey Thomas, LCSW
  Tracey.Thomas@illinois.gov
- Rachel Nelson, LCSW, CADC, CPAIP, LSOTP
  Rachel.Nelson@illinois.gov
- Audrey Brantner, LCSW
  Audrey.Brantner@illinois.gov

If appropriate, the FCSA will review the outpatient recommendation, develop the aftercare treatment plan and a set of proposed conditions, and submit them to the court.

The court will conditionally release the individual, under conditions such as those listed below, to reasonably assure the individual's satisfactory progress and participation in treatment or rehabilitation and the safety of the individual, the victim, the victim's family members, and others. The court may order IDHS to provide care to any person conditionally released.

Example conditions

As listed in the statute, conditions may include, but need not be limited to:

- Outpatient care
- Alcoholic and drug rehabilitation programs
- Community adjustment programs
- Individual, group, family, and chemotherapy
- Random testing to ensure the individual's timely and continuous taking of any medicines prescribed to control or manage his or her conduct or mental state
- Random drug testing (if applicable)
- Periodic checks with the legal authorities and/or IDHS

I Outpatient Treatment and Monitoring: 730 ILCS 5/5-2-4(a-1)(D)

Treatment and monitoring are typically provided through community-based mental health providers approved to work with NGRI individuals. These providers coordinate psychiatric treatment, therapy, medication management, case management, reporting requirements, and ongoing communication with IDHS and the court.

The treatment agency should file a treatment plan report in writing with the court and forward a copy of the treatment plan report to the Forensic Community Services Administrators, the clerk of the court, the State's Attorney, and the individual's attorney, if the individual is represented by counsel. If the individual does not have counsel, a copy of the report should be sent to a person authorized by the individual under the Mental Health and Developmental Disabilities Confidentiality Act.

Treatment and monitoring under conditional release are typically for a period of 5 years unless revoked or modified or if the Thiem Date is less than 5 years.

⏱ Treatment plan report is due 30 days after admission and then every 90 days.

J Hearing: 730 ILCS 5/5-2-4 (a-1)(D)·(e)·(g)

Treatment review hearings are held every 90 days. Additionally, an individual or anyone on his or her behalf may file a petition for a treatment plan review or discharge hearing. See Section 4.4 for additional information on recipient-initiated petitions.

⏱ Court shall set a hearing to be held withing 120 days of the petition. No new petition may be filed for 180 days after the hearing.

K 5-year Conditional Release Hearing: 730 ILCS 5/5-2-4 (a-1)(D)

The individual, the facility or person providing the treatment, therapy, program, or outpatient care, the Department, or the State's Attorney may petition the court for an extension of the conditional release period for an additional five years.

Upon receipt of such a petition, the court holds a hearing and determines whether the individual should continue to be subject to the terms of conditional release and enters an order either extending the individual's period of conditional release for an additional five-year period or discharging the individual.

Additional five-year periods of conditional release may be ordered following a hearing.

☆ In no event shall the individual's period of conditional release continue beyond the maximum period of commitment ordered by the court (Thiem Date).

L Ending Conditional Release

Recommend and Prepare for Absolute Discharge: 730 ILCS 5/5-2-4(d)·(h)

When an individual is no longer in need of mental health services, notice shall be given to the court and defense attorney outlining the basis for the recommendation.

Before the court orders the individual discharged, a discharge plan should be established that includes a plan for the individual's shelter, support, and medication.

> Within 30 days of notification the Court shall set a hearing.

Revocation of Conditional Release: 730 ILCS 5/5-2-4(i)

Failure to comply with the conditions of release, psychiatric decompensation, increased risk concerns, or other significant treatment issues may result in a recommendation to modify the conditions of release or return the individual to a more restrictive treatment setting, including secure inpatient hospitalization.

On these rare occasions, the court will order a hearing. If at the hearing the court determines the individual is subject to involuntary admissions or needs mental health services on an inpatient basis, it may enter an order to that affect for a period of stabilization or proceed with an order to remand to inpatient.

Pathway 3: Secure Inpatient Treatment

M Order for Secure Inpatient Treatment: 730 ILCS 5/5-2-4(a-1)(B)·(b)

If the individual is found to need mental health services on an inpatient basis, the court shall remand the individual to IDHS. As outlined in the statue, the period of commitment:

§ "shall not exceed the maximum length of time that the defendant would have been required to serve, less credit for good behavior as provided in Section 5-4-1 of the Unified Code of Corrections, before becoming eligible for release had he been convicted of and received the maximum sentence for the most serious crime for which he has been acquitted by reason of insanity. The Court shall determine the maximum period of commitment by an appropriate order." 730 ILCS 5/5-2-4(b).

The individual shall be placed in a secure setting and not be permitted outside the facility's housing unit unless escorted or accompanied by IDHS personnel or with the prior approval of the court for unsupervised on-grounds privileges or supervised or unsupervised off grounds privileges.

N Inpatient Treatment Plan Report: 730 ILCS 5/5-2-4(b)

The facility director shall file a treatment plan report in writing with the court and forward a copy of the treatment plan report to the clerk of the court, the State's Attorney, and the individual's attorney, if the individual is represented by counsel. If the individual does not have counsel, a copy of the report should be sent to a person authorized by the individual under the **Mental Health and Developmental Disabilities Confidentiality Act.**

The report shall include an opinion as to whether the individual is currently in need of mental health services on an inpatient basis or in need of mental health services on an outpatient basis. As outlined in the statute, the report shall summarize the basis for these findings and provide a current summary of the following items from the treatment plan:

- An assessment of the individual's treatment needs
- A description of the services recommended for treatment
- The goals of each type of element or service
- An anticipated timetable for the accomplishment of the goals
- A designation of the qualified professional responsible for the implementation of the plan
- Recommendation for pass privileges if applicable

The report may also include unsupervised on-grounds privileges, off-grounds privileges (with or without escort by personnel of the Department of Human Services), home visits and participation in work programs, but only where such privileges have been approved by specific court order, which order may include such conditions on the individual as the Court may deem appropriate and necessary to reasonably assure the individual's satisfactory progress in treatment and the safety of the individual and others.

☆ While uncommon, the courts may order pass privileges with initial order for inpatient treatment.

⏱ Treatment plan report is due 30 days after admission and then every 90 days after.

O Hearing: 730 ILCS 5/5-2-4(b)·(e)·(g)

The treatment plan is reviewed every 90 days. In addition, an individual or anyone on his or her behalf may file a petition for a treatment plan review, pass privileges, conditional release, or discharge.

⏱ Court shall set a hearing to be held withing 120 days of the petition. No new petition may be filed for 180 days after the hearing.

See Section 4.4 for additional information on individual initiated petitions.

P Continued Treatment with Privileges: 730 ILCS 5/5-2-4(b)

Privileges are an essential tool to assess and mitigate an individual's risk of harm to self or others. Privileges allow the team to observe the individual's stability in increasingly less restrictive settings, mitigating risks by ensuring they can handle increasing levels of freedom.

Granting Privileges

- The hospital administrator, along with the treatment team, should recommend pass privileges they deem appropriate and necessary to reasonably ensure the individual's satisfactory progress in risk mitigation treatment and the safety of the individual and others.
- Once the court has approved the hospital administrator's request for privileges, it is the responsibility of the treatment team and clinical staff to ensure that recipients are properly protected from harm to themselves and prevented from harming others.
- Court approved privileges may be granted and, as necessary, indefinitely suspended by the treatment team (with notice to the court, State's Attorney, and defense counsel), based on the treatment team's independent clinical evaluation of the individual's behavior.
- Court approved privileges may be temporarily suspended by hospital staff due to inclement weather or other conditions not related to behavior (without notice to the court, State's Attorney, or defense counsel).

Principles Guiding Granting Privileges

- **Individualized Assessment Over Arbitrary Timeframes**
  Progressive privileges are clinical tools used to assess treatment progress, risk mitigation, and readiness for less restrictive settings. They are not intended to function as administrative hurdles that delay access to less restrictive alternatives without clear clinical benefit.
    - Progressive privileges must be guided by the forensic individual's current clinical status, treatment progress, and dynamic risk factors—not by fixed timeframes (e.g., "must wait six months").
    - Arbitrary, "one-size-fits-all" waiting periods are not clinically justified and should not serve as a prerequisite for privilege consideration.
    - Progression through privilege levels (e.g., on-grounds, off-grounds, supervised, unsupervised) is not a mandatory stepwise ladder that all patients must complete in a linear or exhaustive fashion.
    - Conditional release may be clinically appropriate even if intermediate privileges have not been exercised, as long as the treatment team has determined that the forensic individual's current functioning, insight, and risk management strategies are sufficient to support a safe transition to a less restrictive setting.
- **Risk-Informed, Trauma-Informed Clinical Judgment**
  Forensic treatment for NGRI focuses on individuals developing insight into the factors that influence their risk of physical harm to themselves or others and how they can be successful in community-based recovery.
    - The treatment team must assess risk factors primarily associated with the index offense on an ongoing basis including protective factors, psychiatric stability, and behavioral insight prior to recommending privileges.
    - Historical and contextual factors (e.g., index offense, history of violence, substance use, trauma exposure) must be integrated into the risk formulation.

- **Functional Milestones as Triggers**
  Progressive privilege recommendations should be guided by functional treatment milestones. These milestones are not strict requirements but should be considered in the context of the individual's clinical history and index offense. Examples include:
    - Consistent engagement in treatment planning and therapeutic groups, indicating motivation for recovery and capacity to benefit from a less structured environment.
    - Measurable progress in managing impulses and emotional responses, suggesting the ability to maintain safety and stability with reduced oversight.
    - Behavioral compliance and respect for boundaries, reflecting readiness to follow community norms in a less restrictive setting.
    - Exhibiting understanding of their diagnosis, treatment needs, and legal circumstances, supporting informed decision-making and accountability outside of intensive supervision.
    - Active participation in identifying personal risk factors and protective strategies, demonstrating the ability to apply these tools independently or with minimal support.
- **Clinical Documentation Standards**
  While the judge is responsible for approving privileges, she or he does so informed by clinical expertise documented in treatment plans and succinctly summarized on court reports. The treatment team must clearly document:
    - The rationale for recommending or deferring progressive privileges, referencing risk factors, specifically those associated with the index offense and protective factors.
    - The specific observable behaviors or other factors that inform the recommendation.
    - The individual's progress on individualized treatment goals relevant to privilege readiness.
    - Any conditions or supports required to manage risk.
- **Equity and Non-Discrimination**
    - No patient shall be denied progressive privilege consideration based solely on demographic factors, the nature of their offense, or stigma associated with their diagnosis.
    - All patients should be afforded an equal opportunity to be assessed for privileges based on treatment progress and clinical stability.

Q Conditional Release from Secure Inpatient: 730 ILCS 5/5-2-4(d)·(g)·(m)

The facility director provides a written notice to the court, State's Attorney, and defense attorney when an individual is no longer in need of mental health services on an inpatient basis and can be conditionally released for outpatient mental health services.

An individual's readiness for conditional release is contingent on the following:

- The individual remains in need of mental health services, but they do not require inpatient hospitalization.
- The individual is presumed capable of following the conditions of the release.
- Conditional release is not likely to present undue risk to the safety of the community.
- Appropriate outpatient supervision and treatment is available through a community service agency that is willing to provide progress reports to the court every 90 days (and as needed).

Proposal Requirements for Requesting Conditional Release

- If conditional release will be requested, the factors that are addressed may include:

    1. Whether the individual appreciates the harm caused by the individual to others and the community by his or her prior conduct that resulted in the finding of Not Guilty by Reason of Insanity;
    2. Whether the individual appreciates the criminality of conduct similar to the conduct for which he or she was originally charged in this matter;
    3. The current state of the individual's illness;
    4. What, if any, medications the individual is taking to control her or his mental illness;
    5. What, if any, adverse physical side effects the medication has on the individual;
    6. The length of time it would take for the individual's mental health to deteriorate if the individual stopped taking prescribed medication;
    7. The individual's history or potential for alcohol and drug abuse;
    8. The individual's past criminal history;
    9. Any specialized physical or medical needs of the individual;
    10. Any family or support system participation or involvement expected;
    11. The individual's potential to be a danger to himself, herself, or others; a written or oral statement made by the victim if applicable;
    12. Any other factor or factors the court deems

- Additional factors may be included such as:

    1. Availability of necessary treatment and monitoring services (if any required) in the community;
    2. Medication needs and how they will be addressed in the community (if any required);
    3. Whether the individual is or is not able to provide for her or his basic needs;
    4. The individual's need for mental health services on an outpatient basis; and
    5. The individual's housing needs, if any are required.

If the conditional release involves referral to a community agency that has agreed to accept the individual, the Hospital Administrator or designee should obtain a **written acknowledgment** from the agency that it agrees to the conditions for monitoring and supervising the individual and this acknowledgment should be included in the report.

A second opinion can be requested by the treatment team or Hospital Administrator or designee or both **if** clinically warranted.

Approvals & Review Required for Conditional Release Petitions

The Hospital Administrator or designee shall send the approved conditional release proposal to the DBHR Bureau of Forensic and Justice Services for final review and approval. The review panel includes the Statewide Forensic Medical Director, the Deputy Director of Forensic & Justice Services, and the Forensic Court Services Administrator(s).

If approved by the Bureau of Forensic and Justice Services, the Hospital Administrator or designee shall submit the report to the court. Any proposal that is not ratified by the Hospital Administrator or approved by the Bureau of Forensic and Justice Services shall be returned to the treatment team for further action.

> ☆ No conditional release proposal should be submitted to court without prior review from the Forensic Bureau.

Implementing Conditional Release

When the court approves a request for Conditional Release of the individual to a designated service provider, the following shall occur:

1. The conditions of release and Thiem Date shall be clearly communicated in writing to the provider as well as the Forensic Community Services Administrator and shall include a copy of the court order and the discharge summary.
2. The Forensic Community Services Administrator will make contact with the provider within 72 hours of placement to verify completion of admission and to confirm that the provider is both
    - in receipt of the necessary documents and
    - understands the conditions of release as well as IDHS's monitoring functions.
3. IDHS shall advise the individual of his or her duty to register under the Sex Offender Registration Act or the Murderer and Violent Offender Against Youth Registration Act, as applicable.
4. Facility staff shall ensure that all necessary notices to courts, law enforcement, victims, and potential victims are delivered in accordance with current law.

R End of Commitment Determination: 730 ILCS 5/5-2-4(b)·(d)·(h)

Should the individual no longer require mental health services, a request for discharge can be submitted to the court in the same manner as required for conditional release pursuant to 730 ILCS 5/5-2-4(d).

Before the court orders that the individual be discharged or conditionally released, it shall order the facility director to establish a discharge plan that includes a plan for the individual's shelter, support, and medication. If appropriate, the court shall order that the facility director establish a program to train the individual in self-medication under standards established by the Illinois Department of Human Services.

Possible outcomes of the hearing:

- If the court finds that the individual is no longer in need of mental health services, it shall order the facility director to discharge the individual.
- If the court finds that the individual is in need of mental health services, and no longer in need of inpatient care, it shall order the facility director to release the individual under such conditions as the court deems appropriate and as provided by this 730 ILCS 5/5-2-4. Such conditional release shall be imposed for a period of 5 years (unless the Theim date is shorter) as provided in paragraph (D) of subsection (a-1) and shall be subject to later modification by the court as provided by this Section.
- If the court finds consistent with the provisions in this Section that the individual is in need of mental health services on an inpatient basis, it shall order the facility director not to discharge or release the individual in accordance with paragraph (b) 730 ILCS 5/5-2-4.

When the court approves a request for discharge of the individual the Forensic Community Services Administrator, Treatment Team, or community mental health provider agency shall develop a discharge plan to ensure continuity of care, relapse prevention, and deterrence from future justice involvement. Implications of discharge shall also be explained to the individual in a manner that ensures that information is understood.

S Absolute Discharge: 730 ILCS 5/5-2-4(m)

In preparation for discharge, IDHS shall advise the individual of her or his duty to register under the Sex Offender Registration Act or the Murderer and Violent Offender Against Youth Registration Act as explained in Section 6.2.

Facility staff shall ensure that all necessary notices to courts, law enforcement, victims, and potential victims are delivered in accordance with current law.

T Civil Commitment Beyond Theim Date: 405 ILCS 5/1-100 et seq.

By the Thiem Date, individuals must either be discharged or remain in the hospital under the conditions of the Mental Health Code:

- Emergency pending an involuntary commitment procedure
- Voluntary inpatient

At least one week prior to the Thiem Date, a letter signed by the Hospital Administrator, or designee, should be sent to the judge and both attorneys notifying them that on the Thiem Date, the patient will either be discharged as no longer subject to the jurisdiction of the criminal court, or, if not discharged, will remain under the conditions of the Mental Health Code.

If the patient remains in inpatient treatment after the Thiem date, her or his legal status will be changed from forensic to civil and all applicable procedures will be followed.

4.4 Recipient Initiated Court Petitions

The Illinois Criminal Code allows an individual who is found Not Guilty by Reason of Insanity and remanded to IDHS the right to petition the criminal court for a treatment plan review, conditional release, or discharge from custody of IDHS.

IDHS is obligated by an agreement in *Henderson v. Handy (*1996 WL 148040 (N.D. III.)) to provide information to individuals found Not Guilty by Rason of Insanity. Each hospital has a Petition Assistant available to assist recipients by providing forms, names, addresses, and docket numbers. These petitions should be handled by the court in accordance with the appropriate section.

The Petition Assistant for each hospital is listed in the table below:

HOSPITAL	PETITION ASSISTANT	ROLE	CONTACT
Alton	Tahnissa Hayes, Interim Director of SW and Rita Byrd, Interim Clinical Director	Director of SW & Clinical Director	Tahnissa.Hayes2@Illinois.gov Rita.Byrd2@Illinois.gov
Chester	Angela Kongeal, PSA, LCSW, LSOE	Forensic Coordinator	Angela.Kongeal@Illinois.gov
Chicago Read	Debra S. Marsico, PhD SPSA	Director-Dept. Of Psychology/Forensic Coordinator	Debra.Marsico@illinois.gov
Choate Developmental Disabilities	Christina Ancira	CRSS	Christina.Ancira@Illinois.gov
Elgin	Mark Klocek or Ashley Leyva	CRSS	Mark.Klocek@Illinois.gov Ashley.Leyva@Illinois.gov
Packard	Rachel Conrad	Director of Social Work	Rachel.Conrad@Illinois.gov

Editable procedures templates are available for download at https://dhsforensics.illinois.gov/resources.

4.5 Guardianship

If a person found NGRI has a Guardian, that Guardian will need to sign releases of information (ROI), treatment plans, admission documentation, and discharge plans. Guardians should be provided with, but do not need to sign off on, assessments and any other documentation they request. Guardians may be invited to treatment team meetings for collaborative efforts. However, if the Guardian is unable to attend, they must be kept informed as a recommendation for conditional release is developed, as the Guardian may have additional insight about the best outpatient placement.

If the NGRI individual does not have a Guardian but is believed to need one by the treatment team, the treatment team will need to determine the best type of guardianship to pursue.

Types of Guardianship

If the NGRI individual

- cannot manage their financial affairs due to a disability, they need an **Estate Guardian**.
- is unable to give informed consent or make appropriate decisions about living independently in a residence, they need a **Personal Guardian.**
- is found to be totally without capacity or understanding to make or communicate personal decisions or manage financial affairs, they need a **Plenary Guardian**.

Other guardian options for NGRI individuals include limited guardianship, living wills, power of attorney for healthcare, a trust, and a representative payee.

To be an NGRI individual's guardian, the person must be over 18 years of age, of sound mind, not be determined to be disabled, and not convicted of a felony.

The forensic individual can contest the guardianship application. The treatment team should refer to the SOPH Community Recovery Support Specialist, who can meet with the individual to further explain and discuss procedures related to guardianship.

SECTION 5

Sexually Violent Persons (SVP)

Definitions

The Sexually Violent Persons Commitment Act 725 ILCS 207/5 requires the petitioner to prove that the person committed a prior act of sexual violence and is predisposed to commit further acts of sexual violence due to a mental disorder.

A "**sexually violent offense"** is any of the following crimes:

- Specified under 725 ILCS 207/5(e)(1)
    - Section 11-1.20: Criminal sexual assault
    - Section 11-1.30: Aggravated Criminal Sexual Assault
    - Section 11-1.40: Predatory criminal sexual assault of a child
    - Section 11-1.60: Aggravated criminal sexual abuse
    - Section 11-6: Indecent solicitation of a child
    - Section 11-20.1: Child sexual abuse material
- Specified under former law of Illinois 725 ILCS 207/5(e)(1.5)
    - Section 11-1 (rape)
    - Section 11-3 (deviate sexual assault)
    - Section 11-4 (indecent liberties with a child)
    - Section 11-4.1 (aggravated indecent liberties with a child)
- First degree murder, but only:

> § "if it is determined by the agency with jurisdiction to have been sexually motivated or any solicitation, conspiracy or attempt" to commit a qualifying offense under paragraph (e)(1) or sexually motivated first-degree murder under paragraph " 725 ILCS 207/5(e)(2), (3)

The statute defines a "sexually violent person" as someone who:

> § "has been convicted of a sexually violent offense, has been adjudicated delinquent for a sexually violent offense, or has been found not guilty of a sexually violent offense by reason of insanity and who is dangerous because he or she suffers from a mental disorder that makes it substantially probable that the person will engage in acts of sexual violence." 725 ILCS 207/5 (f).

SVP Petition

An SVP petition can be filed at the following times during the criminal justice process:

- At the end of an individual's sentence in the Department of Corrections.
- At the end of an individual's period of confinement with the Illinois Department of Human Services after being adjudicated Not Guilty by Reason of Insanity.
- At the end of their confinement in the Department of Juvenile Justice.

Once a petition is filed:

- The court first determines probable cause.
- If probable cause exists, the person may be detained pending trial.
- The State must ultimately prove the SVP criteria beyond a reasonable doubt at trial. (Although later discharge or review hearings use a clear-and-convincing standard.)

If found to be an SVP, the individual is committed to the custody of the Illinois Department of Human Services for "*control, care, and treatment*" until they are no longer considered sexually violent.

Criteria for Civil Commitment of SVP

A person may only be civilly committed as a "sexually violent person" if the State proves three core elements:

1. **The person has a qualifying sexually violent offense history.** This can include:
    a. a conviction for a sexually violent offense,
    b. a delinquency adjudication for a sexually violent offense, or
    c. a finding of Not Guilty by Reason of Insanity for a sexually violent offense.
2. **The person has a qualifying mental disorder.** Illinois defines "mental disorder" as a congenital or acquired condition affecting emotional or volitional capacity that predisposes the person to commit acts of sexual violence.
3. **The person is dangerous because the mental disorder creates a substantial probability that they will engage in future acts of sexual violence.** This is the critical risk nexus requirement—not merely that the person committed a sex offense in the past, but that the disorder currently makes future sexual violence substantially probable.

SVP Review Procedures for NGRI Patients

For any individual in IDHS custody who was found NGRI for an offense that may qualify as a sexually violent offense under the **Illinois Sexually Violent Persons Commitment Act**, the case should be reviewed before any proposed conditional release or discharge to the community. The purpose of this review is to determine whether the individual may meet criteria for referral under the SVP Act. The Act specifically includes individuals who have been found not guilty of a sexually violent offense by reason of insanity within the definition of a sexually violent person, when the remaining statutory criteria are also met.

The SVP Referral Form is intended to notify Central Office that the individual may require review to determine whether an SVP evaluation or referral process is needed before release to the community. This form should be completed when:

- the individual is currently under IDHS custody as NGRI,
- the underlying offense may qualify as a sexually violent offense, and
- discharge or conditional release is being considered or is reasonably anticipated.

Completion of the form does not mean the individual meets SVP criteria. Rather, it allows Central Office to review the case and determine whether further assessment, notice, consultation, or referral is required.

The form should be submitted to Central Office as early as possible once discharge or conditional release becomes a realistic consideration, so there is sufficient time to review the qualifying offense, current clinical presentation, treatment history, risk concerns, and any statutory referral requirements. The SVP review is separate from the usual NGRI discharge or conditional release process and should occur before the individual is released to the community when SVP criteria may apply.

If the review indicates that the individual may meet SVP criteria, IDHS, as the agency with jurisdiction, should coordinate the required notice and referral process before the anticipated conditional release or discharge. The SVP Act requires the agency with jurisdiction to notify the Attorney General and the appropriate State's Attorney as soon as possible beginning 3 months before the anticipated discharge or conditional release of a person found NGRI for a sexually violent offense.

This process should be treated as separate from the usual NGRI conditional release or discharge review under 730 ILCS 5/5 2 4. The clinical team may still evaluate whether conditional release or discharge is appropriate under the NGRI statute, but when the underlying offense may qualify under the SVP Act, IDHS should also complete the separate SVP screening and referral review before community release.

SECTION 6

Other IDHS Responsibilities in the Forensic System

6.1 Emergency Transfer to Maximum Security

This section outlines the criteria, triage, and transfer procedures to IDHS staff for referring a patient who is presenting behavior management problems to Chester Mental Health Center (MHC), the state's only maximum-security inpatient hospital. These referrals are made only among inpatient IDHS Facilities.

Referral Initiation

State hospital staff refers a case for emergency transfer to Chester MHC by completing the Chester Referral Form and then faxing or emailing the form to the Forensic Court Services Administrator. The referral form must be signed by the referring hospital Medical Director.

Review Panel

The Forensics & Justice Services Bureau convenes a panel that includes the Deputy Director of Forensic & Justice Services, the Statewide Forensic Medical Director, and, as appropriate, the Statewide Clinical Director to:

1. Review the referral information
2. Schedule a phone review with the referring facility within 8 hours

Review Process with Referring Hospital

The Deputy Director of Forensic and Justice Services and panel members review the case with the referring facility staff. After the review with facility staff, the panel will decide whether a transfer to Chester MHC is warranted and inform the facility staff immediately.

- If a transfer is approved, the panel or panel member will inform the requesting facility and Chester MHC by email to coordinate the transfer, as an emergency transfer, within 48 hours.

Emergency Transfer without a Panel Review

- If a serious behavior management problem occurs after central office's normal working hours (5:00PM), or on holidays or weekends, the Deputy Director of Forensic and Justice Services, Statewide Forensic Medical Director, or Statewide Clinical Director should be contacted immediately to approve an expedited emergency transfer to Chester MHC based on a phone review of the incident. Example serious events include:
    - Attempted elopement
    - Serious injury caused by a weapon or object used as a weapon
    - Arson
    - Sexual assault
    - Life-threatening injury that leads to need for immediate medical attention
- Both the cell and home numbers of the Forensic Medical Director & Clinical Director are listed at each facility for 24hr emergency contacts during holidays and weekends.
- All referring facilities should scan or fax a copy of completed referrals form to the Deputy Director, Forensic & Justice Services and the Court Services Administrator.

NAME	TITLE	CONTACT
Dr. Sharon Coleman	Deputy Director, Forensic & Justice Services	Sharon.coleman@illinois.gov Phone: (312) 415-7486 Fax: (312) 814-4832
Dr. Agoritsa Barczak	Court Services Administrator	Agoritsa.barczak@illinois.gov Phone: (312) 438-0637 Fax: (312) 814-4832
Chester Mental Health Center Chester should be contacted directly for emergency referrals occurring on weekends, holidays, or evenings if the patient cannot be managed with emergency psychiatric procedures until a panel can be completed.	N/A	Phone: (618) 826-4571 Forensic Coordinator (Ext. 221) Hospital Administrator (Ext. 211) Fax: (618) 826-3229

6.2 Illinois Offender Registration Acts

When a sex offender, sexual predator, first degree murderer of an adult, or violent offender against youth is discharged from Illinois Department of Human Services (IDHS) facility or program, it is the policy of IDHS that the facility or program shall inform the individual or guardian or both of the individual's responsibility to register under the **Sex Offender Registration Act**, or **Murderer and Violence against Youth Registration Act**.

If there are questions concerning to whom and when the **Sex Offender Registration Act**, and the **Murderer and Violent Offender Against Youth Registration Act** apply, the facility or program should contact its assigned attorney in IDHS' Office of the General Counsel or the Illinois State Police Special Operations Response Team.

> The IDHS Victim Notification Coordinator should be notified at least 7 days prior to the discharge of individuals who are required to register.

Procedures

When a sex offender, sexual predator, first degree murderer of an adult, or violent offender against youth is to be discharged from an IDHS facility or program, the facility or program shall:

1. Prior to discharge or release, or prior to a court hearing that may result in the individual's release, the Facility or Program shall inform and explain to the individual his or her duty to register and the procedure to register under the **Sex Offender Registration Act** or the **Murderer and Violent Offender Against Youth Act** as required for the individual's offense.
2. Inform the individual that if he or she establishes a residence outside of the State of Illinois, is employed outside the State of Illinois, or attends school outside the State of Illinois, he or she must register in the new state within 10 days after establishing such residence, accepting employment, or attending school in the new state.
3. If the individual is to be placed on Conditional Release, explain to the service provider the need for the individual to maintain the appropriate offender registration and document the request for the service provider to assist the individual in maintaining registration.
4. Require the individual to read and sign the Sex Offender Registration Act Notification Form (ISP 4-84e) provided by the Illinois State Police. This form states that the duty to register and the procedure for registering have been explained, and the individual understands the duty to register and the procedure for registration.
5. Obtain the address where the individual expects to reside after discharge and record the address on the form.
6. Give one copy of **t**he Sex Offender Registration Act Notification form (ISP 4-84e) to the individual, service provider, or guardian; place one copy in the individual's clinical record; send one copy to the VCN; and forward within 3 days the original signed form with the individual's address to the Illinois State Police Special Operations Response Team.

6.3 Jail Based Mental Health

The Jail-Based Mental Health (JBMH) program was developed to provide mental health services to individuals with forensic legal status who are awaiting admission to an IDHS State Operated Psychiatric Hospital (SOPH). The program was designed in response to the growing number of individuals found Unfit to Stand Trial (UST) or Not Guilty by Reason of Insanity (NGRI) who remain in county jails for extended periods while awaiting inpatient placement. Many smaller county jails have limited access or no access to consistent mental health services, which can contribute to worsening psychiatric symptoms, increased behavioral concerns, and challenges for jail staff managing these individuals.

The program was initially developed in partnership with the Kankakee County Jail and was inspired by Kankakee County Sheriff Mike Downey's interest in collaborating with IDHS to address the growing waitlist for forensic inpatient treatment. The program began with a 12-bed capacity and has since expanded to 20 beds serving both male and female detainees.

The JBMH program is not intended to replace inpatient forensic hospitalization. Rather, it is designed to provide interim mental health treatment and clinical stabilization while individuals remain on the IDHS waitlist for inpatient admission. Participation in the program does not affect an individual's placement on the waitlist or eligibility for transfer to a State Operated Psychiatric Hospital. However, some participants may improve clinically to the point that they are restored to fitness while in custody and no longer require inpatient hospitalization.

The program operates through a collaborative model between IDHS, the participating county jail, and a community mental health provider. In the Kankakee County program, Iroquois Mental Health Center provides mental health staffing and services within the jail. Services may include:

- Comprehensive mental health assessments
- Psychiatric evaluation and medication management
- Supportive individual counseling
- Group therapy and milieu programming
- Crisis intervention services
- Clinical monitoring and case management
- Fitness education and psychoeducation
- Discharge planning and coordination with community resources

Psychiatric services are provided through both in-person and telehealth modalities, and treatment participation, including medication treatment, remains voluntary. Mental health staff work collaboratively with IDHS/DBHR Bureau of Forensic and Justice Services and jail personnel to monitor clinical stability and identify individuals who may require a higher level of care. Individuals who are medically complex or demonstrating severe behavioral aggression may not be appropriate for participation in the program.

The referral and transfer process involves coordination between IDHS, the participating jail, and the individual's home county jail. IDHS reviews referrals to determine program appropriateness. Once approved, the parties execute a Memorandum of Understanding (MOU) outlining responsibilities related to housing, transportation, medical care, and financial obligations. IDHS currently maintains dozens of MOUs with Illinois county sheriffs in support of the Franklin, Kankakee and McHenry County programs.

The JBMH program provides several system-level benefits, including:

- Expanding access to mental health services for detainees housed in smaller county jails
- Supporting clinical stabilization while individuals await inpatient admission
- Reducing strain on county jails with limited behavioral health resources
- Increasing opportunities for medication access and fitness education
- Allowing some individuals to achieve fitness in custody without requiring inpatient hospitalization

IDHS continues to evaluate and expand the program model, including the development of additional partnerships with other Illinois county jails.