

Commitment to Change Workgroup

July 14, 2023



Agenda



- Welcome
 - Media & Public
- Public record reminder
- Workgroup member introductions
- Recap highest hopes & worst fears
- Initial placement
- Changes in placement
- Trial visits

Workgroup Membership

Oregon Tribes – Angie Butler

Mothers of the Mentally Ill – Jerri Clark

Oregon Health Authority – Zachary Thornhill

Oregon State Hospital – Dr. Katherine Tacker

Oregon Department of Human Services – Chelas Kronenberg

Disability Rights Oregon – **Travis Leatham** for Dave Boyer

Mental Health and Addiction Association of Oregon – Janie Gullickson

NAMI Oregon – Chris Bouneff

Oregon House – Andy Smith for Rep. Jason Kropf (D); Rep. Christine Goodwin (R)

Oregon Senate – Sen. Floyd Prozanski (D); Sen. Kim Thatcher (R)

Workgroup Membership (cont.)

Coordinated Care Organizations – Melissa Thompson

Oregon Criminal Defense Lawyers Association – Allison Knight

Oregon District Attorneys Association – Channa Newell

Association of Oregon Community Mental Health Providers – Cherryl Ramirez

Association of Oregon Counties – **Marcus Vejar**

League of Oregon Cities – Dakotah Thompson

Oregon State Sheriffs' Association – Sheriff Matt Phillips

Oregon Association Chiefs of Police – Jim Ferraris

Oregon Association of Hospitals and Health Systems – Meghan Slotemaker

Oregon Judicial Department – Hon. Nan Waller; Hon. Matt Donohue

OCTOBER RECAP

Highest Hopes

“Local resources to help
IDD population in the
community”

“No OSH backups and
more local options”



Worst Fears

“Longer LOS for civil population at OSH”

“OSH not having enough capacity to treat all three populations within admission demand timelines”



Topic 1: Civil Commitment Placement

Be thinking about:

- Placement process & mechanisms
- Placement for special needs populations



Court orders civil commitment to **OHA** (up to 180 days)

Placement: **OHA/CMHP** determine initial placement and may transfer person to another facility at any time for good cause & in best interest of person

Transfer of custody: **OHA** takes person into care until person is delivered to assigned treatment facility

Inpatient commitment:

- **OHA** may place in *state hospital*, *or*
- **OHA** w/ agreement of **CMHP** may place in *class 1 community hospital*

Outpatient commitment:

- **OHA** may place person in outpatient commitment at *nonhospital facility* or *outpatient program*;
- **CMHP** sets conditions for outpatient treatment; *and*
- **OHA/CMHP** provide copy of condition to courts

Transfer of custody: **OHA**

Trial visit:

- **OHA** w/ agreement of **CMHP** may place person in lower level of care (not to exceed period of commitment)

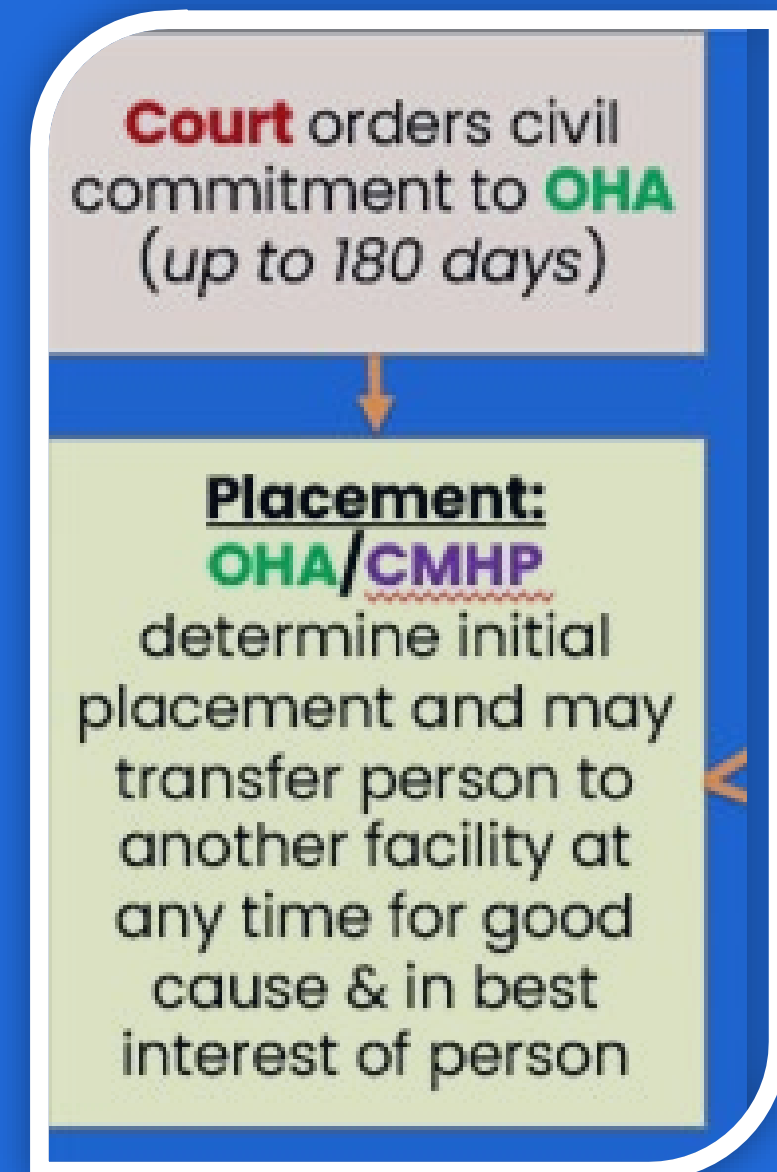
Placement Process

Rights of **all persons** receiving mental health services: Statutory Requirements

ORS 430.210 grants all of the following rights and requires that the facility informs participants of these rights at the start of services and periodically throughout treatment:

- An **individualized treatment plan**;
- Ongoing **participation in planning** of services in a manner appropriate **to the person's capabilities**;
- **Choice of** appropriate and available **treatment services provided in least restrictive setting**;
- **Not involuntarily** participate in **experimentation**;
- Receive **medication only for clinical needs**;

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Rights of **all persons** receiving mental health services: Statutory Requirements (cont.)

ORS 430.210 grants the following rights:

- **Not be involuntarily terminated**/transferred from services **without** prior **notice** and notification of available sources for continued services
- **Humane** service **environment** that affords reasonable protection from harm
- Be **free from neglect** or abuse
- **Religious** freedom
- **Visit with family members**, friends, advocates, and legal/medical **professionals**

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Placement:

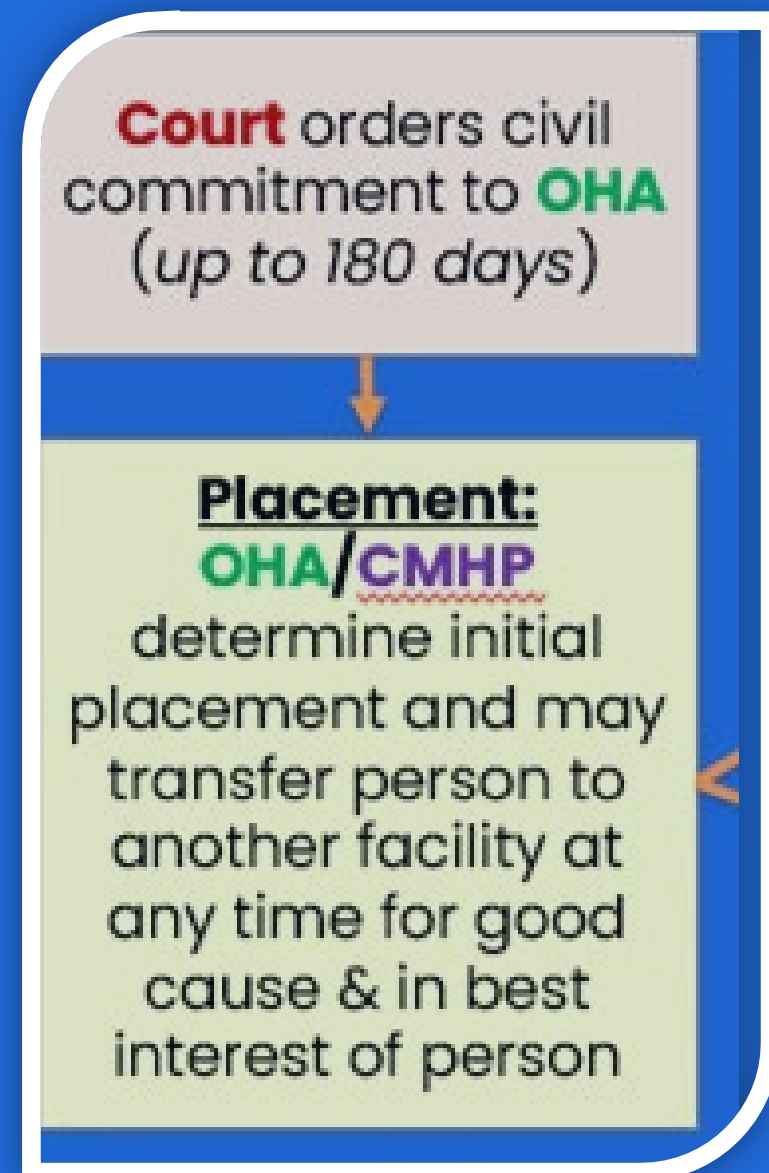
OHA/CMHP

determine initial placement and may transfer person to another facility at any time for good cause & in best interest of person

Rights of **all persons** receiving mental health services: Statutory Requirements (cont.)

ORS 430.210 grants the following rights:

- **Not** be required to **perform labor** (except personal housekeeping) without compensation
- **Report incidences** of abuse/neglect **without retaliation**
- Assert **grievances** with respect to infringement of rights
- Have access to and **communicate** privately with **rights protection organizations** and advocates
- Exercise **all rights without punishment**



Rights of individuals under civil commitment:

Statutory Requirements

ORS 426.385(1) gives every person committed to Oregon Health Authority (OHA) the following **rights**:

- **Communicate freely** in person and by reasonable access to telephones;
- Send and receive sealed **mail**;
- Wear the **individual's clothing**;
- Keep **personal possessions**;
- **Religious** freedom;
- A **private storage area** with free access thereto;
- Be furnished with a reasonable supply of **writing materials and stamps**;

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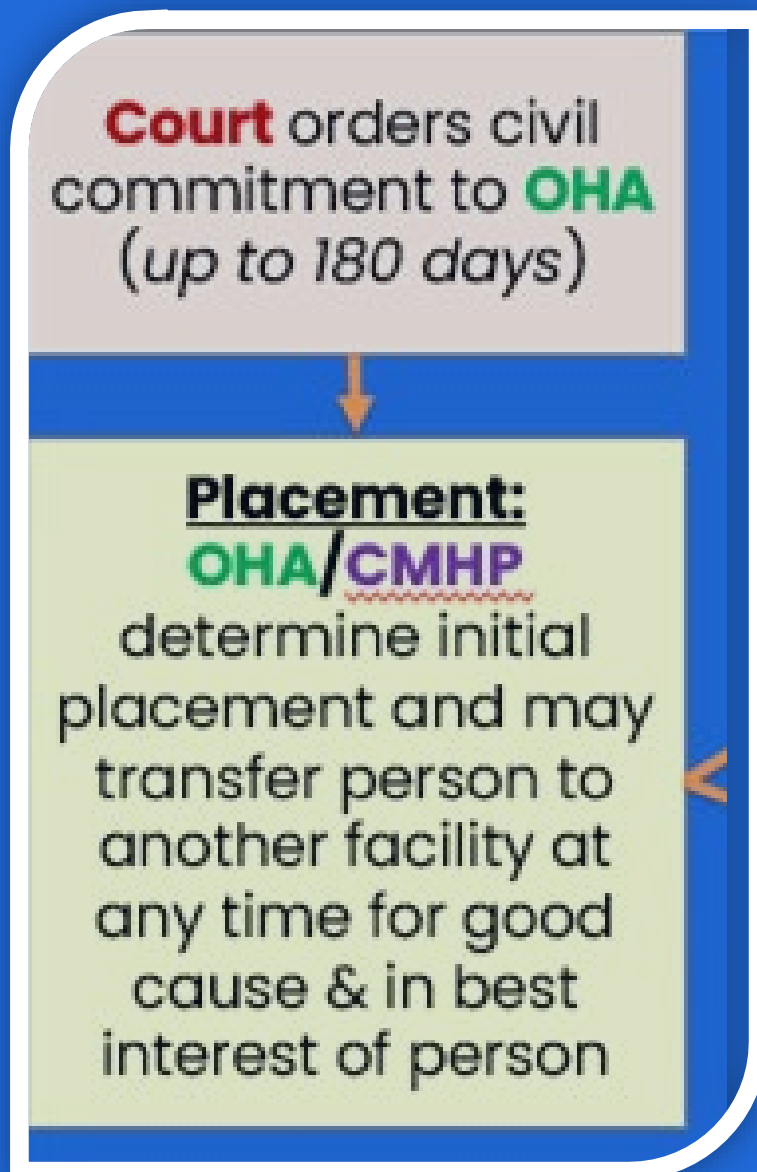
Placement:
OHA/CMHP
determine initial placement and may transfer person to another facility at any time for good cause & in best interest of person

Rights of individuals under civil commitment: Statutory Requirements (cont.)

ORS 426.385(1) gives every person committed to Oregon Health Authority (OHA) the following **rights**:

- An up-to-date, written **treatment plan**;
- **Legal counsel** representation whenever the substantial rights of the person may be affected;
- Petition for a **writ of habeas corpus**;
- **Not be required to perform routine labor** tasks unless essential to treatment;
- **Daily** access to **fresh air** and the outdoors;

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Rights of individuals under civil commitment: Rules and Regulations

OAR 309-033-0540 requires each hospital or nonhospital facility to have written policies concerning care, custody and treatment

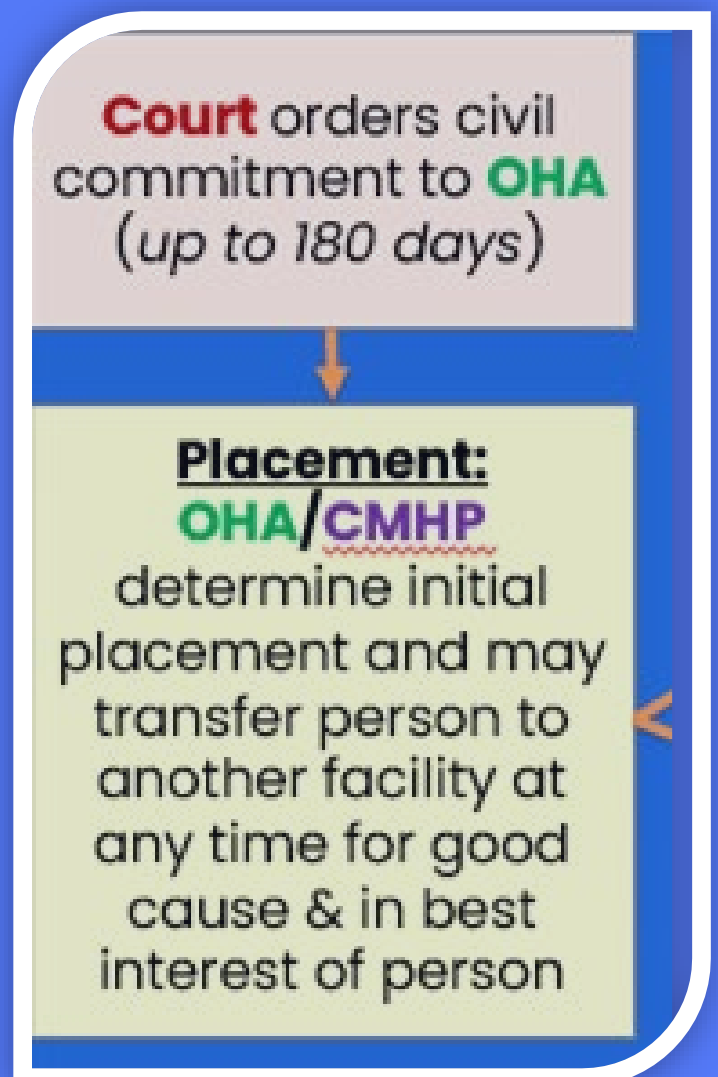
- Be given **reasonable compensation** for **all work** performed other than personal housekeeping duties;
- Reasonable **privacy and security** in resting, sleeping, dressing, bathing, hygiene, and toileting;
- Such **other rights as specified by rule; and**
- Exercise **all civil rights** in the same manner and with the same effect **as one not admitted to the facility**

Court orders civil commitment to **OHA** (up to 180 days)

Placement:
OHA/CMHP determine initial placement and may transfer person to another facility at any time for good cause & in best interest of person

Discussion Section: Rights of individuals under civil commitment

What rights, if any, should be added or amended to promote client-centered treatment and outcomes?

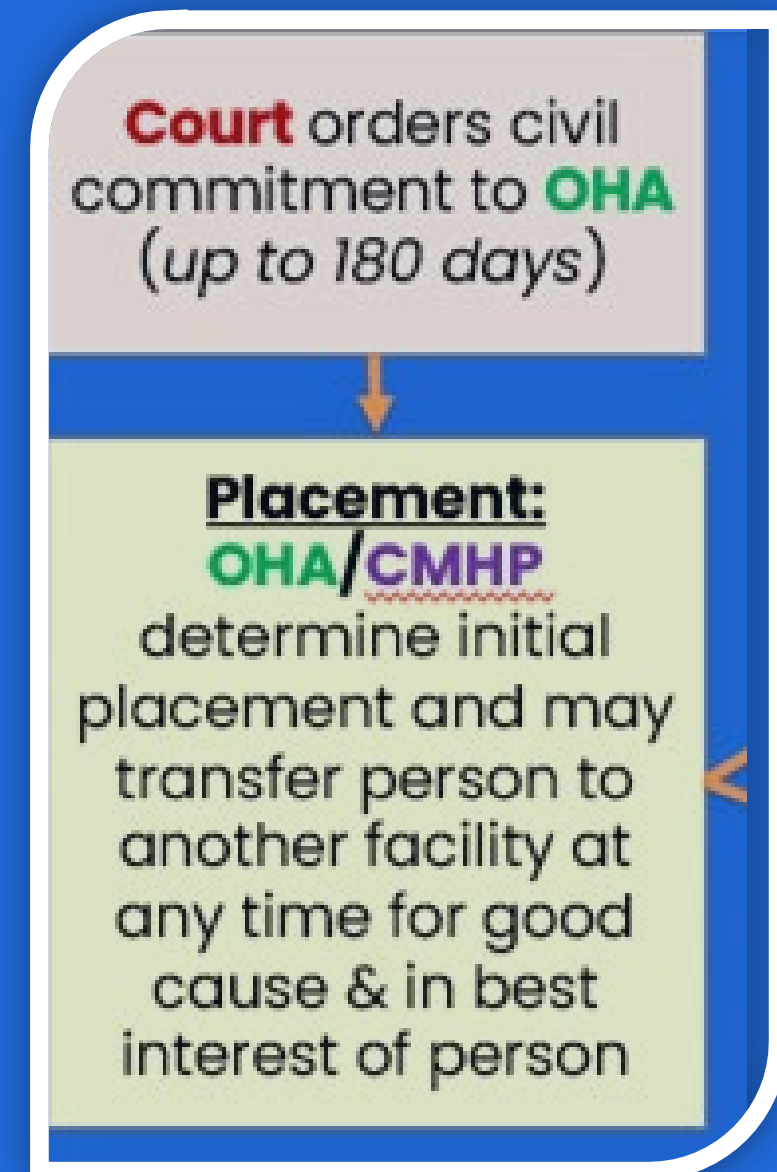


Initial Placement: Statutory Requirements

ORS 426.060(1) requires an Oregon **circuit court judge** commit a person to Oregon Health Authority (**OHA**)

ORS 426.060(2) gives **OHA** the following powers:

- **Place** court-committed person **at facility** best able to treat person
- **Transfer** to **another facility** at any time if there is good **cause** and it is in **person's best interest**
- **Delegate** placement/transfer to a community mental health program (**CMHP**) director



Initial Placement: Rules

OAR 309-033-0210(42). Definitions

“Placement” means the facility, program, or provider the person under civil commitment is sent to receive care, custody and treatment, including the transfer of a person under civil commitment from one location where the person was in care, custody, and treatment to another location for the same purpose.

Court orders civil commitment to **OHA** (up to 180 days)

Placement:
OHA/CMHP
determine initial placement and may transfer person to another facility at any time for good cause & in best interest of person

Placement procedure: Rules

OAR 309-033-0290(1)-(2) delegates the responsibility for placement to the **CMHP director** who shall document the **initial placement in writing**:

- Immediately **upon the civil commitment** of a person by the court; *or*
- At the time the person under civil commitment is **transferred to another placement** during the civil commitment period.

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Court orders civil commitment to **OHA**
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Placement:
OHA/CMHP
determine initial placement and may transfer person to another facility at any time for good cause & in best interest of person

Notification of placement: Rules

OAR 309-033-0290(2) Placement procedure.

For both initial placement and transfers of placement, the CMHP director shall:

- **Retain** an original placement order **on file for seven years**;
- Deliver a **signed original copy** to the **person under civil commitment** prior to placement;
- **Enter** placement order **into OHA's system**; and
- If **transferring** to a different county, the CMHP director of the transferring county petitions the court to transfer jurisdiction

Court orders civil commitment to **OHA**
(up to 180 days)

Placement:
OHA/CMHP
determine initial placement and may transfer person to another facility at any time for good cause & in best interest of person

Discussion Section: Placement procedure

What are common gaps in information sharing between:

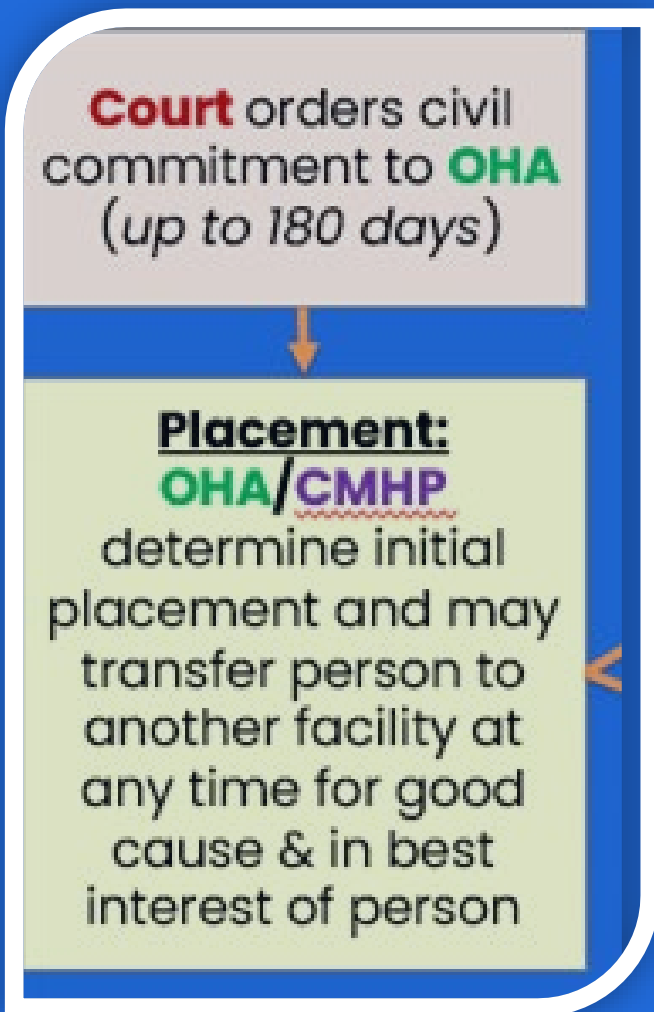
- OHA,
- CMHP,
- Court, *and*
- Person under civil commitment

How can these gaps be addressed?

Emergency commitment of individuals in Native Nations: Statutory Requirements

ORS 426.180 applies to “the **commitment of an individual in Indian country [Native Nations]** if a federally recognized Indian **tribe** that has Indian country located within this state **chooses to exercise the tribe’s authority over the commitment.**”

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Emergency commitment of individuals in Native Nations: Recent Legislative Changes

Oregon Senate Bill 297 (2019) made the following changes to statute regarding the civil commitment procedures for individuals in Native Nations:

- **Tribal court judge can initiate commitment procedures**, and ORS 426.180 was amended to read:

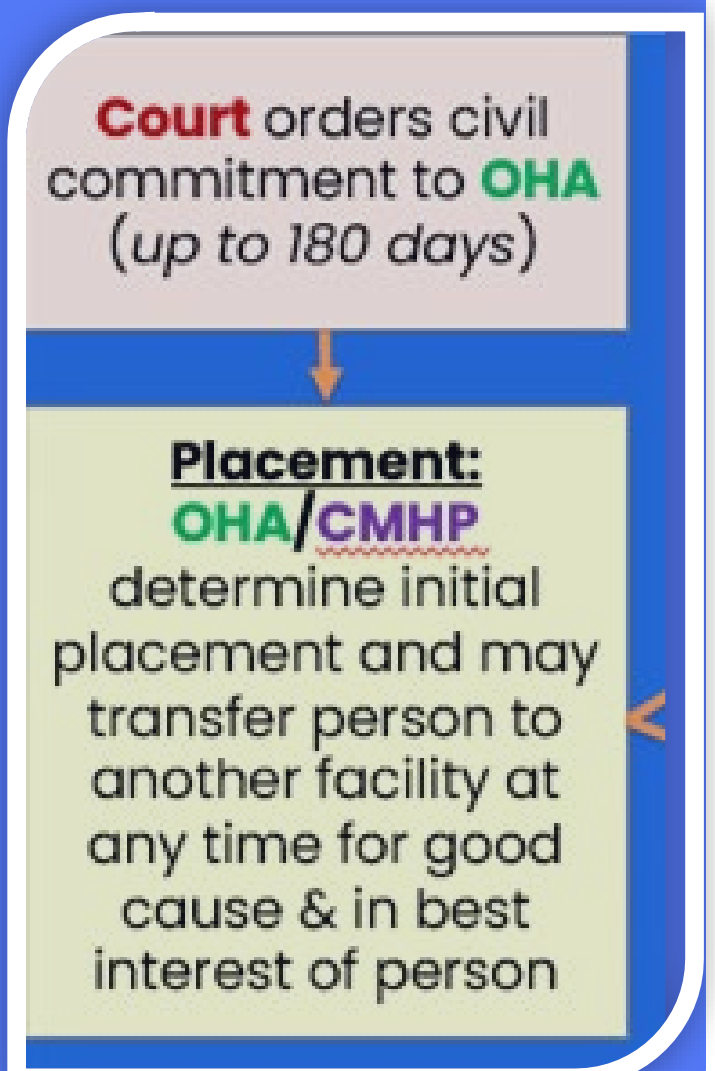
426.180.

(1) ORS 426.180 to 426.210 apply to the commitment of an individual in Indian country if ~~the state does not have jurisdiction over the individual~~ a federally recognized Indian tribe that has Indian country located within this state chooses to exercise the tribe's authority over the commitment.

Discussion Section: Civil Commitment Orders and Native Nations

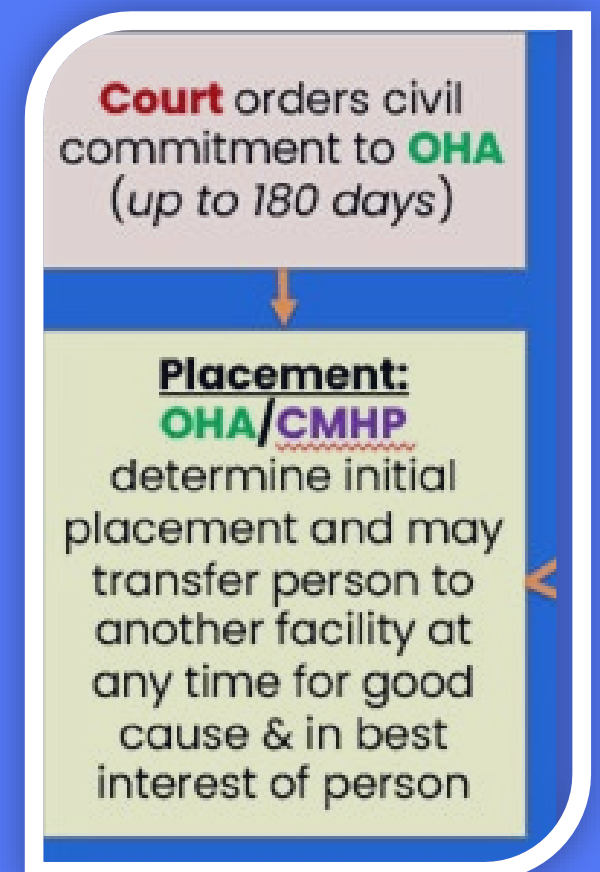
This is the beginning of our conversation on civil commitment in Native Nations.

- What barriers exist for involuntary commitment within Native Nations from current and historical statutes?
- How can these barriers be remedied?



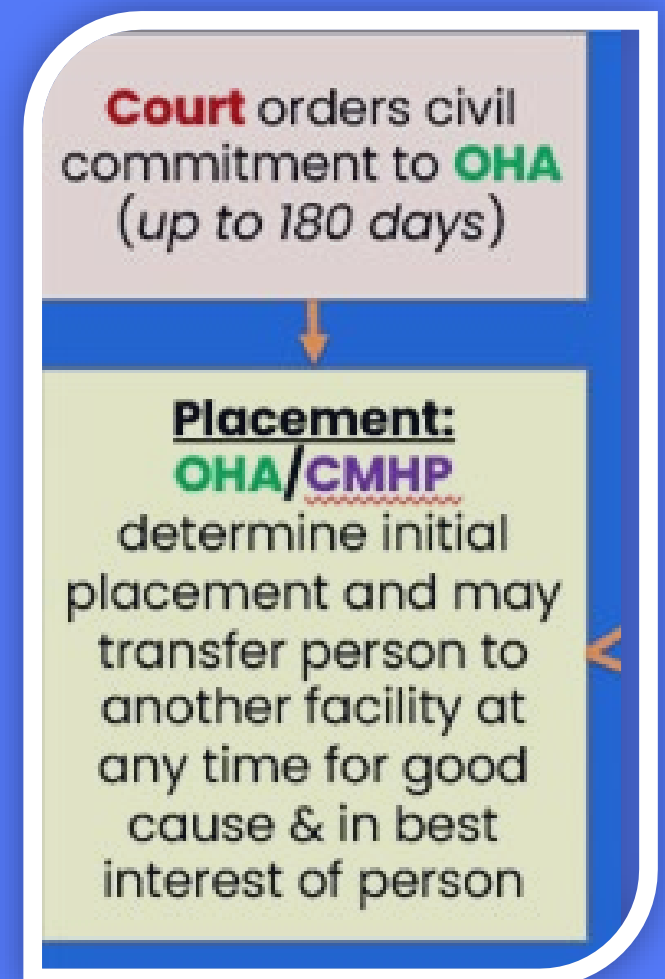
Discussion Section: People with Intellectual and Developmental Disabilities

What special considerations are there to placing and caring for individuals under civil commitment with **co-occurring intellectual and developmental disabilities?**



Discussion Section: People with co-occurring substance use disorders

What special considerations are there to placing and caring for individuals under civil commitment who are **actively using substances?**



OHA designated facilities: Inpatient Rules

OAR 309-033-0270. designates which places can provide treatment:

State hospital:

- State hospital superintendent responsible for all admissions to state hospital

Community hospital:

- CMHP director responsible for placement
- Licensed Independent Practitioner (LIP), in consultation with CMHP director, **must determine** community hospital **placement is in the best interest of a person**

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Transfer of custody:

OHA takes person into care until person is delivered to assigned treatment facility

OHA designated facilities: Outpatient Rules

OAR 309-033-0270 designates which places can provide treatment:

Nonhospital facility or outpatient program:

- Must be placed in **OHA certified nonhospital facility**
- Nonhospital **facility** administrator **and CMHP** director **must determine** whether the nonhospital **facility will serve person's best interests**
- **Facility administrator** shall implement policies and procedures to **ensure that person's rights are met**

Transfer of custody:

OHA takes person into care until person is delivered to assigned treatment facility

Classes of facilities: Inpatient Commitment Rules

OAR 309-033-0520. Lists the classes of facilities approved by OHA for care of an individual under civil commitment

Inpatient Commitment – Class 1 Facility

- A facility that is OHA approved to be **locked** to prevent person from leaving, to use **seclusion and restraint**, **involuntarily** administer psychiatric **medication**; *or*
- A **state hospital** or a residential facility operated by a state hospital on a state hospital campus

Transfer of custody:

OHA takes person into care until person is delivered to assigned treatment facility

Classes of facilities: Outpatient

Commitment/Trial Visit Rules

OAR 309-033-0520. Classes of facility that provide care, custody, or treatment

Trial Visit* – Class 2 Facility

- A secure residential facility that is approved by the Division to be locked to prevent a person from leaving the facility

Outpatient commitment or Trial Visit* – Class 3 Facility

- An unlocked residential facility

*Do we have the correct level of commitment associated to these facility classes?

Transfer of custody:

OHA takes person into care until person is delivered to assigned treatment facility

Discussion Section: Staff safety

What needs to be in place for staff to feel safe in the following settings:

- Residential Treatment Facilities
- Acute hospitals
- Oregon State Hospital

Transfer of custody:
OHA takes person into care until person is delivered to assigned treatment facility

Discussion Section: Community Hospitals

What resources do community hospitals need to ensure individuals have access to medically appropriate care while waiting for inpatient civil commitment?

Transfer of custody:
OHA takes person into care until person is delivered to assigned treatment facility

Appeal of placement: Rules

OAR 309-033-0290(3) outlines the right of a person under civil commitment or their advocate to **appeal to OHA** for a change in placement.

The written appeal must include the following information

- **Statement** that **the person** under civil commitment **appeals** current placement;
- **Reason(s)** person under civil commitment believes the current **placement is inappropriate**, and
- **Proposed alternative placement** and the reasons the person is requesting this alternative

**Transfer of
custody:
OHA**

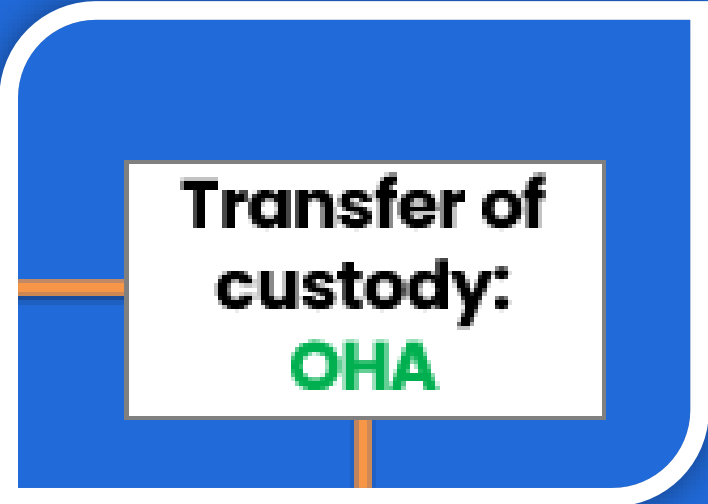
Non-compliance to condition of placement: Statutory Requirements

ORS 426.275 applies to people on conditional release, outpatient commitment, or **trial visits**.

The **individual responsible** for person **must notify the court** if they find the individual is **not complying with conditions**.

The court may hold a **hearing** to determine whether the person will:

- **Continue placement** on same or modified conditions, or
- Be returned to OHA for **involuntary inpatient care**.



**Transfer of
custody:
OHA**

Discussion Section: Changes in Placement

What are the most significant obstacles to changes in placement when:

- An individual appeals placement
- An individual does not adhere to conditions of placement

Transfer of custody:
OHA takes person
into care until
person is delivered
to assigned
treatment facility

Topic 2: Trial Visits

Be thinking about:

- Necessary services and support
- Oversight and engagement



Placement procedure trial visits: Statutory Requirements

ORS 426.278 requires OHA to provide the following individuals or entities a copy of the conditions of trial visits to:

- The committed person;
- The CMHP director/designee of the county in which the person is to receive outpatient treatment;
- Facility service director or other provider designated to provide care or treatment; *and*
- The court of current commitment and the court in the county where the person will be receiving services

Placement procedure for trial visits: Rules

OAR 309-033-0280 states that a CMHP director may grant a trial visit to any person under inpatient civil commitment.

- Trial visit **cannot exceed time** remaining in period of **civil commitment**
- The **CMHP director may transfer a person** on trial visit to another **county** only if the director for the county where the person will reside agrees to accept the trial visit

Discussion Section: Trial visit services

- What services and placements should be available to people on trial visits?
- How can the behavioral health and legal systems work together to promote success in trial visits?

Trial visit:

- **OHA** w/ agreement of **CMHP** may place person in lower level of care (not to exceed period of commitment)

Discussion Section: Trial visit oversight

What mechanisms need to be in place to ensure proper support and oversight of people on trial visits?

Trial visit:

- **OHA** w/ agreement of **CMHP** may place person in lower level of care (not to exceed period of commitment)

Homework



- All workgroup members to distribute July survey to their CTC Workgroup constituent email distribution list
- Read ALL materials provided in advance of the next meeting



Staff contacts

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