

Commitment to Change Workgroup

MAY 12, 2023



Agenda



- Welcome
 - Media & Public
- Public record reminder
- Workgroup member introductions
- Recap highest hopes & worst fears
- Civil commitment decision tree (cont.)
- Assisted outpatient treatment

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 – 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 – **Ann-Marie Bandfield** for Cherryl Ramirez

Association of Oregon Counties – Brad Anderson

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

“Correct the disconnection of justice including criminal justice populations”

“Excitement this is being addressed”



Worst Fears

“That we do not approach this radically. Our defunding and infrastructure apathy have led to a status quo that criminalizes mental illness in the name of personal liberty that is ultimately lost when we force those suffering from mental illness into the criminal system”



MHAAO Peerpocalypse – Civil Commitment Feedback

Part of the larger plan to engage people with lived experience in the policy-making process

Key Takeaways

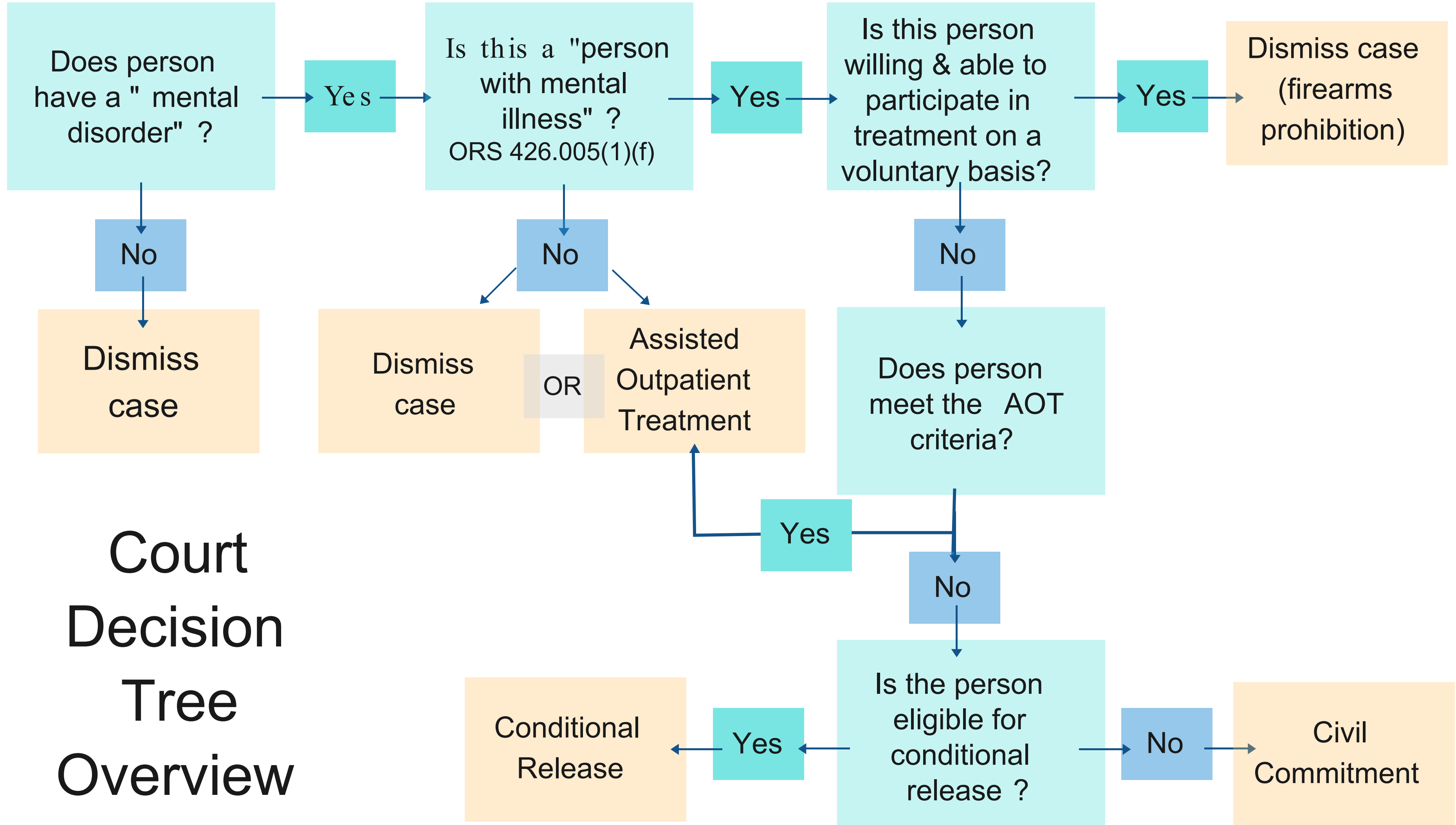
- Family and support system involvement
- Wrap around services
- Have better mechanisms to support people in care, especially people who don't have a safety net
- Follow-up services before, during, and especially after commitment

Topic 1: Civil Commitment Decision Tree

Be thinking about:

- What needs to be defined or operationalized in statute





Court Decision Tree Overview

Recap: April Decision Tree Discussion

Step 1: “Mental disorder”

- “Mental disorder” is stigmatizing, but consensus was not reached on a different term
- If statute defines “mental disorder”, it should include what diagnoses do not qualify

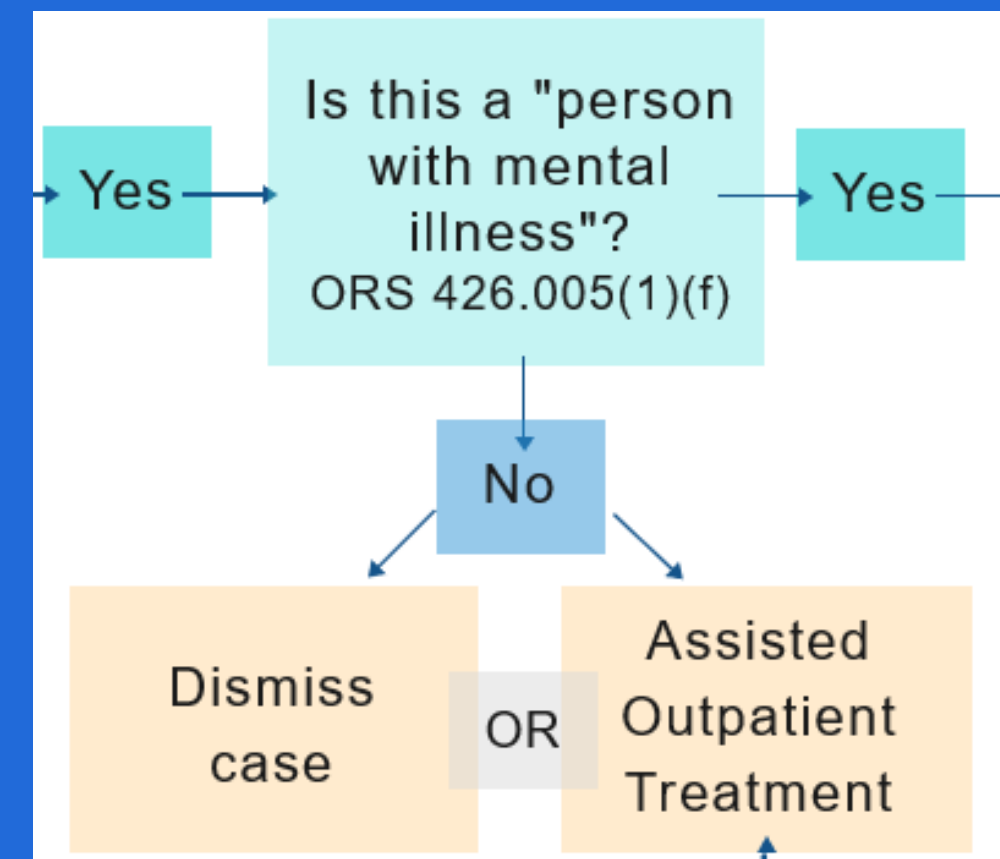
Step 2: Is this a “person with mental illness”? (pt 1: “Dangerous to self or others”)

- Lack of statutory definition of dangerous to self/others has led to narrow interpretation
- Rules and risk assessments may provide clarity on what should be included in a definition of dangerous to self/others

Step 2. Does Person Have a Mental Illness as Defined in ORS 426.005(1)(f)?

“Person with mental illness” is the terminology currently used in statute to determine whether someone meets the bar for civil commitment.

- If **yes**, continue decision tree
- If **no**,
 - release and **dismiss**; or
 - Continue proceeding for **no more than 7 days** to allow time for CMHP to **develop** the person’s **assisted outpatient treatment** plan, and order person to participate in AOT in accordance with ORS 426.133



Step 2. Does “Person Have a Mental Illness”?

ORS 426.005(1)(f) defines “**person with mental illness**” as a person who, because of a mental disorder, is one or more of the following:

A. Dangerous to self or others.

B. Unable to provide for **basic personal needs** that are **necessary to avoid serious physical harm in the near future**, and is **not receiving such care** as is necessary to avoid such harm.

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Step 2. Does “Person Have a Mental Illness”?

C. A person:

- i. With a **chronic mental illness**, as defined in ORS 426.495;
- ii. Who, within the **previous three years**, has **twice been placed in a hospital** or approved inpatient facility by the authority or the Department of Human Services under ORS 426.060;
- iii. Who is **exhibiting symptoms or behavior** substantially **similar** to those that preceded and led to one or more of the hospitalizations or inpatient placements referred to in sub-subparagraph (ii) of this subparagraph; and
- iv. Who, **unless treated, will continue**, to a reasonable medical probability, to physically or mentally **deteriorate** so that the person will become a person described under either **subparagraph (A) or (B) of this paragraph or both**.

Oregon - Senate Bill 187 (2021)

SECTION 1. **ORS 426.005** is amended to read..

(b) “**Dangerous to self or others**” means **likely to inflict serious physical harm** upon self or another person **within the next 30 days**

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Oregon - Senate Bill 187 (2021) (*Cont.*)

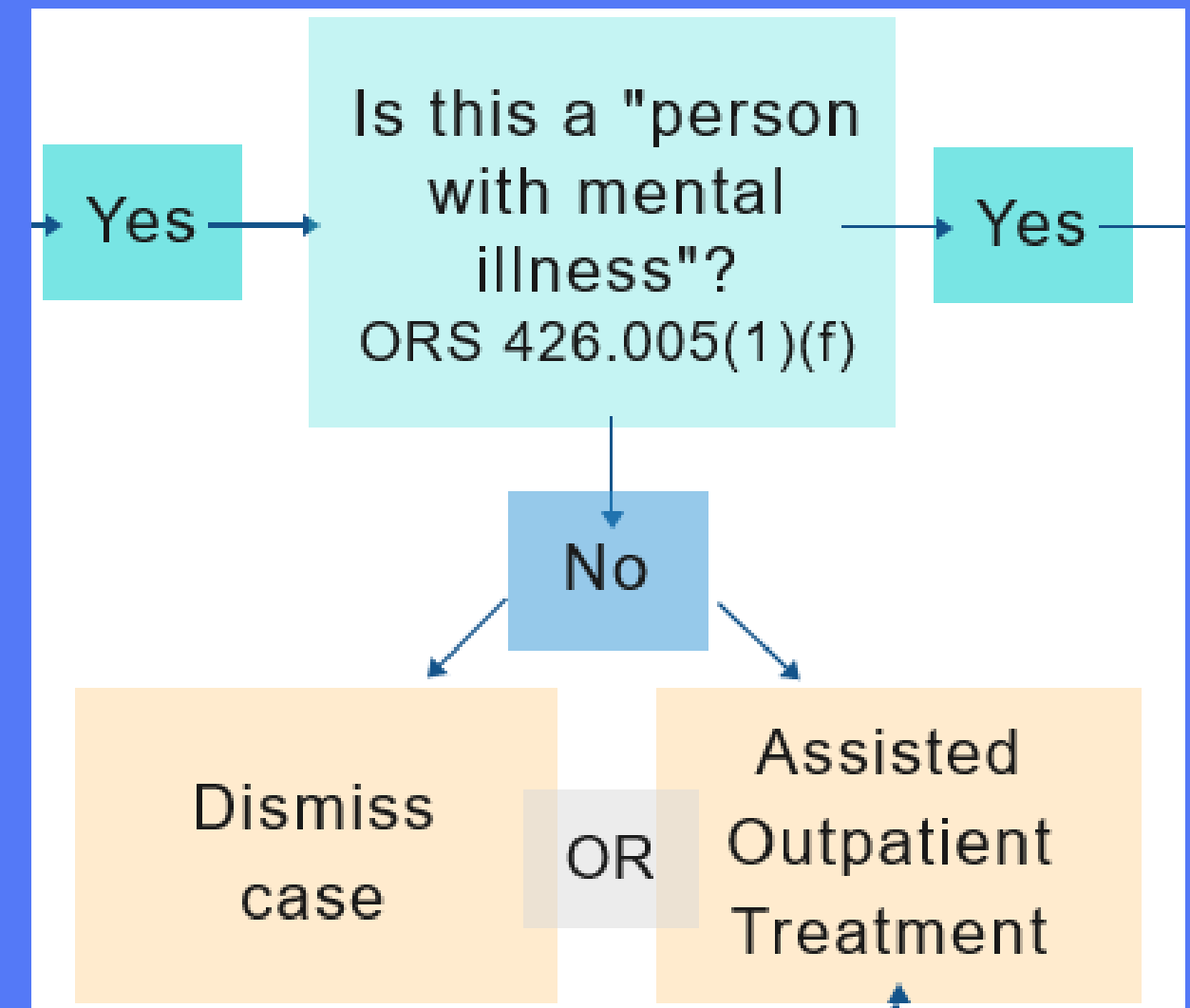
SECTION 2: **ORS 426.130** is amended to read:

- (1) In determining whether a person has a mental illness based on the person being **dangerous to self or others**, the court:
 - (a) May consider, but is not limited to, the following:
 - (A) **Threats or attempts** to commit **suicide** or inflict **serious physical harm** upon self.
 - (B) **Threats or attempts** to inflict **serious physical harm** upon another person, if the threats or attempts would place a **reasonable person in fear of imminent serious physical harm**.
 - (C) Any **past behavior** by the person that **resulted in physical harm** to self or physical harm to another person.
 - (b) Shall consider, at a minimum, when assessing the relevance of the person's past behavior, **how recently the past behavior occurred and the frequency and severity** of the past behavior.

Discussion Section: Dangerous to Self or Others

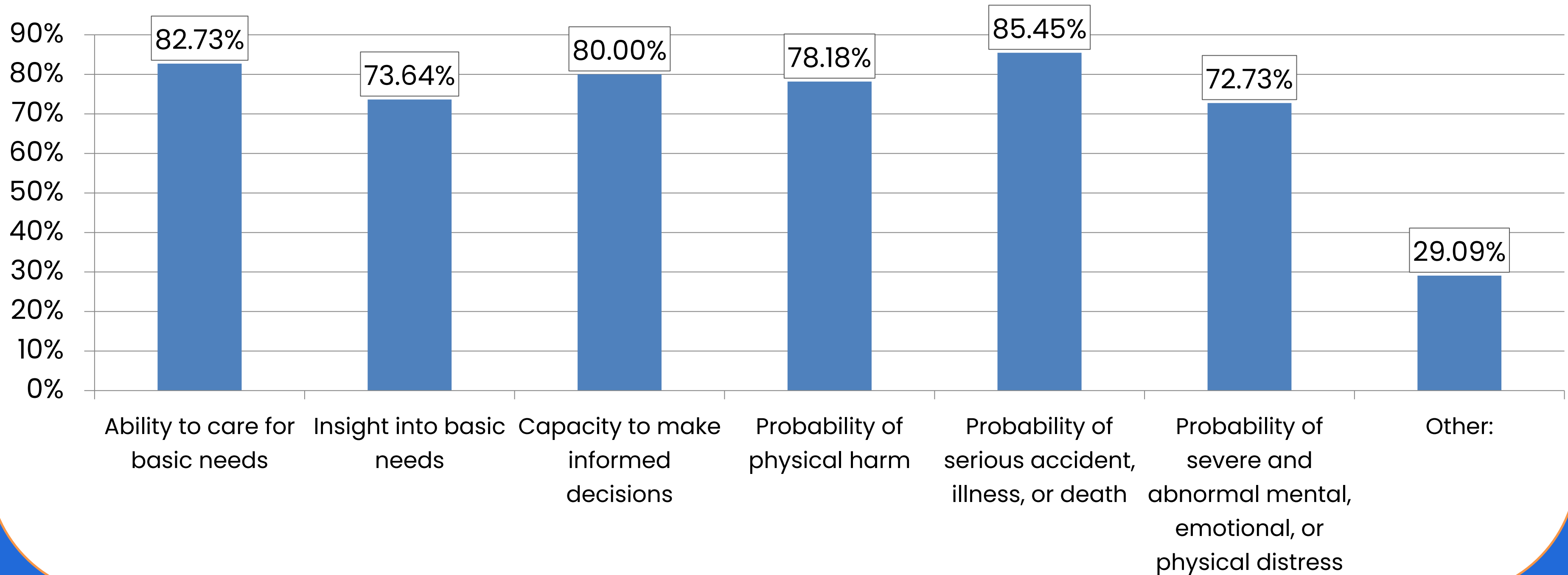
SB 187 (2021) amended “dangerous to self or others” to inflict serious physical harm upon self/another within the next 30 days. Threats, attempts, and past behavior can be considered when making this determination.

How, if at all, should “dangerous to self or others” be operationalized in statute?



Constituent Feedback: **Basic Needs**

What should court consider when determining necessary to avoid serious physical harm in near future? (4/14, 110 responses)



Constituent Feedback: Sampling of Quotes

*What should the court consider when determining whether civil commitment is necessary to avoid **serious physical harm in the near future?** (Other, Please specify; 32 responses)*

Theme 1: Consider re-framing resources & support

- “...The person’s failure to take care of their own needs **when given enough resources to do so.**” – *Mental Health & Addiction Association of Oregon*
- “A **de-stigmatization** in the system and the people who control the funding...” – *Workgroup Member*

Theme 2: Concerns with probability

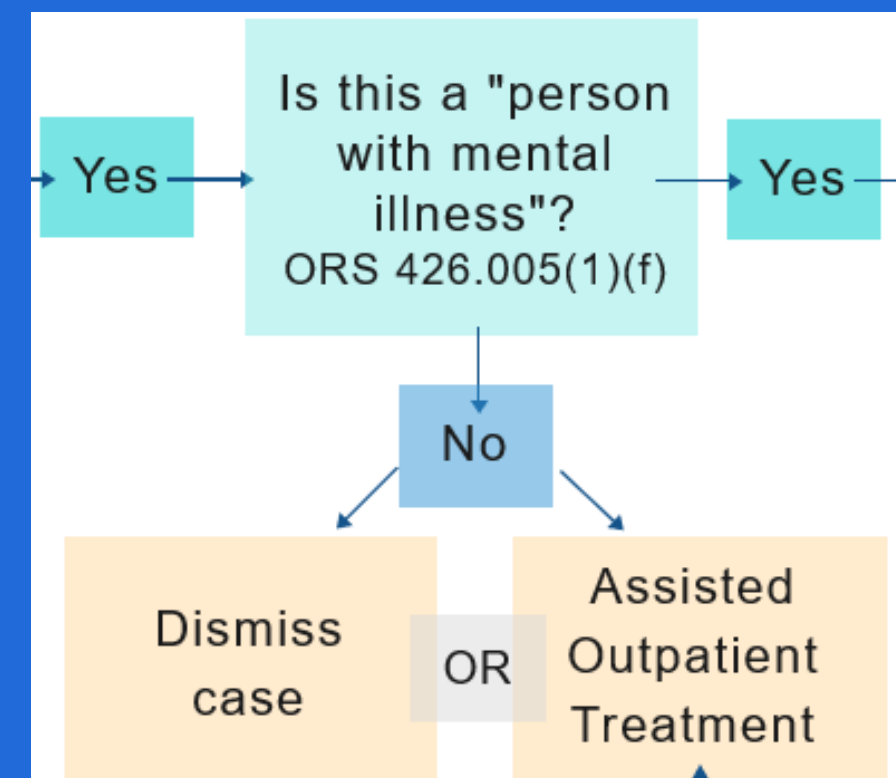
- “...”**probability**” has **no statistical or functional validity...**” – *Oregon Judicial Department Constituent*
- “**Probability** assessments can be **difficult to use for basic needs...**” – *Oregon District Attorneys Association Constituent*

Cross-state comparison:

“Gravely disabled”/basic needs

Nine states defined “gravely disabled” or a similar term based on the following concepts:

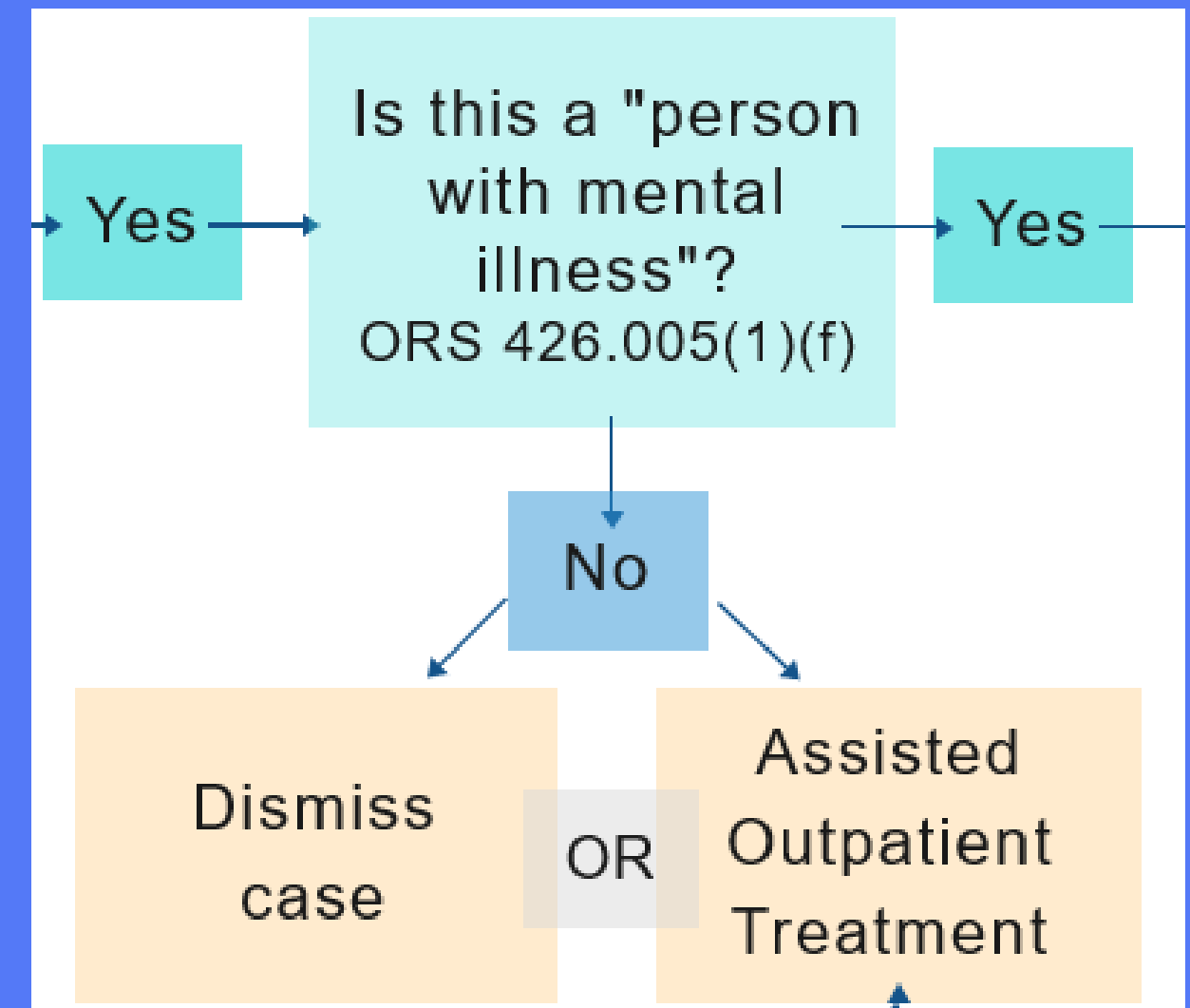
- Physical harm
- Basic needs (food, clothing, shelter, personal safety)
- Probable serious accident, illness, or death
- Continue to suffer severe and abnormal mental, emotional, or physical distress
- Incapable of making informed decisions
- Require significant supervision/help from others
- Near future/substantial risk
- Lacking insight



Discussion Section: Basic Needs

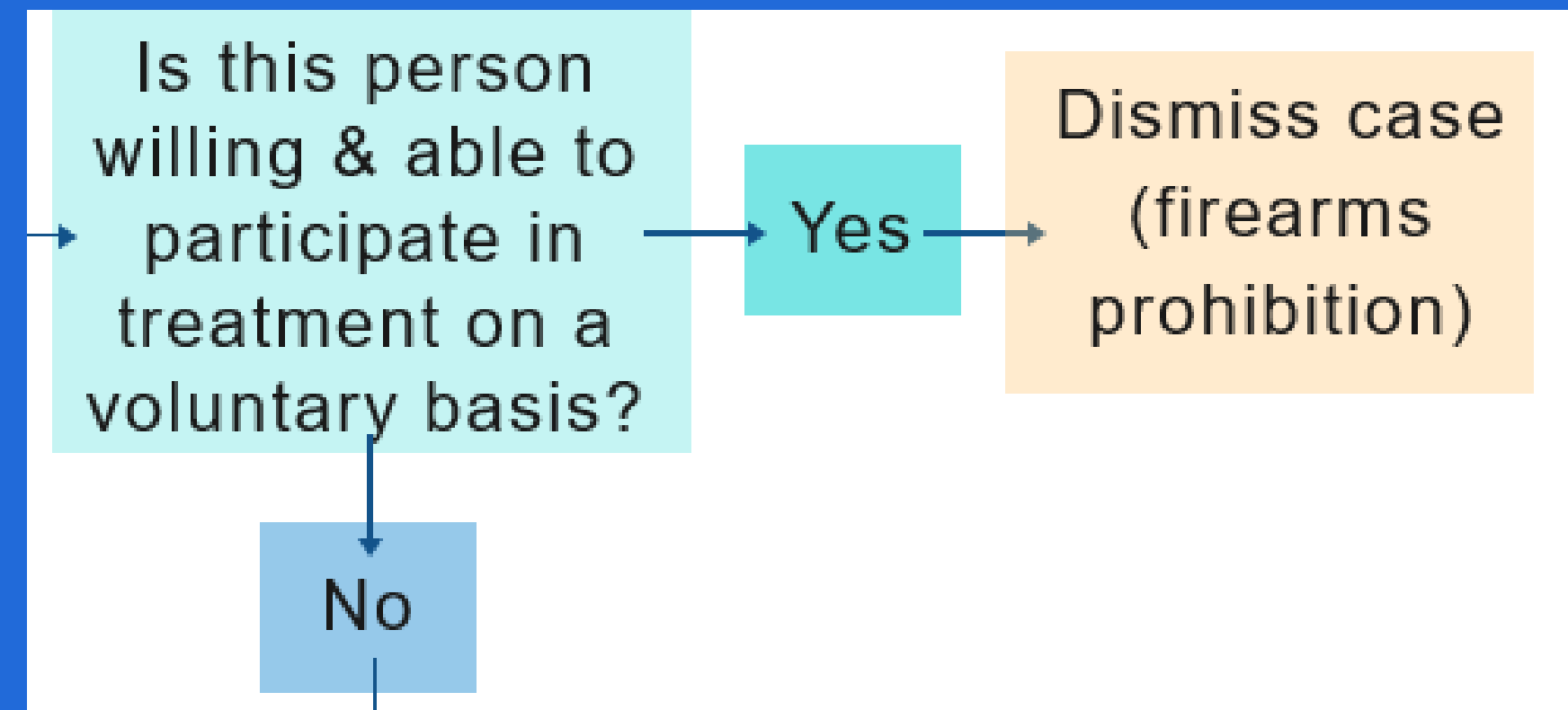
ORS 426.005(1)(f)(B) defines person with mental illness as "Unable to provide for basic personal needs that are necessary to avoid serious physical harm in the near future, and is not receiving such care as is necessary to avoid such harm."

How, if at all, should
"unable to provide for
basic needs..." be
operationalized in
statute?



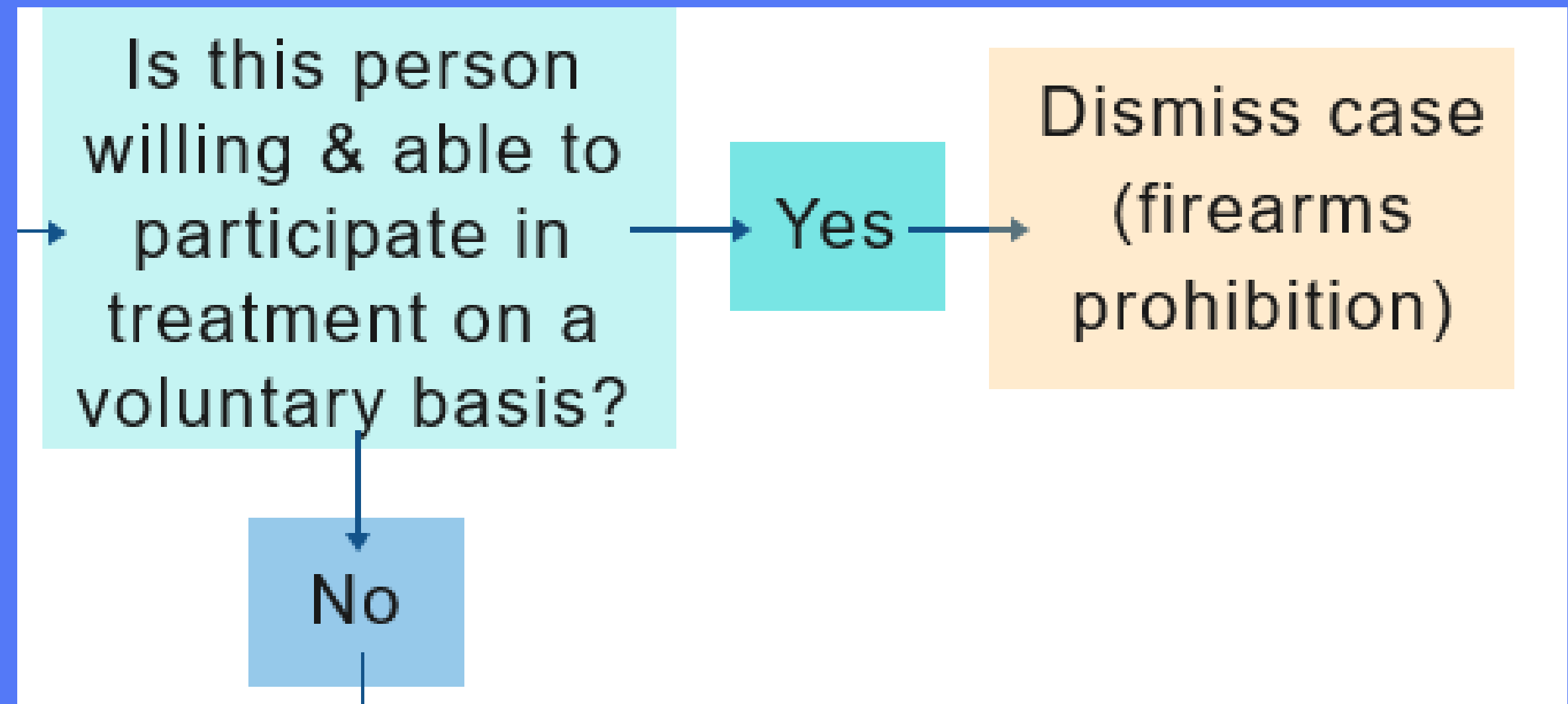
Step 3. Is Person Willing and Able to Participate in Treatment on a Voluntary Basis and Probably Will Do So?

- If **no**, continue decision tree
- If **yes**,
 - Release and dismiss; and
 - Order person be prohibited from purchasing or possessing a firearm and notify person of that prohibition



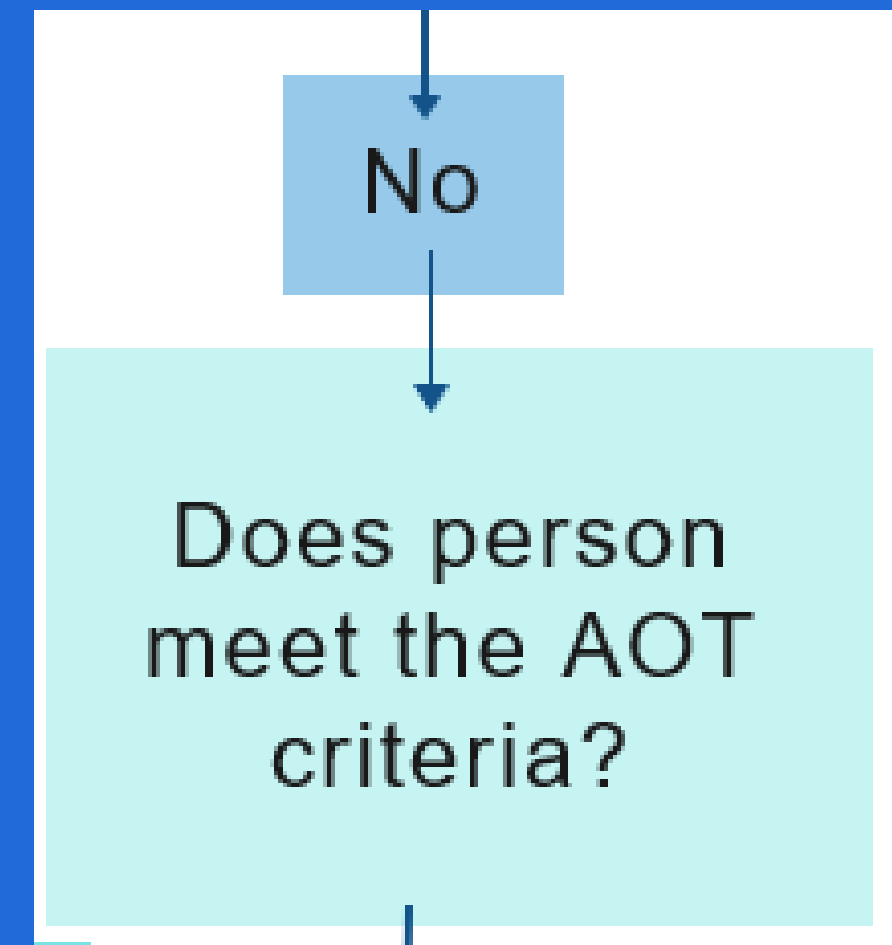
Discussion Section: Voluntary Treatment

How do we support continuity of care with voluntary treatment?



Step 4. Does the Person Meet Criteria for Assisted Outpatient Treatment (AOT)?

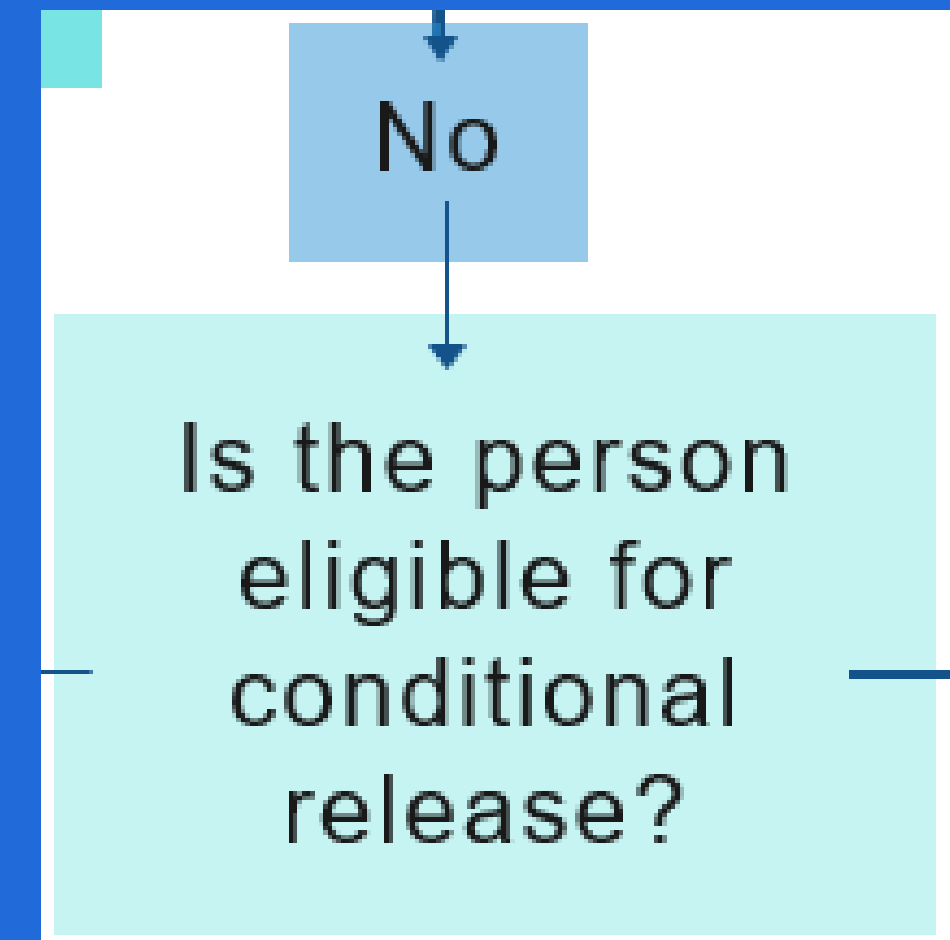
- If **no**, continue decision tree
- If **yes**,
 - may order **AOT** (may adopt treatment plan as recommended by CMHP or with modifications)
 - order person be **prohibited** from **purchasing or possessing** a **firearm** and notify person of that prohibition
 - court retains jurisdiction over person until either the end of the court-established period of AOT (**not to exceed 12 months**) or until court finds that person **no longer meets the AOT criteria**
 - CMHP is not **required to provide treatment** or services to, or supervision of, if **CMHP/entity lacks sufficient funds for such purposes**



Step 5. Is the Person Eligible for Conditional Release?

Eligibility for conditional release requires:

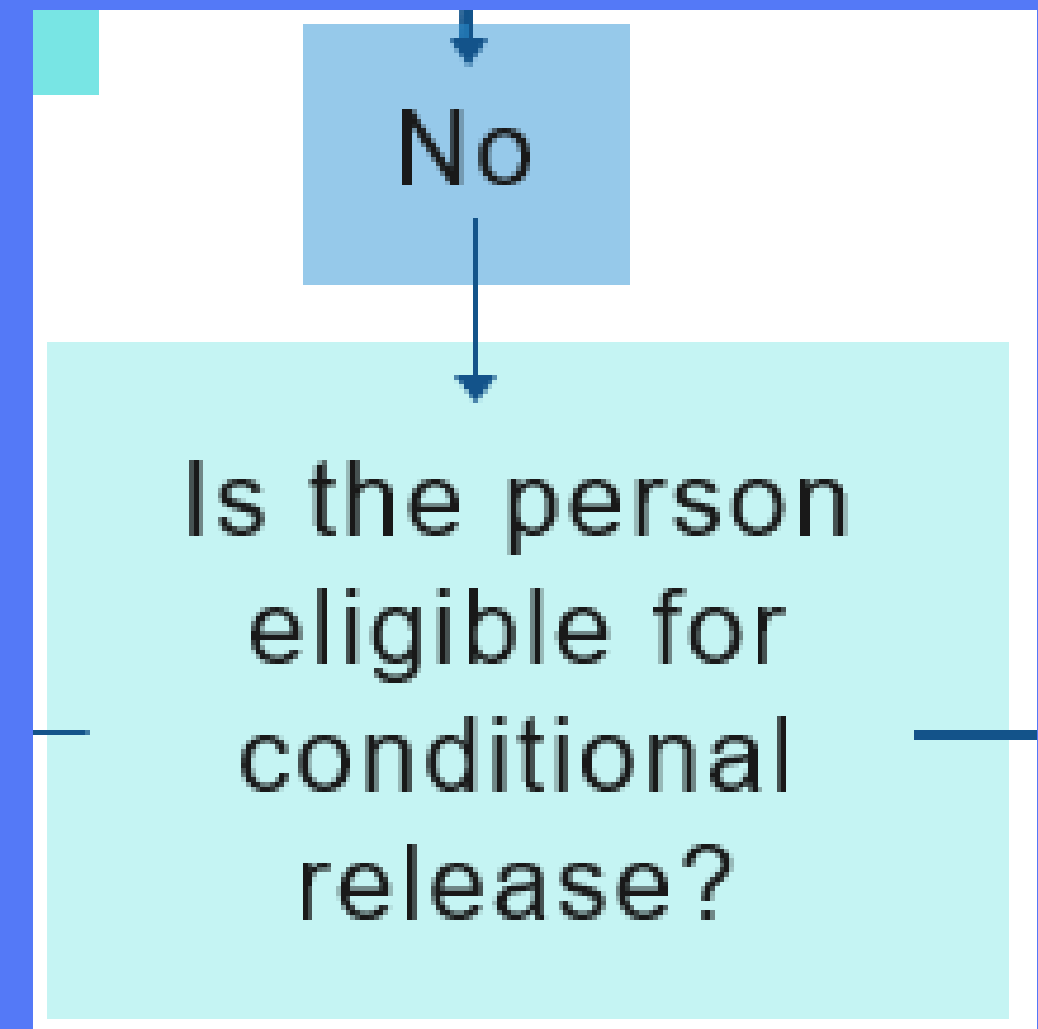
- Conditional release was **requested by legal guardian, relative or friend** of the person; and
- Legal guardian, relative or friend requesting the release **establishes to satisfaction of court**: the ability of the legal guardian, relative or friend to care for the person, and there are **adequate financial resources** available for the care of the person
- If **no**, continue decision tree
- If **yes**,
 - order person conditionally released and **placed in care of the requester**
 - establish any **terms and conditions** on the conditional release **that court determines appropriate**
 - order person be prohibited from purchasing or possessing a firearm and notify person of that prohibition.



Discussion Section: Conditional Release

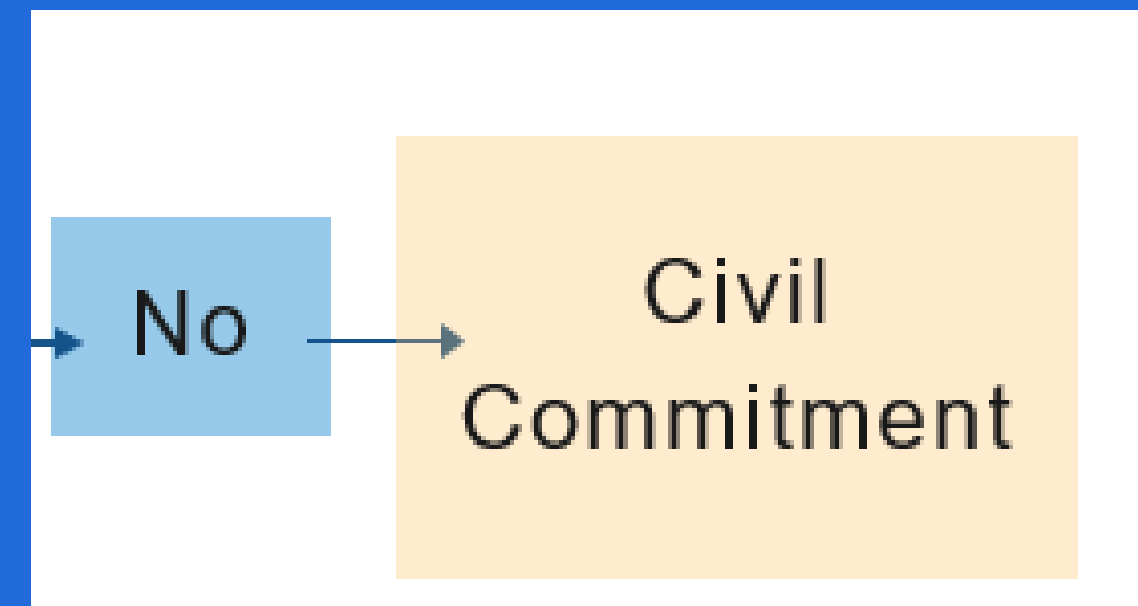
Individuals at this level of symptom acuity may not have the supportive relationships needed for conditional release.

What systems-level change can facilitate conditional release for people who do not have these relationships?



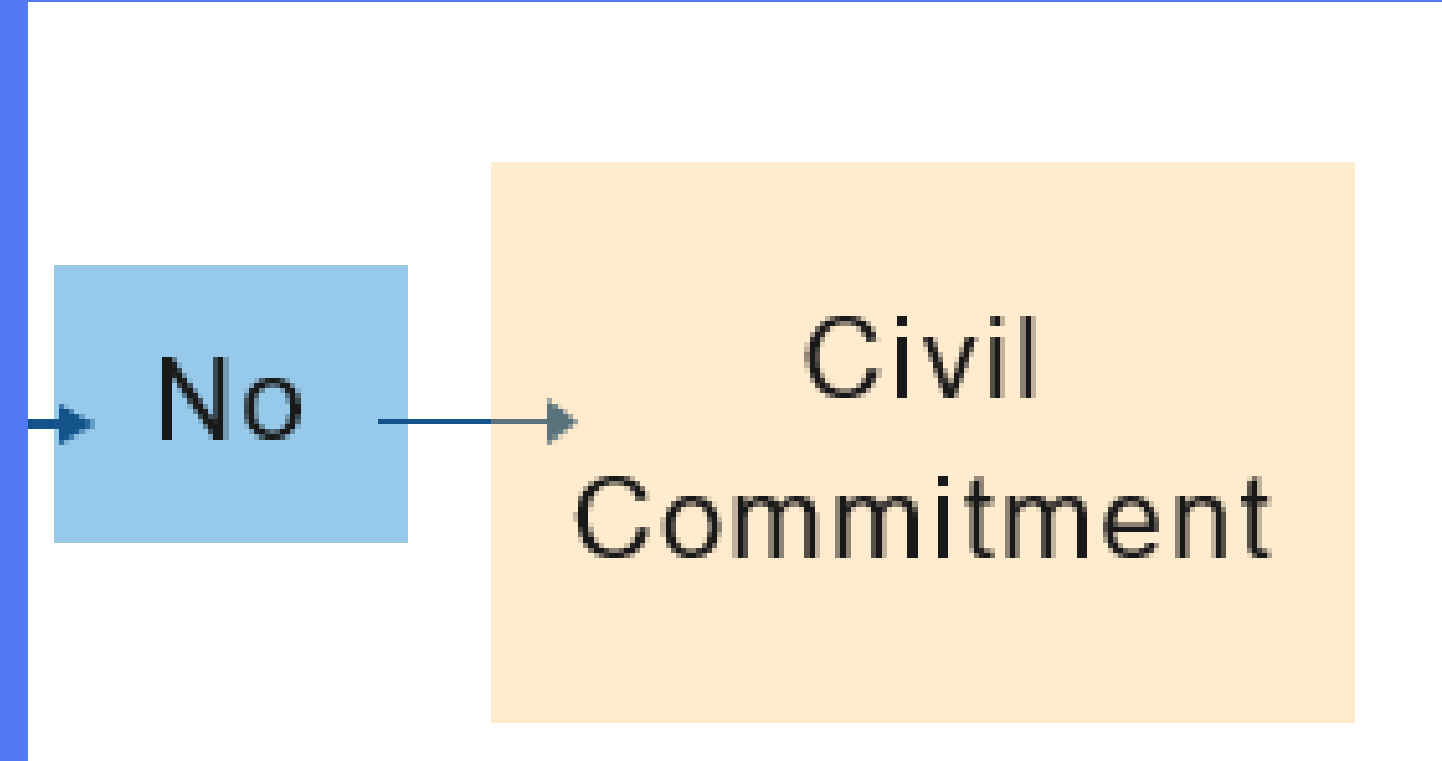
Step 6. In Opinion of Court, Is Neither Release for Voluntary Treatment nor Conditional Release in the Person's Best Interest?

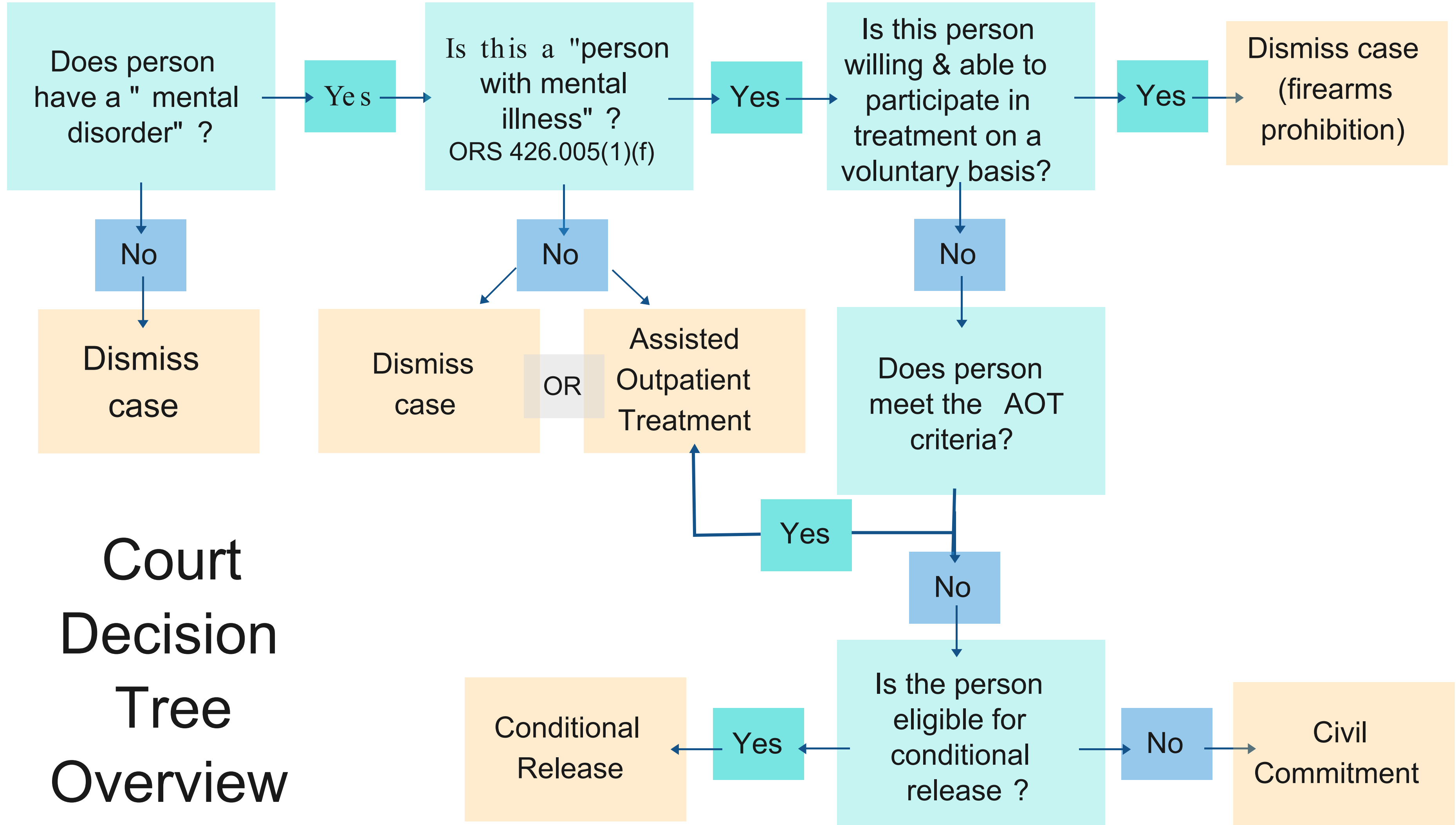
- If **yes**,
 - may **order commitment** of the person to **OHA** for treatment for a period of commitment **not to exceed 180 days**
 - must order person be **prohibited from purchasing or possessing a firearm** and notify person of that prohibition
 - **OHA** may place the committed person in **outpatient commitment**.



Discussion Section: Civil Commitment

How would individualizing the length of civil commitment impact treatment outcomes?





Court Decision Tree Overview

Break (5 minutes)



Topic 2: Re-imagining Oregon's assisted outpatient treatment (AOT)

Be thinking about:

- Who AOT should serve
- AOT's intended outcomes
- How to make AOT an effective tool



AOT Overview

Unlike other states, AOT in Oregon is different than outpatient commitment. It also does not include taking the person into custody or involuntary medication.

	AOT (OR)	Outpatient Commitment (OR)
Criteria	Has a “mental disorder,” and will likely meet commitment criteria in the future without treatment	Meets criteria for civil commitment
Treatment	Involuntary	Involuntary
Oversight	Court	Oregon Health Authority
Court enforcement	No	Yes
Confinement	No	No
Commitment	No	Yes

Treatment Advocacy Center guidelines for AOT

- **Identify individuals** who appear persistently **non-adherent** with needed treatment and **meet criteria for state's AOT**;
- Ensure **mental health system** takes the initiative to **gather** the required **evidence** and **petition the court for AOT**, rather than rely on community members to do so
- **Safeguard** the **due process rights** of participants at all stages of AOT proceedings;
- Maintain clear lines of **communication between the court and the treatment team**, such that the court receives the clinical information it needs and the treatment team is able to leverage the court's powers as needed;

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Treatment Advocacy Center guidelines for AOT (*Continued*)

- Provide **evidence-based treatment** services focused on engagement and helping the participant maintain stability and safety in the community;
- Continually **evaluate** the appropriateness of the participant's **treatment plan** and make any needed adjustments;
- Employ **specific protocols** to when a participant falters **in maintaining treatment engagement**;
- **Evaluate** each AOT participant **at the end of the commitment period** to determine whether it is appropriate to seek renewal of the commitment or voluntary care;
- Ensure that **upon transitioning** out of the program, each **participant remains connected** to the treatment services they continue to need to maintain stability and safety.



AOT statutory requirements in Oregon

Under **ORS 426.133**, the **court** may issue an order requiring a person to participate in AOT if :

- The person is **18** or older,
- Has a **mental disorder**,
- Will **not obtain treatment** in community **voluntarily**,
- **Unable** to make an **informed decision** to seek/comply with treatment, *and*
- As a result of the above, is **incapable of surviving safely** in community without treatment and **requires treatment to prevent deterioration** that will “*predictably result*” in the person reaching **civil commitment criteria**

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AOT statutory requirements (Cont.)

Under **ORS 426.133(3)**, the court shall consider, but is not limited to considering, the following factors:

- Ability to access **finances** in order to get **food or medicine**
- Ability to obtain **treatment** for medical condition
- Ability to access necessary community **resources without assistance**
- Degree to which there are risks to the **person's safety**
- Likelihood that the person will **decompensate without immediate care** or treatment
- **Previous attempts** to inflict physical **injury** on self or others
- **History** of mental health **treatment** in the community
- Patterns of **past decompensation**
- Risk of **being victimized or harmed** by others
- Access to the **means to inflict harm** on self or others



Constituent Feedback: Sampling of Quotes

*How, if at all, could AOT be a more effective tool?
(through 5/10/23, 52 responses)*

Theme 1: Appropriate Funding and resources

- “First, **fund it adequately...**” – *Mothers of the Mentally Ill (MOMI) Constituent*
- “Better **resources in rural** communities.” – *Oregon Judicial Department Constituent*

Theme 2: Court involvement

- “This is a good tool however it **has no teeth**, there is no recourse for the court if a client does not follow through.” – *Oregon Health Authority Constituent*
- “With more **organization, oversight, and funding** for robust and consistent programming statewide. Training is needed for agencies and courts to understand how to use it effectively.” – *Workgroup Member*
- “Turn **AOTs into outpatient civil commitment**” – *Oregon Chiefs of Police Constituent*

Constituent Feedback: Sampling of Quotes

What should happen if someone is not participating in AOT, is not improving, and will likely soon meet the criteria for civil commitment without treatment? (through 5/10/23, 52 responses)

Theme 1: Support staff

- “Follow-up by a dedicated **case worker**, to minimize the chance of a person remaining in the shadows.” – *Accessed through website*
- “Have a **social worker** check in on the patient.” – *Disability Rights Oregon Constituent*
- “Integrating **contingency management** practices into AOT” – *Coordinated Care Organizations Constituent*
- “Possibly having a type of enforcement person...” – *MHAAO Constituent*

Theme 2: Transfer level of care

- “Then the person should be **committed to treatment.**” – *MOMI Constituent*
- “They should be **committed** or the statute should change to allow this” – *OSH Constituent*

Constituent Feedback: Sampling of Quotes

How can the behavioral health and legal systems work together to incentivize participation and promote recovery in AOT?

(through 5/10/23, 52 responses)

Theme 1: Resources and support

- *"The issue is **housing, income**, and other **social needs**.." – Oregon Health Authority Constituent*
- *"Set up required **care coordination teams**..." – Association of Oregon Community Mental Health Providers Constituent*
- *"MORE **TREATMENT FACILITIES!!**" – Workgroup Member*
- *"I think it would be more effective to have **family involvement**..." – Oregon Judicial Department Constituent*

Theme 2: Accountability for Participants

- *"**Accountability** for involved participants..." – Oregon State Sheriffs' Association Constituent*
- *"**Enforcement** ..." – Oregon Judicial Department Constituent*

Discussion Section: Purpose

- 1) What **population** should AOT serve?
- 2) Considering this population's needs, what should be the goals or **intended outcomes** of AOT?
- 3) How should Oregon **design** its AOT program to accomplish these intended outcome?



Discussion Section: Services

How can the legal and behavioral health systems work together to build out and incentivize community-based treatment services to support AOT?



Discussion Section: Oversight

What oversight and involvement should courts provide to ensure an individual ordered to AOT engages in services?



Discussion Section: Funding

- What needs to be done to ensure the appropriate funding for AOT?
- How might private versus public insurance coverage impact AOT coverage?



Discussion Section: Outcome measures

What information needs to be collected to determine whether AOT is meeting its intended purpose?



Discussion Section: Violations for AOT conditions

What actions should the court be authorized to take if the individual does not engage in AOT?



Discussion Section: Connection to services

How can AOT connect people to services and encourage participation upon completion of the program?



Discussion Section: AOTgeneral

Are there any other issues about assisted outpatient treatment we should discuss?



Upcoming Meetings



- Next Meeting:
June 16, 9:00 am – 12:00 pm

Homework



- All workgroup members to distribute May 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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