

**Decision** making

# Mental Health Commitments & Agency Decision Making

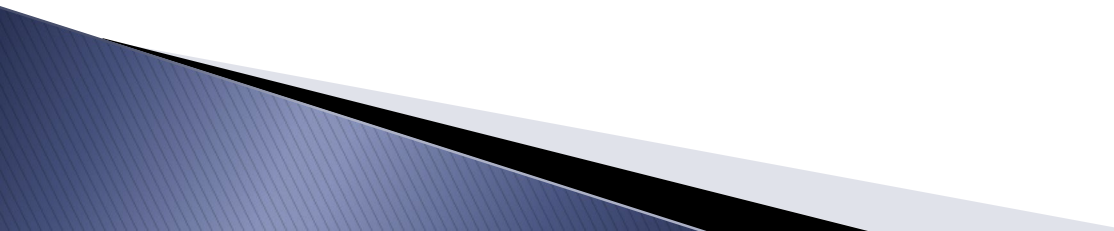
- ▶ **Lakshmi Reddy**, Judge
- ▶ Vigo County Superior Court 2

More often than not, the only thing separating the mentally ill from the people who care for them is a name badge and the ability to leave the psych ward after their shift.



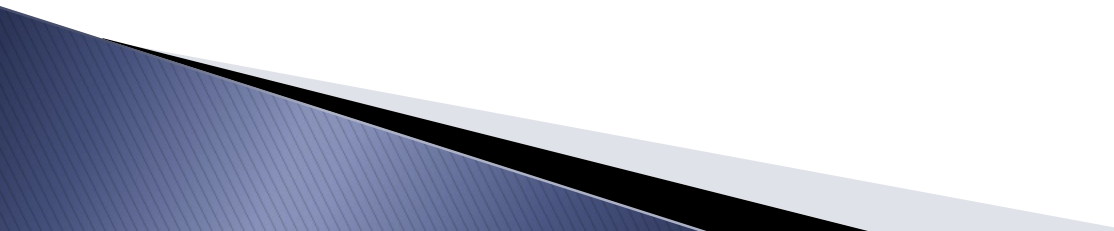
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# Learning Objectives

- ▶ Difference between an Immediate Detention; an Emergency Detention; and a Temporary/Regular Commitment.
  - ▶ Testimony required from a physician for a civil mental health commitment.
  - ▶ How judges make their decisions.
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# IMMEDIATE DETENTION

I.C. § 12-26-4-1. Provides a law enforcement officer authority to transport an individual to a facility to be held for up to **24 hours** if there is reasonable grounds to believe that an individual is **mentally ill, dangerous or gravely disabled**.



# **I.C. 12-7-2-130 Mental Illness**

"Mental illness" means the following:

(1) For purposes of IC § ...12-26, a psychiatric disorder that:

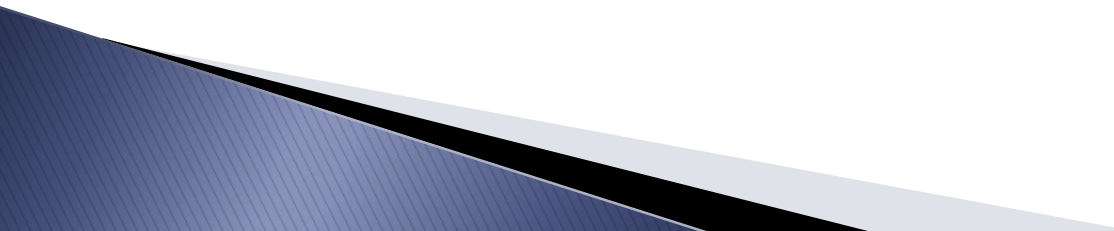
(A) substantially disturbs an individual's thinking, feeling, or behavior; and

(B) impairs the individual's ability to function.

The term includes intellectual disability, alcoholism, and addiction to narcotics or dangerous drugs.

## **I.C. 12-7-2-53 Dangerous**

"Dangerous", for purposes of IC § 12-26, means a condition in which an individual as a result of mental illness, presents a substantial risk that the individual will harm the individual or others.



# I.C. 12-7-2-96 Gravely Disabled

"Gravely disabled", for purposes of IC 12-26, means a condition in which an individual, as a result of mental illness, is in danger of coming to harm because the individual:

(1) is **unable to provide** for that individual's food, clothing, shelter, or other essential human needs; or

(2) has a substantial impairment or an obvious deterioration of that individual's judgment, reasoning, or behavior that results in the individual's **inability to function independently**.

(emphasis added)

# I.C. § 12-26-5

## Emergency Detention

Sec. 1. (a) An individual may be detained in a facility for not more than seventy-two (72) hours under this chapter, excluding Saturdays, Sundays, and legal holidays, if a written application for detention is filed with the facility. The individual may not be detained in a state institution unless the detention is instituted by the state institution.

(b) An application under subsection (a) must contain both of the following:

- (1) A statement of the applicant's belief that the individual is:
  - (A) mentally ill and either dangerous or gravely disabled; and
  - (B) in need of immediate restraint.
- (2) A statement by at least one (1) physician that, based on:
  - (A) an examination; or
  - (B) information given the physician;the individual may be mentally ill and either dangerous or gravely disabled.



# Involuntary Civil Commitment

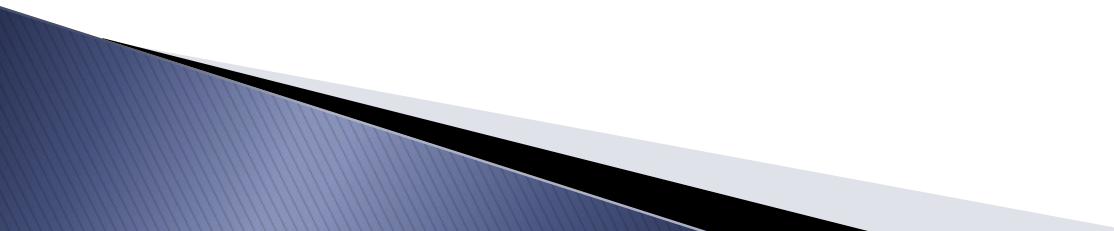
- IC § 12-26-6 **Temporary Commitment**

90 days or less

- IC § 12-26-7 **Regular Commitment**

Indefinite in length, but reviewed annually

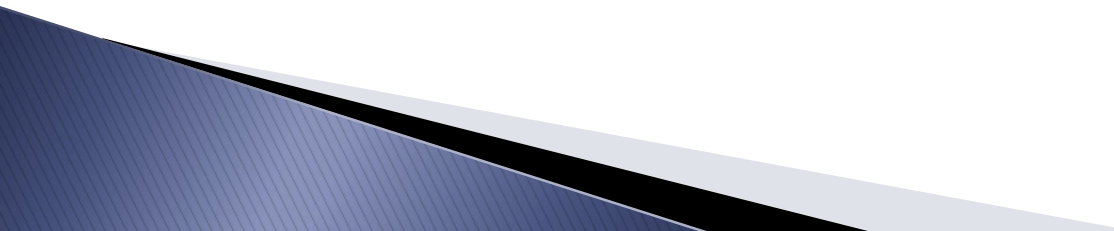
# Commitment Hearing

- ▶ Doctor Qualifications
  - ▶ Doctor's Diagnosis of mental illness
  - ▶ Doctor's testimony of whether patient is a danger to self/others or gravely disabled
  - ▶ Treatment course and medications prescribed
  - ▶ Prognosis
  - ▶ Least Restrictive Environment
  - ▶ Patient's Testimony
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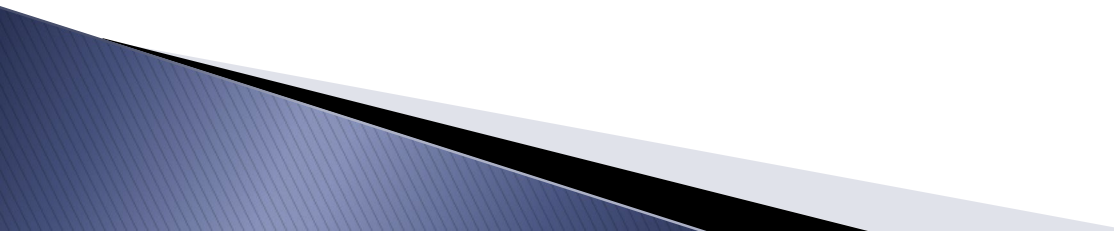
# 1<sup>st</sup> Case Study

- ▶ 15 year old female attempts suicide and parents bring her to a mental health facility for evaluation and she is placed on an ED—72 hour hold per judge's order
- ▶ Facility then files for a temporary commitment for up to 90 days; hearing scheduled
- ▶ Psychiatrist testifies that 15 year old girl is pregnant and depressed after breaking up with her 17 year old boyfriend. Parents did not know she was pregnant until the hospitalization.

# 1<sup>st</sup> Case Study

- ▶ Psychiatrist recommends 90 day commitment to a residential facility located 3 hours away because 15 year old is suffering from severe depression and is a danger to herself and the unborn baby.
  - ▶ Parents object to the commitment and testify they can get treatment at home and take care of daughter.
  - ▶ What's the Judge to do?
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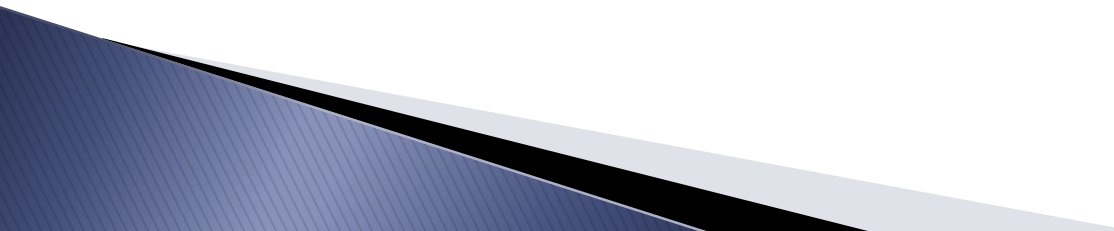
# 1<sup>st</sup> Case Study– Poll Question

- ▶ **How should the Judge proceed?**
  - ▶ (a) Grant the Petition for Commitment
  - ▶ (b) Deny the Petition for Commitment
  - ▶ (c) Need more info on presentation of parents (i.e. appearance, parenting skills, credibility, criminal history)
  - ▶ (d) Depends on the testimony of the 15 year old patient
  - ▶ (e) Some other course of action
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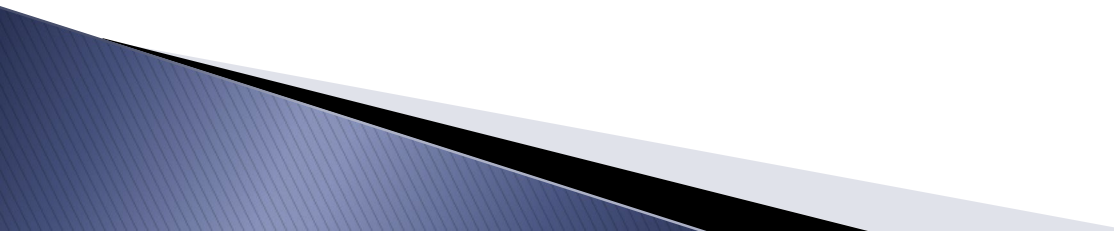
## 2<sup>nd</sup> Case Study

- ▶ 17 year old female brought to hospital by parents after attempted suicide for evaluation.
- ▶ Patient kept on an ED for 72 hours per judge's order and then hospital files for temporary commitment. Patient turns 18 and parents obtain a legal guardianship and an order permitting them to transfer daughter to an in-patient facility to provide treatment

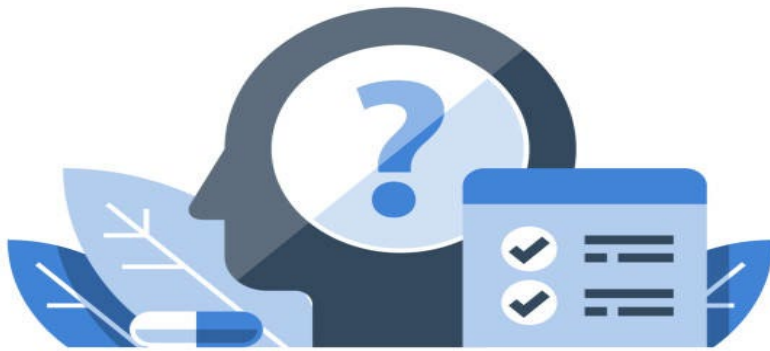
## 2<sup>nd</sup> Case Study

- ▶ Hospital requesting commitment only has locum tenens psychiatrists (i.e. new physician every 3 days).
  - ▶ At commitment hearing, psychiatrist testifies that patient is gravely disabled and possibly danger to self. She is now comatose. Mother testifies that hospital made her worse as she was not comatose when she arrived and wants her discharged.
  - ▶ Mother files her guardianship papers and court order to transfer her.
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## 2<sup>nd</sup> Case Study

- ▶ Mother pleads that daughter needs to return home so she can finish her senior year of high school and graduate
  - ▶ Additional relevant facts
  - ▶ Follow-up hearings
  - ▶ Non-legal takeaway: the mind is fragile and there is only so much trauma that one can endure in a short span.
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