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| Statement of Rights  Court Secure Treatment Order |
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| Help with this document  * Your treating team must help you understand this information. * You can get help from a family member, friend, or advocate. * See the ‘Get Help’ section of this sheet for contact details of organisations that can help. * This document has been translated into community languages available at www.[health.vic.gov.au](https://www.health.vic.gov.au/mental-health-and-wellbeing-act). * A blue sign with white figures    Description automatically generated with low confidenceFor help in your language contact the Translating and Interpreting Service on 131 450.  What are court secure treatment orders? A court secure treatment order can only be made after you are found guilty or plead guilty to an offence. An order means you will be given treatment even if you don’t want it. Treatment can be medication such as tablets or injections.  The Court can make the order if they think all of the following apply:   1. If you did not have a mental illness, you would be sentenced to imprisonment; 2. The court has considered your personal circumstances including any current mental health conditions; 3. You have been examined by a psychiatrist who has provided a report to the court stating that they think that you meet the criteria for a court secure treatment order under the *Sentencing Act 1991*; 4. The proposed designated mental health service has provided a report to the court which:    * + confirms that it is supportive of the making of the court secure treatment order; and      + it has the appropriate services and facilities available to detain and treat.   The criteria for making a court secure treatment order under the *Sentencing Act 1991* are:   1. You have a mental illness; and 2. Because of this mental illness you need immediate treatment to prevent:    * + Serious harm to you or another person; or      + Serious deterioration (or decrease) of your mental or physical health; and 3. The proposed treatment will be given to you if you are put on a court secure treatment order; and 4. There is no less restrictive way, reasonably available, for you to get treatment.   Least restrictive means you need to be given as much freedom as you can, based on your individual circumstances.  You will be given a copy of your order. How long is the order? Your order will say how long it is. Your order can’t be longer than your sentence.  The Mental Health Tribunal will hold a hearing within 28 days of you arriving at hospital to decide whether you continue to be on an order or not. They will hold a hearing at least every six months after that while you remain in hospital. How do I get off the order? Compulsory mental health treatment is not allowed in prison. Your order will be cancelled if:   * Your sentence expires; * You are granted bail; * The court releases you from custody; * You have been released on parole; or * The Mental Health Tribunal or the psychiatrist cancels your order.   The psychiatrist can revoke (cancel) the order if they think you no longer meet all the relevant criteria to be on the order.  You have the right to apply to the Mental Health Tribunal for a hearing to revoke (cancel) the order at any time. You can apply by contacting them directly or asking your treating team for the form to fill out.  You can ask staff, a lawyer, or advocate for help to prepare for the hearing. You have the right to:   * a copy of the report and to view the documents your treating team have given to the Mental Health Tribunal at least two business days before the hearing. Your psychiatrist can ask the Mental Health Tribunal to stop you reading the report or documents if it could cause serious harm to yourself or someone else; * provide your own statement or evidence; and * request a statement of reasons for the Mental Health Tribunal’s decision within 20 business days of your hearing.   If the Mental Health Tribunal cancels your order, you will be sent to prison if you’re still required to be there. If they don’t cancel it, you will stay in hospital.  Any time you have spent in hospital will be deducted from your sentence. Can I be sent back to hospital? If you have been sent back to prison, it is possible to be sent back to the hospital again in future. This can only happen if a psychiatrist has assessed you and thinks you meet the criteria for a court secure treatment order. The Department of Justice and Community Safety must make a new order each time you are moved from prison and hospital. Your rights People on an order have rights. You have the right to least restrictive assessment and treatment This means compulsory assessment and treatment should be given in a way that gives you as much freedom and choice as possible. What you want, your recovery goals and available alternatives should be considered. What is restrictive for one person might not be restrictive for someone else. You have the right to be asked to give informed consent for treatment Even if you are receiving compulsory treatment, your psychiatrist should still check if you can give informed consent to treatment.  Giving informed consent means that you have understood and considered the information you need to make a decision about receiving treatment.  You can only give informed consent if you have capacity to do so. Your psychiatrist should start by assuming that you do have capacity.  You will have capacity to give informed consent to a particular treatment if you can:   * understand the information you’re given about that treatment; * remember that information; * use or weigh that information; and * communicate your decision   If you are on an order and your psychiatrist thinks you have capacity, they can still give you compulsory treatment but only if they think it’s:   * clinically appropriate; and * the least restrictive option.  You have the right to information Your treating team must explain the reasons you are on an order. They must give you information about your:   * assessment; * proposed treatment; * alternatives; and * rights.   Information can be in writing or spoken, and in your preferred language. They must give clear answers to your questions. Information should be given at a time that’s right for you to consider it. You have the right to support You can choose someone to help you, including someone who speaks your language. Your team must help you contact a support person.  The psychiatrist must notify, and can consider, input from people at certain points in your assessment and treatment. This can include your:   * nominated support person; * mental health advocate; * guardian; * carer; or * parent (if under 16).   You can tell your treating team if there’s somebody you don’t want them to contact. Sometimes your information might be legally shared when you don't want it to be. You have the right to help with making decisions You can choose someone to help you with decisions.  Even if you’re receiving compulsory treatment, your treating team must give you information about your options. They must give you enough information and time to make decisions and answer your questions in a way you understand. They should allow you to make decisions, even if they think there’s some risk. You have the right to feel safe and respected Compulsory assessment and treatment should be provided in a way that respects and protects your individual needs and identity. This can include your culture, communication needs, age, disability, gender identity, religion, and sexual orientation. Your other health needs should be recognised and supported. Your dignity, autonomy, and rights should be upheld. You have rights if you are a First Nations person First Nations people should have their unique culture and identity respected.  You have the right to assessment and treatment that promotes your self-determination.  Your connection to family, kin, community, country, and water should be respected.  You can get help from the:   * Aboriginal Liaison Officer at your mental health service. * Victorian Aboriginal Legal Service.  You have the right to help with communication Your treating team must respect and support how you communicate. This includes:   * using an interpreter if you want one; * communicating in the best possible environment for you; and * providing spaces for you to speak with family, carers, support people, or advocates.   When in hospital, your right to communicate with anyone may be restricted if necessary for safety. But you can’t be restricted from contacting:   * a lawyer; * the Mental Health and Wellbeing Commission; * the Mental Health Tribunal; * the Chief Psychiatrist; * your mental health advocate; or * the Office of the Public Advocate community visitor.  You have rights if restrictive interventions are used Restrictive interventions that can be used if you are in hospital are:   * **Seclusion:** when kept by yourself in a room. * **Bodily restraint:** when physically prevented from moving your body. * **Chemical restraint**: when given a medication to stop you moving your body.   They can only be used if it’s the least restrictive option and are necessary to prevent serious and imminent harm, except:   * Bodily restraint can be used to give you treatment for mental illness or a medical condition; and * Chemical restraint can be used to transport you to hospital.   When restrictive interventions are used you must:   * have access to things you need to uphold your basic human rights. This can include things like food, water, bedding, clothing, and being able to use the toilet and wash; and * be checked on regularly by medical or nursing staff.   Restrictive interventions must be stopped when no longer necessary, and their use must be documented. The psychiatrist must offer you time to discuss what happened afterwards. You have the right to advocacy support You can contact Independent Mental Health Advocacy (IMHA) for independent and free advocacy support at any time. They can help you know your rights and have your say.  IMHA is notified automatically when you’re received at a mental health service and will contact you unless you’ve told them not to. You have the right to legal advice You have the right to communicate with a lawyer to seek legal assistance about mental health or other legal issues. There are free legal services you can contact. You have the right request leave You can temporarily leave the hospital with a "leave of absence" granted by your psychiatrist.  Leave can be granted for:   * 7 days for medical treatment; or * 24 hours for any other purpose the psychiatrist is satisfied is appropriate.   The psychiatrist can grant you leave if they decide that doing so will not seriously endanger the health and safety of yourself or another person. The psychiatrist can also place conditions on your leave. For example, that your leave be accompanied or that you don’t visit certain places. You have the right to a second psychiatric opinion This assesses if:   * you meet the treatment criteria; and * your treatment needs to change.   To get a second opinion, you can:   * use the Second Psychiatric Opinion Service which is free and independent; * ask staff for another psychiatrist within your service; or * contact a private psychiatrist. They may bulk bill or require payment.  You have the right to make an advance statement of preferences This is a document you can make that explains what you want to happen if you receive compulsory assessment or treatment. It can include what kinds of treatment, support or care you want. You can make one at any time.  The mental health service must try to do what’s in your statement, but they are not legally bound to do so. If they don’t follow a preferred treatment, they must tell you why in writing within 10 business days.  Your advance statement of preferences is only valid whilst you are at the mental health service, it does not apply if you are returned to prison. You have the right to choose a nominated support person This is a person you formally choose to support and advocate for you if you receive compulsory assessment or treatment. They must advocate for what you say you want, not what they want. The mental health service must help them support you and inform them about your treatment. You have the right to make a complaint You can complain directly to your service or to the Mental Health and Wellbeing Commission (MHWC). You have the right to access your information and request changes You can submit a Freedom of Information request directly to the public mental health service.  You can ask for corrections to your health information. If the mental health service denies your request, you can create a health information statement that explains the changes you want. This must be included in your file. |

# Get help

Services you can contact for help using your rights

| Service | Details | Contact details |
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| Independent Mental Health Advocacy | Independent advocacy service | 1300 947 820  [www.imha.vic.gov.au](http://www.imha.vic.gov.au) |
| Victoria Legal Aid | Free legal assistance | 1300 792 387  [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au) |
| Mental Health Legal Centre | Free legal assistance | 9629 4422  [www.mhlc.org.au](http://www.mhlc.org.au) |
| Victorian Aboriginal Legal Service | Free legal assistance for Aboriginal and Torres Strait Islander peoples | 9418 5920  [www.vals.org.au](http://www.vals.org.au) |
| Community Visitors | Visit mental health services | 1300 309 337  [www.publicadvocate.vic.gov.au/opa-volunteers/community-visitors](http://www.publicadvocate.vic.gov.au/opa-volunteers/community-visitors) |
| Mental Health and Wellbeing Commission | Independent complaints service | 1800 246 054  [www.mhwc.vic.gov.au](http://www.mhwc.vic.gov.au) |
| Mental Health Tribunal | Makes and reviews treatment orders | 1800 242 703  [www.mht.vic.gov.au](http://www.mht.vic.gov.au) |

# Find out more

* Mental Health and Wellbeing Act 2022

[www.legislation.vic.gov.au/as-made/acts/mental-health-and-wellbeing-act-2022](http://www.legislation.vic.gov.au/as-made/acts/mental-health-and-wellbeing-act-2022)

* Office of the Chief Psychiatrist guidelines   
  [www.health.vic.gov.au/chief-psychiatrist/chief-psychiatrist-guidelines](http://www.health.vic.gov.au/chief-psychiatrist/chief-psychiatrist-guidelines)
* Victoria Legal Aid website  
  [www.legalaid.vic.gov.au/mental-health-and-your-rights](http://www.legalaid.vic.gov.au/mental-health-and-your-rights)
* Mental Health and Wellbeing Act handbook

[www.health.vic.gov.au/mental-health-and-wellbeing-act-handbook](http://www.health.vic.gov.au/mental-health-and-wellbeing-act-handbook)

* Victorian Charter of Human Rights and Responsibilities   
  [www.legislation.vic.gov.au/in-force/acts/charter-human-rights-and-responsibilities-act-2006/015](http://www.legislation.vic.gov.au/in-force/acts/charter-human-rights-and-responsibilities-act-2006/015)
* Independent Mental health Advocacy know your rights information

[www.imha.vic.gov.au/know-your-rights](http://www.imha.vic.gov.au/know-your-rights)

* Victorian Department of Health Statement of Rights

<https://www.health.vic.gov.au/mental-health-and-wellbeing-act-handbook/statement-of-rights>



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