

**PURPOSE**

To ensure hospitals are compliant with the William Van Regenmorter Crime Victim's Rights Act (CVRA).

**DEFINITIONS****Assisted Outpatient Treatment (AOT)**

Services ordered by a probate court under §468 or 469a of the Michigan Mental Health Code (MMHC). Assisted outpatient treatment may include a case management plan and case management services to provide care coordination under the supervision of a psychiatrist and developed in accordance with person-centered planning under §712 of the MMHC. This definition also may include one or more of the following:

- Medication.
- Periodic blood tests or urinalysis to determine compliance with prescribed medications.
- Individual or group therapy.
- Day or partial day programming activities.
- Vocational, educational, or self-help training or activities.
- Assertive community treatment team services.
- Alcohol or substance use disorder treatment and counseling and periodic tests for the presence of alcohol or illegal drugs for an individual with a history of alcohol abuse or substance use disorder.
- Supervision of living arrangements, and
- Any other services within a local or unified services plan developed under the MMHC that are prescribed to treat the individual's mental illness and to assist the individual in living and functioning in the community or to attempt to prevent a relapse or deterioration that may reasonably be predicted to result in suicide, the need for hospitalization, or serious violent behavior.

The medical review and direction included in AOT must be provided under the supervision of a psychiatrist.

**Crime**

A violation of Michigan law for which the offender, if convicted, may be punished by imprisonment of more than one year or an offense expressly designated as a felony.

**Crime Victim Notification (CVN) Form**

A document provided to a victim by the prosecuting attorney when a defendant is ordered to be admitted to a hospital or facility. The victim may submit the form to receive notices provided for in the CVRA, including notices of defendant's residential transfer, discharge, escape, or death.

**Defendant**

Per the CVRA, a person charged with, convicted of, or found not guilty by reason of insanity (NGRI) of committing a crime against a victim. As such, the following State Hospital Administration (SHA) patient classifications must be considered defendants for CVN reporting purposes:

- Patients who have been adjudicated NGRI.
- Patients who are hospitalized on an Incompetent to Stand Trial (IST) treatment order.
- Patients who are hospitalized on an initial or continuing order for hospitalization after dismissal of felony charges under 1044 (1)(b) of the CVRA and whose charges have not been unconditionally dismissed (for example, the time for petitioning to refile charges under section 1044 of the CVRA has not elapsed).

**NOTE:** Patients who are hospitalized on an initial or continuing order for hospitalization after dismissal of felony charges under 1044 (1)(b) of the CVRA and whose charges have been unconditionally dismissed (i.e., the time for petitioning to refile charges under section 1044 of the CVRA has elapsed) are not considered defendants and do not meet reporting requirements.

**Escape**

When an individual who has been court-ordered for treatment departs a hospital or facility without authorization of the treatment provider.

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**Facility**

A licensed residential establishment that is either operated or contracted by the SOM to provide for the care or treatment of individuals with serious mental illness, serious emotional disturbance, or developmental disability under the authority of the MMHC.

**Hospital**

An inpatient program operated by the Michigan Department of Health and Human Services (MDHHS) for the treatment of individuals with serious mental or serious emotional disturbance.

**Incompetent to Stand Trial (IST)**

A legal status designated for a defendant to a criminal charge who, because of their mental condition, is determined incapable of understanding the nature and object of the proceedings against them or of assisting in their defense in a rational manner.

**Leave of Absence (LOA)**

A temporary leave from a hospital ordered by a physician for treatment or community engagement purposes that does not exceed one year. The NGRI committee will be notified of LOAs and evaluate and approve any non-medical LOAs that includes an overnight stay. Any LOA may require an NGRI committee evaluation and approval, if indicated in the person-centered planning individual plan of service and based upon the individualized treatment needs including appropriate risk mitigation strategies.

NOTE: A staff-supervised off-grounds medical or other type of appointment is not considered an LOA.

**Not Guilty by Reason of Insanity (NGRI)**

An affirmative defense to a prosecution of a criminal offense that the defendant was legally insane when they committed the acts constituting the offense. An individual is legally insane if, because of a mental illness as defined in §400 of the MMHC, or because of having an intellectual disability as defined in §100b of the MMHC, that person lacks substantial capacity either to appreciate the nature and quality or the wrongfulness of their conduct or to conform their conduct to the requirements of the law. Mental illness

or having an intellectual disability does not otherwise constitute a defense of legal insanity.

### **Prompt Actual Notice**

Notification to victim that is provided as soon as reasonably practical under the facts and the circumstances at the time and that is delivered in such a way as to give sufficient assurance that actual knowledge of the matter has been conveyed to the victim. Notice will be provided via certified mail. Notice provided via telephone contact must be followed by documentation provided via certified mail.

### **Prosecuting Attorney**

The prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, or a special prosecuting attorney. Per §13a of the CVRA, the prosecutor is responsible for providing a victim with a CVN form to request notifications.

### **Victim**

An individual who suffers direct or threatened physical, financial, or emotional harm because of a commission of a crime – or other relative, guardian or custodian of the victim as determined by prosecuting attorney consistent with §2 of the CVRA.

## **POLICY**

Hospitals and facilities will provide notification to victims as per CVRA statute. CVN forms submitted to a hospital or facility will be transferable across hospitals and facilities.

## **PROCEDURE**

1. SHA will provide CVN forms to state prosecutors to provide to victims when a defendant is ordered to undergo treatment at a hospital. Forms other than the SHA CVN form will be honored provided sufficient information is included on the form to enable a proper execution of the request.
2. All CVN forms completed by a prosecutor and a victim, and submitted by the victim to the Center for Forensic Psychiatry (CFP) or other state hospital or facility, must be reviewed by the hospital or facility to ensure it has been properly

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completed. For the victim to receive notification, a CVN form should contain the following information:

- Defendant's name and date of birth.
  - Defendant's legal status.
  - Court case number.
  - Prosecutor name, county, and telephone number.
  - Victim information, including telephone number and mailing address.
3. Upon receipt of a CVN form from a victim, the hospital or facility will conduct a reasonable review to determine if the defendant is a patient in treatment under SHA supervision. If the defendant is not recognized as a patient in treatment under SHA supervision, the victim must be provided written notification that the request was received but that it does not meet the definition of the CVRA and they should contact the prosecuting attorney for more information. In such cases, written notification to the prosecuting attorney must also be provided.
  4. Upon receipt of a completed CVN form for a defendant who is in treatment under SHA supervision, the hospital or facility will send by certified mail a confirmation notice to the victim confirming receipt of the CVN form.
  5. If a CVN form is lacking sufficient information to enable a proper execution of the request, the hospital or facility will take reasonable steps to obtain the requisite information. If the hospital or facility is unable to obtain the necessary information, the hospital or facility will send by certified mail a confirmation notice to the victim advising of the missing information and their inability to comply with the notification request until such information is provided.
  6. Upon receipt of a properly completed CVN form for a defendant known to be a patient in a hospital or facility other than the hospital or facility in receipt of the CVN form, the hospital or facility in receipt of the CVN form must:
    - Notify the victim of the location and contact information of the hospital or facility where the defendant is in treatment.
    - Forward the CVN form to the director of the respective hospital or facility supervising the defendant's treatment.

7. Upon receipt of a CVN form forwarded from another SHA hospital or facility, the hospital or facility will send notification by certified mail to the victim confirming receipt of the CVN form.
8. A hospital or facility in receipt of a CVN form for a defendant who no longer meets reporting requirements must send notification by certified mail to the victim of the change in reporting requirement and advise the victim to contact the prosecuting attorney for more information.
9. A CVN form submitted by a parent, guardian, or custodian of a victim when the victim was less than 18 years of age must remain in place even after the victim is no longer less than 18 years of age.
10. The director of the hospital or facility in which the defendant is physically present must be responsible for providing any notifications required under the CVRA. The hospital or facility where the defendant is physically present must:
  - Document and maintain record of all CVN forms regarding the defendant and associated correspondences, including all notifications, in a file separate from the defendant's clinical file.
  - Provide prompt actual notice to the victim of any pending LOA or discharge.
  - Provide immediate notice to victim and prosecuting attorney of an escape of the defendant. The notice must be given by any means reasonably calculated to give prompt actual notice.
11. A victim's address and telephone number must be kept confidential and maintained securely by the hospital or facility wherein the defendant is committed or under supervision and is exempt from disclosure under the Freedom of Information Act.

## REFERENCES

Michigan Mental Health Code, Public Act 258 of 1978, Michigan Compiled Law 330.2044, Dismissal of charge; filing same or other charges; examination of defendant as outpatient.

William Van Regenmorter Crime Victim's Rights Act, Public Act 87 of 1985.

**CONTACT**

For more information contact the State Hospital Administration.