



Does Kendra's Law Apply to Me?

WHAT IS KENDRA'S LAW?

Kendra's Law allows a judge to order **assisted outpatient treatment (AOT)** for certain people with mental illness who are able to live in the community and do not need to be hospitalized, but who may relapse and become violent or suicidal or require hospitalization without routine care and treatment. The need for AOT **must be proven at a hearing in court before a judge.**

NOTE: You may be asked to sign a **diversion agreement** to submit **VOLUNTARILY** to treatment **WITHOUT a hearing.** You are **NEVER** required to sign a treatment agreement; before anyone can order you to submit to outpatient treatment, you have the right to a hearing before a judge. Before you sign, you have the **right to consult a FREE lawyer from Mental Hygiene Legal Service (60 Madison Ave., 2nd Floor, New York, NY 10010, (212) 779-1734)** or your own lawyer.

WHEN DOES KENDRA'S LAW APPLY?

The judge must find by clear and convincing evidence that you meet **ALL** of these requirements, and must decide that ordering the proposed treatment is the **least restrictive alternative:**

1. You are an adult (at least 18 years old) **AND**
2. You have a mental illness **AND**
3. According to a doctor, you are unlikely to survive safely in the community without supervision, **AND**
4. You have a **history of not complying with treatment** that has either
 - a. led to 2 psychiatric hospitalizations in the last 3 years **OR**
 - b. resulted in violence or threats of serious violence toward yourself or others in the last 4 years**AND**
5. You are unlikely, as a result of the mental illness, to accept the treatment recommended in the treatment plan **AND**
6. You need AOT, in light of your treatment history **and** current behavior, in order to prevent a relapse or deterioration that would be likely to result in serious harm to you or to others **AND**
7. You are likely to benefit from AOT

If the judge believes that you will follow the treatment program WITHOUT an order, the judge should NOT order treatment.

WHO CAN ASK THE JUDGE TO ORDER YOU TO UNDERGO OUTPATIENT TREATMENT?

- your parent, spouse, adult child, or adult sister or brother **OR**
- any adult who lives with you **OR**
- the director of a hospital in which you are hospitalized **OR**
- the director of an organization, agency, or home where you live **and** receive mental health services **OR**
- a qualified psychiatrist who is treating you **or** supervising your treatment for mental illness **OR**
- the director of community services or social services official for your city or county **OR**
- your parole or probation officer

Whoever is asking the judge to order outpatient treatment for you must file papers including a sworn statement of a doctor who has either examined you or tried to examine you within the past 10 days.

Asking the judge to order treatment based on FALSE information about you is a crime.

WHAT HAPPENS AT THE HEARING?

You have the **RIGHT TO A LAWYER at all stages** of the proceeding. You can have a free lawyer from Mental Hygiene Legal Service or your own lawyer that you pay.

The judge will hear testimony about whether you should be ordered into treatment. The judge may decide to talk with you either in or out of court. If the judge has told you about the hearing and tried to get you to appear, but you do not go to the hearing, the judge can hold it without you.

The doctor who examined you must testify at the hearing. If you refused to be examined earlier, the judge may ask you to agree to be examined by a doctor. If you still refuse, the judge may **order** the police to bring you to a hospital for examination by a doctor. **You cannot be held more than 24 hours for this purpose.**

You have the right, with your lawyer's help, to present evidence, call witnesses, and cross-examine any adverse witnesses.

WHAT CAN I BE ORDERED TO DO?

The doctor who examined you has to give the judge a **written treatment plan** explaining what you will be ordered to do. The kinds of treatment the judge can order include medication, periodic blood or urine testing, therapy, day programs or groups, education, drug or alcohol treatment, and other things the judge finds are needed.

The doctor **MUST ALLOW** you, your own doctor, and, if you want, a relative, close friend, or other concerned individual to participate **ACTIVELY** in the development of the plan. If you have a **health care proxy**, the doctor must take any directions in it into account.

The judge's order will be for up to **six months** at first. It can be **extended** later for **one year at a time**, but you have the **right to a hearing** and to a **lawyer EACH TIME** it is extended, and for **any changes**.

WHAT IF I DISAGREE WITH THE JUDGE'S DECISION?

You or someone helping you can either ask the same judge to reconsider or modify the order or you can appeal it to a higher court. You should consult a lawyer **as soon as possible (Mental Hygiene Legal Service, 60 Madison Ave., 2nd Floor, New York, NY 10010, (212) 779-1734)**.

WHAT HAPPENS IF I DO NOT FOLLOW THE JUDGE'S ORDER?

If you do not follow the treatment plan in the judge's AOT order, a doctor can decide that you need to be taken into custody and brought to a hospital for observation. **You cannot be held more than 72 hours for observation.** After that, it is not automatic but the doctor may decide that you need involuntary hospitalization because you did not follow the treatment plan. In that case, you are entitled to all of the appropriate procedures for involuntary hospitalization under the New York Mental Hygiene Law.