

Public Security	Supreme People's Procuratorate	Supreme People's Court
Chapter 10, Section 4: Compulsory Treatment Procedures for Mentally Ill Persons not bearing criminal responsibility under law.	Section 4: Compulsory Treatment of Mentally Ill Persons not Bearing Criminal Responsibility under Law.	Chapter 23: Compulsory Treatment procedures for mentally ill persons not bearing criminal responsibility under Law
Article 331: Public security organs that discover a criminal suspect exhibiting violent conduct that endangers public safety or seriously endangers citizen's physical safety, and who might be a mentally ill person and not bear criminal responsibility under law, shall have him evaluated for mental illness.	Article 539: The People's Procuratorates shall submit a request for compulsory treatment to the people's courts for mentally ill persons who have been found through statutory procedures to not bear criminal responsibility, who exhibit violent conduct that endangers public safety or seriously endangers citizen's physical safety, where the threat to society has already reached the level of a crime and there is a possibility that they will continue to endanger society	Article 524: Compulsory treatment may be granted Compulsory treatment may be granted for mentally ill persons who have been found through statutory procedures to not bear criminal responsibility, who exhibit violent conduct that endangers public safety or seriously endangers citizen's physical safety, where the threat to society has already reached the level of a crime and there is a possibility that they will continue to endanger society.
	<p>Article 540: The prosecution department will handle the people's procuratorates' review of compulsory treatment opinions sent by the public security organs, requests to the people's courts for compulsory treatment and supervision of the compulsory treatment decision.</p> <p>Article 541: Requests for compulsory treatment will be submitted by the basic level people's procuratorate of the region where the subject of the application exhibited violent conduct; where it is more suitable for the people's procuratorate at the subject's place of residence to submit it, the base level court of the subject's residence may submit it.</p>	Article 525: In a case where the people's procuratorate applies to have a mentally ill person who does not lawfully bear criminal responsibility given compulsory treatment, the basic people's court at the place where the application's subject exhibited violent conduct has jurisdiction, if it is more suitable for the basic people's court at the place of the application's subject's residence to adjudicate, the basic court at the application's subjects residence may have jurisdiction.
	<p>Article 542: People's procuratorates submitting a request for compulsory treatment to a people's court shall draft a compulsory treatment application document. The compulsory treatment application document's primary contents include:</p> <ol style="list-style-type: none"> 1. The basic circumstances of the mentally ill person involved in the case, including full name, sex, birthdate, birthplace, residential registration, ID number, ethnicity, education level, profession, workplace and duties, address, the place and nature of temporary protective restraint measures; 2. Basic circumstances of the mentally ill person's legal representative including full name, address, contact information, etc. 3. The reason for and source of the case. 4. The facts of the mentally ill person's violent conduct that endangered public safety or seriously threatened citizen's physical safety, including circumstances such as the time, place, method, consequences and relevant evidence. 5. The basis for the mentally ill person not bearing criminal responsibility, including the relevant evaluation opinion and other evidence materials. 6. The possibility that the mentally ill person will continue to endanger society. 7. The reason and legal basis for requesting compulsory treatment. 	<p>Article 526: For applications for compulsory treatment raised by the people's procuratorates, the people's courts shall review the following content:</p> <ol style="list-style-type: none"> 1. Whether it is within that court's jurisdiction; 2. Whether the subject of the application's identity and any circumstance of the violent conduct such as the time, place, method, and any harm caused are clearly written and relevant evidentiary materials attached. 3. Whether a forensic medical examiner's examination opinion and other evidentiary materials proving that the application's subject is a mentally ill person lawfully not bearing criminal responsibility are attached. 4. Whether the subject of the application's legal representative's name, address and contact information are clearly listed. 5. Other matters that need to be reviewed.

<p>Article 332: For people evaluated under statutory procedures as not bearing criminal responsibility under law, who might continue to endanger society and meet the requirements for compulsory treatment, the public security organs shall write a compulsory treatment opinion within 7 days, and with the permission of the county level public security organ, send it to the procuratorate of the same level, along with relevant evidentiary materials and the evaluation opinion.</p>	<p>Article 543: People's Procuratorates reviewing compulsory treatment opinions sent by the public security organs shall verify:</p> <ol style="list-style-type: none"> 1. whether it with the office's jurisdiction 2. whether the identity of the mentally ill person clear, including the full name, sex, nationality, birthdate, profession and workplace. 3. The facts of the mentally ill person's violent conduct that endangered public safety or seriously endangered citizens' physical safety. 4. Whether the procedures that the public security organ undertook in evaluating the mentally ill person were lawful, and whether or not the mentally ill person bears criminal responsibility under law. 5. Whether there is a possibility that the mentally ill person will continue to endanger society 6. Whether the evidentiary materials were delivered along with the case, or whether lists, copies, pictures or other evidentiary documents were sent along with the case for evidence that is not easy to send. 7. Whether the evidence reliable and sufficient. 8. Whether temporary protective restraining measures were appropriate. 	<p>Article 527: For applications for compulsory treatment raised by the people's procuratorates, the people's court shall complete its review within 7 days and handle the matter according to distinct situations listed below:</p> <ol style="list-style-type: none"> 1. Not within the court's jurisdiction, shall be returned to the people's procuratorate; 2. Materials are incomplete, shall notify the people's procuratorate to supplement within 3 days; 3. Within the scope for accepting cases on compulsory treatment procedures and within the court's jurisdiction, the materials are complete, the case should be accepted.
	<p>Article 544: People's Procuratorates shall issue a decision as to whether or not to submit a request for compulsory treatment within 30 days of receiving the public security's compulsory treatment opinion.</p> <p>If it is found after review of a public security organ's compulsory treatment opinion that it does not meet the requirements of article 284 of the Criminal Procedure Law, a decision shall be issued not to submit a request for compulsory treatment and a written explanation of the reason will be sent to the public security organ; on a finding that evidence needs to be supplemented, a written request to supplement the relevant evidence shall be made of the public security organ, and if necessary, [the procuratorate] may perform an investigation itself.</p> <p>Time taken by the public security organ to supplement evidence is not calculated into time limits for the people's procuratorate to handle the case.</p>	<p>Article 528: When trying a compulsory treatment case, the subject of the application or the defendant's legal representative shall be notified to appear. If the subject of the application or defendant have not appointed a legal representative, a legal aid organization shall be contacted to appoint a lawyer to serve as his legal representative and to provide him with legal assistance.</p>
	<p>Article 545: People's procuratorates that discover public security organs should initiate compulsory treatment procedures but have not may request the public security organ explain the reason for not initiating the procedures in writing and within 7 days.</p> <p>If after review it is found that the public security organ's reason for not initiating is not sustained, the public security organ shall be informed to initiate the procedures.</p>	<p>Article 529: When trying a compulsory treatment case, a collegial panel shall be formed for trial in open court. However, if the subject of the application's or defendant's legal representative requests that the case not be tried in open court and the court reviews and consents, this shall be an exception.</p> <p>When trying cases where the people's procuratorate has requested compulsory treatment, a meeting shall be had with the subject of the application.</p>
<p>Article 333: Before the court makes a decision on compulsory treatment, the public security organs may adopt temporary protective restraint measures against mentally ill persons exhibiting</p>	<p>Article 546: People's procuratorates discovering that a public security organ used evaluation procedures on a mentally ill person that are contrary to law or adopted inappropriate temporary</p>	<p>Article 530: When opening court to hear a case of an application for compulsory treatment, the following procedures should be followed:</p>



<p>violent behavior, with the permission of a county level or above public security organ. If necessary, they may be sent to a psychiatric hospital for treatment.</p>	<p>protective restraining measures, shall submit a corrective opinion.</p> <p>Where public security organs should adopt temporary protective restraint measures but have not done so, the people's procuratorate shall suggest that the public security organ adopt temporary protective restraint measures.</p>	<ol style="list-style-type: none"> 1. After the chief judge announces that the in-court investigation has begun, the procurator will first read the application, then the subject of the application's legal representative or litigation agent will make comments 2. The court will sequentially inquire into the issues of whether the subject of the application has exhibited violent conduct that endangered public security or seriously harmed individual's physical safety, whether he is a mentally ill person who does not lawfully bear criminal responsibility, whether there is a possibility that the danger to society continuing. When making the inquiry, the procurator will first present relevant evidence, then the subject of the application's litigation agent will make comments, present evidence and challenge evidence. 3. During the courtroom debate, the procurator speaks first, then the subject of the application's legal representative or litigation agent will speak and debate. <p>If the subject of the application requests to appear in court, and the people's court, having reviewed his physical and mental condition, feels he may appear in court, it shall give approval. When appearing in court, the subject of the application may make comments during the courtroom investigation and debate phases.</p> <p>After the procurator has read the application, if the subject of the application's legal representative or litigation agent has no objections, the courtroom investigation may be simplified</p>
<p>Article 334: When adopting temporary restraint measures, the mentally ill person will be placed under strict watch, and attention will be paid to the means, method and degree or restraint, to avoid and prevent injury to the safety of the mentally ill person and others to the greatest extent possible.</p> <p>If there is no longer a chance that the mentally ill person will endanger society, and removal of the restraints will not threaten society, the public security organs should immediately remove the protective restraint measures.</p>	<p>Article 547: People's procuratorates discovering that the temporary protective restraint measures adopted by a public security organ against a mentally ill person include conditions such as physical punishment or mistreatment shall submit corrective comments.</p> <p>The prison inspection department will do the work provided for in the preceding paragraph.</p>	<p>Article 531: In cases of an application for compulsory treatment, the people's court, after trial, shall handle the matter according to the distinct situations listed below:</p> <ol style="list-style-type: none"> 1. Meets the requirements for compulsory treatment set forth in Article 184 of the Criminal Procedure Law, a decision shall be made for compulsory treatment of the subject of the application. 2. The subject of the application is a mentally ill person not bearing criminal responsibility under law, but not meeting the standards for compulsory treatment, it shall be decided that the application for compulsory treatment be rejected; where the subject of the application has already caused harmful consequences, his family or guardian shall be ordered to closely look after him and treat him. <p>The subject of the application has full or partial capacity for criminal responsibility, criminal responsibility should be pursued in accordance with law, a decision shall be made to reject the application for compulsory treatment and return the case to the people's procuratorate to handle the case according to law.</p>

	<p>Article 548: If during a review for indictment, the suspect is found after evaluation to not bear criminal responsibility under law, the people’s procuratorate shall issue a non-prosecution decision. If it is found to meet the requirements of article 284 of the Criminal Procedure Law, a request for compulsory treatment shall be made to the people’s court.</p>	
	<p>Article 549: In compulsory treatment cases where the people’s court will open court for a hearing, the people’s procuratorate shall send someone to attend court.</p>	<p>Article 532: If a people’s court of first instance discovers during the course of trying a case that the defendant might meet the requirements for compulsory treatment, it shall follow the statutory procedures for carrying out a forensic medicine mental health psychiatric examination. Where, having been examined, the defendant is a mentally ill person not bearing criminal responsibility under law, the procedures for compulsory treatment should be used to carry out trial.</p> <p>When opening court for trial of a case described in the above section, first, a member of the collegial panel shall read the defendant’s forensic medicine psychiatric examination opinion, explain that the defendant might meet the requirements for compulsory treatment, and then, in succession, the prosecution and defendant’s legal representative or litigation agent will make comments. With the chief judge’s permission, the procurator and the defendant’s legal representative or litigation agent may debate.</p>  
		<p>Article 533: In cases provided for in the preceding article, after trial, the people’s court shall handle the case according to the following distinct circumstances:</p> <ol style="list-style-type: none"> 1. The defendant meets the requirements for compulsory therapy, judgment will be pronounced that the defendant lacks criminal responsibility and at the same time a decision will made for the defendant to receive compulsory treatment; 2. The defendant is a mentally ill person not bearing criminal responsibility under law, but does not meet the requirements for compulsory treatment, judgment shall be pronounced that the defendant does not bear criminal responsibility, if the defendant has already caused harmful consequences, his family or guardian shall be to carefully look after and treat him at the same time. 3. The defendant has full or partial capacity for criminal responsibility, and criminal responsibility should be pursued in accordance with law, trial should continue under ordinary procedures.
	<p>Article 550: People’s procuratorates discovering that a court or judicial personnel went against statutorily prescribed procedures in handling a compulsory treatment case shall issue a corrective opinion to the court.</p> <p>People’s procuratorates finding that a people’s court’s decision for, or rejectin , a compulsory treatment request was unjustified shall submit</p>	<p>Article 534: Where a people’s court in the course of hearing the second-instance trial of a criminal case discovers that a defendant might meet the requirements for compulsory treatment, it may handle the case according to the compulsory treatment procedures, it may also decide to return the case to the original trial court for a new judgment.</p>

	<p>a written corrective opinion to the court within 20 days of receiving the decision document.</p>	
	<p>Article 551: If the people’s court discovers that the defendant meets the requirement for compulsory treatment during the course of trial, and, after making a judgment that the defendant does not bear criminal responsibility, intends to issue a decision for compulsory treatment, the people’s procuratorate shall express its opinions during trial.</p>	<p>Article 535: People’s courts deciding on compulsory treatment shall, within 5 days of making a decision, deliver the compulsory treatment decision documents and notification of enforcement of compulsory treatment to the public security organs and the public security organs shall deliver the person decided subject to compulsory treatment to compulsory treatment.</p> 
	<p>Chapter 4 , Section 9 Oversight of the implementation of Compulsory Treatment.</p>	<p>Article 536: When the person that it is has been decided will receive compulsory treatment, the victim and his legal representative, or close relatives do not accept the verdict of compulsory treatment, they may appeal to the people’s court at the level above for reconsideration of the application within 5 days of when they received the decision document. During the reconsideration, enforcement of the decision for compulsory treatment is not stopped.</p> 
	<p>Article 661: The people’s procuratorates supervise whether the implementation of compulsory treatment is legal.</p> <p>The prison inspection department of the people’s procuratorate will carry out the supervision of compulsory treatment</p>	<p>Article 537: For requests to reconsider the decision to compel treatment, the people’s court at the level above shall form a collegial panel and , within one month, make a reconsideration opinion according to the distinct circumstances listed below:</p> <ol style="list-style-type: none"> 1. The person that it has been decided will receive compulsory treatment meet the requirement for compulsory treatment, the application for reconsideration shall be rejected and the original judgment maintained; 2. The person that it has been decided will receive compulsory treatment does not meet the requirements for compulsory treatment and the original verdict will be repealed. <p>The original trial violated statutory litigation procedures so that the fairness of the in adjudication may have been affected, the original judgment shall be annulled and returned to the original trial court for a new judgment.</p>
	<p>Article 662: People’s procuratorates oversee the delivery of persons for implementation of compulsory treatment. If unlawful conditions such as a failure by the transfer organ to make prompt delivery are discovered, a corrective opinion shall be submitted in accordance with law</p>	<p>Article 538: For judgments or decisions under article 533(1) of this interpretation, where a people’s procuratorate requests an appeal, and at the same time, the person who it has been decided will receive compulsory treatment, the victim and his legal representative, and close family members request reconsideration, the people’s court at the level above shall follow procedures for second-instance trials and handle the matters together.</p>  
	<p>Article 663: If during the course of overseeing compulsory treatment a peoples procuratorate discovers that a person receiving compulsory</p>	<p>Article 539: In cases of an application for compulsory treatment, where there is no provision in this chapter, refer to</p>

	<p>treatment does not meet the requirements for compulsory treatment or must be lawfully prosecuted for criminal responsibility, or the people's court's compulsory decision may have been in error, it shall , within 5 days and with the chief procurator's permission, send the relevant materials to the people's procuratorate at the same level as the court that made the compulsory treatment decision. The prosecution department of the people's procuratorate receiving the materials shall perform a review within 20 days and feedback the circumstances of the review and suggestions for handling it to the people's procuratorate supervising the compulsory treatment.</p>	<p>relevant provisions in the public prosecution ordinary first-instance and second instance procedures.</p>	
	<p>Treatment Establishment</p> 	<p>Article 664: People's procuratorates discovering one of the following conditions at a compulsory treatment institution shall issue a corrective opinion in accordance with law:</p> <ol style="list-style-type: none"> 1. Refusal to receive and treat a person subject to compulsory treatment who should be received for treatment. 2. Imperfect or incomplete legal documents for receipt and treatment or other procedures. 3. Failure to follow laws, administrative regulations and other rules to carry out treatment required by the person subject to compulsory treatment 4. Beating, physically punishing, and mistreating or covertly physically punishing and mistreating, or using restraints on or restraining the person subject to compulsory treatment or otherwise violating the person subject to compulsory treatment's rights. 5. Failure to diagnose and assess the person subject to compulsory treatment in the designated time period. 6. Failure to timely submit an opinion for terminating treatment to the people's court that made the compulsory treatment decision when a person under compulsory treatment does not need to continue the compulsory treatment. 7. Failure to timely review a request for termination of compulsory treatment submitted by the person subject to compulsory treatment, his legal representative or close relative; or failure to transfer it to the people's court that made the compulsory treatment decision. 8. Failure to immediately complete paper work for terminating compulsory treatment after a people's court issues a decision to end the compulsory treatment 9. Other illegal conditions <p>Reference Article 632 for oversight of unlawful conduct by compulsory treatment establishments.</p>	<p>Article 540: When a person subjected to compulsory treatment or his close family apply to remove the compulsory treatment, they shall make the request to the people's court that made that compulsory treatment decision.</p> <p>When person subjected to compulsory treatment's or his close family's request for removal of compulsory treatment is rejected by the people's court, if another application is made after six-months, the people's court shall accept the case.</p> 

		<p>Article 665: The people's procuratorate should accept the accusations, reports and appeals from the person subject to compulsory treatment, his close relatives or legal representative, and promptly review them. If the persons making the accusation, report or appeal requests to know of the outcome, the prison inspection department of the people's procuratorate shall report back the circumstances of the investigation in writing within 15 days.</p> <p>When the prison inspection department of the people's procuratorate is unpersuaded by an appeal from compulsory treatment and finds that the original decision was correct and the reason for appeal unjustified, it may directly inform the appellant of this result; if it finds that the original decision may have been incorrect and the re-examination is necessary, it shall transfer it for handling by the prosecution department of the people's procuratorate at the same level as the people's court that made the compulsory treatment decision.</p>	
			<p>Article 541: When compulsory treatment establishments put forward an opinion to remove compulsory treatment or the person subjected to involuntary treatment or his close family apply to remove compulsory treatment, the people's court shall review whether there is a diagnostic evaluation report of the person under compulsory treatment attached.</p> <p>When compulsory treatment establishments put forward an opinion to remove compulsory treatment and there is not a diagnostic evaluation report attached, the people's court shall request it be provided.</p> <p>Where the person subjected to compulsory treatment and his close relatives apply to a people's court to remove compulsory treatment, and the compulsory treatment establishment has not provided a diagnostic evaluation report, the applicant may apply to the people's court to obtain it. If necessary, the people's court may appoint an examination organ to perform an examination of the person under compulsory treatment.</p>
		<p>Article 666: After he prison inspection department of the people's procuratorate receives an application for termination of compulsory treatment from the person subject to compulsory treatment, his close relatives or legal representative, it shall promptly send it to the compulsory treatment establishment for review and oversee whether or not the compulsory treatment establishment promptly reviews and the legality of its handling.</p>	<p>Article 542: When compulsory treatment establishments submit an opinion to have compulsory treatment removed or the person subjected to compulsory treatment and his close family apply for removal of compulsory treatment, the people's court shall form a collegial panel to perform a review and, within one month, handle the matter according to the following distinct situations:</p> <ol style="list-style-type: none"> 1. Where the person under compulsory treatment is no longer dangerous and there is no need to continue compulsory treatment, a decision shall be made to remove compulsory treatment and the family of the person under compulsory treatment may be ordered to carefully watch over and treat him. 2. Where the person under compulsory treatment still remains dangerous, and there is a need to continue compulsory treatment, a decision shall be made to continue compulsory treatment. <p>Within five days of making a decision, people's courts shall</p>

			<p>deliver the decision to the compulsory treatment establishment, the person applying to remove compulsory treatment, the person under compulsory treatment, and the people's procuratorate. If the decision is to terminate compulsory treatment, the compulsory treatment establishment should be notified to cease compulsory treatment on the day they receive the decision.</p>
	<p>Article 667: People's procuratorates overseeing the enforcement of a people's court authorization to terminate compulsory treatment shall submit a corrective opinion to the court when it discovers that the court's decision may be improper.</p>	<p>Article 543: When the people's procuratorate feels that a compulsory treatment decision or a decision to cease compulsory treatment is incorrect, and submits a written correction opinion within 20 days of receiving the decision document, the people's court shall separately form a collegiate panel to try the matter and make a decision within one month.</p>	