

Annual Judicial Review: Process and Legal Aid's Role

- A person civilly committed to DAIL under Act 248 is entitled to judicial review annually and has a right to counsel. 18 V.S.A. §§ 8845(c), 8846
- DAIL conducts annual review, files a petition for Judicial review with the court with recommendation.
- Court appoints Vermont Legal Aid as counsel.
- At the client's direction, VLA may enter into an agreement to continue commitment until the next review; or may represent the client at a contested hearing on whether commitment should continue.

Act 248 Commitment Order

Typical conditions of commitment include:

Residence / Placement: Chosen by DAIL / treatment team.
Must allow inspection at all reasonable times.

Supervision: Usually 24-hour supervision. Some orders provide individual can only be unsupervised in bathroom and bedroom.
Some orders provide for alarms on residence.

Over time, if the program is progressing well, some orders provide for increased supervision-free periods if deemed safe and appropriate by treatment team.

Act 248 Commitment Order

- Must comply at all times with treatment plan, behavior plans, and therapy.
- Must take all medications physician and service providers determine are needed.
- Must attend all appointments scheduled with treatment providers.

Act 248 Commitment Order

- Shall not engage in behavior which poses a threat or danger to himself or to others.
- Shall not possess any weapons.
- Shall not have or use regulated drugs without a prescription.
- If applicable, shall not buy, have, or consume alcoholic beverages

Act 248 Commitment Order

- If the person elopes, any sheriff, deputy sheriff, constable or officer of state or local police, and any officer or employee of any designated hospital or designated program may ‘arrest’ them and return them to their placement. 18 V.S.A. § 7105.
- Nothing in the Act 248 order expands or limits law enforcement’s authority to arrest and charge the person with a crime.

Act 248 Commitment Order – Restrictions on Privacy

DAIL has authority to use reasonable measures to ensure the person's compliance with the program.

DAIL can:

- Get information from persons who may be aware of the person's behavior
- Get records and information from people who treat and supervise the person.
- Share information with others about the person's history and circumstances as necessary to ensure public safety.

Case Data 2018 - 2022

Number of Act 248 cases assigned to Vermont Legal Aid 2018-2022

Year	# of cases assigned
2018	13
2019	20
2020	7
2021	17
2022	14