



State of Minnesota
Office of the Ombudsman for Mental Health and Developmental Disabilities
Civil Commitment Training and Resource Center



Civil Commitment Process for the Mentally Ill and Dangerous Fact Sheet

[Minn. Stat. §§ 253B.07 – 253B.08, 253B.18, 253B.19](#)

1. The Pre-petition Screening

Any person may request that the county conduct an investigation into whether you should be committed. Before any petition is filed, a county prepetition screening team must review it. The screening team will gather information about your condition and decide whether they think you meet the requirements for commitment. This process must include:

- 1) personally interviewing you;
- 2) identifying and investigating the alleged behavior that justifies commitment;
- 3) identifying and exploring alternatives to commitment and explaining why they are being rejected; and
- 4) gathering other information related to taking medications, your capacity to consent, whether you have an advance directive, and effectiveness of past treatment.

The person who visits you from the screening team for the personal interview must identify him or herself and explain why s/he is talking to you. This person should not be the same person trying to commit you. No member of the pre-petition screening team is allowed to file a petition for civil commitment. This team may also ask questions of your family, hospital staff and others. The law allows the team to do this without your permission. It is always a good idea to write down the person's name and other information to help you remember it. They must also give you a notice explaining the process, your rights, the purpose of commitment and any legal effects of commitment.

If you do not have an interview with the pre-petition screening team but a commitment petition is filed, inform your attorney. When the pre-petition screening team recommends commitment, a written report will be sent to the county attorney. If the pre-petition screening team does not recommend commitment, the petitioner may ask the county attorney to proceed with the petition anyway.

2. Filing a Petition

Any person may file a petition for commitment. The petition may be filed in the district court in the county of financial responsibility. You have a right to see the petition that is filed.

3. Your Preliminary Hearing (Also called the “Probable Cause” hearing.)

After a commitment petition is filed, the court may order that you be placed on a “judicial hold.” (See: *Emergency Holds and Judicial Holds Fact Sheet*) You may already be on an emergency hold at this time, but the court may extend your confinement with the judicial hold. Within 72 hours of being placed on the judicial hold, a preliminary hearing must be held to determine whether the judicial hold should continue. The court must appoint an attorney to represent you. You may hire an attorney of your own if you can afford one. You have the right to meet with your court-appointed attorney prior to this hearing.

The court may continue the judicial hold if the court believes you may cause serious imminent physical harm to yourself or others if you are not confined. The court may also appoint a substitute decision-maker at the preliminary hearing to consent to neuroleptic medications if it determines you are unable to give informed consent.

Before the full commitment hearing, a doctor must give you an examination. The court will appoint the examiner. You also have a right to a second examination by a doctor of your choice. The county will pay for both examinations.

4. Your Commitment Hearing

Time and Place

The commitment hearing is held in a courtroom setting and follows formal court procedures in order to protect your rights. The hearing may be held at a hospital if allowed by local rule. The commitment hearing must be held within 14 days from when the petition was filed, but the hearing may be extended an additional 30 days for good cause. You can demand an immediate hearing to be held within five (5) business days, but the court may grant an extension of up to ten (10) additional days for good cause.

Rights

You have the right to attend the hearing, to testify and to present evidence, and witnesses on your behalf during the hearing. You should talk to your attorney regarding the best way to put a good case together. (See: ***Effective Representation in the Commitment Process Fact Sheet.***) You may choose not to attend the hearing. A court may exclude you if it feels you are seriously disruptive or incapable of comprehending or participating in the proceeding.

Your ability to participate in the hearing must not be hampered by medication. You have the right to not be on the medications during the hearing. If you are taking medications, the court must be given a list of medications taken in the last 48 hours.

You have a right to request a change of venue. This means you may request the District Court where you live handle your hearing if it is a different county.

Findings

The court may order commitment if it makes findings based on clear and convincing evidence that:

1. You are mentally ill and,
2. Due to your mental illness you present a clear danger to others as demonstrated by the fact that you:
 - a) engaged in an act causing or attempting to cause serious physical harm to another and,
 - b) there is a substantial likelihood you will engage in acts capable of inflicting serious physical harm on another.
3. The court must commit you to a secure facility unless you show there is a treatment facility that agrees to take you; it will meet your treatment needs and provides for the safety of the public. The commitment may be appealed. Talk to your attorney if you want to appeal your commitment.

The Treatment Facility must file a written report to the court within 60 days of admission stating whether or not you continue to be dangerous to the public. The court must hold a hearing to determine whether or not to continue the commitment as mentally ill and dangerous. The hearing must be held within 14 days of receiving the report or within 90 days of admission. You may waive this hearing if

the county attorney and your attorney agree but you will be committed for an indeterminate period of time. This means you will be committed until a Special Review Board discharges you. The court may extend the review hearing for up to one year if both your attorneys and the county attorney agree. If the court finds that you are no longer dangerous to the public, it may commit you as mentally ill. If the court finds you continue to be mentally ill and dangerous to the public the court will commit you for an indeterminate period of time. This means you will be committed until the Commissioner of the Department of Human Services discharges you from the commitment.

5. Reviewing Your Commitment

If the court commits you indeterminately, you will have to petition the Special Review Board [SRB] for any change in your place of commitment. Those changes include: pass eligible status, transfer to an open hospital, provisional discharge or final discharge and revocation of provisional discharge. You can only file a petition for the SRB once every six (6) months. You have a right to a court appointed attorney for these proceedings. You have a right to present evidence, witnesses and cross-examine witnesses.

You will receive a notice of the hearing 14 days before it occurs. Within 21 days after the hearing, the SRB must send written findings and recommendations to the Commissioner of Human Services. The Commissioner must issue an order no later than 14 days after receiving the recommendations. You will receive a copy of the order by certified mail within five (5) days of the order being signed. The order will not become effective for 30 days from it being signed.

The Commissioner is not required to accept the recommendations. If you disagree with the order, you have a right to appeal the decision. If you wish to appeal the Commissioner's decision, talk to your attorney. Any appeal of the Commissioner's order is heard by the Judicial Appeal Panel. The panel consists of three (3) judges from the state District Courts. You will have an attorney to represent you at this hearing. The decision is made by a majority of the court. The order of the panel supersedes the order of the commissioner. The panel may only hear issues presented to the commissioner.

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