

MENTAL HEALTH COURT PROCESS

REFERRAL

A person can enter the Mental Health Court process in one of two ways: a referral through an Application for Emergency Apprehension and Detention, or an emergency apprehension by a peace officer.

First, any adult can file an Application for Emergency Apprehension and Detention to detain their mentally ill loved one when they are believed to represent a significant danger to themselves or others. Once the application is complete, a judge will review it to determine if the proposed patient is a danger to themselves or others. If they are, the judge will sign an Order for Emergency Apprehension and Detention, and Mental Health Deputies/Officers will serve the Order and transport the individual to an appropriate facility for a preliminary psychiatric evaluation.

Second, a peace officer may, without a warrant, take a person into custody if they have reason to believe that the person is mentally ill and presents a substantial risk of harm to self or others without restraint and that there is no time to obtain a warrant. The person is then transferred to the nearest appropriate mental health facility for a psychiatric evaluation, and the officer will immediately file an application for detention.

EVALUATION

After the judge has issued the Mental Health Warrant, the proposed patient is served with the warrant, and transported to the nearest mental health facility for a psychiatric evaluation. If the doctors determine that the patient is mentally ill and a danger to themselves or others, then within 48 hours the hospital files an application for an Order for Protective Custody to detain the patient for further psychiatric observation and evaluation. If the proposed patient is neither mentally ill nor a danger to themselves or others, then the individual is discharged.

MENTAL HEALTH TREATMENT

If the physician at the mental health facility believes that the patient is mentally ill and a danger to self or others, the facility will submit paperwork for an Order of Protective Custody. Once the judge signs the order, the proposed patient will be moved to an inpatient mental health facility where they will be detained pending a Probable Cause Hearing.

INTERVIEW

Once the patient has been admitted for inpatient psychiatric treatment, the judge appoints a Mental Health Public Defender to represent the proposed patient. Their duties include interviewing the proposed patient before the hearing, and thoroughly discussing the facts and their rights as a patient, along with their options, as well as advocate for their client's requests.

PROBABLE CAUSE HEARING AND COMMITMENT HEARING

Within 72 hours of being detained, a patient is entitled to a Probable Cause Hearing, governed by §574.025 of the Health & Safety Code. The purpose of this hearing is to determine if there is “probable cause” to further detain the patient due to their danger to self or others. The court must appoint an Attorney Ad Litem to represent the patient, and the patient will often testify on their own behalf.

At the hearing, the judge may sign an order for continued detention if they find that the patient presents a substantial risk of harm to themselves or others to the extent that they cannot remain at liberty. A Commitment Hearing follows the Probable Cause Hearing. The patient is entitled to be present and to a jury trial, but both can be waived by the patient or their attorney. The hearing is on the record. To order this inpatient commitment, the judge must find by clear and convincing evidence that the patient is mentally ill and, as a result, is likely to cause serious harm to self; is likely to cause serious harm to others; or is experiencing substantial deterioration of their ability to function independently and is unable to make a rational and informed decision as to whether or not to submit to treatment.

COMMITMENT

There are two (2) types of civil mental health commitment: inpatient and outpatient.

Inpatient mental health treatment is used when the patient needs to be more closely monitored to provide accurate diagnosis, help adjust or stabilize medications, or during an acute episode where a person’s mental illness temporarily worsens. It includes 24-hour hospitalization in a licensed hospital setting, providing clinical intervention for psychiatric episodes. Inpatient mental health services can be court-ordered for a temporary extension, up to 90 days, or for an extended period, up to one (1) year. In a temporary extension, the patient has a right to request a jury; in a one-year extension, the patient is required a jury trial by law.

Outpatient mental health treatment is less restrictive than inpatient. The patient is released on a conditional basis with a treatment plan, case management (typically through the Center for Health Care Services), court supervision, and after-care. Like inpatient treatment, outpatient services can be ordered for 90 days or up to one (1) year.

Extended mental health commitments up to one (1) year are rare and are typically ordered when a patient has received court-ordered inpatient services for at least 60 consecutive days in the preceding year and has a condition expecting to last more than 90 days.

RELEASE

The treating doctor decides when a patient should be released from involuntary mental health treatment. Generally, social workers and case managers are responsible for making a discharge plan for the patient. This may include follow-up appointments, prescriptions for medications, housing, and related services.