



Civil Commitment

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A civil commitment is the involuntary restriction of an individual's liberty by a civil proceeding on the basis that the individual is in need of treatment or care for certain mental health, developmental disability, or substance dependency issues in order to protect the individual or others from harm. Throughout the proceedings, the individual must be afforded the least restrictive treatment appropriate to the individual's situation.¹

CRITERIA FOR COMMITMENT

An individual may be subjected to a civil commitment on the basis of all of the following three statutory criteria:

- The individual is either mentally ill, developmentally disabled, or drug dependent.
- The individual is a "proper subject for treatment," meaning capable of rehabilitation.
- The individual is "dangerous," as defined by statute.²

INITIATION OF PROCEEDINGS

Civil commitment proceedings may begin with any of three actions, all of which result in the detention of an individual:

- An individual who was voluntarily admitted to a treatment facility is subsequently denied his or her request to be discharged.
- A petition for civil commitment is prepared by the county corporation counsel and signed by three adults. This is known as a "three-party petition."
- A law enforcement officer detains an individual on the basis of observed behavior or reliable witness accounts.

In each of these circumstances a petition for emergency detention is filed in circuit court. The petition forms the basis for a probable-cause hearing, which is the first step for a court in an involuntary commitment proceeding.

Voluntarily Admitted Patients

The director of an approved inpatient treatment facility or a state inpatient treatment facility may approve the voluntary admission of an adult upon an evaluation that the adult is mentally ill, developmentally disabled, or drug dependent, and has the potential to benefit from inpatient treatment or care. The director of the facility may refuse the individual's request to be discharged if the director believes that the individual meets the statutory criteria for commitment. In such a situation, the director may detain the individual and file a statement of emergency detention with the circuit court.³

"Three-Party Petition"

A county may prepare a petition for examination as a method of initiating commitment proceedings against an individual. The petition must be signed by three adults, at least one of whom has first-hand knowledge of the conduct that forms the basis for the petition. The petition is filed with the circuit court, which has 24 hours to review the petition. If the court believes that the individual is mentally ill, developmentally disabled, or drug dependent, and eligible for commitment, it may issue an order for

emergency detention by law enforcement or it may notify the individual of the filing of the petition and schedule the matter for a probable-cause hearing.⁴

Emergency Detention

A law enforcement officer may take an individual into custody on the basis of observed behavior or reliable witness accounts. Upon approval of the county after a crisis assessment by a mental health professional, and upon a belief that the individual will not consent to treatment, the officer may transport the individual to a detention facility and file a statement of emergency detention with the facility and with the circuit court. The statement details the basis for the detention, identifies any witnesses to the conduct, and alleges that the officer has reason to believe that the individual meets the criteria for commitment.⁵

PROBABLE-CAUSE HEARING

Within 72 hours of an emergency detention, the filing of a petition, or the denial of a request for discharge from a treatment facility, as described above, the circuit court in the county in which the individual was detained must hold a preliminary hearing, known as a “probable-cause hearing.” The purpose of this hearing is to determine if there is probable cause to believe the allegations made in the petition for emergency detention. If the court finds no probable cause, the case is dismissed and the individual is released. If the court finds probable cause, it must schedule a commitment hearing on the involuntary commitment of the individual, unless the individual voluntarily agrees to receive treatment.⁶

COMMITMENT HEARING

Following a finding of probable cause for commitment at a probable-cause hearing, the court generally must schedule a final commitment hearing to take place within 14 days of the detention. Pending that hearing, the court must appoint two mental health professionals to personally examine the individual and make written report of those examinations to the court. Unless requested by the individual, the hearing is open and without a jury. The petitioner must prove all allegations by clear and convincing evidence. At the conclusion of the hearing, the court may either dismiss the petition and release the individual, or order the individual committed to the care of the county.⁷

COMMITMENT

An individual ordered involuntarily committed is taken into the care of a county health department for appropriate services. The initial order for commitment may not exceed six months. Subsequent orders renewing the commitment may not exceed one year. The individual may be kept inpatient at a county facility, moved to a less restrictive facility, or returned to his or her residence if appropriate.⁸

¹ The procedures for civil commitment differ in some respects for inmates and juveniles and in Milwaukee County. This issue brief does not address those differences.

² s. 51.20 (1) (a), Stats.

³ ss. 51.10 (5) (c) and 51.15 (10), Stats.

⁴ s. 51.20 (1) (b) and (c), and (2), Stats.

⁵ s. 51.15 (1), (2), and (5), Stats.

⁶ s. 51.20 (7), Stats.

⁷ s. 51.20 (9), (10), and (13) (e), Stats.

⁸ s. 51.20 (13), Stats.