

IMPORTANT INFORMATION TO APPLICANTS with Form 901 Application for Involuntary Custody for Mental Health Examination

☆☆☆Have you sought crisis intervention services from your local mental health facility?

Your local or regional mental health facility may be able to assist in resolving a mental health or addiction problem without the necessity of court intervention. The clerk's office at your local courthouse and the sheriff's department can provide you information on how to contact the mental health facility serving your area, or you can check your local listings.

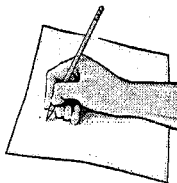
...is there someone who can help me with the Application form?

If I have trouble reading, is there someone who can help me with the form?

Yes, you can ask someone at the regional mental health facility or the clerk's office to read the form to you. In some areas the prosecutor's office or local law enforcement may have someone willing to help you. You may take the form with you to complete and get a friend to read it to you. If time permits you may contact your local library for help. The library has volunteer readers provided by the West Virginia Literacy Commission.

If I have trouble writing, can someone help me fill in the form?

Yes, if you are unable to fill in the form yourself, you may ask someone else to write in the words for you. Ask to have what was written for you read back word-for-word and make any changes you desire before you sign the form before a notary.



What should I put on the form?

You should answer each question on the form completely, truthfully, and in your own words. Only you know whether the information on the form is correct or complete. Remember, providing the court more information is better than not providing enough.

Can I add additional pages of information to the form?

Yes, if the space provided is not large enough, feel free to attach additional pages as needed.

Do I have to have the form notarized?

Yes. The application is required by law to be made under oath.



Where can I find a notary to notarize the form?

The clerk's office, most other offices in your county courthouse, public libraries, the regional mental health facility, the sheriff's office, offices of local law enforcement, local hospitals, local banks, and local law offices may have notaries on staff who would be willing to assist you. Call or check to verify availability. Some areas may also have notaries identified in local listings.

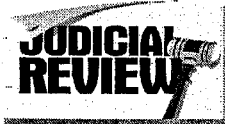
Can I talk to the mental hygiene commissioner, judge, or magistrate about this case? Before I file the Application? Anytime outside of court?

No. The judicial officer talks with both parties to a case at the same time, and is required to decline to speak with you or others about the case, except for scheduling matters. The hearing, when all are present, is the proper place for you to speak with the judicial officer.

...what will happen after I file the Application form?

What will happen within the next 24 hours in most cases?

The application will be forwarded to either a mental hygiene commissioner, circuit court judge or magistrate who will review it. The judicial officer will either deny it or enter an order to have the person to be examined taken into custody by the sheriff and examined by a physician or other mental health professional.



If the examination does NOT reveal addiction or mental illness and likelihood to cause serious harm to self or others resulting from the mental illness or addiction, the individual will be released and the case dismissed. Otherwise, a probable cause hearing will be held before the judicial officer. In many cases the hearing will be held immediately after the examination. Make sure you are available and have provided information on the application where you can be immediately reached and notified as to where and when the hearing will take place.

What will happen at the probable cause hearing?

What occurs at the hearing may vary, but generally the proceeding will be less formal than most courtrooms. The judicial officer will call upon you to testify. You should be

prepared to present and explain what occurred which led you to file the application and the facts you put in the application, especially those which indicate the individual (now called a Respondent) is more likely than not mentally ill or addicted and likely to cause serious harm to self or others. You will also need to bring with you to present any other evidence or witnesses. The Respondent will also be present and have an appointed attorney. You and any witnesses you may call to testify may be asked questions by Respondent's attorney and the judicial officer. You may also ask questions of the Respondent, if he or she testifies, and any other persons



testifying for the Respondent. You may question the physician or mental health professional who testifies about the examination made of the Respondent. The judicial

officer will make a decision at the end of the hearing.

Does the individual being examined (Respondent) have to testify at the hearing?

No, he or she has the right to remain silent.

Why does the Respondent get an appointed attorney at the hearing?

Because it is the Respondent's liberty interests at stake. The Respondent may be forced into treatment in a locked facility against his or her will.

Do I get a lawyer?

The prosecuting attorney or his or her assistant MAY appear at the probable cause hearing, IF the prosecutor deems it in the public interest to be at the hearing. You are not required to have a lawyer at the first hearing. You may contact your local prosecuting attorney's office if you believe it is in the public interest for an attorney from that office to appear at the probable cause hearing, and wish to discuss this with the prosecutor.

Can I request a delay of the probable cause hearing?

No, only the Respondent has a right to request the hearing be postponed up to 48 hours.

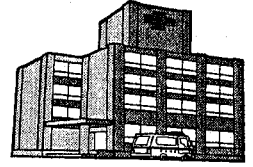
What happens if the judge makes a finding of probable cause at the hearing?

The Respondent will either be placed in a mental health or addiction treatment facility for inpatient treatment for up to a maximum of 30 days before another hearing is held, or may be released immediately or later for outpatient treatment by an agreement for treatment called a Voluntary Treatment Agreement.

Can I or the Respondent pick the treatment facility?

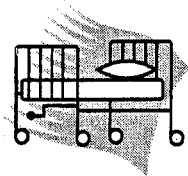
No, unless the Respondent enters into a Voluntary Treatment Agreement approved by the Court. Admission for involuntary inpatient treatment can be in facilities throughout the state, depending upon bed space available and the type of treatment

needed, including the state psychiatric hospitals in Weston or Huntington. The Respondent will not necessarily be treated in the local community or near home, and will generally be placed at the first available appropriate facility.



How long will the Respondent be hospitalized?

That varies considerably, but is usually very short for inpatient stays. Few Respondents are hospitalized more than a few days. The mental health facility may release the Respondent on convalescent status or as unimproved in certain circumstances. The facility is required to release the Respondent when the individual can no longer benefit from hospitalization or the conditions justifying commitment no longer exist. Voluntary Treatment Agreements for outpatient treatment can last for longer periods of time, but not all Respondents will agree to or can be released to a Voluntary Treatment Agreement. Long-term involuntary inpatient



treatment is NOT ordered except where there is a second hearing, called a final commitment hearing, which must be requested by the mental health facility. Few cases ever reach a second hearing. The maximum inpatient stay is 15 days unless a request is made by the mental

health facility for a final commitment hearing. Involuntary hospitalization is available to protect the community and to protect the individual during crisis periods when the individual is not complying with voluntary treatment; it is not a substitute for needed voluntary community based treatment.

...where can I find out more information on my own?

The statutory law on involuntary hospitalization is found in W.Va. Code Chapter 27, Article 5. Helpful definitions are also found in W.Va. Code Chapter 27, Article 1. Law libraries that you can use to get information on code, laws and procedures are located in the following circuit courthouses: Ohio, Harrison, Cabell, Wood, Raleigh, and Berkeley. The West Virginia Supreme Court Law Library has books for research, computers to use, and law librarians that can help you, located in Charleston, WV, phone # 304-558-2607. The Court's library website is: <http://www.state.wv.us/wvsca/library/menu.htm>. The Legislature also has a searchable copy of the W.Va. Code on its website at <http://www.legis.state.wv.us/Code/toc.html>. Be sure to check that any information you obtain is up to date.

APPLICANT, REMOVE THIS INFORMATION SHEET FROM APPLICATION AND KEEP FOR YOUR REFERENCE!