# EFE FACT SHEET – Mental Health

## INVOLUNTARY ADMISSION TO A MENTAL HEALTH FACILITY IN ILLINOIS

### Statutory References: 405 ILCS 5/1-119; 5/3-601-5/3-611; 5/3-700 – 5/3-706; 5/3-800; 5/3-802-814; 5/3-900-5/3-902

### Involuntary Mental Health Examination/ Admission

If you are 18 years or older you can be involuntary admitted to a mental health facility for evaluation or treatment when immediate hospitalization is necessary to prevent you from physically harming themselves or others.

### Generally, there are three ways that involuntary admission occurs:

- By a petition presented to the director of a mental health facility;
- When a judge, through personal observations and testimony, believes you are in need of immediate hospitalization; or
- Following a court order for involuntary admission.

### Petition to a facility director for involuntary admission

Who can file the petition:

- Any person who is 18 or older can present a written petition to the director of a mental health facility in the county where you live or where you are currently; or
- A police officer can take you into custody and transport you to a mental health facility if, based on personal observation, the police officer reasonably believes that you are subject to involuntary admission and in need of immediate hospitalization. The police officer must complete the petition at the facility.

What the petition has to include:

- The petition must have detailed information about:
  - The reasons that hospitalization is necessary in order to prevent you from hurting yourself or others;
  - The names and addresses of your spouse, parent or friend;

- The relationship between you and the person preparing the petition for your involuntary admission, including any legal or financial relationship that person may have with you; and
- The names, addresses and phone numbers of people who are witnesses to the events described in the petition.

## Evaluation/examination by a mental health professional:

- A certificate completed by a physician, qualified examiner, or clinical psychologist should be attached to the petition which states:
  - That you have been personally examined within the previous 72 hours; and
  - That you require immediate hospitalization and the reasons why.
- If no certificate is attached to the petition, you can be detained for an examination in a mental health facility for no more than 24 hours.
- If the examination and a certificate are completed by a physican, qualified examiner or clinical psychologist within 24 hours you may be admitted into the facility for treatment.
- If no certificate is completed within 24 hours, then you must be released.

## Temporary detention and examination:

- A judge can also order you to be temporarily detained and examined in a mental health facility after hearing testimony from witness about their personal observations of you which the judge believes shows that you need to be immediately hospitalized.
- The order must provide detailed information about the facts which support the need to temporarily detain and examine you.
- You may be detained for examination for no more that 24 hours.
- If a petition for involuntary admission and a certificate by a physician, qualified examinor or psychologist are completed within 24 hours of the detention, you may be admitted into the facility.
- If no petition or certificate is completed within 24 hours, you must be released.

## Examination by psychiatrist after admission:

- If you are involuntarily admitted based upon the petition to the facility director, within 24 hours of your admission, excluding Saturdays, Sundays and holidays, you must be examined by a psychiatrist.
- Generally the psychiatrist will be a member of the facility's staff but must be a different psychiatrist from the examiner who signed the first certificate for your involuntary admission.

Filing the petition for involuntary admission with the court:

- Within 24 hours of your admission, the facility director must file two copies of the petition for involuntary admission and the certificate signed by a mental health professional with the court in the county where the facility is located.
- The judge will set a date for a hearing on the petition to be held within 5 days of the judge receiving the petition, excluding Saturdays, Sundays and holidays.
- You must receive notice of the time and place of the hearing.

## Court Ordered Evaluation and Admission to a hospital

### Who can file the petition:

- Any person who is 18 or older can prepare a written petition and file it with a judge if he/she believes that your are in need of involuntary admission. The petition must be filed with the court in the county where you live or are currently present.
- A certificate completed by a physician, qualified examiner or clinical psychologist or a psychiatrist may be attached to the petition stating that you are in need of involuntary admission.
- The person petitioning the judge for an order that you be involuntary admitted can ask the local state's attorney's office to appear before the judge to get an order allowing a police officer to take you to a mental health facility for evaluation.
- This court proceeding can also occur without any notice to you.
- If the person who prepared the petition provides facts showing the judge that an emergency exists which makes immediate hospitalization necessary, the judge can enter an order for involuntary admission without notice to you.

Court orders for examination by a mental health professional:

- If no certificate from a mental health professional is attached to the petition for involuntary admission, the judge can order that you be examined twice; first by either a physician, qualified examiner, or clinical psychologist and then by a psychiatrist.
- If the judge orders that the examinations occur in a mental health facility, you can be detained for those examinations for up to 24 hours.
- If the examiners find that you are in need of immediate hospitalization, you can be admitted to the facility and kept there until there is a hearing before a judge on the petition to involuntarily admit you.
- If the examiners do not believe you are in need of immediate hospitalization to protect you or other people from physical harm then you must be released.
- If the judge does not order that the examinations be conducted in a mental health facility, the examinations can occur in your home.
- After the examinations in your home, you may stay there until the judge has a hearing on the petition for involuntary admission and the judge decides if you need to be hospitalized.

- The court hearing on the involuntary admission petition must occur within 5 days of the examination that was conducted either in the facility or at your home, excluding Saturday, Sunday and holidays.

**ALERT!** Resisting or refusing to be transported to a mental health facility by a police officer for evaluation or admission may result in arrest and criminal charges. If you feel your rights have been violated, you can contact the Illinois Guardianship and Advocacy Commission or Equip for Equality after you arrive at the facility or hospital.

## During the Involuntary Admission Hearing

You have the right to:

- have an attorney –you may hire a private attorney or if you can not afford one, the Illinois Guardianship and Advocacy Commission or the public defender will represent you;
- attend the hearing –the only way you can be denied this right is if attending would pose a substantial risk of serious physical or emotional harm;
- a jury of six people –you have the right to request a trial by jury. This right does not apply however, to issues relating to authorized involuntary treatment;
- present evidence, testify, and have others testify on your behalf;
- cross-examine witnesses –your attorney can cross-examine witnesses for you;
- have the hearing closed to the public –your hearing will be closed if you chose, unless others involved object and the court does not find your request compelling; and
- an independent examination –by a physician, qualified examiner, clinical psychologist, or other expert of your choice.

## Standard of Proof

To be involuntarily admitted the judge must find by clear and convincing evidence that you:

- Have a mental illness and because of that illness, you are reasonably expected to cause serious physical harm to yourself or someone else in the near future; or
- Have a mental illness and because of that illness, you are unable to provide for your basic physical needs and to guard yourself from serious harm without assistance; or
- Have a mental illness and because of the nature of that illness, you are unable to understand the need for treatment and if you are not treated it is reasonable to expect that you will deteriorate further mentally or emotionally and that you will engage in dangerous conduct.

## Length of the Court Order for Involuntary Admission

- A court order for involuntary admission is valid for up to 90 days (except for care and custody orders which can last up to 180 days).

- In order to extend your involuntary admission for up to another 90 days, a new petition must be filed with the court.
- The judge will schedule a hearing to decide if you still qualify for involuntary admission.
- If the court finds you still qualify because you meet the legal standard for involuntary admission, the judge will order that you remain in the facility for up to another 90-days.
- After the second order, the same procedure must be followed and from then on, for as long as the judge decides you are in need of involuntary admission, involuntary admission orders for up to 180-days will be issued by the judge.
- You must be provided a copies of judge's orders and you have the right to appeal final orders.

## Involuntary Admission Alternatives

- The judge must order the least restrictive treatment that is appropriate for you.
- The judge may order you to attend a program of alternative treatment or place you in the care and custody of a relative or other person willing and able to provide you with proper care.

## Discharge After Involuntary Admission

- After the judge has ordered you to be involuntarily admitted, you (or someone on your behalf) may file a petition for discharge at any time.
- The judge will have a hearing to determine if you still meet the legal standard for involuntary admission into a mental health facility.
- The facility director can discharge you before the court order expires if the director believes you no longer meet the criteria for involuntary admission. Certain procedures must be followed which are described in the *Mental Health and Developmental Disabilities Code*.

**DO YOU HAVE A QUESTION?**

Contact Equip for Equality (all services are free of charge):
800.537.2532 (voice) or 800.610.2779 (TTY)
Contactus@equipforequality.org
www.equipforequality.org

This resource material is intended as a guide for people with disabilities. Nothing written here shall be understood to be legal advice. For specific legal advice, an attorney should be consulted.

Equip for Equality, an independent nonprofit organization, is the Illinois state Protection & Advocacy System whose mission is to advance the human and civil rights of children and adults with disabilities.

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