

## **Section 39 - Involuntary Civil Commitments - Mental Health and Substance Abuse Proceedings**

### **39.10 In General**

Sections 632.305 through 632.475, govern involuntary hospitalization of persons who are mentally ill, and Chapter 631 governs involuntary detention for treatment and rehabilitation of persons who are substance abusers. These statutes are procedurally similar, and both provide for incremental periods of detention for treatment. The initial period in both (96 hours) may be requested by ex parte application. Subsequent detention for 21 days (mental health) or 30 days (substance abuse) may follow only after the treatment facility petitions for additional detention, and a full due process adversary proceeding is held. Detention for 90 days (for mental health and substance abuse) and one year (mental health only) is possible after similar hearings.

In hearings for involuntary civil commitments, the petitioner must prove by clear and convincing evidence that the respondent is either mentally ill, or is a substance abuser, as applicable, and, in either case, presents a likelihood of serious physical harm to himself or others.

### **39.20 Initial Detention**

Any adult person may, ex parte and without counsel, file an application for a 96-hour detention with the court. The application must be supported by an affidavit citing specific facts which demonstrate the respondent is mentally ill or a substance abuser, and dangerous. On a finding of probable cause, the Court will issue a detention order and warrant for the respondent to be picked up and detained.

Where the risk of harm is imminent, the police may arrange for immediate transport to an appropriate detention facility without court order.

Reference:     § 632.305

### **39.30 Detention After 96 Hours**

Subsequent detentions are instituted by mental health professionals at the detention facility who are represented by the Jackson County Counselor's Office. Consequently, the private practitioner should consult the County Counselor's Office for further information as to how to proceed in a given case.

#### **39.30.1 Due Process Requirement**

In every case, respondents in proceedings under Chapters 631 or 632 will be afforded the full panoply of due process protections available under the United States and Missouri Constitutions and state law. This includes and is not limited to the right to legal counsel and a jury trial, where requested.

References:    §§ 632.325, 632.335, 632.340, 632.355

### 39.30.2 Jackson County Counselor's Office

The Jackson County Counselor's Office represents petitioners in these matters beyond the initial 96-hour detention, but only in connection with subsequent petitions for further detention. They may be consulted in a given case. See § 630.140.5, which deals with the confidentiality of mental health records.

### 39.30.3 References

Additional information is available in Chapter 5, 'Civil Commitment Under the Mental Health Law,' 1 Guardianship & Trust Law (Mo Bar CLE 1985, 1987).

[END OF SECTION]