

1 **mental hygiene procedures; establishing procedures;**
2 **providing for forms and reports.**

3 (a) The Supreme Court of Appeals shall, in consultation with
4 the Secretary of the Department of Health and Human Resources and
5 local mental health services consumers and providers, implement ~~in~~
6 ~~at least four and no more than six judicial circuits, beginning on~~
7 ~~July 1, 2006,~~ throughout the state modified mental hygiene
8 procedures that are consistent with the requirements set forth in
9 this section. The judicial circuits selected for implementing the
10 modified procedures shall be circuits in which the Supreme Court of
11 Appeals determines, after consultation with the Secretary of the
12 Department of Health and Human Resources and local mental health
13 consumers and service providers, that adequate resources will be
14 available to implement the modified procedures. After July 1,
15 2013, the Supreme Court of Appeals and the Secretary of the
16 Department of Health and Human Resources may add programs for
17 modified mental hygiene procedures in any judicial circuit that
18 establishes a need for the same.

19 **(b)** The Secretary of the Department of Health and Human
20 Resources, after consultation with the Supreme Court of Appeals and
21 local mental health services consumers and service providers, shall
22 prescribe appropriate forms to implement the modified procedures
23 and shall annually prepare a report on the use of the modified

1 procedures and transmit the report to the Legislature on or before
2 the last day of each calendar year.

3 (c) The Supreme Court of Appeals may, after consultation with
4 the Secretary of the Department of Health and Human Resources and
5 local mental health services consumers and providers ~~during the~~
6 ~~pilot program period,~~ further modify any specific modified
7 procedures that are implemented ~~Provided, That~~ pursuant to this
8 section. The modified procedures must be consistent with the
9 requirements of this chapter and this section. If the Secretary of
10 the Department of Health and Human Resources determines that the
11 use of any modified procedure in one or more judicial circuits is
12 placing an unacceptable additional burden upon state mental health
13 resources, the Supreme Court of Appeals shall, in consultation with
14 the secretary, modify the procedures used in such a fashion as will
15 address the concerns of the secretary, consistent with the
16 requirements of this chapter. ~~The provisions of this section and~~
17 ~~the modified procedures thereby authorized shall cease to have any~~
18 ~~force and effect on June 30, 2012, unless extended by an act of the~~
19 ~~Legislature prior to that date.~~

20 ~~(b)~~ (1) The modified procedures shall authorize that a
21 verified petition seeking a treatment compliance order may be filed
22 by any person alleging:

23 (A) That an individual, on two or more occasions within a

1 twenty-four month period prior to the filing of the petition, as a
2 result of mental illness, has been hospitalized pursuant to the
3 provisions of this chapter; or that the individual has been
4 convicted of one or more crimes of violence against the person
5 within a twenty-four month period prior to the filing of the
6 petition and the individual's failure to take prescribed medication
7 or follow another prescribed regimen to treat a mental illness was
8 a significant aggravating or contributing factor in the
9 circumstances surrounding the crime;

10 (B) That the individual's previous hospitalizations due to
11 mental illness or the individual's crime of violence occurred after
12 or as a result of the individual's failure to take medication or
13 other treatment as prescribed by a physician to treat the
14 individual's mental illness; and

15 (C) That the individual, in the absence of a court order
16 requiring him or her to take medication or other treatment as
17 prescribed, is unlikely to do so and that his or her failure to
18 take medication or follow other regimen or treatment as prescribed
19 is likely to lead to further instances in the reasonably near
20 future in which the individual becomes likely to cause serious harm
21 or commit a crime of violence against the person.

22 (2) Upon the filing of a petition seeking a treatment
23 compliance order and the petition's review by a circuit judge or

1 mental hygiene commissioner, counsel shall be appointed for the
2 individual if the individual does not already have counsel and a
3 copy of the petition and all supporting evidence shall be furnished
4 to the individual and their counsel. If the circuit judge or
5 Mental Hygiene Commissioner determines on the basis of the petition
6 that it is necessary to protect the individual or to secure their
7 examination, a detention order may be entered ordering that the
8 individual be taken into custody and examined by a psychiatrist or
9 licensed psychologist. A hearing on the allegations in the
10 petition, which may be combined with a hearing on a probable cause
11 petition conducted pursuant to the provisions of section two of
12 this article or a final commitment hearing conducted pursuant to
13 the provisions of section four of this article, shall be held
14 before a circuit judge or Mental Hygiene Commissioner. If the
15 individual is taken into custody and remains in custody as a result
16 of a detention order, the hearing shall be held within forty-eight
17 hours of the time that the individual is taken into custody.

18 (3) If the allegations in the petition seeking a treatment
19 compliance order are proved by the evidence adduced at the hearing,
20 which must include expert testimony by a psychiatrist or licensed
21 psychologist, the circuit judge or Mental Hygiene Commissioner may
22 enter a treatment compliance order for a period not to exceed six
23 months upon making the following findings:

1 (A) That the individual is eighteen years of age or older;

2 (B) That on two or more occasions within a twenty-four month
3 period prior to the filing of the petition, an individual, as a
4 result of mental illness, has been hospitalized pursuant to the
5 provisions of this chapter; or that on at least one occasion within
6 a twenty-four month period prior to the filing of the petition has
7 been convicted of a crime of violence against any person;

8 (C) That the individual's previous hospitalizations due to
9 mental illness occurred as a result of the individual's failure to
10 take prescribed medication or follow a regimen or course of
11 treatment as prescribed by a physician or psychiatrist to treat the
12 individual's mental illness; or that the individual has been
13 convicted for crimes of violence against any person and the
14 individual's failure to take medication or follow a prescribed
15 regimen or course of treatment of the individual's mental illness
16 was a significant aggravating or contributing factor in the
17 commission of the crime;

18 (D) That a psychiatrist or licensed psychologist who has
19 personally examined the individual within the preceding twenty-four
20 months has issued a written opinion that the individual, without
21 the aid of the medication or other prescribed treatment, is likely
22 to cause serious harm to himself or herself or to others;

23 (E) That the individual, in the absence of a court order

1 requiring him or her to take medication or other treatment as
2 prescribed, is unlikely to do so and that his or her failure to
3 take medication or other treatment as prescribed is likely to lead
4 to further instances in the reasonably near future in which the
5 individual becomes likely to cause serious harm or commit a crime
6 of violence against any person;

7 (F) That, where necessary, a responsible entity or individual
8 is available to assist and monitor the individual's compliance with
9 an order requiring the individual to take the medication or follow
10 other prescribed regimen or course of treatment;

11 (G) That the individual can obtain and take the prescribed
12 medication or follow other prescribed regimen or course of
13 treatment without undue financial or other hardship; and

14 (H) That, if necessary, a medical provider is available to
15 assess the individual within forty-eight hours of the entry of the
16 treatment compliance order.

17 (4) The order may require an individual to take medication and
18 treatment as prescribed and if appropriate to attend scheduled
19 medication and treatment-related appointments: *Provided*, That a
20 treatment compliance order shall be subject to termination or
21 modification by a circuit judge or Mental Hygiene Commissioner if
22 a petition is filed seeking termination or modification of the
23 order and it is shown in a hearing on the petition that there has

1 been a material change in the circumstances that led to the entry
2 of the original order that justifies the order's modification or
3 termination: *Provided, however,* That a treatment compliance order
4 may be extended by a circuit judge or Mental Hygiene Commissioner
5 for additional periods of time not to exceed six months, upon the
6 filing of a petition seeking an extension and after a hearing on
7 the petition or upon the agreement of the individual.

8 (5) ~~(A)~~ After the entry of a treatment compliance order in
9 accordance with the provisions of subdivisions (3) and (4) of this
10 subsection ~~(b) of this section,~~ if a verified petition is filed
11 alleging that an individual has not complied with the terms of a
12 medication and treatment compliance order and if a circuit judge or
13 Mental Hygiene Commissioner determines from the petition and any
14 supporting evidence that there is probable cause to believe that
15 the allegations in the petition are true, counsel shall be
16 appointed for the individual and a copy of the petition and all
17 supporting evidence shall be furnished to the individual and his or
18 her counsel. If the circuit judge or Mental Hygiene Commissioner
19 considers it necessary to protect the individual or to secure his
20 or her examination, a detention order may be entered to require
21 that the individual be examined by a psychiatrist or psychologist.

22 (A) A hearing on the allegations in the petition, which may be
23 combined with a hearing on a probable cause petition conducted

1 pursuant to section two of this article or a final commitment
2 hearing conducted pursuant to section four of this article, shall
3 be held before a circuit judge or Mental Hygiene Commissioner. If
4 the individual is taken and remains in custody as a result of a
5 detention order, the hearing shall be held within forty-eight hours
6 of the time that the individual is taken into custody.

7 (B) At a hearing on any petition filed pursuant to the
8 provisions of paragraph (A) of this subdivision, ~~(5), subsection~~
9 ~~(b) of this section,~~ the circuit judge or Mental Hygiene
10 Commissioner shall determine whether the individual has complied
11 with the terms of the medication and treatment compliance order.
12 If the individual has complied with the order, the petition shall
13 be dismissed. ~~Provided, That~~ If the evidence presented to the
14 circuit judge or Mental Hygiene Commissioner shows that the
15 individual has complied with the terms of the existing order, but
16 the individual's prescribed medication, dosage or course of
17 treatment needs to be modified, then the newly modified medication
18 and treatment prescribed by a psychiatrist who personally examined
19 the individual may be properly incorporated into a modified order.
20 If the order has not been complied with, the circuit judge or
21 Mental Hygiene Commissioner, after inquiring into the reasons for
22 noncompliance and whether any aspects of the order should be
23 modified, may continue the individual upon the terms of the

1 original order and direct the individual to comply with the order
2 or may modify the order in light of the evidence presented at the
3 hearing. If the evidence shows that the individual at the time of
4 the hearing is likely to cause serious harm to himself, herself or
5 others as a result of the individual's mental illness, the circuit
6 judge or Mental Hygiene Commissioner may convert the proceeding
7 into a probable cause proceeding and enter a probable cause order
8 directing the involuntary admission of the individual to a mental
9 health facility for examination and treatment. ~~Provided, however,~~
10 ~~That~~ Any procedures conducted pursuant to this subsection must
11 comply with and satisfy all applicable due process and hearing
12 requirements of ~~contained in~~ sections two and three of this
13 article. ~~have been fully satisfied~~

14 ~~(c)(1)~~ (d) The modified procedures may authorize that upon the
15 certification of a qualified mental health professional, as
16 described in ~~subdivision (2) of this~~ subsection (e) of this
17 section, that there is probable cause to believe that an individual
18 who has been hospitalized two or more times in the previous twenty-
19 four months because of mental illness is likely to cause serious
20 harm to himself or herself, or to others as a result of the mental
21 illness if not immediately restrained and that the best interests
22 of the individual would be served by immediate hospitalization, a
23 circuit judge, Mental Hygiene Commissioner or designated magistrate

1 may enter a temporary probable cause order directing the
2 involuntary hospitalization of the individual at a mental health
3 facility for immediate examination and treatment.

4 ~~(2)~~ (e) The modified procedures may authorize the chief judge
5 of a judicial circuit, or circuit judge if there is no chief judge,
6 to enter orders authorizing specific psychiatrists or licensed
7 psychologists, whose qualifications and training have been reviewed
8 and approved by the Supreme Court of Appeals, to issue
9 certifications that authorize and direct the involuntary admission
10 of an individual subject to the provisions of this section on a
11 temporary probable cause basis to a mental health facility for
12 examination and treatment. ~~Provided, That~~ The authorized
13 psychiatrist or licensed psychologist must conclude and certify
14 based on personal observation prior to certification that the
15 individual is mentally ill and, because of ~~such~~ mental illness, is
16 imminently likely to cause serious harm to himself or herself or to
17 others if not immediately restrained and promotion of the best
18 interests of the individual requires immediate hospitalization.
19 Immediately upon certification, the psychiatrist or licensed
20 psychologist shall provide notice of the certification to a circuit
21 judge, Mental Hygiene Commissioner or designated magistrate in the
22 county where the individual resides.

23 ~~(3)~~ (f) No involuntary hospitalization pursuant to a temporary

1 probable cause determination issued pursuant to the provisions of
2 this section shall continue in effect for more than forty-eight
3 hours without the filing of a petition for involuntary
4 hospitalization and the occurrence of a probable cause hearing
5 before a circuit judge, Mental Hygiene Commissioner or designated
6 magistrate. If at any time the chief medical officer of the mental
7 health facility to which the individual is admitted determines that
8 the individual is not likely to cause serious harm as a result of
9 mental illness, the chief medical officer shall discharge the
10 individual and immediately forward a copy of the individual's
11 discharge to the circuit judge, Mental Hygiene Commissioner or
12 designated magistrate.

NOTE: The purpose of this bill is to remove the expiration date of the pilot project establishing emergency mental hygiene procedures and make the program permanent.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.