

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974
INTELLECTUAL DISABILITY TREATMENT

330.1515 Individual with intellectual disability; court order; criteria for admission.

Sec. 515.

A court may order appropriate outpatient treatment or admission into an appropriate treatment facility of an individual 18 years of age or older if the individual has been diagnosed as an individual with an intellectual disability and either of the following applies:

- (a) The individual can be reasonably expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another person, and has overtly acted in a manner substantially supportive of that expectation.
- (b) The individual has been arrested and charged with an offense that was a result of the intellectual disability.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014 ;-- Am. 2018, Act 596, Eff. Mar. 28, 2019

330.1516 Petition for treatment; contents; examination; report; noncompliance; protective custody; right to return home; order of admission; rights of individual; copy of report sent to court; dismissal of petition; hearing.

Sec. 516.

(1) Any person found suitable by the court may file with the court a petition that asserts that an individual meets the criteria for treatment specified in section 515.

(2) The petition must contain the alleged facts that are the basis for the assertion, the names and addresses, if known, of any witnesses to alleged and relevant facts, and if known the name and address of the nearest relative or guardian of the individual.

(3) If the petition appears on its face to be sufficient, the court shall order that the individual be examined and a report be prepared. To this end, the court shall appoint a qualified person who may but need not be an employee of the community mental health services program or the court to arrange for the examination, to prepare the report, and to file it with the court.

(4) If it appears to the court that the individual will not comply with an order of examination under subsection (3), the court may order a peace officer to take the individual into protective custody. After the individual is taken into protective custody, a peace officer or a security transport officer shall transport him or her immediately to a facility recommended by the community mental health services program or other suitable place designated by the community mental health services program for up to 48 hours for the ordered examination.

(5) After examination, the individual shall be allowed to return home unless it appears to the court that he or she requires immediate admission to the community mental health services program's recommended facility in order to prevent physical harm to himself, herself, or others pending a hearing, in which case the court shall enter an order to that effect. If an individual is ordered admitted under this subsection, not later than 12 hours after he or she is admitted the facility shall provide him or her with a copy of the petition, a copy of the report, and a written statement in simple terms explaining the individual's rights to a hearing under section 517, to be present at the hearing and to be represented by legal counsel, if 1 physician and 1 licensed psychologist or 2 physicians conclude that the individual meets the criteria for treatment.

(6) The report required by subsection (3) shall contain all of the following:

- (a) Evaluations of the individual's mental, physical, social, and educational condition.
- (b) A conclusion as to whether the individual meets the criteria for treatment specified in section 515.
- (c) A list of available forms of care and treatment that may serve as an alternative to admission to a facility.
- (d) A recommendation as to the most appropriate living arrangement for the individual in terms of type and location of living arrangement and the availability of requisite support services.

(e) The signatures of 1 physician and 1 licensed psychologist or 2 physicians who performed examinations serving in part as the basis of the report.

(7) A copy of the report required under subsection (3) shall be sent to the court immediately upon completion.

(8) The petition shall be dismissed by the court unless 1 physician and 1 licensed psychologist or 2 physicians conclude, and that conclusion is stated in the report, that the individual meets the criteria for treatment.

(9) An individual whose admission was ordered under subsection (5) is entitled to a hearing in accordance with section 517.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2018, Act 596, Eff. Mar. 28, 2019 ;-- Am. 2022, Act 146, Eff. (sine die) ;-- Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022

330.1517 Hearings; applicable law; duties of court; rights of individual; participation of prosecuting attorney; failure to give notice as ground for adjournment or continuance; change of venue.

Sec. 517.

(1) A hearing convened to determine whether an individual meets the criteria for treatment is governed by sections 517 to 522. Sections 517 to 522 do not apply to a hearing provided for in section 511 concerning an objection to an administrative admission.

(2) Upon receipt of a petition and a report as provided for in section 516 or 532, or receipt of a petition as provided for in section 531, the court shall do all of the following:

(a) Fix a date for a hearing to be held within 7 days, excluding Sundays or holidays, after the court's receipt of the documents or document.

(b) Fix a place for a hearing, either at a facility or other convenient place, within or outside of the county.

(c) Cause notice of a petition and of the time and place of any hearing to be given to the individual asserted to meet the criteria for treatment, his or her attorney, the petitioner, the prosecuting or other attorney specified in subsection (4), the community mental health services program, the director of a facility to which the individual is admitted, the individual's spouse if his or her whereabouts are known, the guardian, if any, of the individual, and other relatives or persons as the court may determine. The notice shall be given at the earliest practicable time and sufficiently in advance of the hearing date to permit preparation for the hearing.

(d) Cause the individual to be given within 4 days of the court's receipt of the documents described in section 516 a copy of the petition, a copy of the report, unless the individual has previously been given a copy of the petition and the report, notice of the right to a full court hearing, notice of the right to be present at the hearing, notice of the right to be represented by legal counsel, notice of the right to demand a jury trial, and notice of the right to an independent clinical or psychological evaluation.

(e) Subsequently give copies of all orders to the persons identified in subdivision (c).

(3) The individual asserted to meet the criteria for treatment is entitled to be represented by legal counsel in the same manner as counsel is provided under section 454, and is entitled to all of the following:

(a) To be present at the hearing.

(b) To have upon demand a trial by jury of 6.

(c) To obtain a continuance for any reasonable time for good cause.

(d) To present documents and witnesses.

(e) To cross-examine witnesses.

(f) To require testimony in court in person from 1 physician or 1 licensed psychologist who has personally examined the individual.

(g) To receive an independent examination by a physician or licensed psychologist of his or her choice on the issue of whether he or she meets the criteria for treatment.

(4) The prosecuting attorney of the county in which a court has its principal office shall participate, either in person or by assistant, in hearings convened by the court of his or her county under this chapter, except that a prosecutor need not participate in or be present at a hearing whenever a petitioner or some other appropriate person has retained private counsel who will be present in court and will present to the court the case for a finding that the individual meets the criteria for treatment.

(5) Unless the individual or his or her attorney objects, the failure to timely notify a spouse, guardian, or other person determined by the court to be entitled to notice is not cause to adjourn or continue any hearing.

(6) The individual, any interested person, or the court on its own motion may request a change of venue because of residence; convenience to parties, witnesses, or the court; or the individual's mental or physical condition.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2018, Act 596, Eff. Mar. 28, 2019

330.1518 Findings; disposition.

Sec. 518.

(1) If the court finds that an individual does not meet the criteria for treatment, the court shall enter a finding to that effect, shall dismiss the petition, and shall direct that the individual be discharged if he or she has been admitted to a facility prior to the hearing.

(2) If the individual is found to meet the criteria for treatment, the court shall do 1 or a combination of the following:

(a) Order the individual to be admitted to a facility designated by the department and recommended by the community mental health services program.

(b) Order the individual to be admitted to a licensed hospital at the request of the individual or his or her family member, if private funds are to be utilized and the private facility complies with all of the admission, continuing care, and discharge duties and requirements described in this chapter for facilities.

(c) Order the individual to undergo an outpatient program for 1 year of care and treatment recommended by the community mental health services program as an alternative to being admitted to a facility.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2018, Act 596, Eff. Mar. 28, 2019

330.1519 Alternative care and treatment.

Sec. 519.

(1) Before making an order of disposition under section 518(2), the court must consider ordering a course of care and treatment that is an alternative to admission to a facility. To that end, the court shall review the report submitted to the court under section 516(3), specifically reviewing alternatives and recommendations as provided under section 516(6)(c) and (d).

(2) If the court finds that a program of care and treatment other than admission to a facility is adequate to meet the individual's care and treatment needs and is sufficient to prevent harm or injury that the individual may inflict upon himself, herself, or others, the court shall order the individual to receive whatever care and treatment is appropriate under section 518(2)(c).

(3) If at the end of 1 year it is believed that the individual continues to meet the criteria for treatment, a new petition may be filed under section 516.

(4) If at any time during the 1-year period it comes to the attention of the court either that an individual ordered to undergo a program of alternative care and treatment is not complying with the order or that the alternative care and treatment has not been sufficient to prevent harm or injuries that the individual may be inflicting upon himself, herself, or others, the court may without a hearing and based upon the record and other available information do either of the following:

(a) Consider other alternatives to admission to a facility, modify its original order, and direct the individual to undergo another outpatient program of alternative care and treatment for the remainder of the 1-year period.

(b) Enter a new order under section 518(2)(a) or (b) directing that the individual be admitted to a facility recommended by the community mental health services program. If the individual refuses to comply with this order, the court may direct a peace officer to take the individual into protective custody. After the individual is taken into protective custody, a peace officer or a security transport officer shall transport him or her to the facility recommended by the community mental health services program.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2018, Act 596, Eff. Mar. 28, 2019 ;-- Am. 2022, Act 146, Eff. (sine die) ;-- Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022

330.1520 Adequate and appropriate treatment required; inquiry.

Sec. 520.

Before ordering the admission of an individual, the court shall inquire into the adequacy of care and treatment to be provided to the individual by the designated facility. Admission shall not be ordered unless the recommended facility to which the individual is to be admitted can provide the individual with care and treatment that is adequate and appropriate to his or her condition.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2018, Act 596, Eff. Mar. 28, 2019

330.1521 Preference as to facilities.

Sec. 521.

Preference between the facility recommended by the community mental health services program and other available facilities under contract with the community mental health services program shall be given to the facility that can appropriately meet the individual's needs in the least restrictive environment and that is located nearest to the individual's residence. If the individual requests it or there are other compelling reasons for an order reversing the preference, the community mental health services program may place the individual in a facility that is not the nearest to the individual's residence.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2018, Act 596, Eff. Mar. 28, 2019

330.1522 Compensation for independent medical or psychological examiner.

Sec. 522.

An independent medical or licensed psychological examiner appointed for an individual under this chapter shall, if the individual is indigent, be compensated by the county's community mental health services program in an amount that is reasonable and based upon time and expenses.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996