

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.1281b Involuntary treatment; petition; examination of petitioner under oath; probable cause; duties of court; certification of findings by physician, health professional, or individual conducting independent expert evaluation; hearing; court order; failure of respondent to undergo and complete treatment; contempt of court; finding of no probable cause or withdrawal of petition; dismissal of proceedings; "substance use disorder assessment and diagnosis" defined.

Sec. 281b. (1) Upon receipt of a petition filed under section 281a and the payment of the filing fee, if any, the court shall examine the petitioner under oath as to the contents of the petition.

(2) If, after reviewing the contents of the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent may reasonably benefit from treatment, the court shall do all of the following:

(a) Schedule a hearing to be held within 7 days to determine if there is clear and convincing evidence that the respondent may reasonably benefit from treatment.

(b) Notify the respondent and all other individuals named in the petition under section 281a(3)(d) to (h) concerning the allegations and contents of the petition and of the date and the purpose of the hearing.

(c) Notify the respondent that the respondent may retain counsel and, if the respondent is unable to retain counsel, that the respondent may be represented by court-appointed counsel at public expense if the respondent is indigent. Upon the appointment of court-appointed counsel for an indigent respondent, the court shall notify the respondent of the name, address, and telephone number of the court-appointed counsel.

(d) Notify the respondent that the court will cause the respondent to be examined not later than 24 hours before the hearing date by a physician for the purpose of a physical examination and by an independent health professional for the purpose of a substance use disorder assessment and diagnosis. In addition, the court shall notify the respondent that the respondent may have an independent expert evaluation of his or her physical and mental condition conducted at the respondent's own expense.

(e) Cause the respondent to be examined not later than 24 hours before the hearing date by a physician for the purpose of a physical examination and by an independent health professional for the purpose of a substance use disorder assessment and diagnosis.

(f) Conduct the hearing.

(3) The physician who examined the respondent for the purpose of a physical examination, the health professional who examined the respondent for the purpose of the substance use disorder assessment and diagnosis, and, if applicable, the individual who conducted the independent expert evaluation of the respondent's physical and mental condition at the respondent's expense shall certify his or her findings to the court within 24 hours after the examination. The findings must include a recommendation for treatment if the physician, health professional, or individual determines that treatment is necessary.

(4) If, upon completion of the hearing held under this section, the court finds by clear and convincing evidence that the requirements of section 281a(1) are met, the court may order the involuntary treatment of the respondent after considering the recommendations for treatment that were submitted to the court under subsection (3). If ordered, the court shall order the involuntary treatment to be provided by an approved service program or by a health professional qualified by education and training to provide the treatment.

(5) A respondent who fails to undergo and complete the treatment ordered under subsection (4) is in contempt of court. An approved service program to which or health professional to whom a respondent is ordered for treatment under subsection (4) shall notify the court of a respondent's failure to undergo or complete treatment ordered under subsection (4).

(6) If at any time after a petition is filed under section 281a the court finds that there is not probable cause to order or continue treatment or the petitioner withdraws the petition, the court shall dismiss the proceedings against the respondent.

(7) As used in this section, "substance use disorder assessment and diagnosis" includes an evaluation of all of the following:

(a) Whether the individual has a substance use disorder.

(b) Whether the individual presents an imminent danger or imminent threat of danger to self, family, or others as a result of the substance use disorder, or whether a substantial likelihood of the threat of danger in the near future exists.

(c) Whether the individual can reasonably benefit from treatment.

History: Add. 2014, Act 200, Imd. Eff. June 24, 2014.