

Appendix B

Alaska Statutes 2023 (33rd Legislature [2023-2024])

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Sec. 47.30.660 Cooperative powers and duties of the Department of Family and Community Services and the Department of Health

(a) The Department of Family and Community Services and the Department of Health, in cooperation, shall

(1) prepare, and periodically revise and amend, a plan for an integrated comprehensive mental health program, as that term is defined by AS 44.25.290(i); the preparation of the plan and any revision or amendment of it shall

(A) be made in conjunction with the Alaska Mental Health Trust Authority;

(B) be coordinated with federal, state, regional, local, and private entities involved in mental health services;

(2) in planning expenditures from the mental health trust settlement income account, conform to the regulations adopted by the Alaska Mental Health Trust Authority under AS 44.25.240(b)(5); and

(3) implement an integrated comprehensive system of care that, within the limits of money appropriated for that purpose and using grants and contracts that are to be paid for from the mental health trust settlement income account, meets the service needs of the beneficiaries of the trust established under the Alaska Mental Health Enabling Act of 1956, as determined by the plan.

(b) The Department of Family and Community Services and the Department of Health, in fulfilling each department's duties under this section and through each department's divisions responsible for mental health, shall, as applicable,

(1) administer a comprehensive program of services for persons with mental disorders, for the prevention of mental illness, and for the care and treatment of persons with mental disorders, including inpatient and outpatient care and treatment and the procurement of services of specialists or other persons on a contractual or other basis;

(2) take the actions and undertake the obligations that are necessary to participate in federal grants-in-aid programs and accept federal or other financial aid from whatever sources for the study, prevention, examination, care, and treatment of persons with mental disorders;

(3) administer AS 47.30.660 —47.30.915;

(4) designate, operate, and maintain treatment facilities

equipped and qualified to provide inpatient and outpatient care and treatment for persons with mental disorders;

(5) provide for the placement of patients with mental disorders in designated treatment facilities;

(6) enter into arrangements with governmental agencies for the care or treatment of persons with mental disorders in facilities of the governmental agencies in the state or in another state;

(7) enter into contracts with treatment facilities for the custody and care or treatment of persons with mental disorders; contracts under this paragraph are governed by AS 36.30 (State Procurement Code);

(8) enter into contracts, which incorporate safeguards consistent with AS 47.30.660 —47.30.915 and the preservation of the civil rights of the patients with another state for the custody and care or treatment of patients previously committed from this state under 48 U.S.C. 46 et seq., and P.L. 84-830, 70 Stat. 709;

(9) prescribe the form of applications, records, reports, requests for release, and consents to medical or psychological treatment required by AS 47.30.660 —47.30.915;

(10) require reports from the head of a treatment facility concerning the care of patients;

(11) visit each treatment facility at least annually to review methods of care or treatment for patients;

(12) investigate complaints made by a patient or an interested party on behalf of a patient;

(13) delegate upon mutual agreement to another officer or agency of it, or a political subdivision of the state, or a treatment facility designated, any of the duties and powers imposed upon it by AS 47.30.660 —47.30.915;

(14) after consultation with the Alaska Mental Health Trust Authority, adopt regulations to implement the provisions of AS 47.30.660 —47.30.915;

(15) provide technical assistance and training to providers of mental health services; and

(16) set standards under which each designated treatment facility shall provide programs to meet patients' medical, psychological, social, vocational, educational, and recreational needs.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 1 ch 142 SLA 1984)

Article 6. Voluntary Admission for Treatment.

Sec. 47.30.670 Criteria for voluntary admission

A person 18 years of age or older may be voluntarily admitted to a treatment facility if the person is suffering from mental illness and voluntarily signs the admission papers.

Sec. 47.30.675 Required notices

(a) Upon the application of a person for voluntary admission, or at the time a person admitted under AS 47.30.690 reaches the age of 18, the person shall be given a copy of the following documents which shall be explained as necessary:

(1) notice of rights as set out in AS 47.30.825 —47.30.865 and an explanation of any document served upon the person; and

(2) notice that should the person desire to leave at a time when the treatment facility determines that the person is mentally ill and as a result is likely to cause serious harm to self or others or is gravely disabled, the facility could initiate commitment proceedings against the person.

(b) If an applicant for voluntary admission does not understand English, the explanation shall be given in a language the applicant understands.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 3 ch 142 SLA 1984)

Sec. 47.30.680 Required discharge

A patient who no longer meets the standards established in AS 47.30.670 shall be discharged from the treatment facility.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 3 ch 142 SLA 1984)

Sec. 47.30.685 Request to leave; evaluation; 48-hour hold for commitment

A voluntary patient who is 18 years of age or older and who desires to leave a treatment facility shall submit to the facility a request to leave on a form provided by the facility. When the investigation is completed, the patient shall be evaluated immediately in writing and discharged immediately or given written notice that involuntary commitment proceedings will be initiated against the patient. The treatment facility may detain the patient for no more than 48 hours after receipt of the patient's request to leave in order to initiate involuntary commitment proceedings.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 4 ch 142 SLA 1984)

Sec. 47.30.690 Admission of minors under 18 years of age

(a) A minor under the age of 18 may be admitted for 30 days of evaluation, diagnosis, and treatment at a designated treatment facility if the minor's parent or guardian signs the admission papers and if, in the opinion of the professional person in charge,

(1) the minor is gravely disabled or is suffering from mental illness and as a result is likely to cause serious harm to the minor or others;

(2) there is no less restrictive alternative available for the minor's treatment; and

(3) there is reason to believe that the minor's mental condition could be improved by the course of treatment or would deteriorate further if untreated.

(b) A guardian ad litem for a minor admitted under this section shall be appointed under AS 25.24.310 to monitor the best interests of the minor as soon as possible after the minor's admission. If the guardian ad litem finds that placement is not appropriate, the guardian ad litem may request that an attorney be appointed under AS 25.24.310 to represent the minor. The attorney may request a hearing on behalf of the minor during the 30-day admittance.

(c) The minor may be released by the treatment facility at any time if the professional person in charge or the minor's designated mental health professional determines the minor would no longer benefit from continued treatment and the minor is not

dangerous. The minor's parents or guardian must be notified by the facility of the contemplated release.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 5 ch 142 SLA 1984)

Sec. 47.30.693 Notice to parent or guardian

When a minor under 18 years of age is detained at or admitted or committed to a treatment facility, the facility shall inform the parent or guardian of the location of the minor as soon as possible after the arrival of the minor at the facility. When an adult for whom a guardian has been appointed is detained at or admitted or committed to a treatment facility and the facility is aware of the appointment, the facility shall inform the guardian of the location of the adult as soon as possible after the arrival of the adult at the facility.

HISTORY

History. (§ 6 ch 142 SLA 1984; am § 12 ch 41 SLA 2022)

Sec. 47.30.695 Request by parent or guardian for release of minors under 18 years of age from detention and commitment

The parent or guardian of a minor who is less than 18 years of age may file a notice to withdraw the minor from the facility. On receipt of the notice,

(1) the facility may discharge the minor to the custody of the parent or guardian; or

(2) if, in the opinion of the treating physician, release of the minor would be seriously detrimental to the minor's health, the treating physician may

(A) discharge the minor to the custody of the parent or guardian after advising the parent or guardian that this action is against medical advice and after receiving a written acknowledgment of the advice; or

(B) refuse to discharge the minor, initiate involuntary commitment proceedings, and continue to hold the minor until a court order under AS 47.30.700 has been issued; or

(3) if, in the opinion of the treating physician, the minor is likely to cause serious harm to self or others and there is reason to believe the release could place the minor in imminent danger, the treating physician shall refuse to discharge the

minor, and shall initiate involuntary commitment proceedings and continue to hold the minor until a court order under AS 47.30.700 has been issued.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 7 ch 142 SLA 1984; am § 28 ch 58 SLA 2010)

Article 7 Involuntary Admission for Treatment

Sec. 47.30.700 Initial involuntary commitment procedures

(a) Upon petition of any adult, a judge shall immediately conduct a screening investigation or direct a local mental health professional employed by the department or by a local mental health program that receives money from the department under AS 47.30.520 —47.30.620 or another mental health professional designated by the judge, to conduct a screening investigation of the person alleged to be mentally ill and, as a result of that condition, alleged to be gravely disabled or to present a likelihood of serious harm to self or others. Within 48 hours after the completion of the screening investigation, a judge may issue an ex parte order orally or in writing, stating that there is probable cause to believe the respondent is mentally ill and that condition causes the respondent to be gravely disabled or to present a likelihood of serious harm to self or others. The court shall provide findings on which the conclusion is based, appoint an attorney to represent the respondent, and may direct that a peace officer take the respondent into custody and deliver the respondent to the nearest appropriate facility for emergency examination or treatment. The ex parte order shall be provided to the respondent and made a part of the respondent's clinical record. The court shall confirm an oral order in writing within 24 hours after it is issued.

(b) The petition required in (a) of this section must allege that the respondent is reasonably believed to present a likelihood of serious harm to self or others or is gravely disabled as a result of mental illness and must specify the factual information on which that belief is based including the names and addresses of all persons known to the petitioner who have knowledge of those facts through personal observation.

(c) When a crisis stabilization center, crisis residential center, evaluation facility, or treatment facility admits a minor respondent under this section, the center or facility shall

inform the parent or guardian of the location of the minor as soon as possible after the arrival of the minor at the center or facility. When a crisis stabilization center, crisis residential center, evaluation facility, or treatment facility admits an adult for whom a guardian has been appointed and the center or facility is aware of the appointment, the center or facility shall inform the guardian of the location of the adult as soon as possible after the arrival of the adult at the center or facility.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 13 ch 41 SLA 2022)

Sec. 47.30.705 Emergency detention for evaluation

(a) A peace officer, health officer, mental health professional, or physician assistant licensed by the State Medical Board to practice in this state who has probable cause to believe that a person is gravely disabled or is suffering from mental illness and is likely to cause serious harm to self or others of such immediate nature that considerations of safety do not allow initiation of involuntary commitment procedures set out in AS 47.30.700, may cause the person to be taken into custody by a peace officer or health officer and delivered to the nearest crisis stabilization center, crisis residential center, evaluation facility, or treatment facility. A person taken into custody for emergency evaluation may not be placed in a jail or other correctional facility except for protective custody purposes and only while awaiting transportation to a crisis stabilization center, crisis residential center, evaluation facility, or treatment facility. However, protective custody under this section may not include placement of a minor in a jail or secure facility. The peace officer, health officer, mental health professional, or physician assistant shall complete an application for examination of the person in custody and be interviewed by a mental health professional at the crisis stabilization center, crisis residential center, evaluation facility, or treatment facility.

(b) When delivering a person to a crisis stabilization center, crisis residential center, evaluation facility, or treatment facility under (a) of this section, a peace officer or health officer shall give priority to a crisis stabilization center or crisis residential center if one exists in the service area served by the peace officer or health officer.

(c) When a crisis stabilization center, crisis residential center, evaluation facility, or treatment facility admits a minor

under this section, the center or facility shall inform the parent or guardian that the minor has been admitted as soon as possible after the arrival of the minor at the facility. When a crisis stabilization center, crisis residential center, evaluation facility, or treatment facility admits an adult for whom a guardian has been appointed and the center or facility is aware of the appointment, the center or facility shall inform the guardian that the adult has been admitted as soon as possible.

(d) In this section, "minor" means an individual who is under 18 years of age.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 8 ch 142 SLA 1984; am §§ 3, 4 ch 95 SLA 2004; am § 4 ch 28 SLA 2020; am §§ 14, 15 ch 41 SLA 2022)

Sec. 47.30.707 Admission to and hold at a crisis stabilization center

(a) Except as provided in (b) of this section, when a crisis stabilization center admits a respondent under AS 47.30.705, the crisis stabilization center may hold the respondent at the center for a period not to exceed 23 hours and 59 minutes. A mental health professional shall examine the respondent within three hours after the respondent arrives at the center.

(b) If the professional person in charge at the crisis stabilization center determines that there is probable cause to believe that the respondent has a mental illness and is suffering an acute behavioral health crisis and, as a result, is likely to cause serious harm to self or others or is gravely disabled, the respondent's acute behavioral health crisis will be resolved during admission to a crisis residential center or evaluation facility, and the respondent is not willing to voluntarily go to the crisis residential center or evaluation facility, a mental health professional may submit an ex parte application to the court under this section for detention at the crisis residential center or evaluation facility. Based on the application, if the court finds that probable cause exists to believe that the respondent has a mental illness and is suffering an acute behavioral health crisis and, as a result, is likely to cause serious harm to self or others or is gravely disabled and the respondent's acute behavioral health crisis will be resolved during admission to a crisis residential center or evaluation facility, and the respondent is not willing to voluntarily go to a crisis residential center or evaluation facility, the court shall grant the application and appoint an attorney to represent the respondent, and the respondent may remain at the crisis

stabilization center until admission to a crisis residential center or evaluation facility. If the court finds no probable cause, the court shall order the respondent released.

HISTORY

History. (§ 16 ch 41 SLA 2022)

Sec. 47.30.708 Admission to and detention at a crisis residential center

(a) A respondent who is delivered to a crisis residential center for emergency examination and treatment shall be examined and evaluated as to mental and physical condition by a mental health professional within three hours after arrival at the facility.

(b) The mental health professional who performs the emergency examination under (a) of this section may admit the respondent to the crisis residential center if the mental health professional has probable cause to believe that

(1) the respondent has a mental illness and is suffering an acute behavioral health crisis and, as a result, is likely to cause serious harm to self or others or is gravely disabled; and

(2) the respondent's acute behavioral health crisis will be resolved during admission to the crisis residential center.

(c) If a mental health professional admits a respondent to a crisis residential center and a judicial order has not been obtained under AS 47.30.707, the mental health professional may apply for an ex parte order under this section authorizing admission to the crisis residential center. Based on the application, if the court finds that probable cause exists to believe that the respondent has a mental illness and is suffering an acute behavioral health crisis and, as a result, is likely to cause serious harm to self or others or is gravely disabled and the respondent's acute behavioral health crisis will be resolved during admission to a crisis residential center, the court shall grant the application and appoint an attorney to represent the respondent. If the court finds no probable cause, the court shall order the respondent released.

(d) When, under (c) of this section, the court grants an ex parte application to admit a respondent to a crisis residential center, the court shall set a time for a hearing, to be held if needed within 72 hours after the respondent's arrival at the crisis stabilization center or the crisis residential center, whichever is earlier, and the court shall notify the respondent, the respondent's attorney, the respondent's guardian, if any, the petitioner's attorney, if any, and the attorney general of the

time and place of the hearing. Computation of the 72-hour period at a crisis residential center before a hearing does not include Saturdays, Sundays, and legal holidays, except that if the exclusion of Saturdays, Sundays, and legal holidays from the computation of the 72-hour period would result in the respondent being held for longer than 72 hours, the 72-hour period ends at 5:00 p.m. on the next day that is not a Saturday, Sunday, or legal holiday. The hearing shall be held at the crisis residential center in person, by contemporaneous two-way video conference, or by teleconference, absent extraordinary circumstances. If a hearing is held by contemporaneous two-way video conference, only the court may record the hearing. In this subsection, "contemporaneous two-way video conference" means a conference among people at different places by means of transmitted audio and visual signals, using any communication technology that allows people at two or more places to interact simultaneously by way of two-way video and audio transmission.

(e) In the course of the 72-hour period, a petition for 30-day commitment or for seven-day detention at a crisis residential center may be filed in court. A petition for 30-day commitment must conform with AS 47.30.730. A petition for seven-day detention at a crisis residential center must be signed by two mental health professionals, one of whom must be a physician, who have examined the respondent. A copy of the petition shall be served on the respondent, the respondent's attorney, and the respondent's guardian, if any, before the hearing. The petition for detention must

(1) allege that the respondent is suffering an acute behavioral health crisis and, as a result, is likely to cause serious harm to self or others or is gravely disabled;

(2) allege that resolution of the respondent's acute behavioral health crisis is likely during the admission to the crisis residential center;

(3) allege that the respondent has been advised of the need for, but has not accepted, voluntary treatment and request that the court order the respondent to be detained at the crisis residential center for up to seven days following the respondent's arrival at the crisis stabilization center or the crisis residential center, whichever is earlier;

(4) list prospective witnesses; and

(5) list specific facts and describe behavior of the respondent supporting the allegations in (1) —(3) of this subsection.

(f) If, at a hearing held under (d) of this section, the court reviews a petition for 30-day commitment, the court shall hold the next hearing in accordance with AS 47.30.735. If the court grants the petition for 30-day commitment, the respondent may remain at the crisis residential center until admission to a designated treatment facility.

(g) If, at a hearing held under (d) of this section, the court reviews a petition for seven-day detention at a crisis residential center, the respondent has the rights listed in AS 47.30.735(b)(1) —(9). At the conclusion of a hearing on a petition for seven-day detention at a crisis residential center, the court

(1) may order the respondent detained at the crisis residential center for up to seven days following the respondent's arrival at the crisis stabilization center or the crisis residential center, whichever is earlier, if the court finds there is probable cause to believe that

(A) the respondent is suffering an acute behavioral health crisis and, as a result, is likely to cause serious harm to self or others or is gravely disabled; and

(B) the respondent's acute behavioral health crisis will be resolved during admission to the crisis residential center; or

(2) shall order the respondent released if the court finds no probable cause.

HISTORY

History. (§ 16 ch 41 SLA 2022)

Sec. 47.30.709 Rights of respondents at crisis stabilization centers and crisis residential centers; psychotropic medication; time

(a) If, at any time during a respondent's hold at a crisis stabilization center or detention at a crisis residential center, the professional person in charge determines that the respondent does not meet the standard for a hold or detention, the respondent may no longer be held or detained. The professional person in charge shall notify the petitioner and the court, if applicable.

(b) When a respondent is held at a crisis stabilization center or detained at a crisis residential center, the respondent has the rights identified in AS 47.30.725 and,

(1) if an adult, the rights identified under AS 47.30.817 — 47.30.865; and

(2) if a minor, the rights identified in AS 47.30.700 — 47.30.865.

(c) A respondent subject to an involuntary stabilization hold or detention at a crisis stabilization center or crisis residential center may, at any time, convert to voluntary status if the professional person in charge agrees that

(1) the respondent is an appropriate patient for voluntary status; and

(2) the conversion is made in good faith.

(d) A crisis stabilization center or crisis residential center may administer psychotropic medication to an involuntarily held or detained respondent only in a manner that is consistent with AS 47.30.838.

(e) Computation of a 23-hour and 59-minute holding time at a crisis stabilization center includes Saturdays, Sundays, and legal holidays, but does not include any period of time necessary to transport a respondent to a crisis stabilization center. Computation of a seven-day detention at a crisis residential center includes Saturdays, Sundays, and legal holidays, but does not include any period of time necessary to transport a respondent to a crisis residential center.

HISTORY

History. (§ 16 ch 41 SLA 2022)

Sec. 47.30.710 Examination; hospitalization

(a) A respondent who is delivered under AS 47.30.700 — 47.30.705 to an evaluation facility for emergency examination and treatment shall be examined and evaluated as to mental and physical condition by a mental health professional and by a physician within 24 hours after arrival at the facility.

(b) If the mental health professional who performs the emergency examination under (a) of this section has reason to believe that the respondent is mentally ill and that condition causes the respondent to be gravely disabled or to present a likelihood of serious harm to self or others, and the respondent is in need of care or treatment, the mental health professional may

(1) admit the respondent to a crisis residential center;

(2) hospitalize the respondent; or

(3) arrange for hospitalization, on an emergency basis.

(c) If a mental health professional hospitalizes a respondent or arranges for the hospitalization of a respondent under (b) of this section and a judicial order has not been obtained under AS 47.30.700, the mental health professional shall apply for an ex parte order authorizing the hospitalization for evaluation.

(d) If a mental health professional readmits a respondent to an evaluation facility after a discharge from a subacute mental health facility, the respondent is not willing to remain at the evaluation facility on a voluntary basis, and a judicial order has not been obtained under AS 47.30.700, the mental health professional shall apply for an ex parte order authorizing hospitalization for evaluation. Unless otherwise ordered by the court upon receiving the application for an ex parte order, the respondent shall remain at the evaluation facility until the court issues a decision on the application for an ex parte order.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 5 ch 28 SLA 2020; am §§ 17, 18 ch 41 SLA 2022)

Sec. 47.30.715 Procedure after order

When an evaluation facility receives a proper order for evaluation, it shall accept the order and the respondent for an evaluation period not to exceed 72 hours. The evaluation facility shall promptly notify the court of the date and time of the respondent's arrival. The court shall set a date, time, and place for a 30-day commitment hearing, to be held if needed within 72 hours after the respondent's arrival, and the court shall notify the evaluation facility, the respondent, the respondent's guardian, if any, the respondent's attorney, the petitioner's attorney, if any, and the attorney general of the time and place of the hearing. Evaluation personnel, when used, shall similarly notify the court of the date and time when they first met with the respondent.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 9 ch 142 SLA 1984; am § 19 ch 41 SLA 2022)

Sec. 47.30.720 Release before expiration of 72-hour period

If at any time in the course of the 72-hour period the mental

health professionals conducting the evaluation determine that the respondent does not meet the standards for commitment specified in AS 47.30.700, the respondent shall be discharged from the facility or the place of evaluation by evaluation personnel and the petitioner and the court so notified.

HISTORY

History. (§ 1 ch 84 SLA 1981)

Sec. 47.30.725. Rights; notification.

(a) When a respondent is detained for evaluation under AS 47.30.660 —47.30.915, the respondent shall be immediately notified orally and in writing of the rights under this section. Notification must be in a language understood by the respondent. The respondent's guardian, if any, and if the respondent requests, an adult designated by the respondent, shall also be notified of the respondent's rights under this section.

(b) Unless a respondent is released or voluntarily admitted for treatment within 72 hours of arrival at the facility or, if the respondent is evaluated by evaluation personnel, within 72 hours from the beginning of the respondent's meeting with evaluation personnel, the respondent is entitled to a court hearing to be set for not later than the end of that 72-hour period to determine whether there is cause for detention after the 72 hours have expired for up to an additional 30 days on the grounds that the respondent is mentally ill, and as a result presents a likelihood of serious harm to the respondent or others, or is gravely disabled. The facility or evaluation personnel shall give notice to the court of the releases and voluntary admissions under AS 47.30.700 —47.30.815.

(c) The respondent has a right to communicate immediately, at the department's expense, with the respondent's guardian, if any, or an adult designated by the respondent and the attorney designated in the ex parte order, or an attorney of the respondent's choice.

(d) The respondent has the right to be represented by an attorney, to present evidence, and to cross-examine witnesses who testify against the respondent at the hearing.

(e) The respondent has the right to be free of the effects of medication and other forms of treatment to the maximum extent possible before the 30-day commitment hearing; however, the facility or evaluation personnel may treat the respondent with medication under prescription by a licensed physician or by a

less restrictive alternative of the respondent's preference if, in the opinion of a licensed physician in the case of medication, or of a mental health professional in the case of alternative treatment, the treatment is necessary to

(1) prevent bodily harm to the respondent or others;

(2) prevent such deterioration of the respondent's mental condition that subsequent treatment might not enable the respondent to recover; or

(3) allow the respondent to prepare for and participate in the proceedings.

(f) A respondent, if represented by counsel, may waive, orally or in writing, the 72-hour time limit on the 30-day commitment hearing and have the hearing set for a date no more than seven calendar days after arrival at the facility. The respondent's counsel shall immediately notify the court of the waiver.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 10 ch 142 SLA 1984)

Sec. 47.30.730. Petition for 30-day commitment.

(a) In the course of the 72-hour evaluation period, a petition for commitment to a treatment facility may be filed in court. The petition must be signed by two mental health professionals who have examined the respondent, one of whom is a physician. The petition must

(1) allege that the respondent is mentally ill and as a result is likely to cause harm to self or others or is gravely disabled;

(2) allege that the evaluation staff has considered but has not found that there are any less restrictive alternatives available that would adequately protect the respondent or others; or, if a less restrictive involuntary form of treatment is sought, specify the treatment and the basis for supporting it;

(3) allege with respect to a gravely disabled respondent that there is reason to believe that the respondent's mental condition could be improved by the course of treatment sought;

(4) allege that a specified treatment facility or less restrictive alternative that is appropriate to the respondent's condition has agreed to accept the respondent;

(5) allege that the respondent has been advised of the need

for, but has not accepted, voluntary treatment, and request that the court commit the respondent to the specified treatment facility or less restrictive alternative for a period not to exceed 30 days;

(6) list the prospective witnesses who will testify in support of commitment or involuntary treatment; and

(7) list the facts and specific behavior of the respondent supporting the allegation in (1) of this subsection.

(b) A copy of the petition shall be served on the respondent, the respondent's attorney, and the respondent's guardian, if any, before the 30-day commitment hearing.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 11 ch 142 SLA 1984)

Sec. 47.30.735. 30-day commitment; hearing.

(a) Upon receipt of a proper petition for commitment, the court shall hold a hearing at the date and time previously specified according to procedures set out in AS 47.30.715.

(b) The hearing shall be conducted in a physical setting least likely to have a harmful effect on the mental or physical health of the respondent, within practical limits. At the hearing, in addition to other rights specified in AS 47.30.660 —47.30.915, the respondent has the right

(1) to be present at the hearing; this right may be waived only with the respondent's informed consent; if the respondent is incapable of giving informed consent, the respondent may be excluded from the hearing only if the court, after hearing, finds that the incapacity exists and that there is a substantial likelihood that the respondent's presence at the hearing would be severely injurious to the respondent's mental or physical health;

(2) to view and copy all petitions and reports in the court file of the respondent's case;

(3) to have the hearing open or closed to the public as the respondent elects;

(4) to have the rules of evidence and civil procedure applied so as to provide for the informal but efficient presentation of evidence;

(5) to have an interpreter if the respondent does not

understand English;

(6) to present evidence on the respondent's behalf;

(7) to cross-examine witnesses who testify against the respondent;

(8) to remain silent;

(9) to call experts and other witnesses to testify on the respondent's behalf.

(c) At the conclusion of the hearing the court may commit the respondent to a treatment facility for not more than 30 days if it finds, by clear and convincing evidence, that the respondent is mentally ill and as a result is likely to cause harm to the respondent or others or is gravely disabled.

(d) If the court finds that there is a viable less restrictive alternative available and that the respondent has been advised of and refused voluntary treatment through the alternative, the court may order the less restrictive alternative treatment for not more than 30 days if the program accepts the respondent.

(e) The court shall specifically state to the respondent, and give the respondent written notice, that if commitment or other involuntary treatment beyond the 30 days is to be sought, the respondent has the right to a full hearing or jury trial.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 12 ch 142 SLA 1984)

Sec. 47.30.740. Procedure for 90-day commitment following 30-day commitment.

(a) At any time during the respondent's 30-day commitment, the professional person in charge, or that person's professional designee, may file with the court a petition for a 90-day commitment of that respondent. The petition must include all material required under AS 47.30.730(a) except that references to "30 days" shall be read as "90 days"; and

(1) allege that the respondent has attempted to inflict or has inflicted serious bodily harm upon the respondent or another since the respondent's acceptance for evaluation, or that the respondent was committed initially as a result of conduct in which the respondent attempted or inflicted serious bodily harm upon the respondent or another, or that the respondent continues

to be gravely disabled, or that the respondent demonstrates a current intent to carry out plans of serious harm to the respondent or another;

(2) allege that the respondent has received appropriate and adequate care and treatment during the respondent's 30-day commitment;

(3) be verified by the professional person in charge, or that person's professional designee, during the 30-day commitment.

(b) The court shall have copies of the petition for 90-day commitment served upon the respondent, the respondent's attorney, and the respondent's guardian, if any. The petition for 90-day commitment and proofs of service shall be filed with the clerk of the court, and a date for hearing shall be set, by the end of the next judicial day, for not later than five judicial days from the date of filing of the petition. The clerk shall notify the respondent, the respondent's attorney, and the petitioner of the hearing date at least three judicial days in advance of the hearing.

(c) Findings of fact relating to the respondent's behavior made at a 30-day commitment hearing under AS 47.30.735 shall be admitted as evidence and may not be rebutted except that newly discovered evidence may be used for the purpose of rebutting the findings.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 13 ch 142 SLA 1984)

Sec. 47.30.745. 90-day commitment hearing rights; continued commitment.

(a) A respondent subject to a petition for 90-day commitment has, in addition to the rights specified elsewhere in this chapter, or otherwise applicable, the rights enumerated in this section. Written notice of these rights shall be served on the respondent and the respondent's attorney and guardian, if any, and may be served on an adult designated by the respondent at the time the petition for 90-day commitment is served. An attempt shall be made by oral explanation to ensure that the respondent understands the rights enumerated in the notice. If the respondent does not understand English, the explanation shall be given in a language the respondent understands.

(b) Unless the respondent is released or is admitted voluntarily following the filing of a petition and before the hearing, the respondent is entitled to a judicial hearing within five judicial days of the filing of the petition as set out in AS 47.30.740(b) to determine if the respondent is mentally ill and as a result is likely to cause harm to self or others, or if the respondent is gravely disabled. If the respondent is admitted voluntarily following the filing of the petition, the voluntary admission constitutes a waiver of any hearing rights under AS 47.30.740 or under AS 47.30.685. If at any time during the respondent's voluntary admission under this subsection, the respondent submits to the facility a written request to leave, the professional person in charge may file with the court a petition for a 180-day commitment of the respondent under AS 47.30.770. The 180-day commitment hearing shall be scheduled for a date not later than 90 days after the respondent's voluntary admission.

(c) The respondent is entitled to a jury trial upon request filed with the court if the request is made at least two judicial days before the hearing. If the respondent requests a jury trial, the hearing may be continued for no more than 10 calendar days. The jury shall consist of six persons.

(d) If a jury trial is not requested, the court may still continue the hearing at the respondent's request for no more than 10 calendar days.

(e) The respondent has a right to retain an independent licensed physician or other mental health professional to examine the respondent and to testify on the respondent's behalf. Upon request by an indigent respondent, the court shall appoint an independent licensed physician or other mental health professional to examine the respondent and testify on the respondent's behalf. The court shall consider an indigent respondent's request for a specific physician or mental health professional. A motion for the appointment may be filed in court at any reasonable time before the hearing and shall be acted upon promptly. Reasonable fees and expenses for expert examiners shall be determined by the rules of court.

(f) The proceeding shall in all respects be in accord with constitutional guarantees of due process and, except as otherwise specifically provided in AS 47.30.700 — 47.30.915, the rules of evidence and procedure in civil proceedings.

(g) Until the court issues a final decision, the respondent shall continue to be treated at the treatment facility unless the petition for 90-day commitment is withdrawn. If a decision has

not been made within 20 days of filing of the petition, not including extensions of time due to jury trial or other requests by the respondent, the respondent shall be released.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 14 ch 142 SLA 1984)

Sec. 47.30.750. Conduct of hearing.

The hearing under AS 47.30.745 shall be conducted in the same manner, and with the same rights for the respondent, as set out in AS 47.30.735(b).

HISTORY

History. (§ 1 ch 84 SLA 1981)

Sec. 47.30.755. Court order.

(a) After the hearing and within the time limit specified in AS 47.30.745, the court may commit the respondent to a treatment facility for no more than 90 days if the court or jury finds by clear and convincing evidence that the respondent is mentally ill and as a result is likely to cause harm to self or others, or is gravely disabled.

(b) If the court finds that there is a less restrictive alternative available and that the respondent has been advised of and refused voluntary treatment through the alternative, the court may order the less restrictive alternative treatment after acceptance by the program of the respondent for a period not to exceed 90 days.

HISTORY

History. (§ 1 ch 84 SLA 1981)

Sec. 47.30.760. Placement at closest facility.

Treatment shall always be available at a state-operated hospital; however, if space is available and upon acceptance by another treatment facility, a respondent who is committed by the court shall be placed by the department at the designated treatment facility closest to the respondent's home unless the court finds that

(1) another treatment facility in the state has a program more suited to the respondent's condition, and this interest outweighs the desirability of the respondent being closer to home;

(2) another treatment facility in the state is closer to the respondent's friends or relatives who could benefit the respondent through their visits and communications; or

(3) the respondent wants to be further removed from home, and the mental health professionals who sought the respondent's commitment concur in the desirability of removed placement.

HISTORY

History. (§ 1 ch 84 SLA 1981)

Sec. 47.30.765. Appeal.

The respondent has the right to an appeal from an order of involuntary commitment. The court shall inform the respondent of this right.

HISTORY

History. (§ 1 ch 84 SLA 1981)

Sec. 47.30.770. Additional 180-day commitment.

(a) The respondent shall be released from involuntary treatment at the expiration of 90 days unless the professional person in charge files a petition for a 180-day commitment conforming to the requirements of AS 47.30.740(a) except that all references to “30-day commitment” shall be read as “the previous 90-day commitment” and all references to “90-day commitment” shall be read as “180-day commitment”.

(b) The procedures for service of the petition, notification of rights, and judicial hearing shall be as set out in AS 47.30.740—47.30.750. If the court or jury finds by clear and convincing evidence that the grounds for 90-day commitment as set out in AS 47.30.755 are present, the court may order the respondent committed for an additional treatment period not to exceed 180 days from the date on which the first 90-day treatment period would have expired.

(c) Successive 180-day commitments are permissible on the same ground and under the same procedures as the original 180-day commitment. An order of commitment may not exceed 180 days.

(d) Findings of fact relating to the respondent's behavior made at a 30-day commitment hearing under AS 47.30.735, a 90-day commitment hearing under AS 47.30.750, or a previous 180-day commitment hearing under this section shall be admitted as

evidence and may not be rebutted except that newly discovered evidence may be used for the purpose of rebutting the findings.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 15 ch 142 SLA 1984)

Sec. 47.30.772. Medication and treatment.

An evaluation facility or designated treatment facility may administer medication or other treatment to an involuntarily committed patient only in a manner that is consistent with the provisions of AS 47.30.817 —47.30.865.

HISTORY

History. (§ 16 ch 142 SLA 1984; am § 3 ch 109 SLA 1992; am § 76 ch 41 SLA 2009)

Sec. 47.30.775. Commitment of minors.

The provisions of AS 47.30.700 —47.30.815 apply to minors. However, all notices required to be served on the respondent in AS 47.30.700 —47.30.815 shall also be served on the parent or guardian of a respondent who is a minor, and parents or guardians of a minor respondent shall be notified that they may appear as parties in any commitment proceeding concerning the minor and that as parties they are entitled to retain their own attorney or have the office of public advocacy appointed for them by the court. A minor respondent has the same rights to waiver and informed consent as an adult respondent under AS 47.30.660 —47.30.915; however, the minor shall be represented by counsel in waiver and consent proceedings.

HISTORY

History. (§ 1 ch 84 SLA 1981; am § 18 ch 55 SLA 1984)