

Statutory Parallels

	Adult Protective Statutes: CH 54 & 55	Mental Health, Developmental Disabilities and Alcohol and other Drug Abuse under CH 51
Referral for services under CH 54/55 and emergency detention under CH 51.20		<p>Must meet all criteria:</p> <ul style="list-style-type: none"> -Mentally ill, drug dependent, or developmentally disabled and Detention is least restrictive alternative appropriate -Meets one of the following: <ul style="list-style-type: none"> (a) Substantial probability of physical harm to self (recent threats/attempts of suicide or serious bodily harm) (b) harm to others-evidence of homicidal or other violent behavior, reasonable fear of harm by other, recent acts, attempt, or threat (c) probability of impairment or injury due to Impaired judgment as manifested by act or omission; unable to protect in the community (d) Due to mental illness, unable to satisfy basic needs/treatment; will not avail of services <p>Alternative standard: Recent acts or omissions indicate unable to satisfy basic needs without prompts & adequate treatment. Person unwilling to use available services. Death, serious physical harm, debilitation, or disease if does not receive services.</p>
Timeline for Hearings		<p>Petition filed within 24 hours of detention.</p> <ul style="list-style-type: none"> -State public defender's office informed of detention and represents all indigent. -Individual informed of rights at detention. -Superintendent of facility may release if find no cause before the probable cause hearing occurs. <p>Probable cause hearing held within 72 hours of detention. (At request of subject, may delay 7 days from date of detention)</p> <ul style="list-style-type: none"> (a) Settlement-agrees to probable cause and agrees to treatment for 90 days OR (b) Final hearing held within 14 days of detention. If not detained, hearing scheduled within 30 days, if fails to appear, orders detention & hearing within 48 hours. Petition includes planned treatment plan. Commitment

		<p>for up to six months must be re-evaluated for extension.</p> <ul style="list-style-type: none"> -Right to jury trial 5 of 6 jurors must agree. -Extensions must be requested at least 21 days before commitment expires; Commitments can be extended up to one year (consecutive order allowed) <p>Hearings are open unless request by subject to be closed.</p>
Guardianship Appointment		<p>Court may determine need for guardian at probable cause hearing & appoint temporary guardian for period of 30 days. Petition for guardianship and protective services follows.</p>
Medication Orders		<p>Probable cause hearing determines if competent to refuse medications.</p>
Examination		<p>By psychiatrist or psychologist appointed by the court before final hearing. Determines if proper subject for treatment and ability to understand re: medications</p>
Fees/Costs		<p>Witnesses reimbursed in accordance with other cases when subpoenaed Expenses are the responsibility of the county from which the subject resides; reimbursement to the county in which was detained.</p>
Records		<p>Records are confidential and privileged. Informed written consent of the subject individual is required to release to anyone. (Exceptions for continuity of care). Additional limitations for AODA records.</p>
Residence		<p>Intent to reside or return to prior county within one year. Must have fixed habitation Guardian may declare county of residence.</p>
Other important considerations		<p>If has a guardian, both guardian and individual must consent to admission to a mental health facility. Commitment proceedings may occur while the person is incarcerated; does not expunge responsibility unless determined within the criminal court process. A petition for detention may be made by three adults when able to present evidence that lacks self-control due to alcohol/drugs to extent of substantial impairment and endangered.</p>