

Mental Health Commitments

Wisconsin Statutes Chapter 51

Slides created by: Kenosha County Corporation Counsel's Office

Types of Cases

- A “Chapter 51” proceeding refers to Chapter 51 of the Wisconsin Statutes, State Alcohol, Drug Abuse, Developmental Disabilities and Mental Health Act.
- The legislature enacted this law to assure the provision of a full range of treatment and rehabilitation services in the state for all mental disorders and developmental disabilities and for mental illness, alcoholism and drug abuse.

§51.001, Wis. Stats.

Summary of the Law

A person is considered a subject for a Chapter 51 if the person is:

1. Mentally ill, drug dependent or developmentally disabled, and
2. A substantial probability of physical harm to him/herself or others is evident by recent acts or omissions, attempts or threats, and
3. The individual is a proper subject for treatment

§§ 51.15 and 51.20, Wis. Stats.

Summary of the Law

Confidentiality – HIPPA

Chapter 51 of the Wisconsin Statutes restricts availability of protected health information. This information can only be released to parties producing proper authorization and authority. In all other cases a court order is required to access this information.

Chapter 51

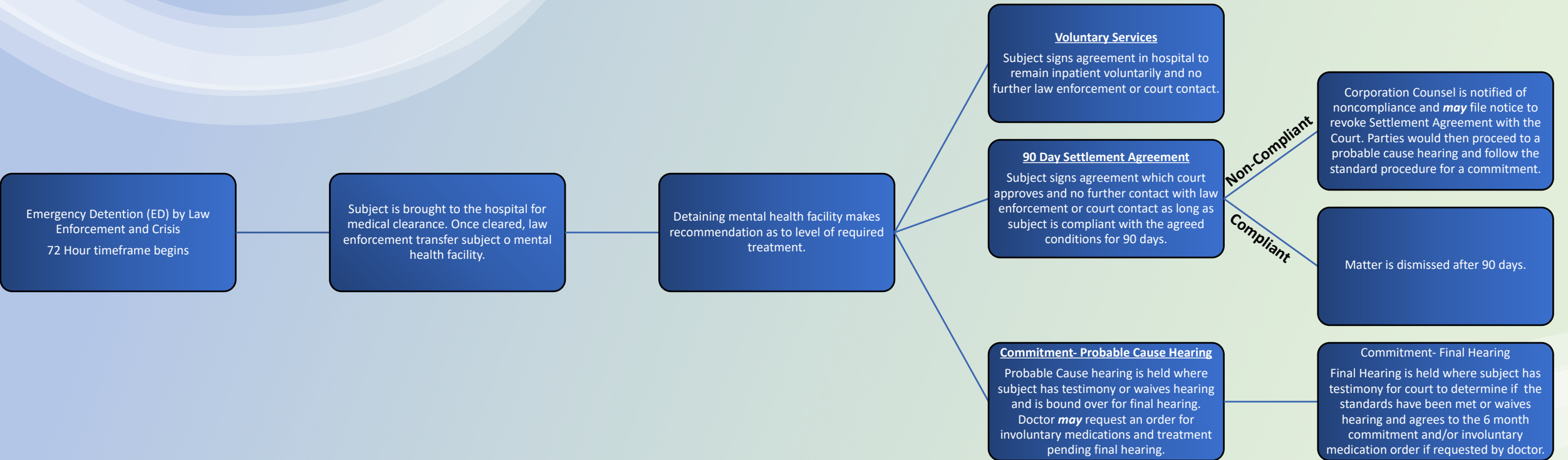
Things to Know:

- The Chapter 51 Law is designed to balance rights of the individual vs. the needs of society.
- A person may be mentally ill, but not dangerous to themselves or others and therefore **would not** meet the standards of a Chapter 51. Involuntary commitment hinges on whether someone is dangerous enough due to their mental illness to justify government intervention.
- Law Enforcement Detains and Crisis approves transport. § 51.15 Wis. Stats.
- Three Party Petitions require the same standards of dangerousness that are available for an Emergency Detention by law enforcement.

Summary of the Procedure

Commonly, a Chapter 51 Proceeding also known as a “chapter” refers to an emergency detention initiated by law enforcement pursuant to § 51.15, Wis. Stats.

Summary of the Procedure



Summary of the Procedure

What to Expect:

In most situations, law enforcement is alerted to the potential “chapter” subject by an emergency phone call to authorities. Law enforcement is dispatched to the scene to assess the situation. If the law enforcement officer believes that the person may be a potential “chapter” subject, the officer calls Crisis for aid in determining the need for a “chapter,” the availability of services and placement, and the funding for a placement.

Summary of the Procedure

If the law enforcement officer believes that the person fits the criteria for a “chapter” and is dangerous or resistive enough to not be a proper candidate for voluntary services in the community, the law enforcement officer initiates an Emergency Detention pursuant to a Chapter 51. § 51.15, Wis. Stats.

Summary of the Procedure

- The law enforcement officer on scene transports the subject to a local hospital for medical clearance.
- All emergency detention facilities require that the law enforcement officer take the subject to a hospital for medical clearance prior to admission into the mental health facility.
- Once the subject is medically cleared at the medical facility, law enforcement transports the subject to the approved mental health facility for admission and treatment.

Summary of the Procedure

At the facility, a licensed psychiatrist meets with the subject within 24 to 48 hours of admission to the facility to determine if the individual continues to meet the criteria for a Chapter 51 commitment and to make recommendations as to whether the subject is in need of voluntary services, a short-term agreement for stabilization and treatment, or a longer period of more intensive supervision and treatment.

Summary of the Procedure

Kenosha County Corporation Counsel receives the Emergency Detention form completed by law enforcement as well as the recommendation of the psychiatrist at the mental health detention facility after assessing the subject. If the psychiatrist believes that services and court intervention is necessary, Corporation Counsel files all required paperwork, notifies all necessary parties, and represents the County's interests in the court proceeding.

Summary of the Procedure

Probable Cause Hearing

- The first hearing after an emergency detention is called a “probable cause” hearing. It MUST be held within 72 hours of the emergency detention, not including Saturdays, Sundays and legal holidays. §51.20(7)(a) Wis. Stats
- At this hearing, the court must decide if there is probable cause to believe that a person has a mental illness, is dangerous to him/herself or other, and is treatable.
- A subject can agree that the court can make these findings and waive the hearing. The subject also has a right to contest the matter and require testimony from all relevant witnesses as to the three criteria for a Chapter 51 commitment.

Summary of the Procedure

Settlement Agreements and Probable Cause Hearing

- If the doctor recommends and the subject agrees to a short-term agreement, the subject has no further court hearings unless the subject is noncompliant with the terms of the agreement. If the subject is noncompliant with the agreement the case can be brought back to court and would proceed in the same manner as if the agreement was never entered into and a probable cause hearing was initially pursued. §51.20(8) Wis. Stats.
- If a longer term of services and supervision is recommended by the doctor, a probable cause hearing is sought. If probable cause is found at the hearing, the subject typically remains at the hospital until a final hearing is held, which must be scheduled within 14 days of the date of being detained on the emergency detention. §51.20(7)(c) Wis. Stats.

Summary of the Procedure

Final Hearing

- Between the dates of probable cause hearing and final hearing, Corporation Counsel ensures that two licensed psychiatrists or a licensed psychiatrist and psychologist are appointed to conduct an examination of the subject and complete a report which includes the standards required for a Chapter 51 commitment, which are the same standards required at the probable cause hearing, and recommendations as to medication and treatment of the subject.
- At this hearing, the court must decide if subject continues to meet the criteria necessary for a Chapter 51 commitment:
 1. that the subject has a mental illness,
 2. is dangerous to him/herself or others, and
 3. is treatable
- The court makes these findings based on the testimony of the psychiatrists and/or psychologists and any relevant testimony from witnesses.

Summary of the Procedure

Final Hearing

- A subject can agree that the court can make these findings and waive the hearing. The subject also has a right to contest the matter and require testimony from the doctors and all other relevant witnesses as to the three criteria for a Chapter 51 commitment.
- If the court concludes that the standard for the criteria has been met, the court enters an order that the subject is under a commitment to receive services as are necessary through any and all service providers. An initial commitment period cannot exceed 6 months. The commitment can be *requested* to be extended before the initial period expires at the recommendation of the doctor for periods of 1 year at a time.

Order for Involuntary Medication and Services

At any point during the proceedings, a doctor can request an order for involuntary medication and treatment for the subject. The doctor must have or attempt to have a conversation with the subject and try to explain the advantages and disadvantages of accepting medication and treatment. The doctor then makes the determination if an individual is competent or if the subject is substantially incapable of applying an understanding of the advantages, disadvantages and alternatives to his or her chronic mental illness in order to make an informed choice as to whether to accept or refuse psychotropic medications.

Forms

STATE OF WISCONSIN, CIRCUIT COURT, KENOSHA COUNTY

IN THE MATTER OF THE CONDITION OF

Settlement Agreement

Name of Subject

Case No. _____

Date of Birth

1. The subject

- A. stipulates to a finding of probable cause as to the criteria under §51.20(1), Wis. Stats., and waives the time period for holding a final hearing for _____ days.
- B. waives the time period for holding a probable cause hearing and a final hearing for 90 days.
- C. waives the time period for holding a final hearing for _____ days.
- D. refuses or is unable to sign the agreement, but agrees to waive time periods for hearings for _____ days.

2. The subject agrees to comply with the following treatment and conditions for the term of this Agreement:

- A. Take all prescribed doses of psychotropic medications.
- B. Keep all appointments with treatment providers and case management staff.
- C. Cooperate with psychiatric and psychological testing, therapy, and recommendations.
- D. Keep case management or treatment staff advised of current residential address or location.
- E. Refrain from acts, attempts or threats of harm to self or others.
- F. Refrain from ingesting any controlled substances not prescribed for subject.
- G. Refrain from consuming alcoholic beverages.
- H. Remain in an inpatient treatment facility until discharged, but not later than determined by facility.
- I. Other: _____

3. Either party may request the court to modify the treatment plan.

4. The subject agrees to waive confidentiality of treatment records to allow monitoring of the subject's compliance.

5. Upon receipt of a sworn statement alleging the subject's failure to comply with this Agreement, the court
- A. may issue an order to detain the subject at an approved inpatient treatment facility.
- B. shall, upon subject's motion, hold a hearing on the issue of noncompliance with the Agreement within 72 hours of the filing of the motion.
- C. shall hold either a probable cause or final hearing, as required.

6. The proceeding will be dismissed on _____, if the subject complies with this Agreement.

Subject's Signature

Name Printed or Typed

Address

Email Address

Telephone Number

Date

State Bar No. (if any)

Corporation Counsel's Signature

Name Printed or Typed

Address

Email Address

Telephone Number

Date

State Bar No. (if any)

Subject's Attorney Signature

Name Printed or Typed

Address

Email Address

Telephone Number

Date

State Bar No. (if any)

Forms

STATE OF WISCONSIN, CIRCUIT COURT, KENOSHA COUNTY

IN THE MATTER OF THE CONDITION OF

Name of Subject

Date of Birth

Case No. _____

Amended

Order of
 Commitment
 Extension of Commitment
 Dismissal

A hearing was held on [Date] _____.

THE COURT FINDS:

1. Grounds for commitment extension of commitment have not been established.
2. Grounds for commitment extension of commitment have been established.

The subject is

- A. mentally ill.
 drug dependent.
 developmentally disabled.
- B. dangerous because the subject evidences one or more of the standards under §51.20(1)(a)2., or under §51.20(1)(a)2. in combination with §51.20(1)(am), except for proceedings under §51.20(1)(a)2.e., Wis. Stats.
 a substantial probability of physical harm to himself or herself under §51.20(1)(a)2.a.
 a substantial probability of physical harm to other individuals under §51.20(1)(a)2.b.
 a substantial probability of physical impairment or injury to himself or herself or other individuals due to impaired judgment under §51.20(1)(a)2.c.
 a substantial probability that death, serious physical injury, serious physical debilitation, or serious physical disease will imminently ensue unless the individual receives prompt and adequate treatment for this mental illness under §51.20(1)(a)2.d.

As manifested or shown by:

- a recent overt act, attempt or threat to act under §51.20(1)(a)2 a. or b., Wis. Stats.
 a pattern of recent acts or omissions under §51.20(1)(a)2.c., Wis. Stats.
 recent behavior under §51.20(1)(a)2.d., Wis. Stats.

- a substantial likelihood, based on the subject individual's treatment record, that the individual would be a proper subject for commitment if treatment were withdrawn under §51.20(1)(a)2.:
- a substantial probability of physical harm to himself or herself under §51.20(1)(a)2.a.
 - a substantial probability of physical harm to other individuals under §51.20(1)(a)2.b.
 - a substantial probability of physical impairment or injury to himself or herself or other individuals due to impaired judgment under §51.20(1)(a)2.c.
 - a substantial probability that death, serious physical injury, serious physical debilitation, or serious physical disease will imminently ensue unless the individual receives prompt and adequate treatment for this mental illness under §51.20(1)(a)2.d.
- C. a proper subject for treatment.
- D. a resident of _____ County, Wisconsin.
 a nonresident of the state of Wisconsin.
 an inmate of a Wisconsin state prison.

3. The dangerousness of the subject is likely to be controlled with appropriate medication administered on an outpatient basis.
4. The subject has been adjudicated pursuant to 18 USC 922(g)(4) as a "mental defective" or committed to a mental institution.
5. Other: _____

THE COURT ORDERS:

1. This matter is dismissed.
2. The subject is committed for _____ months from the date of this hearing
 from the expiration date of the prior commitment order which is [Date] _____
- to the care and custody of the
 A. _____ County Department established under §§51.42 or 51.437, Wis. Stats.
 B. Department of Health Services.
3. The maximum level of treatment shall be
A. a locked an unlocked inpatient facility.
The reception facility shall be _____
Transportation to the facility shall be provided by
 the sheriff.
 Other: _____
- B. outpatient with conditions. The conditions of outpatient commitment on the attached document are incorporated into this order. A violation of any condition may result in the subject being taken into custody by law enforcement for inpatient treatment.
4. The subject is prohibited from possessing any firearm. Federal law provides penalties for, and you may be prohibited from possessing, transporting, shipping, receiving, or purchasing a firearm, including, but not limited to, a rifle, shotgun, pistol, revolver, or ammunition, pursuant to 18 U.S.C. 921(a)(3) and (4) and 922(g)(4). This prohibition shall remain in effect until lifted by the court. Expiration of the mental commitment proceeding does not terminate this restriction.
- A. Any firearm owned by subject shall be seized by _____
The subject's firearms may be found at the following location(s): _____
Any person residing at the/these locations is required to cooperate with law enforcement attempts to seize firearms. Failure to cooperate may result in contempt sanctions.
- B. As an alternative to seizure, the following person is designated to store any firearm(s) until the firearm restriction order has been canceled: _____
- C. The subject is informed of the requirements and penalties under §941.29, Wis. Stat. including imprisonment for up to 10 years, a fine not to exceed \$25,000 or both.
- D. The court clerk shall notify the department of justice of the restriction unless the department has been previously informed of a prohibition for this subject.
5. Other: _____

THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL.

DISTRIBUTION:

1. Court
2. Subject
3. Attorney
4. Treatment Provider
5. Detention facility (if different)

Forms

STATE OF WISCONSIN, CIRCUIT COURT, KENOSHA COUNTY

IN THE MATTER OF THE CONDITION OF

Order for Involuntary Medication and Treatment

Name of Subject

Case No.

Date of Birth

A hearing was held on (Date) _____.

THE COURT FINDS AND CONCLUDES:

- The issue of involuntary administration of medication or treatment was considered:
 - at or after a probable cause hearing. There is probable cause to believe that medication or treatment will have therapeutic value and will not unreasonably impair the subject's ability to prepare for and participate in future court proceedings.
 - after a final hearing. Medication or treatment will have therapeutic value.
- The subject appeared in person by video by counsel.
- The subject needs medication or treatment.
- The advantages, disadvantages, and alternatives to medication have been explained to the subject.
- Due to
 - mental illness,
 - developmental disability,
 - alcoholism,
 - drug dependence,the subject is not competent to refuse psychotropic medication or treatment because the subject is
 - incapable of expressing an understanding of the advantages and disadvantages of accepting medication or treatment and the alternatives; or
 - substantially incapable of applying an understanding of the advantages, disadvantages and alternatives to his or her condition in order to make an informed choice as to whether to accept or refuse psychotropic medications.

THE COURT ORDERS:

Medication and treatment may be administered to the subject, regardless of his or her consent

- until the final hearing in this matter.
- during the period of commitment, or until further order of the court.

DISTRIBUTION:

- Court
- Parties
- Treatment Provider

Three Party Petitions

- Contact **CRISIS** first to assess and provide alternative services.
- Not used for emergencies. Process can easily take a few days to simply get the necessary paperwork completed and filed. If there is current dangerousness call law enforcement.
- Shall be signed by 3 adult persons, at least one of whom has personal knowledge of the dangerous conduct. The 3 adult persons will be required to testify at the probable cause and final hearing regarding the information in their statements if needed.
- Corporation Counsel shall represent the interest of the public and draft all necessary papers. *Wis. Stat. § 51.20(4)(a).*
- Has the **same requirements** under the statute to prove in court as an Emergency Detention for a commitment .

Contacts, Links & Resources

Mental Health Intervention

- Crisis Intervention - 262-657-7188
- National Alliance for the Mentally Ill (Nami) – 262-652-3606 or www.nami.org

Contacts, Links & Resources

LAW ENFORCEMENT

- Kenosha Police Department– 262-656-1234
- Kenosha County Sheriff's Office – 262-605-5100
- Pleasant Prairie Police Department – 262-694-7353
- Twin Lakes Police Department – 262-877-9056

Call 911 if there is immediate danger