HEALTH AND SAFETY CODE

TITLE 6. FOOD, DRUGS, ALCOHOL, AND HAZARDOUS SUBSTANCES

SUBTITLE B. ALCOHOL AND SUBSTANCE ABUSE PROGRAMS

CHAPTER 462. TREATMENT OF PERSONS WITH CHEMICAL DEPENDENCIES

SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 171, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 462.001. DEFINITIONS. In this chapter:

(1) "Applicant" means a person who files an application for emergency detention, protective custody, or commitment of a person with a chemical dependency.

(2) "Certificate" means a sworn certificate of medical examination for chemical dependency executed under this chapter.

(3) "Chemical dependency" means:

(A) the abuse of alcohol or a controlled substance;

(B) psychological or physical dependence on alcohol or a controlled substance; or

(C) addiction to alcohol or a controlled substance.

(4) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 3.1639(88), eff. April 2, 2015.

(5) "Controlled substance" means a:

(A) toxic inhalant; or

(B) substance designated as a controlled substance by Chapter 481 (Texas Controlled Substances Act).

(5-a) "Department" means the Department of State Health Services.

(5-b) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(6) "Legal holiday" means a state holiday listed in Section 662.021, Government Code, or an officially declared county holiday applicable to a court in which proceedings under this

chapter are held.

(7) "Proposed patient" means a person named in an application for emergency detention, protective custody, or commitment under this chapter.

(8) "Toxic inhalant" means a gaseous substance that is inhaled by a person to produce a desired physical or psychological effect and that may cause personal injury or illness to the inhaler.

(9) "Treatment" means the initiation and promotion of a person's chemical-free status or the maintenance of a person free of illegal drugs.

(10) "Treatment facility" means a public or private hospital, a detoxification facility, a primary care facility, an intensive care facility, a long-term care facility, an outpatient care facility, a community mental health center, a health maintenance organization, a recovery center, a halfway house, an ambulatory care facility, another facility that is required to be licensed by the department under Chapter 464, a facility licensed by the department under Title 7, or a facility operated by the department under Title 7 that has been designated by the department to provide chemical dependency treatment. The term does not include an educational program for intoxicated drivers or the individual office of a private, licensed health care practitioner who personally renders private individual or group services within the scope of the practitioner's license and in the practitioner's office.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 671, Sec. 1, eff. June 15, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(15), eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1160, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1639(88), eff. April 2, 2015.

Sec. 462.002. FILING REQUIREMENTS. (a) Each application, petition, certificate, or other paper permitted or required to be filed in a court having original jurisdiction under this chapter

must be filed with the county clerk of the proper county.

(b) The county clerk shall file each paper after endorsing on it:

(1) the date on which the paper is filed;

(2) the docket number; and

(3) the clerk's official signature.

(c) A person may initially file a paper with the county clerk by the use of reproduced, photocopied, or electronically transmitted paper if the person files the original signed copies of the paper with the clerk not later than the 72nd hour after the hour on which the initial filing is made. If the 72-hour period ends on a Saturday, Sunday, or legal holiday, the filing period is extended until 4 p.m. on the first succeeding business day. If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may by written order made each day extend the filing period until 4 p.m. on the first succeeding business day. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster. If a person detained under this chapter would otherwise be released because the original signed copy of a paper is not filed within the 72-hour period but for the extension of the filing period under this section, the person may be detained until the expiration of the extended filing period. This subsection does not affect another provision of this chapter requiring the release or discharge of a person.

(d) If the clerk does not receive the original signed copy of a paper within the period prescribed by this section, the judge may dismiss the proceeding on the court's own motion or on the motion of a party and, if the proceeding is dismissed, shall order the immediate release of a proposed patient who is not at liberty.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 567, Sec. 8, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 107, Sec. 5.03, eff. Aug. 30, 1993.

Sec. 462.0025. COURT HOURS. (a) The probate court or court having probate jurisdiction shall be open for proceedings under this chapter during normal business hours.

(b) The probate judge or magistrate shall be available at all times at the request of a person taken into custody or detained under Subchapter C or a proposed patient under Subchapter D.

Amended by Acts 1991, 72nd Leg., ch. 567, Sec. 9, eff. Sept. 1, 1991.

Amended by:

Acts 2005, 79th Leg., Ch. 14 (S.B. 348), Sec. 1, eff. May 3, 2005.

Sec. 462.003. INSPECTION OF COURT RECORDS. (a) Each paper in a docket for commitment proceedings in the county clerk's office, including the docket book, indexes, and judgment books, is a public record of a private nature that may be used, inspected, or copied only under a written order issued by the:

(1) county judge;

(2) judge of a court that has probate jurisdiction; or

(3) judge of a district court having jurisdiction in the county.

(b) A judge may not issue an order under Subsection (a) unless the judge enters a finding that:

(1) the use, inspection, or copying is justified and in the public interest; or

(2) the paper is to be released to the person to whom it relates or to a person designated in a written release signed by the person to whom the paper relates.

(c) In addition to the finding required by Subsection (b), if a law relating to confidentiality of mental health information or physician-patient privilege applies, the judge must find that the reasons for the use, inspection, or copying fall within the statutory exemptions.

(d) The papers shall be released to an attorney representing the proposed patient in a proceeding held under this chapter.

(e) This section does not affect access of law enforcement personnel to necessary information in the execution of a writ or warrant.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Sec. 462.004. REPRESENTATION OF STATE. In a hearing on court-ordered treatment held under this chapter:

(1) the county attorney shall represent the state; or

(2) if the county has no county attorney, the district attorney shall represent the state.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Sec. 462.005. COSTS. (a) The laws relating to the payment of the costs of commitment, support, maintenance, and treatment and to the securing of reimbursement for the actual costs applicable to court-ordered mental health, probation, or parole services apply to each item of expense incurred by the state or the county in connection with the commitment, care, custody, treatment, and rehabilitation of a person receiving care and treatment under this chapter.

(b) A county that enters an order of commitment or detention under this chapter is liable for payment of the costs of any proceedings related to that order, including:

(1) court-appointed attorney fees;

(2) physician examination fees;

(3) compensation for language or sign interpreters;

(4) compensation for masters; and

(5) expenses to transport a patient to a hearing or to a treatment facility.

(c) A county or the state is entitled to reimbursement from any of the following persons for costs actually paid by the county or state and that relate to an order of commitment or detention:

(1) the patient;

(2) the applicant; or

(3) a person or estate liable for the patient's support in a treatment facility.

(d) On a motion of the county or district attorney or on the court's own motion, the court may require an applicant to file a cost bond with the court.

(e) The state shall pay the costs of transporting a

discharged patient to the patient's home or of returning to a treatment facility a patient absent without permission unless the patient or a person responsible for the patient is able to pay the costs.

(f) The state or the county may not pay any costs for a patient committed to a private hospital unless no public facilities are available and unless authorized by the department or the commissioners court of the county, as appropriate.

(g) Notwithstanding Subsection (c), a person who files an application for the commitment of another while acting in the person's capacity as an employee of a local mental health authority is not liable for the payment of any costs under this section.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 567, Sec. 10, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1161, eff. April 2, 2015.

Sec. 462.006. WRIT OF HABEAS CORPUS. This chapter does not limit a person's right to obtain a writ of habeas corpus.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Sec. 462.007. LIMITATION OF LIABILITY. (a) A person who participates in the examination, certification, apprehension, custody, transportation, detention, commitment, treatment, or discharge of a proposed patient or in the performance of any act required or authorized by this chapter and who acts in good faith, reasonably, and without malice or negligence is not civilly or criminally liable for that action.

(b) A physician performing a medical examination or providing information to a court in a court proceeding under this chapter or providing information to a peace officer to demonstrate the necessity to apprehend a person under Section 462.041 is considered an officer of the court and is not civilly or criminally liable for the examination or testimony when acting without malice.

(c) A physician or inpatient mental health facility that

discharges a voluntary patient is not liable for the discharge if:

(1) a written request for the patient's release was filed and not withdrawn; and

(2) the person who filed the written request for release is notified that the person assumes all responsibility for the patient on discharge.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 567, Sec. 11, eff. Sept. 1, 1991.

Sec. 462.008. CRIMINAL PENALTY; ENFORCEMENT. (a) A person commits an offense if the person intentionally causes, conspires with another person to cause, or assists another to cause the unwarranted commitment of a person to a treatment facility.

(b) A person commits an offense if the person knowingly violates this chapter.

(c) An individual who commits an offense under this section is subject on conviction to:

(1) a fine of not less than $50 or more than $25,000 for each violation and each day of a continuing violation;

(2) confinement in jail for not more than two years for each violation and each day of a continuing violation; or

(3) both fine and confinement.

(d) A person other than an individual who commits an offense under this section is subject on conviction to a fine of not less than $500 or more than $100,000 for each violation and each day of a continuing violation.

(e) If it is shown on the trial of an individual that the individual has previously been convicted of an offense under this section, the offense is punishable by:

(1) a fine of not less than $100 or more than $50,000 for each violation and each day of a continuing violation;

(2) confinement in jail for not more than four years for each violation and each day of a continuing violation; or

(3) both fine and confinement.

(f) If it is shown on the trial of a person other than an individual that the person previously has been convicted of an offense under this section, the offense is punishable by a fine of

not less than $1,000 or more than $200,000 for each violation and each day of a continuing violation.

(g) The appropriate district or county attorney shall prosecute violations of this chapter.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 567, Sec. 12, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 705, Sec. 3.05, eff. Sept. 1, 1993.

Sec. 462.009. CONSENT TO TREATMENT. (a) A patient receiving treatment in a treatment facility is entitled to refuse a medication, therapy, or treatment unless:

(1) the patient is younger than 18 years of age, the patient is admitted under Section 462.022(a)(3)(A), and the patient's parent, managing conservator, or guardian consents to the medication, therapy, or treatment on behalf of the patient;

(2) the patient has been adjudicated to be incompetent to manage the patient's personal affairs or to make a decision to refuse the medication, therapy, or treatment and the patient's guardian of the person or another person legally authorized to consent to medical treatment consents to the medication, therapy, or treatment on behalf of the patient; or

(3) a physician treating the patient determines that the medication is necessary to prevent imminent serious physical harm to the patient or to another individual and the physician issues a written order, or a verbal order if authenticated in writing by the physician within 24 hours, to administer the medication to the patient.

(b) The decision of a guardian or of a person legally authorized to consent to medical treatment on the patient's behalf under Subsection (a)(2) must be based on knowledge of what the patient would desire, if known.

(c) A patient's refusal to receive medication, therapy, or treatment under Subsection (a), or a patient's attempt to refuse if the patient's right to refuse is limited by that subsection, shall be documented in the patient's clinical record together with the patient's expressed reason for refusal.

(d) If a physician orders a medication to be administered to

a patient under Subsection (a)(3), the physician shall document in the patient's clinical record in specific medical and behavioral terms the reasons for the physician's determination of the necessity of the order.

(e) Consent given by a patient or by a person authorized by law to consent to treatment on the patient's behalf for the administration of a medication, therapy, or treatment is valid only if:

(1) for consent to therapy or treatment:

(A) the consent is given voluntarily and without coercive or undue influence; and

(B) before administration of the therapy or treatment, the treating physician or the psychologist, social worker, professional counselor, or chemical dependency counselor explains to the patient and to the person giving consent, in simple, nontechnical language:

(i) the specific condition to be treated;

(ii) the beneficial effects on that condition expected from the therapy or treatment;

(iii) the probable health and mental health consequences of not consenting to the therapy or treatment;

(iv) the side effects and risks associated with the therapy or treatment;

(v) the generally accepted alternatives to the therapy or treatment, if any, and whether an alternative might be appropriate for the patient; and

(vi) the proposed course of the therapy or treatment;

(2) for consent to the administration of medication:

(A) the consent is given voluntarily and without coercive or undue influence; and

(B) the treating physician provides each explanation required by Subdivision (1)(B) to the patient and to the person giving consent in simple, nontechnical language; and

(3) for consent to medication, therapy, or treatment, the informed consent is evidenced in the patient's clinical record by a signed form prescribed by the department for this purpose or by

a statement of the treating physician or the psychologist, social worker, professional counselor, or chemical dependency counselor who obtained the consent that documents that consent was given by the appropriate person and the circumstances under which the consent was obtained.

(f) A person who consents to the administration of a medication, therapy, or treatment may revoke the consent at any time and for any reason, regardless of the person's capacity. Revocation of consent is effective immediately and further medication, therapy, or treatment may not be administered unless new consent is obtained in accordance with this section.

(g) Consent given by a patient or by a person authorized by law to consent to treatment on the patient's behalf applies to a series of doses of medication or to multiple therapies or treatments for which consent was previously granted. If the treating physician or the psychologist, social worker, professional counselor, or chemical dependency counselor obtains new information relating to a therapy or treatment for which consent was previously obtained, the physician or the psychologist, social worker, professional counselor, or chemical dependency counselor must explain the new information and obtain new consent. If the treating physician obtains new information relating to a medication for which consent was previously obtained, the physician must explain the new information and obtain new consent.

(h) This section does not apply to a treatment facility licensed by the department under Chapter 464.

Added by Acts 1993, 73rd Leg., ch. 903, Sec. 1.14, eff. Aug. 30, 1993. Amended by Acts 2001, 77th Leg., ch. 1216, Sec. 2, eff. June 15, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 345 (H.B. 3146), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1162, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1211 (S.B. 1560), Sec. 2, eff. June 19, 2015.

Sec. 462.010. CONSENT TO TREATMENT AT CERTAIN FACILITIES. (a) A treatment facility licensed by the department under Chapter 464 may not provide treatment to a patient without the patient's legally adequate consent.

(b) The executive commissioner by rule shall prescribe standards for obtaining a patient's legally adequate consent under this section, including rules prescribing reasonable efforts to obtain a patient's consent and requiring documentation for those efforts.

Added by Acts 2015, 84th Leg., R.S., Ch. 1211 (S.B. 1560), Sec. 3, eff. June 19, 2015.

Sec. 462.011. CONSENT TO MEDICATION. Consent to the administration of prescription medication given by a patient receiving treatment in a treatment facility licensed by the department under Chapter 464 or by a person authorized by law to consent on behalf of the patient is valid only if:

(1) the consent is given voluntarily and without coercive or undue influence;

(2) the patient and, if appropriate, the patient's representative authorized by law to consent on behalf of the patient are informed in writing that consent may be revoked; and

(3) the consent is evidenced in the patient's clinical record by a signed form prescribed by the treatment facility or by a statement of the treating physician or a person designated by the physician that documents that consent was given by the appropriate person and the circumstances under which the consent was obtained.

Added by Acts 2015, 84th Leg., R.S., Ch. 1211 (S.B. 1560), Sec. 3, eff. June 19, 2015.

Sec. 462.012. RIGHT TO REFUSE MEDICATION. (a) Each patient receiving treatment in a treatment facility licensed by the department under Chapter 464 has the right to refuse unnecessary or excessive medication.

(b) Medication may not be used by the treatment facility:

(1) as punishment; or

(2) for the convenience of the staff.

Added by Acts 2015, 84th Leg., R.S., Ch. 1211 (S.B. 1560), Sec. 3, eff. June 19, 2015.

Sec. 462.013. MEDICATION INFORMATION. (a) The executive commissioner by rule shall require the treating physician of a patient admitted to a treatment facility licensed by the department under Chapter 464 or a person designated by the physician to provide to the patient in the patient's primary language, if possible, information relating to prescription medications ordered by the physician.

(b) At a minimum, the required information must:

(1) identify the major types of prescription medications; and

(2) specify for each major type:

(A) the conditions the medications are commonly used to treat;

(B) the beneficial effects on those conditions generally expected from the medications;

(C) side effects and risks associated with the medications;

(D) commonly used examples of medications of the major type; and

(E) sources of detailed information concerning a particular medication.

(c) If the treating physician designates another person to provide the information under Subsection (a), then, not later than two working days after that person provides the information, excluding weekends and legal holidays, the physician shall meet with the patient and, if appropriate, the patient's representative who provided consent for the administration of the medications under Section 462.011, to review the information and answer any questions.

(d) The treating physician or the person designated by the physician shall also provide the information to the patient's family on request, but only to the extent not otherwise prohibited by state or federal confidentiality laws.

Added by Acts 2015, 84th Leg., R.S., Ch. 1211 (S.B. 1560), Sec. 3,

eff. June 19, 2015.

Sec. 462.014. LIST OF MEDICATIONS. (a) On the request of a patient, a person designated by the patient, or the patient's legal guardian or managing conservator, if any, the facility administrator of a treatment facility licensed by the department under Chapter 464 shall provide to the patient, the person designated by the patient, and the patient's legal guardian or managing conservator, a list of the medications prescribed for administration to the patient while the patient is in the treatment facility. The list must include for each medication:

(1) the name of the medication;

(2) the dosage and schedule prescribed for the administration of the medication; and

(3) the name of the physician who prescribed the medication.

(b) The list must be provided before the expiration of four hours after the facility administrator receives a written request for the list from the patient, a person designated by the patient, or the patient's legal guardian or managing conservator, if any. If sufficient time to prepare the list before discharge is not available, the list may be mailed before the expiration of 24 hours after discharge to the patient, the person designated by the patient, and the patient's legal guardian or managing conservator.

(c) A patient or the patient's legal guardian or managing conservator, if any, may waive the right of any person to receive the list of medications while the patient is participating in a research project if release of the list would jeopardize the results of the project.

Added by Acts 2015, 84th Leg., R.S., Ch. 1211 (S.B. 1560), Sec. 3, eff. June 19, 2015.

Sec. 462.015. OUTPATIENT TREATMENT SERVICES PROVIDED USING TELECOMMUNICATIONS OR INFORMATION TECHNOLOGY. (a) An outpatient chemical dependency treatment program provided by a treatment facility licensed under Chapter 464 may provide services under the program to adult and adolescent clients, consistent with commission

rule, using telecommunications or information technology.

(b) The executive commissioner shall adopt rules to implement this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 624 (H.B. 4), Sec. 8, eff. June 15, 2021.

SUBCHAPTER B. VOLUNTARY TREATMENT OR REHABILITATION

Sec. 462.021. VOLUNTARY ADMISSION OF ADULT. A facility may admit an adult who requests admission for emergency or nonemergency treatment or rehabilitation if:

(1) the facility is:

(A) a treatment facility licensed by the department to provide the necessary services;

(B) a facility licensed by the department under Title 7; or

(C) a facility operated by the department under Title 7 that has been designated by the department to provide chemical dependency treatment; and

(2) the admission is appropriate under the facility's admission policies.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 671, Sec. 2, eff. June 15, 1993.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1163, eff. April 2, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2035, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 462.022. VOLUNTARY ADMISSION OF MINOR. (a) A facility may admit a minor for treatment and rehabilitation if:

(1) the facility is:

(A) a treatment facility licensed by the department to provide the necessary services to minors;

(B) a facility licensed by the department under

Title 7; or

(C) a facility operated by the department under Title 7 that has been designated by the department to provide chemical dependency treatment;

(2) the admission is appropriate under the facility's admission policies; and

(3) the admission is requested by:

(A) a parent, managing conservator, or guardian of the minor; or

(B) the minor, without parental consent, if the minor is 16 years of age or older.

(b) The admission of a minor under Subsection (a) is considered a voluntary admission.

(c) A person or agency appointed as the guardian or a managing conservator of a minor and acting as an employee or agent of the state or a political subdivision of the state may request admission of the minor only with the minor's consent.

(d) In this section, "minor" means an individual younger than 18 years of age for whom the disabilities of minority have not been removed.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 573, Sec. 3.03(a), eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 671, Sec. 3, eff. June 15, 1993; Acts 2001, 77th Leg., ch. 1216, Sec. 3, eff. June 15, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1164, eff. April 2, 2015.

Sec. 462.023. DISCHARGE OR RELEASE. (a) Except as provided by Subsection (b), a facility shall release a voluntary patient within a reasonable time, not to exceed 96 hours, after the patient requests in writing to be released.

(b) A facility is not required to release the patient if before the end of the 96-hour period:

(1) the patient files a written withdrawal of the request;

(2) an application for court-ordered treatment or

emergency detention is filed and the patient is detained in accordance with this chapter; or

(3) the patient is a minor under the age of 16 admitted with the consent of a parent, guardian, or conservator and that person, after consulting with facility personnel, objects in writing to the release of the patient.

(c) Subsection (a) applies to a minor admitted under Section 462.022 if the request for release is made in writing to the facility by the person who requested the initial admission.

(d) If extremely hazardous weather conditions exist or a disaster occurs, the facility administrator may request the judge of a court that has jurisdiction over proceedings brought under Subchapter D to extend the period during which the person may be detained. The judge or a magistrate appointed by the judge may by written order made each day extend the period during which the person may be detained until 4 p.m. on the first succeeding business day. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 567, Sec. 13, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1216, Sec. 4, eff. June 15, 2001.

Sec. 462.0235. DISCHARGE OR RELEASE OF MINOR 16 OR 17 YEARS OF AGE. (a) Except as provided by this section, a facility shall release a minor who is 16 or 17 years of age within a reasonable time, not to exceed 96 hours, after:

(1) the minor requests in writing to be released; or

(2) for a minor admitted under Section 462.022(a)(3)(A), the minor's parent, managing conservator, or guardian requests the release in writing.

(b) A facility is not required to release a minor who is 16 or 17 years of age within the period described by Subsection (a) if:

(1) the request is filed with the facility by the minor before the 15th day after the date of the minor's admission to the facility; or

(2) the request is filed with the facility by the minor on or after the 15th day after the minor's date of admission to the

facility and, not later than 96 hours after the request is filed:

(A) the minor files with the facility a written withdrawal of the minor's request; or

(B) an examining physician places in the minor's medical record a certificate of medical examination described by Subsection (c).

(c) The certificate of medical examination placed in a minor's medical record under Subsection (b)(2)(B) must include:

(1) the name and address of the examining physician;

(2) the name and address of the examined minor;

(3) the date and place of the examination;

(4) a brief diagnosis of the examined minor's physical and mental condition;

(5) the period, if any, during which the examined minor has been under the care of the examining physician;

(6) an accurate description of the chemical dependency treatment, if any, administered to the examined minor by or under the direction of the examining physician; and

(7) the examining physician's opinion that:

(A) the examined minor is a person with a chemical dependency;

(B) there is no reasonable alternative to the treatment the physician recommends for the examined minor; and

(C) as a result of the examined minor's chemical dependency, the minor, if released, is likely to cause serious harm to the minor or others or:

(i) would suffer severe and abnormal mental, emotional, or physical distress;

(ii) would experience a substantial mental or physical deterioration of the minor's ability to function independently that would be manifested by the minor's inability, for reasons other than indigence, to provide for the minor's basic needs, including food, clothing, health, and safety; and

(iii) would not be able to make a rational and informed decision as to whether to submit to treatment.

(d) A facility shall release a minor whose release was postponed under Subsection (b)(2)(B) on the 15th day after the date

of the most recent examination for which a certificate described by Subsection (c) is performed unless the physician conducts an additional examination of the minor and places another certificate of examination described by Subsection (c) in the minor's medical record.

(e) If a minor who is 16 or 17 years of age requests to be released from a facility on or after the 60th day after the date of the minor's admission to the facility, the facility shall release the minor within a reasonable time, not to exceed 96 hours, unless:

(1) an application for court-ordered treatment of the minor or for emergency detention of the minor is filed; and

(2) the minor is detained in accordance with this chapter.

(f) If extremely hazardous weather conditions exist or a disaster occurs, the facility administrator may request the judge of a court that has jurisdiction over proceedings brought under Subchapter D to extend the period during which a minor may be detained under this section. The judge or a magistrate appointed by the judge may, by written order made each day, extend the period during which the minor may be detained until 4 p.m. on the first succeeding business day. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

Added by Acts 2001, 77th Leg., ch. 1216, Sec. 5, eff. June 15, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1165, eff. April 2, 2015.

Sec. 462.024. APPLICATION FOR COURT-ORDERED TREATMENT DURING VOLUNTARY INPATIENT CARE. (a) An application for court-ordered treatment may not be filed against a patient receiving voluntary care under this subchapter unless:

(1) a request for release of the patient has been filed; or

(2) in the opinion of the physician responsible for the patient's treatment, the patient meets the criteria for court-ordered treatment and:

(A) is absent from the facility without authorization;

(B) is unable to consent to appropriate and necessary treatment; or

(C) refuses to consent to necessary and appropriate treatment recommended by the physician responsible for the patient's treatment and that physician completes a certificate of medical examination for chemical dependency that, in addition to the information required by Section 462.064, includes the opinion of the physician that:

(i) there is no reasonable alternative to the treatment recommended by the physician; and

(ii) the patient will not benefit from continued inpatient care without the recommended treatment.

(b) The physician responsible for the patient's treatment shall notify the patient if the physician intends to file an application for court-ordered treatment.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 903, Sec. 1.15, eff. Aug. 30, 1993.

Sec. 462.025. INTAKE, SCREENING, ASSESSMENT, AND ADMISSION. (a) The executive commissioner shall adopt rules governing the voluntary admission of a patient to a treatment facility, including rules governing the intake, screening, and assessment procedures of the admission process.

(b) The rules governing the intake process shall establish minimum standards for:

(1) reviewing a prospective patient's finances and insurance benefits;

(2) explaining to a prospective patient the patient's rights; and

(3) explaining to a prospective patient the facility's services and treatment process.

(b-1) The rules governing the screening process shall establish minimum standards for determining whether a prospective patient presents sufficient signs, symptoms, or behaviors indicating a potential chemical dependency disorder to warrant a

more in-depth assessment by a qualified professional. The screening must be reviewed and approved by a qualified professional.

(c) The assessment provided for by the rules may be conducted only by a professional who meets the qualifications prescribed by department rules.

(d) The rules governing the assessment process shall prescribe:

(1) the types of professionals who may conduct an assessment;

(2) the minimum credentials each type of professional must have to conduct an assessment; and

(3) the type of assessment that professional may conduct.

(d-1) The rules governing the intake, screening, and assessment procedures shall establish minimum standards for providing intake, screening, and assessment using telecommunications or information technology.

(e) In accordance with department rule, a treatment facility shall provide annually a minimum of two hours of inservice training regarding intake and screening for persons who will be conducting an intake or screening for the facility. A person may not conduct intake or screenings without having completed the initial and applicable annual inservice training.

(f) A prospective voluntary patient may not be formally accepted for chemical dependency treatment in a treatment facility unless the facility's administrator or a person designated by the administrator has agreed to accept the prospective patient and has signed a statement to that effect.

(g) An assessment conducted as required by rules adopted under this section does not satisfy a statutory or regulatory requirement for a personal evaluation of a patient or a prospective patient by a qualified professional before admission.

(h) In this section:

(1) "Admission" means the formal acceptance of a prospective patient to a treatment facility.

(2) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1211 , Sec. 5, eff. June 19, 2015.

(3) "Intake" means the administrative process for gathering information about a prospective patient and giving a prospective patient information about the treatment facility and the facility's treatment and services.

(4) "Screening" means the process a treatment facility uses to determine whether a prospective patient presents sufficient signs, symptoms, or behaviors to warrant a more in-depth assessment by a qualified professional after the patient is admitted.

Added by Acts 1993, 73rd Leg., ch. 705, Sec. 4.08, eff. Aug. 30, 1993.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 345 (H.B. 3146), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 345 (H.B. 3146), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 345 (H.B. 3146), Sec. 4, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1166, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1211 (S.B. 1560), Sec. 4, eff. June 19, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1211 (S.B. 1560), Sec. 5, eff. June 19, 2015.

Acts 2021, 87th Leg., R.S., Ch. 624 (H.B. 4), Sec. 9, eff. June 15, 2021.

SUBCHAPTER C. EMERGENCY DETENTION

Sec. 462.041. APPREHENSION BY PEACE OFFICER WITHOUT WARRANT. (a) A peace officer, without a warrant, may take a person into custody if the officer:

(1) has reason to believe and does believe that:

(A) the person is chemically dependent; and

(B) because of that chemical dependency there is a substantial risk of harm to the person or to others unless the person is immediately restrained; and

(2) believes that there is not sufficient time to

obtain a warrant before taking the person into custody.

(b) A substantial risk of serious harm to the person or others under Subsection (a)(1)(B) may be demonstrated by:

(1) the person's behavior; or

(2) evidence of severe emotional distress and deterioration in the person's mental or physical condition to the extent that the person cannot remain at liberty.

(c) The peace officer may form the belief that the person meets the criteria for apprehension:

(1) from a representation of a credible person; or

(2) on the basis of the conduct of the apprehended person or the circumstances under which the apprehended person is found.

(d) A peace officer who takes a person into custody under Subsection (a) shall immediately transport the apprehended person to:

(1) the nearest appropriate inpatient treatment facility; or

(2) if an appropriate inpatient treatment facility is not available, a facility considered suitable by the county's health authority.

(e) A person may not be detained in a jail or similar detention facility except in an extreme emergency. A person detained in a jail or a nonmedical facility shall be kept separate from any person who is charged with or convicted of a crime.

(f) A peace officer shall immediately file an application for detention after transporting a person to a facility under this section. The application for detention must contain:

(1) a statement that the officer has reason to believe and does believe that the person evidences chemical dependency;

(2) a statement that the officer has reason to believe and does believe that the person evidences a substantial risk of serious harm to himself or others;

(3) a specific description of the risk of harm;

(4) a statement that the officer has reason to believe and does believe that the risk of harm is imminent unless the person is immediately restrained;

(5) a statement that the officer's beliefs are derived from specific recent behavior, overt acts, attempts, or threats that were observed by or reliably reported to the officer;

(6) a detailed description of the specific behavior, acts, attempts, or threats; and

(7) the name and relationship to the apprehended person of any person who reported or observed the behavior, acts, attempts, or threats.

(g) The person shall be released on completion of a preliminary examination conducted under Section 462.044 unless the examining physician determines that emergency detention is necessary and provides the statement prescribed by Section 462.044(b). If a person is not admitted to a facility, is not arrested, and does not object, arrangements shall be made to immediately return the person to:

(1) the location of the person's apprehension;

(2) the person's residence in this state; or

(3) another suitable location.

(h) The county in which the person was apprehended shall pay the costs of the person's return.

(i) A treatment facility may provide to a person medical assistance regardless of whether the facility admits the person or refers the person to another facility.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Sec. 462.042. JUDGE'S OR MAGISTRATE'S ORDER FOR EMERGENCY DETENTION. (a) An adult may file a written application for emergency detention of a minor or another adult.

(b) The application must state:

(1) that the applicant has reason to believe and does believe that the person who is the subject of the application is a person with a chemical dependency;

(2) that the applicant has reason to believe and does believe that the person evidences a substantial risk of serious harm to the person or others;

(3) a specific description of the risk of harm;

(4) that the applicant has reason to believe and does believe that the risk of harm is imminent unless the person is immediately restrained;

(5) that the applicant's beliefs are derived from specific recent behavior, overt acts, attempts, or threats;

(6) a detailed description of the specific behavior, acts, attempts, or threats; and

(7) the relationship, if any, of the applicant to the person.

(c) The application may be accompanied by any relevant information.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1167, eff. April 2, 2015.

Sec. 462.043. ISSUANCE OF WARRANT. (a) An applicant for emergency detention must present the application personally to a judge or magistrate. The judge or magistrate shall examine the application and may interview the applicant. Except as provided by Subsection (f), the judge of a court with probate jurisdiction by administrative order may provide that the application must be:

(1) presented personally to the court; or

(2) retained by court staff and presented to another judge or magistrate as soon as is practicable if the judge of the court is not available at the time the application is presented.

(b) The judge or magistrate shall deny the application unless the judge or magistrate finds that there is reasonable cause to believe that:

(1) the person who is the subject of the application is a person with a chemical dependency;

(2) the person evidences a substantial risk of serious harm to the person or others;

(3) the risk of harm is imminent unless the person is immediately restrained; and

(4) the necessary restraint cannot be accomplished

without emergency detention.

(c) The judge or magistrate shall issue a warrant for the person's immediate apprehension if the judge or magistrate finds that each criteria under Subsection (b) is satisfied.

(d) A person apprehended under this section shall be transported for a preliminary examination in accordance with Section 462.044 to:

(1) a treatment facility; or

(2) another appropriate facility if a treatment facility is not readily available.

(e) The warrant and copies of the application for the warrant shall be served on the person as soon as possible and transmitted to the facility.

(f) If there is more than one court with probate jurisdiction in a county, an administrative order regarding presentation of an application must be jointly issued by all of the judges of those courts.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 243, Sec. 1, eff. Aug. 28, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1168, eff. April 2, 2015.

Sec. 462.044. PRELIMINARY EXAMINATION. (a) A physician shall conduct a preliminary examination of the apprehended person as soon as possible within 24 hours after the time the person is apprehended under Section 462.041 or 462.043.

(b) The person shall be released on completion of the preliminary examination unless the examining physician or the physician's designee provides a written opinion that the person meets the criteria specified by Section 462.043(b).

(c) A person released under Subsection (b) is entitled to reasonably prompt return to the location of apprehension or other suitable place unless the person is arrested or objects to the return.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Sec. 462.045. DETENTION PERIOD. (a) A person apprehended under this subchapter may be detained for not longer than 24 hours after the time that the person is presented to the facility unless an application for court-ordered treatment is filed and a written order for further detention is obtained under Section 462.065.

(b) If the 24-hour period ends on a Saturday, Sunday, or legal holiday, the person may be detained until 4 p.m. on the next day that is not a Saturday, Sunday, or legal holiday. If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may, by written order made each day, extend by an additional 24 hours the period during which the person may be detained. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Sec. 462.046. INFORMATION TO BE PROVIDED ON ADMISSION. (a) The personnel of a treatment facility shall immediately advise a person admitted under Section 462.044 that:

(1) the person may be detained for treatment for not longer than 24 hours after the time of the initial detention unless an order for further detention is obtained;

(2) if the administrator finds that the statutory criteria for emergency detention no longer apply, the administrator shall release the person;

(3) not later than the 24th hour after the hour of the initial detention, the facility administrator may file in a court having original jurisdiction under this chapter a petition to have the person committed for court-ordered treatment under Subchapter D;

(4) if the administrator files a petition for court-ordered treatment, the person is entitled to a judicial probable cause hearing not later than the 72nd hour after the hour the detention begins under an order of protective custody to determine whether the person should remain detained in the facility;

(5) when the application for court-ordered services is filed, the person has the right to have counsel appointed if the person does not have an attorney;

(6) the person has the right to communicate with counsel at any reasonable time and to have assistance in contacting the counsel;

(7) the person's communications to the personnel of the treatment facility may be used in making a determination relating to detention, may result in the filing of a petition for court-ordered treatment, and may be used at a court hearing;

(8) the person is entitled to present evidence and to cross-examine witnesses who testify on behalf of the petitioner at a hearing;

(9) the person may refuse medication unless there is an imminent likelihood of serious physical injury to the person or others if the medication is refused;

(10) beginning on the 24th hour before a hearing for court-ordered treatment, the person may refuse to take medication unless the medication is necessary to save the person's life; and

(11) the person is entitled to request that a hearing be held in the county of the person's residence, if the county is in the state.

(b) The personnel of the treatment facility shall provide the information required by Subsection (a) to the person orally, in writing, and in simple, nontechnical terms.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Sec. 462.047. RELEASE FROM EMERGENCY DETENTION. (a) A person detained under this subchapter shall be released if the facility administrator or the administrator's designee determines at any time during the emergency detention period that one of the criteria prescribed by Section 462.043(b) no longer applies.

(b) If a person is released from emergency detention and is not arrested and does not object, arrangements shall be made to return the person to the location of apprehension or other suitable place.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Sec. 462.048. RIGHTS OF PERSON APPREHENDED OR DETAINED. (a) A person apprehended or detained under this subchapter has the right:

(1) to be advised of the location of detention, the reasons for the detention, and the fact that detention could result in a longer period of involuntary commitment;

(2) to contact an attorney of the person's choice and to a reasonable opportunity to contact that attorney;

(3) to be transported to the location of apprehension or other suitable place if the person is not admitted for emergency detention, unless the person is arrested or objects to the return;

(4) to be released from a facility as provided by Section 462.047; and

(5) to be advised that communications to a chemical dependency treatment professional may be used in proceedings for further detention.

(b) Within 24 hours after the time of admission, a person apprehended or detained under this subchapter shall be advised, orally, in writing, and in simple, nontechnical terms, of the rights provided by this section.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

SUBCHAPTER D. COURT-ORDERED TREATMENT

Sec. 462.061. COURT-ORDERED TREATMENT; JURISDICTION. (a) A proceeding for court-ordered treatment under this chapter shall be held in a constitutional county court, a statutory county court having probate jurisdiction, or a statutory probate court in the county in which the proposed patient resides, is found, or is receiving court-ordered treatment or treatment under Section 462.041 when the application is filed unless otherwise specifically designated.

(b) If the hearing is to be held in a constitutional county

court in which the judge is not a licensed attorney, the proposed patient may request that the proceeding be transferred to a statutory court having probate jurisdiction or to a district court. The county judge shall transfer the case after receiving the request and the receiving court shall hear the case as if it had been originally filed in that court.

(c) The commitment of a juvenile under this subchapter must be heard in a district court or statutory court that has juvenile or probate jurisdiction. The commitment of a juvenile under Section 462.081 may be heard only in a court that has juvenile jurisdiction. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Sec. 462.062. APPLICATION FOR COURT-ORDERED TREATMENT. (a) A county or district attorney or other adult may file a sworn written application for court-ordered treatment of another person. Only the district or county attorney may file an application that is not accompanied by a certificate of medical examination for chemical dependency.

(b) The application must be filed with the county clerk in the county in which the proposed patient:

(1) resides;

(2) is found; or

(3) is receiving treatment services by court order or under Section 462.041.

(c) If the application is not filed in the county in which the proposed patient resides, the court may, on request of the proposed patient or the proposed patient's attorney and if good cause is shown, transfer the application to that county.

(d) The application must be styled using the initials of the proposed patient and not the proposed patient's full name.

(e) The application must contain the following information according to the applicant's information and belief:

(1) the proposed patient's name and address, including the county in which the proposed patient resides, if known;

(2) a statement that the proposed patient is a person with a chemical dependency who:

(A) is likely to cause serious harm to the person or others; or

(B) will continue to suffer abnormal mental, emotional, or physical distress, will continue to deteriorate in ability to function independently if not treated, and is unable to make a rational and informed choice as to whether to submit to treatment; and

(3) a statement that the proposed patient is not charged with a criminal offense that involves an act, attempt, or threat of serious bodily injury to another person.

(f) Subsection (e)(3) does not apply if the proposed patient is a juvenile alleged to be a child engaged in delinquent conduct or conduct indicating a need for supervision as defined by Section 51.03, Family Code.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1169, eff. April 2, 2015.

Sec. 462.063. PREHEARING PROCEDURE. (a) When the application is filed, the court shall set a date for a hearing on the merits of the application to be held within 14 days after the date on which the application is filed. The hearing may not be held during the first three days after the application is filed if the proposed patient or the proposed patient's attorney objects. The court may grant one or more continuances of the hearing on motion by a party and for good cause shown or on agreement of the parties. However, the hearing shall be held not later than the 30th day after the date on which the original application is filed.

(b) Immediately after the date for the hearing is set, the clerk shall give written notice of the hearing and a copy of the application to the proposed patient and the proposed patient's attorney in the manner the court directs.

(c) The court shall appoint an attorney to represent the proposed patient if the proposed patient does not retain an attorney of the proposed patient's choice.

(d) The court shall appoint an attorney for a proposed patient who is a minor, regardless of the ability of the proposed patient or the proposed patient's family to afford an attorney.

(e) The court shall allow a court-appointed attorney a reasonable fee for services. The fee shall be collected as costs of the court.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 171, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 462.064. CERTIFICATE OF MEDICAL EXAMINATION FOR CHEMICAL DEPENDENCY. (a) A hearing on court-ordered treatment may not be held unless there are on file with the court at least two certificates of medical examination for chemical dependency completed by different physicians each of whom has examined the proposed patient not earlier than the 30th day before the date the final hearing is held.

(b) If the certificates are not filed with the application, the court may appoint the necessary physicians to examine the proposed patient and file the certificates. The court may order the proposed patient to submit to the examinations and may issue a warrant authorizing a peace officer to take the proposed patient into custody for the examinations.

(c) A certificate must be dated and signed by the examining physician. The certificate must include:

(1) the name and address of the examining physician;

(2) the name and address of the proposed patient;

(3) the date and place of the examination;

(4) the period, if any, during which the proposed patient has been under the care of the examining physician;

(5) an accurate description of the treatment, if any, given by or administered under the direction of the examining physician; and

(6) the examining physician's opinions whether the

proposed patient is a person with a chemical dependency and:

(A) is likely to cause serious harm to the person;

(B) is likely to cause serious harm to others; or

(C) will continue to suffer abnormal mental, emotional, or physical distress and to deteriorate in ability to function independently if not treated and is unable to make a rational and informed choice as to whether or not to submit to treatment.

(d) The certificate must include the detailed reason for each of the examining physician's opinions under this section.

(e) If the certificates required under this section are not on file at the time set for the hearing on the application, the judge shall dismiss the application and order the immediate release of the proposed patient if that person is not at liberty. If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may by written order made each day extend the period during which the two certificates of medical examination for chemical dependency may be filed, and the person may be detained until 4 p.m. on the first succeeding business day. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 567, Sec. 14, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1170, eff. April 2, 2015.

Sec. 462.065. ORDER OF PROTECTIVE CUSTODY. (a) A motion for an order of protective custody may be filed only in the court in which an application for court-ordered treatment is pending. The motion may be filed by the county or district attorney or on the court's own motion.

(b) The motion must state that:

(1) the judge or county or district attorney has reason to believe and does believe that the proposed patient meets the criteria authorizing the court to order protective custody;

and

(2) the belief is derived from:

(A) the representations of a credible person;

(B) the proposed patient's conduct; or

(C) the circumstances under which the proposed patient is found.

(c) The motion must be accompanied by a certificate of medical examination for chemical dependency prepared by a physician who has examined the proposed patient not earlier than the fifth day before the date the motion is filed.

(d) The judge of the court in which the application is pending may designate a magistrate to issue protective custody orders in the judge's absence.

(e) The judge or designated magistrate may issue a protective custody order if the judge or magistrate determines that:

(1) a physician has stated the physician's opinion and the detailed basis for the physician's opinion that the proposed patient is a person with a chemical dependency; and

(2) the proposed patient presents a substantial risk of serious harm to the person or others if not immediately restrained pending the hearing.

(f) The determination that the proposed patient presents a substantial risk of serious harm may be demonstrated by the proposed patient's behavior or by evidence that the proposed patient cannot remain at liberty. The judge or magistrate may make a determination that the proposed patient meets the criteria prescribed by this subsection from the application and certificate alone if the judge or magistrate determines that the conclusions of the applicant and certifying physician are adequately supported by the information provided. The judge or magistrate may take additional evidence if a fair determination of the matter cannot be made from consideration of the application and certificate only.

(g) The judge or magistrate may issue a protective custody order for a proposed patient who is charged with a criminal offense if the proposed patient meets the requirements of this section and the administrator of the facility designated to detain the proposed

patient agrees to the detention.

(h) A protective custody order shall direct a peace officer or other designated person to take the proposed patient into protective custody and transport the proposed patient immediately to a treatment facility or other suitable place for detention. The proposed patient shall be detained in the facility until a hearing is held under Section 462.066.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1171, eff. April 2, 2015.

Sec. 462.066. PROBABLE CAUSE HEARING AND DETENTION. (a) The court shall set a hearing to determine if there is probable cause to believe that a proposed patient under a protective custody order presents a substantial risk of serious harm to himself or others if not restrained until the hearing on the application. The hearing must be held not later than 72 hours after the protective custody order is signed unless the proposed patient waives the right to a hearing. If the period ends on a Saturday, Sunday, or legal holiday, the hearing must be held on the next day that is not a Saturday, Sunday, or legal holiday. The judge or magistrate may postpone the hearing each day for an additional 24 hours if the judge or magistrate declares that an extreme emergency exists because of extremely hazardous weather conditions or on the occurrence of a disaster that threatens the safety of the proposed patient or another essential party to the hearing.

(b) The hearing shall be held before a magistrate or, at the discretion of the presiding judge, before a master appointed by the presiding judge. The master is entitled to reasonable compensation.

(c) The proposed patient and the proposed patient's attorney are entitled to an opportunity at the hearing to appear and present evidence on any allegation or statement in the certificate of medical examination for chemical dependency. The magistrate or master may consider any evidence. The state may prove its case on

the certificate.

(d) The magistrate or master shall order the release of a person under a protective custody order if the magistrate or master determines after the hearing that no probable cause exists to believe that the proposed patient presents a substantial risk of serious harm to himself or others.

(e) The magistrate shall order that a proposed patient be detained until the hearing on the court-ordered treatment or until the administrator of the facility determines that the proposed patient no longer meets the criteria for detention under this section if the magistrate or master determines that probable cause does exist to believe that the proposed patient presents a substantial risk of serious harm to himself or others to the extent that the proposed patient cannot be at liberty pending the hearing on court-ordered treatment.

(f) The magistrate or master shall arrange for a proposed patient detained under Subsection (e) to be returned to the treatment facility or other suitable place, along with a copy of the certificate of medical examination for chemical dependency, any affidavits or other material submitted as evidence in the hearing, and the notification prepared as prescribed by Subsection (g). A copy of the notification of probable cause hearing and the supporting evidence shall be filed with the court that entered the original order of protective custody.

(g) The notification of probable cause hearing shall read as follows:

(Style of Case)

NOTIFICATION OF PROBABLE CAUSE HEARING

On this the _____ day of _____, 20___, the undersigned hearing officer heard evidence concerning the need for protective custody of _____ (hereinafter referred to as proposed patient). The proposed patient was given the opportunity to challenge the allegations that the proposed patient presents a substantial risk of serious harm to self or others.

The proposed patient and the proposed patient's attorney

_____

have been given written notice that the proposed

(attorney)

patient was placed under an order of protective custody and the reasons for such order on _____.

(date of notice)

I have examined the certificate of medical examination for chemical dependency and _____. Based on

(other evidence considered)

this evidence, I find that there is probable cause to believe that the proposed patient presents a substantial risk of serious harm to self (yes ___ or no ___) or others (yes ___ or no ___) such that the proposed patient cannot be at liberty pending final hearing because

_____

(reasons for finding; type of risk found)

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1172, eff. April 2, 2015.

Sec. 462.067. HEARING ON APPLICATION FOR COURT-ORDERED TREATMENT. (a) A hearing on court-ordered treatment must be before a jury unless the proposed patient and the proposed patient's attorney waive the right to a jury. The waiver may be filed at any time after the proposed patient is served with the application and receives notice of the hearing. The waiver must be in writing, under oath, and signed and sworn to by the proposed patient and the proposed patient's attorney.

(b) The proposed patient is entitled to a hearing and to be present at the hearing, but the proposed patient or the proposed patient's attorney may waive either right.

(c) A court hearing may be held at any suitable location in the county. On the request of the proposed patient or the proposed patient's attorney, the hearing shall be held in the county courthouse.

(d) The Texas Rules of Civil Procedure and Texas Rules of Evidence apply to a hearing unless the rules are inconsistent with this chapter. The hearing is on the record, and the state must

prove each issue by clear and convincing evidence.

(e) In addition to the rights prescribed by this chapter, the proposed patient is entitled to:

(1) present evidence on the proposed patient's own behalf;

(2) cross-examine witnesses who testify on behalf of the applicant;

(3) view and copy all petitions and reports in the court file of the cause; and

(4) elect to have the hearing open or closed to the public.

(f) The proposed patient or the proposed patient's attorney, by a written document filed with the court, may waive the right to cross-examine witnesses, and, if that right is waived, the court may admit as evidence the certificates of medical examination for chemical dependency. The certificates admitted under this subsection constitute competent medical or psychiatric testimony, and the court may make its findings solely from the certificates. If the proposed patient or the proposed patient's attorney does not waive the right to cross-examine witnesses, the court shall hear testimony. The testimony must include competent medical or psychiatric testimony.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 567, Sec. 15, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1420, Sec. 10.0031, eff. Sept. 1, 2001.

Sec. 462.068. RELEASE AFTER HEARING. (a) The court shall enter an order denying an application for court-ordered treatment if after a hearing the court or jury fails to find, from clear and convincing evidence, that the proposed patient is a person with a chemical dependency and meets the criteria for court-ordered treatment.

(b) If the court denies the application, the court shall order the discharge of a proposed patient who is not at liberty.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1173, eff. April 2, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 171, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 462.069. COURT ORDER AND PLACE OF TREATMENT. (a) The court shall commit the proposed patient to a treatment facility approved by the department to accept court commitments for not more than 90 days if:

(1) the proposed patient admits the allegations of the application; or

(2) at the hearing on the merits, the court or jury finds that the material allegations in the application have been proved by clear and convincing evidence.

(b) The judge may, on request by the proposed patient, enter an order requiring the proposed patient to participate in a licensed outpatient treatment facility or services provided by a private licensed physician, psychologist, social worker, or professional counselor if the judge finds that the participation is in the proposed patient's best interest considering the proposed patient's impairment.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1174, eff. April 2, 2015.

Sec. 462.070. MOTION FOR MODIFICATION OF ORDER FOR OUTPATIENT TREATMENT. (a) The court that entered an order directing a patient to participate in outpatient care or services may set a hearing to determine if the order should be modified to specifically require inpatient treatment. The court may set the hearing on its own motion, at the request of the person responsible for the care or treatment, or at the request of any other interested person.

(b) The court shall appoint an attorney to represent the patient if a hearing is held. The patient shall be given notice of the matters to be considered at the hearing. The notice must comply with the requirements of Section 462.063 for notice before a hearing on court-ordered treatment.

(c) The hearing shall be held before the court, without a jury, and as prescribed by Section 462.067. The patient shall be represented by an attorney and receive proper notice.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Sec. 462.071. ORDER FOR TEMPORARY DETENTION. (a) The person responsible for a patient's court-ordered outpatient care or treatment or the administrator of the outpatient treatment facility in which a patient receives care or treatment shall file a sworn application for the patient's temporary detention pending the modification hearing.

(b) The application must state the applicant's opinion and detail the basis for the applicant's opinion that:

(1) the patient meets the criteria described by Section 462.072; and

(2) detention in an approved inpatient treatment facility is necessary to evaluate the appropriate setting for continued court-ordered services.

(c) The court may issue an order for temporary detention if the court finds from the information in the application that there is probable cause to believe that the opinions stated in the application are valid.

(d) At the time the order for temporary detention is signed, the court shall appoint an attorney to represent a patient who does not have an attorney.

(e) Within 72 hours after the time the detention begins, the court that issued the temporary detention order shall provide to the patient and the patient's attorney a written notice that states:

(1) that the patient has been placed under a temporary detention order;

(2) the grounds for the order; and

(3) the time and place of the modification hearing.

(f) A temporary detention order shall direct a peace officer or other designated person to take the patient into custody and transport the patient immediately to:

(1) the nearest appropriate approved inpatient treatment facility; or

(2) a suitable facility if an appropriate approved inpatient treatment facility is not available.

(g) A patient may be detained under a temporary detention order for not more than 72 hours. The exceptions applicable to the 72-hour limitation for holding a probable cause hearing for an order of protective custody under Section 462.066(a) apply to detention under this section.

(h) A facility administrator shall immediately release a patient held under a temporary detention order if the facility administrator does not receive notice that the patient's continued detention was authorized after a modification hearing was held within the period prescribed by Subsection (g).

(i) A patient released from an inpatient treatment facility under Subsection (h) continues to be subject to the order committing the person to an approved outpatient treatment facility, if the order has not expired.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Sec. 462.072. MODIFICATION OF ORDER FOR OUTPATIENT SERVICES. (a) The court may modify an order for outpatient services at the modification hearing if the court determines that the patient continues to meet the applicable criteria for court-ordered treatment prescribed by this chapter and that:

(1) the patient has not complied with the court's order; or

(2) the patient's condition has deteriorated to the extent that outpatient care or services are no longer appropriate.

(b) A court may refuse to modify the order and may direct the patient to continue to participate in outpatient care or treatment

in accordance with the original order even if the criteria prescribed by Subsection (a) have been met.

(c) The court's decision to modify an order must be supported by at least one certificate of medical examination for chemical dependency signed by a physician who examined the patient not earlier than the seventh day before the date the hearing is held.

(d) A modification may include:

(1) incorporating in the order a revised treatment program and providing for continued outpatient care or treatment under the modified order, if a revised general program of treatment was submitted to and accepted by the court; or

(2) providing for commitment to an approved treatment facility for inpatient care.

(e) A court may not extend the provision of court-ordered treatment beyond the period prescribed in the original order.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Sec. 462.073. MODIFICATION OF ORDER FOR INPATIENT TREATMENT. (a) The administrator of a facility to which a patient is committed for inpatient treatment may request the court that entered the commitment order to modify the order to require the patient to participate in outpatient care or services.

(b) The facility administrator's request must explain in detail the reason for the request. The request must be accompanied by a certificate of medical examination for chemical dependency signed by a physician who examined the patient during the preceding seven days.

(c) The patient shall be given notice of the request.

(d) On request of the patient or any other interested person, the court shall hold a hearing on the request. The court shall appoint an attorney to represent the patient at the hearing. The hearing shall be held before the court without a jury and as prescribed by Section 462.067. The patient shall be represented by an attorney and receive proper notice.

(e) If a hearing is not requested, the court may make the

decision solely from the request and the supporting certificate.

(f) If the court modifies the order, the court shall identify a person to be responsible for the outpatient care or services.

(g) The person responsible for the care or services shall submit to the court within two weeks after the court enters the order a general program of the treatment to be provided. The program must be incorporated into the court order.

(h) A modified order may not extend beyond the term of the original order.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Sec. 462.0731. OUTPATIENT CARE IN CERTAIN COUNTIES. (a) This section applies to a chemically dependent patient who is a resident of a county with a population of more than 3.3 million, according to the most recent federal decennial census, and whose inpatient commitment is modified to an outpatient commitment, who is furloughed from an inpatient facility, or who is committed to treatment on an outpatient basis.

(b) The department shall arrange and furnish alternative settings for outpatient care, treatment, and supervision in the patient's county of residence. The services must be provided as close as possible to the patient's residence.

(c) A patient receiving services under this section shall report at least weekly to the person responsible for the patient's outpatient care and services.

(d) The person responsible for the patient's outpatient care or treatment shall notify the committing court of the patient's treatment plan and condition at least monthly until the end of the commitment period.

Added by Acts 1991, 72nd Leg., ch. 567, Sec. 16, eff. Sept. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 48, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1175, eff. April 2, 2015.

Sec. 462.074. HOSPITALIZATION OUTSIDE TREATMENT FACILITY. (a) A patient receiving court-ordered treatment in a treatment facility may be transferred to a hospital if, in the opinion of a licensed physician, the patient requires immediate medical care and treatment.

(b) The hospital may, with the patient's consent, provide any necessary medical treatment, including surgery. The hospital may provide medical treatment without the patient's consent to the extent provided by other law.

(c) The patient shall be returned to the treatment facility if the order for court-ordered treatment has not expired at the completion of the hospital treatment.

(d) An order for court-ordered treatment may be renewed while the person is in the hospital.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 171, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 462.075. RENEWAL OF ORDER FOR COURT-ORDERED TREATMENT. (a) A court may renew an order for court-ordered treatment entered under this subchapter.

(b) An applicant who has reasonable cause to believe that a patient remains chemically dependent and that, because of the chemical dependency, the patient is likely to cause serious physical harm to himself or others may file an application to renew the original order for court-ordered treatment. The application must comply with the requirements of Section 462.062. The applicant must file the application not later than the 14th day before the date on which the previous order expires.

(c) The application must be accompanied by two new certificates of medical examination for chemical dependency. The certificates must comply with the requirements of Section 462.064.

(d) An application for renewal is considered an original

application for court-ordered treatment. The provisions of this subchapter relating to notice, hearing procedure, and the proposed patient's rights apply to the application for renewal.

(e) The court shall enter an order denying an application for court-ordered treatment if the court or jury fails to find, from clear and convincing evidence, that the proposed patient is a person with a chemical dependency and meets the criteria for court-ordered treatment. If the court denies the application, the court shall order the discharge of a proposed patient who is not at liberty.

(f) The court shall commit the proposed patient to a treatment facility approved by the department to accept commitments for not more than 90 days if:

(1) the proposed patient admits the allegations of the application; or

(2) at the hearing on the merits, the court or jury finds that the material allegations in the application have been proved by clear and convincing evidence.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1176, eff. April 2, 2015.

Sec. 462.076. APPEAL. (a) The appeal of an order requiring court-ordered treatment must be filed in the court of appeals for the county in which the order is issued.

(b) Notice of appeal must be filed not later than the 10th day after the date on which the order is signed.

(c) When the notice of appeal is filed, the clerk shall immediately send a certified transcript of the proceedings to the court of appeals.

(d) Pending the appeal, the trial judge in whose court the case is pending may:

(1) stay the order and release the person from custody pending the appeal if the judge is satisfied that the person does not meet the criteria for protective custody under Section 462.065;

and

(2) if the person is at liberty, require an appearance bond in an amount set by the court.

(e) The court of appeals and supreme court shall give an appeal under this section preference over all other cases and shall advance the appeal on the docket. The courts may suspend any rule concerning the time for filing briefs and docketing cases.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Sec. 462.077. PASS OR FURLOUGH FROM INPATIENT CARE. (a) The facility administrator may permit a patient admitted to the facility under an order for inpatient services to leave the facility under a pass or furlough.

(b) A pass authorizes the patient to leave the facility for not more than 72 hours. A furlough authorizes the patient to leave for a longer period.

(c) The pass or furlough may be subject to specified conditions.

(d) When a patient is furloughed, the facility administrator shall notify the court that issued the commitment order.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Sec. 462.078. RETURN TO FACILITY UNDER FACILITY ADMINISTRATOR'S CERTIFICATE OR COURT ORDER. (a) The administrator of a facility to which a patient was admitted for court-ordered inpatient services may have an absent patient taken into custody, detained, and returned to the facility by:

(1) signing a certificate authorizing the patient's return; or

(2) filing the certificate with a magistrate and requesting the magistrate to order the patient's return.

(b) A magistrate may issue an order directing a peace or health officer to take a patient into custody and return the patient to the facility if the facility administrator files the certificate

as prescribed by this section. The facility head may sign or file the certificate if the facility head reasonably believes that:

(1) the patient is absent without authority from the facility;

(2) the patient has violated the conditions of a pass or furlough; or

(3) the patient's condition has deteriorated to the extent that the patient's continued absence from the facility under a pass or furlough is inappropriate.

(c) A peace or health officer shall take the patient into custody and return the patient to the facility as soon as possible if the patient's return is authorized by the facility administrator's certificate or the court order. The peace or health officer may take the patient into custody without having the certificate or court order in the officer's possession.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Sec. 462.079. REVOCATION OF FURLOUGH. (a) A furlough may be revoked only after an administrative hearing held in accordance with department rules. The hearing must be held within 72 hours after the patient is returned to the facility.

(b) A hearing officer shall conduct the hearing. The hearing officer may be a mental health or chemical dependency professional if the person is not directly involved in treating the patient.

(c) The hearing is informal, and the patient is entitled to present information and argument.

(d) The hearing officer may revoke the furlough if the officer determines that the revocation is justified under Section 462.078(b)(1) or (2).

(e) A hearing officer who revokes a furlough shall place in the patient's file:

(1) a written notation of the decision; and

(2) a written explanation of the reasons for the decision and the information on which the hearing officer relied.

(f) The patient shall be permitted to leave the facility

under the furlough if the hearing officer determines that the furlough should not be revoked.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1177, eff. April 2, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 171, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 462.080. RELEASE FROM COURT-ORDERED TREATMENT. (a) The administrator of a facility to which a person has been committed for treatment shall discharge the person when the court order expires.

(b) The administrator may discharge a patient before the court order expires if the administrator determines that the patient no longer meets the criteria for court-ordered treatment.

(c) The administrator of a facility to which the patient has been committed for inpatient services shall consider before discharging the patient whether the patient should receive outpatient court-ordered care or services in accordance with:

(1) a furlough under Section 462.077; or

(2) a modified order under Section 462.073 that directs the patient to participate in outpatient treatment.

(d) A discharge terminates the court order, and the person discharged may not be compelled to submit to involuntary treatment unless a new order is issued in accordance with this subchapter.

(e) When a person is discharged under this section, the administrator shall prepare a certificate of discharge and file it with the court that issued the order.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 171, 89th

Legislature, Regular Session, for amendments affecting the following section.

Sec. 462.081. COMMITMENT BY COURTS IN CRIMINAL PROCEEDINGS; ALTERNATIVE SENTENCING. (a) The judge of a court with jurisdiction of misdemeanor cases may remand the defendant to a treatment facility approved by the department to accept court commitments for care and treatment for not more than 90 days, instead of incarceration or fine, if:

(1) the court or a jury has found the defendant guilty of an offense classified as a Class A or B misdemeanor;

(2) the court finds that the offense resulted from or was related to the defendant's chemical dependency;

(3) a treatment facility approved by the department is available to treat the defendant; and

(4) the treatment facility agrees in writing to admit the defendant under this section.

(b) A defendant who, in the opinion of the court, is a person with mental illness is not eligible for sentencing under this section.

(c) The court's sentencing order is a final conviction, and the order may be appealed in the same manner as appeals are made from other judgments of that court.

(d) A juvenile court may remand a child to a treatment facility for care and treatment for not more than 90 days after the date on which the child is remanded if:

(1) the court finds that the child has engaged in delinquent conduct or conduct indicating a need for supervision and that the conduct resulted from or was related to the child's chemical dependency;

(2) a treatment facility approved by the department to accept court commitments is available to treat the child; and

(3) the facility agrees in writing to receive the child under this section.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 175, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1178,

eff. April 2, 2015.