

## **CIVIL COMMITMENT PROCESS OF MENTALLY ILL AND MENTALLY RETARDED INDIVIDUALS**

These instructions are intended as a guideline only.

All forms must be typewritten or legibly printed in black ink. The affidavit must be completed in the presence of the Mental Health Department staff.

The Hamilton County Probate Court is responsible for overseeing the civil commitment process of persons alleged to be mentally ill, or mentally retarded, and who require involuntary psychiatric treatment.

The Hamilton County Probate Court cannot accept an affidavit on the basis of alcohol or drug abuse alone. A person can only be hospitalized involuntarily on the basis of a mental illness or mental retardation.

The alleged mentally ill or mentally retarded individual must be at least eighteen (18) years of age and currently in Hamilton County. Also, the alleged mentally ill or mentally retarded person should not be currently hospitalized or incarcerated.

The person filing the affidavit must provide the Court with firsthand knowledge of the person's behavior from the last thirty (30) days. This information must prove that the person is a mentally ill or mentally retarded individual needing involuntary psychiatric treatment. The magistrate who reviews the affidavit will be looking for information on the mentally ill individual that shows that they are a danger to themselves or others due to their mental illness. If the affidavit is being filed on a mentally retarded individual, the magistrate will require a comprehensive psychological evaluation showing that the alleged mentally retarded individual functions in the moderate range of mental retardation or lower.

The process takes between 2-3 hours on average to complete. The Court Staff recommends that the process begin in the early morning hours if the alleged mentally ill or mentally retarded person is expected to be transported to the hospital within the same day. A hearing will be set within five (5) court days and the person filing the affidavit will be subpoenaed to testify at this hearing. The alleged mentally ill or mentally retarded individual will be appointed counsel to represent them at this hearing, as well as an independent court appointed psychiatrist to conduct a psychiatric evaluation.

An attorney is not necessary for completing this process. The Court Personnel are able to assist the affiant. However, it is acceptable to proceed with the help of private counsel.

Another option for having a person evaluated is University Hospital's Mobile Crisis Team. This team consists of psychiatric social workers that can evaluate a person at their residence. For more information, contact University Hospital at (513) 584-8577.

Also, University Hospital has a Psychiatric Emergency Services (PES) that can assist with psychiatric emergencies. If the alleged mentally ill or mentally retarded individual is willing to go to the hospital, you can take them directly to PES. Also, a case manager or other community support worker may be able to assist or offer further suggestions or recommendations.

This department opens approximately 530 cases per year and conducts approximately 1,500 hearings each year. The Civil Commitment Hearings are held at Summit Behavioral Health Care on Wednesdays through Fridays, beginning at 8:45 a.m. These hearings are closed to the general public.

## **PROCEDURAL STEPS**

### **STEP 1: COMPLETE THE PRELIMINARY PAPERWORK**

Preliminary Sheet (500.01) and Case History Sheet (500.02)

- The Preliminary Sheet consists of questions pertaining to the demographic information of the affiant (person filing the affidavit) and the respondent (the alleged mentally ill or mentally retarded person requiring involuntary hospitalization). Some information regarding treatment and insurance is also included on this form. If the respondent has private insurance, the insurance company will need to be contacted prior to beginning this process. The Court will have to know what hospitals in Hamilton County the person is authorized to go to for a psychiatric admission.
- The Case History Sheet consists of questions regarding the respondent's previous psychiatric history and family history of mental illness, as well as questions pertaining to the current behaviors of the individual. Question #33 on the Case History is very important. The question is "What has this person said or done in your presence in the last thirty days that leads you to believe that he or she is mentally ill (or mentally retarded)?" Please keep in mind that the magistrate will also have to find evidence of dangerousness to self or others, if it is a mental illness case that is being filed. This question will be used to formulate the affidavit.
- This is the only part of this process that can be completed outside of the Court.

### **STEP 2: SPEAK WITH THE PRE-SCREENER FROM THE HAMILTON COUNTY COMMUNITY MENTAL HEALTH BOARD**

- The clerks in the Mental Health Department will contact a clinical pre-screener at the Hamilton County Community Mental Health Board. This pre-screener will review some of the paperwork over the telephone with the Mental Health Clerk. The pre-screener typically then speaks with the affiant to have a clear clinical picture of the mentally ill person's diagnosis and their current behavior. Based upon the conversation with the affiant, the pre-screener may recommend adding some information to the affidavit.

**STEP 3: COMPLETE THE AFFIDAVIT**

Affidavit Alleging Mental Illness (500.00) or Affidavit alleging Mental Retardation (510.00)  
- The clerk will give the affiant directions on how to complete the affidavit. Once the affiant completes the affidavit, the clerk will swear the affiant in, and then both the affiant and the clerk will sign off on the affidavit.

**STEP 4: HAVE THE AFFIDAVIT REVIEWED**

-Once the affidavit is completed, sworn to and signed, the clerk will present the affidavit to a magistrate for review. If the magistrate finds probable cause to involuntarily hospitalize the person in a psychiatric setting, then the case will be accepted. If the magistrate is not convinced that the person is probably mentally ill and subject to involuntary hospitalization, then the case will be denied. The magistrate is the person who makes the final determination as to whether or not the case will be accepted.

**STEP 5: FIND AN AVAILABLE HOSPITAL BED**

- Once an available hospital bed is located for the respondent, the clerk will prepare the order for the Hamilton County Sheriff's Department to transport the patient to that particular hospital. As long as the process is completed by early to mid afternoon, the deputies will attempt to complete the transportation within the same day. The deputies are in plain clothes and drive unmarked vehicles. If the deputies are not able to transport due to late hours or not being able to locate the respondent, the local police may be willing to assist after hours or on the weekends.

**STEP 6: SET THE HEARING AND SUBPOENA THE AFFIANT**

- The hearing must be set within five (5) court days from the time that the affidavit is filed. The affiant will be subpoenaed to testify at that hearing. These hearings are held at Summit Behavioral Health Care, Wednesdays through Fridays. All witnesses are subpoenaed to appear at 8:45 a.m.