

IN THE CIRCUIT COURT OF _____ COUNTY, WEST VIRGINIA

For Clerk's Use Only

IN RE: INVOLUNTARY HOSPITALIZATION OF _____, RESPONDENT

DATE: _____ CASE NUMBER _____ - MH - _____

If this application is GRANTED, distribute copies of the application and Pickup/Custody Order (Form INV 4 / Form 903CCF or INV 5 / Form 903CCF24) to: Applicant, Respondent, Respondent's Attorney, Prosecuting Attorney and the Regional Mental Health Center.

APPLICATION FOR INVOLUNTARY CUSTODY FOR MENTAL HEALTH EXAMINATION

[West Virginia Code: § 27-5-2]

DO NOT USE THIS FORM IF THE PERSON TO BE EXAMINED IS INCARCERATED IN A JAIL, PRISON, OR OTHER CORRECTIONAL FACILITY [USE FORM INV 2 / FORM 901C]

INSTRUCTIONS TO APPLICANT:

- A. READ THOROUGHLY the IMPORTANT INFORMATION TO APPLICANTS attached.
B. All information must be printed or typed and be clearly readable.
C. All information requested must be provided, if known. If unknown, you must state it is unknown.
D. Any petition and application which does not provide the necessary information, or is unreadable, may be rejected or denied. Read and answer all questions carefully.
E. In this document, the RESPONDENT is the person whose examination is requested.

1. FULL NAME OF PERSON TO BE EXAMINED (RESPONDENT): _____

Identification Information of Respondent: AGE _____; WEIGHT _____; HAIR COLOR _____; HAIR LENGTH _____; SEX _____; HEIGHT _____; EYE COLOR _____; RACE _____

2. RESPONDENT'S LAST KNOWN ADDRESS: _____

RESPONDENT'S TELEPHONE NUMBER: () _____

3. WHERE IS RESPONDENT NOW? PROVIDE ADDRESS: _____

PROVIDE DIRECTIONS IF KNOWN: _____

4. THE RESPONDENT IS:

A. A RESIDENT OF _____ COUNTY, _____ STATE

B. CURRENTLY PRESENT IN _____ COUNTY, _____ STATE

5. APPLICANT'S [you] FULL NAME : _____
6. APPLICANT'S [you] MAILING ADDRESS: _____

APPLICANT'S TELEPHONE NUMBER: WORK: () _____ HOME: () _____

PLEASE PROVIDE A WAY TO CONTACT YOU PENDING THIS APPLICATION PROCESS (example: cell phone, pager number). **THE COURT MUST BE ABLE TO REACH YOU AND NOTIFY YOU OF THE TIME AND PLACE OF ANY HEARING, WHICH WILL BE HELD IMMEDIATELY TO WITHIN 24 HOURS. YOUR FAILURE TO APPEAR AT THE HEARING MAY RESULT IN THE APPLICATION BEING DISMISSED AND THE RESPONDENT BEING RELEASED.** If you do not want the Respondent to have this information, you may supply the information separately to the Court.
PHONE, CELL, PAGER OR OTHER PHONE NUMBER TO REACH APPLICANT: _____

7. WHAT IS YOUR RELATIONSHIP TO THE RESPONDENT? _____

8. DO YOU BELIEVE THE RESPONDENT IS:
A. ADDICTED TO DRUGS, ALCOHOL AND/OR OTHER SUBSTANCES? _____ YES _____ NO
B. MENTALLY ILL? _____ YES _____ NO

9. HOW LONG HAS THE RESPONDENT SHOWN SUCH BEHAVIOR? _____

10. IN YOUR OWN WORDS, PROVIDE ANY INFORMATION WHICH SUPPORTS YOUR BELIEF THAT THE RESPONDENT IS ADDICTED AND/OR MENTALLY ILL:

(Attach additional pages if necessary)

11. DO YOU BELIEVE THE RESPONDENT, **BECAUSE OF MENTAL ILLNESS OR ADDICTION**, IS LIKELY TO CAUSE SERIOUS HARM TO:
A. HIM/HER SELF? _____ YES _____ NO
B. OTHER PEOPLE? _____ YES _____ NO

12. LIST ANY AND ALL RECENT ACTS WHICH SUPPORT YOUR BELIEF THAT THE RESPONDENT IS LIKELY TO CAUSE SERIOUS HARM TO HIM/HER SELF AND/OR OTHERS. **INCLUDE APPROXIMATE DATE(S) WHEN EACH ACT OCCURRED:**

(Attach additional pages if necessary)

A. IS RESPONDENT A SUICIDE RISK? _____ YES _____ NO _____ UNKNOWN
IF YES, EXPLAIN: _____

B. IS RESPONDENT VIOLENT? _____ YES _____ NO _____ UNKNOWN
IF YES, EXPLAIN: _____

C. IS RESPONDENT IN POSSESSION OF WEAPONS? _____ YES _____ NO _____ UNKNOWN
IF YES, IDENTIFY WEAPON(S), INCLUDING ALL FIREARMS: _____

13. LIST THE NAMES AND ADDRESSES OF OTHER PERSONS WHO HAVE SEEN THE BEHAVIOR OR CONDITION OF THE RESPONDENT: _____

IF YOU WANT THESE PEOPLE TO APPEAR AT HEARING ON THIS APPLICATION, **YOU MUST CONTACT THEM DIRECTLY.**

14. IS THE RESPONDENT CURRENTLY HOSPITALIZED? _____ YES _____ NO
IF YES, STATE WHERE HOSPITALIZED AND EXPECTED LENGTH OF STAY IN HOSPITAL: _____

15. HAS THE RESPONDENT BEEN UNDER THE RECENT CARE OF A PHYSICIAN? _____ YES _____ NO
IF YES, STATE PHYSICIAN'S NAME, ADDRESS, AND PHONE NUMBER: _____

16. IS THE RESPONDENT IN NEED OF MEDICAL CARE FOR ANY PHYSICAL CONDITION OR DISEASE? _____ YES _____ NO
IF YES, DESCRIBE THE CONDITION/DISEASE: _____

17. IS THE RESPONDENT TAKING ANY MEDICATIONS? _____ YES _____ NO
IF YES, LIST THE MEDICATIONS AND DOSAGE: _____

18. DOES THE RESPONDENT NEED MEDICAL CARE, TREATMENT, OR HOSPITALIZATION THAT WOULD PREVENT EXAMINATION BY A MENTAL HEALTH PROFESSIONAL OR COURT APPEARANCE?
A. IMMEDIATELY? _____ YES _____ NO
B. WITHIN THE NEXT 24 HOURS? _____ YES _____ NO

19. HAS THE RESPONDENT BEEN EXAMINED BY A PSYCHIATRIST OR PSYCHOLOGIST? _____ YES _____ NO
IF YES, STATE PSYCHIATRIST'S OR PSYCHOLOGIST'S NAME, ADDRESS, AND DATE OF LAST EXAMINATION:

20. HAS THE RESPONDENT EVER BEEN DIAGNOSED WITH MENTAL RETARDATION? _____ YES _____ NO

21. HAS THE RESPONDENT EVER BEEN CONFINED IN A HOSPITAL FOR MENTAL ILLNESS OR ADDICTION?
_____ YES _____ NO

IF YES, STATE THE REASON FOR HOSPITALIZATION, THE FACILITY IN WHICH THE RESPONDENT WAS HOSPITALIZED, AND THE DATE (S) OF HOSPITALIZATION:

22. NOTICE INFORMATION - **YOU MUST COMPLETE THIS SECTION:**

A. Respondent's Spouse:

_____	_____
<i>Name</i>	<i>Address</i>
_____	_____
<i>City, State, Zip</i>	<i>Telephone</i>

B. Respondent's Parents/Guardians:

_____	_____
<i>Name(s)</i>	<i>Address</i>
_____	_____
<i>City, State, Zip</i>	<i>Telephone</i>

C. Respondent's Next-of-Kin:

_____	_____
<i>Name</i>	<i>Address</i>
_____	_____
<i>City, State, Zip</i>	<i>Telephone</i>

23. _____ *[Initial]* **THE NAMED RESPONDENT HAS BEEN OFFERED VOLUNTARY TREATMENT, BUT HAS EITHER REFUSED VOLUNTARY HOSPITALIZATION AND/OR TREATMENT, OR IS IN A MENTAL OR MEDICAL CONDITION PRECLUDING HIS OR HER ABILITY TO CONSENT TO VOLUNTARY HOSPITALIZATION AND/OR TREATMENT.**

WARNING:

If involuntarily committed, the person against whom you are filing this application, will be:

- (1) prohibited from possessing and receiving firearms and ammunition, in some cases for his or her entire life,
- (2) required to immediately surrender ANY firearms owned or in his or her possession,
- (3) if committed for treatment of mental illness, reported to both federal and state database registries used for firearm purchases and permits/licenses to carry concealed weapons, and
- (4) subject to future criminal charges for possession or receipt of firearms or ammunition. Conviction in West Virginia can result in a fine up to \$1,000.00 or jail time of up to one year. Federal conviction is a FELONY and can result in fines and jail time up to TEN years. (See, W.Va. Code § 61-7-7 and 18 U.S.C.A. § 924(a)(2))

Persons seeking **voluntary** admission for treatment, who have NOT been involuntarily committed, are NOT subject to these prohibitions and requirements.

I, _____, the Applicant, do hereby certify that I truly believe that the Respondent, _____ is [print **YOUR** name here] [print **RESPONDENT'S** name here] [check category(s)] _____ addicted and/or _____ mentally ill and because of **mental illness or addiction** is likely to cause serious harm to him/her self and/or others if allowed to remain at liberty, and should, therefore, be taken into custody for examination and treatment. I therefore petition that the Respondent be brought before the Court in order that the Court may determine what further actions, if any, are warranted according to the provisions of the **West Virginia Code**: § 27-5-2.

I understand that **MALICIOUS MAKING OF AN APPLICATION** to any circuit court or mental hygiene commissioner for the purpose of having another person declared mentally ill or an inebriate **IS A CRIME** and can result in fine or imprisonment up to one year, or both as provided in W.Va. Code § 27-12-1.

I further certify, **UNDER PENALTIES OF FALSE SWEARING** as provided by law, that the information, statements and allegations contained in this Petition and Application are true and accurate to the best of my knowledge, information and belief and constitute the sole basis and reasons for the making of this application. I understand that if I knowingly provide **FALSE** information in the application, I could be subject to a criminal charge of false swearing.

[NOTE: APPLICATION MUST BE MADE UNDER OATH/NOTARIZED OR WILL BE DENIED.]

DATE: _____
APPLICANT'S SIGNATURE

The foregoing Petition and Application was subscribed and sworn to or affirmed before the undersigned authority this _____ day of _____, _____.
[month] [year]

[if notary - affix Notarial Seal] _____
NOTARY PUBLIC/ CIRCUIT CLERK

My Commission Expires: _____.

IMPORTANT INFORMATION TO APPLICANTS with Form INV 1 (Former 901) Application for Involuntary Custody for Mental Health Examination

☆☆☆Have you sought crisis intervention services from your local mental health facility?

Your local or regional mental health facility may be able to assist in resolving a mental health or addiction problem without the necessity of court intervention. The office of the circuit clerk at your local courthouse and the county sheriff can provide you information on how to contact the mental health facility serving your area, or you can check your local listings.

HAS VOLUNTARY TREATMENT BEEN SOUGHT?

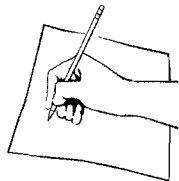
...is there someone who can help me with the Application form?

If I have trouble reading, is there someone who can help me with the form?

Yes, you can ask someone at the regional mental health facility or the office of the circuit clerk to read the form to you. In some areas the offices of the prosecutor or local law enforcement may have someone willing to help you. You may take the form with you to complete and get a friend to read it to you. If time permits you may contact your local library for help. The library has volunteer readers provided by the West Virginia Literacy Commission.

If I have trouble writing, can someone help me fill in the form?

Yes, if you are unable to fill in the form yourself, you may ask someone else to write in the words for you. Ask to have what was written for you read back word-for-word and make any changes you desire before you sign the form before a notary.



What should I put on the form?

You should answer each question on the form completely, truthfully, and in your own words. Only you know whether the information on the form is correct or complete. Remember, providing the court more information is better than not providing enough.

WARNING:

If involuntarily committed, the person against whom you are filing this application, will be:

- (1) prohibited from possessing and receiving firearms and ammunition, in some cases for his or her entire life,
- (2) required to immediately surrender ANY firearms owned or in his or her possession,
- (3) if committed for treatment of mental illness, reported to both federal and state database registries used for firearm purchases and permits/licenses to carry concealed weapons, and
- (4) subject to criminal charges for possession or receipt of firearms or ammunition.

Conviction in West Virginia can result in a fine up to \$1,000.00 or jail time of up to one year. Federal conviction is a **FELONY** and can result in fines and jail time up to **TEN** years.

Persons seeking voluntary admission for treatment, who have **NOT** been involuntarily committed, are **NOT** subject to the above prohibitions.

Can I add additional pages of information to the form?

Yes, if the space provided is not large enough, feel free to attach additional pages as needed.

Do I have to have the form notarized?

Yes. The application is required by law to be made under oath.

Where can I find a notary to notarize the form?

The office of the circuit clerk, most other offices in your county courthouse, public libraries, the regional mental health facility, the office of the county sheriff, offices of local law enforcement, local hospitals, local banks, and local law offices may have notaries on staff who would be willing to assist you. Call or check to verify availability. Some areas may also have notaries identified in local listings.



Can I talk to the mental hygiene commissioner, judge, or magistrate about this case? Before I file the Application? Anytime outside of court?

No. The judicial officer talks with both parties to a case at the same time, and is required to decline to speak with you or others about the case, except for scheduling matters. The hearing, when all are present, is the proper place for you to speak with the judicial officer.

...what will happen after I file the Application form?

What will happen within the next 24 hours in most cases?

The application will be forwarded to a mental hygiene commissioner, circuit court judge or magistrate who will review it. The judicial officer will either deny it or enter an order to have the person to be examined taken into custody by the sheriff and examined by a physician or other mental health professional. If the examination does NOT reveal addiction or mental illness and likelihood to cause serious harm to self or others resulting from the mental illness or addiction, the individual will be released and the case dismissed.

Otherwise, a probable cause hearing will be held before the judicial officer. In many cases the hearing will be held immediately after the examination. Make sure you are available and have provided information on the application where you can be immediately reached and notified as to where and when the hearing will take place.

What will happen at the probable cause hearing?



What occurs at the hearing may vary, but generally the proceeding will be

less formal than most courtrooms. The judicial officer will call upon you to testify. You should be prepared to present and explain what occurred which led you to file the application and the facts you put in the application, especially those which indicate the individual (now called a Respondent) is more likely than not mentally ill or addicted and likely to cause serious harm to self or others. You will also need to bring with you any other evidence or witnesses you want to present. The Respondent will also be present and have an appointed attorney. You and any witnesses you may call to testify may be asked questions by Respondent's attorney and the judicial officer. You may also ask questions of the Respondent, if he or she testifies, and any other persons testifying for the Respondent. You may question the physician or mental health professional who testifies about the examination made of the Respondent. The judicial officer will make a decision at the end of the hearing.

Does the individual being examined (Respondent) have to testify at the hearing?

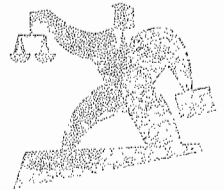
No, he or she has the right to remain silent.

Why does the Respondent get an appointed attorney at the hearing?

It is the liberty interests of the Respondent at stake. The Respondent may be forced into treatment in a locked facility against his or her will.

Do I get a lawyer?

The prosecuting attorney or his or her assistant MAY appear at the probable cause hearing, IF the prosecutor deems it in the public interest to be at the hearing. You are not required to have a lawyer at the first hearing. You may contact your local prosecutor if you believe it is in the public interest for an attorney from that office to appear at the probable cause hearing, and wish to discuss this with the prosecutor.



Can I request a delay of the probable cause hearing?

No, only the Respondent has a right to request the hearing be postponed up to 48 hours.

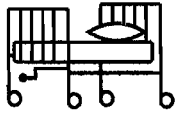
What happens if the judge makes a finding of probable cause at the hearing?

The Respondent will either be placed in a mental health or addiction treatment facility for inpatient treatment for up to a maximum of 30 days before another hearing is held, or may be released immediately or later for outpatient treatment by an agreement for treatment called a Voluntary Treatment Agreement.

Can I or the Respondent pick the treatment facility?

No, unless the Respondent enters into a Voluntary Treatment Agreement approved by the Court.

Admission for involuntary inpatient treatment can be in facilities throughout the state, depending upon bed space available and the type of treatment needed, including the state psychiatric hospitals in Weston or Huntington. The Respondent will not necessarily be treated in the local community or near home, and will generally be placed at the first available appropriate facility.



How long will the Respondent be hospitalized?

That varies considerably, but is usually very short for inpatient stays. Few Respondents are hospitalized more than a few days. The mental health facility may release the Respondent on convalescent status or as unimproved in certain circumstances. The facility is required to release the Respondent when the individual can no longer benefit from hospitalization or the conditions justifying commitment no longer exist. Voluntary Treatment Agreements for outpatient treatment can last for longer periods of time, but not all Respondents will agree to or can be released to a Voluntary Treatment Agreement. Long-term involuntary inpatient treatment is NOT ordered except where there is a second hearing, called a final commitment hearing, which must be requested by the mental health facility. Few cases ever reach a second hearing. The maximum inpatient stay is 15 days unless a request is made by the mental health facility for a final commitment hearing. Involuntary hospitalization is available to protect the community and to protect the individual during crisis periods when the individual is not complying with voluntary treatment; it is not a substitute for needed voluntary community based treatment.

Is the hospitalization and treatment free of cost?

NO! Under West Virginia law the patient may be billed for the costs of treatment. Any insurance of the patient may be billed. The estate of the patient may be billed if deceased or if the patient has a committee or guardian/conservator. If that is insufficient, then the patient's wife or husband may be billed. If the patient is a child, the father and mother may be billed. Inpatient treatment is very expensive, so billings for involuntary treatment can be quite costly.

...where can I find out more information on my own?

The statutory law on involuntary hospitalization is found in W.Va. Code Chapter 27, Article 5. Helpful definitions are also found in W.Va. Code Chapter 27, Article 1. Law libraries that you can use to get information on code, laws and procedures are located in the following circuit courthouses: Ohio, Harrison, Cabell, Wood, Raleigh, and Berkeley. The West Virginia Supreme Court Law Library has books for research, computers to use, and law librarians that can help you, located in Charleston, WV, phone # 304-558-2607. The Court's library website is: <http://www.state.wv.us/wvsca/library/menu.htm>. Be sure to check that any information you obtain is up to date.

APPLICANT, REMOVE THIS INFORMATION SHEET (last three pages 6, 7, & 8) FROM APPLICATION AND KEEP FOR YOUR REFERENCE!