



Ohio Revised Code

Section 5119.94 Examination of petitioner; hearing; notification of respondent; disposition.

Effective: April 12, 2021

Legislation: House Bill 1 - 133rd General Assembly

(A) Upon receipt of a petition filed under section 5119.93 of the Revised Code, the probate court shall examine the petitioner under oath as to the contents of the petition.

(B) If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the probate court that there is probable cause to believe the respondent may reasonably benefit from treatment, the court shall do all of the following:

(1) Schedule a hearing to be held within seven days to determine if there is clear and convincing evidence that the respondent may reasonably benefit from treatment for alcohol and other drug abuse;

(2) Notify the respondent, the legal guardian, if any and if known, and the spouse, parents, or nearest relative or friend of the respondent concerning the allegations and contents of the petition and of the date and purpose of the hearing;

(3) Notify the respondent that the respondent may retain counsel and, if the person is unable to obtain an attorney, that the respondent may be represented by court-appointed counsel at public expense if the person is indigent. Upon the appointment of an attorney to represent an indigent respondent, the court shall notify the respondent of the name, address, and telephone number of the attorney appointed to represent the respondent.

(4) Notify the respondent that the court shall cause the respondent to be examined not later than twenty-four hours before the hearing date by a physician for the purpose of a physical examination and by a qualified health professional for the purpose of a drug and alcohol addiction assessment and diagnosis. In addition, the court shall notify the respondent that the respondent may have an independent expert evaluation of the person's physical and mental condition conducted at the respondent's own expense.



(5) Cause the respondent to be examined not later than twenty-four hours before the hearing date by a qualified health professional for the purpose of a drug and alcohol addiction assessment and diagnosis;

(6) Conduct the hearing.

(C) The qualified health professional who examines the respondent pursuant to division (B)(5) of this section or who is obtained by the respondent at the respondent's own expense shall certify the professional's findings to the court within twenty-four hours of the examination. The findings of each qualified health professional shall include a recommendation for treatment if the qualified health professional determines that treatment is necessary.

(D)(1)(a) If upon completion of the hearing held under this section the probate court finds by clear and convincing evidence that the respondent may reasonably benefit from treatment, the court shall order the treatment after considering the qualified health professionals' recommendations for treatment that have been submitted to the court under division (C) of this section. Evidence that the respondent has overdosed and been revived one or more times by an opioid antagonist, overdosed in a vehicle, or overdosed in the presence of a minor is sufficient to satisfy this evidentiary requirement. If the court orders the treatment under this division, the order shall specify the type of treatment to be provided, the type of required aftercare, and the duration of the required aftercare which shall be at least three months and shall not exceed six months, and the court shall order the treatment to be provided through a community addiction services provider or by an individual licensed or certified by the state medical board under Chapter 4731. of the Revised Code, the chemical dependency professionals board under Chapter 4758. of the Revised Code, the counselor, social worker, and marriage and family therapist board under Chapter 4757. of the Revised Code, or a similar board of another state authorized to provide substance abuse treatment. In addition, the court also may order that the respondent submit to periodic examinations by a qualified mental health professional to determine if the treatment remains necessary.

(b) If the qualified health professional who examines the respondent certifies that the respondent meets the criteria specified in division (B)(6) of section 5119.93 of the Revised Code, if the court orders treatment under division (D)(1)(a) of this section, and if the court finds by clear and



convincing evidence that the respondent presents an imminent danger or imminent threat of danger to self, family, or others as a result of alcohol or other drug abuse, separate from the treatment described in division (D)(1)(a) of this section, the court may order that the respondent be hospitalized for a period not to exceed seventy-two hours. The court shall direct that the order shall be executed as soon as possible, but not later than seventy-two hours, after its issuance. If the order cannot be executed within seventy-two hours after its issuance, it remains valid for sixty days after its issuance, subject to tolling as described in division (D)(1)(c) of this section, and may be executed at any time during that six-month period or that six-month period as extended by the tolling. Any respondent who has been admitted to a hospital under this division shall be released within seventy-two hours of admittance, unless the respondent voluntarily agrees to remain longer. A respondent who voluntarily agrees to remain longer may be hospitalized for the additional period of time agreed to by the respondent. No respondent ordered under this division to be hospitalized shall be held in jail pending transportation to the hospital unless the court has previously found the respondent to be in contempt of court for either failure to undergo treatment or failure to appear at an evaluation ordered under this section.

(c) The six-month period for execution of an order specified in division (D)(1)(b) of this section shall not run during any time when the respondent purposely avoids execution of the order. Proof that the respondent departed this state or concealed the respondent's identity or whereabouts is prima facie evidence of the respondent's purpose to avoid the execution.

(2)(a) Failure of a respondent to undergo and complete any treatment ordered pursuant to this division is contempt of court. Any community addiction services provider or person providing treatment under this division shall notify the probate court of a respondent's failure to undergo or complete the ordered treatment.

(b) In addition to and separate from the sanction specified in division (D)(2)(a) of this section, if a respondent fails to undergo and complete any treatment ordered pursuant to this section, the court may issue a summons. The summons shall be directed to the respondent and shall command the respondent to appear at a time and place specified in the summons. If a respondent who has been summoned under this division fails to appear at the specified time and place, the court may order a peace officer, as defined in section 2935.01 of the Revised Code, to transport the respondent to a place described in division (D)(1)(a) of this section or a hospital for treatment. The peace officer,



with the approval of the officer's agency, may provide for the transportation of the respondent by a private entity. The transportation costs of the peace officer or the private entity shall be included within the costs of treatment.

(E) If, at any time after a petition is filed under section 5119.93 of the Revised Code, the probate court finds that there is not probable cause to continue treatment or if the petitioner withdraws the petition, then the court shall dismiss the proceedings against the respondent.