

### **IC 12-26-3**

#### **Chapter 3. Voluntary Treatment**

##### **IC 12-26-3-1**

###### **Admission by facility superintendent or by attending physician**

Sec. 1. The superintendent of a facility or an individual's attending physician may admit an Indiana resident who:

- (1) has a mental illness or has symptoms of mental illness; and
- (2) makes an appropriate application;

for observation, diagnosis, care, or treatment.

*As added by P.L.2-1992, SEC.20. Amended by P.L.99-2007, SEC.127.*

##### **IC 12-26-3-2**

###### **Application by parent or legal guardian**

Sec. 2. (a) If an individual is less than eighteen (18) years of age, an application under this chapter may be made by the individual's parent or legal guardian.

(b) If an individual is at least eighteen (18) years of age and has a legal guardian, that individual may not be admitted by the individual's legal guardian to a state institution under this chapter.

*As added by P.L.2-1992, SEC.20. Amended by P.L.6-1995, SEC.23.*

##### **IC 12-26-3-3**

###### **Discharge by facility superintendent or by attending physician; grounds**

Sec. 3. The superintendent or an individual's attending physician may discharge an individual admitted under this chapter if the superintendent or the attending physician determines that:

- (1) care in the facility is not necessary; or
- (2) the discharge would contribute to the most effective use of the facility for the care and treatment of individuals with a mental illness.

*As added by P.L.2-1992, SEC.20. Amended by P.L.99-2007, SEC.128.*

##### **IC 12-26-3-4**

###### **Written request for release; time for release**

Sec. 4. Except as provided in section 5 of this chapter, an individual who has been admitted to a facility under this chapter shall be released within twenty-four (24) hours of a written request for release made to the superintendent or the individual's attending physician by:

- (1) the individual; or
- (2) if the individual is less than eighteen (18) years of age, the parent or guardian who applied for the individual's admission to the facility.

*As added by P.L.2-1992, SEC.20.*

##### **IC 12-26-3-5**

**Refusal to release individual; grounds; written report to court**

Sec. 5. (a) The superintendent or the attending physician is not required to release an individual under section 4 of this chapter if the superintendent or the attending physician has reason to believe the individual is mentally ill and either dangerous or gravely disabled.

(b) If the superintendent or the attending physician makes a determination under subsection (a), the superintendent or the attending physician must make a written report to a court:

- (1) that has jurisdiction;
  - (2) in the county:
    - (A) of the residence of the individual; or
    - (B) where the facility is located; and
  - (3) not later than five (5) days of receiving the request made under section 4 of this chapter.
- (c) A report under subsection (b) must:
- (1) state that there is probable cause to believe that the individual is mentally ill and either dangerous or gravely disabled;
  - (2) state that the individual requires continuing care and treatment in the facility; and
  - (3) request a hearing on the report.

*As added by P.L.2-1992, SEC.20.*

**IC 12-26-3-6**

**Receipt by court of written report; setting preliminary hearing; ordering final hearing**

Sec. 6. The court shall, within two (2) days from the date of receiving a report made under section 5 of this chapter, do either of the following:

- (1) Set a preliminary hearing to determine if there is probable cause to believe that the individual is:
  - (A) mentally ill and either dangerous or gravely disabled; and
  - (B) in need of temporary or regular commitment.
- (2) Order a final hearing to be held within two (2) days of the order to determine if the individual is:
  - (A) mentally ill and either dangerous or gravely disabled; and
  - (B) in need of temporary or regular commitment.

*As added by P.L.2-1992, SEC.20.*

**IC 12-26-3-7**

**Preliminary hearing; introduction of physician's statement; probable cause finding; discharge or commitment**

Sec. 7. (a) A physician's statement may be introduced into evidence at the preliminary hearing without the presence of the physician.

(b) A finding of probable cause may not be entered at the preliminary hearing unless there is oral testimony:

- (1) subject to cross-examination;

(2) of at least one (1) witness who:

(A) has personally observed the behavior of the individual;  
and

(B) will testify as to facts supporting a finding that there is probable cause to believe that the individual is in need of temporary or regular commitment.

(c) If after the preliminary hearing the court does not find probable cause, the individual shall be discharged immediately.

(d) If after the preliminary hearing the court finds probable cause to believe that the individual is in need of temporary or regular commitment, the court shall order the detention of the individual in an appropriate facility pending a final hearing.

*As added by P.L.2-1992, SEC.20.*

### **IC 12-26-3-8**

#### **Final hearing held after preliminary hearing; testimony of examining physician; waiver**

Sec. 8. (a) If the court sets a preliminary hearing under section 6(1) of this chapter, a final hearing shall be held not later than ten (10) days after the date of the preliminary hearing.

(b) At the final hearing, an individual may not be found in need of temporary or regular commitment unless at least one (1) physician who has personally examined the individual testifies at the hearing.

(c) The testimony required by subsection (b) may be waived by the individual if the waiver is voluntarily and knowingly given.

*As added by P.L.2-1992, SEC.20.*

### **IC 12-26-3-9**

#### **Temporary or regular commitment**

Sec. 9. (a) If an individual has not previously been the subject of a commitment proceeding, the court may only order temporary commitment.

(b) If an individual has previously been the subject of a commitment proceeding, the court may order a regular commitment if a longer period of treatment is warranted.

*As added by P.L.2-1992, SEC.20.*