

**26-6b-6 Court determination for an order of restriction after examination period.**

- (1) The district court shall set a hearing regarding the involuntary order of restriction of an individual or group of individuals, to be held within 10 business days of the issuance of its order of restriction issued pursuant to Section 26-6b-5, unless the petitioner informs the district court prior to this hearing that the individual or group of individuals:
  - (a) are not subject to restriction; or
  - (b) have stipulated to the issuance of an order of restriction.
- (2) If the individual or an individual in a group of individuals has stipulated to the issuance of an order of restriction, the court may issue an order as provided in Subsection (6) for those individuals without further hearing.
- (3)
  - (a) If the examination report required in Section 26-6b-5 proves the individual or group of individuals are not subject to restriction, the court may without further hearing terminate the proceedings and dismiss the petition.
  - (b) The court may, after a hearing at which the individual or group of individuals are present in person or by telephonic or other electronic means and have had the opportunity to be represented by counsel, extend its order of restriction for a reasonable period, not to exceed 90 days, if the court has reason to believe the individual or group of individuals are infected by or contaminated with:
    - (i) a communicable or possibly communicable disease that poses a threat to public health;
    - (ii) an infectious agent or possibly infectious agent that poses a threat to public health;
    - (iii) a chemical or biological agent that poses a threat to public health; or
    - (iv) a condition that poses a threat to public health, but, despite the exercise of reasonable diligence the diagnostic studies have not been completed.
- (4) The petitioner shall, at the time of the hearing, provide the district court with the following items, to the extent that they have been issued or are otherwise available:
  - (a) the order of restriction issued by the petitioner;
  - (b) admission notes if any individual was hospitalized; and
  - (c) medical records pertaining to the current order of restriction.
- (5) The information provided to the court under Subsection (4) shall also be provided to the individual's or group of individual's counsel at the time of the hearing, and at any time prior to the hearing upon request of counsel.
- (6)
  - (a) The district court shall order the individual and each individual in a group of individuals to submit to the order of restriction if, upon completion of the hearing and consideration of the record, it finds by clear and convincing evidence that:
    - (i) the individual or group of individuals are infected with a communicable disease or infectious agent, are contaminated with a chemical or biological agent, or are in a condition that poses a threat to public health;
    - (ii) there is no appropriate and less restrictive alternative to a court order of examination, quarantine, isolation, and treatment, or any of them;
    - (iii) the petitioner can provide the individual or group of individuals with treatment that is adequate and appropriate to the individual's or group of individuals' conditions and needs; and
    - (iv) it is in the public interest to order the individual or group of individuals to submit to involuntary examination, quarantine, isolation, and treatment, or any of them after weighing the following factors:

- (A) the personal or religious beliefs, if any, of the individual that are opposed to medical examination or treatment;
  - (B) the ability of the department to control the public health threat with treatment alternatives that are requested by the individual;
  - (C) the economic impact for the department if the individual is permitted to use an alternative to the treatment recommended by the department; and
  - (D) other relevant factors as determined by the court.
- (b) If upon completion of the hearing the court does not find all of the conditions listed in Subsection (6)(a) exist, the court shall immediately dismiss the petition.
- (7) The order of restriction shall designate the period, subject to Subsection (8), for which the individual or group of individuals shall be examined, treated, isolated, or quarantined.
- (8)
- (a) The order of restriction may not exceed six months without benefit of a district court review hearing.
  - (b) The district court review hearing shall be held prior to the expiration of the order of restriction issued under Subsection (7). At the review hearing the court may issue an order of restriction for up to an indeterminate period, if the district court enters a written finding in the record determining by clear and convincing evidence that the required conditions in Subsection (6) will continue for an indeterminate period.

Amended by Chapter 115, 2008 General Session