

26-6b-5 Petition for judicial review of order of restriction -- Court-ordered examination period.

- (1)
 - (a) A department may petition for a judicial review of the department's order of restriction for an individual or group of individuals who are subject to restriction by filing a written petition with the district court of the county in which the individual or group of individuals reside or are located.
 - (b)
 - (i) The county attorney for the county where the individual or group of individuals reside or are located shall represent the local health department in any proceedings under this chapter.
 - (ii) The Office of the Attorney General shall represent the department when the petitioner is the Department of Health in any proceedings under this chapter.
- (2) The petition under Subsection (1) shall be accompanied by:
 - (a) written affidavit of the department stating:
 - (i) a belief the individual or group of individuals are subject to restriction;
 - (ii) a belief that the individual or group of individuals who are subject to restriction are likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately restrained;
 - (iii) this failure would pose a threat to the public health; and
 - (iv) the personal knowledge of the individual's or group of individuals' condition or the circumstances that lead to that belief; and
 - (b) a written statement by a licensed physician indicating the physician finds the individual or group of individuals are subject to restriction.
- (3) The court shall issue an order of restriction requiring the individual or group of individuals to submit to involuntary restriction to protect the public health if the district court finds:
 - (a) there is a reasonable basis to believe that the individual's or group of individuals' condition requires involuntary examination, quarantine, treatment, or isolation pending examination and hearing; or
 - (b) the individual or group of individuals have refused to submit to examination by a health professional as directed by the department or to voluntarily submit to examination, treatment, quarantine, or isolation.
- (4) If the individual or group of individuals who are subject to restriction are not in custody, the court may make its determination and issue its order of restriction in an ex parte hearing.
- (5) At least 24 hours prior to the hearing required by Section 26-6b-6, the department which is the petitioner, shall report to the court, in writing, the opinion of qualified health care providers:
 - (a) regarding whether the individual or group of individuals are infected by or contaminated with:
 - (i) a communicable or possible 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;
 - (b) that despite the exercise of reasonable diligence, the diagnostic studies have not been completed;
 - (c) whether the individual or group of individuals have agreed to voluntarily comply with necessary examination, treatment, quarantine, or isolation; and
 - (d) whether the petitioner believes the individual or group of individuals will comply without court proceedings.

Amended by Chapter 115, 2008 General Session

