

WEST VIRGINIA CODE: §16-3D-9

§16-3D-9. Procedures for immediate involuntary commitment; rules.

(a) An application for immediate involuntary commitment of a person with tuberculosis may be filed by the Commissioner or local health officer, in the circuit court of the county in which the person resides. The application shall be filed under oath, and shall present information and facts which establish that the person with tuberculosis has been uncooperative or irresponsible with regard to treatment, quarantine or safety measures, presents a health menace to others, and is in need of immediate hospitalization.

(b) Upon receipt of the application, the circuit court may enter an order for the individual named in the action to be detained and taken into custody for the purpose of holding a probable cause hearing. The order shall specify that the hearing be held forthwith and shall appoint counsel for the individual: Provided, That in the event immediate detention is believed to be necessary for the protection of the individual or others at a time when no circuit court judge is available for immediate presentation of the application, a magistrate may accept the application and, upon a finding that immediate detention is necessary, may order the individual to be temporarily committed until the earliest reasonable time that the application can be presented to the circuit court, which period of time shall not exceed twenty-four hours except as provided in subsection (c) of this section.

(c) A probable cause hearing shall be held before a magistrate or circuit judge of the county in which the individual is a resident or where he or she was found. If requested by the individual or his or her counsel, the hearing may be postponed for a period not to exceed forty-eight hours, or as soon thereafter as possible.

(d) The individual shall be present at the probable cause hearing and shall have the right to present evidence, confront all witnesses and other evidence against him or her, and to examine testimony offered, including testimony by the Bureau or its designees.

(e) At the conclusion of the hearing the magistrate or circuit court judge shall enter an order stating whether there is probable cause to believe that the individual is likely to cause serious harm to herself or others as a result of his or her disease and actions. If probable cause is found, the individual shall be immediately committed to a health care facility equipped for the care and treatment of persons with tuberculosis. The person shall remain so committed until discharged in the manner authorized pursuant to subsection (e), section seven of this article: Provided, That in the case of an alcoholic or drug user, the judge or magistrate shall first order the individual committed to a detoxification center for detoxification prior to commitment to health care facility equipped for the care and treatment of persons with tuberculosis.

(f) The Bureau shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article,

including, but not limited to, rules relating to the transport and temporary involuntary commitment of patients.