§ 9.31 Involuntary admission on medical certification; patient's right to a hearing.

(a) If, at any time prior to the expiration of sixty days from the date of involuntary admission of a patient on an application supported by medical certification, he or any relative or friend or the mental hygiene legal service gives notice in writing to the director of request for hearing on the question of need for involuntary care and treatment, a hearing shall be held as herein provided. The patient or person requesting a hearing on behalf of the patient may designate the county where the hearing shall be held, which shall be either in the county where the hospital is located, the county of the patient's residence, or the county in which the hospital to which the patient was first admitted is located. Such hearing shall be held in the county so designated, subject to application by any interested party, including the director, for change of venue to any other county because of the convenience of parties or witnesses or the condition of the patient upon notice to the persons required to be served with notice of the patient's initial admission.

(b) It shall be the duty of the director upon receiving notice of such request for hearing to forward forthwith a copy of such notice with a record of the patient to the supreme court or the county court in the county designated by the applicant, if one be designated, or if no designation be made, then to the supreme court or the county court in the county where such hospital is located. A copy of such notice and record shall also be given the mental hygiene legal service.

(c) The court which receives such notice shall fix the date of such hearing at a time not later than five days from the date such notice is received by the court and cause the patient, any other person requesting the hearing, the director, the mental hygiene legal service, and such other persons as the court may determine to be advised of such date. Upon such date, or upon such other date to which the proceeding may be adjourned, the court shall hear testimony and examine the person alleged to be mentally ill, if it be deemed advisable in or out of court. If it be determined that the patient is in need of retention, the court shall deny the application for the patient's release. If the patient is in a psychiatric hospital maintained by a political subdivision of the state or in a general hospital the court, upon notice to the patient and the

mental hygiene legal service and an opportunity to be heard, may order the patient transferred to the jurisdiction of the department for retention in a hospital operated by the state designated by the commissioner or to a private facility having an appropriate operating certificate for retention therein for the balance of the period for which the hospital is authorized to retain the patient. If it appears, however, that the relatives of the patient or a committee of his person are willing and able properly to care for him at some place other than a hospital, then, upon their written consent, the court may order the transfer of the patient to the care and custody of such relatives or such committee. If it be determined that the patient is not mentally ill or not in need of retention, the court shall order the release of the patient.

(d) If the court shall order the release of the patient, such patient shall forthwith be released.

(e) The department or the director of the hospital authorized to retain or receive and retain such patient, as the case may be, shall be immediately furnished with a copy of the order of the court and, if a transfer is ordered, shall immediately make provisions for the transfer of such patient.

(f) The papers in any proceeding under this article which are filed with the county clerk shall be sealed and shall be exhibited only to the parties to the proceeding or someone properly interested, upon order of the court.