§ 9.33 Court authorization to retain an involuntary patient.

(a) If the director shall determine that a patient admitted upon an application supported by medical certification, for whom there is no court order authorizing retention for a specified period, is in need of retention and if such patient does not agree to remain in such hospital as a voluntary patient, the director shall apply to the supreme court or the county court in the county where the hospital is located for an order authorizing continued retention. Such application shall be made no later than sixty days from the date of involuntary admission on application supported by medical certification or thirty days from the date of an order denying an application for patient's release pursuant to section 9.31, whichever is later; and the hospital is authorized to retain the patient for such further period during which the hospital is authorized to make such application or during which the application may be pending. The director shall cause written notice of such application to be given the patient and a copy thereof shall be given personally or by mail to the persons required by this article to be served with notice of such patient's initial admission and to the mental hygiene legal service. Such notice shall state that a hearing may be requested and that failure to make such a request within five days, excluding Sunday and holidays, from the date that the notice was given to the patient will permit the entry without a hearing of an order authorizing retention.

(b) If no request is made for a hearing on behalf of the patient within five days, excluding Sunday and holidays, from the date such notice of such application was given such patient, and if the mental hygiene legal service has not requested a hearing, the court receiving the application may, if satisfied that the patient requires continued retention for care and treatment or transfer and continued retention, immediately issue an order authorizing continued retention of such patient in such hospital for a period not to exceed six months from the date of the order or, if such patient is in a psychiatric hospital operated by a political subdivision of the state or in a general hospital, such order may direct the transfer of such patient to the jurisdiction of the department for retention in a hospital operated by the state or to a private facility having an appropriate operating certificate, to be retained therein for a period not to exceed six

months from the date of such order.

(c) Upon the demand of the patient or of anyone on his behalf or upon request of the mental hygiene legal service, the court shall, or may on its own motion, fix a date for the hearing of the application, in like manner as is provided for hearings in section 9.31. The provisions of such section shall apply to the procedure for obtaining and holding a hearing and to the granting or refusal to grant an order of retention by the court, except that if the patient has already had a hearing, he shall not have the right to designate initially the county in which the hearing shall be held.

(d) If the director of a hospital, in which a patient is retained pursuant to the foregoing subdivisions of this section, shall determine that the condition of such patient requires his further retention in a hospital, he shall, if such patient does not agree to remain in such hospital as a voluntary patient, apply during the period of retention authorized by the last order of the court to the supreme court or the county court in the county where the hospital is located for an order authorizing further continued retention of such patient. The procedures for obtaining any order pursuant to this subdivision shall be in accordance with the provisions of the foregoing subdivisions of this section; provided that the patient or anyone on his behalf or the mental hygiene legal service may request that the patient be brought personally before the court, in which case the court shall not grant an order for periods of one year or longer unless such patient shall have appeared personally before the court. The period for continued retention pursuant to the first order obtained under this subdivision shall authorize further continued retention of the patient for not more than one year from the date of the order. The period for the further continued retention of the patient authorized by any subsequent order under this subdivision shall be for periods not to exceed two years each from the date of the order.