

Casey's Law

The Matthew Casey Wethington Act for Substance Abuse Intervention, now known as Casey's Law, was named for a young man who died due to a heroin overdose on August 19, 2002. At the impetus of his mother, in 2004, the Kentucky General Assembly amended existing Kentucky law to allow a family member or friend (the petitioner) to petition the appropriate Kentucky court to order an individual who they believe needs involuntary substance abuse treatment to undergo that treatment. The Act became effective on July 13, 2004 and was codified as KRS 222.430-.437. The rationale behind the law is that an adult, in the throes of addiction, cannot make a rational decision as to their need for treatment, just as someone in a similar situation with mental illness cannot do so.

The process is straightforward. The Petitioner goes to the appropriate Circuit Court Clerk's office and completes AOC-700A, the Verified Petition for Involuntary Treatment (Alcohol/Drug). The form requires that the Petitioner to provide facts sufficient to allow the court to find probable cause that the Respondent has an alcohol or drug abuse disorder that it presents a danger to the Respondent, the family or others if they do not receive treatment. It also requires the Petitioner to guarantee that they will pay all costs for treatment. (On a practical note, such treatment would need to be arranged for in advance, as the individual will need to be ordered into said treatment facility.) The Court then evaluates the Petitioner's request under oath. If the Court agrees that there is probable cause, it sets a date for a hearing and the Respondent will be served, similar in the way an Emergency Protective order is handled. That order also requires the respondent to, no later than 24 hours prior to the hearing, undergo an examination by two qualified health professionals, at least one of whom is a physician. The two examiners must complete AOC-703A, the Certification of Qualified Health Professional Involuntary Treatment (Alcohol / Drug Abuse) for the Court. As a result of the examination, the Court has the option of ordering the Respondent into treatment for no more than sixty days or 360 days, depending upon the request or which was agreed to at the hearing. Another option allows to the Court to order the individual into an immediate 72 hour hospital hold, similar to provisions under KRS 202A. An individual under such an order may not be jailed prior to transportation to a hospital or evaluation, unless they are under a contempt of court order. Under KRS 222.435, if the individual fails to submit for an evaluation prior to the hearing, the Court shall issue a summons commanding the person to appear. If they fail to do so, then they may be taken into custody and transported to the designated facility. If the Respondent fails to undergo treatment as ordered, the Sheriff or another peace officer may be ordered to transport the Respondent to a facility designated by the Cabinet under KRS 210.485. (The responsibility for transport may be delegated to another entity, such as an ambulance service, if appropriate.) The transportation costs shall be assessed to the Petitioner.

Of particular note to law enforcement, as indicated in KRS 222.436, the procedures to be used for a person subject to Casey's Law is the same, in all relevant provisions, to those in KRS 202A. As such, officers should study those provisions as well, so as to fully understand the obligations during a transport. The only true difference is that the costs for transportation under 202A are borne by the Cabinet, while the costs under Casey's Law are to be borne, ultimately, by the Petitioner.

SEE: <http://www.caseyslaw.org>

Involuntary Treatment for Alcohol and Other Drug Abuse

Note: the sections marked with an asterisk (*) are completely new statutes as of 2004.

222.430 Involuntary treatment for alcohol and other drug abuse -- Rights of patient.

(1) Involuntary treatment ordered for a person suffering from alcohol and other drug abuse shall follow the procedures set forth in KRS 222.430 to 222.437.

(2) Except as otherwise provided for in KRS 222.430 to 222.437, all rights guaranteed by KRS Chapters 202A and 210 to

involuntarily hospitalized mentally ill persons shall be guaranteed to a person ordered to undergo treatment for alcohol and other drug abuse.

***222.431 Criteria for involuntary treatment.**

No person suffering from alcohol and other drug abuse shall be ordered to undergo treatment unless that person:

- (1) Suffers from alcohol and other drug abuse;
- (2) Presents an imminent threat of danger to self, family, or others as a result of alcohol and other drug abuse, or there exists a substantial likelihood of such a threat in the near future; and
- (3) Can reasonably benefit from treatment.

*222.432 Petition for 60-day and 360-day involuntary treatment -- Contents -- Guarantee for costs.

(1) Proceedings for sixty (60) days or three hundred sixty (360) days of treatment for an individual suffering from alcohol and other drug abuse shall be initiated by the filing of a verified petition in District Court.

(2) The petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)."

(3) The petition shall be filed by a spouse, relative, friend, or guardian of the individual concerning whom the petition is filed.

(4) The petition shall set forth:

- (a) Petitioner's relationship to the respondent;
- (b) Respondent's name, residence, and current location, if known;
- (c) The name and residence of respondent's parents, if living and if known, or respondent's legal guardian, if any and if known;
- (d) The name and residence of respondent's husband or wife, if any and if known;
- (e) The name and residence of the person having custody of the respondent, if any, or if no such person is known, the name and residence of a near relative or that the person is unknown; and
- (f) Petitioner's belief, including the factual basis therefor, that the respondent is suffering from an alcohol and other drug abuse disorder and presents a danger or threat of danger to self, family, or others if not treated for alcohol or other drug abuse. Any petition filed pursuant to this subsection shall be accompanied by a guarantee, signed by the petitioner or other person authorized under subsection (3) of this section, obligating that person to pay all costs for treatment of the respondent for alcohol and other drug abuse that is ordered by the court.

***222.433 Proceedings for involuntary treatment -- Duties of court -- Disposition.**

(1) Upon receipt of the petition, the court shall examine the petitioner under oath as to the contents of the petition.

(2) If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be ordered to undergo treatment, then the court shall:

(a) Set a date for a hearing within fourteen (14) days to determine if there is probable cause to believe the respondent should be ordered to undergo treatment for alcohol and other drug abuse;

(b) Notify the respondent, the legal guardian, if any and if known, and the spouse, parents, or nearest relative or friend of the respondent concerning the allegations and contents of the petition and the date and purpose of the hearing; and the name, address, and telephone number of the attorney appointed to represent the respondent; and

(c) Cause the respondent to be examined no later than twenty-four (24) hours before the hearing date by two (2) qualified health professionals, at least one (1) of whom is a physician. The qualified health professionals shall certify their findings to the court within twenty-four (24) hours of the examinations.

(3) If, upon completion of the hearing, the court finds the respondent should be ordered to undergo treatment, then the court shall order such treatment for a period not to exceed sixty (60) consecutive days from the date of the court order or a period not to exceed three hundred sixty (360) consecutive days from the date of the court order, whatever was the period of time that was requested in the petition or otherwise agreed to at the hearing. Failure of a respondent to undergo treatment ordered pursuant to this subsection may place the respondent in contempt of court.

(4) If, at any time after the petition is filed, the court finds that there is no probable cause to continue treatment or if the

petitioner withdraws the petition, then the proceedings against the respondent shall be dismissed.

***222.434 Seventy-two-hour emergency involuntary treatment.**

(1) Following an examination by a qualified health professional and a certification by that professional that the person meets the criteria specified in KRS 222.431, the court may order the person hospitalized for a period not to exceed seventy-two (72) hours if the court finds, by clear and convincing evidence, that the respondent presents an imminent threat of danger to self, family, or others as a result of alcohol and other drug abuse.

(2) Any person who has been admitted to a hospital under subsection (1) of this section shall be released from the hospital within seventy-two (72) hours of admittance.

(3) No respondent ordered hospitalized under this section shall be held in jail pending transportation to the hospital or evaluation unless the court has previously found the respondent to be in contempt of court for either failure to undergo treatment or failure to appear at the evaluation ordered pursuant to KRS 222.433.

***222.435 Failure to attend examination -- Summons -- Transportation to hospital or psychiatric facility.**

When the court is authorized to issue an order that the respondent be transported to a hospital, the court may, or if the respondent fails to attend an examination scheduled before the hearing provided for in KRS 222.433 then the court shall, issue a summons. A summons so issued shall be directed to the respondent and shall command the respondent to appear at a time and place therein specified. If a respondent who has been summoned fails to appear at the hospital or the examination, then the court may order the sheriff or other peace officer to transport the respondent to a hospital or psychiatric facility designated by the cabinet for treatment under KRS 210.485. The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the respondent to the hospital. The transportation costs of the sheriff, other peace officer, ambulance service, or other private agency on contract with the cabinet shall be included in the costs of treatment for alcohol and other drug abuse to be paid by the petitioner. All be dismissed.

***222.436 Application of KRS Chapter 202A.**

The definitions in KRS 202A.011 and the procedures in KRS Chapter 202A apply to KRS 222.430 to 222.437 except where terms or procedures used therein are defined in KRS 222.005 or are otherwise provided for in KRS 222.430 to 222.437, respectively.

***222.437 Short title for KRS 222.430 to 222.437.**

KRS 222.430 to 222.437 may be cited as the Matthew Casey Wethington Act for Substance Abuse Intervention.

SEE ALSO:

202A.185 Peace officer authorized to arrest and return patient to hospital.

If a patient undergoing involuntary treatment on an inpatient basis is absent from the hospital without, or in excess of authorization from the hospital staff, the person in charge or that person's designee may contact the appropriate sheriff or other peace officers who shall take the patient into custody and return the patient to the hospital.