

59-2969. Hearing to review status of patient; procedure. (a) At least 14 days prior to the end of each period of treatment, as set out in the court order for such treatment, the head of the treatment facility furnishing treatment to the patient shall cause to be filed with the court a written report summarizing the treatment provided and the findings and recommendations of the treatment facility concerning the need for further treatment for the patient. Upon the filing of this written report, the court shall notify the patient's attorney of record that this written report has been filed. If there is no attorney of record for the patient, the court shall appoint an attorney and notify such attorney that the written report has been filed.

(b) When the attorney for the patient has received notice that the treatment facility has filed with the district court its written report, the attorney shall consult with the patient to determine whether the patient desires a hearing. If the patient desires a hearing, the attorney shall file a written request for a hearing with the district court, which request shall be filed not later than the last day ending any period of treatment as specified in the court's order for treatment issued pursuant to K.S.A. 59-2966 or 59-2967 and amendments thereto, or the court's last entered order for continued treatment issued pursuant to subsection (f). If the patient does not desire a hearing, the patient's attorney shall file with the court a written statement that the attorney has consulted with the patient; the manner in which the attorney has consulted with the patient; that the attorney has fully explained to the patient the patient's right to a hearing as set out in this section and that if the patient does not request such a hearing that further treatment will likely be ordered, but that having been so advised the patient does not desire a hearing. Thereupon, the court may renew its order for treatment and may specify the next period of treatment as provided for in subsection (f). A copy of the court's order shall be given to the patient, the attorney for the patient, the patient's legal guardian, the petitioner or the county or district attorney, as appropriate, and to the head of the treatment facility treating the patient as the court directs.

(c) Upon receiving a written request for a hearing, the district court shall set the matter for hearing and notice of such hearing shall be given similarly as provided for in K.S.A. 59-2963 and amendments thereto. Notice shall also be given promptly to the head of the treatment facility treating the patient. The hearing shall be held as soon as reasonably practical, but in no event more than 10 days following the filing of the written request for a hearing. The patient shall remain in treatment during the pendency of any such hearing, unless discharged by the head of the treatment facility pursuant to K.S.A. 59-2973 and amendments thereto.

(d) The district court having jurisdiction of any case may, on its own motion or upon written request of any interested party, including the head of the treatment facility where a patient is being treated, hold a hearing to review the patient's status earlier than at the times set out in subsection (b) above, if the court determines that a material change of circumstances has occurred necessitating an earlier hearing, however, the patient shall not be entitled to have more than one review hearing within each period of treatment as specified in any order for treatment, order for out-patient treatment or order for continued treatment.

(e) The hearing shall be conducted in the same manner as hearings provided for in K.S.A. 59-2965 and amendments thereto, except that the hearing shall be to the court and the patient shall not have the right to demand a jury. At the hearing it shall be the petitioner's or county or district attorney's or treatment facility's burden to show that the patient remains a mentally ill person subject to involuntary commitment for care and treatment under this act.

(f) Upon completion of the hearing, if the court finds by clear and convincing evidence that the patient continues to be a mentally ill person subject to involuntary commitment for care and treatment under this act, the court shall order continued treatment for a specified period of time not to exceed three months for any initial order for continued treatment, nor more than six months in any subsequent order for continued treatment, at an inpatient treatment facility as provided for in K.S.A. 59-2966 and amendments thereto, or at an outpatient treatment facility if the court determines that outpatient treatment is appropriate under K.S.A. 59-2967 and amendments thereto, and a copy of the court's order shall be provided to the head of the treatment facility. If the court finds that it has not been shown by clear and convincing evidence that the patient continues to be a mentally ill person subject to involuntary commitment for care and treatment under this act, it shall release the patient. A copy of the court's order of release shall be provided to the patient, the patient's attorney, the patient's legal guardian or other person known to be interested in the care and welfare of a minor patient, and to the head of the treatment facility at which the patient had been receiving treatment.

History: L. 1996, ch. 167, § 25; L. 1997, ch. 152, § 9; L. 1998, ch. 134, § 50; July 1.