Select County

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IN THE CIRCUIT COURT OF _____ COUNTY, WEST VIRGINIA

DO NOT USE THIS FORM IF THE PERSON TO BE EXAMINED IS A JUVENILE OR INCARCERATED IN A JAIL, PRISON, OR OTHER CORRECTIONAL FACILITY

For Clerk's Use Only

IN RE: INVOLUNTARY HOSPITALIZATION OF

_____

RESPONDENT

DATE: _____ **CASE NUMBER: 2026 - MH - _____**

If this application is GRANTED, distribute copies of this application and Detention Order (Form INV 4) to: Respondent, Respondent's Attorney, Prosecuting Attorney and the Regional Mental Health Center.

APPLICATION FOR INVOLUNTARY CUSTODY FOR MENTAL HEALTH EXAMINATION

West Virginia Code: § 27-5-2

INSTRUCTIONS TO APPLICANT:

A. READ THOROUGHLY the IMPORTANT INFORMATION TO APPLICANTS attached.
B. All information must be printed or typed and be clearly readable.
C. All information requested must be provided, if known. If unknown, you must state it is unknown.
D. Any petition and application which does not provide the necessary information, or is unreadable, may be denied. Read and answer all questions carefully.
E. Attach any documents, photos, emails, police reports, medical records or other such evidence for review and consideration.

1. FULL NAME OF PERSON TO BE EXAMINED ***[RESPONDENT]:*** _____

Identification Information of Respondent:

DATE OF BIRTH: ___/___/___ ; WEIGHT: _____;

HAIR COLOR: _____; HAIR LENGTH: _____;

GENDER: _____; HEIGHT: _____;

EYE COLOR: _____; RACE: _____

2. REPONDENT'S LAST KNOWN ADDRESS: _____

_____

RESPONDENT'S TELEPHONE NUMBER: _____

3. PLACE OF BIRTH *(state or country)*: _____

4. WHERE IS RESPONDENT NOW? PROVIDE ADDRESS: _____

PROVIDE DIRECTIONS IF KNOWN: _____

5. THE RESPONDENT IS:

A. A RESIDENT OF _____ COUNTY, _____ STATE.

B. CURRENTLY PRESENT IN _____ COUNTY, _____ STATE.

6. APPLICANT'S *(your)* FULL NAME: _____ AGE: _____

7. APPLICANT'S *(your)* MAILING ADDRESS: _____

APPLICANT'S TELEPHONE NUMBER: WORK: _____ HOME: _____

APPLICANT'S EMAIL ADDRESS *(for hearings by video conference)*: _____

PLEASE PROVIDE A WAY TO CONTACT YOU PENDING THIS APPLICATION PROCESS. THE COURT AND/OR EVALUATOR MUST BE ABLE TO REACH YOU AT ALL TIMES DURING THE PROCESS. THE HEARING WILL BE HELD AS SOON AS POSSIBLE AFTER THE RESPONDENT IS DETAINED. YOUR FAILURE TO APPEAR AT THE HEARING WILL RESULT IN THE APPLICATION BEING DISMISSED AND THE RESPONDENT BEING RELEASED.

If you do not want the respondent to have your contact information, you may supply the information separately to the Court.

8. WHAT IS YOUR RELATIONSHIP TO THE RESPONDENT? _____

9. DO YOU BELIEVE THE RESPONDENT IS:

A. ADDICTED TO DRUGS, ALCOHOL AND/OR OTHER SUBSTANCES ☐ YES ☐ NO

PLEASE EXPLAIN:

(Attach additional pages if necessary)

B. MENTALLY ILL ☐ YES ☐ NO

PLEASE EXPLAIN:

(Attach additional pages if necessary)

10. DO YOU BELIEVE THE RESPONDENT, ***BECAUSE OF MENTAL ILLNESS OR SUBSTANCE USE*** DISORDER; IS LIKELY TO CAUSE SERIOUS HARM TO:

A. HIM/HER SELF ☐ YES ☐ NO

PLEASE EXPLAIN:

(Attach additional pages if necessary)

B. OTHER PEOPLE ☐ YES ☐ NO

PLEASE EXPLAIN:

(Attach additional pages if necessary)

11. LIST ANY AND ALL RECENT ACTS WHICH SUPPORT YOUR BELIEF THAT THE RESPONDENT IS LIKELY TO CAUSE SERIOUS HARM TO HIM/HER SELF AND/OR OTHERS. **INCLUDE APPROXIMATE DATE(S) WHEN EACH ACT OCCURRED, IF YOU DO NOT INCLUDE APPROXIMATE DATES, YOUR APPLICATION MAY BE DENIED:**

(Attach additional pages if necessary)

A. IS RESPONDENT A SUICIDE RISK ☐ YES ☐ NO ☐ UNKNOWN

PLEASE EXPLAIN:

(Attach additional pages if necessary)

B. IS RESPONDENT VIOLENT/HOMICIDAL ☐ YES ☐ NO ☐ UNKNOWN

PLEASE EXPLAIN:

(Attach additional pages if necessary)

C. IS RESPONDENT IN POSSESSION OF WEAPONS ☐ YES ☐ NO ☐ UNKNOWN

PLEASE IDENTIFY WEAPON(S), INCLUDING ALL FIREARMS:

12. DO YOU BELIEVE THE RESPONDENT, BECAUSE OF SUBSTANCE USE DISORDER HAS LOST THE POWER OF SELF CONTROL WITH RESPECT TO SUBSTANCE USE, IS IN NEED OF SUBSTANCE ABUSE SERVICES AND, BY REASON OF SUBSTANCE ABUSE IMPAIRMENT, HIS OR HER JUDGMENT HAS BEEN SO IMPAIRED THAT THE INDIVIDUAL IS INCAPABLE OF APPRECIATING HIS OR HER NEED FOR SUCH SERVICES AND IS FURTHER INCAPABLE OF MAKING A RATIONAL DECISION IN THAT REGARD. ☐ YES ☐ NO

PLEASE EXPLAIN:

(Attach additional pages if necessary)

13. LIST THE NAMES AND PHONE NUMBERS OF OTHER PERSONS WHO HAVE SEEN THE BEHAVIOR OR CONDITION OF THE RESPONDENT:

IF YOU WANT THESE PEOPLE TO APPEAR AT THE HEARING ON THIS APPLICATION, **YOU** MUST CONTACT THEM DIRECTLY AND PROVIDE THEIR EMAIL ADDRESS TO THE COURT/CRISIS WORKER.

14. THE RESPONDENT IS CURRENTLY HOSPITALIZED ☐ YES ☐ NO

PLEASE STATE WHERE HOSPITALIZED AND EXPECTED LENGTH OF STAY IN HOSPITAL:

15. THE RESPONDENT HAS BEEN UNDER THE RECENT CARE OF A PHYSICIAN ☐ YES ☐ NO

IF YES, STATE PHYSICIAN'S NAME, ADDRESS, AND PHONE NUMBER:

16. THE RESPONDENT IS IN NEED OF MEDICAL CARE FOR ANY PHYSICAL CONDITION ☐ YES ☐ NO

IF YES, DESCRIBE THE CONDITION/DISEASE:

17. THE RESPONDENT NEEDS MEDICAL CARE, TREATMENT, OR HOSPITALIZTION THAT **WOULD PREVENT** EXAMINATION BY A MENTAL HEALTH PROFESSIONAL OR COURT APPEARANCE

☐ YES ☐ NO

IF YES, PLEASE EXPLAIN:

18. HAS THE RESPONDENT EVER BEEN DIAGNOSED WITH:

INTELLECTUAL OR DEVELOPMENTAL DISABLITY	☐ YES	☐ NO
DEMENTIA	☐ YES	☐ NO
EPILEPSY	☐ YES	☐ NO
TRAUMATIC BRAIN INJURY (TBI)	☐ YES	☐ NO

19. HAS THE RESPONDENT EVER BEEN EXAMINED BY A PSYCHIATRIST OR PSYCHOLOGIST
☐ YES ☐ NO

STATE PHYSCHIATRIST'S OR PSYCHOLOGIST'S NAME, ADDRESS, AND DATE OF LAST EXAMINATION:

_____

_____

20. HAS THE RESPONDENT EVER BEEN CONFINED IN A HOSPITAL FOR MENTAL ILLNES OR SUBSTANCE USE DISORDER ☐ YES ☐ NO

STATE THE REASON FOR HOSPITALIZTION, THE FACILITY IN WHICH THE RESPONDENT WAS HOSPITALIZED, AND THE DATE(S) OF HOSPITALIZATION:

_____

_____

21. NOTICE OF INFORMATION - **YOU <u>MUST</u> COMPLETE THIS SECTION**:

A. Respondent's Spouse: _____ _____
Name *Street Address*

_____ _____
Telephone *City, State, Zip*

B. Respondent's Parents/Guardians: _____ _____
Name *Street Address*

_____ _____
Telephone *City, State, Zip*

C. Respondent's Next-of-Kin: _____ _____
Name *Street Address*

_____ _____
Telephone *City, State, Zip*

22. THE NAMED RESPONDENT:

- HAS BEEN OFFERED VOLUNTARY TREATMENT ☐ YES ☐ NO
- HAS REFUSED VOLUNTARY HOSPITALIZATION AND/OR TREATMENT ☐ YES ☐ NO
- IS IN A MENTAL OR MEDICAL CONDITION PRECLUDING HIS OR HER ABILITY TO CONSENT TO VOLUNTARY HOSPITALIAZTION AND/OR TREATMENT ☐ YES ☐ NO

WARNING:

If involuntarily committed, the person against whom you are filing this application, may be:

1. prohibited from possessing and receiving firearms and ammunition, in some cases for his or her entire life,
2. required to immediately surrender ANY firearms owned or in his her or possession,
3. if committed for treatment of mental illness, reported to both federal and state database registries used for firearm purchases and permits/licenses to carry concealed weapons, and
4. subject to future criminal charges for possession or receipt of firearms or ammunition. Conviction in West Virginia can result in a fine up to $1,000.00 or jail time of up to one year. Federal conviction is a FELONY and can result in fines and jail time up to TEN years. *(See W.Va. Code §61-7-7 and 18 U.S.C.A. §924(a)(2))*

Persons seeking **voluntary** admission for treatment, who have NOT been involuntarily committed, are NOT subject to this prohibitions and requirements.

I, _____, the Applicant, do hereby certify that I truly believe that the Respondent, _____ is suffering from substance use disorder and/or mental illness and because of mental illness or substance use disorder is likely to cause serious harm to him/her self and/or others if allowed to remain at liberty OR Respondent has a substance use disorder and he/she has lost the power of self-control with respect to substance use, he/she is in need of substance abuse services and, by reason of substance abuse impairment, his or her judgment has been so impaired that the individual is incapable of appreciating his or her need for such services and is further incapable of making a rational decision in regard to such services, and should therefore, be taken into custody for examination. I therefore petition that the Respondent be brought before the Court in order that the Court may determine what further actions, if any, are warranted according to the provisions of the West Virginia Code §27-5-2.

I understand that MALICIOUS MAKING OF AN APPLICATION (with intent to harm), to any circuit court or mental hygiene commissioner for the purpose of having another person declared mentally, ill or an inebriate (suffers from substance use disorder) IS A CRIME and can result in fine or imprisonment up to one year, or both as provided in West Virginia Code §27-12-1.

I further certify, UNDER PENALTIES OF FALSE SWEARING as provided by law, that the information, statements and allegations, contained in this Petition and Application are true and accurate to the best of my knowledge, information and belief and constitute the sole basis and reasons for the making of this application. I understand that if I knowingly provide FALSE information in the application, I could be subject to a criminal charge of false swearing.

_____ _____

Date Time Applicant's Signature

APPLICANT, REMOVE THIS INFORMATION SHEET FROM APPLICATION AND KEEP FOR YOUR REFERENCE!

IMPORTANT INFORMATION TO APPLICANTS with Form INV 1 Application for Involuntary Custody for Mental Health Examination

Have you sought crisis intervention services from your local mental health facility?
Your local or regional mental health facility may be able to assist in resolving a mental health or addiction problem without the necessity of court intervention. The office of the circuit clerk at your local courthouse and the county sheriff can provide you information on how to contact the mental health facility serving your area, or you can check your local listings.
HAS **VOLUNTARY** TREATMENT BEEN SOUGHT?

...is there someone who can help me with the Application form?

If I have trouble reading, is there someone who can help me with the form?
Yes, you can ask someone at the regional mental health facility or the office of the circuit clerk to read the form to you. In some areas the offices of the prosecutor or local law enforcement may have someone willing to help you. You may take the form with you to complete and get a friend to read it to you. If time permits you may contact your local library for help. The library has volunteer readers provided by the West Virginia Literacy Commission.

If I have trouble writing, can someone help me fill in the form?
Yes, if you are unable to fill in the form yourself, you may ask someone else to write in the words for you. Ask to have what was written for you read back word-for-word and make any changes you desire before you sign the form before a notary.



What should I put on the form?
You should answer each question on the form completely, truthfully, and in your own words. Only you know whether the information on the form is correct or complete. Remember, providing the court more information is better than not providing enough.

WARNING:

If involuntarily committed, the person against whom you are filing this application, may be:
(1) prohibited from possessing and receiving firearms and ammunition, in some cases for his or her entire life,
(2) required to immediately surrender ANY firearms owned or in his or her possession,
(3) if committed for treatment of mental illness, reported to both federal and state database registries used for firearm purchases and permits/licenses to carry concealed weapons, and
(4) subject to criminal charges for possession or receipt of firearms or ammunition. Conviction in West Virginia can result in a fine up to $1,000.00 or jail time of up to one year. Federal conviction is a FELONY and can result in fines and jail time up to TEN years.

Persons seeking voluntary admission for treatment, who have NOT been involuntarily committed, are NOT subject to the above prohibitions.

Can I add additional pages of information to the form?
Yes, if the space provided is not large enough, feel free to attach additional pages as needed.

Do I have to have the form notarized? No.

Can I talk to the mental hygiene commissioner, judge, or magistrate about this case? Before I file the Application? Anytime outside of court?
No. The judicial officer talks with both parties to a case at the same time, and is required to decline to speak with you or others about the case, except for scheduling matters. The hearing, when all are present, is the proper place for you to speak with the judicial officer.

...what will happen after I file the Application form?

What will happen within the next 24 hours in most cases?
The application will be forwarded to a mental hygiene commissioner, circuit court judge or magistrate who will review it. The judicial officer will either deny it or enter an order to have the person to be examined taken into custody by the sheriff and examined by a physician or other mental health professional. If the examination does NOT reveal substance use disorder and/or addiction or mental illness and likelihood to cause serious harm to self or others resulting from the mental illness or substance use disorder, the individual will be released and the case dismissed.
Otherwise, a probable cause hearing will be held before the judicial officer. In many cases the hearing will be held immediately after the examination. Make sure you are available and have provided information on the application where you can be immediately reached and notified as to where and when the hearing will take place.

What will happen at the probable cause hearing?



What occurs at the hearing may vary, but generally the proceeding will be less formal than most court proceedings.

Probable cause hearings may be held by videoconference, the clerk or crisis worker will provide you with an electronic link to join the hearing. The judicial officer will call upon you to testify under oath. You should be prepared to present and explain what occurred which led you to file the application and the facts you put in the application, especially those which indicate the individual (now called a Respondent) is more likely than not mentally ill or suffers from substance abuse disorder and is likely to cause serious harm to self or others due to mental illness or substance use disorder. You will also need to have available any other evidence or witnesses you want to present. The Respondent will also be present and have an appointed attorney. You and any witnesses you may call to testify may be asked questions by Respondent's attorney and the judicial officer. You may also ask questions of the Respondent, if he or she testifies, and any other persons testifying for the Respondent. You may question the physician or mental health professional who testifies about the examination made of the Respondent. The judicial officer will make a decision at the end of the hearing.

Does the individual being examined (Respondent) have to testify at the hearing?
No, he or she has the right to remain silent.

Why does the Respondent get an appointed attorney at the hearing?
It is the liberty interests of the Respondent at stake. The Respondent may be forced into treatment in a locked facility against his or her will.

Do I get a lawyer?



The prosecuting attorney or his or her assistant MAY appear at the probable cause hearing, IF the prosecutor deems it in the public interest to be at the hearing. You are not required to have a lawyer at the first hearing. You may contact your local prosecutor if you believe it is in the public interest for an attorney from that office to appear at the probable cause hearing, and wish to discuss this with the prosecutor.

Can I request a delay of the probable cause hearing?
No, only the Respondent has a right to request the hearing be postponed up to 48 hours.

What happens if the judge makes a finding of probable cause at the hearing?
The Respondent will either be placed in a mental health or addiction treatment facility for inpatient treatment for up to a maximum of 35 days before another hearing is held, or may be released immediately or later for outpatient treatment by an agreement for treatment called a Voluntary Treatment Agreement.

Can I or the Respondent pick the treatment facility?
No, unless the Respondent enters into a Voluntary Treatment Agreement approved by the Court.

APPLICANT, REMOVE THIS INFORMATION SHEET FROM APPLICATION AND KEEP FOR YOUR REFERENCE!

Admission for involuntary inpatient treatment can be in facilities throughout the state, depending upon bed space available and the type of treatment needed, including the state psychiatric hospitals in Weston or Huntington. The Respondent will not necessarily be treated in the local community or near home, and will generally be placed at the first available appropriate facility.



How long will the Respondent be hospitalized?
That varies considerably, but is usually very short for inpatient stays. Rarely are Respondents hospitalized for more than a few days. The mental health facility may release the Respondent on convalescent status or as unimproved in certain circumstances. The facility is required to release the Respondent when the individual can no longer benefit from hospitalization or the conditions justifying commitment no longer exist. Voluntary Treatment Agreements for outpatient treatment can last for longer periods of time, but not all Respondents will agree to or can be released to a Voluntary Treatment Agreement. Long-term involuntary inpatient treatment is NOT ordered except where there is a second hearing, called a final commitment hearing, which can only be requested by the mental health facility. Few cases ever reach a second hearing. The maximum inpatient stay is 20 days unless a request is made by the mental health facility for a final commitment hearing.
Involuntary hospitalization is available to protect the community and to protect the individual during crisis periods when the individual is not complying with voluntary treatment; it is not a substitute for needed voluntary community based treatment.

Is the hospitalization and treatment free of cost?

NO! Under West Virginia law the patient may be billed for the costs of treatment. Any insurance of the patient may be billed. The estate of the patient may be billed if deceased or if the patient has a committee or guardian/conservator. If that is insufficient, then the patient's wife or husband may be billed. If the patient is a child, the father and mother may be billed. Inpatient treatment is very expensive, so billings for involuntary treatment can be quite costly.

...where can I find out more information on my own?

The statutory law on involuntary hospitalization is found in W.Va. Code Chapter 27, Article 5. Helpful definitions are also found in W.Va. Code Chapter 27, Article 1. The West Virginia Supreme Court Law Library has books for research, computers to use, and law librarians that can help you, located in Charleston, WV, phone # 304-558-2607. The Court's library website is:

www.courtswv.gov

Be sure to check that any information you obtain is up to date.