

59-29b67. Order for outpatient treatment; revocation; noncompliance; ex parte emergency custody orders; reviews. (a) An order for outpatient treatment may be entered by the court at any time in lieu of any type of order which would have required inpatient care and treatment if the court finds that the patient is likely to comply with an outpatient treatment order and that the patient will not likely be a danger to the community or be likely to cause harm to self or others while subject to an outpatient treatment order.

(b) No order for outpatient treatment shall be entered unless the head of the outpatient treatment facility has consented to treat the patient on an outpatient basis under the terms and conditions set forth by the court.

(c) If outpatient treatment is ordered, the order may state specific conditions to be followed by the patient, but shall include the general condition that the patient is required to comply with all directives and treatment as required by the head of the outpatient treatment facility or the head's designee. The court may also make such orders as are appropriate to provide for monitoring the patient's progress and compliance with outpatient treatment. Within any outpatient order for treatment the court shall specify the period of treatment as provided for in subsection (a) of K.S.A. 59-29b66 or subsection (f) of K.S.A. 59-29b69, and amendments thereto.

(d) The court shall retain jurisdiction to modify or revoke the order for outpatient treatment at any time on its own motion, on the motion of any counsel of record or upon notice from the treatment facility of any need for new conditions in the order for outpatient treatment or of material noncompliance by the patient with the order for outpatient treatment. However, if the venue of the matter has been transferred to another court, then the court having venue of the matter shall have such jurisdiction to modify or revoke the outpatient treatment order. Revocation or modification of an order for outpatient treatment may be made ex parte by order of the court in accordance with the provisions of subsections (e) or (f).

(e) The treatment facility shall immediately report to the court any material noncompliance by the patient with the outpatient treatment order. Such notice may be verbal or by telephone but shall be followed by a verified written, facsimile or electronic copy notice sent to the court, to counsel for all parties and, as appropriate, to the head of the inpatient treatment facility designated to receive the patient, by not later than 5:00 p.m. of the first day the district court is open for the transaction of business after the verbal or telephonic communication was made to the court. Upon receipt of verbal, telephone, or verified written, facsimile or electronic copy notice of material noncompliance, the court may enter an ex parte emergency custody order providing for the immediate detention of the patient in a designated inpatient treatment facility. Any ex parte emergency custody order issued by the court under this subsection shall expire at 5:00 p.m. of the second day the district court is open for the transaction of business after the patient is taken into custody. The court shall not enter successive ex parte emergency custody orders.

(f) (1) Upon the taking of a patient into custody pursuant to an ex parte emergency custody order revoking a previously issued order for outpatient treatment and ordering the patient to involuntary inpatient care the court shall set the matter for hearing not later than the close of business on the second day the court is open for business after the patient is taken into custody. Notice of the hearing shall be given to the patient, the patient's attorney, the patient's legal guardian, the petitioner or the county or district attorney as appropriate, the head of the outpatient treatment facility and the head of the inpatient treatment facility, similarly as provided for in K.S.A. 59-29b63, and amendments thereto.

(2) Upon the entry of an ex parte order modifying a previously issued order for outpatient treatment, but allowing the patient to remain at liberty, a copy of the order shall be served upon the patient, the patient's attorney, the county or district attorney and the head of the outpatient treatment facility similarly as provided for in K.S.A. 59-29b63, and amendments thereto. Thereafter, any party to the matter, including the petitioner, the county or district attorney or the patient, may request a hearing on the matter if the request is filed within 5 days from the date of service of the ex parte order upon the patient. The court may also order such a hearing on its own motion within 5 days from the date of service of the notice. If no request or order for hearing is filed within the 5-day period, the ex parte order and the terms and conditions set out in the ex parte order shall become the final order of the court substituting for any previously entered order for outpatient treatment. If a hearing is requested, a formal written request for revocation or modification of the outpatient treatment order shall be filed by the county or district attorney or the petitioner and a hearing shall be held thereon within 5 days after the filing of the request.

(g) The hearing held pursuant to subsection (f) shall be conducted in the same manner as hearings provided for in K.S.A. 59-29b59, and amendments thereto. Upon the completion of the hearing, if the court finds by clear and convincing evidence that the patient violated any condition of the outpatient treatment order, the court may enter an order for inpatient treatment, or may modify the order for outpatient treatment with different terms and conditions in accordance with this section.

(h) The outpatient treatment facility shall comply with the provisions of K.S.A. 59-29b69, and amendments thereto, concerning the filing of written reports for each period of treatment during the time any outpatient treatment order is in effect and the court shall receive and process such reports in the same manner as reports received from an inpatient treatment facility.

History: L. 1998, ch. 134, § 23; L. 2010, ch. 5, § 7; Mar. 11.