

59-29a05. Civil commitment of sexually violent predators; determination of probable cause, hearing; evaluation; person taken into custody. (a) Upon filing of a petition under K.S.A. 59-29a04, and amendments thereto, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If such determination is made, the judge shall:

(1) Direct that person be taken into custody and detained in the county jail until such time as a determination is made that the person is a sexually violent predator subject to commitment under the Kansas sexually violent predator act; and

(2) file a protective order permitting disclosures of protected health information to the parties, their counsel, evaluators, experts and others necessary to the litigation during the course of the proceedings subject to the Kansas sexually violent predator act.

(b) Within 72 hours after a person is taken into custody pursuant to subsection (a), or as soon as reasonably practicable or agreed upon by the parties, such person shall be provided with notice of, and an opportunity to appear in person at, a hearing to contest probable cause as to whether the detained person is a sexually violent predator. At this hearing the court shall:

(1) Verify the detainer's identity; and

(2) determine whether probable cause exists to believe that the person is a sexually violent predator. The state may rely upon the petition and supplement the petition with additional documentary evidence or live testimony.

(c) At the probable cause hearing as provided in subsection (b), the detained person shall have the following rights in addition to the rights previously specified:

(1) To be represented by counsel;

(2) to present evidence on such person's behalf;

(3) to cross-examine witnesses who testify against such person; and

(4) to view and copy all petitions and reports in the court file.

(d) If the probable cause determination is made, the court shall order that the person be transferred to an appropriate secure facility, including, but not limited to, a county jail, for an evaluation as to whether the person is a sexually violent predator. The evaluation ordered by the court shall be conducted by a person deemed to be professionally qualified to conduct such an examination.

(e) The person conducting the evaluation ordered by the court pursuant to this section shall notify the detained person of the following:

(1) The nature and purpose of the evaluation; and

(2) that the evaluation will not be confidential and that any statements made by the detained person and any conclusions drawn by the evaluator, will be disclosed to the court, the detained person's attorney, the prosecutor and the trier of fact at any proceeding conducted under the Kansas sexually violent predator act.

History: L. 1994, ch. 316, § 5; L. 1995, ch. 193, § 4; L. 2012, ch. 59, § 1; L. 2015, ch. 95, § 5; July 1.