

§811. Court procedures

1. Subject of petition. As used in this section or in section 810, "subject of the petition" means the person or the property upon which a public health measure is sought to be imposed pursuant to section 812.

[PL 1989, c. 487, §11 (NEW).]

2. Filing of petition. Proceedings for imposing a public health measure shall be initiated by the department filing a petition in the District Court for the district in which the subject of the petition is located. The petition shall name as the respondent the person who is the subject of the petition or the person who possesses the property which is the subject of the petition. The petition shall contain a summary statement of the facts which the petitioner believes constitute the grounds for granting relief pursuant to this chapter.

[PL 1989, c. 487, §11 (NEW).]

3. Receipt of petition. Upon the receipt of a petition filed pursuant to this section or section 809, the District Court shall fix a date of hearing. Pending hearing on the petition, the court may make such orders as it deems necessary to protect other individuals from the dangers of infection.

[PL 1989, c. 487, §11 (NEW).]

4. Notice of hearing; waiver. Notice of the petition and the time and place of the hearing as well as the opportunity to be represented by counsel as set forth in subsection 6, paragraph C shall be served personally, not less than 3 days before the hearing, on the subject of the petition. The subject of the petition may waive notice of hearing, after opportunity to consult with an attorney, and upon filing of the waiver in writing, the District Court may hear the petition immediately. The hearing must occur within 10 days of the filing of the petition, excluding Saturdays, Sundays and legal holidays, unless waived in writing by the subject of the petition.

[PL 1989, c. 487, §11 (NEW).]

5. Notice to facility. Whenever a petition requests that an individual be ordered to be tested in or committed to a hospital, notice of the petition and the time and place of the hearing shall be sent to the hospital which is to be requested to provide the proposed care and treatment. No hospital may be required to provide care and treatment to or to admit the individual named in the petition without the consent of the hospital.

[PL 1989, c. 487, §11 (NEW).]

6. Hearings. Hearings under this chapter shall be governed by the Maine Rules of Civil Procedure and the Maine Rules of Evidence.

A. The subject of the petition, the petitioner and all other persons to whom notice is required to be sent shall be afforded an opportunity to appear at the hearing to testify and to present and cross-examine witnesses. [PL 1989, c. 487, §11 (NEW).]

B. The court may, in its discretion, receive the testimony of any other person and may subpoena any witness. [PL 1989, c. 487, §11 (NEW).]

C. The subject of the petition shall be afforded an opportunity to be represented by counsel and, if the subject is indigent and requests counsel, the court shall appoint counsel. [PL 1989, c. 487, §11 (NEW).]

D. An electronic recording shall be made of the proceedings and all hearings under this section. The record and all notes, exhibits and other evidence shall be confidential. [PL 1989, c. 487, §11 (NEW).]

E. The hearing shall be confidential and no report of the proceedings may be released to the public, except by permission of the subject of the petition or the subject's counsel and with approval of the

presiding District Court judge, except that the court may order a public hearing on the request of the subject of the petition or the subject's counsel. [PL 1989, c. 487, §11 (NEW).]
[PL 1989, c. 487, §11 (NEW).]

7. Equitable relief. The District Court shall have original jurisdiction to grant equitable relief in proceedings brought pursuant to this chapter.
[PL 1989, c. 487, §11 (NEW).]

SECTION HISTORY

PL 1989, c. 487, §11 (NEW).

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