MHL Article 10 Process

Agency with jurisdiction: OMH, OMRDD, DOCS, DOP.

YES

Notify Attorney General and Commissioner of OMH at least 120 days prior to release. Commissioner to request multidisciplinary record review and risk assessment.

YES

Refer to Case Review Team. May arrange a psychiatric exam.

YES

Within 45 days, CRT shall assess if person is a sex offender requiring civil management and make recommendation to Attorney General.

YES

Does person require civil management?

NO → If CRT determines the person is not a sex offender requiring management, no petition is filed by Attorney General.

YES

If CRT determines person is sex offender requiring management, recommendation forwarded to the Attorney General along with a report by a psychiatric examiner.

YES

Within 30 days of receipt, the Attorney General may file a petition in court.

YES

If respondent at liberty when petition filed, court orders return to custody for probable cause hearing, which shall commence within 72 hours.

If respondent not at liberty but eligible for release prior to probable cause hearing, court shall commence probable cause hearing within 72 hours from eligible release date.

YES

Court holds probable cause hearing within 30 days of filing of petition.

YES

Probable cause established?

NO → If probable cause not established, order issued dismissing petition, respondent released.

YES

Respondent immediately detained in secure OMH facility and a trial date set.

YES

Court must conduct jury trial (unless waived by respondent) within 60 days.
It must be established by clear and convincing evidence that respondent is a detained sex offender who suffers from a mental abnormality. A unanimous verdict is required.

NO → If unanimous verdict not obtained, a second jury trial is held within 60 days. → If second trial does not result in unanimous verdict, respondent is discharged.

Second trial results in unanimous verdict.

YES

If court finds respondent is dangerous and requires confinement, he is committed to secure treatment facility.

YES

Yearly review by psych examiner to determine need for continued confinement, 2nd independent psych exam available, OMH Commissioner determine if person still in need of confinement.

YES

Continued confinement

YES

Notification to person of right to petition court for discharge.

YES

Person at any time may petition court for discharge. Court holds evidentiary hearing or may deny the petition without a hearing.

At anytime, Commissioner can petition court for person's discharge, court orders hearing to determine if:
(1) confinement needs to continue;
(2) person in need of strict and intensive supervision;
(3) person should be discharged.

Commitment

If court finds respondent requires strict and intensive supervision and treatment he will be supervised by DOP with consultation from OMH/OMRDD. Court issues an order specifying conditions.

Revocation

Person's regimen of strict and intensive supervision and treatment may be revoked if person violates conditions. Parole officer transports or directs transport of the person to a secure treatment facility or local correctional facility for psychiatric examination within 5 days. Attorney General, within 5 days, may file a petition for a probable cause hearing. Within 30 days of petition court shall conduct a hearing to determine whether respondent is a dangerous sex offender requiring confinement. Court shall order: (1) commitment to a secure treatment facility; (2) modification of strict and intensive supervision and treatment; or (3) continue previous order of condition.

Supervision