108TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
108–729

DISTRICT OF COLUMBIA CIVIL COMMITMENT MODERNIZATION ACT OF 2004

OCTOBER 5, 2004.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TOM DAVIS of Virginia, from the Committee on Government Reform, submitted the following

R E P O R T

[To accompany H.R. 4302]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform, to whom was referred the bill (H.R. 4302) to amend title 21, District of Columbia Official Code, to enact the provisions of the Mental Health Civil Commitment Act of 2002 which affect the Commission on Mental Health and require action by Congress in order to take effect, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

CONTENTS

COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 4302 would amend the authorities of the District of Columbia Commission on Mental Health, a branch of the District of Columbia Superior Court that presides over the civil commitment process. The bill will modernize the District's civil commitment process to incorporate national best practices such as community-based mental health services and shortened commitment terms with options to recommit. This bill would (1) change the duration of civil commitment to one year and create a streamlined procedure for re-commitment; (2) permit the Commission to determine the least restrictive setting for a patient's care; (3) set new limits on the postponement of the Commission's hearing; and (4) permit qualified psychologists to join the panel of doctors who preside over hearings on a rotating basis.

BACKGROUND AND NEED FOR LEGISLATION

The District of Columbia's current mental health care practices are outdated. Most care provided at a central location, St. Elizabeth's Hospital, and there is no limitation on the length of a patient's civil commitment. The Final Order in the 30–year-old Dixon lawsuit requires comprehensive changes in D.C.'s mental health care to reflect national best practices, such as the provision of community-based services and increasing the involvement of consumers in their treatment and recovery process.

In order to implement these changes and comply with the Dixon Plan, a revision of the mental health civil commitment process is imperative. These changes will make it feasible for private hospitals to provide emergency inpatient psychiatric treatment, relieving a significant financial burden from the District. Those resources can then be reallocated to implement other requirements of the Dixon Plan.

The bill is comprised of provisions from the District of Columbia Council's D.C. Mental Health Civil Commitment Act of 2002 (D.C. Law 14–283), which became law on April 4, 2003, following the 30–day Congressional review period. Since, the Home Rule Act restricts the D.C. Council from acting on measures that affect the Commission, affirmative Congressional approval is necessary before the provisions can take effect.

LEGISLATIVE HISTORY

H.R. 4302 was introduced by Representative Tom Davis and Delegate Eleanor Holmes Norton on May 6, 2004, and referred to the Committee on Government Reform.

SECTION-BY-SECTION

Section 1. Short title

The short title is "District of Columbia Civil Commitment Modernization Act of 2004."

Section 2. Composition, appointment, and organization of commission on mental health

The Commission on Mental Health ("the Commission") would be continued and be comprised of nine members. This section would clarify that the Chairperson and the alternate Chairperson of the Commission are Magistrate Judges appointed to D.C. Superior Court pursuant to Title 11 of the D.C. Official Code. This section would establish the rules for the appointment of Commission members. Commission members would serve four-year terms. Newly appointed psychiatrists or qualified psychologists would serve a one-year probationary period. Subsequent appointments may be made for four-year terms. This section would amend § 21–502 of the District of Columbia Code to expand membership in the Commission to include psychologists as well as psychiatrists.

Section 3. Commission members deemed competent and compellable witnesses at mental health proceedings

This section would revise § 21–503(b) of the District of Columbia Code to clarify that only the psychiatrist and psychologist members of the Commission are compellable witnesses at a subsequent trial or hearing.

Section 4. Detention for emergency observation and diagnosis

This section would add new subsections to § 21–526 of the District of Columbia Code, providing that an emergency involuntary patient's detention may be extended beyond the court's initial seven-day order for a period of 21 days if a petition for commitment is filed before the seven-day order expires (previously, the filing of such a petition extended the detention indefinitely under § 21–528, which Section 2(n) of the District of Columbia Mental Health Civil Commitment Act of 2002 would repeal). The court may extend the period of emergency detention beyond the 21 days for good cause shown. Also, detention may be extended consistent with the Commission's findings following a hearing on the commitment petition. In addition, where the Commission determines that a person should be committed as an outpatient, the petitioner/hospital is required to transfer the person to outpatient status within 14 days.

Section 5. Representation by counsel of persons alleged to be mentally ill

Section 5 would amend the redesignated § 21–543(a) in the District of Columbia Code and would add a new section 21–543(b) to prescribe the Commission's authority to postpone or grant continuances of its hearings, and provide for the person's involuntary detention to continue for the duration of a postponement.

Section 6. Hearing and determination on question of mental illness

Section 6 would amend § 21–545 of the District of Columbia Code to alter the duration of commitment from an indeterminate period to a one-year period and update the language.

Section 7. Renewal of commitment status commission

This section would add a new section 21–545.01 to the District of Columbia Code setting forth a procedure for renewing an order of commitment or an order of renewed commitment for periods of

up to one year at a time. The procedure would be initiated by the filing of a petition with the Commission, which must be filed at least 60 days before expiration of the existing commitment order, except for good cause shown. A hearing on the petition would be held before the Commission, which has the authority to issue an order renewing the commitment. The person who is the subject of the commitment may seek review of the Commission's order pursuant to court rule.

EXPLANATION OF AMENDMENTS

No amendments were adopted.

COMMITTEE CONSIDERATION

On May 12, 2004, the Committee met in open session and ordered reported the bill, H.R. 4302, by voice vote, a quorum being present.

ROLLCALL VOTES

No rollcall votes were held.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill will modernize the District's civil commitment process to incorporate national best practices such as community-based mental health services and shortened commitment terms with options to recommit. The benefits of this bill will be available to all residents of the District of Columbia regardless of whether on not they are employed by the Federal government.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of the report.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 4302. Article I, Section 8, Clauses 17 and 18 of the Constitution of the United States provide Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104–4) requires a statement whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 4302. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 4302 from the Director of Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 12, 2004.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: CBO has prepared the enclosed estimate for H.R. 4302, the District of Columbia Civil Commitment Modernization Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Jeanne De Sa and Eric Rollins.

Sincerely,

ELIZABETH ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 4302—District of Columbia Civil Commitment Modernization Act of 2004

Summary: H.R. 4302 would revise District of Columbia (D.C.) law concerning involuntary commitment of the mentally ill. Most of the bill's provisions have been passed by the D.C. Council and signed by the Mayor. Under the Home Rule Act, any legislation enacted by the city must be approved by the Congress.

CBO anticipates that the bill would shift the provision of care for some mentally ill individuals from St. Elizabeth's Hospital, D.C.'s inpatient psychiatric facility, to local general hospitals and outpatient mental health programs. Because the Medicaid program restricts federal reimbursement for certain services provided at state psychiatric facilities, this shift would enable more of those individuals to receive Medicaid-funded services. CBO estimates that enacting H.R. 4302 would increase federal Medicaid spending by $2 million over the 2005–2009 period and by $5 million over the 2005–2014 period.

H.R. 4302 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). While the bill would increase D.C.'s share of Medicaid spending by $1 million over the 2005–2009 period, it would reduce D.C.'s spending for medical costs at Saint Elizabeth's Hospital (both Medicaid and non-Medicaid) by $15 million over the same period.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4302 is shown in the following table. CBO assumes enactment by the end of 2004. The bill's effect would fall within budget function 550 (health).

	By fiscal year, in millions of dollars—											
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2005–2009	2005–2014
CHANGES IN DIRECT SPENDING												
Medicaid:												
Estimated Budget Authority	*	*	*	*	*	1	1	1	1	1	2	5
Estimated Outlays	*	*	*	*	*	1	1	1	1	1	2	5

Notes: Components may not sum to totals because of rounding.
* = Costs of less than $500,000.

Basis of estimate: H.R. 4302 would provide Congressional approval for legislation already enacted by D.C. to amend its civil commitment laws. The bill would simplify the rules governing emergency involuntary hospitalization for mentally ill individuals and would require judicial review of the commitment status for hospitalized individuals on an annual basis. Both changes would provide more opportunities for individuals to be discharged to less-restrictive settings, such as community outpatient programs. Based on information from D.C. officials, CBO expects that the bill would reduce the length of stay for emergency visits, promote early release of long-term patients, and shift some involuntary emergency admissions from St. Elizabeth's to general hospitals.

By shifting individuals out of St. Elizabeth's to community programs and to emergency rooms and psychiatric wards of local general hospitals, H.R. 4302 would increase the amount of care paid for by Medicaid. Although many committed individuals in D.C. meet Medicaid eligibility criteria, reimbursement for inpatient treatment at St. Elizabeth's is limited because the facility is consid-

ered an Institution for Mental Disease (IMD) for the purposes of Medicaid reimbursement. Under Medicaid law, federal matching funds are not permitted for treatment in an IMD for individuals between the ages of 21 and 65. Federal Medicaid funding is available for certain outpatient mental health services and inpatient services provided in psychiatric wards of general hospitals. The federal match rate for D.C. is 70 percent. On balance, we estimate that the costs to the federal government would sum to about $5 million over the 2005–2014 period.

Costs of Inpatient and Outpatient Care

The costs of providing inpatient care to mentally ill individuals can be very high. According to D.C. officials, the daily rate at St. Elizabeth's Hospital in state fiscal year 2003 was about $425 (or about $155,000 per year), a figure that is consistent with rates at other similar facilities nationwide. Based on government and academic studies, CBO estimates that rates for inpatient care in state psychiatric facilities tend to be lower than those at private psychiatric hospitals and psychiatric wards of general hospitals (which were about $600 per day in fiscal year 2003). Outpatient programs can cost far less. According to D.C. officials, the total cost of its outpatient treatment program for Medicaid enrollees (including counseling, medication, and diagnostic assessment) was about $6,000 per person in state fiscal year 2003.

Reduction in Emergency Room Stays

St. Elizabeth's admits about 600 mentally ill individuals on an involuntary emergency basis each year, according to D.C. officials. Local general hospitals admit several hundred others annually. This type of admission generally occurs for people with severe mental illness who are considered a harm to themselves or others. Individuals are held for observation pending a determination whether they require further inpatient care, mandatory enrollment in an outpatient program, or release into the community. Although D.C.'s existing civil commitment law provides for a court hearing after 30 days, most individuals remain in St. Elizabeth's for an average of 14 days before a placement determination is made. Length of stay at general hospitals tends to be shorter than that at St. Elizabeth's.

Under the bill, CBO expects that the length of stay for mentally ill individuals admitted to St. Elizabeth's for emergency stays would decrease by about 50 percent over the next 10 years. As a result, some individuals would enter community programs earlier than they otherwise would have. Based on discussions with D.C. officials and information provided by the Government Accountability Office, CBO assumes that about 70 percent of additional community-based care would be for Medicaid-eligible individuals. CBO estimates that federal Medicaid costs for those services would increase by about $1 million over the 2005–2014 period.

New Admissions to Local General Hospitals

Under current law, local general hospitals handle several hundred emergency admissions for mentally ill individuals that had previously gone to St. Elizabeth's. CBO anticipates that the bill would increase the number of emergency involuntary admissions to general hospitals by an additional 20 percent over the next 10

years. Assuming that 70 percent of those admissions are for Medicaid-eligible individuals and that Medicaid reimbursement for an emergency stay at a local general hospital is about $3,700 in fiscal year 2005 (7 days for $525 per day), CBO estimates that federal Medicaid costs would increase by about $2 million over the 2005–2014 period. A few mentally ill individuals admitted to general hospital emergency rooms would subsequently be admitted on an involuntary basis to those hospitals' psychiatric wards. Assuming a cost of about $50,000 per stay in fiscal year 2005 (100 days at $500 per day), CBO estimates that Medicaid spending would increase by $1 million over the 2005–2014 period.

Early Release of Long-Term Patients

Individuals with severe mental illness who are admitted to St. Elizabeth's on an emergency basis and do not comply with treatment regimens in outpatient programs can be subsequently committed on an involuntary basis to St. Elizabeth's. In most circumstances, individuals remain in that facility on an indeterminate basis without automatic and periodic judicial review of their cases. St. Elizabeth's houses about 500 individuals at any given time, about 200 of whom are connected with criminal cases (such as John Hinckley Jr.). Of the remaining cases, most are voluntary commitments, but about 100 individuals remain at St. Elizabeth's on an involuntary basis. Although average length-of-stay for individuals in state psychiatric hospitals can exceed 400 days, it is also common for mentally ill individuals to cycle in and out of community mental health placement and inpatient treatment at St. Elizabeth's.

Because the bill would require annual judicial review of the commitment status of institutionalized individuals, there would be more opportunities for individuals to be discharged to less restrictive settings, such as community outpatient programs. D.C. officials note that instituting such a review process likely would shift some individuals from an inpatient setting to an outpatient system or the community earlier. By 2014, when the provisions of D.C.'s civil commitment bill would be fully implemented, CBO estimates that the number of involuntary commitments at St. Elizabeth's would be reduced to about 40 people. CBO assumes that about one-half of the individuals released each year would access outpatient programs from St. Elizabeth's and that 70 percent of those individuals would be eligible for Medicaid coverage of community mental health services. CBO estimates that Medicaid spending for outpatient mental health services would increase by about $1 million over the 2005–2014 period.

Intergovernmental and private-sector impact: H.R. 4302 would provide Congressional approval for legislation that has already been enacted by the D.C. government. The bill contains no intergovernmental or private-sector mandates as defined in UMRA, and it would provide net savings to the District over the 2005–2009 period.

By reducing the amount of time that patients remain in Saint Elizabeth's Hospital for either emergency room or tertiary care, the bill would reduce expenditures by the city District. As patients move from Saint Elizabeth's to other hospitals or treatment facilities, CBO estimates that D.C. would save about $15 million over

the 2005–2009 period. Patients who would have received care at Saint Elizabeth's would likely receive care at other hospitals or treatment facilities; the costs of some of that care would be reimbursable by Medicaid. Consequently, CBO estimates that District spending for Medicaid would increase by about $1 million over the 2005–2009 period.

Estimate prepared by: Federal costs: Jeanne De Sa and Eric Rollins; Impact on State, Local, and Tribal Governments: Leo Lex; and Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHAPTER 5 OF TITLE 21 OF THE DISTRICT OF COLUMBIA OFFICIAL CODE

Chapter 5—Hospitalization of the Mentally Ill

Subchapter I. Definitions; Commission on Mental Health

Section

21–501. Definitions.

* * * * * *

[21–502. Commission on Mental Health; composition; appointment and terms of members; organization; chairman; salaries.]

21–502. Commission on Mental Health; composition; appointment and terms of members; organization; chairperson; salaries.

* * * * * * *

Subchapter IV. Commitment Under Court Order

21–541. Petition to Commission; copy to person affected.

* * * * * * *

21–545.01. Renewal of commitment status by Commission; review by Court.

* * * * * * *

SUBCHAPTER I. DEFINITIONS; COMMISSION ON MENTAL HEALTH

* * * * * * *

[§ 21–502. Commission on Mental Health; composition; appointment and terms of members; organization; chairman; salaries.

[(a) The Commission on Mental Health is continued. The Superior Court of the District of Columbia shall appoint the members of the Commission, and the Commission shall be composed of nine members. One member shall be a member of the bar of the court, who has engaged in active practice of law in the District of Columbia for a period of at least five years prior to his appointment. He shall be the Chairman of the Commission and act as the administrative head of the Commission and its staff. He shall preside at all hearings and direct all of the proceedings before the Commission. He shall devote his entire time to the work of the Commis-

sion. Eight members of the Commission shall be health care professionals who are psychiatrists, or doctoral level psychologists, practicing in the District of Columbia who have had not less than five years' experience in the treatment of mental illnesses.

[(b) Appointment of members of the Commission shall be for terms of four years each, which shall be staggered as provided by section 2 of the Act approved June 8, 1938 (chapter 326, 52 Stat. 625), under which, except for the original four-year term of the lawyer-member, staggered terms of one year for two members, two years for two members, three years for two members, and four years for two members, were made.

[(c) Members of the Commission who are health care professionals shall serve on a part-time basis and shall be rotated by assignment of the Chief Judge of the court, so that any one time the Commission shall consist of the chairman and two members who are health care professionals. Members of the Commission who are health care professionals may practice their profession during their tenure of office, but may not participate in the disposition of a case in which they have rendered professional service or advice.

[(d) The court shall also appoint an alternate lawyer-member of the Commission who shall have the same qualifications as the lawyer-member of the Commission and who shall serve on a part-time basis and act as Chairman in the absence of the permanent Chairman.

[(e) The salaries of the members of the Commission and its employees shall be fixed in accordance with the provisions of the Classification Act of 1949, as amended. The alternate Chairman shall be paid on a per diem basis at the same rate of compensation as fixed for the permanent Chairman.]

§ 21–502. Commission on Mental Health; composition; appointment and terms of members; organization; chairperson; salaries.

(a) The Commission on Mental Health is continued. The Chief Judge of the Superior Court of the District of Columbia shall appoint the members of the Commission, and the Commission shall be composed of 9 members and an alternate chairperson. One member shall be a magistrate judge of the Court appointed pursuant to title 11, District of Columbia Official Code, who shall be a member of the bar of the Court and has engaged in active practice of law in the District of Columbia for a period of at least 5 years prior to his or her appointment. The magistrate judge shall be the Chairperson of the Commission and act as the administrative head of the Commission. The Chairperson shall preside at all hearings and direct all of the proceedings before the Commission. Eight members of the Commission shall be psychiatrists or qualified psychologists, as those terms are defined in section 21–501, who have not had less than 5 years of experience in the diagnosis and treatment of mental illness.

(b)(1) Appointment of members of the Commission shall be for terms of 4 years.

(2) The initial appointment of a psychiatrist or a qualified psychologist shall be for a probationary period of one year. After the initial one-year probationary appointment, subsequent appointments

of the psychiatrist or qualified psychologist shall be for terms of 4 years.

(c) The psychiatrist or qualified psychologist members of the Commission shall serve on a part-time basis and shall be rotated by assignment of the Chief Judge of the Court, so that at any one time the Commission shall consist of the Chairperson and 2 members, each of whom is either a psychiatrist or a qualified psychologist. Members of the Commission who are psychiatrists or qualified psychologists may practice their professions during their tenures of office, but may not participate in the disposition of a case of a person in which they have rendered professional service or advice.

(d) The Chief Judge of the Court shall appoint a magistrate judge of the Court to serve as an alternate Chairperson of the Commission. The alternate Chairperson shall serve on a part time basis and act as Chairperson in the absence of the permanent Chairperson.

(e) The rate of compensation for the members of the Commission who are psychiatrists or qualified psychologists shall be fixed by the Executive Officer of the Court.

§ 21–503. Examinations and hearings; subpoenas; witnesses; place.

(a) * * *

(b) Except as otherwise provided by this chapter, the Commission may conduct its examinations and hearings either at the courthouse or elsewhere at its discretion. The court may issue subpoenas at the request of the Commission returnable before the Commission, for the appearance of the alleged mentally ill person, witnesses, and persons who may be liable for his support. **[**The Commission, or any of the members thereof,**]** *Commission members who are psychiatrists or qualified psychologists* are competent and compellable witnesses at any trial, hearing or other proceeding conducted pursuant to this chapter and the physician- or psychologist-patient privilege is not applicable.

* * * * * * *

SUBCHAPTER III. EMERGENCY HOSPITALIZATION

* * * * * * *

§ 21–526. Extension of maximum periods of time.

(a) * * *

* * * * * * *

(c) The maximum period of time for detention for emergency observation and diagnosis may be extended for up to 21 days, if judicial proceedings under subchapter IV of this chapter have been commenced before the expiration of the order entered under section 21–524 and a psychiatrist or qualified psychologist has examined the person who is the subject of the judicial proceedings and is of the opinion that the person being detained remains mentally ill and is likely to injure himself or others as a result of the illness unless the emergency detention is continued. For good cause shown, the Court may extend the period of detention for emergency observation and diagnosis. The period of detention for emergency observation and diagnosis may be extended pursuant to section 21–543(b) or following

a hearing before the Commission pursuant to subsections (d) and (e) of this section.

(d) If the Commission, at the conclusion of its hearing pursuant to section 21–542, has found that the person with respect to whom the hearing was held is mentally ill and, because of the mental illness, is likely to injure himself or others if not committed, and has concluded that a recommendation of inpatient commitment is the least restrictive alternative available to prevent the person from injuring himself or others, the detention for emergency observation and diagnosis may be continued by the Department or hospital—

(1) pending the conclusion of judicial proceedings under subchapter IV of this chapter;

(2) until the Court enters an order discharging the person; or

(3) until the Department or hospital determines that continued hospitalization is no longer the least restrictive form of treatment appropriate for the person being detained.

(e) If the Commission, at the conclusion of its hearing, finds that the person is mentally ill, is likely to injure himself or other persons as a result of mental illness if not committed, and that outpatient treatment is the least restrictive form of commitment appropriate, then, within 14 days of the date of the hearing, the person shall be discharged from inpatient status and shall receive outpatient mental health services or mental health supports as an emergency nonvoluntary patient consistent with this subchapter, pending the conclusion of judicial proceedings under subchapter IV of this chapter.

SUBCHAPTER IV. COMMITMENT UNDER COURT ORDER

* * * * * * *

§ 21–543. Representation by counsel; compensation; recess.

(a) The person alleged to be mentally ill and, because of the mental illness, likely to injure himself or others shall be represented by counsel in any proceeding before the Commission or the court, and if he fails or refuses to obtain counsel, the court shall appoint counsel to represent him. The counsel so appointed shall be awarded compensation by the court for his services in an amount determined by it to be fair and reasonable. The compensation shall be charged against the estate of the individual for whom the counsel was appointed, or against any unobligated funds of the Commission, as the court in its discretion directs. The Commission or the court, as the case may be, shall, at the request of the counsel so appointed, grant a recess in the proceeding to give the counsel an opportunity to prepare his case. **[**A recess may not be granted for more than five days.**]**

(b) The Commission may not grant a continuance for counsel to prepare his case for more than 5 days. The Commission may grant continuances for good cause shown for periods of up to 14 days. If the Commission grants a continuance, the emergency observation and detention of the person about whom the hearing is being held shall be extended for the duration of the continuance.

* * * * * * *

§ 21–545. Hearing and determination by court or jury; order; witnesses; jurors.

(a) Upon the receipt by the court of a report referred to in section 21–544, the court shall promptly set the matter for hearing and shall cause a written notice of the time and place of the final hearing to be served personally upon the person with respect to whom the report was made and his attorney, together with notice that he has five days following the date on which he is so served within which to demand a jury trial *or a trial by the Court*. The demand may be made by the person or by anyone in his behalf. If a jury trial *or a trial by the Court* is demanded within the five-day period, it shall be accorded by the court with all reasonable speed. If a timely demand for jury trial *or a trial by the Court* is not made, the court shall determine the person's mental condition on the basis of the report of the Commission, or on such further evidence in addition to the report as the court requires.

[(b) If the court or jury, as the case may be, finds that the person is not mentally ill, the court shall dismiss the petition and order his release. If the court or jury finds that the person is mentally ill and, because of that illness, is likely to injure himself or other persons if allowed to remain at liberty, the court may order his hospitalization for an indeterminate period, or order any other alternative course of treatment which the court believes will be in the best interests of the person or of the public. The Commission, or a member thereof, shall be competent and compellable witnesses at a hearing or jury trial held pursuant to this chapter. The jury to be used in any case where a jury trial is demanded under this chapter shall be impaneled, upon order of the curt, from the jurors in attendance upon other branches of the court, who shall perform the services in addition to and as part of their duties in the court.]

(b)(1) If the Court or jury finds that the person is not mentally ill or is not likely to injure himself or others as a result of mental illness, the Court shall dismiss the petition and order the person's release.

(2) If the Court or jury finds that the person is mentally ill and, because of that mental illness, is likely to injure himself or others if not committed, the Court may order the person's commitment to the Department or to any other facility, hospital, or mental health provider that the Court believes is the least restrictive alternative consistent with the best interests of the person and the public. An order of commitment issued pursuant to this paragraph shall be for a period of one year.

(c) The psychiatrists and qualified psychologists who are members of the Commission shall be competent and compellable witnesses at a hearing or trial held pursuant to this chapter.

(d) The jury to be used in any case where a jury trial is demanded under this chapter shall be impaneled, upon order of the Court, from the jurors in attendance upon other branches of the Court, who shall perform the services in addition to and as part of their duties in the Court.

§ 21–545.01. Renewal of commitment status by Commission; review by Court.

(a) At least 60 days prior to the expiration of an order of commitment issued pursuant to section 21–545 or this section, the chief

clinical officer of the Department, or the chief of service of the facility, hospital, or mental health provider to which the person is committed may petition the Commission for a renewal of the order of commitment for that person. For good cause shown, a petition of commitment may be filed within the last 60 days of the one-year period of commitment. The petition for renewal of commitment shall be supported by a certificate of a psychiatrist or qualified psychologist stating that he has examined the person and is of the opinion that the person is mentally ill, and, because of the illness, is likely to injure himself or other persons if not committed. The term of the renewed commitment order shall not exceed one year.

(b) Within 3 days of the filing of a petition under subsection (a) of this section, the Commission shall send a copy of the petition and supporting certificate by registered mail to the person with respect to whom the petition was filed and by regular mail to the person's attorney.

(c) The Commission shall promptly examine a person for whom a petition is filed under subsection (a) of this section, and, in accordance with the procedures described in sections 21–542 and 21–543, shall thereafter promptly hold a hearing on the issue of the person's mental illness and whether, as a result of a mental illness, the person is likely to injure himself or other persons if not committed.

(d) If the Commission finds, after a hearing under subsection (c) of this section, that the person with respect to whom the hearing was held is no longer mentally ill, or is not mentally ill to the extent that the person is likely to injure himself or other persons if not committed, the Commission shall immediately order the termination of the commitment and notify the Court of that fact in writing.

(e) If the Commission finds, after a hearing under subsection (c) of this section, that the person with respect to whom the hearing was held remains mentally ill to the extent that the person is likely to injure himself or others if not committed, the Commission shall order the renewal of the commitment of the person for an additional term not to exceed one year and shall promptly report that fact, in writing, to the Court. The report shall contain the Commission's findings of fact and conclusions of law. A copy of the report shall be served by registered mail on the person with respect to whom the hearing was held and by mail on the person's attorney.

(f) If a petition for a renewal of an order of commitment is pending at the expiration of the commitment period ordered under section 21–545 or this section, the Court may, for good cause shown, extend the period of commitment pending resolution of the renewal petition.

(g) Within the last 30 days of the period of commitment, the chief clinical officer of the Department, or the chief of service of the facility, hospital, or mental health provider to which a person is committed, shall notify the Court which ordered the person's commitment pursuant to section 21–545 or this section of the decision not to seek renewal of commitment. Notice to the Court shall be in writing and a copy of the notice shall be mailed to the person who was committed and the person's attorney.

(h)(1) A person for whom the Commission orders renewed commitment pursuant to subsection (e) of this section may seek a review of the Commission's order by the Superior Court of the District of Co-

lumbia, and the Commission, orally and in writing, shall advise the person of this right.

(2) A review of the Commission's order of renewed commitment, in whole or in part, may be made by a judge of the appropriate division sua sponte and shall be made upon a motion of one of the parties made pursuant to procedures established by rules of the Court. The reviewing judge shall conduct such proceedings as required by the rules of the Court.

(3) An appeal to the District of Columbia Court of Appeals may be made only after a judge of the Court has reviewed the Commission's order of renewed commitment.

* * * * * * *

○