

Protocol for the Processing and Enforcement of Tribal Court Involuntary Commitment Orders in the Superior Court of Arizona

Problem Statement: Persons determined by tribal courts in Arizona to be in need of involuntarily commitment require immediate custodial care. The only secure facilities available on Arizona reservations are jails, which have very limited bed space and treatment services. Local secure mental health treatment facilities located outside of Indian country may lack understanding of tribal court jurisdiction and are sometimes reluctant to comply with tribal court involuntary commitment orders. The Arizona State Hospital can only accept involuntary commitment by the superior court.

Arizona has established a mechanism for the filing and enforcement of tribal court involuntary commitment orders in A.R.S. 12-136 and through the Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders. Involuntary commitments under tribal law will only be ordered in those cases where it is shown that the person who is the subject of the order is a threat to the health or safety of himself or others. Therefore, any delay in filing and enforcing the tribal court order is an obstacle to timely treatment in these emergent cases. The process for filing and enforcing tribal court involuntary commitment orders in the Arizona courts involves three points at which processing time is involved (A) filing the tribal court order and other required paperwork in superior court, which may be time consuming due to the need to travel significant distances to the superior court from reservation locations; (B) the five (5) day response period required by Rule 3 of the state rules; and (C) the time necessary for the certification required by Rule 5(a) or the enforcement order required by Rule 5(b).

This protocol is designed to streamline and decrease the time required to file and enforce tribal court involuntary commitment orders.

A. Decreasing the time it takes to file tribal court involuntary commitment order.

The proponent of the tribal court commitment order will:

1. Make an effort to contact directly by telephone the Office of the Clerk of the Superior Court of the State of Arizona in a county in which the reservation is located to inform a clerk of the entry of the tribal court involuntary commitment order and the need to file it in the superior court.
2. File the tribal court order and supporting documents, including the telephone numbers of the parties, if available, by sending a facsimile transmission to the Superior Court, to the attention of the Clerk of the Superior Court.
3. Submit the original tribal court documents by express delivery (United States Postal Service Express Mail, FedEx, or a similar form of express service designed to obtain next day delivery) to the Clerk of Court.
4. Send a copy of a tribal court order that indicates specifically that the patient is in need of admittance to the Arizona State Hospital, by facsimile transmission to the

Admissions/Legal Department, Arizona State Hospital. The fax number is (602) 220-6198. This step is not required if the commitment order is to a facility other than the Arizona State Hospital.

The Clerk of the Superior Court will:

1. Immediately upon receipt file stamp and file the tribal court order.
2. Immediately return a copy of the filed and stamped tribal court order by facsimile transmission to the proponent of the tribal court commitment order.

B. Decreasing the wait for the 5-day response period.

1. The judge of the tribal court should determine whether response to superior court enforcement of the tribal court involuntary commitment order is waived by the subject of the commitment order and incorporate this waiver in the tribal court findings and order.
2. The proponent of the tribal court commitment order will contact the Attorney General's office directly by telephone to inform the Attorney General's representative of the entry of the tribal court order, the facts supporting the entry of the order, and the need for expedited response by the Attorney General.
3. The proponent of the tribal court commitment order will send a copy of the tribal court order and supporting documents and an unsigned waiver of the 5-day response period (see attachment) by facsimile transmission to:

Attorney General's Office
Education and Health Section
Attention: Assistant Attorney General representing Arizona State Hospital or

Division of Behavioral Health Services
Catherine Plumb or Robert Sorce
FAX # 602-364-0700

Indicate on the fax form "URGENT: Response Requested Within 24 Hours of Receipt." The cover sheet will contain the name of the individual and contact information where the state's waiver should be sent by facsimile and certified U.S. Mail.

4. As soon as practicable, but by no later than 24 hours after receipt of the tribal court commitment order, the Assistant Attorney General will review the tribal court order and either file a waiver of the five-day response period or file a response and send the same by facsimile and mail to the fax number and address designated in the original facsimile.

C. Expediting the enforcement decision by the Superior Court.

1. The Clerk of the Superior Court will provide the tribal court order and supporting documents to the judge for review by the next workday following filing of the tribal court commitment order.
2. Upon receipt of the Attorney General waiver or response, the proponent of the tribal court commitment order will contact the assigned judge's judicial assistant by telephone to schedule review of the tribal court order on the same day the matter is received in the judge's chambers if the judge is available, if all paperwork is in order, and if the matter is not contested or at the earliest opportunity.
3. The Superior Court judge will schedule a telephonic hearing involving the tribal judge and parties as needed to clarify any issues with the paperwork presented.