



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL  
ATTORNEY GENERAL**

March 9, 1977

The Honorable Tom Hanna  
Criminal District Attorney  
Jefferson County  
Beaumont, Texas 77704

Opinion No. H- 951  
Re: Emergency commit-  
ment of alcoholics.

Dear Mr. Hanna:

You have requested our opinion concerning the following question.

Can a County Judge issue an Order of Protective Custody under Article 5561c, Sec. 9(c) . . . when the application and Certificate of Medical Examination are tendered [to] and accepted by the Judge after working hours and on weekends?

Article 5561c, section 9(c), V.T.C.S., provides in part:

If in the county court in which a petition or application is filed, a Certificate of Medical Examination for Alcoholism is filed showing that the proposed patient has been examined within five (5) days of the filing of the Certificate and stating the opinion of the examining physician that the proposed patient is an alcoholic and because of his alcoholism is likely to cause injury to himself or others if not immediately restrained, the Judge may order any health or peace officer to take the proposed patient into protective custody and immediately transport him to a designated mental hospital or other suitable place and detain him pending order of the court; provided, however, that in no event shall the proposed patient be denied the hearing prescribed above to be held not less than five (5) days and no more than fourteen (14) days from the filing of the petition.

Section 2 of article 556lc provides for a liberal construction to accomplish the Act's purpose. The purpose of section 9(c) is clearly to provide immediate protection to the proposed patient and others. There is no language in article 556lc which limits the accomplishment of this purpose to working hours. Compare, V.T.C.S. art. 5547-12.

In addition, Rule 74, Texas Rules of Civil Procedure, provides:

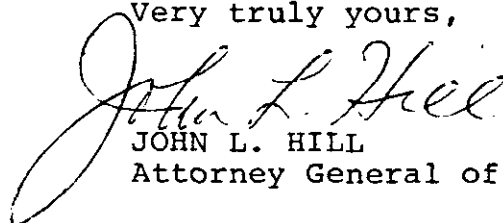
The filing of pleadings, other papers and exhibits as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and time and forthwith transmit them to the office of the clerk.

Accordingly, in our opinion an application or a Certificate of Medical Examination for Alcoholism may be "filed" for purpose of article 556lc by filing same with a County Judge. The papers may be so filed and an Order of Protective Custody issued after working hours and on weekends.

S U M M A R Y

An Order of Protective Custody under article 556lc may be issued immediately pursuant to an application and a Certificate of Medical Examination filed with a county clerk or county judge at any time.

Very truly yours,

A handwritten signature in cursive script that reads "John L. Hill". The signature is written in dark ink and is positioned above the printed name and title.

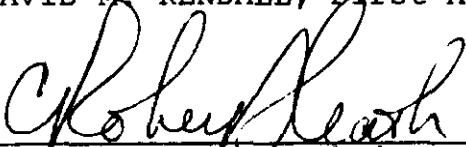
JOHN L. HILL

Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman  
Opinion Committee

jwb