

**229.27 Hospitalization not to equate with incompetency procedure for finding incompetency due to mental illness.**

1. Hospitalization of a person under this chapter, either voluntarily or involuntarily, does not constitute a finding of nor equate with nor raise a presumption of incompetency, nor cause the person so hospitalized to be deemed a person of unsound mind nor a person under legal disability for any purpose, including but not limited to any circumstances to which sections 6B.15, 447.7, section 488.603, subsection 6, paragraph "c", sections 488.704, 597.6, 600B.21, 614.8, 614.19, 614.22, 614.24, 614.27, and 633.244 are applicable.
2. The applicant may, in initiating a petition for involuntary hospitalization of a person under section 229.6 or at any subsequent time prior to conclusion of the involuntary hospitalization proceeding, also petition the court for a finding that the person is incompetent by reason of mental illness. The test of competence for the purpose of this section shall be whether the person possesses sufficient mind to understand in a reasonable manner the nature and effect of the act in which the person is engaged; the fact that a person is mentally ill and in need of treatment for that illness but because of the illness lacks sufficient judgment to make responsible decisions with respect to the person's hospitalization or treatment does not necessarily mean that that person is incapable of transacting business on any subject.
3. A hearing limited to the question of the person's competence and conducted in substantially the manner prescribed in sections 633.552 to 633.556 shall be held when:
  - a. The court is petitioned or proposes upon its own motion to find incompetent by reason of mental illness a person whose involuntary hospitalization has been ordered under section 229.13 or 229.14, and who contends that the person is not incompetent; or
  - b. A person previously found incompetent by reason of mental illness under subsection 2 petitions the court for a finding that the person is no longer incompetent and, after notice to the applicant who initiated the petition for hospitalization of the person and to any other party as directed by the court, an objection is filed with the court. The court may order a hearing on its own motion before acting on a petition filed under this paragraph. A petition by a person for a finding that the person is no longer incompetent may be filed at any time without regard to whether the person is at that time hospitalized for treatment of mental illness.
4. Nothing in this chapter shall preclude use of any other procedure authorized by law for declaring any person legally incompetent for reasons which may include mental illness, without regard to whether that person is or has been hospitalized for treatment of mental illness.

[C77, 79, 81, § 229.27; 82 Acts, ch 1103, § 1109]

91 Acts, ch 93, §1; 96 Acts, ch 1034, § 9; 98 Acts, ch 1181, §24; 2004 Acts, ch 1175, § 368, 400; 2004 Acts, ch 1021, §118, 119; 2004 Acts, ch 1175, §369, 400

2004 amendment to subsection 1 takes effect January 1, 2006; 2004 Acts, ch 1175, §369, 400