

However, an individual who presently is committed to the care and custody of the Administration under court order, who has pending against him any criminal action or proceeding or who presently is confined in a correctional institution, may not be certified to the Administration pursuant to this section.

(1) (2) Upon demand of an alleged drug addict or drug abuser or anyone on his behalf or upon its own motion, the court shall issue an order directing the hearing of the application before the court, or if requested before a jury at a time and place specified in the order. The order shall be served upon the parties interested in the application and upon such other person as the court, in its discretion, may name. If the alleged drug addict or drug abuser or anyone on his behalf elects a hearing before the court, he shall not in addition be entitled to a jury trial. At the time and place mentioned in the order or at any other time or place as the court may designate, the court or jury shall proceed to hear the testimony introduced for and against the application, and the alleged drug addict or drug abuser may be examined, if deemed advisable. The court may issue subpoenas for attendance of witnesses at the hearing or trial and the alleged drug addict or drug abuser shall have the right to have subpoenas issued for such purpose. At the hearing or trial the alleged drug addict or drug abuser shall have the right to be represented by counsel, to present witnesses on his behalf, and to cross-examine witnesses. For the purposes of this subsection, in a proceeding in which an alleged drug addict's spouse is the petitioner, a communication made by the alleged drug addict to the spouse is not confidential within the provision of statute or other law relating to confidential communications between husband and wife. If, from the facts ascertained upon the hearing, the proofs produced, the petition, and the report of the medical examination, the jury, or, if there be no jury, the court, SUBJECT TO THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION, determines [by a preponderance of the evidence] that the individual is a drug addict or drug abuser, the court shall immediately issue an order certifying the individual to the care and custody of the Administration for the period provided in subsection (n) of this section.

(n) (2) The period shall commence on the date the order of certification is made and shall terminate upon the first to occur of (i) the discharge of the drug addict or drug abuser by the Administration as rehabilitated, or (ii) the expiration of a period of 5 years from the date the period commenced. However, the period of the initial inpatient care received by a drug addict or drug abuser immediately following an order of commitment under this section may not exceed two years. If [on the first anniversary of] AFTER 6 MONTHS FROM the order of commitment the drug addict or drug abuser is still receiving initial inpatient care, the Administration must apply for and