

**7070 INVOLUNTARY COMMITMENT: HABITUAL LACK OF SELF-CONTROL AS TO THE USE OF ALCOHOL BEVERAGES**

(Insert Wis JI-Civil 100, Opening)

Wis JI-Civil 145, Special Verdict Questions: Interrelationship

A petition has been filed to involuntarily commit (respondent) for treatment. The petition alleges (that) (commitment is needed because) (respondent) habitually lacks self-control as to the use of alcohol beverages and uses alcohol beverages to the extent that (he) (she) is substantially impaired or endangered and (his) (her) social or economic functioning is substantially disrupted. The fact a petition has been filed is not evidence that (respondent) is in need of commitment and treatment.)

This is a civil, not a criminal, case. The fact the district attorney is present does not mean that (respondent) is accused of a crime. The district attorney and (attorney), the other attorney, are required to be here by the Wisconsin statutes. While (respondent) is not on trial to be punished for any offense, nevertheless, this trial and your verdict could result in a loss of (respondent)'s personal liberty. Therefore, you should approach this task with a sense of serious duty.

Wis JI-Civil 110, Arguments of Counsel

Wis JI-Civil 115, Objections of Counsel

Wis JI-Civil 120, Judge's Demeanor

Wis JI-Civil 130, Stricken Testimony

Wis JI-Civil 215, Credibility of Witnesses; Weight of Evidence

Wis JI-Civil 260, Expert Testimony: General

Wis JI-Civil 265, Expert Testimony: Hypothetical Question

At the end of the trial, you will be given a special verdict consisting of three questions.

Wis JI-Civil 205, Middle Burden of Proof

Wis JI-Civil 145, Special Verdict Questions: Interrelationship

The first question of the special verdict reads as follows: Is the condition of (respondent) such that (he) (she) habitually lacks self-control as to the use of alcoholic beverages and uses such beverages to the extent that health is substantially impaired or endangered and social or economic functioning is substantially disrupted.

The second question of the special verdict reads: If you answer question 1 "yes," then answer this question: Is the condition of (respondent) evidenced by a pattern of conduct dangerous to (himself) (herself) or to others?

Before you can answer question 2 "yes," you must be satisfied that there is a relationship between the condition of \_\_\_\_\_ and (his) (her) pattern of conduct during the 12-month period immediately preceding the filing of the petition, and this pattern of conduct was a danger to (respondent) or to others.<sup>1</sup> The filing date of the petition is \_\_\_\_\_.

Question 3 of the special verdict reads: If you answer questions 1 and 2 "yes," then answer this question: Is (respondent) in need of commitment?

Before you can answer question 3 "yes," you must be satisfied that the following three elements have been established:

1. That there is an extreme likelihood that (respondent)'s pattern of conduct will continue or repeat itself without intervention of involuntary treatment or institutionalization.

2. That there is no suitable alternative available in which \_\_\_\_\_ will voluntarily participate.

3. That the (agency involved) is able to provide the most appropriate treatment and that the treatment is likely to be beneficial to \_\_\_\_\_.

Do not concern yourselves with the length of custody or nature of any treatment that the court might order as a result of your answers to the questions of the special verdict.

Wis JI-Civil 180, Five-Sixths Verdict

Wis JI-Civil 190, Closing

### **SPECIAL VERDICT**

Question 1: Is the condition of (\_\_\_\_\_) such that (he) (she) habitually lacks self-control as to the use of alcohol beverages and uses alcohol beverages to the extent (his) (her) health is substantially impaired or endangered and (his) (her) social or economic functioning is substantially disrupted?

Answer: \_\_\_\_\_

Yes or No

Question 2: If you answer question 1 "yes," then answer this question: Is the condition of \_\_\_\_\_ evidenced by a pattern of conduct dangerous to (himself) or (herself) or to others?

Answer: \_\_\_\_\_

Yes or No

Question 3: If you answer questions 1 and 2 "yes," then answer this question: Is \_\_\_\_\_ in  
need of commitment?

Answer: \_\_\_\_\_

Yes or No

#### NOTES

<sup>1</sup> Even though Wis. Stat. § 51.45(3)(g) uses the term "established to a reasonable medical certainty," the Committee feels that this statutory language applies only to the admissibility of the expert testimony and does not change the burden of proof (i.e., clear and convincing - clear, satisfactory, and convincing).

#### COMMENT

The instruction and comment were approved by the Committee in 1981. The instruction was revised in 1987 and 2002.

Involuntary commitment is provided under Wis. Stat. § 51.45. The maximum period of an involuntary commitment following the hearing is 90 days.

A refusal to undergo treatment is not evidence of a lack of judgment as to the need for treatment. Wis. Stat. § 51.45(13).

The Committee believes that Wis. Stat. § 51.45(g)2 which provides that commitment may not be ordered without a showing of no suitable alternative and the ability of the agency to provide treatment requires a jury finding. The statutory language of this provision includes a burden of proof equivalent to other jury findings.