



TB and the Law Project

Legal Rights of Detainees: Civil Detention Check List

A person who is detained for violating a health order related to TB control has the following legal rights:¹

- ❑ Upon a detainee's request, the local health officer must apply for a court order authorizing continued detention within 72 hours of the request.
- ❑ Whether or not a detainee makes a request, a court order is required for detentions of more than 60 days.
- ❑ The health officer must seek further court review of a detention within 90 days of the initial court order and within 90 days of each subsequent court review.
- ❑ The health officer must prove the necessity of the detention by "clear and convincing" evidence.
- ❑ A person subject to detention has the right to counsel and to have counsel provided.
- ❑ Each health order must advise the detainee of his or her rights regarding release requests, court orders, court review, and legal representation.
- ❑ Each health order must be accompanied by a separate notice that explains the detainee's right to request release; that lists the phone number the detainee may call to request release; that explains the detainee's right to counsel; and that informs the detainee that, at the detainee's request, the health officer will notify two individuals of the detention.
- ❑ A detainee may only be detained for the amount of time necessary to fulfill the purpose of the detention.

¹ See Cal. Health & Safety Code §§ 121366, 121367 & 121368.