

HOUSE BILL NO. HB0156

Involuntary commitment-emergency detention amendments.

Sponsored by: Representative(s) Barlow and Senator(s) Peterson

A BILL

for

1 AN ACT relating to involuntary commitment; amending
2 provisions related to emergency detentions; and providing
3 for an effective date.

4

5 *Be It Enacted by the Legislature of the State of Wyoming:*

6

7 **Section 1.** W.S. 25-10-109(a), (b)(ii), (d), (e)
8 through (h), (k)(ii) and by creating a new subsection (n)
9 is amended to read:

10

11 **25-10-109. Emergency detention.**

12

13 (a) When a law enforcement officer or examiner has
14 reasonable cause to believe a person is mentally ill
15 pursuant to W.S. 25-10-101, or when a court has entered an

1 ex parte order for immediate detention of a person pursuant
2 to W.S. 25-10-110.1(h), the person may be detained.

3
4 (b) Immediately after detaining the person, the
5 officer shall contact an examiner. A preliminary
6 examination of the person shall be conducted by an examiner
7 within twenty-four (24) hours after the detention. If a
8 preliminary examination is not conducted within twenty-four
9 (24) hours the detained person shall be released. If the
10 examiner giving the preliminary examination finds that the
11 person:

12
13 (ii) Was mentally ill, but is no longer
14 dangerous to himself or others, the person shall be
15 provided referral information for mental health care
16 providers and released immediately; or

17
18 (d) A person taken into custody under this section
19 may be detained in a hospital or other ~~suitable facility~~
20 care setting which is appropriate under the circumstances
21 and which complies with subsection (n) of this section. The
22 person shall not be detained in a nonmedical facility used
23 for detention of persons charged with or convicted of penal

1 offenses except in extreme emergency or if there are no
2 other reasonable alternatives. The law enforcement officer
3 or examiner who detained the person shall immediately
4 notify the person responsible for the care and custody of
5 the detained person, if known, of the time and place of
6 detention.

7
8 (e) The law enforcement officer or examiner who
9 initially detained the person shall make a written
10 statement of the facts of the emergency detention. A copy
11 of the statement shall be given to the detained person, to
12 the county attorney in the county where the person is
13 detained, to any gatekeeper designated by the department
14 and to any subsequent examiner.

15
16 (f) When a person is detained under emergency
17 circumstances, treatment may be given during the emergency
18 detention period if the person voluntarily and knowingly
19 consents. The parent or guardian of a minor or incompetent
20 person may consent to treatment. If the parent or guardian
21 of a minor patient does not consent to treatment, a
22 petition may be filed under the Child Protection Act.
23 Treatment may be given without the consent of the detained

1 person or his parent or guardian when treatment is limited
2 to diagnosis or evaluation or when treatment is necessary
3 to prevent immediate and serious physical harm to the
4 person or others. Prior to treatment, the person shall be
5 fully advised of the scope of treatment, and a report of
6 the treatment shall be provided to the county attorney, to
7 any gatekeeper designated by the department and shall be
8 filed with the court if continued detention is sought, or
9 if directed outpatient commitment or involuntary
10 hospitalization proceedings are commenced. An examiner or a
11 physician who provides treatment in good faith pursuant to
12 this subsection shall be immune from civil liability for
13 the treatment except there shall be no immunity from
14 liability for negligent acts or deliberate misconduct.

15

16 (g) At the time of emergency detention the person
17 shall be informed orally and in writing of his right to
18 contact his family and an attorney, of his right to
19 appointed counsel if he is indigent, of his right to remain
20 silent and that his statements may be used as a basis for
21 continued detention, directed outpatient commitment or
22 involuntary hospitalization.

23

1 (h) When a person is detained in emergency detention
2 and continued detention is sought, or an application for
3 directed outpatient commitment or involuntary
4 hospitalization is filed by the county attorney, the court
5 shall appoint an attorney to represent the detained person
6 unless he has his own attorney.~~, and~~ The court shall
7 conduct a hearing within seventy-two (72) hours, excluding
8 Saturdays, Sundays and legal holidays, of the initial
9 detention to determine whether continued detention is
10 required pending directed outpatient commitment or
11 involuntary hospitalization proceedings. The county
12 attorney of the county where the application is filed shall
13 appear on behalf of the state at the hearing. Any
14 gatekeeper designated by the department pursuant to W.S.
15 25-10-112(g) shall appear at the hearing and provide
16 testimony concerning continued detention and, if
17 applicable, the issues outlined in subsection (m) of this
18 section. Notice of the preliminary hearing shall be given
19 to the county attorney, any gatekeeper designated by the
20 department, the detained person and his parent, guardian
21 and attorney. The court may delay the hearing only at the
22 request of the detained person or his parent, guardian or
23 his attorney. ~~An emergency detention~~ The hearing for

1 continued detention may be waived at the request of the
2 detained person or the detained person's parent, guardian
3 or attorney. If ~~an emergency detention hearing~~ a hearing
4 for continued detention has been waived, the court may
5 immediately conduct the directed outpatient commitment or
6 involuntary hospitalization hearing.

7

8 (k) The standard of proof in an emergency detention
9 hearing shall be by a preponderance of the evidence. If
10 the court finds at an emergency detention hearing that:

11

12 (ii) The person is mentally ill and has applied
13 for and received voluntary admission, the court may dismiss
14 the proceedings; or

15

16 (n) Treatment provided as a result of an emergency or
17 continued detention pursuant to this section shall be
18 provided in the least restrictive and most therapeutic
19 setting available with consideration given to requests of
20 the detained person, his parent, guardian or attorney, and
21 recommendations of any gatekeeper. Treatment may include
22 the treatment options outlined in W.S. 25-10-110.1(d).

23

1 **Section 2.** This act is effective July 1, 2017.

2

3

(END)