

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

Treatment of mental illness.

Sponsored by: SDraft Committee

A BILL

for

1 AN ACT relating to hospitalization and treatment of  
2 mentally ill persons; modifying procedures for involuntary  
3 hospitalization; providing for directed outpatient  
4 treatment; amending convalescent status; providing for and  
5 modifying definitions; amending provisions relating to  
6 representation by the state and county of an involuntarily  
7 hospitalized or treated person; clarifying provisions  
8 relating to payment by the county for involuntary  
9 hospitalization and treatment; and providing for an  
10 effective date.

11

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

13

1           **Section 1.** W.S. 25-10-110.1 is created to read:

2

3           **25-10-110.1. Directed outpatient commitment**  
4 **proceedings.**

5

6           (a) If the court finds based upon the recommendation  
7 of an examiner or on its own determination that the  
8 proposed patient is mentally ill but does not require  
9 inpatient hospitalization, the court shall consider issuing  
10 a directed outpatient commitment order. The court shall  
11 require directed outpatient commitment for the proposed  
12 patient for a period of time as determined appropriate by  
13 the court, not to exceed two (2) years with review by the  
14 court at least every six (6) months. The court may  
15 designate an outpatient care provider that will provide  
16 care to the proposed patient.

17

18           (b) In considering whether directed outpatient  
19 commitment is appropriate, the court may consider one (1)  
20 or more of the following:

21

22           (i) The proposed patient is diagnosed as having  
23 a mental illness;

1

2           (ii) Without directed outpatient treatment, the  
3 proposed patient is likely to be dangerous to himself or  
4 others based upon noncompliance with prior medical  
5 directives;

6

7           (iii) The proposed patient is likely to suffer  
8 substantial medical or mental deterioration or become  
9 seriously disabled;

10

11           (iv) The proposed patient lacks present ability  
12 to make an informed decision concerning his need for  
13 treatment; or

14

15           (v) Any other information concerning the  
16 proposed patient's need for outpatient care.

17

18           (c) The terms and conditions of the treatment plan  
19 shall be established by an examiner and approved by the  
20 court. In preparing the plan, the examiner shall consult  
21 with the county attorney, treating healthcare providers and  
22 the patient or the person responsible for the care and  
23 custody of the patient, if known.

1

2 (d) The treatment plan may require:

3

4 (i) Periodic reporting;

5

6 (ii) Continuation of medication and submission  
7 to testing;

8

9 (iii) Restrictions on travel;

10

11 (iv) Restrictions on consumption of alcoholic  
12 beverages and illegal controlled substances with  
13 requirements for any necessary testing;

14

15 (v) Use of community-based group homes, crisis  
16 assistance centers or other available community-based  
17 support services; temporary inpatient or residential  
18 treatment for stabilization;

19

20 (vi) Other conditions as agreed upon by the  
21 respective parties or as otherwise directed by the court.

22

1 (e) Treatment shall be provided by a treatment center  
2 or a court approved treatment provider.

3

4 (f) The treatment center or treatment provider or any  
5 other person identified in the treatment plan shall report  
6 to the county attorney any material noncompliance by the  
7 patient with the treatment plan.

8

9 (g) By motion of an interested party or on its own  
10 motion, the court may revoke or modify the directed  
11 outpatient commitment if, after a hearing, the court finds  
12 by a preponderance of evidence that the patient materially  
13 violated any condition of the directed outpatient  
14 commitment order. If there has been a material violation of  
15 the order, the court may modify the conditions of directed  
16 outpatient commitment, schedule an involuntary commitment  
17 hearing pursuant to W.S. 25-10-110, order any disposition  
18 for which private resources are available or order any  
19 disposition which is consistent with the best interests of  
20 the proposed patient and public safety.

21

22 (h) If a motion has been filed to modify or revoke  
23 the directed outpatient commitment, the court may enter an

1 ex parte order for immediate detention of the patient if  
2 the court finds that the patient is a danger to himself or  
3 others. If the court enters an ex parte order of detention,  
4 the matter shall be set for hearing within seventy-two (72)  
5 hours. Notice of a hearing on a motion to modify or revoke  
6 the order for directed outpatient commitment shall be as  
7 provided in W.S. 25-10-110(d).

8

9 (j) The county attorney of the county where the  
10 directed outpatient commitment order is filed shall appear  
11 on behalf of the state at any hearing pursuant to this  
12 section.

13

14 **Section 2.** W.S. 25-10-101(a)(i), (ii) by creating a  
15 new subparagraph (D), (xiii), by creating a new paragraph  
16 (xiv) and by renumbering (xiv) as (xvii), 25-10-103,  
17 25-10-104(a)(intro), (i), (iv), (vi), (vii) and by creating  
18 a new paragraph (viii), 25-10-109(f) through (j),  
19 25-10-110(j)(ii), by creating a new paragraph (iii), by  
20 renumbering (iii) as (iv), (k), (n) and (o), 25-10-111(a)  
21 and (c), 25-10-112(c)(intro), 25-10-116(a),  
22 25-10-122(a)(intro), 25-10-127(a) through (c) are amended  
23 to read:

1

2

**25-10-101. Definitions.**

3

4

(a) As used in this act:

5

6

(i) "Court" means the district court which ordered detention, directed outpatient commitment or involuntary hospitalization of the person pursuant to this act, or the district court in the county where the person resides, is found or is hospitalized;

11

12

(ii) "Dangerous to himself or others" means that, as a result of mental illness, a person:

14

15

(D) While this definition requires evidence of recent acts or omissions of endangerment, either to self or others, a court may consider a person's mental health history in determining whether directed outpatient commitment is warranted.

20

21

22

23

(xiii) "Treatment" means diagnosis, evaluation, intervention, which may include psychiatric medication, individual and group mental health counseling, illness

1 management diversion services such as immediate linkages to  
2 mental health services in the community and discharge  
3 planning. Treatment shall begin at the time of detention,  
4 if the person knowingly and voluntarily consents, and shall  
5 continue throughout involuntary hospitalization or directed  
6 outpatient commitment. Treatment may be given without the  
7 consent of the detained person or his parent or guardian  
8 when treatment is limited to diagnosis or evaluation or  
9 when treatment is necessary to prevent immediate and  
10 serious physical harm to the person or others. "Treatment"  
11 does not include observation or supervision;

12

13 (xiv) "Treatment center" means as defined by  
14 department rule;

15

16 ~~(xiv)~~ (xvii) "This act" means W.S. 25-10-101  
17 through 25-10-305.

18

19 **25-10-103. Admission of persons with mental illness**  
20 **to hospital.**

21

22 Subject to the rules and regulations of the ~~hospital~~  
23 department, the head of a hospital and any other treatment



1 provider providing treatment under this act may admit  
2 persons who have symptoms of mental illness ~~pursuant to~~  
3 ~~W.S. 25-10-106, 25-10-109 or 25-10-110~~ for treatment in  
4 their hospital or treatment center.

5

6 **25-10-104. Duties of department of health and social**  
7 **services as to hospitals other than state hospital.**

8

9 (a) The department, with respect to designated  
10 hospitals or other ~~licensed-treatment facilities~~ centers  
11 other than the state hospital, shall:

12

13 (i) Adopt standards for the designation of  
14 hospitals or other ~~licensed-treatment facilities~~ centers as  
15 qualified to accept patients and provide treatment under  
16 this act;

17

18 (iv) Require ~~reports~~ information from designated  
19 hospitals, ~~and other licensed-treatment facilities~~ centers  
20 and outpatient care providers including mental health  
21 centers, concerning the services rendered to patients under  
22 the provisions of this act;

23

1 (vi) Investigate complaints made by or on behalf  
2 of patients with mental illness;~~and~~

3

4 (vii) Promulgate rules and regulations for the  
5 administration of this act, including rules regarding  
6 reimbursement under W.S. 25-10-112~~;~~ and

7

8 (viii) Enter into contracts with treatment  
9 centers for the directed outpatient treatment of persons  
10 with mental illness who are ordered into directed  
11 outpatient commitment pursuant to W.S. 25-10-110.1;

12

13 **25-10-109. Emergency detention.**

14

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

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

12

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

20

21 (h) When a person is detained in emergency detention  
22 and an application for directed outpatient commitment or  
23 involuntary hospitalization is filed by the county

1 attorney, the court shall appoint an attorney to represent  
2 the detained person unless he has his own attorney, and the  
3 court shall conduct a hearing within seventy-two (72)  
4 hours, excluding Saturdays, Sundays and legal holidays, of  
5 the initial detention to determine whether continued  
6 detention is required pending directed outpatient  
7 commitment or involuntary hospitalization proceedings. The  
8 county attorney of the county where the application is  
9 filed shall appear on behalf of the state at the hearing.  
10 Notice of the preliminary hearing shall be given to the  
11 county attorney, the detained person and his attorney. The  
12 court may delay the hearing only at the request of the  
13 detained person or his parent, guardian or his attorney.  
14 An emergency detention hearing may be waived at the request  
15 of the detained person or the detained person's attorney,  
16 except in cases where a licensed physician's assistant was  
17 the only examiner for the emergency detention. If an  
18 emergency detention hearing has been waived, the court may  
19 immediately conduct the directed outpatient commitment or  
20 involuntary hospitalization hearing, provided that a  
21 licensed physician's assistant shall not be the examiner  
22 for ~~an~~ a directed outpatient commitment or involuntary  
23 hospitalization hearing.

1

2 (j) At the hearing the court shall advise the  
3 detained person and his parent, guardian or attorney of the  
4 contents of the written statement of emergency detention  
5 required in subsection (e) of this section and the  
6 application for directed outpatient commitment or  
7 involuntary hospitalization.

8

9 **25-10-110. Involuntary hospitalization proceedings.**

10

11 (j) If, upon completion of the hearing and  
12 consideration of the record, the court or the jury finds by  
13 clear and convincing evidence that the proposed patient is  
14 mentally ill the court shall consider the least restrictive  
15 and most therapeutic alternatives and shall:

16

17 (ii) Suspend the proceedings pending voluntary  
18 treatment as approved by the examiner and by the facility  
19 or individual who will provide the treatment. If the court  
20 finds that the proposed patient does not require continuous  
21 inpatient hospitalization, would be more appropriately  
22 treated in an outpatient treatment program or a combination  
23 of outpatient and inpatient treatment or will be able to

1 appropriately control his illness by following a prescribed  
2 treatment plan, the court shall consider such treatment  
3 options. If the court finds that the proposed patient does  
4 not require continuous hospitalization and the funding is  
5 available, it shall consider conditional outpatient  
6 treatment for a period of time deemed appropriate and may  
7 designate an outpatient care provider, including mental  
8 health centers. Conditional outpatient treatment may  
9 require periodic reporting, continuation of medication and  
10 submission to testing and restriction of travel,  
11 consumption of alcoholic beverages or drugs, associations  
12 with other persons or other reasonable conditions as the  
13 court may specify provided the court may suspend the  
14 imposition of the conditional outpatient treatment order  
15 for failure to meet the conditions and order involuntary  
16 hospitalization under this section;~~or~~

17

18 (iii) Order the proposed patient be treated in a  
19 directed outpatient commitment pursuant to W.S. 25-10-110.1  
20 if the court finds continuous inpatient hospitalization is  
21 not required and the proposed patient would be more  
22 appropriately treated in a directed outpatient commitment;  
23 or

1

2           ~~(iii)~~(iv) Order any disposition for which  
3 private resources are available and which is consistent  
4 with the best interests of the proposed patient and with  
5 public safety.

6

7           (k) The court is authorized to appoint a special  
8 commissioner to assist in the conduct of hospitalization  
9 proceedings. In proceedings under this act, regularly  
10 appointed court commissioners may exercise the authority  
11 granted by W.S. 5-3-307. In any case in which the court  
12 refers an application to the commissioner, the commissioner  
13 shall conduct the directed outpatient commitment under W.S.  
14 25-10-110.1 or the involuntary hospitalization proceedings  
15 under this section and on the basis thereof shall either  
16 recommend dismissal of the application or hold a hearing as  
17 provided in this section and make recommendations to the  
18 court regarding the disposition of the proposed patient and  
19 of the proceedings.

20

21           (n) The court shall inquire into the medical  
22 condition of every patient found to be mentally ill. If the  
23 court determines based upon the advice of a physician or

1 other qualified professional, that the patient's present  
2 primary need is for medical treatment or care and whose  
3 need for psychiatric care is secondary, the court may delay  
4 ordering ~~the commitment~~ directed outpatient commitment or  
5 involuntary hospitalization of the patient ~~to the Wyoming~~  
6 ~~state hospital~~ until such time as the patient receives  
7 medical care and the patient's need for psychiatric care is  
8 primary.

9  
10 (o) In proceedings under this section involving a  
11 minor, the ~~department~~ court shall, to the extent feasible,  
12 consult with the minor's parents or legal guardian.

13  
14 **25-10-111. Commitment or transfer to federal**  
15 **hospital; effect of orders by courts of other**  
16 **jurisdictions; powers of federal facility.**

17  
18 (a) The court, when ordering involuntary  
19 hospitalization pursuant to W.S. 25-10-110(j), may order a  
20 person hospitalized in a hospital or facility operated by  
21 the veterans' administration or another federal agency, if  
22 the court has received a certificate from the agency



1 showing that facilities are available and that the patient  
2 is eligible for treatment therein.

3

4 (c) Upon receipt of a certificate from the veterans'  
5 administration or another federal agency that facilities  
6 are available for treatment of a patient involuntarily  
7 hospitalized under W.S. 25-10-110 and that the patient is  
8 eligible for treatment therein, the head of a hospital may  
9 transfer the patient to the veterans' administration or  
10 other federal agency for treatment. The court which ordered  
11 involuntary hospitalization shall be notified of the  
12 transfer by the hospital. No person shall be transferred if  
13 he is confined pursuant to a conviction for a crime or if  
14 he has been acquitted of a criminal charge solely on the  
15 ground of mental illness or deficiency, unless, prior to  
16 the transfer, the court which committed the person enters  
17 an order for the transfer after appropriate motion and  
18 hearing.

19

20 **25-10-112. Liability for costs of detention,**  
21 **involuntary hospitalization and proceedings therefor.**

22

1           (c) The county shall pay for the first seventy-two  
2 (72) hours as provided in subsection (a) of this section  
3 even if the patient waives the hearing required under W.S.  
4 25-10-109 and proceeds to voluntary outpatient treatment,  
5 directed outpatient commitment or involuntary  
6 hospitalization proceedings. Subject to the provisions of  
7 subsections (d) and (e) of this section, if continued  
8 emergency detention is ordered pursuant to W.S.  
9 25-10-109(k)(iii), the county's liability for any costs of  
10 detention, treatment or transportation shall terminate  
11 after the first seventy-two (72) hours of detention, in  
12 addition to any Saturday, Sunday or legal holiday. The  
13 department shall be responsible for those costs after the  
14 expiration of the county's responsibility for payments of  
15 the costs. The county attorney shall notify the department  
16 of the continued emergency detention order or involuntary  
17 hospitalization order within twenty-four (24) hours. All  
18 costs of treatment, transportation and continued emergency  
19 detention incurred after the first seventy-two (72) hours  
20 of detention, in addition to any Saturday, Sunday or legal  
21 holiday, shall be paid by:

22

1           **25-10-116. Periodic examinations of patients;**  
2 **determination of discharge or continued hospitalization;**  
3 **notice; hearing.**

4  
5           (a) Three (3) months after each patient's admission  
6 to the hospital, the head of the hospital shall evaluate  
7 the progress of each patient and shall reevaluate the  
8 treatment and progress every six (6) months thereafter. The  
9 evaluation shall consider whether directed outpatient  
10 commitment is appropriate.

11

12           **25-10-122. Records to be kept confidential;**  
13 **exceptions.**

14

15           (a) Records and reports made under this act which  
16 directly or indirectly identify a patient, a former patient  
17 or an individual for whom an application for directed  
18 outpatient commitment or involuntary hospitalization has  
19 been filed, shall be confidential and shall not be  
20 disclosed by any person unless:

21

22           **25-10-127. Convalescent status; discharge;**  
23 **readmittance.**

1

2 (a) After providing ~~fourteen (14) days~~ notice to the  
3 court, ~~and the~~ county attorney who initiated involuntary  
4 hospitalization procedures and all interested parties, the  
5 hospital may release an improved patient on convalescent  
6 status. ~~Release on convalescent status shall include a~~  
7 ~~plan of treatment on an outpatient or nonhospital basis and~~  
8 ~~other provisions for continuing responsibility to and by~~  
9 ~~the hospital. Prior to the end of one (1) year on~~  
10 ~~convalescent status, and not less than annually thereafter,~~  
11 ~~the hospital shall reexamine the facts relating to the~~  
12 ~~hospitalization of the patient on convalescent status and~~  
13 ~~if the hospital determines hospitalization is no longer~~  
14 ~~anticipated, the hospital shall discharge the patient and~~  
15 ~~make a report of discharge to the court and county attorney~~  
16 ~~involved in ordering the hospitalization, if any. leave~~  
17 subject to the following:

18

19 (i) The hospital has determined that the patient  
20 is likely to follow the conditions the hospital determines  
21 necessary for the patient;

22

1           (ii) The hospital has determined that the  
2 patient will not likely be a danger to himself or others  
3 during convalescent leave; and

4  
5           (iii) Release on convalescent leave shall  
6 include a plan of treatment on an outpatient or nonhospital  
7 basis and other provisions for continuing responsibility of  
8 the patient by the hospital. Prior to the end of one (1)  
9 year on convalescent leave, and not less than annually  
10 thereafter, the hospital shall reexamine the facts relating  
11 to the hospitalization of the patient on convalescent leave  
12 and if the hospital determines hospitalization is no longer  
13 anticipated, the hospital shall discharge the patient and  
14 make a report of discharge to the court and county attorney  
15 who initiated procedures for the involuntary  
16 hospitalization.

17  
18           (b) The hospital from which the patient is given  
19 convalescent ~~status~~leave may readmit to the hospital ~~an~~  
20 the involuntary hospitalized patient who has been released  
21 on convalescent ~~status~~leave if the hospital reasonably  
22 believes that it is in the best interests of the patient.  
23 The ~~person~~patient readmitted shall have all the rights he

1 had upon admission to the hospital. Upon readmission he  
2 shall be given notice of his rights pursuant to W.S.  
3 25-10-116. It is the responsibility of the hospital to  
4 provide or pay for any transportation or other services in  
5 connection with any revocation of a convalescent status.

6

7 (c) The hospital shall discharge any patient who has  
8 remained on convalescent ~~status~~leave for a period of two  
9 (2) continuous years.

10

11 **Section 3.** W.S. 25-10-104(a)(v) is repealed.

12

13 **Section 4.** This act is effective July 1, 2016.

14

15

(END)