

ENROLLED ACT NO. 64, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

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

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

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

25-10-109. Emergency detention.

(a) A person may be detained when:

(i) A law enforcement officer or examiner has reasonable cause to believe a person is mentally ill pursuant to W.S. 25-10-101; ~~the person may be detained.~~

(ii) A court has entered an ex parte order for immediate detention of a person pursuant to W.S. 25-10-110.1(h);

(iii) A hospital revokes convalescent status release of a person pursuant to W.S. 25-10-127(b) based on a previous or current determination of mental illness.

(b) Immediately after detaining the person, the officer shall contact an examiner. A preliminary examination of the person shall be conducted by an examiner within twenty-four (24) hours after the detention. If a preliminary examination is not conducted within twenty-four (24) hours the detained person shall be released. If the person is detained following the preliminary examination, an examiner shall reexamine the person not less than every forty-eight (48) hours until the hearing under subsections

ENROLLED ACT NO. 64, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

(h) through (k) of this section. If the examiner giving the preliminary examination, or any reexamination as required by this subsection, finds that the person:

(ii) Was mentally ill, but is no longer dangerous to himself or others, the ~~person shall be~~ examiner shall, with patient consent, arrange follow up mental health care and the person shall be released immediately; or

(d) A person taken into custody under this section may be detained in a hospital or other ~~suitable facility~~ care setting which is appropriate under the circumstances and which complies with subsection (n) of this section. The person shall not be detained in a nonmedical facility used for detention of persons charged with or convicted of penal offenses except in extreme emergency or if there are no other reasonable alternatives. The law enforcement officer or examiner who detained the person shall immediately notify the person responsible for the care and custody of the detained person, if known, of the time and place of detention.

(e) The law enforcement officer or examiner who initially detained the person shall make a written statement of the facts of the emergency detention. A copy of the statement shall be given to the detained person, his parent or guardian, to any attorney representing the person, to the county attorney in the county where the person is detained, to any gatekeeper designated by the department and to any subsequent examiner.

(f) When a person is detained under emergency circumstances, treatment may be given during the emergency detention period if the person voluntarily and knowingly

ENROLLED ACT NO. 64, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

consents. The parent or guardian of a minor or incompetent person may consent to treatment. If the parent or guardian of a minor patient does not consent to treatment, a petition may be filed under the Child Protection Act. Treatment may be given without the consent of the detained person or his parent or guardian when treatment is limited to diagnosis or evaluation or when treatment is necessary to prevent immediate and serious physical harm to the person or others. Prior to treatment, the person shall be fully advised of the scope of treatment, and a report of the treatment shall be provided to the county attorney, to any gatekeeper designated by the department and shall be filed with the court if continued detention is sought, or if directed outpatient commitment or involuntary hospitalization proceedings are commenced. An examiner or a physician who provides treatment in good faith pursuant to this subsection shall be immune from civil liability for the treatment except there shall be no immunity from liability for negligent acts or deliberate misconduct.

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

(h) When a person is detained in emergency detention and continued detention is sought, or an application for directed outpatient commitment or involuntary hospitalization is filed by the county attorney, the court shall appoint an attorney to represent the detained person unless he has his own attorney. ~~and~~ The court shall conduct a hearing within seventy-two (72) hours, excluding

ENROLLED ACT NO. 64, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

Saturdays, Sundays and legal holidays, of the initial detention to determine whether continued detention is required pending directed outpatient commitment or involuntary hospitalization proceedings. The county attorney of the county where the application is filed shall appear on behalf of the state at the hearing. Any gatekeeper designated by the department pursuant to W.S. 25-10-112(g) shall appear at the hearing and provide testimony concerning continued detention and, if applicable, the issues outlined in subsection (m) of this section. Notice of the preliminary hearing shall be given to the county attorney, any gatekeeper designated by the department, the detained person and his parent, guardian and attorney. The court may delay the hearing only at the request of the detained person or his parent, guardian or his attorney. ~~An emergency detention~~ The hearing for continued detention may be waived at the request of the detained person or the detained person's parent, guardian or attorney. If ~~an emergency detention hearing~~ a hearing for continued detention has been waived, the court may immediately conduct the directed outpatient commitment or involuntary hospitalization hearing.

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

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

(n) Treatment provided as a result of an emergency or continued detention pursuant to this section shall be provided in the least restrictive and most therapeutic setting available with consideration given to requests of

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ENROLLED ACT NO. 64, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

the detained person, his parent, guardian or attorney, and recommendations of any gatekeeper. Treatment may include the treatment options outlined in W.S. 25-10-110.1(d).

Section 2. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk