

SENATE FILE NO. SF0114

Hospitalization of mentally ill persons.

by: Senator(s) Senator(s) Dockstader and Representative(s)
Barlow

A BILL

for

1 AN ACT relating to hospitalization of mentally ill
2 patients; providing for convalescent status of formerly
3 hospitalized patients; requiring the state hospital to
4 maintain capacity to treat persons detained for mental
5 illness on an emergency or involuntary basis; requiring a
6 preliminary examination be done by a different examiner
7 than the one who initiated the detention; requiring action
8 within seventy-two hours of the preliminary examination;
9 providing for notification and action by county attorneys;
10 and providing for an effective date.

11

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

13

14 **Section 1.** W.S. 25-10-101(a)(i), 25-10-103,
15 25-10-104(a)(vii), 25-10-105(a)(ii), (iii) and by creating
16 a new paragraph (iv), 25-10-109(b)(intro), (c) through (f),

1 by creating a new subsection (h), by amending and
2 renumbering (h) as (j), by renumbering (j) and (k) as (k)
3 and (m) and by amending and renumbering (m) as (n),
4 25-10-110(a)(intro) and (c), 25-10-112(a)(intro),
5 (c)(intro), (e), (g) and by creating a new subsection (h),
6 25-10-116(b) and by creating a new subsection (d),
7 25-10-122 by creating a new subsection (c) and 25-10-127(a)
8 through (c) and by creating a new subsection (e) are
9 amended to read:

10

11 **25-10-101. Definitions.**

12

13 (a) As used in this act:

14

15 (i) "Court" means the district court which
16 considered or ordered detention or hospitalization of the
17 person pursuant to this act, or the district court in the
18 county where the person resides, is found or is
19 hospitalized;

20

21 **25-10-103. Admission of persons with mental illness**
22 **to hospital.**

23

1 Subject to the rules and regulations of the hospital, the
2 head of a hospital ~~may~~shall admit persons who have
3 symptoms of mental illness pursuant to W.S. 25-10-106,
4 25-10-109 or 25-10-110.

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 other than
11 the state hospital, shall:

12

13 (vii) Promulgate rules and regulations,
14 including rules regarding reimbursement under W.S.
15 25-10-112 and convalescent status under W.S. 25-10-127.

16

17 **25-10-105. Duties of department of health as to state**
18 **hospital.**

19

20 (a) The department shall:

21

22 (ii) Visit the state hospital to review methods
23 of treatment of patients;~~and~~

24

1 (iii) Investigate complaints made by or on
2 behalf of state hospital patients;~~;~~ and

3
4 (iv) Ensure the state hospital maintains
5 reasonable capacity to admit, evaluate and treat persons
6 detained under W.S. 25-10-109 and patients under W.S.
7 25-10-110 from the county where it lies, from adjacent
8 counties and from counties without a designated county or
9 district hospital.

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

12
13 (b) Immediately after detaining the person, the
14 officer shall ~~contact~~ notify an examiner, providing the
15 notified examiner shall not be the examiner who initiated
16 the detention. A preliminary examination of the person
17 shall be conducted by an examiner within twenty-four (24)
18 hours after the detention, providing that the preliminary
19 examination shall not be conducted by the examiner who
20 initiated the detention. If a preliminary examination is
21 not conducted within twenty-four (24) hours the detained
22 person shall be released. If the examiner giving the
23 preliminary examination finds that the person:

24

1 (c) No person shall be detained for more than
2 seventy-two (72) hours, excluding Saturdays, Sundays and
3 legal holidays, without a hearing under subsections ~~(h)~~
4 ~~through (k)~~ (h) through (m) of this section.

5
6 (d) A person taken into custody under this section
7 may be detained in a hospital or other suitable facility
8 which is appropriate under the circumstances. All county
9 and district hospitals shall receive persons from within
10 their county or district under W.S. 25-10-109 and 25-10-110
11 by January 1, 2015. The person shall not be detained in a
12 nonmedical facility used for detention of persons charged
13 with or convicted of penal offenses except in extreme
14 emergency or if there are no other reasonable alternatives.
15 The law enforcement officer who detained the person shall
16 immediately notify the person responsible for the care and
17 custody of the detained person, if known, of the time and
18 place of detention.

19
20 (e) The law enforcement officer or examiner who
21 initially detained the person shall make a written
22 statement of the facts of the emergency detention. Prior
23 to the preliminary examination, a copy of the statement
24 shall be given to the detained person, the county attorney

1 where the person is detained and to ~~any subsequent~~ the
2 examiner conducting the preliminary examination. If the
3 person is detained in a county other than his county of
4 residence, the county attorney of the county where the
5 person is detained shall provide a copy of the statement to
6 the county attorney where the person resides if the person
7 is a resident of the state of Wyoming.

8

9 (f) When a person is detained under emergency
10 circumstances, treatment may be given during the emergency
11 detention period if the person voluntarily and knowingly
12 consents. The parent or guardian of a minor or incompetent
13 person may consent to treatment. If the parent or guardian
14 of a minor patient does not consent to treatment, a
15 petition may be filed under the Child Protection Act.
16 Treatment may be given without the consent of the detained
17 person or his parent or guardian when treatment is limited
18 to diagnosis or evaluation or when treatment is necessary
19 to prevent immediate and serious physical harm to the
20 person or others. Prior to treatment, the person shall be
21 fully advised of the scope of treatment, and a report of
22 the treatment shall be filed with the county attorney where
23 the person is detained and with the court if involuntary
24 hospitalization proceedings are commenced. An examiner or a

1 physician who provides treatment in good faith pursuant to
2 this subsection shall be immune from civil liability for
3 the treatment except there shall be no immunity from
4 liability for negligent acts or deliberate misconduct.

5

6 (h) Proceedings under this section shall be entitled
7 "In the Interest of". The county attorney of the
8 county where the person is initially detained shall file
9 the written application, appear in the proceedings and
10 pursue the continued detention if the county attorney is
11 satisfied that there is reasonable cause to believe that
12 the detained person is mentally ill. Proceedings may also
13 be initiated by the county attorney where the person
14 resides or the county attorney for the county in which
15 there is a designated hospital.

16

17 ~~(h)~~(j) When a person is detained in emergency
18 detention and an application for involuntary
19 hospitalization is filed by the county attorney, the court
20 shall appoint an attorney to represent the detained person
21 unless he has his own attorney, and the court shall conduct
22 a hearing within seventy-two (72) hours, excluding
23 Saturdays, Sundays and legal holidays, of the initial
24 detention to determine whether continued detention is

1 required pending involuntary hospitalization proceedings.
2 Notice of the preliminary hearing shall be given to the
3 detained person and his attorney. The court may delay the
4 hearing only at the request of the detained person or his
5 parent, guardian or his attorney. An emergency detention
6 hearing may be waived at the request of the detained person
7 or the detained person's attorney, except in cases where a
8 licensed physician's assistant was the only examiner for
9 the emergency detention. If an emergency detention hearing
10 has been waived, the court may immediately conduct the
11 involuntary hospitalization hearing, provided that a
12 licensed physician's assistant shall not be the examiner
13 for an involuntary hospitalization hearing.

14

15 ~~(j)~~(k) At the hearing the court shall advise the
16 detained person and his parent, guardian or attorney of the
17 contents of the written statement of emergency detention
18 required in subsection (e) of this section and the
19 application for involuntary hospitalization.

20

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

1

2 (i) The person is not mentally ill, the court
3 shall order the person released;

4

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

8

9 (iii) The person is mentally ill, it shall order
10 continued detention of the person for not more than ten
11 (10) days. The court may extend the detention period at the
12 request of the proposed patient or his attorney.

13

14 ~~(m)~~(n) If the court finds the person is mentally ill
15 pursuant to paragraph ~~(k)(iii)~~(m)(iii) of this section,
16 the court shall make findings as to the person's competence
17 to make informed choices regarding treatment and the
18 person's need for prescribed psychotropic medication. If
19 the court finds the person incompetent to make an informed
20 decision, the court may order the administration of
21 prescribed psychotropic medication for the period of the
22 emergency detention for restabilization of the person's
23 mental health.

24

1 **25-10-110. Involuntary hospitalization proceedings.**

2

3 (a) Proceedings for the involuntary hospitalization
4 of a person ~~may~~ shall be commenced by the filing of a
5 written application by the county attorney with the court
6 in the county in which the person is initially detained.
7 Proceedings may also be initiated in the county in which
8 there is a designated hospital. ~~if there is a written~~
9 ~~agreement executed by the county in which the person~~
10 ~~resides and the designated hospital stating that the county~~
11 ~~in which the person resides will be responsible for costs~~
12 ~~of treatment under W.S. 25-10-112(e) that are not covered~~
13 ~~by the state.~~ The application shall be accompanied by
14 either:

15

16 (c) Proceedings under this section shall be entitled
17 "In the Interest of". The county attorney of the
18 county where the ~~application is filed shall appear in the~~
19 ~~public interest~~ person is initially detained shall file the
20 written application, appear in the proceedings and pursue
21 the involuntary hospitalization if the county attorney is
22 satisfied that there is reasonable cause to believe that
23 the detained person is mentally ill. Proceedings may also
24 be initiated by the county attorney where the person

1 resides or the county attorney for the county in which
2 there is a hospital. The court shall expedite the
3 proceedings.

4

5 **25-10-112. Liability for costs of detention,**
6 **involuntary hospitalization and proceedings therefor.**

7

8 (a) Subject to the provisions of subsections (d) and
9 (e) of this section, the county in which a person is
10 detained ~~or in which involuntary hospitalization~~
11 ~~proceedings are brought~~ shall pay the costs of:

12

13 (c) Subject to the provisions of subsections (d) and
14 (e) of this section, if continued emergency detention is
15 ordered pursuant to W.S. ~~25-10-109(k)(iii)~~
16 25-10-109(m)(iii), the county's liability for any costs of
17 detention, treatment or transportation shall terminate
18 after the first seventy-two (72) hours of detention, in
19 addition to any Saturday, Sunday or legal holiday. The
20 department shall be responsible for those costs after the
21 expiration of the county's responsibility for payments of
22 the costs. The county attorney shall notify the department
23 of the continued emergency detention order or involuntary
24 hospitalization order within twenty-four (24) hours. All

1 costs of treatment, transportation and continued emergency
2 detention incurred after the first seventy-two (72) hours
3 of detention, in addition to any Saturday, Sunday or legal
4 holiday, shall be paid by:

5

6 (e) When a person is detained under W.S. 25-10-109,
7 the county in which the person resided shall be liable for
8 costs of treatment for the first seventy-two (72) hours of
9 detention, in addition to any Saturday, Sunday or legal
10 holiday that falls within the seventy-two (72) hours. If
11 the person remains in detention after the hearing pursuant
12 to W.S. ~~25-10-109(k)(iii)~~ 25-10-109(m)(iii), the department
13 shall directly, or under contract with local providers,
14 provide treatment for those conditions specified in
15 paragraph (a)(i) of this section until the person is
16 released from detention or involuntary commitment is
17 ordered, subject to payment of costs as provided in this
18 subsection or subsection (c) of this section.

19

20 (g) Each board of county commissioners, in
21 consultation with the county attorney, may establish a
22 single point of responsibility to identify, make referrals
23 to, intervene and coordinate with community or regional
24 resources prior to and after an emergency detention. The

1 single point of responsibility may be assigned to a
2 community mental health center, designated hospital or
3 other entity that is able to provide treatment as defined
4 under this act.

5

6 (h) The county or department may attempt to recover
7 all costs of treatment from public and private health
8 insurance, from patients and from government benefit
9 programs if the costs are not recovered under subsection
10 (d) of this section.

11

12 **25-10-116. Periodic examinations of patients;**
13 **determination of discharge or continued hospitalization;**
14 **notice; hearing.**

15

16 (b) When the head of a hospital determines after the
17 examination required by subsection (a) of this section or
18 by W.S. 25-10-113 that the conditions justifying
19 hospitalization of involuntary patients no longer exist, he
20 shall report his determination to the court, the county
21 attorney, the district attorney, family members and the
22 mental health center which were involved in the initial
23 proceedings. ~~Unless, within three (3) days after the notice~~
24 ~~is sent, the court upon motion orders a hearing on~~

1 ~~continuing the patient's hospitalization, the head of the~~
2 ~~hospital shall discharge the patient. The~~ Within seven (7)
3 days, any of the notified persons may file with the court a
4 written objection to the head of the hospital's findings
5 and the patient's discharge. If an objection is filed with
6 the court, a hearing shall be held as soon as practicable
7 and shall follow the procedures in W.S. 25-10-118. Notice
8 of the hearing shall conform with W.S. 25-10-116(c). The
9 court on its own motion may also order a hearing without
10 having received an objection by any person. If no
11 objection is filed, or no hearing is ordered by the court,
12 within ten (10) days after the notice is sent, the head of
13 the hospital shall discharge the patient.

14
15 (d) All patients discharged from involuntary
16 hospitalization shall be provided a post hospitalization
17 plan of care. In preparation for discharge, the hospital
18 shall make significant efforts to coordinate any
19 recommended post hospitalization care for the patient with
20 a local mental health provider. The plan of care shall be
21 filed with the court, the county attorney who initiated the
22 proceedings, local law enforcement and the local mental
23 health provider. The plan of care shall also be provided
24 to the county attorney for the county where the person

1 resides if the person is a resident of the state of
2 Wyoming.

3

4 **25-10-122. Records to be kept confidential;**
5 **exceptions.**

6

7 (c) The district court shall record all court
8 proceedings under this act, shall annually report to the
9 supreme court the number and type of proceedings reported
10 and shall maintain a database of those proceedings.

11

12 **25-10-127. Convalescent status; discharge;**
13 **readmittance.**

14

15 (a) ~~After providing fourteen (14) days notice to the~~
16 ~~court and county attorney who initiated involuntary~~
17 ~~hospitalization procedures,~~ All patients discharged
18 pursuant to W.S. 25-10-116 shall be released by the
19 hospital ~~may release an improved patient~~ on convalescent
20 status. Release on convalescent status shall include a
21 plan of treatment on an outpatient or nonhospital basis and
22 other provisions for continuing responsibility to and by
23 the hospital. ~~Prior to~~ At the end of one (1) year on
24 convalescent status, and not less than annually thereafter,

1 the hospital shall reexamine ~~the facts relating to the~~
2 ~~hospitalization of the patient.~~ on convalescent status and
3 If the hospital determines ~~hospitalization is no longer~~
4 ~~anticipated~~ the patient's mental illness has not relapsed,
5 the hospital shall ~~discharge the patient~~ terminate the
6 patient's convalescent status and make a report of
7 ~~discharge~~ the hospital's action to the court and county
8 attorney involved in ordering the hospitalization, if any.

9
10 (b) The hospital from which the patient is given
11 convalescent status ~~may~~ shall readmit to the hospital an
12 involuntary hospitalized patient who has been released on
13 convalescent status if the hospital reasonably believes
14 that it is ~~in the best interests of~~ necessary to ensure
15 public safety, the patient's mental illness has relapsed or
16 the patient has violated subsection (e) of this section.
17 The hospital shall notify the court immediately upon
18 readmittance. The person readmitted shall have all the
19 rights he had upon admission to the hospital. Upon
20 readmission he shall be given notice of his rights pursuant
21 to W.S. 25-10-116. It is the responsibility of the hospital
22 to provide or pay for any transportation or other services
23 in connection with any revocation of a convalescent status.

24

1 (c) The hospital shall ~~discharge~~terminate the
2 convalescent status of any patient who has remained on
3 convalescent status for a period of two (2) continuous
4 years.

5
6 (e) All patients on convalescent status shall
7 strictly follow the post hospitalization plan of care
8 established by the hospital pursuant to W.S. 25-10-116(d).
9 Failure to follow the plan shall be cause for the extension
10 or revocation of the patient's convalescent status.

11

12 **Section 2.** This act is effective July 1, 2014.

13

14

(END)