

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

SENATE FILE NO. _____

Title 25 revisions.

Sponsored by: Select Committee on Mental Health and
Substance Abuse Services

A BILL

for

1 AN ACT relating to involuntary commitments and emergency
2 detentions; amending definitions as specified; expanding
3 the definition of "mental illness" and "mentally ill" as
4 specified; specifying services that can be considered
5 treatment; clarifying liability for costs of emergency
6 detention; specifying responsibility for the transportation
7 of a detainee, a patient and a discharged person under
8 specified conditions; clarifying conditions under which the
9 state or county shall accept a provider's discharge of debt
10 for treatment of a detainee or patient; requiring counties
11 to establish a single point of responsibility for treatment
12 of detainees; requiring rule making as specified;
13 conforming provisions; and providing for an effective date.

1

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

3

4 **Section 1.** W.S. 25-10-101(a)(ii)(intro) and (C),
5 (iv), (ix) and (xiii), 25-10-104 by creating a new
6 subsection (b), 25-10-109(b)(ii) and (d), 25-10-112(a)(ii),
7 (iii) and by creating a new paragraph (iv), (d)(intro), (e)
8 and by creating a new subsection (g) and 25-10-125 are
9 amended to read:

10

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

12

13 (a) As used in this act:

14

15 (ii) "Dangerous to himself or others or unable
16 to satisfy basic needs" means that, as a result of mental
17 illness, a person:

18

19 (C) Evidences behavior manifested by recent
20 acts or omissions that, due to mental illness, he is unable
21 to satisfy basic needs for nourishment, essential medical
22 care, shelter or safety so that a substantial probability
23 exists that death, serious physical injury, serious

1 physical debilitation, serious mental debilitation,
2 destabilization from lack of or refusal to take prescribed
3 psychotropic medications for a diagnosed condition or
4 serious physical disease will imminently ensue, unless the
5 individual receives prompt and adequate treatment for this
6 mental illness. The behaviors manifested by recent acts or
7 omissions may be exhibited through a totality of recent
8 circumstances and may include a history of mental illness,
9 including previous hospitalizations. No person, however,
10 shall be deemed to be unable to satisfy his need for
11 nourishment, essential medical care, shelter or safety if
12 he is able to satisfy those needs with the supervision and
13 assistance of others who are willing and available.

14

15 (iv) "Examiner" means a licensed psychiatrist, a
16 licensed physician, a licensed advanced practitioner of
17 nursing with a clinical specialty in psychiatric and mental
18 health nursing, ~~working in collaboration with a licensed~~
19 ~~physician,~~ a licensed psychologist, a licensed professional
20 counselor, a licensed addictions therapist, a licensed
21 clinical social worker or a licensed marriage and family
22 therapist;

23

1 (ix) "Mental illness" and "mentally ill" mean ~~a~~
2 ~~physical,~~ an emotional, mental or behavioral disorder which
3 ~~causes a person to be dangerous to himself or others or~~
4 ~~unable to satisfy basic needs and which~~ requires treatment;

5 *** STAFF COMMENT ***

6 Paragraphs (a)(ii) and (ix), as currently
7 written, appear to be circular, i.e., both
8 require a mental illness and a danger to self or
9 others or unable to satisfy basic needs, with
10 each definition dependent on the other. Per
11 directions from the Committee in July, paragraph
12 (a)(ix) is revised to eliminate the problem with
13 circularity. With the deletion of that language
14 in the paragraph, the term "physical" could be
15 overbroad and include conditions unrelated to
16 conditions requiring detention or hospitalization
17 under Title 25, so the term was stricken.
18

19 (xiii) "Treatment" means diagnosis, evaluation,
20 intervention, which may include psychiatric medication,
21 individual and group mental health counseling, illness
22 management ~~therapy or prescribed care other than~~ diversion
23 services such as immediate linkages to mental health
24 services in the community and discharge planning.
25 Treatment shall begin at the time of detention if the
26 person knowingly and voluntarily consents and continue
27 throughout involuntary hospitalization. Treatment may be
28 given without the consent of the detained person or his
29 parent or guardian when treatment is limited to diagnosis
30 or evaluation or when treatment is necessary to prevent

1 immediate and serious physical harm to the person or
2 others. "Treatment" does not include observation ~~—or~~
3 supervision; ~~or discharge planning;~~

4 *** STAFF COMMENT ***

5 The preceding paragraph was amended by deleting
6 "family education or" and striking "therapy"
7 because the state cannot be required to pay for
8 third party treatment that is not directly
9 related to the emergency detention or involuntary
10 hospitalization, and therapy is superfluous since
11 therapy would now be covered under "counseling".
12 Discharge planning was moved from an exclusion to
13 the definition of treatment and has been included
14 within the definition of treatment. Language was
15 added to require consent of the detainee for
16 treatment with an exception, which language is
17 consistent with the language in W.S. 25-10-
18 109(f).
19

20 25-10-104. Duties of department of health as to
21 hospitals other than state hospital; rules and regulations.

22
23 (b) The department shall, through rules and
24 regulations, develop and implement standards governing:

25
26 (i) Mental health examiners to include training
27 and the definition of the roles and responsibilities of the
28 examiners while conducting evaluations under W.S. 25-10-
29 109;

30
31 (ii) Convalescent leave;

1

2

(iii) Conditional outpatient commitment.

3

4

25-10-109. Emergency detention.

5

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

14

15 (ii) Was mentally ill, but is no longer
16 dangerous to himself or others and is able to satisfy basic
17 needs, the person shall be released immediately; or

18

19 (d) A person taken into custody under this section
20 may be detained in a hospital or other suitable facility
21 which is appropriate under the circumstances. The person
22 shall not be detained in a nonmedical facility used for
23 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 who detained the person shall immediately notify the person
4 responsible for the care and custody of the detained
5 person, if known, of the time and place of detention.

6
7 **25-10-112. Liability for costs of detention,**
8 **involuntary hospitalization and proceedings therefor.**

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

14
15 (ii) Proceedings for detention or involuntary
16 hospitalization pursuant to W.S. 25-10-109 or 25-10-110.
17 The costs of these proceedings include the cost of
18 appointed counsel and examiners; ~~and~~

19
20 (iii) Clothing, if the person does not have and
21 cannot afford to purchase adequate clothing; ~~and~~ and

22

1 (iv) Any necessary travel to a hospital or a
2 detention facility, which shall be provided by a peace
3 officer or ambulance, except transportation provided under
4 W.S. 25-10-125(b) may be provided by any reasonable means
5 as determined by the county responsible for the payment of
6 such transportation.

7 ***** STAFF COMMENT *****

8 **New language was added on in the introductory**
9 **clause to limit "necessary travel".**
10

11 (d) The hospital or other treatment provider shall
12 attempt to recover all costs of treatment from public and
13 private health insurance, from patients, and from
14 government benefit programs prior to seeking payment from
15 the county or the department. The county and the
16 department shall accept the hospital's discharge of its
17 obligation to collect costs from the client as provided
18 under this subsection and shall not impose other means to
19 collect from the client any treatment or other costs
20 directly related to the client's detention or involuntary
21 hospitalization. The hospital or other treatment provider
22 shall have discharged its obligation to recover costs under
23 this subsection if it:
24

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

14 ***** STAFF COMMENT *****

15 **The new language in the preceding subsection was**
16 **added pursuant to a request at the July meeting**
17 **to avoid medical costs for conditions unrelated**
18 **to the reasons for the extended detention. The**
19 **intent of this added language would be to allow**
20 **the WDH to avoid such costs, at least until the**
21 **detainee was involuntarily hospitalized as a**
22 **result of the second hearing, at which time the**
23 **State would be assuming responsibility for the**
24 **person, which might then include responsibility**
25 **for the entire medical care of the patient.**
26

27 (g) Each board of county commissioners shall
28 establish a single point of responsibility to identify,
29 make referrals to, intervene and coordinate with community

1 or regional resources prior to and after an emergency
2 detention. The single point of responsibility may be
3 assigned to a community mental health center, designated
4 hospital or other entity that is able to provide treatment
5 as defined under this act. The department shall develop
6 rules and regulations specifying designation of the single
7 point of responsibility for counties and the core
8 activities that may be conducted by the single point of
9 responsibility.

10 ***** STAFF COMMENT *****

11 The preceding paragraph would have a fiscal
12 impact upon counties. The question is whether
13 this concept should be enacted at all, enacted on
14 a statewide basis, or enacted as a pilot project.
15 If enacted as a pilot project, it may be
16 preferable to remove it from the statute and
17 create a new noncodified provision, pending the
18 results of the pilot project.
19

20
21 **25-10-125. Clothing and transportation upon**
22 **discharge.**

23
24 (a) The department, pursuant to W.S. 25-10-112 shall
25 insure that a patient discharged from the state's custody
26 possesses suitable clothing and adequate means to insure
27 his arrival at the home from which he was admitted or

1 another place within the state, which is in the best
2 interests of the state and of the patient.

3

4 (b) The county responsible for payment of costs
5 pursuant to W.S. 25-10-112(a) shall insure that a patient
6 discharged from emergency detention within seventy-two (72)
7 hours, or upon expiration of emergency detention after
8 seventy-two (72) hours without a court order for
9 hospitalization under W.S. 25-10-110, possesses suitable
10 clothing and adequate means to insure his arrival at the
11 home from which he was admitted or another place within the
12 county, which is in the best interests of the county and of
13 the patient.

14

15 **Section 2.** This act is effective July 1, 2010.

16

17

(END)