

SENATE FILE NO. SF0058

Involuntary hospitalization and treatment.

Sponsored by: Joint Labor, Health & Social Services Interim 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

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

15

1 **25-10-110.1. Directed outpatient commitment**
2 **proceedings.**

3
4 (a) If the court finds based upon the recommendation
5 of an examiner or on its own determination that the
6 proposed patient is mentally ill but does not require
7 inpatient hospitalization, the court shall consider issuing
8 a directed outpatient commitment order. The court shall
9 require directed outpatient commitment for the proposed
10 patient for a period of time as determined appropriate by
11 the court, not to exceed two (2) years with review by the
12 court at least every six (6) months. The court may
13 designate an outpatient care provider that will provide
14 care to the proposed patient.

15
16 (b) In considering whether directed outpatient
17 commitment is appropriate, the court may consider one (1)
18 or more of the following:

19
20 (i) The proposed patient is diagnosed as having
21 a mental illness;

22

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

5

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

9

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

13

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

16

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

23

1 (d) The treatment plan may require:

2

3 (i) Periodic reporting;

4

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

7

8 (iii) Restrictions on travel;

9

10 (iv) Restrictions on consumption of alcoholic
11 beverages and drugs with requirements for any necessary
12 testing;

13

14 (v) Use of community based group homes, crisis
15 assistance centers or other available community based
16 support services;

17

18 (vi) Temporary inpatient or residential
19 treatment for stabilization;

20

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

23

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 (xvi), 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
7 ordered detention, directed outpatient commitment or
8 involuntary hospitalization of the person pursuant to this
9 act, or the district court in the county where the person
10 resides, is found or is hospitalized;

11

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

14

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

20

21 (xiii) "Treatment" means diagnosis, evaluation,
22 intervention, which may include psychiatric medication,
23 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)~~ (xvi) "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)