



State of Wisconsin
2021 - 2022 LEGISLATURE

LRBs0134/1
TJD:kjf

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 239**

May 18, 2021 - Offered by Senator JACQUE.

- 1 **AN ACT to amend** 51.15 (2) (c) of the statutes; **relating to:** approval of emergency
2 detention after evaluation of certain medical conditions.

Analysis by the Legislative Reference Bureau

This bill specifies that a county department's approval of an emergency detention of an individual must occur after an individual who is in a hospital emergency room is medically cleared for transport. Current law establishes a procedure for emergency detention of an individual who is believed to be mentally ill, drug dependent, or developmentally disabled and who demonstrates a substantial probability of physical harm to himself or herself or others or impairment or injury to himself or herself due to impaired judgment, or inability to satisfy certain basic needs due to mental illness. The applicable county department must approve the need for detention, which the county department may do only if a crisis assessment has been performed by a mental health professional and the mental health professional agrees with the need for the detention and if the county department reasonably believes the individual will not voluntarily consent to evaluation, diagnosis, and treatment. Transportation of the individual to a facility specified in current law for emergency detention occurs only after the county department approves, however, transportation of an individual who is in a hospital's emergency department may not occur until hospital staff who is treating the individual determines that the transfer is medically appropriate and has communicated that determination to the person transporting the individual.

Currently, in Milwaukee County, the treatment director of a facility has 24 hours from the time the individual is delivered to the facility to determine whether or not the individual must be detained for purposes of emergency detention. Once the treatment director makes a determination that an individual is being detained, the individual may not be detained for longer than 72 hours without a court hearing. The 24-hour period in which the treatment director must make the determination may be extended by any period that the determination is delayed that is directly attributable to evaluation or stabilizing treatment of nonpsychiatric medical conditions. Currently, in counties other than Milwaukee County, there is no 24-hour period for determination by a treatment director, and the 72-hour period during which the individual may be held without a hearing begins when the individual is taken into custody by law enforcement or another authorized person and continues upon transfer of the individual to the treatment facility.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 51.15 (2) (c) of the statutes is amended to read:

51.15 (2) (c) The After any determination made under par. (b) that an individual who is in a hospital's emergency department is medically appropriate to transfer, the county department may approve the detention only if a physician who has completed a residency in psychiatry, a psychologist licensed under ch. 455, or a mental health professional, as determined by the department, has performed a crisis assessment on the individual and agrees with the need for detention and the county department reasonably believes the individual will not voluntarily consent to evaluation, diagnosis, and treatment necessary to stabilize the individual and remove the substantial probability of physical harm, impairment, or injury to himself, herself, or others. For purposes of this paragraph, a crisis assessment may be conducted in person, by telephone, or by telemedicine or video conferencing technology.

(END)