



State of Wisconsin
2021 - 2022 LEGISLATURE

LRBs0164/1
TJD:skw

**SENATE SUBSTITUTE AMENDMENT 2,
TO SENATE BILL 239**

June 1, 2021 - Offered by Senator JACQUE.

1 **AN ACT** *to amend* 51.15 (4) (b) and 51.15 (5); and *to create* 51.15 (4) (d) of the
2 statutes; **relating to:** excluding time for evaluation and treatment of certain
3 medical conditions from the time limit for emergency detention without a
4 hearing.

Analysis by the Legislative Reference Bureau

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. Once an individual is taken into custody by law enforcement or another authorized person for purposes of an emergency detention, the individual may not be detained for more than 72 hours without a court hearing. Under the bill, if the individual's behavior cannot be assessed due directly to evaluation or stabilizing treatment of a nonpsychiatric medical condition of the individual, the county is allowed to petition a court to exclude from the 72 hours the period during the evaluation or stabilizing treatment of a nonpsychiatric medical condition in which the individual's behavior cannot be assessed. If the county files such a petition, it must do so before the original 72-hour period has expired.

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. Currently, 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.

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

1 **SECTION 1.** 51.15 (4) (b) of the statutes is amended to read:

2 51.15 (4) (b) Upon delivery of the individual, the treatment director of the
3 facility, or his or her designee, shall determine within 24 hours, except as provided
4 in par. (c), whether the individual shall be detained, or shall be detained, evaluated,
5 diagnosed and treated, if evaluation, diagnosis and treatment are permitted under
6 sub. (8), and shall either release the individual or detain him or her for a period not
7 to exceed 72 hours after the individual is taken into custody for the purposes of
8 emergency detention, exclusive of Saturdays, Sundays and legal holidays and except
9 as provided in par. (d). If the treatment director, or his or her designee, determines
10 that the individual is not eligible for commitment under s. 51.20 (1) (a), the treatment
11 director shall release the individual immediately, unless otherwise authorized by
12 law. If the individual is detained, the treatment director or his or her designee may
13 supplement in writing the statement filed by the law enforcement officer or other
14 person, and shall designate whether the subject individual is believed to be mentally
15 ill, developmentally disabled or drug dependent, if no designation was made by the
16 law enforcement officer or other person. The director or designee may also include
17 other specific information concerning his or her belief that the individual meets the
18 standard for commitment. The treatment director or designee shall then promptly

1 file the original statement together with any supplemental statement and
2 notification of detention with the court having probate jurisdiction in the county in
3 which the individual was taken into custody. The filing of the statement and
4 notification has the same effect as a petition for commitment under s. 51.20.

5 **SECTION 2.** 51.15 (4) (d) of the statutes is created to read:

6 51.15 (4) (d) If the officer or other person described under par. (a) or the
7 treatment director is unable to assess the individual's behavior due directly to
8 evaluation or stabilizing treatment of a nonpsychiatric medical condition of the
9 individual and before the 72-hour period under par. (b) has expired, the county may
10 petition a court to exclude from the 72 hours for which an individual may be detained
11 before a hearing the period during the evaluation or stabilizing treatment of a
12 nonpsychiatric medical condition in which the individual's behavior cannot be
13 assessed.

14 **SECTION 3.** 51.15 (5) of the statutes is amended to read:

15 51.15 (5) DETENTION PROCEDURE; OTHER COUNTIES. In counties having a
16 population of less than 750,000, the law enforcement officer or other person
17 authorized to take a child into custody under ch. 48 or to take a juvenile into custody
18 under ch. 938 shall sign a statement of emergency detention that shall provide
19 detailed specific information concerning the recent overt act, attempt, or threat to
20 act or omission on which the belief under sub. (1) is based and the names of persons
21 observing or reporting the recent overt act, attempt, or threat to act or omission. The
22 law enforcement officer or other person is not required to designate in the statement
23 whether the subject individual is mentally ill, developmentally disabled, or drug
24 dependent, but shall allege that he or she has cause to believe that the individual
25 evidences one or more of these conditions. The statement of emergency detention

1 shall be filed by the officer or other person with the detention facility at the time of
2 admission, and with the court immediately thereafter. The filing of the statement
3 has the same effect as a petition for commitment under s. 51.20. When, upon the
4 advice of the treatment staff, the director of a facility specified in sub. (2) (d)
5 determines that the grounds for detention no longer exist, he or she shall discharge
6 the individual detained under this section. Unless a hearing is held under s. 51.20
7 (7) or 55.135, the subject individual may not be detained by the law enforcement
8 officer or other person and the facility for more than a total of 72 hours after the
9 individual is taken into custody for the purposes of emergency detention, exclusive
10 of Saturdays, Sundays, and legal holidays. If the officer or other person is unable to
11 assess the individual's behavior due directly to evaluation or stabilizing treatment
12 of a nonpsychiatric medical condition of the individual and before the 72-hour period
13 has expired, the county may petition a court to exclude from the 72 hours for which
14 an individual may be detained before a hearing the period during the evaluation or
15 stabilizing treatment of a nonpsychiatric medical condition in which the individual's
16 behavior cannot be assessed.

17 (END)