125.81 Immediate custody.

1. If a person filing an application requests that a respondent be taken into immediate custody, and the court upon reviewing the application and accompanying documentation, finds probable cause to believe that the respondent is a chronic substance abuser who is likely to injure the person or other persons if allowed to remain at liberty, the court may enter a written order directing that the respondent be taken into immediate custody by the sheriff, and be detained until the commitment hearing, which shall be held no more than five days after the date of the order, except that if the fifth day after the date of the order is a Saturday, Sunday, or a holiday, the hearing may be held on the next business day. The court may order the respondent detained for the period of time until the hearing is held, and no longer except as provided in section 125.88, in accordance with subsection 2, paragraph *"a"*, if possible, and if not, then in accordance with subsection 2, paragraph *"b"*, or, only if neither of these alternatives is available in accordance with subsection 2, paragraph *"c"*.

2. Detention may be:

a. In the custody of a relative, friend, or other suitable person who is willing and able to accept responsibility for supervision of the respondent, with reasonable restrictions as the court may order including but not limited to restrictions on or a prohibition of any expenditure, encumbrance, or disposition of the respondent's funds or property.

b. In a suitable hospital, the chief medical officer of which shall be informed of the reasons why immediate custody has been ordered. The hospital may provide treatment which is necessary to preserve the respondent's life, or to appropriately control the respondent's behavior which is likely to result in physical injury to the person or to others if allowed to continue, and other treatment as deemed appropriate by the chief medical officer.

c. In the nearest facility which is licensed to care for persons with mental illness or substance abuse, provided that detention in a jail or other facility intended for confinement of those accused or convicted of a crime shall not be ordered.

3. The respondent's attorney may be allowed by the court to present evidence and arguments before the court's determination under this section. If such an opportunity is not provided at that time, respondent's attorney shall be allowed to present evidence and arguments after the issuance of the court's order of confinement and while the respondent is confined.

[82 Acts, ch 1212, §9]

90 Acts, ch 1085, §15; 91 Acts, ch 108, §2; 92 Acts, ch 1072, §1; 92 Acts, ch 1165, §1; 2009 Acts, ch 41, §187

[SP] For future amendment to subsection 1, effective July 1, 2012, see 2011 Acts, ch 121, §45, 62

[T] Section not amended; footnote added