

**125.91 Emergency detention.**

1. The procedure prescribed by this section shall only be used for a person with a substance-related disorder due to intoxication or substance-induced incapacitation who has threatened, attempted, or inflicted physical self-harm or harm on another, and is likely to inflict physical self-harm or harm on another unless immediately detained, or who is incapacitated by a substance, if an application has not been filed naming the person as the respondent pursuant to section 125.75 and the person cannot be ordered into immediate custody and detained pursuant to section 125.81.

2. *a.* A peace officer who has reasonable grounds to believe that the circumstances described in subsection 1 are applicable may, without a warrant, take or cause that person to be taken to the nearest available facility referred to in section 125.81, subsection 2, paragraph “*b*” or “*c*”. Such a person with a substance-related disorder due to intoxication or substance-induced incapacitation who also demonstrates a significant degree of distress or dysfunction may also be delivered to a facility by someone other than a peace officer upon a showing of reasonable grounds. Upon delivery of the person to a facility under this section, the attending physician may order treatment of the person, but only to the extent necessary to preserve the person’s life or to appropriately control the person’s behavior if the behavior is likely to result in physical injury to the person or others if allowed to continue. The peace officer or other person who delivered the person to the facility shall describe the circumstances of the matter to the attending physician. If the person is a peace officer, the peace officer may do so either in person or by written report. If the attending physician has reasonable grounds to believe that the circumstances in subsection 1 are applicable, the attending physician shall at once communicate with the nearest available magistrate as defined in section 801.4, subsection 10. The magistrate shall, based upon the circumstances described by the attending physician, give the attending physician oral instructions either directing that the person be released forthwith, or authorizing the person’s detention in an appropriate facility. The magistrate may also give oral instructions and order that the detained person be transported to an appropriate facility.

*b.* If the magistrate orders that the person be detained, the magistrate shall, by the close of business on the next working day, file a written order with the clerk in the county where it is anticipated that an application may be filed under section 125.75. The order may be filed by facsimile if necessary. The order shall state the circumstances under which the person was taken into custody or otherwise brought to a facility and the grounds supporting the finding of probable cause to believe that the person is a person with a substance-related disorder likely to result in physical injury to the person or others if not detained. The order shall confirm the oral order authorizing the person’s detention including any order given to transport the person to an appropriate facility. The clerk shall provide a copy of that order to the attending physician at the facility to which the person was originally taken, any subsequent facility to which the person was transported, and to any law enforcement department or ambulance service that transported the person pursuant to the magistrate’s order.

3. The attending physician shall examine and may detain the person pursuant to the magistrate’s order for a period not to exceed forty-eight hours from the time the order is dated, excluding Saturdays, Sundays, and holidays, unless the order is dismissed by a magistrate. The facility may provide treatment which is necessary to preserve the person’s life or to appropriately control the person’s behavior if the behavior is likely to result in physical injury to the person or others if allowed to continue or is otherwise deemed medically necessary by the attending physician, but shall not otherwise provide treatment to the person without the person’s consent. The person shall be discharged from the facility and released from detention no later than the expiration of the forty-eight-hour period, unless an application for involuntary commitment is filed with the clerk pursuant to section 125.75. The detention of a person by the procedure in this section, and not in excess of the period of time prescribed by this section, shall not render the peace officer, attending physician, or facility detaining the person liable in a criminal or civil action for false arrest or false imprisonment if the peace officer, attending physician, or facility had reasonable grounds to believe that the circumstances described in subsection 1 were applicable.

4. The cost of detention in a facility under the procedure prescribed in this section shall

be paid in the same way as if the person had been committed to the facility pursuant to an application filed under section 125.75.

[C75, 77, §125.17, 125.18; C79, 81, §125.34(4), 125.35; 82 Acts, ch 1212, §19]

90 Acts, ch 1085, §19; 2003 Acts, ch 68, §1, 2; 2009 Acts, ch 41, §188; 2011 Acts, ch 121, §50, 62; 2012 Acts, ch 1021, §44; 2012 Acts, ch 1079, §2

Referred to in §125.12, 125.34, 125.44, 125.92, 229.21, 602.6405

[T] 2011 amendments to subsections 1 – 3 take effect July 1, 2012; 2011 Acts, ch 121, §62

[T] See Code editor's note on simple harmonization at the end of Vol VI

[T] Subsections 1 – 3 amended