

229.11 Judge may order immediate custody.

1. If the applicant requests that the respondent be taken into immediate custody and the judge, upon reviewing the application and accompanying documentation, finds probable cause to believe that the respondent has a serious mental impairment and is likely to injure the respondent or other persons if allowed to remain at liberty, the judge may enter a written order directing that the respondent be taken into immediate custody by the sheriff or the sheriff's deputy and be detained until the hospitalization hearing. The hospitalization hearing 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 succeeding business day. If the expenses of a respondent are payable in whole or in part by a mental health and disability services region, for a placement in accordance with paragraph "a", the judge shall give notice of the placement to the regional administrator for the county in which the court is located, and for a placement in accordance with paragraph "b" or "c", the judge shall order the placement in a hospital or facility designated through the regional administrator. The judge may order the respondent detained for the period of time until the hearing is held, and no longer, in accordance with paragraph "a", if possible, and if not then in accordance with paragraph "b", or, only if neither of these alternatives is available, in accordance with paragraph "c". Detention may be:

a. In the custody of a relative, friend or other suitable person who is willing to accept responsibility for supervision of the respondent, and the respondent may be placed under such reasonable restrictions as the judge 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; or

b. In a suitable hospital the chief medical officer of which shall be informed of the reasons why immediate custody has been ordered and may provide treatment which is necessary to preserve the respondent's life, or to appropriately control behavior by the respondent which is likely to result in physical injury to the respondent or to others if allowed to continue, but may not otherwise provide treatment to the respondent without the respondent's consent; or

c. In the nearest facility in the community 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 crime shall not be ordered.

2. A respondent shall be released from detention prior to the hospitalization hearing if a licensed physician or mental health professional examines the respondent and determines the respondent no longer meets the criteria for detention under [subsection 1](#) and provides notification to the court.

3. If a respondent is detained pursuant to [subsection 1](#), paragraph "b" or "c", the sheriff or the sheriff's deputy that took the respondent into immediate custody may inform the hospital or facility that an arrest warrant has been issued for or charges are pending against the respondent and may request the hospital or facility to notify the sheriff or the sheriff's deputy about the discharge of the respondent prior to discharge.

4. The clerk shall furnish copies of any orders to the respondent and to the applicant if the applicant files a written waiver signed by the respondent.

[C77, 79, 81, §229.11]

89 Acts, ch 275, §3; 92 Acts, ch 1072, §3; 92 Acts, ch 1165, §2; 96 Acts, ch 1183, §20; 2004 Acts, ch 1090, §33; 2009 Acts, ch 41, §225; 2015 Acts, ch 69, §63; 2015 Acts, ch 138, §33, 161, 162; 2017 Acts, ch 109, §2, 20, 21; 2018 Acts, ch 1056, §9

Referred to in §218.92, 222.7, 226.31, 227.10, 227.15, 229.5, 229.6A, 229.7, 229.9, 229.10, 229.12, 229.14, 229.17, 229.18, 229.19, 229.21, 229.22, 229.23, 229.24, 229.26, 229.38, 229.45, 331.653

2017 amendment adding subsection 3 takes effect May 5, 2017, and applies to fiscal years beginning on or after July 1, 2017; 2017 Acts, ch 109, §20, 21

NEW subsection 2 and former subsections 2 and 3 renumbered as 3 and 4