

Senate Study Bill 1136

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the detention of a person taken into immediate
2 custody in an involuntary hospitalization proceeding and
3 providing a penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1883SC 83
6 rh/rj/5

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1 1 Section 1. Section 229.11, Code 2009, is amended to read
1 2 as follows:
1 3 229.11 JUDGE MAY ORDER IMMEDIATE CUSTODY.
1 4 1. If the applicant requests that the respondent be taken
1 5 into immediate custody and the judge, upon reviewing the
1 6 application and accompanying documentation, finds probable
1 7 cause to believe that the respondent has a serious mental
1 8 impairment and is likely to injure the respondent or other
1 9 persons if allowed to remain at liberty, the judge may enter a
1 10 written order directing that the respondent be taken into
1 11 immediate custody by the sheriff or the sheriff's deputy and
1 12 be detained until the hospitalization hearing.
1 13 2. The hospitalization hearing shall be held no more than
1 14 five days after the date of the order, except that if the
1 15 fifth day after the date of the order is a Saturday, Sunday,
1 16 or a holiday, the hearing may be held on the next succeeding
1 17 business day.
1 18 3. If the expenses of a respondent are payable in whole or
1 19 in part by a county, for a placement in accordance with
1 20 ~~subsection 1 paragraph "a"~~, the judge shall give notice of the
1 21 placement to the central point of coordination process, and
1 22 for a placement in accordance with ~~subsection 2 paragraph "b"~~
1 23 or ~~3 "c"~~, the judge shall order the placement in a hospital or
1 24 facility designated through the central point of coordination
1 25 process. The judge may order the respondent detained for the
1 26 period of time until the hearing is held, and no longer, in
1 27 accordance with ~~subsection 1 paragraph "a"~~ if possible, and if
1 28 not then in accordance with ~~subsection 2 paragraph "b"~~ or,
1 29 only if neither of these alternatives is available, in
1 30 accordance with ~~subsection 3 paragraph "c"~~. Detention may be:
1 31 ~~1- a.~~ In the custody of a relative, friend or other
1 32 suitable person who is willing to accept responsibility for
1 33 supervision of the respondent, and the respondent may be
1 34 placed under such reasonable restrictions as the judge may
1 35 order including, but not limited to, restrictions on or a
2 1 prohibition of any expenditure, encumbrance or disposition of
2 2 the respondent's funds or property ~~or,~~
2 3 ~~2- b.~~ In a suitable hospital the chief medical officer of
2 4 which shall be informed of the reasons why immediate custody
2 5 has been ordered and may provide treatment which is necessary
2 6 to preserve the respondent's life, or to appropriately control
2 7 behavior by the respondent which is likely to result in
2 8 physical injury to the respondent or to others if allowed to
2 9 continue, but may not otherwise provide treatment to the
2 10 respondent without the respondent's consent ~~or,~~
2 11 ~~3- c.~~ In the nearest facility in the community which is
2 12 licensed to care for persons with mental illness or substance
2 13 abuse, provided that detention in a jail or other facility
2 14 intended for confinement of those accused or convicted of
2 15 crime shall not be ordered.
2 16 4. a. If the respondent is detained pursuant to
2 17 subsection 2, paragraph "b" or "c", hospital or facility

2 18 personnel shall immediately accept custody of the respondent
2 19 from the sheriff or the sheriff's deputy upon the respondent's
2 20 arrival in the hospital or facility if the respondent has been
2 21 evaluated by a physician within the previous twelve hours
2 22 pursuant to court order. If the respondent has not been
2 23 evaluated by a physician within the previous twelve hours
2 24 pursuant to court order, hospital or facility personnel shall
2 25 accept custody of the respondent from the sheriff or the
2 26 sheriff's deputy within an agreed upon time frame not to
2 27 exceed one hour unless both the sheriff or the sheriff's
2 28 deputy and the hospital or facility personnel agree in writing
2 29 that extraordinary circumstances warrant otherwise.
2 30 b. Failure on the part of hospital or facility personnel
2 31 to accept custody within the time frame specified in paragraph
2 32 "a" shall constitute contempt of court pursuant to chapter
2 33 665.

2 34 5. The clerk shall furnish copies of any orders to the
2 35 respondent and to the applicant if the applicant files a
3 1 written waiver signed by the respondent.

3 2 EXPLANATION

3 3 This bill relates to the detention of a person taken into
3 4 immediate custody in an involuntary hospitalization
3 5 proceeding.

3 6 The bill provides that if a respondent who is the subject
3 7 of an involuntary hospitalization proceeding has been taken
3 8 into immediate custody and detained in a hospital or facility,
3 9 hospital or facility personnel shall immediately accept
3 10 custody of the respondent from the sheriff or the sheriff's
3 11 deputy upon the respondent's arrival in the hospital or
3 12 facility if the respondent has been evaluated by a physician
3 13 within the previous 12 hours pursuant to court order. If the
3 14 respondent has not been evaluated by a physician within the
3 15 previous 12 hours pursuant to court order, hospital or
3 16 facility personnel shall accept custody of the respondent from
3 17 the sheriff or the sheriff's deputy within an agreed upon time
3 18 frame not to exceed one hour unless both the sheriff or the
3 19 sheriff's deputy and the hospital or facility personnel agree
3 20 in writing that extraordinary circumstances warrant otherwise.

3 21 Failure on the part of the hospital or facility personnel
3 22 to accept custody within the time frames specified constitutes
3 23 contempt of court pursuant to Code chapter 665 punishable by a
3 24 fine not to exceed \$500 or imprisonment in a county jail not
3 25 to exceed six months or both.

3 26 LSB 1883SC 83

3 27 rh/rj/5