



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0113/1
TJD:wlj

2021 SENATE BILL 239

March 24, 2021 - Introduced by Senators JACQUE and MARKLEIN, cosponsored by Representatives TITTL, JAMES, DITTRICH, MOSES, MURPHY, MURSAU, ROZAR, SKOWRONSKI and WICHGERS. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT** *to amend* 51.15 (5) of the statutes; **relating to:** excluding time for
2 evaluation and treatment of certain medical conditions from the time limit for
3 emergency detention without a 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. 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. Once the treatment director makes a determination that an individual is being detained, the individual may not be detained for longer than 72 hours without a court hearing. 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, and the 72-hour period during which the individual may be held without a hearing begins when the individual is taken into custody by law enforcement or another authorized person and continues upon transfer of the individual to the treatment facility. This bill excludes from the 72-hour time limit

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that an individual may be detained without a hearing for the purposes of emergency detention any period during which the individual's behavior is not observable that is directly attributable to evaluation or stabilizing treatment of a nonpsychiatric medical condition.

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

1 **SECTION 1.** 51.15 (5) of the statutes is amended to read:

2 51.15 (5) DETENTION PROCEDURE; OTHER COUNTIES. In counties having a
3 population of less than 750,000, the law enforcement officer or other person
4 authorized to take a child into custody under ch. 48 or to take a juvenile into custody
5 under ch. 938 shall sign a statement of emergency detention that shall provide
6 detailed specific information concerning the recent overt act, attempt, or threat to
7 act or omission on which the belief under sub. (1) is based and the names of persons
8 observing or reporting the recent overt act, attempt, or threat to act or omission. The
9 law enforcement officer or other person is not required to designate in the statement
10 whether the subject individual is mentally ill, developmentally disabled, or drug
11 dependent, but shall allege that he or she has cause to believe that the individual
12 evidences one or more of these conditions. The statement of emergency detention
13 shall be filed by the officer or other person with the detention facility at the time of
14 admission, and with the court immediately thereafter. The filing of the statement
15 has the same effect as a petition for commitment under s. 51.20. When, upon the
16 advice of the treatment staff, the director of a facility specified in sub. (2) (d)
17 determines that the grounds for detention no longer exist, he or she shall discharge
18 the individual detained under this section. Unless a hearing is held under s. 51.20
19 (7) or 55.135, the subject individual may not be detained by the law enforcement
20 officer or other person and the facility for more than a total of 72 hours after the

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1 individual is taken into custody for the purposes of emergency detention, exclusive
2 of Saturdays, Sundays, and legal holidays. When calculating the 72 hours for which
3 an individual may be detained under this subsection, any period during which the
4 individual's behavior is not observable that is directly attributable to evaluation or
5 stabilizing treatment of a nonpsychiatric medical condition of the individual is
6 excluded from the calculation.

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(END)