

CHAPTER 573. EMERGENCY DETENTION

SUBCHAPTER A. APPREHENSION BY PEACE OFFICER OR TRANSPORTATION FOR EMERGENCY DETENTION BY GUARDIAN

APPREHENSION BY PEACE OFFICER WITHOUT WARRANT (EPOW)

Sec.573.001.

- (a) A peace officer, without a warrant, may take a person into custody if the officer:
- (1) has reason to believe and does believe that:
 - (A) the person is mentally ill; and
 - (B) because of that mental illness there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained; and
 - (2) believes that there is not sufficient time to obtain a warrant before taking the person into custody.
- (b) A substantial risk of serious harm to the person or others under Subsection (a)(1)(B) may be demonstrated by:
- (1) the person's behavior; or
 - (2) evidence of severe emotional distress and deterioration in the person's mental condition to the extent that the person cannot remain at liberty.
- (c) The peace officer may form the belief that the person meets the criteria for apprehension:
- (1) from a representation of a credible person; or
 - (2) on the basis of the conduct of the apprehended person or the circumstances under which the apprehended person is found.
- (d) A peace officer who takes a person into custody under Subsection (a) shall immediately transport the apprehended person to:
- (1) the nearest appropriate inpatient mental health facility; or
 - (2) a mental health facility deemed suitable by the local mental health authority, if an appropriate inpatient mental health facility is not available.
- (e) A jail or similar detention facility may not be deemed suitable except in an extreme emergency.
- (f) A person detained in a jail or a nonmedical facility shall be kept separate from any person who is charged with or convicted of a crime.

PEACE OFFICER'S APPLICATION FOR DETENTION

Sec.573.002.

- (a) A peace officer shall immediately file an application for detention after transporting a person to a facility under Section 573.001.
- (b) The application for detention must contain:
- (1) a statement that the officer has reason to believe and does believe that the person evidences mental illness;
 - (2) a statement that the officer has reason to believe and does believe that the person evidences a substantial risk of serious harm to himself or others;
 - (3) a specific description of the risk of harm;
 - (4) a statement that the officer has reason to believe and does believe that the risk of harm is imminent unless the person is immediately restrained;
 - (5) a statement that the officer's beliefs are derived from specific recent behavior, overt acts, attempts, or threats that were observed by or reliably reported to the officer;
 - (6) a detailed description of the specific behavior, acts, attempts, or threats; and
 - (7) the name and relationship to the apprehended person of any person who reported or observed the behavior, acts, attempts, or threats.

**SUBCHAPTER B. JUDGE'S OR MAGISTRATE'S ORDER
FOR EMERGENCY APPREHENSION AND DETENTION**

(WARRANT)

APPLICATION FOR EMERGENCY DETENTION

Sec.573.011.

- (a) An adult may file a written application for the emergency detention of another person.
- (b) The application must state:
- (1) that the applicant has reason to believe and does believe that the person evidences mental illness;
 - (2) that the applicant has reason to believe and does believe that the person evidences a substantial risk of serious harm to himself or others;
 - (3) a specific description of the risk of harm;
 - (4) that the applicant has reason to believe and does believe that the risk of harm is imminent unless the person is immediately restrained;
 - (5) that the applicant's beliefs are derived from specific recent behavior, overt acts, attempts, or threats;
 - (6) a detailed description of the specific behavior, acts, attempts, or threats; and
 - (7) a detailed description of the applicant's relationship to the person whose detention is sought.
- (c) The application may be accompanied by any relevant information.

ISSUANCE OF WARRANT

Sec.573.012.

- (a) Except as provided by Subsection (h), an applicant for emergency detention must present the application personally to a judge or magistrate. The judge or magistrate shall examine the application and may interview the applicant. Except as provided by Subsection (g), the judge of a court with probate jurisdiction by administrative order may provide that the application must be:
- (1) presented personally to the court; or
 - (2) retained by court staff and presented to another judge or magistrate as soon as is practicable if the judge of the court is not available at the time the application is presented.
- (b) The magistrate shall deny the application unless the magistrate finds that there is reasonable cause to believe that:
- (1) the person evidences mental illness;
 - (2) the person evidences a substantial risk of serious harm to himself or others;
 - (3) the risk of harm is imminent unless the person is immediately restrained; and
 - (4) the necessary restraint cannot be accomplished without emergency detention.
- (c) A substantial risk of serious harm to the person or others under Subsection (b)(2) may be demonstrated by:
- (1) the person's behavior; or
 - (2) evidence of severe emotional distress and deterioration in the person's mental condition to the extent that the person cannot remain at liberty.
- (d) The magistrate shall issue to an on duty peace officer a warrant for the person's immediate apprehension if the magistrate finds that each criterion under Subsection (b) is satisfied.
- (e) A person apprehended under this section shall be transported for a preliminary examination in accordance with Section 573.021 to:
- (1) the nearest appropriate inpatient mental health facility; or
 - (2) a mental health facility deemed suitable by the local mental health authority, if an appropriate inpatient mental health facility is not available.
- (f) The warrant serves as an application for detention in the facility. The warrant and a copy of the application for the warrant shall be immediately transmitted to the facility.
- (g) If there is more than one court with probate jurisdiction in a county, an administrative order regarding a presentation of an application must be jointly issued by all of the judges of those courts.

(h) A judge or magistrate may permit an applicant who is a physician to present an application by secure electronic means, including satellite transmission, closed-circuit television transmission, or any other method of two-

(h) A judge or magistrate may permit an applicant who is a physician to present an application by secure electronic means, including satellite transmission, closed-circuit television transmission, or any other method of two-way electronic communication that:

(1) is secure;

(2) is available to the judge or magistrate; and

(3) provides for a simultaneous, compressed full-motion video and interactive communication of image and sound between the judge or magistrate and the applicant.

(i) The judge or magistrate shall provide for a recording of the presentation of an application under Subsection (h) to be made and preserved until the patient or proposed patient has been released or discharged. The patient or proposed patient may obtain a copy of the recording on payment of a reasonable amount to cover the costs of reproduction or, if the patient or proposed patient is indigent, the court shall provide a copy on the request of the patient or proposed patient without charging a cost for the copy.

SUBCHAPTER C. EMERGENCY DETENTION, RELEASE, AND RIGHTS

PRELIMINARY EXAMINATION

SAME FOR BOTH WARRANT AND EPOW

Sec.573.021.

(a) A facility shall temporarily accept a person for whom an application for detention is filed.

(b) A person accepted for a preliminary examination may be detained in custody for not longer than 48 hours after the time the person is presented to the facility unless a written order for protective custody is obtained. The 48-hour period allowed by this section includes any time the patient spends waiting in the facility for medical care before the person receives the preliminary examination. If the 48-hour period ends on a Saturday, Sunday, legal holiday, or before 4 p.m. on the first succeeding business day, the person may be detained until 4 p.m. on the first succeeding business day. If the 48-hour period ends at a different time, the person may be detained only until 4 p.m. on the day the 48-hour period ends. If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may, by written order made each day, extend by an additional 24 hours the period during which the person may be detained. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

(c) A physician shall examine the person as soon as possible within 12 hours after the time the person is apprehended by the peace officer or transported for emergency detention by the person's guardian.

(d) A facility must comply with this section only to the extent that the commissioner determines that a facility has sufficient resources to perform the necessary services under this section.

(e) A person may not be detained in a private mental health facility without the consent of the facility administrator.

EMERGENCY ADMISSION AND DETENTION

Sec.573.022.

(a) A person may be admitted to a facility for emergency detention only if the physician who conducted the preliminary examination of the person makes a written statement that:

(1) is acceptable to the facility;

(2) states that after a preliminary examination it is the physician's opinion that:

(A) the person is mentally ill;

(B) the person evidences a substantial risk of serious harm to himself or others;

(C) the described risk of harm is imminent unless the person is immediately restrained;

and

(D) emergency detention is the least restrictive means by which the necessary restraint may be accomplished; and

(3) includes:

(A) a description of the nature of the person's mental illness;

(B) a specific description of the risk of harm the person evidences that may be demonstrated either by the person's behavior or by evidence of severe emotional distress and deterioration in the person's mental condition to the extent that the person cannot remain at liberty; and

(C) the specific detailed information from which the physician formed the opinion in Subdivision (2).

(b) A mental health facility that has admitted a person for emergency detention under this section may transport the person to a mental health facility deemed suitable by the local mental health authority for the area. On the request of the local mental health authority, the judge may order that the proposed patient be detained in a department mental health facility.

RELEASE FROM EMERGENCY DETENTION

Sec.573.023.

(a) A person apprehended by a peace officer or transported for emergency detention under Subchapter A or detained under Subchapter B shall be released on completion of the preliminary examination unless the person is admitted to a facility under Section 573.022.

(b) A person admitted to a facility under Section 573.022 shall be released if the facility administrator determines at any time during the emergency detention period that one of the criteria prescribed by Section 573.022(2) no longer applies.

TRANSPORTATION AFTER RELEASE

Sec.573.024.

(a) Arrangements shall be made to transport a person who is entitled to release under Section 573.023 to:

(1) the location of the person's apprehension;

(2) the person's residence in this state; or

(3) another suitable location.

(b) Subsection (a) does not apply to a person who is arrested or who objects to the transportation.

(c) If the person was apprehended by a peace officer under Subchapter A, arrangements must be made to immediately transport the person. If the person was transported for emergency detention under Subchapter A or detained under Subchapter B, the person is entitled to reasonably prompt transportation.

(d) The county in which the person was apprehended shall pay the costs of transporting the person.