

HOUSE BILL NO. HB0134

Involuntary commitment-gatekeeper pilot program.

Sponsored by: Representative(s) Nicholas, B., Barlow and
Harvey and Senator(s) Perkins and Ross

A BILL

for

1 AN ACT relating to involuntary commitment; providing for an
2 involuntary commitment gatekeeper pilot program; amending
3 involuntary commitment statutes to include gatekeepers as
4 specified; requiring rulemaking; requiring reports; and
5 providing for effective dates.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 25-10-101(a) by creating a new
10 paragraph (xvi), 25-10-109(e), (f) and (h),
11 25-10-110(d)(intro), (v), (vi), by creating a new paragraph
12 (vii), (f), (h), (j)(i)(E), (ii), (m) and (n) and
13 25-10-112(a)(ii) and (g) are amended to read:

14

15 **25-10-101. Definitions.**

1

2 (a) As used in this act:

3

4 (xvi) "Gatekeeper" means an entity that:

5

6 (A) Serves as a single point of
7 responsibility to provide guidance on the issue of
8 detention or involuntary hospitalization and to monitor and
9 coordinate patient treatment prior to, during and after an
10 emergency detention or involuntary hospitalization; and

11

12 (B) Does not provide inpatient psychiatric
13 treatment for patients under this act.

14

15 **25-10-109. Emergency detention.**

16

17 (e) The law enforcement officer or examiner who
18 initially detained the person shall make a written
19 statement of the facts of the emergency detention. A copy
20 of the statement shall be given to the detained person, to
21 any gatekeeper and to any subsequent examiner.

22

1 (f) When a person is detained under emergency
2 circumstances, treatment may be given during the emergency
3 detention period if the person voluntarily and knowingly
4 consents. The parent or guardian of a minor or incompetent
5 person may consent to treatment. If the parent or guardian
6 of a minor patient does not consent to treatment, a
7 petition may be filed under the Child Protection Act.
8 Treatment may be given without the consent of the detained
9 person or his parent or guardian when treatment is limited
10 to diagnosis or evaluation or when treatment is necessary
11 to prevent immediate and serious physical harm to the
12 person or others. Prior to treatment, the person shall be
13 fully advised of the scope of treatment, and a report of
14 the treatment shall be provided to any gatekeeper and filed
15 with the court if involuntary hospitalization proceedings
16 are commenced. An examiner or a physician who provides
17 treatment in good faith pursuant to this subsection shall
18 be immune from civil liability for the treatment except
19 there shall be no immunity from liability for negligent
20 acts or deliberate misconduct.

21

22 (h) When a person is detained in emergency detention
23 and an application for involuntary hospitalization is filed

1 by the county attorney, the court shall appoint an attorney
2 to represent the detained person unless he has his own
3 attorney, shall designate a gatekeeper if available
4 pursuant to rules adopted by the department and ~~the court~~
5 shall conduct a hearing within seventy-two (72) hours,
6 excluding Saturdays, Sundays and legal holidays, of the
7 initial detention to determine whether continued detention
8 is required pending involuntary hospitalization
9 proceedings. The county attorney of the county where the
10 application is filed shall appear on behalf of the state at
11 the hearing. Any gatekeeper designated by the court shall
12 appear at the hearing and provide testimony concerning
13 continued detention and, if applicable, the issues outlined
14 in subsection (m) of this section. Notice of the
15 preliminary hearing shall be given to the county attorney,
16 any gatekeeper designated by the court, the detained person
17 and his attorney. The court may delay the hearing only at
18 the request of the detained person or his parent, guardian
19 or his attorney. An emergency detention hearing may be
20 waived at the request of the detained person or the
21 detained person's attorney, except in cases where a
22 licensed physician's assistant was the only examiner for
23 the emergency detention. If an emergency detention hearing

1 has been waived, the court may immediately conduct the
2 involuntary hospitalization hearing, provided that a
3 licensed physician's assistant shall not be the examiner
4 for an involuntary hospitalization hearing.

5

6 **25-10-110. Involuntary hospitalization proceedings.**

7

8 (d) Upon receipt of an application, the court shall
9 issue notice thereof to the proposed patient, the person
10 responsible for the care or custody of the proposed
11 patient, any gatekeeper designated by the court and other
12 persons designated by the court. The notice shall be served
13 as provided by the Wyoming Rules of Civil Procedure. The
14 notice shall apprise the proposed patient:

15

16 (v) Of the basis for the proposed
17 hospitalization, including a detailed statement of the
18 facts and supporting testimony; ~~and~~

19

20 (vi) That a hearing will be held if warranted by
21 the report of the examination of the proposed patient; ~~and~~ and

22

1 (vii) Of the identity of any designated
2 gatekeeper together with a description of the gatekeeper's
3 duties as provided by W.S. 25-10-101(a) (xvi).
4

5 (f) If the examiner reports the proposed patient is
6 not mentally ill, the court shall terminate the
7 proceedings. If the examiner reports the proposed patient
8 is mentally ill, the court shall fix a date for and give
9 notice of a hearing to be held as soon as possible. The
10 notice shall satisfy the requirements of paragraphs (d) (i)
11 through ~~(vi)~~ (vii) of this section.
12

13 (h) The proposed patient, the applicant, and all
14 others to whom notice is required may appear at the hearing
15 to testify and may present witnesses. The court shall
16 consider the testimony of any designated gatekeeper and may
17 receive the testimony of other persons. The proposed
18 patient shall be present at the hearing unless he waives
19 his right to appear. All persons not necessary to protect
20 the rights of the parties shall be excluded from the
21 hearing. The hearing shall be conducted in as informal a
22 manner as is consistent with orderly procedure and in a
23 physical setting which will not have a harmful effect on

1 the mental health of the proposed patient. Any hearing
2 conducted under this subsection shall be recorded by the
3 court reporter or by electronic, mechanical or other
4 appropriate means.

5

6 (j) If, upon completion of the hearing and
7 consideration of the record, the court or the jury finds by
8 clear and convincing evidence that the proposed patient is
9 mentally ill the court shall consider the least restrictive
10 and most therapeutic alternatives and shall:

11

12 (i) Order his hospitalization, assign him to a
13 hospital, and:

14

15 (E) Make findings as to his competence to
16 make informed choices regarding treatment and his need for
17 prescribed psychotropic medication. If the court finds the
18 person incompetent to make an informed decision, the court
19 may order the administration of prescribed psychotropic
20 medication. The order for medication shall be reviewed by
21 a physician upon commitment and by a psychiatrist upon
22 admission to the hospital. The prescribed medication shall
23 be continued if found medically appropriate by the

1 investigation review committee of the hospital or
2 institution, subject to review by the medical director of
3 the hospital or institution. Any action by the medical
4 director of the hospital or institution shall be reviewable
5 pursuant to the Wyoming Administrative Procedure Act. All
6 orders for prescribed medication or a summary of the orders
7 shall be provided to any designated gatekeeper.

8
9 (ii) Suspend the proceedings pending voluntary
10 treatment as approved by the examiner and by the facility
11 or individual who will provide the treatment in
12 consultation with any designated gatekeeper. If the court
13 finds that the proposed patient does not require continuous
14 inpatient hospitalization, would be more appropriately
15 treated in an outpatient treatment program or a combination
16 of outpatient and inpatient treatment or will be able to
17 appropriately control his illness by following a prescribed
18 treatment plan, the court shall consider such treatment
19 options. If the court finds that the proposed patient does
20 not require continuous hospitalization and the funding is
21 available, it shall consider conditional outpatient
22 treatment for a period of time deemed appropriate and may
23 designate an outpatient care provider, including mental

1 health centers. Conditional outpatient treatment may
2 require periodic reporting, consultation with and reporting
3 to a gatekeeper, continuation of medication and submission
4 to testing and restriction of travel, consumption of
5 alcoholic beverages or drugs, associations with other
6 persons or other reasonable conditions as the court may
7 specify provided the court may suspend the imposition of
8 the conditional outpatient treatment order for failure to
9 meet the conditions and order involuntary hospitalization
10 under this section; or

11

12 (m) An appointed examiner shall receive for his
13 services in each court ordered examination a reasonable fee
14 fixed by the court. A gatekeeper designated pursuant to
15 W.S. 25-10-109 shall receive compensation as established in
16 rules promulgated by the department.

17

18 (n) The court shall inquire into the medical
19 condition of every patient found to be mentally ill. If the
20 court determines based upon the advice of a physician and
21 in consultation with any designated gatekeeper, that the
22 patient's present primary need is for medical treatment or
23 care and whose need for psychiatric care is secondary, the

1 court may delay ordering the commitment of the patient to
2 the Wyoming state hospital until such time as the patient
3 receives medical care and the patient's need for
4 psychiatric care is primary.

5

6 **25-10-112. Liability for costs of detention,**
7 **involuntary hospitalization and proceedings therefor.**

8

9 (a) Subject to the provisions of subsections (d) and
10 (e) of this section, the county in which a person is
11 detained or in which involuntary hospitalization
12 proceedings are brought shall pay the costs of:

13

14 (ii) Proceedings for detention or involuntary
15 hospitalization pursuant to W.S. 25-10-109 or 25-10-110.
16 The costs of these proceedings include the cost of
17 appointed counsel, gatekeepers and examiners;

18

19 (g) Each board of county commissioners may establish
20 a single point of responsibility to identify, make
21 referrals to, intervene and coordinate with community or
22 regional resources prior to and after an emergency
23 detention. The single point of responsibility may be

1 assigned to a community mental health center, designated
2 hospital or other entity that is able to provide treatment
3 as defined under this act. The single point of
4 responsibility may be a gatekeeper made available by rules
5 promulgated by the department. Any gatekeeper assigned
6 pursuant to this subsection shall have the obligations and
7 authority provided to gatekeepers designated by the court
8 pursuant to W.S. 25-10-109(h).

9
10 **Section 2.**

11
12 (a) The department of health shall develop an
13 involuntary commitment gatekeeper pilot program to operate
14 in state fiscal year 2017. The program shall designate
15 gatekeepers to provide guidance and testimony, to
16 coordinate and to monitor issues concerning detention,
17 involuntary hospitalization and patient care under title
18 25, chapter 10 of the Wyoming statutes. The specific
19 program elements and the availability, obligations and
20 duties of pilot program gatekeepers shall be provided by
21 rules promulgated by the department. Consistent with the
22 amendments made to W.S. 25-10-101, 25-10-109 and 25-10-110
23 in section 1 of this act, the department's rules shall

1 develop a program and assign tasks to gatekeepers which
2 will improve the effective and cost efficient operation of
3 Wyoming's involuntary commitment system.

4

5 (b) The gatekeeper program required by this section
6 shall use Wyoming community mental health centers or
7 substance abuse centers to act as gatekeepers.

8

9 (c) Funding for the program, including any
10 reimbursement authorized for gatekeepers, shall come from
11 existing funds available for community mental health
12 centers and substance abuse centers.

13

14 (d) The department shall regularly update any
15 legislative committee, working group or subcommittee
16 assigned to consider involuntary commitment under Title 25.
17 The department's updates shall include available
18 information on the development, implementation, funding,
19 operation and performance of the involuntary commitment
20 gatekeeper pilot program. If no legislative entity is
21 assigned to consider involuntary commitment issues, the
22 department shall report to the joint labor, health and
23 social services interim committee. Updates shall be made

1 at each interim committee, working group or subcommittee
2 meeting. Unless regular updates have been provided to the
3 joint labor, health and social services interim committee
4 prior to July 1, 2016, the department shall update the
5 joint labor, health and social services interim committee
6 on the development, implementation, funding, operation and
7 performance of the involuntary commitment gatekeeper pilot
8 program on or before July 1, 2016 and again on or before
9 October 1, 2016. On or before December 1, 2016, the
10 department shall provide an update which includes a
11 recommendation for the continuance or cessation of the
12 involuntary commitment gatekeeper pilot program on June 30,
13 2017 together with any other recommendations deemed
14 relevant. The department shall continue to update any
15 legislative entity assigned to consider involuntary
16 commitment issues and the joint labor, health and social
17 services interim committee after the 2017 General Session
18 as required by law or at the request of the entity or
19 committee. These updates shall include any data which
20 indicates the pilot program's impact on involuntary
21 commitments and the costs of the involuntary commitment
22 system in Wyoming.

23

1 **Section 3.**

2

3 (a) For the purpose of promulgating the rules
4 authorized by this act and taking other actions necessary
5 to allow the operation of an involuntary commitment
6 gatekeeper pilot program on or after July 1, 2016, this act
7 is effective immediately upon completion of all acts
8 necessary for a bill to become law as provided by Article
9 4, Section 8 of the Wyoming Constitution.

10

11 (b) Except as specified in subsection (a) of this
12 section, this act is effective July 1, 2016.

13

14

(END)