

§810. Emergency temporary custody

Upon the department's submission of an affidavit showing by clear and convincing evidence that the person or property which is the subject of the petition requires immediate custody in order to avoid a clear and immediate public health threat, a judge of the District Court or justice of the Superior Court may grant temporary custody of the subject of the petition to the department and may order specific emergency care, treatment or evaluation. [PL 1989, c. 487, §11 (NEW).]

1. Orders; ex parte proceedings. Orders under this section may be issued in an ex parte proceeding upon an affidavit which sets forth specific facts of the reasons that prior notice cannot or should not be given, upon which facts the order is sought. An ex parte order may not include orders for emergency care, treatment or evaluation unless the court finds by clear and convincing evidence that such care, treatment or evaluation is immediately necessary. An ex parte order must be served on the subject of the petition immediately upon apprehension. [PL 1989, c. 487, §11 (NEW).]

2. Hearing within time certain. Unless waived in writing by the individual, after opportunity to consult with an attorney, a hearing shall be held within 72 hours of apprehension, exclusive of Saturdays, Sundays and legal holidays, to determine whether the individual shall remain in the department's custody. [PL 1989, c. 487, §11 (NEW).]

3. Notice of hearing. Notice of the hearing must be served upon the individual held under this section at least 24 hours before the hearing and the notice must specify: the time, date and place of the hearing; the grounds and underlying fact upon which the emergency hold is sought; the individual's right to appear at the hearing and to present and cross-examine witnesses; and the individual's right to counsel pursuant to section 811. [PL 1989, c. 487, §11 (NEW).]

4. Duration. In no event may the emergency hold continue longer than 5 days following the hearing, unless a petition for court ordered commitment is filed under section 812, subsection 1, paragraph F; if a petition is filed, the limitations imposed by the court under this subsection may continue until a hearing on the petition for commitment is held; that hearing must occur within 10 days of the filing of the petition, excluding Saturdays, Sundays and legal holidays. [PL 1989, c. 487, §11 (NEW).]

SECTION HISTORY

PL 1989, c. 487, §11 (NEW).

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