

2018 -- H 7725 SUBSTITUTE A AS AMENDED

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LC004964/SUB A/2
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO HEALTH AND SAFETY -- EMERGENCY COMMITMENT FOR DRUG
INTOXICATION

Introduced By: Representatives Casey, Morin, Canario, Hull, and Jacquard

Date Introduced: February 28, 2018

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 23-10.1 of the General Laws entitled "Emergency Commitment for
2 Drug Intoxication" is hereby amended by adding thereto the following sections:

3 **23-10.1-7. Substance abuse disorder.**

4 As used in §§ 23-10.1-7 through 23-10.1-8, the term "substance abuse disorder" means
5 the chronic or habitual consumption or ingestion of drugs and intoxicating substance by a person
6 to the extent that:

7 (1) Substantially injures the person's health or substantially interferes with the person's
8 social or economic functioning; or

9 (2) The person has lost the power of self-control over the use of such drugs and
10 intoxicating substance.

11 **23-10.1-8. Seventy-two (72) hour hold for substance abuse disorder.**

12 (a) A physician who concentrates in diagnosing and/or treating persons with substance
13 abuse disorders and who while treating a person (hereinafter, the "respondent ") for substance
14 abuse, has reason to believe that the respondent is suffering from a substance abuse disorder and
15 presents a danger or threat of danger to himself, family, or others, if not treated for substance
16 abuse disorder, may issue a seventy-two (72) hour hold on the respondent for in-patient treatment
17 at a facility designed to provide in-patient treatment to persons with substance abuse disorders.

18 An order issued under this section shall be in writing and shall include the factual basis for the

1 finding that the respondent requires a seventy-two (72) hour hold pursuant to this section. To
2 issue an order for a seventy-two hour (72) hold, the physician must find that a respondent:

3 (1) As a result of the use of a controlled substance, as defined or listed in the schedules of
4 the controlled substances act, 12 U.S.C. § 812 or in chapter 28 of title 21, is intoxicated to such an
5 extent that they are unconscious or have their judgment otherwise so impaired that they are
6 incapable of realizing and making a rational decision with respect to their need for treatment;

7 (2) Is likely to injure himself or herself or others, which for purposes of this section
8 means the respondent:

9 (i) Presents a substantial risk of physical harm to himself or herself as manifested by
10 behavior evidencing serious threats of, or attempts at, suicide, or by behavior that will result in
11 serious bodily harm; or

12 (ii) Presents a substantial risk of physical harm to other persons as manifested by
13 behavior or threats evidencing homicidal or other violent behavior.

14 (b) A family member of the respondent, or a first responder to the respondent, including
15 a member of the police, fire, or rescue unit (hereinafter a "first responder") who assisted in
16 bringing the respondent to the physician or the facility where the physician is treating the
17 respondent, may request the physician to issue such a hold, but no hold may be implemented
18 without an express written order from a physician as set forth in subsection (a) of this section.

19 (c) Any police officer, emergency medical technician, rescue personnel, fire
20 department personnel, or any other person acting pursuant to §§ 23-10.1 -7 through 23-10.1-10
21 shall be immune from liability for exercising their discretion in securing and transporting the
22 substance abuser or intoxicated individual to a facility against their will, provided that such
23 person is acting in good faith and with the reasonable belief that the respondent is a substance
24 abuser or under the influence of a controlled substance to such a degree that the respondent is a
25 danger to the respondent's self or to others: and provided further, that excessive force shall not be
26 utilized by such person.

27 **23-10.1-9. Hearing to extend seventy-two (72) hour hold.**

28 (a) The physician issuing the order, a family member of the respondent, or a first
29 responder who is familiar with the respondent may petition the district court for the district
30 wherein the seventy-two (72) hour hold is being enforced for an extension of the hold of the
31 respondent. The petition shall state the petitioner's belief, including the factual basis therefor, that
32 the respondent is suffering from a substance abuse disorder and presents a danger or threat of
33 danger to themselves, family, or others if the respondent does not continue to be treated for the
34 substance abuse disorder. These matters shall be given priority status on the district court's

1 calendar and shall be heard no later than seventy-two (72) hours after the commencement of the
2 hold on the respondent.

3 (b) A respondent subject to a seventy-two (72) hour hold pursuant to § 23-10.1-8 shall be
4 informed both verbally and in writing if a petition has been filed to extend the hold. The
5 respondent shall be entitled to legal counsel. At the preliminary hearing in the district court, the
6 court shall serve a copy of the petition upon the respondent and advise the respondent of the
7 nature of the proceedings and of the respondent's right to counsel. If the respondent is unable to
8 afford counsel, the court forthwith shall appoint the mental health advocate for the respondent.

9 (c) The burden of proof on whether to extend a seventy-two (72) hour hold shall be on
10 the petitioning party. The standard of determining whether or not to impose the hold shall be clear
11 and convincing evidence. No extension shall be granted without medical testimony from a
12 treating physician as to the elements set forth in § 23-10.1-8(a).

13 (d) The court may order the hold and treatment of the respondent to continue for a period
14 of up to thirty (30) days, and may, upon a motion and after hearing thereon, extend the time of
15 commitment for a period of up to another thirty (30) days. No involuntary commitment for
16 substance abuse disorder shall be extended more than two (2) times.

17 (e) The provisions of § 23-10.1-5 shall not apply to a seventy-two (72) hour hold issued
18 pursuant to §§ 23-10.1-7 through 23-10.1-10.

19 (f) If, at any time after the petition is filed, the court finds that there is no probable cause
20 to continue treatment or if the petitioner withdraws the petition, then the proceedings against the
21 respondent shall be dismissed.

22 **23-10.1-10. Seventy-two (72) hour holds to be in addition to other remedies.**

23 The authorization of and proceedings for a seventy-two (72) hour hold pursuant to §§ 23-
24 10.1-8 through 23-10.1-10 shall not preclude the concurrent or subsequent filing of other actions
25 for involuntary commitment of substance abusers, including, but not limited to, actions brought
26 pursuant to §§ 23-10.1-4.1 and 40.1-5-7.

27 **23-10.1-11. Rules and regulations.**

28 The department of health shall promulgate rules and regulations to implement the
29 provisions of §§ 23-10.1-7 through 23-10.1-10.

30 SECTION 2. This act shall take effect on January 1, 2019.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO HEALTH AND SAFETY -- EMERGENCY COMMITMENT FOR DRUG
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1 This act would authorize a seventy-two (72) hour hold to be ordered by a physician in
2 certain instances of substance abuse disorders. The hold could be continued beyond the seventy-
3 two (72) hour period if ordered by a district court judge.

4 This act would take effect on January 1, 2019.

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