

- in section 25-03.1-04, may cause the individual to be taken into custody and detained at a treatment facility as provided in subsection 3, and subject to section 25-03.1-26, except that if emergency conditions exist that prevent the immediate conveyance of the individual to a public treatment facility, a private facility that has adequate resources and capacity to hold that individual may hold the individual in anticipation of conveyance to a public treatment facility for up to twenty-three hours:
- a. Without conducting an immediate examination required under section 25-03.1-26; and
 - b. Without following notice and hearing requirements for a transfer to another treatment facility required under subsection 3 of section 25-03.1-34.
2. If a petitioner seeking the involuntary treatment of a respondent requests that the respondent be taken into immediate custody and the magistrate, upon reviewing the petition and accompanying documentation, finds probable cause to believe that the respondent is a person requiring treatment and there exists a serious risk of harm to the respondent, others, or property if allowed to remain at liberty, the magistrate may enter a written order directing that the respondent be taken into immediate custody and be detained as provided in subsection 3 until the preliminary or treatment hearing, which must be held no more than seven days after the date of the order.
 3. Detention under this section may be:
 - a. In a treatment facility where the director or superintendent must be informed of the reasons why immediate custody has been ordered. The facility may provide treatment that is necessary to preserve the respondent's life or to appropriately control behavior by the respondent which is likely to result in physical injury to self or to others if allowed to continue, but may not otherwise provide treatment to the respondent without the respondent's consent; or
 - b. In a public or private facility in the community which is suitably equipped and staffed for the purpose. Detention in a jail or other correctional facility may not be ordered except in cases of actual emergency when no other secure facility is accessible, and then only for a period of not more than twenty-four hours and under close supervision.
 4. Immediately upon being taken into custody, the individual must be advised of the purpose of custody, of the intended uses and possible effects of any evaluation that the individual undergoes, and of the individual's rights to counsel and to a preliminary or treatment hearing.
 5. Upon arrival at a facility the peace officer, physician, physician assistant, psychiatrist, psychologist, advanced practice registered nurse, or mental health professional who conveyed the individual or who caused the individual to be conveyed shall complete an application for evaluation and shall deliver a detailed written report from the peace officer, physician, physician assistant, psychiatrist, psychologist, advanced practice registered nurse, or the mental health professional who caused the individual to be conveyed. The written report must state the circumstances under which the individual was taken into custody. The report must allege in detail the overt act that constituted the basis for the beliefs that the individual is a person requiring treatment and that, because of that individual's condition, there exists a serious risk of harm to that individual, others, or property if the individual is not immediately detained.
 6. A peace officer maintains the peace officer's power of arrest, detention, and transport, throughout the entire state during a transport or detention in accordance with this section.

25-03.1-26. Emergency procedure - Acceptance of petition and individual - Notice - Court hearing set.

1. A public treatment facility immediately shall accept and a private treatment facility may accept on a provisional basis the application and the individual admitted under section 25-03.1-25. The superintendent or director shall require an immediate examination of the subject and, either within twenty-four hours, exclusive of holidays, after admission or within seventy-two hours after admission, exclusive of holidays, if the individual is

admitted with a serious physical condition or illness that requires prompt treatment, shall either:

- a. Release the individual if the superintendent or director finds that the subject does not meet the emergency commitment standards; or
 - b. File a petition if one has not been filed with the court of the individual's residence or the court which directed immediate custody under subsection 2 of section 25-03.1-25, giving notice to the court and stating in detail the circumstances and facts of the case.
2. Upon receipt of the petition and notice of the emergency detention, the magistrate shall set a date for a preliminary hearing, if the respondent is alleged to be a person who is mentally ill or a person who is both mentally ill and has a substance use disorder, or a treatment hearing, if the respondent is alleged to be a person who has a substance use disorder, to be held no later than four days, exclusive of weekends and holidays, after detention unless the person has been released as a person not requiring treatment, has been voluntarily admitted for treatment, has requested or agreed to a continuance, or unless the hearing has been extended by the magistrate for good cause shown. The magistrate shall appoint counsel if one has not been retained by the respondent.

25-03.1-27. Notice and statement of rights.

1. If an individual is detained for emergency evaluation and treatment under this chapter, the superintendent or director shall cause both the patient and, if possible, a responsible member of the patient's immediate family, a guardian, or a friend, if any, to receive:
 - a. A copy of the petition that asserted the individual is a person requiring treatment.
 - b. A written statement explaining the individual will be examined by an expert examiner within twenty-four hours of hospitalization, excluding holidays.
 - c. A written statement in simple terms explaining the rights of the individual alleged to be a person who is mentally ill or a person who is both mentally ill and has a substance use disorder to a preliminary hearing, to be present at the hearing, and to be represented by legal counsel, if the individual is certified by an expert examiner or examiners as a person requiring treatment.
 - d. A written statement in simple terms explaining the rights of the individual to a treatment hearing, to be present at the hearing, to be represented by legal counsel, and the right to an independent medical evaluation.
2. If the individual is unable to read or understand the written materials, every reasonable effort must be made to explain the written material in a language the individual understands, and a note of the explanation and by whom made must be entered into the patient record.

25-03.1-28. Records and proceedings.

A record must be made of all court hearings conducted under this chapter and a copy must be provided to the respondent upon request for purposes of appellate review of the proceedings. If the respondent is indigent, the copy must be provided free of charge, with the expense thereof borne by the county of residence of the respondent.

25-03.1-29. Appeal.

1. The respondent has the right to an expedited appeal from an order of involuntary commitment or alternative treatment, an order modifying a treatment order, an alternative treatment order or less restrictive treatment order, a continuing treatment order, an order denying a petition for discharge, or an order of transfer. Upon entry of an appealable order, the court shall notify the respondent of the right of appeal and the right to counsel. The notice of appeal must be filed within thirty days after the order has been entered. Such appeal must be to the supreme court and the hearing must be commenced within fourteen days of filing of the notice of appeal. The hearing must be