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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 9. PUBLIC SOCIAL SERVICES [10000 - 18999.98] (*Division 9 added by Stats. 1965, Ch. 1784.)*

PART 3. AID AND MEDICAL ASSISTANCE [11000 - 15771] (*Part 3 added by Stats. 1965, Ch. 1784.)*

CHAPTER 12. Protective Placements and Custody of Endangered Adults [15700 - 15705.40] (*Chapter 12 added by Stats. 1996, Ch. 913, Sec. 1.)*

ARTICLE 3. Protective Services [15703 - 15705.40] (*Article 3 added by Stats. 1996, Ch. 913, Sec. 1.)*

15703. (a) When, from personal observation, an authorized state or local law enforcement officer or designated employee of a county department of social services or mental health determines that an adult is an endangered adult, and no other option is available to mitigate the circumstances of that adult, the person may take the endangered adult into temporary emergency protective custody, and initiate adult protective proceedings.

(b) When an authorized person takes an endangered adult into temporary emergency protective custody and initiates adult protective proceedings, the person shall cause the endangered adult to be transported to a hospital as soon as possible if medical evaluation and any necessary treatment is required.

(c) Upon taking an endangered adult into custody pursuant to this chapter, the law enforcement agency taking the endangered adult into custody shall notify:

- (1) The superior court.
- (2) The endangered person's next of kin, when appropriate.
- (3) Adult protective services.

(d) This article shall not apply to state-licensed facilities.

(*Added by Stats. 1996, Ch. 913, Sec. 1. Effective January 1, 1997.*)

15703.05. Whether or not medical treatment is required, a physician treating an adult may, if he or she determines that the person is an endangered adult, delay the release of the endangered adult until a local law enforcement agency takes custody of the endangered adult, it is determined by the responding agency the adult is not endangered, or the responding agency takes other appropriate action to ensure the safety of the endangered adult.

(*Added by Stats. 1996, Ch. 913, Sec. 1. Effective January 1, 1997.*)

15703.1. (a) Temporary emergency protective custody under this chapter shall not exceed a period commencing at the time the endangered adult has been taken into protective custody to the first court day commencing not more than 72 hours thereafter.

(b) Upon being taken into temporary emergency custody, the endangered adult shall be transferred to an appropriate temporary residence, pending the outcome of investigation and judicial hearing required by this chapter.

(*Added by Stats. 1996, Ch. 913, Sec. 1. Effective January 1, 1997.*)

15705. (a) A designated county agency shall initiate an investigation and file a petition for issuance of an emergency protective services order within 24 hours after the endangered adult has been taken into temporary emergency protective custody.

(b) (1) The court shall hold a preliminary hearing no later than the first court day commencing after a period of 48 hours after the endangered adult has been taken into temporary emergency custody to establish probable cause for grounds for protective custody.

(2) The court shall render its decision on the petition no later than the first court day following a period of 72 hours after the endangered adult has been taken into protective custody.

(Added by Stats. 1996, Ch. 913, Sec. 1. Effective January 1, 1997.)

15705.05. If, as a result of the preliminary hearing, the court determines that probable cause does not exist to continue temporary emergency protective custody, the adult shall be released from temporary protective custody.

(Added by Stats. 1996, Ch. 913, Sec. 1. Effective January 1, 1997.)

15705.1. If, as a result of the preliminary hearing, the court determines that probable cause continues to exist for temporary emergency protective custody, the court may issue an order authorizing the provision of protective services on an emergency basis to an adult after finding on the record, based on clear and convincing evidence, that all of the following apply:

(a) The adult is an endangered adult.

(b) No other appropriate means are available to mitigate the situation that placed the endangered adult at risk of serious bodily harm or death.

(Added by Stats. 1996, Ch. 913, Sec. 1. Effective January 1, 1997.)

15705.15. In issuing an emergency order under this article, the court shall adhere to all of the following limitations:

(a) Only those protective services that are necessary to remove the conditions creating the emergency shall be ordered, and the court shall specifically designate the approved services in the emergency order.

(b) Protective services authorized by an emergency order shall not include hospitalization or a change of residence unless the court specifically finds that action is necessary and gives specific approval for that action in its order.

(c) Protective services may be provided through an emergency order for no more than 14 days, exclusive of Saturdays, Sundays, and legal holidays pending a hearing for long-term custody.

(d) (1) In its emergency order under this article, the court shall appoint the petitioner, next of kin, or other interested person, as appropriate, as a temporary conservator of the endangered adult.

(2) The court's appointee shall be responsible for the care of the endangered adult.

(3) The court's appointee may, until the expiration of the court's order, give consent for the provision of protective services for the endangered adult, in accordance with the emergency order.

(e) The issuance of an emergency order and the appointment of a temporary conservator of the endangered adult shall not deprive that endangered adult of any rights except to the extent provided in the order of appointment.

(Added by Stats. 1996, Ch. 913, Sec. 1. Effective January 1, 1997.)

15705.2. A petition for an emergency order under this article shall set forth all of the following information:

(a) The name, address, and interest of the petitioner.

(b) The name, age, and address of the person in need of protective service.

(c) The proposed protective services.

(d) The petitioner's reasonable belief, together with facts supportive thereof, of the existence of those circumstances that warrant the issuance of an emergency order.

(e) A statement of the petitioner's attempts to obtain the consent of the person for whom the protective services are proposed, and the outcome of those attempts.

(Added by Stats. 1996, Ch. 913, Sec. 1. Effective January 1, 1997.)

15705.25. (a) Notice of the filing of a petition for an emergency order shall be given, in language as understandable by the endangered adult as reasonably possible, at least 24 hours prior to the hearing on the petition for emergency intervention.

(b) The court may waive the 24-hour notice requirement on a showing that immediate and reasonably foreseeable physical harm to the person or other persons will result from the 24-hour delay, and reasonable attempts have been made to give notice. Notice of the final order of the court shall be given to each of the parties to the petition hearing.

(Added by Stats. 1996, Ch. 913, Sec. 1. Effective January 1, 1997.)

15705.30. The hearing on a petition for an emergency order under this article shall be held under all of the following conditions:

(a) The person with respect to whom an emergency order is sought shall be present unless that person knowingly and voluntarily waives the right to be present or due to the person's physical or psychological condition, he or she is unable to be present. Waiver or

inability to be present shall not be presumed from that nonappearance of the endangered adult, but shall be determined on the basis of factual information supplied to the court by counsel or a representative appointed by the court.

(b) The endangered adult has the right to counsel, regardless of whether he or she is present at the hearing. If the person is indigent or lacks the capacity to waive counsel, the court shall appoint counsel. The attorney shall advise the endangered adult of his or her rights in relation to the proceeding and shall represent him or her before the court.

(c) The endangered adult or his or her representative may present evidence and cross-examine witnesses.

(d) The hearing shall be held no earlier than 24 hours after the notice of the hearing has been given, unless the notice has been waived by the court.

(e) The court shall issue, for the record, a statement of its findings in support of any order for emergency protective services.

(Added by Stats. 1996, Ch. 913, Sec. 1. Effective January 1, 1997.)

15705.35. Before any law enforcement agency may implement this article, including the taking of any person into protective custody pursuant to Section 15703, the law enforcement agency shall enter into a signed agreement with the county adult protective services agency that specifies the protocol that the county and the law enforcement agency shall follow in implementing this article.

(Added by Stats. 1996, Ch. 913, Sec. 1. Effective January 1, 1997.)

15705.37. This chapter shall be operative in a county only if the county board of supervisors has adopted a resolution to make this chapter operative in that county.

(Added by Stats. 1996, Ch. 913, Sec. 1. Effective January 1, 1997.)

15705.40. This article shall not be used to circumvent the involuntary commitment process provided for pursuant to Chapter 2 (commencing with Section 5150) of Part 1 of Division 5.

(Added by Stats. 1996, Ch. 913, Sec. 1. Effective January 1, 1997.)