

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 09-0256.01 Jane Ritter

SENATE BILL 09-007

SENATE SPONSORSHIP

Veiga,

HOUSE SPONSORSHIP

Riesberg,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING MAKING CERTAIN DUTIES RELATED TO THE**
102 **INVOLUNTARY COMMITMENT PROCESS FOR SUBSTANCE ABUSERS**
103 **SOLELY THE AUTHORITY OF A LICENSED PHYSICIAN.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Eliminates the provisions of law that were to become effective July 1, 2009, that would have authorized an advanced practice nurse to examine a person for whom involuntary commitment for drug or alcohol abuse is sought.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
February 2, 2009

SENATE
2nd Reading Unamended
January 30, 2009

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 25-1-311 (1), (3), and (10), Colorado Revised
3 Statutes, as they will become effective July 1, 2009, are amended to read:

4 **25-1-311. Involuntary commitment of alcoholics.** (1) A person
5 may be committed to the custody of the division by the court upon the
6 petition of the person's spouse or guardian, a relative, a physician, an
7 advanced practice nurse, the administrator in charge of any approved
8 treatment facility, or any other responsible person. The petition shall
9 allege that the person is an alcoholic and that the person has threatened
10 or attempted to inflict or inflicted physical harm on himself or herself or
11 on another and that unless committed the person is likely to inflict
12 physical harm on himself or herself or on another or that the person is
13 incapacitated by alcohol. A refusal to undergo treatment does not
14 constitute evidence of lack of judgment as to the need for treatment. The
15 petition shall be accompanied by a certificate of a licensed physician ~~or~~
16 ~~advanced practice nurse~~ who has examined the person within two days
17 before submission of the petition, unless the person whose commitment
18 is sought has refused to submit to a medical examination, in which case
19 the fact of refusal shall be alleged in the petition. The certificate shall set
20 forth the physician's ~~or advanced practice nurse's~~ findings in support of
21 the allegations of the petition.

22 (3) At the hearing the court shall hear all relevant testimony,
23 including, if possible, the testimony of at least one licensed physician who
24 has examined the person whose commitment is sought. The person shall
25 be present unless the court believes that the person's presence is likely to
26 be injurious to the person; in this event, the court shall appoint a guardian
27 ad litem to represent the person throughout the proceeding. If the person

1 has refused to be examined by a licensed physician, ~~or advanced practice~~
2 ~~nurse~~ he or she shall be given an opportunity to be examined by a
3 court-appointed licensed physician. ~~or advanced practice nurse~~. If the
4 person refuses and there is sufficient evidence to believe that the
5 allegations of the petition are true or if the court believes that more
6 medical evidence is necessary, the court may commit the person to a
7 licensed hospital for a period of not more than five days for a diagnostic
8 examination. In such event, the court shall schedule a further hearing for
9 final determination of commitment, in no event later than five days after
10 the first hearing.

11 (10) The court shall inform the person whose commitment or
12 recommitment is sought of his or her right to contest the application, to
13 be represented by counsel at every stage of any proceedings relating to the
14 person's commitment and recommitment, and to have counsel appointed
15 by the court or provided by the court if he or she wants the assistance of
16 counsel and is unable to obtain counsel. If the court believes that the
17 person needs the assistance of counsel, the court shall require, by
18 appointment if necessary, counsel for the person regardless of his or her
19 wishes. The person whose commitment or recommitment is sought shall
20 be informed of his or her right to be examined by a licensed physician of
21 the person's choice. If the person is unable to obtain a licensed physician
22 and requests examination by a physician, ~~or advanced practice nurse~~, the
23 court shall employ a licensed physician. ~~or advanced practice nurse~~.

24 **SECTION 2.** 25-1-1107 (1), (3), and (11), Colorado Revised
25 Statutes, as they will become effective July 1, 2009, are amended to read:

26 **25-1-1107. Involuntary commitment of drug abusers.** (1) A
27 person may be committed to the custody of the division by the court upon

1 the petition of the person's spouse or guardian, a relative, a physician, an
2 advanced practice nurse, the administrator in charge of any approved
3 treatment facility, or any other responsible person. The petition shall
4 allege that the person is a drug abuser and that the person has threatened
5 or attempted to inflict or inflicted physical harm on himself or herself or
6 on another and that unless committed the person is likely to inflict
7 physical harm on himself or herself or on another or that the person is
8 incapacitated by drugs. A refusal to undergo treatment does not
9 constitute evidence of lack of judgment as to the need for treatment. The
10 petition shall be accompanied by a certificate of a licensed physician ~~or~~
11 ~~advanced practice nurse~~ who has examined the person within ten days
12 before submission of the petition, unless the person whose commitment
13 is sought has refused to submit to a medical examination or an
14 examination cannot be made of such person due to the person's condition.
15 The certificate shall set forth the physician's ~~or advanced practice nurse's~~
16 findings in support of the allegations of the petition.

17 (3) At the hearing the court shall hear all relevant testimony,
18 including, if possible, the testimony of at least one licensed physician ~~or~~
19 ~~advanced practice nurse~~ who has examined the person whose
20 commitment is sought. The person shall be present unless the court
21 believes that the person's presence is likely to be injurious to the person;
22 in this event, the court shall appoint a guardian ad litem to represent the
23 person throughout the proceeding. If the person has refused to be
24 examined by a licensed physician, ~~or advanced practice nurse~~, he or she
25 shall be given an opportunity to be examined by a court-appointed
26 licensed physician. ~~or advanced practice nurse~~. If the person refuses and
27 there is sufficient evidence to believe that the allegations of the petition

1 are true or if the court believes that more medical evidence is necessary,
2 the court may commit the person to a licensed hospital or an approved
3 public or private treatment facility for a period of not more than five days
4 for a diagnostic examination. In such event, the court shall schedule a
5 further hearing for final determination of commitment, in no event later
6 than five days after the first hearing.

7 (11) The court shall inform the person whose commitment or
8 recommitment is sought of his or her right to contest the application, to
9 be represented by counsel at every stage of any proceedings relating to the
10 person's commitment and recommitment, and to have counsel appointed
11 by the court or provided by the court if the person wants the assistance of
12 counsel and is unable to obtain counsel. If the court believes that the
13 person needs the assistance of counsel, the court shall require, by
14 appointment if necessary, counsel for the person regardless of the person's
15 wishes. The person whose commitment or recommitment is sought shall
16 be informed of his or her right to be examined by a licensed physician ~~or~~
17 ~~advanced practice nurse~~ of the person's choice. If the person is unable to
18 obtain a licensed physician ~~or advanced practice nurse~~ and requests
19 examination by a physician, ~~or advanced practice nurse~~, the court shall
20 employ a licensed physician. ~~or advanced practice nurse.~~

21 **SECTION 3. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.