

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.5207 Protection of public health in emergency; affidavit; court order; taking individual into custody; transporting individual to emergency care or treatment facility; temporary detention; notice of hearing; continued temporary detention; petition.

Sec. 5207.

(1) To protect the public health in an emergency, upon the filing of an affidavit by a department representative or a local health officer, the circuit court may order the department representative, local health officer, or a peace officer to take an individual whom the court has reasonable cause to believe is a carrier and is a health threat to others into custody and transport the individual to an appropriate emergency care or treatment facility for observation, examination, testing, diagnosis, or treatment and, if determined necessary by the court, temporary detention. If the individual is already institutionalized in a facility, the court may order the facility to temporarily detain the individual. An order issued under this subsection may be issued in an ex parte proceeding upon an affidavit of a department representative or a local health officer. The court shall issue an order under this subsection upon a determination that reasonable cause exists to believe that there is a substantial likelihood that the individual is a carrier and a health threat to others. An order under this subsection may be executed on any day and at any time, and shall be served upon the individual who is the subject of the order immediately upon apprehension or detention.

(2) An affidavit filed by a department representative or a local health officer under subsection (1) shall set forth the specific facts upon which the order is sought including, but not limited to, the reasons why an emergency order is sought.

(3) An individual temporarily detained under subsection (1) shall not be detained longer than 72 hours, excluding Saturdays, Sundays, and legal holidays, without a court hearing to determine if the temporary detention should continue.

(4) Notice of a hearing under subsection (3) shall be served upon the individual not less than 24 hours before the hearing is held. The notice shall contain all of the following information:

- (a) The time, date, and place of the hearing.
- (b) The grounds and underlying facts upon which continued detention is sought.
- (c) The individual's right to appear at the hearing.
- (d) The individual's right to present and cross-examine witnesses.

(e) The individual's right to counsel, including the right to counsel designated by the circuit court, as described in section 5205(13).

(5) The circuit court may order that the individual continue to be temporarily detained if the court finds, by a preponderance of the evidence, that the individual would pose a health threat to others if released. An order under this subsection to continued temporary detention shall not continue longer than 5 days, unless a petition is filed under section 5205. If a petition is filed under section 5205, the temporary detention shall continue until a hearing on the petition is held under section 5205.

History: Add. 1988, Act 490, Eff. Mar. 30, 1989 ;— Am. 1997, Act 57, Eff. Jan. 1, 1998

Popular Name: Act 368