

1 circumstances constituting imminent danger in the presence of a
2 family court judge, and the family court judge finds the child to
3 be neglected or abused as defined in section three, article one of
4 this chapter, the judge may order the child to be taken into the
5 emergency custody of the Department of Health and Human Resources
6 without the court order otherwise required by section three of this
7 article, if the judge finds that: (1) There exists an imminent
8 danger to the physical well-being of the child as defined in
9 section three, article one of this chapter; and (2) there are no
10 reasonable, available alternatives to the emergency custody order.
11 Upon notification by the family court judge that there exists an
12 imminent danger to the physical well-being of the child, the
13 department shall immediately respond and assist the judge in
14 emergency placement of the child.

15 (b) A child taken into emergency protective custody as subject
16 to imminent danger under this section may be housed by the
17 department or an authorized child shelter facility if no other
18 reasonable alternative is available to the court. The authority to
19 hold the child in protective custody as provided by this section,
20 absent a petition and proper order granting temporary custody
21 pursuant to section three of this article, shall terminate by
22 operation of law upon expiration of ninety-six hours from the time
23 the child is initially taken into protective custody.

24 (c) The family court shall, within two judicial days of its

1 emergency custody order issued pursuant to this section, file a
2 written order specifying all the facts upon which the decision to
3 order the child into protective custody was based and the date,
4 time and place of the taking. A copy of the written order shall be
5 transmitted forthwith to the department, the circuit court and
6 prosecuting attorney of the county. Upon receiving the written
7 order, the circuit court shall forthwith cause to be entered and
8 served an administrative order in the name of and regarding the
9 affected child directing the department to submit to the family and
10 circuit court an investigative report, including whether the
11 department intends to file a petition under section three of this
12 article, or appear before the circuit court in not more than
13 ninety-six hours from the taking at a scheduled hearing, to show
14 cause why the department's investigation report has not been
15 submitted to the circuit court and referring family court. The
16 scheduled hearing may be mooted by the department's earlier
17 submission of the investigative report or, in the alternative, the
18 filing of a child abuse and neglect petition under section three of
19 this article. The family court shall retain full jurisdiction of
20 the child custody proceedings or protective order proceedings, or
21 both, until a child abuse and neglect petition is filed.

22 (d) Any worker for the department assuming custody of a child
23 pursuant to this section shall immediately notify the child's
24 parents, parent, guardian or custodian of the taking of custody of

1 the child and the underlying reasons for taking custody, if the
2 whereabouts of the parents, parent, guardian or custodian are known
3 or can be discovered with due diligence; and if not, notice and
4 explanation shall be given to the child's closest relative, if his
5 or her whereabouts are known or can be discovered with due
6 diligence within a reasonable time. An inquiry shall be made of
7 relatives and neighbors, and if an appropriate relative or neighbor
8 is willing to assume custody of such child, such child shall
9 temporarily be placed in such custody.

10 (e) No child may be taken into custody under circumstances not
11 justified by this section or pursuant to section three of this
12 article without appropriate process. Any retention of a child or
13 order for retention of a child not complying with the time limits
14 and other requirements specified in this article is void by
15 operation of law.

NOTE: The purpose of this bill is to permit a family court judge to order a child who is in imminent danger to be taken into emergency custody of the Department of Health and Human Resources. The bill sets forth the procedure to be used. The bill sets forth where that child may be housed. The bill sets forth time limitations and other requirements. The bill also requires notifications.

This section is new; therefore, it has been completely underscored.