

1 S.88

2 Introduced by Senator Ayer

3 Referred to Committee on

4 Date:

5 Subject: Health; mental health; judicial proceedings; involuntary medication

6 Statement of purpose: This bill proposes to make hearings for involuntary

7 hospitalization and medication concurrent, broaden who can petition for

8 involuntary medication, and ensure involuntary medication can occur at

9 hospitals other than the Vermont State Hospital.

10 An act relating to involuntary medication

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 18 V.S.A. § 7612 is amended to read:

13 § 7612. APPLICATION FOR INVOLUNTARY TREATMENT

14 (a) An interested party may, by filing a written application, commence
15 proceedings for the involuntary treatment of an individual by judicial process.

16 (b) The application shall be filed in the ~~criminal~~ family division of the
17 superior court of the proposed patient's residence or, in the case of a
18 nonresident, in any district court.

1 (c) If the application is filed under section 7508 or 7620 of this title, it shall
2 be filed in the ~~criminal~~ family division of the superior court in which the
3 hospital is located.

4 * * *

5 Sec. 2. 18 V.S.A. § 7615 is amended to read:

6 § 7615. HEARING

7 (a) Upon receipt of the application, the court shall set a date for the hearing
8 to be held within ~~ten~~ five days from the date of the receipt of the application or
9 ~~20~~ 10 days from the date of the receipt of the application if a psychiatric
10 examination is ordered under section 7614 ~~unless the hearing is continued by~~
11 ~~the court~~ of this title.

12 * * *

13 Sec. 3. 18 V.S.A. § 7620 is amended to read:

14 § 7620. APPLICATION FOR CONTINUED TREATMENT

15 (a) If, prior to the expiration of any order issued in accordance with section
16 7623 of this title, the commissioner or the president of a designated hospital as
17 that term is used in section 7601 of this title believes that the condition of the
18 patient is such that the patient continues to require treatment, the commissioner
19 or president shall apply to the court for a determination that the patient is a
20 patient in need of further treatment and for an order of continued treatment.

1 (b) An application for an order authorizing continuing treatment shall
2 contain a statement setting forth the reasons for the commissioner's or
3 president's determination that the patient is a patient in need of further
4 treatment, a statement describing the treatment program provided to the patient
5 and the results of that course of treatment.

6 (c) Any order of treatment issued in accordance with section 7623 of this
7 title shall remain in force pending the court's decision on the application.

8 Sec. 4. 18 V.S.A. § 7624 is amended to read:

9 § 7624. PETITION FOR INVOLUNTARY MEDICATION

10 (a) The commissioner or the president of a designated hospital as that term
11 is used in section 7601 of this title may commence an action for the
12 involuntary medication of a person who is refusing to accept psychiatric
13 medication and meets any one of the following ~~three~~ five conditions:

14 (1) has been placed in the commissioner's care and custody pursuant to
15 section 7619 of this title or subsection 7621(b) of this title;

16 (2) has previously received treatment under an order of hospitalization
17 and is currently under an order of nonhospitalization;

18 (3) has been committed to the custody of the commissioner of
19 corrections as a convicted felon and is being held in a correctional facility
20 which is a designated facility pursuant to section 7628 of this title and for
21 whom the department of corrections and the department of mental health have

1 jointly determined that involuntary medication would be appropriate pursuant
2 to 28 V.S.A. § 907(4)(H).

3 (4) is currently hospitalized at Vermont State Hospital or a designated
4 hospital pursuant to section 7504 or 7505 of this title; or

5 (5) is temporarily committed to Vermont State Hospital or a designated
6 hospital pursuant to 13 V.S.A. § 4815.

7 (b) A petition for involuntary medication shall be filed in the family
8 division of the superior court in the county in which the person is receiving
9 treatment.

10 * * *

11 Sec. 4. 18 V.S.A. § 7625 is amended to read:

12 § 7625. HEARING ON PETITION FOR INVOLUNTARY MEDICATION;

13 BURDEN OF PROOF

14 (a) If a person subject to a hearing for involuntary medication pursuant to
15 section 7624 of this title is subject concurrently to an application for
16 involuntary treatment or continued treatment pursuant to section 7612 or 7620
17 of this title, the hearing on the petition for involuntary medication shall be held
18 concurrently with the hearing on the application for involuntary treatment or
19 continued treatment.

1 a significant clinical improvement in the person's mental state in the past
2 within an appropriate period of time.

3 * * *

4 (f) If the court grants the petition, in whole or in part, the court shall enter
5 an order authorizing the commissioner or the president of a designated hospital
6 to administer involuntary medication to the person. The order shall specify the
7 types of medication, the dosage range, length of administration and method of
8 administration for each. The order for involuntary medication shall not include
9 electric convulsive therapy, surgery or experimental medications. The order
10 shall require the person's treatment provider to conduct monthly reviews of the
11 medication to assess the continued need for involuntary medication, the
12 effectiveness of the medication, the existence of any side effects, and shall
13 document this review in detail in the patient's chart.

14 (g) For a person receiving treatment pursuant to an order of hospitalization,
15 the commissioner or the president of a designated hospital may administer
16 involuntary medication as authorized by this section to the person for up to 90
17 days, unless the court finds that an order is necessary for a longer period of
18 time. Such an order shall not be longer than the duration of the current order
19 of hospitalization.

20 * * *

1 (j) A future administration of involuntary medication authorized by the
2 court under subsection (i) of this section shall occur as follows:

3 (1) The treating physician shall execute and file with the commissioner
4 or president of a designated hospital a certification executed under penalty of
5 perjury that states all the following:

6 (A) The person has refused medication.

7 (B) The person is not competent to make a decision regarding
8 medication and to appreciate the consequences.

9 (C) The proposed medications, the dosage range, length of
10 administration and method of administration.

11 (D) The substantial probability that in the near future the person will
12 pose a danger of harm to self or others if not hospitalized and involuntarily
13 medicated.

14 (2) Depending on the type of medication ordered, the commissioner or
15 president of a designated hospital shall provide two to 14-days' notice, as set
16 forth in the initial court order, to the court, the person and the person's
17 attorney. The notice shall be given within 24 hours of receipt by the
18 commissioner or president of a designated hospital of the physician's
19 certification and shall state that the person may request an immediate hearing
20 to contest the order. The person may be hospitalized in a designated hospital

1 on the date specified in the notice for up to 72 hours in order to administer
2 involuntary medication.

3 * * *

4 Sec. 6. EFFECTIVE DATE

5 This act shall take effect on July 1, 2011.