H.472

Introduced by Representatives Hebert of Vernon, Beyor of Highgate, Savage of Swanton, and Terenzini of Rutland Town

Referred to Committee on

Date:

Subject: Mental health; immediate examinations; threats to schools

Statement of purpose of bill as introduced: This bill proposes to allow law enforcement officers and mental health professionals to transport a person to a designated hospital while an application for a warrant for immediate examination is pending. The bill would also make it a felony to threaten a school or students therein, and any person so doing would be deemed to have met the standard for an immediate examination.

An act relating to immediate examinations for threats to schools

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

Sec. 1. 18 V.S.A. § 7505 is amended to read:

§ 7505. WARRANT FOR IMMEDIATE EXAMINATION

(a)(1) In emergency circumstances where a certification by a physician is not available without serious and unreasonable delay, and when personal observation of the conduct of a person constitutes reasonable grounds to believe that the person is a person in need of treatment, and he or she presents

an immediate risk of serious bodily injury to himself or herself or others if not restrained, a law enforcement officer or mental health professional may make an application, not accompanied by a physician's certificate, to any district or superior judge for a warrant for an immediate examination.

(2) Any person issuing generalized threats to a child care facility as defined in 13 V.S.A. § 1702 or to an elementary or secondary school or to enrollees of a child care facility or an elementary or secondary school shall be deemed to have met the standard in subdivision (1) of this subsection (a) that the person presents an immediate risk of serious bodily injury to himself or herself or others if not restrained and may be held in temporary custody or held in temporary custody and transported to a designated hospital, pending the court's decision on the application for a warrant pursuant to subsection (b) of this section.

(b)(1)(A) The law enforcement officer or mental health professional ~~may take the person into temporary custody and~~ shall apply to the court without delay for the warrant. While the application for the warrant is pending, the law enforcement officer or mental health professional may either:

(i) take the person into temporary custody; or

(ii) take the person into temporary custody and transport the person to the nearest designated hospital.

(B) The application for a warrant shall be the sole authority needed for a law enforcement officer to enter a residence or other premises where the person is reasonably believed to be located in order to apprehend and take the person into temporary custody.

(2)(A)(i) In the event a person is transported to a designated hospital while the court's decision on the warrant is pending in accordance with subdivision (b)(1) of this section, the law enforcement officer or mental health professional shall execute a written report detailing the circumstances under which the person was taken into temporary custody and transported to the designated hospital.

(ii) A written report required pursuant to subdivision (i) of this subdivision (b)(2)(A) shall be made part of the person's clinical record if admitted pursuant to section 7508 of this title and the designated hospital shall provide a copy of the written report to the Department of Mental Health within one working day of receipt.

(B) The designated hospital shall not commence the immediate examination of the person prior to the court issuing a decision on the application for a warrant, unless the head of the hospital or his or her designee deems it necessary for the safety of the person, hospital staff, or public.

(c)(1) If the judge is satisfied that a physician's certificate is not available without serious and unreasonable delay or was not available without serious

and unreasonable delay at the time of application, and that probable cause exists to believe that the person is in need of an immediate examination, ~~he or she~~ the judge may order the person to submit to an immediate examination at a designated hospital.

(2) If the judge does not find that the standard in subdivision (1) of this subsection (c) has been met, a person in temporary custody or otherwise held at a designated hospital pursuant to subsection (b) of this section shall be released or discharged as applicable and the court shall order the person returned to the place from which he or she was taken, or to such place as the person reasonably directs.

(d) ~~If necessary, the court may order the law enforcement officer or mental health professional to transport the person to a designated hospital for an immediate examination.~~ [Deleted.]

(e) Upon admission to a designated hospital, the person shall be immediately examined by a licensed physician. If the physician certifies that the person is a person in need of treatment, the person shall be held for an emergency examination in accordance with section 7508 of this title. If the physician does not certify that the person is a person in need of treatment, he or she shall immediately discharge the person and cause him or her to be returned to the place from which he or she was taken, or to such place as the person reasonably directs.

Sec. 2. 13 V.S.A. § 1702 is added to read:

1702. THREATS TO CHILD CARE FACILITIES AND SCHOOLS

(a) A person shall not:

(1) by physical conduct, purposely place enrollees or staff of a child care facility or of an elementary or secondary school in reasonable fear of imminent bodily injury or physical confinement or restraint;

(2) threaten to commit a crime against enrollees or staff of a child care facility or of an elementary or secondary school with the intent to coerce or terrorize the enrollees or staff;

(3) threaten to commit a crime against the property of a child care facility or of an elementary or secondary school with the intent to coerce or terrorize the enrollees or staff;

(4) place an object or graffiti on the property of a child care facility or of an elementary or secondary school with the intent to coerce or terrorize the enrollees or staff; or

(5) threaten to commit any crime with the intent to cause the evacuation of the property of a child care facility or of an elementary or secondary school.

(b) An ability to carry out the threat is not an element of the offense.

(c) A person who violates this section shall be imprisoned not more than three years or fined not more than $5,000.00, or both.

(d) As used in this section, "child care facility" means a child care facility or family day care home licensed or registered under 33 V.S.A. chapter 35.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2013.