

Report of Committee of Conference

S.287

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference, to which were referred the disagreeing votes of the two Houses upon Senate Bill, entitled:

S.287. An act relating to involuntary treatment and medication.

Respectfully reports that it has met and considered the same and recommends that the Senate accede to the House Proposal of Amendment with further amendments as follows:

First: In Sec. 8, 18 V.S.A. § 7509, by striking subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) ~~The person~~ All persons admitted or held for admission shall be given the opportunity, subject to reasonable limitations, to communicate with others, including visits by a peer support person designated by the person, presence of the peer support person at all treatment team meetings the person is entitled to attend, the reasonable use of a telephone, and the reasonable use of electronic mail and the Internet.

Second: In Sec. 10, 18 V.S.A. § 7612a, by striking subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) If, based on a review conducted pursuant to subsection (a) of this section the Court finds probable cause to believe that the person was a person

in need of treatment at the time of his or her admission, the person shall be ordered held in the temporary custody of the Commissioner for further proceedings in accordance with Part 8 of this title. If probable cause is not established, the person shall be ordered discharged or released from the hospital and returned to the place from which he or she was transported or to such place as the person may reasonably direct.

Third: In Sec. 11, 18 V.S.A. § 7615, by striking subdivision (a)(2)(A)(ii) in its entirety and inserting in lieu thereof a new subdivision (ii) to read as follows:

(ii) may grant the motion if it finds that the person has received involuntary medication pursuant to section 7624 of this title during the past two years and based upon the person's response to previous and ongoing treatment there is good cause to believe that additional time will not result in the person establishing a therapeutic relationship with providers or regain competence, and serious deterioration of the mental condition is probable unless the motion is granted.

Fourth: In Sec. 11, 18 V.S.A. § 7615, by striking subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read as follows:

(e) The proposed patient may at his or her election attend the hearing, subject to reasonable rules of conduct, and the ~~court~~ Court may exclude all

persons, except a peer support person designated by the proposed patient, not necessary for the conduct of the hearing.

Fifth: In Sec. 15, 18 V.S.A. § 7627, by striking out subdivision (f)(2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) The order shall require the person's treatment provider to conduct ~~monthly~~ weekly reviews of the medication to assess the continued need for involuntary medication, the effectiveness of the medication, the existence of any side effects, and whether the patient has become competent pursuant to subsection 7625(c) of this title, and shall document this review in detail in the patient's chart and provide the person's attorney with a copy of that section of the chart within five days of its production.

Sixth: In Sec. 15, 18 V.S.A. § 7627, in subsection (g), by striking out the last sentence and inserting in lieu thereof the following: If at any time the treating psychiatrist finds that a person subject to an order for involuntary medication has become competent pursuant to subsection 7625(c) of this title, the order shall no longer be in effect.

Seventh: In Sec. 16, 18 V.S.A. § 7629, by striking subsections (a) through (c) in their entirety and inserting in lieu thereof the following:

(a) It is the intention of the ~~general assembly~~ General Assembly to recognize the right of a legally competent person to determine whether or not to accept medical treatment, including involuntary medication, absent an

emergency or a determination that the person is incompetent and lacks the ability to make a decision and appreciate the consequences.

(b) ~~This act protects this right through a judicial proceeding prior to the use of nonemergency involuntary medication and by limiting the duration of an order for involuntary treatment to no more than one year. The least restrictive conditions consistent with the person's right to adequate treatment shall be provided in all cases.~~ The General Assembly adopts the goal of high-quality, patient-centered health care, which the Institute of Medicine defines as “providing care that is respectful of and responsive to individual patient preferences, needs, and values and ensuring that patient values guide all clinical decisions.” A substitute decision-maker is sometimes necessary to **make a decision about** care when a person is incompetent and lacks the ability to make a decision and appreciate the consequences. Even when a person lacks competence, health care that a person is opposing should be avoided whenever possible because the distress and insult to human dignity that results from compelling a person to participate in medical treatment against his or her will are real, regardless of how poorly the person may understand the decision.

(c) It is the policy of the ~~general assembly~~ General Assembly to work ~~towards~~ toward a mental health system that does not require coercion or the use of involuntary medication.

Eighth: In Sec. 23, by deleting Sec. 23 in its entirety and inserting in lieu thereof a new Sec. 23 to read as follows:

Sec. 23. LEGISLATIVE INTENT; EMERGENCY INVOLUNTARY  
PROCEDURES

The Mental Health Oversight Committee shall identify and include in its 2014 annual report a list of policies that may require clarification of legislative intent in order for the Department of Mental Health to proceed with rulemaking pursuant to 2012 Acts and Resolves No.79, Sec. 33a. The Committee shall also make recommendations as to any legislation needed to clarify legislative intent for those policies identified by the Committee.

COMMITTEE ON THE PART OF  
THE SENATE

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SEN. JEANETTE K. WHITE

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SEN. CLAIRE D. AYER

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SEN. RICHARD W. SEARS

COMMITTEE ON THE PART OF  
THE HOUSE

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REP. THOMAS F. KOCH

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REP. ANNE B. DONAHUE

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REP. WILLIAM J. LIPPERT