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Date: April 10, 2014
To: House Committee on Human Services & House Committee on Judiciary
From: A.J. Ruben, Supervising Attorney, DRVT
Re: S. 287

Disability Rights Vermont, the Mental Health Care Ombudsman for the State of Vermont pursuant to 18 V.S. A. §7259 and Vermont's federally designated protection and advocacy system, appreciates being invited to provide the following information regarding S. 287. S. 287 is focused on reducing the time and requirements before a Court can order a patient to submit to psychiatric medications against their will. The impetus for this effort is a belief that speeding up the process for involuntary medication represents better care for patients held involuntarily in State's custody. The bill responds to concerns from providers and family members of people with mental health conditions regarding patients who are refusing medications and therefore subjected to prolonged institutionalization, seclusion, restraint and emergency involuntary medications, as well as at times causing or suffering significant injuries due to the mental health conditions. However, it is notable that in public hearings on this matter there have been no persons who have been subject to the non-emergency involuntary medication process who have spoken in favor of changing the laws to speed up the process. DRVT is concerned that the problems that S.287 are intended to address will not be remedied, and in fact may become much worse, if S.287 becomes law as currently written.

This concern is based on DRVT's familiarity with the current state of Vermont's Mental Health System. It seems clear from our experiences in facilities and in the community that the real causes of the problems S. 287 seeks to remedy are not addressed by S. 287. Those real, generally acknowledged problems include that:

- there are not enough psychiatrists in Vermont to provide a high level of care and supervision to providers and patients in both inpatient and outpatient settings;
- there are not enough peer support personnel in enough locations;

DRVT is the protection and advocacy system for the State of Vermont.

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- there are not enough voluntary outpatient or respite/supported living mental health care options to avoid inpatient, involuntary placement;
- there are not enough mobile crisis or police social worker staff in enough places;
- there are not enough creative alternative placements to emergency departments or correctional facilities where people are now kept for days or weeks pending available hospital beds;
- and there is not enough room and staff in the designated hospital units to provide safe spaces, recreational outdoor activities, art and other therapeutic interventions, all of which are necessary to allow otherwise violent patients to safely reduce their symptoms without harming themselves or others.

In addition, despite legislative mandates for DMH to establish uniform standards for implementing, debriefing and reporting emergency uses of force against involuntary patients in DMH custody but placed in private hospitals, DMH has not implemented those standards. These are the real problems in Vermont's mental health system that require our full attention, but have been swept aside during this legislative session in favor of consideration of S. 287, which will not impact any of these problems significantly or positively.

As for the actual judicial process for non-emergency involuntary medication, so far it appears that the Legislature has completely ignored or been distracted from the fact that **under current law right now any party can ask for the hearings to be expedited and, if they make a good enough showing, the Court can already order that these involuntary medication and commitment hearings be held just as fast as the proponents of the bill want them done.** The problem therefore is clearly not the law, it is the lack of resources to allow for implementation of existing law. There is not enough court time, not enough attorney time and not enough independent psychiatrist time to assure that each party (the patient and the State) can get a fair chance at the outcome they most want. There is no reason beyond a lack of resources that the State does not move for expedited hearings when the doctors in the facilities think it is necessary. In fact, it is very likely that this bill, which reduces timeframes and expands the opportunities to involuntarily medicate people but does not provide any additional funding to make the system capable of the increased flow, may make the overall mental health system worse, not better. From DRVT's experience and perspective, changing the judicial process for involuntary, non-emergency medication as envisioned by the current S. 287 is perhaps the least appropriate action our State can take to improve outcomes for people with mental health needs given these difficult resource issues identified above. DRVT urges the Committees to continue reviewing and investigating the need and impact of S. 287 as written.