

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 bill be amended as follows:

First: In Sec. 8, 18 V.S.A. § 7509, by striking subsection (b) in its entirety and inserting in lieu thereof the following:

(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. 11, 18 V.S.A. § 7615, by striking subdivision (a)(2)(B) in its entirety and inserting in lieu thereof the following:

(B) If the Court grants the motion for expedited hearing pursuant to this subdivision, the hearing shall be held within seven days from the date of the order for expedited hearing.

Third: In Sec. 11, 18 V.S.A. § 7615, by striking subsection (e) in its entirety and inserting in lieu thereof the following:

(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.

Fourth: In Sec. 12, 18 V.S.A. § 7624, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) The ~~commissioner~~ Commissioner may commence an action for the involuntary medication of a person who is refusing to accept psychiatric medication and meets any one of the following ~~three~~ six conditions:

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

(2) has previously received treatment under an order of hospitalization and is currently under an order of nonhospitalization, including a person on an order of nonhospitalization who resides in a secure residential recovery facility; ~~or~~

(3) has been committed to the custody of the ~~commissioner of corrections~~ Commissioner of Corrections as a convicted felon and is being held in a correctional facility which is a designated facility pursuant to section 7628 of this title and for whom the ~~department of corrections~~ Departments of

Corrections and ~~the department of mental health~~ of Mental Health have jointly determined jointly that involuntary medication would be appropriate pursuant to 28 V.S.A. § 907(4)(H);

(4) has an application for involuntary treatment pending for which the Court has granted a motion to expedite pursuant to subdivision 7615(a)(2)(A)(i) of this title;

(5)(A) has an application for involuntary treatment pending;

(B) waives the right to a hearing on the application for involuntary treatment until a later date; and

(C) agrees to proceed with an involuntary medication hearing without a ruling on whether he or she is a person in need of treatment; or

(6) has had an application for involuntary treatment pending pursuant to subdivision 7615(a)(1) of this title without a hearing for more than 20 days.

Fifth: In Sec. 12, 18 V.S.A. § 7624, in subdivision (b)(3), by striking out “subdivision (a)(5)” and by inserting in lieu thereof subdivisions (a)(5) and (6)

Sixth: In Sec. 15, 18 V.S.A. § 7627, by striking out subdivision (f)(2) in its entirety and inserting in lieu thereof the following:

(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 the documentation within five days of its production.~~

Seventh: In Sec. 16, 18 V.S.A. § 7629, by striking subsection (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 consent to 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

SEN. JEANETTE K. WHITE

SEN. CLAIRE D. AYER

SEN. RICHARD W. SEARS

COMMITTEE ON THE PART OF
THE HOUSE

REP. THOMAS F. KOCH

REP. ANNE B. DONAHUE

REP. WILLIAM J. LIPPERT