# S.287 as Passed HJ/HHS
**Section by Section Summary**

| Section | Summary of HJ/HHS Changes |
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| Sec. 1<br>18 V.S.A. § 7101<br>(Definitions) | • Removes selectman, town service officer, and town health officer from definition of "interested party"<br>• Moves definitions of "peer" and "peer services" from § 7252 |
| Sec. 2<br>18 V.S.A. § 7252<br>(Definitions) | • Repeals "peer" and "peer services" in conformity with Sec. 1 |
| Sec. 3<br>18 V.S.A. § 7256<br>(Reporting Requirements) | • Adds 3 new reporting requirements to existing DMH annual report:<br>o Maximization of patient autonomy/self-determination;<br>o Outcome measures on people for whom AIM is filed; and<br>o Progress on alternative treatment options<br>• Specifies organizations' outcome measures that DMH must consider in developing its own outcome measures |
| Sec. 4<br>18 V.S.A. § 7257<br>(Reportable Adverse Events) | • Requires hospital to report to DMH any staff injuries caused by a person in custody/temporary custody that are reported to DOL and the hospital's workers' compensation carrier |
| Sec. 5<br>18 V.S.A. § 7259<br>(Mental Health Care Ombudsman) | • Requires DMH to provide copies each month to MHC Ombudsman of certificates of need for all emergency involuntary procedures performed on a person in custody/temporary custody |
| Sec. 6<br>18 V.S.A. § 7504<br>(Application and Certificate for Emergency Examination) | • Application by interested party + physician certificate = person held for admission (versus admitted under current law) for an emergency exam<br>• Removes reference to "designated" because hospital where person is taken may not necessarily have inpatient psychiatric capacity |
| Sec. 7<br>18 V.S.A. § 7505<br>(Warrant and Certificate for Emergency Examination) | • Changes "immediate examination" to "emergency examination"<br>• Clarifies that emergency exam must be conducted as soon as possible after person arrives at hospital<br>• Initial certification must set forth facts and circumstances constituting need for emergency exam |
| Sec. 8<br>18 V.S.A. § 7508<br>(Emergency Examination and Second Certification) | • Emergency exam occurs no later than 24 hours after initial certification (versus no later than 1 working day after admission under current law)*<br>• Person can continue to be held after second certification (even if not admitted) pending court's probable cause review<br>• Temporary custody begins when the first of following occurs:<br>o Initial certification in a hospital; or<br>o Second certification.<br>• Adds various protections for people in temporary custody<br>• Persons admitted/held for admission must receive contact info for VLA, MHC Ombudsman, and patient representative<br>• DMH must regularly update info on available peer services<br>*Change from "admission" to "certification" as the triggering event for the emergency exam means that a person can no longer be held in a hospital indefinitely without starting the commitment process; change also accelerates judicial proceeding since AIT must be filed within 3 days of completion of emergency exam where a person is found to need treatment. The filing of the AIT triggers appointment of counsel and the probable cause review. |

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| Sec. 9<br>18 V.S.A. § 7509<br>(Treatment; Right of Access) | • Allows persons admitted/held for admission to receive visits from peers, and use email/internet |
| Sec. 10<br>18 V.S.A. § 7612<br>(Application for Involuntary Treatment) | • Court may change venue of hearing to unit where patient is located at time of trial<br>• In AIT, physician must specify alternative forms of care/treatment considered and why those alternatives were not pursued |
| Sec. 11<br>18 V.S.A. § 7612a<br>(Probable Cause Review) | • Requires the court to conduct a probable cause paper review within 3 days of the filing of an AIT; the review is based on EE and AIT<br>• If there is good cause for delay, AIT cannot be dismissed just because the probable cause review is not completed within 3 days of the filing of the AIT |
| Sec. 12<br>18 V.S.A. § 7615<br>(Hearing on Application for Involuntary Treatment) | • Allows the applicant or person to file for an expedited AIT hearing to be held within 10 days after order is granted. The Court shall/may grant the order when:<br>o Person demonstrated a significant risk of causing the person or others serious bodily even while hospitalized and clinical interventions have failed to address risk of harm; or<br>o Person received involuntary medication during the past 2 years and, based on person's response to treatment, there is good cause to believe additional time will not result in person establishing a therapeutic relationship with providers or regaining competence.<br>• Each party can have a one-time 7-day extension. Court can grant additional continuances if:<br>o It finds proceedings/parties would be substantially prejudiced without a continuance; or<br>o Parties stipulate to continuance.<br>• Designated peer can be present at AIT hearing |
| Sec. 13<br>18 V.S.A. § 7624<br>(Petition for Involuntary Medication) | • Adds 2 groups that may have AIM filed while AIT is pending:<br>o "Serious bodily injury" group expedited for AIT by Court; and<br>o Persons who waive right to AIT hearing before AIM hearing<br>• The Court automatically consolidates AIT/AIM of "serious bodily injury" group<br>• AIM (for both groups) is to be filed in county in which AIT is pending<br>• In AIM, physician must include that person is refusing proposed medication and that person lacks competence |
| Sec. 14<br>18 V.S.A. § 7625<br>(Hearing on Petition for Involuntary Medication; Burden of Proof) | • Changes to be consistent with consolidation language in Sec. 13 |
| Sec. 15<br>18 V.S.A. § 7626<br>(Advance Directive) | • Changes "durable power of attorney for health care" to "advance directive"<br>• Repeals subsection (c) which was struck down in *Hargrave*<br>• Requires Commissioner of Mental Health to develop protocol for designated hospitals on use/applicability of advance directives and expressions of treatment preferences<br>• Before patient released/discharged, hospital must provide to people in custody/temporary custody info developed by MHC Ombudsman and Vermont Ethics Network |

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| Sec. 16<br>18 V.S.A. § 7627<br>(Court Findings; Orders) | • Court to consider competency as a threshold matter<br>• A long-acting injection cannot be ordered by Court without clear & convincing evidence, particular to patient, that this treatment is appropriate<br>• Once a person under an IM order has become competent, the order is no longer in effect |
| Sec. 17<br>18 V.S.A. § 7629<br>(Legislative Intent) | • State recognizes right to determine health care, including treatment during periods of incompetency<br>• Goal of high-quality, patient-centered health care<br>• Distress/insult to human dignity that results from compelling medical procedures against person's will<br>• Judicial process to determine competence protects rights/values in this section |
| Sec. 18<br>18 V.S.A. § 9701<br>(Definitions) | • In the context of advance directives:<br>o Adds MHC ombudsman to definition of "ombudsman<br>o Adds definition of "patient representative" |
| Sec. 19<br>18 V.S.A. § 9703<br>(Form and Execution) | • Adds patient representative wherever ombudsman also appears |
| Sec. 20<br>18 V.S.A. § 9706<br>(When Advance Directive Becomes Effective) | • Adds patient representative where ombudsman also appears |
| Sec. 21<br>18 V.S.A. § 9707<br>(Authority and Obligations…) | • Adds patient representative where ombudsman also appears<br>• Strikes cross-reference to section that was previously repealed |
| Sec. 22<br>18 V.S.A. § 9718<br>(Petition for Review by Probate Division…) | • Adds patient representative where ombudsman also appears |
| Sec. 23<br>VT Rules for Family Proceedings Rule 12 | • Removes involuntary medication orders from automatic stay provisions of family rules; as a result, such orders are not automatically stayed and go into effect as soon as they are issued, and remain in effect if an appeal of the order is taken<br>• Permits the Family Division to stay an involuntary medication order while an appeal is pending |
| Sec. 24<br>(Report; Emergency Involuntary Procedures) | • Requires legislative counsel to submit report that:<br>o Identifies language in Act 79 that require protections for psychiatric hospital patients to meet/exceed protections at VSH; and<br>o Identifies policies requiring clarification of legislative intent for rulemaking on EIPs to proceed |
| Sec. 25<br>(Availability of Psychiatrists for Examination) | • AHS shall ensure Legal Aid has a sufficient number of psychiatrists to conduct independent exams within the statutory timeframe |

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| Sec. 26<br>(Legislative Council Statutory Revision Authority) | • Legislative counsel is authorized during statutory revision to change "petition for involuntary medication" to "application for involuntary medication" |
| Sec. 27<br>(Study and Report) | • Amends existing Act 114 reporting requirement to include interviews with people subject to proceedings for IM, regardless of whether they were involuntarily medicated<br>• Interviews conducted with patients may be conducted with the assistance of the patient representative |
| Sec. 28<br>(Effective Dates) | • Except Secs. 6-8, bill takes effect July 1, 2014<br>• Secs. 6-8 take effect Nov. 1, 2014 |