

TO: House Judiciary Committee

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SUBJECT: S. 287

DATE: April 24, 2014

Pursuant to the testimony and committee discussion yesterday we propose the following amendments:

§ 7508. Emergency examination

(a) When a person is admitted to a designated hospital for an emergency examination in accordance with section 7504 or 7505(e) of this title, he or she shall be examined and certified by a psychiatrist as soon as practicable, but not later than ~~one working day~~ twenty-four hours after admission.

§ 7512. DEFINITION.

As used in sections 7504-7511 of this chapter, “admission” means the involuntary physical presence of a person for evaluation or treatment, regardless of the location within the hospital where the person is held.

§ 7612. APPLICATION FOR INVOLUNTARY TREATMENT.

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(c) If the application is filed under section 7508 or 7620 of this title, it shall be filed in the ~~criminal division of the superior court~~ unit of the Family Division of the Superior Court in which the hospital is located. In all other cases, it shall be filed in the unit in which the proposed patient resides. In the case of a nonresident, it may be filed in any unit. The court shall have authority to change venue of the proceeding to the unit in which the proposed patient is located at the time of trial.

§ 7612a. PROBABLE CAUSE REVIEW.

(a) Within three days after an admission to a designated hospital pursuant to section 7504 or 7505 of this chapter the Department of Mental Health shall file the application for emergency examination or for warrant for immediate examination, together with any certification completed pursuant to section 7508 of this chapter in the Family Division of the Superior Court for the unit in which the hospital is located.

(b) Within three days after the filing pursuant to subsection (a) the Family Division of the Superior Court shall conduct a review to determine whether there is probable cause to believe that he or she was a person in need of treatment at the time of his or her admission. The review shall be based solely on the application for an emergency examination or for warrant for immediate examination and accompanying certificate pursuant to section 7508.

§ 7624. Petition for involuntary medication

(a) The 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~~ four conditions:

(1) Has been placed in the 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 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 and the department of mental health have jointly determined that involuntary medication would be appropriate pursuant to 28 V.S.A. § 907(4) (H); or

(4) is the subject of an application for involuntary treatment filed pursuant to 18 V.S.A. § 7508, is currently held in a designated hospital, has acted in such a way as to demonstrate a significant risk of causing the person or others serious bodily injury as defined in 13 V.S.A. § 1021 even while hospitalized and clinical interventions have failed to address the risk of harm to the person or others.

§ 7627. Court findings; orders

(f) If the court grants the petition, in whole or in part, the court shall enter an order authorizing the commissioner to administer involuntary medication to the person. The order shall specify the types of medication, the dosage range, which shall not exceed the maximum dosage recommended by the Food and Drug Administration, length of administration, and method of administration for each. The order for involuntary medication shall not include long-acting injections, nasogastric intubation, electric convulsive therapy, surgery, or experimental medications. 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 is able to make a decision and appreciate the consequences of that decision, and shall document this review in detail in the patient's chart and provide the patient's attorney with a copy of the documentation within five days of its creation.

§ 4815. Place of examination; temporary commitment

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(g)(1) Inpatient examination at the Vermont State Hospital, or its successor in interest, or a designated hospital. The Court shall not order an inpatient examination unless the designated mental health professional determines that the defendant is a person in need of treatment as defined in 18 V.S.A. § 7101(17).

(2) Before ordering the inpatient examination, the court shall determine what terms, if any, shall govern the defendant's release from custody under sections 7553-7554 of this title.

(3) An order for inpatient examination shall provide for placement of the defendant in the custody and care of the commissioner of mental health.

(A) If a Vermont State Hospital psychiatrist, or a psychiatrist of its successor in interest, or a designated hospital psychiatrist determines that the defendant is not in need of inpatient hospitalization prior to admission, the Commissioner shall release the defendant pursuant to the terms governing the defendant's release from the Commissioner's custody as ordered by the Court. The Commissioner of Mental Health shall ensure that all individuals who are determined not to be in need of inpatient hospitalization receive appropriate referrals for outpatient mental health services.

(B) If a Vermont State Hospital psychiatrist, or a psychiatrist of its successor in interest, or designated hospital psychiatrist determines that the defendant is in need of inpatient hospitalization:

(i) The Commissioner shall obtain an appropriate inpatient placement for the defendant at the Vermont State Hospital psychiatrist, or a psychiatrist of its successor in interest, or a designated hospital and, based on the defendant's clinical needs, may transfer the defendant between hospitals at any time while the order is in effect. A transfer to a designated hospital outside the no refusal system is subject to acceptance of the patient for admission by that hospital.

(ii) A defendant who has been determined in need of an inpatient evaluation shall not be held in a correctional facility.

(iii) The Department of Mental Health is ordered to develop the capacity to conduct inpatient evaluations in a designated hospital or alternate non-correction facility within the State of Vermont.

(iv) The defendant shall be returned to court for further appearance on the following business day if the defendant is no longer in need of inpatient hospitalization, unless the terms established by the court pursuant to subdivision (2) of this section permit the defendant to be released from custody.

(C) The defendant shall be returned to court for further appearance within two business days after the Commissioner notifies the court that the examination has been completed, unless the terms established by the Court pursuant to subdivision (2) of this section permit the defendant to be released from custody.

(4) If the defendant is to be released pursuant to subdivision (3)(A), (3)(B)(ii), or (3)(C) of this subsection and is not in the custody of the Commissioner of Corrections, the defendant shall be returned to the defendant's residence or such other appropriate place within the State of Vermont by the Department of Mental Health at the expense of the court.

(5) If it appears that an inpatient examination cannot reasonably be completed within 30 days, the Court issuing the original order, on request of the commissioner and upon good cause shown may order placement at the hospital extended for additional periods of 15 days in order to complete the examination, and the defendant on the expiration of the period provided for in such order shall be returned in accordance with this subsection.

(6) For the purposes of this subsection, "in need of inpatient hospitalization" means an individual has been determined under clinical standards of care to require inpatient treatment.