

Section 1

VAHHS supports the approach suggested by Legislative Counsel during Senate Judiciary deliberations on Tuesday, January 28, 2014.

As we understand the approach, current law would be amended to include a mandatory finding of probable cause shortly after the filing of the application for involuntary treatment. The finding would be based on the emergency examination paperwork and the application for involuntary treatment.

The optional preliminary hearing in current law under 18 V.S.A. § 7510 would be left intact.

Section 2

We propose clarifying that the petition for involuntary medication can be filed *at any time* rather than “jointly” with the application for involuntary treatment (hospitalization). Physicians must file the application for involuntary treatment (hospitalization) 72 hours after admission. At that point, they will not have yet determined whether to file a petition for involuntary medication.

Regardless of the number of petitions for medication filed, judges would still only need to rule on petitions for medication for those few cases that go through the full hospitalization hearing process. Only a small fraction of applications for involuntary treatment (hospitalization) have to be resolved by a judge in a hearing. The rest are resolved before they reach that point.

Section 3

VAHHS strongly supports including an explicit requirement for certain cases to be heard under a faster statutory timeframe.

We believe there are three groups of individuals whose cases should be heard more quickly: (1) those who are dangerous to others even when hospitalized; (2) those who present an unmanageable danger to themselves even when hospitalized such as a patient who is unwilling or unable to eat or drink; and (3) those for whom a petition for involuntary medication has been granted in the past. We could support language that would more clearly define these groups.

Section 8

We strongly support changing current law so that judges must explicitly grant a 30 day stay and/or a stay pending appeal, rather than allowing the stay to be automatic. The language regarding the 30 day stay appears to have support among stakeholders.

Under current law, there is no mechanism by which the Department of Mental Health can petition to have the stay lifted during the appeal process. Even if Legal Aid does not believe there are grounds for appeal, if an individual seeks the appeal on their own volition – an individual that the court has found to be incompetent to make health care decisions and in need of medication – the medication order is stayed. It is not unusual for these cases take 6 months or more resolve, during which time the individual goes untreated.

The changes proposed in S.287 create a fork in the road where now there is only a single option. If there are grounds to appeal the decision, the individual can petition for the medication order to be stayed.

Section 9

VAHHS supports section 9 which would hold Legal Aid accountable for keeping an adequate number of independent psychiatrists available for independent evaluations to help reduce unnecessary delays.