

TO: House Committee on Health Care
FROM: Jack McCullough
SUBJECT: S. 133--compromise language
DATE: April 18, 2017

I have been able to agree on compromise language with Karen Barber to amend Section 5 as follows:

Sec. 5. INVOLUNTARY TREATMENT AND MEDICATION

(a) The Secretary of Human Services, in collaboration with the Commissioner of Mental Health and the Chief Administrative Judge of the Vermont Superior Courts, shall conduct an analysis of the role that involuntary treatment and psychiatric medication play in inpatient psychiatric admissions and discharges as well as the impact on the system flow including emergency department wait times. The analysis shall examine gaps and shortcomings in the mental health system, including the adequacy of housing and other community resources available to divert patients from involuntary hospitalization and to accept patients ready for discharge from involuntary hospitalization; treatment modalities, including involuntary medication and non-medication alternatives available to address the needs of patients in psychiatric crises; and other characteristics of the mental health system that contribute to prolonged stays in hospital emergency departments and inpatient psychiatric units. The analysis shall examine the interplay between staff and patients' rights and the use of involuntary treatment and medication. In addition, to provide the legislature with a wide variety of options, the analysis shall examine the following, including the legal implications, the rationale or disincentives, and a cost benefit analysis for each:

- (1) a statutory directive to the Department of Mental Health to prioritize the restoration of competency where possible for all forensic patients committed to the care of the Commissioner;
- (2) enabling applications for involuntary treatment and applications for involuntary medication to be filed simultaneously or at any point that a psychiatrist believes joint filing is necessary for the restoration of the individual's competency.

(b) The Chief Administrative Judge of the Vermont Superior Courts, in consultation with the Department of Mental Health, shall conduct an analysis that examines mechanisms to increase efficiency and the expeditious resolution of cases filed pursuant to Chapter 181 of this Title, including issues relating to changes of venue, scheduling of hearings, judicial caseloads, the causes for any delays in the process of scheduling and resolving

cases, and any proposals to improve the efficient resolution of cases without reducing the due process afforded to patients.

(c) On or before October 1, 2017, Vermont Legal Aid and Disability Rights Vermont shall jointly submit an addendum addressing those portions of the Secretary's proposed action plan submitted pursuant to Sec. 2 of this act that relate to subsection (a) and (b) of this section. The addendum shall be submitted to the Senate Committee on Health and Welfare and to the House Committee on Health Care and shall identify any policy or legal concerns implicated by the analysis or legislative proposals in the Secretary's action plan.

(d) On or before November 15, 2017, the Department of Mental Health shall issue a request for information for a longitudinal study comparing the outcomes of patients who had court ordered medications while hospitalized with patients who did not receive court ordered medication while hospitalized (including both patients who voluntarily took medications and those who took no medication). The RFI should specify that the possible study would include all patients who received court ordered medication from 1998 to the present and should examine the following measures: length of involuntary hospitalization; time spent in inpatient and outpatient settings; number of hospital admissions, both voluntary and involuntary; residential placement; the patients' success in different types of residential settings; employment or other vocational and educational activities; criminal charges; quality of life, determined by both qualitative and quantitative measures; and other parameters determined in consultation with representatives of the inpatient and community treatment providers and advocates for the rights of psychiatric patients. RFI proposals shall include estimated costs, time-frames, and any other information necessary.