

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 3  
3 entitled “An act relating to mental health professionals’ duty to warn”  
4 respectfully reports that it has considered the same and recommends that the  
5 bill be amended by striking out all after the enacting clause and inserting in  
6 lieu thereof the following:

7 Sec. 1. LEGISLATIVE INTENT

8 It is the intent of the General Assembly in this act to respond to the  
9 Vermont Supreme Court’s decision in Kuligowski v. Brattleboro Retreat and  
10 Northeast Kingdom Human Services, 2016 VT 54A, by clarifying a mental  
11 health professional’s duty to disclose information concerning a client or patient  
12 in certain circumstances.

13 Sec. 2. 18 V.S.A. § 7115 is added to read:

14 § 7115. MENTAL HEALTH PROFESSIONAL; DISCLOSURE OF  
15 INFORMATION

16 (a)(1) A mental health professional has a duty to exercise reasonable care  
17 to protect an identifiable victim or property from danger, when the mental  
18 health professional knows or, based upon the standards of his or her respective  
19 mental health profession, should know that his or her client or patient poses:

20 (A) an imminent risk of serious danger to the identifiable victim; or

1           (B) an imminent risk to property to the extent that the risk represents  
2 a lethal threat to a person in the vicinity of the property.

3           (2) In discharging in good faith the duty described in subdivision (1) of  
4 this subsection:

5           (1) no cause of action against a mental health professional shall arise  
6 concerning client or patient privacy or confidentiality for disclosing  
7 information to third parties, or

8           (2) a mental health professional shall not be subject to criminal or civil  
9 liability.

10          (b)(1) To the extent permitted under State and federal patient privacy laws,  
11 a mental health professional discharging a client or patient from a psychiatric  
12 inpatient hospital or residential setting shall include in the discharge plan all  
13 necessary information on the client or patient's condition to enable the person  
14 or persons named in the discharge plan the ability to carry out the discharge  
15 functions.

16          (2) No cause of action against a mental health professional shall arise  
17 concerning client or patient privacy or confidentiality for disclosing  
18 information to third parties pursuant to subdivision (1)(A) of this subsection.

19          (c) A mental health professional shall not be required to violate the  
20 standards of his or her respective mental health profession in disclosing  
21 information pursuant to this section.

1        (d) As used in this section:

2            (1) “Identifiable victim” means a potential victim or victims who are  
3 capable of being identified.

4            (2) “Mental health professional” means the same as in section 7101 of  
5 this title.

6        Sec. 3. EFFECTIVE DATE

7        This act shall take effect on passage.

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9  
10        (Committee vote: \_\_\_\_\_)

11  
12        \_\_\_\_\_  
13        Senator \_\_\_\_\_

FOR THE COMMITTEE