

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 (A) 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; and

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

10 (b) A mental health professional shall not be required to violate the
11 standards of his or her respective mental health profession in disclosing
12 information pursuant to this section.

13 (c) As used in this section:

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

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

18 Sec. 3. 18 V.S.A. § 8011 is added to read:

19 § 8011. DISCHARGE PLANS

20 (a) To the extent permitted under State and federal patient privacy laws, a
21 mental health professional discharging a client or patient from a psychiatric

1 inpatient hospital or residential setting shall include in the discharge plan all
2 necessary information on the client or patient's condition to enable the person
3 or persons named in the discharge plan the ability to carry out his or her
4 discharge functions.

5 (b) 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 pursuant to subsection (a) of this subsection.

8 Sec. 4. EFFECTIVE DATE

9 This act shall take effect on passage.

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12 (Committee vote: _____)

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Senator _____

FOR THE COMMITTEE