

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 Kuligoski 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, no cause of action against a mental health professional shall
5 arise concerning client or patient privacy or confidentiality for disclosing
6 information to third parties, nor shall a mental health professional be subject to
7 criminal or civil liability.

8 (b)(1)(A) To the extent permitted under State and federal patient privacy
9 laws, a mental health professional discharging a client or patient from a
10 psychiatric inpatient hospital or residential setting into the care of a consenting
11 person or persons named in the client or patient’s discharge plan shall provide
12 the person or persons with all necessary information on the client or patient’s
13 condition to enable the person or persons to fulfill their duties.

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

17 (2) A consenting person named in a client or patient’s discharge plan
18 shall contact the discharging mental health professional if, to the person’s
19 knowledge, the client or patient fails to follow the discharge plan while it is in
20 effect.

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

4 (d) As used in this section:

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

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

9 Sec. 3. EFFECTIVE DATE

10 This act shall take effect on passage.

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13 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE