

1 S.36

2 Introduced by Senators Sears, Lyons, Champion, Chittenden, Collamore,
3 Gulick and Ingalls

4 Referred to Committee on Judiciary

5 Date: January 25, 2023

6 Subject: Criminal procedures; arrest without warrant; crimes against health
7 care workers at health facilities

8 Statement of purpose of bill as introduced: This bill proposes to permit a law
9 enforcement officer to arrest a person without a warrant if the officer has
10 probable cause to believe the person (1) assaulted or threatened a health care
11 worker at a health care facility or (2) engaged in disorderly conduct that
12 interfered with the provision of medically necessary health care services in a
13 health care facility.

14 ~~An act relating to permitting an arrest without a warrant for assaults and~~
15 ~~threats against health care workers and disorderly conduct at health care~~
16 ~~facilities~~

*An act relating to crimes against health care workers at hospitals and
against emergency medical treatment providers*

17 It is hereby enacted by the General Assembly of the State of Vermont:

18 ~~Sec. 1. Rule 3 of the Vermont Rules of Criminal Procedure is amended to~~

19 read:

20 ~~Rule 3. Arrest Without Warrant, Citation to Appear~~

1 * * *

2 (7) Nonwitnessed Misdemeanor Offenses. If an officer has probable cause
3 to believe a person has committed or is committing a misdemeanor outside the
4 presence of the officer, the officer may issue a citation to appear before a
5 judicial officer in lieu of arrest. The officer may arrest the person without a
6 warrant if the officer has probable cause to believe:

7 * * *

8 (8) The person has committed a misdemeanor which involves an assault
9 against a family member, or against a household member, as defined in 15
10 V.S.A. § 1101(2), or a child of such a family or household member.

11 * * *

12 (14) The person has violated 13 V.S.A. § 1023 (simple assault).

13 * * *

14 (18) The person has committed a misdemeanor that involves an assault
15 against a health care worker in a health care facility as those terms are defined
16 in 13 V.S.A. § 1028(d).

17 (19) The person has violated 13 V.S.A. § 1702 (criminal threatening)
18 against a health care worker in a health care facility as those terms are defined
19 in 13 V.S.A. § 1028(d).

1 ~~(20) The person has committed a violation of 13 V.S.A. § 1026~~
2 ~~(disorderly conduct) that interfered with the provision of medically necessary~~
3 ~~health care services in a health care facility as defined in 13 V.S.A. § 1028(d).~~
4 Sec. 2. EFFECTIVE DATE
5 ~~This act shall take effect on passage.~~

~~Sec. 1. Rule 3 of the Vermont Rules of Criminal Procedure is amended to read:~~

~~Rule 3. Arrest Without a Warrant; Citation to Appear~~

~~* * *~~

~~(c) Nonwitnessed Misdemeanor Offenses. If an officer has probable cause to believe a person has committed or is committing a misdemeanor outside the presence of the officer, the officer may issue a citation to appear before a judicial officer in lieu of arrest. The officer may arrest the person without a warrant if the officer has probable cause to believe:~~

~~* * *~~

~~(8) The person has committed a misdemeanor which involves an assault against a family member, or against a household member, as defined in 15 V.S.A. § 1101(2), or a child of such a family or household member.~~

~~* * *~~

~~(14) The person has violated 13 V.S.A. § 1023 (simple assault).~~

~~* * *~~

~~(18) The person has committed a misdemeanor that involves an assault against a health care worker in a health care facility as those terms are defined in 13 V.S.A. § 1028(d).~~

~~(19) The person has violated 13 V.S.A. § 1702 (criminal threatening) against a health care worker in a health care facility as those terms are defined in 13 V.S.A. § 1028(d).~~

~~(20) The person has committed a violation of 13 V.S.A. § 1026 (disorderly conduct) that interfered with the provision of medically necessary health care services in a health care facility as defined in 13 V.S.A. § 1028(d).~~

~~Sec. 2. 18 V.S.A. § 1885 is added to read:~~

~~§ 1383. DISCLOSURE OF PROTECTED HEALTH INFORMATION
REQUIRED~~

~~*When an authorized representative of a health care facility that operates as a covered entity requests that a law enforcement officer respond to and potentially arrest a patient for an alleged crime committed on the premises, the facility shall disclose to the law enforcement officer information that is sufficient to confirm whether the patient is medically cleared so that the patient may be removed from the facility and shall disclose any other information that will be necessary for purposes of safely taking custody of the patient.*~~

~~Sec. 3. EFFECTIVE DATE~~

~~*This act shall take effect on passage.*~~

~~Sec. 1. Rule 3 of the Vermont Rules of Criminal Procedure is amended to read:~~

~~Rule 3. Arrest Without a Warrant; Citation to Appear~~

~~* * *~~

~~(c) *Nonwitnessed Misdemeanor Offenses.* If an officer has probable cause to believe a person has committed or is committing a misdemeanor outside the presence of the officer, the officer may issue a citation to appear before a judicial officer in lieu of arrest. The officer may arrest the person without a warrant if the officer has probable cause to believe:~~

~~* * *~~

~~(8) *The person has committed a misdemeanor which involves an assault against a family member, or against a household member, as defined in 15 V.S.A. § 1101(2), or a child of such a family or household member.*~~

~~* * *~~

~~(14) *The person has violated 13 V.S.A. § 1023 (simple assault).*~~

~~* * *~~

~~(18) *The person has committed a misdemeanor that involves an assault against a health care worker in a health care facility as those terms are defined in 13 V.S.A. § 1028(d).*~~

~~(19) *The person has violated 13 V.S.A. § 1702 (criminal threatening) against a health care worker in a health care facility as those terms are defined in 13 V.S.A. § 1028(d).*~~

~~(20) *The person has committed a violation of 13 V.S.A. § 1026(a)(1) (disorderly conduct for engaging in fighting or in violent, tumultuous, or*~~

~~(threatening behavior) that interfered with the provision of medically necessary health care services in a health care facility as defined in 13 V.S.A. § 1028(d).~~

~~Sec. 2. 13 V.S.A. § 1702 is added to read:~~

~~§ 1702. CRIMINAL THREATENING~~

~~(a) A person shall not by words or conduct knowingly:~~

~~(1) threaten another person or a group of particular persons; and~~

~~(2) as a result of the threat, place the other person in reasonable apprehension of death, serious bodily injury, or sexual assault to the other person, a person in the group of particular persons, or any other person.~~

~~(b) A person who violates subsection (a) of this section shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.~~

~~* * *~~

~~(f) A person who violates subsection (a) of this section with the intent to terrify, intimidate, or unlawfully influence the conduct of a candidate for public office, a public servant, an election official, or a public employee in any decision, opinion, recommendation, vote, or other exercise of discretion taken in capacity as a candidate for public office, a public servant, an election official, or a public employee, or with the intent to retaliate against a candidate for public office, a public servant, an election official, or a public employee for any previous action taken in capacity as a candidate for public office, a public servant, an election official, or a public employee, shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.~~

~~(g) A person who violates subsection (a) of this section with the intent to terrify or intimidate a health care worker because of the worker's previous action or inaction taken in the provision of health care services shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.~~

~~(h) As used in this section:~~

~~(1) "Serious bodily injury" has the same meaning as in section 1021 of this title.~~

~~(2) "Threat" and "threaten" do not include constitutionally protected activity.~~

~~(3) "Candidate" has the same meaning as in 17 V.S.A. § 2103.~~

~~(4) "Election official" has the same meaning as in 17 V.S.A. § 2453.~~

~~(5) "Public employee" means a classified employee within the Legislative, Executive, or Judicial Branch of the State and any of its political~~

~~subdivisions and any employee within a county or local government and any of the county's or local government's political subdivisions.~~

~~(6) "Public servant" has the same meaning as in 17 V.S.A. § 2103.~~

~~(7) "Polling place" has the same meaning as described in 17 V.S.A. chapter 51 subchapter 4.~~

~~(8) "Sexual assault" has the same meaning as sexual assault as described in section 3252 of this title.~~

~~(9) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.~~

~~(10) "Health care worker" has the same meaning as in section 1028 of this title.~~

~~(h)(i) Any person charged under this section who is younger than the age identified in 33 V.S.A. § 5201(d) shall be subject to a juvenile proceeding.~~

~~Sec. 3. 18 V.S.A. § 1883 is added to read:~~

~~§ 1883. DISCLOSURE OF PROTECTED HEALTH INFORMATION
REQUIRED~~

~~When an authorized representative of a health care facility that operates as a covered entity requests that a law enforcement officer respond to and potentially arrest a patient for an alleged crime committed on the premises, the facility shall disclose to the law enforcement officer information that is sufficient to confirm whether the patient is medically cleared so that the patient may be removed from the facility and shall disclose any other information that will be necessary for purposes of safely taking custody of the patient.~~

~~Sec. 4. REPORT ON DE-ESCALATION~~

~~On or before January 15, 2024, the Vermont Program for Quality in Health Care, in consultation with stakeholders, shall provide a report to the Senate Committee on Health and Welfare and the House Committee on Health Care regarding de-escalation of potentially violent situations in health care facilities. With a health equity impact informed lens, the report shall include best practices for de-escalation, the types of de-escalation practices currently in use, barriers to training, and recommendations for appropriate policy improvements.~~

~~Sec. 5. EFFECTIVE DATE~~

~~This act shall take effect on passage.~~

Sec. 1. Rule 3 of the Vermont Rules of Criminal Procedure is amended to read:

Rule 3. Arrest Without a Warrant; Citation to Appear

** * **

(c) Nonwitnessed Misdemeanor Offenses. If an officer has probable cause to believe a person has committed or is committing a misdemeanor outside the presence of the officer, the officer may issue a citation to appear before a judicial officer in lieu of arrest. The officer may arrest the person without a warrant if the officer has probable cause to believe:

** * **

(8) The person has committed a misdemeanor which involves an assault against a family member, or against a household member, as defined in 15 V.S.A. § 1101(2), or a child of such a family or household member.

** * **

(14) The person has violated 13 V.S.A. § 1023 (simple assault).

** * **

(18) The person has committed a misdemeanor that involves an assault against:

(A) a health care worker in a hospital as those terms are defined in 13 V.S.A. § 1028(d)(3) and 18 V.S.A. § 1902(1); or

(B) a person providing emergency medical treatment as defined in 24 V.S.A. § 2651(9).

(19) The person has violated 13 V.S.A. § 1702 (criminal threatening) against:

(A) a health care worker in a hospital as those terms are defined in 13 V.S.A. § 1028(d)(3) and 18 V.S.A. § 1902(1); or

(B) a person providing emergency medical treatment as defined in 24 V.S.A. § 2651(9).

~~*(20) The person has committed a violation of 13 V.S.A. § 1026(a)(1) (disorderly conduct for engaging in fighting or in violent or threatening behavior) that interfered with the provision of medically necessary health care services:*~~

~~*(A) in a hospital as defined in 18 V.S.A. § 1902(1); or*~~

~~*(B) by a person providing emergency medical treatment as defined in 24 V.S.A. § 2651(9).*~~

(20) The person has committed a violation of 13 V.S.A. § 1026(a)(1) (disorderly conduct for engaging in fighting or in violent, tumultuous, or threatening behavior) that interfered with the provision of medically necessary health care services:

(A) in a hospital as defined in 18 V.S.A. § 1902(1); or

(B) by a person providing emergency medical treatment as defined in 24 V.S.A. § 2651(9).

* * *

Sec. 2. 13 V.S.A. § 1702 is amended to read:

§ 1702. CRIMINAL THREATENING

(a) A person shall not by words or conduct knowingly:

(1) threaten another person or a group of particular persons; and

(2) as a result of the threat, place the other person in reasonable apprehension of death, serious bodily injury, or sexual assault to the other person, a person in the group of particular persons, or any other person.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

* * *

(f) A person who violates subsection (a) of this section with the intent to terrify, intimidate, or unlawfully influence the conduct of a candidate for public office, a public servant, an election official, or a public employee in any decision, opinion, recommendation, vote, or other exercise of discretion taken in capacity as a candidate for public office, a public servant, an election official, or a public employee, or with the intent to retaliate against a candidate for public office, a public servant, an election official, or a public employee for any previous action taken in capacity as a candidate for public office, a public servant, an election official, or a public employee, shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(g) A person who violates subsection (a) of this section with the intent to terrify or intimidate a health care worker or an emergency medical personnel member because of the worker's or member's action or inaction taken in the provision of health care services shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(h) As used in this section:

(1) "Serious bodily injury" has the same meaning as in section 1021 of this title.

(2) “Threat” and “threaten” do not include constitutionally protected activity.

(3) “Candidate” has the same meaning as in 17 V.S.A. § 2103.

(4) “Election official” has the same meaning as in 17 V.S.A. § 2455.

(5) “Public employee” means a classified employee within the Legislative, Executive, or Judicial Branch of the State and any of its political subdivisions and any employee within a county or local government and any of the county’s or local government’s political subdivisions.

(6) “Public servant” has the same meaning as in 17 V.S.A. § 2103.

(7) “Polling place” has the same meaning as described in 17 V.S.A. chapter 51, subchapter 4.

(8) “Sexual assault” has the same meaning as sexual assault as described in section 3252 of this title.

(9) “Emergency medical personnel” has the same meaning as in 24 V.S.A. § 2651(6).

(10) “Health care services” means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

(11) “Health care worker” has the same meaning as in section 1028 of this title.

(h)(i) Any person charged under this section who is younger than the age identified in 33 V.S.A. § 5201(d) shall be subject to a juvenile proceeding.

Sec. 3. 18 V.S.A. § 1883 is added to read:

§ 1883. DISCLOSURE OF PROTECTED HEALTH INFORMATION
REQUIRED

(a) When a law enforcement officer responds to an alleged crime committed by a patient at a hospital:

(1) an authorized representative of the hospital shall disclose to the law enforcement officer the following information before the officer removes the patient from the hospital:

(A) information that is sufficient to confirm whether the patient is stabilized, has been evaluated, or is awaiting inpatient care; and

(B) any other information that will be necessary for purposes of safely taking custody of the patient; and

(2) the law enforcement officer shall not remove the patient from the hospital if an authorized representative of the hospital informs the officer that the patient is not stabilized, has not yet been evaluated, or is awaiting inpatient care.

(b) When a law enforcement officer responds to an alleged crime committed by a patient at a scene where emergency medical treatment was or is being provided:

(1) a member of the emergency medical personnel who provided the treatment shall disclose to the law enforcement officer the following information before the officer removes the patient from the emergency medical treatment scene:

(A) information that is sufficient to confirm whether the patient is stabilized, has been evaluated, or is awaiting transport for health care; and

(B) any other information that will be necessary for purposes of safely taking custody of the patient; and

(2) the law enforcement officer shall not remove the patient from the emergency medical treatment scene if a member of the emergency medical personnel who provided the treatment informs the officer that the patient is not stabilized, has not yet been evaluated, or is awaiting transport for health care.

(c) As used in this section:

(1) "Emergency medical personnel" has the same meaning as in 24 V.S.A. § 2651(6).

(2) "Emergency medical treatment" has the same meaning as in 24 V.S.A. § 2651(9).

(3) "Hospital" has the same meaning as in subdivision 1902(1) of this title.

(4) "Stabilized" means that no material deterioration of the patient's medical condition is likely, within reasonable medical probability, to result from or occur during the transport of the patient from the hospital or the emergency medical treatment scene.

Sec. 4. REPORT ON DE-ESCALATION

On or before January 15, 2024, the Vermont Program for Quality in Health Care, in consultation with stakeholders, including hospital employee stakeholders, shall provide a report to the Senate Committee on Health and Welfare and the House Committee on Health Care regarding adequate training, including de-escalation of potentially violent situations in hospitals, sufficient staffing levels, ongoing assessment of visitors and patients for

aggressive behavior, indicators to adapt care interventions and environments appropriately, centralized reporting, and factors related to physical environments. With a health equity impact informed lens, the report shall include best practices, barriers to best practices, and recommendations for appropriate policy improvements.

*Sec. 5. DEPARTMENT OF PUBLIC SAFETY REPORT ON ARRESTS
WITHOUT WARRANT*

On or before January 15, 2024, the Department of Public Safety shall report to the House and Senate Committees on Judiciary on any systemic or statutory changes needed to permit the Department to collect data on responses and arrests pursuant to Vermont Rules of Criminal Procedure 3(c)(18), (19), and (20). The report shall include changes necessary to collect data on the number and demographics of persons arrested; the town, county, and type of health care facility where the arrest occurred; and the number and types of charges filed after the arrest.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.