

1 S.47

2 An act relating to the transport of individuals requiring psychiatric care

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

4 Sec. 1. 18 V.S.A. § 7505 is amended to read:

5 § 7505. WARRANT AND CERTIFICATE FOR EMERGENCY

6 EXAMINATION

7 (a) In emergency circumstances where certification by a licensed physician
8 is not available without serious and unreasonable delay, and when personal
9 observation of the conduct of a person constitutes reasonable grounds to
10 believe that the person is a person in need of treatment, and ~~he or she~~ the
11 person presents an immediate risk of serious injury to ~~himself or herself~~ self or
12 others if not restrained, a law enforcement officer or mental health professional
13 may make an application, not accompanied by a physician's certificate, to any
14 Superior judge for a warrant for an emergency examination. The application
15 shall be based on facts personally observed by the mental health professional
16 or the law enforcement officer or shall be supported by a statement of facts
17 under penalty of perjury by a person who personally observed the facts that
18 form the basis of the application.

19 (b)(1) The law enforcement officer ~~or mental health professional~~ may take
20 the person into temporary custody ~~and shall apply to the court without delay~~
21 ~~for the warrant~~ if the law enforcement officer has probable cause to believe
22 that the person poses a risk of harm to self or others. The law enforcement

1 officer or a mental health professional shall apply to the court for the warrant
2 without delay while the person is in temporary custody. The law enforcement
3 officer, or a mental health professional if clinically appropriate, may then
4 transport the person if the law enforcement officer or mental health
5 professional conducting the transport has probable cause to believe that the
6 person poses a risk of harm to self or others.

7 (2) Transports conducted pursuant to this subsection shall provide
8 individuals with the same protections as provided to individuals in the custody
9 of the Commissioner who are transported pursuant to section 7511 of this title.

10 (c) If the judge is satisfied that a physician's certificate is not available
11 without serious and unreasonable delay, and that probable cause exists to
12 believe that the person is in need of an emergency examination, ~~he or she~~ the
13 judge may order the person to submit to an evaluation by a licensed physician
14 for that purpose.

15 (d)(1) If necessary, the court may order the law enforcement officer ~~or~~
16 ~~mental health professional~~ to transport the person to a hospital for an
17 evaluation by a licensed physician to determine if the person should be
18 certified for an emergency examination.

19 (2) Transports conducted pursuant to this subsection shall provide
20 individuals with the same protections as provided to individuals in the custody
21 of the Commissioner who are transported pursuant to section 7511 of this title.

1 (e) Authority to transport a person pursuant to this section shall expire if
2 the person is not taken into custody and transported within 72 hours after a
3 warrant is issued by a Superior judge.

4 (f) A person transported pursuant to subsection (d) of this section shall be
5 evaluated as soon as possible after arrival at the hospital. If after evaluation
6 the licensed physician determines that the person is a person in need of
7 treatment, ~~he or she~~ the licensed physician shall issue an initial certificate that
8 sets forth the facts and circumstances constituting the need for an emergency
9 examination and showing that the person is a person in need of treatment.
10 Once the licensed physician has issued the initial certificate, the person shall be
11 held for an emergency examination in accordance with section 7508 of this
12 title. If the licensed physician does not certify that the person is a person in
13 need of treatment, ~~he or she~~ the licensed physician shall immediately discharge
14 the person and cause ~~him or her~~ the person to be returned to the place from
15 which ~~he or she~~ the person was taken, or to such place as the person reasonably
16 directs.

17 Sec. 2. 18 V.S.A. § 7511 is amended to read:

18 § 7511. TRANSPORTATION

19 (a) The Commissioner shall ensure that all reasonable and appropriate
20 measures consistent with public safety are made to transport or escort a person
21 subject to this chapter to and from any inpatient setting, ~~including escorts~~

1 ~~within a designated hospital or the Vermont State Hospital or its successor in~~
2 ~~interest or otherwise being transported~~ under the jurisdiction of the
3 Commissioner in any manner ~~which~~ that:

4 (1) prevents physical and psychological trauma;

5 (2) respects the privacy of the individual; and

6 (3) represents the least restrictive means necessary for the safety of the
7 patient.

8 (b) The Commissioner shall have the authority to designate the
9 professionals or law enforcement officers who may authorize the method of
10 transport of patients under the Commissioner's care and custody.

11 (c) When a professional or law enforcement officer designated pursuant to
12 subsection (b) of this section decides an individual is in need of secure
13 transport with mechanical restraints, the reasons for such determination shall
14 be documented in writing.

15 (d) It is the policy of the State of Vermont that mechanical restraints are not
16 routinely used on persons subject to this chapter unless circumstances dictate
17 that such methods are necessary. A law enforcement vehicle shall have soft
18 restraints available for use as a first option, and mechanical restraints shall not
19 be used as a substitute for soft restraints if the soft restraints are otherwise
20 deemed adequate for safety.

1 Sec. 3. REPORT; MENTAL HEALTH; WARRANT PROCESS

2 On or before January 15, 2024, the Department of Mental Health, in
3 consultation with Vermont Care Partners; Vermont Legal Aid; MadFreedom,
4 Inc.; Vermont Psychiatric Survivors; and persons with lived experience of a
5 mental health condition, shall submit a report to the House Committees on
6 Health Care and on Judiciary, and the Senate Committees on Health and
7 Welfare and on Judiciary containing any proposed changes to the warrant
8 process in 18 V.S.A. § 7505, including mechanisms to reduce safety risks and
9 reduce delays in accessing care.

10 Sec. 4. EFFECTIVE DATE

11 This act shall take effect on July 1, 2023.