

April 14, 2023

To the House Health Care Committee:

Thank you for the opportunity to provide some follow-up testimony on S47.

CONSENSUS: Between the dialogue in our workgroup and witness testimony, we hear consensus in the following areas:

- The warrant statute is outdated, confusing, and needs to be updated
- Mental health professionals do not have a role in taking people into temporary custody
- Unless clinically indicated, it makes sense for law enforcement to provide transportation
- The principles of privacy, respect, and least restrictive options during transportation should be extended to people before the second certification process

WARRANT EXPIRATION: VCP supports Vermont Legal Aid’s proposal to add an expiration timeframe for the warrant. In the context of recent shifts in law enforcement practice, some agencies have struggled to get law enforcement to provide the transport even once the warrant has been issued – it can take days. For that reason, we propose that the warrant expire after five days, rather than 72 hours.

PERSONAL OBSERVATION: VLA’s draft language is seeking to protect people if information in the warrant is inaccurate or outdated. We share this goal. That protection has to be balanced with ensuring the safety of clinicians and expediting access to care. Requiring QMHPs to personally observe the behavior may put them in harm’s way unnecessarily. The warrant process is already a lengthy process, lasting hours in many cases, and ES Directors are concerned that obtaining a signed affidavit may further extend it, for example if witnesses report behavior and then either leave the scene or are unwilling to sign a document. Finally, it should also be noted that unlike law enforcement, QMHPs do not typically procure signed affidavits as part of their professional practice – this is more of a legal rather than a mental health procedure and they are not trained in it. Requiring documentation of personal observation in the warrant application, as is current practice, seems like an appropriate balance.

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