



April 13, 2023

House Committee on Health Care  
115 State Street  
Montpelier, VT 05633-5301

Re: [S.47](#) – *An act relating to the transport of individuals requiring psychiatric care*

Dear House Committee on Health Care:

I am writing to express MadFreedom's concerns with [Draft No. 1.1 – S.47](#), which was introduced at the hearing on April 13, 2023. While we appreciate the efforts to improve the bill, we believe that the current draft has several flaws that must be addressed.

Firstly, Draft No. 1.1 – S.47 appears to allow mental health professionals to apply for a warrant without having personally observed conduct that constitutes reasonable grounds to believe that the person is in need of treatment. This provision is in violation of due process and equal protection, which require that emergency detention be based on specific and articulable facts rather than secondhand information or speculation. We urge you to reconsider this provision and ensure that any emergency detention is based on reliable and verifiable information.

Secondly, we have concerns about the provision that allows law enforcement officers or mental health professionals to transport a person in "temporary custody" to a hospital or another safe location. Until a warrant is issued, the person in "temporary custody" is not a patient and should not be held in a hospital. It is unfair to expose a non-patient to risks of violence, disease, and chaos found at hospitals, particularly hospital emergency departments. We suggest that only police stations or barracks should be considered as appropriate holding sites for a non-patient in "temporary custody."

Moreover, it should not be left to the discretion of the law enforcement officer or mental health professional to decide where a person in "temporary custody" should be transported. The person in "temporary custody" has a right to know beforehand where they are being transported, and that location should be specified in statute. We urge you to reconsider this provision and ensure that the transportation of individuals in "temporary custody" is transparent and fair.

[ POST OFFICE BOX 38 • POULTNEY, VT 05764-0038 • T: (802) 779-0570 • F: (802) 775-5284 ]

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We also have concerns about the references to section 7511 in subdivision (2) on page two at line 9 and line 21. It is unclear from reading section 7511 what are considered "protections." We suggest identifying and restating what those protections are and ensuring that they apply to individuals in "temporary custody" who are not patients.

Finally, we oppose requiring "soft restraints" available for use as a first option. Based on Sheriff Marcoux's demonstration of "soft restraints," they appear to be more restraining, confining, and degrading than traditional handcuffs. We urge you to reconsider this provision and ensure that individuals in "temporary custody" are not subjected to "soft restraints" as a mandatory first option.

As I testified during the hearing, MadFreedom agrees that 18 VSA §7505 needs a major revision. We suggest that the House Health Care Committee do a strike-all amendment that mandates a study committee led by a neutral facilitator. In addition, any proposed changes to 18 VSA §7505 should be considered by both the House Committee on Health Care and the House Committee on the Judiciary because the statute implicates fundamental issues of constitutional law.

In conclusion, we urge you to reconsider the current draft of S.47 and ensure that any emergency detention and transportation of individuals in temporary custody are based on reliable and verifiable information and is fair, transparent, and humane.

Thank you for your attention to this matter.

Very truly yours,



Wilda L. White  
Founder