

MEMORANDUM

TO: House Committee on Judiciary

FROM: Jack McCullough, Mental Health Law Project

RE: S. 47, An act relating to transport of individuals requiring psychiatric care

DATE: April 21, 2023

The Mental Health Law Project proposes the following amendments to S. 47.

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

§ 7505. WARRANT AND CERTIFICATE FOR EMERGENCY

EXAMINATION

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

(b) The law enforcement officer ~~or mental health professional~~ may take the person into temporary custody ~~and~~. The law enforcement officer, or a mental health professional if clinically appropriate, may transport the person to a hospital, police barracks, or another safe location in

accordance with section 7511 of this title. The law enforcement officer or mental health professional shall apply to the court without delay for the warrant while the person is in temporary custody.

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

(d) If necessary, the court may order the law enforcement officer ~~or mental health professional~~ to transport the person, in accordance with section 7511 of this title, to a hospital for an evaluation by a licensed physician to determine if the person should be certified for an emergency examination.

(e) The authority to transport the person shall expire if the person is not taken into custody and transported to a hospital within seventy-two hours of the time the warrant is executed.

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