



## 2020 South Dakota Legislature

# Senate Bill 1

Introduced by: **Senators** Soholt and Stalzer and **Representatives** Herman Otten, Duba, and St John at the request of the Leverage Telehealth and Telemedicine Task Force

1 **An Act to provide for the use of electronic communication in the involuntary**  
 2 **commitment process and to declare an emergency.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That § 27A-10-6 be AMENDED:

5 **27A-10-6. Professional examination of person apprehended--Report to**  
 6 **chair--Person released if not dangerous.**

7 Within twenty-four hours after apprehension of any person who allegedly requires  
 8 emergency intervention or a hold is initiated pursuant to § 27A-8-10.1, or a petition is  
 9 filed pursuant to § 27A-8-11.2, a qualified mental health professional designated by the  
 10 chair of the county board serving the area where the person is detained other than the  
 11 person bringing the petition or initiating the hold shall perform an examination, including  
 12 a mental status examination, of the person. The examination may be conducted either in  
 13 person or through real-time interactive audio and video. Preceding the examination, the  
 14 qualified mental health professional shall identify herself or himself to the person and  
 15 explain the nature and purpose of the examination, including the fact that it is being  
 16 performed to assist in the determination of whether custody should continue and that the  
 17 examination may be used as evidence in an involuntary commitment hearing. The  
 18 qualified mental health professional shall immediately report any findings to the chair of  
 19 the county board. The referring county shall pay any expenses of the examination by the  
 20 qualified mental health professional, subject to reimbursement by the county ultimately  
 21 proven to be the county of residence. No lien may be placed against the person for the  
 22 costs incurred in the qualified mental health professional examination.

23 **Section 2.** That § 27A-10-20 be AMENDED:

1           **27A-10-20. Definition of terms related to crisis referral and placement.**

2           Terms used in this section and §§ 27A-10-21 to 27A-10-23, inclusive, mean:

- 3           (1) "Crisis intervention team certified law enforcement officer," any law enforcement  
4           officer who has undergone a comprehensive training program in crisis intervention  
5           techniques involving any person who is mentally ill or has substance abuse issues  
6           and has received certification as a crisis intervention officer by the officer's  
7           department;
- 8           (2) "Crisis intervention team," a team of law enforcement officers and individuals who  
9           have undergone a comprehensive training program in crisis intervention techniques  
10          involving any person who is mentally ill or has chemical dependency or substance  
11          abuse issues;
- 12          (3) "Mobile crisis team," an interdisciplinary team of one or more mental health  
13          professionals able to respond to any person in the community, ~~usually visiting the~~  
14          ~~person at home,~~ either in person or through real-time interactive audio and video,  
15          for mental health and chemical dependency or abuse intervention;
- 16          (4) "Team member," any person who is a member of a crisis intervention team or a  
17          mobile crisis team.

18       **Section 3.** That § 27A-10-21 be AMENDED:

19           **27A-10-21. Referral to mobile crisis team or crisis intervention team**  
20           **certified law enforcement officer--Voluntary resolution or placement.**

21           If any law enforcement officer or qualified mental health professional in a clinic or  
22           hospital has probable cause to believe that a person requires emergency nonmedical  
23           intervention pursuant to § 27A-10-1, as an alternative to a petition for commitment  
24           pursuant to chapter 27A-10, or apprehension and transfer to an appropriate regional  
25           facility pursuant to § 27A-10-3, the officer or qualified mental health professional may  
26           refer the person to ~~the direct supervision of~~ any member of a mobile crisis team or crisis  
27           intervention team certified law enforcement officer. If any member of the mobile crisis  
28           team or the crisis intervention team certified law enforcement officer accepts ~~direct~~  
29           ~~supervision of the person,~~ in writing, in paper form or in electronic form, either direct  
30           supervision of the person or direct engagement with the person through real-time  
31           interactive audio and video, the member or officer may:

- 32           (1) Resolve the intervention on a voluntary basis, at the clinic or hospital, at the  
33           person's home, or other location, or with the assistance of any public or private  
34           community service that the patient is willing to accept. Any team member may

- 1 request the assistance of law enforcement for the voluntary transfer of the person;  
 2 or  
 3 (2) Direct that the law enforcement officer proceed with the apprehension of the person  
 4 and transport the person to either:  
 5 (a) An appropriate regional facility for an emergency intervention and a mental  
 6 illness examination as provided in § 27A-10-6; or  
 7 (b) An approved treatment facility offering detoxification services for chemical  
 8 dependency emergencies as provided in §§ 34-20A-55 and 34-20A-56.

9 **Section 4.** That § 27A-10-23 be AMENDED:

10 **27A-10-23. Immunity from liability for crisis referral or placement--**

11 **Exception.**

12 Any law enforcement officer or authority, ~~or any~~ qualified mental health  
 13 professional in a clinic or hospital, or any clinic or hospital who in good faith transferred  
 14 direct supervision of a person or direct engagement with a person to a mobile crisis team  
 15 or a crisis intervention team certified law enforcement officer, is immune from any civil  
 16 liability for ~~such the~~ referral. Any member of a mobile crisis team or a crisis intervention  
 17 team certified law enforcement officer, whose actions, in the engagement with a person  
 18 or in the de-escalation, assessment, supervision, examination, or placement of a person  
 19 in compliance with this section and §§ 27A-10-20 to 27A-10-22, inclusive, are taken in  
 20 good faith, are immune from any civil liability for the engagement with the person or for  
 21 the de-escalation, assessment, referral, supervision, examination, transfer, or placement  
 22 of the person. The immunity from civil liability under this section and §§ 27A-10-20 to  
 23 27A-10-22, inclusive, does not apply if injury results from gross negligence or willful or  
 24 wanton misconduct. Any law enforcement officer or authority who acts in compliance with  
 25 subsection 27A-10-21(2)(b) and § 34-20A-57 is not criminally or civilly liable for the  
 26 officer's or authority's actions.

27 **Section 5.** Whereas, this Act is necessary for the immediate preservation of the public peace,  
 28 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force  
 29 and effect from and after its passage and approval.