



2020 South Dakota Legislature
Senate Bill 1
ENROLLED

AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Resolve the intervention on a voluntary basis, at the clinic or hospital, at the person's home, or other location, or with the assistance of any public or private community service that the patient is willing to accept. Any team member may request the assistance of law enforcement for the voluntary transfer of the person; or
- (2) Direct that the law enforcement officer proceed with the apprehension of the person

and transport the person to either:

- (a) An appropriate regional facility for an emergency intervention and a mental illness examination as provided in § 27A-10-6; or
- (b) An approved treatment facility offering detoxification services for chemical dependency emergencies as provided in §§ 34-20A-55 and 34-20A-56.

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

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

Exception.

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

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

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

I certify that the attached Act originated in
the:
Senate as Bill No. 1

Received at this Executive Office
this ____ day of _____,
2020 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby
approved this _____ day of
_____, A.D., 2020

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2020
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 1
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State