

2017 -- H 5945 SUBSTITUTE A

LC002160/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
HOSPITALS - MENTAL HEALTH LAW

Introduced By: Representatives Ruggiero, Almeida, McKiernan, Canario, and Jacquard

Date Introduced: March 17, 2017

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 40.1-5-7 of the General Laws in Chapter 40.1-5 entitled "Mental
2 Health Law" is hereby amended to read as follows:

3 **40.1-5-7. Emergency certification.**

4 (a) Applicants. (1) Any physician, who after examining a person, has reason to believe
5 that the person is in need of immediate care and treatment, and is one whose continued
6 unsupervised presence in the community would create an imminent likelihood of serious harm by
7 reason of mental disability, may apply at a facility for the emergency certification of the person
8 thereto. The medical director, or any other physician employed by the proposed facility for
9 certification may apply under this subsection if no other physician is available and he or she
10 certifies this fact. If an examination is not possible because of the emergency nature of the case
11 and because of the refusal of the person to consent to the examination, the applicant on the basis
12 of his or her observation may determine, in accordance with the above, that emergency
13 certification is necessary and may apply therefor. In the event that no physician is available, a
14 qualified mental health professional ~~or police officer~~ who believes the person to be in need of
15 immediate care and treatment, and one whose continued unsupervised presence in the community
16 would create an imminent likelihood of serious harm by reason of mental disability, may make
17 the application for emergency certification to a facility. Application shall in all cases be made to
18 the facility which in the judgment of the applicant at the time of application would impose the

1 least restraint on the liberty of the person consistent with affording him or her the care and
2 treatment necessary and appropriate to his or her condition.

3 (2) Whenever an applicant, not employed by a community mental health center
4 established pursuant to chapter 8.5 of this title, has reason to believe that the institute of mental
5 health is the appropriate facility for the person, the application shall be directed to the community
6 mental health center that serves the area in which the person resides, if the person is a Rhode
7 Island resident, or the area in which the person is physically present, if a nonresident, and the
8 qualified mental health professional(s) at the center shall make the final decision on the
9 application to the institute of mental health or may determine whether some other disposition
10 should be made.

11 (b) Applications. An application for certification hereunder shall be in writing and filed
12 with the facility to which admission is sought. The application shall be executed within five (5)
13 days prior to the date of filing and shall state that it is based upon a personal observation of the
14 prospective patient by the applicant within the five (5) day period. It shall include a description of
15 the applicant's credentials and the behavior which constitutes the basis for his or her judgment
16 that the prospective patient is in need of immediate care and treatment and that a likelihood of
17 serious harm by reason of mental disability exists, and shall include, as well, any other relevant
18 information which may assist the admitting physician at the facility to which application is made.
19 Whenever practicable, prior to transporting or arranging for the transporting of a prospective
20 patient to a facility, the applicant shall telephone or otherwise communicate with the facility to
21 describe the circumstances and known clinical history to determine whether it is the proper
22 facility to receive the person, and to give notice of any restraint to be used or to determine
23 whether restraint is necessary.

24 (c) Confirmation; discharge; transfer. Within one hour after reception at a facility, the
25 person regarding whom an application has been filed under this section shall be seen by a
26 physician. As soon as possible, but in no event later than twenty-four (24) hours after reception, a
27 preliminary examination and evaluation of the person by a psychiatrist or a physician under his or
28 her supervision shall begin. The psychiatrist shall not be an applicant hereunder. The preliminary
29 examination and evaluation shall be completed within seventy-two (72) hours from its inception
30 by the psychiatrist. If the psychiatrist determines that the patient is not a candidate for emergency
31 certification, he or she shall be discharged. If the psychiatrist(s) determines that the person who is
32 the subject of the application is in need of immediate care and treatment and is one whose
33 continued unsupervised presence in the community would create an imminent likelihood of
34 serious harm by reason of mental disability, he or she shall confirm the admission for care and

1 treatment under this section of the person to the facility, provided the facility is one which would
2 impose the least restraint on the liberty of the person consistent with affording him or her the care
3 and treatment necessary and appropriate to his or her condition and that no suitable alternatives to
4 certification are available. If at any time the official in charge of a facility or his or her designee
5 determines that the person is not in need of immediate care and treatment, or is not one whose
6 continued unsupervised presence in the community would create an imminent likelihood of
7 serious harm by reason of mental disability, or suitable alternatives to certification are available,
8 he or she shall immediately discharge the person. In addition, the official may arrange to transfer
9 the person to an appropriate facility, if the facility to which he or she has been certified is not one
10 which imposes the least restraint on the liberty of the person consistent with affording him or her
11 the care and treatment necessary and appropriate to his or her condition.

12 (d) Custody. Upon the request of an applicant under this section, to be confirmed in
13 writing, it shall be the duty of any peace officer of this state or of any governmental subdivision
14 thereof to whom request has been made, to take into custody and transport the person to the
15 facility designated, the person to be expeditiously presented for admission thereto.

16 (e) Ex parte court order. An applicant under this section may present a petition to any
17 judge of the district court or any justice of the family court in the case of a person who is the
18 subject of an application, who has not yet attained his or her eighteenth birthday, for a warrant
19 directed to any peace officer of the state or any governmental subdivision thereof to take into
20 custody the person who is the subject of the application and immediately transport the person to a
21 designated facility. The application shall set forth that the person who is to be certified is in need
22 of immediate care and treatment and his or her continued unsupervised presence in the
23 community would create an imminent likelihood of serious harm by reason of mental disability,
24 and the reasons why an order directing a peace officer to transport the person to a designated
25 facility if necessary.

26 (f) Notification of rights. No person shall be certified to a facility under the provisions of
27 this section unless appropriate opportunity is given to apply for voluntary admission under the
28 provisions of § 40.1-5-6 and unless he or she, or a parent, guardian or next of kin, has been
29 informed, in writing, on a form provided by the department, by the official in charge of the
30 facility: (1) that he or she has a right to the voluntary admission; (2) that a person cannot be
31 certified until all available alternatives to certification have been investigated and determined to
32 be unsuitable; and (3) that the period of hospitalization or treatment in a facility cannot exceed ten
33 (10) days under this section, except as provided in subsection (g) of this section.

34 (g) Period of treatment. A person shall be discharged no later than ten (10) days measured

1 from the date of his or her admission under this section, unless an application for a civil court
2 certification has been filed and set down for a hearing under the provisions of § 40.1-5-8, or the
3 person remains as a voluntary patient pursuant to § 40.1-5-6.

4 SECTION 2. Chapter 40.1-5 of the General Laws entitled "Mental Health Law" is hereby
5 amended by adding thereto the following section:

6 **40.1-5-7.1. Emergency transportation by police.**

7 (a) Any police officer may take an individual into protective custody and take or cause
8 such person to be taken to an emergency room of any hospital, by way of emergency vehicle, if
9 the officer has reason to believe that:

10 (1) The individual is in need of immediate care and treatment, and is one whose
11 continued unsupervised presence in the community would create an imminent likelihood of
12 serious harm by reason of mental disability if allowed to be at liberty pending examination by a
13 licensed physician; or

14 (2) The individual is in need of immediate assistance due to mental disability and
15 requests the assistance.

16 (b) The officer making the determination to transport, will document the reason for the
17 decision in a police report and travel with the individual to the hospital to relay the reason for
18 transport to the attending medical staff.

19 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
HOSPITALS - MENTAL HEALTH LAW

- 1 This act would articulate the role of police officers in obtaining treatment for those
- 2 showing symptoms of mental illness.
- 3 This act would take effect upon passage.

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