

2020 South Dakota Legislature

House Bill Draft 198

Introduced by:

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

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:

24 **27A-10-20. Definition of terms related to crisis referral and placement.**

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

26 (1) "Crisis intervention team certified law enforcement officer," any law enforcement
27 officer who has undergone a comprehensive training program in crisis intervention
28 techniques involving any person who is mentally ill or has substance abuse issues

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

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

14 **27A-10-21. Referral to mobile crisis team or crisis intervention team**
 15 **certified law enforcement officer--Voluntary resolution or placement.**

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

- 27 (1) Resolve the intervention on a voluntary basis, at the clinic or hospital, at the
 28 person's home, or other location, or with the assistance of any public or private
 29 community service that the patient is willing to accept. Any team member may
 30 request the assistance of law enforcement for the voluntary transfer of the person;
 31 or
- 32 (2) Direct that the law enforcement officer proceed with the apprehension of the person
 33 and transport the person to either:
- 34 (a) An appropriate regional facility for an emergency intervention and a mental

- 1 illness examination as provided in § 27A-10-6; or
- 2 (b) An approved treatment facility offering detoxification services for chemical
- 3 dependency emergencies as provided in §§ 34-20A-55 and 34-20A-56.

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

5 **27A-10-23. Immunity from liability for crisis referral or placement--**

6 **Exception.**

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