AN ACT

ENTITLED, An Act to authorize the involuntary treatment of jailed prisoners with psychotropic medication.

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

Section 1. That chapter 24-11 be amended by adding thereto a NEW SECTION to read as follows:

A prisoner may be involuntarily treated with psychotropic medication if it is determined, pursuant to the provisions of this chapter, that the prisoner suffers from a severe mental illness as defined in § 27A-1-1, which is likely to improve with treatment, and that without treatment the inmate poses a likelihood of serious harm to self or others.

Section 2. That chapter 24-11 be amended by adding thereto a NEW SECTION to read as follows:

Prior to involuntary treatment with psychotropic medication, the prisoner shall receive a hearing before a panel consisting of two medical representatives and a representative appointed by the county sheriff. The medical representatives may include a physician, physician assistant, or nurse practitioner; however, at least one shall be a physician. No panel member may have participated in the prisoner's current diagnosis, evaluation, or treatment. The prisoner has the right to notice of the hearing at least forty-eight hours in advance, the right to attend the hearing, the right to present evidence and cross-examine witnesses, and the right to representation by a disinterested lay advisor knowledgeable about psychological issues. The panel may order involuntary treatment with psychotropic medication by majority vote of the panel if the physician is in the majority. The prisoner may appeal the decision of the panel to the circuit court pursuant to chapter 1-26.

Section 3. That chapter 24-11 be amended by adding thereto a NEW SECTION to read as follows:

If the involuntary treatment of a prisoner with psychotropic medication is to exceed thirty days, a physician who is not the attending physician shall review the inmate's medical record at least every thirty days and make a written determination whether involuntary treatment with psychotropic medication may be continued.

Section 4. That chapter 24-11 be amended by adding thereto a NEW SECTION to read as follows:

In an emergency, involuntary treatment of a prisoner with psychotropic medication may be administered without panel review for up to a maximum of ten days if the treatment is ordered by two physicians.

Section 5. That chapter 24-11 be amended by adding thereto a NEW SECTION to read as follows:

The county sheriff shall maintain records of any involuntary treatment with psychotropic medication. The records shall include the frequency of use of the treatment and any available medical history of a prisoner's prior mental illness, and may include such other information as deemed necessary by the county sheriff to facilitate the management of prisoners.

Section 6. That chapter 24-11 be amended by adding thereto a NEW SECTION to read as follows:

No person who serves on the hearing panel, who is the attending physician or who orders or participates in the involuntary treatment with psychotropic medication of a prisoner may be held civilly or criminally liable for the treatment pursuant to this chapter if the person performs these duties in good faith and in a reasonable manner according to generally accepted medical or other professional practices.

An Act to authorize the involuntary treatment of jailed prisoners with psychotropic medication.

I certify that the attached Act originated in the

HOUSE as Bill No. 1019

_____
Chief Clerk

_____
Speaker of the House

Attest:

_____
Chief Clerk

_____
President of the Senate

Attest:

_____
Secretary of the Senate

House Bill No. 1019
File No. ____
Chapter No. _____

Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

The attached Act is hereby approved this _____ day of _____ , A.D., 20___

_____
Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20___
at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State