

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

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SENATE BILL NO. 142

Introduced by: Senators Soholt, Brown, Buhl O'Donnell, Ewing, Fiegen, Heinert, Hunhoff (Bernie), Monroe, Otten (Ernie), Peters, Rusch, Solano, and Tieszen and Representatives Mickelson, Gibson, Haugaard, Hunhoff (Jean), Munsterman, Partridge, Peterson (Kent), and Rozum

1 FOR AN ACT ENTITLED, An Act to authorize certain disclosures of mental health
2 information to law enforcement.

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

4 Section 1. That § 27A-12-27 be amended to read:

5 27A-12-27. If requested, information shall be disclosed:

- 6 (1) Pursuant to ~~orders or subpoenas~~ an order or subpoena of a board of mental illness or
7 a court of record or subpoenas a subpoena of the Legislature;
- 8 (2) To a prosecuting or defense attorney or to a qualified mental health professional as
9 necessary for ~~him~~ the attorney or professional to participate in a proceeding governed
10 by this title;
- 11 (3) To an attorney representing a person who is presently subject to the authority of this
12 title or who has been discharged when that person has given ~~his~~ consent;
- 13 (4) If necessary in order to comply with another provision of law;
- 14 (5) To the department if the information is necessary to enable the department to



1 discharge a responsibility placed upon it by law; ~~or~~

2 (6) To a states attorney or the attorney general for purpose of investigation of an alleged
3 criminal act either committed by or upon a human services center patient while a
4 patient of the center; or

5 (7) To a law enforcement official or agency, or correctional institution, if the official,
6 agency, or institution informs the inpatient facility that an arrest warrant has been
7 issued for or criminal charges are pending against a person, for purposes of obtaining
8 custody of the person by a law enforcement official or agency before discharge.

9 Section 2. That chapter 27A-12 be amended by adding a NEW SECTION to read:

10 If a request for notice is made pursuant to subdivision (7) of section 1 of this Act, the request
11 shall:

12 (1) Be made in writing and served upon an inpatient facility, either by personal service
13 or electronic facsimile with oral notice of the facsimile given by telephone, before the
14 discharge;

15 (2) Contain clear contact information and a reasonable contact method for notifying the
16 requesting official, agency, or institution; and

17 (3) Contain clear information identifying the person.

18 Upon receipt of a request fulfilling the requirements of this section, the inpatient facility
19 shall provide the notice of pending discharge to the requester as soon as reasonably practical
20 before discharge. The notice shall contain the time, date, and location of the pending discharge.
21 The inpatient facility shall record in the person's medical record the time the notice of pending
22 discharge is given, to whom, how the notice was given, who gave the notice, the set time for
23 discharge, and the time the law enforcement official or agency obtained custody of the person
24 after the notice was given, if applicable.

1 Section 3. That chapter 27A-12 be amended by adding a NEW SECTION to read:

2 If a person is subject to a petition for involuntary commitment under this title, the inpatient
3 facility may detain that person in the facility for a period of time not to exceed four hours after
4 the time set for discharge, if necessary for a law enforcement official or agency to obtain custody
5 of the person. This period of time includes four hours after the board of mental illness releases
6 a detention of the person pursuant to this title. If the person is not taken into custody after the
7 notice to the requester and within the specified period of time, the person shall be released from
8 any detention or discharged, as appropriate. The inpatient facility shall record the time of the
9 release or discharge in the person's medical record. If the person was a voluntary patient in the
10 inpatient facility, the person shall maintain the right to discharge as provided in § 27A-8-10.

11 Section 4. That chapter 27A-12 be amended by adding a NEW SECTION to read:

12 The detention of a person in good faith and not in excess of the period of time specified in
13 this Act may not render any law enforcement official, agency, institution, board, court,
14 physician, inpatient facility, or staff detaining the person liable in any criminal or civil action
15 for false arrest or false imprisonment.