

AN ACT

ENTITLED, An Act to authorize certain disclosures of mental health information to law enforcement.

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

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

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

- (1) Pursuant to an order or subpoena of a board of mental illness or a court of record or a subpoena of the Legislature;
- (2) To a prosecuting or defense attorney or to a qualified mental health professional as necessary for the attorney or professional to participate in a proceeding governed by this title;
- (3) To an attorney representing a person who is presently subject to the authority of this title or who has been discharged when that person has given consent;
- (4) If necessary in order to comply with another provision of law;
- (5) To the department if the information is necessary to enable the department to discharge a responsibility placed upon it by law;
- (6) To a states attorney or the attorney general for purpose of investigation of an alleged criminal act either committed by or upon a human services center patient while a patient of the center; or
- (7) To a law enforcement official or agency, or correctional institution, if the official, agency, or institution informs the inpatient facility that an arrest warrant has been issued for or criminal charges are pending against a person, for purposes of obtaining custody of the person by a law enforcement official or agency before discharge.

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

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

- (1) Be made in writing and served upon an inpatient facility, either by personal service or electronic facsimile with oral notice of the facsimile given by telephone, before the discharge;
- (2) Contain clear contact information and a reasonable contact method for notifying the requesting official, agency, or institution; and
- (3) Contain clear information identifying the person.

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

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

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

shall maintain the right to discharge as provided in § 27A-8-10.

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

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

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I certify that the attached Act
originated in the

SENATE as Bill No. 142

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 142
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

20__ at _____ M.

By _____
for the Governor

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

Governor

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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