

1 H.759

2 Introduced by Committee on Judiciary

3 Date:

4 Subject: Health; judicial proceedings; involuntary treatment; continued
5 treatment; secure residential recovery facility

6 Statement of purpose: This bill proposes to permit the department of mental
7 health to use secure residential recovery facilities for continued involuntary
8 treatment. The bill defines secure residential recovery facility to mean a
9 residential facility for an individual who no longer requires acute inpatient care
10 but who does remain in need of treatment within a secure setting for an
11 extended period of time.

12 An act relating to permitting the use of secure residential recovery facilities
13 for continued involuntary treatment

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 ~~Sec. 1. 18 V.S.A. § 7620 is amended to read:~~

16 ~~§ 7620. APPLICATION FOR CONTINUED TREATMENT~~

17 ~~(a) If, prior to the expiration of any order issued in accordance with section~~
18 ~~7623 of this title, the commissioner believes that the condition of the patient is~~
19 ~~such that the patient continues to require treatment, the commissioner shall~~

1 ~~apply to the court for a determination that the patient is a patient in need of~~
2 further treatment and for an order of continued treatment.

3 (b) An application for an order authorizing continuing treatment shall
4 contain a statement setting forth the reasons for the commissioner's
5 determination that the patient is a patient in need of further treatment, a
6 statement describing the treatment program provided to the patient and the
7 results of that course of treatment.

8 (c) Any order of treatment issued in accordance with section 7623 of this
9 title shall remain in force pending the court's decision on the application.

10 (d) If the commissioner seeks to have the patient receive the further
11 treatment in a secure residential recovery facility, the application for an order
12 authorizing continuing treatment shall expressly state that such treatment is
13 being sought. The application shall contain, in addition to the statements
14 required by subsection (b) of this section, a statement setting forth the reasons
15 for the commissioner's determination that clinically appropriate treatment for
16 the patient's condition can be provided safely only in a secure residential
17 recovery facility.

18 (e) As used in this chapter:

19 (1) "Secure residential recovery facility" means a residential facility for
20 an individual who no longer requires acute inpatient care but who does remain
21 in need of treatment within a secure setting for an extended period of time.

1 ~~(2) "Secure," when describing a residential facility, means that the~~
2 ~~residents can be physically prevented from leaving the facility by means of~~
3 ~~locking devices or other mechanical or physical mechanisms.~~

4 Sec. 2. 18 V.S.A. § 7621 is amended to read:

5 § 7621. HEARING ON APPLICATION FOR CONTINUED TREATMENT;
6 ORDERS

7 (a) The hearing on the application for continued treatment shall be held in
8 accordance with the procedures set forth in sections 7613, 7614, 7615 and
9 7616 of this title.

10 (b) If the court finds that the patient is a patient in need of further treatment
11 and requires hospitalization it shall order hospitalization for up to one year.

12 (c) If the court finds that the patient is a patient in need of further treatment
13 but does not require hospitalization, it shall order nonhospitalization for up to
14 one year. If the treatment plan proposed by the commissioner for a patient in
15 need of further treatment includes admission to a secure residential recovery
16 facility, the court may at any time, on its own motion or on motion of an
17 interested party, review the need for treatment at the secure residential
18 recovery facility.

19 * * *

1 ~~Sec. 3. 18 V.S.A. § 7624 is amended to read:~~

2 § 7624. PETITION FOR INVOLUNTARY MEDICATION

3 (a) The commissioner may commence an action for the involuntary
4 medication of a person who is refusing to accept psychiatric medication and
5 meets any one of the following three conditions:

6 (1) has been placed in the commissioner's care and custody pursuant to
7 section 7619 of this title or subsection 7621(b) of this title;

8 (2) has previously received treatment under an order of hospitalization
9 and is currently under an order of nonhospitalization, including a person on an
10 order of nonhospitalization who resides in a secure residential recovery
11 facility; or

12 (3) has been committed to the custody of the commissioner of
13 corrections as a convicted felon and is being held in a correctional facility
14 which is a designated facility pursuant to section 7628 of this title and for
15 whom the department of corrections and the department of mental health have
16 jointly determined that involuntary medication would be appropriate pursuant
17 to 28 V.S.A. § 907(4)(H).

18 * * *

19 Sec. 4. EFFECTIVE DATE

20 This act shall take effect on passage.

Sec. 1. 18 V.S.A. § 7315 is added to read:

§ 7315. DEFINITION

As used in this chapter, the term “hospital” shall include a secure residential recovery facility as defined in subsection 7620(e) of this title.

Sec. 2. 18 V.S.A. § 7401 is amended to read:

§ 7401. POWERS AND DUTIES

Except insofar as this part of this title specifically confers certain powers, duties, and functions upon others, the commissioner shall be charged with its administration. The commissioner may:

* * *

(22) oversee and seek to have patients receive treatment in secure residential recovery facilities as defined in subsection 7620(e) of this title.

Sec. 3. 18 V.S.A. § 7620 is amended to read:

§ 7620. APPLICATION FOR CONTINUED TREATMENT

(a) If, prior to the expiration of any order issued in accordance with section 7623 of this title, the commissioner believes that the condition of the patient is such that the patient continues to require treatment, the commissioner shall apply to the court for a determination that the patient is a patient in need of further treatment and for an order of continued treatment.

(b) An application for an order authorizing continuing treatment shall contain a statement setting forth the reasons for the commissioner’s determination that the patient is a patient in need of further treatment, a

statement describing the treatment program provided to the patient and the results of that course of treatment.

(c) Any order of treatment issued in accordance with section 7623 of this title shall remain in force pending the court's decision on the application.

(d) If the commissioner seeks to have the patient receive the further treatment in a secure residential recovery facility, the application for an order authorizing continuing treatment shall expressly state that such treatment is being sought. The application shall contain, in addition to the statements required by subsection (b) of this section, a statement setting forth the reasons for the commissioner's determination that clinically appropriate treatment for the patient's condition can be provided safely only in a secure residential recovery facility.

(e) As used in this chapter:

(1) "Secure residential recovery facility" means a residential facility, licensed as a therapeutic community residence as defined in 33 V.S.A. § 7102(11), for an individual who no longer requires acute inpatient care but who does remain in need of treatment within a secure setting for an extended period of time. A secure residential recovery facility shall not be used for any purpose other than the purposes permitted by this section.

(2) "Secure," when describing a residential facility, means that the residents can be physically prevented from leaving the facility by means of locking devices or other mechanical or physical mechanisms.

Sec. 4. 18 V.S.A. § 7621 is amended to read:

§ 7621. HEARING ON APPLICATION FOR CONTINUED TREATMENT;
ORDERS

(a) The hearing on the application for continued treatment shall be held in accordance with the procedures set forth in sections 7613, 7614, 7615, and 7616 of this title.

(b) If the court finds that the patient is a patient in need of further treatment and requires hospitalization it shall order hospitalization for up to one year.

(c) If the court finds that the patient is a patient in need of further treatment but does not require hospitalization, it shall order nonhospitalization for up to one year. If the treatment plan proposed by the commissioner for a patient in need of further treatment includes admission to a secure residential recovery facility, the court may at any time, on its own motion or on motion of an interested party, review the need for treatment at the secure residential recovery facility.

* * *

Sec. 5. 18 V.S.A. § 7624 is amended to read:

§ 7624. PETITION FOR INVOLUNTARY MEDICATION

(a) The commissioner may commence an action for the involuntary medication of a person who is refusing to accept psychiatric medication and meets any one of the following three conditions:

(1) has been placed in the commissioner's care and custody pursuant to section 7619 of this title or subsection 7621(b) of this title;

(2) has previously received treatment under an order of hospitalization and is currently under an order of nonhospitalization, including a person on an order of nonhospitalization who resides in a secure residential recovery facility; or

(3) has been committed to the custody of the commissioner of corrections as a convicted felon and is being held in a correctional facility which is a designated facility pursuant to section 7628 of this title and for whom the department of corrections and the department of mental health have jointly determined that involuntary medication would be appropriate pursuant to 28 V.S.A. § 907(4)(H).

* * *

Sec. 6. 33 V.S.A. § 7102(11) is amended to read:

(11) "Therapeutic community residence" means a place, however named, excluding a hospital as defined by statute or the Vermont state

hospital, which provides, for profit or otherwise, ~~short-term~~ transitional individualized treatment to three or more residents with major life adjustment problems, such as alcoholism, drug abuse, mental illness, or delinquency.

Sec. 7. RULE MAKING

(a) The department of disabilities, aging, and independent living shall adopt rules pursuant to 3 V.S.A. chapter 25 amending the licensing requirements for therapeutic community residences. Such rules shall include specific requirements for the operation of secure residential recovery facilities and shall ensure that residents of a secure residential recovery facility have rights at least equal to those provided to patients at the former Vermont State Hospital.

(b)(1) If the rules required by this section are proposed before adjournment sine die of the 2011 adjourned session (2012) of the general assembly or after convening of the 2013 session of the general assembly, the department shall solicit input on the proposed rules from the house and senate committees on judiciary, the house committee on human services, and the senate committee on health and welfare.

(2) If the rules required by this section are proposed after adjournment sine die of the 2011 adjourned session (2012) of the general assembly and before convening of the 2013 general assembly, the department shall solicit

input on the proposed rules from the mental health oversight committee and
the health access oversight committee.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.