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Indicates New Matter

AS PASSED BY THE SENATE

April 9, 2019

**S. 303**

Introduced by Senators Kimpson, Shealy, Fanning and Davis

S. Printed 4/9/19--S. [SEC 4/10/19 12:43 PM]

Read the first time January 8, 2019.

**A** **BILL**

TO AMEND SECTION 44-17-440 OF THE 1976 CODE, RELATING TO THE CUSTODY AND TRANSPORT OF A PERSON WHO IS BELIEVED TO HAVE A MENTAL ILLNESS AND IS REQUIRING IMMEDIATE CARE, TO PROVIDE THAT A STATE OR LOCAL LAW ENFORCEMENT OFFICER RESPONSIBLE FOR TRANSPORTING THE PATIENT MUST BE A PART OF A THERAPEUTIC TRANSPORT UNIT AND HAVE UNDERGONE MENTAL HEALTH AND CRISIS INTERVENTION TRAINING, AND TO PROVIDE THAT A PHYSICIAN RESPONSIBLE FOR THE PATIENT’S CARE MUST NOTIFY A FRIEND OR RELATIVE THAT THE FRIEND OR RELATIVE MAY TRANSPORT THE PATIENT TO THE MENTAL HEALTH FACILITY AND THAT THE FRIEND OR RELATIVE FREELY CHOOSES TO ASSUME THAT RESPONSIBILITY AND LIABILITY FOR THE TRANSPORT.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44-17-410(2) of the 1976 Code is amended to read:

“(2) a certification in triplicate by at least one licensed physician stating that the physician has examined the person and is of the opinion that the person is mentally ill and because of this condition is likely to cause harm to himself through neglect, inability to care for himself, or personal injury, or otherwise, or to others if not immediately hospitalized. The certification must contain the grounds for the opinion. A person for whom a certificate has been issued may not be admitted on the basis of that certificate after the expiration of three calendar days after the date of the examination; however, in the event of a natural disaster or the existence of life-threatening conditions during the time that a person may be taken into custody, the certificate expires three days after conditions are determined to be safe for transport;”

SECTION 2. Section 44-17-440 of the 1976 Code is amended to read:

“Section 44-17-440. (A) The certificate required by Section 44‑17‑410, emergency admission, must authorize and require a state or local law enforcement officer~~, preferably in civilian clothes and preferably with crisis intervention training,~~ to take into custody and transport the person to the hospital designated by the certification. No person may be taken into custody after the expiration of three days from the date of certification. In the event of a natural disaster or the existence of life-threatening conditions during the time that a person may be taken into custody, the certificate expires three days after conditions are determined to be safe for transport. ~~A friend or relative may transport the individual to the mental health facility designated in the application or engage the services of an emergency medical technician as defined by Section 44‑61‑310, if the friend or relative has read and signed a statement on the certificate which clearly states that it is the responsibility of a state or local law enforcement officer to provide timely transportation for the patient and that the friend or relative freely chooses to assume that responsibility and liability. A friend or relative who chooses to transport the patient is not entitled to reimbursement from the State for the cost of the transportation.~~ An officer or an emergency medical technician acting in accordance with this article is immune from civil liability. Upon entering a written agreement between the local law enforcement agency, the governing body of the local government, the emergency medical service providers, and the directors of the community mental health centers, an alternative transportation program utilizing peer supporters and case managers may be arranged for nonviolent persons requiring mental health treatment. The agreement clearly must define the responsibilities of each party and the requirements for program participation.

(B) A state or local law enforcement officer responsible for transporting a patient should be a part of a therapeutic transport unit and must have undergone crisis intervention training.

(1) For the purposes of this subsection, ‘crisis intervention training’ means training that teaches an officer to identify mental health resources for those in crisis and take appropriate action to ensure officer and community safety.

(2) For the purposes of this subsection, ‘therapeutic transport unit’ means an individual, office, department, division, or other component of public law enforcement that is responsible for moving a patient for mental or chemical dependency evaluation or treatment in accordance with orders issued by the probate court or a physician.

(C) If a certifying physician determines that a patient’s condition would not pose a flight risk or likely harm to himself or others if transported by a friend or relative; a friend or relative of the patient is readily available; and, in the case of a patient sixteen years of age or older, the patient does not object, then the certifying physician or his designee must notify a friend or relative, if available, that the friend or relative may transport the patient to the mental health facility designated in the application or engage the services of an emergency medical technician as defined by Section 44‑61‑310. The friend or relative must read and sign a statement on the certificate stating that it is the responsibility of a state or local law enforcement officer to provide timely transportation for the patient and that the friend or relative freely chooses to assume that responsibility and liability. A friend or relative who chooses to transport the patient must do so in a timely manner and is not entitled to reimbursement from the State for the cost of the transportation.

(D) An individual who has been certified for an involuntary emergency admission but not yet admitted to a facility and needs to be transported from a mental health center or an emergency department of a hospital to another facility for admission may be transported by ~~an emergency medical technician~~ a contracted non-emergency ambulance.

(E)(1) There is established in the State Treasury a separate and distinct fund known as the ‘Therapeutic Transport Fund’. The revenues of the fund must be distributed by the Department of Public Safety Coordinating Council for the purpose of assisting state and local law enforcement agencies in implementing the provisions of this section, including, but not limited to, initial crisis intervention training costs and staffing, and ongoing costs related to training and staffing needs. The Departmentof Public Safety Coordinating Councilshall oversee the fund. The Departmentof Public Safety Coordinating Council shall disburse the funds in a fair and equitable manner, taking into consideration priorities in funding. Applications for funding may not be submitted until crisis intervention training has been completed.

(2) The Department of Public Safety Coordinating Council shall make its best efforts to seek and acquire available sources of public and private funding to be included in the fund.”

SECTION 3. Within one hundred eighty days of the effective date of this act, the Department of Public Safety Coordinating Council shall establish a process for the application for and disbursement of monies to state and local law enforcement agencies, pursuant to Section 44-17-440(E)(1), as added by this act.

SECTION 4. This act takes effect on July 1, 2020.

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