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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND  
HOSPITALS - MENTAL HEALTH LAW

Introduced By: Representative David A. Bennett

Date Introduced: January 25, 2021

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 40.1-5-5, 40.1-5-7, 40.1-5-8, 40.1-5-9 and 40.1-5-10 of the General  
2 Laws in Chapter 40.1-5 entitled "Mental Health Law" are hereby amended to read as follows:

3 **40.1-5-5. Admission of patients generally -- Rights of patients -- Patients' records --**  
4 **Competence of patients.**

5 (a) Admissions. Any person who is in need of care and treatment in a facility, as herein  
6 defined, may be admitted or certified, received, and retained as a patient in a facility by complying  
7 with any one of the following admission procedures applicable to the case:

8 (1) Voluntary admission.

9 (2) Emergency certification.

10 (3) Civil court certification.

11 (b) Forms. The director shall prescribe and furnish forms for use in admissions and patient  
12 notification procedures under this chapter.

13 (c) Exclusions. No defective delinquent, mentally retarded person, or person under the  
14 influence of alcohol or drugs shall be certified to a facility, as herein defined, solely by reason of  
15 that condition, unless the person also qualified for admission or certification under the provisions  
16 of this chapter.

17 (d) Examining physician [or licensed advanced practice registered nurse \(APRN\)](#). For  
18 purposes of certification, no examining physician [or licensed advanced practice registered nurse](#)

1 [\(APRN\), certified in psychiatric/mental health](#) shall be related by blood or marriage to the person  
2 who is applying for the admission of another, or to the person who is the subject of the application;  
3 nor shall he or she have any interest, contractually, testamentary, or otherwise (other than  
4 reasonable and proper charges for professional services rendered), in or against the estate or assets  
5 of the person who is the subject of the application; nor shall he or she be a manager, trustee, visitor,  
6 proprietor, officer, stockholder, or have any pecuniary interest, directly or indirectly, or, except as  
7 otherwise herein expressly provided, be a director, resident physician, or salaried physician,  
8 [licensed advanced practice registered nurse \(APRN\), certified in psychiatric/mental health,](#) or  
9 employee in any facility to which it is proposed to admit the person.

10 (e) Certificates. Certificates, as required by this chapter, must provide a factual description  
11 of the person's behavior which indicates that the person concerned is mentally disabled, creates a  
12 likelihood of serious harm, and is in need of care and treatment in a facility as defined in this  
13 chapter. They shall further set forth such other findings as may be required by the particular  
14 certification procedure used. Certificates shall also show that an examination of the person  
15 concerned was made within five (5) days prior to the date of admission or certification, unless  
16 otherwise herein provided. The date of the certificate shall be the date of the commencement of the  
17 examination, and in the event examinations are conducted separately or over a period of days, then  
18 the five (5) day period above referred to (unless otherwise expressly provided) shall be measured  
19 from the date of the commencement of the first examination. All certificates shall contain the  
20 observations upon which judgments are based, and shall contain such other information as the  
21 director may by rule or regulation require.

22 (f) Rights of patients. No patient admitted or certified to any facility under any provision  
23 of this chapter shall be deprived of any constitutional, civil or legal right, solely by reason of such  
24 admission or certification nor shall the certification or admission modify or vary any constitutional  
25 or civil right, including, but not limited to, the right or rights:

26 (1) To privacy and dignity;

27 (2) To civil service or merit rating or ranking and appointment;

28 (3) Relating to the granting, forfeiture or denial of a license, permit, privilege or benefit  
29 pursuant to any law;

30 (4) To religious freedom;

31 (5) To be visited privately at all reasonable times by his or her personal physician, [licensed](#)  
32 [advanced practice registered nurse \(APRN\), certified in psychiatric/mental health,](#) attorney, and  
33 clergyperson, and by other persons at all reasonable times unless the official in charge of the facility  
34 determines either that a visit by any of the other persons or a particular visitation time would not

1 be in the best interests of the patient and he or she incorporates a statement for any denial of visiting  
2 rights in the individualized treatment record of the patient;

3 (6) To be provided with stationery, writing materials, and postage in reasonable amounts  
4 and to have free unrestricted, unopened, and uncensored use of the mails for letters;

5 (7) To wear one's own clothes, keep and use personal possessions, including toilet articles,  
6 to keep and be allowed to spend a reasonable sum of money for canteen expenses and small  
7 purchases, to have access to individual storage space for his or her private use, and reasonable  
8 access to telephones to make and receive confidential calls; provided, however, that any of these  
9 rights may be denied for good cause by the official in charge of a facility or a physician designated  
10 by him or her. A statement of the reasons for any denial shall be entered in the individualized  
11 treatment record of the patient;

12 (8) To seek independent psychiatric examination and opinion from a psychiatrist or mental  
13 health professional of his or her choice;

14 (9) To be employed at a gainful occupation insofar as the patient's condition permits,  
15 provided however, that no patient shall be required to perform labor;

16 (10) To vote and participate in political activity;

17 (11) To receive and read literature;

18 (12) To have the least possible restraint imposed upon the person consistent with affording  
19 him or her the care and treatment necessary and appropriate to his or her condition;

20 (13) To have access to the mental health advocate upon request;

21 (14) To prevent release of his or her name to the advocate or next of kin by signing a form  
22 provided to all patients for that purpose at the time of admission.

23 (g) Records. A facility shall maintain for each patient admitted pursuant to this chapter, a  
24 comprehensive medical record. The record shall contain a recorded individualized treatment plan,  
25 which shall at least monthly be reviewed by the physician of the facility who is chiefly responsible  
26 for the patient's care, notations of the reviews to be entered in the record. The records shall also  
27 contain information indicating at the time of admission or certification what alternatives to  
28 admission or certification are available to the patient, what alternatives have been investigated, and  
29 why the investigated alternatives were not deemed suitable. The medical record shall further  
30 contain such other information as the director may by rule or regulation require.

31 (h) Competence. A person shall not, solely by reason of his or her admission or certification  
32 to a facility for examination or care and treatment under the provisions of this chapter thereby be  
33 deemed incompetent to manage his or her affairs, to contract, to hold, or seek a professional,  
34 occupational, or vehicle operator's license, to make a will, or for any other purpose. Neither shall

1 any requirement be made, by rule, regulation, or otherwise, as a condition to admission and  
2 retention, that any person applying for admission shall have the legal capacity to contract, it being  
3 sufficient for the purpose, that the person understand the nature and consequence of making the  
4 application.

5 **40.1-5-7. Emergency certification.**

6 (a) Applicants.

7 (1) Any physician who [or licensed advanced practice registered nurse \(APRN\), certified in](#)  
8 [psychiatric/mental health](#), after examining a person, has reason to believe that the person is in need  
9 of immediate care and treatment, and is one whose continued unsupervised presence in the  
10 community would create an imminent likelihood of serious harm by reason of mental disability,  
11 may apply at a facility for the emergency certification of the person thereto. The medical director,  
12 or any other physician [or licensed advanced practice registered nurse \(APRN\), certified in](#)  
13 [psychiatric/mental health](#), employed by the proposed facility for certification, may apply under this  
14 subsection if no other physician [or licensed advanced practice registered nurse \(APRN\), certified](#)  
15 [in psychiatric/mental health](#), is available and he or she certifies this fact. If an examination is not  
16 possible because of the emergency nature of the case and because of the refusal of the person to  
17 consent to the examination, the applicant on the basis of his or her observation may determine, in  
18 accordance with the above, that emergency certification is necessary and may apply therefor. In the  
19 event that no physician [or licensed advanced practice registered nurse \(APRN\), certified in](#)  
20 [psychiatric/mental health](#), is available, a qualified mental health professional who believes the  
21 person to be in need of immediate care and treatment, and one whose continued unsupervised  
22 presence in the community would create an imminent likelihood of serious harm by reason of  
23 mental disability, may make the application for emergency certification to a facility. Application  
24 shall in all cases be made to the facility that, in the judgment of the applicant at the time of  
25 application, would impose the least restraint on the liberty of the person consistent with affording  
26 him or her the care and treatment necessary and appropriate to his or her condition.

27 (2) Whenever an applicant, not employed by a community mental health center established  
28 pursuant to chapter 8.5 of this title, has reason to believe that the institute of mental health is the  
29 appropriate facility for the person, the application shall be directed to the community mental health  
30 center that serves the area in which the person resides, if the person is a Rhode Island resident, or  
31 the area in which the person is physically present, if a nonresident, and the qualified mental health  
32 professional(s) at the center shall make the final decision on the application to the institute of mental  
33 health or may determine whether some other disposition should be made.

34 (b) Applications. An application for certification hereunder shall be in writing and filed

1 with the facility to which admission is sought. The application shall be executed within five (5)  
2 days prior to the date of filing and shall state that it is based upon a personal observation of the  
3 prospective patient by the applicant within the five-day (5) period. It shall include a description of  
4 the applicant's credentials and the behavior that constitutes the basis for his or her judgment that  
5 the prospective patient is in need of immediate care and treatment and that a likelihood of serious  
6 harm by reason of mental disability exists, and shall include, as well, any other relevant information  
7 that may assist the admitting physician [or licensed advanced practice registered nurse \(APRN\),](#)  
8 [certified in psychiatric/mental health,](#) at the facility to which application is made. Whenever  
9 practicable, prior to transporting or arranging for the transporting of a prospective patient to a  
10 facility, the applicant shall telephone or otherwise communicate with the facility to describe the  
11 circumstances and known clinical history to determine whether it is the proper facility to receive  
12 the person, and to give notice of any restraint to be used or to determine whether restraint is  
13 necessary.

14 (c) Confirmation; discharge; transfer. Within one hour after reception at a facility, the  
15 person regarding whom an application has been filed under this section shall be seen by a physician  
16 [or licensed advanced practice registered nurse \(APRN\), certified in psychiatric/mental health.](#) As  
17 soon as possible, but in no event later than twenty-four (24) hours after reception, a preliminary  
18 examination and evaluation of the person by a psychiatrist or a physician, [or licensed advanced](#)  
19 [practice registered nurse \(APRN\), certified in psychiatric/mental health,](#) under his or her  
20 supervision shall begin. The psychiatrist shall not be an applicant hereunder. The preliminary  
21 examination and evaluation shall be completed within seventy-two (72) hours from its inception  
22 by the psychiatrist. If the psychiatrist determines that the patient is not a candidate for emergency  
23 certification, he or she shall be discharged. If the psychiatrist(s) determines that the person who is  
24 the subject of the application is in need of immediate care and treatment and is one whose continued  
25 unsupervised presence in the community would create an imminent likelihood of serious harm by  
26 reason of mental disability, he or she shall confirm the admission for care and treatment under this  
27 section of the person to the facility, provided the facility is one that would impose the least restraint  
28 on the liberty of the person consistent with affording him or her the care and treatment necessary  
29 and appropriate to his or her condition and that no suitable alternatives to certification are available.  
30 If at any time the official in charge of a facility or his or her designee determines that the person is  
31 not in need of immediate care and treatment, or is not one whose continued unsupervised presence  
32 in the community would create an imminent likelihood of serious harm by reason of mental  
33 disability, or suitable alternatives to certification are available, he or she shall immediately  
34 discharge the person. In addition, the official may arrange to transfer the person to an appropriate

1 facility if the facility to which he or she has been certified is not one that imposes the least restraint  
2 on the liberty of the person consistent with affording him or her the care and treatment necessary  
3 and appropriate to his or her condition.

4 (d) Custody. Upon the request of an applicant under this section, to be confirmed in writing,  
5 it shall be the duty of any peace officer of this state or of any governmental subdivision thereof to  
6 whom request has been made, to take into custody and transport the person to the facility  
7 designated, the person to be expeditiously presented for admission thereto.

8 (e) Ex parte court order. An applicant under this section may present a petition to any judge  
9 of the district court or any justice of the family court, in the case of a person who is the subject of  
10 an application who has not yet attained his or her eighteenth birthday, for a warrant directed to any  
11 peace officer of the state or any governmental subdivision thereof to take into custody the person  
12 who is the subject of the application and immediately transport the person to a designated facility.  
13 The application shall set forth that the person who is to be certified is in need of immediate care  
14 and treatment and his or her continued unsupervised presence in the community would create an  
15 imminent likelihood of serious harm by reason of mental disability, and the reasons why an order  
16 directing a peace officer to transport the person to a designated facility is necessary.

17 (f) Notification of rights. No person shall be certified to a facility under the provisions of  
18 this section unless appropriate opportunity is given to apply for voluntary admission under the  
19 provisions of § 40.1-5-6 and unless he or she, or a parent, guardian, or next of kin, has been  
20 informed, in writing, on a form provided by the department, by the official in charge of the facility:  
21 (1) That he or she has a right to the voluntary admission; (2) That a person cannot be certified until  
22 all available alternatives to certification have been investigated and determined to be unsuitable;  
23 and (3) That the period of hospitalization or treatment in a facility cannot exceed ten (10) days  
24 under this section, except as provided in subsection (g) of this section.

25 (g) Period of treatment. A person shall be discharged no later than ten (10) days measured  
26 from the date of his or her admission under this section, unless an application for a civil court  
27 certification has been filed and set down for a hearing under the provisions of § 40.1-5-8, or the  
28 person remains as a voluntary patient pursuant to § 40.1-5-6.

29 **40.1-5-8. Civil court certification.**

30 (a) Petitions. A verified petition may be filed in the district court, or family court in the  
31 case of a person who has not reached his or her eighteenth (18th) birthday, for the certification to a  
32 facility of any person who is alleged to be in need of care and treatment in a facility, and whose  
33 continued unsupervised presence in the community would create a likelihood of serious harm by  
34 reason of mental disability. The petition may be filed by any person with whom the subject of the

1 petition may reside; or at whose house he or she may be; or the father or mother, husband or wife,  
2 brother or sister, or the adult child of any such person; the nearest relative if none of the above are  
3 available; or his or her guardian; or the attorney general; or a local director of public welfare; or  
4 the director of the department of behavioral healthcare, developmental disabilities and hospitals;  
5 the director of the department of human services; or the director of the department of corrections;  
6 the director of the department of health; the warden of the adult correctional institutions; the  
7 superintendent of the boys training school for youth, or his or her designated agent; or the director  
8 of any facility, or his or her designated agent, whether or not the person shall have been admitted  
9 and is a patient at the time of the petition. A petition under this section shall be filed only after the  
10 petitioner has investigated what alternatives to certification are available and determined why the  
11 alternatives are not deemed suitable.

12 (b) Contents of petition. The petition shall state that it is based upon a personal observation  
13 of the person concerned by the petitioner within a ten-day (10) period prior to filing. It shall include  
14 a description of the behavior that constitutes the basis for the petitioner's judgment that the person  
15 concerned is in need of care and treatment and that a likelihood of serious harm by reason of mental  
16 disability exists. In addition, the petitioner shall indicate what alternatives to certification are  
17 available; what alternatives have been investigated; and why the investigated alternatives are not  
18 deemed suitable.

19 (c) Certificates and contents thereof. A petition hereunder shall be accompanied by the  
20 certificates of two (2) physicians [or licensed advanced practice registered nurse \(APRN\), certified](#)  
21 [in psychiatric/mental health](#) unless the petitioner is unable to afford, or is otherwise unable to  
22 obtain, the services of a physician or physicians [or licensed advanced practice registered nurse](#)  
23 [\(APRN\), certified in psychiatric/mental health](#) qualified to make the certifications. The certificates  
24 shall be rendered pursuant to the provisions of § 40.1-5-5, except when the patient is a resident in  
25 a facility, the attending physician and one other physician [or licensed advanced practice registered](#)  
26 [nurse \(APRN\), certified in psychiatric/mental health](#) from the facility may sign the certificates, and  
27 shall set forth that the prospective patient is in need of care and treatment in a facility and would  
28 likely benefit therefrom, and is one whose continued unsupervised presence in the community  
29 would create a likelihood of serious harm by reason of mental disability together with the reasons  
30 therefor. The petitions and accompanying certificates shall be executed under penalty of perjury,  
31 but shall not require the signature of a notary public thereon.

32 (d) Preliminary hearing.

33 (1) Upon a determination that the petition sets forth facts constituting reasonable grounds  
34 to support certification, the court shall summon the person to appear before the court at a

1 preliminary hearing, scheduled no later than five (5) business days from the date of filing. This  
2 hearing shall be treated as a priority on the court calendar and may be continued only for good  
3 cause shown. In default of an appearance, the court may issue a warrant directing a police officer  
4 to bring the person before the court.

5 (2) At the preliminary hearing, the court shall serve a copy of the petition upon the person  
6 and advise him or her of the nature of the proceedings and of his or her right to counsel. If the  
7 person is unable to afford counsel, the court forthwith shall appoint the mental health advocate for  
8 him or her. If the court finds that there is no probable cause to support certification, the petition  
9 shall be dismissed, and the person shall be discharged unless the person applies for voluntary  
10 admission. However, if the court is satisfied by the testimony that there is probable cause to support  
11 certification, a final hearing shall be held not less than seven (7) days, nor more than twenty-one  
12 (21) days, after the preliminary hearing, unless continued at the request of counsel for the person,  
13 and notice of the date set down for the hearing shall be served on the person. Copies of the petition  
14 and notice of the date set down for the hearing shall also be served immediately upon the person's  
15 nearest relatives or legal guardian, if known, and to any other person designated by the patient, in  
16 writing, to receive copies of notices. The preliminary hearing can be waived by a motion of the  
17 patient to the court if the patient is a resident of a facility.

18 (e) Petition for examination.

19 (1) Upon motion of either the petitioner or the person, or upon its own motion, the court  
20 may order that the person be examined by a psychiatrist [or licensed advanced practice registered](#)  
21 [nurse \(APRN\), certified in psychiatric/mental health](#), appointed by the court. The examination may  
22 be conducted on an outpatient basis and the person shall have the right to the presence of counsel  
23 while it is being conducted. A report of the examination shall be furnished to the court, the  
24 petitioner, and the person and his or her counsel at least forty-eight (48) hours prior to the hearing.

25 (2) If the petition is submitted without two (2) physicians' certificates as required under  
26 subsection (c), the petition shall be accompanied by a motion for a psychiatric examination to be  
27 ordered by the court. The motion shall be heard on the date of the preliminary hearing set by the  
28 court pursuant to subsection (d), or as soon thereafter as counsel for the subject person is engaged,  
29 appointed, and ready to proceed. The motion shall be verified or accompanied by affidavits and  
30 shall set forth facts demonstrating the efforts made to secure examination and certification by a  
31 physician or physicians, [or licensed advanced practice registered nurse \(APRN\), certified in](#)  
32 [psychiatric/mental health](#), and shall indicate the reasons why the efforts failed.

33 (3) After considering the motion and testimony as may be offered on the date of hearing  
34 the motion, the court may deny the application and dismiss the petition, or upon finding: (i) That

1 there is a good cause for the failure to obtain one or more physician's [or licensed advanced practice](#)  
2 [registered nurse \(APRN\), certified in psychiatric/mental health](#) certificates in accordance with  
3 subsection (c); and (ii) That there is probable cause to substantiate the allegations of the petition,  
4 the court shall order an immediate examination by two (2) qualified psychiatrists; [or licensed](#)  
5 [advanced practice registered nurse \(APRN\), certified in psychiatric/mental health](#) pursuant to  
6 subsection (e)(1).

7 (f) Professional assistance. A person with respect to whom a court hearing has been ordered  
8 under this section shall have, and be informed of, a right to employ a mental health professional of  
9 his or her choice to assist him or her in connection with the hearing and to testify on his or her  
10 behalf. If the person cannot afford to engage such a professional, the court shall, on application,  
11 allow a reasonable fee for the purpose.

12 (g) Procedure. Upon receipt of the required certificates and/or psychiatric reports as  
13 applicable hereunder, the court shall schedule the petition for final hearing unless, upon review of  
14 the reports and certificates, the court concludes that the certificates and reports do not indicate, with  
15 supporting reasons, that the person who is the subject of the petition is in need of care and treatment;  
16 that his or her unsupervised presence in the community would create a likelihood of serious harm  
17 by reason of mental disability; and that all alternatives to certification have been investigated and  
18 are unsuitable, in which event the court may dismiss the petition.

19 (h) Venue. An application for certification under this section shall be made to, and all  
20 proceedings pursuant thereto shall be conducted in, the district court, or family court in the case of  
21 a person who has not yet reached his or her eighteenth (18th) birthday, of the division or county in  
22 which the subject of an application may reside or may be, or when the person is already a patient  
23 in a facility, in the district court or family court of the division or county in which the facility is  
24 located, subject, however, to application by any interested party for change of venue because of  
25 inconvenience of the parties or witnesses or the condition of the subject of the petition or other  
26 valid judicial reason for the change of venue.

27 (i) Hearing. A hearing scheduled under this section shall be conducted pursuant to the  
28 following requirements:

29 (1) All evidence shall be presented according to the usual rules of evidence that apply in  
30 civil, non-jury cases. The subject of the proceedings shall have the right to present evidence in his  
31 or her own behalf and to cross examine all witnesses against him or her, including any physician  
32 [or licensed advanced practice registered nurse \(APRN\), certified in psychiatric/mental health](#) who  
33 has completed a certificate or filed a report as provided hereunder. The subject of the proceedings  
34 shall have the further right to subpoena witnesses and documents, the cost of such to be borne by

1 the court where the court finds upon an application of the subject that the person cannot afford to  
2 pay for the cost of subpoenaing witnesses and documents.

3 (2) A verbatim transcript or electronic recording shall be made of the hearing that shall be  
4 impounded and obtained or examined only with the consent of the subject thereof (or in the case of  
5 a person who has not yet attained his or her eighteenth (18th) birthday, his or her parent, guardian,  
6 or next of kin) or by order of the court.

7 (3) The hearing may be held at a location other than a court, including any facility where  
8 the subject may currently be a patient, where it appears to the court that holding the hearing at  
9 another location would be in the best interests of the subject thereof.

10 (4) The burden of proceeding and the burden of proof in a hearing held pursuant to this  
11 section shall be upon the petitioner. The petitioner has the burden of demonstrating that the subject  
12 of the hearing is in need of care and treatment in a facility, is one whose continued unsupervised  
13 presence in the community would create a likelihood of serious harm by reason of mental disability,  
14 and what alternatives to certification are available, what alternatives to certification were  
15 investigated, and why these alternatives were not deemed suitable.

16 (5) The court shall render a decision within forty-eight (48) hours after the hearing is  
17 concluded.

18 (j) Order. If the court at a final hearing finds by clear and convincing evidence that the  
19 subject of the hearing is in need of care and treatment in a facility, and is one whose continued  
20 unsupervised presence in the community would, by reason of mental disability, create a likelihood  
21 of serious harm, and that all alternatives to certification have been investigated and deemed  
22 unsuitable, it shall issue an order committing the person to the custody of the director for care and  
23 treatment or to an appropriate facility. In either event, and to the extent practicable, the person shall  
24 be cared for in a facility that imposes the least restraint upon the liberty of the person consistent  
25 with affording him or her the care and treatment necessary and appropriate to his or her condition.  
26 No certification shall be made under this section unless and until full consideration has been given  
27 by the certifying court to the alternatives to in-patient care, including, but not limited to, a  
28 determination of the person's relationship to the community and to his or her family, of his or her  
29 employment possibilities, and of all available community resources, alternate available living  
30 arrangements, foster care, community residential facilities, nursing homes, and other convalescent  
31 facilities. A certificate ordered pursuant to this section shall be valid for a period of six (6) months  
32 from the date of the order. At the end of that period the patient shall be discharged, unless he or she  
33 is discharged prior to that time, in which case the certification shall expire on the date of the  
34 discharge.

1 (k) Appeals.

2 (1) A person certified under this section shall have a right to appeal from a final hearing to  
3 the supreme court of the state within thirty (30) days of the entry of an order of certification. The  
4 person shall have the right to be represented on appeal by counsel of his or her choice or by the  
5 mental health advocate if the supreme court finds that he or she cannot afford to retain counsel.  
6 Upon a showing of indigency, the supreme court shall permit an appeal to proceed without payment  
7 of costs, and a copy of the transcript of the proceedings below shall be furnished to the subject of  
8 the proceedings, or to his or her attorney, at the expense of the state. The certifying court shall  
9 advise the person of all his or her rights pursuant to this section immediately upon the entry of an  
10 order of certification.

11 (2) Appeals under this section shall be given precedence, insofar as practicable, on the  
12 supreme court dockets. The district and family courts shall promulgate rules with the approval of  
13 the supreme court to insure the expeditious transmission of the record and transcript in all appeals  
14 pursuant to this chapter.

15 (l) Submission to NICS database.

16 (1) The district court shall submit the name, date of birth, gender, race or ethnicity, and  
17 date of civil commitment to the NICS database of all persons subject to a civil court certification  
18 order pursuant to this section within forty-eight (48) hours of certification.

19 (2) Any person affected by the provisions of this section, after the lapse of a period of three  
20 (3) years from the date such civil certification is terminated, shall have the right to appear before  
21 the relief from disqualifiers board.

22 (3) Upon notice of a successful appeal pursuant to subsection (k), the district court shall,  
23 as soon as practicable, cause the appellant's record to be updated, corrected, modified, or removed  
24 from any database maintained and made available to the National Instant Criminal Background  
25 Check System (NICS) and reflect that the appellant is no longer subject to a firearms prohibition  
26 as it relates to 18 U.S.C. § 922(d)(4) and 18 U.S.C. § 922(g)(4).

27 (m) Equitable authority. In addition to the powers heretofore exercised, the district and  
28 family courts are hereby empowered, in furtherance of their jurisdiction under this chapter, to grant  
29 petitions for instructions for the provision or withholding of treatment as justice and equity may  
30 require.

31 **40.1-5-9. Right to treatment -- Treatment plan.**

32 (a) Any person who is a patient in a facility pursuant to this chapter shall have a right to  
33 receive the care and treatment that is necessary for and appropriate to the condition for which he or  
34 she was admitted or certified and from which he or she can reasonably be expected to benefit. Each

1 patient shall have an individualized treatment plan. This plan shall be developed by appropriate  
2 mental health professionals, including a psychiatrist, [or licensed advanced practice registered nurse](#)  
3 [\(APRN\), certified in psychiatric/mental health](#), and implemented as soon as possible -- in any event  
4 no later than five (5) days after a patient's voluntary admission or involuntary court certification.

5 Each individual treatment plan shall be made in accordance with the professional regulations of  
6 each facility, and by way of illustration and, not limited to the following, shall contain:

7 (1) A statement of the nature of the specific problems and specific needs of the patient;

8 (2) A statement of the least restrictive treatment conditions necessary to achieve the  
9 purposes of certification or admission;

10 (3) A description of intermediate and long-range treatment goals; and

11 (4) A statement and rationale for the plan of treatment for achieving these intermediate and  
12 long-range goals.

13 (b) The individualized treatment plan shall become part of the patient's record in  
14 accordance with § 40.1-5-5(g), and the subject of periodic review in accordance with § 40.1-5-10.  
15 In implementing a treatment plan on behalf of any patient the official in charge of any facility or  
16 his or her designee(s) may, when it is warranted authorize the release of the patient for such periods  
17 of time and under such terms and conditions that they deem appropriate.

18 **40.1-5-10. Periodic institutional review proceedings.**

19 (a) In general. Each patient admitted or certified to a facility pursuant to the provisions of  
20 this chapter shall be the subject of a periodic review of his or her condition and status to be  
21 conducted by a review committee composed of at least one psychiatrist [or licensed advanced](#)  
22 [practice registered nurse \(APRN\), certified in psychiatric/mental health](#) and other mental health  
23 professionals involved in treating the patient. The committee shall be composed of no fewer than  
24 three (3) persons and shall be appointed by the director of the facility or his or her designated agent.  
25 The reviews shall minimally involve an evaluation of the quality of care which the patient is  
26 receiving, including an evaluation of the patient's treatment plan, and the making of any  
27 recommendations for the improvement of the care or for the revision of the treatment plan,  
28 including alternative available living arrangements, foster care, community residential facilities,  
29 nursing homes, and other convalescent facilities. At every fourth review, one member of the  
30 committee shall be a member of the hospital's utilization review committee appointed by that  
31 committee's chairperson.

32 (b) Frequency. The review proceedings shall take place at least once within each ninety  
33 (90) day period during which a person is a patient in the facility.

34 (c) Results of review. The results of each review shall be entered in the patient's medical

1 record, presented orally to the patient within twenty-four (24) hours and confirmed by written  
2 notice to the patient and his or her guardian, or with the patient's consent, to his or her next of kin,  
3 within seventy-two (72) hours. In the event the director of the facility is not a member of the  
4 committee the notice shall be transmitted to him or her as well. Where the committee determines  
5 that further care in the facility is required, the notice to the patient shall include an explanation of  
6 the patient's rights to pursue discharge as elsewhere provided in this chapter.

7 SECTION 2. This act shall take effect upon passage.

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LC000090  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND  
HOSPITALS - MENTAL HEALTH LAW

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1           This act would include licensed advanced practice registered nurses (APRN), certified in  
2 psychiatric/mental health, as qualified to certify the need for mental health treatment in certain  
3 patients.

4           This act would take effect upon passage.

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LC000090  
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