GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2015 REGULAR SESSION

SENATE BILL NO. 51

AS ENACTED

WEDNESDAY, MARCH 11, 2015

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

1 AN ACT relating to mental health.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 202A.400 is amended to read as follows:

4 (1) No monetary liability and no cause of action shall arise against any mental health
5 professional for failing to predict, warn of or take precautions to provide protection
6 from a patient's violent behavior, unless the patient has communicated to the mental
7 health professional an actual threat of physical violence against a clearly identified
8 or reasonably identifiable victim, or unless the patient has communicated to the
9 mental health professional an actual threat of some specific violent act.

10 (2) The duty to warn of or to take reasonable precautions to provide protection from
11 violent behavior arises only under the limited circumstances specified in subsection
12 (1) of this section. The duty to warn a clearly or reasonably identifiable victim shall
13 be discharged by the mental health professional if reasonable efforts are made to
14 communicate the threat to the victim, and to notify the police department closest to
15 the patient's and the victim's residence of the threat of violence. When the patient
16 has communicated to the mental health professional an actual threat of some
17 specific violent act and no particular victim is identifiable, the duty to warn has
18 been discharged if reasonable efforts are made to communicate the threat to law
19 enforcement authorities. The duty to take reasonable precaution to provide
20 protection from violent behavior shall be satisfied if reasonable efforts are made to
21 seek civil commitment of the patient under this chapter.

22 (3) No monetary liability and no cause of action shall arise against any mental health
23 professional for confidences disclosed to third parties in an effort to discharge a
24 duty arising under subsection (1) of this section according to the provisions of
25 subsection (2) of this section.

26 (4) For purposes of this section:~~[,]~~

27 ***(a)*** "Mental health professional" means:

1 ***1.***[~~(a)~~] A physician licensed under the laws of Kentucky to practice
2 medicine or osteopathy, or a medical officer of the government of the
3 United States while engaged in conducting mental health services;
4 ***2.***[~~(b)~~] A psychiatrist licensed under the laws of Kentucky to practice
5 medicine or osteopathy, or a medical officer of the government of the
6 United States engaged in conducting mental health services;
7 ***3.***[~~(c)~~] A psychologist, a psychological practitioner, a certified
8 psychologist, or a psychological associate, licensed under the provisions
9 of KRS Chapter 319;
10 ***4.***[~~(d)~~] A registered nurse licensed under the provisions of KRS Chapter
11 314 engaged in providing mental health services;
12 ***5.***[~~(e)~~] A licensed clinical social worker licensed under the provisions of
13 KRS 335.100, or a certified social worker licensed under the provisions
14 of KRS 335.080 engaged in providing mental health services;
15 ***6.***[~~(f)~~] A marriage and family therapist licensed under the provisions of
16 KRS 335.300 to 335.399 engaged in providing mental health services;
17 ***7.***[~~(g)~~] A professional counselor credentialed under the provisions of KRS
18 Chapter 335.500 to 335.599 engaged in providing mental health
19 services;
20 ***8.***[~~(h)~~] An art therapist certified under KRS 309.130 engaged in providing
21 mental health services; or
22 ***9.***[~~(i)~~]) A pastoral counselor licensed under the provisions of KRS
23 335.600 to 335.699 engaged in providing mental health services***; and***
24 ***(b) "Patient" has the same meaning as in KRS 202A.011, except that it also***
25 ***includes a person currently under the outpatient care or treatment of a***
26 ***mental health professional***.
27 ➔Section 2. KRS 202A.028 is amended to read as follows:

1 (1) Following an examination by a qualified mental health professional and a
2 certification by that professional that the person meets the criteria for involuntary
3 hospitalization, a judge may order the person hospitalized for a period not to exceed
4 seventy-two (72) hours, excluding weekends and holidays. For the purposes of this
5 section, the qualified mental health professional shall be***:***
6 ***(a)*** A staff member of a regional community program for mental health or
7 individuals with an intellectual disability***;***
8 ***(b) An individual qualified and licensed to perform the examination through***
9 ***the use of telehealth services; or***
10 ***(c)*** ~~[, unless the person to be examined is hospitalized and under the care of a~~
11 ~~licensed psychiatrist, in which case the qualified mental health professional~~
12 ~~shall be the psychiatrist if]~~The psychiatrist ~~[is]~~ordered, subject to the court's
13 discretion, to perform the required examination.
14 (2) Any person who has been admitted to a hospital under subsection (1) of this section
15 shall be released from the hospital within seventy-two (72) hours, excluding
16 weekends and holidays, unless further held under the applicable provisions of this
17 chapter.
18 (3) Any person admitted to a hospital under subsection (1) of this section or transferred
19 to a hospital while ordered hospitalized under subsection (1) of this section shall be
20 transported from the person's home county by the sheriff of that county or other
21 peace officer as ordered by the court. The sheriff or other peace officer may, upon
22 agreement of a person authorized by the peace officer, authorize the cabinet, a
23 private agency on contract with the cabinet, or an ambulance service designated by
24 the cabinet to transport the person to the hospital. The transportation costs of the
25 sheriff, other peace officer, ambulance service, or other private agency on contract
26 with the cabinet shall be paid by the cabinet in accordance with an administrative
27 regulation promulgated by the cabinet, pursuant to KRS Chapter 13A.

1 (4) Any person released from the hospital under subsection (2) of this section shall be
2 transported to the person's county of discharge by a sheriff or other peace officer, by
3 an ambulance service designated by the cabinet, or by other appropriate means of
4 transportation which is consistent with the treatment plan of that person. The
5 transportation cost of transporting the patient to the patient's county of discharge
6 when performed by a peace officer, ambulance service, or other private agency on
7 contract with the cabinet shall be paid by the cabinet in accordance with an
8 administrative regulation issued by the cabinet pursuant to KRS Chapter 13A.
9 (5) No person who has been held under subsection (1) of this section shall be held in
10 jail pending evaluation and transportation to the hospital.

President of Senate

Speaker-House of Representatives

Attest: Chief Clerk of Senate

Approved Governor

Date 3/23/15