

2020 South Dakota Legislature

Senate Bill Draft 74

Requested by:

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

Section 1. That a NEW SECTION be added:

27A-10-25. Petition

1. An individual who is at least eighteen years of age may file a petition with the chair of the county board of mental illness alleging the severe mental illness of another individual. The petition must be filed with the chair of the board in the county where the individual who is the subject of the petition is located.
2. A petition filed under subsection 1 must:
 - a. Include the factual basis for the allegation, based on the personal knowledge of the individual filing the petition;
 - b. State that the subject of the petition is severely mentally ill and in need of immediate apprehension;
 - c. State that because of severe mental illness, the subject of the petition is a danger to self or a danger to others and include the specific nature of the danger;
 - d. State the individual's relationship with the subject of the petition;
 - e. Include a statement of the individual's interest in filing the petition;
 - f. Include the address and signature of the individual who is filing the petition;
 - g. If known, provide the name, address, age, marital status, and occupation of the subject of the petition;
 - h. Provide the name and address of the nearest relative, if known, of the subject of the petition; and
 - i. Include a sworn statement validating the accuracy of the petition.

Commented [WC1]: Changed from "intervention" because "apprehension" is otherwise used.

3. A petition under this section must be filed with the chair at the earliest possible time during normal waking hours.

4. The state's attorney, or any other person designated by the board of county commissioners for the county in which the subject of a petition is located, shall assist the individual who is filing a petition under this section. The person designated under this subsection may not be a member of the county board of mental illness.

Section 2. That a NEW SECTION be added:

27A-10-26. Apprehension

1. An individual who is severely mentally ill and in need of immediate apprehension may be apprehended by a law enforcement officer ~~or~~ designee if:

a. The chair of a county board of mental illness has probable cause to believe, based on the contents of a petition filed in accordance with § 27A-10-25, that the individual is severely mentally ill and in need of immediate apprehension; or

b. The law enforcement officer has probable cause to believe the individual is severely mentally ill and in need of immediate apprehension.

2. Following an apprehension under subdivision b of subsection 1, the officer, a physician, or any individual with personal knowledge of the factual basis of an allegation files a petition in accordance with § 27A-10-25.

3. If a petition is not filed as required under subsection 2 within twenty-four hours of the apprehension, the individual must be released and, upon the individual's request, transported to the county from which the individual was apprehended.

4. An individual who is apprehended under this section must be provided with verbal and written notice that the individual has the right to:

a. Contact any other individual;

b. Contact and be represented by legal counsel;

c. Be examined within twenty-four hours following apprehension by a qualified mental health professional designated by the chair of the county board of mental illness;

Commented [WC2]: Or
signee of whom?

Commented [WC3]: Or
iginal text says
"peace officer."

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w long after?

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tice from whom?

- d. An independent examination if the apprehension continues;
- e. A hearing with the county board of mental illness within:
- (1) Five days following the apprehension;
 - (2) Six days following the apprehension if a Saturday, Sunday, or a holiday falls within the five-day period following the apprehension; or
 - (3) Seven days following the apprehension if a Saturday, Sunday, and a holiday fall within the five-day period following the apprehension;
5. An individual who is apprehended under this section must be provided with verbal and written notice that the individual is:
- a. Responsible for the cost of any:
 - (1) Post-commitment treatment;
 - (2) Medication;
 - (3) Attorney appointed to represent the individual in an appeal proceeding;
 - (4) Independent examination in accordance with § 27A-11A-9; and
 - (5) Certified transcript or tape recording of the hearing requested under § 27A-11A-2; and
 - b. Subject to a lien on the individual's real or personal property for any cost incurred by the individual under this subsection.
6. The notice required by subsections 4 and 5 must also be provided to the county board of mental illness of the county in which the individual is apprehended.
7. The chair of the board with jurisdiction over the individual shall provide notice of the apprehension to the community mental health center for the county in which the board is located.
8. A law enforcement officer who in good faith apprehends, transports, or commits an individual under this section or § 27A-10-33 is immune from any civil liability, provided that any injury is not due to the officer's willful or wanton misconduct.

Commented [WC6]: Continues for how long? Apprehension by whom?

Commented [WC7]: Should this be "copy of notice" or "provided with notice that an individual has received notice" or something to that effect?

Also, who provides the notice?

Commented [WC8]: Is this the board where the person is apprehended? Transported? Committed?

Section 3. That a NEW SECTION be added:

27A-10-27. Admission -- Appropriate Regional Facility -- Human Services**Center**

1. For purposes of admitting an individual who is apprehended under § 27A-10-26, the Department of Social Services shall designate any inpatient psychiatric facility as an appropriate regional facility if the facility is approved by the department in accordance with subsection 2.
2. Any inpatient psychiatric facility may apply to the department for designation as an appropriate regional facility at the time and in the manner established by the department under rule promulgated in accordance with chapter 1-26.
3. To be designated as an appropriate regional facility, an inpatient psychiatric facility must:
 - a. Have the capacity for overnight residential services necessary to stabilize acute psychiatric or behavioral symptoms and evaluate treatment needs;
 - b. Have the capacity to admit individuals twenty-four hours per day and seven days per week;
 - c. Have the capacity to develop a crisis stabilization plan for each individual admitted;
 - d. Have on-site personnel twenty-four hours per day, seven days per week, and have medical personnel available twenty-four hours per day, seven days per week;
 - e. Have the capacity to document daily therapeutic interactions between the individual and a qualified mental health professional; and
 - f. Comply with any other requirements determined by the department by rule promulgated in accordance with chapter 1-26.
4. The department may designate as an appropriate regional facility a facility that is not an inpatient facility if the department determines the facility meets the requirements of subsection 3.
5. An individual who is apprehended under § 27A-10-26 must be:
 - a. Transported to an appropriate regional facility, other than the Human Services Center; or

b. If no appropriate regional facility is available, transported to a jail, provided the individual may not be held in a jail longer than twenty-four hours while awaiting an examination under § 27A-10-28.

6. a. The appropriate regional facility to which an individual may be transported under subsection 5 must be:

(1) As close as possible to the area from which the individual was apprehended; and

(2) No more restrictive to the individual's mental, social, or physical freedom than necessary to protect the individual or others from physical injury caused by the individual.

b. In selecting the appropriate regional facility, consideration must be given to:

(1) Preferences of the individual;

(2) Environmental restrictiveness of the setting;

(3) Proximity of the facility to the individual's residence; and

(4) Availability of family, legal, and other community resources and support

7. If an individual is transported to an appropriate regional facility in a county other than the county in which the individual was apprehended under § 27A-10-26, the chair of the county board of mental illness for the county in which the individual was apprehended shall file a copy of the petition with the chair of the county board of mental illness for the county where the facility is located.

8. Notwithstanding subsection 5, an individual may be admitted to the Human Services Center if the individual:

a. Is not a resident of this state; or

b. Is a resident of this state and:

(1) Is competent and consents to receiving treatment that is arranged at the Center, but upon arrival does not consent to being admitted to the Center; or

(2) Is determined upon examination not to be competent to consent to admission to the Center, there is no next of kin available ~~or the next of kin is available but does not consent to the individual's admission to the Center, and~~

Commented [WC9]: Existing language says: "or if there is next of kin available but the person does not consent to admission"

the attending psychiatrist or qualified mental health professional has probable cause to believe the individual is severely mentally ill and in need of immediate apprehension.

9. Any appropriate regional facility or the Human Services Center may refuse the admission or commitment of any individual under subsection 5 if the individual has a medical condition or developmental disability that exceeds the capacity of the center.

Section 4. That a NEW SECTION be added:

27A-10-28. Examination

1. Within twenty-four hours of an apprehension under § 27A-10-26, a detention in accordance with § 27A-8-10.1, or the filing of a petition under § 27A-8-11.2, a qualified mental health professional shall examine the individual. The examination must include a determination of mental status. The examination may be recorded and conducted through electronic telecommunication.
2. For purpose of subsection 1, the chair of the county board of mental illness shall designate the qualified mental health professional, provided that the professional may not be the individual who filed a petition under § 27A-8-11.2 or 27A-10-26 or who initiated the detention under § 27A-8-11.2.
3. Prior to an examination under subsection 1, the qualified mental health professional shall identify himself or herself to the subject of the examination as a qualified mental health professional and:
 - a. Explain the nature and scope of the examination;
 - b. Explain that the examination is being performed to assist in determining whether the individual should be involuntarily committed; and
 - c. State that the examination may be used as evidence in an involuntary commitment hearing.
4. Following an examination under this section, the qualified mental health professional shall immediately report the results of the examination to the chair of the county board of mental illness.

Commented [WC10]: Task force discussion to include the appropriate regional facility here, and to include "developmental disability" in this language.

Commented [WC11]: Task force added this at the meeting on 9/30. Should this be a "shall"?

Commented [WC12]: Existing language says "may," but other sections of the Code assume this has occurred.

Commented [WC13]: How long? Is the report verbal or in writing?

5. If, following the results of the examination under this section and an investigation of the petition filed under § 27A-8-11.2, the chair of the county board of mental illness determines that the individual is severely mentally ill and in need of immediate apprehension, the chair may order that the individual be admitted to an appropriate regional facility or, if necessary, the Human Services Center pending an involuntary commitment hearing under § 27A-10-8, provided that the Center may refuse the admission of any individual apprehended under § 27A-10-26 unless the examination under subsection 1 and the determination under this subsection have occurred.

Commented [WC14]: When does this occur? How?

6. If the examination under subsection 1 does not support a finding that the individual is severely mentally ill and in need of immediate apprehension, the individual must be released, and the county in which the individual was apprehended shall, upon the individual's request, transport the individual to the county in which the individual was apprehended.

Commented [WC15]: Who makes this decision?

Commented [WC16]: The original language says "referring county."

7. If an individual voluntarily consents to admission to an inpatient psychiatric facility or other treatment program, and the admission is deemed by the facility or program to be suitable for the individual, the chair of the county board of mental illness to whom the petition was filed under § 27A-10-26 must be notified for the chair's approval.

Commented [WC17]: By whom?

Section 5. That a NEW SECTION be added:

27A-10-29. Hearing and Commitment

1. The county board of mental illness for the county in which an individual is transported under § 27A-10-27 shall conduct an involuntary commitment hearing in accordance with chapter 27A-11A:

- a. No more than five days after apprehension of the individual under § 27A-10-26;
- b. No more than six days after apprehension of the individual under § 27A-10-26, if a Saturday, Sunday, or a holiday falls within the five-day period following the apprehension; or
- c. No more than seven days after apprehension of the individual under § 27A-10-26, if a Saturday, Sunday, and a holiday fall within the five-day period following the apprehension.

2. During a hearing under this section, the board shall receive testimony from ~~an independent~~ qualified mental health professional regarding:

- a. The appropriateness of any treatment alternative, including any treatment program other than inpatient treatment, that is or should be made available to the individual;
- b. The treatment alternatives that were investigated;
- c. Whether any treatment under subdivision a is available at the mental health center for the county in which the individual was apprehended under § 27A-10-26; and
- d. The treatment alternatives that are not appropriate for the individual.

3. Following the testimony under subsection 2, the board shall determine whether any alternatives to inpatient treatment are appropriate. If the board determines that an alternative to inpatient treatment is appropriate, the board:

- a. May not order commitment of the individual for inpatient treatment at the Human Services Center or any other inpatient psychiatric facility; and
- b. May order commitment of the individual to the least restrictive treatment alternative following consideration of the:
 - (1) Values and preferences of the patient;
 - (2) Environmental restrictiveness of treatment settings;
 - (3) Duration of treatment;
 - (4) Physical safety of the patient and others;
 - (5) Psychological and physical restrictiveness of treatments;
 - (6) Relative risks and benefits of treatments to the patient;
 - (7) Proximity of the treatment program to the patient's residence; and
 - (8) Availability of family and community resources and support.

4. Following a hearing under this section, the board shall determine whether to order the involuntary commitment of the individual. The board may order the commitment if a majority of the board finds by clear and convincing evidence that:

Commented [WC18]: Task force wanted this clarified.

Commented [WC19]: These considerations were brought from the definition of "least restrictive treatment alternative" in § 27A-1-1.

a. The individual is subject to involuntary commitment under § 27A-1-2;

b. The individual needs, and is likely to benefit from, involuntary commitment; and

c. The commitment is to the least restrictive treatment alternative in accordance with subdivision 3(b).

5. The board may order involuntary commitment to:

a. The Human Services Center, provided that the center may refuse the admission and commitment of any individual who has a medical condition that exceeds the capacity of the center;

b. A veterans' administration hospital; or

c. A private facility or outpatient treatment program, provided that the facility or program consents to the commitment and the commitment does not result in any liability to a county for the cost of the individual's treatment.

6. Following the issuance of an order for involuntary commitment under this section, the county board of mental illness may, at the same or a subsequent hearing, consider any petition submitted to the board under § 27A-12-3.13 or 27A-10-30.

7. For any petition submitted to the board under § 27A-12-3.13, if a majority of the board finds by clear and convincing evidence that the individual who is the subject of the petition has a co-occurring substance use disorder, the board may order the individual to be committed at an appropriate regional facility for treatment of the disorder, provided the board determines that the facility under subsection 5 is able to provide adequate and appropriate treatment and that the treatment is likely to be beneficial.

8. Any commitment ordered by the board under this section:

a. May not exceed ninety days;

b. Must be to the least restrictive treatment alternative in accordance with subdivision 3(b); and

c. Must be reported to the attorney general within seven working days from issuance of the order, in a manner and form to be determined by the attorney general, including the individual's name and other identifying information for purposes of reporting

Commented [WC20]: Current language says "meets the criteria of § 27A-1-2."

Commented [WC21]: The task force raised liability concerns.

to the National Instant Criminal Background Check System in accordance with § 23-7-48, provided that the report does not include any information regarding the individual's diagnosis or treatment.

9. If an individual is involuntarily committed under this section, the board shall inform the individual and the individual's attorney, if any, of the right to appeal under § 27A-11A-25.

10. If the board does not agree to order an involuntary commitment, the individual shall be released and the county where the individual was apprehended shall, upon the individual's request, transport the individual to the county where the individual was apprehended.

11. For any hearing under this section, chapter 27A-11A supersedes any procedural conflict with chapter 27A-12 or 34-20A.

Commented [WC22]: The original language says "referring county."

Section 6. That a NEW SECTION be added:

27A-10-30. Co-Occurring Substance Use

1. Prior to an involuntary commitment hearing under § 27A-10-29, an individual who is an administrator, facility director, or physician, or who is at least eighteen years of age and is a spouse, guardian, or relative of an individual, may file a petition with the county board of mental illness alleging that the individual, in addition to having severe mental illness, is an alcohol or drug abuser who habitually lacks self-control as to the use of alcohol or drugs, and that the individual:

- a. Has threatened or attempted to inflict physical harm to self or to others and, unless treated, is likely to inflict the harm;
- b. Has inflicted physical harm to self or to others;
- b. Is incapacitated by the effects of alcohol or drugs; or
- c. Is pregnant.

Section 7. That a NEW SECTION be added:

27A-10-31. Review Hearings.

1. No more than ninety days after issuance of an order for involuntary commitment under § 27A-10-29, the county board of mental illness for the county in which the individual is receiving treatment, if the individual remains under the order, shall hold a review hearing to determine

whether the individual is still subject to involuntary commitment under § 27A-1-2.

2. The board shall, at least ten days prior to the scheduled hearing, provide notice of the scheduled hearing to the individual and to the individual's attorney, if any, or to the attorney appointed by the board if the individual does not have an attorney at the time of the notice.

3. Notice of the review hearing must include:

a. Any evidence that will be considered at the review hearing, provided that the board immediately informs the individual and the attorney of any evidence subsequently discovered by the board following notice;

b. A statement that the individual's rights apply to the review hearing; and

c. A statement that the procedures for a hearing under § 27A-10-29 apply to the review hearing.

4. Following the review hearing, the board may order the continued involuntary commitment of the individual to the same or an alternative treatment program for no more than six months, provided that the board finds by clear and convincing evidence, supported by written findings of fact and conclusions of law, that the individual is subject to involuntary commitment under § 27A-1-2.

5. Following any involuntary commitment ordered under subsection 4, the board may hold a review hearing in accordance with subsections 2 and 3 within six months of the order. The board may order involuntary commitment for no more than six months following the hearing under this subsection.

6. Following an involuntary commitment ordered under subsection 5, the board may hold a review hearing in accordance with subsections 2 and 3 within six months of the order. The board may order involuntary commitment for no more than twelve months following the hearing under this subsection.

7. Following a review hearing under subsection 6, the board may hold additional review hearings as the board deems necessary in accordance with subsections 2 and 3, and may order involuntary commitment for no more than twelve months at each hearing.

Commented [WC23]: Existing language says "continues to meet the criteria in § 27A-10-9.1," but that section does not list any criteria.

Commented [WC24]: Existing language says "continues to meet the criteria in § 27A-10-9.1," but that section does not list any criteria.

8. For any order of involuntary commitment under this section, the board shall provide notice to the individual and the individual's attorney of the individual's right to appeal under § 27A-11A-25.

9. If the board at a review hearing determines that an individual is not subject to involuntary commitment, the individual shall be released, and the ~~county in which the individual was apprehended~~ under § 27A-10-26 shall, upon the individual's request, transport the individual to the county in which the individual was apprehended.

10. Notwithstanding § 27A-10-29 and this section, at any hearing under § 27A-10-29 or this section, the board may order, without additional notice, a supplemental hearing in addition to any reviewing hearing ordered under this section to determine whether an individual is subject to involuntary commitment. For any supplemental hearing held under this subsection, the rights, procedures, and findings required under this section apply. ~~No temporary periods of involuntary commitment are authorized.~~

Commented [WC25]: The original language says "referring county."

Commented [WC26]: What does "No temporary periods of involuntary commitment are authorized" mean?

Section 8. That a NEW SECTION be added:

27A-10-32. Costs

1. The county from which an individual is transported under subsection 27A-10-27(1) shall pay any expense, subject to reimbursement by the individual's county of residence, as determined under chapter 27A-11A, for:

a. The apprehension and transportation of the individual to, and the detention of the individual at, an appropriate regional facility, including any individual who is not a resident of this state and is transported to a facility other than the Human Services Center;

b. Admission of the individual to an appropriate regional facility until an examination under subsection 5 of § 27A-10-28 pending the involuntary commitment hearing;

c. The examination of the individual under § 27A-10-28;

d. The involuntary commitment hearing for the individual under § 27A-10-29, including transportation of the individual to the hearing; and

e. The transportation of the individual following the individual's release under subsection 6 of § 27A-10-28, subsection 5 of § 27A-10-29, or subsection 9 of § 27A-10-31.

2. The state shall pay any expense that is paid by a county under subsection 1, ~~subject to reimbursement~~, for any individual who is not a resident of this state and who is transported to the Human Services Center under subsection 27A-10-27(2).

3. Notwithstanding chapter 28-14, a lien may not be placed against the real or personal property of the individual for any expense paid by a county or the state under this section.

Commented [WC27]: From whom?

Section 9. That a NEW SECTION be added:

27A-10-33. Failure to comply with outpatient commitment or treatment

1. If an individual does not comply with an outpatient commitment order or treatment order issued by the county board of mental illness, a program director or ~~treating physician~~ may:

a. Notify and provide a law enforcement officer with a certified copy of the order if the director or physician has reason to believe the individual's condition is likely to deteriorate until the individual becomes a danger to self or a danger to others; or

b. Notify the individual who filed the petition under § 27A-10-25 that was the cause of the order and the state's attorney for the county where the individual who is not in compliance with the order is located and recommend an alternate program of treatment.

Commented [WC28]: Task force discussion about broadening this term to "treatment provider"

2. A law enforcement officer who receives notice under subdivision a of subsection 1 may, upon request of the program director or physician, transport the individual to the program or the physician's office for purposes of obtaining the individual's compliance with the order, provided that the individual may not be:

a. Detained at the program or office for longer than one hour without the individual's consent; or

b. Physically coerced or required to accept administration of prescribed medications without specific authorization for the administration by the order in accordance with § 27A-12-3.15.

Commented [WC29]: Task force discussion about whether this notice should go to the petitioner or to the county board of mental illness.

3. The necessity of any medication administered involuntarily to an individual under subdivision b of subsection 2 must be reviewed and approved in accordance with § 27A-12-3.16 and recorded in the individual's medical record.
4. An individual or state's attorney who receives notice under subdivision b of subsection 1 may, within seventy-two hours of receiving the notice, petition the county board of mental illness for the county where the individual who is the subject of the order is located or resides for a hearing to be held in accordance with chapter 27A-11A.
5. Nothing in this section prohibits a law enforcement officer from detaining any individual in accordance with subsection 1 of § 27A-10-26.

Section 10. That a NEW SECTION be added:

27A-10-34. 24-Hour Hold

1. A qualified mental health professional may order the detention of an individual for twenty-four hours if the individual:
 - a. Is located at a facility, other than the Human Services Center, that is licensed by this state as a hospital;
 - b. Is examined by the qualified mental health professional; and
 - c. Is determined by the qualified mental health professional to be subject to involuntary commitment under § 27A-1-2.
2. A facility or qualified mental health professional detaining an individual under this section shall notify the chair of the county board of mental illness where the facility is located that the individual is being detained and may file a petition in accordance with § 27A-10-25.
3. An individual detained under this section:
 - a. Has the same rights as provided under subsection 4 of 27A-10-26; and
 - b. Shall be released if the hospital or qualified mental health professional does not file a petition in accordance with § 27A-10-25 within twenty-four hours of being detained.

Commented [WC30]: Task force discussion as to whether a QMHP at an appropriate regional facility should be included.

Commented [WC31]: Existing language says "continues to meet the criteria in § 27A-10-9.1," but that section does not list any criteria.

Commented [WC32]: Released by whom?

Section 11. That a NEW SECTION be added:

27A-10-35. Mobile Crisis Teams

1. For purposes of this section:

a. "Certified law enforcement officer" means an officer who has undergone a comprehensive training program in crisis intervention techniques involving an individual who is mentally ill or has substance abuse issues, and has received certification as a crisis intervention officer by the officer's law enforcement department;

b. "Crisis intervention team" means a team of law enforcement officers or other individuals who have undergone a comprehensive training program in crisis intervention techniques involving an individual who is mentally ill or has substance abuse issues; and

c. "Mobile crisis team" means an interdisciplinary team of one or more mental health professionals who are able to respond to any individual in a community, usually at the individual's home, for mental health or substance abuse issues.

2. Notwithstanding § 27A-10-25 or 27A-10-26, a law enforcement officer or a qualified mental health professional who has probable cause to believe an individual is subject to involuntary commitment under § 27A-1-2 may refer the individual to the direct supervision of a mobile crisis team or a certified law enforcement officer as an alternative to filing a petition for involuntary commitment under § 27A-10-25.

3. The member of a mobile crisis team or certified law enforcement officer who accepts in writing direct supervision of an individual under subsection 1 may:

a. Resolve the intervention on a voluntary basis with the assistance of any public or private community service that the individual consents to receive;

b. Request the assistance of law enforcement for the voluntary transfer of the individual;

c. Request that the law enforcement officer apprehend and transfer the individual to:

(1) An appropriate regional facility for purposes of an examination under § 27A-10-28; or

(2) An accredited treatment facility under § 34-20A-2.1.

Commented [WC33]: Can a team be comprised only of "one"?

Commented [WC34]: Existing language says "continues to meet the criteria in § 27A-10-9.1," but that section does not list any criteria.

Commented [WC35]: What does "resolve the intervention" mean?

Commented [WC36]: Whom does "voluntary" relate to? The individual or the crisis team?

Commented [WC37]: This does not make sense in the situation where the certified law enforcement officer is making the request.

Commented [WC38]: The individual's voluntary transfer, or the law enforcement officer's voluntary willingness to make the transfer?

Commented [WC39]: This does not make sense in the situation where the certified law enforcement officer is making the request.

- 1 4. Nothing in this section limits a law enforcement officer's discretion to
 2 arrest an individual for a criminal offense. If the alleged offense is a
 3 misdemeanor, the law enforcement officer shall give priority to the
 4 placement of the individual in:
 5 a. A mental health facility, if the officer has probable cause to
 6 believe the individual is subject to involuntary commitment
 7 under § 27A-1-2; or
 8 b. An accredited treatment facility, if the individual is intoxicated or
 9 incapacitated by alcohol or drugs.
 10 5. A law enforcement officer or a qualified mental health professional who
 11 in good faith refers an individual under subsection 2 is immune from any
 12 civil liability, provided that any injury is not the result of gross
 13 negligence, or willful or wanton misconduct on the part of the officer or
 14 qualified mental health professional.
 15 6. A member of a mobile crisis team or certified law enforcement officer
 16 who in good faith refers, supervises, examines, transfers, or admits an
 17 individual under subsection 3 is immune from any civil liability, provided
 18 that any injury is not the result of gross negligence, or willful or wanton
 19 misconduct on the part of the member or officer.
 20 7. A law enforcement officer or authority who acts in accordance with
 21 paragraph c of subsection 3 is immune from criminal and civil liability.

Commented [WC40]: C
 urrent language
 references § 27A-10-
 1, but this reference
 appears to be more
 accurate.

Commented [WC41]: W
 hat authority?

Commented [WC42]: T
 ask force discussion
 about whether this
 immunity is
 appropriate.