

# State of South Dakota

EIGHTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2013

400U0271

## HOUSE BILL NO. 1019

Introduced by: The Committee on Health and Human Services at the request of the  
Department of Social Services

1 FOR AN ACT ENTITLED, An Act to authorize the involuntary treatment of jailed prisoners  
2 with psychotropic medication.

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

4 Section 1. That chapter 24-11 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 A prisoner may be involuntarily treated with psychotropic medication if it is determined,  
7 pursuant to the provisions of this chapter, that the prisoner suffers from a severe mental illness  
8 as defined in § 27A-1-1, which is likely to improve with treatment, and that without treatment  
9 the inmate poses a likelihood of serious harm to self or others.

10 Section 2. That chapter 24-11 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 Prior to involuntary treatment with psychotropic medication, the prisoner shall receive a  
13 hearing before a panel consisting of two medical representatives and a representative appointed  
14 by the county sheriff. The medical representatives may include a physician, physician assistant,  
15 or nurse practitioner; however, at least one shall be a physician. No panel member may have



1 participated in the prisoner's current diagnosis, evaluation, or treatment. The prisoner has the  
2 right to notice of the hearing at least forty-eight hours in advance, the right to attend the hearing,  
3 the right to present evidence and cross-examine witnesses, and the right to representation by a  
4 disinterested lay advisor knowledgeable about psychological issues. The panel may order  
5 involuntary treatment with psychotropic medication by majority vote of the panel if the  
6 physician is in the majority. The prisoner may appeal the decision of the panel to the circuit  
7 court pursuant to chapter 1-26.

8 Section 3. That chapter 24-11 be amended by adding thereto a NEW SECTION to read as  
9 follows:

10 If the involuntary treatment of a prisoner with psychotropic medication is to exceed thirty  
11 days, a physician who is not the attending physician shall review the inmate's medical record  
12 at least every thirty days and make a written determination whether involuntary treatment with  
13 psychotropic medication may be continued.

14 Section 4. That chapter 24-11 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 In an emergency, involuntary treatment of a prisoner with psychotropic medication may be  
17 administered without panel review for up to a maximum of ten days if the treatment is ordered  
18 by two physicians.

19 Section 5. That chapter 24-11 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 The county sheriff shall maintain records of any involuntary treatment with psychotropic  
22 medication. The records shall include the frequency of use of the treatment and any available  
23 medical history of a prisoner's prior mental illness, and may include such other information as  
24 deemed necessary by the county sheriff to facilitate the management of prisoners.

1           Section 6. That chapter 24-11 be amended by adding thereto a NEW SECTION to read as  
2 follows:

3           No person who serves on the hearing panel, who is the attending physician or who orders  
4 or participates in the involuntary treatment with psychotropic medication of a prisoner may be  
5 held civilly or criminally liable for the treatment pursuant to this chapter if the person performs  
6 these duties in good faith and in a reasonable manner according to generally accepted medical  
7 or other professional practices.