

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1111

Short Title: Emergency Commitment Change.

(Public)

Sponsors: Representative Gardner.

Referred to: Courts and Justice.

April 19, 1993

A BILL TO BE ENTITLED

AN ACT TO PROVIDE EMERGENCY COMMITMENT OF VIOLENT PERSONS
SUFFERING FROM SUBSTANCE ABUSE UNDER THE SAME PROCEDURES
AVAILABLE FOR VIOLENT PERSONS WHO ARE MENTALLY ILL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122C-282 reads as rewritten:

"§ 122C-282. Special emergency procedure for violent individuals.

~~When an individual subject to commitment under the provisions of this Part is also violent and requires restraint and when delay in taking him to a physician or eligible psychologist for examination would likely endanger life or property, a law enforcement officer may take the person into custody and take him immediately before a magistrate or clerk. The law enforcement officer shall execute the affidavit required by G.S. 122C-281 and in addition shall swear that the respondent is violent and requires restraint and that delay in taking the respondent to a physician or eligible psychologist for an examination would endanger life or property.~~

~~If the clerk or magistrate finds by clear, cogent, and convincing evidence that the facts stated in the affidavit are true, that the respondent is in fact violent and requires restraint, and that delay in taking the respondent to a physician or eligible psychologist for an examination would endanger life or property, he shall order the law enforcement officer to take the respondent directly to a 24-hour facility described in G.S. 122C-252.~~

~~Respondents received at a 24-hour facility under the provisions of this section shall be examined and processed thereafter in the same way as all other respondents under this Part.~~

1 Anyone, including a law enforcement officer, who has knowledge of an individual
2 who is subject to inpatient commitment according to the criteria of G.S. 122C-281(a)
3 and who requires immediate hospitalization to prevent harm to self or others,
4 may transport the individual directly to an area facility or other place, including a State
5 facility for the mentally ill, as designated in accordance with G.S. 122C-252, for
6 examination by a physician or eligible psychologist, in accordance with G.S. 122C-
7 283(a). If the individual meets the criteria required in G.S. 122C-281(a), the physician
8 or eligible psychologist shall so certify in writing before any official authorized to
9 administer oaths. The certificate shall also state the reason that the individual requires
10 immediate hospitalization.

11 If the physician or eligible psychologist executes the oath, appearance before a
12 magistrate shall be waived. The physician or eligible psychologist shall send a copy of
13 the certificate to the clerk of superior court by the most reliable and expeditious means.
14 If it cannot reasonably be anticipated that the clerk will receive the copy within 24
15 hours, excluding Saturdays, Sundays, and holidays, of the time that it was signed, the
16 physician or eligible psychologist shall also communicate the finding to the clerk by
17 telephone.

18 Anyone, including a law enforcement officer if necessary, may transport the
19 individual to a 24-hour facility described in G.S. 122C-252 for examination and
20 treatment pending a district court hearing. If there is no area 24-hour facility and if the
21 respondent is indigent and unable to pay for care at a private 24-hour facility, the law
22 enforcement officer or other designated person providing transportation shall take the
23 respondent to a State facility for the mentally ill, designated by the Commission in
24 accordance with G.S. 143B-147(a)(1)a. and as described in G.S. 122C-252, and shall
25 immediately notify the clerk of superior court of this action. The physician's or eligible
26 psychologist's certificate shall serve as the custody order and the law enforcement
27 officer or other designated person shall provide transportation in accordance with the
28 provisions of G.S. 122C-251.

29 Respondents received at a 24-hour facility under the provisions of this section shall
30 be examined in accordance with G.S. 122C-285. After receipt of notification that the
31 district court has determined reasonable grounds for the commitment, further
32 proceedings shall be carried out in the same way as for all other respondents under this
33 Part."

34 Sec. 2. This act becomes effective January 1, 1994, and applies to emergency
35 commitments on and after that date.