

HOUSE No. 4681

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act improving emergency access to mental health services..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 12 of Chapter 123 of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof
3 the following subsection:-

4 (a) Any physician who is licensed pursuant to section two of chapter one hundred and
5 twelve or qualified psychiatric nurse mental health clinical specialist authorized to practice as
6 such under regulations promulgated pursuant to the provisions of section eighty B of said chapter
7 one hundred and twelve or a qualified psychologist licensed pursuant to sections one hundred
8 and eighteen to one hundred and twenty-nine, inclusive of said chapter one hundred and twelve,
9 or a licensed independent clinical social worker licensed pursuant to sections one hundred thirty
10 to one hundred thirty seven of chapter one hundred and twelve who after examining a person has
11 reason to believe that failure to hospitalize such person would create a likelihood of serious harm
12 by reason of mental illness may restrain or authorize the restraint of such person and apply for
13 the hospitalization of such person for a three day period at a public facility or at a private facility
14 authorized for such purposes by the department. If an examination is not possible because of the

15 emergency nature of the case and because of the refusal of the person to consent to such
16 examination, the physician, qualified psychologist or qualified psychiatric nurse mental health
17 clinical specialist or licensed independent clinical social worker on the basis of the facts and
18 circumstances may determine that hospitalization is necessary and may apply therefore. In an
19 emergency situation, if a physician, qualified psychologist or qualified psychiatric nurse mental
20 health clinical specialist or licensed independent clinical social worker is not available, a police
21 officer, who believes that failure to hospitalize a person would create a likelihood of serious
22 harm by reason of mental illness may restrain such person and apply for the hospitalization of
23 such person for a three day period at a public facility or a private facility authorized for such
24 purpose by the department. An application for hospitalization shall state the reasons for the
25 restraint of such person and any other relevant information which may assist the admitting
26 physician or physicians. Whenever practicable, prior to transporting such person, the applicant
27 shall telephone or otherwise communicate with a facility to describe the circumstances and
28 known clinical history and to determine whether the facility is the proper facility to receive such
29 person and also to give notice of any restraint to be used and to determine whether such restraint
30 is necessary.

31 SECTION 2. Said chapter 123 is hereby further amended by striking out section 22, as
32 appearing in the 2008 Official Edition, and inserting in place thereof the following:-

33 Section 22. Physicians, qualified psychologists, qualified psychiatric nurse mental health
34 clinical specialists, police officers and licensed independent clinical social workers shall be
35 immune from civil suits for damages for restraining, transporting, applying for the admission of
36 or admitting any person to a facility or the Bridgewater state hospital, if the physician, qualified

- 37 psychologist, qualified psychiatric nurse mental health clinical specialist, police officer or
- 38 licensed independent clinical social workers acts pursuant to this chapter.