SENATE . . . . . No. 2785

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

SENATE, May 30, 2024.

The committee on Mental Health, Substance Use and Recovery, to whom was referred the petitions (accompanied by bill, Senate, No. 1246) of Cindy F. Friedman, Rebecca L. Rausch and Sal N. DiDomenico for legislation to provide more timely treatment of inpatient mental health care; and (accompanied by bill, House, No. 1994) of Kay Khan, Samantha Montaño and Rebecca L. Rausch relative to inpatient mental health care treatment, report the accompanying bill (Senate, No. 2785).

For the committee,
John C. Velis

FILED ON: 5/15/2024

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An Act to provide more timely treatment of inpatient mental health care.

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

SECTION 1. Chapter 123 of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by inserting after section 12 the following section:-

Section 12 ½. (a) The following words as used in this section shall have the following meanings:

"Immediate, substantial and irreversible deterioration", a situation in which a person's condition: (i) significantly impairs their functioning; (ii) is expected to cause significant harm to others or is expected to cause harm to the person that is likely not to be fully remediable or is likely to decrease the likelihood of full recovery; and (iii) is expected to not improve or to worsen within 72 hours without treatment.

"Serious mental illness", a substantial disorder of thought, mood, perception, orientation or memory which grossly impairs judgment, behavior or capacity to recognize reality or ability to meet the ordinary demands of life, but shall not include alcoholism or substance use as defined in section 35 of chapter 123.

(b) For a person committed pursuant to sections 7, 8, 10, 11, 12, 15, 16 or 18, or during the pendency of a petition for commitment who is reasonably believed to be incompetent to give informed consent to psychiatric treatment for a serious mental illness, until such time as the person no longer meets these criteria or the court has adjudicated the case by authorizing treatment with antipsychotic medications or such other medical treatment as may be necessary for the treatment of mental illness, the right to refuse such treatment may be overridden prior to an adjudication of incompetence and court approval of a treatment plan in circumstances only to prevent an immediate, substantial and irreversible deterioration of the person's mental illness. If treatment is to be continued over the person's objection, and providers reasonably believe the person remains incompetent, then the process for adjudication of competency and court approval of a treatment plan must be initiated and continued in good faith. Such treatment must be approved by a physician who is licensed pursuant to section 2 of chapter 112.

Notwithstanding any general or special law to the contrary, any health care professional, provider, acute care hospital, inpatient psychiatric facility or any other type of health care facility shall not be liable for any damages alleged to have been sustained by an act or omission by the health care professional or facility in the course of providing, or attempting to provide, good faith health care services under this section unless such acts or omissions constitute gross negligence or willful or wanton misconduct.