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As Engrossed: S4/19/21

A Bill

HOUSE BILL 1880

By: Representative L. Johnson

By: Senator C. Tucker

For An Act To Be Entitled

AN ACT TO AMEND THE BEHAVIORAL HEALTH CRISIS
INTERVENTION PROTOCOL ACT OF 2017; AND FOR OTHER
PURPOSES.

Subtitle

TO AMEND THE BEHAVIORAL HEALTH CRISIS
INTERVENTION PROTOCOL ACT OF 2017.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 20-47-802(b), concerning the legislative intent of the Behavioral Health Crisis Intervention Protocol Act of 2017, is amended to read as follows:

(b) Further, it is the intent of the General Assembly that the behavioral health crisis intervention protocol created under this subchapter and established to address engagement with a member of the public who is an individual with a behavioral health impairment results not in prosecution or incarceration but in a lawful detention of the individual treatment of the individual in a voluntary clinical setting until his or her behavioral health impairment is managed to the point that the individual is substantially less likely to commit a criminal or otherwise dangerous act.

SECTION 2. Arkansas Code § 20-47-804 is amended to read as follows:

20-47-804. Crisis intervention protocol not exclusive – Voluntary stay at crisis stabilization unit.

(a) If during or after the initiation of a crisis intervention



protocol under this subchapter a mental health professional or medical professional believes the individual being ~~detained~~ treated would benefit more from a longer commitment in a residential facility, the mental health professional or medical professional may institute commitment proceedings as authorized under § 20-47-201 et seq.

(b) If a commitment proceeding is initiated under § 20-47-201 et seq. in a court with jurisdiction, that proceeding shall control and any custodial detention or treatment as part of a crisis intervention protocol initiated under this subchapter shall cease in lieu of any commitment or treatment ordered by the court.

(c)(1) A crisis intervention protocol may be ended before the maximum detention time of ~~seventy-two (72)~~ ninety-six (96) hours has elapsed, as described under § 20-47-810, by the ~~law enforcement agency~~ crisis stabilization unit that has custody of the individual at its discretion if:

(A) The individual in ~~custody~~ treatment under this subchapter agrees to remain at the crisis stabilization unit voluntarily;

(B) The ~~detaining law enforcement agency~~ treating crisis stabilization unit reasonably believes that the individual would not be a danger to himself or herself or to others if he or she remained at the crisis stabilization unit voluntarily; and

(C) The crisis stabilization unit agrees to allow the individual to remain at the crisis stabilization unit.

(2)(A) An individual who ~~is released from custody and~~ remains at a crisis stabilization unit voluntarily under this subsection is free to leave the crisis stabilization unit at any time.

(B) A crisis stabilization unit may:

(i) Discharge an individual who is released from custody and remains at the crisis stabilization unit voluntarily at its discretion; and

(ii) As part of the discharge process ~~and subject to the consent of the person no longer in custody,~~ provide the person with a follow-up treatment plan and a request that the person utilize the treatment plan, including subsequent appointments with a mental health professional.

SECTION 3. Arkansas Code § 20-47-805(b) and (c), concerning the establishment of crisis intervention teams, are amended to read as follows:

(b) A crisis intervention team shall have at least one (1) designated hospital or community mental health center within the specified crisis stabilization unit catchment area that has agreed to serve as a crisis stabilization unit and to provide psychiatric emergency services, triage and referral services, and other appropriate medical services for individuals ~~in the custody of~~ identified by a crisis intervention team officer or who have been referred by the community mental health center within the specified crisis stabilization unit catchment area.

(c)(1) As a participating partner and serving as a crisis stabilization unit, a hospital, community mental health center, or mental health facility may establish a comprehensive psychiatric emergency service to provide psychiatric emergency services to an individual with a behavioral health impairment for a period of time greater than allowed in a hospital or other facility's emergency department when, in the opinion of the treating physician, psychiatric nurse practitioner, or psychiatric physician assistant, the individual is likely to be stabilized within ~~seventy-two (72)~~ ninety-six (96) hours so that continuing treatment can be provided in the local community rather than a crisis stabilization unit or the Arkansas State Hospital.

(2)(A) During the time an individual with a behavioral health impairment is under a crisis intervention protocol and ~~detained in treatment~~ at a crisis stabilization unit, the individual is considered to be in the custody of the law enforcement agency that detained the individual treatment on a voluntary basis.

(B) This subchapter does not authorize the forfeit of any state or federal constitutional right regarding the detention and custody of an individual with a behavioral health impairment who has been detained or placed in custody due to the commission of a criminal offense.

SECTION 4. Arkansas Code § 20-47-809 and 20-47-810 are amended to read as follows:

20-47-809. Implementation of psychiatric emergency services.

(a)(1) To implement psychiatric emergency services under a crisis intervention protocol under this subchapter, a crisis stabilization unit shall request licensure from the Department of Human Services for the number of extended observation beds that are required to adequately serve the

designated crisis stabilization unit catchment area.

(2) A license for the requested extended observation beds is required before the crisis stabilization unit may put the extended observation beds into service for patients.

(b) If the Department of Human Services determines that psychiatric emergency services under this subchapter are adequate to provide for the privacy and safety of all patients receiving services in the crisis stabilization unit, the Department of Human Services may approve the location of one (1) or more of the extended observation ~~beds~~ units within another area of the single point of entry rather than in proximity to the emergency department.

(c) Each ~~psychiatric emergency service~~ crisis stabilization unit shall provide or contract to provide qualified physicians, licensed mental health professionals, psychiatric nurse practitioners, psychiatric physician assistants, and ancillary personnel necessary to provide services twenty-four (24) hours per day, seven (7) days per week.

(d)(1) A psychiatric emergency service provided by a crisis stabilization unit shall have at least one (1) physician, one (1) psychiatric nurse practitioner, one (1) psychiatric physician assistant, or one (1) mental health professional who is a member of the staff of the crisis stabilization unit and who is on duty and available at all times.

(2) However, the medical director of the ~~psychiatric emergency service~~ crisis stabilization unit may waive the requirement under subdivision (d)(1) of this section if provisions are made for:

(A) A physician in the emergency department to assume responsibility and provide initial evaluation and treatment of an individual with a behavioral health impairment in the custody of a crisis intervention team officer or referred by the community mental health center;

(B) A licensed mental health professional to screen and assess an individual with a behavioral health impairment within thirty (30) minutes of notification that the individual has arrived; and

(C) The physician, psychiatric nurse practitioner, psychiatric physician assistant, or mental health professional on call for the psychiatric emergency service to evaluate the individual with a behavioral health impairment onsite within twelve (12) hours of the individual's admission.

(3) A crisis stabilization unit is encouraged to use telemedicine under this subchapter to the extent it is effective and authorized by state law.

20-47-810. ~~Seventy-two-hour~~ Ninety-six-hour maximum time of detention.

(a) An individual with a behavioral health impairment who is admitted to a ~~psychiatric emergency service~~ crisis stabilization unit under a crisis intervention protocol under this subchapter shall have a final disposition within a maximum of ~~seventy-two (72)~~ ninety-six (96) hours or ~~be released from custody~~ remain on a voluntary basis.

(b) If the individual with a behavioral health impairment cannot be stabilized within ~~seventy-two (72)~~ ninety-six (96) hours of entering into a crisis intervention protocol, a participating partner may institute commitment proceedings as authorized under § 20-47-201 et seq.

~~(c) An individual who has been released from custody and has chosen to stay at a crisis stabilization unit voluntarily under § 20-47-804(c) is not bound by the seventy-two-hour maximum time of detention under this section.~~

~~(d)~~(c) As part of the discharge process after the ~~seventy-two-hour~~ hold ninety-six-hour stay has expired and the individual is being released from custody, and subject to the consent of the individual no longer in custody, a crisis stabilization unit ~~may~~ shall provide the individual with a follow-up treatment plan and a request that the individual utilize the treatment plan, including subsequent appointments with a mental health professional.

SECTION 5. Arkansas Code § 20-47-812 is amended to read as follows:

20-47-812. Development of crisis intervention protocols.

(a)(1) A ~~director of a community mental health center~~ local criminal justice coordinating committee shall actively encourage hospitals, community mental health centers, mental health services providers, and other mental health professionals to develop psychiatric emergency services.

(2) If a collaborative agreement can be negotiated with a hospital, community mental health center, or other healthcare facility that can provide a comprehensive psychiatric emergency service, that hospital, community mental health center, or other healthcare facility shall be given priority when designating the single point of entry.

(b) The ~~Department of Human Services~~ local criminal justice coordinating committee shall encourage community mental health center directors to actively work with hospitals, mental health services providers, other mental health professionals, the Department of Human Services, and law enforcement agencies to develop a crisis intervention protocol and associated crisis intervention teams and psychiatric emergency services and shall facilitate the development of those collaborations.

/s/L. Johnson

APPROVED: 4/28/21