H. 3962 (Decker, Sabadosa, Nguyen) – Options to consider for modification of existing bill.

An Act relative to ending unnecessary hospitalizations and reducing emergency department boarding.

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. Section 12 of chapter 123 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) (i) For the purposes of this subsection, “mental health professional” shall, unless the context clearly requires otherwise, mean a physician who is licensed pursuant to section 2 of chapter 112; a qualified psychologist licensed pursuant to sections 118 to 129, inclusive, of said chapter 112; a qualified psychiatric nurse mental health clinical specialist authorized to practice as such under regulations promulgated pursuant to section 80B of said chapter 112; a nurse authorized to practice in advanced practice nursing by the board of registration in nursing pursuant to said section 80B of said chapter 112; a licensed independent clinical social worker licensed pursuant to sections 130 to 137, inclusive, of said chapter 112.

(ii) A mental health professional may only seek involuntary hospitalization of an individual if no less restrictive alternative exists to reduce the likelihood of serious harm by reason of mental illness, as defined in section 1. To prevent unnecessary hospitalization, a mental health professional shall explore and exhaust community-based treatment alternatives, including, but not limited to: (i) telehealth, (ii) one-to-one observation, (iii) mobile crisis intervention, (iv) urgent care, (v) family involvement (vi) peer support, and respite services prior to seeking involuntary transportation, restraint and hospitalization pursuant to this section. The mental health professional shall document on the application for hospitalization that the mental health professional has explored and exhausted community-based alternatives, the reasons for the restraint of such person and any other relevant information that may assist the admitting physician or physicians.

If the mental health professional has exhausted all community-based alternatives to reduce the likelihood of serious harm by reason of mental illness, the mental health professional, after examining a person or, in the event that examination is not possible because of the emergency nature of the case and because of the refusal of the person to consent to such examination, based on the facts and circumstances, may complete an application for evaluation and treatment, which shall authorize law enforcement officers, as defined in section 1 of chapter 6E, or emergency medical technicians to transport the individual to the mobile crisis intervention and crisis stabilization program at the community based behavioral health center or other the regional crisis stabilization program

In an emergency if a mental health professional is not available to evaluate the individual for involuntary hospitalization, a law enforcement officer, who believes that failure to restrain a person would create a likelihood of serious harm by reason of mental illness shall take the individual directly to the nearest regional crisis stabilization program or the mobile crisis intervention and crisis stabilization program at the community behavioral health center for evaluation and treatment. If the director of the mobile crisis intervention and crisis stabilization program or regional crisis stabilization program of a community behavioral health center or designee determines and documents, after a personal evaluation, that the mobile crisis intervention or crisis stabilization program it is unable to prevent the individual from harming themselves or others, or if the individual does not agree to accept treatment voluntarily through the mobile crisis intervention and crisis stabilization program the law enforcement officer or emergency medical technician may transport the person directly to the nearest inpatient psychiatric facility with available capacity, utilizing the centralized database established pursuant to section 12A. The individual may only be transported to a hospital emergency department if there is no availability within a 30-mile radius of the initial restraint.

SECTION 2. Said section 12 of said chapter 123, as so appearing, is hereby further amended by adding the following subsection:-

(f) The department shall collect information regarding all applications pursuant to this section. The department shall annually, not later than July 31, report to the house and senate committees on ways and means, joint committee on public health and the joint committee on mental health, substance use and recovery the number of applications pursuant to said section 12, such other information as may be relevant, and any actions the department has taken in response to the information it has received, including any licensing actions.

SECTION 3. Said chapter 123 of the General Laws is hereby amended by inserting after section 12 the following section:-

Section 12A. The department shall establish and maintain a database of inpatient psychiatric facilities licensed pursuant to section 19 of chapter 19 within the Commonwealth for use by law enforcement officers, as defined in section 1 of chapter 6E, emergency medical technicians and healthcare professionals. The database shall be updated daily and show available capacity at all inpatient psychiatric facilities.