

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1415

Session of
1987

INTRODUCED BY CORNELL, JAROLIN, D. W. SNYDER, PRESTON, NAHILL,
WOGAN, J. TAYLOR, DISTLER, WAMBACH, NOYE, DeLUCA,
J. L. WRIGHT, GANNON, HECKLER, SAURMAN, GODSHALL, LASHINGER,
BUNT, E. Z. TAYLOR, CESSAR, SEMMEL, FOX, GRUPPO, GLADECK,
HAGARTY, GEIST, VEON, JOHNSON, MILLER, SERAFINI, TELEK,
FISCHER, BELFANTI, RYBAK, MERRY, LaGROTTA, MICOZZIE, JACKSON,
PERZEL, O'BRIEN, WOZNIAK, REBER, KENNEY, RAYMOND, MORRIS,
McVERY AND CIVERA, JUNE 1, 1987

REFERRED TO COMMITTEE ON HEALTH AND WELFARE, JUNE 1, 1987

AN ACT

1 Providing for mental health programs and services for children
2 and youth; providing for further duties of the Department of
3 Public Welfare; further providing for local programs and the
4 responsibilities of local authorities; providing for the
5 establishment of county children and youth mental health
6 boards and for their powers and duties; further providing for
7 procedures for voluntary and involuntary examinations and
8 treatment; making an appropriation; and making repeals.

9 TABLE OF CONTENTS

10 Chapter 1. Preliminary Provisions
11 Section 101. Short title.
12 Section 102. Definitions.
13 Chapter 3. Responsibilities of Commonwealth
14 Section 301. General powers and duties of department.
15 Section 302. State facilities.
16 Chapter 5. Responsibilities of Counties
17 Section 501. General powers and duties of local authorities.
18 Section 502. County children and youth mental health board.

1 Section 503. Duties of board.

2 Section 504. Duties of county administrator.

3 Chapter 7. Rights of Children and Youth

4 Section 701. Rights of children and youth admitted or

5 committed.

6 Chapter 9. Financial Matters

7 Section 901. Liability of legally responsible relatives of

8 children and youth receiving mental health

9 services.

10 Section 902. Contingent liability of State and local

11 governments.

12 Section 903. Liability of Commonwealth.

13 Section 904. State and county grants and payments.

14 Section 905. Supplemental grants.

15 Chapter 11. Voluntary Examination and Treatment

16 Section 1101. Voluntary treatment.

17 Section 1102. Application.

18 Section 1103. Explanation and consent.

19 Section 1104. Notice to parents.

20 Section 1105. Physical examination and formulation of

21 individualized treatment plan.

22 Section 1106. Withdrawal from voluntary inpatient treatment.

23 Section 1107. Transfer of person in voluntary treatment.

24 Chapter 13. Involuntary Examination and Treatment

25 Section 1301. Involuntary emergency examination and treatment.

26 Section 1302. Involuntary emergency examination and treatment

27 authorized by physician.

28 Section 1303. Extended involuntary emergency treatment.

29 Section 1304. Court-ordered involuntary treatment.

30 Chapter 15. Miscellaneous Provisions

1 Section 1501. Rules and regulations.

2 Section 1502. Records of persons admitted or committed.

3 Section 1503. Immunities.

4 Section 1504. Appropriation.

5 Section 1505. Repeals.

6 Section 1506. Effective date.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 CHAPTER 1

10 PRELIMINARY PROVISIONS

11 Section 101. Short title.

12 This act shall be known and may be cited as the Children and
13 Youth Mental Health Act.

14 Section 102. Definitions.

15 The following words and phrases when used in this act shall
16 have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 "Aftercare." Services rendered to children or youth after
19 release from a licensed children's institution or a facility for
20 mentally ill children. The term includes, but is not limited to,
21 foster home placement, home visitation, observation, halfway
22 houses, outpatient care, partial hospitalization, community
23 residential programs, case management or other services
24 necessary for the child to live in the community.

25 "Attorney for the Commonwealth." The district attorney, the
26 Attorney General or any attorney representing the interest of
27 the Commonwealth.

28 "Board." A county children and youth mental health board.

29 "County." A county or a first class city.

30 "County administrator." The person appointed to carry out

1 the duties of the county mental health and mental retardation
2 program as specified in section 304 of the act of October 20,
3 1966 (3rd Sp.Sess., P.L.96, No.6), known as the Mental Health
4 and Mental Retardation Act of 1966.

5 "County program." A program established by a county, or two
6 or more counties acting in concert. The term includes a complex
7 of services providing a continuum of care in the community for
8 mentally ill children and youth within the mental health and
9 mental retardation county program, as defined in the act of
10 October 20, 1966 (3rd Sp.Sess., P.L.96, No.6), known as the
11 Mental Health and Mental Retardation Act of 1966.

12 "Department." The Department of Public Welfare of the
13 Commonwealth.

14 "Designated facility." A State-operated facility named by
15 the Department of Public Welfare, or other facility named by the
16 county administrator, for treatment or as a place of reception
17 for children and youth.

18 "Director." The administrative head of a facility. The term
19 includes superintendents of State facilities.

20 "Facility." Any mental health establishment, hospital,
21 clinic, institution, center, day-care center or other
22 organizational unit, or part thereof, which provides diagnosis,
23 treatment, care, rehabilitation or detention of mentally ill
24 children and youth.

25 "Inpatient services." Diagnosis, evaluation, classification,
26 care, treatment or rehabilitation rendered to a mentally
27 disabled child admitted or committed to a facility for a
28 continuous period of 24 hours or longer.

29 "Local authorities." The governing body of a county or the
30 city council and the mayor of a first class city, or two or more

1 of these acting in concert.

2 "Mental disability." Any mental illness, which so lessens
3 the capacity of a child to use his customary self-control,
4 judgment and discretion in the conduct of his affairs and social
5 relations as to make it necessary or advisable for the child to
6 be under care as provided in this act.

7 "Mental Health Act." The act of October 20, 1966 (3rd
8 Sp.Sess., P.L.96, No.6), known as the Mental Health and Mental
9 Retardation Act of 1966.

10 "Mental hospital." A residential facility licensed by the
11 Commonwealth for the diagnosis, care and treatment of the
12 mentally disabled other than the mentally retarded.

13 "Outpatient services." Diagnosis, evaluation,
14 classification, counseling, care, treatment or rehabilitation
15 rendered under this act to a mentally disabled child at a
16 facility.

17 "Partial hospitalization." Diagnosis, evaluation,
18 classification, care, treatment or rehabilitation rendered to a
19 mentally disabled child admitted or committed to a facility for
20 some portion of one or more 24-hour periods.

21 "Residential treatment facility." A small residential
22 hospital with fewer than 25 beds, approved by the Department of
23 Public Welfare and eligible for medical assistance funding in
24 serving mentally ill children and youth.

25 "Secretary." The Secretary of Public Welfare of the
26 Commonwealth.

27 CHAPTER 3

28 RESPONSIBILITIES OF COMMONWEALTH

29 Section 301. General powers and duties of department.

30 The department shall:

1 (1) Assure within this Commonwealth the availability and
2 equitable provision of adequate services for all children and
3 youth who are mentally ill, regardless of residence or
4 economic or social status.

5 (2) Make, with the advice of the Advisory Committee for
6 Mental Health and Mental Retardation, and enforce all
7 regulations necessary and appropriate to the proper
8 accomplishment of the duties and functions imposed by this
9 act.

10 (3) Adopt Statewide plans for services for mentally ill
11 children and youth and assign to State-operated facilities,
12 or portions thereof, such duties for the care of mentally ill
13 children and youth as the secretary shall prescribe. The
14 assignments herein referred to shall be made with due regard
15 to geographical location and population distribution.

16 (4) Coordinate activities between the Office of Mental
17 Health, the Office of Children, Youth and Families and the
18 Office of Medical Assistance within the department and
19 coordinate the department's activities with the Department of
20 Health and the Department of Education.

21 (5) Make grants, pay subsidies, purchase service and
22 provide reimbursement for services for children and youth in
23 accordance with this act.

24 (6) Supervise facilities, services and programs provided
25 by law for mentally ill children and youth.

26 Section 302. State facilities.

27 (a) Operation.--The department shall operate State
28 facilities, or portions thereof, for mentally ill children and
29 youth and shall assign such functions to each as the secretary
30 shall prescribe. The department may transfer State facilities to

1 the county program if there is assurance that needed services
2 will be provided to mentally ill children and youth.

3 (b) Additional facilities.--The department is hereby
4 authorized to establish, extend, operate and maintain additional
5 facilities for mentally ill children and youth and provide
6 services in those facilities.

7 CHAPTER 5

8 RESPONSIBILITIES OF COUNTIES

9 Section 501. General powers and duties of local authorities.

10 (a) Program for children.--The local authorities of each
11 county mental health and mental retardation program established
12 by the Mental Health Act shall establish a distinct children and
13 youth mental health program for the prevention of mental
14 disability and for the diagnosis, care, treatment,
15 rehabilitation and detention of children and youth in need of
16 mental health services, and shall have the power to make
17 appropriations for such purposes. Such program shall conform
18 with regulations promulgated by the department. Local
19 authorities shall also:

20 (1) Insure the operation of a county children and youth
21 mental health program in each county.

22 (2) Employ such personnel as are necessary to operate
23 the county children and youth mental health program. The
24 selection, appointment and retention of such employees, and
25 the termination of their employment, shall be on the basis of
26 a merit system which shall conform to minimum standards
27 established by the department with the advice of the Advisory
28 Committee for Mental Health and Mental Retardation.

29 (b) Services.--It shall be the duty of local authorities, in
30 cooperation with the department, to insure that the following

1 mental health services are available for children and youth:

2 (1) Short-term inpatient services.

3 (2) Outpatient services.

4 (3) Partial hospitalization services.

5 (4) Emergency services 24 hours a day.

6 (5) Consultation and education services to professional
7 personnel and community agencies serving children and youth,
8 including, but not limited to, the county children and youth
9 agency, juvenile probation, the court, the schools, drug and
10 alcohol programs, and other public or private youth-serving
11 agencies.

12 (6) Aftercare services for children and youth with a
13 mental health diagnosis who are released from State, county
14 and private facilities.

15 (7) Residential care, including residential treatment
16 facilities, for children and youth in need of mental health
17 services.

18 (c) Additional services.--Local authorities shall also have
19 the power to establish the following additional services or
20 programs for the children and youth in need of mental health
21 services:

22 (1) Student assistance programs in public and private
23 schools.

24 (2) Peer counseling.

25 (3) Any other service or program designed to prevent
26 mental disabilities or the necessity of admitting or
27 committing a child to a facility.

28 (d) Provision of services.--Services required or authorized
29 under this act may be provided either directly or by purchase of
30 such services.

1 Section 502. County children and youth mental health board.

2 (a) Appointment.--Except in cities of the first class, the
3 local authorities of a county children and youth mental health
4 program shall appoint a board, which shall consist of 15
5 residents, including, from each county, a representative of the
6 board of county commissioners. At least one member of the board
7 shall be a pediatrician, and where possible, one shall be a
8 child psychiatrist. There shall also be appropriate
9 representation drawn from the following:

10 (1) The professional fields of psychology, social work,
11 nursing and education.

12 (2) Local citizens' organizations active in the field of
13 mental health.

14 (3) Local organizations serving children and youth.

15 (4) The county drug and alcohol program.

16 (5) The county children and youth agency.

17 (6) The county juvenile probation program.

18 (7) Other interested community groups.

19 Where two or more counties are participating in concert in the
20 program, the members of the board shall be selected
21 substantially on a proportionate basis as to population,
22 provided that each county, irrespective of population, shall
23 have at least one member on the board.

24 (b) Terms, etc.--Each member shall be appointed for a period
25 of three years. The initial appointment of members of the board
26 shall be for overlapping periods of three, two and one years. In
27 making the initial appointments, insofar as possible, one-third
28 of the members shall be appointed to each of the overlapping
29 periods. Any vacancies occurring in the membership of the board
30 shall be filled by the local authorities for the unexpired

1 period. The local authorities may remove any member of the board
2 during his period of service for cause only. The members shall
3 serve without compensation other than reimbursement for travel
4 and other actual and necessary expenses incurred in connection
5 with called meetings of the board.

6 (c) Meetings.--A majority of the board members shall
7 constitute a quorum. The members shall select a chairman from
8 among themselves. Each board shall meet at least once each
9 quarter and may, by majority vote of the membership, establish
10 more frequent regular meetings. Special meetings shall be held
11 on call of the chairman, and it shall be the duty of the
12 chairman to call a special meeting upon the written request of
13 one-third or more of the members, not including vacancies of the
14 board.

15 (d) Cities of the first class.--In cities of the first
16 class, a children and youth mental health program board shall be
17 appointed, and the members shall hold office, under the
18 provisions of the city charter.

19 Section 503. Duties of board.

20 (a) Powers and duties enumerated.--The board shall:

21 (1) Review and evaluate the county's mental health
22 needs, services, facilities and special problems in relation
23 to the local health and welfare needs, services and programs
24 for children and youth.

25 (2) Develop, together with the County Mental Health and
26 Mental Retardation Advisory Board and the county
27 administrator, annual plans for the programs required by
28 section 501.

29 (3) Make recommendations to the local authorities
30 regarding the program and any other matters relating to

1 services for children and youth in need of mental health
2 services, including the purchase of service contracts and the
3 extent of funds required to implement the program.

4 (4) Review and evaluate the performance of the programs
5 and services developed by the county and agencies under
6 contract with the county to serve children in need of mental
7 health services.

8 (b) Multipurpose board.--The functions of the board may be
9 performed by a multipurpose board which advises the county on
10 mental health and/or children and youth programs and services,
11 if the local authorities so elect with appropriate
12 representation as specified in section 502(a).

13 Section 504. Duties of county administrator.

14 The county administrator shall:

15 (1) Administer the county program for children and youth
16 in need of mental health services.

17 (2) Insure that county services for children and youth
18 required by this act are available.

19 (3) Provide staff services to the board.

20 (4) Make reports to the department, in such form and
21 containing such information as the department may require, on
22 mental health services for children and youth.

23 (5) Develop, together with the board, annual plans for
24 the programs required by this act.

25 (6) Submit to local authorities annual plans for mental
26 health services for children and youth and estimated costs
27 for the provision of services, establishment and operation of
28 facilities, and other related matters for review, approval
29 and transmittal to the department.

30 (7) Review and evaluate facilities, and cooperate with

1 the department in the maintenance of established standards.

2 (8) Establish and maintain effective liaison and
3 coordination with governmental and private community children
4 and youth agencies and organizations and jointly establish
5 plans for the effective delivery of coordinated services.

6 (9) Submit an annual report to the local authorities,
7 the board and the department on all activities of the program
8 for mental health services for children and youth.

9 (10) Analyze and evaluate needs of and services for
10 children and youth in need of mental health services and
11 their families in the county and recommend improvements to
12 the board and local authorities.

13 CHAPTER 7

14 RIGHTS OF CHILDREN AND YOUTH

15 Section 701. Rights of children and youth admitted or
16 committed.

17 Every person less than 18 years of age who is admitted,
18 committed or detained in any facility shall have the right:

19 (1) To communicate with and to be alone at any interview
20 with his counsel or a representative of the department, and
21 to send sealed communications to the director, any member of
22 his family, the department, the Governor, and the court, if
23 any, which committed him.

24 (2) To religious freedom and to visitation by a
25 clergyman.

26 (3) To an appropriate education.

27 (4) To an individualized treatment plan developed in
28 consultation with the child and his family.

29 (5) To be furnished with writing materials and
30 reasonable opportunity for communicating with any person

1 outside the institution. Communications shall be stamped and
2 mailed.

3 (6) To be discharged with a plan for aftercare as soon
4 as care and treatment in a facility are no longer necessary.

5 (7) To request the department to arrange for the
6 examination of the child's mental or physical condition by a
7 physician not associated with the department. The department
8 may refuse to grant such request only when it is made sooner
9 than three months after the child's admission or commitment.

10 (8) To retain the same rights as any other citizen of
11 this Commonwealth.

12 CHAPTER 9

13 FINANCIAL MATTERS

14 Section 901. Liability of legally responsible relatives of
15 children and youth receiving mental health
16 services.

17 Whenever public funds are expended on behalf of a child under
18 any provision of this act, the governmental body expending such
19 funds may recover the same from a legally responsible relative,
20 subject to the regulations of the department under the Mental
21 Health Act. The imposition of liability shall not interfere with
22 the child's right to needed services.

23 Section 902. Contingent liability of State and local
24 governments.

25 (a) Public funds.--Neither the Commonwealth nor a county
26 shall be required to expend public funds under this act on
27 behalf of a child until eligibility and receipt of benefits
28 under all other existing or future private, public, Federal,
29 State or local programs have been exhausted.

30 (b) Funding.--Upon exhaustion of eligibility under

1 subsection (a), the Commonwealth and the counties shall share
2 the financial obligations accruing under this act, to the extent
3 that such obligations are not borne by the Federal Government or
4 any private person or agency. The Commonwealth shall fund 90% of
5 the costs of services not identified as the full responsibility
6 of the Commonwealth in section 903.

7 (c) Construction.--It is the intention of this act that its
8 provisions be construed so as to maintain and not decrease or
9 destroy any eligibility of any person, any facility or the
10 Commonwealth or any political subdivision to receive any Federal
11 assistance, grants or funds.

12 Section 903. Liability of Commonwealth.

13 The Commonwealth shall pay for the following:

14 (1) Diagnosis, evaluation and care in State-operated
15 facilities or in a facility with which the Commonwealth may
16 contract.

17 (2) Such other obligations as may arise under any new
18 program established by the department.

19 (3) Payments for inpatient care not exceeding 60 days
20 per benefit period and partial hospitalization not exceeding
21 180 days per year for persons financially ineligible for such
22 care under the act of June 13, 1967 (P.L.31, No.21), known as
23 the Public Welfare Code.

24 (4) Payments for community residential services.

25 Section 904. State and county grants and payments.

26 The department shall:

27 (1) Make annual grants from State and Federal funds to
28 counties to defray part of the cost of county programs
29 authorized by this act and approved by the department, in the
30 amount of 90% of the excess of all such approved expenditures

1 for such programs over the amount paid for the same purpose
2 from any public or private source directly to participating
3 counties, facilities or individuals.

4 (2) Upon approval of an annual plan and the estimated
5 expenditures for a mental health program for children and
6 youth, compute an annual grant in accordance with the formula
7 established in paragraph (1).

8 (3) Pay the annual grant in four quarterly installments,
9 consistent with payment for county mental health and mental
10 retardation programs. The moneys received in any quarter may
11 be used at any time during the year.

12 (4) In the event that sufficient funds to pay the full
13 amount of the grants to which the counties may be entitled
14 under the provisions of this section have not been
15 appropriated, distribute State funds among the counties by a
16 formula reasonably designed to achieve the objectives of this
17 act, provided that, in such event, the counties' financial
18 obligations under this act shall be reduced in accordance
19 with the same formula and the counties shall be required to
20 provide only those services for which sufficient funds are
21 available.

22 Section 905. Supplemental grants.

23 The department may make additional grants to any county
24 participating in an approved plan to assist in establishing the
25 services provided for in such plan. The department shall
26 prioritize new mental health services for children and youth
27 that are coordinated with other county children and youth
28 services.

29 CHAPTER 11

30 VOLUNTARY EXAMINATION AND TREATMENT

1 Section 1101. Voluntary treatment.

2 Any person 16 to 18 years of age who believes that he is in
3 need of treatment and substantially understands the nature of
4 voluntary treatment may submit himself to examination and
5 treatment under this act, provided that the decision to do so is
6 made voluntarily. A parent, guardian or person standing in loco
7 parentis to a child less than 16 years of age may subject the
8 child to examination and treatment under this act, and in so
9 doing shall be deemed to be acting for the child. Except as
10 otherwise authorized in this act, all of the provisions of this
11 act governing examination and treatment shall apply.

12 Section 1102. Application.

13 Application for voluntary examination and treatment shall be
14 made to an approved facility or to the county administrator
15 operating a facility for the care and treatment of mental
16 illness. When application is made to the county administrator,
17 he shall designate the approved facility for examination and for
18 such treatment as may be appropriate for the child.

19 Section 1103. Explanation and consent.

20 Before a child is accepted for voluntary inpatient treatment,
21 an explanation of the treatment shall be made to him and his
22 family, including the types of treatment in which he may be
23 involved and any restraints or restrictions to which he may be
24 subject, together with a statement of his rights under this act.
25 Consent shall be given, in writing, upon a form adopted by the
26 department. The consent shall include the following
27 representations:

28 (1) That the person, or his family if he is under the
29 age of 16, understands that his treatment will involve
30 inpatient status.

1 (2) That he is willing to be admitted to a designated
2 facility for the purpose of such examination and treatment.

3 (3) That he consents to such admission voluntarily,
4 without coercion or duress.

5 (4) If applicable, that he has voluntarily agreed to
6 remain in treatment for a specified period of no longer than
7 72 hours after having given written notice of his intent to
8 withdraw from treatment.

9 The consent shall be part of the person's record.

10 Section 1104. Notice to parents.

11 Upon the acceptance of an application for examination and
12 treatment by a minor 16 years of age or older but less than 18
13 years of age, the director of the facility shall promptly notify
14 the minor's parents, guardian or person standing in loco
15 parentis, and shall inform them of the right to be heard upon
16 the filing of an objection. Whenever such objection is filed, a
17 hearing shall be held within 72 hours by a judge or mental
18 health review officer as provided for in the act of July 9, 1976
19 (P.L.817, No.143), known as the Mental Health Procedures Act,
20 who shall determine whether or not the voluntary treatment is in
21 the best interest of the minor.

22 Section 1105. Physical examination and formulation of
23 individualized treatment plan.

24 Upon acceptance of a child for voluntary examination and
25 treatment, he shall be given a physical examination. Within 72
26 hours after acceptance of a child, an individualized treatment
27 plan shall be formulated by a treatment team. The person shall
28 be advised of the treatment plan, which shall become a part of
29 his record. The treatment plan shall state whether inpatient
30 treatment is considered necessary, and what restraints or

1 restrictions, if any, will be administered, and shall set forth
2 the bases for such conclusions.

3 Section 1106. Withdrawal from voluntary inpatient treatment.

4 (a) General rule.--A person in voluntary inpatient treatment
5 may withdraw at any time by giving written notice unless, as
6 stated in section 1103, he has agreed in writing at the time of
7 his admission that his release can be delayed following such
8 notices for a period to be specified in the agreement, provided
9 that such period shall not exceed 72 hours. Any patient
10 converted from involuntary treatment to voluntary treatment
11 status shall agree to remain in treatment for 72 hours after
12 having given written notice of his intent to withdraw from
13 treatment.

14 (b) Persons under 16.--If the person is less than 16 years
15 of age, his parent, legal guardian, or person standing in loco
16 parentis, may effect his release. If any responsible party
17 believes that it would be in the best interest of a person less
18 than 16 years of age in voluntary treatment to be withdrawn
19 therefrom or afforded treatment constituting a less restrictive
20 alternative, such party may file a petition in the juvenile
21 division of the court of common pleas of the county in which the
22 person less than 16 years of age resides, requesting a
23 withdrawal from or modification of treatment. The court shall
24 promptly appoint an attorney for such minor person and schedule
25 a hearing to determine what inpatient treatment, if any, is in
26 the minor's best interest. The hearing shall be held within ten
27 days of receipt of the petition, unless continued upon the
28 request of the attorney for the minor. The hearing shall be
29 conducted in accordance with the rules governing other juvenile
30 court proceedings.

1 (c) Construction of act.--Nothing in this act shall be
2 construed to require a facility to continue inpatient treatment
3 where the director of the facility determines that the treatment
4 is not medically indicated.

5 (d) Disputes--Any dispute between a facility and a county
6 administrator as to the medical necessity for voluntary
7 inpatient treatment of a person shall be decided by the
8 Commissioner of Mental Health or his designee.

9 Section 1107. Transfer of person in voluntary treatment.

10 A person who is in voluntary treatment may not be transferred
11 from one facility to another without his written consent or the
12 consent of his parents if he is less than 16 years of age.

13 CHAPTER 13

14 INVOLUNTARY EXAMINATION AND TREATMENT

15 Section 1301. Involuntary emergency examination and treatment.

16 (a) Persons subject.--Whenever a person over 16 years of age
17 is severely mentally disabled and in need of immediate
18 treatment, he may be made subject to involuntary emergency
19 examination and treatment. A person is severely mentally
20 disabled when, as a result of mental illness, his capacity to
21 exercise self-control, judgment and discretion in the conduct of
22 his affairs and social relations or to care for his own personal
23 needs is so lessened that he poses a clear and present danger of
24 harm to himself or others.

25 (b) Determination of clear and present danger.--

26 (1) Clear and present danger to himself or others shall
27 be shown by establishing that within the past 30 days the
28 person has inflicted or attempted to inflict serious bodily
29 harm on himself or another and that there is a reasonable
30 probability that such conduct will be repeated.

1 (2) Clear and present danger of harm may be demonstrated
2 by proof that the person has made serious threats of harm to
3 himself or others.

4 (3) Clear and present danger to himself may be shown by
5 establishing that within the past 30 days the person has
6 acted in such manner as to evidence that he would be unable,
7 without care, supervision and the continued assistance of
8 others, to satisfy his need for nourishment, personal or
9 medical care, shelter, or self-protection and safety, and
10 that there is a reasonable probability that death, serious
11 bodily injury or serious physical debilitation would ensue
12 within 30 days unless adequate treatment were afforded under
13 this act.

14 Section 1302. Involuntary emergency examination and treatment
15 authorized by physician.

16 (a) Application for examination.--Emergency examination may
17 be undertaken at a treatment facility upon the certification of
18 a physician stating the need for such examination, or upon a
19 warrant issued by the county administrator authorizing such
20 examination, or without a warrant upon application by a
21 physician or other authorized person who has personally observed
22 conduct showing the need for such examination.

23 (b) Warrant for emergency examination.--Upon written
24 application by a physician or other responsible party setting
25 forth facts constituting reasonable grounds to believe a person
26 is severely mentally disabled and in need of immediate
27 treatment, the county administrator may issue a warrant
28 requiring a person authorized by him, or any peace officer, to
29 take the severely mentally disabled person to the facility
30 specified in the warrant.

1 (c) Emergency examination without warrant.--Upon personal
2 observation of the conduct of a person which constitutes
3 reasonable grounds to believe that he is severely mentally
4 disabled and in need of immediate treatment, any physician or
5 peace officer, or anyone authorized by the county administrator,
6 may take such person to any approved facility for an emergency
7 examination. Upon arrival, he shall make a written statement
8 setting forth the grounds for believing the person to be in need
9 of such examination.

10 (d) Examination and determination of need for emergency
11 treatment.--A person taken to a facility shall be examined by a
12 physician within two hours of arrival in order to determine if
13 the person is severely mentally disabled within the meaning of
14 section 1301 and in need of immediate treatment. If it is
15 determined that the person is severely mentally disabled and in
16 need of emergency treatment, treatment shall be begun
17 immediately. If the physician does not so find, or if at any
18 time it appears that there is no longer a need for immediate
19 treatment, the person shall be discharged and returned to such
20 place as he or his family may reasonably direct. The physician
21 shall make a record of the examination and his findings.

22 (e) Notification of rights at emergency examination.--Upon
23 arrival at the facility, the person shall be informed of the
24 reasons for emergency examination and of his right to
25 communicate immediately with others. He shall be requested to
26 furnish the names of parties whom he may want to be notified of
27 his custody and kept informed of his status. The county
28 administrator or the director of the facility shall give notice
29 to such parties and the person's family of the whereabouts and
30 status of the person, how and when he may be contacted and

1 visited, and how they may obtain information concerning him
2 while he is in inpatient treatment.

3 (f) Duration of emergency examination and treatment.--A
4 person who is in treatment pursuant to this section shall be
5 discharged whenever it is determined that he is no longer in
6 need of treatment and, in any event, within 120 hours, unless
7 within such period:

8 (1) he is admitted to voluntary treatment pursuant to
9 section 1102; or

10 (2) a certification for extended involuntary emergency
11 treatment is filed pursuant to section 1303.

12 Section 1303. Extended involuntary emergency treatment.

13 (a) Persons subject.--Application for extended involuntary
14 emergency treatment may be made for any person who is being
15 treated pursuant to section 1302 whenever the facility
16 determines that the need for emergency treatment is likely to
17 extend beyond 120 hours. The application shall be filed
18 forthwith in the court of common pleas and shall state the
19 grounds on which extended emergency treatment is believed to be
20 necessary. The application shall state the name of any examining
21 physician and the substance of his opinion regarding the mental
22 condition of the person.

23 (b) Counsel and hearing.--Upon receiving an application
24 under subsection (a), the court of common pleas shall appoint an
25 attorney who shall represent the person unless it appears that
26 the person can afford, and desires to have, private
27 representation. Within 24 hours after the application is filed,
28 an informal hearing shall be conducted by a judge or by a mental
29 health review officer as provided for in the act of July 9, 1976
30 (P.L.817, No.143), known as the Mental Health Procedures Act,

1 and, if practicable, shall be held at the facility.

2 (c) Informal conference.--

3 (1) At the commencement of the informal conference, the
4 judge or the mental health review officer shall inform the
5 person of the nature of the proceedings. Information relevant
6 to whether the person is severely mentally disabled and in
7 need of treatment shall be reviewed, including the reasons
8 that continued involuntary treatment is considered necessary.
9 Such explanation shall be made by a physician who examined
10 the person and shall be in terms understandable to a layman.
11 The judge or mental health review officer may review any
12 relevant information, even if it would be normally excluded
13 under rules of evidence, if he believes that the information
14 is reliable. The person or his representative shall have the
15 right to ask questions of the physician and of any other
16 witnesses and to present any relevant information. At the
17 conclusion of the review, if the judge or the review officer
18 finds that the person is severely mentally disabled and in
19 need of continued involuntary treatment, he shall so certify.
20 Otherwise, he shall direct that the facility director or his
21 designee discharge the person.

22 (2) A record of the proceedings, which need not be a
23 stenographic record, shall be made. The record shall be kept
24 by the court or mental health review officer for at least one
25 year.

26 (d) Contents of certification.--A certification for extended
27 involuntary treatment shall be made in writing upon a form
28 adopted by the department and shall include:

29 (1) Findings by the judge or mental health review
30 officer as to the reasons that extended involuntary emergency

1 treatment is necessary.

2 (2) A description of the treatment to be provided,
3 together with an explanation of the adequacy and
4 appropriateness of such treatment, based upon the information
5 received at the hearing.

6 (3) Any documents required by the provisions of section
7 1302.

8 (4) The application as filed pursuant to section
9 1303(a).

10 (5) A statement that the person is represented by
11 counsel.

12 (6) An explanation of the effect of the certification,
13 the person's right to petition the court for release under
14 subsection (g), and the continuing right to be represented by
15 counsel.

16 (e) Filing and service.--The certification shall be filed
17 with the director of the facility and a copy served on the
18 person, on such other parties as the person requested to be
19 notified pursuant to section 1302(c), and on counsel.

20 (f) Effect of certification.--Upon the filing and service of
21 a certification for extended involuntary emergency treatment,
22 the person may be given treatment in an approved facility for a
23 period not to exceed 20 days.

24 (g) Petition to common pleas court.--In all cases in which
25 the hearing was conducted by a mental health review officer, a
26 person made subject to treatment pursuant to this section shall
27 have the right to petition the court of common pleas for review
28 of the certification. A hearing shall be held within 72 hours
29 after the petition is filed unless a continuance is requested by
30 the person's counsel. The hearing shall include a review of the

1 certification and such evidence as the court may receive or
2 require. If the court determines that further involuntary
3 treatment is necessary and that the procedures prescribed by
4 this act have been followed, it shall deny the petition.
5 Otherwise, the person shall be discharged.

6 (h) Duration of extended treatment.--Whenever a person is no
7 longer severely mentally disabled or in need of immediate
8 treatment and, in any event, within 20 days after the filing of
9 the certification, he shall be discharged, unless within such
10 period:

11 (1) he is admitted to voluntary treatment pursuant to
12 section 1102; or

13 (2) the court orders involuntary treatment pursuant to
14 section 1304.

15 Section 1304. Court-ordered involuntary treatment.

16 (a) Application.--

17 (1) A person who is severely mentally disabled and in
18 need of treatment, as defined in section 1101, may be made
19 subject to court-ordered involuntary treatment upon a
20 determination of clear and present danger under section
21 1301(b)(1), (2) or (3).

22 (2) Where a petition is filed for a person already
23 subject to involuntary treatment, it shall be sufficient to
24 represent, and upon hearing to reestablish, that the conduct
25 originally required by section 1301 in fact occurred, and
26 that his condition continues to evidence a clear and present
27 danger to himself or others. In such event, it shall not be
28 necessary to show the reoccurrence of dangerous conduct,
29 either harmful or debilitating, within the past 30 days.

30 (b) Procedure for persons already subject to involuntary

1 treatment.--

2 (1) Petition for court-ordered involuntary treatment for
3 persons already subject to treatment under section 1303 or
4 this section may be made by the county administrator or the
5 director of the facility to the court of common pleas.

6 (2) The petition shall be in writing upon a form adopted
7 by the department and shall include a statement of the facts
8 constituting reasonable grounds to believe that the person is
9 severely mentally disabled and in need of treatment. The
10 petition shall state the name of any examining physician and
11 the substance of his opinion regarding the mental condition
12 of the person. It shall also state that the person has been
13 given the information required by paragraph (3).

14 (3) Upon the filing of the petition, the county
15 administrator shall serve a copy on the person, his attorney
16 and those designated to be kept informed, as provided in
17 section 1302(c), including an explanation of the nature of
18 the proceedings, the person's right to an attorney and the
19 services of an expert in the field of mental health, as
20 provided by subsection (d).

21 (4) A hearing on a petition shall be held, in all cases,
22 not more than five days after the filing of the petition.

23 (5) Treatment shall be permitted to be maintained
24 pending the determination of the petition.

25 (c) Procedure for persons not in involuntary treatment.--

26 (1) Any responsible party may file a petition in the
27 court of common pleas requesting court-ordered involuntary
28 treatment for any person who is not already in involuntary
29 treatment and for whom application could be made under
30 subsection (a).

1 (2) The petition shall be in writing upon a form adopted
2 by the department and shall set forth facts constituting
3 reasonable grounds to believe that the person is within the
4 criteria for court-ordered treatment set forth in subsection
5 (a). The petition shall state the name of any examining
6 physician and the substance of his opinion regarding the
7 mental condition of the person.

8 (3) Upon a determination that the petition sets forth
9 such reasonable cause, the court shall appoint an attorney to
10 represent the person and set a date for the hearing as soon
11 as practicable. The attorney shall represent the person
12 unless it appears that he can afford, and desires to have,
13 private representation.

14 (4) The court, by summons, shall direct the person to
15 appear for a hearing. The court may issue a warrant directing
16 a person authorized by the county administrator or a peace
17 officer to bring the person before the court at the time of
18 the hearing if there are reasonable grounds to believe that
19 the person will not appear voluntarily. A copy of the
20 petition shall be served on such person at least three days
21 before the hearing, together with a notice advising him that
22 an attorney has been appointed who shall represent him unless
23 he obtains an attorney himself, that he has a right to be
24 assisted in the proceedings by an expert in the field of
25 mental health, and that he may request or be made subject to
26 psychiatric examination under paragraph (5).

27 (5) Upon motion of either the petitioner or the person,
28 or upon its own motion, the court may order the person to be
29 examined by a psychiatrist appointed by the court. The
30 examination shall be conducted on an outpatient basis, and

1 the person shall have the right to have counsel present. A
2 report of the examination shall be given to the court and
3 counsel at least 48 hours prior to the hearing.

4 (6) Involuntary treatment shall not be authorized during
5 the pendency of a petition except in accordance with section
6 1302 or 1303.

7 (d) Professional assistance.--A person with respect to whom
8 a hearing has been ordered under this section shall have and be
9 informed of a right to employ a physician, a clinical
10 psychologist or another expert in mental health of his choice to
11 assist him in connection with the hearing and to testify on his
12 behalf. If the person cannot afford to engage such a
13 professional, the court shall, on application, allow a
14 reasonable fee for such purpose. The fee shall be a charge
15 against the mental health and mental retardation program of the
16 locality.

17 (e) Hearing.--A hearing on a petition for court-ordered
18 involuntary treatment shall be conducted according to the
19 following:

20 (1) The person shall have the right to counsel and to
21 the assistance of an expert in mental health.

22 (2) The person shall not be called as a witness without
23 his consent.

24 (3) The person shall have the right to confront and
25 cross-examine all witnesses and to represent evidence in his
26 own behalf.

27 (4) The hearing shall be public unless it is requested
28 to be private by the person or his counsel.

29 (5) A stenographic or other sufficient record shall be
30 made. This record shall be impounded by the court and may be

1 suggested forms for use by local authorities in implementing
2 this act; but, upon promulgation as a rule and regulation, the
3 department may require the use of any particular form so
4 promulgated.

5 Section 1502. Records of persons admitted or committed.

6 (a) Content.--Whenever a person is admitted or committed to
7 any facility or receives services or benefits at a facility
8 under any provision of this act, a complete record pertaining to
9 such person shall be maintained by the facility. If such
10 information is available, the record shall include, but need not
11 be limited to:

12 (1) Applications, petitions, affidavits and orders of
13 court.

14 (2) Reports of physicians, psychiatrists, psychologists,
15 nurses and social workers.

16 (3) Police records.

17 (4) Clinical records, or a full abstract thereof
18 containing all essential particulars, including results of
19 physical examinations, examinations for mental disability and
20 laboratory tests.

21 (5) Any other material with reference to such person.

22 (b) Transfer.--Whenever a person is transferred to any other
23 facility pursuant to any provision of this act, a copy of all
24 pertinent records pertaining to such person shall accompany him.

25 (c) Previous records.--Whenever a person who has previously
26 received services or benefits at a facility is later given
27 services or benefits at another facility, the first facility
28 shall, upon request from the subsequent facility, furnish a copy
29 of all pertinent records pertaining to such person.

30 (d) Records confidential.--Any record, or portion thereof,

1 so maintained shall be open to inspection and examination only
2 to those persons designated by the director of a facility at
3 which such person has been admitted or committed or at which the
4 person is receiving services or benefits, and, in the case of
5 facilities under the control of the Commonwealth or local
6 authorities, to such other persons as the department by
7 regulation may determine.

8 Section 1503. Immunities.

9 No person and no governmental or recognized nonprofit health
10 or welfare organization or agency shall be held civilly or
11 criminally liable for any diagnosis, opinion, report or any
12 thing done pursuant to the provisions of this act if the person
13 acted in good faith and not falsely, corruptly, maliciously or
14 without reasonable cause. However, causes of action based upon
15 gross negligence or incompetence shall not be affected by the
16 immunities granted by this section.

17 Section 1504. Appropriation.

18 The sum of \$6,000,000, or as much thereof as may be
19 necessary, is hereby appropriated to the Department of Public
20 Welfare to expand mental health services for children and youth
21 services heretofore provided under the act of October 20, 1966
22 (3rd Sp.Sess., P.L.96, No.6), known as the Mental Health and
23 Mental Retardation Act of 1966. These funds shall not replace
24 existing Federal, State or county funds providing mental health
25 services for children and youth.

26 Section 1505. Repeals.

27 The following acts and parts of acts are repealed insofar as
28 they are inconsistent with this act:

29 Act of October 20, 1966 (3rd Sp.Sess., P.L.96, No.6), known
30 as the Mental Health and Mental Retardation Act of 1966.

1 Act of July 9, 1976 (P.L.817, No.143), known as the Mental
2 Health Procedures Act.
3 Section 1506. Effective date.
4 This act shall take effect in 60 days.