

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2343 Session of
1986

INTRODUCED BY HAGARTY, SAURMAN, E. Z. TAYLOR, REBER, OLIVER,
JOHNSON, GEIST, MORRIS, GALLAGHER, JACKSON, CORNELL, McVERRY,
MERRY, GAMBLE, CIVERA, NOYE, MOEHLMANN, MICOZZIE, FOX, WOGAN,
MRKONIC, LASHINGER, TIGUE, CAWLEY, BUNT, CLYMER, McCLATCHY,
NAHILL, J. TAYLOR, O'BRIEN, AFFLERBACH, SIRIANNI, FARGO,
LANGTRY, TRELLO AND RICHARDSON, APRIL 9, 1986

REFERRED TO COMMITTEE ON HEALTH AND WELFARE, APRIL 9, 1986

AN ACT

1 Amending the act of July 9, 1976 (P.L.817, No.143), entitled "An
2 act relating to mental health procedures; providing for the
3 treatment and rights of mentally disabled persons, for
4 voluntary and involuntary examination and treatment and for
5 determinations affecting those charged with crime or under
6 sentence," further providing for involuntary treatment.

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

9 Section 1. Section 301 of the act of July 9, 1976 (P.L.817,
10 No.143), known as the Mental Health Procedures Act, amended
11 November 26, 1978 (P.L.1362, No.324), is amended to read:

12 Section 301. Persons Who May be Subject to Involuntary
13 [Emergency] Examination and Treatment.--(a) Persons Subject.--
14 Whenever a person is severely mentally disabled and in need of
15 immediate treatment, he may be made subject to involuntary
16 emergency examination and treatment. A person is severely
17 mentally disabled when, as a result of mental illness, his
18 capacity to exercise self-control, judgment and discretion in

1 the conduct of his affairs and social relations or to care for
2 his own personal needs is so lessened that he poses a clear and
3 present danger of harm to others or to himself.

4 (b) Determination of Clear and Present Danger.--(1) Clear
5 and present danger to others shall be shown by establishing that
6 within the past 30 days the person has inflicted or attempted to
7 inflict serious bodily harm on another and that there is a
8 reasonable probability that such conduct will be repeated. If,
9 however, the person has been found incompetent to be tried or
10 has been acquitted by reason of lack of criminal responsibility
11 on charges arising from conduct involving infliction of or
12 attempt to inflict substantial bodily harm on another, such 30-
13 day limitation shall not apply so long as an application for
14 examination and treatment is filed within 30 days after the date
15 of such determination or verdict. In such case, a clear and
16 present danger to others may be shown by establishing that the
17 conduct charged in the criminal proceeding did occur, and that
18 there is a reasonable probability that such conduct will be
19 repeated. For the purpose of this section, a clear and present
20 danger of harm to others may be demonstrated by proof that the
21 person has made threats of harm and has committed acts in
22 furtherance of the threat to commit harm.

23 (2) Clear and present danger to himself shall be shown by
24 establishing that within the past 30 days:

25 (i) the person has acted in such manner as to evidence that
26 he would be unable, without care, supervision and the continued
27 assistance of others, to satisfy his need for nourishment,
28 personal or medical care, shelter, or self-protection and
29 safety, and that there is a reasonable probability that death,
30 serious bodily injury or serious physical debilitation would

1 ensue within 30 days unless adequate treatment were afforded
2 under this act; or

3 (ii) the person has attempted suicide and that there is the
4 reasonable probability of suicide unless adequate treatment is
5 afforded under this act. For the purposes of this subsection, a
6 clear and present danger may be demonstrated by the proof that
7 the person has made threats to commit suicide and has committed
8 acts which are in furtherance of the threat to commit suicide;
9 or

10 (iii) the person has substantially mutilated himself or
11 attempted to mutilate himself substantially and that there is
12 the reasonable probability of mutilation unless adequate
13 treatment is afforded under this act. For the purposes of this
14 subsection, a clear and present danger shall be established by
15 proof that the person has made threats to commit mutilation and
16 has committed acts which are in furtherance of the threat to
17 commit mutilation.

18 (3) Clear and present danger to himself may also be shown if
19 all of the following are established:

20 (i) the person has been subject to involuntary treatment
21 under the criteria of subsection (b)(1) or (2) within the last
22 five years, or has been subject to involuntary treatment under
23 the criteria of this subsection within the last two years if the
24 person was also previously subject within the last ten years to
25 involuntary treatment under the criteria of subsection (b)(1) or
26 (2); and

27 (ii) the person has a documented history of chronic or
28 recurrent severe mental disability, including episodes of acute
29 psychosis or episodes of other major psychiatric dysfunctions;
30 and

1 (iii) the person's last course of inpatient psychiatric
2 treatment resulted in a clear and documented remission of
3 symptoms; and

4 (iv) the person's present behavior can be associated with
5 mental disability and is the same or similar to behavior
6 manifested by the person in a prior episode of severe mental
7 disability which preceded inpatient psychiatric treatment, and
8 from the person's present behavior it may reasonably be inferred
9 that the person's mental health is substantially deteriorating,
10 and that without treatment the person has a high probability of
11 again becoming severely mentally disabled; and

12 (v) psychiatric treatment may reasonably be expected to lead
13 to a remission of symptoms and discharge from inpatient
14 treatment within 45 days of the commencement of such treatment.

15 Section 2. Sections 302 and 304 of the act are amended by
16 adding subsections to read:

17 Section 302. Involuntary Emergency Examination and Treatment
18 Authorized by a Physician - Not to Exceed One Hundred Twenty
19 Hours.--* * *

20 (e) Application of Additional Criteria for Determination of
21 Clear and Present Danger.--No person may be subject to
22 involuntary emergency examination and treatment under the
23 criteria of section 301(b)(3).

24 Section 304. Court-ordered Involuntary Treatment Not to
25 Exceed Ninety Days.--* * *

26 (h) Period of Treatment for Certain Persons.--A person who
27 has been subject to involuntary treatment under the criteria of
28 section 301(b)(3) may be subject to such treatment for a period
29 not to exceed 45 days. An order entered under the criteria of
30 section 301(b)(3) shall not be renewed or extended unless it can

1 be shown in a hearing held under this section that the criteria
2 of section 301(b)(1) or (2) have been satisfied as of the date
3 of the original order. Every order for involuntary treatment
4 entered under this act shall clearly indicate on the face
5 thereof the particular subsection of section 301 which the
6 evidence in the case satisfied.

7 Section 3. The act is amended by adding a section to read:

8 Section 307. Enforcement of Outpatient Orders.--(a)
9 Conditions of Order.--An order for involuntary outpatient
10 treatment under this act may be conditioned upon the compliance
11 of the person with the reasonable requirements of the program he
12 is directed to attend. Upon the documented failure of the person
13 to comply with such requirements, and upon written approval of
14 the county administrator or his delegate, the person may be
15 subject to involuntary inpatient treatment without further order
16 of court for the balance of the period set forth in the original
17 order.

18 (b) Approval of Transfer.--The county administrator shall
19 approve the transfer of a person from outpatient to inpatient
20 status only upon written representation by the person's case
21 manager of both of the following:

22 (1) that the person has been advised, both orally and by a
23 clear and simple written notice, of the specific nature of his
24 obligations in the outpatient program and that if he fails to
25 comply with the outpatient program he may be subject to
26 involuntary psychiatric hospitalization without further notice
27 to him and without further hearing or order by a court; and

28 (2) that reasonable efforts have been made to solicit the
29 person's compliance with the outpatient program, including at
30 least two visits by a mental health outreach worker or

1 caseworker to the person's last known residence. Such home
2 visits shall be made at least three days apart and at times when
3 the available information indicates that the person might
4 reasonably be expected to be found.

5 (c) Effect of Order.--The original outpatient court order,
6 together with the written approval by the county administrator
7 for the transfer of the person from outpatient to inpatient
8 status, shall constitute authority for any person assigned by
9 the county administrator or for any police officer to take the
10 person subject to such order to a designated psychiatric
11 facility for the purpose of admission as an inpatient.

12 Section 4. This act shall take effect in 60 days.