
 THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. **1233** Session of
2017

INTRODUCED BY MURT, BAKER, BENNINGHOFF, BLOOM, BOBACK, BRIGGS,
V. BROWN, SCHLEGEL CULVER, DeLISSIO, EVERETT, GODSHALL,
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WATSON, WHITE, HANNA, DAVIS, BARBIN AND SANTORA,
APRIL 17, 2017

SENATOR BAKER, HEALTH AND HUMAN SERVICES, IN SENATE, AS AMENDED,
MARCH 20, 2018

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," in general provisions, further providing for scope
7 of act, providing for definitions ~~and~~, further providing for <--
8 individualized treatment plan AND PROVIDING FOR ASSISTED <--
9 OUTPATIENT TREATMENT IMPLEMENTATION BY COUNTIES; in
10 involuntary examination and treatment, further providing for
11 persons subject, for persons for whom application may be made
12 and for additional periods of court-ordered involuntary
13 treatment; and adding provisions relating to assisted
14 outpatient treatment.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Section 103 of the act of July 9, 1976 (P.L.817,
18 No.143), known as the Mental Health Procedures Act, is amended
19 to read:

20 Section 103. Scope of Act.--This act establishes rights and
21 procedures for all involuntary treatment of mentally ill

1 persons, whether inpatient or outpatient, and for all voluntary
2 inpatient treatment of mentally ill persons. ["Inpatient
3 treatment" shall include all treatment that requires full or
4 part-time residence in a facility. For the purpose of this act,
5 a "facility" means any mental health establishment, hospital,
6 clinic, institution, center, day care center, base service unit,
7 community mental health center, or part thereof, that provides
8 for the diagnosis, treatment, care or rehabilitation of mentally
9 ill persons, whether as outpatients or inpatients.]

10 Section 2. The act is amended by adding a section to read:

11 Section 103.1. Definitions.--The following words and phrases
12 when used in this act shall have the meanings given to them in
13 this section unless the context clearly indicates otherwise:

14 "Assisted outpatient treatment." Community-based outpatient
15 social, medical and behavioral health treatment services ordered
16 by a court for a severely mentally disabled person, which
17 services may include, but need not be limited to: MAY INCLUDE <--

18 ONE OR MORE OF THE FOLLOWING SERVICES:

19 (1) Community psychiatric supportive treatment.

20 (2) Assertive community treatment.

21 (3) Medications.

22 (4) Individual or group therapy.

23 (5) Peer support services.

24 (6) Financial services.

25 (7) Housing or supervised living services.

26 (8) Alcohol or substance abuse treatments when the treatment
27 is a co-occurring condition for a person with a primary
28 diagnosis of mental health illness.

29 (9) Any other service prescribed to treat the person's
30 mental illness that either assists the person in living and

1 functioning in the community or helps to prevent a relapse or a
2 deterioration of the person's condition that would be likely to
3 result in a substantial risk of serious harm to the person or
4 others.

5 "Facility." A mental health establishment, hospital, clinic,
6 institution, center, day care center, base service unit,
7 community mental health center, or part thereof, that provides
8 for the diagnosis, treatment, care or rehabilitation of mentally
9 ill persons, whether as outpatients or inpatients.

10 "Inpatient treatment." All treatment that requires full or
11 part-time residence in a facility.

12 "Qualified professional." A physician, licensed <--
13 psychologist, prescribing psychologist, certified nurse
14 practitioner, clinical nurse specialist with a specialty in
15 mental health or a physician assistant with a specialty in
16 mental health, or other mental health professional who by years
17 of education, training and experience in mental health settings
18 has:

19 (1) achieved professional recognition and standing as
20 defined by their respective discipline, including, but not
21 limited to, medicine, social work, psychology, nursing,
22 occupational therapy, recreational therapy and vocational
23 rehabilitation; and

24 (2) obtained, if applicable, licensure, registration or
25 certification. A MENTAL HEALTH PROFESSIONAL WHO: <--

26 (1) HAS A GRADUATE DEGREE, OR THE INTERNATIONAL EQUIVALENT,
27 FROM AN INSTITUTION ACCREDITED OR EVALUATED BY AN ORGANIZATION
28 RECOGNIZED BY THE DEPARTMENT IN A GENERALLY RECOGNIZED CLINICAL
29 DISCIPLINE THAT INCLUDES MENTAL HEALTH CLINICAL EXPERIENCE;

30 (2) HAS MENTAL HEALTH CLINICAL EXPERIENCE; AND

1 (3) IS LICENSED OR CERTIFIED BY THE COMMONWEALTH.

2 Section 3. Section 107 of the act is amended to read:

3 Section 107. Individualized Treatment Plan.--(a)

4 Individualized treatment plan means a plan of treatment
5 formulated for a particular person in a program appropriate to
6 his specific needs, including an assisted outpatient treatment
7 plan under subsection (b). To the extent possible, the plan
8 shall be made with the cooperation, understanding and consent of
9 the person in treatment, and shall impose the least restrictive
10 alternative consistent with affording the person adequate
11 treatment for his condition.

12 (b) Assisted outpatient treatment plan means an
13 individualized treatment plan developed by A QUALIFIED <--
14 PROFESSIONAL OR the treatment team that is ordered by a court
15 for involuntary outpatient civil commitment of a person. THE <--
16 TREATMENT PLAN SHALL BE REVIEWED AND APPROVED BY A PSYCHIATRIST
17 OR A LICENSED CLINICAL PSYCHOLOGIST PRIOR TO SUBMISSION TO THE
18 COURT. The treatment plan shall contain the reasonable
19 objectives and goals for a person determined to be in need of
20 assisted outpatient treatment. In addition to the requirements
21 of subsection (a), the treatment plan shall include:

22 (1) The delineation of specific assisted outpatient
23 treatment services to be provided based on the person's specific
24 needs.

25 (2) The delineation of the providers that agree to provide
26 assisted outpatient treatment services to the person.

27 (3) The documentation of how the person was involved in the
28 initial development of the treatment plan and the process for
29 involving the person in ongoing evaluation and, if appropriate,
30 modifications to the treatment plan.

1 (C) IN THE DEVELOPMENT AND APPROVAL OF AN INDIVIDUALIZED
2 TREATMENT PLAN, NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO
3 REQUIRE A COUNTY TO INCLUDE IN A PERSON'S INDIVIDUAL TREATMENT
4 PLAN FOR ASSISTED OUTPATIENT TREATMENT A SERVICE THAT IS NOT
5 AVAILABLE IN THAT COUNTY OR FOR WHICH NO FUNDING SOURCE OR
6 PROVIDER IS AVAILABLE TO PAY FOR OR RENDER THE SERVICE.

7 SECTION 4. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

8 SECTION 117. ASSISTED OUTPATIENT TREATMENT IMPLEMENTATION BY
9 COUNTIES.-- (A) (1) THE COUNTY ADMINISTRATOR OF ANY COUNTY MAY
10 DETERMINE ANNUALLY THAT THE COUNTY MENTAL HEALTH AND
11 INTELLECTUAL DISABILITIES PROGRAM WILL NOT PROVIDE ASSISTED
12 OUTPATIENT TREATMENT PURSUANT TO SECTION 301(C). THE COUNTY
13 ADMINISTRATOR MAKING THE DETERMINATION SHALL:

14 (I) PROVIDE NOTICE TO THE SECRETARY OF HEALTH THAT THE
15 COUNTY PROGRAM WILL NOT PROVIDE ASSISTED OUTPATIENT TREATMENT IN
16 ACCORDANCE WITH SECTION 301(C); AND

17 (II) NOTIFY THE COUNTY LOCAL AUTHORITY OF THE DECISION NOT
18 TO OFFER ASSISTED OUTPATIENT TREATMENT IN ACCORDANCE WITH
19 SECTION 301(C).

20 (2) THE NOTIFICATION TO THE SECRETARY OF HEALTH UNDER
21 PARAGRAPH (1) SHALL BE SUBMITTED ANNUALLY IN A FORM DETERMINED
22 BY THE SECRETARY OF HEALTH.

23 (B) THE SECRETARY OF HEALTH SHALL GRANT AN ANNUAL WAIVER TO
24 ANY COUNTY THAT HAS NOTIFIED THE SECRETARY OF HEALTH UNDER
25 SUBSECTION (A) OF THE COUNTY'S DECISION NOT TO OFFER ASSISTED
26 OUTPATIENT SERVICES PURSUANT TO SECTION 301(C).

27 (C) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PERMITTING
28 A COUNTY OR THE SECRETARY OF HEALTH TO WAIVE EXISTING
29 OBLIGATIONS OF A COUNTY TO SERVE SERIOUSLY MENTALLY ILL
30 RESIDENTS IN ACCORDANCE WITH ALL OTHER APPLICABLE PROVISIONS OF

1 LAW AND REGULATION.

2 Section 4 5. Section 301(a) of the act is amended and the <--
3 section is amended by adding a subsection to read:

4 Section 301. Persons Who May be Subject to Involuntary
5 Emergency Examination and Treatment.--(a) Persons Subject.--
6 Whenever a person is severely mentally disabled and in need of
7 immediate treatment, he may be made subject to involuntary
8 emergency examination and treatment. A person is severely
9 mentally disabled when, as a result of mental illness, his
10 capacity to exercise self-control, judgment and discretion in
11 the conduct of his affairs and social relations or to care for
12 his own personal needs is so lessened that he poses a clear and
13 present danger of harm to others or to himself, or the person is
14 determined to be in need of assisted outpatient treatment as
15 defined in subsection (c).

16 * * *

17 (c) Determination of Need for Assisted Outpatient
18 Treatment.--(1) The need for assisted outpatient treatment
19 shall be shown by establishing by clear and convincing evidence
20 that the person would benefit from assisted outpatient treatment
21 as manifested by evidence of behavior that indicates all of the
22 following:

23 (i) The person is unlikely to survive safely in the
24 community without supervision, based on a clinical
25 determination.

26 (ii) The person has a history of lack of voluntary adherence
27 to treatment for mental illness and one of the following
28 applies:

29 (A) ~~At least twice within~~ WITHIN the 36 12 months prior to <--
30 the filing of a petition seeking assisted outpatient treatment,

1 the person's failure to adhere to treatment has been a
2 significant factor in necessitating involuntary inpatient
3 hospitalization or receipt of services in a forensic or other
4 mental health unit of a correctional facility, provided that the
5 36-month 12-MONTH period shall be extended by the length of any <--
6 hospitalization or incarceration of the person in a correctional
7 institution that occurred within the 36-month 12-MONTH period. <--

8 (B) Within the 48 months prior to the filing of a petition
9 seeking court-ordered assisted outpatient treatment, the
10 person's failure to adhere to treatment resulted in one or more
11 acts of serious violent behavior toward others or himself or
12 threats of, or attempts at, serious physical harm to others or
13 himself, provided that the 48-month period shall be extended by
14 the length of any hospitalization or incarceration of the person
15 in a correctional institution that occurred within the 48-month
16 period.

17 (iii) The person, as a result of the person's mental
18 illness, is unlikely to voluntarily participate in necessary
19 treatment. AND THE PERSON PREVIOUSLY HAS BEEN OFFERED VOLUNTARY <--
20 TREATMENT SERVICES BUT HAS NOT ACCEPTED OR HAS REFUSED TO
21 PARTICIPATE ON A SUSTAINED BASIS IN VOLUNTARY TREATMENT,
22 PROVIDED THAT VOLUNTARY AGREEMENT TO ENTER INTO SERVICES BY A
23 PERSON DURING THE PENDENCY OF A PETITION FOR ASSISTED OUTPATIENT
24 TREATMENT SHALL NOT PRECLUDE THE COURT FROM ORDERING ASSISTED
25 OUTPATIENT TREATMENT FOR THAT PERSON IF REASONABLE EVIDENCE
26 EXISTS TO BELIEVE THAT THE PERSON IS UNLIKELY TO MAKE A
27 VOLUNTARY SUSTAINED COMMITMENT TO AND REMAIN IN A TREATMENT
28 PROGRAM.

29 (iv) Based on the person's treatment history and current
30 behavior, the person is in need of treatment in order to prevent

1 a relapse or deterioration that would be likely to result in
2 substantial risk of serious harm to the others or himself.

3 (2) An individual who meets only the criteria described in
4 clause (1) shall not be subject to involuntary inpatient
5 hospitalization unless a separate determination is made that the
6 individual poses a clear and present danger in accordance with
7 subsection (b).

8 Section 5 6. Section 303(c)(1) of the act is amended to <--
9 read:

10 Section 303. Extended Involuntary Emergency Treatment
11 Certified by a Judge or Mental Health Review Officer - Not to
12 Exceed Twenty Days.--* * *

13 (c) Informal Conference on Extended Emergency Treatment
14 Application.--(1) At the commencement of the informal
15 conference, the judge or the mental health review officer shall
16 inform the person of the nature of the proceedings. Information
17 relevant to whether the person is severely mentally disabled and
18 in need of treatment shall be reviewed, including the reasons
19 that continued involuntary treatment is considered necessary.
20 Such explanation shall be made by a physician who examined the
21 person and shall be in terms understandable to a layman. The
22 judge or mental health review officer may review any relevant
23 information even if it would be normally excluded under rules of
24 evidence if he believes that such information is reliable. The
25 person or his representative shall have the right to ask
26 questions of the physician and of any other witnesses and to
27 present any relevant information. At the conclusion of the
28 review, if the judge or the review officer finds that the person
29 is severely mentally disabled and in need of continued
30 involuntary treatment, either as an inpatient or through less

1 restrictive assisted outpatient treatment, he shall so certify.
2 Otherwise, he shall direct that the facility director or his
3 designee discharge the person.

4 * * *

5 Section 7. Section 304(a), (e), (f) and (g) of the act are <--
6 amended and the section is amended by adding subsections to
7 read:

8 Section 304. Court-ordered Involuntary Treatment Not to
9 Exceed Ninety Days.--(a) Persons for Whom Application May be
10 Made.--(1) A person who is severely mentally disabled and in
11 need of treatment, as defined in section 301(a), may be made
12 subject to court-ordered involuntary treatment upon a
13 determination of clear and present danger under section 301(b)
14 (1) (serious bodily harm to others), or section 301(b) (2) (i)
15 (inability to care for himself, creating a danger of death or
16 serious harm to himself), or 301(b) (2) (ii) (attempted suicide),
17 or 301(b) (2) (iii) (self-mutilation), or upon determination that
18 a person meets the requirements under section 301(c)
19 (determination of need for assisted outpatient treatment).

20 (2) Where a petition is filed for a person already subject
21 to involuntary treatment, it shall be sufficient to represent,
22 and upon hearing to reestablish, that the conduct originally
23 required by section [301] 301(b) in fact occurred, and that his
24 condition continues to evidence a clear and present danger to
25 himself or others, or that the conduct originally required by
26 section 301(c) in fact occurred and that his condition continues
27 to evidence a need for assisted outpatient treatment. In such
28 event, it shall not be necessary to show the reoccurrence of
29 dangerous conduct, either harmful or debilitating, within the
30 past 30 days.

1 * * *

2 (c.1) Procedures for Initiating Assisted Outpatient
3 Treatment for Persons Already Subject to Involuntary

4 Treatment.--(1) Petition for assisted outpatient treatment for
5 persons already subject to involuntary treatment under section
6 301(b) (1) or (2), or persons with mental illness subject to
7 treatment in a forensic facility or a correctional institution
8 who are ready for release may be made by the county
9 administrator or the director of the facility to the court of
10 common pleas.

11 (2) The petition shall be in writing upon a form adopted by
12 the department and include a statement of the facts constituting
13 reasonable grounds to believe that the person is:

14 (i) No longer determined to be in need of involuntary
15 inpatient treatment under section 301(b) (1) or (2), or no longer
16 subject to treatment in a forensic facility or correctional
17 institution.

18 (ii) Determined to be in need of assisted outpatient
19 treatment under section 301(c).

20 (3) The petition shall state the name of any examining
21 physician and the substance of his opinion regarding the mental
22 condition of the person. It shall also state that the person has
23 been given the information required by subsection (b) (3).

24 (4) Upon the filing of the petition, the county
25 administrator shall serve a copy on the person, his attorney and
26 those designated to be kept informed, as provided in section
27 302(c), including an explanation of the nature of the
28 proceedings, the person's right to an attorney and the services
29 of an expert in the field of mental health, as provided by
30 subsection (d).

1 (5) A hearing on the petition shall be held in all cases not
2 more than five days after the filing of the petition.

3 (6) Treatment shall be permitted to be maintained pending
4 the determination of the petition.

5 (c.2) Procedures for Initiating Assisted Outpatient
6 Treatment for Persons not in Involuntary Treatment.--(1) Any
7 responsible party may file a petition in the court of common
8 pleas requesting assisted outpatient treatment for any person
9 determined under section 301(c) to be in need of assisted
10 outpatient treatment, and who is not already in involuntary
11 treatment, and who is not already in assisted outpatient
12 treatment for whom application could be made under subsection
13 (a).

14 (2) The petition shall be in writing upon a form adopted by
15 the department and shall set forth facts constituting reasonable
16 grounds to believe that the person is within the criteria as
17 defined under section 301(c) for a person in need of assisted
18 outpatient treatment. The petition shall state the name of any
19 examining physician and shall be accompanied by a statement of a
20 psychiatrist, or a statement signed by a clinical psychologist
21 and a statement signed by a physician, stating that the person
22 who issued the petition has examined the person and is of the
23 opinion that the person is in need of assisted outpatient
24 treatment, or shall be accompanied by a written statement by the
25 applicant, under oath, that the person has refused to submit to
26 an examination by a psychiatrist, or by a clinical psychologist
27 and physician.

28 (3) Upon a determination that the petition sets forth
29 reasonable cause, the court shall appoint an attorney to
30 represent the person and set a date for the hearing as soon as

1 practicable. The attorney shall represent the person unless it
2 shall appear that he can afford, and desires to have, private
3 representation.

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

17 (5) Upon motion of either the petitioner or the person, or
18 upon its own motion, the court may order the person to be
19 examined by a psychiatrist or other qualified professional
20 appointed by the court, provided that any qualified professional <--
21 appointed by the court who is not a psychiatrist shall be from a
22 panel of qualified professionals specifically designated by the
23 county administrator for their demonstrated expertise and
24 ability to conduct court ordered examinations for assisted
25 outpatient treatment. Such examination shall be conducted on an
26 outpatient basis and the person shall have the right to have
27 counsel present. A report of the examination shall be given to
28 the court and counsel at least 48 hours prior to the hearing.: <--

29 (I) A QUALIFIED PROFESSIONAL WHO IS APPOINTED BY THE COURT
30 AND IS NOT A PSYCHIATRIST OR LICENSED CLINICAL PSYCHOLOGIST,

1 SHALL BE SELECTED FROM A PANEL OF QUALIFIED PROFESSIONALS
2 SPECIFICALLY DESIGNATED BY THE COUNTY ADMINISTRATOR FOR THE
3 QUALIFIED PROFESSIONAL'S DEMONSTRATED EXPERTISE AND ABILITY TO
4 CONDUCT COURT-ORDERED EXAMINATIONS FOR ASSISTED OUTPATIENT
5 TREATMENT CONSISTENT WITH THE QUALIFIED PROFESSIONAL'S SCOPE OF
6 PRACTICE;

7 (II) THE EXAMINATION SHALL BE CONDUCTED ON AN OUTPATIENT
8 BASIS AND THE PERSON SHALL HAVE THE RIGHT TO HAVE COUNSEL
9 PRESENT;

10 (III) THE WRITTEN REPORT PREPARED BY THE QUALIFIED
11 PROFESSIONAL UNDER SUBCLAUSE (I) SHALL BE REVIEWED AND APPROVED
12 BY A PSYCHIATRIST OR A LICENSED CLINICAL PSYCHOLOGIST PRIOR TO
13 SUBMISSION TO THE COURT; AND

14 (IV) THE WRITTEN REPORT ON THE RESULTS OF THE EXAMINATION
15 SHALL BE GIVEN TO THE COURT AND COUNSEL AT LEAST 48 HOURS PRIOR
16 TO THE HEARING.

17 (6) Involuntary treatment shall not be authorized during the
18 pendency of a petition except in accordance with sections 302
19 and 303.

20 * * *

21 (e) Hearings on Petition for Court-ordered Involuntary
22 Treatment.--A hearing on a petition for court-ordered
23 involuntary treatment shall be conducted according to the
24 following:

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

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

29 (3) The person shall have the right to confront and cross-
30 examine all witnesses and to present evidence in his own behalf.

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

3 (5) A stenographic or other sufficient record shall be made,
4 which shall be impounded by the court and may be obtained or
5 examined only upon the request of the person or his counsel or
6 by order of the court on good cause shown.

7 (6) The hearing shall be conducted by a judge or by a mental
8 health review officer and may be held at a location other than a
9 courthouse when doing so appears to be in the best interest of
10 the person.

11 (7) A decision shall be rendered within 48 hours after the
12 close of evidence.

13 (8) If the person is believed to be in need of assisted
14 outpatient treatment in accordance with section 301(c), a
15 hearing on the petition shall be conducted in accordance with
16 the following:

17 (i) No later than the date of the hearing, a ~~qualified~~ <--
18 ~~professional~~ TREATMENT TEAM shall provide a written proposed <--
19 assisted outpatient treatment plan to the court. The plan shall
20 state all treatment services recommended for the person and, for
21 each service, shall specify a provider that has agreed to
22 provide the service.

23 (ii) In developing a written proposed assisted outpatient
24 treatment plan, the ~~qualified professional~~ TREATMENT TEAM shall <--
25 take into account, if existing, an advance directive for mental
26 health treatment and provide the following persons with an
27 opportunity to participate:

28 (A) the person believed to be in need of court-ordered
29 assistant outpatient treatment;

30 (B) all current treating providers;

1 (C) upon the request of the person believed to be in need of
2 court-ordered assistant outpatient treatment, an individual
3 significant to the person, including any relative, close friend
4 or individual otherwise concerned with the welfare of the
5 person; and

6 (D) any authorized guardian or other surrogate decision-
7 maker.

8 (iii) The written proposed assisted outpatient treatment
9 plan shall include case management services or an assertive
10 community treatment team to provide care coordination and
11 assisted outpatient treatment services recommended by the
12 qualified professional TREATMENT TEAM. If the plan includes <--
13 medication, it THE PRESCRIBING PHYSICIAN'S ORDER shall state <--
14 whether such medication should be self-administered or
15 administered by a specified provider and shall specify type and <--
16 dosage range of medication. In no event shall the plan recommend
17 the use of physical force or restraints to administer medication
18 to the person.

19 (iv) A qualified professional, who has personally examined
20 the person within ten days of the filing of the petition, shall
21 provide testimony in support of the finding that the person
22 meets all of the criteria for assisted outpatient treatment and
23 in support of a written proposed treatment plan developed
24 pursuant to this section including:

25 (A) the recommended assisted outpatient treatment, the
26 rationale for the recommended assisted outpatient treatment and
27 the facts that establish that such treatment is the least
28 restrictive appropriate alternative;

29 (B) information regarding the person's access to, and the
30 availability of, recommended assisted outpatient treatment in

1 the community or elsewhere; and

2 (C) if the recommended assisted outpatient treatment
3 includes medication, the types or classes of medication that
4 should be authorized, the beneficial and detrimental physical
5 and mental effects of such medication and whether such
6 medication should be self-administered or administered by a
7 specified provider, and the ongoing process for management of
8 such medications in response to changes in the person's medical
9 condition.

10 (9) A decision shall be rendered within 48 hours after the
11 close of evidence.

12 (f) Determination and Order.--(1) Upon a finding by clear
13 and convincing evidence that the person is severely mentally
14 disabled and in need of treatment and subject to subsection (a),
15 an order shall be entered directing treatment of the person in
16 an approved facility as an inpatient or an outpatient, or a
17 combination of such treatment as the director of the facility
18 shall from time to time determine. Inpatient treatment shall be
19 deemed appropriate only after full consideration has been given
20 to less restrictive alternatives, including assisted outpatient
21 treatment. Investigation of treatment alternatives shall include
22 consideration of the person's relationship to his community and
23 family, his employment possibilities, all available community
24 resources, and guardianship services. An order for inpatient
25 treatment shall include findings on this issue.

26 (2) If the person is found to be in need of assisted
27 outpatient treatment in accordance with section 301(c) or as a
28 result of consideration of less restrictive settings under
29 clause (1), the court shall order the person to receive assisted
30 outpatient treatment for a period not to exceed 90 days from any

1 provider or facility approved by the department or the county
2 administrator for purposes of providing assisted outpatient
3 treatment, provided that a jail or any other State or county
4 correctional institution shall not be an authorized facility.

5 (3) The facility or provider shall examine and treat the
6 person in accordance with the assisted outpatient treatment
7 plan. If the person is receiving assisted outpatient treatment,
8 or receives treatment in an outpatient setting during a
9 subsequent period of continued commitment under section 305, the
10 facility or provider to whom the person is ordered shall
11 determine the appropriate assisted outpatient treatment plan for
12 the person.

13 (4) If the approved court-ordered assisted outpatient
14 treatment plan includes medications, the court order shall
15 authorize the treatment team, in accordance with their
16 professional judgment AND UNDER SUPERVISION OF THE PRESCRIBING <--
17 PHYSICIAN, to perform routine medication management, including
18 adjustment of specific medications and doses, in consultation
19 with the person and as warranted by changes in the person's
20 medical condition.

21 (5) The provider or facility responsible for the assisted
22 outpatient treatment plan shall inform the court if the person
23 fails materially to adhere to the treatment plan and comply with
24 the court order. If the court receives information that a
25 patient is not complying with the court's order, the court may
26 take any of the following actions:

27 (i) set a modification hearing to assess the person's
28 failure to adhere to the assisted outpatient treatment plan;

29 (ii) amend the assisted outpatient treatment plan to foster
30 adherence to necessary treatment by the person; or

1 (iii) issue an order for the person to be examined in
2 accordance with section 302 for purposes of evaluation and, if
3 appropriate, file a petition that the person poses a clear and
4 present danger under section 301(b), provided that a State or
5 county correctional institution may not be considered an
6 authorized treatment facility.

7 (6) If the court determines under clause (5) that the person
8 has failed to adhere to the assisted outpatient treatment plan,
9 the court may not hold that person in contempt or otherwise
10 sanction the person solely based on the failure to comply with
11 the assisted outpatient treatment plan.

12 (7) The person subject to assisted outpatient treatment may
13 petition the court for enforcement of a service specifically
14 contained in that person's individualized treatment plan,
15 provided that the petition must include clear and convincing
16 evidence demonstrating that the service is not being provided in
17 accordance with that plan.

18 (g) Duration of Court-ordered Involuntary Treatment.--(1) A
19 person may be made subject to court-ordered involuntary
20 treatment under this section for a period not to exceed 90 days,
21 excepting only that: Persons may be made subject to court-
22 ordered involuntary treatment under this section for a period
23 not to exceed one year if:

24 (i) the person meets the criteria established by clause (2)
25 [.]; and

26 (ii) the person may be subject to assisted outpatient
27 treatment for a period not to exceed 180 days if the person
28 meets the criteria established by clause (5).

29 (2) A person may be subject to court-ordered involuntary
30 treatment for a period not to exceed one year if:

1 (i) severe mental disability is based on acts giving rise to
2 the following charges under the Pennsylvania Crimes Code: murder
3 (§ 2502); voluntary manslaughter (§ 2503); aggravated assault (§
4 2702); kidnapping (§ 2901); rape (§ 3121(1) and (2));
5 involuntary deviate sexual intercourse (§ 3123(1) and (2));
6 arson (§ 3301); and

7 (ii) a finding of incompetency to be tried or a verdict of
8 acquittal because of lack of criminal responsibility has been
9 entered.

10 (3) If at any time the director of a facility concludes that
11 the person is not severely mentally disabled or in need of
12 treatment pursuant to subsection (a), he shall discharge the
13 person provided that no person subjected to involuntary
14 treatment pursuant to clause (2) may be discharged without a
15 hearing conducted pursuant to clause (4).

16 (4) In cases involving involuntary treatment pursuant to
17 clause (2), whenever the period of court-ordered involuntary
18 treatment is about to expire and neither the director nor the
19 county administrator intends to apply for an additional period
20 of court-ordered involuntary treatment pursuant to section 305
21 or at any time the director concludes that the person is not
22 severely mentally disabled or in need of treatment, the director
23 shall petition the court which ordered the involuntary treatment
24 for the unconditional or conditional release of the person.
25 Notice of such petition shall be given to the person, the county
26 administrator and the district attorney. Within 15 days after
27 the petition has been filed, the court shall hold a hearing to
28 determine if the person is severely mentally disabled and in
29 need of treatment. Petitions which must be filed simply because
30 the period of involuntary treatment will expire shall be filed

1 at least ten days prior to the expiration of the court-ordered
2 period of involuntary treatment. If the court determines after
3 hearing that the person is severely mentally disabled and in
4 need of treatment, it may order additional involuntary treatment
5 not to exceed one year; if the court does not so determine, it
6 shall order the discharge of the person.

7 (5) A person may be subject to assisted outpatient treatment
8 for a period of up to 180 days if the person continues to meet
9 the requirements of section 301(c) or is being discharged from
10 involuntary inpatient treatment under this article.

11 Section ~~7~~ 8. Section 305 of the act is amended by adding a <--
12 subsection to read:

13 Section 305. Additional Periods of Court-ordered Involuntary
14 Treatment.--* * *

15 (c) At the expiration of a period of assisted outpatient
16 treatment under section 304(g) or this section, the court may
17 order treatment for an additional period upon the application of
18 the county administrator or the treatment team. Such order shall
19 be entered upon hearing on findings as required by sections
20 304(a) and (b), and the further finding of a need for continuing
21 assisted outpatient treatment. The additional period of
22 involuntary treatment shall not exceed 180 days.

23 Section ~~8~~ 9. This act shall take effect in ~~90~~ 180 days. <--