

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1105 Session of 1977

INTRODUCED BY COPPERSMITH AND DOUGHERTY, SEPTEMBER 27, 1977

SENATOR COPPERSMITH, PUBLIC HEALTH AND WELFARE, AS AMENDED, NOVEMBER 16, 1977

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 Mental Health Review
7 Officers, for the use of statistical data, for immunity and
8 for involuntary treatment; excluding Sundays from the
9 computation of time; and providing for a return to inpatient
10 status, for a stay of proceedings of a person charged with a
11 crime and for voluntary treatment of a person charged with a
12 crime or serving a sentence.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Sections 102, 109, 110, 114, 201 and 206, <—
16 subsection (d) of section 302, ~~subsection~~ SUBSECTIONS (A) AND <—
17 (c) of section 303 and sections 304 and 305, act of July 9, 1976
18 (P.L.817, No.143), known as the "Mental Health Procedures Act,"
19 are amended to read:

20 SECTION 102. STATEMENT OF POLICY.--IT IS THE POLICY OF THE <—
21 COMMONWEALTH OF PENNSYLVANIA TO SEEK TO ASSURE THE AVAILABILITY
22 OF ADEQUATE TREATMENT TO PERSONS WHO ARE MENTALLY ILL, AND IT IS
23 THE PURPOSE OF THIS ACT TO ESTABLISH PROCEDURES WHEREBY THIS

1 POLICY CAN BE EFFECTED. TREATMENT ON A VOLUNTARY BASIS SHALL BE
2 PREFERRED TO INVOLUNTARY TREATMENT; AND IN EVERY CASE, THE LEAST
3 RESTRICTIONS CONSISTENT WITH ADEQUATE TREATMENT SHALL BE
4 EMPLOYED. PERSONS WHO ARE MENTALLY RETARDED, SENILE, ALCOHOLIC,
5 OR DRUG DEPENDENT SHALL RECEIVE MENTAL HEALTH TREATMENT ONLY IF
6 THEY ARE ALSO DIAGNOSED AS MENTALLY ILL, BUT THESE CONDITIONS OF
7 THEMSELVES SHALL NOT BE DEEMED TO CONSTITUTE MENTAL ILLNESS.
8 CHRONICALLY DISABLED PERSONS 65 YEARS OF AGE OR OLDER WHO HAVE
9 BEEN CONTINUOUSLY HOSPITALIZED IN A STATE OPERATED FACILITY FOR
10 AT LEAST TWO YEARS SHALL NOT BE SUBJECT TO THE PROCEDURES OF
11 THIS ACT. SUCH A PERSON'S INABILITY TO GIVE A RATIONAL, INFORMED
12 CONSENT SHALL NOT PROHIBIT THE DEPARTMENT FROM CONTINUING TO
13 PROVIDE ALL NECESSARY TREATMENT TO SUCH A PERSON. HOWEVER, IF
14 SUCH A PERSON PROTESTS TREATMENT OR RESIDENCE AT A STATE
15 OPERATED FACILITY HE SHALL BE SUBJECT TO THE PROVISIONS OF
16 ARTICLE III.

17 Section 109. Mental Health Review Officer.--(a) Legal
18 proceedings concerning extended involuntary emergency treatment
19 under section 303(c), [or] court-ordered involuntary treatment
20 under section 304 or 305 or transfer hearings under section 306,
21 may be conducted by a judge of the court of common pleas or by a
22 mental health review officer authorized by the court to conduct
23 the proceedings. Mental health review officers shall be members
24 of the bar of the Supreme Court of Pennsylvania, without
25 restriction as to the county of their residence and where
26 possible should be familiar with the field of mental health.
27 They shall be appointed by the respective courts of common pleas
28 for terms not to exceed one year, and may be reappointed to
29 successive terms. Law-trained municipal court judges may be
30 appointed Mental Health Review Officers.

1 (b) In all cases in which the hearing is conducted by a
2 mental health review officer, a person made subject to treatment
3 shall have the right to petition the court of common pleas for
4 review of the certification. A hearing shall be held within 72
5 hours after the petition is filed unless a continuance is
6 requested by the person's counsel. The hearing shall include a
7 review of the certification and such evidence as the court may
8 receive or require. If the court determines that further
9 involuntary treatment is necessary and that the procedures
10 prescribed by this act have been followed, it shall deny the
11 petition. Otherwise, the person shall be discharged.

12 (C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, NO ←
13 JUDGE OR MENTAL HEALTH REVIEW OFFICER SHALL SPECIFY TO THE
14 TREATMENT TEAM ANY TREATMENT TECHNIQUE, MODALITY, DRUG THERAPIES
15 OR WARDS IN A FACILITY.

16 Section 110. Written Applications, Petitions, Statements and
17 Certifications.--(a) All written statements pursuant to section
18 302(a)(2), and all applications, petitions, and certifications
19 required under the provisions of this act shall be made subject
20 to the penalties provided under 18 Pa.C.S. § 4904 (relating to
21 unsworn falsification to authorities) and shall contain a notice
22 to that effect.

23 (b) All such applications, petitions, statements and
24 certifications shall be filed with the county administrator in
25 the county where the person was made subject to examination and
26 treatment and such other county in the Commonwealth, if any, in
27 which the person usually resides.

28 (c) Subsections (a) and (b) shall not apply to patients
29 admitted pursuant to Article II when no part of the patient's
30 care is provided with public funds provided that the department

1 may require facilities to report clinical and statistical
2 information so long as the data does not identify individual
3 patients.

4 (d) No public official acting in an official capacity shall
5 be required to pay the court of common pleas any filing fee
6 which in the absence of this provision would be required upon
7 the filing of a petition for involuntary treatment under this
8 act.

9 Section 114. Immunity from Civil and Criminal Liability.--

10 (a) In the absence of willful misconduct or gross negligence, a
11 county administrator, a director of a facility, a physician, a
12 peace officer or any other authorized person who participates in
13 a decision that a person be examined or treated under this act,
14 or that a person be discharged, or placed under partial
15 hospitalization, outpatient care or leave of absence, or that
16 the restraint upon such person be otherwise reduced, or a county
17 administrator or other authorized person who denies an
18 application for VOLUNTARY TREATMENT OR FOR involuntary emergency ←
19 examination and treatment, shall not be civilly or criminally
20 liable for such decision or for any of its consequences.

21 (b) A judge or a mental health review officer shall not be
22 civilly or criminally liable for any actions taken or decisions
23 made by him pursuant to the authority conferred by this act.

24 SECTION 201. PERSONS WHO MAY AUTHORIZE VOLUNTARY ←
25 TREATMENT.--ANY PERSON 14 YEARS OF AGE OR OVER WHO BELIEVES THAT
26 HE IS IN NEED OF TREATMENT AND SUBSTANTIALLY UNDERSTANDS THE
27 NATURE OF VOLUNTARY [COMMITMENT] TREATMENT MAY SUBMIT HIMSELF TO
28 EXAMINATION AND TREATMENT UNDER THIS ACT, PROVIDED THAT THE
29 DECISION TO DO SO IS MADE VOLUNTARILY. A PARENT, GUARDIAN, OR
30 PERSON STANDING IN LOCO PARENTIS TO A CHILD LESS THAN 14 YEARS

1 OF AGE MAY SUBJECT SUCH CHILD TO EXAMINATION AND TREATMENT UNDER
2 THIS ACT, AND IN SO DOING SHALL BE DEEMED TO BE ACTING FOR THE
3 CHILD. EXCEPT AS OTHERWISE AUTHORIZED IN THIS ACT, ALL OF THE
4 PROVISIONS OF THIS ACT GOVERNING EXAMINATION AND TREATMENT SHALL
5 APPLY.

6 Section 206. Withdrawal from Voluntary Inpatient

7 Treatment.--(a) A person in voluntary inpatient treatment may
8 withdraw at any time by giving written notice unless, as stated
9 in section 203, he has agreed in writing at the time of his
10 admission that his release can be delayed following such notice
11 for a period to be specified in the agreement, provided that
12 such period shall not exceed 72 hours. ~~not including a Sunday.~~ <—

13 ANY PATIENT CONVERTED FROM INVOLUNTARY TREATMENT ORDERED <—
14 PURSUANT TO EITHER SECTION 304 OR 305 TO VOLUNTARY TREATMENT
15 STATUS SHALL AGREE TO REMAIN IN TREATMENT FOR 72 HOURS AFTER
16 HAVING GIVEN WRITTEN NOTICE OF HIS INTENT TO WITHDRAW FROM
17 TREATMENT.

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

1 continued upon the request of the attorney for such minor. The
2 hearing shall be conducted in accordance with the rules
3 governing other Juvenile Court proceedings.

4 (c) Nothing in this act shall be construed to require a
5 facility to continue inpatient treatment where the director of
6 the facility determines such treatment is not medically
7 indicated. Any dispute between a facility and a county
8 administrator as to the medical necessity for voluntary
9 inpatient treatment of a person shall be decided by the
10 Commissioner of Mental Health or his designate.

11 Section 302. Involuntary Emergency Examination and Treatment
12 Authorized by a Physician - Not to Exceed [Seventy-two Hours] <—
13 ONE HUNDRED TWENTY HOURS.-- * * * <—

14 (d) Duration of Emergency Examination and Treatment.--A
15 person who is in treatment pursuant to this section shall be
16 discharged whenever it is determined that he no longer is in
17 need of treatment and in any event within [72 hours,] ~~(not~~ <—
18 ~~including a Sunday)~~ 120 HOURS unless within such period: <—

19 (1) he is admitted to voluntary treatment pursuant to
20 section 202 of this act; or

21 (2) a certification for extended involuntary emergency
22 treatment is filed pursuant to section 303 of this act.

23 Section 303. Extended Involuntary Emergency Treatment
24 Certified by a Judge or Mental Health Review Officer - Not to
25 Exceed Twenty Days.--~~* * *~~ (A) PERSONS SUBJECT TO EXTENDED <—
26 INVOLUNTARY EMERGENCY TREATMENT.--APPLICATION FOR EXTENDED
27 INVOLUNTARY EMERGENCY TREATMENT MAY BE MADE FOR ANY PERSON WHO
28 IS BEING TREATED PURSUANT TO SECTION 302 WHENEVER THE FACILITY
29 DETERMINES THAT THE NEED FOR EMERGENCY TREATMENT IS LIKELY TO
30 EXTEND BEYOND [72] 120 HOURS. THE APPLICATION SHALL BE FILED

1 FORTHWITH IN THE COURT OF COMMON PLEAS, AND SHALL STATE THE
2 GROUNDS ON WHICH EXTENDED EMERGENCY TREATMENT IS BELIEVED TO BE
3 NECESSARY. THE APPLICATION SHALL STATE THE NAME OF ANY EXAMINING
4 PHYSICIAN AND THE SUBSTANCE OF HIS OPINION REGARDING THE MENTAL
5 CONDITION OF THE PERSON.

6 * * *

7 (c) Informal [Hearing] Conference on Extended Emergency
8 Treatment Application.--(1) At the commencement of the informal
9 [hearing] conference, the judge or the mental health review
10 officer shall inform the person of the nature of the
11 proceedings. Information relevant to whether the person is
12 severely mentally disabled and in need of treatment shall be
13 reviewed, including the reasons that continued involuntary
14 treatment is considered necessary. Such explanation shall be
15 made by a physician who examined the person and shall be in
16 terms understandable to a layman. Ordinary rules of evidence <—
17 shall not necessarily apply. THE JUDGE OR MENTAL HEALTH REVIEW <—
18 OFFICER MAY REVIEW ANY RELEVANT INFORMATION EVEN IF IT WOULD BE
19 NORMALLY EXCLUDED UNDER RULES OF EVIDENCE IF HE BELIEVES THAT
20 SUCH INFORMATION IS RELIABLE. The person or his representative
21 shall have the right to ask questions of the physician and of
22 any other witnesses and to present any relevant information. At
23 the conclusion of the review, if the judge or the review officer
24 finds that the person is severely mentally disabled and in need
25 of continued involuntary treatment, he shall so certify.
26 Otherwise, he shall direct that the facility director or his
27 designee discharge the person.

28 (2) A [stenographic or other sufficient] record of the
29 proceedings which need not be a stenographic record shall be
30 made. Such record shall be kept by the court or mental health

1 review officer for at least one year.

2 * * *

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

13 (2) Where a petition is filed for a person already subject
14 to involuntary treatment, it shall be sufficient to represent,
15 and upon hearing to reestablish, that the conduct originally
16 required by section 301 in fact occurred, and that his condition
17 continues to evidence a clear and present danger to himself or
18 others. In such event, it shall not be necessary to show the
19 reoccurrence of dangerous conduct, either harmful or
20 debilitating, within the past 30 days.

21 (b) Procedures for Initiating Court-ordered Involuntary
22 Treatment for Persons Already Subject to Involuntary
23 Treatment.--(1) Petition for court-ordered involuntary
24 treatment for persons already subject to treatment under
25 sections 303, 304 and 305 may be made by the county
26 administrator or the director of the facility to the court of
27 common pleas.

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

1 severely mentally disabled and in need of treatment. The
2 petition shall state the name of any examining physician and the
3 substance of his opinion regarding the mental condition of the
4 person. It shall also state that the person has been given the
5 information required by subsection (b)(3). [and shall include
6 copies of all documents relating to examination and treatment of
7 the person which are required under this act.]

8 (3) Upon the filing of the petition the county administrator
9 shall serve a copy on the person, his attorney, and those
10 designated to be kept informed, as provided in section 302(c),
11 including an explanation of the nature of the proceedings, the
12 person's right to an attorney and the services of an expert in
13 the field of mental health, as provided by subsection (d).

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

16 (5) Treatment shall be permitted to be maintained pending
17 the determination of the petition.

18 (c) Procedures for Initiating Court-ordered Involuntary
19 Treatment for Persons not in Involuntary Treatment.--(1) Any
20 responsible party may file a petition in the court of common
21 pleas requesting court-ordered involuntary treatment for any
22 person not already in involuntary treatment for whom application
23 could be made under subsection (a).

24 (2) The petition shall be in writing upon a form adopted by
25 the department and shall set forth facts constituting reasonable
26 grounds to believe that the person is within the criteria for
27 court-ordered treatment set forth in subsection (a). The
28 petition shall state the name of any examining physician and the
29 substance of his opinion regarding the mental condition of the
30 person.

1 (3) Upon a determination that the petition sets forth such
2 reasonable cause, the court shall appoint an attorney to
3 represent the person and set a date for the hearing as soon as
4 practicable. The attorney shall represent the person unless it
5 shall appear that he can afford, and desires to have, private
6 representation.

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

19 (5) Upon motion of either the petitioner or the person, or
20 upon its own motion, the court may order the person to be
21 examined by a psychiatrist appointed by the court. Such
22 examination shall be conducted on an outpatient basis, and the
23 person shall have the right to have counsel present. A report of
24 the examination shall be given to the court and counsel at least
25 48 hours prior to the hearing.

26 (6) Involuntary treatment shall not be authorized during the
27 pendency of a petition except in accordance with section 302 or
28 section 303.

29 (d) Professional Assistance.--A person with respect to whom
30 a hearing has been ordered under this section shall have and be

1 informed of a right to employ a physician, clinical psychologist
2 or other expert in mental health of his choice to assist him in
3 connection with the hearing and to testify on his behalf. If the
4 person cannot afford to engage such a professional, the court
5 shall, on application, allow a reasonable fee for such purpose.
6 The fee shall be a charge against the mental health and mental
7 retardation program of the locality.

8 (e) Hearings on Petition for Court-ordered Involuntary
9 Treatment.--A hearing on a petition for court-ordered
10 involuntary treatment shall be conducted according to the
11 following:

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

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

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

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

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

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

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

30 (f) Determination and Order.--Upon a finding by clear and

1 convincing evidence that the person is severely mentally
2 disabled and in need of treatment and subject to subsection (a),
3 an order shall be entered directing treatment of the person in
4 an approved facility as an inpatient or an outpatient, or a
5 combination of such treatment as the director of the facility
6 shall from time to time determine. Inpatient treatment shall be
7 deemed appropriate only after full consideration has been given
8 to less restrictive alternatives. Investigation of treatment
9 alternatives shall include consideration of the person's
10 relationship to his community and family, his employment
11 possibilities, all available community resources, and
12 guardianship services. An order for inpatient treatment shall
13 include findings on this issue.

14 (g) Duration of Court-ordered Involuntary Treatment.--(1) A
15 person may be made subject to court-ordered involuntary
16 treatment under this section for a period not to exceed 90 days,
17 excepting only that: Persons may be made subject to court-
18 ordered involuntary treatment under this section for a period
19 not to exceed one year if the person meets the criteria
20 established by clause (2).

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

23 (i) severe mental disability is based on acts giving rise to
24 the following charges under the Pennsylvania Crimes Code: murder
25 (§ 2502); voluntary manslaughter (§ 2503); aggravated assault (§
26 2702); kidnapping (§ 2901); rape (§ 3121(1) and (2));
27 involuntary deviate sexual intercourse (§ 3123(1) and (2));
28 arson (§ 3301); and

29 (ii) a finding of incompetency to be tried or a verdict of
30 acquittal because of lack of criminal responsibility has been

1 entered.

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

8 (4) In cases involving involuntary treatment pursuant to
9 clause (2), whenever the period of court-ordered involuntary
10 treatment has expired and neither the director nor the county
11 administrator intends to apply for an additional period of
12 court-ordered involuntary treatment pursuant to section 305 or
13 at any time the director concludes that the person is not
14 severely mentally disabled or in need of treatment, the director
15 shall petition the court which ordered the involuntary treatment
16 for the unconditional or conditional release of the person.
17 Notice of such petition shall be given to the person, the county
18 administrator and the district attorney. Within 15 days after
19 the petition has been filed, the court shall hold a hearing to
20 determine if the person is severely mentally disabled and in
21 need of treatment. Petitions which must be filed simply because
22 the period of involuntary treatment will expire shall be filed
23 at least ten days prior to the expiration of the court-ordered
24 period of involuntary treatment. If the court determines after
25 hearing that the person is severely mentally disabled and in
26 need of treatment, it may order additional involuntary treatment
27 not to exceed one year; if the court does not so determine, it
28 shall order the discharge of the person.

29 Section 305. Additional Periods of Court-ordered Involuntary
30 Treatment.--(A) At the expiration of a period of court-ordered <—

1 involuntary treatment under section 304(g), or this section the
2 court may order treatment for an additional period upon the
3 application of the county administrator or the director of the
4 facility in which the person is receiving treatment. Such order
5 shall be entered upon hearing on findings as required by
6 sections 304(a) and (b), and the further finding of a need for
7 continuing involuntary treatment as shown by conduct during the
8 person's most recent period of court-ordered treatment. The
9 additional period of involuntary treatment shall not exceed 180
10 days; provided that persons meeting the criteria of section
11 304(g)(2) may be subject to an additional period of up to one
12 year of involuntary treatment. A person found dangerous to
13 himself under section 301(b)(2)(i),(ii) or (iii) shall be
14 subject to an additional period of involuntary full-time
15 inpatient treatment only if he has first been released to a less
16 restrictive alternative. This limitation shall not apply where,
17 upon application made by the county administrator or facility
18 director, it is determined by a judge or mental health review
19 officer that such release would not be in the person's best
20 interest.

21 (B) THE DIRECTOR OF THE FACILITY IN WHICH THE PERSON IS <—
22 RECEIVING TREATMENT SHALL NOTIFY THE COUNTY ADMINISTRATOR AT
23 LEAST TEN DAYS PRIOR TO THE EXPIRATION OF A PERIOD OF
24 INVOLUNTARY COMMITMENT ORDERED UNDER SECTION 304 OR THIS
25 SECTION.

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

27 Section 307. Return to Inpatient Status OF PERSONS ON <—
28 LEAVE.--(A) Where any involuntary INPATIENT treatment ~~is~~ <—
29 ~~directed or authorized~~ HAS BEEN ORDERED under this act but <—
30 thereafter ~~is determined by the director of the facility to have~~ <—

1 ~~become inappropriate or ineffective, he may require the~~
2 ~~treatment to be changed or the person to be returned to~~
3 ~~inpatient immediately~~ HAS PLACED SUCH PERSON ON SHORT-TERM
4 LEAVE, SUCH LEAVE MAY BE RESCINDED AND THE PERSON RETURNED TO
5 INPATIENT TREATMENT IMMEDIATELY. Such inpatient treatment shall
6 continue as long as the director of the facility shall deem it
7 necessary, not to exceed the term originally ordered by the
8 court. If, in these circumstances, the person shall refuse
9 inpatient treatment, the court or mental health review officer
10 or county administrator, upon application of the director of the
11 facility, may issue a warrant directing a person authorized by
12 him, or any peace officer, to take such person to the facility.
13 The application shall set forth the reason for requiring
14 inpatient treatment and the grounds for believing that such
15 treatment has been refused.

<—

16 (B) WHERE A PERSON IS INVOLUNTARILY COMMITTED PURSUANT TO
17 EITHER SECTION 304 OR SECTION 305 BECAUSE THE COURT MAKES A
18 FINDING THAT THE PERSON IS A CLEAR AND PRESENT DANGER TO OTHERS
19 AND THE PERSON IS GRANTED LEAVE BY A FACILITY ON THE CONDITION
20 THAT THE PERSON CONTINUES TO TAKE MEDICATION WHICH TENDS TO
21 REDUCE THE LIKELIHOOD OF VIOLENT BEHAVIOR BY THE PERSON AND
22 WHERE THE COUNTY ADMINISTRATOR DETERMINES THAT THE PERSON
23 CONSISTENTLY FAILS TO TAKE THE PRESCRIBED MEDICATION, SUCH LEAVE
24 MAY BE RESCINDED BY THE DIRECTOR OF THE FACILITY AND THE PERSON
25 RETURNED TO TREATMENT. THE PERSON MAY NOT BE DETAINED MORE THAN
26 20 DAYS WITHOUT A FINDING OF SEVERE MENTAL DISABILITY AND THE
27 INSTITUTION OF APPROPRIATE LEGAL PROCEEDINGS. THE RIGHT TO
28 RESCIND A PATIENT'S LEAVE PURSUANT TO THIS SECTION SHALL BE
29 LIMITED TO A PERIOD ENDING 90 DAYS AFTER THE EXPIRATION OF THE
30 PERIOD OF COURT-ORDERED INVOLUNTARY CARE.

<—

1 Section 3. Subsection (b) of section 402 and subsections (c)
2 and (f) of section 403 of the act are amended to read:

3 Section 402. Incompetence to Proceed on Criminal Charges and
4 Lack of Criminal Responsibility as Defense.--* * *

5 (b) Involuntary Treatment of Persons Found Incompetent to
6 Stand Trial Who are Not Mentally Disabled.--Notwithstanding the
7 provisions of Article III of this act, a court may order
8 involuntary treatment of a person found incompetent to stand
9 trial but who is not severely mentally disabled, such
10 involuntary treatment not to exceed a specific period of [30] 60
11 days. Involuntary treatment pursuant to this subsection may be
12 ordered only if the court is reasonably certain that the
13 involuntary treatment will provide the defendant with the
14 capacity to stand trial. The court may order outpatient
15 treatment, partial hospitalization or inpatient treatment.

16 * * *

17 Section 403. Hearing and Determination of Incompetency to
18 Proceed; Stay of Proceedings; Dismissal of Charges.--* * *

19 (c) Defendant's Right to Counsel; Reexamination.--A person
20 who is determined to be incompetent to proceed shall have a
21 continuing right to counsel so long as the criminal charges are
22 pending. Following such determination, the person charged shall
23 be reexamined not less than every [60] 90 days by a psychiatrist
24 appointed by the court and a report of reexamination shall be
25 submitted to the court and to counsel.

26 * * *

27 (f) Stay of Proceedings.--In no instance shall the
28 proceedings be stayed for a period in excess of the maximum
29 sentence OF CONFINEMENT that may be imposed for the crime or
30 crimes charged, or [five] ten years, whichever is less.

<—

1 Section 4. The act is amended by adding a section to read:

2 Section 407. Voluntary Treatment of A Person Charged With

3 Crime Or Serving Sentence.--(a) Whenever a person in criminal

4 detention, whether in lieu of bail or serving a sentence,

5 believes that he is in need of treatment and substantially

6 understands the nature of voluntary treatment he may submit

7 himself to examination and treatment under this act, provided

8 that at least one physician certifies the necessity of such

9 treatment and certifies further that such treatment cannot be

10 adequately provided at the prison or correctional facility where

11 the person then is detained. Such certificate shall set forth

12 the specific grounds which make transfer to a mental health

13 facility necessary. THE CORRECTIONAL FACILITY SHALL SECURE A <—

14 WRITTEN ACCEPTANCE OF THE PERSON FOR INPATIENT TREATMENT FROM

15 THE MENTAL HEALTH FACILITY AND SHALL FORWARD SUCH ACCEPTANCE TO

16 THE COURT.

17 (b) Before any inmate of a prison or correctional facility

18 may be transferred to a mental health facility for the purpose

19 of examination and treatment the court shall review the

20 certification of the physician that such transfer is necessary

21 and may request any other information concerning the necessity

22 of such transfer. Upon such review the court shall either

23 approve or disapprove the transfer.

24 (c) The court of common pleas for the judicial district in

25 which the ~~prison or correctional facility is located~~ PERSON IS <—

26 CHARGED OR WAS SENTENCED shall have jurisdiction for the purpose

27 set forth in this section.

28 (d) Transfer to a mental health facility shall not affect

29 the condition of security required by the person's criminal

30 detention. However, the court shall not order maximum security

1 psychiatric care merely on the ground that the person has been
2 detained in a prison or correctional facility.

3 (e) A report of the person's mental condition shall be made
4 by the mental health facility to the court within 30 days of the
5 person's transfer to such facility. Such report shall also set
6 forth the specific grounds which require continued treatment at
7 a mental health facility. After the initial report the facility
8 shall thereafter report to the court every 180 days.

9 (f) If at any time the person gives notice of his intent to
10 withdraw from treatment at the mental health facility he shall
11 be returned to the authority entitled to have him in custody, or
12 proceedings may be initiated under section 304 of this act.

13 DURING THE PENDENCY OF ANY PETITION FILED UNDER SECTION 304 ←
14 CONCERNING A PERSON IN TREATMENT UNDER THIS SECTION THE MENTAL
15 HEALTH FACILITY SHALL HAVE AUTHORITY TO DETAIN THE PERSON
16 REGARDLESS OF THE PROVISIONS OF SECTION 203, PROVIDED THAT THE
17 HEARING UNDER SECTION 304 IS CONDUCTED WITHIN SEVEN DAYS OF THE
18 TIME THE PERSON GIVES NOTICE OF HIS INTENT TO WITHDRAW FROM
19 TREATMENT.

20 (g) The period of voluntary treatment under this section
21 shall be credited as time served on account of any sentence to
22 be imposed on pending charges or any unexpired term of
23 imprisonment.

24 Section 5. This act shall take effect in 60 days.