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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 796 Session of  
2013

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INTRODUCED BY VANCE, ERICKSON, RAFFERTY, BAKER, BROWNE, FONTANA  
AND VULAKOVICH, APRIL 3, 2013

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REFERRED TO PUBLIC HEALTH AND WELFARE, APRIL 3, 2013

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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 statement of policy, for  
7 provision for treatment and for persons who may be subject to  
8 involuntary emergency examination and treatment.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. Section 102 of the act of July 9, 1976 (P.L.817,  
12 No.143), known as the Mental Health Procedures Act, amended  
13 November 26, 1978 (P.L.1362, No.324), is amended to read:

14 Section 102. Statement of Policy.--It is the policy of the  
15 Commonwealth of Pennsylvania to seek to assure the availability  
16 of adequate treatment to persons who are mentally ill, and it is  
17 the purpose of this act to establish procedures whereby this  
18 policy can be effected. The provisions of this act shall be  
19 interpreted in conformity with the principles of due process to  
20 make voluntary and involuntary treatment available where the  
21 [need is great and its] absence of treatment could result in

1 serious harm to the mentally ill person or to others. Treatment  
2 on a voluntary basis shall be preferred to involuntary  
3 treatment; and in every case, the least restrictions consistent  
4 with adequate treatment shall be employed. Persons who are  
5 mentally retarded, senile, alcoholic, or drug dependent shall  
6 receive mental health treatment only if they are also diagnosed  
7 as mentally ill, but these conditions of themselves shall not be  
8 deemed to constitute mental illness: Provided, however, That  
9 nothing in this act shall prohibit underutilized State  
10 facilities for the mentally ill to be made available for the  
11 treatment of alcohol abuse or drug addiction pursuant to the act  
12 of April 14, 1972 (P.L.221, No.63), known as the "Pennsylvania  
13 Drug and Alcohol Abuse Control Act." Chronically disabled  
14 persons 70 years of age or older who have been continuously  
15 hospitalized in a State operated facility for at least ten years  
16 shall not be subject to the procedures of this act. Such a  
17 person's inability to give a rational, informed consent shall  
18 not prohibit the department from continuing to provide all  
19 necessary treatment to such a person. However, if such a person  
20 protests treatment or residence at a State operated facility he  
21 shall be subject to the provisions of Article III.

22 Section 2. Section 104 of the act is amended to read:

23 Section 104. Provision for Treatment.--Adequate treatment  
24 means a course of treatment designed and administered to  
25 alleviate a person's pain and distress, to protect a person from  
26 predictable deterioration and to maximize the probability of his  
27 recovery from mental illness. It shall be provided to all  
28 persons in treatment who are subject to this act. It may include  
29 inpatient treatment, partial hospitalization, or outpatient  
30 treatment. Adequate inpatient treatment shall include such

1 accommodations, diet, heat, light, sanitary facilities,  
2 clothing, recreation, education and medical care as are  
3 necessary to maintain decent, safe and healthful living  
4 conditions. Treatment shall include diagnosis, evaluation,  
5 therapy, or rehabilitation needed to alleviate pain and distress  
6 [and], to facilitate the recovery of a person from mental  
7 illness and to protect a person from predictable deterioration  
8 and shall also include care and other services that supplement  
9 treatment and aid or promote such recovery.

10 Section 3. Section 301(b) of the act, amended November 26,  
11 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.--\* \* \*

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

1 person has made one or more threats of harm and [has committed  
2 acts in furtherance of the threat to commit harm.] the totality  
3 of circumstances supports a finding of danger.

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

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

14 (ii) the person has attempted suicide and that there is the  
15 reasonable probability of suicide unless adequate treatment is  
16 afforded under this act. For the purposes of this subsection, a  
17 clear and present danger may be demonstrated by the proof that  
18 the person has made threats to commit suicide and [has committed  
19 acts which are in furtherance of the threat to commit suicide]  
20 the totality of the circumstances support a conclusion that  
21 there is a risk of a suicide attempt; or

22 (iii) the person has substantially mutilated himself or  
23 attempted to mutilate himself substantially and that there is  
24 the reasonable probability of mutilation unless adequate  
25 treatment is afforded under this act. For the purposes of this  
26 subsection, a clear and present danger shall be established by  
27 proof that the person has made one or more threats to commit  
28 mutilation and [has committed acts which are in furtherance of  
29 the threat to commit mutilation.] the totality of the  
30 circumstances supports a conclusion that there is a risk of an

1 attempt of self-mutilation; or

2 (iv) the person has acted in such a way as to evidence that  
3 he does not have the capacity to make a rational treatment  
4 decision, and serious debilitation would ensue within 30 days  
5 from a diagnosed condition unless treatment were afforded under  
6 this act.

7 (3) A person's history of treatment and diagnosis, and a  
8 person's past behavior may be considered in determining whether  
9 a person's recent behavior constitutes a clear and present  
10 danger to others or to himself.

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