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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2423 Session of  
2015

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INTRODUCED BY MURT, DAVIS, GROVE, HARHAI, KINSEY, MAHONEY,  
ROZZI, SAYLOR, WHEELAND AND YOUNGBLOOD, OCTOBER 20, 2016

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REFERRED TO COMMITTEE ON HEALTH, OCTOBER 20, 2016

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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," providing for assisted outpatient treatment.

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

9 Section 1. The act of July 9, 1976 (P.L.817, No.143), known  
10 as the Mental Health Procedures Act, is amended by adding an  
11 article to read:

12 ARTICLE III-A

13 ASSISTED OUTPATIENT TREATMENT

14 Section 301-A. Definitions.

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

18 "Assisted outpatient treatment." The community-based  
19 outpatient social, medical and behavioral health treatment  
20 services ordered by a court for a severely mentally disabled

1 person which may include, but is not limited to, any of the  
2 following services:

3 (1) Community psychiatric supportive treatment.

4 (2) Assertive community treatment.

5 (3) Medications.

6 (4) Individual or group therapy.

7 (5) Peer support services.

8 (6) Financial services.

9 (7) Housing or supervised living services.

10 (8) Alcohol or substance abuse treatment.

11 (9) Any other services prescribed to treat the person's  
12 mental illness that either assist the person in living and  
13 functioning in the community or help to prevent a relapse or  
14 a deterioration of the person's condition.

15 "Court-ordered assisted outpatient treatment plan." An  
16 individualized treatment plan developed by the treatment team  
17 that is authorized by a court. The treatment plan shall contain  
18 the reasonable objectives and goals for a person determined to  
19 be in need of assisted outpatient treatment. In addition to the  
20 requirements of section 107, the treatment plan shall include:

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

24 (2) Provider information for each provider that has  
25 agreed to provide assisted outpatient treatment services to  
26 the person.

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

1 "Department." The Department of Human Services of the  
2 Commonwealth.

3 "Qualified professional." A physician, licensed  
4 psychologist, prescribing psychologist, certified nurse  
5 practitioner or clinical nurse specialist with a specialty in  
6 mental health or a physician assistant with a specialty in  
7 mental health.

8 Section 302-A. Determination of need for court-ordered assisted  
9 outpatient treatment.

10 (a) Criteria.--The need for court-ordered assisted  
11 outpatient treatment shall be shown by establishing by clear and  
12 convincing evidence that:

13 (1) the person would benefit from treatment as  
14 manifested by evidence of behavior that indicates all of the  
15 following:

16 (i) The person is unlikely to survive safely in the  
17 community without supervision, based on a clinical  
18 determination.

19 (ii) The person has a history of lack of voluntary  
20 adherence to treatment for mental illness and one of the  
21 following applies:

22 (A) at least twice within the 36 months prior to  
23 the filing of a petition seeking court-ordered  
24 assisted outpatient treatment, the person's failure  
25 to adhere to treatment has been a significant factor  
26 in necessitating inpatient hospitalization or receipt  
27 of services in a forensic or other mental health unit  
28 of a correctional facility, provided that the 36-  
29 month period shall be extended by the length of any  
30 hospitalization or incarceration of the person in a

1 correctional institution that occurred within the 36-  
2 month period; or

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

13 (iii) The person, as a result of the person's mental  
14 illness, is unlikely to voluntarily participate in  
15 necessary treatment.

16 (iv) Based on the person's treatment history and  
17 current behavior, the person is in need of treatment in  
18 order to prevent a relapse or deterioration that would be  
19 likely to result in substantial risk of serious harm to  
20 the person or others.

21 (2) (Reserved).

22 (b) Determination.--An individual who meets only the  
23 criteria under subsection (a) shall not be subject to  
24 involuntary inpatient hospitalization unless a determination of  
25 clear and present criteria is made in accordance with section  
26 301(b).

27 Section 303-A. Procedures for initiating court-ordered assisted  
28 outpatient treatment for persons already subject to  
29 involuntary treatment.

30 The following shall apply:

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

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

12           (i) no longer determined to be subject to  
13 involuntary inpatient treatment under section 301(b) (1)  
14 and (2) (i) or (ii), or no longer subject to treatment in  
15 a forensic facility or correctional institution; and

16           (ii) determined to be in need of court-ordered  
17 outpatient treatment under this article.

18       (3) The petition shall state the name of any examining  
19 physician and the substance of the examining physician's  
20 opinion regarding the mental condition of the person. It  
21 shall also state that the person has been given the  
22 information required under section 304(b) (3).

23       (4) Upon the filing of the petition the county  
24 administrator shall serve a copy on the person, the person's  
25 attorney and those parties designated to be kept informed, as  
26 provided in section 302(c), including an explanation of the  
27 nature of the proceedings, the person's right to an attorney  
28 and the services of an expert in the field of mental health,  
29 as provided by section 304(d).

30       (5) A hearing on the petition shall be held in all

1 cases, not more than five days after the filing of the  
2 petition.

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

5 Section 304-A. Procedures for initiating court-ordered assisted  
6 outpatient treatment for persons not in involuntary  
7 treatment.

8 The following shall apply:

9 (1) Any responsible party may file a petition in the  
10 court of common pleas requesting court-ordered assisted  
11 outpatient treatment for any person determined under section  
12 302-A to be in need of court-ordered assisted outpatient  
13 treatment who is not already in involuntary treatment and who  
14 is not already in court-ordered outpatient treatment for whom  
15 application could be made under section 304(a).

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

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

7       (4) The court, by summons, shall direct the person to  
8 appear for a hearing. The court may issue a warrant directing  
9 an individual authorized by the county administrator or a  
10 peace officer to bring the person before the court at the  
11 time of the hearing if there are reasonable grounds to  
12 believe that the person will not appear voluntarily. A copy  
13 of the petition shall be served on the person at least three  
14 days before the hearing together with a notice advising the  
15 person that:

16           (i) an attorney has been appointed who shall  
17 represent him unless he obtains an attorney himself;

18           (ii) the person has a right to be assisted in the  
19 proceedings by an expert in the field of mental health;

20           (iii) the person may request or be made subject to  
21 psychiatric examination under section 304(c)(5).

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

29 Section 305-A. Hearings on petition for court-ordered assisted  
30 outpatient treatment.

1 A hearing on a petition for court-ordered assisted outpatient  
2 treatment shall be conducted in accordance with the following:

3 (1) No later than the date of the hearing, a qualified  
4 professional shall provide a written proposed court-ordered  
5 assisted outpatient treatment plan to the court. The plan  
6 shall state all treatment services recommended for the person  
7 and, for each service, shall specify a provider that has  
8 agreed to provide the service.

9 (2) In developing a written proposed court-ordered  
10 assisted outpatient treatment plan, the qualified  
11 professional shall take into account, if existing, an advance  
12 directive for mental health treatment and provide the  
13 following persons with an opportunity to participate:

14 (i) the person believed to be in need of court-  
15 ordered assistant outpatient treatment;

16 (ii) all current treating providers;

17 (iii) upon the request of the person believed to be  
18 in need of court-ordered assisted outpatient treatment,  
19 an individual significant to the person, including any  
20 relative, close friend or individual otherwise concerned  
21 with the welfare of the person; and

22 (iv) any authorized guardian or other surrogate  
23 decisionmaker.

24 (3) The written proposed court-ordered assisted  
25 outpatient treatment plan shall include case management  
26 services or an assertive community treatment team to provide  
27 care coordination and assisted outpatient treatment services  
28 recommended by the qualified professional. If the plan  
29 includes medication, it shall state whether the medication  
30 should be self-administered or administered by a specified

1 provider and shall specify type and dosage range of  
2 medication. In no event shall the plan recommend the use of  
3 physical force or restraints to administer medication to the  
4 respondent.

5 (4) A qualified professional who has personally examined  
6 the respondent within 10 days of the filing of the petition  
7 shall provide testimony in support of the finding that the  
8 respondent meets all of the criteria for court-ordered  
9 assisted outpatient treatment and in support of a written  
10 proposed treatment plan developed under this section that  
11 includes:

12 (i) the recommended assisted outpatient treatment,  
13 the rationale for the recommended assisted outpatient  
14 treatment and the facts that establish that the treatment  
15 is the least restrictive appropriate alternative;

16 (ii) information regarding the respondent's access  
17 to, and the availability of, recommended assisted  
18 outpatient treatment in the community or elsewhere; and

19 (iii) if the recommended assisted outpatient  
20 treatment includes medication, the types or classes of  
21 medication that should be authorized, the beneficial and  
22 detrimental physical and mental effects of such  
23 medication and whether such medication should be self-  
24 administered or administered by a specified provider.

25 Section 306-A. Determination and order.

26 The following shall apply:

27 (1) If a person is found to be in need of court-ordered  
28 assisted outpatient treatment in accordance with section 302-  
29 A or as a result of consideration of less restrictive  
30 settings, the court shall order the person to receive

1 assisted outpatient treatment for a period not to exceed 90  
2 days from any provider or facility approved by the department  
3 or the county administrator for purposes of providing court-  
4 ordered assisted outpatient treatment.

5 (2) The facility or provider shall examine and treat the  
6 person in accordance with the court-ordered treatment plan.  
7 If the person is receiving court-ordered outpatient  
8 treatment, or receives treatment in an outpatient setting  
9 during a subsequent period of continued commitment under  
10 section 307-A(b), the facility or provider to whom the person  
11 is ordered shall determine the appropriate court-ordered  
12 assisted outpatient treatment plan for the person.

13 (3) The provider or facility responsible for the court-  
14 ordered outpatient treatment shall inform the court if the  
15 person fails materially to adhere to the treatment plan and  
16 comply with the court order. If the court receives  
17 information that a patient is not complying with the court's  
18 order, the court may:

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

22 (ii) amend the assisted outpatient treatment plan to  
23 foster adherence to necessary treatment by the person;  
24 and

25 (iii) issue an order for temporary detention if  
26 petition is filed under section 304(b).

27 (4) If the court determines under paragraph (3) that the  
28 person has failed to adhere to the assisted outpatient  
29 treatment plan, the court may not hold that person in  
30 contempt or otherwise sanction the person solely based on the

1 failure to comply with the assisted outpatient treatment  
2 plan.

3 (5) A jail or any other county or State correctional  
4 institution may not be considered an authorized facility  
5 under this article.

6 Section 307-A. Duration of court-ordered assisted outpatient  
7 treatment.

8 (a) General rule.--A person may be subject to court-ordered  
9 assisted outpatient treatment for a period of up to 180 days if  
10 the person continues to meet the requirements under section 302-  
11 A or is discharged from involuntary inpatient treatment under  
12 Article III.

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

22 Section 2. This act shall take effect in 60 days.