
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1233 Session of
2017

INTRODUCED BY MURT, BAKER, BENNINGHOFF, BLOOM, BOBACK, BRIGGS,
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WATSON AND WHITE, APRIL 17, 2017

REFERRED TO COMMITTEE ON HUMAN SERVICES, APRIL 17, 2017

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; in involuntary examination and
9 treatment, further providing for persons subject, for persons
10 for whom application may be made, and for additional periods
11 of court-ordered involuntary treatment; and adding provisions
12 relating to assisted outpatient treatment.

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

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

18 Section 103. Scope of Act.--This act establishes rights and
19 procedures for all involuntary treatment of mentally ill
20 persons, whether inpatient or outpatient, and for all voluntary
21 inpatient treatment of mentally ill persons. ["Inpatient

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

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

9 Section 103.1. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

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

17 (1) Community psychiatric supportive treatment.

18 (2) Assertive community treatment.

19 (3) Medications.

20 (4) Individual or group therapy.

21 (5) Peer support services.

22 (6) Financial services.

23 (7) Housing or supervised living services.

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

27 (9) Any other service prescribed to treat the person's
28 mental illness that either assists the person in living and
29 functioning in the community or helps to prevent a relapse or a
30 deterioration of the person's condition that would be likely to

1 result in a substantial risk of serious harm to the person or
2 others.

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

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

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

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

22 (2) obtained, if applicable, licensure, registration or
23 certification.

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

25 Section 107. Individualized Treatment Plan.--(a)
26 Individualized treatment plan means a plan of treatment
27 formulated for a particular person in a program appropriate to
28 his specific needs, including an assisted outpatient treatment
29 plan under subsection (b). To the extent possible, the plan
30 shall be made with the cooperation, understanding and consent of

1 the person in treatment, and shall impose the least restrictive
2 alternative consistent with affording the person adequate
3 treatment for his condition.

4 (b) Assisted outpatient treatment plan means an
5 individualized treatment plan developed by the treatment team
6 that is ordered by a court for involuntary outpatient civil
7 commitment of a person. The treatment plan shall contain the
8 reasonable objectives and goals for a person determined to be in
9 need of assisted outpatient treatment. In addition to the
10 requirements of subsection (a), the treatment plan shall
11 include:

12 (1) The delineation of specific assisted outpatient
13 treatment services to be provided based on the person's specific
14 needs.

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

17 (3) The documentation of how the person was involved in the
18 initial development of the treatment plan and the process for
19 involving the person in ongoing evaluation and, if appropriate,
20 modifications to the treatment plan.

21 Section 4. Section 301(a) of the act is amended and the
22 section is amended by adding a subsection to read:

23 Section 301. Persons Who May be Subject to Involuntary
24 Emergency Examination and Treatment.--(a) Persons Subject.--
25 Whenever a person is severely mentally disabled and in need of
26 immediate treatment, he may be made subject to involuntary
27 emergency examination and treatment. A person is severely
28 mentally disabled when, as a result of mental illness, his
29 capacity to exercise self-control, judgment and discretion in
30 the conduct of his affairs and social relations or to care for

1 his own personal needs is so lessened that he poses a clear and
2 present danger of harm to others or to himself, or the person is
3 determined to be in need of assisted outpatient treatment as
4 defined in subsection (c).

5 * * *

6 (c) Determination of Need for Assisted Outpatient

7 Treatment.--(1) The need for assisted outpatient treatment
8 shall be shown by establishing by clear and convincing evidence
9 that the person would benefit from assisted outpatient treatment
10 as manifested by evidence of behavior that indicates all of the
11 following:

12 (i) The person is unlikely to survive safely in the
13 community without supervision, based on a clinical
14 determination.

15 (ii) The person has a history of lack of voluntary adherence
16 to treatment for mental illness and one of the following
17 applies:

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

27 (B) Within the 48 months prior to the filing of a petition
28 seeking court-ordered assisted outpatient treatment, the
29 person's failure to adhere to treatment resulted in one or more
30 acts of serious violent behavior toward others or himself or

1 threats of, or attempts at, serious physical harm to others or
2 himself, provided that the 48-month period shall be extended by
3 the length of any hospitalization or incarceration of the person
4 in a correctional institution that occurred within the 48-month
5 period.

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

9 (iv) Based on the person's treatment history and current
10 behavior, the person is in need of treatment in order to prevent
11 a relapse or deterioration that would be likely to result in
12 substantial risk of serious harm to the others or himself.

13 (2) An individual who meets only the criteria described in
14 clause (1) shall not be subject to involuntary inpatient
15 hospitalization unless a separate determination is made that the
16 individual poses a clear and present danger in accordance with
17 subsection (b).

18 Section 5. Section 303(c) (1) of the act is amended to read:

19 Section 303. Extended Involuntary Emergency Treatment
20 Certified by a Judge or Mental Health Review Officer - Not to
21 Exceed Twenty Days.--* * *

22 (c) Informal Conference on Extended Emergency Treatment
23 Application.--(1) At the commencement of the informal
24 conference, the judge or the mental health review officer shall
25 inform the person of the nature of the proceedings. Information
26 relevant to whether the person is severely mentally disabled and
27 in need of treatment shall be reviewed, including the reasons
28 that continued involuntary treatment is considered necessary.
29 Such explanation shall be made by a physician who examined the
30 person and shall be in terms understandable to a layman. The

1 judge or mental health review officer may review any relevant
2 information even if it would be normally excluded under rules of
3 evidence if he believes that such information is reliable. The
4 person or his representative shall have the right to ask
5 questions of the physician and of any other witnesses and to
6 present any relevant information. At the conclusion of the
7 review, if the judge or the review officer finds that the person
8 is severely mentally disabled and in need of continued
9 involuntary treatment, either as an inpatient or through less
10 restrictive assisted outpatient treatment, he shall so certify.
11 Otherwise, he shall direct that the facility director or his
12 designee discharge the person.

13 * * *

14 Section 6. Section 304(a), (e), (f) and (g) of the act are
15 amended and the section is amended by adding subsections to
16 read:

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

29 (2) Where a petition is filed for a person already subject
30 to involuntary treatment, it shall be sufficient to represent,

1 and upon hearing to reestablish, that the conduct originally
2 required by section [301] 301(b) in fact occurred, and that his
3 condition continues to evidence a clear and present danger to
4 himself or others, or that the conduct originally required by
5 section 301(c) in fact occurred and that his condition continues
6 to evidence a need for assisted outpatient treatment. In such
7 event, it shall not be necessary to show the reoccurrence of
8 dangerous conduct, either harmful or debilitating, within the
9 past 30 days.

10 * * *

11 (c.1) Procedures for Initiating Assisted Outpatient
12 Treatment for Persons Already Subject to Involuntary
13 Treatment.--(1) Petition for assisted outpatient treatment for
14 persons already subject to involuntary treatment under section
15 301(b)(1) or (2), or persons with mental illness subject to
16 treatment in a forensic facility or a correctional institution
17 who are ready for release may be made by the county
18 administrator or the director of the facility to the court of
19 common pleas.

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

23 (i) No longer determined to be in need of involuntary
24 inpatient treatment under section 301(b)(1) or (2), or no longer
25 subject to treatment in a forensic facility or correctional
26 institution.

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

29 (3) The petition shall state the name of any examining
30 physician and the substance of his opinion regarding the mental

1 condition of the person. It shall also state that the person has
2 been given the information required by subsection (b)(3).

3 (4) Upon the filing of the petition, the county
4 administrator shall serve a copy on the person, his attorney and
5 those designated to be kept informed, as provided in section
6 302(c), including an explanation of the nature of the
7 proceedings, the person's right to an attorney and the services
8 of an expert in the field of mental health, as provided by
9 subsection (d).

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

12 (6) Treatment shall be permitted to be maintained pending
13 the determination of the petition.

14 (c.2) Procedures for Initiating Assisted Outpatient
15 Treatment for Persons not in Involuntary Treatment.--(1) Any
16 responsible party may file a petition in the court of common
17 pleas requesting assisted outpatient treatment for any person
18 determined under section 301(c) to be in need of assisted
19 outpatient treatment, and who is not already in involuntary
20 treatment, and who is not already in assisted outpatient
21 treatment for whom application could be made under subsection
22 (a).

23 (2) The petition shall be in writing upon a form adopted by
24 the department and shall set forth facts constituting reasonable
25 grounds to believe that the person is within the criteria as
26 defined under section 301(c) for a person in need of assisted
27 outpatient treatment. The petition shall state the name of any
28 examining physician and shall be accompanied by a statement of a
29 psychiatrist, or a statement signed by a clinical psychologist
30 and a statement signed by a physician, stating that the person

1 who issued the petition has examined the person and is of the
2 opinion that the person is in need of assisted outpatient
3 treatment, or shall be accompanied by a written statement by the
4 applicant, under oath, that the person has refused to submit to
5 an examination by a psychiatrist, or by a clinical psychologist
6 and physician.

7 (3) Upon a determination that the petition sets forth
8 reasonable cause, the court shall appoint an attorney to
9 represent the person and set a date for the hearing as soon as
10 practicable. The attorney shall represent the person unless it
11 shall appear that he can afford, and desires to have, private
12 representation.

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

26 (5) Upon motion of either the petitioner or the person, or
27 upon its own motion, the court may order the person to be
28 examined by a psychiatrist appointed by the court. Such
29 examination shall be conducted on an outpatient basis and the
30 person shall have the right to have counsel present. A report of

1 the examination shall be given to the court and counsel at least
2 48 hours prior to the hearing.

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

6 * * *

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

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

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

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

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

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

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

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

29 (8) If the person is believed to be in need of assisted
30 outpatient treatment in accordance with section 301(c), a

1 hearing on the petition shall be conducted in accordance with
2 the following:

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

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

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

16 (B) all current treating providers;

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

22 (D) any authorized guardian or other surrogate decision-
23 maker.

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

1 and dosage range of medication. In no event shall the plan
2 recommend the use of physical force or restraints to administer
3 medication to the person.

4 (iv) A qualified professional, who has personally examined
5 the person within ten days of the filing of the petition, shall
6 provide testimony in support of the finding that the person
7 meets all of the criteria for assisted outpatient treatment and
8 in support of a written proposed treatment plan developed
9 pursuant to this section including:

10 (A) the recommended assisted outpatient treatment, the
11 rationale for the recommended assisted outpatient treatment and
12 the facts that establish that such treatment is the least
13 restrictive appropriate alternative;

14 (B) information regarding the person's access to, and the
15 availability of, recommended assisted outpatient treatment in
16 the community or elsewhere; and

17 (C) if the recommended assisted outpatient treatment
18 includes medication, the types or classes of medication that
19 should be authorized, the beneficial and detrimental physical
20 and mental effects of such medication and whether such
21 medication should be self-administered or administered by a
22 specified provider, and the ongoing process for management of
23 such medications in response to changes in the person's medical
24 condition.

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

27 (f) Determination and Order.--(1) Upon a finding by clear
28 and convincing evidence that the person is severely mentally
29 disabled and in need of treatment and subject to subsection (a),
30 an order shall be entered directing treatment of the person in

1 an approved facility as an inpatient or an outpatient, or a
2 combination of such treatment as the director of the facility
3 shall from time to time determine. Inpatient treatment shall be
4 deemed appropriate only after full consideration has been given
5 to less restrictive alternatives, including assisted outpatient
6 treatment. Investigation of treatment alternatives shall include
7 consideration of the person's relationship to his community and
8 family, his employment possibilities, all available community
9 resources, and guardianship services. An order for inpatient
10 treatment shall include findings on this issue.

11 (2) If the person is found to be in need of assisted
12 outpatient treatment in accordance with section 301(c) or as a
13 result of consideration of less restrictive settings under
14 clause (1), the court shall order the person to receive assisted
15 outpatient treatment for a period not to exceed 90 days from any
16 provider or facility approved by the department or the county
17 administrator for purposes of providing assisted outpatient
18 treatment, provided that a jail or any other State or county
19 correctional institution shall not be an authorized facility.

20 (3) The facility or provider shall examine and treat the
21 person in accordance with the assisted outpatient treatment
22 plan. If the person is receiving assisted outpatient treatment,
23 or receives treatment in an outpatient setting during a
24 subsequent period of continued commitment under section 305, the
25 facility or provider to whom the person is ordered shall
26 determine the appropriate assisted outpatient treatment plan for
27 the person.

28 (4) If the approved court-ordered assisted outpatient
29 treatment plan includes medications, the court order shall
30 authorize the treatment team, in accordance with their

1 professional judgment, to perform routine medication management,
2 including adjustment of specific medications and doses, in
3 consultation with the person and as warranted by changes in the
4 person's medical condition.

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

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

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

15 (iii) issue an order for temporary detention if a petition
16 is filed under subsection (b), provided that a State or county
17 correctional institution may not be considered an authorized
18 treatment facility.

19 (6) If the court determines under clause (5) that the person
20 has failed to adhere to the assisted outpatient treatment plan,
21 the court may not hold that person in contempt or otherwise
22 sanction the person solely based on the failure to comply with
23 the assisted outpatient treatment plan.

24 (g) Duration of Court-ordered Involuntary Treatment.--(1) A
25 person may be made subject to court-ordered involuntary
26 treatment under this section for a period not to exceed 90 days,
27 excepting only that: Persons may be made subject to court-
28 ordered involuntary treatment under this section for a period
29 not to exceed one year if:

30 (i) the person meets the criteria established by clause (2)

1 [.]; and

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

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

7 (i) severe mental disability is based on acts giving rise to
8 the following charges under the Pennsylvania Crimes Code: murder
9 (§ 2502); voluntary manslaughter (§ 2503); aggravated assault (§
10 2702); kidnapping (§ 2901); rape (§ 3121(1) and (2));
11 involuntary deviate sexual intercourse (§ 3123(1) and (2));
12 arson (§ 3301); and

13 (ii) a finding of incompetency to be tried or a verdict of
14 acquittal because of lack of criminal responsibility has been
15 entered.

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

22 (4) In cases involving involuntary treatment pursuant to
23 clause (2), whenever the period of court-ordered involuntary
24 treatment is about to expire and neither the director nor the
25 county administrator intends to apply for an additional period
26 of court-ordered involuntary treatment pursuant to section 305
27 or at any time the director concludes that the person is not
28 severely mentally disabled or in need of treatment, the director
29 shall petition the court which ordered the involuntary treatment
30 for the unconditional or conditional release of the person.

1 Notice of such petition shall be given to the person, the county
2 administrator and the district attorney. Within 15 days after
3 the petition has been filed, the court shall hold a hearing to
4 determine if the person is severely mentally disabled and in
5 need of treatment. Petitions which must be filed simply because
6 the period of involuntary treatment will expire shall be filed
7 at least ten days prior to the expiration of the court-ordered
8 period of involuntary treatment. If the court determines after
9 hearing that the person is severely mentally disabled and in
10 need of treatment, it may order additional involuntary treatment
11 not to exceed one year; if the court does not so determine, it
12 shall order the discharge of the person.

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

17 Section 7. Section 305 of the act is amended by adding a
18 subsection to read:

19 Section 305. Additional Periods of Court-ordered Involuntary
20 Treatment.--* * *

21 (c) At the expiration of a period of assisted outpatient
22 treatment under section 304(g) or this section, the court may
23 order treatment for an additional period upon the application of
24 the county administrator or the treatment team. Such order shall
25 be entered upon hearing on findings as required by sections
26 304(a) and (b), and the further finding of a need for continuing
27 assisted outpatient treatment. The additional period of
28 involuntary treatment shall not exceed 180 days.

29 Section 8. This act shall take effect in 90 days.