
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 599 Session of
2017

INTRODUCED BY GREENLEAF, SCAVELLO, SCHWANK, VULAKOVICH, FARNESE,
YUDICHAK, FONTANA, COSTA, BOSCOLA, BROWNE, MENSCH AND
RESCHENTHALER, APRIL 13, 2017

REFERRED TO HEALTH AND HUMAN SERVICES, APRIL 13, 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
22 treatment" shall include all treatment that requires full or

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

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

8 Section 103.1. Definitions.

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

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

16 (1) Community psychiatric supportive treatment.

17 (2) Assertive community treatment.

18 (3) Medications.

19 (4) Individual or group therapy.

20 (5) Peer support services.

21 (6) Financial services.

22 (7) Housing or supervised living services.

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

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

1 others.

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

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

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

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

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

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

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

1 alternative consistent with affording the person adequate
2 treatment for his condition.

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

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

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

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

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

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

1 present danger of harm to others or to himself, or the person is
2 determined to be in need of assisted outpatient treatment as
3 defined in subsection (c).

4 * * *

5 (c) Determination of Need for Assisted Outpatient

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

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

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

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

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

1 himself, provided that the 48-month period shall be extended by
2 the length of any hospitalization or incarceration of the person
3 in a correctional institution that occurred within the 48-month
4 period.

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

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

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

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

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

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

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

12 * * *

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

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

28 (2) Where a petition is filed for a person already subject
29 to involuntary treatment, it shall be sufficient to represent,
30 and upon hearing to reestablish, that the conduct originally

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

9 * * *

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

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

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

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

28 (3) The petition shall state the name of any examining
29 physician and the substance of his opinion regarding the mental
30 condition of the person. It shall also state that the person has

1 been given the information required by subsection (b)(3).

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

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

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

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

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

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

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

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

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

1 48 hours prior to the hearing.

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

5 * * *

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

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

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

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

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

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

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

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

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

1 the following:

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

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

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

15 (B) all current treating providers;

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

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

23 (iii) The written proposed assisted outpatient treatment
24 plan shall include case management services or an assertive
25 community treatment team to provide care coordination and
26 assisted outpatient treatment services recommended by the
27 qualified professional. If the plan includes medication, it
28 shall state whether such medication should be self-administered
29 or administered by a specified provider and shall specify type
30 and dosage range of medication. In no event shall the plan

1 recommend the use of physical force or restraints to administer
2 medication to the person.

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

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

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

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

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

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

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

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

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

27 (4) If the approved court-ordered assisted outpatient
28 treatment plan includes medications, the court order shall
29 authorize the treatment team, in accordance with their
30 professional judgment, to perform routine medication management,

1 including adjustment of specific medications and doses, in
2 consultation with the person and as warranted by changes in the
3 person's medical condition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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