
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1349 Session of
2019

INTRODUCED BY WHITE, MILLARD, KIRKLAND, MASSER, DeLUCA,
READSHAW, KAUFER, ZIMMERMAN, STRUZZI AND HOHENSTEIN,
MAY 1, 2019

REFERRED TO COMMITTEE ON JUDICIARY, MAY 1, 2019

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 involuntary examination and treatment, further
7 providing for persons who may be subject to involuntary
8 emergency examination and treatment, for involuntary
9 emergency examination and treatment authorized by a physician
10 - not to exceed one hundred twenty hours, for extended
11 involuntary emergency treatment certified by a judge or
12 mental health review officer - not to exceed twenty days, for
13 court-ordered involuntary treatment not to exceed ninety
14 days; and, in determinations affecting those charged with
15 crime, or under sentence, further providing for incompetence
16 to proceed on criminal charges and lack of criminal
17 responsibility as defense.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. Section 301(a) and (b) of the act of July 9, 1976
21 (P.L.817, No.143), known as the Mental Health Procedures Act,
22 amended October 24, 2018 (P.L.690, No.106), are amended to read:

23 Section 301. Persons Who May be Subject to Involuntary
24 Emergency Examination and Treatment.--(a) Persons Subject.--(1)
25 Whenever a person is severely mentally disabled and in need of

1 immediate treatment, he may be made subject to involuntary
2 emergency examination and treatment.

3 (2) A person is severely mentally disabled when, as a result
4 of mental illness[,] or substance use disorder which caused a
5 drug overdose event, as defined in the act of April 14, 1972
6 (P.L.233, No.64), known as The Controlled Substance, Drug,
7 Device and Cosmetic Act, his capacity to exercise self-control,
8 judgment and discretion in the conduct of his affairs and social
9 relations or to care for his own personal needs is so lessened
10 that he poses a clear and present danger of harm to others or to
11 himself, as defined in subsection (b), or the person is
12 determined to be in need of assisted outpatient treatment as
13 defined in subsection (c).

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 another and that there is a
18 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 another, such 30-
23 day limitation shall not apply so long as an application for
24 examination and treatment is filed within 30 days after the date
25 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 threats of harm and has committed acts in
2 furtherance of the threat to commit harm.

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

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

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

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

28 (iv) the person has ingested an amount of drugs as to render
29 himself unconscious or in need of medical treatment to prevent
30 imminent death or serious bodily harm.

1 Section 2. Section 302(a) (1) of the act is amended to read:

2 Section 302. Involuntary Emergency Examination and Treatment
3 Authorized by a Physician - Not to Exceed One Hundred Twenty
4 Hours.--(a) Application for Examination.--Emergency examination
5 may be undertaken at a treatment facility upon the certification
6 of a physician stating the need for such examination; or upon a
7 warrant issued by the county administrator authorizing such
8 examination; or without a warrant upon application by a
9 physician or other authorized person who has personally observed
10 conduct showing the need for such examination.

11 (1) Warrant for Emergency Examination.--Upon written
12 application by a physician or other responsible party setting
13 forth facts constituting reasonable grounds to believe a person
14 is severely mentally disabled as provided under section
15 301(a) (2) and in need of immediate treatment, the county
16 administrator may issue a warrant requiring a person authorized
17 by him, or any peace officer, to take such person to the
18 facility specified in the warrant.

19 * * *

20 Section 3. Sections 303(c) (1) and (h) and 304(a) (1), (b) (2),
21 (f) (1) and (g) (4) of the act, amended October 24, 2018 (P.L.690,
22 No.106), are amended to read:

23 Section 303. Extended Involuntary Emergency Treatment
24 Certified by a Judge or Mental Health Review Officer - Not to
25 Exceed Twenty Days.--* * *

26 (c) Informal Conference on Extended Emergency Treatment
27 Application.--(1) At the commencement of the informal
28 conference, the judge or the mental health review officer shall
29 inform the person of the nature of the proceedings. Information
30 relevant to whether the person is severely mentally disabled as

1 provided under section 301(a)(2) and in need of treatment shall
2 be reviewed, including the reasons that continued involuntary
3 treatment is considered necessary. Such explanation shall be
4 made by a physician who examined the person and shall be in
5 terms understandable to a layman. The judge or mental health
6 review officer may review any relevant information even if it
7 would be normally excluded under rules of evidence if he
8 believes that such information is reliable. The person or his
9 representative shall have the right to ask questions of the
10 physician and of any other witnesses and to present any relevant
11 information. At the conclusion of the review, if the judge or
12 the review officer finds that the person is severely mentally
13 disabled and in need of continued involuntary treatment, either
14 as an inpatient or through less restrictive assisted outpatient
15 treatment, he shall so certify. Otherwise, he shall direct that
16 the facility director or his designee discharge the person.

17 * * *

18 (h) Duration of Extended Involuntary Emergency Treatment.--
19 Whenever a person is no longer severely mentally disabled as
20 provided under section 301(a)(2) or in need of immediate
21 treatment and, in any event, within 20 days after the filing of
22 the certification, he shall be discharged, unless within such
23 period:

24 (1) he is admitted to voluntary treatment pursuant to
25 section 202; or

26 (2) the court orders involuntary treatment pursuant to
27 section 304.

28 Section 304. Court-ordered Involuntary Treatment Not to
29 Exceed Ninety Days.--(a) Persons for Whom Application May be
30 Made.--(1) A person who is severely mentally disabled and in

1 need of treatment, [as defined in section 301(a)] as provided
2 under section 301(a)(2), may be made subject to court-ordered
3 involuntary treatment upon a determination of clear and present
4 danger under section 301(b)(1) (serious bodily harm to others),
5 or section 301(b)(2)(i) (inability to care for himself, creating
6 a danger of death or serious harm to himself), or 301(b)(2)(ii)
7 (attempted suicide), or 301(b)(2)(iii) (self-mutilation), or
8 301(b)(2)(iv) (drug overdose event), or upon determination that
9 a person meets the requirements under section 301(c)
10 (determination of need for assisted outpatient treatment).

11 * * *

12 (b) Procedures for Initiating Court-ordered Involuntary
13 Treatment for Persons Already Subject to Involuntary
14 Treatment.--* * *

15 (2) The petition shall be in writing upon a form adopted by
16 the department and shall include a statement of the facts
17 constituting reasonable grounds to believe that the person is
18 severely mentally disabled as provided under section 301(a)(2)
19 and in need of treatment. The petition shall state the name of
20 any examining physician and the substance of his opinion
21 regarding the mental condition of the person. It shall also
22 state that the person has been given the information required by
23 subsection (b)(3).

24 * * *

25 (f) Determination and Order.--(1) Upon a finding by clear
26 and convincing evidence that the person is severely mentally
27 disabled as provided under section 301(a)(2) and in need of
28 treatment and subject to subsection (a), an order shall be
29 entered directing treatment of the person in an approved
30 facility as an inpatient or an outpatient, or a combination of

1 such treatment as the director of the facility shall from time
2 to time determine. Inpatient treatment shall be deemed
3 appropriate only after full consideration has been given to less
4 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 * * *

11 (g) Duration of Court-ordered Involuntary Treatment.--* * *

12 (4) In cases involving involuntary treatment pursuant to
13 clause (2), whenever the period of court-ordered involuntary
14 treatment is about to expire and neither the director nor the
15 county administrator intends to apply for an additional period
16 of court-ordered involuntary treatment pursuant to section 305
17 or at any time the director concludes that the person is not
18 severely mentally disabled as provided under section 301(a)(2)
19 or in need of treatment, the director shall petition the court
20 which ordered the involuntary treatment for the unconditional or
21 conditional release of the person. Notice of such petition shall
22 be given to the person, the county administrator and the
23 district attorney. Within 15 days after the petition has been
24 filed, the court shall hold a hearing to determine if the person
25 is severely mentally disabled as provided under section 301(a)
26 (2) and in need of treatment. Petitions which must be filed
27 simply because the period of involuntary treatment will expire
28 shall be filed at least ten days prior to the expiration of the
29 court-ordered period of involuntary treatment. If the court
30 determines after hearing that the person is severely mentally

1 disabled as provided under section 301(a)(2) and in need of
2 treatment, it may order additional involuntary treatment not to
3 exceed one year; if the court does not so determine, it shall
4 order the discharge of the person.

5 * * *

6 Section 4. Section 402(b) of the act is amended to read:

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

9 (b) Involuntary Treatment of Persons Found Incompetent to
10 Stand Trial Who are Not Mentally Disabled.--Notwithstanding the
11 provisions of Article III of this act, a court may order
12 involuntary treatment of a person found incompetent to stand
13 trial but who is not severely mentally disabled as provided
14 under section 301(a)(2), such involuntary treatment not to
15 exceed a specific period of 60 days. Involuntary treatment
16 pursuant to this subsection may be ordered only if the court is
17 reasonably certain that the involuntary treatment will provide
18 the defendant with the capacity to stand trial. The court may
19 order outpatient treatment, partial hospitalization or inpatient
20 treatment.

21 * * *

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