

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 506 Session of
2019

INTRODUCED BY BREWSTER, LANGERHOLC, COSTA, HUGHES, FARNESE AND
HAYWOOD, APRIL 3, 2019

REFERRED TO JUDICIARY, APRIL 3, 2019

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in court-ordered
3 involuntary treatment of certain sexually violent persons,
4 providing for court-ordered involuntary treatment of certain
5 persons for controlled substance addiction; and making
6 editorial changes.

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

9 Section 1. Section 6358(e) of Title 42 of the Pennsylvania
10 Consolidated Statutes is amended to read:

11 § 6358. Assessment of delinquent children by the State Sexual
12 Offenders Assessment Board.

13 * * *

14 (e) Dispositional review hearing.--Where the board has
15 concluded that the child is in need of involuntary treatment
16 pursuant to the provisions of Chapter 64 (relating to [court-
17 ordered involuntary treatment of certain sexually violent
18 persons] involuntary commitment for treatment), the court shall
19 conduct a hearing at which the county solicitor or a designee,
20 the probation officer and the child's attorney are present. The

1 court shall consider the assessment, treatment information and
2 any other relevant information regarding the delinquent child at
3 the dispositional review hearing pursuant to section 6353
4 (relating to limitation on and change in place of commitment),
5 which shall be held no later than 180 days before the 21st
6 birthday of the child. Where the submission of the report was
7 delayed pursuant to subsection (c), the dispositional review
8 hearing shall be held no later than 90 days before the 21st
9 birthday of the child.

10 * * *

11 Section 2. The heading of Chapter 64 of Title 42 is amended
12 to read:

13 CHAPTER 64

14 [COURT-ORDERED INVOLUNTARY TREATMENT OF CERTAIN SEXUALLY
15 VIOLENT PERSONS] INVOLUNTARY COMMITMENT FOR TREATMENT

16 Section 3. Chapter 64 of Title 42 is amended by adding a
17 subchapter heading to read:

18 SUBCHAPTER A

19 COURT-ORDERED INVOLUNTARY TREATMENT OF CERTAIN SEXUALLY
20 VIOLENT PERSONS

21 Section 4. Section 6401 of Title 42 is amended to read:

22 § 6401. Scope of [chapter] subchapter.

23 This [chapter] subchapter establishes rights and procedures
24 for the civil commitment of sexually violent delinquent children
25 who, due to a mental abnormality or personality disorder, have
26 serious difficulty in controlling sexually violent behavior and
27 thereby pose a danger to the public and further provides for
28 additional periods of commitment for involuntary treatment for
29 said persons.

30 Section 5. Section 6402 introductory paragraph and the

1 definitions of "department" and "sexually violent delinquent
2 child" of Title 42 are amended to read:

3 § 6402. Definitions.

4 The following words and phrases when used in this [chapter]
5 subchapter shall have the meanings given to them in this section
6 unless the context clearly indicates otherwise:

7 * * *

8 "Department." The Department of [Public Welfare] Human
9 Services of the Commonwealth.

10 * * *

11 "Sexually violent delinquent child." A person who has been
12 found delinquent for an act of sexual violence which if
13 committed by an adult would be a violation of 18 Pa.C.S. § 3121
14 (relating to rape), 3123 (relating to involuntary deviate sexual
15 intercourse), 3124.1 (relating to sexual assault), 3125
16 (relating to aggravated indecent assault), 3126 (relating to
17 indecent assault) or 4302 (relating to incest) and who has been
18 determined to be in need of commitment for involuntary treatment
19 under this [chapter] subchapter.

20 Section 6. Sections 6403(a) introductory paragraph, (b) (1)
21 and (3) and (c) introductory paragraph, 6404.2(c), 6405, 6406
22 heading and (a), 6407 and 6408 of Title 42 are amended to read:
23 § 6403. Court-ordered involuntary treatment.

24 (a) Persons subject to involuntary treatment.--A person may
25 be subject to court-ordered commitment for involuntary treatment
26 under this [chapter] subchapter if the person:

27 * * *

28 (b) Procedures for initiating court-ordered involuntary
29 commitment.--

30 (1) Where, pursuant to the provisions of section 6358(f)

1 (relating to assessment of delinquent children by the State
2 Sexual Offenders Assessment Board), the court determines that
3 a prima facie case has been presented that the child is in
4 need of involuntary treatment under the provisions of this
5 [chapter] subchapter, the court shall order that a petition
6 be filed by the county solicitor or a designee before the
7 court having jurisdiction of the person pursuant to Chapter
8 63 (relating to juvenile matters).

9 * * *

10 (3) The court shall set a date for the hearing which
11 shall be held within 30 days of the filing of the petition
12 pursuant to paragraph (1) and direct the person to appear for
13 the hearing. A copy of the petition and notice of the hearing
14 date shall be served on the person, the attorney who
15 represented the person at the most recent dispositional
16 review hearing pursuant to section 6358(e) and the county
17 solicitor or a designee. A copy of the petition, the
18 assessment and notice of the hearing date shall also be
19 provided to the director of the facility operated by the
20 department pursuant to section 6406(a) (relating to duty of
21 Department of [Public Welfare] Human Services). The person
22 and the attorney who represented the person shall, along with
23 copies of the petition, also be provided with written notice
24 advising that the person has the right to counsel and that,
25 if he cannot afford one, counsel shall be appointed for the
26 person.

27 * * *

28 (c) Hearing.--A hearing pursuant to this [chapter]
29 subchapter shall be conducted as follows:

30 * * *

1 § 6404.2. Duration of outpatient commitment and review.

2 * * *

3 (c) Status reports.--An involuntary outpatient treatment
4 provider shall submit a report on the person's status and
5 clinical progress, on a form prescribed by the department, to
6 the facility operated by the department pursuant to section
7 6406(a) (relating to duty of Department of [Public Welfare]
8 Human Services), not less than every 30 days.

9 * * *

10 § 6405. Right to counsel.

11 At each proceeding conducted pursuant to the provisions of
12 this [chapter] subchapter, the person who is the subject of the
13 proceeding shall have the right to assistance of counsel.

14 § 6406. Duty of Department of [Public Welfare] Human Services.

15 (a) General rule.--The department shall have the duty to
16 provide a separate, secure State-owned facility or unit utilized
17 solely for the control, care and treatment of persons committed
18 pursuant to this [chapter] subchapter. The department shall be
19 responsible for all costs relating to the control, care and
20 treatment of persons committed to involuntary treatment pursuant
21 to this [chapter] subchapter.

22 * * *

23 § 6407. Regulations.

24 The department shall adopt in consultation with the Juvenile
25 Court Judges' Commission and the board such regulations as are
26 necessary to effectuate the provisions of this [chapter]
27 subchapter.

28 § 6408. Jurisdiction.

29 The court of common pleas for the county which entered the
30 order for commitment of the person for a delinquent act pursuant

to Chapter 63 (relating to juvenile matters) shall have jurisdiction for proceedings under this [chapter] subchapter, including subsequent proceedings.

Section 7. Chapter 64 of Title 42 is amended by adding a subchapter to read:

SUBCHAPTER B

COURT-ORDERED INVOLUNTARY TREATMENT OF CERTAIN PERSONS FOR
CONTROLLED SUBSTANCE ADDICTION

Sec.

6411. Scope of subchapter.

6412. Definitions.

6413. Court-ordered involuntary treatment.

6414. Duration of involuntary inpatient treatment and review.

6415. Transfer to involuntary outpatient treatment.

6416. Duration of involuntary outpatient treatment and review.

6417. Duty of Department of Human Services.

6418. Regulations.

6419. Jurisdiction.

6420. Immunity for good faith conduct.

6421. Criminal prosecution.

§ 6411. Scope of subchapter.

This subchapter establishes procedures for the involuntary commitment of certain persons who are addicted to certain controlled substances, including opioids, and have serious difficulty in controlling their addictions, which may result in criminal behavior and overdoses and may pose a danger or threat of danger to other persons. This subchapter further provides for periods of commitment for involuntary treatment for persons who are addicted.

§ 6412. Definitions.

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

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

"District attorney." The district attorney of the county in which the person is charged with a violation of criminal law.

"Drug addiction." Abuse of or dependence on an opioid or a controlled substance as defined in section 2 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

"Licensed health care facility." A health care facility that is licensed under Article X of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code, or the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act. § 6413. Court-ordered involuntary treatment.

(a) Persons subject to involuntary treatment.--A person shall be subject to court-ordered commitment for involuntary treatment under this subchapter if the person:

(1) has been charged with a criminal offense that is not graded higher than a misdemeanor of the first degree; and

(2) has been treated by emergency medical personnel or law enforcement under emergency circumstances caused by an overdose of opioids or other Schedule I or Schedule II controlled substances on two or more occasions.

(b) Procedures for initiating court-ordered involuntary treatment.--

(1) The district attorney shall file a petition that the person is in need of court-ordered involuntary treatment under the provisions of this subchapter due to a drug

1 addiction.

2 (2) The petition shall be in writing and shall set forth
3 the facts constituting reasonable grounds to believe the
4 individual is within the criteria for court-ordered
5 involuntary treatment. The petition shall include an
6 assessment of the person by a licensed health care facility
7 that establishes that the person meets the criteria for drug
8 addiction.

9 (3) The court shall set a date for the hearing, which
10 shall be held within 10 days of the filing of the petition
11 under paragraph (1) and direct the person to submit to
12 chemical testing and to appear for the hearing. A copy of the
13 petition and notice of the hearing date shall be served on
14 the person, as well as notice advising that the person has
15 the right to counsel and that, if the person cannot afford
16 counsel, counsel shall be appointed for the person.

17 (c) Determination and order.--Upon a finding by clear and
18 convincing evidence that the person has a drug addiction that
19 presents a danger to the person's physical well-being or that
20 results in serious difficulty in controlling behavior that makes
21 the person likely to engage in an act that is a danger to
22 himself or others or that results in criminal conduct, an order
23 shall be entered directing the immediate commitment of the
24 person for involuntary inpatient treatment to a licensed health
25 care facility designated by the department. The order shall be
26 in writing and shall be consistent with the protection, care and
27 treatment of the person.

28 § 6414. Duration of involuntary inpatient treatment and review.

29 (a) Initial period of commitment.--A person who has been
30 committed for involuntary treatment under section 6413 (relating

1 to court-ordered involuntary treatment) shall be subject to a
2 period of commitment for involuntary inpatient treatment for not
3 less than 360 days.

4 (b) Treatment review.--

5 (1) Sixty days prior to the expiration of the 360-day
6 involuntary inpatient treatment period, the department shall
7 submit an evaluation and assessment of the person to the
8 court.

9 (2) The court shall schedule a review hearing, which
10 shall be held no later than 30 days after receipt of both the
11 evaluation and the assessment under paragraph (1). Notice of
12 the review hearing shall be provided to the person, the
13 attorney who represented the person at the previous hearing
14 and the district attorney. If the court determines by clear
15 and convincing evidence that the person continues to have
16 serious difficulty responding to treatment while committed
17 for involuntary inpatient treatment due to continued symptoms
18 of drug addiction or resistance to treatment, the court shall
19 order an additional period of involuntary inpatient treatment
20 of 60 days. Otherwise, the court shall order the department
21 to develop an involuntary outpatient treatment plan for the
22 person. The order shall be in writing and shall be consistent
23 with the protection, care and treatment of the person.

24 (c) Outpatient treatment plan.--

25 (1) If at any time after 250 days of treatment the
26 director or a designee of the licensed health care facility
27 to which the person was committed concludes the person no
28 longer has a serious drug addiction requiring an inpatient
29 setting, the director shall petition the court for a hearing.
30 Notice of the petition shall be given to the person, the

1 attorney who represented the person at the previous hearing
2 held under subsection (b) or section 6413(c), the district
3 attorney and the department. The person and the person's
4 attorney shall also be provided with written notice advising
5 that the person has the right to counsel and that, if the
6 person cannot afford counsel, counsel shall be appointed for
7 the person.

8 (2) Upon receipt of notice under paragraph (1), the
9 department shall conduct a new assessment within 30 days and
10 provide that assessment to the court.

11 (3) Within 10 days after the receipt of the assessment
12 from the department, the court shall hold a hearing. If the
13 court determines by clear and convincing evidence that the
14 person continues, while committed for involuntary inpatient
15 treatment, to suffer from drug addiction that makes the
16 person likely to engage in conduct that is a danger to the
17 person or other persons, the court shall order that the
18 person be subject to the remainder of the period of
19 involuntary inpatient treatment. Otherwise, the court shall
20 order the department to develop an involuntary outpatient
21 treatment plan for the person.

22 (4) The department shall provide the person with notice
23 of the person's right to petition the court for transfer to
24 involuntary outpatient treatment over the objection of the
25 department. The court, after review of the petition, may
26 schedule a hearing under this subchapter.

27 (5) An involuntary outpatient treatment plan shall be in
28 writing and shall identify the specific entity that will
29 provide each clinical and support service identified in the
30 plan.

1 (6) The department shall provide a copy of the
2 involuntary outpatient treatment plan to the court, the
3 person, the attorney who represented the person at the most
4 recent hearing under section 6413 and the district attorney.

5 (d) Prohibition on discharge.--The court may not order
6 discharge from involuntary treatment until the person has
7 completed involuntary outpatient treatment in accordance with
8 this subchapter.

9 § 6415. Transfer to involuntary outpatient treatment.

10 The court may approve or disapprove an involuntary outpatient
11 treatment plan. Upon approval of an involuntary outpatient
12 treatment plan, the court shall order transfer of the person to
13 involuntary involuntary outpatient treatment in accordance with
14 section 6416 (relating to duration of involuntary outpatient
15 treatment and review).

16 § 6416. Duration of involuntary outpatient treatment and
17 review.

18 (a) Terms and conditions.--If a court has ordered the
19 transfer of a person to involuntary outpatient treatment under
20 section 6415 (relating to transfer to involuntary outpatient
21 treatment), the court may, in its discretion, specify the terms
22 and conditions of the involuntary outpatient treatment,
23 including:

24 (1) Absolute compliance with the involuntary outpatient
25 treatment plan.

26 (2) Restrictions and requirements regarding the location
27 of the person's residence and the times the person must be
28 physically present.

29 (3) Restrictions and requirements regarding areas the
30 person is not permitted to visit.

1 (4) Restrictions and requirements regarding who the
2 person may contact in any medium.

3 (5) Periodic tests to determine the consumption of
4 controlled substances or opioids.

5 (b) Duration.--The court shall order involuntary outpatient
6 treatment for a period of 180 days.

7 (c) Status reports.--An involuntary outpatient treatment
8 provider shall submit a report on the person's status and
9 clinical progress, on a form prescribed by the department, to
10 the licensed health care facility operated by the department
11 under section 6417 (relating to duty of Department of Human
12 Services), not less than every 30 days.

13 (d) Failure to comply.--If an involuntary outpatient
14 treatment provider becomes aware that the person has violated
15 any provision of the involuntary outpatient treatment plan or
16 any term or condition specified in subsection (a) or the
17 provider concludes that the person is having serious difficulty
18 controlling drug addiction in an outpatient setting, the
19 provider shall immediately notify the licensed health care
20 facility operated by the department under section 6417(a). The
21 licensed health care facility shall notify the court by the
22 close of the next business day.

23 (e) Revocation of transfer.--Upon receiving notice under
24 subsection (d) that the person has violated a material term or
25 condition of transfer specified in subsection (a) or that the
26 person is having serious difficulty in an outpatient setting
27 controlling drug addiction that makes the person likely to
28 engage in an act that may result in overdose, the court shall
29 revoke the transfer to involuntary outpatient treatment and
30 order the immediate return to involuntary inpatient treatment

1 without a prior hearing, not to exceed 60 days. The court may
2 issue a warrant requiring a law enforcement officer or any
3 person authorized by the court to take the person into custody
4 and return the person to the court for transfer to involuntary
5 inpatient treatment. The person may file a written request for a
6 hearing after revocation of the order for the transfer to
7 involuntary outpatient treatment. The court shall conduct a
8 hearing under section 6413 (relating to court-ordered
9 involuntary treatment) within 10 days of the filing of the
10 request.

11 (f) Annual review and discharge.--

12 (1) Sixty days prior to the expiration of the one-year
13 involuntary outpatient treatment period, the director of the
14 licensed health care facility or a designee shall submit an
15 evaluation of the person, and the board shall submit an
16 assessment of the person to the court.

17 (2) The court shall schedule a review hearing, which
18 shall be conducted under section 6414(b) (relating to
19 duration of involuntary inpatient treatment and review) and
20 which shall be held no later than 30 days after receipt of
21 both the evaluation and the assessment under paragraph (1).
22 Notice of the review hearing shall be provided to the person,
23 the attorney who represented the person at the previous
24 hearing held under section 6413 or 6414 and the district
25 attorney. If the court determines by clear and convincing
26 evidence that the person has serious difficulty controlling
27 drug addiction that makes the person likely to engage in an
28 act of controlled substance use to a degree that poses a
29 danger to the person or other persons, the court shall order
30 an additional period of involuntary inpatient treatment of 60

days. The order shall be in writing and shall be consistent with the protection and appropriate control, care and treatment of the person.

§ 6417. Duty of Department of Human Services.

(a) Duty to provide licensed health care facility.--The department shall have the duty to provide a licensed health care facility or unit utilized solely for the control, care and treatment of persons ordered to be committed under this subchapter.

(b) Treatment plans.--The department, in consultation with the Department of Drug and Alcohol Programs, shall develop policies and procedures for providing individualized treatment and discharge plans based on clinical guidelines and professional standards in the field of controlled substance abuse treatment.

§ 6418. Regulations.

The department shall adopt, in consultation with the Department of Drug and Alcohol Programs, regulations necessary to effectuate the provisions of this subchapter.

§ 6419. Jurisdiction.

The court of common pleas for the county that entered the order for commitment of the person shall have jurisdiction over all proceedings under this subchapter, including subsequent proceedings involving that person.

§ 6420. Immunity for good faith conduct.

The following entities shall be immune from liability for good faith conduct under this subchapter:

(1) The department and its agents and employees.

(2) County probation departments and their agents and employees.

1 (3) Providers of involuntary outpatient treatment and
2 their agents and employees.

3 § 6421. Criminal prosecution.

4 (a) General rule.--When a defendant is accepted into a
5 court-ordered treatment program in accordance with this
6 subchapter, the court shall order that further proceedings on
7 the charges against the defendant be postponed during the term
8 of the court-ordered treatment program.

9 (b) Maximum treatment period.--The period of a court-ordered
10 involuntary treatment program for a defendant may not exceed 24
11 months.

12 (c) Motion to dismiss upon completion.--When the defendant
13 has satisfactorily completed the court-ordered involuntary
14 treatment program prescribed and complied with its conditions
15 under this subchapter, the defendant may move the court for an
16 order dismissing the charges giving rise to the proceeding under
17 this subchapter. This motion shall be supported by affidavit of
18 the defendant and by certification of the department charged
19 with supervising the defendant's court-ordered involuntary
20 treatment program. A copy of the motion shall be served on the
21 district attorney, who shall, within 30 days after service,
22 advise the court of any objections to the motion and serve a
23 copy of the objections on the defendant or the defendant's
24 attorney. If there are no objections filed within the 30-day
25 period, the court shall thereafter dismiss the charges against
26 the defendant and order expungement of the criminal records. If
27 objections are filed with regard to the dismissal of charges,
28 the court shall proceed as set forth in this section.

29 (d) Objections to dismissal or discharge.--If the district
30 attorney files a motion alleging that the defendant, during the

1 period of the program, violated a condition of the court-ordered
2 involuntary treatment program without good cause, or objects to
3 the defendant's request for an order of discharge, a motion
4 alleging the violation must be filed during the period of the
5 court-ordered involuntary treatment program or, if filed
6 thereafter, must be filed within a reasonable time after the
7 alleged violation was committed.

8 (e) Order and disposition.--The defendant shall be afforded
9 an opportunity to be heard. If the court finds that the
10 defendant has committed a violation of a condition of the
11 program without good cause, the court may order, when
12 appropriate, that the court-ordered involuntary treatment
13 program be terminated and that the attorney for the Commonwealth
14 proceed on the charges as provided by law. An order under this
15 section may not be appealable.

16 Section 8. Section 9799.15(c)(1)(iv) of Title 42, reenacted
17 and amended June 12, 2018 (P.L.140, No.29), is amended to read:
18 § 9799.15. Period of registration.

19 * * *

20 (c) Period of registration tolled.--The following shall
21 apply:

22 (1) The period of registration set forth in subsection
23 (a) shall be tolled for the period of time in which the
24 individual specified in section 9799.13 is:

25 * * *

26 (iv) committed to and receiving involuntary
27 inpatient treatment in the State-owned facility or unit
28 set forth in Chapter 64 (relating to [court-ordered
29 involuntary treatment of certain sexually violent
30 persons] involuntary commitment for treatment); or

1 * * *

2 Section 9. Section 9799.16(c)(4) of Title 42 is amended to
3 read:

4 § 9799.16. Registry.

5 * * *

6 (c) Criminal justice information.--The Pennsylvania State
7 Police shall ensure that the following information is included
8 in or electronically accessible by the registry:

9 * * *

10 (4) Current photograph of the individual. In order to
11 fulfill the requirements of this paragraph, in addition to
12 the taking of photographs pursuant to section 9799.15(e), the
13 Pennsylvania State Police shall ensure that additional
14 photographs are taken as needed when there is a significant
15 change in appearance of the individual, including the taking
16 of a current photograph before the individual is released
17 from a State or county correctional institution or an
18 institution or facility set forth in section 6352(a)(3)
19 (relating to disposition of delinquent child) or discharged
20 from the State-owned facility or unit set forth in Chapter 64
21 (relating to [court-ordered involuntary treatment of certain
22 sexually violent persons] involuntary commitment for
23 treatment) due to:

24 (i) the expiration of sentence, period of commitment
25 or involuntary treatment;

26 (ii) parole or other supervised release, including
27 release to a community corrections center or a community
28 contract facility;

29 (iii) commencement of a sentence of intermediate
30 punishment; or

1 (iv) any other form of supervised release.

2 * * *

3 Section 10. Sections 9799.19(h)(4) and 9799.34 introductory
4 paragraph of Title 42, reenacted and amended June 12, 2018
5 (P.L.140, No.29), are amended to read:

6 § 9799.19. Initial registration.

7 * * *

8 (h) Initial registration of juvenile offender or sexually
9 violent delinquent child.--

10 * * *

11 (4) If the individual is, on December 12, 2012, already
12 a sexually violent delinquent child and receiving involuntary
13 treatment in the State-owned facility or unit under Chapter
14 64 (relating to [court-ordered involuntary treatment of
15 certain sexually violent persons] involuntary commitment for
16 treatment), the director of the facility or unit or a
17 designee shall make the sexually violent delinquent child
18 available for and facilitate the collection of the
19 information set forth in section 9799.16(b) and (c) as
20 directed by the Pennsylvania State Police for inclusion in
21 the registry. The Pennsylvania State Police may require the
22 facility or unit to transport the sexually violent delinquent
23 child to and from an approved registration site in order to
24 fulfill the requirement of this paragraph. In addition, the
25 facility or unit shall ensure that the information provided
26 by the sexually violent delinquent child pursuant to section
27 9799.16(b) is updated to reflect accurate information prior
28 to release. The facility or unit may not transfer the
29 sexually violent child to outpatient treatment until it has
30 received verification from the Pennsylvania State Police that

1 it has received the information set forth in section
2 9799.16(b) and (c).

3 * * *

4 § 9799.34. Duties of facilities housing sexual offenders.

5 The Department of Corrections, a county correctional
6 facility, an institution or facility set forth in section
7 6352(a)(3) (relating to disposition of delinquent child) and the
8 separate, State-owned facility or unit established under Chapter
9 64 (relating to [court-ordered involuntary treatment of certain
10 sexually violent persons] involuntary commitment for treatment)
11 shall have the following duties:

12 * * *

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