

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1233 Session of
2017

INTRODUCED BY MURT, BAKER, BENNINGHOFF, BLOOM, BOBACK, BRIGGS,
V. BROWN, SCHLEGEL CULVER, DeLISSIO, EVERETT, GODSHALL,
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WATSON, WHITE, HANNA, DAVIS, BARBIN, SANTORA AND MADDEN,
APRIL 17, 2017

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, OCTOBER 15, 2018

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 TREATMENT FACILITIES AND FOR individualized treatment plan <--
9 AND PROVIDING FOR ASSISTED OUTPATIENT TREATMENT
10 IMPLEMENTATION BY COUNTIES AND FOR ASSISTED OUTPATIENT <--
11 TREATMENT IMPLEMENTATION BY DEPARTMENT; in involuntary
12 examination and treatment, further providing for persons
13 subject, FOR INVOLUNTARY EMERGENCY EXAMINATION AND TREATMENT <--
14 AUTHORIZED BY PHYSICIAN, for persons for whom application may
15 be made and for additional periods of court-ordered
16 involuntary treatment; and adding provisions relating to
17 assisted outpatient treatment.

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

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

1 Section 103. Scope of Act.--This act establishes rights and
2 procedures for all involuntary treatment of mentally ill
3 persons, whether inpatient or outpatient, and for all voluntary
4 inpatient treatment of mentally ill persons. ["Inpatient
5 treatment" shall include all treatment that requires full or
6 part-time residence in a facility. For the purpose of this act,
7 a "facility" means any mental health establishment, hospital,
8 clinic, institution, center, day care center, base service unit,
9 community mental health center, or part thereof, that provides
10 for the diagnosis, treatment, care or rehabilitation of mentally
11 ill persons, whether as outpatients or inpatients.]

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

13 Section 103.1. Definitions.--The following words and phrases
14 when used in this act shall have the meanings given to them in
15 this section unless the context clearly indicates otherwise:

16 "Assisted outpatient treatment." Community-based outpatient
17 social, medical and behavioral health treatment services ordered
18 by a court for a severely mentally disabled person, which
19 services may include, but need not be limited to: MAY INCLUDE <--

20 ONE OR MORE OF THE FOLLOWING SERVICES:

21 (1) Community psychiatric supportive treatment.

22 (2) Assertive community treatment.

23 (3) Medications.

24 (4) Individual or group therapy.

25 (5) Peer support services.

26 (6) Financial services.

27 (7) Housing or supervised living services.

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

1 (9) Any other service prescribed to treat the person's
2 mental illness that either assists the person in living and
3 functioning in the community or helps to prevent a relapse or a
4 deterioration of the person's condition that would be likely to
5 result in a substantial risk of serious harm to the person or
6 others.

7 "COUNTY LOCAL AUTHORITY." THE COUNTY COMMISSIONERS OF A <--
8 COUNTY, OR THE CITY COUNCILS AND THE MAYORS OF THE FIRST CLASS
9 CITIES, OR TWO OR MORE OF THESE ACTING IN CONCERT.

10 "DEPARTMENT." THE DEPARTMENT OF HUMAN SERVICES OF THE
11 COMMONWEALTH.

12 "Facility." A mental health establishment, hospital, clinic,
13 institution, center, day care center, base service unit,
14 community mental health center, or part thereof, that provides
15 for the diagnosis, treatment, care or rehabilitation of mentally
16 ill persons, whether as outpatients or inpatients.

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

19 "Qualified professional." A physician, licensed <--
20 psychologist, prescribing psychologist, certified nurse
21 practitioner, clinical nurse specialist with a specialty in
22 mental health or a physician assistant with a specialty in
23 mental health, or other mental health professional who by years
24 of education, training and experience in mental health settings
25 has:

26 (1) achieved professional recognition and standing as
27 defined by their respective discipline, including, but not
28 limited to, medicine, social work, psychology, nursing,
29 occupational therapy, recreational therapy and vocational
30 rehabilitation; and

1 ~~(2) obtained, if applicable, licensure, registration or~~
2 ~~certification.~~ A MENTAL HEALTH PROFESSIONAL WHO: <--
3 (1) HAS A GRADUATE DEGREE, OR THE INTERNATIONAL EQUIVALENT,
4 FROM AN INSTITUTION ACCREDITED OR EVALUATED BY AN ORGANIZATION
5 RECOGNIZED BY THE DEPARTMENT IN A GENERALLY RECOGNIZED CLINICAL
6 DISCIPLINE THAT INCLUDES MENTAL HEALTH CLINICAL EXPERIENCE;
7 (2) HAS MENTAL HEALTH CLINICAL EXPERIENCE; AND
8 (3) IS LICENSED OR CERTIFIED BY THE COMMONWEALTH.

9 ~~Section 3. Section 107 of the act is amended to read:~~ <--
10 "SECRETARY." THE SECRETARY OF HUMAN SERVICES OF THE <--
11 COMMONWEALTH.

12 SECTION 3. SECTIONS 105 AND 107 OF THE ACT ARE AMENDED TO
13 READ:

14 SECTION 105. TREATMENT FACILITIES.--INVOLUNTARY TREATMENT
15 AND VOLUNTARY TREATMENT FUNDED IN WHOLE OR IN PART BY PUBLIC
16 MONEYS SHALL BE AVAILABLE AT A FACILITY APPROVED FOR SUCH
17 PURPOSES BY THE COUNTY ADMINISTRATOR (WHO SHALL BE THE COUNTY
18 MENTAL HEALTH AND MENTAL RETARDATION ADMINISTRATOR OF A COUNTY
19 OR COUNTIES, OR HIS DULY AUTHORIZED DELEGATE), OR BY THE
20 [DEPARTMENT OF PUBLIC WELFARE, HEREINAFTER CITED AS THE
21 "DEPARTMENT."] DEPARTMENT. APPROVAL OF FACILITIES SHALL BE MADE
22 BY THE APPROPRIATE AUTHORITY WHICH CAN BE THE DEPARTMENT
23 PURSUANT TO REGULATIONS ADOPTED BY THE DEPARTMENT. TREATMENT MAY
24 BE ORDERED AT THE VETERANS ADMINISTRATION OR OTHER AGENCY OF THE
25 UNITED STATES UPON RECEIPT OF A CERTIFICATE THAT THE PERSON IS
26 ELIGIBLE FOR SUCH HOSPITALIZATION OR TREATMENT AND THAT THERE IS
27 AVAILABLE SPACE FOR HIS CARE. MENTAL HEALTH FACILITIES OPERATED
28 UNDER THE DIRECT CONTROL OF THE VETERANS ADMINISTRATION OR OTHER
29 FEDERAL AGENCY ARE EXEMPT FROM OBTAINING STATE APPROVAL. THE
30 DEPARTMENT'S STANDARDS FOR APPROVAL SHALL BE AT LEAST AS

1 STRINGENT AS THOSE OF THE JOINT COMMISSION FOR ACCREDITATION OF
2 HOSPITALS AND THOSE OF THE FEDERAL GOVERNMENT PURSUANT TO TITLES
3 18 AND 19 OF THE FEDERAL SOCIAL SECURITY ACT TO THE EXTENT THAT
4 THE TYPE OF FACILITY IS ONE IN WHICH THOSE STANDARDS ARE
5 INTENDED TO APPLY. AN EXEMPTION FROM THE STANDARDS MAY BE
6 GRANTED BY THE DEPARTMENT FOR A PERIOD NOT IN EXCESS OF ONE YEAR
7 AND MAY BE RENEWED. NOTICE OF EACH EXEMPTION AND THE RATIONALE
8 FOR ALLOWING THE EXEMPTION MUST BE PUBLISHED PURSUANT TO THE ACT
9 OF JULY 31, 1968 (P.L.769, NO.240), KNOWN AS THE "COMMONWEALTH
10 DOCUMENTS LAW," AND SHALL BE PROMINENTLY POSTED AT THE ENTRANCE
11 TO THE MAIN OFFICE AND IN THE RECEPTION AREAS OF THE FACILITY.

12 Section 107. Individualized Treatment Plan.--(a)
13 Individualized treatment plan means a plan of treatment
14 formulated for a particular person in a program appropriate to
15 his specific needs, including an assisted outpatient treatment
16 plan under subsection (b). To the extent possible, the plan
17 shall be made with the cooperation, understanding and consent of
18 the person in treatment, and shall impose the least restrictive
19 alternative consistent with affording the person adequate
20 treatment for his condition.

21 (b) Assisted outpatient treatment plan means an
22 individualized treatment plan developed by A QUALIFIED <--
23 PROFESSIONAL OR the treatment team that is ordered by a court
24 for involuntary outpatient civil commitment of a person. THE <--
25 TREATMENT PLAN SHALL BE REVIEWED AND APPROVED BY A PSYCHIATRIST
26 OR A LICENSED CLINICAL PSYCHOLOGIST PRIOR TO SUBMISSION TO THE
27 COURT. The treatment plan shall contain the reasonable
28 objectives and goals for a person determined to be in need of
29 assisted outpatient treatment. In addition to the requirements
30 of subsection (a), the treatment plan shall include:

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

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

6 (3) The documentation of how the person was involved in the
7 initial development of the treatment plan and the process for
8 involving the person in ongoing evaluation and, if appropriate,
9 modifications to the treatment plan.

10 (C) A TREATMENT PLAN DEVELOPED IN ACCORDANCE WITH THIS <--
11 SECTION SHALL MEET ALL OF THE REQUIREMENTS OF THIS ACT.

12 ~~(C)~~ (D) IN THE DEVELOPMENT AND APPROVAL OF AN INDIVIDUALIZED <--
13 TREATMENT PLAN, NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO
14 REQUIRE A COUNTY TO INCLUDE IN A PERSON'S INDIVIDUAL TREATMENT
15 PLAN FOR ASSISTED OUTPATIENT TREATMENT A SERVICE THAT IS NOT
16 AVAILABLE IN THAT COUNTY OR FOR WHICH NO FUNDING SOURCE OR
17 PROVIDER IS AVAILABLE TO PAY FOR OR RENDER THE SERVICE.

18 SECTION 4. THE ACT IS AMENDED BY ADDING ~~A SECTION~~ SECTIONS <--
19 TO READ:

20 SECTION 117. ASSISTED OUTPATIENT TREATMENT IMPLEMENTATION BY
21 COUNTIES.-- (A) (1) THE COUNTY ADMINISTRATOR OF ANY COUNTY MAY
22 DETERMINE ANNUALLY THAT THE COUNTY MENTAL HEALTH AND
23 INTELLECTUAL DISABILITIES PROGRAM WILL NOT PROVIDE ASSISTED
24 OUTPATIENT TREATMENT PURSUANT TO SECTION 301(C). THE COUNTY
25 ADMINISTRATOR MAKING THE DETERMINATION SHALL:

26 (I) PROVIDE NOTICE TO THE ~~SECRETARY OF HEALTH~~ SECRETARY THAT <--
27 THE COUNTY PROGRAM WILL NOT PROVIDE ASSISTED OUTPATIENT
28 TREATMENT IN ACCORDANCE WITH SECTION 301(C); AND

29 (II) NOTIFY THE COUNTY LOCAL AUTHORITY OF THE DECISION NOT
30 TO OFFER ASSISTED OUTPATIENT TREATMENT IN ACCORDANCE WITH

1 SECTION 301(C).
2 (2) THE NOTIFICATION TO THE ~~SECRETARY OF HEALTH~~ SECRETARY <--
3 UNDER PARAGRAPH CLAUSE (1) SHALL BE SUBMITTED ANNUALLY IN A FORM <--
4 DETERMINED BY THE ~~SECRETARY OF HEALTH~~ SECRETARY. <--
5 (B) THE ~~SECRETARY OF HEALTH~~ SECRETARY SHALL GRANT AN ANNUAL <--
6 WAIVER TO ANY COUNTY THAT HAS NOTIFIED THE ~~SECRETARY OF HEALTH~~ <--
7 SECRETARY UNDER SUBSECTION (A) OF THE COUNTY'S DECISION NOT TO <--
8 OFFER ASSISTED OUTPATIENT SERVICES PURSUANT TO SECTION 301(C).
9 (C) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PERMITTING
10 A COUNTY OR THE ~~SECRETARY OF HEALTH~~ SECRETARY TO WAIVE EXISTING <--
11 OBLIGATIONS OF A COUNTY TO SERVE SERIOUSLY MENTALLY ILL
12 RESIDENTS IN ACCORDANCE WITH ALL OTHER APPLICABLE PROVISIONS OF
13 LAW AND REGULATION.
14 SECTION 118. ASSISTED OUTPATIENT TREATMENT IMPLEMENTATION BY <--
15 DEPARTMENT.-- (A) THE DEPARTMENT SHALL MODIFY THE STANDARD
16 INVOLUNTARY COMMITMENT PETITION FORMS AND OTHER RELEVANT
17 EDUCATIONAL DOCUMENTS USED IN CONJUNCTION WITH THE INVOLUNTARY
18 COMMITMENT PROCESS TO DESCRIBE, DEFINE AND INCORPORATE ASSISTED
19 OUTPATIENT TREATMENT.
20 (B) THE DEPARTMENT SHALL DEVELOP A SEPARATE INVOLUNTARY
21 ASSISTED OUTPATIENT TREATMENT COMMITMENT PETITION FORM WHICH
22 SHALL INCLUDE:
23 (1) THE ELIGIBILITY CRITERIA FOR ASSISTED OUTPATIENT
24 TREATMENT.
25 (2) AFTER CONSULTATION WITH THE PENNSYLVANIA COLLEGE OF
26 EMERGENCY PHYSICIANS, APPROPRIATE GUIDANCE AND INSTRUCTIONS TO
27 THE PETITIONER ON USE OF HOSPITAL EMERGENCY DEPARTMENTS IN
28 CONJUNCTION WITH THE PETITION PROCESS FOR INVOLUNTARY INPATIENT
29 COMMITMENT OR ASSISTED OUTPATIENT TREATMENT.
30 Section 4 5. Section 301(a) of the act is amended and the <--

1 section is amended by adding a subsection to read:

2 Section 301. Persons Who May be Subject to Involuntary
3 Emergency Examination and Treatment.--(a) Persons Subject.--
4 Whenever a person is severely mentally disabled and in need of
5 immediate treatment, he may be made subject to involuntary
6 emergency examination and treatment. A person is severely
7 mentally disabled when, as a result of mental illness, his
8 capacity to exercise self-control, judgment and discretion in
9 the conduct of his affairs and social relations or to care for
10 his own personal needs is so lessened that he poses a clear and
11 present danger of harm to others or to himself, AS DEFINED IN <--
12 SUBSECTION (B), or the person is determined to be in need of
13 assisted outpatient treatment as defined in subsection (c).

14 * * *

15 (c) Determination of Need for Assisted Outpatient
16 Treatment.--(1) The need for assisted outpatient treatment
17 shall be shown by establishing by clear and convincing evidence
18 that the person would benefit from assisted outpatient treatment
19 as manifested by evidence of behavior that indicates all of the
20 following:

21 (i) The person is unlikely to survive safely in the
22 community without supervision, based on a clinical
23 determination.

24 (ii) The person has a history of lack of voluntary adherence
25 to treatment for mental illness and one of the following
26 applies:

27 (A) ~~At least twice within~~ WITHIN the 36 12 months prior to <--
28 the filing of a petition seeking assisted outpatient treatment,
29 the person's failure to adhere to treatment has been a
30 significant factor in necessitating involuntary inpatient

1 hospitalization or receipt of services in a forensic or other
2 mental health unit of a correctional facility, provided that the
3 ~~36-month~~ 12-MONTH period shall be extended by the length of any <--
4 hospitalization or incarceration of the person in a correctional
5 institution that occurred within the ~~36-month~~ 12-MONTH period. <--

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

15 (iii) The person, as a result of the person's mental
16 illness, is unlikely to voluntarily participate in necessary
17 treatment- AND THE PERSON PREVIOUSLY HAS BEEN OFFERED VOLUNTARY <--
18 TREATMENT SERVICES BUT HAS NOT ACCEPTED OR HAS REFUSED TO
19 PARTICIPATE ON A SUSTAINED BASIS IN VOLUNTARY TREATMENT,
20 PROVIDED THAT VOLUNTARY AGREEMENT TO ENTER INTO SERVICES BY A
21 PERSON DURING THE PENDENCY OF A PETITION FOR ASSISTED OUTPATIENT
22 TREATMENT SHALL NOT PRECLUDE THE COURT FROM ORDERING ASSISTED
23 OUTPATIENT TREATMENT FOR THAT PERSON IF REASONABLE EVIDENCE
24 EXISTS TO BELIEVE THAT THE PERSON IS UNLIKELY TO MAKE A
25 VOLUNTARY SUSTAINED COMMITMENT TO AND REMAIN IN A TREATMENT
26 PROGRAM.

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

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

6 Section ~~5~~ 6. ~~Section~~ SECTIONS 302(B) AND 303(c)(1) of the <--
7 act ~~is~~ ARE amended to read: <--

8 SECTION 302. INVOLUNTARY EMERGENCY EXAMINATION AND TREATMENT <--
9 AUTHORIZED BY A PHYSICIAN - NOT TO EXCEED ONE HUNDRED TWENTY
10 HOURS.--* * *

11 (B) EXAMINATION AND DETERMINATION OF NEED FOR EMERGENCY
12 TREATMENT.--A PERSON TAKEN TO A FACILITY SHALL BE EXAMINED BY A
13 PHYSICIAN WITHIN TWO HOURS OF ARRIVAL IN ORDER TO DETERMINE IF
14 THE PERSON IS SEVERELY MENTALLY DISABLED WITHIN THE MEANING OF
15 SECTION [301] 301(B) AND IN NEED OF IMMEDIATE TREATMENT. IF IT
16 IS DETERMINED THAT THE PERSON IS SEVERELY MENTALLY DISABLED AND
17 IN NEED OF EMERGENCY TREATMENT, TREATMENT SHALL BE BEGUN
18 IMMEDIATELY. IF THE PHYSICIAN DOES NOT SO FIND, OR IF AT ANY
19 TIME IT APPEARS THERE IS NO LONGER A NEED FOR IMMEDIATE
20 TREATMENT, THE PERSON SHALL BE DISCHARGED AND RETURNED TO SUCH
21 PLACE AS HE MAY REASONABLY DIRECT. THE PHYSICIAN SHALL MAKE A
22 RECORD OF THE EXAMINATION AND HIS FINDINGS. IN NO EVENT SHALL A
23 PERSON BE ACCEPTED FOR INVOLUNTARY EMERGENCY TREATMENT IF A
24 PREVIOUS APPLICATION WAS GRANTED FOR SUCH TREATMENT AND THE NEW
25 APPLICATION IS NOT BASED ON BEHAVIOR OCCURRING AFTER THE EARLIER
26 APPLICATION.

27 * * *

28 Section 303. Extended Involuntary Emergency Treatment
29 Certified by a Judge or Mental Health Review Officer - Not to
30 Exceed Twenty Days.--* * *

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

22 * * *

23 Section ~~6~~ 7. Section 304(a), (e), (f) and (g) of the act are <--
24 amended and the section is amended by adding subsections to
25 read:

26 Section 304. Court-ordered Involuntary Treatment Not to
27 Exceed Ninety Days.--(a) Persons for Whom Application May be
28 Made.--(1) A person who is severely mentally disabled and in
29 need of treatment, as defined in section 301(a), may be made
30 subject to court-ordered involuntary treatment upon a

1 determination of clear and present danger under section 301(b)
2 (1) (serious bodily harm to others), or section 301(b) (2) (i)
3 (inability to care for himself, creating a danger of death or
4 serious harm to himself), or 301(b) (2) (ii) (attempted suicide),
5 or 301(b) (2) (iii) (self-mutilation), or upon determination that
6 a person meets the requirements under section 301(c)
7 (determination of need for assisted outpatient treatment).

8 (2) Where a petition is filed for a person already subject
9 to involuntary treatment, it shall be sufficient to represent,
10 and upon hearing to reestablish, that the conduct originally
11 required by section [301] 301(b) in fact occurred, and that his
12 condition continues to evidence a clear and present danger to
13 himself or others, or that the conduct originally required by
14 section 301(c) in fact occurred and that his condition continues
15 to evidence a need for assisted outpatient treatment. In such
16 event, it shall not be necessary to show the reoccurrence of
17 dangerous conduct, either harmful or debilitating, within the
18 past 30 days.

19 * * *

20 (c.1) Procedures for Initiating Assisted Outpatient
21 Treatment for Persons Already Subject to Involuntary
22 Treatment.--(1) Petition for assisted outpatient treatment for
23 persons already subject to involuntary treatment under section
24 301(b) (1) or (2), or persons with mental illness subject to
25 treatment in a forensic facility or a correctional institution
26 who are ready for release may be made by the county
27 administrator or the director of the facility to the court of
28 common pleas.

29 (2) The petition shall be in writing upon a form adopted by
30 the department and include a statement of the facts constituting

1 reasonable grounds to believe that the person is:

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

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

8 (3) The petition shall state the name of any examining
9 physician PSYCHIATRIST OR LICENSED CLINICAL PSYCHOLOGIST and the <--
10 substance of his opinion regarding the mental condition of the
11 person. It shall also state that the person has been given the
12 information required by subsection (b)(3).

13 (4) Upon the filing of the petition, the county
14 administrator shall serve a copy on the person, his attorney and
15 those designated to be kept informed, as provided in section
16 302(c), including an explanation of the nature of the
17 proceedings, the person's right to an attorney and the services
18 of an expert in the field of mental health, as provided by
19 subsection (d).

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

22 (6) Treatment shall be permitted to be maintained pending
23 the determination of the petition.

24 (c.2) Procedures for Initiating Assisted Outpatient
25 Treatment for Persons not in Involuntary Treatment.--(1) Any
26 responsible party may file a petition in the court of common
27 pleas requesting assisted outpatient treatment for any person
28 determined under section 301(c) to be in need of assisted
29 outpatient treatment, and who is not already in involuntary
30 treatment, and who is not already in assisted outpatient

1 treatment for whom application could be made under subsection
2 (a).

3 (2) The petition shall be in writing upon a form adopted by
4 the department and shall set forth facts constituting reasonable
5 grounds to believe that the person is within the criteria as
6 defined under section 301(c) for a person in need of assisted
7 outpatient treatment. The petition shall state the name of any <--
8 examining physician and shall be accompanied by a statement of a
9 psychiatrist, or a statement signed by a clinical LICENSED <--
10 psychologist and a statement signed by a physician, stating that <--
11 the person CLINICIAN who issued the petition STATEMENT has <--
12 examined the person and is of the opinion that the person is in
13 need of assisted outpatient treatment, or shall be accompanied
14 by a written statement by the applicant, under oath, that the
15 person has refused to submit to an examination by a
16 psychiatrist, or by a clinical LICENSED psychologist and <--
17 physician.

18 (3) Upon a determination that the petition sets forth
19 reasonable cause, the court shall appoint an attorney to
20 represent the person and set a date for the hearing as soon as
21 practicable. The attorney shall represent the person unless it
22 shall appear that he can afford, and desires to have, private
23 representation.

24 (4) The court, by summons, shall direct the person to appear
25 for a hearing. The court may issue a warrant directing an
26 individual authorized by the county administrator or a peace
27 officer to bring such person before the court at the time of the
28 hearing if there are reasonable grounds to believe that the
29 person will not appear voluntarily. A copy of the petition shall
30 be served on such person at least three days before the hearing

1 together with a notice advising him that an attorney has been
2 appointed who shall represent him unless he obtains an attorney
3 himself, that he has a right to be assisted in the proceedings
4 by an expert in the field of mental health and that he may
5 request or be made subject to psychiatric examination under
6 clause (5).

7 (5) Upon motion of either the petitioner or the person, or
8 upon its own motion, the court may order the person to be
9 examined by a psychiatrist or other qualified professional
10 appointed by the court, provided that ~~any qualified professional~~ <--
11 ~~appointed by the court who is not a psychiatrist shall be from a~~
12 ~~panel of qualified professionals specifically designated by the~~
13 ~~county administrator for their demonstrated expertise and~~
14 ~~ability to conduct court ordered examinations for assisted~~
15 ~~outpatient treatment. Such examination shall be conducted on an~~
16 ~~outpatient basis and the person shall have the right to have~~
17 ~~counsel present. A report of the examination shall be given to~~
18 ~~the court and counsel at least 48 hours prior to the hearing.:~~ <--

19 (I) A QUALIFIED PROFESSIONAL WHO IS APPOINTED BY THE COURT
20 AND IS NOT A PSYCHIATRIST OR LICENSED CLINICAL PSYCHOLOGIST,
21 SHALL BE SELECTED FROM A PANEL OF QUALIFIED PROFESSIONALS
22 SPECIFICALLY DESIGNATED BY THE COUNTY ADMINISTRATOR FOR THE
23 QUALIFIED PROFESSIONAL'S DEMONSTRATED EXPERTISE AND ABILITY TO
24 CONDUCT COURT-ORDERED EXAMINATIONS FOR ASSISTED OUTPATIENT
25 TREATMENT CONSISTENT WITH THE QUALIFIED PROFESSIONAL'S SCOPE OF
26 PRACTICE;

27 (II) THE EXAMINATION SHALL BE CONDUCTED ON AN OUTPATIENT
28 BASIS AND THE PERSON SHALL HAVE THE RIGHT TO HAVE COUNSEL
29 PRESENT;

30 (III) THE WRITTEN REPORT PREPARED BY THE QUALIFIED

1 PROFESSIONAL UNDER SUBCLAUSE (I) SHALL BE REVIEWED AND APPROVED
2 BY A PSYCHIATRIST OR A LICENSED CLINICAL PSYCHOLOGIST PRIOR TO
3 SUBMISSION TO THE COURT; AND

4 (IV) THE WRITTEN REPORT ON THE RESULTS OF THE EXAMINATION
5 SHALL BE GIVEN TO THE COURT AND COUNSEL AT LEAST 48 HOURS PRIOR
6 TO THE HEARING.

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

10 * * *

11 (e) Hearings on Petition for Court-ordered Involuntary
12 Treatment.--A hearing on a petition for court-ordered
13 involuntary treatment shall be conducted according to the
14 following:

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

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

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

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

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

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

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

3 (8) If the person is believed to be in need of assisted
4 outpatient treatment in accordance with section 301(c), a
5 hearing on the petition shall be conducted in accordance with
6 the following ADDITIONAL REQUIREMENTS: <--

7 (i) No later than the date of the hearing, a ~~qualified~~ <--
8 ~~professional~~ TREATMENT TEAM shall provide a written proposed <--
9 assisted outpatient treatment plan to the court. The plan shall
10 state all treatment services recommended for the person and, for
11 each service, shall specify a provider that has agreed to
12 provide the service.

13 (ii) In developing a written proposed assisted outpatient
14 treatment plan, the ~~qualified professional~~ TREATMENT TEAM shall <--
15 take into account, if existing, an advance directive for mental
16 health treatment and provide the following persons with an
17 opportunity to participate:

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

20 (B) all current treating providers;

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

26 (D) any authorized guardian or other surrogate decision-
27 maker.

28 (iii) The written proposed assisted outpatient treatment
29 plan shall include case management services or an assertive
30 community treatment team to provide care coordination and

1 assisted outpatient treatment services recommended by the
2 ~~qualified professional~~ TREATMENT TEAM. If the plan includes <--
3 medication, ~~it~~ THE PRESCRIBING PHYSICIAN'S ORDER shall state <--
4 whether such medication should be self-administered or
5 administered by a specified provider and shall specify type and <--
6 dosage range of medication. In no event shall the plan recommend
7 the use of physical force or restraints to administer medication
8 to the person.

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

15 (A) the recommended assisted outpatient treatment, the
16 rationale for the recommended assisted outpatient treatment and
17 the facts that establish that such treatment is the least
18 restrictive appropriate alternative;

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

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

30 (9) A decision shall be rendered within 48 hours after the

1 close of evidence.

2 (f) Determination and Order.--(1) Upon a finding by clear
3 and convincing evidence that the person is severely mentally
4 disabled and in need of treatment and subject to subsection (a),
5 an order shall be entered directing treatment of the person in
6 an approved facility as an inpatient or an outpatient, or a
7 combination of such treatment as the director of the facility
8 shall from time to time determine. Inpatient treatment shall be
9 deemed appropriate only after full consideration has been given
10 to less restrictive alternatives, including assisted outpatient
11 treatment. Investigation of treatment alternatives shall include
12 consideration of the person's relationship to his community and
13 family, his employment possibilities, all available community
14 resources, and guardianship services. An order for inpatient
15 treatment shall include findings on this issue.

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

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

1 determine the appropriate assisted outpatient treatment plan for
2 the person.

3 (4) If the approved court-ordered assisted outpatient
4 treatment plan includes medications, the court order shall
5 authorize the treatment team, in accordance with their
6 professional judgment AND UNDER SUPERVISION OF THE PRESCRIBING <--
7 PHYSICIAN, to perform routine medication management, including
8 adjustment of specific medications and doses, in consultation
9 with the person and as warranted by changes in the person's
10 medical condition.

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

- 17 (i) set a modification hearing to assess the person's
18 failure to adhere to the assisted outpatient treatment plan;
19 (ii) amend the assisted outpatient treatment plan to foster
20 adherence to necessary treatment by the person; or
21 (iii) issue an order for the person to be examined in
22 accordance with section 302 for purposes of evaluation and, if
23 appropriate, file a petition that the person poses a clear and
24 present danger under section 301(b), provided that a State or
25 county correctional institution may not be considered an
26 authorized treatment facility.

27 (6) If the court determines under clause (5) that the person
28 has failed to adhere to the assisted outpatient treatment plan,
29 the court may not hold that person in contempt or otherwise
30 sanction the person solely based on the failure to comply with

1 the assisted outpatient treatment plan.

2 (7) The person subject to assisted outpatient treatment may
3 petition the court for enforcement of a service specifically
4 contained in that person's individualized treatment plan,
5 provided that the petition must include clear and convincing
6 evidence demonstrating that the service is not being provided in
7 accordance with that plan.

8 (8) A COPY OF THE PERSON'S INDIVIDUALIZED TREATMENT PLAN AND <--
9 RELATED DOCUMENTS SHALL BE MADE AVAILABLE TO THE COURT FOR
10 PURPOSES OF PROCEEDINGS UNDER CLAUSE (5) OR (7).

11 (g) Duration of Court-ordered Involuntary Treatment.--(1) A
12 person may be made subject to court-ordered involuntary
13 treatment under this section for a period not to exceed 90 days,
14 excepting only that: Persons may be made subject to court-
15 ordered involuntary treatment under this section for a period
16 not to exceed one year if:

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

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

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

24 (i) severe mental disability is based on acts giving rise to
25 the following charges under the Pennsylvania Crimes Code: murder
26 (§ 2502); voluntary manslaughter (§ 2503); aggravated assault (§
27 2702); kidnapping (§ 2901); rape (§ 3121(1) and (2));
28 involuntary deviate sexual intercourse (§ 3123(1) and (2));
29 arson (§ 3301); and

30 (ii) a finding of incompetency to be tried or a verdict of

1 acquittal because of lack of criminal responsibility has been
2 entered.

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

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

30 (5) A person may be subject to assisted outpatient treatment

1 for a period of up to 180 days if the person continues to meet
2 the requirements of section 301(c) or is being discharged from
3 involuntary inpatient treatment under this article.

4 Section 7 8. Section 305 of the act is amended by adding a <--
5 subsection to read:

6 Section 305. Additional Periods of Court-ordered Involuntary
7 Treatment.--* * *

8 (c) At the expiration of a period of assisted outpatient
9 treatment under section 304(g) or this section, the court may
10 order treatment for an additional period upon the application of
11 the county administrator or the treatment team. Such order shall
12 be entered upon hearing on findings as required by sections
13 304(a) and (b), and the further finding of a need for continuing
14 assisted outpatient treatment. The additional period of
15 involuntary treatment shall not exceed 180 days.

16 Section 8 9. This act shall take effect in ~~90~~ 180 days. <--