

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

SENATE BILL

No. 962 Session of  
2023

---

INTRODUCED BY LAUGHLIN, A. WILLIAMS, LANGERHOLC, SCHWANK,  
DILLON, FLYNN, PENNYCUICK, YAW, BROOKS AND BOSCOLA,  
OCTOBER 18, 2023

---

REFERRED TO HEALTH AND HUMAN SERVICES, OCTOBER 18, 2023

---

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," providing for involuntary examination and  
7 treatment of substance use disorders.

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

10 Section 1. The act of July 9, 1976 (P.L.817, No.143), known  
11 as the Mental Health Procedures Act, is amended by adding an  
12 article to read:

13 ARTICLE III-A

14 INVOLUNTARY EXAMINATION AND TREATMENT OF

15 SUBSTANCE USE DISORDERS

16 Section 301-A. Declaration of policy.

17 The General Assembly finds and declares as follows:

18 (1) It is the policy of the Commonwealth to seek to  
19 ensure the availability of adequate treatment to persons with  
20 substance use disorders.

1       (2) The provisions of this act shall be interpreted in  
2 conformity with the principles of due process to make  
3 voluntary and involuntary treatment available where the need  
4 is great and its absence could result in serious harm to  
5 persons with a substance use disorder or to others.

6       (3) Treatment for persons with substance use disorders  
7 on a voluntary basis shall be preferred to involuntary  
8 treatment.

9 Section 302-A. Definitions.

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

13 "Drug." A substance that produces a physiological effect  
14 when ingested or introduced into the body. The term includes an  
15 illicit or legal substance.

16 "Drug overdose event." As defined in section 13.7(f) of the  
17 act of April 14, 1972 (P.L.233, No.64), known as The Controlled  
18 Substance, Drug, Device and Cosmetic Act.

19 "Substance use disorder." A treatable mental health  
20 condition that affects a person's brain and behavior, leading to  
21 the person's inability to control the person's use of legal or  
22 illegal drugs, alcohol or medications.

23 Section 303-A. Applicability to persons with substance use  
24 disorders.

25 (a) Construction.--Except as otherwise provided under this  
26 act, the act of April 14, 1972 (P.L.221, No.63), known as the  
27 Pennsylvania Drug and Alcohol Abuse Control Act, and 61 Pa.C.S.  
28 Ch. 41 (relating to State Drug Treatment Program), a person with  
29 a substance use disorder who has experienced a drug overdose  
30 event may be construed as a person who is mentally ill or

1 severely mentally disabled under this act.

2 (b) Immunity.--A person with a substance use disorder who  
3 has experienced a drug overdose event may not be charged and  
4 shall be immune from prosecution and for a violation of  
5 probation or parole if law enforcement only became aware of the  
6 person's commission of an offense under section 13(a) (16), (19),  
7 (31), (32), (33) or (37) of the act of April 14, 1972 (P.L.233,  
8 No.64), known as The Controlled Substance, Drug, Device and  
9 Cosmetic Act, because the person received voluntary or  
10 involuntary treatment under this act. The following shall apply:

11 (1) This subsection may not interfere with or prevent  
12 the investigation, arrest, charging or prosecution of a  
13 person for the delivery or distribution of a controlled  
14 substance, drug-induced homicide or any other crime specified  
15 under section 13(a) of The Controlled Substance, Drug, Device  
16 and Cosmetic Act or any other law of this Commonwealth.

17 (2) This subsection may not bar the admissibility of any  
18 evidence in connection with the investigation and prosecution  
19 for any other prosecution not barred by this subsection.

20 (3) This subsection may not bar the admissibility of any  
21 evidence in connection with the investigation and prosecution  
22 of a crime with regard to another defendant who does not  
23 independently qualify for the prohibition on charging or  
24 prosecuting a person as provided for by this subsection.

25 (4) In addition to any other applicable immunity or  
26 limitation on civil liability, a law enforcement officer or  
27 prosecuting attorney who, acting in good faith, charges a  
28 person who is thereafter determined to be entitled to  
29 immunity under this subsection shall not be subject to civil  
30 liability for the filing of the charges.

1 Section 304-A. Persons who may be subject to involuntary  
2 emergency examination and treatment.

3 If a person experiences a drug overdose event, the person  
4 shall be in need of immediate treatment for the substance use  
5 disorder if the person has been given a life-sustaining drug by  
6 an individual, EMS provider or physician for an intentional or  
7 unintentional drug overdose or the person has been transported  
8 to a hospital for an intentional or unintentional drug overdose.

9 Section 305-A. Involuntary emergency examination and treatment  
10 authorized by physician or substance use disorder  
11 treatment provider.

12 (a) Application for examination.--Emergency examination may  
13 be undertaken at a treatment facility upon any of the following:

14 (1) The certification of a physician or substance use  
15 disorder treatment provider stating the need for the  
16 examination.

17 (2) A warrant issued by the county administrator  
18 authorizing the examination.

19 (3) Without a warrant, an application by a physician,  
20 substance use disorder treatment provider or other authorized  
21 person who has personally observed conduct showing the need  
22 for the examination.

23 (b) Warrant for emergency examination.--Upon written  
24 application by a physician or substance use disorder treatment  
25 provider stating facts constituting reasonable grounds to  
26 believe a person has a substance use disorder and is in need of  
27 immediate treatment, the county administrator may issue a  
28 warrant requiring a person authorized by the county  
29 administrator or a peace officer to take the person to the  
30 facility specified in the warrant.

1 (c) Emergency examination without a warrant.--Upon personal  
2 observation of the conduct of a person constituting reasonable  
3 grounds to believe that the person has a substance use disorder  
4 and is in need of immediate treatment, a physician, substance  
5 use disorder treatment provider, peace officer or any other  
6 person authorized by the county administrator may take the  
7 person to an approved facility for an emergency examination.  
8 Upon arrival, the physician, substance use disorder treatment  
9 provider, peace officer or any other person authorized by the  
10 county administrator shall make a written statement specifying  
11 the grounds for believing the person to be in need of an  
12 examination.

13 (d) Examination and determination of need for emergency  
14 treatment.--A person taken to a facility shall be examined by a  
15 physician or substance use disorder treatment provider within  
16 two hours of arrival in order to determine if the person has a  
17 substance use disorder within the meaning of section 304-A and  
18 is in need of immediate treatment. If it is determined that the  
19 person has a substance use disorder and is in need of emergency  
20 treatment, treatment shall begin immediately. If the physician  
21 or substance use disorder treatment provider does not so find,  
22 or if at any time it appears there is no longer a need for  
23 immediate treatment, the person shall be discharged and returned  
24 to the place as the person may reasonably direct. The physician  
25 or substance use disorder treatment provider shall make a record  
26 of the examination and the findings. A person may not be  
27 accepted for involuntary emergency treatment if a previous  
28 application was granted for the treatment and the new  
29 application is not based on behavior occurring after the  
30 previous application.

1 (e) Notification of rights at emergency examination.--Upon  
2 arrival at the facility, the person shall be informed of the  
3 reasons for emergency examination and of the right to  
4 communicate immediately with others. The person shall be given  
5 reasonable use of the telephone. The person shall be requested  
6 to furnish the names of parties whom the person may want  
7 notified of the persons custody and kept informed of the status.  
8 The county administrator or the director of the facility shall  
9 have the following duties:

10 (1) Give notice to the parties of the whereabouts and  
11 status of the person, how and when the person may be  
12 contacted and visited and how they may obtain information  
13 concerning the person while in inpatient treatment.

14 (2) Take reasonable steps to ensure that while the  
15 person is detained, the health and safety needs of any of the  
16 person's dependents are met and personal property and the  
17 premises the person occupies are secure.

18 (f) Duration of emergency examination and treatment.--A  
19 person who is in treatment under this section shall be  
20 discharged whenever it is determined that the person no longer  
21 is in need of treatment and in any event within 120 hours,  
22 unless within such period:

23 (1) the person is admitted to voluntary treatment in  
24 accordance with section 202; or

25 (2) a certification for extended involuntary emergency  
26 treatment is filed in accordance with section 306-A.

27 Section 306-A. Extended involuntary emergency treatment  
28 certified by judge or medical review officer.

29 (a) Persons subject to extended involuntary emergency  
30 treatment.--Application for extended involuntary emergency

1 treatment may be made for any person who is being treated in  
2 accordance with section 305-A whenever the facility determines  
3 that the need for emergency treatment is likely to extend beyond  
4 120 hours. The application shall be filed immediately in the  
5 court of common pleas and shall state the grounds on which  
6 extended emergency treatment is believed to be necessary. The  
7 application shall state the name of any examining physician or  
8 substance use disorder treatment provider and an opinion  
9 regarding the condition of the person.

10 (b) Appointment of counsel and scheduling of informal  
11 hearing.--Upon receiving the application, the court of common  
12 pleas shall appoint an attorney who shall represent the person  
13 unless it appears that the person can afford, and desires to  
14 have, private representation. Within 24 hours after the  
15 application is filed, an informal hearing shall be conducted by  
16 a judge or by a medical review officer and, if practicable,  
17 shall be held at the facility.

18 (c) Informal conference on extended emergency treatment  
19 application.--

20 (1) At the commencement of the informal conference, the  
21 judge or the medical review officer shall inform the person  
22 of the nature of the proceedings. Information relevant to  
23 whether the person has a substance use disorder and is in  
24 need of treatment shall be reviewed, including the reasons  
25 that continued involuntary treatment is considered necessary.  
26 The explanation shall be made by a physician or substance use  
27 disorder treatment provider who examined the person and shall  
28 be in terms understandable to a layman. The judge or medical  
29 review officer may review any relevant information even if  
30 the information would be normally excluded under rules of

1 evidence if the judge or medical review officer believes that  
2 the information is reliable. The person or the person's  
3 representative shall have the right to ask questions of the  
4 physician or substance use disorder treatment provider and of  
5 any other witnesses and to present any relevant information.  
6 At the conclusion of the review, if the judge or medical  
7 review officer finds that the person has a substance use  
8 disorder and is in need of continued involuntary treatment,  
9 either as an inpatient or through less restrictive assisted  
10 outpatient treatment, the judge or medical review officer  
11 shall so certify. Otherwise, the judge or medical review  
12 officer shall direct that the facility director or the  
13 director's designee discharge the person.

14 (2) A record of the proceedings which need not be a  
15 stenographic record shall be made. The record shall be kept  
16 by the court or medical review officer for at least one year.

17 (d) Contents of certification.--A certification for extended  
18 involuntary treatment shall be made in writing upon a form  
19 adopted by the department and shall include all of the  
20 following:

21 (1) Findings by the judge or medical review officer as  
22 to the reasons that extended involuntary emergency treatment  
23 is necessary.

24 (2) A description of the treatment to be provided  
25 together with an explanation of the adequacy and  
26 appropriateness of the treatment, based upon the information  
27 received at the hearing.

28 (3) Any documents required by the provisions of section  
29 305-A.

30 (4) The application as filed under subsection (a).



1           (5) A statement that the person is represented by  
2 counsel.

3           (6) An explanation of the effect of the certification,  
4 the person's right to petition the court for release under  
5 subsection (g) and the continuing right to be represented by  
6 counsel.

7           (e) Filing and service.--The certification shall be filed  
8 with the director of the facility and a copy served on the  
9 person and other parties as the person requested to be notified  
10 in accordance with section 305-A(e) and on counsel.

11           (f) Effect of certification.--Upon the filing and service of  
12 a certification for extended involuntary emergency treatment,  
13 the person may be given treatment in an approved facility for a  
14 period not to exceed 20 days.

15           (g) Petition to court of common pleas.--In each case in  
16 which the hearing was conducted by a substance use disorder  
17 treatment provider, a person made subject to treatment under  
18 this section shall have the right to petition the court of  
19 common pleas for review of the certification. A hearing shall be  
20 held within 72 hours after the petition is filed unless a  
21 continuance is requested by the person's counsel. The hearing  
22 shall include a review of the certification and evidence as the  
23 court may receive or require. If the court determines that  
24 further involuntary treatment is necessary and that the  
25 procedures prescribed by this act have been followed, it shall  
26 deny the petition. Otherwise, the person shall be discharged.

27           (h) Duration of extended involuntary emergency treatment.--

28           (1) Whenever a person no longer has a substance use  
29 disorder or is in need of immediate treatment and, in any  
30 event, within 20 days after the filing of the certification,

1 the person shall be discharged, unless within the period:

2 (i) the person is admitted to voluntary treatment in  
3 accordance with section 202; or

4 (ii) the court orders involuntary treatment in  
5 accordance section 307-A.

6 (2) In addition to the treatment provided by a substance  
7 use disorder treatment provider at the facility, the director  
8 of the facility shall provide education programs to assist  
9 the individual in finding housing, employment or other  
10 opportunities as the director deems appropriate. During the  
11 treatment period, a substance use disorder treatment provider  
12 shall continue to evaluate the person with a substance use  
13 disorder and determine if additional treatment is needed.

14 Section 307-A. Court-ordered involuntary treatment not to  
15 exceed 90 days.

16 (a) Persons for whom application may be made.--

17 (1) A person who has been diagnosed with a substance use  
18 disorder and is in need of treatment as specified under  
19 section 304-A may be made subject to court-ordered  
20 involuntary treatment.

21 (2) If a petition is filed for a person already subject  
22 to involuntary treatment, it shall be sufficient to  
23 represent, and upon hearing to reestablish, that the conduct  
24 originally required by section 304-A in fact occurred.

25 (b) Procedures for initiating court-ordered involuntary  
26 treatment for persons already subject to involuntary  
27 treatment.--

28 (1) Petition for court-ordered involuntary treatment for  
29 persons already subject to treatment under this section and  
30 sections 306-A and 308-A may be made by the county

1 administrator or the director of the facility to the court of  
2 common pleas.

3 (2) The petition shall be in writing upon a form adopted  
4 by the department and shall include a statement of the facts  
5 constituting reasonable grounds to believe that the person  
6 has a substance use disorder and is in need of treatment. The  
7 petition shall state the name of any examining physician or  
8 substance use disorder treatment provider and the opinion  
9 regarding the condition of the person. It shall also state  
10 that the person has been given the information required by  
11 paragraph (3).

12 (3) Upon the filing of the petition, the county  
13 administrator shall serve a copy on the person, the person's  
14 attorney and those designated to be kept informed as  
15 specified under section 305-A(e), including an explanation of  
16 the nature of the proceedings, the person's right to an  
17 attorney and the services of an expert in the field as  
18 specified under subsection (f).

19 (4) A hearing on the petition shall be held in each  
20 case not more than five days after the filing of the  
21 petition.

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

24 (c) Procedures for initiating court-ordered involuntary  
25 treatment for persons not in involuntary treatment.--

26 (1) A responsible party may file a petition in the court  
27 of common pleas requesting court-ordered involuntary  
28 treatment for a person not already in involuntary treatment  
29 for whom application could be made under subsection (a).

30 (2) The petition shall be in writing upon a form adopted

1 by the department and shall state facts constituting  
2 reasonable grounds to believe that the person is within the  
3 criteria for court-ordered treatment as specified under  
4 subsection (a). The petition shall state the name of any  
5 examining physician or substance use disorder treatment  
6 provider and the opinion regarding the condition of the  
7 person.

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

14 (4) The court, by summons, shall direct the person to  
15 appear for a hearing. The court may issue a warrant directing  
16 a person authorized by the county administrator or a peace  
17 officer to bring the person before the court at the time of  
18 the hearing if there are reasonable grounds to believe that  
19 the person will not appear voluntarily. A copy of the  
20 petition shall be served on the person at least three days  
21 before the hearing together with a notice advising the person  
22 that an attorney has been appointed who shall represent the  
23 person unless the person obtains an attorney, that the person  
24 has a right to be assisted in the proceedings by an expert in  
25 the field of substance use disorder and that the person may  
26 request or be made subject to examination under paragraph  
27 (5).

28 (5) Upon motion of either the petitioner or the person  
29 or upon the court's own motion, the court may order the  
30 person to be examined by a physician or substance use

1 disorder treatment provider appointed by the court. The  
2 examination shall be conducted on an outpatient basis and the  
3 person shall have the right to have counsel present. A report  
4 of the examination shall be given to the court and counsel at  
5 least 48 hours prior to the hearing.

6 (6) Involuntary treatment shall not be authorized during  
7 the pendency of a petition except in accordance with section  
8 305-A or 306-A.

9 (d) Procedures for initiating assisted outpatient treatment  
10 for persons already subject to involuntary treatment.--

11 (1) Petition for assisted outpatient treatment for  
12 persons already subject to involuntary treatment under  
13 section 304-A may be made by the county administrator or the  
14 director of the facility to the court of common pleas.

15 (2) The petition shall be in writing upon a form adopted  
16 by the department and shall include a statement of the facts  
17 constituting reasonable grounds to believe that the person  
18 is no longer determined to be in need of involuntary  
19 inpatient treatment under section 304-A.

20 (3) The petition shall state the name of any examining  
21 physician or substance use disorder treatment provider and  
22 opinion regarding the condition of the person. It shall also  
23 state that the person has been given the information required  
24 by subsection (b) (3).

25 (4) Upon the filing of the petition, the county  
26 administrator shall serve a copy on the person, the person's  
27 attorney and those designated to be kept informed as  
28 specified under section 305-A(e), including an explanation of  
29 the nature of the proceedings, the person's right to an  
30 attorney and the services of an expert in the field of

1 substance use disorder as specified under subsection (f).

2 (5) A hearing on the petition shall be held in each case  
3 not more than five days after the filing of the petition.

4 (6) Treatment shall be permitted to be maintained  
5 pending the determination of the petition.

6 (e) Procedures for initiating assisted outpatient treatment  
7 for persons not in involuntary treatment.--

8 (1) A responsible party may file a petition in the court  
9 of common pleas requesting assisted outpatient treatment for  
10 a person determined under section 304-A to be in need of  
11 assisted outpatient treatment, who is not already in  
12 involuntary treatment and who is not already in assisted  
13 outpatient treatment for whom application could be made under  
14 subsection (a).

15 (2) The petition shall be in writing upon a form adopted  
16 by the department and shall state the facts constituting  
17 reasonable grounds to believe that the person is within the  
18 criteria specified under section 304-A for a person in need  
19 of assisted outpatient treatment. The petition shall be  
20 accompanied by a statement of a physician or substance use  
21 disorder treatment provider that has examined the person and  
22 is of the opinion that the person is in need of assisted  
23 outpatient treatment or by a written statement by the  
24 applicant, under oath, that the person has refused to submit  
25 to an examination by a physician or substance use disorder  
26 treatment provider.

27 (3) Upon a determination that the petition provides  
28 reasonable cause, the court shall appoint an attorney to  
29 represent the person and set a date for the hearing as soon  
30 as practicable. The attorney shall represent the person

1 unless it appears that the person can afford, and desires to  
2 have, private representation.

3 (4) The court, by summons, shall direct the person to  
4 appear for a hearing. The court may issue a warrant directing  
5 an individual authorized by the county administrator or a  
6 peace officer to bring the person before the court at the  
7 time of the hearing if there are reasonable grounds to  
8 believe that the person will not appear voluntarily. A copy  
9 of the petition shall be served on the person at least three  
10 days before the hearing together with a notice advising the  
11 person that an attorney has been appointed who shall  
12 represent the person unless the person obtains an attorney,  
13 that the person has a right to be assisted in the proceedings  
14 by an expert in the field of substance use disorder and that  
15 the person may request or be made subject to examination  
16 under paragraph (5).

17 (5) Upon motion of either the petitioner or the person  
18 or upon the court's own motion, the court may order the  
19 person to be examined by a physician, substance use disorder  
20 treatment provider or other qualified professional appointed  
21 by the court in accordance with the following:

22 (i) The physician, substance use disorder treatment  
23 provider or qualified professional appointed by the court  
24 shall be selected from a panel specifically designated by  
25 the county administrator for the demonstrated expertise  
26 and ability to conduct court-ordered examinations for  
27 assisted outpatient treatment consistent with the scope  
28 of practice.

29 (ii) The examination shall be conducted on an  
30 outpatient basis and the person shall have the right to

1 have counsel present.

2 (iii) The written report prepared by the physician,  
3 substance use disorder treatment provider or qualified  
4 professional under subparagraph (i) shall be reviewed and  
5 approved prior to submission to the court.

6 (iv) The written report on the results of the  
7 examination shall be given to the court and counsel at  
8 least 48 hours prior to the hearing.

9 (6) Involuntary treatment shall not be authorized during  
10 the pendency of a petition except in accordance with sections  
11 305-A and 306-A.

12 (f) Professional assistance.--A person with respect to whom  
13 a hearing has been ordered under this section shall have and be  
14 informed of a right to employ a physician or substance use  
15 disorder treatment provider of choice to assist the person in  
16 connection with the hearing and to testify on the person's  
17 behalf. If the person cannot afford to engage a professional,  
18 the court shall, on application, allow a reasonable fee to  
19 engage a professional. The fee shall be a charge against the  
20 mental health and intellectual disability or substance use  
21 disorder program of the locality.

22 (g) Hearings on petition for court-ordered involuntary  
23 treatment.--A hearing on a petition for court-ordered  
24 involuntary treatment shall be conducted according to the  
25 following:

26 (1) The person shall have the right to counsel and to  
27 the assistance of an expert in substance use disorder.

28 (2) The person shall not be called as a witness without  
29 the person's consent.

30 (3) The person shall have the right to confront and



1 cross-examine all witnesses and to present evidence on their  
2 own behalf.

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

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

9 (6) The hearing shall be conducted by a judge or by a  
10 medical health review officer and may be held at a location  
11 other than a courthouse when doing so appears to be in the  
12 best interest of the person.

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

15 (8) If the person is believed to be in need of assisted  
16 outpatient treatment in accordance with section 304-A, a  
17 hearing on the petition shall be conducted in accordance with  
18 the following additional requirements:

19 (i) No later than the date of the hearing, a  
20 treatment team shall provide a written proposed assisted  
21 outpatient treatment plan to the court. The plan shall  
22 state all treatment services recommended for the person  
23 and, for each service, shall specify a provider that has  
24 agreed to provide the service.

25 (ii) In developing a written proposed assisted  
26 outpatient treatment plan, the treatment team shall take  
27 into account, if existing, an advance directive for  
28 substance use disorder treatment and provide all of the  
29 following persons with an opportunity to participate:

30 (A) The person believed to be in need of court-

1 ordered assistant outpatient treatment.

2 (B) All current treating providers.

3 (C) Upon the request of the person believed to  
4 be in need of court-ordered assistant outpatient  
5 treatment, an individual significant to the person,  
6 including any relative, close friend or individual  
7 otherwise concerned with the welfare of the person.

8 (D) An authorized guardian or other surrogate  
9 decision maker.

10 (iii) The written proposed assisted outpatient  
11 treatment plan shall include case management services or  
12 an assertive community treatment team to provide care  
13 coordination and assisted outpatient treatment services  
14 recommended by the treatment team. If the plan includes  
15 medication, the prescribing physician's order shall state  
16 whether the medication should be self-administered or  
17 administered by a specified provider. The plan may not  
18 recommend the use of physical force or restraints to  
19 administer medication to the person.

20 (iv) A physician or substance use disorder treatment  
21 provider, who has personally examined the person within  
22 10 days of the filing of the petition, shall provide  
23 testimony in support of the finding that the person meets  
24 all of the criteria for assisted outpatient treatment and  
25 in support of a written proposed treatment plan developed  
26 in accordance with this section, including all of the  
27 following:

28 (A) The recommended assisted outpatient  
29 treatment, the rationale for the recommended assisted  
30 outpatient treatment and the facts that establish

1 that the treatment is the least restrictive  
2 appropriate alternative.

3 (B) Information regarding the person's access  
4 to, and the availability of, recommended assisted  
5 outpatient treatment in the community or elsewhere.

6 (C) If the recommended assisted outpatient  
7 treatment includes medication, the types or classes  
8 of medication that should be authorized, the  
9 beneficial and detrimental physical and mental  
10 effects of the medication and whether the medication  
11 should be self-administered or administered by a  
12 specified provider and the ongoing process for  
13 management of the medications in response to changes  
14 in the person's medical condition.

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

17 (h) Determination and order.--

18 (1) Upon a finding by clear and convincing evidence that  
19 the person has a substance use disorder and is in need of  
20 treatment and subject to subsection (a), an order shall be  
21 entered directing treatment of the person in an approved  
22 facility as an inpatient or an outpatient, or a combination  
23 of the treatment as the director of the facility shall from  
24 time to time determine. Inpatient treatment shall be deemed  
25 appropriate only after full consideration has been given to  
26 less restrictive alternatives, including assisted outpatient  
27 treatment. Investigation of treatment alternatives shall  
28 include consideration of the person's relationship to the  
29 person's community and family, the person's employment  
30 possibilities, all available community resources and

1 guardianship services. An order for inpatient treatment shall  
2 include findings on less restrictive alternatives.

3 (2) If the person is found to be in need of assisted  
4 outpatient treatment in accordance with section 304-A or as a  
5 result of consideration of less restrictive settings under  
6 paragraph (1), the court shall order the person to receive  
7 assisted outpatient treatment for a period not to exceed 90  
8 days from any provider or facility approved by the department  
9 or the county administrator for purposes of providing  
10 assisted outpatient treatment. A State or county correctional  
11 institution may not be an authorized facility.

12 (3) The facility or provider shall examine and treat the  
13 person in accordance with the assisted outpatient treatment  
14 plan. If the person is receiving assisted outpatient  
15 treatment or receives treatment in an outpatient setting  
16 during a subsequent period of continued commitment under  
17 section 308-A, the facility or provider to whom the person is  
18 ordered shall determine the appropriate assisted outpatient  
19 treatment plan for the person.

20 (4) If the approved court-ordered assisted outpatient  
21 treatment plan includes medications, the court order shall  
22 authorize the treatment team, in accordance with the team's  
23 professional judgment and under supervision of the  
24 prescribing physician, to perform routine medication  
25 management, including adjustment of specific medications and  
26 doses, in consultation with the person and as warranted by  
27 changes in the person's medical condition.

28 (5) The provider or facility responsible for the  
29 assisted outpatient treatment plan shall inform the court if  
30 the person fails materially to adhere to the treatment plan

1 and comply with the court order. If the court receives  
2 information that a patient is not complying with the court's  
3 order, the court may take any of the following actions:

4 (i) Set a modification hearing to assess the  
5 person's failure to adhere to the assisted outpatient  
6 treatment plan.

7 (ii) Amend the assisted outpatient treatment plan to  
8 foster adherence to necessary treatment by the person.

9 (iii) Issue an order for the person to be examined  
10 in accordance with section 308-A for purposes of  
11 evaluation. A State or county correctional institution  
12 may not be considered an authorized treatment facility.

13 (6) If the court determines under paragraph (5) that the  
14 person has failed to adhere to the assisted outpatient  
15 treatment plan, the court may not hold that person in  
16 contempt or otherwise sanction the person solely based on the  
17 failure to comply with the assisted outpatient treatment  
18 plan.

19 (7) The person subject to assisted outpatient treatment  
20 may petition the court for enforcement of a service  
21 specifically contained in that person's individualized  
22 treatment plan. The petition shall include clear and  
23 convincing evidence demonstrating that the service is not  
24 being provided in accordance with the individualized  
25 treatment plan.

26 (8) A copy of the person's individualized treatment plan  
27 and related documents shall be made available to the court  
28 for purposes of proceedings under paragraph (5) or (7).

29 (i) Duration of court-ordered involuntary treatment.--

30 (1) A person may be made subject to court-ordered

1 involuntary treatment under this section for a period not to  
2 exceed 90 days, except that a person may be made subject to  
3 court-ordered involuntary treatment under this section for a  
4 period not to exceed one year if all of the following apply:

5 (i) The person meets the criteria established under  
6 paragraph (2).

7 (ii) The person may be subject to assisted  
8 outpatient treatment for a period not to exceed 180 days  
9 if the person meets the criteria established under  
10 paragraph (5).

11 (2) A person may be subject to court-ordered involuntary  
12 treatment for a period not to exceed one year if the person  
13 is diagnosed with a severe substance use disorder and is in  
14 need of extensive treatment.

15 (3) If at any time the director of a facility concludes  
16 that the person does not have a substance use disorder or is  
17 not in need of treatment in accordance with subsection (a),  
18 the director shall discharge the person. A person subjected  
19 to involuntary treatment under paragraph (2) may not be  
20 discharged without a hearing conducted in accordance with  
21 paragraph (4).

22 (4) In a case involving involuntary treatment under  
23 paragraph (2), whenever the period of court-ordered  
24 involuntary treatment is about to expire and the director or  
25 the county administrator does not intend to apply for an  
26 additional period of court-ordered involuntary treatment in  
27 accordance with section 308-A or at any time the director  
28 concludes that the person does not have substance use  
29 disorder or is not in need of treatment, the director shall  
30 petition the court which ordered the involuntary treatment

1 for the unconditional or conditional release of the person.  
2 Notice of the petition shall be given to the person, the  
3 county administrator and the district attorney. Within 15  
4 days after the petition has been filed, the court shall hold  
5 a hearing to determine if the person has a substance use  
6 disorder and is in need of treatment. Petitions which must be  
7 filed simply because the period of involuntary treatment will  
8 expire shall be filed at least 10 days prior to the  
9 expiration of the court-ordered period of involuntary  
10 treatment. If the court determines after the hearing that the  
11 person has a substance use disorder and is in need of  
12 treatment, the court may order additional involuntary  
13 treatment not to exceed one year. If the court does not  
14 determine after the hearing that the person has a substance  
15 use disorder and is in need of treatment, the court shall  
16 order the discharge of the person.

17 (5) A person may be subject to assisted outpatient  
18 treatment for a period of up to 180 days if the person is  
19 being discharged from involuntary inpatient treatment under  
20 this article.

21 Section 308-A. Additional periods of court-ordered involuntary  
22 treatment.

23 (a) Authorization.--At the expiration of a period of court-  
24 ordered involuntary treatment under section 307-A(i) or this  
25 section, the court may order treatment for an additional period  
26 upon the application of the county administrator or the director  
27 of the facility in which the person is receiving treatment. The  
28 order shall be entered upon hearing on findings as required by  
29 section 307-A(a) and (b) and the further finding of a need for  
30 continuing involuntary treatment as shown by conduct during the

1 person's most recent period of court-ordered treatment. The  
2 additional period of involuntary treatment shall not exceed 180  
3 days. A person meeting the criteria of section 307-A(i) (2) may  
4 be subject to an additional period of up to one year of  
5 involuntary treatment.

6 (b) Notice.--The director of the facility in which the  
7 person is receiving treatment shall notify the county  
8 administrator at least 10 days prior to the expiration of a  
9 period of involuntary commitment ordered under section 307-A or  
10 this section.

11 (c) Additional periods.--At the expiration of a period of  
12 assisted outpatient treatment under section 307-A(i) or this  
13 section, the court may order treatment for an additional period  
14 upon the application of the county administrator or the  
15 treatment team. The order shall be entered upon hearing on  
16 findings as required by sections 307-A(a) and (b) and the  
17 further finding of a need for continuing assisted outpatient  
18 treatment. The additional period of involuntary treatment shall  
19 not exceed 180 days.

20 Section 309-A. Transfer of persons in involuntary treatment.

21 (a) Transfers.--Subject to the provisions of subsections (b)  
22 and (c), a person in involuntary treatment in accordance with  
23 this article may be transferred to any approved facility.

24 (b) Notice.--In the absence of an emergency, a person  
25 committed under section 307-A(i) (2) may not be transferred  
26 unless written notice is given to the committing judge and the  
27 district attorney in the committing county and no objection is  
28 noted from either within 20 days of receipt of the notice. If  
29 the court or the district attorney objects to the transfer, a  
30 hearing shall be held by the court within 20 days to review the



1 commitment order. A decision shall be rendered within 48 hours  
2 after the close of evidence.

3 (c) Necessary and appropriate.--Whenever a transfer under  
4 this section will constitute a greater restraint, the transfer  
5 shall not take place unless, upon a hearing, a judge or medical  
6 review officer finds the transfer to be necessary and  
7 appropriate.

8 Section 2. This act shall take effect in 60 days.