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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 713 Session of  
2017

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INTRODUCED BY BAKER, TOOHL, ENGLISH, McNEILL, MILLARD,  
ZIMMERMAN, BOBACK, SAYLOR, STAATS, DeLUCA, D. COSTA, WARD,  
OBERLANDER, CORBIN, MCGINNIS, QUIGLEY, SANKEY, PICKETT,  
WHEELAND AND MARSICO, MARCH 6, 2017

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REFERRED TO COMMITTEE ON HEALTH, MARCH 6, 2017

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AN ACT

1 Amending the act of July 9, 1976 (P.L.817, No.143), entitled "An  
2 act relating to mental health procedures; providing for the  
3 treatment and rights of mentally disabled persons, for  
4 voluntary and involuntary examination and treatment and for  
5 determinations affecting those charged with crime or under  
6 sentence," in involuntary examination and treatment, further  
7 providing for persons who may be subject to involuntary  
8 emergency examination and treatment, for involuntary  
9 emergency examination and treatment authorized by a physician  
10 - not to exceed one hundred twenty hours, for extended  
11 involuntary emergency treatment certified by a judge or  
12 mental health review officer - not to exceed twenty days, for  
13 court-ordered involuntary treatment not to exceed ninety  
14 days; and, in determinations affecting those charged with  
15 crime, or under sentence, further providing for incompetence  
16 to proceed on criminal charges and lack of criminal  
17 responsibility as defense.

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

20 Section 1. Sections 301, 302(a)(1), 303(c)(1) and (h),  
21 304(a)(1), (b)(2), (f) and (g)(4) and 402(b) of the act of July  
22 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures  
23 Act, are amended to read:

24 Section 301. Persons Who May be Subject to Involuntary

1 Emergency Examination and Treatment.--(a) Persons Subject.--(1)  
2 Whenever a person is severely mentally disabled and in need of  
3 immediate treatment, he may be made subject to involuntary  
4 emergency examination and treatment.

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

14 (b) Determination of Clear and Present Danger.--(1) Clear  
15 and present danger to others shall be shown by establishing that  
16 within the past 30 days the person has inflicted or attempted to  
17 inflict serious bodily harm on another and that there is a  
18 reasonable probability that such conduct will be repeated. If,  
19 however, the person has been found incompetent to be tried or  
20 has been acquitted by reason of lack of criminal responsibility  
21 on charges arising from conduct involving infliction of or  
22 attempt to inflict substantial bodily harm on another, such 30-  
23 day limitation shall not apply so long as an application for  
24 examination and treatment is filed within 30 days after the date  
25 of such determination or verdict. In such case, a clear and  
26 present danger to others may be shown by establishing that the  
27 conduct charged in the criminal proceeding did occur, and that  
28 there is a reasonable probability that such conduct will be  
29 repeated. For the purpose of this section, a clear and present  
30 danger of harm to others may be demonstrated by proof that the

1 person has made threats of harm and has committed acts in  
2 furtherance of the threat to commit harm.

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

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

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

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

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

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

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

18 \* \* \*

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

22 (c) Informal Conference on Extended Emergency Treatment  
23 Application.--(1) At the commencement of the informal  
24 conference, the judge or the mental health review officer shall  
25 inform the person of the nature of the proceedings. Information  
26 relevant to whether the person is severely mentally disabled as  
27 provided under section 301(a)(2) and in need of treatment shall  
28 be reviewed, including the reasons that continued involuntary  
29 treatment is considered necessary. Such explanation shall be  
30 made by a physician who examined the person and shall be in

1 terms understandable to a layman. The judge or mental health  
2 review officer may review any relevant information even if it  
3 would be normally excluded under rules of evidence if he  
4 believes that such information is reliable. The person or his  
5 representative shall have the right to ask questions of the  
6 physician and of any other witnesses and to present any relevant  
7 information. At the conclusion of the review, if the judge or  
8 the review officer finds that the person is severely mentally  
9 disabled as provided under section 301(a)(2) and in need of  
10 continued involuntary treatment, he shall so certify. Otherwise,  
11 he shall direct that the facility director or his designee  
12 discharge the person.

13 \* \* \*

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

20 (1) he is admitted to voluntary treatment pursuant to  
21 section 202; or

22 (2) the court orders involuntary treatment pursuant to  
23 section 304.

24 Section 304. Court-ordered Involuntary Treatment Not to  
25 Exceed Ninety Days.--(a) Persons for Whom Application May be  
26 Made.--(1) A person who is severely mentally disabled and in  
27 need of treatment, [as defined in section 301(a)] as provided  
28 under section 301(a)(2), may be made subject to court-ordered  
29 involuntary treatment upon a determination of clear and present  
30 danger under section 301(b)(1) (serious bodily harm to others),

1 or section 301(b)(2)(i) (inability to care for himself, creating  
2 a danger of death or serious harm to himself), or 301(b)(2)(ii)  
3 (attempted suicide), [or] 301(b)(2)(iii) (self-mutilation) or  
4 301(b)(2)(iv) (drug overdose event).

5 \* \* \*

6 (b) Procedures for Initiating Court-ordered Involuntary  
7 Treatment for Persons Already Subject to Involuntary  
8 Treatment.--\* \* \*

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

18 \* \* \*

19 (f) Determination and Order.--Upon a finding by clear and  
20 convincing evidence that the person is severely mentally  
21 disabled as provided under section 301(a)(2) and in need of  
22 treatment and subject to subsection (a), an order shall be  
23 entered directing treatment of the person in an approved  
24 facility as an inpatient or an outpatient, or a combination of  
25 such treatment as the director of the facility shall from time  
26 to time determine. Inpatient treatment shall be deemed  
27 appropriate only after full consideration has been given to less  
28 restrictive alternatives. Investigation of treatment  
29 alternatives shall include consideration of the person's  
30 relationship to his community and family, his employment

1 possibilities, all available community resources, and  
2 guardianship services. An order for inpatient treatment shall  
3 include findings on this issue.

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

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

28 Section 402. Incompetence to Proceed on Criminal Charges and  
29 Lack of Criminal Responsibility as Defense.--\* \* \*

30 (b) Involuntary Treatment of Persons Found Incompetent to

1 Stand Trial Who are Not Mentally Disabled.--Notwithstanding the  
2 provisions of Article III of this act, a court may order  
3 involuntary treatment of a person found incompetent to stand  
4 trial but who is not severely mentally disabled as provided  
5 under section 301(a)(2), such involuntary treatment not to  
6 exceed a specific period of 60 days. Involuntary treatment  
7 pursuant to this subsection may be ordered only if the court is  
8 reasonably certain that the involuntary treatment will provide  
9 the defendant with the capacity to stand trial. The court may  
10 order outpatient treatment, partial hospitalization or inpatient  
11 treatment.

12 \* \* \*

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