§1

C.30:4-27.9a

§2

C.30:4-27.3a

P.L. 2023, CHAPTER 139, ***approved August 16, 2023***

Senate, No. 3929 ***(Third Reprint)***

**An Act** concerning involuntary commitment to mental health treatment and **1[**amending**]** supplementing**1** P.L.1987, c.116 **1**(C.30:4-27.1 et seq.)**1** .

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

**1[**1. Section 2 of P.L.1987, c.116 (C.30:4-27.2) is amended to read as follows:

2. As used in P.L.1987, c.116 (C.30:4-27.1 et seq.) and P.L.2009, c.112:

a. "Chief executive officer" means the person who is the chief administrative officer of an institution or psychiatric facility.

b. "Clinical certificate" means a form prepared by the division and approved by the Administrative Office of the Courts, that is completed by the psychiatrist or other physician who has examined the person who is subject to commitment within three days of presenting the person for involuntary commitment to treatment, and which states that the person is in need of involuntary commitment to treatment. The form shall also state the specific facts upon which the examining physician has based his conclusion and shall be certified in accordance with the Rules of the Court. A clinical certificate may not be executed by a person who is a relative by blood or marriage to the person who is being screened.

c. "Clinical director" means the person who is designated by the director or chief executive officer to organize and supervise the clinical services provided in a screening service, short-term care or psychiatric facility. The clinical director shall be a psychiatrist; however, those persons currently serving in the capacity will not be affected by this provision. This provision shall not alter any current civil service laws designating the qualifications of such position.

d. "Commissioner" means the Commissioner of Human Services.

e. "County counsel" means the chief legal officer or advisor of the governing body of a county.

f. "Court" means the Superior Court or a municipal court.

g. "Custody" means the right and responsibility to ensure the provision of care and supervision.

h. "Dangerous to self" means that by reason of mental illness the person has threatened or attempted suicide or serious bodily harm, or has behaved in such a manner as to indicate that the person is unable to satisfy his need for nourishment, essential medical care or shelter, so that it is probable that substantial bodily injury, serious physical harm, or death will result within the reasonably foreseeable future; however, no person shall be deemed to be unable to satisfy his need for nourishment, essential medical care, or shelter if he is able to satisfy such needs with the supervision and assistance of others who are willing and available. This determination shall take into account a person's history, recent behavior, and any recent act, threat, or serious psychiatric deterioration.

i. "Dangerous to others or property" means that by reason of mental illness there is a substantial likelihood that the person will inflict serious bodily harm upon another person or cause serious property damage within the reasonably foreseeable future. This determination shall take into account a person's history, recent behavior, and any recent act, threat, or serious psychiatric deterioration.

j. "Department" means the Department of Human Services.

k. "Director" means the chief administrative officer of a screening service, short-term care facility, or special psychiatric hospital.

l. "Division" means the Division of Mental Health and Addiction Services in the Department of Human Services.

m. "In need of involuntary commitment" or "in need of involuntary commitment to treatment" means that an adult with mental illness, whose mental illness causes the person to be dangerous to self or dangerous to others or property and who is unwilling to accept appropriate treatment voluntarily after it has been offered, needs outpatient treatment or inpatient care at a short-term care or psychiatric facility or special psychiatric hospital because other services are not appropriate or available to meet the person's mental health care needs.

n. "Institution" means any State or county facility providing inpatient care, supervision, and treatment for persons with developmental disabilities; except that with respect to the maintenance provisions of Title 30 of the Revised Statutes, institution also means any psychiatric facility for the treatment of persons with mental illness.

o. "Mental health agency or facility" means a legal entity which receives funds from the State, county, or federal government to provide mental health services.

p. "Mental health screener" means a psychiatrist, psychologist, social worker, registered professional nurse, licensed marriage and family therapist, or other individual trained to do outreach only for the purposes of psychological assessment who is employed by a screening service and possesses the license, academic training or experience, as required by the commissioner pursuant to regulation; except that a psychiatrist and a State licensed clinical psychologist who meet the requirements for mental health screener shall not have to comply with any additional requirements adopted by the commissioner.

q. "Mental hospital" means, for the purposes of the payment and maintenance provisions of Title 30 of the Revised Statutes, a psychiatric facility.

r. "Mental illness" means a current, substantial disturbance of thought, mood, perception, or orientation which significantly impairs judgment, capacity to control behavior, or capacity to recognize reality, but does not include simple alcohol intoxication, transitory reaction to drug ingestion, organic brain syndrome, or developmental disability unless it results in the severity of impairment described herein. The term mental illness is not limited to "psychosis" or "active psychosis," but shall include all conditions that result in the severity of impairment described herein.

s. "Patient" means a person over the age of 18 who has been admitted to, but not discharged from a short-term care or psychiatric facility, or who has been assigned to, but not discharged from an outpatient treatment provider.

t. "Physician" means a person who is licensed to practice medicine in any one of the United States or its territories, or the District of Columbia.

u. "Psychiatric facility" means a State psychiatric hospital listed in R.S.30:1-7, a county psychiatric hospital, or a psychiatric unit of a county hospital.

v. "Psychiatrist" means a physician who has completed the psychiatry training requirements of the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, and is certified by the American Board of Psychiatry and Neurology or the American Osteopathic Board of Neurology and Psychiatry **[**and Neurology**]**.

w. "Psychiatric unit of a general hospital" means an inpatient unit of a general hospital that restricts its services to the care and treatment of persons with mental illness who are admitted on a voluntary basis.

x. "Psychologist" means a person who is licensed as a psychologist by the New Jersey Board of Psychological Examiners.

y. "Screening certificate" means a clinical certificate executed by a psychiatrist or other physician affiliated with a screening service.

z. "Screening service" means a public or private ambulatory care service, whether or not affiliated with a hospital, designated by the commissioner, which provides mental health services including assessment, emergency, and referral services to persons with mental illness in a specified geographic area.

aa. "Screening outreach visit" means an evaluation provided by a mental health screener wherever the person may be when clinically relevant information indicates the person may need involuntary commitment to treatment and is unable or unwilling to come to a screening service.

bb. "Short-term care facility" means an inpatient, community based mental health treatment facility that is designated to provide acute care and assessment services to a person with mental illness whose mental illness causes the person to be dangerous to self or dangerous to others or property. A short-term care facility is authorized to serve persons from a specified geographic area, may be a part of a general hospital or other appropriate health care facility, and shall meet certificate of need requirements and be licensed and inspected by the Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

cc. "Special psychiatric hospital" means a public or private hospital licensed by the Department of Health to provide voluntary and involuntary mental health services, including assessment, care, supervision, treatment, and rehabilitation services to persons with mental illness.

dd. "Treatment team" means one or more persons, including at least one psychiatrist or physician, and may include a psychologist, social worker, nurse, licensed marriage and family therapist, and other appropriate services providers. A treatment team provides mental health services to a patient of a screening service, outpatient treatment provider, or short-term care or psychiatric facility.

ee. "Voluntary admission" means that an adult with mental illness, whose mental illness causes the person to be dangerous to self or dangerous to others or property and is willing to be admitted to a facility voluntarily for care, needs care at a short-term care or psychiatric facility because other facilities or services are not appropriate or available to meet the person's mental health needs. A person may also be voluntarily admitted to a psychiatric facility if his mental illness presents a substantial likelihood of rapid deterioration in functioning in the near future, there are no appropriate community alternatives available, and the psychiatric facility can admit the person and remain within its rated capacity.

ff. "County adjuster" means the person appointed pursuant to R.S.30:4-34.

gg "Least restrictive environment" means the available setting and form of treatment that appropriately addresses a person's need for care and the need to respond to dangers to the person, others, or property and respects, to the greatest extent practicable, the person's interests in freedom of movement and self-direction.

hh. "Outpatient treatment" means clinically appropriate care based on proven or promising treatments directed to wellness and recovery, provided by a member of the patient's treatment team to a person not in need of inpatient treatment. Outpatient treatment may include, but shall not be limited to, day treatment services, case management, residential services, outpatient counseling and psychotherapy, and medication treatment.

ii. "Outpatient treatment provider" means a community-based provider, designated as an outpatient treatment provider pursuant to section 8 of P.L.1987, c.116 (C.30:4-27.8), that provides or coordinates the provision of outpatient treatment to persons in need of involuntary commitment to treatment.

jj. "Plan of outpatient treatment" means a plan for recovery from mental illness approved by a court pursuant to section 17 of P.L.2009, c.112 (C.30:4-27.15a) that is to be carried out in an outpatient setting and is prepared by an outpatient treatment provider for a patient who has a history of responding to treatment. The plan may include medication as a component of the plan; however, medication shall not be involuntarily administered in an outpatient setting.

kk. "Reasonably foreseeable future" means a time frame that may be beyond the immediate or imminent, but not longer than a time frame as to which reasonably certain judgments about a person's likely behavior can be reached.

ll. "Geographic area" means a distinct area of the State that is designated by the commissioner to be served by a screening service and may be a county, portion of a county, or multi-county area.

(cf: P.L.2019, c.391, s.1)**]1**

**1[**2. Section 9 of P.L.1987, c.116 (C.30:4-27.9) is amended to read as follows:

9. Outpatient treatment providers, short-term care facilities, psychiatric facilities and special psychiatric hospitals shall effectuate the following purposes and procedures:

a. An outpatient treatment provider to which a person has been assigned pursuant to an order of continued involuntary commitment to treatment pursuant to section 15 of P.L.1987, c.116 (C.30:4-27.15) shall maintain the plan of outpatient treatment approved by the court pursuant to section 17 of P.L.2009, c.112 (C.30:4-27.15a), and shall notify the court, the person's attorney and the county adjuster of any material non-compliance with the plan by the person and of the inadequacy of the plan of outpatient treatment to meet the person's mental health needs, if applicable, and seek court approval for a modification to a plan of outpatient treatment, as provided for in section 9 of P.L.2009, c.112 (C.30:4-27.8a).

The director or chief executive officer of a short-term care facility, psychiatric facility or special psychiatric hospital shall have custody of a person while that person is detained in the facility and shall notify:

(1) appropriate public or private agencies to arrange for the care of any dependents and to ensure the protection of the person's property; and (2) appropriate ambulatory mental health providers for the purposes of beginning discharge planning.

If a person is admitted to a psychiatric facility, the chief executive officer of the facility shall promptly notify the county adjuster of the person's county of residence that the person has been admitted to the facility.

The facility is authorized to provide assessment, treatment and rehabilitation services and shall provide discharge planning services as required pursuant to section 18 of P.L.1987, c.116 (C.30:4-27.18).

The facility is authorized to detain persons involuntarily committed to the facility.

b. A person shall not be involuntarily committed to treatment at an outpatient treatment provider, short-term care or psychiatric facility, or special psychiatric hospital unless the person is in need of involuntary commitment to treatment.

The person shall be assigned involuntarily to an outpatient treatment provider or admitted involuntarily to a facility only by referral from a screening service or temporary court order. The person may be admitted voluntarily to a short-term care or psychiatric facility or special psychiatric hospital only after the person has been advised orally and in writing of the discharge provisions established pursuant to P.L.1987, c.116 (C.30:4-27.1 et seq.) and P.L.2009, c.112 (C.30:4-27.8a et al.) and of the subsequent possibility that the facility may initiate involuntary commitment proceedings for the person.

c. A general hospital, short-term care or psychiatric facility, or special psychiatric hospital may detain a person, admitted to the facility involuntarily by referral from a screening service without a temporary court order, for **[**no more than**]** up to 72 hours from the time the screening certificate was executed without the need for reevaluation of the person. During this period of time the facility shall initiate court proceedings for the involuntary commitment of the person pursuant to section 10 of P.L.1987, c.116 (C.30:4-27.10). If a determination for a temporary court order has not been rendered within 72 hours from the time the screening certificate was executed, or if a temporary court order has been granted but the admitting facility lacks sufficient capacity to accommodate the person, the facility may detain the person for up to 72 additional hours, provided that:

(1) the person is reevaluated by a psychiatrist at least once every 24 hours;

(2) the psychiatrist reevaluating the person pursuant to paragraph (1) of this subsection recommends the person be detained based on a determination that:

(a) the person’s history indicates a high risk of rehospitalization based on the person’s historic failure to comply with discharge plans; or

(b) there is a substantial likelihood that, by reason of mental illness, the person will be dangerous to the person’s own self or to property or others; and

(3) the person is detained for a total of no more than 144 hours from the time the screening certificate was executed.

d. A person shall not be assigned to an outpatient treatment provider by referral from a screening service without a temporary court order, **[**for more than 72**]** which shall be obtained within 144 hours from the time the screening certificate was executed. During this period of time the provider shall initiate court proceedings for the involuntary commitment of the person pursuant to section 10 of P.L.1987, c.116 (C.30:4-27.10). If more than 144 hours have elapsed from the time the screening certificate was executed, the person may not thereafter be assigned to an outpatient treatment provider by referral from a screening service without a temporary court order unless the person undergoes a new screening, and a new commitment process is initiated, by a psychiatrist who did not conduct the evaluation for the prior clinical certificate.

e. Screenings and evaluations conducted for the purposes of this section may be performed using telemedicine and telehealth, as those terms are defined in section 1 of P.L.2017, c.117 (C.45:1-61).

(cf: P.L.2009, c.112, s.10)**]1**

**1**1. a. Notwithstanding the provisions of section 9 of P.L.1987, c.116 (C.30:4-27.9) or any other law, rule, or regulation to the contrary, commencing on the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) and ending on the last day of the 24th calendar month following that effective date, a short-term care or psychiatric facility, or a special psychiatric hospital, may detain a person admitted to the facility involuntarily by referral from a screening service without a temporary court order for no more than 72 hours from the time the screening certificate was executed.

Except in the event a general hospital was granted a temporary court order permitting the continued hold of the person pursuant to subsection b. of this section, which delayed a person’s admission to the short-term care or psychiatric facility or special psychiatric hospital, a short-term care or psychiatric facility or special psychiatric hospital shall not detain a person admitted to the facility involuntarily by referral from a screening service without a temporary court order for more than 72 hours from the time the screening certificate was executed.

Within 24 hours of admission, the admitting facility shall initiate court proceedings for the involuntary commitment of the person pursuant to section 10 of P.L.1987, c.116 (C.30:4-27.10) and request a temporary court order permitting the continued hold of the person pending the return date of the involuntary commitment hearing, which shall take place no later than 20 days from initial commitment.

b. (1) Notwithstanding the provisions of section 9 of P.L.1987, c.116 (C.30:4-27.9) or any other law, rule, or regulation to the contrary, commencing on the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) and ending on the last day of the 24th calendar month following that effective date, a general hospital, including any satellite emergency department of a general hospital, where a person is located during a screening outreach visit, may not detain the person for more than 72 hours from the time a screening certificate is executed, unless the hospital or emergency department obtains a temporary court order permitting the continued hold of the person for up to 72 additional hours, as determined by the court. The hospital or emergency department may **2[**apply**]** submit an emergent application**2** for such order and continue to hold the person during the pendency of the application, provided that appropriate treatment that meets the standard of care is being rendered to the person. The Office of the Public Defender shall be notified of the **2**emergent**2** application **2**, provided with a copy of the application and all supporting documents,**2** and shall **2[**appoint**]** be appointed as**2** counsel to represent the patient. **2**The application may be decided by the court on documentary presentations relevant to the standards established under paragraph (2) of this subsection. At the request of counsel, the court may conduct a hearing on the record, at which hearing the court shall consider the arguments of counsel and all relevant evidence submitted. The court shall determine the format of the hearing based on the apparent complexity of the matter and the extent of doubt as to the merits of the application, and may, at its discretion, rely on certifications from witnesses or require live testimony.**2**

(2) The court **2[**shall**]** may**2** grant a temporary order granting the continued hold of a person upon an application submitted pursuant to paragraph (1) of this subsection if the hospital or emergency department:

(a) exhausted all reasonable efforts to place the individual in a short-term care or psychiatric facility, or special psychiatric hospital, depending on which facility is appropriate for the person’s condition and is the least restrictive environment; and

(b) demonstrates that there is a substantial likelihood that, by reason of mental illness, the person will be dangerous to the person’s own self or others based upon the certification of two psychiatrists who have examined the patient and deemed the patient is in need of involuntary commitment.

The court shall include such conditions in the temporary order as the court deems appropriate to promote diligent efforts to locate an available facility to accommodate the patient’s needs and protect the rights of the person detained pending commitment. The Office of the Public Defender shall be notified and provided with a copy of any temporary court order granted pursuant to this paragraph. The patient shall receive a court hearing with respect to the issue of continued need for involuntary commitment within 20 days from **2**the date of**2** initial commitment **2**or within 20 days from the date an application was filed pursuant to paragraph (1) of this subsection, whichever date occurs first,**2** unless the patient has been administratively discharged pursuant to section 17 of P.L.1987, c.116 (C.30:4-27.17).

(3) Notwithstanding the provisions of any other law, rule, or regulation to the contrary, commencing on the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) and ending on the last day of the 24th calendar month following that effective date, each general hospital and emergency department shall prepare and submit to the Department of Human Services a quarterly report, which report shall include, but not be limited to, information on:

(a) the number of applications submitted to the court for a temporary court order permitting the continued hold of a person beyond 72 hours pursuant to paragraph (1) of this subsection;

(b) the number of temporary court orders granted pursuant to paragraph (2) of this subsection permitting the continued hold of a person beyond 72 hours;

(c) whether a person detained for longer than 72 hours: has a criminal history; has a co-occurring substance use disorder; has a co-occurring intellectual or developmental disability; or is unable to be released because the **2[**72 hour**]** 72-hour**2** timeframe falls on a weekend and either admission to treatment facilities are not provided on weekends, or discharges from the facility do not occur on weekends;

(d) the length of time each individual was held beyond 72 hours before finding appropriate placement in a treatment facility; and

(e) the number of individuals placed in an appropriate treatment facility within 72 hours.

Any information included in a report concerning specific individuals shall be de-identified. Each report shall be made available to the public within 60 days of the date the Department of Human Services receives the report.**1**

**2**c. (1) Notwithstanding the provisions of any other law, rule, or regulation to the contrary, **3**the Commissioner of Health may, to the extent the commissioner finds necessary,**3** commencing **3[**on**]** 120 days following**3** the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) and ending on the last day of the **3[**24th**]** 15th**3** calendar month following that effective date, **3**allow**3** a general **3**acute care**3** hospital **3[**may**]** that is licensed for acute care hospital psychiatric beds to**3** apply to the Department of Health for temporary licenses for beds for the involuntary commitment of patients. The department **3[**shall**]** may**3** issue temporary licenses pursuant to this paragraph **3[**based on**]** if**3** the hospital **3[**demonstrating**]** demonstrates**3** in its application **3[**an extraordinary**]** a**3** need for such beds **3**based on retrospective data demonstrating the need for involuntary commitment beds, a showing that the hospital continually exhausts all reasonable efforts to place individuals in short-term care or psychiatric facilities, or special psychiatric hospitals, and any other factors as determined by the Commissioner of Health**3**. Any temporary license granted pursuant to this paragraph **3**, unless otherwise confirmed at the next certificate of need review, as required pursuant to N.J.A.C.8:33-4.4 or its successor regulation,**3** shall expire **3[**on the last day of the 24th calendar month following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill)**]** within 90 days of the Commissioner of Health’s decision rendered pursuant to that full review process**3**.

(2) The Department of Health shall make available on its Internet website and continuously update information concerning the total number of temporary licenses granted pursuant to paragraph (1) of this subsection, as well as the number of temporary licenses granted to each hospital that submitted an application pursuant to paragraph (1) of this subsection.

(3) The department shall submit information concerning the total number of temporary licenses granted pursuant to paragraph (1) of this subsection, as well as the number of temporary licenses granted to each hospital that submitted an application pursuant to paragraph (1) of this subsection, to the Commissioner of Human Services, which information shall: (a) be submitted in a manner that allows the Commissioner of Human Services sufficient time to include the information in the report required pursuant to subsection b. of section 2 of this act; and (b) reflect the number of temporary licenses granted as of the date the information is submitted.**2**

**1**2. a. The Department of Human Services and the Department of Health shall jointly conduct a study concerning the challenges of placing individuals in appropriate treatment settings, and the supply of and demand for both involuntary commitment beds and voluntary commitment beds in this State. In conducting the study, the departments shall solicit input from interested stakeholders including, but not limited to, hospitals, the Office of the Public Defender, the Administrative Office of the Courts, advocates representing mental health patients, advocates representing individuals with disabilities, and representatives of psychiatric screening centers.

b. No later than 18 months after the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), the Commissioner of Human Services shall submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a report, which shall include, but not be limited to:

(1) a summary of the findings from the study conducted pursuant to subsection a. of this section;

(2) an analysis of the supply of and demand for involuntary commitment beds and voluntary commitment beds, **3[**based on**]** including consideration of, to the extent practicable,**3** the geographic location of the patient and whether the patient is an adult patient or a pediatric patient, **3**whether the patient has a criminal history, whether the patient is uninsured or underinsured, and whether the patient**3** has been diagnosed with an intellectual or developmental disability and a mental health condition, or has been diagnosed with a substance use disorder and a mental health condition; **2[**and**]2**

(3) **2**the number of temporary licenses granted by the Department of Health pursuant to paragraph (1) of subsection c. of section 1 of this act as of the date the information concerning the licenses is submitted to the Commissioner of Human Services pursuant to paragraph (3) of subsection c. of section 1 of this act; and

(4)**2** any recommendations for legislative action.**1**

3. This act shall take effect immediately.

Revises certain requirements for involuntary commitment for mental health treatment.