

ASSEMBLY, No. 5664

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JUNE 24, 2019

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman CHRISTOPHER P. DEPHILLIPS

District 40 (Bergen, Essex, Morris and Passaic)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Co-Sponsored by:

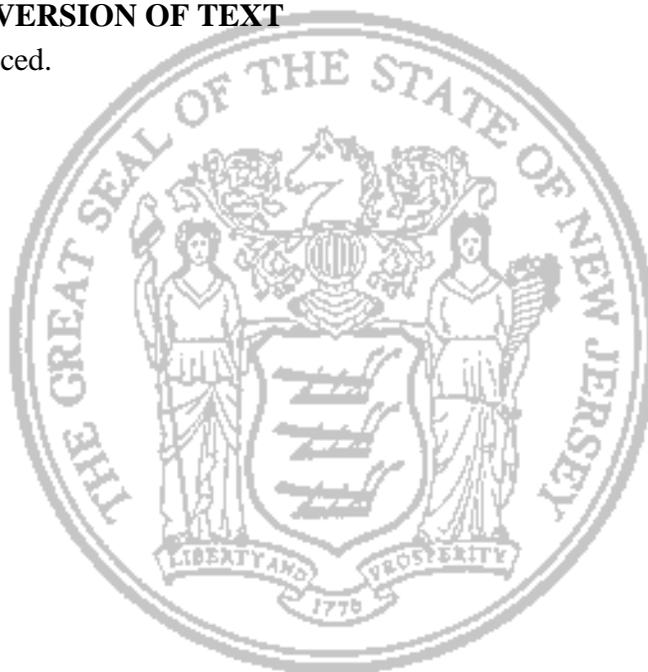
Assemblyman Benson

SYNOPSIS

Authorizes appointment of limited guardian to direct treatment for person with a substance use impairment, or involuntary commitment to treatment when substance use disorder poses imminent danger to self, others, or property.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/8/2019)

1 AN ACT concerning the involuntary treatment, through the use of
2 guardianship and commitment proceedings, of persons with
3 substance use disorders, supplementing Chapter 12 of Title 3B of
4 the Revised Statutes, and amending P.L.1987, c.116, P.L.2009,
5 c.112, and R.S.30:4-34.

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9
10 1. (New section) For purposes of sections 1 through 10 of
11 P.L. , c. (C.) (pending before the Legislature as this bill):

12 “Licensed service provider” means an independent clinic,
13 whether freestanding or a distinct part of a facility, which is
14 licensed or approved by the Department of Health or the
15 Department of Human Services to provide treatment for substance
16 use disorders.

17 “Person” means an individual who is over the age of 18.

18 “Petitioner” means the spouse of a respondent, any person who is
19 a family member within the third degree of consanguinity of the
20 respondent, or a legal guardian of the respondent.

21 “Qualified health professional” means a physician, physician’s
22 assistant, advanced practice nurse, psychiatrist, psychologist, or
23 other health care professional who is properly credentialed and
24 licensed in this State to provide an assessment, diagnosis, or
25 treatment for a substance use disorder.

26 “Respondent” means a person with an alleged substance use
27 impairment who is the subject of a petition filed under section 2 of
28 P.L. , c. (C.) (pending before the Legislature as this bill).

29 “Substance use disorder” means a maladaptive pattern of
30 substance use, as defined in the most recent version of the
31 Diagnostic and Statistical Manual of Mental Disorders, which is
32 manifested by recurrent and significant adverse consequences
33 related to the repeated use of drugs or alcohol. “Substance use
34 disorder” does not include simple alcohol intoxication, or transitory
35 reaction to drug ingestion.

36 “Substance use impairment” means a temporary and treatable
37 condition, resulting from a substance use disorder, which condition
38 either makes it likely that the person suffering therefrom will
39 neglect or refuse to care for himself, including providing for the
40 person’s essential needs such as food, clothing, shelter, health care,
41 or safety, to the extent that such neglect or refusal will pose an
42 imminent threat of substantial harm to the person’s well-being; or
43 makes it substantially likely that the person, without the provision
44 of treatment services, will cause physical harm to himself in the
45 future; and which condition further impairs the person’s judgment

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 to such an extent that the person both is incapable of understanding
2 the need for substance use disorder treatment services, and is unable
3 to make rational decisions regarding the person's receipt of such
4 services, except that the mere refusal of a person to request or
5 receive treatment services will not constitute evidence of lack of
6 judgment with respect to the person's need for services.

7 "Substance use disorder treatment services" or "treatment
8 services" means outpatient or residential substance use disorder
9 treatment services, which are provided by a licensed service
10 provider or qualified health professional.

11

12 2. (New section) a. A petitioner may initiate a civil action
13 seeking to obtain the legal authority to act as a limited and
14 temporary guardian of the person of a respondent who is alleged to
15 have a substance use impairment, for the sole purpose of directing
16 the respondent's substance use disorder treatment services, as
17 provided by subsection b. of this section. A person wishing to
18 commence such a civil action for guardianship shall file a petition
19 with the Superior Court in the respondent's county of residence, in
20 accordance with the Rules of Court and the provisions of section 3
21 of P.L. , c. (C.) (pending before the Legislature as this
22 bill).

23 b. A guardian appointed pursuant to P.L. , c. (C.)
24 (pending before the Legislature as this bill) shall have the duty and
25 authority to:

26 (1) select an appropriate assessment and treatment services
27 provider for the respondent;

28 (2) arrange for the respondent's admission to, and discharge
29 from, the provider for the purposes of assessment and treatment;

30 (3) monitor the execution of the respondent's treatment services
31 plan;

32 (4) make all decisions related to the substance use disorder
33 treatment that is received by the respondent under the guardianship
34 arrangement; and

35 (5) pay the costs of any assessment and treatment services that
36 are provided to the respondent under the guardianship arrangement.

37

38 3. a. In addition to any information that may be required by the
39 Rules of Court, a petition filed pursuant to section 2 of P.L. , c.
40 (C.) (pending before the Legislature as this bill) shall contain:

41 (1) the name and address of the petitioner, and the relationship
42 of the petitioner to the respondent;

43 (2) the name, address, and current location of the respondent;

44 (3) a statement of the petitioner's knowledge as to whether the
45 respondent has an attorney, or has the ability to afford an attorney,
46 and the name and address of the respondent's attorney, if known;

47 (4) factual statements explaining why the petitioner believes that
48 the respondent has a substance use impairment;

1 (5) a statement as to whether the respondent has participated, or
2 has refused to participate, in an assessment by a qualified health
3 professional to determine whether the respondent has a substance
4 use disorder, and the dates on which any such assessment was
5 performed;

6 (6) a statement as to whether the respondent has previously
7 received, or has refused to participate in, substance use disorder
8 treatment services;

9 (7) a statement certifying that the petitioner has made
10 arrangements with a licensed service provider or qualified health
11 professional to provide necessary assessment and treatment services
12 to the respondent, in the event that guardianship is granted under
13 section 4 of P.L. , c. (C.) (pending before the Legislature
14 as this bill), including a statement of verification from the treatment
15 provider where the respondent will receive treatment under the
16 proposed guardianship arrangement; and

17 (8) except as otherwise provided by subsection b. of this section,
18 a statement, prepared by a qualified health professional who has
19 examined the respondent within five days of the filing of the
20 petition, certifying that the respondent has a substance use
21 impairment resulting from a substance use disorder, as alleged in
22 the petition, and that the respondent presently needs and would
23 benefit from treatment services to mitigate the respondent's
24 substance use impairment. The certification submitted under this
25 paragraph shall not be prepared by any health care professional who
26 is employed by the treatment provider, identified in the petition,
27 which will be responsible for providing treatment services to the
28 respondent under the guardianship arrangement.

29 b. If, at the time a petition is filed under this section, the
30 professional certification required by paragraph (8) of subsection a.
31 of this section is not available because the respondent has refused to
32 participate in an assessment, the petition shall state the
33 circumstances of the respondent's refusal, and shall include a
34 statement from the petitioner describing relevant information from
35 the respondent's medical history that reasonably substantiates the
36 allegation that the respondent has a substance use impairment
37 resulting from a substance use disorder, as alleged in the petition.
38 If the petitioner does not have the authority to access the
39 respondent's medical history at the time the petition is filed, the
40 court may:

41 (1) upon the petitioner's request, issue an ex parte order
42 requiring the disclosure, to the petitioner, of medical information
43 related to the respondent's alleged substance use disorder, which
44 the petitioner, upon receipt thereof, and prior to the date of the
45 guardianship hearing, shall provide to the court and to all relevant
46 parties; or

47 (2) on its own motion, and based solely on the allegations and
48 factual statements in the petition, issue an ex parte order requiring

1 the respondent to participate in a substance use disorder assessment
2 prior to the date of the guardianship hearing.

3 c. No filing fee shall be assessed for the filing of a petition
4 under this section; however, the petitioner shall be responsible for
5 other costs associated with guardianship proceedings under this
6 section, including the cost for a sheriff or other law enforcement
7 officer to transport a respondent to an assessment or treatment
8 provider, as provided by subsection b. of section 7 of P.L. , c.
9 (C.) (pending before the Legislature as this bill) and the
10 reasonable cost of court-appointed counsel for the respondent. The
11 court may waive the imposition of costs under this section, if the
12 petitioner is determined to be indigent.

13

14 4. (New section) a. Upon receipt of a petition filed pursuant to
15 section 2 of P.L. , c. (C.) (pending before the Legislature
16 as this bill), the court shall, to the extent feasible, schedule an
17 expedited hearing to determine whether to grant the petitioner
18 limited and temporary guardianship authority over the person of the
19 respondent, for the sole purpose of directing treatment services for
20 the respondent, as provided by subsection b. of section 2 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill). The
22 hearing shall proceed pursuant to the Rules of Court.

23 b. Before commencing a guardianship hearing under this
24 section, the court shall ensure that a copy of the petition filed
25 pursuant to section 2 of P.L. , c. (C.) (pending before the
26 Legislature as this bill) is served on all parties involved in the case.
27 The court shall additionally ensure that the respondent is provided
28 with written notice of the respondent's legal rights in relation to the
29 proceedings, as specified in section 5 of P.L. , c. (C.)
30 (pending before the Legislature as this bill).

31 c. (1) The court shall appoint counsel to represent the
32 respondent at an initial guardianship hearing held pursuant to this
33 section, if: (a) the respondent is determined to be indigent; or (b)
34 the respondent is not represented by counsel, and it appears to the
35 court that the respondent is not capable of understanding the need
36 for counsel, or is not capable of retaining counsel.

37 (2) Counsel appointed by the court pursuant to this subsection,
38 shall continue to be available to consult with the respondent during
39 the initial 90 days of treatment provided under the guardianship
40 arrangement, except that legal consultation provided during such
41 period shall be limited to the issues specified in section 8 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill).
43 Appointed counsel shall not be required to represent the respondent
44 at any other court proceedings under sections 1 through 10 of
45 P.L. , c. (C. through C.) (pending before the
46 Legislature as this bill), other than the initial guardianship hearing,
47 which is held pursuant to subsection a. of this section, unless
48 counsel, in his or her discretion, agrees to such ongoing

1 representation, based on the relief sought and the probability of
2 prevailing on the action.

3 d. At a guardianship hearing conducted pursuant to this section,
4 the petitioner shall have the burden of proving to the court, by clear
5 and convincing evidence, that:

6 (1) the respondent has a substance use impairment resulting
7 from a substance use disorder;

8 (2) the respondent needs, and can reasonably benefit from,
9 substance use disorder treatment services; and

10 (3) the petitioner has made arrangements to have substance use
11 disorder treatment services provided to the respondent through a
12 licensed service provider or qualified health professional.

13 e. (1) If the court finds, after consideration of all of the
14 relevant evidence and testimony submitted at a guardianship
15 hearing under this section, that the petitioner has presented clear
16 and convincing evidence to establish each of the factors enumerated
17 in subsection d. of this section, the court shall enter an order
18 granting the petitioner the authority to act as a limited and
19 temporary guardian of the person of the respondent, for the sole
20 purpose of directing the substance use disorder treatment services
21 that are needed by the respondent to mitigate the respondent's
22 substance use impairment.

23 (2) An order for limited and temporary guardianship of the
24 person, which is issued pursuant to this subsection, shall authorize
25 the petitioner to admit the respondent to treatment services, and to
26 make all decisions related to the substance use disorder treatment
27 that is received by the respondent under the guardianship
28 arrangement, as provided by subsection b. of section 2 of P.L. , c.
29 (C.) (pending before the Legislature as this bill), but it shall
30 not authorize the petitioner to make any other decisions, on the
31 respondent's behalf, with respect to any other aspect of the
32 respondent's life that is not directly related to the treatment of the
33 substance use impairment that established the basis for the
34 guardianship arrangement under P.L. , c. (C.) (pending
35 before the Legislature as this bill).

36 f. (1) A limited and temporary guardianship arrangement
37 ordered by a court pursuant to this section shall automatically
38 expire 90 days after the date of entry of the order for guardianship,
39 or on the date that the respondent is discharged by the treatment
40 provider, whichever is earlier; except that the petitioner may apply
41 to the court for an extension of the limited and temporary
42 guardianship arrangement, if necessary to complete treatment
43 services for the respondent.

44 (2) Following the receipt of a petition for the extension of a
45 guardianship arrangement, as authorized by paragraph (1) of this
46 subsection, the court shall hold an expedited guardianship review
47 hearing to evaluate the continued need for limited and temporary
48 guardianship. The court shall issue an order extending the

1 guardianship arrangement, if it finds, at the review hearing, that the
2 petitioner has presented clear and convincing evidence to establish
3 each of the factors enumerated in subsection d. of this section. Any
4 order extending a guardianship arrangement shall automatically
5 expire, as provided in paragraph (1) of this subsection, unless the
6 guardianship arrangement is further extended by the court in
7 accordance with this paragraph.

8 g. Any order issued by a court pursuant to this section,
9 including an order extending the length of a guardianship
10 arrangement pursuant to subsection f. of this section, shall require
11 the guardian to seek, and the treatment provider to employ, the least
12 restrictive form of treatment services deemed appropriate for the
13 respondent.

14

15 5. (New section) a. A respondent shall have the following
16 rights at any hearing held pursuant to section 4 of P.L. , c.
17 (C.) (pending before the Legislature as this bill):

18 (1) The right to be represented by counsel, or, if indigent, by
19 appointed counsel, as provided by subsection c. of section 4 of
20 P.L. , c. (C.) (pending before the Legislature as this bill);

21 (2) The right to be present at the court hearing, unless the court
22 determines, pursuant to subsection b. of this section, that, because
23 of the respondent's conduct at the court hearing, the proceeding
24 cannot reasonably continue while the respondent is present;

25 (3) The right to present evidence;

26 (4) The right to cross examine witnesses; and

27 (5) The right to a hearing in camera.

28 b. The respondent shall be present at any hearing held pursuant
29 to section 4 of P.L. , c. (C.) (pending before the Legislature
30 as this bill), unless the court finds that the respondent's presence
31 would be detrimental to the respondent or others, or that the
32 respondent willfully refuses to appear before the court, in which
33 case, the court may appoint a guardian ad litem to represent the
34 respondent at the hearing. The appointment of a guardian ad litem
35 shall be in addition to, and shall not supplant, the appointment of
36 counsel for the respondent, as provided by subsection c. of section 4
37 of P.L. , c. (C.) (pending before the Legislature as this
38 bill).

39

40 6. (New section) If, at any time during the course of
41 guardianship proceedings under section 4 of P.L. , c. (C.)
42 (pending before the Legislature as this bill), the court finds that
43 there is reasonable cause to believe that the respondent is in need of
44 involuntary commitment, as defined by section 2 of P.L.1987, c.116
45 (C.30:4-27.2), the court may, on its own motion, initiate a
46 proceeding for the involuntary civil commitment of the respondent,
47 pursuant to P.L.1987, c.116 (C.30:4-27.1 et seq.).

1 7. (New section) a. A person who is granted limited and
2 temporary guardianship authority, pursuant to P.L. , c. (C.)
3 (pending before the Legislature as this bill), may apply to the court
4 seeking the enforcement of any directive of the guardian, related to
5 the respondent's participation in an assessment or treatment
6 services, which the respondent has failed to follow. The court may
7 issue any order necessary to compel the respondent to comply with
8 the guardian's directive, but only to the extent that such directive is
9 deemed by the court to be reasonable and directly related to
10 treatment services for the respondent. The court may also initiate
11 civil contempt proceedings against a respondent for failure to
12 comply with the directives of a guardian, provided that such
13 directives are consistent with the order for limited and temporary
14 guardianship, which is issued by the court pursuant to section 4 of
15 P.L. , c. (C.) (pending before the Legislature as this bill).
16 Under no circumstances shall a respondent be incarcerated for
17 failure to comply with the directives of the guardian.

18 b. (1) Whenever a respondent fails to participate in an
19 assessment or treatment services, pursuant to a directive of a
20 guardian appointed pursuant to section 4 of P.L. , c. (C.)
21 (pending before the Legislature as this bill), or pursuant to an order
22 to the court, the court may direct the sheriff or other law
23 enforcement officer to take the respondent into custody and deliver
24 the respondent directly to a licensed service provider or qualified
25 health professional selected by the guardian.

26 (2) A sheriff or other law enforcement officer, acting in good
27 faith, who takes reasonable steps to take custody of, and transport, a
28 respondent, as directed by the court pursuant to this subsection,
29 shall be immune from civil and criminal liability for such actions.

30 (3) A respondent who is taken into custody pursuant to this
31 subsection shall not be considered to be under arrest for any reason,
32 and no entry or record shall be made by the officer to indicate that
33 the person was detained or charged with any crime or offense.

34
35 8. (New section) A respondent, or the respondent's counsel,
36 may, at any time, submit a petition the court, requesting that the
37 court dismiss guardianship proceedings commenced under section 2
38 of P.L. , c. (C.) (pending before the Legislature as this
39 bill), or vacate an order of temporary and limited guardianship
40 issued thereunder, or provide other appropriate relief in association
41 with any directive of the temporary and limited guardian appointed
42 by the court, on the basis that: the respondent does not have a
43 substance use impairment; the treatment provider is not employing
44 the least restrictive form of substance use disorder treatment; the
45 directive of the guardian, or an order of the court, issued pursuant to
46 section 7 of P.L. , c. (C.) (pending before the Legislature
47 as this bill), is not reasonable or directly related to an assessment or
48 treatment services for the respondent; or the respondent is

1 voluntarily admitting himself or herself to treatment services with a
2 licensed service provider or qualified health professional of the
3 respondent's choosing.

4
5 9. (New section) A person who knowingly provides false
6 information for the purpose of obtaining limited and temporary
7 guardianship authority over another person, as provided by sections
8 1 through 10 of P.L. , c. (C. through C.) (pending
9 before the Legislature as this bill), shall be guilty of a crime of the
10 fourth degree.

11
12 10. (New section) All petitions and related documents filed with
13 the Superior Court, in accordance with sections 1 through 10 of
14 P.L. , c. (C. through C.) (pending before the
15 Legislature as this bill), shall be deemed to be confidential, and
16 shall not be not subject to public inspection, unless otherwise
17 ordered by the court, with the consent of the respondent or the
18 guardian who is appointed pursuant to section 4 of P.L. , c.
19 (C.) (pending before the Legislature as this bill).

20
21 11. Section 1 of P.L.1987, c.116 (C.30:4-27.1) is amended to
22 read as follows:

23 1. The Legislature finds and declares that:

24 a. The State is responsible for providing care, treatment, and
25 rehabilitation services to **mentally ill** persons with mental illness
26 who are disabled and cannot provide basic care for themselves **or**
27 who are, and to persons with a mental illness or substance use
28 disorder that causes them to be dangerous to themselves, others, or
29 property; and because some of these **mentally ill** persons do not
30 seek treatment, or are not able to benefit from voluntary treatment
31 provided on an outpatient basis, it is necessary that State law
32 provide for the voluntary admission and the involuntary
33 commitment to treatment of these persons, as well as for the public
34 services and facilities necessary to fulfill these responsibilities.

35 b. Because involuntary commitment to treatment entails certain
36 deprivations of liberty, it is necessary that State law balance the
37 basic value of liberty with the need for safety and treatment, a
38 balance that is difficult to effect because of the limited ability to
39 predict behavior; and, therefore, it is necessary that State law
40 provide clear standards and procedural safeguards that ensure that
41 only those persons who are dangerous to themselves, others, or
42 property, are involuntarily committed to treatment.

43 c. It is the policy of this State that persons in the public mental
44 health **system** and substance use disorder treatment systems
45 receive inpatient treatment and rehabilitation services in the least
46 restrictive environment, in accordance with the highest professional
47 standards, and **which will enable** in a manner that enables those

1 persons committed to treatment to return to full autonomy in their
2 community as soon as it is clinically appropriate. In addition, it is
3 the policy of this State to ensure that appropriate outpatient
4 treatment services are readily available to all persons with mental
5 illness or substance use disorders, such that involuntary
6 commitment to treatment is rarely required; but that persons with
7 mental illness or a substance use disorder who are determined to be
8 dangerous to themselves, others, or property should be subject to
9 involuntary treatment in the least restrictive environment possible,
10 in an inpatient or outpatient setting clinically appropriate to their
11 condition.

12 Further, it is the policy of this State that the public mental health
13 system shall be developed in a manner which protects individual
14 liberty and provides advocacy and due process for persons receiving
15 treatment, and insures that treatment is provided in a manner
16 consistent with a person's clinical condition.

17 d. It is the policy of this State to encourage each county or
18 designated mental health service area to develop a screening
19 service, outpatient treatment provider, and short-term care facility
20 **【which will meet the needs for】** to provide for the evaluation and
21 treatment of **【mentally ill】** persons with mental illness or substance
22 use disorders in the county or service area. The State encourages
23 the development of screening services as the public **【mental health**
24 **system's】** entry point into the State's mental health and substance
25 use disorder treatment systems, in order to provide accessible crisis
26 intervention, evaluation, and referral services to **【mentally ill】**
27 persons with mental illness or substance use disorders in the
28 community; to offer **【mentally ill persons】** clinically appropriate
29 alternatives to inpatient care, if any, for persons with mental illness
30 or substance use disorders; and, when necessary, to provide a means
31 for involuntary commitment to treatment. Similarly, the State
32 encourages the development of community-based outpatient
33 treatment providers and short-term care facilities to enable a
34 **【mentally ill】** person with mental illness or a substance use disorder
35 to receive outpatient care, or acute, inpatient care, as appropriate,
36 near the person's community. **【Development】** The development
37 and use of screening services, outpatient treatment providers, and
38 short-term care facilities throughout the State **【are】** is necessary to
39 strengthen the Statewide community mental health **【system】** and
40 substance use disorder treatment systems, lessen inappropriate
41 hospitalization and reliance on psychiatric institutions, and enable
42 State and county facilities to provide the rehabilitative care needed
43 by some **【mentally ill】** persons with mental illness or substance use
44 disorders following their receipt of acute care.

45 (cf: P.L.2009, c.112, s.1)

- 1 12. Section 2 of P.L.1987, c.116, s.2 (C.30:4-27.2) is amended
2 to read as follows:
- 3 2. As used in P.L.1987, c.116 (C.30:4-27.1 et seq.) and
4 P.L.2009, c.112 (C.30:4-27.8a et al.):
- 5 a. "Chief executive officer" means the person who is the chief
6 administrative officer of an institution **【or】**, a psychiatric facility,
7 or a residential substance use disorder treatment facility.
- 8 b. "Clinical certificate" means a form₂ prepared by the division
9 and approved by the Administrative Office of the Courts, **【that】**
10 which is completed by the psychiatrist or other physician who has
11 examined the person **【who is】** subject to commitment₂ within three
12 days of presenting the person for involuntary commitment to
13 treatment, and which states that the person is in need of involuntary
14 commitment to treatment. The form shall also state the specific
15 facts upon which the examining physician has based his conclusion₂
16 and shall be certified in accordance with the Rules of the Court. A
17 clinical certificate may not be executed by a person who is a
18 relative by blood or marriage to the person who is being screened.
- 19 c. "Clinical director" means the person who is designated by
20 the director or chief executive officer to organize and supervise the
21 clinical services provided in a screening service, short-term care
22 facility, or psychiatric facility. The clinical director shall be a
23 psychiatrist₂; however, those persons currently serving in the
24 capacity on the effective date of P.L.1987, c.116 (C.30:4-27.1 et
25 seq.) will not be affected by this provision. This provision shall not
26 alter any current civil service laws designating the qualifications of
27 such position.
- 28 d. "Commissioner" means the Commissioner of Human
29 Services.
- 30 e. "County counsel" means the chief legal officer or advisor of
31 the governing body of a county.
- 32 f. "Court" means the Superior Court or a municipal court.
- 33 g. "Custody" means the right and responsibility to ensure the
34 provision of care and supervision.
- 35 h. "Dangerous to self" means that₂ by reason of a person's
36 mental illness or substance use disorder, the person has threatened
37 or attempted suicide or serious bodily harm, or has behaved in such
38 a manner as to indicate that the person is unable to satisfy **【his】** the
39 person's need for nourishment, essential medical care₂ or shelter, so
40 that it is probable that substantial bodily injury, serious physical
41 harm₂ or death will result within the reasonably foreseeable future;
42 however, no person shall be deemed to be unable to satisfy **【his】**
43 the person's need for nourishment, essential medical care₂ or
44 shelter₂ if **【he】** the person is able to satisfy such needs with the
45 supervision and assistance of others who are willing and available.
46 This determination shall take into account a person's history, recent
47 behavior₂ and any recent act, threat₂ or serious psychiatric

- 1 deterioration, including evidence of a recent drug overdose or
2 mental health crisis.
- 3 i. "Dangerous to others or property" means that, by reason of a
4 person's mental illness or substance use disorder, there is a
5 substantial likelihood that the person will inflict serious bodily
6 harm upon another person or cause serious property damage within
7 the reasonably foreseeable future. This determination shall take
8 into account a person's history, recent behavior, and any recent act,
9 threat, or serious psychiatric deterioration, including evidence of a
10 recent mental health crisis.
- 11 j. "Department" means the Department of Human Services.
- 12 k. "Director" means the chief administrative officer of a
13 screening service, short-term care facility, or special psychiatric
14 hospital.
- 15 l. "Division" means the Division of Mental Health and
16 Addiction Services in the Department of Human Services.
- 17 m. "In need of involuntary commitment" or "in need of
18 involuntary commitment to treatment" means that an adult with
19 mental illness or a substance use disorder, whose mental illness or
20 substance use disorder causes the person to be dangerous to self or
21 dangerous to others or property, and who is unwilling to accept
22 appropriate treatment voluntarily after it has been offered, **[needs]**
23 is in need of residential substance use disorder treatment, outpatient
24 mental health or substance use disorder treatment, or inpatient
25 psychiatric care at a short-term care **[or]** facility, psychiatric
26 facility, or special psychiatric hospital, because other services are
27 not appropriate or available to meet the person's mental health care
28 or substance use disorder treatment needs.
- 29 n. "Institution" means any State or county facility providing
30 inpatient care, supervision, and treatment for persons with
31 developmental disabilities; except that, with respect to the
32 maintenance provisions of Title 30 of the Revised Statutes,
33 "institution" also means any psychiatric facility for the treatment of
34 persons with mental illness.
- 35 o. "Mental health agency or facility" means a legal entity
36 which receives funds from the State, county, or federal government
37 to provide mental health services.
- 38 p. "Mental health screener" means a psychiatrist, psychologist,
39 social worker, registered professional nurse, or other individual who
40 is trained to do outreach **[only]** for the purposes of psychological
41 and substance use disorder assessment **[who],** is employed by a
42 screening service, and possesses the license, academic training, or
43 experience**[, as]** required by the commissioner pursuant to
44 regulation; except that a psychiatrist and a State licensed clinical
45 psychologist who meet the first two requirements **[for]** necessary to
46 act as a mental health screener, as specified in this definition, shall

- 1 not have to comply with any additional licensure, training, or
2 experiential requirements adopted by the commissioner.
- 3 q. "Mental hospital" means, for the purposes of the payment
4 and maintenance provisions of Title 30 of the Revised Statutes, a
5 psychiatric facility.
- 6 r. "Mental illness" means a current, substantial disturbance of
7 thought, mood, perception or orientation, other than a disturbance
8 resulting from a substance use disorder, which significantly impairs
9 a person's judgment, capacity to control behavior, or capacity to
10 recognize reality[, but]. "Mental illness" does not include [simple
11 alcohol intoxication, transitory reaction to drug ingestion,] organic
12 brain syndrome or developmental disability, unless [it] such
13 condition results in the severity of impairment described herein.
14 [The term mental] "Mental illness" is not limited to
15 ["]psychosis["] or ["]active psychosis,["] but shall include all
16 conditions that result in the severity of impairment described herein.
- 17 s. "Patient" means a person over the age of 18 who has been
18 admitted to, but not discharged from, a residential substance use
19 disorder treatment facility, a short-term care facility, or a
20 psychiatric facility, or who has been assigned to, but not discharged
21 from, an outpatient treatment provider.
- 22 t. "Physician" means a person who is licensed to practice
23 medicine in any one of the United States or its territories, or in the
24 District of Columbia.
- 25 u. "Psychiatric facility" means a State psychiatric hospital
26 listed in R.S.30:1-7, a county psychiatric hospital, or a psychiatric
27 unit of a county hospital.
- 28 v. "Psychiatrist" means a physician who has completed the
29 training requirements of the American Board of Psychiatry and
30 Neurology.
- 31 w. "Psychiatric unit of a general hospital" means an inpatient
32 unit of a general hospital [that], which unit restricts its services to
33 the care and treatment of persons with mental illness who are
34 admitted on a voluntary basis.
- 35 x. "Psychologist" means a person who is licensed as a
36 psychologist by the New Jersey Board of Psychological Examiners.
- 37 y. "Screening certificate" means a clinical certificate executed
38 by a psychiatrist or other physician affiliated with a screening
39 service.
- 40 z. "Screening service" means a public or private ambulatory
41 care service, designated by the commissioner, which provides
42 [mental health] services, including [assessment] mental health and
43 substance use disorder assessment services, emergency mental
44 health and substance use disorder treatment services, and referral
45 services to persons with mental illness or substance use disorders in
46 a specified geographic area.

- 1 aa. "Screening outreach visit" means an evaluation **【provided】**
2 of a person, which is conducted by a mental health screener, on an
3 outreach basis, wherever the person **【may be】** being evaluated is
4 located, when clinically relevant information indicates that the
5 person may need involuntary commitment to treatment and is
6 unable or unwilling to come to a screening service.
- 7 bb. "Short-term care facility" means an inpatient, community
8 based mental health treatment facility, which provides acute care
9 and assessment services to a person with mental illness whose
10 mental illness causes the person to be dangerous to self or
11 dangerous to others or property**【.** A short-term care facility**】;** is
12 **【so】** designated as a short-term care facility by the commissioner,
13 and is authorized by the commissioner to serve persons with mental
14 illness from a specified geographic area. A short-term care facility
15 may be a part of a general hospital or other appropriate health care
16 facility, and shall meet certificate of need requirements and **【shall】**
17 be licensed and inspected by the Department of Health **【and Senior**
18 **Services】,** pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) **【and】,**
19 in accordance with standards developed jointly with the
20 Commissioner of Human Services.
- 21 cc. "Special psychiatric hospital" means a public or private
22 hospital licensed by the Department of Health **【and Senior**
23 **Services】** to provide voluntary and involuntary mental health
24 services, including assessment, care, supervision, treatment, and
25 rehabilitation services to persons with mental illness.
- 26 dd. "Treatment team" means **【one or more persons, including at**
27 **least one psychiatrist or physician, and may include a psychologist,**
28 **social worker, nurse and other appropriate services providers. A**
29 **treatment】** a team of health care professionals, which provides
30 mental health services or substance use disorder treatment services,
31 as appropriate, to a patient of a screening service, residential
32 substance use disorders treatment facility, outpatient treatment
33 provider, **【or】** short-term care facility, or psychiatric facility, and
34 which, in the case of a team providing mental health services to a
35 patient, is composed of at least one psychiatrist or physician, in
36 addition to other appropriate service providers, such as a
37 psychologist, social worker, or nurse; and, in the case of a team
38 providing substance use disorder treatment services to a patient, is
39 composed of at least one clinical alcohol and drug counselor and
40 one psychiatrist or physician, in addition to other appropriate
41 service providers, such as a psychologist, social worker, or nurse.
- 42 ee. "Voluntary admission" means that an adult **【with mental**
43 **illness, whose】** whose mental illness or substance use disorder
44 causes the person to be dangerous to self or dangerous to others or
45 property **【and】** is willing, and elects or agrees, to be voluntarily
46 admitted to a residential substance use disorder treatment facility

1 **【voluntarily for care, needs care at】**, a short-term care facility, or a
2 psychiatric facility, because other facilities or services are not
3 appropriate or available to meet the person's mental health or
4 substance use disorder treatment needs. A person may also be
5 voluntarily admitted to a psychiatric facility, if **【his】** the person's
6 mental illness presents a substantial likelihood of rapid
7 deterioration in functioning in the near future, there are no
8 appropriate community alternatives available, and the psychiatric
9 facility can admit the person and remain within its rated capacity.

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

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

18 hh. "Outpatient treatment" means clinically appropriate care,
19 including, but not limited to, day treatment, case management,
20 outpatient counseling and psychotherapy, home-based therapy and
21 treatment, and medication, which care is based on proven or
22 promising treatments directed to wellness and recovery, and is
23 provided to a patient not in need of inpatient or residential treatment
24 by a member of the patient's treatment team **【to a person not in need**
25 **of inpatient treatment. Outpatient treatment may include, but shall**
26 **not be limited to, day treatment services, case management,**
27 **residential services, outpatient counseling and psychotherapy, and**
28 **medication treatment】**.

29 ii. "Outpatient treatment provider" or "provider" means a
30 community-based mental health treatment provider, designated **【as**
31 **an outpatient treatment provider】** pursuant to paragraph (1) of
32 subsection b. of section 8 of P.L.1987, c.116 (C.30:4-27.8), 【that】
33 or an outpatient substance use disorder treatment provider,
34 designated pursuant to paragraph (2) of subsection b. of section 8 of
35 P.L.1987, c.116 (C.30:4-27.8), which provides, or coordinates the
36 provision of, outpatient mental health or substance use disorder
37 treatment services, as appropriate, to persons who are in need of
38 involuntary commitment to treatment.

39 jj. "Plan of outpatient treatment" means a plan **【for recovery**
40 **from】** of treatment for a person with a mental illness or a substance
41 use disorder who has a history of responding to treatment and does
42 not require intensive inpatient or residential treatment, which plan
43 is approved by a court pursuant to section 17 of P.L.2009, c.112
44 (C.30:4-27.15a) **【that is】**, provides for treatment to be carried out in
45 an outpatient setting, and is prepared by an outpatient treatment
46 provider **【for a patient who has a history of responding to**
47 **treatment】**. The plan may include medication as a component **【of**

1 the plan; however,] of treatment, but shall not provide for the
2 involuntary administration of medication [shall not be involuntarily
3 administered] in an outpatient setting.

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

8 ll. "Emergency medical responder" means a person, other than
9 a health care practitioner, who is licensed or certified to provide
10 emergency medical care, whether on a paid or volunteer basis, at
11 the scene of an emergency, or during transport from the scene to a
12 hospital. "Emergency medical responder" includes an emergency
13 medical technician, a mobile intensive care paramedic, a mobile
14 intensive care nurse, or a firefighter.

15 mm. "Facility" means a residential substance use disorder
16 treatment facility, a short-term care facility, a psychiatric facility, or
17 a special psychiatric hospital, which provides mental health or
18 substance use disorder treatment, on an inpatient or residential
19 basis, to patients who are voluntarily admitted or involuntarily
20 committed thereto.

21 nn. "Initial commitment" means a temporary term of
22 commitment, lasting up to 20 days, which is ordered by a court,
23 pursuant to section 10 of P.L.1987, c.116 (C.30:4-27.10), based on
24 the court's review of documentary evidence, and its conclusion
25 therefrom that there is probable cause to believe that a person is in
26 need of involuntary commitment.

27 oo. "Initial commitment hearing" means the initial hearing that
28 is conducted, pursuant to section 12 of P.L.1987, c.116 (C.30:4-
29 27.12), and in accordance with the provisions of sections 13
30 through 15 of P.L.1987, c.116 (C.30:4-27.13 through C.30:4-27.15),
31 following a person's initial commitment under section 10 of
32 P.L.1987, c.116 (C.30:4-27.10), in order to determine whether there
33 is a continued need for commitment, based on clear and convincing
34 evidence.

35 pp. "Non-emergency medical transporter" means an individual,
36 corporation, partnership, sole proprietorship, or other entity that
37 provides non-emergency medical transportation services to State
38 residents, including inter-facility transport, pursuant to a contractual
39 agreement with the State or a managed care organization.

40 qq. "Substance use disorder" means a maladaptive pattern of
41 substance use, as defined in the most recent version of the
42 Diagnostic and Statistical Manual of Mental Disorders, which is
43 manifested by recurrent and significant adverse consequences
44 related to the repeated use of drugs or alcohol. "Substance use
45 disorder" does not include simple alcohol intoxication, or transitory
46 reaction to drug ingestion.

47 (cf: P.L.2009, c.112, s.2)

1 13. Section 3 of P.L.1987, c.116 (C.30:4-27.3) is amended to
2 read as follows:

3 3. a. The standards and procedures in **[this act] P.L.1987,**
4 c.116 (C.30:4-27.1 et seq.) shall apply to:

5 (1) all adults with mental illness who are involuntarily
6 committed to mental health treatment, including those who are
7 assigned to an outpatient mental health treatment provider [or], and
8 those who are admitted to a short-term care facility, psychiatric
9 facility, or special psychiatric hospital [and];

10 (2) all adults with a substance use disorder who are involuntarily
11 committed to substance use disorder treatment, including those who
12 are assigned to an outpatient substance use disorder treatment
13 provider, and those who are admitted to a residential substance use
14 disorder treatment facility;

15 (3) all adults with mental illness who are voluntarily admitted
16 from a screening service to a short-term care facility or psychiatric
17 facility; and

18 (4) all adults with a substance use disorder who are voluntarily
19 admitted from a screening service to a residential substance use
20 disorder treatment facility.

21 b. The standards and procedures in **[this act] P.L.1987, c.116**
22 **(C.30:4-27.1 et seq.) shall not apply to adults who are voluntarily**
23 **admitted to psychiatric units in general hospitals or special**
24 **psychiatric hospitals, except as provided in section 11 or 20 of**
25 **P.L.1987, c.116 (C.30:4-27.11 or C.30:4-27.20).**

26 (cf: P.L.2009, c.112, s.3)

27

28 14. Section 4 of P.L.1987, c.116 (C.30:4-27.4) is amended to
29 read as follows:

30 4. The commissioner, in consultation with the appropriate
31 county mental health board, and consistent with the approved
32 county mental health plan, shall designate one or more mental
33 health agencies or facilities in each county or multi-county region in
34 the State as a screening service. The commissioner shall so
35 designate an agency or facility only with the approval of the
36 agency's or facility's governing body. In designating the screening
37 services, the commissioner shall ensure that screening services are
38 accessible to all persons in the State who need these services, and
39 that screening service evaluation is the preferred process for entry
40 into **[outpatient treatment, short-term care facilities or psychiatric**
41 **facilities]** the mental health and substance use disorder treatment
42 systems, so that appropriate consideration is given to less restrictive
43 treatment alternatives.

44 (cf: P.L.2009, c.112, s.4)

45

46 15. Section 5 of P.L.1987, c.116, s.5 (C.30:4-27.5) is amended
47 to read as follows:

1 5. The commissioner shall adopt rules and regulations pursuant
2 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
3 1 et seq.) regarding a screening service and its staff **[that], as**
4 necessary to effectuate the following purposes and procedures:

5 a. A screening service shall serve as the facility in the public
6 mental health care and substance use disorder treatment system
7 wherein a person who is believed to be in need of involuntary
8 commitment **[to outpatient treatment, a short-term care facility,**
9 **psychiatric facility, or special psychiatric hospital undergoes]** will
10 undergo an assessment to determine what mental health or
11 substance use disorder treatment services are appropriate for the
12 person, and where those services may be most appropriately
13 provided in the least restrictive environment.

14 The screening service **[may]** conducting an assessment under
15 this subsection shall provide emergency and consensual mental
16 health or substance use disorder treatment, as appropriate, to the
17 person receiving the assessment, and may transport the person, or
18 detain the person for a period of up to 24 hours, for the purposes of
19 conducting the assessment and providing the emergency treatment
20 **[and conducting the assessment].**

21 b. When a person is assessed by a mental health screener and
22 involuntary commitment to mental health or substance use disorder
23 treatment seems necessary, the screener shall provide, on a
24 screening document prescribed by the division, information
25 regarding the person's history and available alternative facilities and
26 services that are deemed inappropriate for the person. When
27 appropriate and available, and as permitted by law, the screener
28 shall make reasonable efforts to gather information from the
29 person's family or significant others for the purposes of preparing
30 the screening document. If a psychiatrist, in consideration of this
31 document, and in conjunction with the psychiatrist's own complete
32 assessment, concludes that the person is in need of commitment to
33 treatment, the psychiatrist shall complete the screening certificate.
34 The screening certificate shall be completed by a psychiatrist,
35 except in those circumstances where the division's contract with the
36 screening service provides that another physician may complete the
37 certificate.

38 Upon completion of the screening certificate, screening service
39 staff shall determine, in consultation with the psychiatrist or another
40 physician, as appropriate, the least restrictive environment for **[the]**
41 appropriate treatment to which the person shall be assigned or
42 admitted, taking into account the person's prior history of
43 hospitalization and treatment, and the person's current mental health
44 condition or substance use disorder status. Screening service staff
45 shall designate:

46 (1) inpatient mental health treatment or residential substance use
47 disorder treatment for the person, if **[he]** the person is deemed to be

1 immediately or imminently dangerous, or if outpatient treatment is
2 deemed inadequate to render the person unlikely to be dangerous to
3 self, others, or property within the reasonably foreseeable future;
4 and

5 (2) outpatient mental health or substance use disorder treatment
6 for the person when outpatient treatment is deemed sufficient to
7 render the person unlikely to be dangerous to self, others, or
8 property within the reasonably foreseeable future.

9 If the screening service staff determines that the person is in
10 need of involuntary commitment to outpatient treatment, the
11 screening service staff shall consult with an outpatient treatment
12 provider to arrange, if possible, for an appropriate interim plan of
13 outpatient treatment in accordance with section 9 of P.L.2009, c.112
14 (C.30:4-27.8a).

15 If a person has been admitted three times or has been an inpatient
16 for 60 days at a short-term care facility during the preceding 12
17 months, consideration shall be given to not placing the person in a
18 short-term care facility.

19 The person shall be admitted to **[the]** an appropriate inpatient or
20 residential facility, or assigned to **[the]** an appropriate outpatient
21 treatment provider, **[as appropriate for treatment]**, as soon as
22 possible, based on the person's treatment needs. Screening service
23 staff **[are]** shall be authorized to coordinate the initiation of
24 outpatient treatment **[or]** services, or to transport [the person], or
25 arrange for transportation of, the person to **[the]** an appropriate
26 provider or facility.

27 c. If the mental health screener determines that the person is
28 not in need of **[assignment or commitment to an outpatient**
29 **treatment provider, or admission or commitment to a short-term**
30 **care facility, psychiatric facility or special psychiatric hospital]**
31 involuntary commitment to treatment, the screener shall refer the
32 person to an appropriate community mental health or social services
33 agency, to an appropriate substance use disorder treatment provider,
34 or to appropriate professional or inpatient care in **[a]** the
35 psychiatric unit of a general hospital.

36 d. A mental health screener shall make a screening outreach
37 visit if the screener determines, based on clinically relevant
38 information provided by an individual with personal knowledge of
39 the person subject to screening, that the person may need
40 involuntary commitment to treatment, and **[the person]** is unwilling
41 or unable to come to the screening service for an assessment.

42 e. If the mental health screener **[pursuant to this assessment]**
43 determines, as the result of an assessment, that there is reasonable
44 cause to believe that a person is in need of involuntary commitment
45 to treatment, the screener shall so certify the need on a form
46 prepared by the division.

47 (cf: P.L.2009, c.112, s.5)

1 16. Section 6 of P.L.1987, c.116 (C.30:4-27.6) is amended to
2 read as follows:

3 6. A State or local law enforcement officer shall take a person
4 into custody ~~【of a person】~~, and ~~【take】~~ shall transport the person
5 immediately and directly to a screening service for the purposes of
6 assessment, if:

7 a. ~~【On the basis of personal observation,】~~ the law enforcement
8 officer has reasonable cause to believe, on the basis of personal
9 observation, that the person is in need of involuntary commitment
10 to treatment;

11 b. ~~【A】~~ a mental health screener has certified, ~~【on】~~ in a form
12 and manner prescribed by the division ~~【that】~~, and based on a
13 screening outreach visit conducted pursuant to subsection d. of
14 section 5 of P.L.1987, c.116 (C.30:4-27.5), that the person is in
15 need of involuntary commitment to treatment; and the screener has
16 requested that the person be taken to the screening service for a
17 complete assessment;

18 c. ~~【The court orders that a】~~ the person is subject to, but has
19 failed to adhere to the conditions of, an order of conditional
20 discharge, issued by a court pursuant to subsection c. of section 15
21 of P.L.1987, c.116 (C.30:4-27.15) ~~【who has failed to follow the~~
22 conditions of the discharge】, and the court has ordered the person to
23 be taken to a screening service for an assessment; 【or】

24 d. ~~【An】~~ an outpatient treatment provider has certified, ~~【on】~~ in
25 a form and manner prescribed by the division, that the provider has
26 reasonable cause to believe that the person is in need of ~~【evaluation~~
27 for】 involuntary commitment to treatment;

28 e. the law enforcement officer has administered an opioid
29 antidote, as defined in section 3 of P.L.2013, c.46 (C.24:6J-3),
30 directly to the person, in order to revive the person, and prevent the
31 person's death, following the person's overdose on opioid drugs; or
32 a health care practitioner, emergency medical responder, or private
33 individual has certified, in a form and manner prescribed by the
34 division, that the person has overdosed on opioid drugs, and has
35 been revived with an opioid antidote, within the preceding 48-hour
36 period, thereby necessitating the belief by the health care
37 practitioner, emergency medical responder, or private individual
38 that the person is an imminent danger to himself, and is in need of
39 involuntary commitment to treatment; or

40 f. a health care practitioner, mental health care practitioner, or
41 emergency medical responder has certified, in a form and manner
42 prescribed by the division, that the person is currently undergoing a
43 mental health or behavioral health crisis in which the person has
44 caused, or attempted to cause, actual harm to self or others, thereby
45 necessitating a belief by the practitioner or emergency medical
46 responder that the person is in need of involuntary commitment to
47 treatment.

1 The involvement of the law enforcement authority under this
2 section shall continue at the screening service as long as necessary
3 to protect the safety of the person in custody, and the safety of the
4 community from which the person was taken.

5 (cf: P.L.2009, c.112, s.6)

6
7 17. Section 7 of P.L.1987, c.116 (C.30:4-27.7) is amended to
8 read as follows:

9 7. a. A law enforcement officer, or a staff member designated
10 by a screening service, outpatient treatment provider [or],
11 residential substance use disorder treatment facility, short-term care
12 facility **[designated staff person or their respective employers],**
13 psychiatric facility, or special psychiatric hospital, acting in good
14 faith pursuant to P.L.1987, c.116 (C.30:4-27.1 et seq.) and
15 P.L.2009, c.112 (C.30:4-27.8a et al.), who takes reasonable steps to
16 assess, take custody of, detain, or transport an individual for the
17 purposes of mental health or substance use disorder assessment or
18 treatment **[is], and the respective employers of such individuals,**
19 shall be immune from civil and criminal liability.

20 b. An emergency **[services or medical transport person or their**
21 **respective employers]** medical responder or non-emergency
22 medical transporter, acting in good faith pursuant to **[this act]**
23 P.L.1987, c.116 (C.30:4-27.1 et seq.) and P.L.2009, c.112 (C.30:4-
24 27.8a et al.), and pursuant to the direction of a person designated in
25 subsection a. of this section, who takes reasonable steps, in good
26 faith, to take custody of, detain, or transport an individual for the
27 purpose of mental health or substance use disorder assessment or
28 treatment **[is], and the respective employers of such individuals,**
29 shall be immune from civil and criminal liability.

30 **[For the purposes of this subsection, "emergency services or**
31 **medical transport person" means a member of a first aid,**
32 **ambulance, rescue squad or fire department, whether paid or**
33 **volunteer, auxiliary police officer or paramedic.]**

34 (cf: P.L.2009, c.112, s.7)

35
36 18. Section 8 of P.L.1987, c.116 (C.30:4-27.8) is amended to
37 read as follows:

38 8. a. The commissioner, in consultation with the
39 Commissioner of Health **[and Senior Services],** shall designate one
40 or more mental health agencies or facilities in each county or multi-
41 county region in the State as short-term care facilities. **[The**
42 **commissioner shall so designate an agency or facility only with the**
43 **approval of the agency's or facility's governing body.]**

44 b. The commissioner shall:

45 (1) designate one or more mental health agencies, in each
46 county or multi-county region in the State, as an outpatient mental
47 health treatment provider, and **[shall]** authorize the designated

1 **【outpatient treatment】** provider to provide services to persons with
2 mental illness, from a specified geographic area , who are in need of
3 involuntary commitment to outpatient mental health treatment; and
4 (2) designate one or more outpatient substance use disorder
5 treatment facilities or clinics, in each county or multi-county region
6 in the State, as an outpatient substance use disorder treatment
7 provider, and authorize the designated provider to provide services
8 to persons with substance use disorders, from a specified
9 geographic area, who are in need of involuntary commitment to
10 outpatient substance use disorder treatment.

11 c. The commissioner shall **【so】** designate an agency or facility,
12 as provided by this section, only with the approval of the agency's
13 or facility's governing body.
14 (cf: P.L.2009, c.112, s.8)

15
16 19. Section 9 of P.L.2009, c.112 (C.30:4-27.8a) is amended to
17 read as follows:

18 9. a. An outpatient treatment provider shall develop a plan of
19 outpatient treatment, in cooperation with screening service or short
20 term care facility staff, or the court, as applicable, for patients who
21 are committed and assigned to outpatient treatment by screening
22 service staff, or by order of a court, or both. When appropriate and
23 available, and as permitted by law, the provider shall make
24 reasonable efforts to gather information from the patient's family or
25 significant others for the purposes of developing the plan of
26 outpatient treatment.

27 b. During the time a patient is **【assigned to the outpatient**
28 **treatment provider for services pursuant to a commitment】**
29 committed to outpatient treatment, the outpatient treatment provider
30 shall provide and coordinate the provision of care consistent with
31 the plan of outpatient treatment.

32 c. (1) If a patient fails to materially comply with the plan of
33 outpatient treatment during the time the patient is **【assigned by a**
34 **screening service to the outpatient treatment provider for services**
35 **pursuant to a commitment】** committed to outpatient treatment, or, if
36 the outpatient treatment provider determines that the plan of
37 outpatient treatment is inadequate to meet the patient's mental
38 health or substance use disorder treatment needs, the provider shall
39 notify the screening service, or the court, or both, as provided in
40 paragraph (2) of this subsection, of the material noncompliance or
41 plan inadequacy, as applicable, and the patient shall be referred to a
42 screening service for an assessment to determine what mental health
43 or substance use disorder treatment services are appropriate, and
44 where those services may be provided, in accordance with section 5
45 of P.L.1987, c.116 (C.30:4-27.5). In such a case, the patient shall
46 be afforded the protections and procedures provided for in

1 P.L.1987, c.116 (C.30:4-27.1 et seq.) and P.L.2009, c.112 (C.30:4-
2 27.8a et al.).

3 (2) Notice under this subsection shall be provided as follows:
4 (a) in cases where a screening service has assigned the patient to the
5 outpatient treatment provider, notice shall be provided to the
6 screening service that assigned the patient; (b) in cases where a
7 court has assigned the patient to the outpatient treatment provider,
8 notice shall be provided to the court, and to the screening service, if
9 any, that assessed the patient for the purposes of the commitment
10 proceeding.

11 d. **【**If a patient fails to materially comply with the plan of
12 outpatient treatment during the time the patient is assigned by a
13 court to the outpatient treatment provider for services pursuant to a
14 commitment to outpatient treatment, or if the outpatient treatment
15 provider determines that the plan of outpatient treatment is
16 inadequate to meet the patient's mental health needs, the provider
17 shall notify the court and screening service of the material
18 noncompliance or plan inadequacy, as applicable, and the patient
19 shall be referred to a screening service for an assessment to
20 determine what mental health services are appropriate, and where
21 those services may be provided, in accordance with section 5 of
22 P.L.1987, c.116 (C.30:4-27.5). In such a case, the patient shall be
23 afforded the protections and procedures provided for in P.L.1987,
24 c.116 and P.L.2009, c.112. **】** (Deleted by amendment, P.L. , c.)
25 (pending before the Legislature as this bill)

26 e. If an outpatient treatment provider determines that a plan of
27 outpatient treatment is inadequate and needs to be modified, but
28 referral to a screening service is not necessary, the provider shall
29 seek **【court】** judicial approval for such modification, and shall
30 notify the court, the patient's attorney, and the county adjuster of
31 the request for **【court】** judicial approval of such modification.
32 (cf: P.L.2009, c.112, s.9)
33

34 20. Section 9 of P.L.1987, c.116 (C.30:4-27.9) is amended to
35 read as follows:

36 9. a. Outpatient treatment providers, residential substance use
37 disorder treatment facilities, short-term care facilities, psychiatric
38 facilities, and special psychiatric hospitals shall effectuate the
39 following purposes and procedures:

40 **【a.】** (1) An outpatient treatment provider to which a person
41 has been assigned, pursuant to an order of continued involuntary
42 commitment to treatment **【pursuant to】** issued under section 15 of
43 P.L.1987, c.116 (C.30:4-27.15), shall **【maintain】** adhere to the plan
44 of outpatient treatment approved by the court pursuant to section 17
45 of P.L.2009, c.112 (C.30:4-27.15a), and shall notify the court, the
46 **【person's】** patient's attorney, and the county adjuster of any
47 material non-compliance with the plan by the **【person】** patient, and

1 of the inadequacy of the plan of outpatient treatment to meet the
2 **【person's】** patient's mental health or substance use disorder
3 treatment needs, if applicable, and shall seek 【court】 approval from
4 the court for 【a】 any modification to a plan of outpatient treatment,
5 as provided for in section 9 of P.L.2009, c.112 (C.30:4-27.8a).
6 **【The director or chief executive officer of a】**

7 (2) A residential substance use disorder treatment facility, short-
8 term care facility, psychiatric facility, or special psychiatric hospital
9 shall be authorized to detain any person who is involuntarily
10 committed to the facility. The director or chief executive officer of
11 the facility shall have custody of a person while that person is
12 detained in the facility, and shall notify: 【(1)】 (a) appropriate public
13 or private agencies to arrange for the care of any dependents of the
14 person, and to ensure the protection of the person's property; 【and
15 (2)】 (b) appropriate 【ambulatory】 outpatient mental health
16 treatment providers or outpatient substance use disorder treatment
17 providers, for the purposes of beginning discharge planning【. If a
18 person is admitted to】; and (c) in the case of a psychiatric facility,
19 **【the chief executive officer of the facility shall promptly notify】** the
20 county adjuster of the person's county of residence, in order to
21 ensure that the county adjuster is aware that the person has been
22 admitted to the facility. 【The】

23 (3) Each facility 【is】 and provider identified under this
24 subsection shall be authorized to provide assessment, treatment, and
25 rehabilitation services, as appropriate, to persons who are
26 involuntarily committed thereto pursuant to P.L.1987, c.116
27 (C.30:4-27.1 et seq.) and P.L.2009, c.112 (C.30:4-27.8a et al.), and
28 shall provide discharge planning services as required 【pursuant to】
29 by section 18 of P.L.1987, c.116 (C.30:4-27.18). 【The facility is
30 authorized to detain persons involuntarily committed to the
31 facility.】

32 b. A person shall not be involuntarily committed to treatment at
33 an outpatient treatment provider, short-term care **【or】** facility,
34 residential substance use disorders treatment facility, psychiatric
35 facility, or special psychiatric hospital, unless the person is
36 determined, pursuant to P.L.1987, c.116 (C.30:4-27.1 et seq.) and
37 P.L.2009, c.112 (C.30:4-27.8a et al.), to be in need of involuntary
38 commitment to treatment.

39 **【The】** A person shall be assigned involuntarily to an outpatient
40 treatment provider, or admitted involuntarily to a facility, only by
41 referral from a screening service, or by temporary court order. The
42 person may be admitted voluntarily to a short-term care 【or】
43 facility, residential substance use disorders treatment facility,
44 psychiatric facility, or special psychiatric hospital only after the
45 person has been advised orally and in writing of the discharge
46 provisions established pursuant to P.L.1987, c.116 (C.30:4-27.1 et

1 seq.) and P.L.2009, c.112 (C.30:4-27.8a et al.),₂ and of the
2 subsequent possibility that the facility may initiate involuntary
3 commitment proceedings for the person.

4 c. A short-term care **【or】** facility, residential substance use
5 disorders treatment facility, psychiatric facility, or special
6 psychiatric hospital may detain a person**【,】** who is involuntarily
7 admitted to the facility 【involuntarily by】 through a screening
8 service referral **【from a screening service】**,₂ without a temporary
9 court order, for no more than 72 hours from the time the screening
10 certificate was executed. During this period of time,₂ the facility
11 shall initiate court proceedings for the involuntary commitment of
12 the person pursuant to section 10 of P.L.1987, c.116 (C.30:4-27.10).

13 d. A person shall not be involuntarily assigned to an outpatient
14 treatment provider by referral from a screening service, and without
15 a temporary court order, for more than 72 hours from the time the
16 screening certificate was executed. During this period of time the
17 provider shall initiate court proceedings for the involuntary
18 commitment of the person,₂ pursuant to section 10 of P.L.1987,
19 c.116 (C.30:4-27.10).

20 (cf: P.L.2009, c.112, s.10)

21

22 21. Section 10 of P.L.1987, c.116 (C.30:4-27.10) is amended to
23 read as follows:

24 10. a. (1) A short-term care **【or】** facility, residential substance
25 use disorders treatment facility, psychiatric facility,₂ or **【a】** special
26 psychiatric hospital shall initiate court proceedings for involuntary
27 commitment to inpatient or outpatient treatment by submitting to
28 the court a clinical certificate completed by a psychiatrist on the
29 patient's treatment team,₂ or an electronically scanned clinical
30 certificate in lieu of the original certificate, and the screening
31 certificate,₂ or an electronically scanned screening certificate in lieu
32 of the original certificate,₂ which authorized admission of the patient
33 to the facility; provided, however, that both certificates shall not be
34 signed by the same psychiatrist,₂ unless the psychiatrist has made a
35 reasonable but unsuccessful attempt to have another psychiatrist
36 conduct the evaluation and execute the certificate.

37 (2) A screening service or outpatient treatment provider shall
38 initiate court proceedings for commitment to outpatient treatment
39 by submitting to the court a clinical certificate completed by a
40 psychiatrist on the patient's treatment team,₂ or an electronically
41 scanned clinical certificate in lieu of the original certificate, and the
42 screening certificate,₂ or an electronically scanned screening
43 certificate in lieu of the original certificate,₂ which authorized
44 assignment of the patient to outpatient treatment with the outpatient
45 treatment provider; provided, however, that both certificates shall
46 not be signed by the same psychiatrist,₂ unless the psychiatrist has

- 1 made a reasonable but unsuccessful attempt to have another
2 psychiatrist conduct the evaluation and execute the certificate.
- 3 b. Court proceedings for the involuntary commitment to
4 treatment of any person not referred by a screening service may be
5 initiated by the submission to the court of two clinical certificates,
6 at least one of which is prepared by a psychiatrist. The person shall
7 not be involuntarily committed before the court issues a temporary
8 court order.
- 9 c. A court proceeding for involuntary commitment to treatment
10 of an inmate who is scheduled for release upon expiration of a
11 maximum term of incarceration shall be initiated by the Attorney
12 General or county prosecutor by submission to the court of two
13 clinical certificates, at least one of which is prepared by a
14 psychiatrist.
- 15 d. The Attorney General, in exercise of the State's authority as
16 parens patriae, may initiate a court proceeding for the involuntary
17 commitment to treatment of any person, in accordance with the
18 procedures set forth in subsection a. or b. of this section. When the
19 Attorney General determines that the public safety requires the
20 initiation of a proceeding pursuant to subsection b. of this section,
21 the Attorney General may apply to the court for an order
22 compelling the **【psychiatric evaluation of the】** person to undergo a
23 psychiatric evaluation or substance use disorder assessment. The
24 court shall grant the Attorney General's application, if the court
25 finds that there is reasonable cause to believe that the person may
26 be in need of involuntary commitment to treatment. The Attorney
27 General may delegate the authority granted pursuant to this
28 subsection, on a case by case basis, to the county prosecutor.
- 29 e. Any person who is a relative, by blood or marriage, of the
30 person being screened, and who executes a clinical certificate, or
31 any person who signs a clinical certificate for any purpose or
32 motive other than for purposes of care, treatment, and confinement
33 of a person in need of involuntary commitment to treatment, shall
34 be guilty of a crime of the fourth degree.
- 35 f. Upon receiving **【these】** the documents required by this
36 section, the court shall immediately review **【them】** the documents,
37 in order to determine whether there is probable cause to believe that
38 the person is in need of involuntary commitment to treatment.
- 39 g. If the court finds, pursuant to a documentary review
40 conducted pursuant to subsection f. of this section, that there is
41 probable cause to believe that the person, other than a person whose
42 commitment is sought pursuant to subsection c. of this section, is in
43 need of involuntary commitment to treatment, **【it】** the court shall
44 issue a temporary order authorizing the temporary assignment of the
45 person to an outpatient treatment provider, or the temporary
46 admission to, or retention of the person in the custody of **【the】** , a
47 facility, that is both appropriate to the person's condition and **【is】**

1 provides the least restrictive environment for treatment, pending a
2 **【final】** the court's final determination on the matter, which final
3 determination shall be issued at a formal commitment hearing held
4 pursuant to section 12 of P.L.1987, c.116 (C.30:4-27.12).

5 h. If the court finds that there is probable cause to believe that
6 a person whose commitment is sought pursuant to subsection c. of
7 this section is in need of involuntary commitment to treatment, it
8 shall issue an order setting a date for a **【final】** commitment hearing
9 under section 12 of P.L.1987, c.116 (C.30:4-27.12), and authorizing
10 the Commissioner of the Department of Corrections to arrange for
11 temporary commitment pursuant to section 2 of P.L.1986, c.71
12 (C.30:4-82.2) to the Ann Klein Forensic Center in Trenton or other
13 facility designated for the criminally insane, pending the final
14 hearing, and prior to the expiration of the person's term of
15 incarceration. The order shall specifically provide for transfer of
16 custody to the Ann Klein Forensic Center in Trenton or other
17 facility designated for the criminally insane, if the person's
18 maximum term will expire prior to the final hearing.

19 i. In the case of a person committed to treatment at a short-
20 term care facility or special psychiatric hospital, after the facility's
21 treatment team conducts a mental and physical examination,
22 administers appropriate treatment, and prepares a discharge
23 assessment, the facility may transfer the patient to a psychiatric
24 facility prior to the final hearing; provided that:

25 (1) the patient, **【his】** and the patient's family and 【his】 attorney
26 are given 24 hours' advance notice of the pending transfer; and

27 (2) the transfer is accomplished in a manner which will give the
28 receiving facility adequate time to examine the patient, become
29 familiar with **【his】** the patient's behavior and condition, and
30 prepare for the hearing. In no event shall the transfer be made less
31 than five days prior to the date of the hearing, unless an unexpected
32 transfer is dictated by a change in the person's clinical condition.

33 j. A clinical certificate or screening certificate that is
34 electronically scanned pursuant to subsection a. or b. of this section
35 shall be transmitted in accordance with the Rules of Court.

36 (cf: P.L.2014, c.43, s.1)

37

38 22. Section 11 of P.L.1987, c.116 (C.30:4-27.11) is amended to
39 read as follows:

40 11. A patient who is admitted to a short-term care 【or】 facility,
41 residential substance use disorders treatment facility, psychiatric
42 facility, or special psychiatric hospital, either on a voluntary or
43 involuntary basis, or who is assigned to an outpatient treatment
44 provider **【has】**, shall have the following rights:

45 a. The right to have examinations and services provided in the
46 patient's primary means of communication, including, as soon as
47 possible, with the aid of an interpreter if needed because the patient

1 is of limited English-speaking ability or suffers from a speech or
2 hearing impairment;

3 b. The right to a verbal explanation of the reasons for
4 admission to the facility or assignment to the provider, as
5 applicable, the availability of an attorney, and the rights provided in
6 P.L.1987, c.116 (C.30:4-27.1 et seq.) and P.L.2009, c.112 (C.30:4-
7 27.8 et al.); and

8 c. The right to be represented by an attorney, and, if
9 unrepresented or unable to afford an attorney, the right to be
10 provided with an attorney paid for by the appropriate government
11 agency. An attorney representing a patient **[has]** shall have the
12 right to inspect and copy the patient's clinical chart.

13 The clinical director of the facility**[,]** or **[the outpatient**
14 **treatment]** provider, as appropriate, shall ensure that a written
15 statement of the rights **[provided in P.L.1987, c.116 (C.30:4-27.1 et**
16 **seq.) and P.L.2009, c.112]** established under this section is
17 provided to patients **[at the time of]** as soon as possible after their
18 admission to the facility or assignment to the provider, as
19 applicable, **[as soon as possible thereafter,]** and to patients and
20 their families, upon request.

21 (cf: P.L.2009, c.112, s.12)

22

23 23. Section 12 of P.L.1987, c.116 (C.30:4-27.12) is amended to
24 read as follows:

25 12. a. A patient who is involuntarily committed to treatment
26 **[and assigned to an outpatient treatment provider or involuntarily**
27 **committed to treatment and admitted to a short-term care or**
28 **psychiatric facility or special psychiatric hospital]** shall receive a
29 court hearing with respect to the issue of continued need for
30 involuntary commitment within 20 days **[from]** after the date of
31 initial commitment, unless the patient has been administratively
32 discharged pursuant to section 17 of P.L.1987, c.116 (C.30:4-
33 27.17). However, if a person is involuntarily committed pursuant to
34 subsection c. or d. of section 10 of P.L.1987, c.116 (C.30:4-27.10),
35 that person shall immediately **[shall]** be committed to the Ann
36 Klein Forensic Center in Trenton, or **[other]** to another facility
37 designated for the criminally insane, for the duration of the 20-day
38 waiting period.

39 b. Except as provided in subsection c. of this section, the
40 assigned county counsel **[is]** shall be responsible for presenting the
41 case for the patient's involuntary commitment to the court, unless
42 the county adjuster is licensed to practice law in this State, in which
43 case, the county adjuster shall present the case for the patient's
44 involuntary commitment to the court.

45 c. Notwithstanding the provisions of subsection b. of this
46 section, and upon notice to the county adjuster:

1 (1) The Attorney General, or the county prosecutor acting at the
2 request of the Attorney General, may supersede the county counsel
3 or county adjuster and assume responsibility for presenting any case
4 for involuntary commitment to treatment, or may elect to participate
5 with the county counsel or county adjuster in presenting any such
6 case; and

7 (2) The county prosecutor may supersede the county counsel or
8 county adjuster and assume responsibility for presenting any case
9 for involuntary commitment to treatment, which has been initiated
10 by the county prosecutor pursuant to subsection c. of section 10 of
11 P.L.1987, c.116 (C.30:4-27.10), or may elect to participate with the
12 county counsel in the presentation of any such case.

13 d. A patient subject to involuntary commitment to treatment
14 shall have counsel present at **【the】** any hearing held pursuant to this
15 section, and shall not be permitted to appear at **【the】** any such
16 hearing without counsel.

17 (cf: P.L.2009, c.112, s.13)

18

19 24. Section 17 of P.L.2009, c.112 (C.30:4-27.15a) is amended to
20 read as follows:

21 17. a. The court shall determine whether a patient who has been
22 found to be in need of continued involuntary commitment to
23 treatment, pursuant to section 15 of P.L.1987, c.116 (C.30:4-27.15),
24 should be assigned to an outpatient setting or admitted to an
25 inpatient setting for treatment, and shall issue **【the】** an order
26 authorizing such placement, pursuant to section 15 of P.L.1987,
27 c.116 (C.30:4-27.15), in accordance with this section. In
28 determining the appropriate place for commitment **【placement】**, the
29 court shall **【consider】** select the least restrictive environment for
30 the patient to receive clinically appropriate treatment that would
31 ameliorate the danger posed by the patient and provide the patient
32 with appropriate treatment.

33 b. If the court determines that the least restrictive environment
34 for the patient to receive clinically appropriate treatment would be
35 in an outpatient setting, and that there is a likelihood **【of】** that the
36 patient **【responding】** will respond to outpatient treatment, the court
37 shall obtain, from a designated outpatient treatment provider, a
38 proposed plan of outpatient treatment for the patient, which the
39 court shall review and approve. **【The plan of outpatient treatment**
40 **shall be approved by the court.】**

41 c. If the court determines that the least restrictive environment
42 for the patient to receive clinically appropriate treatment would be
43 in an inpatient setting, the court shall issue an order **【for**
44 **admission】** providing for the patient to be admitted to a psychiatric
45 facility or residential substance use disorder treatment facility, as
46 appropriate for the patient's condition.

1 d. **Between** During the intervening time periods **for**
2 between periodic court review hearings, scheduled pursuant to
3 section 16 of P.L.1987, c.116 (C.30:4-27.16), the chief executive
4 officer of a psychiatric facility or residential substance use disorders
5 treatment facility may recommend **changing** that the court order a
6 change in the placement of the patient from an inpatient to
7 outpatient setting, in order to ensure that the patient receives
8 clinically appropriate treatment in the least restrictive environment.
9 The chief executive officer of the facility shall notify the court of
10 the recommendation for the change in placement.

11 e. At the time that the court sets the date for a hearing on **the**
12 a proposed change in placement, which has been recommended
13 pursuant to subsection d. of this section, notice of the hearing shall
14 be served upon the patient, the patient's guardian, if any, the
15 patient's next-of-kin, the patient's attorney, and the county adjuster
16 of the county in which the patient has legal settlement.

17 f. The provisions of section 14 of P.L.1987, c.116 (C.30:4-
18 27.14), concerning patient rights at a hearing, shall apply to **the**
19 any hearing that is held pursuant to this subsection section.
20 (cf: P.L.2009, c.112, s.17)

21

22 25. Section 16 of P.L.1987, c.116 (C.30:4-27.16) is amended to
23 read as follows:

24 16. a. A patient who is committed pursuant to a court order
25 **who is**, and who has not been administratively discharged
26 pursuant to section 17 of P.L.1987, c.116 (C.30:4-27.17), shall be
27 afforded periodic court review hearings **of the** to evaluate
28 whether there is a continued need for involuntary commitment to
29 treatment, and **of the** to determine whether the patient is being
30 provided with services in the least restrictive environment **for that**
31 **commitment**. **The** Each such periodic review hearing shall be
32 conducted in the manner provided **in section** by sections 12
33 through 15 of P.L.1987, c.116 (C.30:4-27.12 through C.30:4-27.15).
34 If the court determines, at a periodic review hearing, that
35 involuntary commitment to treatment shall be continued, it shall
36 execute a new order to that effect, which order shall specify the
37 least restrictive environment for continued commitment.

38 (1) In the case of a patient who has been admitted to a short-
39 term care facility, **the court shall conduct** a psychiatric facility, or
40 a special psychiatric hospital for the treatment of a mental illness,
41 the first periodic review hearing under this section shall be held
42 three months **from** after the date of the **first** initial commitment
43 hearing under section 12 of P.L.1987, c.116 (C.30:4-27.12), the
44 **next** second review hearing shall be held nine months **from**
45 after the date of the **first** initial commitment hearing **and**
46 subsequent, the third periodic review **hearings** hearing shall be

1 held 12 months [from] after the date of the [first] initial
2 commitment hearing, and subsequent periodic review hearings shall
3 be held annually thereafter. The court may schedule additional
4 review hearings, but, except in extraordinary circumstances, such
5 hearings shall not be held more often than once every 30 days.

6 (2) In the case of a patient who has been assigned to an
7 outpatient treatment provider [, the court shall conduct] for the
8 treatment of a mental illness, the first periodic review hearing under
9 this section shall be held six months [from] after the date of the
10 [first] initial commitment hearing under section 12 of P.L.1987,
11 c.116 (C.30:4-27.12), the [next] second periodic review hearing
12 shall be held nine months [from] after the date of the [first] initial
13 commitment hearing [and subsequent], the third periodic review
14 [hearings] hearing shall be held 12 months [from] after the date of
15 the [first] initial commitment hearing, and subsequent periodic
16 review hearings shall be held annually thereafter. The court may
17 schedule additional review hearings, as deemed to be appropriate,
18 but, except in extraordinary circumstances, such hearings shall not
19 be held more often than once every 30 days.

20 (3) In the case of a patient who has been admitted to a
21 residential substance use disorders treatment facility, or assigned to
22 an outpatient treatment provider for treatment of a substance use
23 disorder, the first periodic review hearing under this section shall be
24 held 30 days after the date of the initial commitment hearing under
25 section 12 of P.L.1987, c.116 (C.30:4-27.12), and subsequent
26 periodic review hearings shall be held every 30 days thereafter.
27 The court may schedule additional periodic review hearings, as
28 deemed to be necessary, but, except in extraordinary circumstances,
29 such hearings shall not be held more often than once every 21 days.

30 (4) If the date of a periodic review hearing under this section
31 will fall on a holiday or weekend, the court shall order the hearing
32 to be held on the business day that immediately proceeds the
33 holiday or weekend.

34 b. At [a court] any periodic review hearing held pursuant to
35 this section, when the advanced age of the patient, or the cause or
36 nature of the patient's mental illness or substance use disorder
37 renders it appropriate, and when it would be impractical to obtain
38 the testimony of a psychiatrist as required [in] by section 13 of
39 P.L.1987, c.116 (C.30:4-27.13), the court may permit a physician
40 on the patient's treatment team, who has personally conducted an
41 examination of the patient as close to the hearing date as possible,
42 but in no event more than five days prior to the hearing date, to
43 testify at the hearing as to the clinical basis for the determination
44 that the patient is still in need [for] of involuntary commitment to
45 treatment.

46 (cf: P.L.2009, c.112, s.18)

1 26. Section 17 of P.L.1987, c.116 (C.30:4-27.17) is amended to
2 read as follows:

3 17. a. The treatment team at an outpatient treatment provider,
4 short-term care **【or】** facility, residential substance use disorders
5 treatment facility, psychiatric facility, or special psychiatric hospital
6 shall, subject to the limitations set forth in subsections b. and c. of
7 this section, administratively discharge a patient from involuntary
8 commitment status, if, at any time, the treatment team determines
9 that the patient is no longer **【needs】** in need of involuntary
10 commitment to treatment. If a discharge plan has not been
11 developed pursuant to section 18 of P.L.1987, c.116 (C.30:4-27.18),
12 **【it】** such discharge plan shall be developed forthwith.

13 b. If the patient is confined pursuant to an order entered under
14 section 15 of P.L.1987, c.116 (C.30:4-27.15) in a case in which the
15 Attorney General or a county prosecutor participated, the treatment
16 team shall, **【no】** not less than 10 days prior to the proposed date of
17 administrative discharge, provide written notice of the discharge to
18 the committing court, and to the person or persons who presented
19 the case for involuntary commitment to treatment. If, within five
20 days **【of】** after receipt of such notice, a person who presented the
21 case for commitment files a request for a hearing on the issue of the
22 patient's continued need for commitment, and serves notice of that
23 request, in accordance with the provisions of section 13 of
24 P.L.1987, c.116 (C.30:4-27.13), the treatment team shall delay the
25 administrative discharge, and the court shall schedule a hearing on
26 the issue. The hearing shall be conducted in the same manner as the
27 initial commitment hearing, as provided **【in section】** by sections 12
28 through 15 of P.L.1987, c.116 (C.30:4-27.12 through C.30:4-27.15).

29 c. If the patient is confined pursuant to an order entered under
30 N.J.S.2C:4-8₂ concerning acquittal of a criminal charge by reason of
31 insanity, or under N.J.S.2C:4-6₂ concerning lack of mental
32 competence to stand trial, the treatment team shall, **【no】** not less
33 than 10 days prior to the proposed date of administrative discharge,
34 provide written notice of the discharge to the committing court, and
35 to the prosecutor. If, within five days of receipt of such notice, the
36 prosecutor files a request for a hearing on the issue of the patient's
37 continued need for commitment, and serves notice of that request,
38 in accordance with the provisions of section 13 of P.L.1987, c.116
39 (C.30:4-27.13), the treatment team shall delay the administrative
40 discharge, and the court shall schedule a hearing on the issue. The
41 hearing shall be conducted in the same manner as the initial
42 commitment hearing, as provided **【in section】** by sections 12
43 through 15 of P.L.1987, c.116 (C.30:4-27.12 through C.30:4-27.15).
44 (cf: P.L.2009, c.112, s.19)

45
46 27. Section 18 of P.L.1987, c.116 (C.30:4-27.18) is amended to
47 read as follows:

1 18. a. A person who is discharged, either administratively or by
2 order of the court **【or administratively】**, from an outpatient
3 treatment provider, short-term care **【or】** facility, residential
4 substance use disorders treatment facility, psychiatric facility, or
5 special psychiatric hospital shall have a discharge plan prepared by
6 the treatment team at the facility or provider, as appropriate,
7 pursuant to this section. The treatment team shall give the patient
8 an opportunity to participate in the formulation of the discharge
9 plan.

10 **【In the case of patients】** b. (1) If the patient has been
11 **【committed to treatment at】** admitted to a short-term care facility, a
12 residential substance use disorder treatment facility, or a psychiatric
13 **【facilities】** facility, a community mental health agency designated
14 by the commissioner shall participate in the formulation of **【the】** a
15 discharge plan under this subsection. The facility shall advise the
16 mental health agency of the date of the patient's discharge**【**. The
17 mental health**】**, and the agency shall provide follow-up care to the
18 patient, pursuant to regulations adopted by the commissioner.

19 **【In the case of patients】** (2) If the patient has been assigned to
20 an outpatient treatment **【providers】** provider, the outpatient
21 treatment provider shall participate in the formulation of **【the】** a
22 discharge plan under this subsection.

23 **【This】** c. Nothing in this section **【does not】** shall preclude a
24 facility or provider from discharging a patient to the care of an
25 appropriate professional.

26 **【Psychiatric facilities】** d. A psychiatric facility discharging a
27 patient who was committed thereto, pursuant to P.L.1987, c.116
28 (C.30:4:27-1 et seq.) and P.L.2009, c.112 (C.30:4-27.8a et al.), shall
29 **【give】** provide notice of the discharge to the county adjuster of the
30 county in which the patient has legal settlement.
31 (cf: P.L.2009, c.112, s.20)
32

33 28. Section 20 of P.L.1987, c.116 (C.30:4-27.20) is amended to
34 read as follows:

35 20. A voluntary patient at a short-term care **【or】** facility,
36 residential substance use disorders treatment facility, psychiatric
37 facility, or special psychiatric hospital shall be discharged by the
38 treatment team at the patient's request. The treatment team shall
39 document all requests for discharge, whether oral or written, in the
40 patient's clinical record. The facility shall discharge the patient as
41 soon as possible, but in every case, within 48 hours, or at the end of
42 the next working day, from the time of the request, whichever is
43 longer, except that, if the treatment team determines that the patient
44 **【needs】** is in need of involuntary commitment, the treatment team
45 shall initiate court proceedings pursuant to section 10 of **【this act】**
46 P.L.1987, c.116 (C.30:4-27.10). The facility shall detain the patient

1 beyond 48 hours or the end of the next working day **【from the**
2 **time】** following receipt of the request for discharge, only if the
3 court has issued a temporary court order authorizing such
4 detainment.

5 (cf: P.L.1987, c.116, s.20)

6
7 29. R.S.30:4-34 is amended to read as follows:

8 30:4-34. In each county where the county counsel, county
9 solicitor, county clerk, county physician, **【or】** county probation
10 officer, or any of their assistants is in charge **【and supervision】** of,
11 and supervises, the preparation of papers relating to the
12 commitment of persons with mental illness or substance use
13 disorders, such person shall be known as "county adjuster," and
14 such duties shall, except as otherwise provided in section 2 of
15 P.L.1981, c.403 (C.30:4-34.1), continue to pertain to the office of
16 such county counsel, county solicitor, county clerk, county
17 physician, or county probation officer, or their successors in
18 office**【, but】**. However, notwithstanding the foregoing, **【in case】** if
19 any other county official or employee **【shall be】** is, at the time of
20 the **【adoption of this act】** enactment of R.S.30:4-34, in charge **【and**
21 **supervision】** of, and supervising, the preparation of papers relating
22 to the commitment of persons with mental illness, the governing
23 body of the county may designate that county official or employee
24 as county adjuster. In all other counties, the county governing body
25 shall designate some county official or employee as county adjuster.

26 The county adjuster shall **【have】** be in charge **【and supervision】**
27 of, and shall supervise, the preparation of papers relating to the
28 commitment of persons with mental illness or substance use
29 disorders in such county, **【and】** as well as in cases arising in other
30 counties in which the legal settlement appears to be in **【his】** the
31 county adjuster's county. Classification under civil service rules
32 shall not be affected by reason of such designation or additional
33 duties, and additional compensation, if any, for such services may
34 be fixed by the county governing body and paid in the same manner
35 as other county employees are paid. Each county governing body
36 shall notify the various facilities and institutions that are available
37 for the treatment of persons with mental illness or substance use
38 disorders of the name and address of the county adjuster.

39 **【The】** A judge of the Superior Court within the county may
40 appoint the county adjuster to act as referee for the purpose of
41 taking testimony bearing solely on the question of legal settlement
42 and the financial ability of the person with mental illness, or the
43 parent of **【the person with mental illness】** thereof, if the person is
44 under the age of 18, to pay the cost of maintenance, in accordance
45 with the provisions of R.S.30:4-60**【, and shall make return to】**. A
46 county adjuster appointed to act as a referee, pursuant to this

1 section, shall provide the court [of his] with the county adjuster's
2 findings, conclusions, and recommendations, which are developed
3 pursuant to this section. Such findings, conclusions, and
4 recommendations shall be subject to the approval of the court, and
5 shall not [be] become effective until incorporated in an appropriate
6 order or judgment of the court. The county adjuster, acting as such
7 referee, may [subpena] subpoena witnesses and compel their
8 attendance on forms approved by the court.
9 (cf: P.L.2005, c.55, s.2)

10
11 30. The Commissioner of Human Services shall adopt rules and
12 regulations, pursuant to the "Administrative Procedure Act,"
13 P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to
14 implement the provisions of this act.

15
16 31. This act shall take effect on the first day of the fourth month
17 next following enactment, except that the Commissioner of Human
18 Services may take anticipatory administrative action, in advance of
19 the effective date, as may be necessary to implement the provisions
20 of this act.

21
22

23 STATEMENT

24
25 This bill would authorize the use of two separate methods –
26 guardianship and commitment – for the involuntary treatment of
27 persons with substance use disorders.

28 First, the bill would authorize the appointment of a limited and
29 temporary guardian to direct treatment services for person with a
30 substance use impairment. "Substance use impairment" is defined
31 as a temporary and treatable condition resulting from a substance
32 use disorder, which condition either: 1) makes it likely that the
33 person suffering therefrom will neglect or refuse to care for himself,
34 including providing for the person's essential needs such as food,
35 clothing, shelter, health care, or safety, to the extent that such
36 neglect or refusal will pose an imminent threat of substantial harm
37 to the person's well-being; or 2) makes it substantially likely that
38 the person, without the provision of treatment services, will cause
39 physical harm to himself in the future; and which condition further
40 impairs the person's judgment to such an extent that the person both
41 is incapable of understanding the need for substance use disorder
42 treatment services, and is unable to make rational decisions
43 regarding the person's receipt of such services, except that the mere
44 refusal of a person to request or receive treatment services will not
45 constitute evidence of lack of judgment with respect to the person's
46 need for services.

47 The bill would authorize a petitioner to initiate a civil action, in
48 the Superior Court, seeking to obtain the legal authority to act as a

1 limited and temporary guardian of the person of a respondent who
2 is alleged to have a substance use impairment, for the sole purpose
3 of directing the respondent's substance use disorder treatment
4 services, as provided by the bill. A temporary and limited guardian
5 would have the duty and authority to: 1) select an appropriate
6 assessment and treatment services provider for the respondent; 2)
7 arrange for the respondent's admission to, and discharge from, the
8 provider for the purposes of assessment and treatment; 3) monitor
9 the execution of the respondent's treatment services plan; 4) make
10 all decisions related to the substance use disorder treatment that is
11 received by the respondent under the guardianship arrangement; and
12 5) pay the costs of any assessment and treatment services that are
13 provided to the respondent under the guardianship arrangement.
14 However, a guardian would not be authorized to make any other
15 decisions, on the respondent's behalf, with respect to any other
16 aspect of the respondent's life that is not directly related to the
17 treatment of the substance use impairment that established the basis
18 for the guardianship arrangement.

19 At a guardianship hearing conducted under the bill's provisions,
20 the petitioner will have the burden of proving to the court, by clear
21 and convincing evidence, that: 1) the respondent has a substance
22 use impairment resulting from a substance use disorder; 2) the
23 respondent needs, and can reasonably benefit from, substance use
24 disorder treatment services; and 3) the petitioner has made
25 arrangements to have substance use disorder treatment services
26 provided to the respondent through a licensed service provider or
27 qualified health professional. If the court finds, after consideration
28 of all of the relevant evidence and testimony submitted at a
29 guardianship hearing, that the petitioner has presented clear and
30 convincing evidence to establish each of these factors, the court
31 would be required to enter an order granting the petitioner the
32 authority to act as a limited and temporary guardian of the person of
33 the respondent, for the sole purpose of directing the respondent's
34 substance use disorder treatment services.

35 An order for limited and temporary guardianship would
36 automatically expire 90 days after the date of entry of the order, or
37 on the date that the respondent is discharged by the treatment
38 provider, whichever is earlier. However, a petitioner would be
39 authorized to apply to the court for an extension of the limited and
40 temporary guardianship arrangement, if necessary to complete
41 treatment services for the respondent.

42 Any order for guardianship, which is issued by a court pursuant
43 to the bill's provisions, would require the guardian to seek, and the
44 treatment provider to employ, the least restrictive form of treatment
45 services deemed appropriate for the respondent.

46 If, at any time during the course of guardianship proceedings, the
47 court finds that there is reasonable cause to believe that the
48 respondent is in need of involuntary commitment, as defined by

1 section 2 of P.L.1987, c.116 (C.30:4-27.2), the court would be
2 authorized, on its own motion, to initiate a proceeding for the
3 involuntary civil commitment of the respondent to substance use
4 disorder treatment, pursuant to P.L.1987, c.116 (C.30:4-27.1 et
5 seq.).

6 The bill would amend the State's existing involuntary
7 commitment laws at P.L.1987, c.116 (C.30:4-27.1 et seq.), in order
8 to clarify the circumstances under which a person may be
9 involuntarily committed to substance use disorder treatment.
10 Specifically, the amendments would clarify that a person will be
11 deemed to be "in need of involuntary commitment" for a substance
12 use disorder when the person's substance use disorder poses an
13 imminent danger to self, others, or property, as in the case where a
14 substance use disorder causes a person to overdose on potentially
15 deadly drugs. While the current commitment law incorporates
16 certain severe types of substance use disorders under the definition
17 of "mental illness," the bill's amendments would clarify the
18 distinction between substance use disorders and other types of
19 mental illness, which require treatment at psychiatric facilities and
20 hospitals, in order to ensure that persons who are committed for
21 substance use are afforded the least restrictive environment for
22 treatment that is available for their needs. Specifically, the bill
23 would provide for persons committed for a substance use disorder
24 to be provided with treatment at a residential substance use disorder
25 treatment facility or an outpatient substance use disorder treatment
26 provider, rather than at a psychiatric facility, hospital, or other
27 mental health provider.

28 In addition, the bill would clarify that the court is to provide for
29 more frequent periodic judicial review hearings in cases where a
30 person is committed for a substance use disorder than in cases
31 where a person is committed for a mental illness. In particular,
32 when a person is committed to substance use disorder treatment, the
33 first periodic review hearing is to be conducted 30 days after the
34 date of the initial commitment hearing (as opposed to three months
35 after the date of initial commitment, in the case of inpatient
36 commitment for mental illness, and six months after the date of
37 initial commitment, in the case of outpatient commitment for mental
38 illness), and subsequent review hearings are to be held every 30
39 days thereafter (as opposed to nine months, 12 months, and every
40 year thereafter for both inpatient and outpatient commitment for
41 mental illness). The court may schedule additional periodic review
42 hearings for a person who is committed for a substance use
43 disorder, as determined to be necessary, but such hearings are not to
44 be held more often than once every 21 days, except in extraordinary
45 circumstances. The bill would further clarify that a substance use
46 treatment provider or facility will be required to administratively
47 discharge a person committed thereto, if, at any time, the treatment

1 team determines that the person is no longer in need of involuntary
2 commitment to treatment.

3 The bill would require a law enforcement officer to take a person
4 into custody, and transport the person immediately and directly to a
5 screening service for an assessment to evaluate the need for
6 involuntary commitment, and for the commencement of involuntary
7 commitment proceedings, if necessary, in any case where the law
8 enforcement officer has administered naloxone or another opioid
9 antidote to the person, in order to revive the person, and prevent the
10 person's death, following the person's overdose on opioid drugs; or
11 in any case where a health care practitioner, emergency medical
12 responder, or private individual has certified, in a form and manner
13 prescribed by the Division of Mental Health and Addiction
14 Services, that the person has overdosed on opioid drugs, and has
15 been revived with an opioid antidote, within the preceding 48-hour
16 period, thereby necessitating the belief by the health care
17 practitioner, emergency medical responder, or private individual
18 that the person is an imminent danger to himself, and is in need of
19 involuntary commitment to treatment.

20 In a related vein, the bill would also amend the existing
21 commitment law to clarify that a law enforcement officer is to take
22 a person directly to a screening service for a mental health
23 evaluation, and for the commencement of mental health
24 commitment proceedings under the existing law, if necessary, in
25 any case where a health care practitioner, mental health care
26 practitioner, or emergency medical responder has certified, in a
27 form and manner prescribed by the division, that the person is
28 currently undergoing a mental health or behavioral health crisis in
29 which the person has caused, or attempted to cause, actual harm to
30 self or others, thereby necessitating a belief by the practitioner or
31 emergency medical responder that the person is in need of
32 involuntary commitment to treatment for a mental illness.