ASSEMBLY, No. 4087

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 7, 2020

Sponsored by:
Assemblyman RONALD S. DANCER
District 12 (Burlington, Middlesex, Monmouth and Ocean)

Co-Sponsored by:
Assemblywoman Murphy

SYNOPSIS

Codifies standard for rehospitalization after conditional discharge from psychiatric facility.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 12/2/2021)

AN ACT concerning involuntary commitment and amending P.L.1987, c.116.

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

1. Section 15 of P.L.1987, c.116 (C.30:4-27.15) is amended to read as follows:

15. a. If the court finds by clear and convincing evidence that the patient needs continued involuntary commitment to treatment, it shall issue an order authorizing the involuntary commitment of the patient and the assignment or admission of the patient pursuant to section 17 of P.L.2009, c.112 (C.30:4-27.15a) and shall schedule a subsequent court hearing in the event the patient is not administratively discharged pursuant to section 17 of P.L.1987, c.116 (C.30:4-27.17) prior thereto.

b. If the court finds that the patient does not need continued involuntary commitment to treatment, the court shall so order. A patient who is serving a term of incarceration shall be returned to the appropriate State, county or local authority to complete service of the term of incarceration imposed until released in accordance with law, and any other patient shall be discharged by the facility within 48 hours of the court's verbal order or by the end of the next working day, whichever is longer, with a discharge plan prepared pursuant to section 18 of P.L.1987, c.116 (C.30:4-27.18).

c. (1) The court may discharge the patient subject to conditions, if the court finds that the person does not need involuntary or continued involuntary commitment to treatment and the court finds:

(a) that the patient's history indicates a high risk of rehospitalization because of the patient's failure to comply with discharge plans; or

(b) that there is substantial likelihood that by reason of mental illness the patient will be dangerous to himself, others or property if the patient does not receive other appropriate and available services that render involuntary commitment to treatment unnecessary.

(2) Conditions imposed pursuant to this section shall include those recommended by the facility and mental health agency and developed with the participation of the patient. Conditions imposed on the patient shall be specific and their duration shall not exceed 90 days unless the court determines, in a case in which the Attorney General or a county prosecutor participated, that the conditions should be imposed for a longer period. If the court imposes conditions for a period exceeding six months, the court shall provide for a review hearing on a date the court deems appropriate but in no event later than six months from the date of the order.

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 <u>thus</u> is new matter.

The review hearing shall be conducted in the manner provided in this section, and the court may impose any order authorized pursuant to this section.

(3) The designated mental health agency staff person shall notify the court if the patient fails to meet the conditions of the discharge plan, and the court shall issue an order directing that the person be taken to a screening service for an assessment. The court shall determine, in conjunction with the findings of a screening service, **[**if**]** whether the patient **[**needs to be rehospitalized**]** is mentally ill and that mental illness causes the patient to be dangerous to self or dangerous to others or property, and whether appropriate facilities or services are not otherwise available, and, if so, the patient shall be returned to the facility for rehospitalization. The court shall hold a hearing within 20 days of the day the patient was returned to the facility to determine if the order of conditional discharge should be vacated.

d. Notwithstanding subsection a. of this section, or any provision of section 16, 17 or 18 of P.L.1987, c.116 (C.30:4-27.16, 30:4-27.17 or 30:4-27.18), no person committed while serving a term of incarceration shall be discharged by the court or administratively discharged prior to the date on which the person's maximum term would have expired had he not been committed. If the person is no longer in need of involuntary commitment to treatment, the person shall be returned to the appropriate State, county or local authority to complete service of the term of incarceration imposed until released in accordance with law, and the person shall be given day for day credit for all time during which the person was committed.

e. Notwithstanding subsection a. of this section, or any provision of section 16, 17 or 18 of P.L.1987, c.116 (C.30:4-27.16, 30:4-27.17 or 30:4-27.18), no person committed pursuant to N.J.S.2C:4-8 concerning acquittal of a criminal charge by reason of insanity or pursuant to N.J.S.2C:4-6 concerning lack of mental competence to stand trial shall be discharged by the court or administratively discharged unless the prosecuting attorney in the case receives prior notice and an opportunity to be heard.

(cf: P.L.2009, c.112, s.16)

2. This act shall take effect on the first day of the third month next following the date of enactment.

STATEMENT

This bill amends current law to provide that if a patient is conditionally discharged from a psychiatric facility and the patient has failed to meet the conditions of the discharge plan, the court, when it determines in conjunction with the findings of a screening

service whether to rehospitalize the patient, would make that determination based on the standard for initial involuntary commitment, that is, that the person is "mentally ill and that mental illness causes the person to be dangerous to self or dangerous to others or property, and appropriate facilities or services are not otherwise available."

The current statute is silent on the standard for such rehospitalization. The Appellate Division of the Superior Court specified in In re Commitment of B.L., 346 N.J.Super. 285 (App.Div. 2002), that a patient can be rehospitalized only when the standard for initial commitment is satisfied. This bill codifies that standard for rehospitalization after a conditional discharge.