

SENATE, No. 1886

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:
Senator NILSA CRUZ-PEREZ
District 5 (Camden and Gloucester)

SYNOPSIS

Clarifies that definition of mental illness in law governing involuntary commitment to treatment includes substance use disorder if dangerous standard met.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning involuntary commitment to treatment and
2 amending P.L.1987, c.116.

3

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

6

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

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

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

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

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

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

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

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

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

38 h. "Dangerous to self" means that by reason of mental illness
39 the person has threatened or attempted suicide or serious bodily
40 harm, or has behaved in such a manner as to indicate that the person
41 is unable to satisfy his need for nourishment, essential medical care
42 or shelter, so that it is probable that substantial bodily injury,
43 serious physical harm or death will result within the reasonably
44 foreseeable future; however, no person shall be deemed to be
45 unable to satisfy his need for nourishment, essential medical care or

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

1 r. "Mental illness" means a current, substantial disturbance of
2 thought, mood, perception or orientation which significantly
3 impairs judgment, capacity to control behavior or capacity to
4 recognize reality, but does not include simple alcohol intoxication,
5 transitory reaction to drug ingestion, organic brain syndrome or
6 developmental disability unless it results in the severity of
7 impairment described herein. The term mental illness;

8 (1) includes substance use disorder if a person's substance use
9 disorder makes the person dangerous to self or dangerous to others
10 or property; and

11 (2) is not limited to "psychosis" or "active psychosis," but shall
12 include all conditions that result in the severity of impairment
13 described herein.

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

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

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

24 v. "Psychiatrist" means a physician who has completed the
25 training requirements of the American Board of Psychiatry and
26 Neurology.

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

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

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

36 z. "Screening service" means a public or private ambulatory
37 care service designated by the commissioner, which provides
38 mental health services including assessment, emergency and referral
39 services to persons with mental illness in a specified geographic
40 area.

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

46 bb. "Short-term care facility" means an inpatient, community
47 based mental health treatment facility which provides acute care
48 and assessment services to a person with mental illness whose

1 mental illness causes the person to be dangerous to self or
2 dangerous to others or property. A short-term care facility is so
3 designated by the commissioner and is authorized by the
4 commissioner to serve persons from a specified geographic area. A
5 short-term care facility may be a part of a general hospital or other
6 appropriate health care facility and shall meet certificate of need
7 requirements and shall be licensed and inspected by the Department
8 of Health and Senior Services pursuant to P.L.1971, c.136
9 (C.26:2H-1 et seq.) and in accordance with standards developed
10 jointly with the Commissioner of Human Services.

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

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

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

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

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

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

47 ii. "Outpatient treatment provider" means a community-based
48 provider, designated as an outpatient treatment provider pursuant to

1 section 8 of P.L.1987, c.116 (C.30:4-27.8), that provides or
2 coordinates the provision of outpatient treatment to persons in need
3 of involuntary commitment to treatment.

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

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

16 ll. "Substance use disorder" means substance use disorder as
17 defined in the most recent edition of the Diagnostic and Statistical
18 Manual of Mental Disorders.

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

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21 2. This act shall take effect immediately.

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24 STATEMENT

25

26 This bill amends the law governing involuntary commitment to
27 treatment to clarify that the definition of the term "mental illness"
28 includes substance use disorder if a person's substance use disorder
29 makes the person "dangerous to self" or "dangerous to others or
30 property," which are also defined terms. The bill also defines the
31 term "substance use disorder" as it is defined in the most recent
32 edition of the Diagnostic and Statistical Manual of Mental
33 Disorders.

34 Under current law, section 2 of P.L.1987, c.116 (C.30:4-27.2)
35 provides, in part, that being "dangerous to self" means that "by
36 reason of mental illness a person has threatened or attempted
37 suicide or serious bodily harm, or has behaved in such a manner as
38 to indicate" an inability "to satisfy the need for nourishment,
39 essential medical care or shelter, so that it is probable that
40 substantial bodily injury, serious physical harm or death will result
41 within the reasonably foreseeable future." The term "dangerous to
42 others or property" means that "by reason of mental illness there is
43 a substantial likelihood that the person will inflict serious
44 bodily harm upon another person or cause serious property damage
45 within the reasonably foreseeable future. For both terms, the law
46 provides that the determination is to "take into account a person's
47 history, recent behavior, and any recent act, threat or serious
48 psychiatric deterioration."