

SENATE, No. 2002

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MARCH 5, 2020

Sponsored by:

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

SYNOPSIS

Authorizes appointment of limited guardian to direct treatment for person with 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.



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2

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.

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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 shall 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;

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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 held pursuant to subsection a. of this section, unless counsel, in his

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1 or her discretion, agrees to such ongoing representation, based on
2 the relief sought and the probability of 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 assessment or treatment services for the respondent. The court may
11 also initiate civil contempt proceedings against a respondent for
12 failure to comply with the directives of a guardian, provided that
13 such directives are consistent with the order for limited and
14 temporary guardianship, which is issued by the court pursuant to
15 section 4 of P.L. , c. (C.) (pending before the Legislature
16 as this bill). Under no circumstances shall a respondent be
17 incarcerated for failure to comply with the directives of the
18 guardian.

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

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

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

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

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

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

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

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

24 1. The Legislature finds and declares that:

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

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

44 c. It is the policy of this State that persons in the public mental
45 health **system** and substance use disorder treatment systems
46 receive inpatient treatment and rehabilitation services in the least
47 restrictive environment, in accordance with the highest professional
48 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)

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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 form 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 commitment, 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 conclusion
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 psychiatrist; 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 that 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 care, or shelter, so
40 that it is probable that substantial bodily injury, serious physical
41 harm, 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 care, or shelter
44 if **【he】** the person is able to satisfy such needs with the supervision
45 and assistance of others who are willing and available. This
46 determination shall take into account a person's history, recent
47 behavior, and any recent act, threat, 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 into
8 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, licensed marriage and
40 family therapist, or other individual who is trained to do outreach
41 **[only]** for the purposes of psychological and substance use disorder
42 assessment **[who],** is employed by a screening service, and
43 possesses the license, academic training, or experience**[, as]**
44 required by the commissioner pursuant to regulation; except that a
45 psychiatrist and a State licensed clinical psychologist who meet the
46 first two requirements **[for]** necessary to act as a mental health
47 screener, as specified in this definition, shall not have to comply

- 1 with any additional licensure, training, or experiential requirements
2 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, whether or not affiliated with a hospital, which is
42 designated by the commissioner, and which provides [mental
43 health] services, including mental health and substance use disorder
44 assessment services, emergency mental health and substance use
45 disorder treatment services, and referral services, to persons with
46 mental illness or substance use disorders in a specified geographic
47 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 that is designated by the
9 commissioner to provide acute care and assessment services to a
10 person with mental illness whose mental illness causes the person to
11 be dangerous to self or dangerous to others or property. A short-
12 term care facility is authorized to serve persons with mental illness
13 from a specified geographic area, may be a part of a general
14 hospital or other appropriate health care facility, and shall meet
15 certificate of need requirements and be licensed and inspected by
16 the Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et
17 seq.).

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

23 dd. "Treatment team" means **【one or more persons, including at**
24 **least one psychiatrist or physician, and may include a psychologist,**
25 **social worker, nurse, licensed marriage and family therapist, and**
26 **other appropriate services providers. A treatment】** a team of health
27 care and mental health care professionals, which provides mental
28 health services or substance use disorder treatment services, as
29 appropriate, to a patient of a screening service, residential substance
30 use disorders treatment facility, outpatient treatment provider, 【or】
31 short-term care facility, or psychiatric facility, and which, in the
32 case of a team providing mental health services to a patient, is
33 composed of at least one psychiatrist or physician in addition to
34 other appropriate service providers, such as a psychologist, social
35 worker, marriage and family therapist, or nurse; and, in the case of
36 a team providing substance use disorder treatment services to a
37 patient, is composed of at least one clinical alcohol and drug
38 counselor and one psychiatrist or physician in addition to other
39 appropriate services providers, such as a psychologist, social
40 worker, marriage and family counselor, or nurse.

41 ee. "Voluntary admission" means that an adult **【with mental**
42 **illness,】** whose mental illness or substance use disorder causes the
43 person to be dangerous to self or dangerous to others or property
44 **【and】** is willing, and elects or agrees, to be voluntarily admitted to
45 a residential substance use disorder treatment facility 【voluntarily
46 for care, needs care at】, a short-term care facility, or a psychiatric
47 facility because other facilities or services are not appropriate or

1 available to meet the person's mental health or substance use
2 disorder treatment needs. A person may also be voluntarily
3 admitted to a psychiatric facility if **【his】** the person's mental illness
4 presents a substantial likelihood of rapid deterioration in
5 functioning in the near future, there are no appropriate community
6 alternatives available, and the psychiatric facility can admit the
7 person and remain within its rated capacity.

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

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

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

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

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

1 involuntary administration of medication **【shall not be involuntarily**
2 **administered】** in an outpatient setting.

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

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

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

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

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

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

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

42 rr. "Substance use disorder" means a maladaptive pattern of
43 substance use, as defined in the most recent version of the
44 Diagnostic and Statistical Manual of Mental Disorders, which is
45 manifested by recurrent and significant adverse consequences
46 related to the repeated use of drugs or alcohol.

1 “Substance use disorder” does not include simple alcohol
2 intoxication or transitory reaction to drug ingestion.

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

4

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

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

9 (1) all adults with mental illness who are involuntarily
10 committed to mental health treatment, including those who are
11 assigned to an outpatient mental health treatment provider **[or]** and
12 those who are admitted to a short-term care facility, psychiatric
13 facility, or special psychiatric hospital **[and]**:

14 (2) all adults with a substance use disorder who are involuntarily
15 committed to substance use disorder treatment, including those who
16 are assigned to an outpatient substance use disorder treatment
17 provider and those who are admitted to a residential substance use
18 disorder treatment facility;

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

22 (4) all adults with a substance use disorder who are voluntarily
23 admitted from a screening service to a residential substance use
24 disorder treatment facility.

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

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

31

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

34 4. a. The commissioner, in consultation with the appropriate
35 county mental health board and consistent with the approved county
36 mental health plan, shall designate one or more mental health
37 agencies or facilities in each geographic area in the State as a
38 screening service. The commissioner shall so designate an agency or
39 facility only with the approval of the agency's or facility's
40 governing body.

41 b. In designating the screening services, the commissioner shall
42 ensure that screening services are accessible to all persons in the
43 State who need these services. To ensure accessibility to mental
44 health services, the commissioner shall accept, on or after the
45 effective date of P.L.2019, c.391 (C.30:4-27.4a et al.), an
46 application from a screening service to expand services that are
47 tailored to meet the needs of the persons in its geographic area. The
48 expanded services may include, but need not be limited to,

1 establishing a satellite program that is situated in a location separate
2 from a screening service and that provides services emphasizing
3 outreach and early intervention.

4 c. The commissioner shall ensure that screening service
5 evaluation is the preferred process for entry into **【outpatient**
6 **treatment, short-term care facilities, or psychiatric facilities】** the
7 State's mental health and substance use disorder treatment systems,
8 so that appropriate consideration is given to less restrictive
9 treatment alternatives.

10 (cf: P.L.2019, c.391, s.2)

11

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

14 5. The commissioner shall adopt rules and regulations pursuant
15 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
16 1 et seq.) regarding a screening service and its staff **【that】**, as
17 necessary to effectuate the following purposes and procedures:

18 a. A screening service shall serve as the facility in the public
19 mental health care and substance use disorder treatment **【system】**
20 systems wherein a person who is believed to be in need of
21 involuntary commitment **【to outpatient treatment, a short-term care**
22 **facility, psychiatric facility or special psychiatric hospital**
23 **undergoes】** will undergo an assessment to determine what mental
24 health or substance use disorder treatment services are appropriate
25 for the person and where those services may be most appropriately
26 provided in the least restrictive environment.

27 The screening service **【may】** conducting an assessment under
28 this subsection shall provide emergency and consensual mental
29 health or substance use disorder treatment, as appropriate, to the
30 person receiving the assessment, and may transport the person, or
31 detain the person for a period of up to 24 hours, for the purposes of
32 conducting the assessment and providing the emergency treatment
33 **【and conducting the assessment】**.

34 b. When a person is assessed by a mental health screener and
35 involuntary commitment to mental health or substance use disorder
36 treatment seems necessary, the screener shall provide, on a
37 screening document prescribed by the division, information
38 regarding the person's history and available alternative facilities and
39 services that are deemed inappropriate for the person. When
40 appropriate and available, and as permitted by law, the screener
41 shall make reasonable efforts to gather information from the
42 person's family or significant others for the purposes of preparing
43 the screening document. If a psychiatrist, in consideration of this
44 document and in conjunction with the psychiatrist's own complete
45 assessment, concludes that the person is in need of commitment to
46 treatment, the psychiatrist shall complete the screening certificate.
47 The screening certificate shall be completed by a psychiatrist,
48 except in those circumstances where the division's contract with the

1 screening service provides that another physician may complete the
2 certificate.

3 Upon completion of the screening certificate, screening service
4 staff shall determine, in consultation with the psychiatrist or another
5 physician, as appropriate, the least restrictive environment for **the**
6 appropriate treatment to which the person shall be assigned or
7 admitted, taking into account the person's prior history of
8 hospitalization and treatment and the person's current mental health
9 condition or substance use disorder status. Screening service staff
10 shall designate:

11 (1) inpatient mental health treatment or residential substance use
12 disorder treatment for the person if **he** the person is deemed to be
13 immediately or imminently dangerous or if outpatient treatment is
14 deemed inadequate to render the person unlikely to be dangerous to
15 self, others, or property within the reasonably foreseeable future;
16 and

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

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

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

31 The person shall be admitted to **the** an appropriate inpatient or
32 residential facility or assigned to **the** an appropriate outpatient
33 treatment provider, **as appropriate for treatment,** as soon as
34 possible, based on the person's treatment needs. Screening service
35 staff **are** shall be authorized to coordinate the initiation of
36 outpatient treatment **or** services or to transport **the person** or
37 arrange for transportation of the person to **the** an appropriate
38 provider or facility.

39 c. If the mental health screener determines that the person is
40 not in need of **assignment or commitment to an outpatient**
41 treatment provider, or admission or commitment to a short-term
42 care facility, psychiatric facility or special psychiatric hospital
43 involuntary commitment to treatment, the screener shall refer the
44 person to an appropriate community mental health or social services
45 agency, to an appropriate substance use disorder treatment provider,
46 or to appropriate professional or inpatient care in **a** the
47 psychiatric unit of a general hospital.

1 d. A mental health screener shall make a screening outreach
2 visit if the screener determines, based on clinically relevant
3 information provided by an individual with personal knowledge of
4 the person subject to screening, that the person may need
5 involuntary commitment to treatment and **【the person】** is unwilling
6 or unable to come to the screening service for an assessment.

7 e. If the mental health screener **【pursuant to this assessment】**
8 determines, as the result of an assessment, that there is reasonable
9 cause to believe that a person is in need of involuntary commitment
10 to treatment, the screener shall so certify the need on a form
11 prepared by the division.

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

13
14 16. Section 6 of P.L.1987, c.116 (C.30:4-27.6) is amended to
15 read as follows:

16 6. A State or local law enforcement officer shall take a person
17 into custody **【of a person】** and **【take】** transport the person
18 immediately and directly to a screening service for the purposes of
19 assessment if:

20 a. **【On the basis of personal observation,】** the law enforcement
21 officer has reasonable cause to believe, on the basis of personal
22 observation, that the person is in need of involuntary commitment
23 to treatment;

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

31 c. **【The court orders that a】** the person is subject to, but has
32 failed to adhere to the conditions of, an order of conditional
33 discharge, issued by a court pursuant to subsection c. of section 15
34 of P.L.1987, c.116 (C.30:4-27.15) **【who has failed to follow the**
35 **conditions of the discharge】**, and the court has ordered the person to
36 be taken to a screening service for an assessment; **【or】**

37 d. **【An】** an outpatient treatment provider has certified, 【on】 in
38 a form and manner prescribed by the division, that the provider has
39 reasonable cause to believe that the person is in need of **【evaluation**
40 **for】** involuntary commitment to treatment;

41 e. the law enforcement officer has administered an opioid
42 antidote, as defined in section 3 of P.L.2013, c.46 (C.24:6J-3),
43 directly to the person in order to revive the person and prevent the
44 person's death following the person's overdose on opioid drugs; or
45 a health care practitioner, emergency medical responder, or private
46 individual has certified, in a form and manner prescribed by the
47 division, that the person has overdosed on opioid drugs and been

1 revived with an opioid antidote within the preceding 48-hour
2 period, thereby necessitating the belief by the health care
3 practitioner, emergency medical responder, or private individual
4 that the person is an imminent danger to himself and is in need of
5 involuntary commitment to treatment; or

6 f. a health care practitioner, mental health care practitioner, or
7 emergency medical responder has certified, in a form and manner
8 prescribed by the division, that the person is currently undergoing a
9 mental health or behavioral health crisis in which the person has
10 caused or attempted to cause actual harm to self or others, thereby
11 necessitating a belief by the practitioner or emergency medical
12 responder that the person is in need of involuntary commitment to
13 treatment.

14 The involvement of the law enforcement authority under this
15 section shall continue at the screening service as long as necessary
16 to protect the safety of the person in custody and the safety of the
17 community from which the person was taken.

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

19
20 17. Section 7 of P.L.1987, c.116 (C.30:4-27.7) is amended to
21 read as follows:

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

33 b. An emergency [services or medical transport person or their
34 respective employers] medical responder or non-emergency
35 medical transporter, acting in good faith pursuant to [this act]
36 P.L.1987, c.116 (C.30:4-27.1 et seq.) and P.L.2009, c.112 (C.30:4-
37 27.8a et al.), and pursuant to the direction of a person designated in
38 subsection a. of this section, who takes reasonable steps, in good
39 faith, to take custody of, detain, or transport an individual for the
40 purpose of mental health or substance use disorder assessment or
41 treatment [is], and the respective employers of such individuals,
42 shall be immune from civil and criminal liability.

43 [For the purposes of this subsection, "emergency services or
44 medical transport person" means a member of a first aid,
45 ambulance, rescue squad or fire department, whether paid or
46 volunteer, auxiliary police officer or paramedic.]

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

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

3 8. a. The commissioner, in consultation with the
4 Commissioner of Health **【and Senior Services】**, shall designate one
5 or more mental health agencies or facilities in each county or multi-
6 county region in the State as short-term care facilities. **【The**
7 commissioner shall so designate an agency or facility only with the
8 approval of the agency's or facility's governing body.**】**

9 b. The commissioner shall:

10 (1) designate one or more mental health agencies, in each
11 county or multi-county region in the State, as an outpatient mental
12 health treatment provider, and **【shall】** authorize the designated
13 **【outpatient treatment】** provider to provide services to persons with
14 mental illness, from a specified geographic area, who are in need of
15 involuntary commitment to outpatient mental health treatment; and

16 (2) designate one or more outpatient substance use disorder
17 treatment facilities or clinics, in each county or multi-county region
18 in the State, as an outpatient substance use disorder treatment
19 provider, and authorize the designated provider to provide services
20 to persons with substance use disorders, from a specified
21 geographic area, who are in need of involuntary commitment to
22 outpatient substance use disorder treatment.

23 c. The commissioner shall **【so】** designate an agency or facility,
24 as provided by this section, only with the approval of the agency's
25 or facility's governing body.

26 (cf: P.L.2009, c.112, s.8)

27

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

30 9. a. An outpatient treatment provider shall develop a plan of
31 outpatient treatment, in cooperation with screening service or short
32 term care facility staff or the court, as applicable, for patients who
33 are committed and assigned to outpatient treatment by screening
34 service staff, or by order of a court, or both. When appropriate and
35 available, and as permitted by law, the provider shall make
36 reasonable efforts to gather information from the patient's family or
37 significant others for the purposes of developing the plan of
38 outpatient treatment.

39 b. During the time a patient is **【assigned to the outpatient**
40 **treatment provider for services pursuant to a commitment】**
41 committed to outpatient treatment, the outpatient treatment provider
42 shall provide and coordinate the provision of care consistent with
43 the plan of outpatient treatment.

44 c. (1) If a patient fails to materially comply with the plan of
45 outpatient treatment during the time the patient is **【assigned by a**
46 screening service to the outpatient treatment provider for services
47 pursuant to a commitment**】** committed to outpatient treatment, or, if

1 the outpatient treatment provider determines that the plan of
2 outpatient treatment is inadequate to meet the patient's mental
3 health or substance use disorder treatment needs, the provider shall
4 notify the screening service, or the court, or both, as provided in
5 paragraph (2) of this subsection, of the material noncompliance or
6 plan inadequacy, as applicable, and the patient shall be referred to a
7 screening service for an assessment to determine what mental health
8 or substance use disorder treatment services are appropriate and
9 where those services may be provided, in accordance with section 5
10 of P.L.1987, c.116 (C.30:4-27.5). In such a case, the patient shall
11 be afforded the protections and procedures provided for in
12 P.L.1987, c.116 (C.30:4-27.1 et seq.) and P.L.2009, c.112 (C.30:4-
13 27.8a et al.).

14 (2) Notice under this subsection shall be provided as follows:
15 (a) in cases where a screening service has assigned the patient to the
16 outpatient treatment provider, notice shall be provided to the
17 screening service that assigned the patient; and (b) in cases where a
18 court has assigned the patient to the outpatient treatment provider,
19 notice shall be provided to the court, as well as to the screening
20 service, if any, that assessed the patient for the purposes of the
21 commitment proceeding.

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

37 e. If an outpatient treatment provider determines that a plan of
38 outpatient treatment is inadequate and needs to be modified, but
39 that referral to a screening service is not necessary, the provider
40 shall seek **【court】** judicial approval for such modification and
41 **【shall】** notify the court, the patient's attorney, and the county
42 adjuster of the request for **【court】** judicial approval of such
43 modification.

44 (cf: P.L.2009, c.112, s.9)

45

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

1 9. a. Outpatient treatment providers, residential substance use
2 disorder treatment facilities, short-term care facilities, psychiatric
3 facilities, and special psychiatric hospitals shall effectuate the
4 following purposes and procedures:

5 **【a.】** (1) An outpatient treatment provider to which a person
6 has been assigned, pursuant to an order of continued involuntary
7 commitment to treatment **【pursuant to】** issued under section 15 of
8 P.L.1987, c.116 (C.30:4-27.15), shall **【maintain】** adhere to the plan
9 of outpatient treatment approved by the court pursuant to section 17
10 of P.L.2009, c.112 (C.30:4-27.15a), and shall notify the court, the
11 **【person's】** patient's attorney, and the county adjuster of any
12 material non-compliance with the plan by the **【person】** patient, and
13 of the inadequacy of the plan of outpatient treatment to meet the
14 **【person's】** patient's mental health or substance use disorder
15 treatment needs, if applicable, and shall seek **【court】** approval from
16 the court for **【a】** any modification to a plan of outpatient treatment,
17 as provided for in section 9 of P.L.2009, c.112 (C.30:4-27.8a).
18 **【The director or chief executive officer of a】**

19 (2) A residential substance use disorder treatment facility, short-
20 term care facility, psychiatric facility, or special psychiatric hospital
21 shall be authorized to detain any person who is involuntarily
22 committed to the facility. The director or chief executive officer of
23 the facility shall have custody of a person while that person is
24 detained in the facility, and shall notify: **【(1)】** (a) appropriate public
25 or private agencies to arrange for the care of any dependents of the
26 person and to ensure the protection of the person's property; **【and**
27 **【(2)】** (b) appropriate **【ambulatory】** outpatient mental health
28 treatment providers or outpatient substance use disorder treatment
29 providers, for the purposes of beginning discharge planning**【.** If a
30 person is admitted to**】;** and (c) in the case of a psychiatric facility,
31 **【the chief executive officer of the facility shall promptly notify】** the
32 county adjuster of the person's county of residence in order to
33 ensure that the county adjuster is aware that the person has been
34 admitted to the facility. **【The】**

35 (3) Each facility **【is】** and provider identified under this
36 subsection shall be authorized to provide assessment, treatment, and
37 rehabilitation services, as appropriate, to persons who are
38 involuntarily committed thereto pursuant to P.L.1987, c.116
39 (C.30:4-27.1 et seq.) and P.L.2009, c.112 (C.30:4-27.8a et al.), and
40 shall provide discharge planning services as required **【pursuant to】**
41 by section 18 of P.L.1987, c.116 (C.30:4-27.18). **【The facility is**
42 authorized to detain persons involuntarily committed to the
43 facility.**】**

44 b. A person shall not be involuntarily committed to treatment at
45 an outpatient treatment provider, short-term care **【or】** facility,
46 residential substance use disorders treatment facility, psychiatric

1 facility, or special psychiatric hospital, unless the person is
2 determined, pursuant to P.L.1987, c.116 (C.30:4-27.1 et seq.) and
3 P.L.2009, c.112 (C.30:4-27.8a et al.), to be in need of involuntary
4 commitment to treatment.

5 **【The】** A person shall be assigned involuntarily to an outpatient
6 treatment provider or admitted involuntarily to a facility only by
7 referral from a screening service or by temporary court order. The
8 person may be admitted voluntarily to a short-term care **【or】**
9 facility, residential substance use disorders treatment facility,
10 psychiatric facility, or special psychiatric hospital only after the
11 person has been advised orally and in writing of the discharge
12 provisions established pursuant to P.L.1987, c.116 (C.30:4-27.1 et
13 seq.) and P.L.2009, c.112 (C.30:4-27.8a et al.) and **【of】** the
14 subsequent possibility that the facility may initiate involuntary
15 commitment proceedings **【for】** against the person.

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

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

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

33

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

36 10. a. (1) A short-term care **【or】** facility, residential substance
37 use disorders treatment facility, psychiatric facility, or **【a】** special
38 psychiatric hospital shall initiate court proceedings for involuntary
39 commitment to inpatient or outpatient treatment by submitting to
40 the court a clinical certificate completed by a psychiatrist on the
41 patient's treatment team, or an electronically scanned clinical
42 certificate in lieu of the original certificate, and the screening
43 certificate, or an electronically scanned screening certificate in lieu
44 of the original certificate, which authorized admission of the patient
45 to the facility; provided, however, that both certificates shall not be
46 signed by the same psychiatrist, unless the psychiatrist has made a

1 reasonable but unsuccessful attempt to have another psychiatrist
2 conduct the evaluation and execute the certificate.

3 (2) A screening service or outpatient treatment provider shall
4 initiate court proceedings for commitment to outpatient treatment
5 by submitting to the court a clinical certificate completed by a
6 psychiatrist on the patient's treatment team, or an electronically
7 scanned clinical certificate in lieu of the original certificate, and the
8 screening certificate, or an electronically scanned screening
9 certificate in lieu of the original certificate, which authorized
10 assignment of the patient to outpatient treatment with the outpatient
11 treatment provider; provided, however, that both certificates shall
12 not be signed by the same psychiatrist, unless the psychiatrist has
13 made a reasonable but unsuccessful attempt to have another
14 psychiatrist conduct the evaluation and execute the certificate.

15 b. Court proceedings for the involuntary commitment to
16 treatment of any person not referred by a screening service may be
17 initiated by the submission to the court of two clinical certificates,
18 at least one of which is prepared by a psychiatrist. The person shall
19 not be involuntarily committed before the court issues a temporary
20 court order.

21 c. A court proceeding for involuntary commitment to treatment
22 of an inmate who is scheduled for release upon expiration of a
23 maximum term of incarceration shall be initiated by the Attorney
24 General or county prosecutor by submission to the court of two
25 clinical certificates, at least one of which is prepared by a
26 psychiatrist.

27 d. The Attorney General, in exercise of the State's authority as
28 *parens patriae*, may initiate a court proceeding for the involuntary
29 commitment to treatment of any person, in accordance with the
30 procedures set forth in subsection a. or b. of this section. When the
31 Attorney General determines that the public safety requires the
32 initiation of a proceeding pursuant to subsection b. of this section,
33 the Attorney General may apply to the court for an order
34 compelling the **【psychiatric evaluation of the】** person to undergo a
35 psychiatric evaluation or substance use disorder assessment. The
36 court shall grant the Attorney General's application if the court
37 finds that there is reasonable cause to believe that the person may
38 be in need of involuntary commitment to treatment. The Attorney
39 General may delegate the authority granted pursuant to this
40 subsection, on a case by case basis, to the county prosecutor.

41 e. Any person who is a relative, by blood or marriage, of the
42 person being screened, and who executes a clinical certificate, or
43 any person who signs a clinical certificate for any purpose or
44 motive other than for purposes of care, treatment, and confinement
45 of a person in need of involuntary commitment to treatment, shall
46 be guilty of a crime of the fourth degree.

47 f. Upon receiving **【these】** the documents required by this
48 section, the court shall immediately review **【them】** the documents

1 in order to determine whether there is probable cause to believe that
2 the person is in need of involuntary commitment to treatment.

3 g. If the court finds, pursuant to a documentary review
4 conducted pursuant to subsection f. of this section, that there is
5 probable cause to believe that the person, other than a person whose
6 commitment is sought pursuant to subsection c. of this section, is in
7 need of involuntary commitment to treatment, **[it]** the court shall
8 issue a temporary order authorizing the temporary assignment of the
9 person to an outpatient treatment provider, or the temporary
10 admission to or retention of the person in the custody of **[the]** a
11 facility, that is both appropriate to the person's condition and **[is]**
12 provides the least restrictive environment for treatment, pending a
13 **[final]** the court's final determination on the matter, which final
14 determination shall be issued at a formal commitment hearing held
15 pursuant to section 12 of P.L.1987, c.116 (C.30:4-27.12).

16 h. If the court finds that there is probable cause to believe that
17 a person whose commitment is sought pursuant to subsection c. of
18 this section is in need of involuntary commitment to treatment, it
19 shall issue an order setting a date for a **[final]** commitment hearing
20 under section 12 of P.L.1987, c.116 (C.30:4-27.12) and authorizing
21 the Commissioner of the Department of Corrections to arrange for
22 temporary commitment pursuant to section 2 of P.L.1986, c.71
23 (C.30:4-82.2) to the Ann Klein Forensic Center in Trenton or other
24 facility designated for the criminally insane, pending the final
25 hearing, and prior to the expiration of the person's term of
26 incarceration. The order shall specifically provide for transfer of
27 custody to the Ann Klein Forensic Center in Trenton or other
28 facility designated for the criminally insane if the person's
29 maximum term will expire prior to the final hearing.

30 i. In the case of a person committed to treatment at a short-
31 term care facility or special psychiatric hospital, after the facility's
32 treatment team conducts a mental and physical examination,
33 administers appropriate treatment, and prepares a discharge
34 assessment, the facility may transfer the patient to a psychiatric
35 facility prior to the final hearing; provided that:

36 (1) the patient**[, his]** and the patient's family and **[his]** attorney
37 are given 24 hours' advance notice of the pending transfer; and

38 (2) the transfer is accomplished in a manner which will give the
39 receiving facility adequate time to examine the patient, become
40 familiar with **[his]** the patient's behavior and condition, and
41 prepare for the hearing. In no event shall the transfer be made less
42 than five days prior to the date of the hearing, unless an unexpected
43 transfer is dictated by a change in the person's clinical condition.

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

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

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

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

8 a. The right to have examinations and services provided in the
9 patient's primary means of communication, including, as soon as
10 possible, with the aid of an interpreter if needed because the patient
11 is of limited English-speaking ability or suffers from a speech or
12 hearing impairment;

13 b. The right to a verbal explanation of the reasons for
14 admission to the facility or assignment to the provider, as
15 applicable, the availability of an attorney, and the rights provided in
16 P.L.1987, c.116 (C.30:4-27.1 et seq.) and P.L.2009, c.112 (C.30:4-
17 27.8 et al.); and

18 c. The right to be represented by an attorney, and, if
19 unrepresented or unable to afford an attorney, the right to be
20 provided with an attorney paid for by the appropriate government
21 agency. An attorney representing a patient **【has】** shall have the
22 right to inspect and copy the patient's clinical chart.

23 The clinical director of the facility**【,】** or **【the outpatient**
24 **treatment】** provider, as appropriate, shall ensure that a written
25 statement of the rights **【provided in P.L.1987, c.116 (C.30:4-27.1 et**
26 **seq.) and P.L.2009, c.112】** established under this section is
27 provided to patients **【at the time of】** as soon as possible after their
28 admission to the facility or assignment to the provider, as
29 applicable, **【as soon as possible thereafter,】** and to patients and
30 their families, upon request.

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

32

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

35 12. a. A patient who is involuntarily committed to treatment
36 **【and assigned to an outpatient treatment provider or involuntarily**
37 **committed to treatment and admitted to a short-term care or**
38 **psychiatric facility or special psychiatric hospital】** shall receive a
39 court hearing with respect to the issue of continued need for
40 involuntary commitment within 20 days **【from】** after the date of
41 initial commitment, unless the patient has been administratively
42 discharged pursuant to section 17 of P.L.1987, c.116 (C.30:4-
43 27.17). However, if a person is involuntarily committed pursuant to
44 subsection c. or d. of section 10 of P.L.1987, c.116 (C.30:4-27.10),
45 that person shall immediately **【shall】** be committed to the Ann
46 Klein Forensic Center in Trenton, or **【other】** to another facility

1 designated for the criminally insane, for the duration of the 20-day
2 waiting period.

3 b. Except as provided in subsection c. of this section, the
4 assigned county counsel **【is】** shall be responsible for presenting the
5 case for the patient's involuntary commitment to the court, unless
6 the county adjuster is licensed to practice law in this State, in which
7 case, the county adjuster shall present the case for the patient's
8 involuntary commitment to the court.

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

11 (1) The Attorney General, or the county prosecutor acting at the
12 request of the Attorney General, may supersede the county counsel
13 or county adjuster and assume responsibility for presenting any case
14 for involuntary commitment to treatment, or may elect to participate
15 with the county counsel or county adjuster in presenting any such
16 case; and

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

23 d. A patient subject to involuntary commitment to treatment
24 shall have counsel present at **【the】** any hearing held pursuant to this
25 section and shall not be permitted to appear at **【the】** any such
26 hearing without counsel.

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

28

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

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

43 b. If the court determines that the least restrictive environment
44 for the patient to receive clinically appropriate treatment would be
45 in an outpatient setting and that there is a likelihood **【of】** that the
46 patient **【responding】** will respond to outpatient treatment, the court
47 shall obtain, from a designated outpatient treatment provider, a
48 proposed plan of outpatient treatment for the patient, which the

1 court shall review and approve. **【The plan of outpatient treatment**
2 **shall be approved by the court.】**

3 c. If the court determines that the least restrictive environment
4 for the patient to receive clinically appropriate treatment would be
5 in an inpatient setting, the court shall issue an order **【for**
6 **admission】** providing for the patient to be admitted to a psychiatric
7 facility or residential substance use disorder treatment facility, as
8 appropriate for the patient's condition.

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

19 e. At the time that the court sets the date for a hearing on **【the】**
20 a proposed change in placement, which has been recommended
21 pursuant to subsection d. of this section, notice of the hearing shall
22 be served upon the patient, the patient's guardian, if any, the
23 patient's next-of-kin, the patient's attorney, and the county adjuster
24 of the county in which the patient has legal settlement.

25 f. The provisions of section 14 of P.L.1987, c.116 (C.30:4-
26 27.14), concerning patient rights at a hearing, shall apply to **【the】**
27 any hearing that is held pursuant to this **【subsection】** section.
28 (cf: P.L.2009, c.112, s.17)

29
30 25. Section 16 of P.L.1987, c.116 (C.30:4-27.16) is amended to
31 read as follows:

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

46 (1) In the case of a patient who has been admitted to a short-
47 term care facility, **【the court shall conduct】** a psychiatric facility, or

1 a special psychiatric hospital for the treatment of a mental illness,
2 the first periodic review hearing under this section shall be held
3 three months [from] after the date of the [first] initial commitment
4 hearing under section 12 of P.L.1987, c.116 (C.30:4-27.12), the
5 [next] second review hearing shall be held nine months [from]
6 after the date of the [first] initial commitment hearing [and
7 subsequent], the third periodic review [hearings] hearing shall be
8 held 12 months [from] after the date of the [first] initial
9 commitment hearing, and subsequent periodic review hearings shall
10 be held annually thereafter. The court may schedule additional
11 review hearings, but, except in extraordinary circumstances, such
12 hearings shall not be held more often than once every 30 days.

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

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

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

41 b. At [a court] any periodic review hearing held pursuant to
42 this section, when the advanced age of the patient or the cause or
43 nature of the patient's mental illness or substance use disorder
44 renders it appropriate, and when it would be impractical to obtain
45 the testimony of a psychiatrist as required [in] by section 13 of
46 P.L.1987, c.116 (C.30:4-27.13), the court may permit a physician
47 on the patient's treatment team, who has personally conducted an

1 examination of the patient as close to the hearing date as possible,
2 but in no event more than five days prior to the hearing date, to
3 testify at the hearing as to the clinical basis for the determination
4 that the patient is still in need **【for】** of involuntary commitment to
5 treatment.

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

7
8 26. Section 17 of P.L.1987, c.116 (C.30:4-27.17) is amended to
9 read as follows:

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

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

36 c. If the patient is confined pursuant to an order entered under
37 N.J.S.2C:4-8, concerning acquittal of a criminal charge by reason of
38 insanity, or under N.J.S.2C:4-6, concerning lack of mental
39 competence to stand trial, the treatment team shall, **【no】** not less
40 than 10 days prior to the proposed date of administrative discharge,
41 provide written notice of the discharge to the committing court and
42 to the prosecutor. If, within five days of receipt of such notice, the
43 prosecutor files a request for a hearing on the issue of the patient's
44 continued need for commitment and serves notice of that request, in
45 accordance with the provisions of section 13 of P.L.1987, c.116
46 (C.30:4-27.13), the treatment team shall delay the administrative
47 discharge, and the court shall schedule a hearing on the issue. The
48 hearing shall be conducted in the same manner as the initial

1 commitment hearing, as provided **【in section】** by sections 12
2 through 15 of P.L.1987, c.116 (C.30:4-27.12 through C.30:4-27.15).
3 (cf: P.L.2009, c.112, s.19)

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

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

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

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

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

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

38
39 28. Section 20 of P.L.1987, c.116 (C.30:4-27.20) is amended to
40 read as follows:

41 20. A voluntary patient at a short-term care **【or】** facility,
42 residential substance use disorders treatment facility, psychiatric
43 facility, or special psychiatric hospital shall be discharged by the
44 treatment team at the patient's request. The treatment team shall
45 document all requests for discharge, whether oral or written, in the
46 patient's clinical record. The facility shall discharge the patient as
47 soon as possible, but in every case, within 48 hours, or at the end of

1 the next working day, from the time of the request, whichever is
2 longer, except that, if the treatment team determines that the patient
3 **【needs】** is in need of involuntary commitment, the treatment team
4 shall initiate court proceedings pursuant to section 10 of **【this act】**
5 P.L.1987, c.116 (C.30:4-27.10). The facility shall detain the patient
6 beyond 48 hours or the end of the next working day **【from the**
7 **time】** following receipt of the request for discharge, only if the
8 court has issued a temporary court order authorizing such
9 detainment.

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

11

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

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

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

44 **【The】** A judge of the Superior Court within the county may
45 appoint the county adjuster to act as referee for the purpose of
46 taking testimony bearing solely on the question of legal settlement
47 and the financial ability of the person with mental illness, or the

1 parent **[of the person with mental illness,]** thereof if the person is
2 under the age of 18, to pay the cost of maintenance, in accordance
3 with the provisions of R.S.30:4-60**[, and shall make return to].** A
4 county adjuster appointed to act as a referee, pursuant to this
5 section, shall provide the court **[of his]** with the county adjuster’s
6 findings, conclusions, and recommendations, which are developed
7 pursuant to this section. Such findings, conclusions, and
8 recommendations shall be subject to the approval of the court and
9 shall not **[be]** become effective until incorporated in an appropriate
10 order or judgment of the court. The county adjuster, acting as such
11 referee, may **[subpena]** subpoena witnesses and compel their
12 attendance on forms approved by the court.
13 (cf: P.L.2005, c.55, s.2)
14

15 30. The Commissioner of Human Services shall adopt rules and
16 regulations, pursuant to the “Administrative Procedure Act,”
17 P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to
18 implement the provisions of this act.
19

20 31. This act shall take effect on the first day of the fourth month
21 next following enactment, except that the Commissioner of Human
22 Services may take anticipatory administrative action, in advance of
23 the effective date, as may be necessary to implement the provisions
24 of this act.
25

26 STATEMENT

27
28
29 This bill would authorize the use of two separate methods –
30 guardianship and commitment – for the involuntary treatment of
31 persons with substance use disorders.

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

1 constitute evidence of lack of judgment with respect to the person's
2 need for services.

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

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

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

46 Any order for guardianship, which is issued by a court pursuant
47 to the bill's provisions, would require the guardian to seek, and the

1 treatment provider to employ, the least restrictive form of treatment
2 services deemed appropriate for the respondent.

3 If, at any time during the course of guardianship proceedings, the
4 court finds that there is reasonable cause to believe that the
5 respondent is in need of involuntary commitment, as defined by
6 section 2 of P.L.1987, c.116 (C.30:4-27.2), the court would be
7 authorized, on its own motion, to initiate a proceeding for the
8 involuntary civil commitment of the respondent to substance use
9 disorder treatment, pursuant to P.L.1987, c.116 (C.30:4-27.1 et
10 seq.).

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

33 In addition, the bill would clarify that the court is to provide for
34 more frequent periodic judicial review hearings in cases where a
35 person is committed for a substance use disorder than in cases
36 where a person is committed for a mental illness. In particular,
37 when a person is committed to substance use disorder treatment, the
38 first periodic review hearing is to be conducted 30 days after the
39 date of the initial commitment hearing (as opposed to three months
40 after the date of initial commitment, in the case of inpatient
41 commitment for mental illness, and six months after the date of
42 initial commitment, in the case of outpatient commitment for mental
43 illness), and subsequent review hearings are to be held every 30
44 days thereafter (as opposed to nine months, 12 months, and every
45 year thereafter for both inpatient and outpatient commitment for
46 mental illness). The court may schedule additional periodic review
47 hearings for a person who is committed for a substance use
48 disorder, as determined to be necessary, but such hearings are not to

1 be held more often than once every 21 days, except in extraordinary
2 circumstances. The bill would further clarify that a substance use
3 treatment provider or facility will be required to administratively
4 discharge a person committed thereto, if, at any time, the treatment
5 team determines that the person is no longer in need of involuntary
6 commitment to treatment.

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

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