

SENATE, No. 2802

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED AUGUST 10, 2020

Sponsored by:
Senator NELLIE POU
District 35 (Bergen and Passaic)

SYNOPSIS

Requires assessments prior to laboratory and diagnostic testing of persons undergoing mental health screening.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning mental health screening and amending
2 P.L.1987, c.116.

3

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

6

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

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

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

1 or shelter if he is able to satisfy such needs with the supervision and
2 assistance of others who are willing and available. This
3 determination shall take into account a person's history, recent
4 behavior, and any recent act, threat, or serious psychiatric
5 deterioration.

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

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

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

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

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

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

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

37 p. "Mental health screener" means a psychiatrist, psychologist,
38 social worker, registered professional nurse, **licensed** marriage
39 and family therapist, or other individual **trained** who meets the
40 criteria established by the commissioner in accordance with this
41 subsection to do outreach only for the purposes of **perform**
42 **psychological assessment assessments and** who is employed by a
43 screening service **and possesses**. A mental health screener shall
44 possess the license, **to practice as a psychiatrist, psychologist,**
45 **social worker, registered professional nurse, or marriage and family**
46 **therapist, as appropriate, or shall otherwise meet the criteria for**
47 **certification as a mental health screener established by regulation of**

1 the commissioner. An individual shall possess academic training
2 **[or]** and experience and fulfill any other requirements to be a
3 certified screener, as required by the commissioner pursuant to
4 regulation; except that a psychiatrist and a State licensed clinical
5 psychologist who meet the requirements for mental health screener
6 shall not have to comply with any additional requirements adopted
7 by the commissioner.

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

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

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

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

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

30 v. "Psychiatrist" means a physician who has completed the
31 training requirements of the American Board of Psychiatry and
32 Neurology.

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

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

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

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

47 aa. "Screening outreach visit" means an evaluation provided by
48 a mental health screener wherever the person may be when

1 clinically relevant information indicates the person may need
2 involuntary commitment to treatment and is unable or unwilling to
3 come to a screening service.

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

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

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

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

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

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

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

1 management, residential services, outpatient counseling and
2 psychotherapy, and medication treatment.

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

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

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

20 ll. "Geographic area" means a distinct area of the State that is
21 designated by the commissioner to be served by a screening service
22 and may be a county, portion of a county, or multi-county area.
23 (cf: P.L.2019, c.391, s.1)

24
25 2. Section 5 of P.L.1987, c.116 (C.30:4-27.5) is amended to
26 read as follows:

27 5. The commissioner shall adopt rules and regulations pursuant
28 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
29 1 et seq.) regarding a screening service and its staff that effectuate
30 the following purposes and procedures:

31 a. A screening service shall serve as the facility in the public
32 mental health care treatment system wherein a person believed to be
33 in need of involuntary commitment to outpatient treatment, a short-
34 term care facility, psychiatric facility, or special psychiatric hospital
35 undergoes an assessment to determine what mental health services
36 are appropriate for the person and where those services may be
37 most appropriately provided in the least restrictive environment.

38 The screening service may provide emergency and consensual
39 treatment to the person receiving the assessment and may transport
40 the person or detain the person up to 24 hours for the purposes of
41 providing the treatment and conducting the assessment.

42 b. **【When a person is assessed】** The assessment shall be
43 performed by a mental health screener **【and】** prior to the
44 performance of routine laboratory and diagnostic testing pursuant to
45 section 1 or 2 of P.L.2009, c.242 (C.30:4-177.61 or C.9:3A-7.4), as
46 appropriate. If, as a result of the assessment, involuntary
47 commitment to treatment seems necessary, the routine laboratory
48 and diagnostic testing shall be performed and the screener shall

1 provide, on a screening document prescribed by the division,
2 information regarding the person's history and available alternative
3 facilities and services that are deemed inappropriate for the person.
4 When appropriate and available, and as permitted by law, the
5 screener shall make reasonable efforts to gather information from
6 the person's family or significant others for the purposes of
7 preparing the screening document. If a psychiatrist, in
8 consideration of this document and in conjunction with the
9 psychiatrist's own complete assessment, concludes that the person is
10 in need of commitment to treatment, the psychiatrist shall complete
11 the screening certificate. The screening certificate shall be
12 completed by a psychiatrist except in those circumstances where the
13 division's contract with the screening service provides that another
14 physician may complete the certificate.

15 Upon completion of the screening certificate, screening service
16 staff shall determine, in consultation with the psychiatrist or another
17 physician, as appropriate, the least restrictive environment for the
18 appropriate treatment to which the person shall be assigned or
19 admitted, taking into account the person's prior history of
20 hospitalization and treatment and the person's current mental health
21 condition. Screening service staff shall designate:

22 (1) inpatient treatment for the person if he is immediately or
23 imminently dangerous or if outpatient treatment is deemed
24 inadequate to render the person unlikely to be dangerous to self,
25 others, or property within the reasonably foreseeable future; and

26 (2) outpatient treatment for the person when outpatient
27 treatment is deemed sufficient to render the person unlikely to be
28 dangerous to self, others, or property within the reasonably
29 foreseeable future.

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

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

40 The person shall be admitted to the appropriate facility or
41 assigned to the appropriate outpatient treatment provider, as
42 appropriate for treatment, as soon as possible. Screening service
43 staff are authorized to coordinate initiation of outpatient treatment
44 or transport the person or arrange for transportation of the person to
45 the appropriate facility.

46 The provisions of this subsection shall not be construed to alter
47 the requirements of section 1 of P.L.2009, c.242 (C.30:4-177.61)
48 concerning the use of standardized admission protocols and medical

1 clearance criteria for transfer or admission of a hospital emergency
2 department patient to a State or county psychiatric hospital or a
3 short-term care facility.

4 c. If the mental health screener determines that the person is
5 not in need of assignment or commitment to an outpatient treatment
6 provider, or admission or commitment to a short-term care facility,
7 psychiatric facility, or special psychiatric hospital, the screener
8 shall refer the person to an appropriate community mental health or
9 social services agency or appropriate professional or inpatient care
10 in a psychiatric unit of a general hospital.

11 d. A mental health screener shall make a screening outreach
12 visit if the screener determines, based on clinically relevant
13 information provided by an individual with personal knowledge of
14 the person subject to screening, that the person may need
15 involuntary commitment to treatment and the person is unwilling or
16 unable to come to the screening service for an assessment.

17 e. If the mental health screener pursuant to this assessment
18 determines that there is reasonable cause to believe that a person is
19 in need of involuntary commitment to treatment, the screener shall
20 so certify the need on a form prepared by the division.

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

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23 3. The Commissioner of Human Services, in accordance with
24 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
25 sq.), shall adopt rules and regulations as the commissioner deems
26 necessary to carry out the provisions of this act.

27

28 4. This act shall take effect on the first day of the seventh
29 month next following the date of enactment, but the Commissioner
30 of Human Services shall take such anticipatory administrative
31 action in advance thereof as shall be necessary for the
32 implementation of this act.

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STATEMENT

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37 This bill amends the mental health screening law,
38 P.L.1987, c.116 (C.30:4D-27.1 et seq.), concerning assessments of
39 persons believed to be in need of involuntary commitment to
40 treatment. The bill requires that an assessment be performed prior
41 to the performance of routine laboratory and diagnostic testing. If,
42 as a result of the assessment, involuntary commitment to treatment
43 seems necessary, then the routine laboratory and diagnostic testing
44 is to be performed. (Laboratory and diagnostic testing may
45 currently be completed and submitted to screening services before
46 the assessment, so this bill seeks to avoid such testing expenses if
47 the person does not need commitment, and to reduce hospital

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1 emergency room waiting times because staff would not have to wait
2 for test results to be reviewed before the assessment is performed.)

3 In addition, the bill amends the definition of "mental health
4 screener" to refer to regulations adopted by the Department of
5 Human Services concerning "certified screeners" at N.J.A.C.10:31-
6 3.3, and clarifies that the definition of this term includes any person
7 who meets the criteria for certification as a mental health screener
8 prescribed by regulation of the Commissioner of Human Services.

9 Lastly, the bill specifies that it does not alter the requirements of
10 section 1 of P.L.2009, c.242 (C.30:4-177.61) concerning the use of
11 standardized admission protocols and medical clearance criteria for
12 transfer or admission of a hospital emergency department patient to
13 a State or county psychiatric hospital or a short-term care facility.