

ASSEMBLY, No. 4889

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JANUARY 17, 2019

Sponsored by:

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District 7 (Burlington)

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District 37 (Bergen)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/6/2019)

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 Services in
18 the Department of Human Services.

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

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

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

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

1 screener, as required by the commissioner pursuant to regulation;
2 except that a psychiatrist and a State licensed clinical psychologist
3 who meet the requirements for mental health screener shall not have
4 to comply with any additional requirements adopted by the
5 commissioner.

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

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

18 s. "Patient" means a person over the age of 18 who has been
19 admitted to, but not discharged from, a short-term care or
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 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 restricts its services to the care and
33 treatment of persons with mental illness who are admitted on a
34 voluntary basis.

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

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

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

45 aa. "Screening outreach visit" means an evaluation provided by
46 a mental health screener wherever the person may be when
47 clinically relevant information indicates the person may need

1 involuntary commitment to treatment and is unable or unwilling to
2 come to a screening service.

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

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

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

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

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

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

45 hh. "Outpatient treatment" means clinically appropriate care
46 based on proven or promising treatments directed to wellness and
47 recovery, provided by a member of the patient's treatment team to a
48 person not in need of inpatient treatment. Outpatient treatment may

1 include, but shall not be limited to, day treatment services, case
2 management, residential services, outpatient counseling and
3 psychotherapy, and medication treatment.

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

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

17 kk. "Reasonably foreseeable future" means a time frame that
18 may be beyond the immediate or imminent, but not longer than a
19 time frame as to which reasonably certain judgments about a
20 person's likely behavior can be reached.
21 (cf: P.L.2009, c.112, s.2)

22

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

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

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

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

40 b. [When a person is assessed] The assessment shall be
41 performed by a mental health screener [and] prior to the
42 performance of routine laboratory and diagnostic testing pursuant to
43 section 1 or 2 of P.L.2009, c.242 (C.30:4-177.61 or C.9:3A-7.4), as
44 appropriate. If, as a result of the assessment, involuntary
45 commitment to treatment seems necessary, the routine laboratory
46 and diagnostic testing shall be performed and the screener shall
47 provide, on a screening document prescribed by the division,
48 information regarding the person's history and available alternative

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

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

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

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

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

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

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

44 The provisions of this subsection shall not be construed to alter
45 the requirements of section 1 of P.L.2009, c.242 (C.30:4-177.61)
46 concerning the use of standardized admission protocols and medical
47 clearance criteria for transfer or admission of a hospital emergency

1 department patient to a State or county psychiatric hospital or a
2 short-term care facility.

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

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

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

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

21
22 3. The Commissioner of Human Services, in accordance with
23 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
24 sq.), shall adopt rules and regulations as the commissioner deems
25 necessary to carry out the provisions of this act.

26
27 4. This act shall take effect on the first day of the seventh
28 month next following the date of enactment, but the Commissioner
29 of Human Services shall take such anticipatory administrative
30 action in advance thereof as shall be necessary for the
31 implementation of this act.

32 33 34 STATEMENT

35
36 This bill amends the mental health screening law,
37 P.L.1987, c.116 (C.30:4D-27.1 et seq.), concerning assessments of
38 persons believed to be in need of involuntary commitment to
39 treatment. The bill requires that an assessment be performed prior
40 to the performance of routine laboratory and diagnostic testing. If,
41 as a result of the assessment, involuntary commitment to treatment
42 seems necessary, then the routine laboratory and diagnostic testing
43 is to be performed. (Laboratory and diagnostic testing may
44 currently be completed and submitted to screening services before
45 the assessment, so this bill seeks to avoid such testing expenses if
46 the person does not need commitment, and to reduce hospital
47 emergency room waiting times because staff would not have to wait
48 for test results to be reviewed before the assessment is performed.)

1 In addition, the bill amends the definition of "mental health
2 screener" to refer to regulations adopted by the Department of
3 Human Services concerning "certified screeners" at N.J.A.C.10:31-
4 3.3, and clarifies that the definition of this term includes any person
5 who meets the criteria for certification as a mental health screener
6 prescribed by regulation of the Commissioner of Human Services.
7 Lastly, the bill specifies that it does not alter the requirements of
8 section 1 of P.L.2009, c.242 (C.30:4-177.61) concerning the use of
9 standardized admission protocols and medical clearance criteria for
10 transfer or admission of a hospital emergency department patient to
11 a State or county psychiatric hospital or a short-term care facility.