SENATE, No. 1645

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 5, 2018

Sponsored by:
Senator PATRICK J. DIEGNAN, JR.
District 18 (Middlesex)

SYNOPSIS
Establishes procedures for involuntary civil commitment of children.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning civil commitment of children, supplementing
Title 30 of the Revised Statutes, and revising various parts of the
statutory law.

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

1. (New section) The Legislature finds and declares that:
   a. It is necessary that State law provide for the voluntary
      admission and involuntary commitment of children who are
      dangerous to themselves, others, or property by reason of mental
      illness and whose clinical needs require an intensity of intervention
      that can only be provided at an inpatient psychiatric unit or facility.
   b. Because involuntary commitment entails certain deprivations
      of liberty, it is necessary that State law balance the basic value of
      liberty with the need for safety and treatment, a balance that is
      difficult to effect because of the limited ability to predict behavior.
      Therefore, it is necessary that State law provide clear standards and
      procedural safeguards that ensure that only those children who are
      dangerous to themselves, others, or property by reason of mental
      illness and the child's clinical needs require an intensity of
      intervention that can only be provided at an inpatient psychiatric
      unit or facility, are involuntarily committed.

2. (New section) As used in P.L.    , c.    (C.        ) (pending
   before the Legislature as this bill):
      "Affiliated children's psychiatric service" means a psychiatric
      service for children pursuant to a written affiliation agreement with
      a children's crisis intervention service, and may include, but is not
      limited to, a general hospital unit. This service may be used on an
      emergency basis for children who meet the standard for involuntary
      commitment pending availability of services from a children's crisis
      intervention service or a special psychiatric hospital.
      "Certificate of appropriateness of admission" means a form
      prescribed by the division that is completed by the psychiatrist who
      certifies that a voluntary admission or parental admission is in the
      child's best interest and that the admitting facility is the least
      restrictive alternative available to provide efficacious treatment to
      the child.
      "Chief executive officer" means the person who is the chief
      administrative officer of a psychiatric facility for children.
      "Child" means a person under 18 years of age.
      "Childhood mental illness" means a current substantial
      disturbance of thought, mood, perception, or orientation which
differs from that which is typical of children of a similar

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.
developmental stage, and which significantly impairs judgment, behavior, or capacity to recognize reality when also compared with children of a similar developmental stage. A seizure disorder, a developmental disability, organic brain syndrome, a physical or sensory handicap, or a brief period or periods of intoxication caused by alcohol or other substances is not sufficient by itself to meet the criteria for childhood mental illness.

"Children's crisis intervention service" means a regional community-based acute care inpatient psychiatric service designated by the commissioner to provide assessment, crisis stabilization, evaluation, and treatment to children in need of involuntary treatment or eligible for voluntary or parental admission, with an average length of stay not to exceed 30 days. A children's crisis intervention service shall be authorized by the commissioner to serve children from a specified geographical area. A children's crisis intervention service shall be a part of a general hospital and shall meet certificate of need requirements and shall be licensed and inspected by the Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), in accordance with the standards developed jointly with the commissioner.

"Children's intermediate psychiatric unit" means a regional community-based inpatient psychiatric service designated by the commissioner to provide assessment, crisis stabilization, evaluation, and treatment to children in need of longer involuntary treatment or eligible for additional voluntary or parental admission, with an average length of stay not to exceed 60 days. A children's intermediate psychiatric unit shall be authorized by the commissioner to serve persons from a specified geographical area. A children's intermediate psychiatric unit may be a part of a general hospital and shall meet certificate of need requirements and shall be licensed and inspected by the Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), in accordance with standards developed jointly with the commissioner.

"Clinical certificate" means a form prescribed by the division and approved by the Administrative Director of the Courts that is used to support an application to the court for the involuntary civil commitment of a child.

"Clinical director" means a person who is designated by the director or chief executive officer of an inpatient psychiatric unit or facility serving children to organize and supervise the clinical services provided at the unit or facility. A clinical director shall be a psychiatrist; however, a person who is serving as a clinical director prior to the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) who is not a psychiatrist may continue in that position. The provisions of this definition shall not be construed to alter any civil service provisions that designate the qualifications of a clinical director.

"Commissioner" means the Commissioner of Human Services.
"County adjuster" means the person appointed pursuant to R.S. 30:4-34.

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

"Court" means the Superior Court.

"Custody" means the legal right and responsibility to ensure the provision of care and supervision.

"Dangerous to others or property" means that by reason of childhood mental illness, there is substantial likelihood that the child will inflict serious bodily harm upon another individual or cause serious property damage within the reasonably foreseeable future. This determination shall take into account a child's developmental stage, history, recent behavior, and any recent act or threat.

"Dangerous to self" means that by reason of childhood mental illness, the child has threatened or attempted suicide or serious bodily harm, or has behaved in such a manner as to interfere with the child's need for nourishment, essential medical care or shelter, so that it is probable that substantial bodily injury, serious physical harm or death will result within the reasonably foreseeable future; however, no child shall be deemed to be unable to satisfy the child's need for nourishment, essential medical care, or shelter if the child is able to satisfy such needs with the supervision and assistance of others who are willing and available. This determination shall take into account a child's developmental stage, history, recent behavior and any recent act, threat or recent psychiatric deterioration. With respect to a child under 14 years of age, dangerous to self shall also mean that there is a substantial likelihood that the failure to provide immediate, intensive, institutional, psychiatric therapy will create in the reasonably foreseeable future a genuine risk of irreversible or significant harm to the child arising from the interference with or arrest of the child's growth and development and, ultimately, the child's capacity to adapt and socialize as an adult.

"Department" means the Department of Human Services.

"Director" means the chief administrative officer of a children's screening service or an inpatient psychiatric unit or facility serving children. The director of a children's screening service, affiliated children's psychiatric service, or a special psychiatric hospital may also be a director of a similar adult service at the same facility.

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

"In need of involuntary commitment" means that a child is dangerous to self or dangerous to others or property by reason of childhood mental illness and the child's clinical needs require an intensity of intervention that can only be provided as inpatient psychiatric treatment.

"Inpatient psychiatric unit or facility serving children" means an affiliated children's psychiatric service, a children's crisis...
intervention service, a children's intermediate psychiatric unit, a psychiatric facility for children, or a special psychiatric hospital.

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

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

"Parent" means a biological or adoptive parent, legal guardian, or any other person or agency having legal responsibility for, or legal custody of, a child.

"Parental admission" means the admission of a child with childhood mental illness who is under 18 years of age to an inpatient psychiatric unit or facility serving children at the request of a parent.

"Physician" means a person licensed to practice medicine in the State.

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

"Psychiatric facility for children" means a State psychiatric hospital listed in R.S.30:1-7, a county psychiatric hospital, or a psychiatric unit of a county hospital designated by the commissioner to treat children with childhood mental illness.

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

"Psychologist" means a person licensed as a psychologist by the New Jersey Board of Psychological Examiners.

“Screening service” means a service provided by an inpatient psychiatric unit or facility serving children or mental health agency or facility wherein a child believed to be in need of involuntary commitment undergoes an assessment to determine what mental health services are appropriate for the child and where those services may be most appropriately provided in the least restrictive environment.

“Screening certificate” means a clinical certificate prescribed by the division executed by a psychiatrist or other physician affiliated with inpatient psychiatric unit or facility serving children which concludes that a child is in need of involuntary commitment to inpatient treatment.

"Special psychiatric hospital" means a public or private hospital licensed by the Department of Health to provide voluntary and involuntary mental health services, including assessment, care, supervision, treatment, and rehabilitation services to children who have childhood mental illness, adults, or both children and adults.

"Treatment team" means more than one children's mental health professional, including at least one psychiatrist and may include a psychologist, social worker, registered professional nurse, and other
appropriate service providers. A treatment team provides mental
health services to a child in an inpatient psychiatric unit or facility
serving children.

"Voluntary admission" means the admission of a child with a
childhood mental illness who is 14 years of age or older to an
inpatient psychiatric unit or facility serving children at the request
of the child.

3. (New section) The standards and procedures in P.L.    , c.
(C.        ) (pending before the Legislature as this bill) apply to all
children involuntarily committed, voluntarily admitted, or admitted
at the request of a parent to inpatient psychiatric units or facilities
serving children.

4. (New section) The director of the division shall designate
one or more mental health agencies or facilities within a specified
geographic area to provide emergency care, psychiatric
stabilization, assessment, and other appropriate services to children
in accordance with rules and regulations adopted by the
commissioner pursuant to the "Administrative Procedure Act,"
P.L.1968, c.410 (C.52:14B-1 et seq.).

5. (New Section) The commissioner shall establish mental
health screening services for children that effectuate the following
purposes and procedures:
   a. A screening service shall serve as the facility in the public
mental health care treatment system wherein a child believed to be
in need of involuntary commitment to an inpatient psychiatric unit
or facility serving children undergoes an assessment to determine
what mental health services are appropriate for the child and where
those services may be most appropriately provided in the least
restrictive environment. The screening service may provide
emergency and consensual treatment to the child receiving the
assessment and may transport the child or detain the child up to 24
hours for the purposes of providing the treatment and conducting
the assessment.
   b. When a child is evaluated by a mental health screener and
involuntary commitment to treatment seems necessary, the screener
shall provide, on a screening document prescribed by the division,
information regarding the child’s clinical and social history and
available alternative mental health facilities and services that are
deemed appropriate for the child. The screener shall make
reasonable efforts as permitted by law to gather information from
the child’s family or significant others for the purposes of preparing
the screening document. If a psychiatrist, in consideration of the
screening document and in conjunction with the psychiatrist's own
assessment of the child, concludes that the child is in need of
involuntary commitment to treatment, the psychiatrist shall
complete a screening certificate. The screening certificate shall be completed by a psychiatrist except in those circumstances where the division’s contract with the screening service provides that another physician may complete the certificate. Upon completion of the screening certificate, screening service staff shall determine, in consultation with the psychiatrist or another physician, as appropriate, the least restrictive environment for the appropriate treatment to which the child shall be assigned or admitted, taking into account the child’s prior history of hospitalization and treatment and the person’s current mental health condition. Where appropriate, the child shall be admitted to an inpatient psychiatric unit or facility for treatment as soon as possible. Screening service staff are authorized to coordinate initiation of treatment or transport the person or arrange for transportation of the person to the appropriate facility.

c. If the mental health screener determines that the child is not in need of assignment or commitment to an inpatient psychiatric unit or facility serving children, the screener shall arrange for the discharge of the child to the child’s parent. Discharge may include referral of the child to an appropriate community mental health or social services agency or appropriate professional or inpatient care in a psychiatric unit of a general hospital. If the parent is not known, cannot be contacted or is unresponsive within 48 hours of notification, the screening service shall immediately notify the Division of Child Protection and Permanency in the Department of Children and Families of the pending discharge and the apparent abandonment or non-cooperation of the parents. The Division shall take immediate action to facilitate the discharge, procure an out-of-home placement for the child, or take other legal action to assure the best interests and safety of the child.

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

6. (New section) An inpatient psychiatric unit or facility serving children shall effectuate the following purposes and procedures:

a. The admitting unit or facility shall provide a psychiatric evaluation within 24 hours of the admission of each child.

b. If a child is admitted to a unit or facility, the chief executive officer of the unit or facility shall promptly notify the county adjuster of the county in which the child has legal settlement that the child has been admitted to the unit or facility.

c. The unit or facility is authorized to provide assessment, crisis intervention and treatment services, and shall provide discharge planning, which shall be performed in accordance with
subsection h. of this section. The discharge planning shall begin at admission and the plan shall be ready for implementation at the time of discharge.

d. The unit or facility may detain a child, admitted to the unit or facility involuntarily by referral from a screening service without an order of temporary commitment, for no more than 72 hours from the time the screening certificate was executed. During this period of time, the unit or facility may initiate court proceedings for the involuntary commitment of the child pursuant to section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill).

e. A child may be admitted to a unit or facility through voluntary admission or parental admission pursuant to sections 10 and 11 of P.L. , c. (C. ) (pending before the Legislature as this bill) only after the child or parent has been advised orally and in writing of the discharge provisions established pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill) and of the subsequent possibility that the unit or facility may initiate involuntary commitment proceedings for the child.

f. In the case of a child committed to an inpatient psychiatric unit or facility serving children, after the unit's or facility's treatment team conducts a mental and physical examination of the child, administers appropriate treatment to and prepares a discharge plan for the child, the unit or facility may transfer the child to a psychiatric facility for children prior to the final hearing for an involuntary commitment order if:

(1) the child, the child's parent, and the child's attorney are notified of the pending transfer within no less than 24-hours of the actual transfer; and

(2) the transfer is accomplished in a manner which will give the receiving facility adequate time to examine the child, become familiar with the child's behavior and condition, and prepare for the hearing.

In no event shall a discharge for the purpose of a transfer to an inpatient psychiatric unit or facility serving children result in a child being involuntarily committed as an inpatient for more than 14 days without a court hearing.

g. All referrals to a children's intermediate psychiatric unit shall be made pursuant to regulations adopted by the commissioner and shall comply with paragraphs (1) and (2) of subsection f. of this section.

h. Prior to discharging a child admitted or committed pursuant to this section, the unit or facility shall notify the parent of the pending discharge. If the parent is not known, cannot be contacted or is unresponsive within 48 hours of notification, the unit or facility shall immediately notify the Division of Child Protection and Permanency in the Department of Children and Families of the pending discharge and the apparent abandonment or non-cooperation of the parent. The Division shall take immediate action
to facilitate the discharge, procure an out-of-home placement for the
child, or take other legal action to assure the best interests and
safety of the child.

7. (New section) The standards and procedures in this section
shall apply to all proceedings for the involuntary commitment of a
child to an inpatient psychiatric unit or facility for treatment.

a. No child shall be involuntarily committed to an inpatient
psychiatric unit or facility for the treatment of childhood mental
illness unless the court has issued an order of involuntary
commitment.

b. An inpatient psychiatric unit or facility may initiate court
proceedings for the involuntary commitment of a child to inpatient
treatment as follows:

(1) for a child who has been temporarily admitted to an inpatient
psychiatric unit or facility serving children on referral of a
screening service, involuntary commitment proceedings may be
initiated by the filing of an application with the court supported by:
(a) a clinical certificate completed by a psychiatrist on the patient's
treatment team who has examined the child and (b) the screening
certificate executed by a psychiatrist or other physician affiliated
with the screening service which authorized admission of the
patient to the facility; provided, however, that both certificates shall
not be signed by the same psychiatrist unless the psychiatrist has
made a reasonable but unsuccessful attempt to have another
psychiatrist conduct the evaluation and execute the certificate. An
electronically scanned certificate may be submitted to the court in
lieu of the original clinical or screening certificate. Electronically
scanned certificates shall be transmitted to the court in accordance
with the Rules of Court. The clinical certificate shall state with
particularity the facts upon which the physician relies in concluding
that (a) the child suffers from childhood mental illness, (b) the
childhood mental illness causes the child to be a danger to self or a
danger to others or property as defined in section 2 of P.L. ,
c. (C. ) (pending before the Legislature as this bill, (c) where
the child is under 14 years of age, that there is a substantial
likelihood that the failure to provide immediate, intensive,
institutional, psychiatric therapy will create in the reasonably
foreseeable future a genuine risk of irreversible or significant harm
to the child arising from the interference with or arrest of the child's
growth and development and, ultimately, the child's capacity to
adapt and socialize as an adult; and (d) the child is in need of
intensive psychiatric treatment that can be provided at an inpatient
psychiatric unit or facility and which cannot be provided in the
child’s home or community, or on an outpatient basis. The
application shall also include a statement of the parent regarding the
proposed involuntary commitment of the child as provided in
section 18 of P.L. , c. (C. ) (pending before the Legislature
as this bill), unless the parent refuses to provide or is unavailable to
provide such a statement. A copy of the certificates shall be filed
with the office of the county adjuster.

(2) for a child who has been not been temporarily admitted to an
inpatient psychiatric unit or facility serving children on referral of a
screening service, proceedings for the issuance of an order of
temporary commitment may be initiated by the filing of an
application with the court supported by two clinical certificates, at
least one of which is prepared by a psychiatrist. Both certificates
shall not be signed by the same psychiatrist unless the psychiatrist
has made a reasonable but unsuccessful attempt to have another
psychiatrist conduct the evaluation and execute the certificate. An
electronically scanned certificate may be submitted to the court in
lieu of the original clinical or screening certificate. Electronically
scanned certificates shall be transmitted to the court in accordance
with the Rules of Court. The certificates shall state with
particularity the facts upon which the physician relies in concluding
that (a) the child suffers from childhood mental illness, (b) the
childhood mental illness causes the child to be dangerous to self or
dangerous to others or property as defined in section 2 of P.L.
c. (C. ) (pending before the Legislature as this bill, (c) where
the child is under 14 years of age, that there is a substantial
likelihood that the failure to provide immediate, intensive,
institutional, psychiatric therapy will create in the reasonably
foreseeable future a genuine risk of irreversible or significant harm
to the child arising from the interference with or arrest of the child's
growth and development and, ultimately, the child's capacity to
adapt and socialize as an adult; and (d) the child is in need of
intensive psychiatric treatment that can be provided at an inpatient
psychiatric unit or facility and which cannot be provided in the
child's home or community, or on an outpatient basis. The
application shall also include a statement of the parent regarding the
proposed involuntary commitment of the child as provided in
section 18 of P.L. c. (C. ) (pending before the Legislature
as this bill), unless the parent refuses to provide or is unavailable to
provide such a statement. A copy of the certificates shall be filed
with the office of the county adjuster.

c. A clinical certificate submitted to the court in support of an
application for involuntary commitment of a child shall not be
executed by a person who is a relative by blood or marriage to the
child who is being evaluated. Any person who is a relative by
blood or marriage of the child who executes a clinical certificate, or
any person who signs a clinical certificate for any purpose or
motive other than for purposes of care, treatment, and confinement
of a child in need of involuntary commitment to treatment, shall be
guilty of a crime of the fourth degree.

d. Upon receipt, the court shall immediately review the
initiating documents to determine whether there is probable cause to
believe that the child is in need of involuntary commitment to

treatment.

e. If, based on the application and certificates filed with the
court pursuant to subsection b. of this section, the court finds that
there is probable cause to believe that the child is in need of
involuntary commitment to treatment, it shall issue an order of
temporary commitment authorizing the assignment of the child to
an inpatient psychiatric unit or facility, or admission to or retention
of the child in the custody of the facility, that is both appropriate to
the child’s condition and the least restrictive environment for
treatment, pending a final hearing on the application with the
presence of the affected parties. The order of temporary
commitment shall fix a date for the commitment hearing which
shall occur to more than 14 days after the child’s initial inpatient
admission to the unit or facility. The court may grant a one-time
adjournment of not more than seven days due to exceptional
circumstances established on the record.

f. In the case of a child who has been temporarily committed
by court order to treatment at an inpatient psychiatric unit or facility
serving children, after the facility’s treatment team conducts a
mental and physical examination, administers appropriate treatment
and prepares a discharge assessment, the facility may transfer the
child to a psychiatric facility prior to the final hearing; provided
that: (1) the child, his family and his attorney are given 24 hours’
advance notice of the pending transfer; and (2) the transfer is
accomplished in a manner which will give the receiving facility
adequate time to examine the child, become familiar with his
behavior and condition and prepare for the hearing. In no event
shall the transfer be made less than five days prior to the date of the
hearing unless an unexpected transfer is dictated by a change in the
child’s clinical condition.

g. The court shall appoint a guardian ad litem to represent the
interests of a child who is subject to involuntary commitment
proceedings pursuant to the Rules of the Court.

h. The hearing to determine whether the court should issue a
final order of commitment shall be conducted pursuant to the Rules
of the Court.

i. Following a hearing, the court may enter a final order of
commitment if it finds, by clear and convincing evidence, that,

(1) for a child 14 years of age or older: (a) the child suffers
from childhood mental illness, (b) that the childhood mental illness
causes the child to be dangerous to self or dangerous to others or
property as defined in section 2 of P.L. , c. (C. ) (pending
before the Legislature as this bill) and (c) that the child is in need of
intensive psychiatric treatment that can be provided at an inpatient
psychiatric unit or facility and which cannot be provided in the
home, the community or on an outpatient basis; or
(2) for a child under 14 years of age: (a) the child suffers from childhood mental illness, (b) that the childhood mental illness causes the child to be dangerous to self or dangerous to others or property as defined in section 2 of P.L. , c. (C. ) (pending before the Legislature as this bill) and (c) that there is a substantial likelihood that the failure to provide immediate, intensive, institutional, psychiatric therapy will create in the reasonably foreseeable future a genuine risk of irreversible or significant harm to the child arising from the interference with or arrest of the child's growth and development and, ultimately, the child's capacity to adapt and socialize as an adult, and (d) that the child is in need of intensive psychiatric treatment that can be provided at an inpatient psychiatric unit or facility serving children and which cannot be provided in the home, the community, or on an outpatient basis.

j. No final order of commitment, or any order of conditional extension pending placement shall be entered to continue the detention in an inpatient psychiatric unit or facility serving children of a child who does not meet the standard for involuntary commitment to treatment.

8. (New section) a. The court shall conduct a hearing to review the status of a child who has been involuntarily committed to an inpatient psychiatric unit or facility serving children to determine whether there is a need to continue the involuntary commitment. The first review hearing shall occur within three months from the initial inpatient admission to the facility and subsequent hearings shall occur at least once every three months from the most recent hearing unless the child has been administratively discharged from the facility pursuant to section 12 of P.L. , c. (C. ) (pending before the Legislature as this bill) in the interim. The child or parent may request an earlier hearing. The assigned county counsel is responsible for presenting the case for the child's involuntary commitment to the court, unless the county adjuster is licensed to practice law in this State, in which case the county adjuster shall present the case for the child's involuntary commitment to the court. A child subject to involuntary commitment shall have counsel present at the hearing and shall not be permitted to appear at the hearing without counsel.

b. The review hearing shall be conducted pursuant to the Rules of the Court.

c. The child, the child's attorney, and the child's parent shall receive a copy of the clinical certificates, the court order, and a statement of the child's rights at the court hearing. The clinical director of the unit or facility shall provide an appropriate explanation of the documents to the child and the parent.

d. A psychiatrist on the child's treatment team who has conducted a personal examination of the child as close to the hearing date as possible, but in no event more than five calendar
days prior to the hearing, shall testify at the hearing to the clinical
basis for the need for continued involuntary commitment. Other
members of the child's treatment team may also testify at the
hearing.

e. The child's parents may attend and testify at the court
hearing.

f. If the court finds, by clear and convincing evidence, that the
child needs continued involuntary commitment, it shall issue an
order authorizing the involuntary commitment of the child and shall
schedule a subsequent court review hearing in the event that the
child is not administratively discharged pursuant to section 13 of
P.L. , c. (C. ) (pending before the Legislature as this bill)
prior to that date.

g. If, at the conclusion of the review hearing, the court finds
that the child does not need continued involuntary commitment, the
court shall so order and the inpatient psychiatric unit or facility
shall discharge the child within 48 hours of the court's verbal order
or by the end of the next working day, whichever is longer, with a
discharge plan prepared pursuant to section 15 of P.L. ,
c. (C. ) (pending before the Legislature as this bill).

h. If a child cannot be discharged because the child's parent is
unresponsive within 48 hours of notification of the discharge or
refuses to accept custody of the child upon discharge, the inpatient
psychiatric facility or facility serving children shall immediately
notify the Division of Child Placement and Permanency in the
Department of Children and Families of the pending discharge and
the apparent abandonment or non-cooperation of the parents. The
Division shall take immediate action to facilitate the discharge,
procure an out-of-home placement for the child, or take other legal
action to assure the best interests and safety of the child.

9. (New section) A child subject to involuntary commitment
proceedings has the following rights at the commitment hearing and
any subsequent hearing to review the continuing need for
commitment:

a. The right to be represented by counsel or, if indigent, by
appointed counsel;

b. The right to be present at the court hearing unless the court
determines that because of the child's conduct at the court hearing
the proceeding cannot reasonably continue while the child is
present;

c. The right to present evidence;

d. The right to cross examine witnesses; and

e. The right to a hearing in camera.

10. (New section) Notwithstanding the provisions of section 7
of P.L. , c. (C. ) (pending before the Legislature as this bill) or
the standard for “in need of involuntary commitment” of a child as
provided in section 2 of P.L. , c. (C. ) (pending before the Legislature as this bill), a child who is 14 years of age or older may request voluntary admission to an inpatient psychiatric unit or facility for children for evaluation and treatment. The request for voluntary admission must be independently reviewed and approved by a physician on the staff of the unit or facility. If the physician believes that admission is in the best interests of the child, the physician shall complete a certificate of appropriateness for admission. The court, upon a finding that the child’s request is informed, voluntary and in the child’s best interests, shall issue an order approving the voluntary admission. The order authorizing a voluntary admission shall be reviewed at least once every three months from the date of its last entry until the child is discharged to determine if continued admission remains appropriate and voluntary. The child or a parent may request an earlier review hearing. If during the term of voluntary admission, the inpatient psychiatric unit or facility serving children determines that the child is in need of involuntary commitment, it may initiate court proceedings for the involuntary commitment of a child pursuant to section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill). The discharge of a child who has been voluntarily admitted into an inpatient psychiatric unit or facility serving children shall proceed in accordance with section 16 of P.L. , c. (C. ) (pending before the Legislature as this bill).

11. (New section) Notwithstanding the provisions of section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill) or the standard for “in need of involuntary commitment” of a child as provided in section 2 of P.L. , c. (C. ) (pending before the Legislature as this bill), a parent may request parental admission of a child to an inpatient psychiatric unit or facility serving children for evaluation and treatment. A request for parental admission of a child shall not be subject to the court’s review or approval. The request for parental admission of a child must be independently reviewed and approved by a physician on the staff of the unit or facility. If the physician believes that admission is in the best interest of the child, the physician shall complete a certificate of appropriateness for admission. The term of parental admission shall not exceed seven days from the date of the initial admission. However, upon application of the parent and with the approval of a physician on the staff of the unit or facility, the court may, where exceptional circumstances are shown, extend the admission to a term not to exceed 14 days from the date of initial admission. If during the term of parental admission of the child, the inpatient psychiatric unit or facility serving children determines that the child is in need of involuntary commitment, it shall initiate court proceedings for the involuntary commitment of a child pursuant to section 7 of P.L. , c. (C. ) (pending before the Legislature
as this bill). The discharge of a child admitted at into an inpatient psychiatric unit or facility serving children as a parental admission shall proceed in accordance with section 17 of P.L. , c. (C. ) (pending before the Legislature as this bill).

12. (New section) A child admitted to an inpatient psychiatric unit or facility serving children on a voluntary admission, parental admission, or involuntary commitment basis has the following rights:

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

b. A parent with limited English-speaking ability has the right to information regarding an examination and services provided to the parent's child; if the parent suffers from a speech or hearing impairment, the parent has the right to the aid of an interpreter;

c. The child and the child's parent have the right to a oral explanation of: the reasons for admission, the availability of an attorney, and the rights provided in P.L. , c. (C. ) (pending before the Legislature as this bill);

d. The child has the right to be represented by an attorney and, if unrepresented or unable to afford an attorney, the right to be provided with an attorney paid for by the appropriate government agency. If the parent has selected an attorney for the child, the county providing counsel or the representative of the Office of the Public Defender shall consult with the child to be sure that the child is appropriately represented. An attorney representing a child has the right to inspect and copy the child's clinical chart. The clinical director shall ensure that a written statement of the rights provided in P.L. , c. (C. ) (pending before the Legislature as this bill) is provided to a child and the child's parent at the time of admission or as soon as possible thereafter, and also to a child and the child's parent upon request.

13. (New section) The treatment team at an inpatient psychiatric unit or facility serving children shall administratively discharge a child from involuntary commitment status if the treatment team determines that the child is no longer in need of involuntary commitment.

A discharge plan shall be completed within 48 hours or by the next working day, whichever is later. The discharge plan shall be implemented upon discharge. The preparation of the discharge plan shall begin upon admission, as provided for in subsection c. of section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill), and the completion of the plan shall not delay discharge.
If a child cannot be discharged because the child’s parent is unresponsive within 48 hours of notification of the discharge or refuses to accept custody of the child upon discharge, the inpatient psychiatric facility or facility serving children shall immediately notify the Division of Child Placement and Permanency in the Department of Children and Families of the pending discharge and the apparent abandonment or non-cooperation of the parents. The Division shall take immediate action to facilitate the discharge, procure an out-of-home placement for the child, or take other legal action to assure the best interests and safety of the child.

14. (New section) a. A child 14 years of age or older discharged by the court or administratively discharged from involuntary commitment status may request continued inpatient treatment through an application for voluntary admission pursuant to section 10 of P.L. , c. (C. ) (pending before the Legislature as this bill).

b. A parent of a child discharged by the court or administratively discharged from involuntary commitment status may request continued inpatient treatment through an application for parental admission pursuant to section 11 of P.L. , c. (C. ) (pending before the Legislature as this bill).

15. (New section) a. A child discharged by the court or administratively from an inpatient psychiatric unit or facility serving children shall have a discharge plan prepared by the treatment team at the facility pursuant to this section.

The treatment team shall involve and encourage the participation of the parent, appropriate community caregiver, and the child in the formulation of the discharge plan. If a parent or child is in disagreement with the treatment team, the parent or child shall be advised of a right to counsel. In the case of a child involuntarily committed to a unit or facility, a community agency designated by the commissioner shall participate in the formulation of the plan.

b. The unit or facility shall advise the mental health agency and parent of the date of the child’s discharge.

c. The provisions of this section shall not preclude discharging a child for treatment to an appropriate professional.

d. The chief executive officer of a psychiatric facility for children shall give notice of the discharge to the county adjuster of the county in which the child has legal settlement.

16. (New section) a. A child 14 years of age or older who has been voluntarily admitted into an inpatient psychiatric unit or facility serving children shall be discharged by the treatment team at the child’s written request. The treatment team shall document all requests for discharge in the child’s clinical record. The treatment team shall notify the parent of all requests for discharge.
b. The unit or facility shall discharge the child as soon as possible but in every case within 48 hours or at the end of the next working day from the time of the written request, whichever is longer; except that if the treatment team determines that the child is in need of involuntary commitment, the treatment team shall initiate court proceedings pursuant to section 7 of P.L., c. (C. ) (pending before the Legislature as this bill). The unit or facility shall formally notify the child and parent of the unit's or facility's intent to proceed with an involuntary commitment. The unit or facility shall not detain the child beyond 48 hours or the end of the next working day from the time the request for discharge was made, unless the court has issued an order of temporary commitment.

c. Prior to discharging a child pursuant to this section, the inpatient psychiatric unit or facility serving children shall notify the parent, or if the parent is not known or is unresponsive within 48 hours of the notification, the unit or facility shall immediately notify the Division of Child Protection and Permanency in the Department of Children and Families of the pending discharge and the apparent abandonment or non-cooperation of the parents. The Division shall take immediate action to facilitate the discharge, procure an out-of-home placement for the child, or take other legal action to assure the best interests and safety of the child.

17. (New section) a. A child who has been admitted into an inpatient psychiatric unit or facility serving children through parental admission shall be discharged by the treatment team at the parent's written request. The treatment team shall document all requests for discharge in the child's clinical record.

b. The unit or facility shall discharge the child as soon as possible but in every case within 48 hours or at the end of the next working day from the time of the written request, whichever is longer; except that if the treatment team determines that the child is in need of involuntary commitment, the treatment team shall initiate court proceedings pursuant to section 7 of P.L., c. (C. ) (pending before the Legislature as this bill). The unit or facility shall not detain the child beyond 48 hours or the end of the next working day from the time the request for discharge was made, unless the court has issued a temporary court order.

c. Prior to discharging a child pursuant to this section, the inpatient psychiatric unit or facility serving children shall notify the parent, or if the parent is not known or is unresponsive within 48 hours of the notification, the unit or facility shall immediately notify the Division of Child Protection and Permanency in the Department of Children and Families of the pending discharge and the apparent abandonment or non-cooperation of the parents. The Division shall take immediate action to facilitate the discharge, procure an out-of-home placement for the child, or take other legal action to assure the best interests and safety of the child.
18. (New section) If an inpatient psychiatric unit or facility serving children pursues involuntary commitment proceedings for a child who is 14 years of age or older or a child who is voluntarily or parentally admitted by seeking an order of temporary commitment pursuant to section 7 of P.L.  , c. (C.) (pending before the Legislature as this bill), the unit or facility shall include a statement of the parent regarding the involuntary commitment of the parent's child in the application to the court, unless the parent refuses to provide or is unavailable to provide such a statement. This statement shall specify the parent's agreement or disagreement with the involuntary commitment. In the case of disagreement by the parent, the parent shall include a statement or reasons for the parent's disagreement. If the unit or facility is unable to obtain a statement of the parent, it shall document its efforts in the application to the court.

The unit or facility shall not detain the child beyond 48 hours or the end of the next working day from the time the request for discharge was made, unless the court has issued a temporary court order.

19. (New section) a. If a child, who is in custody awaiting trial on a criminal charge, a disorderly person's offense, or an act of delinquency, is admitted or committed pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), the law enforcement authority that transferred the child shall complete a uniform detainer form, as prescribed by the division, which shall specify the charge, law enforcement authority, and other information which is clinically and administratively relevant. This form shall be submitted to the admitting unit or facility along with other relevant forms necessary for admission.

b. The division shall develop and prescribe the detainer form in consultation with the Administrative Office of the Courts.

c. When the child is discharged administratively or by the court and is still under the detainer authority of the law enforcement agency, that agency shall, within 48 hours of receiving notification of the discharge, take custody of the child.

20. (New section) A child who is involuntarily committed to an inpatient psychiatric unit or facility serving children listed in R.S.30:1-7 may, at 18 years of age, be referred to a screening service for an assessment pursuant to section 5 of P.L.1987, c.116 (C.30:4-27.5) and commitment to a psychiatric facility in accordance with P.L.1987, c.116 (C.30:4-27.1 et seq.) and the regulations adopted by the commissioner.

21. Section 9 of P.L.1965, c.59 (C.30:4-24.1) is amended to read as follows:
9. Every individual who is mentally ill shall be entitled to fundamental civil rights and to medical care and other professional services in accordance with accepted standards, provided however that this shall not be construed to require capital construction. Every individual between the ages of 5 and 20 years shall be entitled to education and training suited to his age and attainments. Every patient or child under 18 years of age receiving mental health services, shall have the right to participate in planning for his own treatment to the extent that his condition permits.

(cf: P.L.1975, c.85, s.1)

22. Section 10 of P.L.1965, c.59 (C.30:4-24.2) is amended to read as follows:

10. a. Subject to any other provisions of law and the Constitutions of New Jersey and the United States, no patient or child under 18 years of age receiving treatment pursuant to this Title shall be deprived of any civil right solely because of receipt of treatment under the provisions of this Title nor shall the treatment modify or vary any legal or civil right of any patient or child, including, but not limited to, the right to register for and to vote at elections, as applicable, or rights relating to the granting, forfeiture, or denial of a license, permit, privilege, or benefit pursuant to any law.

b. Every patient or child under 18 years of age in treatment shall be entitled to all rights set forth in P.L.1965, c.59 and shall retain all rights not specifically denied him under this Title. A notice of the rights set forth in P.L.1965, c.59 shall be given to every patient, child, and child's parent within five days of admission to treatment. The notice shall be written in simple understandable language. It shall be in a language the patient, child, or child's parent understands and if the patient, child, or child's parent cannot read the notice, it shall be read to the patient, child, or child's parent. If a patient is adjudicated incapacitated, the notice shall be given to the patient's guardian or child's parent. Receipt of this notice shall be acknowledged in writing, with a copy placed in the patient's or child's file. If the patient, child, parent, or guardian refuses to acknowledge receipt of the notice, the person delivering the notice shall state this in writing, with a copy placed in the patient's or child's file.

c. No patient may be presumed to be incapacitated because of an examination or treatment for mental illness, regardless of whether the evaluation or treatment was voluntarily or involuntarily received. A patient or child who leaves a mental health program following evaluation or treatment for mental illness, regardless of whether that evaluation or treatment was voluntarily or involuntarily received, shall be given a written statement of the substance of P.L.1965, c.59.
Each patient in treatment or child in an inpatient psychiatric unit or facility serving children shall have the following rights, a list of which shall be prominently posted in all facilities providing these services and otherwise brought to the patient's or child's attention by additional means as the department may designate:

(1) To be free from unnecessary or excessive medication. No medication shall be administered unless at the written order of a physician. A verbal order shall be valid for only 24 hours after which a written order for medication shall be completed. Notation of each patient's or child's medication shall be kept in the patient's or child's treatment records. At least weekly, the attending physician shall review the drug regimen of each patient or child under the physician's care. All physician's orders or prescriptions shall be written with a termination date, which shall not exceed 30 days. Medication shall not be used as punishment, for the convenience of staff, as a substitute for a treatment program, or in quantities that interfere with the patient's or child's treatment program. Voluntarily [committed] admitted patients or children shall have the right to refuse medication. In an emergency in which less restrictive or appropriate alternatives acceptable to the patient or child are not available to prevent imminent danger to the patient, child, or others, medication may be administered over a patient's or child's objections, or over the written order of a physician for a period not to exceed 24 hours in order to lessen the danger to the patient or child, or others.

(2) (a) [Not to be subjected] With respect to a child, not to be subjected to electroconvulsive treatment without the express and informed written consent of a parent or legal guardian, and for a child between 14 and 17 years of age, the express informed and written consent of the child; except that for a child under 14 years of age, as developmentally appropriate, assent of the child shall also be required.

Prior to referral for electroconvulsive treatment for a child under 14 years of age, two child psychiatrists not otherwise involved in the treatment of the child shall concur in the recommendation for the treatment. In the case of a child 14 years to 17 years of age, one child psychiatrist not otherwise involved in the treatment of the child shall concur in the recommendation for the treatment. The consulting child psychiatrists shall deliver their opinion only after interviewing the child and the child's parent or guardian, reviewing the clinical record, and discussing the case with the child's attending psychiatrist. The child's parent or guardian and the child shall have the right to consult with counsel or other interested party of their choice. A copy of the parent or legal guardian's consent shall be placed in the child's treatment record. A child may be considered an adult for purposes of consent in those instances in which a judge has made the determination that the child has been emancipated.
If the child’s parent refuses to give express and informed consent, or if the child is under 14 years of age, a court of competent jurisdiction shall hold a hearing within seven working days of court notification by the inpatient psychiatric unit or facility serving children, as defined in section 2 of P.L. , c. (C. ) (pending before the Legislature as this bill), to determine the necessity of the procedure at which the client or child is physically present, represented by counsel, and provided the right and opportunity to be confronted with, and to cross-examine, all witnesses alleging the necessity of the procedure. In the event that a patient or child cannot afford counsel, the court shall appoint an attorney not less than seven days before the hearing. An attorney so appointed shall be entitled to a reasonable fee to be determined by the court and paid by the county from which the patient or child was admitted.

No child under the age of 18 years of age shall be subjected to psychosurgery or sterilization. Under no circumstances may a child in treatment be subjected to experimental research not directly related to the specific goals of the patient’s treatment program.

All research involving children under 18 years of age shall be conducted in accord with basic ethical principles underlying clinical research and the regulations of the federal Department of Health and Human Services and the Food and Drug Administration.

(b) With respect to an adult, not to be subjected to experimental research, [shock] electroconvulsive treatment, psychosurgery, or sterilization, without the express and informed consent of the patient after consultation with counsel or interested party of the patient’s choice. The consent shall be in writing, a copy of which shall be placed in the patient’s treatment record. If the patient has been adjudicated incapacitated, a court of competent jurisdiction shall determine the necessity of the procedure at a hearing where the client is physically present, represented by counsel, and provided the right and opportunity to be confronted with and to cross-examine witnesses alleging the necessity of the procedures. In these proceedings, the burden of proof shall be on the party alleging the necessity of the procedures. If a patient cannot afford counsel, the court shall appoint an attorney not less than 10 days before the hearing. An attorney so appointed shall be entitled to a reasonable fee to be determined by the court and paid by the county from which the patient was admitted. Under no circumstances may a patient in treatment be subjected to experimental research not directly related to the specific goals of the patient’s treatment program.

(3) To be free from physical restraint and isolation. Except for emergency situations, in which a patient or child has caused substantial property damage or attempted to harm himself or others and in which less restrictive means of restraint are not feasible, a
patient or child may be physically restrained or placed in isolation, only on a medical director's written order or that of the director's physician designee which explains the rationale for the action. The written order may be entered only after the medical director or physician designee has personally seen the patient or child, and evaluated the episode or situation causing the need for restraint or isolation. Emergency use of restraints or isolation shall be for no more than one hour, by which time the medical director or physician designee shall have been consulted and shall have entered an appropriate written order. The written order shall be effective for no more than 24 hours and shall be renewed if restraint and isolation are continued. While in restraint or isolation, the patient or child must be bathed every 12 hours and checked by an attendant every two hours, which actions shall be noted in the patient's or child's treatment record along with the order for restraint or isolation.

With respect to a child under 18 years of age, in a crisis situation, a parent shall be notified, within one hour, of treatment changes related to medication, restraint, or seclusion. (4) To be free from corporal punishment. (5) A child under 18 years of age shall not be housed on an adult psychiatric ward, unless the child is 16 years of age or older and being housed on an adult psychiatric ward is in the clinical best interest of the child. Each patient or child receiving treatment pursuant to this Title, shall have the following rights, a list of which shall be prominently posted in all facilities providing these services and otherwise brought to the patient's attention by additional means as the commissioner may designate:

(1) To privacy and dignity. (2) To the least restrictive conditions necessary to achieve the purposes of treatment. (3) To wear the patient's or child's own clothes; to keep and use personal possessions including toilet articles; and to keep and be allowed to spend a reasonable sum of money for canteen expenses and small purchases. (4) To have access to individual storage space for private use. (5) To see visitors each day. (6) To have reasonable access to and use of telephones, both to make and receive confidential calls. (7) To have ready access to letter writing materials, including stamps, and to mail and receive unopened correspondence. (8) To regular physical exercise several times a week. It shall be the duty of the hospital to provide facilities and equipment for the exercise. (9) To be outdoors at regular and frequent intervals, in the absence of medical considerations.
(10) To suitable opportunities for interaction with members of the opposite sex, with adequate supervision.

(11) To practice the patient's or child's religion of choice or abstain from religious practices. Provisions for worship shall be made available to each person on a nondiscriminatory basis.

(12) To receive prompt and adequate medical treatment for any physical ailment.

f. Rights designated under subsection d. of this section may not be denied under any circumstances.

g. (1) A patient's or child's rights designated under subsection e. of this section may be denied for good cause when the director of the patient's or child's treatment program feels it is imperative to do so; provided, however, under no circumstances shall a patient's or child's right to communicate with the patient's or child's attorney, physician, or the courts be restricted. Any denial of a patient's or child's rights shall take effect only after a written notice of the denial has been filed in the patient's or child's treatment record, including an explanation of the reason for the denial.

(2) A denial of rights shall be effective for a period not to exceed 30 days and shall be renewed for additional 30-day periods only by a written statement entered by the director of the program in the patient's or child's treatment record indicating the detailed reason for renewal of the denial.

(3) In each instance of a denial or a renewal, the patient or child, the child's parent, the patient's or child's attorney, the patient's guardian, if the patient has been adjudicated incapacitated, and the department shall be given written notice of the denial or renewal and the reason.

h. A patient or child subject to this Title shall be entitled to a writ of habeas corpus upon proper petition by the patient or child, a relative, or a friend to any court of competent jurisdiction in the county in which the patient or child is detained and shall further be entitled to enforce any of the rights herein stated by civil action or other remedies otherwise available by common law or statute.

(cf: P.L.2013, c.103, s.79)
to treatment. The form shall also state the specific facts upon which
the examining physician has based his conclusion and shall be
certified in accordance with the Rules of the Court. A clinical
certificate may not be executed by a person who is a relative by
blood or marriage to the person who is being screened.

c. "Clinical director" means the person who is designated by
the director or chief executive officer to organize and supervise the
clinical services provided in a screening service, short-term care or
psychiatric facility. The clinical director shall be a psychiatrist,
however, those persons currently serving in the capacity will not be
affected by this provision. This provision shall not alter any current
civil service laws designating the qualifications of such position.
d. "Commissioner" means the Commissioner of Human
Services.
e. "County counsel" means the chief legal officer or advisor of
the governing body of a county.
f. "Court" means the Superior Court or a municipal court.
g. " Custody" means the right and responsibility to ensure the
provision of care and supervision.
h. "Dangerous to self" means that by reason of mental illness
the person has threatened or attempted suicide or serious bodily
harm, or has behaved in such a manner as to indicate that the person
is unable to satisfy his need for nourishment, essential medical care
or shelter, so that it is probable that substantial bodily injury,
serious physical harm or death will result within the reasonably
foreseeable future; however, no person shall be deemed to be
unable to satisfy his need for nourishment, essential medical care or
shelter if he is able to satisfy such needs with the supervision and
assistance of others who are willing and available. This
determination shall take into account a person's history, recent
behavior and any recent act, threat or serious psychiatric
deterioration.
i. "Dangerous to others or property" means that by reason of
mental illness there is a substantial likelihood that the person will
inflict serious bodily harm upon another person or cause serious
property damage within the reasonably foreseeable future. This
determination shall take into account a person's history, recent
behavior and any recent act, threat or serious psychiatric
deterioration.
j. "Department" means the Department of Human Services.
k. "Director" means the chief administrative officer of a
screening service, short-term care facility or special psychiatric
hospital.
l. "Division" means the Division of Mental Health and
Addiction Services in the Department of Human Services.
m. "In need of involuntary commitment" or "in need of
involuntary commitment to treatment" means that an adult with
mental illness, whose mental illness causes the person to be
dangerous to self or dangerous to others or property and who is
unwilling to accept appropriate treatment voluntarily after it has
been offered, needs outpatient treatment or inpatient care at a short-
term care or psychiatric facility or special psychiatric hospital
because other services are not appropriate or available to meet the
person’s mental health care needs.

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

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

p. “Mental health screener” means a psychiatrist, psychologist,
social worker, registered professional nurse or other individual
trained to do outreach only for the purposes of psychological
assessment who is employed by a screening service and possesses
the license, academic training or experience, as required by the
commissioner pursuant to regulation; except that a psychiatrist and
a State licensed clinical psychologist who meet the requirements for
mental health screener shall not have to comply with any additional
requirements adopted by the commissioner.

q. “Mental hospital” means, for the purposes of the payment
and maintenance provisions of Title 30 of the Revised Statutes, a
psychiatric facility.

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

s. “Patient” means a person [over the age of] 18 years of age
or older who has been admitted to, but not discharged from a short-
term care or psychiatric facility, or who has been assigned to, but
not discharged from an outpatient treatment provider.

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

u. “Psychiatric facility” means a State psychiatric hospital
listed in R.S.30:1-7, a county psychiatric hospital, or a psychiatric
unit of a county hospital.
v. "Psychiatrist" means a physician who has completed the training requirements of the American Board of Psychiatry and Neurology.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. During the time an adult patient is assigned to the outpatient treatment provider for services pursuant to a commitment to outpatient treatment, the outpatient treatment provider shall provide and coordinate the provision of care consistent with the plan of outpatient treatment.

c. If an adult patient fails to materially comply with the plan of outpatient treatment during the time the adult patient is assigned by a screening service to the outpatient treatment provider for services pursuant to a commitment to outpatient treatment, or if the outpatient treatment provider determines that the plan of outpatient treatment is inadequate to meet the adult patient's mental health needs, the provider shall notify the screening service of the material noncompliance or plan inadequacy, as applicable, and the adult patient shall be referred to a screening service for an assessment to determine what mental health services are appropriate and where those services may be provided, in accordance with section 5 of P.L.1987, c.116 (C.30:4-27.5). In such a case, the adult patient shall be afforded the protections and procedures provided for in P.L.1987, c.116 and P.L.2009, c.112.

d. If a patient fails to materially comply with the plan of outpatient treatment during the time the patient is assigned by a court to the outpatient treatment provider for services pursuant to a commitment to outpatient treatment, or if the outpatient treatment provider determines that the plan of outpatient treatment is inadequate to meet the patient's mental health needs, the provider shall notify the court and screening service of the material noncompliance or plan inadequacy, as applicable, and the patient shall be referred to a screening service for an assessment to determine what mental health services are appropriate and where those services may be provided, in accordance with section 5 of P.L.1987, c.116 (C.30:4-27.5). In such a case, the patient shall be afforded the protections and procedures provided for in P.L.1987, c.116 and P.L.2009, c.112.

e. If an outpatient treatment provider determines that a plan of outpatient treatment is inadequate and needs to be modified, but referral to a screening service is not necessary, the provider shall seek court approval for such modification and shall notify the court, the patient's attorney and the county adjuster of the request for court approval of such modification.

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

25. Section 9 of P.L.1987, c.116 (C.30:4-27.9) is amended to read as follows:
9. Outpatient treatment providers, short-term care facilities, psychiatric facilities and special psychiatric hospitals shall effectuate the following purposes and procedures for adults:
   a. An outpatient treatment provider to which a person has been assigned pursuant to an order of continued involuntary commitment to treatment pursuant to section 15 of P.L.1987, c.116 (C.30:4-27.15) shall maintain the plan of outpatient treatment approved by the court pursuant to section 17 of P.L.2009, c.112 (C.30:4-27.15a), and shall notify the court, the person's attorney and the county adjuster of any material non-compliance with the plan by the person and of the inadequacy of the plan of outpatient treatment to meet the person's mental health needs, if applicable, and seek court approval for a modification to a plan of outpatient treatment, as provided for in section 9 of P.L.2009, c.112 (C.30:4-27.8a).

   The director or chief executive officer of a short-term care facility, psychiatric facility or special psychiatric hospital shall have custody of a person while that person is detained in the facility and shall notify:
   (1) appropriate public or private agencies to arrange for the care of any dependents and to ensure the protection of the person's property; and (2) appropriate ambulatory mental health providers for the purposes of beginning discharge planning.

   If a person is admitted to a psychiatric facility, the chief executive officer of the facility shall promptly notify the county adjuster of the person's county of residence that the person has been admitted to the facility.

   The facility is authorized to provide assessment, treatment and rehabilitation services and shall provide discharge planning services as required pursuant to section 18 of P.L.1987, c.116 (C.30:4-27.18).

   The facility is authorized to detain persons involuntarily committed to the facility.

   b. A person shall not be involuntarily committed to treatment at an outpatient treatment provider, short-term care or psychiatric facility, or special psychiatric hospital unless the person is in need of involuntary commitment to treatment. The person shall be assigned involuntarily to an outpatient treatment provider or admitted involuntarily to a facility only by referral from a screening service or temporary court order. The person may be admitted voluntarily to a short-term care or psychiatric facility or special psychiatric hospital only after the person has been advised orally and in writing of the discharge provisions established pursuant to P.L.1987, c.116 (C.30:4-27.1 et seq.) and P.L.2009, c.112 (C.30:4-27.8a et al.) and of the subsequent possibility that the facility may initiate involuntary commitment proceedings for the person.

   c. A short-term care or psychiatric facility, or special psychiatric hospital may detain a person, admitted to the facility
involuntarily by referral from a screening service without a temporary court order, for no more than 72 hours from the time the screening certificate was executed. During this period of time the facility shall initiate court proceedings for the involuntary commitment of the person pursuant to section 10 of P.L.1987, c.116 (C.30:4-27.10).

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

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

26. Section 1 of P.L.1991, c.233 (C. 30:4-27.11a) is amended to read as follows:

1. The Legislature finds and declares that:

a. It is of paramount public interest to ensure the rights of all child and adult patients in inpatient psychiatric facilities, including those persons being assessed or receiving treatment on an involuntary basis in screening services and short-term care facilities as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2) or in an affiliated children's psychiatric service, children's crisis intervention service, or children's intermediate psychiatric unit, as defined in section 2 of P.L.____, c.____ (C.____) (pending before the Legislature as this bill);

b. The rights set forth in section 10 of P.L.1965, c.59 (C.30:4-24.2) apply to any [person] child or adult who has been involuntarily committed to a State or county psychiatric hospital, a psychiatric unit of a county hospital, [or] a special psychiatric hospital in accordance with the laws of this State, or a psychiatric facility for children;

c. Because involuntary assessment and treatment in a screening service, and involuntary commitment to a short-term care facility, affiliated children's psychiatric service, children's crisis intervention service, or children's intermediate psychiatric unit involve the deprivation of a patient's liberty, it is necessary to specify and guarantee by statute the rights to which that patient is entitled, in a manner similar to that provided for a patient who is involuntarily committed to a State or county psychiatric hospital, a psychiatric unit of a county hospital, or a special psychiatric hospital, while recognizing the administrative, structural, and staffing features of screening services [and], short-term care facilities, affiliated children's psychiatric services, children's crisis intervention services, and children's intermediate psychiatric units which are different from State or county psychiatric hospitals, psychiatric units of county hospitals, or special psychiatric hospitals, as well as recognizing differences between the administrative, structural, and
staffing features of screening services and short-term care facilities, affiliated children's psychiatric services, children's crisis intervention services, and children's intermediate psychiatric units by providing a separate guarantee of rights for patients in each of these settings; and

d. All patients who are receiving assessment or treatment on an involuntary basis in screening services and short-term care facilities, as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2), and affiliated children's psychiatric services, children's crisis intervention services, and children's intermediate psychiatric units, as defined in section 2 of P.L., c. (C.) (pending before the Legislature as this bill), are entitled to receive professional treatment of the highest standard and, unless the patient is mentally incapacitated, to participate in their treatment and discharge planning to the fullest extent possible.

(cf:  P.L.2013, c.103, s.81)

27. Section 2 of P.L.1991, c.233 (C.30:4-27.11b) is amended to read as follows:

2. As used in this act:

"Patient" means a person 18 years of age and older who is being involuntarily assessed or treated in a screening service or who has been involuntarily committed to a short-term care facility in accordance with the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.). "Patient" also means a child under 18 years of age who is being involuntarily assessed or treated or who has been involuntarily committed to an affiliated children's psychiatric service, children's crisis intervention service, or children's intermediate psychiatric unit, in accordance with the provisions of P.L., c. (C.) (pending before the Legislature as this bill).

"Screening service" means a "screening service" as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2), and includes psychiatric emergency services which are funded by the Division of Mental Health and Addiction Services in the Department of Human Services and are affiliated with a screening service.

"Short-term care facility" means a "short-term care facility" as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2) and also includes an affiliated children's psychiatric service, children's crisis intervention service, or a children's intermediate psychiatric unit, as defined in section 2 of P.L., c. (C.) (pending before the Legislature as this bill).

(cf:  P.L.1991, c.233, s.2)

28. Section 3 of P.L.1991, c.233 (C.30:4-27.11c) is amended to read as follows:

3. a. Subject to any other provisions of law and the Constitutions of New Jersey and the United States, a patient shall not be deprived of a civil right solely by reason of receiving
assessment or treatment under the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.) or P.L. , c. (pending before the Legislature as this bill), nor shall the assessment or treatment modify or vary a legal or civil right of that patient, including, but not limited to, the right to register for and to vote at elections, or rights relating to the granting, forfeiture, or denial of a license, permit, privilege, or benefit pursuant to any law.


c. A patient shall not be presumed to be mentally incapacitated solely because of an examination or treatment for mental illness.

d. A patient shall be entitled to a writ of habeas corpus upon proper petition by the patient, a relative, or a friend to a court of competent jurisdiction in the county in which the patient is detained and shall further be entitled to enforce, by civil action or other remedies otherwise available by common law or statute, any of the rights provided in P.L.1991, c.233 (C.30:4-27.11a et seq.).

(cf: P.L.2013, c.103, s.82)

Section 4 of P.L.1991, c.233 (C.30:4-27.11d) is amended to read as follows:

4. a. A patient in a short-term care facility, affiliated children's psychiatric service, children's crisis intervention service, or children's intermediate psychiatric unit, as defined in section 2 of P.L. , c. (C. ) (pending before the Legislature as this bill), shall have the following rights, which shall not be denied under any circumstances. A list of these rights shall be posted in a conspicuous place in each room designated for use by a patient and otherwise brought to the patient's attention pursuant to subsection d. of this section:

(1) To be free from unnecessary or excessive medication. Medication shall not be administered unless at the written or verbal order of a physician. A verbal order shall be valid only for a period of 24 hours, after which a written order for the medication shall be completed. At least weekly, the attending physician shall review the drug regimen of each patient under the physician's care. Medication shall be administered in accordance with generally accepted medical standards as part of a treatment program. Medication shall not be used as punishment, for the convenience of staff, as a substitute for a treatment program, or in quantities that interfere with the patient's treatment program.

In an emergency in which less restrictive or appropriate alternatives acceptable to the patient are not available to prevent imminent danger to the patient or others, medication may be administered over a patient's objection at the written order of a
physician, which shall be valid for a period of up to 72 hours, in
order to lessen the danger.

A patient's right or the rights of the patient's parent, if the patient
is a child under 18 years of age, to refuse medication when
imminent danger to the patient or others is not present may be
 overridden by a written policy which has been adopted by the short-
term care facility affiliated children's psychiatric service, children's
crisis intervention service, or children's intermediate psychiatric
unit to protect the patient's or parent's right to exercise informed
consent to the administration of medication. The written policy
shall, at a minimum, provide for appropriate procedures that ensure
notice to the patient or the parent, if applicable, of the decision by
the attending physician or other designated physician to administer
medication, and the right to question the physician about the
physician's decision to administer medication and to provide
information to the physician regarding that decision. The written
policy shall also provide for review of the patient's or parent's, if
applicable, decision to object to the administration of medication by
a psychiatrist who is not directly involved in the patient's treatment.
The psychiatrist shall not override the patient's, or parent's decision
to object to the administration of medication unless the psychiatrist
determines that: the patient is incapable, without medication, of
participating in a treatment plan that will provide a realistic
opportunity of improving the patient's condition; or, although it is
possible to devise a treatment plan that will provide a realistic
opportunity of improving the patient's condition without
medication, a treatment plan which includes medication would
probably improve the patient's condition within a significantly
shorter time period, or there is a significant possibility that, without
medication, the patient will harm himself or others before
improvement of the patient's condition is realized.

An adult who has been voluntarily committed to a short-term
care facility shall have the right to refuse medication.

(2) [Not] If 18 years of age or older not to be subjected to
psychosurgery or sterilization, without the express and informed,
written consent of the patient after consultation with counsel or
interested party of the patient's choice. A copy of the patient's
consent shall be placed in the patient's treatment record. Under no
circumstances may the patient be subjected to experimental research
that is not directly related to the specific goals of the patient's
treatment program.

If the patient has been adjudicated incapacitated, a court of
competent jurisdiction shall hold a hearing to determine the
necessity of the procedure. The patient shall be physically present
at the hearing, represented by counsel, and provided the right and
opportunity to be confronted with and to cross-examine all
witnesses alleging the necessity of the procedure. In these
proceedings, the burden of proof shall be on the party alleging the
necessity of the procedure. In the event that a patient cannot afford
counsel, the court shall appoint an attorney not less than 10 days
before the hearing. An attorney so appointed shall be entitled to a
reasonable fee to be determined by the court and paid by the State.

(3) To be free from unnecessary physical restraint and seclusion.
Except for an emergency in which a patient has caused substantial
property damage or has attempted to harm himself or others, or in
which the patient's behavior threatens to harm himself or others,
and in which less restrictive means of restraint are not feasible, a
patient may be physically restrained or placed in seclusion only on
an attending physician's written order or that of another designated
physician which explains the rationale for that action. The written
order may be given only after the attending physician or other
designated physician has personally seen the patient, and evaluated
the episode or situation that is said to require restraint or seclusion.

In an emergency, the use of restraints or seclusion may be
initiated by a registered professional nurse and shall be for no more
than one hour. Within that hour, the nurse shall consult with the
attending physician or other designated physician and, if continued
restraint or seclusion is determined to be necessary, shall obtain an
order from the attending physician or other designated physician to
continue the use of restraints or seclusion. If an order is given, the
patient shall be reevaluated by the nurse or the attending physician
or other designated physician as to the patient's physical and
psychiatric condition and the need for continuing the restraints or
seclusion at least every two hours until the use of restraints or
seclusion has ended.

The patient's attending physician or other designated physician
shall enter a written order approving the continued use of restraints
or seclusion no later than 24 hours after the time that physical
restraint or seclusion began, and only after the physician has
personally seen the patient. A written order by the physician for the
continued use of restraints or seclusion shall be effective for no
more than 24 hours and shall be renewed if restraint and seclusion
are continued. A medical examination of the patient shall be
conducted every 12 hours by a physician.

While a patient is in restraints or seclusion, nursing personnel
shall check the patient's hygienic, toileting, food-related, and other
needs every 15 minutes. A notation of these checks shall be placed
in the patient's medical record along with the order for restraints or
seclusion. A patient in restraints shall be permitted to ambulate
every four hours, except when the patient's psychiatric condition
would make a release from restraints dangerous to the patient or
others, and shall be permitted to ambulate at least once every 12
hours regardless of the patient's psychiatric condition.

(4) To be free from any form of punishment.

(5) [Not] (a) With respect to a patient who is a child, not to be
subjected to electroconvulsive treatment without the express and
informed written consent of a parent or legal guardian, and for a patient who is a child between 14 and 17 years of age, the express, informed, and written consent of the child; except that for a child under 14 years of age, as developmentally appropriate, assent of the child shall also be required. A child may be considered an adult for purposes of providing consent in those cases in which a judge has made the determination that the child is emancipated.

Consent of a child or the child's parent or legal guardian shall be made in writing, a copy of which shall be placed in the patient's treatment record.

Prior to referral for electroconvulsive treatment for a patient who is a child under 14 years of age, two child psychiatrists not otherwise involved in the treatment of the child shall concur in the recommendation for treatment. In the case of a child 14 years to 17 years of age, one child psychiatrist not otherwise involved in the treatment of the child shall concur in the recommendation for treatment. The consulting child psychiatrists shall deliver their opinion only after interviewing the child and the child's parent or guardian, reviewing the clinical record, and discussing the case with the patient's attending psychiatrist. The child's parent or guardian and the child have the right to consult with counsel or other interested party of their choice.

No child under the age of 18 years of age shall be subjected to psychosurgery or sterilization.

Under no circumstances may a patient who is a child under 18 years of age in treatment be subjected to experimental research that is not directly related to the specific goals of the patient's treatment program.

All research involving a patient who is a child under 18 years of age shall be conducted in accordance with basic ethical principles underlying clinical research and the regulations of the federal Department of Health and Human Services and the Food and Drug Administration.

(b) With respect to a patient who is 18 years of age or older not to receive electroconvulsive treatment or participate in experimental research without the express and informed, written consent of the patient. The patient shall have the right to consult with counsel or interested party of the patient's choice. A copy of the patient's consent shall be placed in the patient's treatment record.

(c) If the patient has been adjudicated incapacitated, or the patient's parent refuses to give express and informed consent, or if the child is under 14 years of age, a court of competent jurisdiction shall hold a hearing within seven working days of court notification by the facility to determine the necessity of the procedure. The patient shall be physically present at the hearing, represented by counsel, and provided the right and opportunity to be confronted with and to cross-examine all witnesses alleging the necessity of the procedure. In these proceedings, the burden of proof shall be on the
party alleging the necessity of the procedure. In the event that a patient cannot afford counsel, the court shall appoint an attorney not less than 7 days before the hearing. An attorney so appointed shall be entitled to a reasonable fee to be determined by the court and paid by the [State] county from which the patient was admitted.

(6) Not to be housed on an adult psychiatric ward if the patient is a child under 18 years of age, unless the child is 16 years of age or older and being housed on an adult psychiatric ward is in the clinical best interest of the child.

(7) With respect to a child under 18 years of age, in a crisis situation, a parent shall be notified within one hour of treatment changes related to medication, restraint, or seclusion.

b. A patient receiving treatment in a short-term care facility shall have the following rights, which may only be denied pursuant to subsection c. of this section. A list of these rights shall be posted in a conspicuous place in each room designated for use by a patient and otherwise brought to the patient's attention pursuant to subsection d. of this section:

(1) To privacy and dignity.

(2) To the least restrictive conditions necessary to achieve the purposes of treatment.

(3) To wear the patient's own clothes; to have access to and use nondangerous personal possessions including toilet articles; and to have access to and be allowed to spend a reasonable sum of money for expenses and small purchases.

(4) To have access to individual storage space for private use.

(5) To see visitors each day.

(6) To have reasonable access to and use of telephones, both to make and receive confidential calls.

(7) To have ready access to letter writing materials, including stamps, and to mail and receive unopened correspondence.

(8) To regular physical exercise or organized physical activities several times a week.

(9) To be outdoors at regular and frequent intervals, in the absence of medical considerations, commencing two weeks after admission, except where the physical location of the short-term care facility, affiliated children's psychiatric service, children's crisis intervention service, or children's intermediate psychiatric unit precludes outdoor exercise or would render the supervision of outdoor exercise too onerous for the facility.

(10) To suitable opportunities for interaction with members of the opposite sex, with adequate supervision.

(11) To practice the patient's religion of choice or abstain from religious practices. Provisions for worship shall be made available to each patient on a nondiscriminatory basis.

(12) To receive prompt and adequate medical treatment for any physical ailment.
(13) To be provided with a reasonable explanation, in terms and language appropriate to the patient's condition and ability to understand, of:
   (a) the patient's general mental and physical condition;
   (b) the objectives of the patient's treatment;
   (c) the nature and significant possible adverse effects of recommended treatments;
   (d) the reasons why a particular treatment is considered appropriate; and
   (e) the reasons for the denial of any of the patient's rights pursuant to subsection c. of this section.

c. (1) A patient's rights designated under subsection b. of this section may be denied only for good cause when the attending physician feels it is imperative to deny any of these rights: except that, under no circumstances shall a patient's right to communicate with the patient's attorney, physician, parent, if the patient is a child under 18 years of age, or the courts be restricted. The denial of a patient's rights shall take effect only after a copy of the written notice of the denial has been filed in the patient's treatment record and shall include an explanation of the reason for the denial.
   (2) A denial of rights shall be effective for a period not to exceed 10 days and shall be renewed for additional 10-day periods only by a written statement entered by the attending physician or other designated physician in the patient's treatment record indicating the detailed reason for the renewal of the denial.
   (3) In each instance of a denial or a renewal, the patient, the patient's attorney, the patient's parent if the patient is under 18 years of age, and the patient's guardian, if the patient has been adjudicated incapacitated, shall be given written notice of the denial or renewal and the reason.

d. A notice of the rights set forth in this section shall be given to a patient and a patient's parent, if the patient is a child under 18 years of age in a short-term care facility, affiliated children's psychiatric service, children's crisis intervention service, or children's intermediate psychiatry unit upon admission. The notice shall be written in simple understandable language. It shall be in a language the patient or, if the patient is a child under 18 years of age, a language the child's parent understands and if the patient cannot read the notice, it shall be read to the patient or parent, as applicable. If a patient is adjudicated incapacitated, the notice shall be given to the patient's guardian. Receipt of this notice shall be acknowledged in writing with a copy placed in the patient's file. If the patient, parent, or guardian refuses to acknowledge receipt of the notice, the person delivering the notice shall state this in writing, with a copy placed in the patient's file.

(cf: P.L.2013, c.103, s.83)
Section 5 of P.L.1991, c.233 (C.30:4-27.11e) is amended to read as follows:

5. a. A patient in a screening service shall have the following rights, which shall apply during the first 24 hours of involuntary assessment and care provided at a screening service and which shall not be denied under any circumstances. A list of these rights shall be posted in a conspicuous place in the screening service and otherwise brought to the patient's attention pursuant to subsection d. of this section:

(1) To be free from unnecessary or excessive medication. Medication shall not be administered unless at the order of a physician. Medication shall be administered in accordance with generally accepted medical standards as part of a treatment program. A verbal order shall be valid for only 24 hours, after which a written order for medication shall be completed. Notation of each patient's medication shall be kept in the patient treatment record. Medication shall not be used as punishment, for the convenience of staff, as a substitute for a treatment program, or in quantities that interfere with the patient's treatment program.

In an emergency in which less restrictive or appropriate alternatives acceptable to the patient are not available to prevent imminent danger to the patient or others, medication may be administered over a patient's objection at the written order of a physician, which shall be valid for a period of up to 24 hours, in order to lessen the danger.

(2) Not to be subjected to electroconvulsive treatment without the express and informed written consent of a parent or legal guardian, and for a patient who is a child between 14 and 17 years of age, the express, informed and written consent of the child; except that for a child under 14 years of age, as developmentally appropriate, assent of the child shall also be required. A child may be considered an adult for purposes of consent in those instances in which a judge has made the determination that the child has been emancipated.

Prior to referral for electroconvulsive treatment for a patient who is a child under 14 years of age, two child psychiatrists not otherwise involved in the treatment of the child shall concur in the recommendation for treatment. In the case of a child 14 years to 17 years of age, one child psychiatrist not otherwise involved in the treatment of the child shall concur in the recommendation for treatment. The consulting child psychiatrists shall deliver their opinion only after interviewing the child and the child's parent or guardian, reviewing the clinical record, and discussing the case with the child's attending psychiatrist. The child's parent or guardian and the child have the right to consult with counsel or other interested party of their choice. A copy of the parent or legal guardian's consent shall be placed in the child's treatment record.
If the child’s parent refuses to give express and informed consent, or if the child is under 14 years of age, a court of competent jurisdiction shall hold a hearing within seven working days of court notification by the screening service to determine the necessity of the procedure at which the client or child is physically present, represented by counsel, and provided the right and opportunity to be confronted with, and to cross-examine, all witnesses alleging the necessity of the procedure. In the event that a patient or child cannot afford counsel, the court shall appoint an attorney not less than seven days before the hearing. An attorney so appointed shall be entitled to a reasonable fee to be determined by the court and paid by the county from which the child was admitted.

No child under the age of 18 years of age shall be subjected to psychosurgery or sterilization.

Under no circumstances may a patient in treatment be subjected to experimental research that is not directly related to the specific goals of the patient’s treatment program.

All research involving a child under 18 years of age shall be conducted in accord with basic ethical principles underlying clinical research and the regulations of the federal Department of Health and Human Services and the Food and Drug Administration.

(b) With respect to a patient who is 18 years of age or older, not to be subjected to experimental research, psychosurgery, or sterilization, without the express and informed, written consent of the patient. The patient shall have the right to consult with counsel or interested party of the patient’s choice. A copy of the patient’s consent shall be placed in the patient’s treatment record.

(3) To be free from unnecessary physical restraint and seclusion. Except for an emergency, in which a patient has caused substantial property damage or has attempted to harm himself or others, or in which the patient’s behavior threatens to harm himself or others, and in which less restrictive means of restraint are not feasible, a patient may be physically restrained or placed in seclusion only on an attending physician’s written order or that of another designated physician which explains the rationale for that action. The written order may be given only after the attending physician or other designated physician has personally seen the patient, and evaluated the episode or situation that is said to require restraint or seclusion.

In an emergency, the use of restraints or seclusion may be initiated by a registered professional nurse and shall be for no more than one hour. Within that hour, the nurse shall consult with the attending physician or other designated physician and, if continued restraint or seclusion is determined to be necessary, shall obtain an order from the physician to continue the use of restraints or seclusion. If an order is given, the patient shall be reevaluated by the nurse or the attending physician or other designated physician as to the patient’s physical and psychiatric condition and the need for
continuing the restraints or seclusion at least every two hours until
the use of restraints or seclusion has ended.

The patient's attending physician or other designated physician
shall enter a written order approving the continued use of restraints
or seclusion no later than 12 hours after the time that physical
restraint or seclusion began, after the physician has personally seen
the patient. A written order by the physician for the continued use
of restraints or seclusion shall be effective for no more than 24
hours and shall be renewed if restraint and seclusion are continued.
A medical examination of the patient shall be conducted every 12
hours by a physician.

While a patient is in restraints or seclusion, nursing personnel
shall check the patient's hygienic, toileting, food-related, and other
needs every 15 minutes. A notation of these checks shall be placed
in the patient's medical record along with the order for restraints or
seclusion. A patient in restraints shall be permitted to ambulate
every four hours, except when the patient's psychiatric condition
would make a release from restraints dangerous to the patient or
others, and shall be permitted to ambulate at least once every 12
hours regardless of the patient's psychiatric condition.

(4) To be free from any form of punishment.

(5) With respect to a child under 18 years
of age, in a crisis
situation, a parent shall be notified within one hour of treatment
changes related to medication, restraint, or seclusion.

b. A patient receiving treatment in a screening service shall
have the following rights, which may only be denied pursuant to
subsection c. of this section. A list of these rights shall be posted in
a conspicuous place in the screening service and otherwise brought
to the patient's attention pursuant to subsection d. of this section:

(1) To privacy and dignity.

(2) To the least restrictive conditions necessary to achieve the
purposes of treatment.

(3) To wear the patient's own clothes, except as necessary for
medical examination.

(4) To see visitors.

(5) To have reasonable access to and use of telephones, both to
make and receive confidential calls.

(6) To practice the patient's religion of choice or abstain from
religious practices.

(7) To receive prompt and adequate medical treatment for any
physical ailment.

(8) To be provided with a reasonable explanation, in terms and
language appropriate to the patient's condition and ability to
understand, of:

(a) the patient's general mental condition, and physical
condition if the screening service has conducted a physical
examination of the patient;

(b) the objectives of the patient's treatment;
(c) the nature and significant possible adverse effects of recommended treatments;

(d) the reasons why a particular treatment is considered appropriate; and

(e) the reasons for the denial of any of the patient's rights pursuant to subsection c. of this section.

(9) To have a discharge plan prepared and to participate in the preparation of that plan.

c. (1) A patient's rights designated under subsection b. of this section may be denied only for good cause when the attending physician feels it is imperative to deny any of these rights; except that, under no circumstances shall a patient's right to communicate with the patient's attorney, physician, parent, if the patient is a child under 18 years of age, or the courts be restricted. The denial of a patient's rights shall take effect only after a copy of the written notice of the denial has been filed in the patient's treatment record and shall include an explanation of the reason for the denial.

(2) A denial of rights shall be effective only for the period of time that the patient is in the screening service.

d. A notice of the rights set forth in this section shall be given to a patient as soon as possible upon admission to the screening service; except that if the patient is a child under 18 years of age, the notice shall be given to a parent upon the child's admission to the screening service following an evaluation. The notice shall be written in simple understandable language. It shall be in a language the patient and parent, as applicable, understands and if the patient cannot read the notice, it shall be read to the patient or parent, as applicable. If the patient is adjudicated incapacitated, the notice shall be given to the patient's guardian. Receipt of this notice shall be acknowledged in writing with a copy placed in the patient's file. If the patient, parent, or guardian refuses to acknowledge receipt of the notice, the person delivering the notice shall state this in writing with a copy placed in the patient's file.

(cf: P.L.2013, c.103, s.84)

31. R.S.30:9-3 is amended to read as follows:

30:9-3. The governing body of the county may adopt bylaws, rules, and regulations for the management and government of a county psychiatric facility; the admission, support and discharge of patients, which may include adults and children; the appointment of a superintendent and other employees and officers. But, the rules and regulations governing the admission and discharge of adult patients shall be in compliance with the provisions of P.L.1987, c. 116 and the rules and regulations governing the admission and discharge of children under 18 years of age shall be in compliance with the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill), and shall be subject to the written approval of both the commissioner and the governing body of the county.
The governing body shall also fix the compensation of officers and employees and may at any time by vote of two-thirds of its members remove an officer or employee. The expense of erecting, establishing, furnishing, maintaining and operating the psychiatric facility shall be paid by the county treasurer from funds raised by taxation as other county expenses are paid.

The governing body may also select an appropriate name by which the psychiatric facility shall thereafter be known.

(cf: P.L.1987, c.116, s.27)

32. (New section) a. The Commissioner of Human Services shall, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) adopt any rules and regulations as the commissioner deems necessary to carry out the provisions of this act.

b. The Supreme Court of New Jersey may adopt Rules of Court appropriate or necessary to effectuate the purposes of this act.

33. This act shall take effect on the first day of the seventh month next following the date of enactment, except that the Commissioner of Human Services or the Administrative Director of the Courts may take any anticipatory administrative action in advance as necessary for the implementation of this act.

STATEMENT

This bill adds to the State statutes the civil commitment of a child, defined in the bill as a person who is under 18 years of age.

Current law, P.L.1987, c.116 (C.30:4-27.1 et seq.), governs civil commitment of adults and uses the term "patient" which, under the bill, refers to a person 18 years of age or older. Civil commitment for children is currently governed by the Rules of Court adopted by the New Jersey Supreme Court.

The bill provides for commitment through parental admission and voluntary admission. A child 14 years of age or older could request voluntary admission or a parent may request parental admission to an "inpatient psychiatric unit or facility serving children." This term is defined in the bill as an affiliated children's psychiatric service, a children's crisis intervention service, a children's intermediate psychiatric unit, a psychiatric facility for children, and a special psychiatric hospital, all of which are also defined in the bill.

The particular admitting inpatient psychiatric unit or facility serving children would provide a child with a psychiatric evaluation within 24 hours of admission, and is authorized to provide assessment, crisis intervention and treatment services, as well as discharge planning, which is to begin at admission and be ready for
implementation at the time of discharge. A child may be detained
for no more than 72 hours without a court hearing. The bill
specifies that prior to discharging a child, the parent or other person
in loco parentis of the child is to be notified. If, however, the
person is not known or is unresponsive within 48 hours of
notification, the Division of Child Protection and Permanency in the
Department of Children and Families is to be notified and is
required to take immediate action to facilitate the discharge or out-
of-home placement of the child, or take other action to assure the
best interests and safety of the child.

In the case of a child committed by court order to an inpatient
psychiatric unit or facility serving children, after the unit's or
facility's treatment team conducts a mental and physical
examination of the child, administers appropriate treatment to and
prepares a discharge plan for the child, the unit or facility may
transfer the child to a psychiatric facility for children prior to the
final hearing for an involuntary commitment order if: (1) the child,
the child's parent, and the child's attorney are notified of the
pending transfer within no less than 24-hours of the actual transfer;
and (2) the transfer is accomplished in a manner which will give the
receiving facility adequate time to examine the child, become
familiar with the child's behavior and condition, and prepare for the
hearing.

Following a hearing, the court may enter a final order of
commitment if it finds, by clear and convincing evidence, that,

(1) for a child 14 years of age or older: (a) the child suffers from
childhood mental illness, (b) that the childhood mental illness
causes the child to be dangerous to self or dangerous to others or
property as defined in section 2 of P.L. , c. (pending
before the Legislature as this bill) and (c) that the child is in need of
intensive psychiatric treatment that can be provided at an inpatient
psychiatric unit or facility and which cannot be provided in the
home, the community or on an outpatient basis; or

(2) for a child under 14 years of age: (a) the child suffers from
childhood mental illness, (b) that the childhood mental illness
causes the child to be dangerous to self or dangerous to others or
property as defined in section 2 of P.L. , c. (pending
before the Legislature as this bill) and (c) that there is a substantial
likelihood that the failure to provide immediate, intensive,
institutional, psychiatric therapy will create in the reasonably
foreseeable future a genuine risk of irreversible or significant harm
to the child arising from the interference with or arrest of the child's
growth and development and, ultimately, the child's capacity to
adapt and socialize as an adult, and (d) that the child is in need of
intensive psychiatric treatment that can be provided at an inpatient
psychiatric unit or facility serving children and which cannot be
provided in the home, the community, or on an outpatient basis.
The bill provides specific rights to the child and also provides procedures for a court hearing, notification of a hearing, and the documents to be provided to the child, attorney, and parent. A psychiatrist on the child's treatment team, who has examined the child as close to the hearing date as possible, but not more than five calendar days prior to the court hearing, is to testify about the need for involuntary commitment; other members of the treatment team may also testify, as well as the parents. Periodic court hearings to review the child's need for involuntary commitment are to be held to review the status of a child who has been involuntarily committed to an inpatient psychiatric unit or facility serving children to determine whether there is a need to continue the involuntary commitment. The first hearing would occur within three months from the initial inpatient admission to the facility and subsequent hearings at least once every three months from the most recent hearing unless the child has been administratively discharged from the facility.

A child 14 years of age or older who is discharged from involuntary commitment status may request continued inpatient treatment through an application for voluntary admission. Similarly, a parent may request the continued inpatient treatment through an application for parental admission.

The bill also amends existing law to include children in provisions of law concerning the planning for treatment and rights of patients under sections 9 and 10 of P.L.1965, c.59 (C.30:4-24.1 and C.30:4-24.2), as well as amendments to the protection of patient rights and consent to treatment under P.L.1991, c.233 (C.30:4-27.11a et seq.).