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FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

CL/JA

P.L. 2023, CHAPTER 139, *approved August 16, 2023*
Senate, No. 3929 (*Third Reprint*)

1 AN ACT concerning involuntary commitment to mental health
2 treatment and ¹**[amending]** supplementing¹ P.L.1987, c.116
3 ¹(C.30:4-27.1 et seq.)¹ .
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

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

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

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

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

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

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

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

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted June 15, 2023.

²Senate floor amendments adopted June 20, 2023.

³Senate SBA committee amendments adopted June 27, 2023.

- 1 g. "Custody" means the right and responsibility to ensure the
2 provision of care and supervision.
- 3 h. "Dangerous to self" means that by reason of mental illness
4 the person has threatened or attempted suicide or serious bodily
5 harm, or has behaved in such a manner as to indicate that the person
6 is unable to satisfy his need for nourishment, essential medical care
7 or shelter, so that it is probable that substantial bodily injury,
8 serious physical harm, or death will result within the reasonably
9 foreseeable future; however, no person shall be deemed to be
10 unable to satisfy his need for nourishment, essential medical care,
11 or shelter if he is able to satisfy such needs with the supervision and
12 assistance of others who are willing and available. This
13 determination shall take into account a person's history, recent
14 behavior, and any recent act, threat, or serious psychiatric
15 deterioration.
- 16 i. "Dangerous to others or property" means that by reason of
17 mental illness there is a substantial likelihood that the person will
18 inflict serious bodily harm upon another person or cause serious
19 property damage within the reasonably foreseeable future. This
20 determination shall take into account a person's history, recent
21 behavior, and any recent act, threat, or serious psychiatric
22 deterioration.
- 23 j. "Department" means the Department of Human Services.
- 24 k. "Director" means the chief administrative officer of a
25 screening service, short-term care facility, or special psychiatric
26 hospital.
- 27 l. "Division" means the Division of Mental Health and
28 Addiction Services in the Department of Human Services.
- 29 m. "In need of involuntary commitment" or "in need of
30 involuntary commitment to treatment" means that an adult with
31 mental illness, whose mental illness causes the person to be
32 dangerous to self or dangerous to others or property and who is
33 unwilling to accept appropriate treatment voluntarily after it has
34 been offered, needs outpatient treatment or inpatient care at a short-
35 term care or psychiatric facility or special psychiatric hospital
36 because other services are not appropriate or available to meet the
37 person's mental health care needs.
- 38 n. "Institution" means any State or county facility providing
39 inpatient care, supervision, and treatment for persons with
40 developmental disabilities; except that with respect to the
41 maintenance provisions of Title 30 of the Revised Statutes,
42 institution also means any psychiatric facility for the treatment of
43 persons with mental illness.
- 44 o. "Mental health agency or facility" means a legal entity
45 which receives funds from the State, county, or federal government
46 to provide mental health services.
- 47 p. "Mental health screener" means a psychiatrist, psychologist,
48 social worker, registered professional nurse, licensed marriage and

1 family therapist, or other individual trained to do outreach only for
2 the purposes of psychological assessment who is employed by a
3 screening service and possesses the license, academic training or
4 experience, as required by the commissioner pursuant to regulation;
5 except that a psychiatrist and a State licensed clinical psychologist
6 who meet the requirements for mental health screener shall not have
7 to comply with any additional requirements adopted by the
8 commissioner.

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

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

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

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

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

31 v. "Psychiatrist" means a physician who has completed the
32 psychiatry training requirements of the Accreditation Council for
33 Graduate Medical Education or the American Osteopathic
34 Association, and is certified by the American Board of Psychiatry
35 and Neurology or the American Osteopathic Board of Neurology
36 and Psychiatry [and Neurology].

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

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

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

46 z. "Screening service" means a public or private ambulatory
47 care service, whether or not affiliated with a hospital, designated by
48 the commissioner, which provides mental health services including

1 assessment, emergency, and referral services to persons with mental
2 illness in a specified geographic area.

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

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

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

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

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

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

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

47 hh. "Outpatient treatment" means clinically appropriate care
48 based on proven or promising treatments directed to wellness and

1 recovery, provided by a member of the patient's treatment team to a
2 person not in need of inpatient treatment. Outpatient treatment may
3 include, but shall not be limited to, day treatment services, case
4 management, residential services, outpatient counseling and
5 psychotherapy, and medication treatment.

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

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

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

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

26 (cf: P.L.2019, c.391, s.1)¹

27

28 ¹[2. Section 9 of P.L.1987, c.116 (C.30:4-27.9) is amended to
29 read as follows:

30 9. Outpatient treatment providers, short-term care facilities,
31 psychiatric facilities and special psychiatric hospitals shall
32 effectuate the following purposes and procedures:

33 a. An outpatient treatment provider to which a person has been
34 assigned pursuant to an order of continued involuntary commitment
35 to treatment pursuant to section 15 of P.L.1987, c.116 (C.30:4-
36 27.15) shall maintain the plan of outpatient treatment approved by
37 the court pursuant to section 17 of P.L.2009, c.112 (C.30:4-27.15a),
38 and shall notify the court, the person's attorney and the county
39 adjuster of any material non-compliance with the plan by the person
40 and of the inadequacy of the plan of outpatient treatment to meet
41 the person's mental health needs, if applicable, and seek court
42 approval for a modification to a plan of outpatient treatment, as
43 provided for in section 9 of P.L.2009, c.112 (C.30:4-27.8a).

44 The director or chief executive officer of a short-term care
45 facility, psychiatric facility or special psychiatric hospital shall have
46 custody of a person while that person is detained in the facility and
47 shall notify:

1 (1) appropriate public or private agencies to arrange for the care
2 of any dependents and to ensure the protection of the person's
3 property; and (2) appropriate ambulatory mental health providers
4 for the purposes of beginning discharge planning.

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

9 The facility is authorized to provide assessment, treatment and
10 rehabilitation services and shall provide discharge planning services
11 as required pursuant to section 18 of P.L.1987, c.116 (C.30:4-
12 27.18).

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

15 b. A person shall not be involuntarily committed to treatment at
16 an outpatient treatment provider, short-term care or psychiatric
17 facility, or special psychiatric hospital unless the person is in need
18 of involuntary commitment to treatment.

19 The person shall be assigned involuntarily to an outpatient
20 treatment provider or admitted involuntarily to a facility only by
21 referral from a screening service or temporary court order. The
22 person may be admitted voluntarily to a short-term care or
23 psychiatric facility or special psychiatric hospital only after the
24 person has been advised orally and in writing of the discharge
25 provisions established pursuant to P.L.1987, c.116 (C.30:4-27.1 et
26 seq.) and P.L.2009, c.112 (C.30:4-27.8a et al.) and of the
27 subsequent possibility that the facility may initiate involuntary
28 commitment proceedings for the person.

29 c. A general hospital, short-term care or psychiatric facility, or
30 special psychiatric hospital may detain a person, admitted to the
31 facility involuntarily by referral from a screening service without a
32 temporary court order, for **[no more than]** up to 72 hours from the
33 time the screening certificate was executed without the need for
34 reevaluation of the person. During this period of time the facility
35 shall initiate court proceedings for the involuntary commitment of
36 the person pursuant to section 10 of P.L.1987, c.116 (C.30:4-27.10).
37 If a determination for a temporary court order has not been rendered
38 within 72 hours from the time the screening certificate was
39 executed, or if a temporary court order has been granted but the
40 admitting facility lacks sufficient capacity to accommodate the
41 person, the facility may detain the person for up to 72 additional
42 hours, provided that:

43 (1) the person is reevaluated by a psychiatrist at least once every
44 24 hours;

45 (2) the psychiatrist reevaluating the person pursuant to
46 paragraph (1) of this subsection recommends the person be detained
47 based on a determination that:

1 (a) the person’s history indicates a high risk of rehospitalization
2 based on the person’s historic failure to comply with discharge
3 plans; or

4 (b) there is a substantial likelihood that, by reason of mental
5 illness, the person will be dangerous to the person’s own self or to
6 property or others; and

7 (3) the person is detained for a total of no more than 144 hours
8 from the time the screening certificate was executed.

9 d. A person shall not be assigned to an outpatient treatment
10 provider by referral from a screening service without a temporary
11 court order, **[for more than 72]** which shall be obtained within 144
12 hours from the time the screening certificate was executed. During
13 this period of time the provider shall initiate court proceedings for
14 the involuntary commitment of the person pursuant to section 10 of
15 P.L.1987, c.116 (C.30:4-27.10). If more than 144 hours have
16 elapsed from the time the screening certificate was executed, the
17 person may not thereafter be assigned to an outpatient treatment
18 provider by referral from a screening service without a temporary
19 court order unless the person undergoes a new screening, and a new
20 commitment process is initiated, by a psychiatrist who did not
21 conduct the evaluation for the prior clinical certificate.

22 e. Screenings and evaluations conducted for the purposes of
23 this section may be performed using telemedicine and telehealth, as
24 those terms are defined in section 1 of P.L.2017, c.117 (C.45:1-61).
25 (cf: P.L.2009, c.112, s.10)]¹

26
27 ¹1. a. Notwithstanding the provisions of section 9 of P.L.1987,
28 c.116 (C.30:4-27.9) or any other law, rule, or regulation to the
29 contrary, commencing on the effective date of P.L. , c. (C.)
30 (pending before the Legislature as this bill) and ending on the last day
31 of the 24th calendar month following that effective date, a short-term
32 care or psychiatric facility, or a special psychiatric hospital, may detain
33 a person admitted to the facility involuntarily by referral from a
34 screening service without a temporary court order for no more than 72
35 hours from the time the screening certificate was executed.

36 Except in the event a general hospital was granted a temporary
37 court order permitting the continued hold of the person pursuant to
38 subsection b. of this section, which delayed a person’s admission to
39 the short-term care or psychiatric facility or special psychiatric
40 hospital, a short-term care or psychiatric facility or special psychiatric
41 hospital shall not detain a person admitted to the facility involuntarily
42 by referral from a screening service without a temporary court order
43 for more than 72 hours from the time the screening certificate was
44 executed.

45 Within 24 hours of admission, the admitting facility shall initiate
46 court proceedings for the involuntary commitment of the person
47 pursuant to section 10 of P.L.1987, c.116 (C.30:4-27.10) and request a
48 temporary court order permitting the continued hold of the person

1 pending the return date of the involuntary commitment hearing, which
2 shall take place no later than 20 days from initial commitment.

3 b. (1) Notwithstanding the provisions of section 9 of P.L.1987,
4 c.116 (C.30:4-27.9) or any other law, rule, or regulation to the
5 contrary, commencing on the effective date of P.L. , c. (C.)
6 (pending before the Legislature as this bill) and ending on the last day
7 of the 24th calendar month following that effective date, a general
8 hospital, including any satellite emergency department of a general
9 hospital, where a person is located during a screening outreach visit,
10 may not detain the person for more than 72 hours from the time a
11 screening certificate is executed, unless the hospital or emergency
12 department obtains a temporary court order permitting the continued
13 hold of the person for up to 72 additional hours, as determined by the
14 court. The hospital or emergency department may ²**[apply]** submit an
15 emergent application² for such order and continue to hold the person
16 during the pendency of the application, provided that appropriate
17 treatment that meets the standard of care is being rendered to the
18 person. The Office of the Public Defender shall be notified of the
19 ²emergent² application ², provided with a copy of the application and
20 all supporting documents,² and shall ²**[appoint]** be appointed as²
21 counsel to represent the patient. ²The application may be decided by
22 the court on documentary presentations relevant to the standards
23 established under paragraph (2) of this subsection. At the request of
24 counsel, the court may conduct a hearing on the record, at which
25 hearing the court shall consider the arguments of counsel and all
26 relevant evidence submitted. The court shall determine the format of
27 the hearing based on the apparent complexity of the matter and the
28 extent of doubt as to the merits of the application, and may, at its
29 discretion, rely on certifications from witnesses or require live
30 testimony.²

31 (2) The court ²**[shall]** may² grant a temporary order granting the
32 continued hold of a person upon an application submitted pursuant to
33 paragraph (1) of this subsection if the hospital or emergency
34 department:

35 (a) exhausted all reasonable efforts to place the individual in a
36 short-term care or psychiatric facility, or special psychiatric hospital,
37 depending on which facility is appropriate for the person's condition
38 and is the least restrictive environment; and

39 (b) demonstrates that there is a substantial likelihood that, by
40 reason of mental illness, the person will be dangerous to the person's
41 own self or others based upon the certification of two psychiatrists
42 who have examined the patient and deemed the patient is in need of
43 involuntary commitment.

44 The court shall include such conditions in the temporary order as
45 the court deems appropriate to promote diligent efforts to locate an
46 available facility to accommodate the patient's needs and protect the
47 rights of the person detained pending commitment. The Office of the

1 Public Defender shall be notified and provided with a copy of any
 2 temporary court order granted pursuant to this paragraph. The patient
 3 shall receive a court hearing with respect to the issue of continued
 4 need for involuntary commitment within 20 days from ²the date of²
 5 initial commitment ²or within 20 days from the date an application
 6 was filed pursuant to paragraph (1) of this subsection, whichever date
 7 occurs first,² unless the patient has been administratively discharged
 8 pursuant to section 17 of P.L.1987, c.116 (C.30:4-27.17).

9 (3) Notwithstanding the provisions of any other law, rule, or
 10 regulation to the contrary, commencing on the effective date of P.L. ,
 11 c. (C.) (pending before the Legislature as this bill) and ending
 12 on the last day of the 24th calendar month following that effective
 13 date, each general hospital and emergency department shall prepare
 14 and submit to the Department of Human Services a quarterly report,
 15 which report shall include, but not be limited to, information on:

16 (a) the number of applications submitted to the court for a
 17 temporary court order permitting the continued hold of a person
 18 beyond 72 hours pursuant to paragraph (1) of this subsection;

19 (b) the number of temporary court orders granted pursuant to
 20 paragraph (2) of this subsection permitting the continued hold of a
 21 person beyond 72 hours;

22 (c) whether a person detained for longer than 72 hours: has a
 23 criminal history; has a co-occurring substance use disorder; has a co-
 24 occurring intellectual or developmental disability; or is unable to be
 25 released because the ²[72 hour] 72-hour² timeframe falls on a
 26 weekend and either admission to treatment facilities are not provided
 27 on weekends, or discharges from the facility do not occur on
 28 weekends;

29 (d) the length of time each individual was held beyond 72 hours
 30 before finding appropriate placement in a treatment facility; and

31 (e) the number of individuals placed in an appropriate treatment
 32 facility within 72 hours.

33 Any information included in a report concerning specific
 34 individuals shall be de-identified. Each report shall be made available
 35 to the public within 60 days of the date the Department of Human
 36 Services receives the report.¹

37 ²c. (1) Notwithstanding the provisions of any other law, rule, or
 38 regulation to the contrary, ³the Commissioner of Health may, to the
 39 extent the commissioner finds necessary,³ commencing ³[on] 120
 40 days following³ the effective date of P.L. , c. (C.) (pending
 41 before the Legislature as this bill) and ending on the last day of the
 42 ³[24th] 15th³ calendar month following that effective date, ³allow³ a
 43 general ³acute care³ hospital ³[may] that is licensed for acute care
 44 hospital psychiatric beds to³ apply to the Department of Health for
 45 temporary licenses for beds for the involuntary commitment of
 46 patients. The department ³[shall] may³ issue temporary licenses
 47 pursuant to this paragraph ³[based on] if³ the hospital

1 ³[demonstrating] demonstrates³ in its application ³[an extraordinary]
 2 a³ need for such beds ³based on retrospective data demonstrating the
 3 need for involuntary commitment beds, a showing that the hospital
 4 continually exhausts all reasonable efforts to place individuals in
 5 short-term care or psychiatric facilities, or special psychiatric
 6 hospitals, and any other factors as determined by the Commissioner of
 7 Health³. Any temporary license granted pursuant to this paragraph ³,
 8 unless otherwise confirmed at the next certificate of need review, as
 9 required pursuant to N.J.A.C.8:33-4.4 or its successor regulation,³
 10 shall expire ³[on the last day of the 24th calendar month following the
 11 effective date of P.L. , c. (C.) (pending before the Legislature
 12 as this bill)] within 90 days of the Commissioner of Health's
 13 decision rendered pursuant to that full review process³.

14 (2) The Department of Health shall make available on its Internet
 15 website and continuously update information concerning the total
 16 number of temporary licenses granted pursuant to paragraph (1) of this
 17 subsection, as well as the number of temporary licenses granted to
 18 each hospital that submitted an application pursuant to paragraph (1)
 19 of this subsection.

20 (3) The department shall submit information concerning the total
 21 number of temporary licenses granted pursuant to paragraph (1) of this
 22 subsection, as well as the number of temporary licenses granted to
 23 each hospital that submitted an application pursuant to paragraph (1)
 24 of this subsection, to the Commissioner of Human Services, which
 25 information shall: (a) be submitted in a manner that allows the
 26 Commissioner of Human Services sufficient time to include the
 27 information in the report required pursuant to subsection b. of section
 28 2 of this act; and (b) reflect the number of temporary licenses granted
 29 as of the date the information is submitted.²

30
 31 ¹2. a. The Department of Human Services and the Department of
 32 Health shall jointly conduct a study concerning the challenges of
 33 placing individuals in appropriate treatment settings, and the supply of
 34 and demand for both involuntary commitment beds and voluntary
 35 commitment beds in this State. In conducting the study, the
 36 departments shall solicit input from interested stakeholders including,
 37 but not limited to, hospitals, the Office of the Public Defender, the
 38 Administrative Office of the Courts, advocates representing mental
 39 health patients, advocates representing individuals with disabilities,
 40 and representatives of psychiatric screening centers.

41 b. No later than 18 months after the effective date of P.L. , c.
 42 (C.) (pending before the Legislature as this bill), the
 43 Commissioner of Human Services shall submit to the Governor and,
 44 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
 45 Legislature, a report, which shall include, but not be limited to:

46 (1) a summary of the findings from the study conducted pursuant
 47 to subsection a. of this section;

1 (2) an analysis of the supply of and demand for involuntary
2 commitment beds and voluntary commitment beds, ³[based on]
3 including consideration of, to the extent practicable,³ the geographic
4 location of the patient and whether the patient is an adult patient or a
5 pediatric patient, ³whether the patient has a criminal history, whether
6 the patient is uninsured or underinsured, and whether the patient³ has
7 been diagnosed with an intellectual or developmental disability and a
8 mental health condition, or has been diagnosed with a substance use
9 disorder and a mental health condition; ²[and]²

10 (3) ²the number of temporary licenses granted by the Department
11 of Health pursuant to paragraph (1) of subsection c. of section 1 of this
12 act as of the date the information concerning the licenses is submitted
13 to the Commissioner of Human Services pursuant to paragraph (3) of
14 subsection c. of section 1 of this act; and

15 (4)² any recommendations for legislative action.¹

16

17 3. This act shall take effect immediately.

18

19

20

21

22 Revises certain requirements for involuntary commitment for
23 mental health treatment.

SENATE, No. 3929

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 5, 2023

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:

Senators Diegnan and Madden

SYNOPSIS

Revises certain requirements for involuntary commitment for mental health treatment.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/15/2023)

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

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

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

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

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

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

Matter underlined thus is new matter.

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

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

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

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

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

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

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

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

37 p. "Mental health screener" means a psychiatrist, psychologist,
38 social worker, registered professional nurse, licensed marriage and
39 family therapist, or other individual trained to do outreach only for
40 the purposes of psychological assessment who is employed by a
41 screening service and possesses the license, academic training or
42 experience, as required by the commissioner pursuant to regulation;
43 except that a psychiatrist and a State licensed clinical psychologist
44 who meet the requirements for mental health screener shall not have
45 to comply with any additional requirements adopted by the
46 commissioner.

- 1 q. "Mental hospital" means, for the purposes of the payment
2 and maintenance provisions of Title 30 of the Revised Statutes, a
3 psychiatric facility.
- 4 r. "Mental illness" means a current, substantial disturbance of
5 thought, mood, perception, or orientation which significantly
6 impairs judgment, capacity to control behavior, or capacity to
7 recognize reality, but does not include simple alcohol intoxication,
8 transitory reaction to drug ingestion, organic brain syndrome, or
9 developmental disability unless it results in the severity of
10 impairment described herein. The term mental illness is not limited
11 to "psychosis" or "active psychosis," but shall include all conditions
12 that result in the severity of impairment described herein.
- 13 s. "Patient" means a person over the age of 18 who has been
14 admitted to, but not discharged from a short-term care or
15 psychiatric facility, or who has been assigned to, but not discharged
16 from an outpatient treatment provider.
- 17 t. "Physician" means a person who is licensed to practice
18 medicine in any one of the United States or its territories, or the
19 District of Columbia.
- 20 u. "Psychiatric facility" means a State psychiatric hospital
21 listed in R.S.30:1-7, a county psychiatric hospital, or a psychiatric
22 unit of a county hospital.
- 23 v. "Psychiatrist" means a physician who has completed the
24 psychiatry training requirements of the Accreditation Council for
25 Graduate Medical Education or the American Osteopathic
26 Association, and is certified by the American Board of Psychiatry
27 and Neurology or the American Osteopathic Board of Neurology
28 and Psychiatry **[and Neurology]**.
- 29 w. "Psychiatric unit of a general hospital" means an inpatient
30 unit of a general hospital that restricts its services to the care and
31 treatment of persons with mental illness who are admitted on a
32 voluntary basis.
- 33 x. "Psychologist" means a person who is licensed as a
34 psychologist by the New Jersey Board of Psychological Examiners.
- 35 y. "Screening certificate" means a clinical certificate executed
36 by a psychiatrist or other physician affiliated with a screening
37 service.
- 38 z. "Screening service" means a public or private ambulatory
39 care service, whether or not affiliated with a hospital, designated by
40 the commissioner, which provides mental health services including
41 assessment, emergency, and referral services to persons with mental
42 illness in a specified geographic area.
- 43 aa. "Screening outreach visit" means an evaluation provided by
44 a mental health screener wherever the person may be when
45 clinically relevant information indicates the person may need
46 involuntary commitment to treatment and is unable or unwilling to
47 come to a screening service.

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

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

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

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

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

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

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

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

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

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

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

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

20

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

23 9. Outpatient treatment providers, short-term care facilities,
24 psychiatric facilities and special psychiatric hospitals shall
25 effectuate the following purposes and procedures:

26 a. An outpatient treatment provider to which a person has been
27 assigned pursuant to an order of continued involuntary commitment
28 to treatment pursuant to section 15 of P.L.1987, c.116 (C.30:4-
29 27.15) shall maintain the plan of outpatient treatment approved by
30 the court pursuant to section 17 of P.L.2009, c.112 (C.30:4-27.15a),
31 and shall notify the court, the person's attorney and the county
32 adjuster of any material non-compliance with the plan by the person
33 and of the inadequacy of the plan of outpatient treatment to meet
34 the person's mental health needs, if applicable, and seek court
35 approval for a modification to a plan of outpatient treatment, as
36 provided for in section 9 of P.L.2009, c.112 (C.30:4-27.8a).

37 The director or chief executive officer of a short-term care
38 facility, psychiatric facility or special psychiatric hospital shall have
39 custody of a person while that person is detained in the facility and
40 shall notify:

41 (1) appropriate public or private agencies to arrange for the care
42 of any dependents and to ensure the protection of the person's
43 property; and (2) appropriate ambulatory mental health providers
44 for the purposes of beginning discharge planning.

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

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

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

7 b. A person shall not be involuntarily committed to treatment at
8 an outpatient treatment provider, short-term care or psychiatric
9 facility, or special psychiatric hospital unless the person is in need
10 of involuntary commitment to treatment.

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

21 c. A general hospital, short-term care or psychiatric facility, or
22 special psychiatric hospital may detain a person, admitted to the
23 facility involuntarily by referral from a screening service without a
24 temporary court order, for **[no more than]** up to 72 hours from the
25 time the screening certificate was executed without the need for
26 reevaluation of the person. During this period of time the facility
27 shall initiate court proceedings for the involuntary commitment of
28 the person pursuant to section 10 of P.L.1987, c.116 (C.30:4-27.10).
29 If a determination for a temporary court order has not been rendered
30 within 72 hours from the time the screening certificate was
31 executed, or if a temporary court order has been granted but the
32 admitting facility lacks sufficient capacity to accommodate the
33 person, the facility may detain the person for up to 72 additional
34 hours, provided that:

35 (1) the person is reevaluated by a psychiatrist at least once every
36 24 hours;

37 (2) the psychiatrist reevaluating the person pursuant to
38 paragraph (1) of this subsection recommends the person be detained
39 based on a determination that:

40 (a) the person's history indicates a high risk of rehospitalization
41 based on the person's historic failure to comply with discharge
42 plans; or

43 (b) there is a substantial likelihood that, by reason of mental
44 illness, the person will be dangerous to the person's own self or to
45 property or others; and

46 (3) the person is detained for a total of no more than 144 hours
47 from the time the screening certificate was executed.

1 d. A person shall not be assigned to an outpatient treatment
2 provider by referral from a screening service without a temporary
3 court order, **[for more than 72]** which shall be obtained within 144
4 hours from the time the screening certificate was executed. During
5 this period of time the provider shall initiate court proceedings for
6 the involuntary commitment of the person pursuant to section 10 of
7 P.L.1987, c.116 (C.30:4-27.10). If more than 144 hours have
8 elapsed from the time the screening certificate was executed, the
9 person may not thereafter be assigned to an outpatient treatment
10 provider by referral from a screening service without a temporary
11 court order unless the person undergoes a new screening, and a new
12 commitment process is initiated, by a psychiatrist who did not
13 conduct the evaluation for the prior clinical certificate.

14 e. Screenings and evaluations conducted for the purposes of
15 this section may be performed using telemedicine and telehealth, as
16 those terms are defined in section 1 of P.L.2017, c.117 (C.45:1-61).
17 (cf: P.L.2009, c.112, s.10)

18
19 3. This act shall take effect immediately.

20 21 22 STATEMENT

23
24 This bill revises certain provisions of law concerning involuntary
25 commitment to mental health treatment.

26 Specifically, the bill revises the time period during which a
27 person may be involuntarily held for mental health treatment
28 following referral from a screening service. Current law provides
29 that a person may be detained in an inpatient psychiatric facility or
30 hospital, or assigned to an outpatient treatment provider, for up to
31 72 hours while awaiting a court order for involuntary commitment.

32 The bill provides that a person may be detained in an inpatient
33 psychiatric facility or hospital for an additional 72 hours while
34 awaiting a court order or if the referral facility does not have the
35 capacity to admit the person. The additional 72 hours of detention
36 is conditioned on the person being reevaluated every 24 hours and a
37 determination by a psychiatrist that the person is either a danger to
38 self, others, or property, or a determination that there is a
39 substantial likelihood of rehospitalization based on the person's
40 history of noncompliance with discharge plans. In no case may a
41 person be involuntarily detained for more than 144 hours without a
42 court order or admittance to an inpatient facility. The bill provides
43 that the types of hospitals that may detain a person include both
44 general hospitals and special psychiatric hospitals.

45 In the case of a patient assigned to an outpatient treatment
46 provider, the bill specifies that the person may not be assigned to
47 treatment without a court order for more than 144 hours. If 144
48 hours has elapsed without issuance of a court order, the person may

1 not be held in ongoing involuntary outpatient treatment unless: 1)
2 the person undergoes a new screening by a different psychiatrist
3 than the one who executed the prior clinical certificate for
4 involuntary commitment, and 2) a new involuntary commitment
5 proceeding is initiated by a different psychiatrist than the one who
6 executed the prior clinical certificate.

7 The bill clarifies that the screenings and evaluations conducted
8 for the purposes of detaining a person pending issuance of a court
9 order or admittance to a facility may be conducted using
10 telemedicine and telehealth, provided the applicable standard of
11 care can be met.

12 The bill revises the definition of “psychiatrist” used in the
13 involuntary commitment laws to provide that the term means a
14 physician who has completed the psychiatry training requirements
15 of the Accreditation Council for Graduate Medical Education or the
16 American Osteopathic Association, and is certified by the American
17 Board of Psychiatry and Neurology or the American Osteopathic
18 Board of Neurology and Psychiatry. Current law only requires the
19 physician to have completed the training requirements of the
20 American Board of Psychiatry and Neurology.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 3929

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 15, 2023

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 3929.

As amended, this bill temporarily establishes certain procedures related to involuntary commitment to mental health treatment. Specifically, commencing on the effective date of the bill and ending on the last day of the 24th calendar month following that effective date, the bill authorizes certain health facilities to detain an individual who is in need of involuntary commitment to mental health treatment for more than 72 hours.

A short-term care or psychiatric facility, or a special psychiatric hospital, that admits a person who has been referred to the facility from a screening service will be required to initiate court proceedings for the involuntary commitment of the person within 24 hours. The facility or hospital will be prohibited from detaining a person for more than 72 hours without a temporary court order, unless the person's admission was delayed after being detained at a general hospital that received a temporary court order pursuant to this bill. The bill requires the facility or hospital to request a temporary court order permitting the continued hold of the person pending the return date of the involuntary commitment hearing.

The bill provides that any general hospital, including any satellite emergency department of a general hospital, where a person is located at during a screening outreach visit, is not permitted to detain a person for more than 72 hours from the time a screening certificate is executed, unless the hospital or emergency department obtains a temporary court order permitting the continued hold of the person for up to 72 additional hours. The bill authorizes the hospital or emergency department to apply for such order and continue to hold the person during the pendency of the application, provided that appropriate treatment is being rendered to the person. The bill requires that the Office of the Public Defender be notified of the application, be provided a copy of any temporary court order granted, and appoint counsel to represent the patient.

Under the bill, the court will grant a temporary order granting the continued hold of a person if the hospital or emergency department:

(1) exhausted all reasonable efforts to place the individual in a facility that is appropriate for the person's condition; and

(2) demonstrates that there is a substantial likelihood that, by reason of mental illness, the person will be dangerous to the person's own self or others.

The court may include in the temporary order such conditions as the court deems appropriate. The patient will receive a court hearing with respect to the issue of continued need for involuntary commitment within 20 days from initial commitment, unless the patient has been administratively discharged.

The bill requires each general hospital and emergency department to prepare and submit to the Department of Human Services (DHS) a quarterly report concerning the individuals detained at the facility and any temporary court order applied for or obtained. The bill requires that any information included in a report concerning specific individuals be de-identified, and that each report will be made available to the public.

The bill requires DHS and the Department of Health, within 18 months after the effective date of the bill, to jointly conduct a study, solicit input from various stakeholders, and submit a report to the Governor and to the Legislature concerning the challenges of placing individuals in appropriate treatment settings and the supply of and demand for both involuntary and voluntary commitment beds in this State.

COMMITTEE AMENDMENTS:

The committee amendments remove provisions from the bill that would revise the statutory definition of "psychiatrist" and that would permanently revise the State's involuntary commitment laws, and instead establish revised procedures for involuntary commitment that will sunset after two years. Specifically, under the temporary involuntary commitment procedures, certain health facilities will be authorized to detain an individual who is in need of involuntary commitment to mental health treatment for more than 72 hours.

This committee amendments require a short-term care or psychiatric facility, or a special psychiatric hospital, that admits a person who has been referred to the facility from a screening service, to initiate court proceedings for the involuntary commitment of the person within 24 hours. The committee amendments prohibit the facility or hospital from detaining a person for more than 72 hours without a temporary court order, unless the person's admission was delayed after being detained at a general hospital that received a temporary court order pursuant to this bill. The amendments require the facility or hospital to request a temporary court order permitting the continued hold of the person pending the return date of the

involuntary commitment hearing, which is to take place no later than 20 days from initial commitment.

The committee amendments outline certain requirements for hospitals and emergency departments to detain a person for more than 72 hours, including applying for and obtaining a temporary court order permitting the continued hold of the person for up to 72 additional hours.

The committee amendments outline certain criteria to be met as a condition of the court granting a temporary order.

The committee amendments require that the Office of the Public Defender be notified of any application for a temporary court order and provided a copy of any order granted. The Office of the Public Defender will be required to appoint counsel to represent the patient.

The committee amendments provide that the patient will receive a court hearing with respect to the issue of continued need for involuntary commitment within 20 days from initial commitment unless the patient has been administratively discharged.

The committee amendments require each general hospital and emergency department to prepare and submit a quarterly report to the Department of Human Services (DHS) concerning the individuals detained at the facility and any temporary court order applied for or obtained. The committee amendments require that any information included in a report concerning specific individuals will be de-identified and that each report will be made available to the public.

The committee amendments require the DHS and the Department of Health to jointly conduct a study, solicit input from various stakeholders, and submit a report to the Governor and to the Legislature concerning the challenges of placing individuals in appropriate treatment settings and the supply of and demand for both involuntary and voluntary commitment beds in this State.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

SENATE, No. 3929

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 27, 2023

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 3929 (2R).

As amended by the committee, this bill provides that, ending on the last day of the 24th calendar month following the bill's effective date, a short-term care or psychiatric facility, or a 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.

Ending on the last day of the 24th calendar month following the bill's effective date, a general hospital, including any satellite emergency department of a general hospital, where a person is located during a screening outreach visit, may not detain the person for more than 72 hours from the time a screening certificate is executed, unless the hospital or emergency department obtains a temporary court order permitting the continued hold of the person for up to 72 additional hours, as determined by the court. The hospital or emergency department may submit an emergent application for such order and continue to hold the person during the pendency of the application, provided that appropriate treatment that meets the standard of care is being rendered to the person. The Office of the Public Defender is to be notified of the emergent application, and is to be appointed as counsel to represent the patient. At the request of counsel, the court may conduct a hearing on the record.

The court may grant a temporary order granting the continued hold of a person if the hospital or emergency department:

(1) exhausted all reasonable efforts to place the individual in a short-term care or psychiatric facility, or special psychiatric hospital, depending on which facility is appropriate for the person's condition and is the least restrictive environment; and

(2) demonstrates that there is a substantial likelihood that, by reason of mental illness, the person will be dangerous to the person's own self or others based upon the certification of two psychiatrists

who have examined the patient and deemed the patient is in need of involuntary commitment.

The bill requires the Department of Human Services and the Department of Health to jointly conduct a study concerning the challenges of placing individuals in appropriate treatment settings, and the supply of and demand for both involuntary commitment beds and voluntary commitment beds in this State.

COMMITTEE AMENDMENTS:

The committee amendments provide that the Commissioner of Health may, for a limited period and to the extent necessary, allow a hospital that is licensed for acute care hospital psychiatric beds to apply to the department for temporary licenses for beds for the involuntary commitment of patients. The department may issue such temporary licenses if the hospital demonstrates in its application a need for such beds according to certain criteria. A temporary license will expire within 90 days unless approved in a subsequent certificate of need review.

The committee amendments provide that analysis of the supply of and demand for involuntary commitment beds and voluntary commitment beds to be included in the report required under the bill is to include consideration of, to the extent practicable, the geographic location of the patient and whether the patient is an adult patient or a pediatric patient, whether the patient has a criminal history, whether the patient is uninsured or underinsured, and whether the patient has been diagnosed with an intellectual or developmental disability and a mental health condition, or has been diagnosed with a substance use disorder and a mental health condition.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

STATEMENT TO
[First Reprint]
SENATE, No. 3929

with Senate Floor Amendments
(Proposed by Senator VITALE)

ADOPTED: JUNE 20, 2023

These Senate amendments revise certain requirements concerning an application for a court order authorizing a general hospital to hold a patient involuntarily for more than 72 hours. Specifically, the amendments require that, when the Office of the Public Defender is provided notice of the application, the public defender is to be provided with a copy of the application and all supporting documents.

The Senate amendments clarify that an application to hold an individual involuntarily for more than 72 hours constitutes an emergent application.

The Senate amendments clarify that the public defender is to be appointed counsel to the person subject to an application for continued hold; prior to amendment, the bill provided that the Office of the Public Defender was to appoint counsel for the person.

The Senate amendments provide that an emergent application to hold an individual involuntarily for more than 72 hours may be decided on documentary presentations relevant to the standards for granting a court order authorizing the continued hold. Additionally, the amendments provide that, at the request of counsel, the court may hold a hearing on the record to consider arguments and evidence submitted, and that the court will have the discretion to determine the format of the hearing, which may comprise witness certifications or live testimony.

The Senate amendments provide that a hearing on the continued hold of a person who is the subject of a court order authorizing the person to be held involuntarily for more than 72 hours is to be held either within 20 days from the date of initial commitment or within 20 days of the date an emergent application was filed for continued hold of the person, whichever date occurs first. Prior to amendment, the bill only provided that the hearing was to be held within 20 days from initial commitment.

The Senate amendments revise the provisions concerning the requirements for a court to grant a temporary order authorizing the continued hold of a person to provide that the authority to grant the order is permissive on the court, rather than mandatory.

The Senate amendments add a provision authorizing the Department of Health (DOH) to issue temporary licenses for beds for involuntary commitment to treatment, which temporary licenses may be granted based on an application submitted by a hospital demonstrating extraordinary need for the beds. The DOH will be

required to post on its Internet website and continuously update information concerning the number of temporary licenses granted under the bill, and to additionally furnish this information to the Commissioner of Human Services for inclusion in the report required under the bill.

The Senate amendments make a technical change involving punctuation.

ASSEMBLY, No. 5182

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED FEBRUARY 13, 2023

Sponsored by:

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Co-Sponsored by:

Assemblyman Atkins

SYNOPSIS

Revises certain requirements for involuntary commitment for mental health treatment.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/15/2023)

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

3

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

6

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

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

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

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

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

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

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

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

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

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

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

37 p. "Mental health screener" means a psychiatrist, psychologist,
38 social worker, registered professional nurse, licensed marriage and
39 family therapist, or other individual trained to do outreach only for
40 the purposes of psychological assessment who is employed by a
41 screening service and possesses the license, academic training or
42 experience, as required by the commissioner pursuant to regulation;
43 except that a psychiatrist and a State licensed clinical psychologist
44 who meet the requirements for mental health screener shall not have
45 to comply with any additional requirements adopted by the
46 commissioner.

- 1 q. "Mental hospital" means, for the purposes of the payment
2 and maintenance provisions of Title 30 of the Revised Statutes, a
3 psychiatric facility.
- 4 r. "Mental illness" means a current, substantial disturbance of
5 thought, mood, perception, or orientation which significantly
6 impairs judgment, capacity to control behavior, or capacity to
7 recognize reality, but does not include simple alcohol intoxication,
8 transitory reaction to drug ingestion, organic brain syndrome, or
9 developmental disability unless it results in the severity of
10 impairment described herein. The term mental illness is not limited
11 to "psychosis" or "active psychosis," but shall include all conditions
12 that result in the severity of impairment described herein.
- 13 s. "Patient" means a person over the age of 18 who has been
14 admitted to, but not discharged from a short-term care or
15 psychiatric facility, or who has been assigned to, but not discharged
16 from an outpatient treatment provider.
- 17 t. "Physician" means a person who is licensed to practice
18 medicine in any one of the United States or its territories, or the
19 District of Columbia.
- 20 u. "Psychiatric facility" means a State psychiatric hospital
21 listed in R.S.30:1-7, a county psychiatric hospital, or a psychiatric
22 unit of a county hospital.
- 23 v. "Psychiatrist" means a physician who has completed the
24 psychiatry training requirements of the Accreditation Council for
25 Graduate Medical Education or the American Osteopathic
26 Association, and is certified by the American Board of Psychiatry
27 and Neurology or the American Osteopathic Board of Neurology
28 and Psychiatry [and Neurology].
- 29 w. "Psychiatric unit of a general hospital" means an inpatient
30 unit of a general hospital that restricts its services to the care and
31 treatment of persons with mental illness who are admitted on a
32 voluntary basis.
- 33 x. "Psychologist" means a person who is licensed as a
34 psychologist by the New Jersey Board of Psychological Examiners.
- 35 y. "Screening certificate" means a clinical certificate executed
36 by a psychiatrist or other physician affiliated with a screening
37 service.
- 38 z. "Screening service" means a public or private ambulatory
39 care service, whether or not affiliated with a hospital, designated by
40 the commissioner, which provides mental health services including
41 assessment, emergency, and referral services to persons with mental
42 illness in a specified geographic area.
- 43 aa. "Screening outreach visit" means an evaluation provided by
44 a mental health screener wherever the person may be when
45 clinically relevant information indicates the person may need
46 involuntary commitment to treatment and is unable or unwilling to
47 come to a screening service.

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

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

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

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

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

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

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

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

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

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

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

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

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

20

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

23 9. Outpatient treatment providers, short-term care facilities,
24 psychiatric facilities and special psychiatric hospitals shall
25 effectuate the following purposes and procedures:

26 a. An outpatient treatment provider to which a person has been
27 assigned pursuant to an order of continued involuntary commitment
28 to treatment pursuant to section 15 of P.L.1987, c.116 (C.30:4-
29 27.15) shall maintain the plan of outpatient treatment approved by
30 the court pursuant to section 17 of P.L.2009, c.112 (C.30:4-27.15a),
31 and shall notify the court, the person's attorney and the county
32 adjuster of any material non-compliance with the plan by the person
33 and of the inadequacy of the plan of outpatient treatment to meet
34 the person's mental health needs, if applicable, and seek court
35 approval for a modification to a plan of outpatient treatment, as
36 provided for in section 9 of P.L.2009, c.112 (C.30:4-27.8a).

37 The director or chief executive officer of a short-term care
38 facility, psychiatric facility or special psychiatric hospital shall have
39 custody of a person while that person is detained in the facility and
40 shall notify:

41 (1) appropriate public or private agencies to arrange for the care
42 of any dependents and to ensure the protection of the person's
43 property; and (2) appropriate ambulatory mental health providers
44 for the purposes of beginning discharge planning.

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

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

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

7 b. A person shall not be involuntarily committed to treatment at
8 an outpatient treatment provider, short-term care or psychiatric
9 facility, or special psychiatric hospital unless the person is in need
10 of involuntary commitment to treatment.

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

21 c. A general hospital, short-term care or psychiatric facility, or
22 special psychiatric hospital may detain a person, admitted to the
23 facility involuntarily by referral from a screening service without a
24 temporary court order, for **[no more than]** up to 72 hours from the
25 time the screening certificate was executed without the need for
26 reevaluation of the person. During this period of time the facility
27 shall initiate court proceedings for the involuntary commitment of
28 the person pursuant to section 10 of P.L.1987, c.116 (C.30:4-27.10).
29 If a determination for a temporary court order has not been rendered
30 within 72 hours from the time the screening certificate was
31 executed, or if a temporary court order has been granted but the
32 admitting facility lacks sufficient capacity to accommodate the
33 person, the facility may detain the person for up to 72 additional
34 hours, provided that:

35 (1) the person is reevaluated by a psychiatrist at least once every
36 24 hours;

37 (2) the psychiatrist reevaluating the person pursuant to
38 paragraph (1) of this subsection recommends the person be detained
39 based on a determination that:

40 (a) the person's history indicates a high risk of rehospitalization
41 based on the person's historic failure to comply with discharge
42 plans; or

43 (b) there is a substantial likelihood that, by reason of mental
44 illness, the person will be dangerous to the person's own self or to
45 property or others; and

46 (3) the person is detained for a total of no more than 144 hours
47 from the time the screening certificate was executed.

1 d. A person shall not be assigned to an outpatient treatment
2 provider by referral from a screening service without a temporary
3 court order, **[for more than 72]** which shall be obtained within 144
4 hours from the time the screening certificate was executed. During
5 this period of time the provider shall initiate court proceedings for
6 the involuntary commitment of the person pursuant to section 10 of
7 P.L.1987, c.116 (C.30:4-27.10). If more than 144 hours have
8 elapsed from the time the screening certificate was executed, the
9 person may not thereafter be assigned to an outpatient treatment
10 provider by referral from a screening service without a temporary
11 court order unless the person undergoes a new screening, and a new
12 commitment process is initiated, by a psychiatrist who did not
13 conduct the evaluation for the prior clinical certificate.

14 e. Screenings and evaluations conducted for the purposes of
15 this section may be performed using telemedicine and telehealth, as
16 those terms are defined in section 1 of P.L.2017, c.117 (C.45:1-61).
17 (cf: P.L.2009, c.112, s.10)

18
19 3. This act shall take effect immediately.
20
21

22 STATEMENT

23
24 This bill revises certain provisions of law concerning involuntary
25 commitment to mental health treatment.

26 Specifically, the bill revises the time period during which a
27 person may be involuntarily held for mental health treatment
28 following referral from a screening service. Current law provides
29 that a person may be detained in an inpatient psychiatric facility or
30 hospital, or assigned to an outpatient treatment provider, for up to
31 72 hours while awaiting a court order for involuntary commitment.

32 The bill provides that a person may be detained in an inpatient
33 psychiatric facility or hospital for an additional 72 hours while
34 awaiting a court order or if the referral facility does not have the
35 capacity to admit the person. The additional 72 hours of detention
36 is conditioned on the person being reevaluated every 24 hours and a
37 determination by a psychiatrist that the person is either a danger to
38 self, others, or property, or a determination that there is a
39 substantial likelihood of rehospitalization based on the person's
40 history of noncompliance with discharge plans. In no case may a
41 person be involuntarily detained for more than 144 hours without a
42 court order or admittance to an inpatient facility. The bill provides
43 that the types of hospitals that may detain a person include both
44 general hospitals and special psychiatric hospitals.

45 In the case of a patient assigned to an outpatient treatment
46 provider, the bill specifies that the person may not be assigned to
47 treatment without a court order for more than 144 hours. If 144
48 hours has elapsed without issuance of a court order, the person may

1 not be held in ongoing involuntary outpatient treatment unless: 1)
2 the person undergoes a new screening by a different psychiatrist
3 than the one who executed the prior clinical certificate for
4 involuntary commitment, and 2) a new involuntary commitment
5 proceeding is initiated by a different psychiatrist than the one who
6 executed the prior clinical certificate.

7 The bill clarifies that the screenings and evaluations conducted
8 for the purposes of detaining a person pending issuance of a court
9 order or admittance to a facility may be conducted using
10 telemedicine and telehealth, provided the applicable standard of
11 care can be met.

12 The bill revises the definition of “psychiatrist” used in the
13 involuntary commitment laws to provide that the term means a
14 physician who has completed the psychiatry training requirements
15 of the Accreditation Council for Graduate Medical Education or the
16 American Osteopathic Association, and is certified by the American
17 Board of Psychiatry and Neurology or the American Osteopathic
18 Board of Neurology and Psychiatry. Current law only requires the
19 physician to have completed the training requirements of the
20 American Board of Psychiatry and Neurology.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5182

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 15, 2023

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 5182.

As amended, this bill temporarily establishes certain procedures related to involuntary commitment to mental health treatment. Specifically, commencing on the effective date of the bill and ending on the last day of the 24th calendar month following that effective date, the bill authorizes certain health facilities to detain an individual who is in need of involuntary commitment to mental health treatment for more than 72 hours under certain circumstances.

A short-term care or psychiatric facility, or a special psychiatric hospital, that admits a person who has been referred to the facility from a screening service will be required to initiate court proceedings for the involuntary commitment of the person within 24 hours. The facility or hospital will be prohibited from detaining a person for more than 72 hours without a temporary court order, unless the person's admission was delayed after being detained at a general hospital that received a temporary court order pursuant to this bill. The bill requires the facility or hospital to request a temporary court order permitting the continued hold of the person pending the return date of the involuntary commitment hearing.

Similarly, the bill provides that any general hospital, including any satellite emergency department of a general hospital, where a person is located during a screening outreach visit, is not permitted to detain a person for more than 72 hours from the time a screening certificate is executed, unless the hospital or emergency department obtains a temporary court order permitting the continued hold of the person for up to 72 additional hours. The bill authorizes the hospital or emergency department to apply for such order and continue to hold the person during the pendency of the application, provided that appropriate treatment is being rendered to the person. The bill requires that the Office of the Public Defender be notified of the application, be provided a copy of any temporary court order granted, and appoint counsel to represent the patient.

Under the bill, the court will grant a temporary order granting the continued hold of a person if the hospital or emergency department:

(1) exhausted all reasonable efforts to place the individual in a facility that is appropriate for the person's condition; and

(2) demonstrates that there is a substantial likelihood that, by reason of mental illness, the person will be dangerous to the person's own self or others.

The court may include in the temporary order such conditions as the court deems appropriate. The patient will receive a court hearing with respect to the issue of continued need for involuntary commitment within 20 days from initial commitment, unless the patient has been administratively discharged.

The bill requires each general hospital and emergency department to prepare and submit to the Department of Human Services (DHS) a quarterly report concerning the individuals detained at the facility and any temporary court order applied for or obtained. The bill requires that any information included in a report concerning specific individuals be de-identified, and that each report will be made available to the public.

The bill requires DHS and the Department of Health, within 18 months after the effective date of the bill, to jointly conduct a study, solicit input from various stakeholders, and submit a report to the Governor and to the Legislature concerning the challenges of placing individuals in appropriate treatment settings and the supply of and demand for both involuntary and voluntary commitment beds in this State.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) remove provisions from the bill that would revise the statutory definition of "psychiatrist" and that would permanently revise the State's involuntary commitment laws, and instead establish revised procedures for involuntary commitment that will sunset after two years. Specifically, under the temporary involuntary commitment procedures, certain health facilities will be authorized to detain an individual who is in need of involuntary commitment to mental health treatment for more than 72 hours.

(2) require a short-term care or psychiatric facility, or a special psychiatric hospital, that admits a person who has been referred to the facility from a screening service, to initiate court proceedings for the involuntary commitment of the person within 24 hours.

(3) prohibit the facility or hospital from detaining a person for more than 72 hours without a temporary court order, unless the person's admission was delayed after being detained at a general hospital that received a temporary court order pursuant to this bill.

(4) require the facility or hospital to request a temporary court order permitting the continued hold of the person pending the return date of the involuntary commitment hearing, which is to take place no later than 20 days from initial commitment.

(5) outline certain requirements for hospitals and emergency departments to detain a person for more than 72 hours, including applying for and obtaining a temporary court order permitting the continued hold of the person for up to 72 additional hours.

(6) outline certain criteria to be met as a condition of the court granting a temporary order.

(7) require that the Office of the Public Defender be notified of any application for a temporary court order and provided a copy of any order granted. The Office of the Public Defender will be required to appoint counsel to represent the patient.

(8) provide that patient will receive a court hearing with respect to the issue of continued need for involuntary commitment within 20 days from initial commitment unless the patient has been administratively discharged.

(9) require each general hospital and emergency department to prepare and submit a quarterly report to the Department of Human Services (DHS) concerning the individuals detained at the facility and any temporary court order applied for or obtained.

(10) require that any information included in a report concerning specific individuals will be de-identified and that each report will be made available to the public.

(11) require the DHS and the Department of Health to jointly conduct a study, solicit input from various stakeholders, and submit a report to the Governor and to the Legislature concerning the challenges of placing individuals in appropriate treatment settings and the supply of and demand for both involuntary and voluntary commitment beds in this State.

ASSEMBLY OVERSIGHT, REFORM AND FEDERAL
RELATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5182

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 2023

The Assembly Oversight, Reform and Federal Relations Committee reports favorably and with committee amendments Assembly Bill No. 5182 (1R).

As amended, this bill temporarily establishes certain procedures related to involuntary commitment to mental health treatment. Specifically, commencing on the effective date of the bill and ending on the last day of the 24th calendar month following that effective date, the bill authorizes certain health facilities to detain an individual who is in need of involuntary commitment to mental health treatment for more than 72 hours.

A short-term care or psychiatric facility, or a special psychiatric hospital, that admits a person who has been referred to the facility from a screening service will be required to initiate court proceedings for the involuntary commitment of the person within 24 hours. The facility or hospital will be prohibited from detaining a person for more than 72 hours without a temporary court order, unless the person's admission was delayed after being detained at a general hospital that received a temporary court order pursuant to this bill. The bill requires the facility or hospital to request a temporary court order permitting the continued hold of the person pending the return date of the involuntary commitment hearing.

As amended, the bill provides that any general hospital, including any satellite emergency department of a general hospital, where a person is located during a screening outreach visit, is not permitted to detain a person for more than 72 hours from the time a screening certificate is executed, unless the hospital or emergency department obtains a temporary court order permitting the continued hold of the person for up to 72 additional hours. The bill authorizes the hospital or emergency department to submit an emergent application for such order and to continue to hold the person during the pendency of the application, provided that appropriate treatment is being rendered to the person. The bill requires that the Office of the Public Defender be notified of the emergent application, be provided a copy of any

temporary court order granted, and be appointed as counsel to represent the patient. The application may be decided by the court on documentary presentations relevant to the standards established under the bill. At the request of counsel, the court may conduct a hearing on the record in a format determined by the court, at which hearing the court will consider the arguments of counsel and all relevant evidence submitted.

Under the bill, the court may grant a temporary order granting the continued hold of a person if the hospital or emergency department:

(1) exhausted all reasonable efforts to place the individual in a facility that is appropriate for the person's condition; and

(2) demonstrates that there is a substantial likelihood that, by reason of mental illness, the person will be dangerous to the person's own self or others.

The court may include in the temporary order such conditions as the court deems appropriate. The patient will receive a court hearing with respect to the issue of continued need for involuntary commitment within 20 days from the date of initial commitment or within 20 days from the date an emergent application was filed, whichever date occurs first, unless the patient has been administratively discharged.

The bill requires each general hospital and emergency department to prepare and submit to the Department of Human Services (DHS) a quarterly report concerning the individuals detained at the facility and any temporary court order applied for or obtained. The bill requires that any information included in a report concerning specific individuals be de-identified, and that each report will be made available to the public.

As amended, the bill authorizes the Department of Health (DOH) to issue temporary licenses for beds for involuntary commitment to treatment, which temporary licenses may be granted based on an application submitted by a hospital demonstrating extraordinary need for the beds. The DOH will be required to post on its Internet website and continuously update information concerning the number of temporary licenses granted under the bill, and to additionally furnish this information to the Commissioner of Human Services for inclusion in the report required under the bill.

The bill requires DHS and the Department of Health, within 18 months after the effective date of the bill, to jointly conduct a study, solicit input from various stakeholders, and submit a report to the Governor and to the Legislature concerning the challenges of placing individuals in appropriate treatment settings and the supply of and demand for both involuntary and voluntary commitment beds in this State.

COMMITTEE AMENDMENTS:

The committee amendments revise certain requirements concerning an application for a court order authorizing a general

hospital to hold a patient involuntarily for more than 72 hours. Specifically, the amendments require that, when the Office of the Public Defender is provided notice of the application, the public defender is to be provided with a copy of the application and all supporting documents.

The committee amendments clarify that an application to hold an individual involuntarily for more than 72 hours constitutes an emergent application.

The committee amendments clarify that the public defender is to be appointed counsel to the person subject to an application for continued hold; prior to amendment, the bill provided that the Office of the Public Defender was to appoint counsel for the person.

The committee amendments provide that an emergent application to hold an individual involuntarily for more than 72 hours may be decided on documentary presentations relevant to the standards for granting a court order authorizing the continued hold. Additionally, the amendments provide that, at the request of counsel, the court may hold a hearing on the record to consider arguments and evidence submitted, and that the court will have the discretion to determine the format of the hearing, which may comprise witness certifications or live testimony.

The committee amendments provide that a hearing on the continued hold of a person who is the subject of a court order authorizing the person to be held involuntarily for more than 72 hours is to be held either within 20 days from the date of initial commitment or within 20 days of the date an emergent application was filed for continued hold of the person, whichever date occurs first. Prior to amendment, the bill only provided that the hearing was to be held within 20 days from initial commitment.

The committee amendments revise the provisions concerning the requirements for a court to grant a temporary order authorizing the continued hold of a person to provide that the authority to grant the order is permissive on the court, rather than mandatory.

The committee amendments add a provision authorizing the Department of Health (DOH) to issue temporary licenses for beds for involuntary commitment to treatment, which temporary licenses may be granted based on an application submitted by a hospital demonstrating extraordinary need for the beds. The DOH will be required to post on its Internet website and continuously update information concerning the number of temporary licenses granted under the bill, and to additionally furnish this information to the Commissioner of Human Services for inclusion in the report required under the bill.

The committee amendments make a technical change involving punctuation.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

[Second Reprint] **ASSEMBLY, No. 5182**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 27, 2023

The Assembly Budget and Committee reports favorably and with committee amendments Assembly Bill No. 5182 (2R).

As amended by the committee, this bill provides that, ending on the last day of the 24th calendar month following the bill's effective date, a short-term care or psychiatric facility, or a 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.

Ending on the last day of the 24th calendar month following the bill's effective date, a general hospital, including any satellite emergency department of a general hospital, where a person is located during a screening outreach visit, may not detain the person for more than 72 hours from the time a screening certificate is executed, unless the hospital or emergency department obtains a temporary court order permitting the continued hold of the person for up to 72 additional hours, as determined by the court. The hospital or emergency department may submit an emergent application for such order and continue to hold the person during the pendency of the application, provided that appropriate treatment that meets the standard of care is being rendered to the person. The Office of the Public Defender is to be notified of the emergent application, and is to be appointed as counsel to represent the patient. At the request of counsel, the court may conduct a hearing on the record.

The court may grant a temporary order granting the continued hold of a person if the hospital or emergency department:

(1) exhausted all reasonable efforts to place the individual in a short-term care or psychiatric facility, or special psychiatric hospital, depending on which facility is appropriate for the person's condition and is the least restrictive environment; and

(2) demonstrates that there is a substantial likelihood that, by reason of mental illness, the person will be dangerous to the person's own self or others based upon the certification of two psychiatrists

who have examined the patient and deemed the patient is in need of involuntary commitment.

The bill requires the Department of Human Services and the Department of Health to jointly conduct a study concerning the challenges of placing individuals in appropriate treatment settings, and the supply of and demand for both involuntary commitment beds and voluntary commitment beds in this State.

COMMITTEE AMENDMENTS:

The committee amendments amend paragraph (1) of subsection c. of section 1 to provide that the Commissioner of Health may, to the extent she finds necessary, commencing 120 days following the bill's effective date and ending on the last day of the 15th calendar month following that effective date, allow a general acute care hospital that is licensed for acute care hospital psychiatric beds to apply to the Department of Health for temporary licenses for beds for the involuntary commitment of patients. The Department of Health may issue temporary licenses pursuant to if the hospital demonstrates in its application a need for such beds based on retrospective data demonstrating the need for involuntary commitment beds, a showing that the hospital continually exhausts all reasonable efforts to place individuals in short-term care or psychiatric facilities, or special psychiatric hospitals, and any other factors as determined by the Commissioner of Health. Any temporary license that is granted, unless otherwise confirmed at the next certificate of need review, as required pursuant to N.J.A.C.8:33-4.4 or its successor regulation, is to expire within 90 days of the Commissioner of Health's decision rendered pursuant to that full review process.

The committee amendments amend paragraph (2) of subsection b. of section 2 to provide that the Commissioner of Human Services's report to the Governor and Legislature is to include an analysis of the supply of and demand for involuntary commitment beds and voluntary commitment beds, including consideration of, to the extent practicable, the geographic location of the patient and whether the patient is an adult patient or a pediatric patient, whether the patient has a criminal history, whether the patient is uninsured or underinsured, and whether the patient has been diagnosed with an intellectual or developmental disability and a mental health condition, or has been diagnosed with a substance use disorder and a mental health condition.

FISCAL IMPACT:

This bill has not been certified as requiring a fiscal note.

Governor Murphy Takes Action on Legislation

08/16/2023

TRENTON – Today, Governor Phil Murphy signed the following bills into law:

SCS for S-520/A-3847 (Cruz-Perez/Calabrese, Freiman, Spearman) - Exempts shellfish aquaculturists with commercial shellfish aquaculture permit from law prohibiting taking of shellfish on Sunday; requires submission of annual shellfish harvest report

S-1442/A-5345 (Singleton/Thomson, DePhillips, Space) - Requires public works contractor registration and payroll certification for public works projects to be completed online

S-3929/A-5182 (Vitale, Scutari/Lampitt, Mukherji) - Revises certain requirements for involuntary commitment for mental health treatment

[Copy of Statement](#)

S-3950/A-5575 (Gopal, O'Scanlon/Coughlin) - Establishes exemption from State school aid reductions for certain school districts

A-3912/S-2724 (Greenwald, Calabrese/Beach, Cruz-Perez) - Permits alternating proprietorship of certain wineries

A-4192/S-3082 (Greenwald/Beach) - Updates educational and experience requirements to obtain licensure as architect

A-5286/S-3718 (Greenwald, Pintor Marin/Ruiz, Sarlo) - Modifies employee health benefits requirements under certain economic development programs

A-5329/S-3734 (Stanley, Atkins, Moen/Diegnan, Corrado) - Extends useful service life of certain school buses to 20 years; provides temporary one-year extension of service life of Type S school buses