
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1470 Session of
2014

INTRODUCED BY GREENLEAF, KITCHEN, ERICKSON, COSTA, MENSCH,
SCHWANK, VULAKOVICH AND RAFFERTY, SEPTEMBER 15, 2014

REFERRED TO PUBLIC HEALTH AND WELFARE, SEPTEMBER 15, 2014

AN ACT

1 Amending Title 50 (Mental Health) of the Pennsylvania
2 Consolidated Statutes, adding provisions relating to mental
3 health procedures and the treatment of individuals with
4 mental illness in the criminal justice system; making
5 conforming amendments to Titles 18, 20, 23, 42 and 61; and
6 repealing the Mental Health Procedures Act.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Title 50 of the Pennsylvania Consolidated
10 Statutes is amended by adding a part to read:

11 PART III

12 MENTAL HEALTH PROCEDURES

13 Chapter

14 31. Preliminary Provisions

15 32. Voluntary Inpatient Examination and Treatment

16 33. Involuntary Examination and Treatment

17 34. Determinations Affecting Those Charged With Crime or
18 Under Sentence

19 CHAPTER 31

20 PRELIMINARY PROVISIONS

- 1 Subchapter
- 2 A. General Provisions
- 3 B. Administrative Matters
- 4 C. General Treatment Provisions
- 5 D. Rights and Immunities

6 SUBCHAPTER A

7 GENERAL PROVISIONS

8 Sec.

9 3101. Short title of part.

10 3102. Definitions.

11 3103. Statement of policy.

12 § 3101. Short title of part.

13 This part shall be known and may be cited as the Mental
14 Health Procedures Code.

15 § 3102. Definitions.

16 Subject to additional definitions contained in subsequent
17 provisions of this part which are applicable to specific
18 provisions of this part, the following words and phrases when
19 used in this part shall have the meanings given to them in this
20 section unless the context clearly indicates otherwise:

21 "Adequate treatment." A course of treatment designed and
22 administered to maximize the probability of the person's
23 recovery from mental illness.

24 "Authorized person." A person authorized by the county
25 administrator to perform a specific duty set forth in this part.

26 "Client." A person receiving behavioral or mental health
27 treatment from a mental health professional.

28 "County administrator." The administrator of a county
29 program or the designee of the administrator.

30 "County program." A mental health and intellectual

1 disability program established under Article III of the act of
2 October 20, 1966 (3rd Sp.Sess., P.L.96, No.6), known as the
3 Mental Health and Intellectual Disability Act of 1966.

4 "Department." The Department of Public Welfare of the
5 Commonwealth.

6 "Facility." A mental health establishment, hospital, clinic,
7 institution, center, day-care center, base-service unit,
8 community mental health center or a part of such facility that
9 provides for the diagnosis, treatment, care or rehabilitation of
10 persons with mental illness.

11 "Incompetent to proceed on criminal charges." A person who
12 has been charged with a crime who is found to be substantially
13 unable to understand the nature or object of the proceedings
14 against the person or to participate and assist in the person's
15 own defense.

16 "Individualized treatment plan" or "treatment plan." A plan
17 of treatment formulated for a particular person in a program
18 appropriate to the person's specific needs.

19 "Inpatient treatment." Includes all treatment that requires
20 full-time or part-time residence in a facility.

21 "Licensed clinical psychologist." A psychologist licensed
22 under the act of March 23, 1972 (P.L.136, No.52), known as the
23 Professional Psychologists Practice Act, who holds a doctoral
24 degree from an accredited university and is duly trained and
25 experienced in the delivery of direct preventive assessment and
26 therapeutic intervention services to individuals whose growth,
27 adjustment or functioning is actually impaired or demonstrably
28 at risk of impairment.

29 "Licensed psychologist." An individual licensed under the
30 Professional Psychologists Practice Act.

1 "Mental health professional." A person licensed or certified
2 in this Commonwealth in any mental health-related field to whom
3 the confidentiality provisions of this part apply.

4 "Mental health review officer." A person authorized by a
5 court of common pleas to conduct proceedings under this part.

6 "Review officer." A mental health review officer.

7 "Serious mental illness." As defined by the department in
8 its regulations.

9 "Severely mentally disabled." A condition in which, as a
10 result of mental illness, a person's capacity to exercise self-
11 control, judgment and discretion in the conduct of the person's
12 affairs and social relations or to care for the person's own
13 personal needs is so lessened that the person poses a clear and
14 present danger of harm to self or others, as determined in
15 section 3301 (relating to persons who may be subject to
16 involuntary emergency examination and treatment).

17 "Treatment." Includes the following:

18 (1) Diagnosis, evaluation, therapy or rehabilitation
19 needed to alleviate pain or distress and to facilitate the
20 recovery of a person from mental illness.

21 (2) Care and other services that supplement treatment
22 described in paragraph (1) and aid or promote the recovery of
23 a person from mental illness.

24 § 3103. Statement of policy.

25 The purpose of this part is to establish procedures whereby
26 the Commonwealth can seek to assure the availability of adequate
27 treatment to persons with mental illness. The provisions of this
28 part shall be interpreted in conformity with the principles of
29 due process to make voluntary and involuntary treatment
30 available where the need is great and its absence could result

1 in serious harm to the person with mental illness or to others.

2 SUBCHAPTER B

3 ADMINISTRATIVE MATTERS

4 Sec.

5 3111. Rules and regulations.

6 3112. Forms.

7 3113. Confidentiality of records.

8 3114. Jurisdiction and venue.

9 3115. Conduct of proceedings.

10 3116. Reporting requirements for firearms background checks.

11 § 3111. Rules and regulations.

12 The department shall adopt any rules and regulations
13 necessary to effectuate the provisions of this part. Rules and
14 regulations adopted under the provisions of this part shall be
15 adopted according to the provisions of section 201 of the act of
16 October 20, 1966 (3rd Sp.Sess., P.L.96, No.6), known as the
17 Mental Health and Intellectual Disability Act of 1966, and the
18 act of July 31, 1968 (P.L.769, No.240), referred to as the
19 Commonwealth Documents Law.

20 § 3112. Forms.

21 (a) Development.--The department shall establish and adopt
22 forms necessary to effectuate the provisions of this part.

23 (b) Verification.--A warrant or application under section
24 3302(a)(2) (relating to involuntary emergency examination and
25 treatment) and each application, petition and certification
26 required under this part shall be made subject to the penalties
27 provided under 18 Pa.C.S. § 4904 (relating to unsworn
28 falsification to authorities) and must contain a notice to that
29 effect.

30 (c) Submission.--Each warrant, application, petition or

1 certification under subsection (b) must be submitted to the
2 county administrator in the following counties:

3 (1) Where the person was made subject to examination and
4 treatment.

5 (2) Any other county in this Commonwealth in which the
6 person is domiciled.

7 (d) Applicability to voluntary treatment.--Subsections (a)
8 and (b) shall not apply to a person admitted to a treatment
9 facility pursuant to Chapter 32 (relating to voluntary inpatient
10 examination and treatment) when no part of the person's care is
11 provided for with public funds. The department may require
12 facilities to report clinical and statistical information, but
13 the information must not directly or indirectly identify any
14 person who is the subject of the information reported.

15 § 3113. Confidentiality of records.

16 (a) Documents in general.--All documents concerning persons
17 in treatment shall be kept confidential and, without the written
18 consent of the person, may not be released or their contents
19 disclosed to anyone except:

20 (1) Those engaged in providing treatment for the person.

21 (2) The county administrator, pursuant to section
22 3112(c) (relating to forms).

23 (3) A court in the course of legal proceedings
24 authorized by this part.

25 (4) Pursuant to Federal rules, statutes or regulations
26 governing disclosure of patient information where treatment
27 is undertaken by a Federal agency.

28 (b) Privileged communications.--Privileged communications,
29 whether written or oral, may not be disclosed to anyone without
30 written consent of the person who made the communication.

1 (c) Statistical analysis.--Nothing in this section prohibits
2 the collection or analysis of clinical or statistical data by
3 the department, the county administrator or the facility if the
4 use or dissemination of the data does not directly or indirectly
5 identify any person who is the subject of the information
6 reported.

7 (d) Other law.--Nothing in this section shall be construed
8 to conflict with section 8 of the act of April 14, 1972
9 (P.L.221, No.63), known as the Pennsylvania Drug and Alcohol
10 Abuse Control Act.

11 § 3114. Jurisdiction and venue.

12 (a) Initial jurisdiction.--The jurisdiction of a court of
13 common pleas or juvenile court conferred by Chapters 32
14 (relating to voluntary inpatient examination and treatment) and
15 33 (relating to involuntary examination and treatment) shall be
16 exercised initially by the court for the county in which the
17 subject of the proceedings is located or resides.

18 (b) Subsequent proceedings.--If involuntary treatment is
19 ordered, jurisdiction over any subsequent proceeding shall be
20 retained by the court in which the initial proceeding occurred,
21 but jurisdiction may be transferred to the county where the
22 person is domiciled.

23 (c) Proceedings at treatment facility.--The court or a
24 mental health review officer of the county having jurisdiction
25 over the proceedings may conduct legal proceedings at a facility
26 where the person is in treatment, whether or not the facility is
27 located within the county where the court or mental health
28 review officer normally conducts business.

29 (d) Venue for actions involving statutory rights.--Venue for
30 actions instituted to effectuate rights under this part shall be

1 as now or hereafter provided by law.

2 § 3115. Conduct of proceedings.

3 A proceeding under sections 3303(c) (relating to extended
4 involuntary emergency treatment), 3304 (relating to court-
5 ordered involuntary treatment), 3305 (relating to additional
6 periods of court-ordered involuntary treatment) and 3306
7 (relating to transfer of persons in involuntary treatment) may
8 be conducted by the court or a mental health review officer.

9 § 3116. Reporting requirements for firearms background checks.

10 (a) Disclosure for firearms background check purposes.--
11 Notwithstanding any other law to the contrary, the court, a
12 mental health review officer and a county administrator shall
13 notify the Pennsylvania State Police on a form developed by the
14 Pennsylvania State Police of the identity of any of the
15 following persons:

16 (1) A person who has been adjudicated incompetent to
17 proceed on criminal charges under Chapter 34 (relating to
18 determinations affecting those charged with crime or under
19 sentence).

20 (2) A person who has been involuntarily committed to a
21 mental institution for inpatient care and treatment under
22 this part.

23 (3) A person who has been involuntarily treated as
24 described under 18 Pa.C.S. § 6105(c) (4) (relating to persons
25 not to possess, use, manufacture, control, sell or transfer
26 firearms).

27 (b) Timing of notification.--The notification under
28 subsection (a) shall be transmitted within seven days of the
29 adjudication, commitment or treatment.

30 (c) Confidentiality provisions waived.--Section 3113

1 (relating to confidentiality of records) shall not restrict the
2 disclosure of information:

3 (1) To the Pennsylvania State Police under this section.

4 (2) By the Pennsylvania State Police to a person in
5 accordance with 18 Pa.C.S. § 6105(c)(4).

6 SUBCHAPTER C

7 GENERAL TREATMENT PROVISIONS

8 Sec.

9 3121. Applicability.

10 3122. Referral of persons discharged from treatment.

11 3123. Basic treatment requirements.

12 3124. Treatment facilities.

13 3125. Treatment team.

14 3126. Individualized treatment plan.

15 3127. Periodic reexamination, review and redistribution.

16 3128. Duty to protect.

17 § 3121. Applicability.

18 (a) Treatment covered.--This part establishes rights and
19 procedures for:

20 (1) All involuntary inpatient treatment of persons with
21 mental illness.

22 (2) All involuntary outpatient treatment of persons with
23 mental illness.

24 (3) All voluntary inpatient treatment of persons with
25 mental illness.

26 (b) Limitations on treatment.--Treatment shall be delivered
27 subject to the following:

28 (1) Treatment on a voluntary basis shall be preferred to
29 involuntary treatment.

30 (2) In every case, the least restrictions consistent

1 with adequate treatment standards shall be employed.

2 (c) Treatment of individuals with multiple diagnoses.--

3 Individuals who are intellectually disabled, senile or alcohol
4 or drug dependent shall receive mental health treatment only if
5 they are also diagnosed as mentally ill, but each of these
6 conditions by itself may not be deemed to constitute mental
7 illness.

8 (d) Treatment of alcohol abuse or drug addiction.--Nothing
9 in this part shall prohibit underutilized State facilities for
10 the mentally ill to be made available for the treatment of
11 alcohol abuse or drug addiction pursuant to the act of April 14,
12 1972 (P.L.221, No.63), known as the Pennsylvania Drug and
13 Alcohol Abuse Control Act.

14 (e) Treatment of chronically disabled elderly persons.--A
15 chronically disabled person who is 70 years of age or older and
16 who has been continuously hospitalized in a State-operated
17 facility for at least ten years is not subject to the procedures
18 of this part. The person's inability to give a rational and
19 informed consent does not prohibit the department from
20 continuing to provide all necessary treatment to the person. If
21 the individual protests treatment or residence at a State-
22 operated facility, that individual shall be subject to the
23 provisions of Chapter 33 (relating to involuntary examination
24 and treatment).

25 § 3122. Referral of persons discharged from treatment.

26 (a) Discharge from State institutions.--The facility
27 administration shall refer those voluntary and involuntary
28 patients discharged from State institutional programs to the
29 appropriate county program.

30 (b) County program responsibilities.--Pursuant to Article

1 III of the act of October 20, 1966 (3rd Sp.Sess., P.L.96, No.6),
2 known as the Mental Health and Intellectual Disability Act of
3 1966, county programs shall receive referrals from State-
4 operated facilities and shall be responsible for the treatment
5 needs of county residents discharged from institutions pursuant
6 to Chapters 32 (relating to voluntary inpatient examination and
7 treatment) and 33 (relating to involuntary examination and
8 treatment).

9 § 3123. Basic treatment requirements.

10 (a) Adequacy.--Adequate treatment shall be provided to all
11 persons in treatment who are subject to this part.

12 (b) Forms of treatment.--Adequate treatment may include
13 inpatient treatment, partial hospitalization or outpatient
14 treatment.

15 (c) Adequacy of inpatient treatment.--Adequate inpatient
16 treatment shall include those accommodations, diet, heat, light,
17 sanitary facilities, clothing, recreation, education and medical
18 care as necessary to maintain decent, safe and healthy living
19 conditions.

20 § 3124. Treatment facilities.

21 (a) Approved facilities.--All involuntary and voluntary
22 treatment funded in whole or in part by public moneys shall be
23 available at a facility approved for such purposes by the county
24 administrator or the department. Approval of facilities shall be
25 made by the appropriate authority which can be the department
26 pursuant to regulations adopted by the department.

27 (b) Veterans facilities.--Treatment may be ordered at the
28 United States Department of Veterans Affairs or other Federal
29 agency upon receipt of a certificate that the person is eligible
30 for such hospitalization or treatment and that there is

1 available space for the person's care. Mental health facilities
2 operated under the direct control of the United States
3 Department of Veterans Affairs or other Federal agency are
4 exempt from obtaining State approval.

5 (c) Standards for approval.--The department standards for
6 approval shall be at least as stringent as those of the
7 following, to the extent that the type of facility is one in
8 which those standards are intended to apply:

9 (1) The joint commission for accreditation of hospitals.

10 (2) Titles XVIII and XIX of the Social Security Act (49
11 Stat. 620, 42 U.S.C. § 301 et seq.).

12 (d) Exemption.--An exemption from the standards may be
13 granted by the department under the following conditions:

14 (1) The exemption may be for a period not in excess of
15 one year, which may be renewed.

16 (2) Notice of each exemption and the rationale for
17 allowing the exemption must be published pursuant to the act
18 of July 31, 1968 (P.L.769, No.240), referred to as the
19 Commonwealth Documents Law.

20 (3) Notice of each exemption shall be prominently posted
21 at the entrance to the main office and in the reception areas
22 of the facility.

23 § 3125. Treatment team.

24 (a) Leadership.--A treatment team must be under the
25 direction of either of the following:

26 (1) A licensed clinical psychologist.

27 (2) A physician if:

28 (i) failure to do so would jeopardize Federal
29 payments made on behalf of a patient; or

30 (ii) the director of a facility requires the

1 treatment to be under the direction of a physician.

2 (b) Composition.--A treatment team must include a physician
3 and may include other mental health professionals.

4 (c) Independence of professional judgment.--Notwithstanding
5 any other provision of this part, the court or mental health
6 review officer may not specify to the treatment team the
7 adoption of any treatment techniques, modality or drug therapy.

8 § 3126. Individualized treatment plan.

9 (a) Formulation.--A treatment team shall formulate and
10 review an individualized treatment plan for each person who is
11 in treatment under this part.

12 (b) Basic criteria.--To the extent possible, an
13 individualized treatment plan shall be made with the
14 cooperation, understanding and consent of the person in
15 treatment, and the least restrictions consistent with adequate
16 treatment standards shall be employed.

17 (c) Administration of drugs.--The administration of drugs
18 shall be controlled by the act of April 14, 1972 (P.L.233,
19 No.64), known as The Controlled Substance, Drug, Device and
20 Cosmetic Act.

21 § 3127. Periodic reexamination, review and redispotion.

22 (a) Reexamination and review.--

23 (1) Each person who is in treatment under this part
24 shall be examined by a treatment team.

25 (2) The person's individualized treatment plan shall be
26 reviewed at least every 30 days.

27 (b) Redispotion.--On the basis of reexamination and
28 review, the treatment team may:

29 (1) authorize continuation of the existing treatment
30 plan if appropriate;

1 (2) formulate a new individualized treatment plan; or
2 (3) recommend to the director of the facility the
3 discharge of the person.

4 (c) Duration or modality of treatment.--A person shall not
5 remain in treatment or under any particular mode of treatment
6 for longer than the treatment is necessary and appropriate to
7 the person's needs.

8 (d) Record.--The treatment team responsible for the
9 treatment plan shall maintain a record of each reexamination and
10 review under this section for each person in treatment, which
11 shall include all of the following:

12 (1) A report of the reexamination, including a diagnosis
13 and prognosis.

14 (2) A brief description of the treatment provided to the
15 person during the period preceding the reexamination and the
16 results of that treatment.

17 (3) A statement of the reason for discharge or for
18 continued treatment.

19 (4) An individualized treatment plan for the next
20 period, if any.

21 (5) A statement of the reasons that the treatment plan
22 imposes the least restrictions consistent with adequate
23 treatment standards.

24 (6) A certification that the adequate treatment
25 recommended is available and will be afforded in the
26 treatment program.

27 § 3128. Duty to protect.

28 (a) Criteria for duty to apply.--In accordance with the
29 procedures under subsection (b), a mental health professional
30 shall attempt to protect each potential victim from a threat of

1 danger from a client of the mental health professional if all of
2 the following apply:

3 (1) The client has communicated to the mental health
4 professional an explicit threat of imminent serious physical
5 harm or death to a clearly identified or identifiable victim
6 or the general public or a mental health professional
7 reasonably believes after considering the totality of the
8 circumstances that a client of the mental health professional
9 presents an imminent threat of serious physical harm or death
10 to a clearly identified or identifiable victim or the general
11 public.

12 (2) The mental health professional reasonably believes,
13 or by the standards of the professional's profession should
14 believe, that the client has the intent and ability to carry
15 out the threat.

16 (3) The threat has been communicated to the professional
17 by the threatening client while the professional is engaged
18 in his professional duties.

19 (b) Actions necessary to discharge duty.--A mental health
20 professional may:

21 (1) use therapeutic interventions or take therapeutic
22 precautions that a reasonable prudent mental health
23 professional would take under the circumstances to diffuse
24 the danger;

25 (2) communicate the threat to all identified or
26 identifiable victims;

27 (3) communicate the threat to any individual whose
28 knowledge is likely to protect the health and life of a third
29 party or the public;

30 (4) notify a law enforcement agency in the vicinity

1 where the client or any potential victim resides; or

2 (5) take reasonable steps to initiate proceedings for
3 voluntary or involuntary commitment if appropriate.

4 (c) Immunity from civil liability.--No cause of action shall
5 exist against a mental health professional, and no legal
6 liability may be imposed for breaching a duty to warn of a
7 threat of danger by a client, unless the mental health
8 professional:

9 (1) fails to comply with this section; and

10 (2) the failure to comply is the result of an
11 intentional or grossly negligent act or omission that results
12 in harm to a potential victim of the client's threats.

13 (d) Confidentiality.--

14 (1) A disclosure made in good faith under this section
15 may not be considered a breach of confidentiality between the
16 mental health professional and the client.

17 (2) For a mental health professional who is a "covered
18 entity" under the Health Insurance Portability and
19 Accountability Act of 1996 (Public Law 104-191, 110 Stat.
20 1936), disclosures authorized under this section are declared
21 to be disclosures authorized without the consent of the
22 client under 45 CFR 164.512(j)(1) (relating to uses and
23 disclosures for which an authorization or opportunity to
24 agree or object is not required).

25 SUBCHAPTER D

26 RIGHTS AND IMMUNITIES

27 Sec.

28 3131. Rights and remedies of persons in treatment.

29 3132. Immunity from civil and criminal liability.

30 § 3131. Rights and remedies of persons in treatment.

1 Each person who is in treatment shall be entitled to all
2 other rights now or hereafter provided under the laws of this
3 Commonwealth, in addition to any rights provided for in this
4 part. Actions requesting damages, declaratory judgment,
5 injunction, mandamus, writs of prohibition, habeas corpus,
6 including challenges to the legality of detention or degree of
7 restraint, and any other remedies or relief granted by law, may
8 be maintained in order to protect and effectuate the rights
9 granted under this part.

10 § 3132. Immunity from civil and criminal liability.

11 (a) Treatment decisions in general.--In the absence of
12 willful misconduct or gross negligence, a county administrator,
13 director of a facility, physician, peace officer or any other
14 authorized person may not be held civilly or criminally liable
15 for any of the following decisions or the consequences of the
16 decision:

17 (1) To examine or treat a person under this part.

18 (2) To discharge a person under this part.

19 (3) To place a person subject to this part under partial
20 hospitalization, outpatient care or leave of absence.

21 (4) To reduce a restraint upon a person subject to this
22 part.

23 (b) Denial of treatment.--A county administrator or other
24 authorized person who denies an application for voluntary
25 treatment or involuntary emergency examination and treatment may
26 not be civilly or criminally liable for the decision or any of
27 its consequences.

28 (c) Judicial immunity.--A court officer or a mental health
29 review officer shall not be civilly or criminally liable for an
30 action taken or decision made pursuant to the authority

1 conferred by this part.

2 CHAPTER 32

3 VOLUNTARY INPATIENT EXAMINATION

4 AND TREATMENT

5 Sec.

6 3201. Authorization for voluntary treatment.

7 3202. Application for voluntary treatment.

8 3203. Explanation and consent.

9 3204. Notice to parents.

10 3205. Physical examination; individualized treatment plan.

11 3206. Withdrawal from voluntary treatment.

12 3207. Transfer of person in voluntary treatment.

13 § 3201. Authorization for voluntary treatment.

14 (a) Self-admission.--A person may submit to examination and
15 treatment under this part if:

16 (1) The person is 14 years of age or older.

17 (2) The person believes that treatment is needed.

18 (3) The person substantially understands the nature of
19 voluntary treatment.

20 (4) The decision is voluntary.

21 (b) Parental authorization.--A parent, guardian or person
22 standing in loco parentis to a child who is younger than 14
23 years of age may subject the child to examination and treatment
24 under this part and in so doing shall be deemed to be acting for
25 the child.

26 (c) Applicability.--Except as otherwise authorized in this
27 part, all of the provisions of this part governing examination
28 and treatment shall apply.

29 § 3202. Application for voluntary treatment.

30 (a) To whom application may be made.--An application for

1 voluntary examination and treatment may be made to any of the
2 following entities:

- 3 (1) An approved facility.
- 4 (2) A county administrator.
- 5 (3) The United States Department of Veterans Affairs.
- 6 (4) Any other Federal agency operating a facility for
7 the care and treatment of mental illness.

8 (b) Designation of treatment facility.--When application is
9 made to the county administrator, the county administrator shall
10 designate the approved facility for examination and treatment as
11 may be appropriate.

12 § 3203. Explanation and consent.

13 (a) Explanation to be given.--Before a person is accepted
14 for voluntary inpatient treatment, an explanation shall be given
15 to the person that includes the following information:

16 (1) The nature of the treatment, including the types of
17 treatment in which the person may be involved.

18 (2) Any restraints or restrictions to which the person
19 may be subject.

20 (3) A statement of the person's rights under this part.

21 (b) Form of consent.--Consent shall be given in writing upon
22 a form adopted by the department.

23 (c) Contents of consent.--The consent shall include the
24 following representations:

25 (1) That the person understands treatment will involve
26 inpatient status.

27 (2) That the person is willing to be admitted to a
28 designated facility for the purpose of examination and
29 treatment.

30 (3) That the person consents to the admission

1 voluntarily, without coercion or duress.

2 (4) If applicable, that the person has voluntarily
3 agreed to remain in treatment for a specified period of no
4 longer than 72 hours after having given written notice of the
5 intent to withdraw from treatment.

6 (d) Record of consent.--The consent shall be part of the
7 person's record.

8 § 3204. Notice to parents.

9 (a) Notice.--Upon the acceptance of an application for
10 examination and treatment by a child who is 14 years of age or
11 older and younger than 18 years of age, the director of the
12 facility shall promptly notify the child's parents, guardian or
13 person standing in loco parentis to the child to inform them of
14 the right to be heard upon the filing of an objection to the
15 examination and treatment.

16 (b) Objection to treatment by parent.--Whenever an objection
17 is filed by the parents, guardian or person standing in loco
18 parentis of a child, a hearing shall be held within 72 hours by
19 the court or mental health review officer, to determine whether
20 or not the voluntary treatment is in the best interest of the
21 child.

22 § 3205. Physical examination; individualized treatment plan.

23 (a) Physical examination.--Upon acceptance of a person for
24 voluntary examination and treatment, the person shall be given a
25 physical examination.

26 (b) Individualized treatment plan.--Within 72 hours after
27 acceptance of a person, a treatment team shall formulate an
28 individualized treatment plan, subject to the following
29 requirements:

30 (1) The person shall be advised of the treatment plan,

1 which shall become a part of the person's record.

2 (2) The treatment plan shall state the following:

3 (i) Whether inpatient treatment is considered
4 necessary.

5 (ii) What restraints or restrictions, if any, will
6 be administered.

7 (iii) The bases for the conclusions under
8 subparagraphs (i) and (ii).

9 § 3206. Withdrawal from voluntary treatment.

10 (a) Written notice.--Except as provided in subsections (b)
11 and (c), a person in voluntary inpatient treatment may withdraw
12 at any time by giving written notice of the intent to withdraw
13 from treatment.

14 (b) Waiting period.--

15 (1) A person in voluntary inpatient treatment who,
16 pursuant to section 3203(c)(4) (relating to explanation and
17 consent), agreed in writing at the time of admission that
18 release could be delayed for a period specified in the
19 agreement, not to exceed 72 hours, may have that release so
20 delayed.

21 (2) A person converted from involuntary treatment
22 ordered pursuant to section 3304 (relating to court-ordered
23 involuntary treatment) or 3305 (relating to additional
24 periods of court-ordered involuntary treatment) to voluntary
25 treatment status shall agree to remain in treatment for 72
26 hours after giving notice.

27 (c) Release of children younger than 14 years of age; who
28 may initiate.--If the person is younger than 14 years of age,
29 the parent, legal guardian, or person standing in loco parentis
30 to the child may affect the child's release. If any responsible

1 party believes that it would be in the best interest of a child
2 younger than 14 years of age in voluntary treatment to be
3 withdrawn therefrom or afforded treatment constituting the least
4 restrictions consistent with adequate treatment standards, that
5 party may file a petition in the juvenile division of the court
6 of common pleas for the county in which the child younger than
7 14 years of age resides, requesting a withdrawal from or
8 modification of treatment.

9 (d) Appointment of counsel; hearing for child younger than
10 14 years of age.--The court shall promptly appoint an attorney
11 for a child for whom a petition was filed under subsection (b)
12 and schedule a hearing to determine what inpatient treatment, if
13 any, is in the best interest of the child. The hearing shall be
14 held within ten days of receipt of the petition, unless
15 continued upon the request of the attorney for the child. The
16 hearing shall be conducted in accordance with the rules
17 governing other juvenile court proceedings.

18 (e) Lack of medical necessity.--Nothing in this part shall
19 be construed to require a facility to continue inpatient
20 treatment where the director of the facility determines such
21 treatment is not medically indicated. Any dispute between a
22 facility and a county administrator as to the medical necessity
23 for voluntary inpatient treatment of a person shall be decided
24 by the Commissioner of Mental Health or the designee of the
25 commissioner.

26 § 3207. Transfer of person in voluntary treatment.

27 A person who is in voluntary treatment may not be transferred
28 from one facility to another without the written consent of the
29 person.

30

CHAPTER 33

1 INVOLUNTARY EXAMINATION AND TREATMENT

2 Subchapter

3 A. Inpatient or Outpatient Involuntary Examination and
4 Treatment

5 B. Assisted Outpatient Treatment

6 SUBCHAPTER A

7 INPATIENT OR OUTPATIENT INVOLUNTARY

8 EXAMINATION AND TREATMENT

9 Sec.

10 3301. Persons who may be subject to involuntary emergency
11 examination and treatment.

12 3302. Involuntary emergency examination and treatment.

13 3303. Extended involuntary emergency treatment.

14 3304. Court-ordered involuntary treatment.

15 3305. Additional periods of court-ordered involuntary
16 treatment.

17 3306. Transfer of persons in involuntary treatment.

18 3307. Appeal of mental health review officer findings.

19 § 3301. Persons who may be subject to involuntary emergency
20 examination and treatment.

21 (a) Applicability.--A person who is severely mentally
22 disabled and in need of immediate treatment may be subject to
23 involuntary emergency examination and treatment. Severely
24 mentally disabled shall include a determination of clear and
25 present danger, as set forth in subsections (b), (c), (d), (e)
26 and (f).

27 (b) Determination of clear and present danger of harm to
28 others.--Clear and present danger to others shall be shown by
29 establishing that within the past 30 days the person has
30 inflicted or attempted to inflict serious bodily harm on another

1 or caused substantial property damage and that there is a
2 reasonable probability that such conduct will be repeated.

3 (c) Determination of clear and present danger of harm to
4 self by neglect.--Clear and present danger of harm to self by
5 neglect shall be shown by both of the following criteria:

6 (1) Within the past 30 days the person has acted in such
7 manner as to evidence that the person would be unable,
8 without care, supervision and the continued assistance of
9 others, to satisfy the person's need for nourishment,
10 personal or medical care, shelter or self-protection and
11 safety.

12 (2) There is a reasonable probability that death,
13 serious bodily injury or serious physical or mental
14 debilitation would ensue within 30 days unless adequate
15 treatment were afforded under this part.

16 (d) Determination of clear and present danger to self by
17 reoccurrence and relapse.--Clear and present danger of harm to
18 self by reoccurrence and relapse shall be shown by establishing
19 all of the following criteria:

20 (1) The person has a serious mental illness that has
21 been diagnosed and documented by a licensed psychiatrist.

22 (2) Within the past 24 months the person has twice been
23 involuntarily examined and treated under the provisions of
24 this chapter in an approved inpatient facility.

25 (3) The person is exhibiting symptoms or behavior
26 substantially similar to those that preceded and led to one
27 or more of the inpatient placements referred to in paragraph
28 (2).

29 (4) There is a reasonable probability that death,
30 serious bodily injury or serious physical or mental

1 debilitation would ensue within 30 days unless adequate
2 treatment were afforded under this part.

3 (e) Determination of clear and present danger to self by
4 suicide.--Clear and present danger of harm to self by suicide
5 shall be shown by establishing that within the past 30 days the
6 person has attempted suicide and that there is the reasonable
7 probability of suicide unless adequate treatment is afforded
8 under this part.

9 (f) Determination of clear and present danger to self by
10 self-mutilation.--Clear and present danger to self by self-
11 mutilation shall be shown by establishing that within the past
12 30 days the person has committed substantial self-mutilation or
13 attempted to commit substantial self-mutilation and that there
14 is the reasonable probability of self-mutilation unless adequate
15 treatment is afforded under this part.

16 (g) Special rule for persons involved in criminal justice
17 system.--If a person has been found incompetent to proceed on
18 criminal charges or has been acquitted by reason of lack of
19 criminal responsibility on charges arising from conduct
20 involving infliction of or attempt to inflict substantial bodily
21 harm on another, the 30-day limitation set forth in subsection
22 (b) shall not apply so long as an application for examination
23 and treatment is filed within 30 days after the date of the
24 incompetency determination or verdict of acquittal. In those
25 cases, a clear and present danger to others may be shown by
26 establishing that the conduct charged in the criminal proceeding
27 did occur and that there is a reasonable probability that such
28 conduct will be repeated.

29 (h) Threats of harm as clear and present danger.--For the
30 purpose of determining a clear and present danger under

1 subsections (b), (e) and (f), a clear and present danger of harm
2 may be demonstrated by proof that the person has made threats of
3 harm and has committed acts in furtherance of the threat to
4 commit harm.

5 § 3302. Involuntary emergency examination and treatment.

6 (a) Application for examination.--Emergency examination may
7 be undertaken at a treatment facility based upon any of the
8 following:

9 (1) A certification of a physician stating the need for
10 an examination.

11 (2) A warrant issued by the county administrator after
12 receipt of a written application by a physician, a licensed
13 clinical psychologist or other responsible party setting
14 forth facts constituting reasonable grounds to believe a
15 person is severely mentally disabled and in need of immediate
16 treatment. The county administrator's warrant may require an
17 authorized person or any peace officer to take the person to
18 the facility specified in the warrant.

19 (3) Without warrant.--Upon personal observation of
20 conduct constituting reasonable grounds to believe that a
21 person is severely mentally disabled and in need of immediate
22 treatment, a physician, licensed clinical psychologist, peace
23 officer or an authorized person may take the person to an
24 approved facility for an emergency examination. Upon arrival,
25 the person who personally observed the conduct shall make a
26 written statement setting forth the grounds for believing the
27 person to be in need of an examination.

28 (b) Examination and determination of need for treatment.--
29 Emergency examination and treatment shall be conducted as
30 follows:

1 (1) A person taken to a facility shall be examined by a
2 physician within two hours of arrival in order to determine
3 if the person is severely mentally disabled and in need of
4 immediate treatment.

5 (2) If it is determined that the person is severely
6 mentally disabled and in need of emergency treatment,
7 treatment shall be begun immediately.

8 (3) If the physician does not find the person to be
9 severely mentally disabled and in need of immediate
10 treatment, or if at any time it appears there is no longer a
11 need for immediate treatment, the person shall be discharged
12 and returned to a reasonable location that the person
13 directs.

14 (4) The physician shall make a record of the examination
15 and findings.

16 (5) A person may not be accepted for involuntary
17 emergency treatment if a previous application was granted for
18 involuntary emergency treatment and the new application is
19 not based on behavior occurring after the earlier
20 application.

21 (c) Enforcement of rights at emergency examination.--Upon
22 arrival at a facility of a person subject to this section, the
23 following shall apply:

24 (1) The person shall be informed of the reasons for the
25 emergency examination and the right to communicate
26 immediately with others.

27 (2) The person shall be given reasonable use of the
28 telephone.

29 (3) The person shall be requested to furnish the names
30 of parties whom he may want notified of his custody and kept

1 informed of his status.

2 (4) The county administrator or the director of the
3 facility shall:

4 (i) Give notice to the parties identified in
5 paragraph (3) of the whereabouts and status of the
6 person, how and when contact and visits may be made and
7 how the parties may obtain information concerning the
8 person while in inpatient treatment.

9 (ii) Take reasonable steps to assure that while the
10 person is detained, the health and safety needs of any of
11 the person's dependents are met and that the person's
12 personal property and the premises the person occupies
13 are secure.

14 (d) Duration of emergency examination and treatment.--A
15 person who is in treatment pursuant to this section shall be
16 discharged whenever it is determined that the person no longer
17 is in need of treatment, but in all cases within 120 hours of
18 the commencement of treatment, unless within this period either
19 of the following occurs:

20 (1) The person is admitted to voluntary treatment
21 pursuant to section 3202 (relating to application for
22 voluntary treatment).

23 (2) A certification for extended involuntary emergency
24 treatment is filed pursuant to section 3303 (relating to
25 extended involuntary emergency treatment).

26 § 3303. Extended involuntary emergency treatment.

27 (a) Application.--Application for extended involuntary
28 emergency treatment may be made under the following
29 circumstances:

30 (1) An application may be made for any person who is

1 being treated pursuant to section 3302 (relating to
2 involuntary emergency examination and treatment) when the
3 facility determines that the need for emergency treatment is
4 likely to extend beyond 120 hours.

5 (2) The application shall be filed in the court of
6 common pleas.

7 (3) The application shall state the grounds on which
8 extended emergency treatment is believed to be necessary.

9 (4) The application shall state the name of an examining
10 physician and the substance of the physician's opinion
11 regarding the mental condition of the person.

12 (b) Appointment of counsel.--Upon receipt of an application
13 under subsection (a), the court shall appoint counsel to
14 represent the person unless it appears that the person can
15 afford, and desires to have, private representation.

16 (c) Procedures.--An informal conference shall be conducted
17 by the court or a mental health review officer within 24 hours
18 after the application is filed, at the facility, if practicable,
19 and subject to the following requirements:

20 (1) At the commencement of the informal conference, the
21 court or a mental health review officer shall inform the
22 person of the nature of the proceedings.

23 (2) Information relevant to whether the person is
24 severely mentally disabled and in need of treatment shall be
25 reviewed, including the reasons that continued involuntary
26 treatment is considered necessary.

27 (3) The information presented in paragraph (2) shall be
28 made by a physician who examined the person and shall be in
29 terms understandable to a layperson.

30 (4) The court or mental health review officer may review

1 any relevant information even if it would be normally
2 excluded under rules of evidence if the court or mental
3 health review officer believes that the information is
4 reliable.

5 (5) The person subject to the proceeding or the person's
6 representative shall have the right to ask questions of the
7 physician and of any other witnesses and to present any
8 relevant information.

9 (6) A record of the proceedings, which need not be a
10 stenographic record, shall be made. The record shall be kept
11 by the court or mental health review officer for at least one
12 year.

13 (d) Determination.--At the conclusion of the review set
14 forth in subsection (c), the court or mental health review
15 officer shall make a determination as to whether or not the
16 person is severely mentally disabled and in need of continued
17 involuntary treatment, subject to the following:

18 (1) If the person is not severely mentally disabled and
19 in need of continued involuntary treatment, the judge of the
20 court of common pleas or review officer shall direct the
21 director of the facility or the director's designee to
22 discharge the person.

23 (2) If the judge of the court of common pleas or review
24 officer finds that the person is severely mentally disabled
25 and in need of continued involuntary treatment, a
26 certification for extended involuntary treatment shall be
27 made subject to the following requirements:

28 (i) The certification shall be filed with the
29 director of the facility and a copy served on the person,
30 counsel for the person and such other parties as the

1 person requested to be notified pursuant to section
2 3302(c) (3).

3 (ii) Upon the filing and service of a certification
4 for extended involuntary emergency treatment, the person
5 may be given treatment in an approved facility for a
6 period of not more than 20 days.

7 (e) Form and contents of certification.--The certification
8 shall be made in writing upon a form adopted by the department
9 and shall include the following information:

10 (1) Findings by the court or mental health review
11 officer as to the reasons that extended involuntary emergency
12 treatment is necessary.

13 (2) A description of the treatment to be provided,
14 together with an explanation of the adequacy and
15 appropriateness of the treatment, based upon the information
16 received at the informal conference.

17 (3) Any documents required by 3302.

18 (4) The application as filed pursuant to subsection (a).

19 (5) A statement that the person is represented by
20 counsel.

21 (6) An explanation of the effect of the certification,
22 the person's right to petition the court for release under
23 subsection (f) and the continuing right to be represented by
24 counsel.

25 (f) Duration.--Whenever a person is no longer severely
26 mentally disabled or in need of immediate treatment and, in any
27 event, within 20 days after the filing of the certification, the
28 person shall be discharged, unless within this period either of
29 the following occurs:

30 (1) The person is admitted to voluntary treatment

1 pursuant to section 3202 (relating to application for
2 voluntary treatment).

3 (2) The court orders involuntary treatment pursuant to
4 section 3304 (relating to court-ordered involuntary
5 treatment).

6 § 3304. Court-ordered involuntary treatment.

7 (a) Application.--A petition for court-ordered involuntary
8 treatment may be made for any of the following persons:

9 (1) A person already subject to treatment under this
10 section or section 3303 (relating to extended involuntary
11 emergency treatment) or 3305 (relating to additional periods
12 of court-ordered involuntary treatment).

13 (2) A person who is severely mentally disabled, in need
14 of treatment and determined to be a clear and present danger
15 of harm to self or others under section 3301 (relating to
16 persons who may be subject to involuntary emergency
17 examination and treatment).

18 (b) Procedures for person already in involuntary
19 treatment.--A petition for court-ordered involuntary treatment
20 under this section may be filed for a person described in
21 subsection (a)(1), subject to the following conditions:

22 (1) The petition may be made to the court by the county
23 administrator or the director of the facility.

24 (2) The petition shall be in writing upon a form adopted
25 by the department and shall include the following:

26 (i) A statement of the facts constituting reasonable
27 grounds to believe that the person is severely mentally
28 disabled and in need of treatment.

29 (ii) The name of any examining physician and the
30 substance of the physician's opinion regarding the mental

1 condition of the person.

2 (iii) A statement that the person has been given the
3 information required by paragraph (3).

4 (3) Upon the filing of the petition the county
5 administrator shall serve a copy on the person, counsel for
6 the person and those designated to be kept informed as
7 provided in section 3302(c) (relating to involuntary
8 emergency examination and treatment), including an
9 explanation of the nature of the proceedings, the person's
10 right to counsel and the services of an expert in the field
11 of mental health, as provided by subsection (d).

12 (4) A hearing on the petition shall be held in all cases
13 within five days after the filing of the petition.

14 (5) Treatment shall be permitted to be maintained
15 pending the determination of the petition.

16 (6) It shall be sufficient to represent, and upon
17 hearing to reestablish, that the conduct originally required
18 by section 3301 in fact occurred and that the person's
19 condition continues to evidence a clear and present danger of
20 harm to self or others. In such event, it shall not be
21 necessary to show the reoccurrence of dangerous conduct,
22 either harmful or debilitating, within the past 30 days.

23 (c) Procedures for persons not already in involuntary
24 treatment.--A petition for court-ordered involuntary treatment
25 for a person not already in involuntary treatment shall be
26 subject to the following conditions:

27 (1) Any responsible party may file a petition in the
28 court of common pleas requesting court-ordered involuntary
29 treatment.

30 (2) The petition shall be in writing upon a form adopted

1 by the department and shall set forth the following:

2 (i) The facts constituting reasonable grounds to
3 believe that the person is within the criteria for court-
4 ordered treatment set forth in subsection (a).

5 (ii) The name of an examining physician and the
6 substance of the physician's opinion regarding the mental
7 condition of the person.

8 (3) Upon a determination that the petition sets forth
9 such reasonable cause, the court shall appoint counsel to
10 represent the person and set a date for the hearing as soon
11 as practicable. The attorney shall represent the person
12 unless it appears that the person can afford, and desires to
13 have, private representation.

14 (4) The court, by summons, shall direct the person to
15 appear for a hearing. The following requirements shall apply
16 to the person's appearance for the hearing:

17 (i) The court may issue a warrant directing an
18 authorized person or a peace officer to bring the person
19 before the court at the time of the hearing if there are
20 reasonable grounds to believe that the person will not
21 appear voluntarily.

22 (ii) A copy of the petition shall be served on the
23 person at least three days before the hearing, together
24 with a notice informing the person of the following:

25 (A) That counsel has been appointed who shall
26 represent the person unless the person obtains other
27 counsel.

28 (B) That the person has a right to be assisted
29 in the proceedings by an expert in the field of
30 mental health under subsection (d).

1 (C) That the person may request or be made
2 subject to psychiatric examination under paragraph
3 (5).

4 (5) Upon motion of either the petitioner or the person,
5 or upon its own motion, the court may order the person to be
6 examined by a licensed psychiatrist appointed by the court,
7 subject to the following conditions:

8 (i) The examination shall be conducted on an
9 outpatient basis.

10 (ii) The person shall have the right to have counsel
11 present.

12 (iii) A report of the examination shall be given to
13 the court and counsel at least 48 hours prior to the
14 hearing.

15 (6) Involuntary treatment may not be authorized during
16 the pendency of a petition except in accordance with section
17 3302 or 3033.

18 (d) Professional assistance.--A person with respect to whom
19 a hearing has been ordered under this section shall have and be
20 informed of a right to employ a physician, licensed clinical
21 psychologist or other expert in mental health of the person's
22 choice to assist the person in connection with the hearing and
23 testify on the person's behalf. If the person cannot afford to
24 engage such a professional, the court shall, on application,
25 allow a reasonable fee for that purpose. The fee shall be a
26 charge against the mental health and intellectual disability
27 program of the county.

28 (e) Conduct of hearing.--A hearing on a petition for court-
29 ordered involuntary treatment shall be conducted according to
30 the following:

1 (1) The person shall have the right to counsel and the
2 assistance of an expert in mental health under subsection
3 (d).

4 (2) The person shall not be called as a witness without
5 the person's consent.

6 (3) The person shall have the right to confront and
7 cross-examine all witnesses and to present evidence on the
8 person's own behalf.

9 (4) The hearing shall be public unless it is requested
10 to be private by the person or the person's counsel.

11 (5) A stenographic or other sufficient record shall be
12 made, which shall be impounded by the court and may be
13 obtained or examined only upon the request of the person or
14 the person's counsel or by order of the court on good cause
15 shown.

16 (6) The hearing shall be conducted by the court or a
17 mental health review officer and may be held at a location
18 other than a courthouse when doing so appears to be in the
19 best interest of the person.

20 (7) A decision shall be rendered within 48 hours after
21 the close of evidence.

22 (f) Standard of proof; treatment alternatives.--

23 (1) Upon a finding by clear and convincing evidence that
24 the person is severely mentally disabled and in need of
25 treatment and subject to subsection (a), an order shall be
26 entered directing treatment of the person in an approved
27 facility as an inpatient or outpatient, or a combination of
28 such treatment as the director of the facility shall from
29 time to time determine.

30 (2) Inpatient treatment shall be deemed appropriate only

1 after full consideration has been given to less restrictive
2 alternatives. An order for inpatient treatment shall include
3 findings on the investigation of treatment alternatives,
4 which shall include consideration of the person's
5 relationship to community and family, employment
6 possibilities, all available community resources and
7 guardianship services.

8 (g) Duration.--

9 (1) Except as provided in paragraph (2), a person may be
10 made subject to court-ordered involuntary treatment under
11 this section for a period of not more than 90 days.

12 (2) A person may be made subject to court-ordered
13 involuntary treatment under this section for a period of not
14 more than one year if the person meets the both of the
15 following criteria:

16 (i) The finding of severe mental disability is based
17 on acts giving rise to the following offenses:

18 18 Pa.C.S. § 2502 (relating to murder).

19 18 Pa.C.S. § 2503 (relating to voluntary
20 manslaughter).

21 18 Pa.C.S. § 2702 (relating to aggravated
22 assault).

23 18 Pa.C.S. § 2901 (relating to kidnapping).

24 18 Pa.C.S. § 3121(a)(1) and (2) (relating to
25 rape).

26 18 Pa.C.S. § 3123(a)(1) and (2) (relating to
27 involuntary deviate sexual intercourse).

28 18 Pa.C.S. § 3301 (relating to arson and related
29 offenses).

30 (ii) A finding of incompetency to proceed on

1 criminal charges or a verdict of acquittal because of
2 lack of criminal responsibility has been entered.

3 (3) Subject to paragraph (4), if at any time the
4 director of a facility concludes that the person is not
5 severely mentally disabled or in need of treatment pursuant
6 to subsection (a), the director shall discharge the person.

7 (4) No person subjected to involuntary treatment
8 pursuant to paragraph (2) may be discharged without a hearing
9 conducted pursuant to subsection (h).

10 (h) Hearing.--In cases involving involuntary treatment
11 pursuant to subsection (g) (2), the following shall apply:

12 (1) The director shall petition the court which ordered
13 the involuntary treatment for the unconditional or
14 conditional release of the person when either of the
15 following occurs:

16 (i) The period of court-ordered involuntary
17 treatment is about to expire and neither the director nor
18 the county administrator intends to apply for an
19 additional period of court-ordered involuntary treatment
20 pursuant to section 3305.

21 (ii) At any time the director concludes that the
22 person is not severely mentally disabled or in need of
23 treatment.

24 (2) Notice of the petition shall be given to the person,
25 the county administrator and the district attorney of the
26 county where the criminal charges under subsection (g) (2)
27 were filed.

28 (3) Within 15 days after the petition has been filed,
29 the court shall hold a hearing to determine if the person is
30 severely mentally disabled and in need of treatment.

1 (4) Petitions which must be filed simply because the
2 period of involuntary treatment will expire shall be filed at
3 least ten days prior to the expiration of the court-ordered
4 period of involuntary treatment.

5 (5) If the court determines after the hearing that the
6 person is severely mentally disabled and in need of
7 treatment, it may order additional involuntary treatment not
8 to exceed one year. If the court does not so determine, it
9 shall order the discharge of the person.

10 § 3305. Additional periods of court-ordered involuntary
11 treatment.

12 (a) Application.--Upon the application of the county
13 administrator or the director of the facility in which the
14 person is receiving treatment at the expiration of a period of
15 court-ordered involuntary treatment under section 3304(g)
16 (relating to court-ordered involuntary treatment) or this
17 section, the court may order treatment for an additional period.

18 (b) Basis of order.--The order under subsection (a) shall be
19 entered upon hearing on findings as required for persons already
20 in involuntary treatment by section 3304(a) and (b) and the
21 further finding of a need for continuing involuntary treatment
22 as shown by conduct during the person's most recent period of
23 court-ordered treatment.

24 (c) Duration.--

25 (1) Except as provided in paragraph (2), the additional
26 period of involuntary treatment shall be not more than 180
27 days.

28 (2) Persons meeting the criteria of section 3304(g) (2)
29 may be subject to an additional period of up to one year of
30 involuntary treatment.

1 (d) Less restrictive alternative placements.--A person found
2 dangerous to self under section 3301(c), (d), (e) or (f)
3 (relating to persons who may be subject to involuntary emergency
4 examination and treatment) shall be subject to an additional
5 period of involuntary full-time inpatient treatment only if the
6 person has first been released to a less restrictive
7 alternative. This limitation shall not apply where, upon
8 application made by the county administrator or facility
9 director, it is determined by the court or mental health review
10 officer that such release would not be in the best interests of
11 the person.

12 (e) Notice.--The director of the facility in which the
13 person is receiving treatment shall notify the county
14 administrator at least ten days prior to the expiration of a
15 period of involuntary commitment ordered under section 3304 or
16 this section.
17 § 3306. Transfer of persons in involuntary treatment.

18 (a) Transfer permitted.--Subject to subsections (b) and (c),
19 a person in involuntary treatment pursuant to this part may be
20 transferred to an approved facility.

21 (b) Notice.--In the absence of an emergency, persons
22 committed pursuant to section 3304(g)(2) (relating to court-
23 ordered involuntary treatment) may not be transferred unless
24 written notice is given to the court that committed the person
25 and the district attorney in the committing county and no
26 objection is noted from either the court or the district
27 attorney within 20 days of receipt of the notice. If the court
28 or district attorney objects to the transfer, a hearing shall be
29 held by the court within 20 days to review the commitment order.
30 A decision shall be rendered within 48 hours after the close of

1 evidence.

2 (c) Necessity of transfer.--When a transfer will constitute
3 a greater restraint, it shall not take place unless, upon
4 hearing, the court or review officer finds it to be necessary
5 and appropriate.

6 § 3307. Appeal of mental health review officer findings.

7 In all cases in which a proceeding under section 3303(c)
8 (relating to extended involuntary emergency treatment), 3304
9 (relating to court-ordered involuntary treatment), 3305
10 (relating to additional periods of court-ordered involuntary
11 treatment) or 3306 (relating to transfer of persons in
12 involuntary treatment) was conducted by a mental health review
13 officer, a person made subject to treatment pursuant to those
14 sections shall have the right to petition the court for review
15 of the certification, subject to the following requirements:

16 (1) A hearing shall be held within 72 hours after the
17 petition is filed unless a continuance is requested by the
18 person's counsel.

19 (2) The hearing shall include a review of the
20 certification and any evidence as the court may receive or
21 require.

22 (3) If the court determines that further involuntary
23 treatment is necessary and that the procedures prescribed by
24 this part have been followed, it shall deny the petition.
25 Otherwise, the court shall order the discharge of the person.

26 SUBCHAPTER B

27 ASSISTED OUTPATIENT TREATMENT

28 Sec.

29 3311. Definitions.

30 3312. Program coordinators to be appointed.

1 3313. Duties of county administrators.

2 3314. Directors of assisted outpatient treatment programs.

3 3315. Assisted outpatient treatment program.

4 § 3311. Definitions.

5 The following words and phrases when used in this subchapter
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Assisted outpatient" or "patient." A person under a court
9 order to receive assisted outpatient treatment.

10 "Assisted outpatient treatment." Any of the following
11 categories of outpatient services which have been ordered by the
12 court pursuant to section 3315 (relating to assisted outpatient
13 treatment program):

14 (1) Case management services or assertive community
15 treatment team services to provide care coordination.

16 (2) Medication.

17 (3) Periodic blood tests or urinalysis to determine
18 compliance with prescribed medications.

19 (4) Individual or group therapy.

20 (5) Day or partial programming activities.

21 (6) Educational and vocational training or activities.

22 (7) Alcohol or substance abuse treatment and counseling
23 and periodic tests for the presence of alcohol or illegal
24 drugs for persons with a history of alcohol or substance
25 abuse.

26 (8) Supervision of living arrangements.

27 (9) Any other services within an individualized
28 treatment plan developed pursuant to section 3126 (relating
29 to individualized treatment plan) prescribed to treat the
30 person's mental illness and to assist the person in living

1 and functioning in the community, or to attempt to prevent a
2 relapse or deterioration that may reasonably be predicted to
3 result in suicide or the need for hospitalization.

4 "Assisted outpatient treatment program" or "program." A
5 system to do all of the following:

6 (1) Arrange for and coordinate the provision of assisted
7 outpatient treatment.

8 (2) Monitor treatment compliance by assisted
9 outpatients.

10 (3) Evaluate the condition or needs of assisted
11 outpatients.

12 (4) Take appropriate steps to address the needs of
13 assisted outpatients.

14 (5) Ensure compliance with court orders.

15 "Director." The director of a hospital licensed or operated
16 by the department who operates, directs and supervises an
17 assisted outpatient treatment program, or the county
18 administrator who operates, directs and supervises an assisted
19 outpatient treatment program.

20 "Program coordinator." An individual appointed under section
21 3312 (relating to program coordinators to be appointed) who is
22 responsible for the oversight and monitoring of assisted
23 outpatient treatment programs.

24 "Secretary." The Secretary of Public Welfare of the
25 Commonwealth.

26 "Subject of the petition" or "subject." A person who is
27 alleged in a petition, filed pursuant to the provisions of
28 section 3315 (relating to assisted outpatient treatment
29 program), to meet the criteria for assisted outpatient
30 treatment.

1 § 3312. Program coordinators to be appointed.

2 (a) Duty of secretary.--The secretary shall appoint program
3 coordinators of assisted outpatient treatment who shall be
4 responsible for the oversight and monitoring of assisted
5 outpatient treatment programs established pursuant to section
6 3315 (relating to assisted outpatient treatment program). County
7 administrators shall work in conjunction with the program
8 coordinators to coordinate the implementation of assisted
9 outpatient treatment programs.

10 (b) Oversight and monitoring duties.--The program
11 coordinator shall oversee and monitor the assistant outpatient
12 treatment program to ensure that each of the following occur:

13 (1) Each assisted outpatient receives the treatment
14 provided for in the court order issued pursuant to section
15 3315.

16 (2) Existing services located in the assisted
17 outpatient's community are utilized whenever practicable.

18 (3) A case manager or assertive community treatment team
19 is designated for each assisted outpatient.

20 (4) A mechanism exists for a case manager or assertive
21 community treatment team to regularly report the assisted
22 outpatient's compliance or lack of compliance with treatment
23 to the director of the assisted outpatient treatment program.

24 (5) Assisted outpatient treatment services are delivered
25 in a timely manner.

26 (c) Standards to be developed.--The secretary shall develop
27 standards designed to ensure that case managers or assertive
28 community treatment teams have appropriate training and have
29 clinically manageable caseloads designed to provide effective
30 case management or other care coordination services for persons

1 subject to a court order under section 3315.

2 (d) Corrective action to be taken.--Upon review or receiving
3 notice that services are not being delivered in a timely manner,
4 the program coordinator shall require the director of the
5 assisted outpatient treatment program to immediately commence
6 corrective action and inform the program coordinator of the
7 corrective action taken. Failure of a director to take
8 corrective action shall be reported by the program coordinator
9 to the secretary as well as to the court which ordered the
10 assisted outpatient treatment.

11 § 3313. Duties of county administrators.

12 Each county administrator shall be responsible for the filing
13 of petitions for assisted outpatient treatment pursuant to
14 section 3315 (relating to assisted outpatient treatment
15 program), for the receipt and investigation of reports of
16 persons who are alleged to be in need of that treatment and for
17 coordinating the delivery of court-ordered services with program
18 coordinators appointed by the secretary pursuant to section
19 3312(a) (relating to program coordinators to be appointed). In
20 discharge of the duties imposed by section 3315, directors of
21 community services may provide services directly, coordinate
22 services with the offices of the secretary or contract with any
23 public or private provider to provide services for assisted
24 outpatient treatment programs as may be necessary to carry out
25 the duties imposed pursuant to this subchapter.

26 § 3314. Directors of assisted outpatient treatment programs.

27 (a) General duties.--The following shall apply:

28 (1) Directors of assisted outpatient treatment programs
29 established pursuant to section 3315 (relating to assisted
30 outpatient treatment program) shall provide a written report

1 to the program coordinators, appointed by the secretary
2 pursuant to section 3312 (a) (relating to program coordinators
3 to be appointed), within three days of the issuance of a
4 court order. The report shall demonstrate that mechanisms are
5 in place to ensure the delivery of services and medications
6 as required by the court order and shall include, but not be
7 limited to, the following:

8 (i) A copy of the court order.

9 (ii) A copy of the written treatment plan.

10 (iii) The identity of the case manager or assertive
11 community treatment team, including the name and contact
12 data of the organization which the case manager or
13 assertive community treatment team member represents.

14 (iv) The identity of providers of services.

15 (v) The date on which services have commenced or
16 will commence.

17 (2) The directors of assisted outpatient treatment
18 programs shall ensure the timely delivery of services
19 described in section 3315 pursuant to any court order issued
20 under that section. Directors of assisted outpatient
21 treatment programs shall immediately commence corrective
22 action upon receiving notice from program coordinators that
23 services are not being provided in a timely manner and the
24 directors shall inform the program coordinator of the
25 corrective action taken.

26 (b) Quarterly reports to program coordinators.--A director
27 of assisted outpatient treatment programs shall submit quarterly
28 reports to the program coordinators regarding the assisted
29 outpatient treatment program operated or administered by the
30 director. The report shall include the following information:

1 (1) The names of individuals served by the program.

2 (2) The percentage of petitions for assisted outpatient
3 treatment that are granted by the court.

4 (3) Any change in status of assisted outpatients,
5 including, but not limited to, the number of individuals who
6 have failed to comply with court-ordered assisted outpatient
7 treatment.

8 (4) A description of material changes in written
9 treatment plans of assisted outpatients.

10 (5) Any change in case managers.

11 (6) A description of the categories of services which
12 have been ordered by the court.

13 (7) Living arrangements of individuals served by the
14 program including the number if any, who are homeless.

15 (8) Any other information as required by the secretary.

16 (9) Any recommendations to improve the program Statewide
17 or locally.

18 § 3315. Assisted outpatient treatment program.

19 (a) Director to obtain approval from secretary.--A director
20 may operate, direct and supervise an assisted outpatient
21 treatment program as provided in this section upon approval by
22 the secretary. The county administrator shall operate, direct
23 and supervise an assisted outpatient treatment program as
24 provided in this section upon approval by the secretary. County
25 administrators shall be permitted to satisfy the provisions of
26 this subchapter through the operation of joint assisted
27 outpatient treatment programs. Nothing in this subchapter shall
28 be construed to preclude the combination or coordination of
29 efforts between and among counties and hospitals in providing
30 and coordinating assisted outpatient treatment.

1 (b) Criteria for assisted outpatient treatment.--A patient
2 may be ordered to obtain assisted outpatient treatment if the
3 court finds all of the following:

4 (1) The patient is 18 years of age or older.

5 (2) The patient is suffering from a mental illness.

6 (3) The patient is unlikely to survive safely in the
7 community without supervision, based on a clinical
8 determination.

9 (4) The patient has a history of lack of compliance with
10 treatment for mental illness that has:

11 (i) at least twice within the preceding 36 months
12 been a significant factor in necessitating
13 hospitalization or receipt of services in a forensic or
14 other mental health unit of a correctional facility, not
15 including any period during which the person was
16 hospitalized or imprisoned immediately preceding the
17 filing of the petition; or

18 (ii) resulted in one or more acts of serious violent
19 behavior toward self or others or threats of, or attempts
20 at, serious physical harm to self or others within the
21 preceding 48 months, not including any period in which
22 the person was hospitalized or imprisoned immediately
23 preceding the filing of the petition.

24 (5) The patient is, as a result of the patient's mental
25 illness, unlikely to voluntarily participate in the
26 recommended treatment pursuant to the treatment plan.

27 (6) In view of the patient's treatment history and
28 current behavior, the patient is in need of assisted
29 outpatient treatment in order to prevent a relapse or
30 deterioration which would be likely to pose a clear and

1 present danger of harm to self or others as determined under
2 section 3301 (relating to persons who may be subject to
3 involuntary emergency examination and treatment).

4 (7) It is likely that the patient will benefit from
5 assisted outpatient treatment.

6 (c) Petition to the court.--The following shall apply:

7 (1) A petition for an order authorizing assisted
8 outpatient treatment may be filed in the court of common
9 pleas of the county in which the subject of the petition is
10 present or reasonably believed to be present. A petition to
11 obtain an order authorizing assisted outpatient treatment may
12 be initiated only by the following persons:

13 (i) a person 18 years of age or older with whom the
14 subject of the petition resides;

15 (ii) the parent, spouse, sibling 18 years of age or
16 older, or child 18 years of age or older of the subject
17 of the petition;

18 (iii) the director of the facility in which the
19 subject of the petition is hospitalized;

20 (iv) the director of any public or charitable
21 organization, agency or home providing mental health
22 services to the subject of the petition in whose
23 institution the subject of the petition resides;

24 (v) a licensed psychiatrist who is either
25 supervising the treatment of or treating the subject of
26 the petition for a mental illness;

27 (vi) the county administrator or his designee; or

28 (vii) a parole officer or probation officer assigned
29 to supervise the subject of the petition.

30 (2) The petition shall state:

1 (i) Each of the criteria for assisted outpatient
2 treatment as set forth in subsection (b).

3 (ii) The facts which support the petitioner's belief
4 that the person who is the subject of the petition meets
5 each criterion, provided that the hearing on the petition
6 need not be limited to the stated facts.

7 (iii) That the subject of the petition is present,
8 or is reasonably believed to be present, within the
9 county where the petition is filed.

10 (3) The petition shall be accompanied by an affirmation
11 or affidavit of a physician, who shall not be the petitioner,
12 and shall state either that:

13 (i) The physician has personally examined the person
14 who is the subject of the petition not more than ten days
15 prior to the submission of the petition, recommends
16 assisted outpatient treatment for the subject of the
17 petition and is willing and able to testify at the
18 hearing on the petition.

19 (ii) Not more than ten days prior to the filing of
20 the petition, the physician or his designee has made
21 appropriate attempts to elicit the cooperation of the
22 subject of the petition, but has not been successful in
23 persuading the subject to submit to an examination, that
24 the physician has reason to suspect that the subject of
25 the petition meets the criteria for assisted outpatient
26 treatment and that the physician is willing and able to
27 examine the subject of the petition and testify at the
28 hearing on the petition.

29 (d) Right to counsel.--The subject of the petition shall
30 have the right to be represented by counsel at all stages of a

1 proceeding commenced under this section. The subject of the
2 petition shall be represented either by counsel of his selection
3 or, if unrepresented and unable to afford counsel as determined
4 by the court, by court-appointed counsel.

5 (e) Hearing.--The following shall apply:

6 (1) Upon receipt by the court of the petition submitted
7 pursuant to subsection (c), the court shall fix the date for
8 a hearing at a time not later than three days from the date
9 the petition is received by the court, excluding Saturdays,
10 Sundays and holidays. Adjournments shall be permitted only
11 for good cause. In granting adjournments, the court shall
12 consider the need for further examination by a physician or
13 the potential need to provide assisted outpatient treatment
14 expeditiously.

15 (2) The court shall cause the subject of the petition,
16 the petitioner, the physician whose affirmation or affidavit
17 accompanied the petition, the appropriate director and such
18 other persons as the court may determine to be advised. The
19 subject of the petition shall have the opportunity to
20 provide, in writing, names and parties to be notified of the
21 hearing which shall be considered by the court.

22 (3) Upon the date for the hearing, or upon such other
23 date to which the proceeding may be adjourned, the court
24 shall hear testimony and, if it be deemed advisable and the
25 subject of the petition is available, examine the subject
26 alleged to be in need of assisted outpatient treatment in or
27 out of court.

28 (4) If the subject of the petition does not appear at
29 the hearing and appropriate attempts to elicit the attendance
30 of the subject have failed, the court may conduct the hearing

1 in the subject's absence. If the hearing is conducted without
2 the subject of the petition present, the court shall set
3 forth the factual basis for conducting the hearing without
4 the presence of the subject of the petition.

5 (5) The court may not order assisted outpatient
6 treatment unless an examining physician who has personally
7 examined the subject of the petition within the time period
8 commencing ten days before the filing of the petition
9 testifies in person at the hearing.

10 (6) If the subject of the petition has refused to be
11 examined by a physician, the court may request the subject to
12 consent to an examination by a physician appointed by the
13 court. If the subject of the petition does not consent and
14 the court finds reasonable cause to believe that the
15 allegations in the petition are true, the court may order law
16 enforcement officers or the sheriff's department to take the
17 subject of the petition into custody and transport the
18 subject to a hospital for examination by a physician.
19 Retention of the subject of the petition under the order
20 shall not exceed 24 hours.

21 (7) The examination of the subject of the petition may
22 be performed by the physician whose affirmation or affidavit
23 accompanied the petition, if the physician is privileged by
24 the hospital or otherwise authorized by the hospital to do
25 so. If the examination is performed by another physician of
26 the hospital, the examining physician shall be authorized to
27 consult with the physician whose affirmation or affidavit
28 accompanied the petition regarding the issues of whether the
29 allegations in the petition are true and whether the subject
30 meets the criteria for assisted outpatient treatment.

1 (8) (i) A physician who testifies pursuant to paragraph
2 (5) shall state all of the following:

3 (A) The facts which support the allegation that
4 the subject meets each of the criteria for assisted
5 outpatient treatment.

6 (B) That the treatment is the least restrictive
7 alternative.

8 (C) The recommended assisted outpatient
9 treatment and the rationale for the recommended
10 assisted outpatient treatment.

11 (ii) If the recommended assisted outpatient
12 treatment includes medication, the physician's testimony
13 shall describe the types or classes of medication which
14 should be authorized, describe the beneficial and
15 detrimental physical and mental effects of the medication
16 and recommend whether the medication should be self-
17 administered or administered by authorized personnel.

18 (9) The subject of the petition shall be afforded an
19 opportunity to present evidence, to call witnesses on behalf
20 of the subject and to cross-examine adverse witnesses.

21 (f) Written individualized treatment plan.--The following
22 shall apply:

23 (1) (i) The court may not order assisted outpatient
24 treatment unless an examining physician appointed by the
25 appropriate director develops and provides to the court a
26 proposed written individualized treatment plan. The
27 written individualized treatment plan shall include case
28 management services or assertive community treatment
29 teams to provide care coordination and all categories of
30 services which the physician recommends that the subject

1 of the petition should receive.

2 (ii) If the written individualized treatment plan
3 includes medication, it shall state whether the
4 medication should be self-administered or administered by
5 authorized personnel and shall specify type and dosage
6 range of medication most likely to provide maximum
7 benefit for the subject.

8 (iii) If the written individualized treatment plan
9 includes alcohol or substance abuse counseling and
10 treatment, the plan may include a provision requiring
11 relevant testing for either alcohol or illegal
12 substances, provided the physician's clinical basis for
13 recommending the plan provides sufficient facts for the
14 court to find:

15 (A) That the person has a history of alcohol or
16 substance abuse that is clinically related to the
17 mental illness.

18 (B) That the testing is necessary to prevent a
19 relapse or deterioration which would be likely to
20 result in serious harm to the person or others.

21 (iv) In developing the plan, the physician shall
22 provide the following persons with an opportunity to
23 actively participate in the development of the plan:

24 (A) the subject of the petition;

25 (B) the treating physician; and

26 (C) upon the request of the patient, an
27 individual significant to the patient including any
28 relative, close friend or individual otherwise
29 concerned with the welfare of the patient.

30 If the petitioner is a director, the plan shall be

1 provided to the court no later than the date of the
2 hearing on the petition.

3 (2) The court shall not order assisted outpatient
4 treatment unless a physician testifies to explain the written
5 proposed treatment plan. The testimony shall state:

6 (i) The categories of assisted outpatient treatment
7 recommended.

8 (ii) The rationale for each category.

9 (iii) Facts which establish that the treatment is
10 the least restrictive alternative.

11 (iv) If the recommended assisted outpatient
12 treatment includes medication, the types or classes of
13 medication recommended, the beneficial and detrimental
14 physical and mental effects of the medication and whether
15 the medication should be self-administered or
16 administered by an authorized professional.

17 If the petitioner is a director, the testimony shall be given
18 at the hearing on the petition.

19 (g) Disposition.--The following shall apply:

20 (1) If after hearing all relevant evidence the court
21 finds that the subject of the petition does not meet the
22 criteria for assisted outpatient treatment, the court shall
23 dismiss the petition.

24 (2) If after hearing all relevant evidence the court
25 finds by clear and convincing evidence that the subject of
26 the petition meets the criteria for assisted outpatient
27 treatment and there is no appropriate and feasible less
28 restrictive alternative, the court shall order the subject to
29 receive assisted outpatient treatment for an initial period
30 not to exceed six months. In fashioning the order, the court

1 shall specifically make findings by clear and convincing
2 evidence that the proposed treatment is the least restrictive
3 treatment appropriate and feasible for the subject. The order
4 shall state the categories of assisted outpatient treatment
5 which the subject is to receive. The court may not order
6 treatment that has not been recommended by the examining
7 physician and included in the written treatment plan for
8 assisted outpatient treatment as required by subsection (f).

9 (3) If after hearing all relevant evidence the court
10 finds by clear and convincing evidence that the subject of
11 the petition meets the criteria for assisted outpatient
12 treatment and the court has yet to be provided with a written
13 individualized treatment plan and testimony pursuant to
14 subsection (f), the court shall order the county
15 administrator to provide the court with the plan and
16 testimony no later than the third day, excluding Saturdays,
17 Sundays and holidays, immediately following the date of the
18 order. Upon receiving the plan and testimony, the court may
19 order assisted outpatient treatment as provided in paragraph
20 (2).

21 (4) A court may order the patient to self-administer
22 psychotropic drugs or accept the administration of the drugs
23 by authorized personnel as part of an assisted outpatient
24 treatment program. The order may specify the type and dosage
25 range of psychotropic drugs and shall be effective for the
26 duration of the assisted outpatient treatment.

27 (5) If the petitioner is the director of a hospital that
28 operates an assisted outpatient treatment program, the court
29 order shall direct the hospital director to provide or
30 arrange for all categories of assisted outpatient treatment

1 for the assisted outpatient throughout the period of the
2 order. For all other persons, the order shall require the
3 director of community services of the appropriate local
4 governmental unit to provide or arrange for all categories of
5 assisted outpatient treatment for the assisted outpatient
6 throughout the period of the order.

7 (6) The director or his designee shall apply to the
8 court for approval before instituting a proposed material
9 change in the assisted outpatient treatment order, unless the
10 change is contemplated in the order. Nonmaterial changes may
11 be instituted by the assisted outpatient treatment program
12 without court approval. For the purposes of this paragraph, a
13 material change shall mean an addition or deletion of a
14 category of assisted outpatient treatment from the order of
15 the court or any deviation without the patient's consent from
16 the terms of an existing order relating to the administration
17 of psychotropic drugs.

18 (h) Applications for additional periods of treatment.--If
19 the director determines that the condition of the patient
20 requires further assisted outpatient treatment, the director
21 shall apply prior to the expiration of the period of assisted
22 outpatient treatment ordered by the court for a second or
23 subsequent order authorizing continued assisted outpatient
24 treatment for a period of not more than one year from the date
25 of the order. The procedures for obtaining any order pursuant to
26 this subsection shall be in accordance with this section,
27 provided that the time period included in subsection (b) (4) (i)
28 and (ii) shall not be applicable in determining the
29 appropriateness of additional periods of assisted outpatient
30 treatment. Any court order requiring periodic blood tests or

1 urinalysis for the presence of alcohol or illegal drugs shall be
2 subject to review after six months by the physician who
3 developed the written individualized treatment plan or another
4 physician designated by the director and the physician shall be
5 authorized to terminate the blood tests or urinalysis without
6 further action by the court.

7 (i) Application for order to stay, vacate or modify.--In
8 addition to any other right or remedy available by law with
9 respect to the order for assisted outpatient treatment, the
10 patient, the patient's counsel or anyone acting on the patient's
11 behalf may apply, on notice to the appropriate director and the
12 original petitioner, to the court to stay, vacate or modify the
13 order.

14 (j) Appeals.--Review of an order issued pursuant to this
15 section shall be conducted in the same manner as specified in
16 section 3303 (relating to extended involuntary emergency
17 treatment).

18 (k) Failure to comply with the assisted outpatient
19 treatment.--The following shall apply:

20 (1) (i) Where, in the clinical judgment of a physician,
21 the assisted outpatient has failed or refused to comply
22 with the assisted outpatient treatment and efforts were
23 made to solicit compliance and the assisted outpatient
24 may be in need of involuntary admission to a hospital or
25 immediate observation, care and treatment pursuant to
26 section 3302 (relating to involuntary emergency
27 examination and treatment) or 3303, the physician may
28 request the director of community services, the
29 director's designee or any physician designated by the
30 director of community services to take the assisted

1 outpatient to an appropriate hospital for an examination
2 to determine if the assisted outpatient has a mental
3 illness for which hospitalization is necessary.

4 (ii) If the assisted outpatient refuses to take
5 medication as required by the court order or refuses to
6 take or fails a blood test, urinalysis or alcohol or drug
7 test as required by the court order, the physician may
8 consider the refusal or failure when determining whether
9 the assisted outpatient is in need of an examination to
10 determine whether the assisted outpatient has a mental
11 illness for which hospitalization is necessary.

12 (2) Upon the request of the physician, the director or
13 the director's designee may direct law enforcement officers
14 or the sheriff's department to take into custody and
15 transport the patient to the hospital operating the assisted
16 outpatient treatment program or to any hospital authorized by
17 the director of community services to receive such patients.

18 (3) (i) Upon the request of the physician, the director
19 or the director's designee, the court may authorize the
20 patient to be taken into custody and transported to the
21 hospital operating the assisted outpatient treatment
22 program or to any other hospital authorized by the county
23 administrator to receive such patients in accordance with
24 section 3306 (relating to transfer of persons in
25 involuntary treatment).

26 (ii) The patient may be retained for observation,
27 care and treatment and further examination in the
28 hospital for up to 72 hours to permit a physician to
29 determine whether the patient has a mental illness and is
30 in need of involuntary care and treatment in a hospital

1 pursuant to this part.

2 (iii) Any continued involuntary retention in the
3 hospital beyond the initial 72-hour period shall be in
4 accordance with this part relating to the involuntary
5 admission and retention of a person.

6 (iv) If at any time during the 72-hour period the
7 person is determined not to meet the involuntary
8 admission and retention provisions of this part and does
9 not agree to stay in the hospital as a voluntary or
10 informal patient, he shall be released.

11 (v) Failure to comply with an order of assisted
12 outpatient treatment shall not be grounds for involuntary
13 civil commitment or a finding of contempt of court.

14 (l) False petition.--A person making a false statement or
15 providing false information or false testimony in a petition or
16 hearing under this section is subject to criminal prosecution
17 pursuant to 18 Pa.C.S. § 4903 (relating to false swearing).

18 (m) Construction.--Nothing in this section shall be
19 construed to affect the ability of the director of a hospital to
20 receive, admit or retain patients who otherwise meet the
21 provisions of this part regarding receipt, retention or
22 admission.

23 (n) Educational materials.--The department, in consultation
24 with the county administrator, shall prepare educational and
25 training materials on this section, which shall be made
26 available to county providers of services, judges, court
27 personnel, law enforcement officials and the general public.

28 CHAPTER 34

29 DETERMINATIONS AFFECTING THOSE CHARGED

30 WITH CRIME OR UNDER SENTENCE

1 Sec.

2 3401. Examination and treatment of person charged with crime or
3 serving sentence.

4 3402. Incompetence to proceed on criminal charges.

5 3403. Incompetency hearing procedures and effect; dismissal of
6 charges.

7 3404. Determination of criminal responsibility.

8 3405. Examination of person charged with crime in aid of
9 sentencing.

10 3406. Application for court-ordered involuntary treatment.

11 3407. Voluntary treatment for person charged with crime or
12 serving sentence.

13 § 3401. Examination and treatment of person charged with crime
14 or serving sentence.

15 (a) Persons subject to civil provisions.--If a person who is
16 charged with a crime or serving a sentence is or becomes
17 mentally disabled, proceedings may be instituted under Chapter
18 32 (relating to voluntary inpatient examination and treatment)
19 or 33 (relating to involuntary examination and treatment),
20 except that the proceedings shall not affect the conditions of
21 security required by the person's criminal detention or
22 incarceration.

23 (b) Persons in United States Department of Veterans Affairs
24 facilities.--Proceedings under this section shall not be
25 initiated for examination and treatment at a United States
26 Department of Veterans Affairs facility if either of the
27 following apply:

28 (1) The examination and treatment requires the
29 preparation of competency reports.

30 (2) The facility is required to maintain custody and

1 control over the person.

2 (c) Transfer for examination and treatment.--A person who is
3 detained on criminal charges or incarcerated and made subject to
4 inpatient examination or treatment shall be transferred to a
5 mental health facility for that purpose. Transfer may be made to
6 a United States Department of Veterans Affairs facility if
7 custody or control is not required in addition to examination
8 and treatment. Individuals transferred to a United States
9 Department of Veterans Affairs facility are not subject to
10 return by the agency to the authority entitled to have them in
11 custody.

12 (d) Security provisions.--The following shall apply:

13 (1) During the period of examination and treatment,
14 provisions for the person's security shall continue to be
15 enforced, unless any of the following occurs in the interim:

16 (i) A pretrial release is effected.

17 (ii) The term of imprisonment expires or is
18 terminated.

19 (iii) It is otherwise ordered by the court having
20 jurisdiction over the person's criminal status.

21 (2) In those instances where a person is charged with
22 offenses listed in section 3304(g)(2) (relating to court-
23 ordered involuntary treatment) and the court, after the
24 hearing, deems it desirable, security equivalent to the
25 institution to which the person is incarcerated shall be
26 provided.

27 (e) Effect of discharge.--Upon discharge from treatment, a
28 person who is or remains subject to a detainer or sentence shall
29 be returned to the authority entitled to have the person in
30 custody. The period of involuntary treatment shall be credited

1 as time served on account of any sentence to be imposed on
2 pending charges or an unexpired term of imprisonment.

3 (f) Persons subject to Juvenile Act.--The provisions of
4 Chapter 33 (relating to involuntary examination and treatment)
5 which are applicable to children of the person's age shall apply
6 to all proceedings for examination and treatment of a person who
7 is subject to a petition or who has been committed under 42
8 Pa.C.S. Ch. 63 (relating to juvenile matters). If such a person
9 is in detention or is committed, the court having jurisdiction
10 under 42 Pa.C.S. Ch. 63 shall determine whether the security
11 conditions shall continue to be enforced during any period of
12 involuntary treatment and to whom the person should be released
13 thereafter.

14 § 3402. Incompetence to proceed on criminal charges.

15 (a) Person incompetent but not severely mentally disabled.--
16 Notwithstanding the provisions of Chapter 33 (relating to
17 involuntary examination and treatment), a court may order
18 involuntary treatment of a person found incompetent to proceed
19 on criminal charges who is not severely mentally disabled
20 subject to the following:

21 (1) The involuntary treatment shall not exceed 60 days.

22 (2) Involuntary treatment pursuant to this subsection
23 may be ordered only if the court is reasonably certain that
24 the involuntary treatment will provide the defendant with the
25 capacity to proceed on criminal charges.

26 (3) The court may order outpatient treatment, partial
27 hospitalization or inpatient treatment.

28 (b) Application for incompetency examination.--Application
29 to the court for an order directing an incompetency examination
30 may be presented by any of the following:

- 1 (1) An attorney for the Commonwealth.
2 (2) A person charged with a crime.
3 (3) Counsel to a person charged with a crime.
4 (4) The warden or other official in charge of the
5 institution or place in which the person is detained.

6 (c) Hearing.--The following shall apply:

7 (1) The court, either upon an application under
8 subsection (b) or on its own motion, may order an
9 incompetency examination at any stage in the proceedings and
10 may do so without a hearing unless the person charged with a
11 crime or the person's counsel objects to the examination.

12 (2) If the person or the person's counsel objects to the
13 examination, an examination shall be ordered only after
14 determination at a hearing that there is a prima facie
15 question of incompetency.

16 (d) Conduct of examination; report.--When the court orders
17 an incompetency examination:

18 (1) The examination shall be conducted:

19 (i) as an outpatient examination unless an inpatient
20 examination is, or has been, authorized under another
21 provision of this part; and

22 (ii) by at least one licensed psychiatrist or
23 licensed psychologist and may relate both to competency
24 to proceed on criminal charges and to criminal
25 responsibility for the crime charged.

26 (2) The person shall be entitled to have counsel present
27 and may not be required to answer any questions or to perform
28 tests unless the person has moved for or agreed to the
29 examination. Nothing said or done by the person during the
30 examination may be used as evidence against the person in any

1 criminal proceedings on any issue other than that of the
2 person's mental condition.

3 (3) A report shall be submitted to the court and counsel
4 for the person and shall contain a description of the
5 examination, which shall include all of the following:

6 (i) Diagnosis of the person's mental condition.

7 (ii) An opinion as to the person's capacity to
8 understand the nature and object of the criminal
9 proceedings against the person and to assist in the
10 person's own defense.

11 (iii) When so requested, an opinion as to the
12 person's mental condition in relation to the standards
13 for criminal responsibility as then provided by law if it
14 appears that the facts concerning the person's mental
15 condition may also be relevant to the question of legal
16 responsibility.

17 (iv) When so requested, an opinion as to whether the
18 person had the capacity to have a particular state of
19 mind, where such state of mind is a required element of
20 the criminal charge.

21 (e) Experts.--The court may allow a licensed psychiatrist or
22 licensed psychologist retained by the person and a licensed
23 psychiatrist or licensed psychologist retained by the
24 Commonwealth to witness and participate in the examination of
25 the person. Whenever a person who is financially unable to
26 retain such expert has a substantial objection to the
27 conclusions reached by the court-appointed licensed psychiatrist
28 or licensed psychologist, the court shall allow reasonable
29 compensation for the employment of a licensed psychiatrist or
30 licensed psychologist of the person's selection, which amount

1 shall be chargeable against the mental health and intellectual
2 disability program of the locality.

3 (f) Time limit on determination.--The determination of the
4 competency of a person who is detained under a criminal charge
5 shall be rendered by the court within 20 days after the receipt
6 of the report of examination unless the hearing was continued at
7 the person's request.

8 § 3403. Incompetency hearing procedures and effect and
9 dismissal of charges.

10 (a) Standard and burden of proof.--Except for an
11 incompetency examination ordered by the court on its own motion
12 as provided for in section 3402(c) (relating to incompetence to
13 proceed on criminal charges), the individual making an
14 application to the court for an order directing an incompetency
15 examination shall have the burden of establishing incompetency
16 to proceed by a preponderance of the evidence. Upon completion
17 of the examination, a determination of incompetency shall be
18 made by the court where incompetency is established by a
19 preponderance of the evidence.

20 (b) Stay of proceedings.--A determination of incompetency to
21 proceed on criminal charges shall effect a stay of the
22 prosecution for so long as the incompetency persists, subject to
23 the following exceptions:

24 (1) Any legal objections suitable for determination
25 prior to trial and without the personal participation of the
26 person charged may be raised and decided in the interim.

27 (2) Except in cases of first and second degree murder,
28 in no instance shall the proceedings be stayed for a period
29 in excess of the maximum sentence of confinement that may be
30 imposed for any crime charged or ten years, whichever is

1 less.

2 (3) In cases of a charge of first or second degree
3 murder, there shall be no limit on the period during which
4 proceedings may be stayed.

5 (c) Right to counsel.--A person who is determined to be
6 incompetent to proceed on criminal charges shall have a
7 continuing right to counsel so long as the criminal charges are
8 pending.

9 (d) Periodic reexamination.--Following a determination of
10 incompetence to proceed on criminal charges, the person charged
11 shall be reexamined not less than every 90 days by a licensed
12 psychiatrist appointed by the court. A report of reexamination
13 shall be submitted to the court and counsel for the person.

14 (e) Effect on criminal detention.--A determination that a
15 person is incompetent to proceed on criminal charges shall
16 affect criminal detention as follows:

17 (1) Incompetency to proceed on criminal charges is not
18 sufficient reason on its own to deny the person pretrial
19 release.

20 (2) The person shall not be detained on the criminal
21 charge longer than the reasonable period of time necessary to
22 determine whether there is a substantial probability that the
23 person will attain competency in the foreseeable future.

24 (3) If the court determines there is no substantial
25 probability that the person will attain competency, it shall
26 discharge the person.

27 (4) A person may continue to be criminally detained so
28 long as such substantial probability exists that the person
29 will attain competency, but in no event longer than the
30 period of time specified in subsection (b).

1 (f) Resumption of proceedings or dismissal.--When the court,
2 on its own motion or upon the application of the attorney for
3 the Commonwealth or counsel for the person, determines that the
4 person has regained his competency to proceed on criminal
5 charges, the proceedings shall be resumed. If the court is of
6 the opinion that by reason of the passage of time and its effect
7 upon the criminal proceedings it would be unjust to resume the
8 prosecution, the court may dismiss the charge and order the
9 person discharged.

10 (g) Reexamination following discharge.--If the person is
11 discharged pursuant to subsection (e), but the charges remain
12 open pursuant to subsection (b)(2) and (3), the following shall
13 apply:

14 (1) The court discharging the person shall, on its own
15 motion or on the motion of the Commonwealth or on the motion
16 of the defense, order the person to submit to a psychiatric
17 examination every 12 months after the discharge of the
18 person, to determine whether the person has become competent
19 to proceed to trial.

20 (2) If the examination under paragraph (1) reveals that
21 the person has regained competency to proceed, a hearing
22 shall be scheduled, after which the court shall determine
23 whether the person is competent to proceed on criminal
24 charges.

25 (3) If the person is adjudged competent, then trial
26 shall commence within 90 days of the adjudication.

27 (4) If the examination under paragraph (1) reveals that
28 the person is incompetent to proceed, the court shall order
29 the person to submit to a new competency examination in 12
30 months.

1 § 3404. Determination of criminal responsibility.

2 (a) Criminal responsibility determination by court.--At a
3 hearing under section 3403 (relating to incompetence hearing
4 procedures and effect and dismissal of charges) the court may
5 also hear evidence on whether the person was criminally
6 responsible for the commission of the crime charged, in
7 accordance with the rules governing the consideration and
8 determination of the same issue at criminal trial. If the person
9 is found to have lacked criminal responsibility, an acquittal
10 shall be entered. If the person is not so acquitted, the person
11 may raise the defense at such time as the person may be tried.

12 (b) Opinion evidence on mental condition.--At a hearing
13 under section 3403 or upon trial, a licensed psychiatrist or
14 licensed psychologist appointed by the court may be called as a
15 witness by the attorney for the Commonwealth or by the
16 defense. Each party may also summon any other licensed
17 psychiatrist or licensed psychologist or other expert to
18 testify.

19 (c) Bifurcation of issues or trial.--Upon trial and in the
20 interest of justice, the court may direct that the issue of
21 criminal responsibility be heard and determined separately from
22 the other issues in the case and, in a trial by jury, that the
23 issue of criminal responsibility be submitted to a separate
24 jury. Upon a request for bifurcation, the court shall consider
25 the substantiality of the defense of lack of responsibility, its
26 effect upon other defenses and the probability of a fair trial.

27 § 3405. Examination of person charged with crime in aid of
28 sentencing.

29 (a) Examination before sentencing.--If a person who has been
30 criminally charged is to be sentenced, the court may defer

1 sentence and order the person to be examined for mental illness
2 to aid in the determination of disposition.

3 (b) Application for examination.--The action under
4 subsection (a) may be taken on the court's initiative or on the
5 application of the attorney for the Commonwealth, the person
6 charged, the person's counsel or any other person acting in the
7 person's interest.

8 (c) Type of examination,.--If at the time of sentencing the
9 person is not in detention, examination shall be on an
10 outpatient basis unless inpatient examination for this purpose
11 is ordered pursuant to Chapter 33 (relating to involuntary
12 examination and treatment).

13 § 3406. Application for court-order involuntary treatment.

14 The attorney for the Commonwealth, the defendant, the
15 defendant's counsel, the county administrator or any other
16 interested party may petition the same court for an order
17 directing involuntary treatment under section 3304 (relating to
18 court-ordered involuntary treatment) after the occurrence of any
19 of the following:

20 (1) A finding of incompetency to proceed on criminal
21 charges under section 3403 (relating to incompetency hearing
22 procedures and effect and dismissal of charges).

23 (2) An acquittal by reason of lack of criminal
24 responsibility under section 3404 (relating to determination
25 of criminal responsibility).

26 (3) An examination in aid of sentencing under section
27 3405 (relating to examination of person charged with crime
28 in aid of sentencing).

29 § 3407. Voluntary treatment of person charged with crime or
30 servicing sentence.

1 (a) Certification of need.--Whether in lieu of bail or
2 serving a sentence, a person in criminal detention who believes
3 that the person is in need of treatment and substantially
4 understands the nature of voluntary treatment may submit to
5 examination and treatment under this part, subject to the
6 following certification requirements:

7 (1) At least one physician shall certify the necessity
8 of treatment and that treatment cannot be adequately provided
9 at the prison or correctional facility where the person then
10 is detained.

11 (2) The physician's certificate shall set forth the
12 specific grounds that make transfer to a mental health
13 facility necessary.

14 (3) The correctional facility shall secure a written
15 acceptance of the person for inpatient treatment from the
16 mental health facility and shall forward the acceptance to
17 the court.

18 (b) Independent examination.--Before any inmate of a prison
19 or correctional facility may be transferred to a mental health
20 facility for the purpose of examination and treatment, the
21 correctional facility shall notify the district attorney, who
22 shall be given up to 14 days after receipt of notification to
23 conduct an independent examination of the defendant.

24 (c) Court review and approval.--The court shall review the
25 certification of the physician that the transfer is necessary
26 and the recommendation of the physician for the Commonwealth and
27 either approve or disapprove the transfer, subject to subsection

28 (d) and the following conditions:

29 (1) The court may request any other information it needs
30 concerning the necessity of the transfer.

1 (2) Where possible, the sentencing judge shall preside.

2 (d) Hearing.--Upon the motion of the district attorney, a
3 hearing shall be held on the question of the voluntary treatment
4 of a person charged with a crime or serving a sentence.

5 (e) Reports.--A report of the person's mental condition
6 shall be made by the mental health facility to the court within
7 30 days of the person's transfer to the facility. The report
8 shall also set forth the specific grounds which require
9 continued treatment at a mental health facility. After the
10 initial report, the facility shall thereafter report to the
11 court every 180 days.

12 (f) Withdrawal from treatment.--If, at any time, the person
13 gives notice of intent to withdraw from treatment at the mental
14 health facility, the person shall be returned to the authority
15 entitled to have the person in custody, or proceedings may be
16 initiated under section 3304 (relating to court-ordered
17 involuntary treatment). During the pendency of any petition
18 filed under section 3304 concerning a person in treatment under
19 this section, the mental health facility shall have authority to
20 detain the person regardless of the provisions of section 3203
21 (relating to explanation and consent), provided that the hearing
22 under section 3304 is conducted within seven days of the time
23 the person gives notice of his intent to withdraw from
24 treatment.

25 (g) Time served.--The period of voluntary treatment under
26 this section shall be credited as time served on account of any
27 sentence to be imposed on pending charges or an unexpired term
28 of imprisonment.

29 Section 2. Sections 6105(c) (4), 6109(i.1) and 6111.1(f), (g)
30 and (k) of Title 18 are amended to read:

1 § 6105. Persons not to possess, use, manufacture, control, sell
2 or transfer firearms.

3 * * *

4 (c) Other persons.--In addition to any person who has been
5 convicted of any offense listed under subsection (b), the
6 following persons shall be subject to the prohibition of
7 subsection (a):

8 * * *

9 (4) A person who has been adjudicated as an incompetent
10 or who has been involuntarily committed to a mental
11 institution for inpatient care and treatment under [section
12 302, 303 or 304 of the provisions of the act of July 9, 1976
13 (P.L.817, No.143), known as the Mental Health Procedures
14 Act.] 50 Pa.C.S. § 3302 (relating to involuntary emergency
15 examination and treatment), 3303 (relating to extended
16 involuntary emergency treatment), or 3304 (relating to court-
17 ordered involuntary treatment). This paragraph shall not
18 apply to any proceeding under [section 302 of the Mental
19 Health Procedures Act] 50 Pa.C.S. § 3302 unless the examining
20 physician has issued a certification that inpatient care was
21 necessary or that the person was committable.

22 * * *

23 § 6109. Licenses.

24 * * *

25 (i.1) Notice to sheriff.--Notwithstanding any statute to the
26 contrary:

27 (1) Upon conviction of a person for a crime specified in
28 section 6105(a) or (b) or upon conviction of a person for a
29 crime punishable by imprisonment exceeding one year or upon a
30 determination that the conduct of a person meets the criteria

1 specified in section 6105(c) (1), (2), (3), (5), (6) or (9),
2 the court shall determine if the defendant has a license to
3 carry firearms issued pursuant to this section. If the
4 defendant has such a license, the court shall notify the
5 sheriff of the county in which that person resides, on a form
6 developed by the Pennsylvania State Police, of the identity
7 of the person and the nature of the crime or conduct which
8 resulted in the notification. The notification shall be
9 transmitted by the judge within seven days of the conviction
10 or determination.

11 (2) Upon adjudication that a person is incompetent or
12 upon the involuntary commitment of a person to a mental
13 institution for inpatient care and treatment under [the act
14 of July 9, 1976 (P.L.817, No.143), known as the Mental Health
15 Procedures Act] 50 Pa.C.S. Pt. III (relating to mental health
16 procedures), or upon involuntary treatment of a person as
17 described under section 6105(c) (4), the judge of the court of
18 common pleas, mental health review officer or county mental
19 health and mental retardation administrator shall notify the
20 sheriff of the county in which that person resides, on a form
21 developed by the Pennsylvania State Police, of the identity
22 of the person who has been adjudicated, committed or treated
23 and the nature of the adjudication, commitment or treatment.
24 The notification shall be transmitted by the judge, mental
25 health review officer or county mental health and mental
26 retardation administrator within seven days of the
27 adjudication, commitment or treatment.

28 * * *

29 § 6111.1. Pennsylvania State Police.

30 * * *

1 (f) Notification of mental health adjudication, treatment,
2 commitment, drug use or addiction.--

3 (1) Notwithstanding any statute to the contrary, judges
4 of the courts of common pleas shall notify the Pennsylvania
5 State Police, on a form developed by the Pennsylvania State
6 Police, of:

7 (i) the identity of any individual who has been
8 adjudicated as an incompetent or as a mental defective or
9 who has been involuntarily committed to a mental
10 institution under the [act of July 9, 1976 (P.L.817,
11 No.143), known as the Mental Health Procedures Act] 50
12 Pa.C.S. Pt. III (relating to mental health procedures),
13 or who has been involuntarily treated as described in
14 section 6105(c) (4) (relating to persons not to possess,
15 use, manufacture, control, sell or transfer firearms) or
16 as described in 18 U.S.C. § 922(g) (4) (relating to
17 unlawful acts) and its implementing Federal regulations;
18 and

19 (ii) any finding of fact or court order related to
20 any person described in 18 U.S.C. § 922(g) (3).

21 (2) The notification shall be transmitted by the judge
22 to the Pennsylvania State Police within seven days of the
23 adjudication, commitment or treatment.

24 (3) Notwithstanding any law to the contrary, the
25 Pennsylvania State Police may disclose, electronically or
26 otherwise, to the United States Attorney General or a
27 designee, any record relevant to a determination of whether a
28 person is disqualified from possessing or receiving a firearm
29 under 18 U.S.C. § 922 (g) (3) or (4) or an applicable state
30 statute.

1 (g) Review by court.--

2 (1) Upon receipt of a copy of the order of a court of
3 competent jurisdiction which vacates a final order or an
4 involuntary certification issued by a mental health review
5 officer, the Pennsylvania State Police shall expunge all
6 records of the involuntary treatment received under
7 subsection (f).

8 (2) A person who is involuntarily committed pursuant to
9 [section 302 of the Mental Health Procedures Act] 50 Pa.C.S.
10 § 3302 (relating to involuntary emergency examination and
11 treatment) may petition the court to review the sufficiency
12 of the evidence upon which the commitment was based. If the
13 court determines that the evidence upon which the involuntary
14 commitment was based was insufficient, the court shall order
15 that the record of the commitment submitted to the
16 Pennsylvania State Police be expunged. A petition filed under
17 this subsection shall toll the 60-day period set forth under
18 section 6105(a)(2).

19 (3) The Pennsylvania State Police shall expunge all
20 records of an involuntary commitment of an individual who is
21 discharged from a mental health facility based upon the
22 initial review by the physician occurring within two hours of
23 arrival under [section 302(b) of the Mental Health Procedures
24 Act] 50 Pa.C.S. § 3302(b) and the physician's determination
25 that no severe mental disability existed pursuant to [section
26 302(b) of the Mental Health Procedures Act] 50 Pa.C.S. §
27 3302(b). The physician shall provide signed confirmation of
28 the determination of the lack of severe mental disability
29 following the initial examination under [section 302(b) of
30 the Mental Health Procedures Act] 50 Pa.C.S. § 3302(b) to the

1 Pennsylvania State Police.

2 * * *

3 (k) Definitions.--As used in this section, the following
4 words and phrases shall have the meanings given to them in this
5 subsection:

6 "Firearm." The term shall have the same meaning as in
7 section 6111.2 (relating to firearm sales surcharge).

8 "Physician." Any licensed psychiatrist, or clinical
9 psychologist as defined in [the act of July 9, 1976 (P.L.817,
10 No.143), known as the Mental Health Procedures Act] 50 Pa.C.S.
11 Pt. III (relating to mental health procedures).

12 Section 3. Sections 5463(f), 5822(a), 5825(b), 5826(b),
13 5832(a), 5839(b) and 5843(a) and (b) of Title 20 are amended to
14 read:

15 § 5463. Effect on other State law.

16 * * *

17 (f) Disclosure.--The disclosure requirements of section
18 5456(d) (relating to authority of health care agent) supersede
19 any provision in any other State statute or regulation that
20 requires the principal to consent to disclosure or which
21 otherwise conflicts with section 5456(d), including, but not
22 limited to, the following:

23 (1) Section 8 of the act of April 14, 1972 (P.L.221,
24 No.63), known as the Pennsylvania Drug and Alcohol Abuse
25 Control Act.

26 (2) [Section 111 of the act of July 9, 1976 (P.L.817,
27 No.143), known as the Mental Health Procedures Act.] 50
28 Pa.C.S. §§ 3113 (relating to confidentiality of records) and
29 3116(c) (relating to reporting requirements for firearms
30 background checks).

1 (3) Section 15 of the act of October 5, 1978 (P.L.1109,
2 No.261), known as the Osteopathic Medical Practice Act.

3 (4) Section 41 of the act of December 20, 1985 (P.L.457,
4 No.112), known as the Medical Practice Act of 1985.

5 (5) Section 7 of the act of November 29, 1990 (P.L.585,
6 No.148), known as the Confidentiality of HIV-Related
7 Information Act.

8 § 5822. Execution.

9 (a) Who may make.--An individual who is at least 18 years of
10 age or an emancipated minor and has not been deemed
11 incapacitated pursuant to section 5511 (relating to petition and
12 hearing; independent evaluation) or severely mentally disabled
13 pursuant to [Article III of the act of July 9, 1976 (P.L.817,
14 No.143), known as the Mental Health Procedures Act] 50 Pa.C.S.
15 Ch. 33 (relating to involuntary examination and treatment), may
16 make a declaration governing the initiation, continuation,
17 withholding or withdrawal of mental health treatment.

18 * * *

19 § 5825. Revocation.

20 * * *

21 (b) Capacity to revoke.--Subsection (a) notwithstanding,
22 during a period of involuntary commitment pursuant to [Article
23 III of the act of July 9, 1976 (P.L.817, No.143), known as the
24 Mental Health Procedures Act] 50 Pa.C.S. Ch. 33 (relating to
25 involuntary examination and treatment), a declarant may revoke
26 the declaration only if found to be capable of making mental
27 health decisions after examination by a psychiatrist and one of
28 the following: another psychiatrist, a psychologist, a family
29 physician, an attending physician or a mental health treatment
30 professional. Whenever possible, at least one of the decision

1 makers shall be a treating professional of the declarant or
2 principal.

3 * * *

4 § 5826. Amendment.

5 * * *

6 (b) Determination of capacity.--During the period of
7 involuntary treatment pursuant to [Article III of the act of
8 July 9, 1976 (P.L.817, No.143), known as the Mental Health
9 Procedures Act] 50 Pa.C.S. Ch. 33 (relating to involuntary
10 examination and treatment), a declarant may amend the
11 declaration if the individual is found to be capable of making
12 mental health decisions after examination by a psychiatrist and
13 one of the following: another psychiatrist, a psychologist,
14 family physician, attending physician or mental health treatment
15 professional. Whenever possible, at least one of the decision
16 makers shall be a treating professional of the declarant or
17 principal.

18 § 5832. Execution.

19 (a) Who may make.--An individual who is at least 18 years of
20 age or an emancipated minor and who has not been deemed
21 incapacitated pursuant to section 5511 (relating to petition and
22 hearing; independent evaluation) or found to be severely
23 mentally disabled pursuant to [Article III of the act of July 9,
24 1976 (P.L.817, No.143), known as the Mental Health Procedures
25 Act] 50 Pa.C.S. Ch. 33 (relating to involuntary examination and
26 treatment), may make a mental health power of attorney governing
27 the initiation, continuation, withholding or withdrawal of
28 mental health treatment.

29 * * *

30 § 5839. Revocation.

1 * * *

2 (b) Capacity to revoke.--Notwithstanding subsection (a),
3 during a period of involuntary commitment pursuant to [Article
4 III of the act of July 9, 1976 (P.L.817, No.143), known as the
5 Mental Health Procedures Act] 50 Pa.C.S. Ch. 33 (relating to
6 involuntary examination and treatment), a principal may revoke
7 the mental health power of attorney only if found to be capable
8 of making mental health decisions after examination by a
9 psychiatrist and one of the following: another psychiatrist, a
10 psychologist, a family physician, an attending physician or a
11 mental health treatment professional. Whenever possible, at
12 least one of the decision makers shall be a treating
13 professional of the declarant or principal.

14 * * *

15 § 5843. Construction.

16 (a) General rule.--Nothing in this subchapter shall be
17 construed to:

18 (1) Affect the requirements of other laws of this
19 Commonwealth regarding consent to observation, diagnosis,
20 treatment or hospitalization for a mental illness.

21 (2) Authorize a mental health care agent to consent to
22 any mental health care prohibited by the laws of this
23 Commonwealth.

24 (3) Affect the laws of this Commonwealth regarding any
25 of the following:

26 (i) The standard of care of a mental health care
27 provider required in the administration of mental health
28 care or the clinical decision-making authority of the
29 mental health care provider.

30 (ii) When consent is required for mental health

1 care.

2 (iii) Informed consent for mental health care.

3 (4) Affect the ability to admit a person to a mental
4 health facility under the voluntary and involuntary
5 commitment provisions of [the act of July 9, 1976 (P.L.817,
6 No.143), known as the Mental Health Procedures Act] 50
7 Pa.C.S. Pt. III (relating to mental health procedures).

8 (b) Disclosure.--

9 (1) The disclosure requirements of section 5836(e)
10 (relating to authority of mental health care agent) shall
11 supersede any provision in any other State statute or
12 regulation that requires a principal to consent to disclosure
13 or which otherwise conflicts with section 5836(e), including,
14 but not limited to, the following:

15 (i) The act of April 14, 1972 (P.L.221, No.63),
16 known as the Pennsylvania Drug and Alcohol Abuse Control
17 Act.

18 (ii) [Section 111 of the act of July 9, 1976
19 (P.L.817, No.143), known as the Mental Health Procedures
20 Act.] 50 Pa.C.S. §§ 3113 (relating to confidentiality of
21 records) and 3116(c) (relating to reporting requirements
22 for firearms background checks).

23 (iii) The act of October 5, 1978 (P.L.1109, No.261),
24 known as the Osteopathic Medical Practice Act.

25 (iv) Section 41 of the act of December 20, 1985
26 (P.L.457, No.112), known as the Medical Practice Act of
27 1985.

28 (v) The act of November 29, 1990 (P.L.585, No.148),
29 known as the Confidentiality of HIV-Related Information
30 Act.

1 (2) The disclosure requirements under section 5836(e)
2 shall not apply to the extent that the disclosure would be
3 prohibited by Federal law and implementing regulations.

4 * * *

5 Section 4. Section 5336(b) of Title 23 is amended to read:

6 § 5336. Access to records and information.

7 * * *

8 (b) Nondisclosure of confidential information.--The court
9 shall not order the disclosure of any of the following
10 information to any parent or party granted custody:

11 (1) The address of a victim of abuse.

12 (2) Confidential information from an abuse counselor or
13 shelter.

14 (3) Information protected under Chapter 67 (relating to
15 domestic and sexual violence victim address confidentiality).

16 (4) Information independently protected from disclosure
17 by the child's right to confidentiality under [the act of
18 July 9, 1976 (P.L.817, No.143), known as the Mental Health
19 Procedures Act] 50 Pa.C.S. Pt. III (relating to mental health
20 procedures), or any other statute.

21 * * *

22 Section 5. Sections 6356 and 9727 of Title 42 are amended to
23 read:

24 § 6356. Disposition of mentally ill or mentally retarded child.

25 If, at a dispositional hearing of a child found to be a
26 delinquent or at any hearing, the evidence indicates that the
27 child may be subject to commitment or detention under the
28 provisions of the act of October 20, 1966 (3rd Sp.Sess., P.L.96,
29 No.6), known as the ["Mental Health and [Mental Retardation]
30 Intellectual Disability Act of 1966,[" or [the act of July 9,

1 1976 (P.L.817, No.143), known as the "Mental Health Procedures
2 Act,"] 50 Pa.C.S. Pt. III (relating to mental health
3 procedures), the court shall proceed under the provisions of the
4 appropriate statute.

5 § 9727. Disposition of persons found guilty but mentally ill.

6 (a) Imposition of sentence.--A defendant found guilty but
7 mentally ill or whose plea of guilty but mentally ill is
8 accepted under the provisions of 18 Pa.C.S. § 314 (relating to
9 guilty but mentally ill) may have any sentence imposed on him
10 which may lawfully be imposed on any defendant convicted of the
11 same offense. Before imposing sentence, the court shall hear
12 testimony and make a finding on the issue of whether the
13 defendant at the time of sentencing is severely mentally
14 disabled and in need of treatment pursuant to the provisions of
15 [the act of July 9, 1976 (P.L.817, No.143), known as the "Mental
16 Health Procedures Act."] 50 Pa.C.S. Pt. III (relating to mental
17 health procedures).

18 (b) Treatment.--

19 (1) An offender who is severely mentally disabled and in
20 need of treatment at the time of sentencing shall, consistent
21 with available resources, be provided such treatment as is
22 psychiatrically or psychologically indicated for his mental
23 illness. Treatment may be provided by the Bureau of
24 Correction, by the county or by the Department of Public
25 Welfare in accordance with the ["Mental Health Procedures
26 Act."] 50 Pa.C.S. Pt. III.

27 (2) The cost for treatment of offenders found guilty but
28 mentally ill, committed to the custody of the Bureau of
29 Correction and transferred to a mental health facility, shall
30 be borne by the Commonwealth.

1 * * *

2 Section 6. Section 1101(a) of Title 61 is amended to read:
3 § 1101. Benefits to injured employees of State correctional
4 institutions.

5 (a) General rule.--An employee of a State correctional
6 institution who is injured during the course of that employment
7 by an act of an inmate or by any person who has been committed
8 to the State correctional institution by any court of the
9 Commonwealth or by any provision of [the act of July 9, 1976
10 (P.L.817, No.143), known as the Mental Health Procedures Act] 50
11 Pa.C.S. Pt. III (relating to mental health procedures), shall be
12 paid by the Commonwealth the employee's full salary until the
13 disability arising from the injury no longer prevents the
14 employee's return as an employee of the department at a salary
15 equal to that earned by the employee at the time of the injury.

16 * * *

17 Section 7. The addition of 50 Pa.C.S. Pt. III is a
18 continuation of the act of July 9, 1976 (P.L.817, No.143) known
19 as the Mental Health Procedures Act. The following apply:

20 (1) Except as otherwise provided in 50 Pa.C.S. Pt. III,
21 all activities initiated under the Mental Health Procedures
22 Act shall continue and remain in full force and effect and
23 may be completed under 50 Pa.C.S. Pt. III. Resolutions,
24 orders, regulations, rules and decisions which were made
25 under the Mental Health Procedures Act and which are in
26 effect on the effective date of this section shall remain in
27 full force and effect until revoked, vacated or modified
28 under 50 Pa.C.S. Pt. III. Contracts, obligations and
29 agreements entered into under the Mental Health Procedures
30 Act are not affected nor impaired by the repeal of the Mental

1 Health Procedures Act.

2 (2) A reference in any other act or regulation to the
3 Mental Health Procedures Act shall be deemed to be a
4 reference to 50 Pa.C.S. Pt. III (relating to mental health
5 procedures).

6 Section 8. Repeals are as follows:

7 (1) The General Assembly finds that the repeal under
8 paragraph (2) is necessary to effectuate this act.

9 (2) The act of July 9, 1976 (P.L.817, No.143), known as
10 the Mental Health Procedures Act, is repealed.

11 Section 9. This act shall take effect in 60 days.