

SENATE, No. 2049

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 26, 2018

Sponsored by:
Senator JOSEPH P. CRYAN
District 20 (Union)

SYNOPSIS

Authorizes psychiatric advanced practice nurses to complete certain certificates required for involuntary commitment to treatment.

CURRENT VERSION OF TEXT

As introduced.



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

3

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

6

7 1. Section 1 of P.L.1987, c.116 (C.30:4-27.1) is amended to
8 read as follows:

9 1. The Legislature finds and declares that:

10 a. The State is responsible for providing care, treatment, and
11 rehabilitation services to mentally ill persons who are disabled and
12 cannot provide basic care for themselves or who are dangerous to
13 themselves, others, or property; and because some of these mentally
14 ill persons do not seek treatment or are not able to benefit from
15 voluntary treatment provided on an outpatient basis, it is necessary
16 that State law provide for the voluntary admission and the
17 involuntary commitment to treatment of these persons as well as for
18 the public services and facilities necessary to fulfill these
19 responsibilities.

20 b. Because involuntary commitment to treatment entails certain
21 deprivations of liberty, it is necessary that State law balance the
22 basic value of liberty with the need for safety and treatment, a
23 balance that is difficult to effect because of the limited ability to
24 predict behavior; and, therefore, it is necessary that State law
25 provide clear standards and procedural safeguards that ensure that
26 only those persons who are dangerous to themselves, others or
27 property, are involuntarily committed to treatment.

28 c. It is the policy of this State that persons in the public mental
29 health system receive inpatient treatment and rehabilitation services
30 in the least restrictive environment in accordance with the highest
31 professional standards and which will enable those persons
32 committed to treatment to return to full autonomy in their
33 community as soon as it is clinically appropriate. In addition, it is
34 the policy of this State to ensure that appropriate outpatient
35 treatment services are readily available to all persons with mental
36 illness, such that involuntary commitment to treatment is rarely
37 required; but that persons with mental illness who are determined to
38 be dangerous to themselves, others, or property should be subject to
39 involuntary treatment in the least restrictive environment possible,
40 in an inpatient or outpatient setting clinically appropriate to their
41 condition.

42 Further, it is the policy of this State that the public mental health
43 system shall be developed in a manner which protects individual
44 liberty and provides advocacy and due process for persons receiving

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

Matter underlined thus is new matter.

1 treatment and insures that treatment is provided in a manner
2 consistent with a person's clinical condition.

3 d. It is the policy of this State to encourage each county or
4 designated mental health service area to develop a screening
5 service, outpatient treatment provider, and short-term care facility
6 which will meet the needs for evaluation and treatment of mentally
7 ill persons in the county or service area. The State encourages the
8 development of screening services as the public mental health
9 system's entry point in order to provide accessible crisis
10 intervention, evaluation, and referral services to mentally ill persons
11 in the community; to offer mentally ill persons clinically
12 appropriate alternatives to inpatient care, if any; and, when
13 necessary, to provide a means for involuntary commitment to
14 treatment. Similarly, the State encourages the development of
15 community-based outpatient treatment providers and short-term
16 care facilities to enable a mentally ill person to receive outpatient or
17 acute, inpatient care near the person's community. Development
18 and use of screening services, outpatient treatment providers, and
19 short-term care facilities throughout the State are necessary to
20 strengthen the Statewide community mental health system, lessen
21 inappropriate hospitalization and reliance on psychiatric
22 institutions, and enable State and county facilities to provide the
23 rehabilitative care needed by some mentally ill persons following
24 their receipt of acute care. Additionally, it is necessary that the
25 mental health delivery system be designed to promote the prompt
26 receipt of mental health services in the most appropriate setting for
27 the recovery of the patient. Accordingly, reforms are needed to
28 permit additional health care professionals to complete certificates
29 for commitment and, thereby, decrease the amount of time a patient
30 spends in an emergency department of a general hospital awaiting
31 more appropriate care.

32 (cf: P.L.2009, c.112, s.1)

33

34 2. Section 2 of P.L.1987, 116 (C.30:4-27.2) is amended to read
35 as follows:

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

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

40 b. "Clinical certificate" means a form prepared by the division
41 and approved by the Administrative Office of the Courts, that is
42 completed by the psychiatrist **【or other】**, physician, or psychiatric
43 advanced practice nurse who has examined the person who is
44 subject to commitment within three days of presenting the person
45 for involuntary commitment to treatment, and which states that the
46 person is in need of involuntary commitment to treatment. The
47 form shall also state the specific facts upon which the examining
48 **【physician】** practitioner has based his conclusion and shall be

1 certified in accordance with the Rules of the Court. A clinical
2 certificate may not be executed by a person who is a relative by
3 blood or marriage to the person who is being screened.

4 c. "Clinical director" means the person who is designated by
5 the director or chief executive officer to organize and supervise the
6 clinical services provided in a screening service, short-term care or
7 psychiatric facility. The clinical director shall be a psychiatrist **[.];**
8 however, those persons currently serving in the capacity will not be
9 affected by this provision. This provision shall not alter any current
10 civil service laws designating the qualifications of such position.

11 d. "Commissioner" means the Commissioner of Human
12 Services.

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

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

16 g. "Custody" means the right and responsibility to ensure the
17 provision of care and supervision.

18 h. "Dangerous to self" means that by reason of mental illness
19 the person has threatened or attempted suicide or serious bodily
20 harm, or has behaved in such a manner as to indicate that the person
21 is unable to satisfy his need for nourishment, essential medical care
22 or shelter, so that it is probable that substantial bodily injury,
23 serious physical harm, or death will result within the reasonably
24 foreseeable future; however, no person shall be deemed to be
25 unable to satisfy his need for nourishment, essential medical care,
26 or shelter if he is able to satisfy such needs with the supervision and
27 assistance of others who are willing and available. This
28 determination shall take into account a person's history, recent
29 behavior and any recent act, threat, or serious psychiatric
30 deterioration.

31 i. "Dangerous to others or property" means that by reason of
32 mental illness there is a substantial likelihood that the person will
33 inflict serious bodily harm upon another person or cause serious
34 property damage within the reasonably foreseeable future. This
35 determination shall take into account a person's history, recent
36 behavior and any recent act, threat, or serious psychiatric
37 deterioration.

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

39 k. "Director" means the chief administrative officer of a
40 screening service, short-term care facility, or special psychiatric
41 hospital.

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

44 m. "In need of involuntary commitment" or "in need of
45 involuntary commitment to treatment" means that an adult with
46 mental illness, whose mental illness causes the person to be
47 dangerous to self or dangerous to others or property and who is
48 unwilling to accept appropriate treatment voluntarily after it has

1 been offered, needs outpatient treatment or inpatient care at a short-
2 term care or psychiatric facility or special psychiatric hospital
3 because other services are not appropriate or available to meet the
4 person's mental health care needs.

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

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

14 p. "Mental health screener" means a psychiatrist, psychologist,
15 physician, social worker, psychiatric advanced practice nurse,
16 registered professional nurse, or other individual trained to do
17 outreach only for the purposes of psychological assessment who is
18 employed by a screening service and possesses the license **[.]** and
19 academic training or experience **[, as]** required by the
20 commissioner pursuant to regulation; except that a psychiatrist
21 **[and a]**, State licensed clinical psychologist or psychiatric
22 advanced practice nurse who **[meet]** meets the requirements for
23 mental health screener shall not have to comply with any additional
24 requirements adopted by the commissioner.

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

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

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

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

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

- 1 v. "Psychiatrist" means a physician who has completed the
2 psychiatry training requirements of the American Osteopathic
3 Association (AOA) or the Accreditation Council for Graduate
4 Medical Education (ACGME), and is certified by the American
5 Osteopathic Board of Neurology and Psychiatry (AOBNP) or the
6 American Board of Psychiatry and Neurology (ABPN).
- 7 w. "Psychiatric unit of a general hospital" means an inpatient
8 unit of a general hospital that restricts its services to the care and
9 treatment of persons with mental illness who are admitted on a
10 voluntary basis.
- 11 x. "Psychologist" means a person who is licensed as a
12 psychologist by the New Jersey Board of Psychological Examiners.
- 13 y. "Screening certificate" means a clinical certificate executed
14 by a psychiatrist **【or other】**, physician, or psychiatric advanced
15 practice nurse who 【affiliated】 has a formal written affiliation with
16 a screening service.
- 17 z. "Screening service" means a public or private ambulatory
18 care service designated by the commissioner, which provides
19 mental health services including assessment, emergency, and
20 referral services to persons with mental illness in a specified
21 geographic area.
- 22 aa. "Screening outreach visit" means an evaluation provided by
23 a mental health screener wherever the person may be when
24 clinically relevant information indicates the person may need
25 involuntary commitment to treatment and is unable or unwilling to
26 come to a screening service.
- 27 bb. "Short-term care facility" means an inpatient, community
28 based mental health treatment facility which provides acute care
29 and assessment services to a person with mental illness whose
30 mental illness causes the person to be dangerous to self or
31 dangerous to others or property. A short-term care facility is so
32 designated by the commissioner and is authorized by the
33 commissioner to serve persons from a specified geographic area. A
34 short-term care facility may be a part of a general hospital or other
35 appropriate health care facility and shall meet certificate of need
36 requirements and shall be licensed and inspected by the Department
37 of Health **【and Senior Services】** pursuant to P.L.1971, c.136
38 (C.26:2H-1 et seq.) and in accordance with standards developed
39 jointly with the Commissioner of Human Services.
- 40 cc. "Special psychiatric hospital" means a public or private
41 hospital licensed by the Department of Health **【and Senior**
42 **Services】** to provide voluntary and involuntary mental health
43 services, including assessment, care, supervision, treatment, and
44 rehabilitation services to persons with mental illness.
- 45 dd. "Treatment team" means a team, which is composed of one
46 or more persons, including at least one psychiatrist or other
47 physician, and which provides mental health services to a patient

1 of: a screening service, an outpatient treatment provider, or a short-
2 term care or psychiatric facility. A treatment team may include a
3 psychologist, social worker, psychiatric advanced practice nurse or
4 other nurse, and other appropriate services providers. **【A treatment**
5 team provides mental health services to a patient of a screening
6 service, outpatient treatment provider, or short-term care or
7 psychiatric facility.】

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

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

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

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

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

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

46 kk. "Reasonably foreseeable future" means a time frame that
47 may be beyond the immediate or imminent, but not longer than a

1 time frame as to which reasonably certain judgments about a
2 person's likely behavior can be reached.

3 ll. "Psychiatric advanced practice nurse" means a person who
4 holds a certification in accordance with section 8 or 9 of P.L.1991,
5 c.377 (C.45:11-47 or 45:11-48), is certified in mental health, and
6 has a formal written affiliation with a screening service.
7 (cf: P.L.2009, c.112, s.2)

8
9 3. Section 5 of P.L.1987, c.116 (C.30:4-27.5) is amended to
10 read as follows:

11 5. The commissioner shall adopt rules and regulations pursuant
12 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
13 1 et seq.) regarding a screening service and its staff that effectuate
14 the following purposes and procedures:

15 a. A screening service shall serve as the facility in the public
16 mental health care treatment system wherein a person believed to be
17 in need of involuntary commitment to outpatient treatment, a short-
18 term care facility, psychiatric facility, or special psychiatric hospital
19 undergoes an assessment to determine what mental health services
20 are appropriate for the person and where those services may be
21 most appropriately provided in the least restrictive environment.

22 The screening service may provide emergency and consensual
23 treatment to the person receiving the assessment and may transport
24 the person or detain the person up to 24 hours for the purposes of
25 providing the treatment and conducting the assessment.

26 b. (1) When a person is assessed by a mental health screener
27 and involuntary commitment to treatment seems necessary, the
28 screener shall provide, on a screening document prescribed by the
29 division, information regarding the person's history and available
30 alternative facilities and services that are deemed inappropriate for
31 the person. When appropriate and available, and as permitted by
32 law, the screener shall make reasonable efforts to gather
33 information from the person's family or significant others for the
34 purposes of preparing the screening document. If a psychiatrist,
35 physician, or psychiatric advanced practice nurse, in consideration
36 of this document, and in conjunction with the **【psychiatrist's own】**
37 practitioner's own separate and complete assessment, concludes that
38 the person is in need of commitment to treatment, the psychiatrist,
39 physician, or psychiatric advanced practice nurse shall complete the
40 screening certificate.

41 (2) Upon completion of the screening certificate, screening
42 service staff shall determine, in consultation with the psychiatrist
43 **【or another】**, physician, or psychiatric advanced practice nurse, as
44 appropriate, the least restrictive environment for the appropriate
45 treatment to which the person shall be assigned or admitted, taking
46 into account the person's prior history of hospitalization and
47 treatment and the person's current mental health condition.
48 Screening service staff shall designate:

1 **[(1)]** (a) inpatient treatment for the person if he is
2 immediately or imminently dangerous or if outpatient treatment is
3 deemed inadequate to render the person unlikely to be dangerous to
4 self, others, or property within the reasonably foreseeable future;
5 and

6 **[(2)]** (b) outpatient treatment for the person when outpatient
7 treatment is deemed sufficient to render the person unlikely to be
8 dangerous to self, others, or property within the reasonably
9 foreseeable future.

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

16 (4) If a person has been admitted three times or has been an
17 inpatient for 60 days at a short-term care facility during the
18 preceding 12 months, consideration shall be given to not placing the
19 person in a short-term care facility.

20 (5) The person shall be admitted to the appropriate facility or
21 assigned to the appropriate outpatient treatment provider, as
22 appropriate for treatment, as soon as possible. Screening service
23 staff are authorized to coordinate initiation of outpatient treatment
24 or transport the person or arrange for transportation of the person to
25 the appropriate facility.

26 (6) Notwithstanding the provisions of this, or of any other,
27 section of law to the contrary, a psychiatric advanced practice nurse
28 shall not be authorized to complete the documentation process
29 necessary for involuntary commitment, in accordance with this
30 section and subsection a. of section 10 of P.L.1987, c.116 (C.30:4-
31 27.10), unless a psychiatrist or other physician actively participates
32 in at least one step of the process. The requirements of this
33 paragraph shall be satisfied if the psychiatrist or other physician
34 performs any one of the following tasks, as part of the involuntary
35 commitment documentation process: (a) completes the screening
36 certificate required under this subsection; (b) completes the clinical
37 certificate required under section 10 of P.L.1987, c.116 (C.30:4-
38 27.10); or (c) conducts the independent assessment of the patient
39 that is required for the preparation of the screening certificate, as
40 provided by paragraph (1) of this subsection.

41 c. If the mental health screener determines that the person is
42 not in need of assignment or commitment to an outpatient treatment
43 provider, or admission or commitment to a short-term care facility,
44 psychiatric facility or special psychiatric hospital, the screener shall
45 refer the person to an appropriate community mental health or
46 social services agency or appropriate professional or inpatient care
47 in a psychiatric unit of a general hospital.

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

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

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

12
13 4. Section 10 of P.L.1987, c.116 (C.30:4-27.10) is amended to
14 read as follows:

15 10. a. (1) A short-term care or psychiatric facility or a
16 special psychiatric hospital shall initiate court proceedings for
17 involuntary commitment to inpatient or outpatient treatment by
18 submitting to the court a clinical certificate completed by a
19 psychiatrist, physician, or psychiatric advanced practice nurse on
20 the patient's treatment team, or an electronically scanned clinical
21 certificate in lieu of the original certificate, and the screening
22 certificate or an electronically scanned screening certificate in lieu
23 of the original certificate which authorized admission of the patient
24 to the facility; provided, however, that both certificates shall not be
25 signed by the same psychiatrist, physician, or psychiatric advanced
26 practice nurse, unless the psychiatrist, physician, or psychiatric
27 advanced practice nurse has made a reasonable but unsuccessful
28 attempt to have another **【psychiatrist】** such health care professional
29 conduct the evaluation and execute the certificate.

30 (2) A screening service or outpatient treatment provider shall
31 initiate court proceedings for commitment to outpatient treatment
32 by submitting to the court a clinical certificate completed by a
33 psychiatrist, physician, or psychiatric advanced practice nurse on
34 the patient's treatment team, or an electronically scanned clinical
35 certificate in lieu of the original certificate, and the screening
36 certificate or an electronically scanned screening certificate in lieu
37 of the original certificate which authorized assignment of the
38 patient to outpatient treatment with the outpatient treatment
39 provider; provided, however, that both certificates shall not be
40 signed by the same psychiatrist, physician, or psychiatric advanced
41 practice nurse, unless the psychiatrist, physician, or psychiatric
42 advanced practice nurse has made a reasonable but unsuccessful
43 attempt to have another **【psychiatrist】** such health care professional
44 conduct the evaluation and execute the certificate.

45 b. Court proceedings for the involuntary commitment to
46 treatment of any person not referred by a screening service may be
47 initiated by the submission to the court of two clinical certificates,
48 **【at least one of which is】** one of which shall be prepared by a

1 psychiatrist and the other of which shall be prepared by a
2 psychiatric advanced practice nurse or another physician who may
3 also be a psychiatrist. The person shall not be involuntarily
4 committed before the court issues a temporary court order.

5 c. A court proceeding for involuntary commitment to treatment
6 of an inmate who is scheduled for release upon expiration of a
7 maximum term of incarceration shall be initiated by the Attorney
8 General or county prosecutor by submission to the court of two
9 clinical certificates, **[at least one of which is]** one of which shall be
10 prepared by a psychiatrist and the other of which shall be prepared
11 by a psychiatric advanced practice nurse or another physician who
12 may also be a psychiatrist.

13 d. The Attorney General, in exercise of the State's authority as
14 parens patriae, may initiate a court proceeding for the involuntary
15 commitment to treatment of any person in accordance with the
16 procedures set forth in subsection a. or b. of this section. When the
17 Attorney General determines that the public safety requires
18 initiation of a proceeding pursuant to subsection b. of this section,
19 the Attorney General may apply to the court for an order
20 compelling the psychiatric evaluation of the person. The court shall
21 grant the Attorney General's application if the court finds that there
22 is reasonable cause to believe that the person may be in need of
23 involuntary commitment to treatment. The Attorney General may
24 delegate the authority granted pursuant to this subsection, on a case
25 by case basis, to the county prosecutor.

26 e. Any person who is a relative by blood or marriage of the
27 person being screened who executes a clinical certificate, or any
28 person who signs a clinical certificate for any purpose or motive
29 other than for purposes of care, treatment, and confinement of a
30 person in need of involuntary commitment to treatment, shall be
31 guilty of a crime of the fourth degree.

32 f. Upon receiving these documents the court shall immediately
33 review them in order to determine whether there is probable cause
34 to believe that the person is in need of involuntary commitment to
35 treatment.

36 g. If the court finds that there is probable cause to believe that
37 the person, other than a person whose commitment is sought
38 pursuant to subsection c. of this section, is in need of involuntary
39 commitment to treatment, it shall issue a temporary order
40 authorizing the assignment of the person to an outpatient treatment
41 provider or the admission to or retention of the person in the
42 custody of the facility, that is both appropriate to the person's
43 condition and is the least restrictive environment, pending a final
44 hearing.

45 h. If the court finds that there is probable cause to believe that
46 a person whose commitment is sought pursuant to subsection c. of
47 this section is in need of involuntary commitment to treatment, it
48 shall issue an order setting a date for a final hearing and authorizing

1 the Commissioner of [the Department of] Corrections to arrange
2 for temporary commitment pursuant to section 2 of P.L.1986, c.71
3 (C.30:4-82.2) to the Ann Klein Forensic Center in Trenton or other
4 facility designated for the criminally insane pending the final
5 hearing and prior to the expiration of the person's term. The order
6 shall specifically provide for transfer of custody to the Ann Klein
7 Forensic Center in Trenton or other facility designated for the
8 criminally insane if the person's maximum term will expire prior to
9 the final hearing.

10 i. In the case of a person committed to treatment at a short-
11 term care facility or special psychiatric hospital, after the facility's
12 treatment team conducts a mental and physical examination,
13 administers appropriate treatment and prepares a discharge
14 assessment, the facility may transfer the patient to a psychiatric
15 facility prior to the final hearing; provided that: (1) the patient, his
16 family and his attorney are given 24 hours' advance notice of the
17 pending transfer; and (2) the transfer is accomplished in a manner
18 which will give the receiving facility adequate time to examine the
19 patient, become familiar with his behavior and condition and
20 prepare for the hearing. In no event shall the transfer be made less
21 than five days prior to the date of the hearing unless an unexpected
22 transfer is dictated by a change in the person's clinical condition.

23 j. A clinical certificate or screening certificate that is
24 electronically scanned pursuant to subsection a. or b. of this section
25 shall be transmitted in accordance with the Rules of Court.

26 (cf: P.L.2014, c.43,s.1)

27

28 5. This act shall take effect on the first day of the fourth month
29 next following the date of enactment.

30

31

32

STATEMENT

33

34 This bill would amend the law that governs involuntary
35 commitment procedures. Specifically, the bill would allow
36 psychiatric advanced practice nurses – i.e., those advanced practice
37 nurses who are certified in mental health, and who have a formal
38 written affiliation with a screening service – to execute the
39 screening and clinical certificates that are to be completed as a part
40 of the involuntary commitment process, both in cases where a
41 patient is referred for treatment through a screening service, and in
42 cases where a patient is not referred through a screening service. A
43 screening service provides mental health assessments and other
44 mental health services to persons in specified geographic areas of
45 the State.

46 The State's involuntary commitment law currently requires a
47 psychiatrist or other physician to complete a mental health
48 screening certificate, which is used to determine the most

1 appropriate, and least restrictive, setting for the involuntary
2 commitment of a patient who is referred through a screening
3 service. Before completing the screening certificate, the psychiatrist
4 or other physician is required to: 1) consider screening documents,
5 which contain information about the patient's history, and which
6 have been prepared by the mental health screeners at the screening
7 service; and 2) conduct a separate assessment of the patient. Before
8 a mental health facility or mental health screening service may
9 initiate court proceedings to involuntarily commit a person who has
10 been referred through a screening service, the court must receive a
11 copy of the screening certificate, and must also receive a copy of a
12 separate clinical certificate. Under current law, the separate clinical
13 certificate, like the screening certificate, is to be completed by a
14 psychiatrist or physician on the patient's treatment team.

15 Under the bill's provisions, a psychiatric advanced practice nurse
16 who is certified in mental health and is affiliated with a screening
17 service would be authorized to complete screening certificates and
18 clinical certificates for the involuntary commitment of patients who
19 are referred to treatment through a screening service, and would
20 have the associated authority to consider screening documents and
21 conduct independent assessments as necessary to complete those
22 certificates.

23 By allowing psychiatric advanced practice nurses to perform
24 these mental health assessment and certification tasks, the bill
25 endeavors to decrease the amount of time that patients will have to
26 wait for the appropriate documents to be completed before they are
27 able to receive more suitable services from a mental health facility.
28 Nevertheless, while the bill would allow a psychiatric advanced
29 practice nurse to perform the duties that are currently reserved for
30 psychiatrists and other physicians, it would further specify that a
31 psychiatrist or other physician must continue to be actively
32 involved in the documentation process, on at least a minimal basis.
33 Specifically, the bill would provide that a psychiatric advanced
34 practice nurse may not complete the documentation process
35 required for the involuntary commitment of a patient referred
36 through a screening service, unless a psychiatrist or physician
37 actively participates in at least one step of that process. A
38 psychiatrist or physician would be deemed to be actively
39 participating in the process if the psychiatrist or physician performs
40 any one of the following tasks: 1) prepares the screening certificate;
41 2) prepares the clinical certificate; or 3) conducts the independent
42 assessment of the patient that is required for preparation of the
43 screening certificate. Accordingly, while a psychiatric advanced
44 practice nurse will be authorized, for the purposes of efficacy, to
45 perform most of the screening and documentation tasks that are
46 required before such a patient may be involuntarily committed to
47 treatment, the bill nonetheless ensures that a psychiatrist or other
48 physician will continue to be actively involved in the process.

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1 The bill would also authorize psychiatric advanced practice
2 nurses to participate in the documentation process that is necessary
3 for the involuntary commitment of persons who are not referred for
4 treatment through a screening service. Specifically, the bill would
5 provide that, of the two clinical certificates that are to be submitted
6 to a court in association with the involuntary commitment of a
7 person who is not referred through a screening service, or in
8 association with the involuntary commitment of an inmate who is
9 scheduled for release upon expiration of a maximum term of
10 incarceration, one clinical certificate is to be completed by a
11 psychiatrist, while the other is to be completed by a psychiatric
12 advanced practice nurse or another physician who may also be a
13 psychiatrist.