

By: Representative Compretta (By Request)

To: Public Health and Human Services; Judiciary A

HOUSE BILL NO. 1453

1 AN ACT TO ESTABLISH A PROCEDURE FOR PROVIDING ASSISTED  
 2 TREATMENT TO PERSONS WITH MENTAL ILLNESS; TO DEFINE CERTAIN TERMS;  
 3 TO PROVIDE FOR VOLUNTARY TREATMENT AND FOR EMERGENCY TREATMENT/  
 4 OBSERVATION; TO SET OUT THE PROCEDURES FOR PETITIONING FOR  
 5 ASSISTED TREATMENT AND FOR THE HEARING AND DISPOSITION; TO PROVIDE  
 6 FOR APPEALS FROM THE HEARING DECISIONS; TO PROVIDE FOR CERTAIN  
 7 SAFEGUARDS FOR PERSONS RECEIVING ASSISTED TREATMENT; TO PROVIDE  
 8 FOR ASSISTED OUTPATIENT TREATMENT; TO PROVIDE FOR TRIAL RELEASE  
 9 FROM INPATIENT ASSISTED TREATMENT; TO PROVIDE FOR RENEWALS OF  
 10 ASSISTED TREATMENT ORDERS; TO PROVIDE THE PROCEDURES FOR DISCHARGE  
 11 FROM ASSISTED TREATMENT; TO ESTABLISH A PATIENT BILL OF RIGHTS FOR  
 12 PERSONS RECEIVING ASSISTED TREATMENT; AND FOR RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 **ARTICLE 1**

15 **STATEMENT OF PURPOSE**

16 **SECTION 1.1.** The Legislature finds and declares the  
 17 following:

18 (a) The consequences of untreated mental illness are as  
 19 apparent as they are devastating: homelessness, criminalization,  
 20 suicide, violence, victimization, lost productivity, permanently  
 21 decreased medication responses, and the incalculable costs of  
 22 unnecessary suffering.

23 (b) Due to advances in recent years, treatment is now  
 24 available that can eliminate or substantially alleviate the  
 25 symptoms of mental illness for most who suffer from it. People  
 26 with treated mental illness can now reclaim their lives, but first  
 27 there must be treatment.

28 (c) Treatment voluntarily embraced is always  
 29 preferable. However, mental illness is a biologically based  
 30 disease that attacks the brain. As a result, mental illness  
 31 renders many people incapable of voluntarily entering treatment  
 32 because they are unable to make rational decisions or unaware that

33 they are ill. When this occurs, those people may require assisted  
34 treatment to protect their lives as well as avoid tragic personal  
35 and societal consequences.

36 (d) This act is designed to be the legal framework for  
37 the provision of care to individuals who, due to the symptoms of  
38 severe mental illness, become either dangerous or incapable of  
39 making informed medical decisions concerning their treatment.

40 (d) The substantive and procedural components of this  
41 act create a flexible mechanism that can be used to secure  
42 treatment for those who most need it, while still distinguishing  
43 those for whom intervention is inappropriate. Paramount are the  
44 strict and plentiful safeguards that this act establishes to  
45 protect both the rights and well-being of those subject to it.

## 46 **ARTICLE 2**

### 47 **DEFINITIONS**

#### 48 **SECTION 2.1.** As used in this act:

49 (a) "Assisted treatment" means the provision of  
50 treatment, in accordance with this act, to individuals who are  
51 either dangerous or incapable of making informed medical decisions  
52 because of the effects of severe mental illness.

53 (b) "Assisted outpatient treatment" means assisted  
54 treatment on an outpatient basis.

55 (c) "Assisted inpatient treatment" means assisted  
56 treatment on an inpatient basis.

57 (d) "Certificate" means the form filed with the court  
58 by a psychiatrist or other physician to request an assisted  
59 treatment hearing for an individual currently in emergency  
60 treatment/observation.

61 (e) "Chronically disabled" may be shown by establishing  
62 that the person is incapable of making an informed medical  
63 decision and, based on the person's psychiatric history, the  
64 person is unlikely to comply with treatment and, as a consequence,  
65 the person's current condition is likely to deteriorate until his

66 or her psychiatric disorder significantly impairs the person's  
67 judgment, reason, behavior or capacity to recognize reality and  
68 has a substantial probability of causing him or her to suffer or  
69 continue to suffer severe psychiatric, emotional or physical harm.

70 (f) "Court" means the chancery court.

71 (g) "Danger to himself or herself" may be shown by  
72 establishing that, by his or her behavior, a person is in the  
73 reasonably foreseeable future likely to either attempt suicide, to  
74 inflict bodily harm on himself or herself or, because of his or  
75 her actions or inaction, to suffer serious physical harm in the  
76 near future. The person's past behavior may be considered.

77 (h) "Danger to others" may be shown by establishing  
78 that, by his or her behavior, a person is in the reasonably  
79 foreseeable future likely to cause or attempt to cause harm to  
80 another. Evidence that a person is a danger to others may  
81 include, but is not limited to:

82 (i) That he or she has inflicted, attempted or  
83 threatened in an objectively serious manner to inflict bodily harm  
84 on another;

85 (ii) That by his or her actions or inactions, he  
86 or she has presented a danger to a person in his or her care; or

87 (iii) That he or she has recently and  
88 intentionally caused significant damage to the substantial  
89 property of others.

90 (i) "Gravely disabled" may be shown by establishing  
91 that a person is incapable of making an informed medical decision  
92 and has behaved in such a manner as to indicate that he or she is  
93 unlikely, without supervision and the assistance of others, to  
94 satisfy his or her need for either nourishment, personal or  
95 medical care, shelter, or self-protection and safety so that it is  
96 probable that substantial bodily harm, significant psychiatric  
97 deterioration or debilitation, or serious illness will result  
98 unless adequate treatment is afforded.

99                   (j) "Incapable of making an informed medical decision"  
100 means that a person is unaware of the effects of his or her  
101 psychiatric disorder or that the person lacks the capacity to make  
102 a well-reasoned, willful, and knowing decision concerning his or  
103 her medical or psychiatric treatment. Any history of the person's  
104 noncompliance with treatment or of criminal acts related to his or  
105 her mental illness shall, if available, be considered.

106                   (k) "Petition" means the form filed with a court to  
107 request an assisted treatment hearing based on the good faith  
108 belief of the petitioner that the subject of the petition is  
109 eligible for assisted treatment under the provisions of this act.

110                   (l) "Psychiatric Treatment Board" or "board" means a  
111 judicially empowered decision-making body that shall consist of a  
112 physician (preferably a psychiatrist), a lawyer, and a third  
113 member, who either must be or has been a recipient of treatment  
114 for mental illness or either be or has been a close relative of  
115 such a person. All decisions of the board must be approved by a  
116 majority of its members.

117                   (m) "Severe psychiatric disorder" means a substantial  
118 impairment of a person's thought processes (e.g., delusions),  
119 sensory input (e.g., hallucinations), mood balance (e.g., mania or  
120 severe depression), memory (e.g., dementia), or ability to reason  
121 that substantially interferes with a person's ability to meet the  
122 ordinary demands of living. Severe psychiatric disorders are  
123 distinguished from:

124                   (i) Conditions that are primarily due to drug  
125 abuse or alcoholism, although severe psychiatric disorders may  
126 coexist with these disorders;

127                   (ii) Other known neurological disorders such as  
128 epilepsy, multiple sclerosis, Parkinson's disease, or Alzheimer's  
129 disease, although those neurological disorders also may have  
130 psychotic features similar to those found in severe psychiatric  
131 disorders;

132 (iii) Normal age-related changes in the brain;  
133 (iv) Brain changes related to terminal medical  
134 conditions;  
135 (v) Personality disorders as defined by the  
136 American Psychiatric Association's "Diagnostic and Statistical  
137 Manual of Mental Disorders" (APA-DSM);  
138 (vi) Moderate, severe and profound mental  
139 retardation as defined by the APA-DSM; and  
140 (vii) Pervasive developmental disorders, including  
141 autistic disorder, Rett's disorder and Asperger's disorder as  
142 defined by the APA-DSM.  
143 (n) "Treating professional" means a psychiatrist,  
144 psychologist or other licensed professional whose scope of  
145 practice includes providing care and evaluation of individuals  
146 with psychiatric disorders.  
147 (o) "Trial release" means a procedure that allows a  
148 patient placed in an inpatient facility under an assisted  
149 treatment order to receive treatment while living in the community  
150 and remaining subject to the authority of the inpatient facility.

### 151 **ARTICLE 3**

#### 152 **VOLUNTARY TREATMENT**

##### 153 **SECTION 3.1. Admission to voluntary treatment.**

154 A person in need of psychiatric care should be admitted into  
155 treatment voluntarily whenever possible.

##### 156 **SECTION 3.2. Discharge from voluntary treatment.**

157 A voluntary patient may seek discharge at any time. Unless  
158 properly invoking provisions of this act allowing for their  
159 retention, the psychiatric treatment facility must release  
160 voluntary patients who request to be discharged within forty-eight  
161 (48) hours, not including Saturdays, Sundays or holidays.

### 162 **ARTICLE 4**

#### 163 **EMERGENCY TREATMENT/OBSERVATION-CERTIFICATION**

164           **SECTION 4.1. Emergency treatment initiated by law**  
165 **enforcement officers.**

166           Any law enforcement officer with the power of arrest or any  
167 person generally designated to do so by the state, county or  
168 Department of Mental Health may bring to a designated facility for  
169 evaluation any person the officer has reasonable cause to believe  
170 has a severe psychiatric disorder and, because of the disorder, is  
171 a danger to himself, herself or to others or is gravely disabled.

172           **SECTION 4.2. Emergency treatment initiated by others.**

173           Any psychiatrist, other physician, psychologist, or person  
174 who has been generally designated to do so by the state, county or  
175 Department of Mental Health may initiate emergency  
176 treatment/observation based on a good faith belief that because of  
177 a severe psychiatric disorder, a person is either a danger to  
178 himself or herself, a danger to others or gravely disabled. Any  
179 such person who determines the need for emergency  
180 treatment/observation but who is not authorized to transport those  
181 individuals to a psychiatric facility may direct any person  
182 enumerated in Section 4.3 to do so.

183           **SECTION 4.3. Transportation to emergency facility.**

184           Protecting individuals may only be transported by either law  
185 enforcement officers with the power of arrest or others who have  
186 been designated to perform this function by the state, county or  
187 Department of Mental Health.

188           **SECTION 4.4. Evaluation.**

189           A psychiatrist or other physician shall evaluate an  
190 individual in emergency treatment/observation within six (6) hours  
191 of the individual's placement in a designated psychiatric  
192 facility.

193           **SECTION 4.5. Immediate release.**

194           An individual shall be released from emergency treatment/  
195 observation unless the psychiatrist or other physician who

196 performs the evaluation determines that the individual is either a  
197 danger to himself, herself or others or is gravely disabled.

198           **SECTION 4.6. Certification.**

199           If the examining psychiatrist or other physician who performs  
200 the evaluation determines, in his or her clinical opinion, that  
201 the individual is a danger to himself, herself or to others or is  
202 gravely disabled, he or she must file, or cause to be filed by  
203 another psychiatrist or other physician who has also examined the  
204 individual, a certificate with the court. The certificate must be  
205 filed with the court within twenty-four (24) hours of the initial  
206 examination, not including Saturdays, Sundays or holidays.

207           **SECTION 4.7. Requirements of certificate.**

208           The certificate shall be in writing, executed under oath, and  
209 shall include the following information:

- 210           (a) The name and address, if known, of the respondent;
- 211           (b) The name and address, if known, of the respondent's  
212 spouse, legal counsel, conservator or guardian and next-of-kin;
- 213           (c) The name and address, if known, of anyone currently  
214 providing psychiatric care to the respondent;
- 215           (d) The names and addresses, if known, of other persons  
216 with knowledge of respondent's mental illness who may be called as  
217 witnesses at the assisted treatment hearing;
- 218           (e) The name and work address of the certifying  
219 psychiatrist or other physician;
- 220           (f) The name and address of the facility in which the  
221 respondent is undergoing emergency treatment/observation;
- 222           (g) The certifying psychiatrist or other physician's  
223 statement that he or she has examined the respondent since the  
224 respondent was placed in emergency treatment/observation; and
- 225           (h) The certifying psychiatrist or other physician's  
226 statement that, in his or her clinical opinion, the respondent is  
227 a danger to himself, herself or to others or gravely disabled and  
228 the clinical basis for this opinion.

229           **SECTION 4.8. Criminal penalty.**

230           It shall be a misdemeanor to knowingly file, or cause to be  
231 filed, a certificate that contains a false material statement or  
232 information.

233           **SECTION 4.9. Initial responsibilities of court after**  
234 **certificate is filed.**

235           After the filing of the certificate, the court must:

236           (a) Schedule a hearing on the certificate that will  
237 occur no more than seventy-two (72) hours, not including  
238 Saturdays, Sundays and holidays, after the initial examination;  
239 and

240           (b) Designate counsel for the respondent no less than  
241 twenty-four (24) hours before the hearing.

242           **SECTION 4.10. Notice of hearing on certificate.**

243           The court shall notify the certifying psychiatrist or other  
244 physician, respondent, and the respondent's legal guardian or  
245 conservator, if known, of the scheduled hearing on the certificate  
246 at least twenty-four (24) hours in advance. The court also must  
247 attempt to notify of the pending hearing, at least twenty-four  
248 (24) hours in advance, an adult member of respondent's household,  
249 if known, and up to five (5) individuals of the respondent's  
250 choice. Notice may be either by mail, personal delivery,  
251 telephone, or reliable electronic means. Timely actual notice  
252 shall fulfill the notice requirement for any given individual.

253           **SECTION 4.11. Duration of emergency treatment/observation.**

254           Absent the exercise of other applicable provisions of this  
255 act, the period of emergency treatment/observation may last no  
256 more than seventy-two (72) hours after the initial examination,  
257 not including Saturdays, Sundays or holidays. Anyone who is  
258 determined by the examining or a treating physician not to be a  
259 danger to himself, herself, or others or gravely disabled must be  
260 released from emergency treatment/observation. The initial



261 assisted treatment hearing shall take place before the end of the  
262 treatment/observation period.

263           **SECTION 4.12. Treatment during emergency treatment/  
264 observation.**

265           During the emergency treatment/observation period, treatment  
266 may be administered if the person is, in the clinical opinion of a  
267 treating professional, a danger to himself, herself, or others or  
268 is gravely disabled.

269   **ARTICLE 5**

270   **PETITION FOR ASSISTED TREATMENT**

271           **SECTION 5.1. Petition.**

272           Any adult may file a petition for the assisted treatment of  
273 another person based on a good faith belief that, due to the  
274 effects of a severe psychiatric disorder, the person is either a  
275 danger to himself or herself, a danger to others, gravely  
276 disabled, or chronically disabled.

277           The petition shall be in writing, executed under oath, and  
278 shall include the following information:

279                   (a) The petitioner's name, address and, if any,  
280 relationship to the respondent;

281                   (b) The name and address, if known, of the respondent;

282                   (c) The name and address, if known, of the respondent's  
283 spouse, legal counsel, conservator or guardian, and next-of-kin;

284                   (d) The name and address, if known, of anyone currently  
285 providing psychiatric care to the respondent;

286                   (e) That the petitioner has reason to believe the  
287 respondent meets the criteria for assisted treatment in Section  
288 7.3 (these criteria shall be described in simple language in the  
289 petition form);

290                   (f) That the beliefs of the petitioner are based on  
291 specific behavior, acts, attempts, or threats, which shall be  
292 specified and described in detail; and

293 (g) The names and addresses, if known, of other persons  
294 with knowledge of respondent's mental illness who may be called as  
295 witnesses.

296 **SECTION 5.2. Request for temporary treatment order.**

297 A request for an ex parte order placing the respondent under  
298 care and treatment in an inpatient facility until the assisted  
299 treatment hearing may be included in the petition. The court may  
300 issue a temporary treatment order if it finds that the health or  
301 safety of the respondent will be placed in jeopardy absent  
302 immediate treatment. However, any treatment under the court's  
303 order must be later determined necessary by a treating  
304 professional. On granting a temporary treatment order, the court  
305 shall direct the transport of the respondent to a designated  
306 treatment facility by either law enforcement officers with the  
307 power of arrest or others who have been designated to perform this  
308 function by the state, county or Department of Mental Health. The  
309 temporary treatment order shall be in effect until either the  
310 assisted treatment hearing or the petition is dismissed or  
311 withdrawn, whichever occurs first.

312 **SECTION 5.3. Initial responsibilities of court after**  
313 **petition is filed.**

314 Within twenty-four (24) hours, not including Saturdays,  
315 Sundays or holidays, of the filing of a petition for assisted  
316 treatment, the court must:

317 (a) Determine whether the petition is sufficient to  
318 establish the reasonable belief that the respondent may be subject  
319 to assisted treatment and dismiss without prejudice those that do  
320 not;

321 (b) Schedule a hearing on any petition it does not  
322 dismiss within ten (10) calendar days of when the petition was  
323 filed;

324 (c) Rule on any request for a temporary treatment order  
325 included in a petition it does not dismiss;

326 (d) If necessary, issue an order for the respondent to  
327 be examined under Section 5.8;

328 (e) Designate counsel for the respondent of any  
329 petition it does not dismiss; and

330 (f) Forward a copy of any petition it does not dismiss  
331 to the agency designated by the county to evaluate petitions as  
332 described in Section 5.4.

333 **SECTION 5.4. Designated counsel.**

334 The respondent shall have court-designated counsel. The  
335 county shall investigate, with due diligence, the basis for any  
336 petition not dismissed by the court under Section 5.3. An  
337 attorney will be designated for the petitioner by the county if  
338 its investigation, performed with due diligence, finds probable  
339 cause that the respondent is eligible for assisted treatment under  
340 Section 7.3. The county shall either designate counsel or notify  
341 petitioner of its decision not to designate counsel within  
342 seventy-two (72) hours of receiving the petition from the court.  
343 If the county does not designate an attorney, petitioner still may  
344 file the petition. Both petitioner and respondent have the option  
345 of engaging counsel of his or her choice.

346 **SECTION 5.5. Notice of hearing on petition.**

347 Within twenty-four (24) hours, not including Saturdays,  
348 Sundays and holidays, of scheduling a hearing on a petition, the  
349 court shall mail notice of the hearing, which shall include a copy  
350 of the petition, to the respondent; respondent's legal guardian or  
351 conservator, if known; petitioner; petitioner's counsel, if known;  
352 an adult member of respondent's household, if known; and up to  
353 five (5) individuals of the respondent's choice. The court shall,  
354 in addition, attempt to notify the respondent; respondent's legal  
355 guardian or conservator, if known; petitioner; and petitioner's  
356 counsel, if known, during that period by either telephone or other  
357 reliable electronic means. Timely actual notice shall fulfill the  
358 notice requirement for any given individual.

359           **SECTION 5.6. Criminal penalty for false petition.**

360           It shall be a misdemeanor to knowingly file, or cause to be  
361 filed, a petition that contains a false material statement or  
362 information.

363           **SECTION 5.7. Evaluation.**

364           Except as otherwise delineated in this act, the respondent  
365 must be examined by a treating professional before the hearing but  
366 not more than seven (7) calendar days before the petition is  
367 filed.

368           **SECTION 5.8. Petition filed without evaluation.**

369           A petition may be filed that is unsupported by an evaluation  
370 so long as the petition presents sufficient evidence to establish  
371 the reasonable belief that the respondent may be subject to  
372 assisted treatment. The court shall order the person who is the  
373 subject of the petition to be examined by a treating professional  
374 assigned by the Department of Mental Health, or its designee, no  
375 less than seventy-two (72) hours before the assisted treatment  
376 hearing.

377   **ARTICLE 6**

378   **ASSISTED TREATMENT HEARING PROCEDURES**

379           **SECTION 6.1. Ten-day treatment option.**

380           The respondent has the option of choosing ten (10) calendar  
381 days of inpatient treatment in lieu of being subject to the  
382 assisted treatment proceeding. This option is available to the  
383 respondent from the time he or she is served with the petition  
384 until the end of the petitioner's presentation of evidence at the  
385 hearing. At that point, the Psychiatric Treatment Board shall  
386 give the respondent a final chance to accept ten (10) days of  
387 treatment before it forecloses him or her from doing so, clearly  
388 expressing that it is the respondent's final opportunity to  
389 exercise this option. The respondent may select the ten-day  
390 treatment option before the hearing, in which case the treating  
391 facility shall file an affidavit of this election, signed by the

392 respondent, with the court within forty-eight (48) hours, not  
393 including Saturdays, Sundays or holidays. During the ten-day  
394 treatment period, the respondent may be discharged on the  
395 signature of both the treating medical professional and the  
396 medical director of the facility. At the expiration of the  
397 ten-day period, a respondent placed in treatment in accordance  
398 with this section shall be transferred to voluntary status, but  
399 may be subject to additional periods of assisted treatment under  
400 this act.

401 **SECTION 6.2. Continuance.**

402 The Psychiatric Treatment Board or the court may, for good  
403 cause, order a continuance of up to forty-eight (48) hours or, if  
404 this period ends on a Saturday, Sunday or holiday, to the end of  
405 the next day on which the court is open. The continuance shall  
406 extend the emergency treatment/observation period or any temporary  
407 treatment order until the time of the hearing.

408 **SECTION 6.3. Location of assisted treatment hearing.**

409 For those currently admitted to an inpatient facility  
410 operated by the Department of Mental Health, or its designee,  
411 assisted treatment hearings shall be held at the respondent's  
412 psychiatric facility.

413 **SECTION 6.4. Attendance at hearing.**

414 The hearing shall be open to anyone unless the respondent  
415 requests that it be closed, at which point only parties and their  
416 counsels, witnesses, members and staff of the Psychiatric  
417 Treatment Board, and court personnel may be present. However, the  
418 court may approve a motion of an individual to attend the trial  
419 upon a showing that the person has a substantial interest in the  
420 proceeding.

421 **SECTION 6.5. Expert testimony required at hearing.**

422 For a hearing on a certificate, a treating professional who  
423 has examined respondent since he or she was placed under emergency  
424 treatment/observation shall testify.

425 For a hearing on a petition, the testimony of a treating  
426 professional who has examined the respondent more recently than  
427 seven (7) calendar days before the petition was filed is required.  
428 That testimony may be presented by affidavit, unless respondent's  
429 counsel requests of the petitioner or petitioner's counsel, in  
430 writing, the presence of such a treating professional at the  
431 assisted treatment hearing. A copy of this request must be filed  
432 with the court and made at least seventy-two (72) hours, excluding  
433 Saturdays, Sundays and holidays, before the hearing. If planning  
434 to present the examining treating professional's testimony by  
435 affidavit, counsel for the petitioner must present a copy of the  
436 affidavit either to respondent's counsel or at the office of  
437 respondent's counsel at least twenty-four (24) hours, excluding  
438 Saturdays, Sundays and holidays, before the hearing. The  
439 procedures applicable when the respondent has not been examined  
440 before the hearing are set forth in Section 7.1.

441 **SECTION 6.6. Evidence admissible at hearing.**

442 The Psychiatric Treatment Board may review any information it  
443 finds relevant, material, and reliable, even if normally excluded  
444 under rules of evidence.

445 **SECTION 6.7. Record of hearing.**

446 No transcript is required to be kept of hearings before  
447 psychiatric treatment boards.

448 **SECTION 6.8. Rights of family members.**

449 A family member may file a motion for participation in the  
450 hearing. The Psychiatric Treatment Board may approve the  
451 preliminary motion of such an individual to participate in the  
452 hearing upon a showing that the person has a substantial interest  
453 in the proceeding. If the board so approves, the family member  
454 may have the right to representation by counsel at his or her own  
455 expense, present evidence, cross-examine witnesses, and appeal.

456 **ARTICLE 7**

457 **ASSISTED TREATMENT HEARING DISPOSITION**

458           **SECTION 7.1. Procedure after failure to comply with ordered**  
459 **evaluation.**

460           If the respondent presents good and credible reason why he or  
461 she was not present for an ordered evaluation, the Psychiatric  
462 Treatment Board shall continue the proceeding and issue another  
463 order for examination. A hearing concerning an individual who  
464 fails to comply, without good reason, with a court's evaluation  
465 order still shall proceed. At the conclusion of the argument of  
466 the parties, the board may either order the respondent released,  
467 into treatment, or continue the proceedings so that the respondent  
468 may be evaluated. An individual's refusal, without good reason,  
469 to comply with an evaluation order may be used as evidence of his  
470 or her need for treatment and incapability of making an informed  
471 medical decision. If a continuance is ordered, the respondent  
472 shall be placed in a designated psychiatric facility and evaluated  
473 by a treating professional. The continuance shall be for no more  
474 than seventy-two (72) hours or, if this period ends on a Saturday,  
475 Sunday or holiday, until the end of the next day on which the  
476 court is open.

477           **SECTION 7.2. Consent order.**

478           At the hearing, the petitioner and respondent may proffer a  
479 mutually agreed upon proposed assisted treatment order. The terms  
480 of the order must be consistent with those of an initial order for  
481 assisted treatment made under this act. The proposed order must  
482 be accompanied by the testimony, which may be by affidavit, of a  
483 treating professional qualifying under Section 6.5 that the  
484 suggested order is clinically appropriate for the respondent. At  
485 its discretion, the court may enter the proposed order without a  
486 full hearing. Once entered, the consent order has the same effect  
487 as an assisted treatment order issued under Section 7.3.

488           **SECTION 7.3. Criteria for assisted treatment order.**

489           After reviewing the evidence presented at the hearing, the  
490 Psychiatric Treatment Board shall only order assisted treatment,

491 which can be on either an inpatient or outpatient basis, if it  
492 finds the following by clear and convincing evidence:

493 (a) That the person has a severe psychiatric disorder;

494 (b) That the person is either a danger to himself or  
495 herself, a danger to others, gravely disabled, or chronically  
496 disabled; and

497 (c) That, except for someone found to be a danger, the  
498 person is likely to benefit from assisted treatment.

499 **SECTION 7.4. Assisted treatment order.**

500 An order for assisted treatment, for its duration,  
501 subordinates the individual's right to refuse the administration  
502 of medication or other minor medical treatment to the Department  
503 of Mental Health, its designee, or any other medical provider  
504 obligated to care for the person by the Psychiatric Treatment  
505 Board in its order. The treatment setting shall be the least  
506 restrictive possible appropriate alternative. An initial assisted  
507 treatment order requiring inpatient placement may be for up to  
508 thirty (30) calendar days. An order for assisted treatment on an  
509 outpatient basis may be for up to one hundred eighty (180)  
510 calendar days.

511 **SECTION 7.5. Services included in order for assisted**  
512 **outpatient treatment.**

513 An initial assisted treatment order directing care on an  
514 outpatient basis must include provisions for intensive case  
515 management, assertive community treatment, or a program for  
516 assertive community treatment. The order also may require the  
517 patient make use of and care providers to supply any or all of the  
518 following categories of services to the individual:

519 (a) Medication;

520 (b) Periodic blood tests or urinalysis to determine  
521 compliance with treatment;

522 (c) Individual or group therapy;

523 (d) Day or partial day programming activities;



524 (e) Educational and vocational training or activities;

525 (f) Alcohol or substance abuse treatment and  
526 counseling, and periodic tests for the presence of alcohol or  
527 illegal drugs for persons with a history of alcohol or substance  
528 abuse;

529 (g) Supervision of living arrangements; and

530 (h) Any other services prescribed to treat the person's  
531 mental illness and to assist the person in living and functioning  
532 in the community, or to attempt to prevent a relapse or  
533 deterioration.

534 Any material modifications of the provisions of the assisted  
535 treatment order to which the patient does not agree must be  
536 approved by the court.

537 **SECTION 7.6. Effect of assisted treatment determination on**  
538 **other rights.**

539 The determination that a person is in need of assisted  
540 treatment, either as an inpatient or outpatient, is not a  
541 determination that the patient is legally incompetent or  
542 incapacitated for any purpose other than those set out in this  
543 act.

## 544 **ARTICLE 8**

### 545 **APPEALS**

546 **SECTION 8.1. Appeal or review of assisted treatment decision**  
547 **or status.**

548 Except where specifically prohibited by this act, a decision  
549 of the Psychiatric Treatment Board may be appealed to an  
550 appropriate court of record within ten (10) calendar days of being  
551 entered. The hearing of an appeal is de novo and must be held  
552 within seven (7) calendar days of the filing of the appeal. The  
553 subject of the assisted treatment decision, the petitioner, and  
554 family members allowed as parties under Section 6.8 have the right  
555 to appeal. The court of record may review any information it

556 finds relevant, material, and reliable, even if normally excluded  
557 under rules of evidence.

558 **ARTICLE 9**

559 **SAFEGUARDS**

560 **SECTION 9.1. Thirty-day review for medication side effects.**

561 Each patient in an inpatient treatment facility receiving  
562 medication under an assisted treatment order shall be examined  
563 every thirty (30) days for serious side effects by a psychiatrist  
564 or physician other than his or her treating psychiatrist.

565 **SECTION 9.2. Recommendation for alternative appropriate**  
566 **treatment.**

567 After an examination described in Section 9.1, a nontreating  
568 psychiatrist or other physician who determines, in his or her  
569 clinical judgment, that the patient has serious side effects from  
570 his or her current medication shall suggest, if available, an  
571 alternative appropriate treatment that will have fewer side  
572 effects. The treating psychiatric professional shall either  
573 comply with this recommendation or bring the nontreating  
574 psychiatrist or other physician's written version of it to the  
575 facility's medical director, who shall then determine the  
576 patient's treatment. If the treating psychiatrist is the  
577 facility's medical director, the final decision shall be made by a  
578 medical professional generally appointed for this purpose by the  
579 Department of Mental Health or its designee.

580 **SECTION 9.3. Grievance procedure.**

581 There shall be a one-step grievance procedure made available  
582 to patients on inpatient status. Grievances concerning treatment  
583 may be made to the medical director of each inpatient facility.  
584 Grievances about a patient's treatment regimen may be brought by  
585 the patient or on the patient's behalf by his or her legal  
586 guardian or conservator; his or her patient advocate; any party at  
587 a hearing for the institution of or renewal of assisted treatment;  
588 or his or her spouse, parent, adult child or, if there is no

589 relative of that degree, his or her closest living relative. The  
590 grievance of a patient whose treating psychiatrist is the  
591 facility's medical director shall be ruled on by a medical  
592 professional generally appointed for this purpose by the  
593 Department of Mental Health or its designee.

594         **SECTION 9.4. Appeal of grievance to Psychiatric Treatment**  
595 **Board.**

596         Grievances that are disallowed may be appealed to the  
597 Psychiatric Treatment Board, which shall hear the appeal within  
598 fourteen (14) calendar days. All rulings on appeals of grievances  
599 by the board are final. If the appeal of a grievance is denied,  
600 the patient it was brought either by or for is barred from  
601 appealing, and others from doing so on his or her behalf, any  
602 other grievances to the board for a period of ninety (90) days.  
603 This limitation of appeal does not otherwise alter the patient's  
604 right to bring grievances in accordance with the provisions of  
605 Section 9.3.

606                                 **ARTICLE 10**

607                                 **ASSISTED OUTPATIENT TREATMENT**

608         **SECTION 10.1. Enforcement of assisted outpatient treatment**  
609 **order.**

610         An assisted outpatient treatment order's requirement to  
611 maintain treatment can be enforced for noncompliance. On the  
612 signature of a supervising psychiatrist, the order may be enforced  
613 either at the patient's residence or a treatment center designated  
614 by the Department of Mental Health or its designee, whichever the  
615 patient chooses. Patients who physically resist or fail to select  
616 a treatment location shall be treated at a designated treatment  
617 center.

618         **SECTION 10.2. Transfer to inpatient care.**

619         The procedures used to determine whether a patient under an  
620 assisted treatment order who is on outpatient status should be  
621 placed in inpatient care are the same as those for initial

622 placement in assisted treatment. A patient who meets the criteria  
623 for emergency treatment shall immediately be given care in an  
624 inpatient facility, but a hearing is still necessary to confirm  
625 this transfer to inpatient status. At the hearing, the  
626 Psychiatric Treatment Board shall order the patient's transfer to  
627 or continued placement in inpatient care, depending on his or her  
628 status pending the hearing, if the treatment setting is the least  
629 restrictive form that will meet the patient's clinical needs. A  
630 patient's failure to comply with an order for assisted treatment  
631 while in the community may be used as evidence that outpatient  
632 placement is not an appropriate treatment setting for that  
633 individual.

634 **ARTICLE 11**

635 **TRIAL RELEASE**

636 **SECTION 11.1. Authorization for trial release.**

637 When appropriate, a treating physician may allow an inpatient  
638 under an assisted treatment order to receive care in the community  
639 by placing the patient on trial release. Trial release is subject  
640 to the patient's condition and compliance with a treatment plan  
641 developed before his or her release. The care of a patient on  
642 trial release will continue to be supervised by the releasing  
643 hospital. The trial release period may last until the expiration  
644 of the order for assisted inpatient treatment. The trial release  
645 period may not be extended. If appropriate, before the expiration  
646 of the trial release period, a petition should be filed requesting  
647 the renewal of the assisted treatment order and that the patient  
648 be placed on outpatient status.

649 **SECTION 11.2. Notice of trial release.**

650 Notice of a patient being placed on a trial release  
651 anticipated to exceed seventy-two (72) hours shall be mailed at  
652 least seventy-two (72) hours in advance by the patient's inpatient  
653 facility to the petitioner; patient's legal guardian or  
654 conservator, if known; patient's counsel, if known; an adult

655 member of the patient's household, if known; and anyone recognized  
656 as a party at the initial assisted treatment hearing or any later  
657 renewal hearings.

658           **SECTION 11.3. Revocation of trial release.**

659           A treating psychiatrist shall revoke a patient's trial  
660 release if he or she makes the determination that the patient has  
661 either substantially violated the conditions of his or her release  
662 or is in need of inpatient care. There is no hearing necessary to  
663 revoke trial release. After determining a patient should be  
664 removed from trial release, the treating psychiatrist may direct  
665 either law enforcement officers with the power of arrest or others  
666 who have been designated to perform this function by the state,  
667 county or Department of Mental Health to return the patient to the  
668 releasing hospital.

669   **ARTICLE 12**

670   **REVIEW OF STATUS**

671           **SECTION 12.1. Request for review of assisted treatment**  
672 **status.**

673           If the time for appeal of his or her most recent assisted  
674 treatment order or renewal has expired, a patient may request a  
675 review of his or her assisted treatment status by the Psychiatric  
676 Treatment Board. The board must review the request within  
677 fourteen (14) calendar days. A patient may request a review of  
678 status hearing no more than once every ninety (90) days.

679           **SECTION 12.2. Notice of status review hearing.**

680           Notice of the status review hearing shall be mailed at least  
681 seven (7) calendar days in advance to the patient; patient's legal  
682 guardian or conservator, if known; patient's counsel, if known; an  
683 adult member of the patient's household, if known; and anyone  
684 recognized as a party at the initial assisted treatment hearing or  
685 any later renewal hearings. Timely actual notice shall fulfill  
686 the notice requirement for any given individual.

687   **ARTICLE 13**

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**RENEWALS**

**SECTION 13.1. Renewal of assisted treatment order.**

The process for renewing an assisted treatment order is the same as for the application for an original assisted treatment order by petition, except that notice of the renewal hearing, as provided in Section 5.5, also shall be sent to anyone recognized as a party at the initial assisted treatment hearing or any later renewal hearings.

**SECTION 13.2. Duration of renewal period.**

The first renewal for an assisted inpatient treatment period may last up to one hundred eighty (180) days and later renewals up to three hundred sixty (360) days thereafter. A later renewal for an assisted outpatient treatment period may last up to three hundred sixty (360) days.

**ARTICLE 14**

**PROCEDURES FOR DISCHARGE**

**SECTION 14.1. Discharge prior to the expiration of assisted treatment period.**

A patient in assisted inpatient treatment or on trial release may be discharged on the signature of both the treating medical professional and the medical director of the facility. A patient under an assisted treatment order who is on outpatient status may be discharged on the signature of the treating medical professional and the director of the outpatient program.

**SECTION 14.2. Notice of discharge.**

Notice of discharge from an assisted treatment order shall be mailed at least seventy-two (72) hours before the planned discharge to the petitioner; patient's legal guardian or conservator, if known; patient's counsel, if known; an adult member of the patient's household, if known; and anyone recognized as a party at the initial assisted treatment hearing or any later renewal hearings.

**SECTION 14.3. Discharge plan requirement.**

721 Any patient placed on assisted treatment must be given a  
722 treatment plan at the time of discharge from inpatient care or an  
723 outpatient program or when placed on trial release for a period  
724 anticipated being greater than seventy-two (72) hours. A  
725 treatment plan may include, but is not limited to suggested  
726 medication; individual or group therapy; day or partial day  
727 programming activities; services and training, including  
728 educational and vocational activities; residential supervision;  
729 intensive case management services; and living arrangements.

730 **SECTION 14.4. Early discharge hearing.**

731 A hearing before the Psychiatric Treatment Board to determine  
732 the appropriateness of the discharge of a patient before the  
733 expiration of his or her assisted treatment period may be demanded  
734 as a matter of right by the petitioner; the patient's legal  
735 guardian or conservator, if known; an adult member of the  
736 patient's household, if known; and anyone recognized as a party at  
737 the initial assisted treatment hearing or any later renewal  
738 hearings.

739 **ARTICLE 15**

740 **ACCOUNTABILITY**

741 **SECTION 15.1. Treatment provider liability.**

742 In addition to other limitations on liability provided by  
743 state law, persons providing care to patients placed in assisted  
744 treatment under this act only shall be liable for harm later  
745 caused by or to individuals who are either discharged from  
746 assisted treatment, placed on outpatient status, or given trial  
747 release if the discharge or placement of the individual was not  
748 within the scope of the person's employment, or was reckless or  
749 grossly negligent.

750 **ARTICLE 16**

751 **PATIENT BILL OF RIGHTS**

752 **SECTION 16.1. Rights of all individuals in assisted**  
753 **treatment.**

754 All patients placed in assisted treatment under this act  
755 shall have the following rights:

756 (a) The right to appointed counsel at the initial  
757 assisted treatment hearing, reviews of status, later renewal  
758 hearings of orders for assisted treatment, and appeals of these  
759 proceedings.

760 (b) The right for the patient and his or her legal  
761 guardian or conservator, if known, to receive a written list of  
762 all rights enumerated in this act.

763 (c) The right to appropriate treatment, which shall be  
764 administered skillfully, safely, and humanely. Each patient  
765 placed in assisted treatment under this act shall receive  
766 treatment suited to his or her needs, which shall include such  
767 medical, vocational, social, educational, and rehabilitative  
768 services as the patient's condition requires.

769 (d) The right at all times to be treated with  
770 consideration and respect for his or her privacy and dignity.

771 **SECTION 16.2. Additional rights of individuals in assisted**  
772 **inpatient treatment.**

773 In addition to those guaranteed in Section 16.1, patients  
774 placed in assisted inpatient treatment shall have the following  
775 rights:

776 (a) The right to have preserved and safeguarded his or  
777 her personal property.

778 (b) The right to communicate freely with and be visited  
779 at reasonable times by his or her legal counsel or advocate and,  
780 unless prior court restriction has been obtained, to communicate  
781 freely with and be visited at reasonable times by his or her  
782 personal physician or psychologist.

783 (c) The right to communicate freely with others, unless  
784 specifically restricted in the patient's treatment plan because  
785 that communication is likely to be harmful to the patient or  
786 others.



787           (d) The right to receive visitors at reasonable times,  
788 unless specifically restricted in the patient's treatment plan  
789 because the contact is likely to be harmful to the patient or  
790 others.

791           (e) The right to have reasonable access to telephones,  
792 and to make and receive confidential calls, unless specifically  
793 restricted in the patient's treatment plan because that  
794 communication is likely to be harmful to the patient or others.  
795 This shall include a reasonable number of free calls if the  
796 patient is unable to pay for them and assistance in calling if  
797 requested and needed.

798           (f) The right to have ready access to letter writing  
799 materials, unless specifically restricted in the patient's  
800 treatment plan because that communication is likely to be harmful  
801 to the patient or others. This shall include, if the patient is  
802 unable to pay for them, a reasonable number of stamps without  
803 cost, the right to mail and receive unopened correspondence, and  
804 assistance in writing if requested and needed.

805           (g) The right to be provided with an adequate allotment  
806 of neat, clean, and seasonable clothing.

807           (h) The right to maintain personal appearance according  
808 to the patient's personal taste, including head and body hair,  
809 unless inconsistent with health and safety.

810           (i) The right to keep and spend a reasonable sum of his  
811 or her own money for expenses and small purchases.

812           (j) The right to vote if otherwise eligible to do so.  
813 Voter registration forms, applications for absentee ballots, and  
814 absentee ballots shall be made available to patients.

815           **SECTION 17.** If there is any conflict between the provisions  
816 of this act and any other provisions of law, the provisions of  
817 this act shall control to the extent of the conflict.

818           **SECTION 18.** This act shall take effect and be in force from  
819 and after July 1, 2005.