

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 600
Committee Substitute Favorable 4/24/89

Short Title: Outpatient Commitment Criteria.

(Public)

Sponsors:

Referred to:

March 15, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO REFINE THE OUTPATIENT COMMITMENT CRITERIA FOR
3 PERSONS WITH MENTAL ILLNESS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 122C-271 reads as rewritten:

6 "(b) If the respondent has been held in a 24-hour facility pending the district court
7 hearing, the court may make one of the following dispositions:

- 8 (1) If the court finds by clear, cogent, and convincing evidence that the
9 respondent is mentally ill; that he is capable of surviving safely in the
10 community with available supervision from family, friends, or others;
11 that based on respondent's ~~treatment~~ psychiatric history, the respondent
12 is in need of treatment in order to prevent further disability or
13 deterioration that would predictably result in dangerousness as defined
14 by G.S. 122C-3(11); and that the respondent's current mental status or
15 the nature of his illness limits or negates his ability to make an
16 informed decision voluntarily to seek or comply with recommended
17 treatment, it may order outpatient commitment for a period not in
18 excess of 90 days. If the commitment proceedings were initiated as the
19 result of the respondent's being charged with a violent crime, including
20 a crime involving an assault with a deadly weapon, and the respondent
21 was found not guilty by reason of insanity or incapable of proceeding,
22 the commitment order shall so show.

- 1 (2) If the court finds by clear, cogent, and convincing evidence that the
2 respondent is mentally ill and is dangerous to himself or others or is
3 mentally retarded and, because of an accompanying behavior disorder,
4 is dangerous to others, it may order inpatient commitment at a 24-hour
5 facility described in G.S. 122C-252 for a period not in excess of 90
6 days. However, an individual who is mentally retarded and, because of
7 an accompanying behavior disorder, is dangerous to others may not be
8 committed to a State, area or private facility for the mentally retarded.
9 An individual who is mentally ill and dangerous to himself or others
10 may also be committed to a combination of inpatient and outpatient
11 commitment at both a 24-hour facility and an outpatient treatment
12 physician or center for a period not in excess of 90 days. If the
13 commitment proceedings were initiated as the result of the
14 respondent's being charged with a violent crime, including a crime
15 involving an assault with a deadly weapon, and the respondent was
16 found not guilty by reason of insanity or incapable of proceeding, the
17 commitment order shall so show. If the court orders inpatient
18 commitment for a respondent who is under an outpatient commitment
19 order, the outpatient commitment is terminated; and the clerk of the
20 superior court of the county where the district court hearing is held
21 shall send a notice of the inpatient commitment to the clerk of superior
22 court where the outpatient commitment was being supervised.
- 23 (3) If the court does not find that the respondent meets either of the
24 commitment criteria set out in subdivisions (1) and (2) of this
25 subsection, the respondent shall be discharged, and the facility in
26 which he was last a client so notified.
- 27 (4) Before ordering any outpatient commitment, the court shall make
28 findings of fact as to the availability of outpatient treatment. The court
29 shall also show on the order the outpatient treatment physician or
30 center who is to be responsible for the management and supervision of
31 the respondent's outpatient commitment. When an outpatient
32 commitment order is issued for a respondent held in a 24-hour facility,
33 the court may order the respondent held at the facility for no more than
34 72 hours in order for the facility to notify the designated outpatient
35 treatment physician or center of the treatment needs of the respondent.
36 The clerk of court in the county where the facility is located shall send
37 a copy of the outpatient commitment order to the designated outpatient
38 treatment physician or center. If the outpatient commitment will be
39 supervised in a county other than the county where the commitment
40 originated, the court shall order venue for further court proceedings to
41 be transferred to the county where the outpatient commitment will be
42 supervised. Upon an order changing venue, the clerk of superior court
43 in the county where the commitment originated shall transfer the file to

1 the clerk of superior court in the county where the outpatient
2 commitment is to be supervised."

3 Sec. 2. G.S. 122C-263 reads as rewritten:

4 "(d) After the conclusion of the examination the physician or eligible psychologist
5 shall make the following determinations:

6 (1) If the physician or eligible psychologist finds that:

- 7 a. The respondent is mentally ill;
8 b. The respondent is capable of surviving safely in the community
9 with available supervision from family, friends, or others;
10 c. Based on the respondent's ~~treatment~~ psychiatric history, the
11 respondent is in need of treatment in order to prevent further
12 disability or deterioration which would predictably result in
13 dangerousness as defined by G.S. 122C-3(11); and
14 d. His current mental status or the nature of his illness limits or
15 negates his ability to make an informed decision to seek
16 voluntarily or comply with recommended treatment;

17 The physician or eligible psychologist shall so show on [the] his
18 examination report and shall recommend outpatient commitment. In
19 addition the examining physician or eligible psychologist shall show
20 the name, address, and telephone number of the proposed outpatient
21 treatment physician or center. The person designated in the order to
22 provide transportation shall return the respondent to his regular
23 residence or to the home of a consenting individual, and he shall be
24 released from custody.

25 (2) If the physician or eligible psychologist finds that the respondent is
26 mentally ill and is dangerous to himself or others, or is mentally
27 retarded, and because of an accompanying behavior disorder, is
28 dangerous to others, he shall recommend inpatient commitment, and
29 he shall so show on [the] his examination report. The law-
30 enforcement officer or other designated person shall take the
31 respondent to a 24-hour facility described in G.S. 122C-252 pending a
32 district court hearing. If there is no area 24-hour facility and if the
33 respondent is indigent and unable to pay for his care at a private 24-
34 hour facility, the law-enforcement officer or other designated person
35 shall take the respondent to a State facility for the mentally ill
36 designated by the Commission in accordance with G.S. 143B-
37 157(a)(1)a for custody, observation, and treatment and immediately
38 notify the clerk of superior court of his actions.

39 (3) If the physician or eligible psychologist finds that neither condition
40 described in subdivisions (1) or (2) of this subsection exists, the
41 respondent shall be released and the proceedings terminated."

42 Sec. 3. This act shall become effective October 1, 1989, and applies to
43 outpatient commitment orders issued on or after that date.