



SPONSOR: Sen. Pinkney & Rep. Minor-Brown
Sens. Gay, Hansen, Sokola, Townsend; Reps. Baumbach,
Briggs King, Griffith, Morrison

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 242

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO HEALTH AND SAFETY AND
VOLUNTARY ADMISSION PROCEDURE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 5003, Title 16 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 5003. Voluntary admission procedure.

4 (a) The Department may establish, under the direction and supervision of the Delaware Psychiatric Center, criteria for
5 voluntary admissions to designated psychiatric treatment facilities and hospitals that differ from the criteria for
6 involuntary admissions to designated psychiatric treatment facilities and hospitals.

7 (b) A psychiatrist or licensed independent practitioner who is credentialed and authorized by the Division of
8 Substance Abuse and Mental Health may admit to a designated psychiatric treatment facility or hospital for
9 observation, diagnosis, care and treatment any individual who is a person with an apparent mental condition or who
10 has symptoms of a mental condition and who requests admission subject to the payment of charges for care,
11 maintenance and support as provided in § 5020 of this title.

12 (c) Prior to admitting a person on a voluntary basis, the designated psychiatric treatment facility or hospital must
13 notify the person verbally and in writing of the legal consequences of voluntary admission in language that is
14 understandable to the person, and reasonably believe that the person comprehends such consequences, including but
15 not limited to:

16 (1) The person will not to be allowed to leave the hospital grounds without permission of the treating
17 psychiatrist;

18 (2) If the person seeks discharge prior to the discharge recommended by the person's treatment team, the
19 person's treating psychiatrist may initiate the involuntary inpatient commitment process if the psychiatrist believes
20 the individual presents a danger to self or danger to others; and

21 (3) Unless the involuntary commitment process is initiated, the person will not have the hospitalization reviewed
22 by the court.

(d) The attending psychiatrist shall discharge a voluntary patient when in-patient treatment is no longer clinically indicated.

(e) A voluntary patient may make a written request to the attending psychiatrist to be discharged at any time. Upon the receipt of such request, the attending psychiatrist shall discharge the person within 72 hours from the receipt of the request, except if a psychiatrist or licensed independent practitioner certifies that the voluntary patient is currently demonstrating behaviors believed to be dangerous to self or dangerous to others and these behaviors are documented in the medical record, an emergency detention may be initiated for the person. No person may be involuntarily hospitalized unless in compliance with the emergency detention procedures set forth in § 5004 of this title.

(f) If any applicant is under the age of 18 years old, the following provisions shall apply:

(1) In the case of voluntary admission to a designated psychiatric treatment facility or hospital, consent to treatment shall be given only by a ~~parent or parent~~, legal guardian, or the Department's Director or Deputy Director of the Division of Family Services when the applicant is in the custody of the Division of Family Services. The request for admission to the designated psychiatric treatment facility or hospital shall be signed by either the applicant's ~~parent or parent~~, legal guardian, or the Department's Director or Deputy Director of the Division of Family Services when the applicant is in the custody of the Division of Family Services.

(2) A voluntary patient or the voluntary patient's ~~parent or parent~~, legal guardian, or the Department's Director or Deputy Director of the Division of Family Services when the applicant is in the custody of the Division of Family Services may make a written request to the attending psychiatrist to be discharged at any time.

a. The provisions of subsection (e) of this section shall apply in such instances, except that the voluntary patient's discharge may be conditioned upon the consent of the voluntary patient's ~~parent or parent~~, legal guardian, or the Department's Director or Deputy Director of the Division of Family Services when the applicant is in the custody of the Division of Family Services.

b. If the voluntary patient's ~~parent or parent~~, legal guardian, or the Department's Director or Deputy Director of the Division of Family Services when the voluntary patient is in the custody of the Division of Family Services ~~of a voluntary patient~~ requests the patient's discharge from a treatment facility against the advice of the treatment team and administrator of the facility, the facility may initiate involuntary treatment procedures as provided for under this chapter. The provisions of this paragraph shall apply as if the patient had made the request.

SYNOPSIS

When a youth who is experiencing foster care and living in an out-of-home placement has a need for residential psychiatric treatment, there can be a delay in gaining voluntary admission to a facility due to the Division of Family Services needing to obtain the youth's parent or legal guardian's consent for treatment. This can lead to a youth waiting in an emergency department bed or other inappropriate setting while waiting for the proper consent to be signed. In some

cases, when a youth's parent or legal guardian cannot be located, the youth must be involuntarily committed in order to obtain residential treatment, even when the youth is going willingly.

This bill allows the Department of Services for Children, Youth & Their Families, Division of Family Services Director or Deputy Director to sign the request for voluntary admission to a psychiatric treatment facility for a youth in foster care. In the case of a youth in foster care whose parent or guardian's legal parental rights have not been terminated, the Division of Family Services works collaboratively with the youth's parent to get consent on medical treatment and decisions. This bill would enable youth experiencing foster care to access psychiatric treatment voluntarily when their parent or legal guardian is not available to consent to the treatment on their behalf. This bill also allows the Director or Deputy Director of the Division of Family Services to make a written discharge request on behalf of the youth receiving voluntary treatment.

Author: Senator Pinkney