



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

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 255

AN ACT TO AMEND TITLES 13 AND 16 OF THE DELAWARE CODE RELATING TO THE VOLUNTARY
ADMISSION PROCEDURE.

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

1 Section 1. Amend § 2521 of Title 13, the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 2521. Powers and duties of the DSCYF as custodian of the child.

4 Upon the Court granting custody to DSCYF, DSCYF shall be vested with the following powers and duties:

5 (1) To provide for appropriate placement of the child, within or outside of this State, unless otherwise
6 ordered by Court or controlled by statute, with reasonable notice prior to any change in placement given to the
7 child's attorney and Court Appointed Special Advocate volunteer;

8 (2) To consent to medical care for the child, including medical examination, medical treatment including
9 surgical procedures and mental health treatment other than inpatient psychiatric hospitalization, except as provided
10 in 5003(f) of Title 16. DSCYF shall make reasonable efforts to obtain the consent of the parent, and to notify the
11 child's attorney and Court Appointed Special Advocate volunteer, prior to obtaining medical care;

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

14 § 5003. Voluntary admission procedure.

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

18 (b) A psychiatrist or licensed independent practitioner who is credentialed and authorized by the Division of
19 Substance Abuse and Mental Health may admit to a designated psychiatric treatment facility or hospital for observation,
20 diagnosis, care and treatment any individual who is a person with an apparent mental condition or who has symptoms of a

21 mental condition and who requests admission subject to the payment of charges for care, maintenance and support as
22 provided in § 5020 of this title.

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

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

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

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

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

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

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

43 (1) In the case of voluntary admission to a designated psychiatric treatment facility or hospital, consent to
44 treatment shall be given only by a ~~parent or parent~~, legal guardian, or the Department's Director or Deputy
45 Director of the Division of Family Services when the applicant is in DSCYF custody pursuant to Chapter 25 of
46 Title 13. The request for admission to the designated psychiatric treatment facility or hospital shall be signed by
47 either the applicant's ~~parent or parent~~, legal guardian, or the Department's Director or Deputy Director of the
48 Division of Family Services when the applicant is in DSCYF custody pursuant to Chapter 25 of Title 13.

49 (2) A voluntary patient or the voluntary patient's ~~parent or~~ parent, legal guardian, or the Department's
50 Director or Deputy Director of the Division of Family Services when the applicant is in DSCYF custody pursuant
51 to Chapter 25 of Title 13 may make a written request to the attending psychiatrist to be discharged at any time.

52 a. The provisions of subsection (e) of this section shall apply in such instances, except that the
53 voluntary patient's discharge may be conditioned upon the consent of the voluntary patient's ~~parent or~~
54 parent, legal guardian, or the Department's Director or Deputy Director of the Division of Family
55 Services when the applicant is in DSCYF custody pursuant to Chapter 25 of Title 13.

56 b. If the voluntary patient's ~~parent or~~ parent, legal ~~guardian, of a voluntary patient, guardian, or~~
57 the Department's Director or Deputy Director of the Division of Family Services when the voluntary
58 patient is in DSCYF custody pursuant to Chapter 25 of Title 13 requests the patient's discharge from a
59 treatment facility against the advice of the treatment team and administrator of the facility, the facility
60 may initiate involuntary treatment procedures as provided for under this chapter. The provisions of this
61 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 inpatient 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 inpatient 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