

By Ms. Khan of Newton, petition of Kay Khan, Byron Rushing and Benjamin Swan relative to involuntary outpatient commitment for mentally ill persons. Human Services and Elderly Affairs.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Ninety-Nine.

AN ACT CREATING INVOLUNTARY OUTPATIENT COMMITMENT LAWS FOR MENTALLY ILL PERSONS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 123 of the General Laws is hereby  
2 amended by adding to section 1 the following definitions:—

3 “Gravely disabled” means a condition evidenced by behavior in  
4 which a person, as a result of a mental disorder, becomes likely to  
5 come to serious physical harm or serious illness because of his  
6 inability to provide for his basic physical needs.

7 “Informed decision” means a voluntary decision following pre-  
8 sentation of all facts necessary to form the basis of an intelligent  
9 consent by the patient or guardian with no minimizing of known  
10 dangers of any procedures.

11 “Medical director” means a psychiatrist, or other licensed  
12 physician experienced in psychiatric matters, designated in  
13 writing by the governing body of the facility as the person in  
14 charge of the medical services of the facility.

15 “Outpatient Treatment” means any treatment that does not  
16 require continuous inpatient hospitalizations.

1 SECTION 2. Chapter 123 of the General Laws is hereby  
2 amended by inserting after section 7 the following:—

3 Section 7.5. Outpatient Commitment of Mentally Ill persons;  
4 petition; notice; hearing (a) The superintendent of any public or  
5 private facility or hospital authorized for the commitment or treat-  
6 ment of mentally ill persons under §§8(a) or 12(a), may petition  
7 the district court in whose jurisdiction the facility is located for

8 the outpatient commitment of any patient at such facility whom  
9 the superintendent determines (1) is mentally ill, and (2) displays  
10 one or more of the following:

- 11 a. Likelihood of creating serious harm, or
  - 12 b. Incapacity to make an informed decision regarding  
13 treatment, or
  - 14 c. Grave disability, and
- 15 (3) the patient will likely deteriorate without treatment.

16 (B) Any physician or psychologist licensed pursuant to ch. 112  
17 §2, after examining a patient, may petition the district court in  
18 whose jurisdiction such patient resides for the outpatient commit-  
19 ment of such patient whom the physician determines (1) is men-  
20 tally ill, and (2) displays one or more of the following:

- 21 a. Likelihood of creating serious harm, or
  - 22 b. Incapacity to make an informed decision regarding  
23 treatment, or
  - 24 c. Grave disability, and
- 25 (3) the patient will likely deteriorate without treatment.

26 (C) Any petition for outpatient treatment under (a) or (b) of this  
27 section shall include a written outpatient treatment plan prepared  
28 by those familiar with the patient's case history, and approved by  
29 the superintendent or physician in charge of the patient's care. The  
30 plan shall each of the following:

31 1. A statement of the patient's requirements for supervision,  
32 medication, and assistance in obtaining the basic needs such as  
33 employment, food, clothing, and shelter.

34 2. The address of the residence where the patient resides and  
35 the name of the person (s) in charge of the residence.

36 3. The name and address of any person, agency, or organization  
37 assigned to supervise an outpatient treatment plan or care for the  
38 patient.

39 4. The conditions for continued outpatient treatment, which  
40 may require reporting, continuation of medication and submission  
41 to testing, and may restrict travel, consumption of liquor and  
42 drugs, associations with others, or other such reasonable condi-  
43 tions as the petitioner may specify.

1 SECTION 3. Chapter 123 of the General Laws is hereby  
2 amended by inserting after section 8 the following:—

3 Section 8.5. Proceedings to Commit Mentally Ill Persons to  
4 Involuntary Outpatient Treatment; hearing; findings; decision;

5 orders; jurisdiction (a) After a hearing, unless the subject waives  
6 the hearing in writing, the district court shall not order the com-  
7 mitment of a person to involuntary outpatient treatment or shall  
8 not renew such order unless it finds

9 (1) the patient is mentally ill, and

10 (2) the illness results in one or more of the following:

11 a. Likelihood of serious harm, or

12 b. Incapacity to make an informed decision regarding  
13 treatment, or

14 c. Grave disability, and

15 (3) the patient does not require continuous inpatient hospital-  
16 ization, and will be more appropriately treated in an outpatient  
17 treatment program, and

18 (4) the patient will likely deteriorate without treatment and such  
19 deterioration could result in harm to themselves or others.

20 (B) The court shall render its decision on the petition within ten  
21 days of the completion of the hearing.

22 (C) Outpatient commitment shall not be ordered unless the  
23 court approves a written treatment plan presented to the court  
24 which conforms to the requirements of §7.5, and which contains  
25 the name of the designated director of the mental health treatment  
26 agency that will supervise and administer the patient's treatment  
27 program.

28 (D) The court may order only that portion of the treatment plan  
29 submitted by §7.5 which it determines appropriate, considering all  
30 appropriate alternatives for treatment and are of the patient, as the  
31 least restrictive alternative available.

32 (E) The first order for outpatient commitment shall not  
33 exceed 90 days, and any subsequent order shall not exceed 365 days.

34 (F) If the court orders outpatient treatment pursuant to this  
35 section, all of the following will apply:

36 1. During any period of the outpatient commitment, if the court,  
37 on motion by the medical director in charge of a patient's commit-  
38 ment, determines that the patient is not complying with the terms  
39 of the order or that the outpatient plan no longer remains appro-  
40 priate and the patient needs inpatient treatment, the court may  
41 enter an order amending its original order. The amended order  
42 may alter the outpatients treatment plan, or commit the patient to  
43 inpatient treatment pursuant to section 8 of this chapter.

44 2. If a patient refuses to comply with an amended outpatient  
45 plan, further amendments may be made as the court deems neces-  
46 sary including the inpatient commitment of the patient.

47 3. If the patient refuses to comply with an amended order for  
48 inpatient hospitalization and treatment, the court may authorize  
49 and direct a peace officer to take the patient into protective  
50 custody and transport him to the agency specified for inpatient  
51 treatment.

52 4. When reporting or being returned to a treatment facility for  
53 inpatient treatment pursuant to an amended order, the patient shall  
54 retain all rights to judicial review, and the right to counsel.

1 SECTION 4. Chapter 123 of the General Laws is hereby  
2 amended by inserting after section 8 the following:—

3 Section 8.5A. Periodic review of Outpatient Treatment

4 (a) Before commitment for outpatient treatment, the patient  
5 shall be provided with copies of the court order and full explana-  
6 tions of the approved treatment plan. The approved treatment plan  
7 shall be filed with the court and the medical director in charge of  
8 supervising the patient's outpatient treatment.

9 (B) The medical director shall require periodic reports, not to  
10 exceed 30 days, concerning the condition of patients committed to  
11 outpatient treatment from any person, agency, or organization  
12 assigned to supervise such patients.

13 (C) The medical director shall review the condition of a patient  
14 committed to outpatient treatment at least once every 30 days.

15 (D) The medical director may amend any part of the outpatient  
16 treatment plan during the course of commitment, subject to judi-  
17 cial review after notice to and complaint of the patient.

18 (E) The medical director may, at any time during the course of  
19 the ordered outpatient treatment, petition the court for inpatient  
20 commitment of the patient if, in the medical director's judgment,  
21 the patient has failed to comply with a term of the outpatient treat-  
22 ment plan.

23 (F) The medical director may, at any time, petition the court for  
24 termination of a patient's outpatient commitment order if the med-  
25 ical director determines that outpatient treatment is no longer  
26 appropriate.

27 (G) Nothing in this section prevents the medical director from  
28 authorizing involuntary commitment and treatment in an emer-  
29 gency situation under section 12 of this chapter.

1 SECTION 5. Chapter 123 of the General Laws is hereby  
2 amended by adding to section 9 the following:—

3 (c) Any person may apply to the court stating their belief that a  
4 person currently treated on an involuntary outpatient basis under  
5 section 8.5 should no longer be so treated.





