

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.