

CHAPTER 32

(HB 127)

AN ACT relating to court-ordered mental health treatment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 202A.0811 is amended to read as follows:

- (1) Proceedings for court-ordered assisted outpatient treatment of a person shall be initiated by the filing of a verified petition for that purpose in District Court.
- (2) The petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)."
- (3) The petition shall be filed by a qualified mental health professional; peace officer; county attorney; Commonwealth's attorney; spouse, relative, friend, or guardian of the person concerning whom the petition is filed; or any other interested person.
- (4) The petition shall set forth:
 - (a) Petitioner's relationship to the respondent;
 - (b) Respondent's name, residence, and current location, if known;
 - (c) Petitioner's belief, including the factual basis therefor, that the respondent meets the criteria for court-ordered assisted outpatient treatment as set forth in KRS 202A.0817; and
 - (d) Whether, within five (5) days prior to the filing of the petition, the respondent has been *evaluated*~~examined~~ by a qualified mental health professional to determine whether the respondent meets the criteria for court-ordered assisted outpatient treatment pursuant to KRS 202A.0815.
- (5) Upon receipt of the petition, the court shall examine the petitioner under oath as to the contents of the petition. If the petitioner is a qualified mental health professional, the court may dispense with the examination.
- (6) If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be court-ordered to assisted outpatient treatment, the court shall:
 - (a) Order the respondent to be *evaluated*~~examined~~ without unnecessary delay by a qualified mental health professional to determine whether the respondent meets the criteria for court-ordered assisted outpatient treatment set forth in KRS 202A.0815, unless the court has already received the certified findings of such an *evaluation*~~examination~~ conducted no earlier than five (5) days prior to the filing of the petition. The qualified mental health professional shall certify his or her findings *to the court* within seventy-two (72) hours *from receipt of the order*, excluding weekends and holidays; and
 - (b) Set a date for a hearing within six (6) days from the date of the *filing of the petition*~~examination~~ under the provisions of this section, excluding weekends and holidays, to determine if the respondent should be court-ordered to assisted outpatient treatment.
- (7) If the court finds there is no probable cause to believe the respondent should be court-ordered to assisted outpatient treatment, the proceedings against the respondent shall be dismissed.

➔Section 2. KRS 202A.0815 is amended to read as follows:

No person shall be court-ordered to assisted outpatient mental health treatment unless the person:

- (1) ~~Has been involuntarily hospitalized pursuant to KRS 202A.051 at least two (2) times in the past twenty four (24) months;~~
- ~~(2)~~—Is diagnosed with a serious mental illness;
- (2)~~(3)~~ ***Has a history of repeated nonadherence with mental health treatment, which has:***
 - (a) ***At least twice within the last forty-eight (48) months, been a significant factor in necessitating hospitalization or arrest of the person; or***

- (b) *Within the last twenty-four (24) months, resulted in an act, threat, or attempt at serious physical injury to self or others;*
- (3) Is unlikely to adequately adhere to outpatient treatment on a voluntary basis based on a qualified mental health professional's:
 - (a) Clinical observation; *and*
 - (b) ~~{Review of treatment history, including the person's prior history of repeated treatment nonadherence;~~
~~and~~
 - ~~(c) Identification of specific characteristics of the person's clinical condition *that significantly impair the person's ability to make and maintain a rational and informed decision as to whether to engage in outpatient treatment voluntarily* described as anosognosia, or failure to recognize his or her diagnosis of serious mental illness}; and~~
- (4) Is in need of court-ordered assisted outpatient treatment as the least restrictive alternative mode of treatment presently available and appropriate.

Signed by Governor March 25, 2022.