

Public Law 108–450
108th Congress

An Act

Dec. 10, 2004
[H.R. 4302]

To amend title 21, District of Columbia Official Code, to enact the provisions of the Mental Health Civil Commitment Act of 2002 which affect the Commission on Mental Health and require action by Congress in order to take effect.

District of
Columbia Mental
Health Civil
Commitment
Modernization
Act of 2004.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “District of Columbia Mental Health Civil Commitment Modernization Act of 2004”.

SEC. 2. COMPOSITION, APPOINTMENT, AND ORGANIZATION OF COMMISSION ON MENTAL HEALTH.

(a) IN GENERAL.—Section 21–502, District of Columbia Official Code, is amended to read as follows:

“§ 21–502. Commission on Mental Health; composition; appointment and terms of members; organization; chairperson; salaries

“(a) The Commission on Mental Health is continued. The Chief Judge of the Superior Court of the District of Columbia shall appoint the members of the Commission, and the Commission shall be composed of 9 members and an alternate chairperson. One member shall be a magistrate judge of the Court appointed pursuant to title 11, District of Columbia Official Code, who shall be a member of the bar of the Court and has engaged in active practice of law in the District of Columbia for a period of at least 5 years prior to his or her appointment. The magistrate judge shall be the Chairperson of the Commission and act as the administrative head of the Commission. The Chairperson shall preside at all hearings and direct all of the proceedings before the Commission. Eight members of the Commission shall be psychiatrists or qualified psychologists, as those terms are defined in section 21–501, who have not had less than 5 years of experience in the diagnosis and treatment of mental illness.

“(b)(1) Appointment of members of the Commission shall be for terms of 4 years.

“(2) The initial appointment of a psychiatrist or a qualified psychologist shall be for a probationary period of one year. After the initial one-year probationary appointment, subsequent appointments of the psychiatrist or qualified psychologist shall be for terms of 4 years.

“(c) The psychiatrist or qualified psychologist members of the Commission shall serve on a part-time basis and shall be rotated by assignment of the Chief Judge of the Court, so that at any

one time the Commission shall consist of the Chairperson and 2 members, each of whom is either a psychiatrist or a qualified psychologist. Members of the Commission who are psychiatrists or qualified psychologists may practice their professions during their tenures of office, but may not participate in the disposition of a case of a person in which they have rendered professional service or advice.

“(d) The Chief Judge of the Court shall appoint a magistrate judge of the Court to serve as an alternate Chairperson of the Commission. The alternate Chairperson shall serve on a part time basis and act as Chairperson in the absence of the permanent Chairperson.

“(e) The rate of compensation for the members of the Commission who are psychiatrists or qualified psychologists shall be fixed by the Executive Officer of the Court.”

(b) CLERICAL AMENDMENT.—The item relating to section 21-502 in the table of sections for subchapter I of chapter 5 of title 21, District of Columbia Official Code, is amended to read as follows:

“21-502. Commission on Mental Health; composition; appointment and terms of members; organization; chairperson; salaries.”

(c) EFFECTIVE DATE; TRANSITION FOR CURRENT MEMBERS.—The amendments made by this section shall take effect on the date of the enactment of this Act, except nothing in this section or the amendments made by this section may be construed to affect the appointment or term of service of any individual who serves as a member or alternate member of the Commission on Mental Health (including an individual who serves as the Chairperson or alternate Chairperson of the Commission) on such date.

SEC. 3. COMMISSION MEMBERS DEEMED COMPETENT AND COMPELLABLE WITNESSES AT MENTAL HEALTH PROCEEDINGS.

Section 21-503(b), District of Columbia Official Code, is amended by striking “The Commission, or any of the members thereof,” and inserting “Commission members who are psychiatrists or qualified psychologists”.

SEC. 4. DETENTION FOR EMERGENCY OBSERVATION AND DIAGNOSIS.

Section 21-526, District of Columbia Official Code, is amended by adding at the end the following new subsections:

“(c) The maximum period of time for detention for emergency observation and diagnosis may be extended for up to 21 days, if judicial proceedings under subchapter IV of this chapter have been commenced before the expiration of the order entered under section 21-524 and a psychiatrist or qualified psychologist has examined the person who is the subject of the judicial proceedings and is of the opinion that the person being detained remains mentally ill and is likely to injure himself or others as a result of the illness unless the emergency detention is continued. For good cause shown, the Court may extend the period of detention for emergency observation and diagnosis. The period of detention for emergency observation and diagnosis may be extended pursuant to section 21-543(b) or following a hearing before the Commission pursuant to subsections (d) and (e) of this section.

“(d) If the Commission, at the conclusion of its hearing pursuant to section 21-542, has found that the person with respect to whom the hearing was held is mentally ill and, because of the mental illness, is likely to injure himself or others if not committed, and has concluded that a recommendation of inpatient commitment

is the least restrictive alternative available to prevent the person from injuring himself or others, the detention for emergency observation and diagnosis may be continued by the Department or hospital—

“(1) pending the conclusion of judicial proceedings under subchapter IV of this chapter;

“(2) until the Court enters an order discharging the person; or

“(3) until the Department or hospital determines that continued hospitalization is no longer the least restrictive form of treatment appropriate for the person being detained.

“(e) If the Commission, at the conclusion of its hearing, finds that the person is mentally ill, is likely to injure himself or other persons as a result of mental illness if not committed, and that outpatient treatment is the least restrictive form of commitment appropriate, then, within 14 days of the date of the hearing, the person shall be discharged from inpatient status and shall receive outpatient mental health services or mental health supports as an emergency nonvoluntary patient consistent with this subchapter, pending the conclusion of judicial proceedings under subchapter IV of this chapter.”.

SEC. 5. REPRESENTATION BY COUNSEL OF PERSONS ALLEGED TO BE MENTALLY ILL.

Section 21-543, District of Columbia Official Code, is amended—

(1) in subsection (a) (as redesignated by section 2(r)(1) of the Mental Health Civil Commitment Act of 2002), by striking the last sentence; and

(2) by adding at the end the following new subsection:

“(b) The Commission may not grant a continuance for counsel to prepare his case for more than 5 days. The Commission may grant continuances for good cause shown for periods of up to 14 days. If the Commission grants a continuance, the emergency observation and detention of the person about whom the hearing is being held shall be extended for the duration of the continuance.”.

SEC. 6. HEARING AND DETERMINATION ON QUESTION OF MENTAL ILLNESS.

(a) IN GENERAL.—Section 21-545, District of Columbia Official Code, is amended—

(1) in subsection (a), by striking “jury trial” each place it appears and inserting “jury trial or a trial by the Court”;

(2) by amending subsection (b) to read as follows:

“(b)(1) If the Court or jury finds that the person is not mentally ill or is not likely to injure himself or others as a result of mental illness, the Court shall dismiss the petition and order the person’s release.

“(2) If the Court or jury finds that the person is mentally ill and, because of that mental illness, is likely to injure himself or others if not committed, the Court may order the person’s commitment to the Department or to any other facility, hospital, or mental health provider that the Court believes is the least restrictive alternative consistent with the best interests of the person and the public. An order of commitment issued pursuant to this paragraph shall be for a period of one year.”; and

(3) by adding at the end the following new subsections:

“(c) The psychiatrists and qualified psychologists who are members of the Commission shall be competent and compellable witnesses at a hearing or trial held pursuant to this chapter.

“(d) The jury to be used in any case where a jury trial is demanded under this chapter shall be impaneled, upon order of the Court, from the jurors in attendance upon other branches of the Court, who shall perform the services in addition to and as part of their duties in the Court.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to trials under section 21-545, District of Columbia Code, which are initiated on or after the date of the enactment of this Act.

SEC. 7. RENEWAL OF COMMITMENT STATUS BY COMMISSION.

(a) IN GENERAL.—Subchapter IV of chapter 5 of title 21, District of Columbia Official Code, is amended by inserting after section 21-545 the following new section:

“§ 21-545.01. Renewal of commitment status by commission; review by Court

Deadlines.

“(a) At least 60 days prior to the expiration of an order of commitment issued pursuant to section 21-545 or this section, the chief clinical officer of the Department, or the chief of service of the facility, hospital, or mental health provider to which the person is committed may petition the Commission for a renewal of the order of commitment for that person. For good cause shown, a petition of commitment may be filed within the last 60 days of the one-year period of commitment. The petition for renewal of commitment shall be supported by a certificate of a psychiatrist or qualified psychologist stating that he has examined the person and is of the opinion that the person is mentally ill, and, because of the illness, is likely to injure himself or other persons if not committed. The term of the renewed commitment order shall not exceed one year.

Certification.

“(b) Within 3 days of the filing of a petition under subsection (a) of this section, the Commission shall send a copy of the petition and supporting certificate by registered mail to the person with respect to whom the petition was filed and by regular mail to the person’s attorney.

“(c) The Commission shall promptly examine a person for whom a petition is filed under subsection (a) of this section, and, in accordance with the procedures described in sections 21-542 and 21-543, shall thereafter promptly hold a hearing on the issue of the person’s mental illness and whether, as a result of a mental illness, the person is likely to injure himself or other persons if not committed.

“(d) If the Commission finds, after a hearing under subsection (c) of this section, that the person with respect to whom the hearing was held is no longer mentally ill, or is not mentally ill to the extent that the person is likely to injure himself or other persons if not committed, the Commission shall immediately order the termination of the commitment and notify the Court of that fact in writing.

Notification.

“(e) If the Commission finds, after a hearing under subsection (c) of this section, that the person with respect to whom the hearing was held remains mentally ill to the extent that the person is likely to injure himself or others if not committed, the Commission

Reports.

shall order the renewal of the commitment of the person for an additional term not to exceed one year and shall promptly report that fact, in writing, to the Court. The report shall contain the Commission's findings of fact and conclusions of law. A copy of the report shall be served by registered mail on the person with respect to whom the hearing was held and by mail on the person's attorney.

"(f) If a petition for a renewal of an order of commitment is pending at the expiration of the commitment period ordered under section 21-545 or this section, the Court may, for good cause shown, extend the period of commitment pending resolution of the renewal petition.

Notification.

"(g) Within the last 30 days of the period of commitment, the chief clinical officer of the Department, or the chief of service of the facility, hospital, or mental health provider to which a person is committed, shall notify the Court which ordered the person's commitment pursuant to section 21-545 or this section of the decision not to seek renewal of commitment. Notice to the Court shall be in writing and a copy of the notice shall be mailed to the person who was committed and the person's attorney.

"(h)(1) A person for whom the Commission orders renewed commitment pursuant to subsection (e) of this section may seek a review of the Commission's order by the Superior Court of the District of Columbia, and the Commission, orally and in writing, shall advise the person of this right.

"(2) A review of the Commission's order of renewed commitment, in whole or in part, may be made by a judge of the appropriate division sua sponte and shall be made upon a motion of one of the parties made pursuant to procedures established by rules of the Court. The reviewing judge shall conduct such proceedings as required by the rules of the Court.

"(3) An appeal to the District of Columbia Court of Appeals may be made only after a judge of the Court has reviewed the Commission's order of renewed commitment."

(b) CLERICAL AMENDMENT.—The table of sections of subchapter IV of chapter 5 of title 21, District of Columbia Official Code,

is amended by inserting after the item relating to section 21-545 the following:

“21-545.01. Renewal of commitment status by Commission; review by Court.”.

Approved December 10, 2004.

LEGISLATIVE HISTORY—H.R. 4302:

HOUSE REPORTS: No. 108-729 (Comm. on Government Reform).

CONGRESSIONAL RECORD, Vol. 150 (2004):

Oct. 6, considered and passed House.

Nov. 20, considered and passed Senate.