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HOUSE BILL 609

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Joni Marie Gutierrez

AN ACT

RELATING TO HEALTH CARE; ENACTING THE MANDATED COMMUNITY
TREATMENT ACT; PROVIDING FOR MANDATED COMMUNITY TREATMENT
SERVICES TO TREAT MENTAL ILLNESS; PROVIDING FOR PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Mandated Community Treatment Act".

Section 2. DEFINITIONS.--As used in the Mandated
Community Treatment Act:

A. "brain injury" means an injury resulting from a
blow or jolt to the head or a penetrating head injury that
disrupts the function of the brain affecting cognition,
thinking, sensation, language, behavior or emotions over a
short or long time period and increases the risk for conditions
such as Alzheimer's disease, Parkinson disease and other brain

1 disorders;

2 B. "department" means the human services
3 department;

4 C. "developmental disability" means a severe
5 chronic disability that:

6 (1) is attributable to a mental or physical
7 impairment or a combination of mental or physical impairments;

8 (2) is manifested before a person reaches
9 twenty-two years of age;

10 (3) is expected to continue indefinitely;

11 (4) results in substantial functional
12 limitations in three or more of the following areas of major
13 life activities:

14 (a) self-care;

15 (b) receptive and expressive language;

16 (c) learning;

17 (d) mobility;

18 (e) self-direction;

19 (f) capacity for independent living; or

20 (g) economic self-sufficiency; and

21 (5) reflects a person's need for a combination
22 and sequence of special interdisciplinary or generic treatments
23 or other supports and services that are of lifelong or extended
24 duration and that are individually planned or coordinated;

25 D. "mandated community treatment" means outpatient

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1 services ordered by a court, including case management services
2 or assertive community treatment team services, prescribed to
3 treat a person's mental illness and to assist a person in
4 living and functioning in the community or to attempt to
5 prevent a relapse or deterioration that may reasonably be
6 predicted to result in harm to the person or another, in
7 serious attempts of suicide or in the need for involuntary
8 hospitalization;

9 E. "mandated community treatment program" means a
10 program that arranges and coordinates the provision of mandated
11 community treatment, including monitoring treatment compliance
12 by patients; evaluating and addressing the conditions or needs
13 of persons subject to mandated community treatment; and
14 ensuring compliance with court orders;

15 F. "mental illness" means a substantial disorder of
16 a person's emotional processes, thoughts or cognition that
17 grossly impairs judgment, behavior or capacity to recognize
18 reality, but does not mean developmental disability or brain
19 injury;

20 G. "patient" means a person receiving mandated
21 community treatment pursuant to a court order;

22 H. "physician" means a medical doctor or
23 psychologist licensed in New Mexico who by training or
24 experience is qualified to work with individuals with mental
25 illness;

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1 I. "provider" means an individual or organization
2 licensed, certified or otherwise authorized or permitted by law
3 to provide diagnosis or mental health treatment in the ordinary
4 course of business or practice of a profession; and

5 J. "respondent" means a person who is alleged in a
6 petition, filed pursuant to the provisions of the Mandated
7 Community Treatment Act, to meet the criteria for mandated
8 community treatment.

9 Section 3. PROVIDERS--MANDATED COMMUNITY TREATMENT
10 PROGRAM.--A provider may operate, direct and supervise a
11 mandated community treatment program pursuant to the Mandated
12 Community Treatment Act upon approval by the department.
13 Providers may coordinate efforts to provide joint mandated
14 community treatment programs. Nothing in the Mandated
15 Community Treatment Act shall be construed to affect the
16 ability of a provider to receive, admit or retain patients who
17 otherwise meet the provisions of that act regarding receipt,
18 retention or admission.

19 Section 4. MANDATED COMMUNITY TREATMENT--CRITERIA.--

20 A. A person may be ordered to obtain mandated
21 community treatment if the court finds that there is no
22 appropriate and feasible less-restrictive alternative and that
23 the person:

- 24 (1) is eighteen years of age or older;
25 (2) is suffering from a mental illness;

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1 (3) is unlikely to survive safely in the
2 community without supervision, based on a clinical
3 determination;

4 (4) refused voluntary mental health treatment
5 designed to address the issues or behavior that gave rise to
6 the petition or is unlikely to participate substantially in the
7 voluntary treatment;

8 (5) in view of the person's treatment history
9 and current behavior, is in need of mandated community
10 treatment in order to prevent a relapse or deterioration that
11 would likely result in serious harm to the person or another
12 person;

13 (6) will likely benefit from mandated
14 community treatment; and

15 (7) whose lack of compliance with treatment
16 for mental illness that, prior to the filing of the petition,
17 has:

18 (a) at least twice within the last
19 forty-eight months been a significant factor in necessitating
20 hospitalization or necessitating receipt of services in a
21 forensic or other mental health unit or a correctional
22 facility;

23 (b) resulted in one or more acts of
24 serious violent behavior toward self or others or serious
25 threats of, or attempts at, serious physical harm to self or

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1 others within the last forty-eight months;

2 (c) resulted in the person being
3 hospitalized or incarcerated for at least six months for acts
4 other than petty misdemeanors and the person is to be
5 discharged or released within the next thirty days; or

6 (d) resulted in the person being
7 hospitalized or incarcerated for a period of six months or more
8 and the person was discharged or released within the past sixty
9 days.

10 B. If the person has an advance directive or a
11 personal representative, agent, surrogate, guardian or
12 individual designated by the person to make health care
13 decisions, the court shall consider any advance directives or
14 directions by the personal representative, agent, surrogate,
15 guardian or individual designated by the person in determining
16 the written treatment plan.

17 C. A court shall consider the person's explicit
18 directions in a valid advance directive in consideration of
19 ordering mandated community treatment.

20 D. A court may not order mandated community
21 treatment if it finds a need for involuntary commitment
22 pursuant to the Mental Health and Developmental Disabilities
23 Code.

24 Section 5. PETITION TO THE COURT.--

25 A. A petition for an order authorizing mandated

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1 community treatment may be filed in the district court in the
2 county in which the respondent is present or reasonably
3 believed to be present. A petition shall be filed only by the
4 following persons:

5 (1) a person eighteen years of age or older
6 who resides with the respondent;

7 (2) the parent or spouse of the respondent;

8 (3) the sibling or child of the respondent,
9 provided that the sibling or child is eighteen years of age or
10 older;

11 (4) the director of a hospital where the
12 respondent is hospitalized;

13 (5) the director of a public or charitable
14 organization or agency or a home where the respondent resides
15 or that provides mental health services to the respondent;

16 (6) a physician;

17 (7) a provider or social services official of
18 the city or county where the respondent is present or
19 reasonably believed to be present;

20 (8) a parole officer or probation officer
21 assigned to supervise the respondent;

22 (9) an authorized law enforcement officer; or

23 (10) any other competent adult with personal
24 knowledge of the respondent and the facts as required in
25 Subsection B of this section.

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1 B. The petition shall include:

2 (1) each criterion for mandated community
3 treatment pursuant to Section 4 of the Mandated Community
4 Treatment Act;

5 (2) facts that form the basis of the
6 petitioner's knowledge of the respondent and the respondent's
7 behavior, and that support the petitioner's belief that the
8 respondent meets each criterion for mandated community
9 treatment as set forth in Section 4 of the Mandated Community
10 Treatment Act; provided that the hearing on the petition need
11 not be limited to the stated facts; and

12 (3) whether the respondent is present or is
13 reasonably believed to be present within the county where the
14 petition is filed.

15 C. The petition shall be accompanied by an
16 affidavit of a physician, who shall not be the petitioner,
17 which shall state that:

18 (1) prior to the filing of the petition for
19 mandated community treatment, the respondent was offered
20 voluntary mental health treatment designed to address the
21 issues or behavior that gave rise to the petition and that the
22 respondent either refused or was unlikely to participate
23 substantially in voluntary treatment;

24 (2) the physician has personally examined the
25 respondent no more than ten days prior to the filing of the

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1 petition, or that the physician or the physician's designee has
2 made appropriate attempts to elicit the cooperation of the
3 respondent but has not been successful in persuading the
4 respondent to submit to an examination; and

5 (3) the physician has reason to believe, based
6 on reliable information available to the physician, that the
7 respondent meets the criteria for mandated community treatment,
8 that the physician recommends mandated community treatment for
9 the respondent and that the physician is willing and able to
10 examine the respondent and testify at the hearing on the
11 petition.

12 D. A physician whose affidavit accompanies a
13 petition submitted as provided for in this section may, if the
14 physician believes the respondent to be incapable of informed
15 consent, file a petition for a treatment guardian as provided
16 for in Section 43-1-15 NMSA 1978. If the petition for a
17 treatment guardian is submitted to the court more than three
18 court days prior to the initial hearing on mandated community
19 treatment, both petitions shall be considered at the hearing.

20 Section 6. HEARING--EXAMINATION BY A PHYSICIAN.--

21 A. Upon receipt of the petition, the court shall
22 fix a date for a hearing no later than seven days after the
23 date of service or attempted service. A copy of the petition
24 and notice of hearing shall be served in the same manner as a
25 summons on the petitioner, the respondent, the physician whose

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1 affirmation or affidavit accompanied the petition, the provider
2 and any other person the court deems advisable.

3 B. The respondent shall be represented by counsel
4 at all stages of the proceedings. In the event the respondent
5 does not retain counsel, the court shall appoint an attorney,
6 who shall be paid a reasonable fee from the court-appointed
7 attorney fee fund administered by the administrative office of
8 the courts.

9 C. If the respondent fails to appear at the hearing
10 after notice, and significant attempts to elicit the attendance
11 of the respondent have failed, the court may conduct the
12 hearing in the respondent's absence. If the hearing is
13 conducted without the respondent present, the court shall set
14 forth the factual basis for conducting the hearing without the
15 presence of the respondent.

16 D. The court shall not order mandated community
17 treatment for the respondent unless a physician, who has
18 personally examined the respondent of the petition within ten
19 days prior to the filing of the petition, testifies in person
20 at the hearing. Testimony shall include:

21 (1) the facts that support the allegation that
22 the respondent meets each criterion for mandated community
23 treatment and that the treatment is the least restrictive
24 alternative or least drastic means;

25 (2) the recommended mandated community

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1 treatment and the rationale for the recommended mandated
2 community treatment, including the efficacy of such treatment;
3 and

4 (3) if the recommended mandated community
5 treatment includes medication, the types or classes of
6 medication that should be authorized, the beneficial and
7 detrimental physical and mental effects of such medication and
8 whether such medication should be self-administered or should
9 be administered by an authorized professional.

10 E. If the respondent has refused to be examined by
11 a physician and the court finds reasonable grounds to believe
12 that the allegations of the petition are true, the court may
13 direct a law enforcement officer to take the respondent into
14 custody and transport the respondent to a provider for
15 examination by a physician. Upon the request of a physician,
16 the court may request a provider to transport the respondent to
17 a hospital operating a mandated community treatment program or
18 to any other hospital authorized to receive such persons. The
19 examination of the respondent may be performed by the physician
20 whose affidavit accompanied the petition. If the examination
21 is performed by another physician, the examining physician
22 shall be authorized to consult with the physician whose
23 affidavit accompanied the petition. No respondent taken into
24 custody pursuant to this subsection shall be detained longer
25 than necessary or longer than twenty-four hours. Consent to

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1 examination on the part of the respondent shall not be deemed
2 to be consent for treatment. An order for examination as
3 provided for in this section of the Mandated Community
4 Treatment Act shall not override the respondent's right to
5 refuse treatment as provided for in Section 43-1-15 NMSA 1978.

6 F. The respondent may request a second opinion and
7 be examined by a willing physician of the respondent's choice
8 using public or private resources available to the respondent.
9 The physician may testify about this examination at the request
10 of the respondent or the respondent's attorney.

11 Section 7. WRITTEN LICENSED PHYSICIAN TREATMENT PLAN.--

12 A. The court shall not order mandated community
13 treatment unless an examining physician:

14 (1) develops and provides to the court a
15 proposed written treatment plan; and

16 (2) testifies to explain the written proposed
17 treatment plan.

18 B. In developing a written proposed treatment plan,
19 the physician shall take into account an advance directive, if
20 existing, and provide the following persons with an opportunity
21 to actively participate in the development of the plan:

22 (1) the respondent;

23 (2) the treating physician; and

24 (3) upon the request of the respondent, an
25 individual significant to the respondent, including any

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1 relative, close friend or individual otherwise concerned with
2 the welfare of the respondent. If the petitioner is a
3 provider, the plan shall be provided to the court no later than
4 the date of the hearing on the petition.

5 C. The written proposed treatment plan may include:

- 6 (1) case management, community support
7 services or an assertive community treatment team to provide
8 care coordination;
- 9 (2) counseling, psychotherapy or individual or
10 group therapy;
- 11 (3) medication;
- 12 (4) periodic blood tests or urinalysis to
13 determine compliance with prescribed medications;
- 14 (5) day or partial-day programming activities;
- 15 (6) educational and vocational training or
16 activities;
- 17 (7) psychosocial rehabilitation services;
- 18 (8) alcohol or substance abuse treatment and
19 counseling, and periodic tests for presence of alcohol or
20 illegal drugs for a person with a history of alcohol or
21 substance abuse;
- 22 (9) peer support services;
- 23 (10) crisis respite;
- 24 (11) traditional healing practices; or
25 (12) supervision of living arrangements.

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1 D. If the written proposed treatment plan includes
2 medication, the plan shall include at least one other service
3 and:

4 (1) reasonable assistance in addressing the
5 respondent's basic human needs, including food, clothing and
6 shelter; and

7 (2) specific actions, treatment and services
8 designed to restore the respondent to a condition that would
9 allow for the mandated community treatment order to be vacated.

10 E. If the written proposed treatment plan includes
11 medication, the plan shall state whether such medication should
12 be self-administered or should be administered by an authorized
13 professional and shall specify the type and dosage range of
14 medication most likely to provide maximum benefit for the
15 respondent.

16 F. If the written proposed treatment plan includes
17 alcohol or substance abuse counseling and treatment, the plan
18 may include a provision requiring relevant testing for either
19 alcohol or illegal substances; provided that the physician's
20 clinical basis for recommending such plan provides sufficient
21 facts for the court to find that:

22 (1) the respondent has a history of alcohol or
23 substance abuse that is clinically related to the mental
24 illness; and

25 (2) such testing is necessary to prevent a

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1 relapse or deterioration that would be likely to result in
2 serious harm to the respondent or others.

3 G. Testimony about the written proposed treatment
4 plan shall include an explanation of the recommended treatment
5 and services, the rationale for the recommended treatment and
6 services and the facts that establish that such treatment is
7 the least restrictive alternative or least drastic means for
8 the respondent at that time.

9 H. The respondent or the respondent's attorney
10 shall be afforded an opportunity to offer testimony about why
11 previously offered treatment was refused and may present
12 testimony or witnesses describing an alternative treatment plan
13 and the facts that establish that such a treatment plan is the
14 most appropriate for the respondent and the least restrictive
15 alternative or least drastic means for the respondent at that
16 time.

17 Section 8. DISPOSITION.--

18 A. If after hearing all relevant evidence, the
19 court finds that the criteria as set forth in Section 4 of the
20 Mandated Community Treatment Act have been established by clear
21 and convincing evidence, the court shall order the respondent
22 to receive mandated community treatment for an initial period
23 not to exceed six months.

24 B. In making its determination, the court shall
25 take into consideration the reasons offered by the respondent

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1 as to why previously offered treatment was refused.

2 C. In its order, the court shall state the
3 mandated community treatment that the respondent is to receive,
4 adopting the written proposed treatment plan or an alternative
5 treatment plan that is appropriate for the respondent based on
6 testimony received. A court may order the respondent to
7 self-administer medication or accept the administration of such
8 medication by an authorized professional as part of a mandated
9 community treatment program.

10 D. The order may specify the type and dosage range
11 of medications and shall be effective for the duration of the
12 respondent's mandated community treatment. The treating
13 physician may change the type and dosage of the medications to
14 achieve optimal benefit within accepted treatment practices
15 with the respondent's permission. The court may not order
16 treatment that has not been recommended by the examining or
17 treating physician or proposed by the respondent.

18 E. If after hearing all relevant evidence, the
19 court finds that the criteria for mandated community treatment
20 set forth in Section 4 of the Mandated Community Treatment Act
21 have been established by clear and convincing evidence, but the
22 court has yet to be provided with a written proposed treatment
23 plan and testimony pursuant to Section 7 of that act, the court
24 shall order the petitioning provider or other appropriate
25 provider to examine the respondent, the respondent's treatment

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1 history and any valid advance directive and deliver to the
2 court a written proposed treatment plan and testimony pursuant
3 to Section 7 of that act as soon as practicable. Upon
4 receiving the written proposed treatment plan and testimony,
5 the court may order mandated community treatment as provided in
6 Subsection A of this section.

7 F. If the petitioner is a provider that operates a
8 mandated community treatment program, the court order shall
9 direct the provider to provide or arrange for all mandated
10 community treatment for the respondent throughout the period of
11 the order. The respondent's expressed desires about the
12 preferred provider of treatment or services in the court-
13 ordered treatment plan shall be considered provided the court
14 deems the choice to be reasonable and consistent with the
15 treatment plan.

16 G. The provider of the mandated community treatment
17 to the respondent shall apply to the court for approval before
18 instituting a proposed material change in the court-ordered
19 treatment plan for the respondent unless the change is
20 contemplated in the order. An application for approval shall
21 be served upon those persons required to be served with notice
22 of a petition for an order authorizing mandated community
23 treatment pursuant to this section. Nonmaterial changes may be
24 instituted by the mandated community treatment program without
25 court approval.

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1 H. In the event the treating physician or provider
2 determines that the respondent no longer meets the criteria for
3 mandated community treatment pursuant to Section 4 of the
4 Mandated Community Treatment Act, the treating physician or
5 provider shall notify the court within ten days of that
6 determination and seek an order vacating the court order
7 compelling the patient to undergo mandated community treatment.

8 I. For purposes of this section, "material change"
9 means an addition or deletion of a category of treatment or
10 service in the court-ordered treatment plan or a substantial
11 deviation without the patient's agreement from the terms of the
12 existing order relating to the administration or type of
13 medications.

14 Section 9. APPLICATIONS FOR ADDITIONAL PERIODS OF
15 TREATMENT.--

16 A. If a provider determines that the condition of a
17 patient requires further mandated community treatment, the
18 provider shall seek, prior to the expiration of the period of
19 mandated community treatment ordered by the court, a second or
20 subsequent order authorizing continued mandated community
21 treatment for a period not to exceed one year from the date of
22 the second or subsequent order. If the court's disposition of
23 the application does not occur prior to the expiration date of
24 the current order, the current order shall remain in effect
25 until the court's disposition. A person subject to a

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1 subsequent petition or the person's attorney of record shall
2 have the right to request that a six-person jury hear evidence
3 and make findings as to whether the criteria for mandated
4 community treatment continue to be met. The person subject to
5 a subsequent petition found by the court to be subject to
6 continuing mandated community treatment shall have a right to
7 appeal that decision. An order for an additional period of
8 treatment shall be obtained pursuant to the provisions of the
9 Mandated Community Treatment Act.

10 B. A court order requiring periodic blood tests or
11 urinalysis for the presence of alcohol or illegal drugs shall
12 be subject to review after six months by a physician, who shall
13 be authorized to terminate the blood tests or urinalysis
14 without further action by the court.

15 Section 10. APPLICATION FOR AN ORDER TO STAY, VACATE OR
16 MODIFY--COMPLAINTS.--

17 A. In addition to any other right or remedy
18 available by law with respect to the order for mandated
19 community treatment, the patient, the patient's counsel or
20 anyone acting on the patient's behalf may apply to the court to
21 stay, vacate or modify the order. A copy of the application
22 shall be served on the appropriate provider and the original
23 petitioner. In the event the treating physician or provider
24 determines that the patient no longer meets the criteria as set
25 forth in Section 4 of the Mandated Community Treatment Act, the

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1 physician or provider shall notify the court within ten days of
2 that determination and seek an order vacating the court order
3 compelling the patient to undergo mandated community treatment.

4 B. At all times during the court process and during
5 the mandated community treatment, the respondent shall be
6 treated with respect and dignity and provided with as much
7 autonomy as possible. Disagreement with the court-ordered
8 treatment plan or the recommendations of the treating physician
9 shall not be considered evidence by itself of clinical
10 incapacity to make informed decisions.

11 C. If a respondent has a complaint about the
12 treatment provided pursuant to a court order for mandated
13 community treatment, the respondent may file a complaint
14 through regular procedures as provided by law or regulation
15 with the department. The department shall investigate the
16 complaint and assist the respondent in seeking a resolution of
17 the complaint to the extent possible.

18 Section 11. FAILURE TO COMPLY WITH MANDATED COMMUNITY
19 TREATMENT.--

20 A. A physician may determine that a patient has
21 failed to comply with mandated community treatment if, in the
22 clinical judgment of the physician:

23 (1) the patient has failed or has refused to
24 comply with the treatment ordered by the court;

25 (2) sufficient efforts were made to solicit

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1 compliance and the qualifications of the person making the
2 efforts to solicit compliance were appropriate to those
3 efforts; and

4 (3) the patient may be in need of an
5 examination to determine whether the patient has a mental
6 illness for which involuntary hospitalization is necessary. In
7 determining whether the patient is in need of such an
8 examination, the physician may consider the patient's refusal
9 of any form of treatment or refusal to take or the patient's
10 failure of a blood test, urinalysis or alcohol or drug test as
11 required by the court order.

12 B. Upon the request of a physician making a
13 determination set forth in Subsection A of this section, a
14 provider may transport a patient to the hospital operating a
15 mandated community treatment program or to any other hospital
16 authorized by the department to receive such persons.

17 C. If deemed necessary and upon the request of a
18 physician, a provider may request the aid of a law enforcement
19 officer to take the patient into custody and transport the
20 patient to the hospital operating the mandated community
21 treatment program or to any hospital authorized by the
22 department to receive such persons. A law enforcement officer
23 may carry out a provider's directive pursuant to this section.

24 D. The patient may be retained for observation,
25 care, treatment and further examination in the hospital for up

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1 to seventy-two hours to permit a physician to determine whether
2 the patient has a mental illness and is in need of mandated
3 community treatment pursuant to the Mandated Community
4 Treatment Act. Any continued involuntary retention in a
5 hospital beyond the initial seventy-two-hour period shall be in
6 accordance with the provisions of the Mental Health and
7 Developmental Disabilities Code relating to the involuntary
8 admission and retention of a person. If at any time during the
9 seventy-two-hour period the person is determined not to meet
10 the involuntary admission and retention provisions of the
11 Mandated Community Treatment Act and the person does not agree
12 to stay in the hospital as a voluntary or informal patient, the
13 patient shall be released.

14 E. A patient's failure to comply with an order of
15 mandated community treatment is not by itself grounds for
16 involuntary civil commitment or a finding of contempt of court.
17 A physician who believes a patient to be incapable of informed
18 consent may file for a treatment guardian as provided for in
19 Section 43-1-15 NMSA 1978. If a patient who has a treatment
20 guardian fails to comply with the court-ordered treatment plan,
21 the treatment guardian may apply to the court for an
22 enforcement order as provided for in Section 43-1-15 NMSA 1978.

23 Section 12. SEQUESTRATION AND CONFIDENTIALITY OF
24 RECORDS.--

25 A. A petition initiating proceedings pursuant to

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1 the provisions of the Mandated Community Treatment Act shall be
2 entitled "In the Matter of" and
3 shall set forth with specificity:

4 (1) the facts necessary to invoke the
5 jurisdiction of the court;

6 (2) the name, birth date and last known
7 residence address of the respondent of the petition; and

8 (3) any other substantive matters required by
9 the Mandated Community Treatment Act to be set forth in the
10 petition.

11 B. All records or information concerning a party to
12 a proceeding pursuant to the Mandated Community Treatment Act,
13 including all pleadings and other documents filed in the
14 matter, social records, diagnostic evaluations, psychiatric or
15 psychological reports, videotapes, transcripts and audio
16 recordings of interviews and examinations, recorded testimony
17 and the mandated community treatment plan that was produced or
18 obtained as part of a proceeding pursuant to the Mandated
19 Community Treatment Act, shall be confidential and closed to
20 the public.

21 C. The records described in Subsection B of this
22 section shall be disclosed only to the parties and:

23 (1) court personnel;

24 (2) court-appointed special advocates;

25 (3) the respondent's attorney, personal

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1 representative, agent, surrogate, guardian or individual
2 designated by the person to make health care decisions;

3 (4) law enforcement officials requested by the
4 court to perform any duties or functions related to the
5 respondent as deemed appropriate by the court;

6 (5) providers involved in the evaluation or
7 treatment of the respondent; or

8 (6) any other person or entity, by order of
9 the court, having a legitimate interest in the case or the work
10 of the court including persons selected to evaluate the
11 Mandated Community Treatment Act pursuant to Section 15 of that
12 act.

13 D. Whoever intentionally and unlawfully releases
14 any information or records closed to the public pursuant to
15 the Mandated Community Treatment Act or releases or makes other
16 unlawful use of the records in violation of that act is guilty
17 of a petty misdemeanor.

18 Section 13. CRIMINAL PROSECUTION--CIVIL PENALTIES.--A
19 person who knowingly makes a false statement or knowingly
20 provides false information or false testimony in a petition or
21 hearing pursuant to the provisions of the Mandated Community
22 Treatment Act is subject to criminal prosecution, fines,
23 penalties, attorney fees or court costs as determined by the
24 court.

25 Section 14. EDUCATIONAL MATERIALS.--The department, in
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1 consultation with the administrative office of the courts,
2 shall prepare educational and training materials on the
3 provisions of the Mandated Community Treatment Act that shall
4 be made available to providers, judges, court personnel, law
5 enforcement officials and the general public.

6 Section 15. EVALUATION OF THE MANDATED COMMUNITY
7 TREATMENT ACT.--

8 A. The department shall conduct a study of the
9 Mandated Community Treatment Act after it has been in effect
10 for five years and shall report its analysis of the effect of
11 that act to the appropriate interim legislative committees no
12 later than September 1, 2013. The report shall include:

13 (1) analyses of the diagnoses of respondents;

14 (2) treatment histories of the respondents
15 prior to the time of the filing of the petition to the extent
16 the information is available;

17 (3) the length of time prior to the filing of
18 the petition since respondents were last in a residential
19 treatment setting or inpatient setting;

20 (4) the number of petitions filed and the
21 number granted;

22 (5) the funding sources utilized by
23 respondents and providers to pay for mandated community
24 treatment;

25 (6) the effectiveness of services provided for

.163521.2

underscored material = new
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1 persons subject to mandated community treatment plans compared
2 to services for similar persons not subject to mandated
3 community treatment plans;

4 (7) the satisfaction of persons subject to
5 mandated community treatment plans with treatment received
6 pursuant to those plans and other services and treatment
7 received; and

8 (8) incidence of homelessness,
9 hospitalization, arrests, incarceration of patients before
10 mandated community treatment, to the extent available, and
11 information on the incidence during mandated community
12 treatment.

13 B. The department shall require mandated community
14 treatment programs and providers and physicians that implement
15 such orders to provide such information and data about the
16 persons subject to mandated community treatment and about the
17 treatment and services they receive as may be necessary to
18 monitor the implementation of the Mandated Community Treatment
19 Act and to ensure that the evaluation is conducted.

20 Section 16. PREEMPTION.--County and municipal ordinances
21 are preempted when they conflict with the Mandated Community
22 Treatment Act.

23 Section 17. DELAYED REPEAL.--Sections 1 through 16 of
24 this act are repealed effective June 30, 2017.

25 Section 18. SEVERABILITY.--If any part or application of
.163521.2

underscoring material = new
~~[bracketed material] = delete~~

1 the Mandated Community Treatment Act is held invalid, the
2 remainder or its application to other situations or persons
3 shall not be affected.

4 Section 19. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2007.

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