

108TH CONGRESS
2D SESSION

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.

IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2004

Mr. TOM DAVIS of Virginia (for himself and Ms. NORTON) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

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

3 (a) IN GENERAL.—Section 21–502, District of Co-
4 lumbia Official Code, is amended to read as follows:

5 **“§ 21–502. Commission on Mental Health; composi-**
6 **tion; appointment and terms of members;**
7 **organization; chairperson; salaries.**

8 “(a) The Commission on Mental Health is continued.
9 The Chief Judge of the Superior Court of the District of
10 Columbia shall appoint the members of the Commission,
11 and the Commission shall be composed of 9 members and
12 an alternate chairperson. One member shall be a mag-
13 istrate judge of the Court appointed pursuant to title 11,
14 District of Columbia Official Code, who shall be a member
15 of the bar of the Court and has engaged in active practice
16 of law in the District of Columbia for a period of at least
17 5 years prior to his or her appointment. The magistrate
18 judge shall be the Chairperson of the Commission and act
19 as the administrative head of the Commission. The Chair-
20 person shall preside at all hearings and direct all of the
21 proceedings before the Commission. Eight members of the
22 Commission shall be psychiatrists or qualified psycholo-
23 gists, as those terms are defined in section 21–501, who
24 have not had less than 5 years of experience in the diag-
25 nosis and treatment of mental illness.

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

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

8 “(c) The psychiatrist or qualified psychologist mem-
9 bers of the Commission shall serve on a part-time basis
10 and shall be rotated by assignment of the Chief Judge of
11 the Court, so that at any one time the Commission shall
12 consist of the Chairperson and 2 members, each of whom
13 is either a psychiatrist or a qualified psychologist. Mem-
14 bers of the Commission who are psychiatrists or qualified
15 psychologists may practice their professions during their
16 tenures of office, but may not participate in the disposition
17 of a case of a person in which they have rendered profes-
18 sional service or advice.

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

24 “(e) The rate of compensation for the members of
25 the Commission who are psychiatrists or qualified psy-

1 chologists shall be fixed by the Executive Officer of the
2 Court.”.

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

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

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

16 **SEC. 3. COMMISSION MEMBERS DEEMED COMPETENT AND**
17 **COMPELLABLE WITNESSES AT MENTAL**
18 **HEALTH PROCEEDINGS.**

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

1 **SEC. 4. DETENTION FOR EMERGENCY OBSERVATION AND**
2 **DIAGNOSIS.**

3 Section 21–526, District of Columbia Official Code,
4 is amended by adding at the end the following new sub-
5 sections:

6 “(c) The maximum period of time for detention for
7 emergency observation and diagnosis may be extended for
8 up to 21 days, if judicial proceedings under subchapter
9 IV of this chapter have been commenced before the expira-
10 tion of the order entered under section 21–524 and a psy-
11 chiatrist or qualified psychologist has examined the person
12 who is the subject of the judicial proceedings and is of
13 the opinion that the person being detained remains men-
14 tally ill and is likely to injure himself or others as a result
15 of the illness unless the emergency detention is continued.
16 For good cause shown, the Court may extend the period
17 of detention for emergency observation and diagnosis. The
18 period of detention for emergency observation and diag-
19 nosis may be extended pursuant to section 21–543(b) or
20 following a hearing before the Commission pursuant to
21 subsections (d) and (e) of this section.

22 “(d) If the Commission, at the conclusion of its hear-
23 ing pursuant to section 21–542, has found that the person
24 with respect to whom the hearing was held is mentally
25 ill and, because of the mental illness, is likely to injure
26 himself or others if not committed, and has concluded that

1 a recommendation of inpatient commitment is the least
2 restrictive alternative available to prevent the person from
3 injuring himself or others, the detention for emergency ob-
4 servation and diagnosis may be continued by the Depart-
5 ment or hospital—

6 “(1) pending the conclusion of judicial pro-
7 ceedings under subchapter IV of this chapter;

8 “(2) until the Court enters an order dis-
9 charging the person; or

10 “(3) until the Department or hospital deter-
11 mines that continued hospitalization is no longer the
12 least restrictive form of treatment appropriate for
13 the person being detained.

14 “(e) If the Commission, at the conclusion of its hear-
15 ing, finds that the person is mentally ill, is likely to injure
16 himself or other persons as a result of mental illness if
17 not committed, and that outpatient treatment is the least
18 restrictive form of commitment appropriate, then, within
19 14 days of the date of the hearing, the person shall be
20 discharged from inpatient status and shall receive out-
21 patient mental health services or mental health supports
22 as an emergency nonvoluntary patient consistent with this
23 subchapter, pending the conclusion of judicial proceedings
24 under subchapter IV of this chapter.”.

1 **SEC. 5. REPRESENTATION BY COUNSEL OF PERSONS AL-**
2 **LEGED TO BE MENTALLY ILL.**

3 Section 21–543, District of Columbia Official Code,
4 is amended—

5 (1) in subsection (a) (as redesignated by section
6 2(r)(1) of the Mental Health Civil Commitment Act
7 of 2002), by striking the last sentence; and

8 (2) by adding at the end the following new sub-
9 section:

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

17 **SEC. 6. HEARING AND DETERMINATION ON QUESTION OF**
18 **MENTAL ILLNESS.**

19 (a) IN GENERAL.—Section 21–545, District of Co-
20 lumbia Official Code, is amended—

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

24 (2) by amending subsection (b) to read as fol-
25 lows:

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

5 “(2) If the Court or jury finds that the person is men-
6 tally ill and, because of that mental illness, is likely to
7 injure himself or others if not committed, the Court may
8 order the person’s commitment to the Department or to
9 any other facility, hospital, or mental health provider that
10 the Court believes is the least restrictive alternative con-
11 sistent with the best interests of the person and the public.
12 An order of commitment issued pursuant to this para-
13 graph shall be for a period of one year.”; and

14 (3) by adding at the end the following new sub-
15 sections:

16 “(c) The psychiatrists and qualified psychologists
17 who are members of the Commission shall be competent
18 and compellable witnesses at a hearing or trial held pursu-
19 ant to this chapter.

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

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to trials under section
3 21–545, District of Columbia Code, which are initiated on
4 or after the date of the enactment of this Act.

5 **SEC. 7. RENEWAL OF COMMITMENT STATUS BY COMMIS-**
6 **SION.**

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

11 **“§ 21–545.01. Renewal of commitment status by Com-**
12 **mission; review by Court.**

13 “(a) At least 60 days prior to the expiration of an
14 order of commitment issued pursuant to section 21–545
15 or this section, the chief clinical officer of the Department,
16 or the chief of service of the facility, hospital, or mental
17 health provider to which the person is committed may peti-
18 tion the Commission for a renewal of the order of commit-
19 ment for that person. For good cause shown, a petition
20 of commitment may be filed within the last 60 days of
21 the one-year period of commitment. The petition for re-
22 newal of commitment shall be supported by a certificate
23 of a psychiatrist or qualified psychologist stating that he
24 has examined the person and is of the opinion that the
25 person is mentally ill, and, because of the illness, is likely

1 to injure himself or other persons if not committed. The
2 term of the renewed commitment order shall not exceed
3 one year.

4 “(b) Within 3 days of the filing of a petition under
5 subsection (a) of this section, the Commission shall send
6 a copy of the petition and supporting certificate by reg-
7 istered mail to the person with respect to whom the peti-
8 tion was filed and by regular mail to the person’s attorney.

9 “(c) The Commission shall promptly examine a per-
10 son for whom a petition is filed under subsection (a) of
11 this section, and, in accordance with the procedures de-
12 scribed in sections 21–542 and 21–543, shall thereafter
13 promptly hold a hearing on the issue of the person’s men-
14 tal illness and whether, as a result of a mental illness,
15 the person is likely to injure himself or other persons if
16 not committed.

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

24 “(e) If the Commission finds, after a hearing under
25 subsection (c) of this section, that the person with respect

1 to whom the hearing was held remains mentally ill to the
2 extent that the person is likely to injure himself or others
3 if not committed, the Commission shall order the renewal
4 of the commitment of the person for an additional term
5 not to exceed one year and shall promptly report that fact,
6 in writing, to the Court. The report shall contain the Com-
7 mission's findings of fact and conclusions of law. A copy
8 of the report shall be served by registered mail on the per-
9 son with respect to whom the hearing was held and by
10 mail on the person's attorney.

11 “(f) If a petition for a renewal of an order of commit-
12 ment is pending at the expiration of the commitment pe-
13 riod ordered under section 21-545 or this section, the
14 Court may, for good cause shown, extend the period of
15 commitment pending resolution of the renewal petition.

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

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

7 “(2) A review of the Commission’s order of renewed
8 commitment, in whole or in part, may be made by a judge
9 of the appropriate division sua sponte and shall be made
10 upon a motion of one of the parties made pursuant to pro-
11 cedures established by rules of the Court. The reviewing
12 judge shall conduct such proceedings as required by the
13 rules of the Court.

14 “(3) An appeal to the District of Columbia Court of
15 Appeals may be made only after a judge of the Court has
16 reviewed the Commission’s order of renewed commit-
17 ment.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 of subchapter IV of chapter 5 of title 21, District of Co-
20 lumbia Official Code, is amended by inserting after the
21 item relating to section 21–545 the following:

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

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply with respect to orders of commit-

1 ment issued on or after the date of the enactment of this
2 Act.

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