

**As Introduced**

**127th General Assembly  
Regular Session  
2007-2008**

**H. B. No. 299**

**Representative Patton**

**Cosponsors: Representatives McGregor, J., Hagan, R., Ujvagi, Boyd**

—

**A B I L L**

To amend section 5119.01 and to enact sections 1  
340.20, 340.21, 340.22, 340.23, 340.24, and 340.25 2  
of the Revised Code regarding assisted outpatient 3  
treatment. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 5119.01 be amended and sections 5  
340.20, 340.21, 340.22, 340.23, 340.24, and 340.25 of the Revised 6  
Code be enacted to read as follows: 7

**Sec. 340.20.** (A) As used in sections 340.20 to 340.25 of the 8  
Revised Code: 9

(1) "Assisted outpatient" means the person who is the subject 10  
of a court order to receive assisted outpatient treatment. 11

(2) "Assisted outpatient treatment" means services provided 12  
pursuant to a court order to a person who is suffering from a 13  
mental illness that include medication; periodic blood tests or 14  
urinalysis to determine compliance with prescribed medications or 15  
the presence of alcohol or illegal drugs; individual or group 16  
therapy; educational and vocational training or activities; 17  
supervision of living arrangements; and any other services 18  
prescribed to treat a person's mental illness, assist the person 19

in living and functioning in the community, or attempt to prevent 20  
a relapse or further deterioration that may be reasonably 21  
predicted to result in suicide or the need for hospitalization. 22

(3) "Court" means the probate division of the court of common 23  
pleas. 24

(4) "Mental health professional" means any of the following 25  
persons: 26

(a) A physician authorized under Chapter 4731. of the Revised 27  
Code to practice medicine and surgery or osteopathic medicine and 28  
surgery; 29

(b) Subject to the supervision, control, and direction of a 30  
physician, a physician's assistant licensed under Chapter 4730. of 31  
the Revised Code; 32

(c) A clinical nurse specialist, certified nurse-midwife, or 33  
certified nurse practitioner that holds a certificate issued under 34  
section 4723.48 of the Revised Code; 35

(d) A psychologist licensed under Chapter 4732. of the 36  
Revised Code; 37

(e) A professional clinical counselor, or a professional 38  
counselor under the supervision of a psychologist, psychiatrist, 39  
professional clinical counselor, or independent social worker, 40  
licensed under Chapter 4757. of the Revised Code; 41

(f) An independent social worker, or a social worker under 42  
the supervision of a psychologist, psychiatrist, professional 43  
clinical counselor, independent social worker, or registered nurse 44  
who holds a master's degree in psychiatric nursing, licensed under 45  
Chapter 4757. of the Revised Code; 46

(g) An independent marriage and family therapist, or a 47  
marriage and family therapist under the supervision of a 48  
psychologist, psychiatrist, professional clinical counselor, 49

independent social worker, or independent marriage and family therapist, licensed under Chapter 4757. of the Revised Code. 50  
51

(5) "Mental illness" has the same meaning as in section 5122.01 of the Revised Code. 52  
53

(6) "Substantive change" means any addition, deletion, or amendment to a written assisted outpatient treatment plan that would affect the mental health of the assisted outpatient. 54  
55  
56

(B) Each board of alcohol, drug addiction, and mental health services shall establish and maintain an assisted outpatient treatment program. All programs, through mental health professionals employed in that alcohol, drug addiction, and mental health services district, shall provide timely assisted outpatient treatment, monitor compliance with assisted outpatient treatment, evaluate and address the conditions or needs of assisted outpatients, and ensure compliance with court orders of assisted outpatient treatment. The executive director of each board of alcohol, drug addiction, and mental health services shall appoint a mental health professional employed in that alcohol, drug addiction, and mental health services district to oversee and coordinate the operations of the assisted outpatient treatment program in the district. On a quarterly basis, the local coordinator shall collect and report nonidentifying statistical data regarding the assisted outpatient treatment program in the local coordinator's alcohol, drug addiction, and mental health services district to the director of mental health, or the director's designee. 57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75

(C) The director of mental health, or the director's designee, shall oversee and coordinate all assisted outpatient treatment programs in the state. The director or the director's designee shall compile statistical data collected pursuant to division (B) of this section and report the findings to the governor, the general assembly, and the executive directors of all 76  
77  
78  
79  
80  
81

boards of alcohol, drug addiction, and mental health services. 82

(D) Notwithstanding statistical data collected pursuant to 83  
division (B) of this section, records regarding assisted 84  
outpatient treatment under sections 340.20 to 340.24 of the 85  
Revised Code are confidential and are not public records under 86  
section 149.43 of the Revised Code. 87

**Sec. 340.21.** (A) All of the following persons may file a 88  
petition for an order requiring a person to participate in an 89  
assisted outpatient treatment program in the court of the county 90  
in which the respondent resides or is believed to be residing: 91

(1) A person who is at least eighteen years of age and 92  
resides with the respondent; 93

(2) A person who is a parent, spouse, sibling, or child of 94  
the respondent and who is at least eighteen years of age; 95

(3) A mental health professional who has provided or is 96  
providing mental health services to the respondent; 97

(4) A parole or probation officer who is supervising the 98  
respondent. 99

(B)(1) A petition filed pursuant to division (A) of this 100  
section shall contain: 101

(a) The criteria set forth in division (B)(2) of this section 102  
and facts stating that the respondent meets all of the criteria; 103

(b) A statement that the respondent resides or is believed to 104  
be residing in the county where the petition is filed; 105

(c) An affidavit by a mental health professional, who is not 106  
the petitioner and who has done either of the following within ten 107  
days prior to filing the petition: 108

(i) Personally examined the respondent regarding the person's 109  
mental health and recommends assisted outpatient treatment for the 110

person; 111

(ii) Attempted to examine the respondent regarding the 112  
respondent's mental health, has been unsuccessful in examining the 113  
respondent, and has reason to suspect that the respondent meets 114  
the criteria described in division (B)(2) of this section. 115

(2) The respondent must meet all of the following criteria 116  
before the court may order that the respondent participate in 117  
assisted outpatient treatment: 118

(a) The respondent is at least eighteen years old. 119

(b) The respondent is suffering from mental illness. 120

(c) The respondent is unlikely to survive safely in the 121  
community without supervision based on determination by a mental 122  
health professional. 123

(d) The respondent has a history of lack of compliance with 124  
treatment for mental illness and either of the following has 125  
occurred: 126

(i) At least twice in thirty-six months prior to filing the 127  
petition, the respondent's mental illness has been a significant 128  
factor in hospitalization, services, or other related treatment, 129  
not including any current period of hospitalization, services, or 130  
other related treatment or period of hospitalization, services, or 131  
other related treatment ending in the six months prior to filing 132  
the petition. 133

(ii) In the forty-eight months prior to filing the petition, 134  
the respondent's mental illness has been a significant cause of 135  
one or more acts of serious violent behavior toward the 136  
respondent's self or others or the cause of threats of, or 137  
attempts at, serious physical harm to the respondent's self or 138  
others, not including any current period of hospitalization, 139  
services, or other related treatment or period of hospitalization, 140

services, or other related treatment ending in the six months 141  
prior to filing the petition. 142

(e) The respondent is unlikely to voluntarily participate in 143  
treatment for the respondent's mental illness that would enable 144  
the respondent to live safely in the community. 145

(f) The respondent is in need of assisted outpatient 146  
treatment based on the respondent's treatment history and current 147  
behavior in order to prevent relapse of the mental illness or 148  
additional damage to the respondent's mental health and such 149  
relapse or damage would result in serious harm to the respondent 150  
or others. 151

(g) The respondent is likely to benefit from assisted 152  
outpatient treatment. 153

(C) If the respondent refuses examination under division 154  
(B)(1)(c) of this section, the court may request that a 155  
court-appointed mental health professional examine the respondent. 156  
If the respondent refuses the court-requested examination and 157  
there is reasonable cause to believe that the respondent meets the 158  
criteria in division (B)(2) of this section, the court may order 159  
the respondent to be taken into custody by a police officer or 160  
sheriff to undergo examination by a court-appointed mental health 161  
professional. Examination under this division shall be conducted 162  
within twenty-four hours of receiving custody of the respondent 163  
and may be by a mental health professional described in division 164  
(B)(1)(c)(ii) of this section. The respondent shall not be in 165  
custody for longer than twenty-four hours. 166

(D) All of the following persons shall personally, or by 167  
mail, be given notice of, and a copy of, a petition filed pursuant 168  
to division (A) of this section: 169

(1) The respondent; 170

(2) The executive director of the board of alcohol, drug 171

addiction, and mental health services of the county in which the 172  
petition is filed; 173

(3) The director of the department of mental health; 174

(4) The closest known relative of the respondent who is not 175  
described in division (D)(5) of this section; 176

(5) Each person eighteen years of age or older with whom the 177  
respondent resides. 178

**Sec. 340.22.** (A) Upon receipt of a petition filed pursuant to 179  
section 340.21 of the Revised Code, the court shall schedule a 180  
hearing not later than three business days after receipt of the 181  
petition and give notice of the hearing by mail to the petitioner 182  
and the persons listed in division (D) of section 340.21 of the 183  
Revised Code. 184

(B) Upon receipt of the notice under division (A) of this 185  
section, the executive director of the board of alcohol, drug 186  
addiction, and mental health service district of the county in 187  
which the petition is filed shall cause a written assisted 188  
outpatient treatment plan for the respondent to be delivered to 189  
the court not later than the business day prior to the hearing 190  
scheduled under division (A) of this section. A mental health 191  
professional employed in the alcohol, drug addiction, and mental 192  
health service district of the county in which the petition is 193  
filed shall create the assisted outpatient treatment plan and 194  
detail the services that will be provided to the respondent in 195  
accordance with rules adopted under section 5119.01 of the Revised 196  
Code. The services provided pursuant to the assisted outpatient 197  
treatment plan shall be the least restrictive services necessary 198  
for treating the respondent. The mental health professional 199  
creating the assisted outpatient treatment plan shall provide the 200  
respondent, and any other person named by the respondent, an 201  
opportunity to participate in the development of the plan. 202

(C)(1) If the court finds by clear and convincing evidence 203  
that the respondent meets all of the criteria for assisted 204  
outpatient treatment as described in section 340.21 of the Revised 205  
Code, the written assisted outpatient treatment plan created 206  
pursuant to this section provides the least restrictive services 207  
necessary for treating the respondent, and the court hears 208  
testimony from relevant persons, including the mental health 209  
professional creating the assisted outpatient treatment plan, 210  
regarding the respondent and the plan, the court may order the 211  
respondent to participate in the assisted outpatient treatment 212  
contained in the plan for an initial period not to exceed six 213  
months. 214

(2) If the court does not find by clear and convincing 215  
evidence that the respondent meets all of the criteria for 216  
assisted outpatient treatment as described in section 340.21 of 217  
the Revised Code, the court may dismiss the petition. If the court 218  
does not find by clear and convincing evidence that the written 219  
assisted outpatient treatment plan created pursuant to this 220  
section provides the least restrictive services necessary for 221  
treating the respondent, the court may continue the proceeding for 222  
ten business days to obtain a revised plan. Upon receiving the 223  
revised plan, the court shall either dismiss the petition or order 224  
the respondent to participate in the assisted outpatient treatment 225  
contained in a revised written assisted outpatient treatment plan 226  
for an initial period not to exceed six months. 227

(3) A copy of the order issued under division (C)(1) or (2) 228  
of this section shall be sent to the petitioner, persons listed in 229  
division (D) of section 340.21 of the Revised Code, and the mental 230  
health professional providing assisted outpatient treatment to the 231  
assisted outpatient. 232

(D) Not earlier than thirty days prior to the expiration of 233  
an order issued under division (C) of this section, the executive 234



director of the board of alcohol, drug addiction, and mental 235  
health service district in which the assisted outpatient is 236  
participating in assisted outpatient treatment or the person who 237  
filed a petition under division (A) of section 340.21 of the 238  
Revised Code may petition the court to order continued assisted 239  
outpatient treatment up to one year after the expiration of the 240  
original order. Subject to this section, the court may order 241  
continued assisted outpatient treatment if the respondent meets 242  
the criteria described in division (B)(2) of section 340.21 of the 243  
Revised Code. 244

(E)(1) The respondent or assisted outpatient has the right to 245  
counsel, be present at any hearing, present evidence, examine or 246  
cross-examine witnesses, and appeal any decision, regarding 247  
assisted outpatient treatment under sections 340.20 to 340.24 of 248  
the Revised Code. To the extent not inconsistent with sections 249  
340.20 to 340.24 of the Revised Code, the Rules of Civil Procedure 250  
are applicable. 251

(2) On motion of the respondent or assisted outpatient, or on 252  
the court's own motion, for good cause shown, the court may order 253  
a continuance of the hearing held pursuant to this section. 254

**Sec. 340.23.** The mental health professional providing 255  
assisted outpatient treatment to the assisted outpatient shall 256  
petition the court in which the original petition for assisted 257  
outpatient treatment was filed to make any substantive change in 258  
the written assisted outpatient treatment plan created under 259  
section 340.22 of the Revised Code. Notice of the petition shall 260  
be delivered by mail to the persons listed in division (D) of 261  
section 340.21 of the Revised Code. The court may approve any 262  
changes without a hearing if the assisted outpatient consents to 263  
the changes, unless one or more of the notified parties objects to 264  
the change. If the assisted outpatient does not consent, or any of 265

the notified parties object to the changes, the court shall 266  
schedule a hearing on the proposed change within five business 267  
days of receiving the petition. The mental health professional may 268  
make any nonsubstantive changes to the written assisted outpatient 269  
treatment plan without petitioning the court. 270

Sec. 340.24. An assisted outpatient who fails to participate 271  
in assisted outpatient treatment according to the provisions of 272  
the written assisted outpatient treatment plan shall be subject to 273  
sections 5122.11 to 5122.15 of the Revised Code regarding 274  
hospitalization of a person pursuant to a court order. 275

Sec. 340.25. (A) A person who knowingly makes a false 276  
statement on a petition, written statement, or other documentation 277  
as required under sections 340.20 to 340.24 of the Revised Code is 278  
guilty of falsification under section 2921.13 of the Revised Code. 279

(B) A person who knowingly makes a false statement in any 280  
proceeding held pursuant to sections 340.20 to 340.24 of the 281  
Revised Code is guilty of perjury under section 2921.11 of the 282  
Revised Code. 283

Sec. 5119.01. The director of mental health is the chief 284  
executive and administrative officer of the department of mental 285  
health. The director may establish procedures for the governance 286  
of the department, conduct of its employees and officers, 287  
performance of its business, and custody, use, and preservation of 288  
departmental records, papers, books, documents, and property. 289  
Whenever the Revised Code imposes a duty upon or requires an 290  
action of the department or any of its institutions, the director 291  
shall perform the action or duty in the name of the department, 292  
except that the medical director appointed pursuant to section 293  
5119.07 of the Revised Code shall be responsible for decisions 294

relating to medical diagnosis, treatment, rehabilitation, quality 295  
assurance, and the clinical aspects of the following: licensure of 296  
hospitals and residential facilities, research, community mental 297  
health plans, and delivery of mental health services. 298

The director shall: 299

(A) Adopt rules for the proper execution of the powers and 300  
duties of the department with respect to the institutions under 301  
its control, and require the performance of additional duties by 302  
the officers of the institutions as necessary to fully meet the 303  
requirements, intents, and purposes of this chapter. In case of an 304  
apparent conflict between the powers conferred upon any managing 305  
officer and those conferred by such sections upon the department, 306  
the presumption shall be conclusive in favor of the department. 307

(B) Adopt rules for the nonpartisan management of the 308  
institutions under the department's control. An officer or 309  
employee of the department or any officer or employee of any 310  
institution under its control who, by solicitation or otherwise, 311  
exerts influence directly or indirectly to induce any other 312  
officer or employee of the department or any of its institutions 313  
to adopt the exerting officer's or employee's political views or 314  
to favor any particular person, issue, or candidate for office 315  
shall be removed from the exerting officer's or employee's office 316  
or position, by the department in case of an officer or employee, 317  
and by the governor in case of the director. 318

(C) Appoint such employees, including the medical director, 319  
as are necessary for the efficient conduct of the department, and 320  
prescribe their titles and duties; 321

(D) Prescribe the forms of affidavits, applications, medical 322  
certificates, orders of hospitalization and release, and all other 323  
forms, reports, and records that are required in the 324  
hospitalization or admission and release of all persons to the 325

|  |     |
|--|-----|
| institutions under the control of the department, or are otherwise | 326 |
| required under this chapter or Chapter 5122. of the Revised Code;  | 327 |
| (E) Contract with hospitals licensed by the department under       | 328 |
| section 5119.20 of the Revised Code for the care and treatment of  | 329 |
| mentally ill patients, or with persons, organizations, or agencies | 330 |
| for the custody, supervision, care, or treatment of mentally ill   | 331 |
| persons receiving services elsewhere than within the enclosure of  | 332 |
| a hospital operated under section 5119.02 of the Revised Code;     | 333 |
| (F) Exercise the powers and perform the duties relating to         | 334 |
| community mental health facilities and services that are assigned  | 335 |
| to the director under this chapter and Chapter 340. of the Revised | 336 |
| Code;  | 337 |
| (G) Develop and implement clinical evaluation and monitoring       | 338 |
| of services that are operated by the department;                   | 339 |
| (H) At the director's discretion, adopt rules establishing         | 340 |
| standards for the adequacy of services provided by community       | 341 |
| mental health facilities, and certify the compliance of such       | 342 |
| facilities with the standards for the purpose of authorizing their | 343 |
| participation in the health care plans of health insuring          | 344 |
| corporations under Chapter 1751. and sickness and accident         | 345 |
| insurance policies issued under Chapter 3923. of the Revised Code. | 346 |
| The director shall cease to certify such compliance two years      | 347 |
| after June 6, 2001. The director shall rescind the rules after the | 348 |
| date the director ceases to certify such compliance.               | 349 |
| (I) Adopt rules establishing standards for the performance of      | 350 |
| evaluations by a forensic center or other psychiatric program or   | 351 |
| facility of the mental condition of defendants ordered by the      | 352 |
| court under section 2919.271, or 2945.371 of the Revised Code, and | 353 |
| for the treatment of defendants who have been found incompetent to | 354 |
| stand trial and ordered by the court under section 2945.38,        | 355 |
| 2945.39, 2945.401, or 2945.402 of the Revised Code to receive      | 356 |

|  |                          |
|--|--------------------------|
| treatment in facilities;   | 357                      |
| (J) On behalf of the department, have the authority and responsibility for entering into contracts and other agreements;   | 358<br>359               |
| (K) Prepare and publish regularly a state mental health plan that describes the department's philosophy, current activities, and long-term and short-term goals and activities;  | 360<br>361<br>362        |
| (L) Adopt rules in accordance with Chapter 119. of the Revised Code specifying the supplemental services that may be provided through a trust authorized by section 5815.28 of the Revised Code;                         | 363<br>364<br>365<br>366 |
| (M) Adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for the maintenance and distribution to a beneficiary of assets of a trust authorized by section 5815.28 of the Revised Code; | 367<br>368<br>369<br>370 |
| <u>(N) Adopt rules regarding assisted outpatient treatment as described in sections 340.20 to 340.24 of the Revised Code that establish the following:</u>   | 371<br>372<br>373        |
| <u>(1) To the extent necessary, training and education of mental health professionals, judges, or other relevant persons involved with assisted outpatient treatment;</u>  | 374<br>375<br>376        |
| <u>(2) Contents of the written assisted outpatient treatment plans described in section 340.22 of the Revised Code;</u>  | 377<br>378               |
| <u>(3) Collection and dissemination of statistical data described in section 340.20 of the Revised Code.</u>   | 379<br>380               |
| <b>Section 2.</b> That existing section 5119.01 of the Revised Code is hereby repealed.  | 381<br>382               |