

**§2211-A. Persons confined; hospitalization for mental illness**

**1. Prohibition.** A person with serious mental illness may not be detained or confined solely because of that mental illness in any jail, prison or other detention or correctional facility unless that person is being detained or serving a sentence for commission of a crime.

[PL 1995, c. 431, §1 (NEW).]

**2. Application for hospitalization required.** A sheriff or other person responsible for any county or local detention or correctional facility who believes that a person confined in that facility is mentally ill and requires hospitalization shall apply, in writing, for the admission of that person to a hospital for the mentally ill, giving the reasons for requesting the admission. The application and certification must be in accordance with the requirements of Title 34-B, section 3863.

[PL 1995, c. 431, §1 (NEW).]

**3. Terms of admission.** A person with respect to whom application and certification are made may be admitted to a hospital for the mentally ill. Except as otherwise specifically provided in this section, Title 34-B, chapter 3, subchapter IV, articles I and III, except section 3868, are applicable to a person admitted under this section as if the admission were applied for under Title 34-B, section 3863.

[PL 1995, c. 431, §1 (NEW).]

**3-A. Authorization of hospitalization.** When a person who is hospitalized in a psychiatric hospital under the provisions of Title 34-B, chapter 3 is sentenced to serve a straight term of imprisonment or a split sentence in a county jail, the person must remain hospitalized as long as continued hospitalization is appropriate under Title 34-B, chapter 3. The sheriff shall promptly process the person to initiate execution of the sentence in a manner that disrupts the person's hospitalization as little as possible. The provisions of this section apply as if the person had been transferred to the hospital after beginning serving the sentence at the county jail.

[PL 2009, c. 281, §1 (NEW).]

**4. No effect on sentence; jurisdiction retained.** Admission of a person to a hospital under this section has no effect on a sentence then being served, on an existing commitment on civil process or on detention pending any stage of a criminal proceeding in which that person is the defendant, and the court having jurisdiction retains its jurisdiction. The sentence continues to run and any commitment or detention remains in force unless terminated in accordance with law.

[PL 1995, c. 431, §1 (NEW).]

**5. Disposition of application and certification.** A copy of the document by which a person is held in confinement, attested by the sheriff or other person responsible for any county or local detention or correctional facility, must accompany the application for admission. Following that person's admission to a hospital for the mentally ill under this section, a copy of the application and certification similarly attested must be filed with the court having jurisdiction over any civil or criminal case in which that person is the defendant. If a criminal proceeding is pending against the person admitted, the clerk of the court shall forward a copy of the application and certification to the attorney for the defendant and the attorney for the State.

[PL 1995, c. 431, §1 (NEW).]

**6. Discharge from hospital.** If the sentence being served at the time of admission has not expired or commitment on civil process or detention has not been terminated in accordance with law at the time the person is ready for discharge from hospitalization, that person must be returned by the sheriff or deputy sheriff of the county from which the person was admitted to the facility from which the person was admitted.

[PL 1995, c. 431, §1 (NEW).]

**7. Transportation expenses.** The county where the incarceration originated shall pay all expenses incident to transportation of a person between the hospital and the detention or correctional facility pursuant to this section.

[PL 1995, c. 431, §1 (NEW).]

**8. Competency hearing.** Admission to a hospital under this section may not be used to examine or observe a person for the purpose of a criminal proceeding pending in court. Before the trial of a defendant admitted for hospitalization under this section, the court may, at any time upon motion of the defendant's attorney or the attorney for the State or upon the court's own motion, hold a hearing with respect to the competence of that person to stand trial as provided in section 101-D and appropriate disposition may be made. The court's order following a hearing may terminate an admission effected under this section.

[PL 2009, c. 268, §5 (AMD).]

**9. Alternative; voluntary commitment.** If hospitalization is recommended by a licensed physician or licensed psychologist, a person confined in a county or local detention or correctional facility may apply for informal admission to a hospital for the mentally ill under Title 34-B, sections 3831 and 3832, in which case all other provisions of this section as to notice of status as an inmate of a county or local detention or correctional facility, notice to the court and counsel, transportation and expenses and the continuation and termination of sentence, commitment or detention apply. Except as otherwise provided in this section, the provisions of law applicable to persons admitted to a hospital for the mentally ill under Title 34-B, sections 3831 and 3832 apply to a person confined and admitted to a hospital for the mentally ill under those sections.

[PL 1995, c. 431, §1 (NEW).]

**10. Reincarceration planning.** For each person hospitalized pursuant to this section, the Department of Health and Human Services, in consultation with the sheriff or other person responsible for the local or county correctional facility and before the person is transferred back to the correctional facility, shall develop a written treatment plan describing the recommended treatment to be provided to the person.

[PL 2001, c. 659, Pt. D, §1 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

#### SECTION HISTORY

PL 1965, c. 58, §1 (NEW). PL 1969, c. 403, §1 (RPR). PL 1973, c. 547, §§4-6 (AMD). PL 1973, c. 716, §§1,2 (AMD). PL 1975, c. 559, §§2-4 (AMD). PL 1987, c. 402, §A112 (AMD). PL 1995, c. 431, §1 (RPR). PL 2001, c. 659, §D1 (AMD). PL 2003, c. 689, §B6 (REV). PL 2009, c. 268, §5 (AMD). PL 2009, c. 281, §1 (AMD).

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