

Amid push for looser standards, new report gives Pennsylvania failing grade on its involuntary psychiatric treatment law

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As a law to change Pennsylvania's involuntary outpatient treatment laws awaits a vote in the state Senate, a new report from a national nonprofit that advocates for increased treatment of severe mental illness gave Pennsylvania a failing grade for its strict involuntary treatment standards.

The Arlington, Va.-based Treatment Advocacy Center criticized the state for requiring "clear and present danger" for court-mandated care, and for using identical standards for inpatient and outpatient treatment. The report argues that a requirement of imminent harm is outdated and too strict.

Local advocates for people with mental illnesses disagree, arguing that the Center's focus on the language of the involuntary treatment statute misses a more important problem of lack of resources. They also worry that lowering the standard for court-mandated treatment opens people with mental illnesses up to abuse.

"It's very much a secondary issue compared to whether or not there's enough funding for services," said Carol Horowitz, managing attorney for the Pittsburgh office of Disability Rights Pennsylvania.

"There's a large number of people where if there were enough services they would be more likely to seek it and not need involuntary treatment," said Ms. Horowitz.

"The criterion is set at danger to oneself and others, it's applied consistently in Pennsylvania, and I think it serves the people in need well," said Christine Michaels, CEO of the Pennsylvania organization of the National Alliance on Mental Illness, NAMI Keystone PA.

"There's a balance to be had between liberty interests and someone getting treatment," said Ms. Horowitz.

The report also rewards states for having unambiguous standards, for allowing many people, including family, to request court-mandated care, and for having options available following stabilization of patients. Pennsylvania is knocked for not allowing court-ordered treatment to continue for patients who are no longer dangerous.

Only nine states and the District of Columbia were given failing grades, and only seven states still use the imminent harm standard. In Pennsylvania, that standard goes back to the 1976 Mental Health Procedures Act.

The bill now awaiting a vote in the state Senate, which would establish a separate standard for assisted outpatient treatment, or AOT, passed unanimously in the state house in 2017 and the senate Health and Human Services committee in March.

Frankie Berger, director of advocacy for the Treatment Advocacy Center, said changes to the Pennsylvania laws are her number one priority.

"Pennsylvania is spending a bunch of money, they have a really good treatment system for voluntary patients, and still they have all these people calling our office, parents of adults with intense mental illnesses, saying, 'We're having to wait until our kids are actively trying to hurt themselves or us,'" said Ms. Berger.

Advocates say that a high standard is important. "At one point historically people could just commit people with very little substantive reasons," said Ms. Michaels.

"What happens if your son or daughter really wants to access your money, and you decide, I'll try to get them committed? There's real possibility for abuse," said Ms. Horowitz.

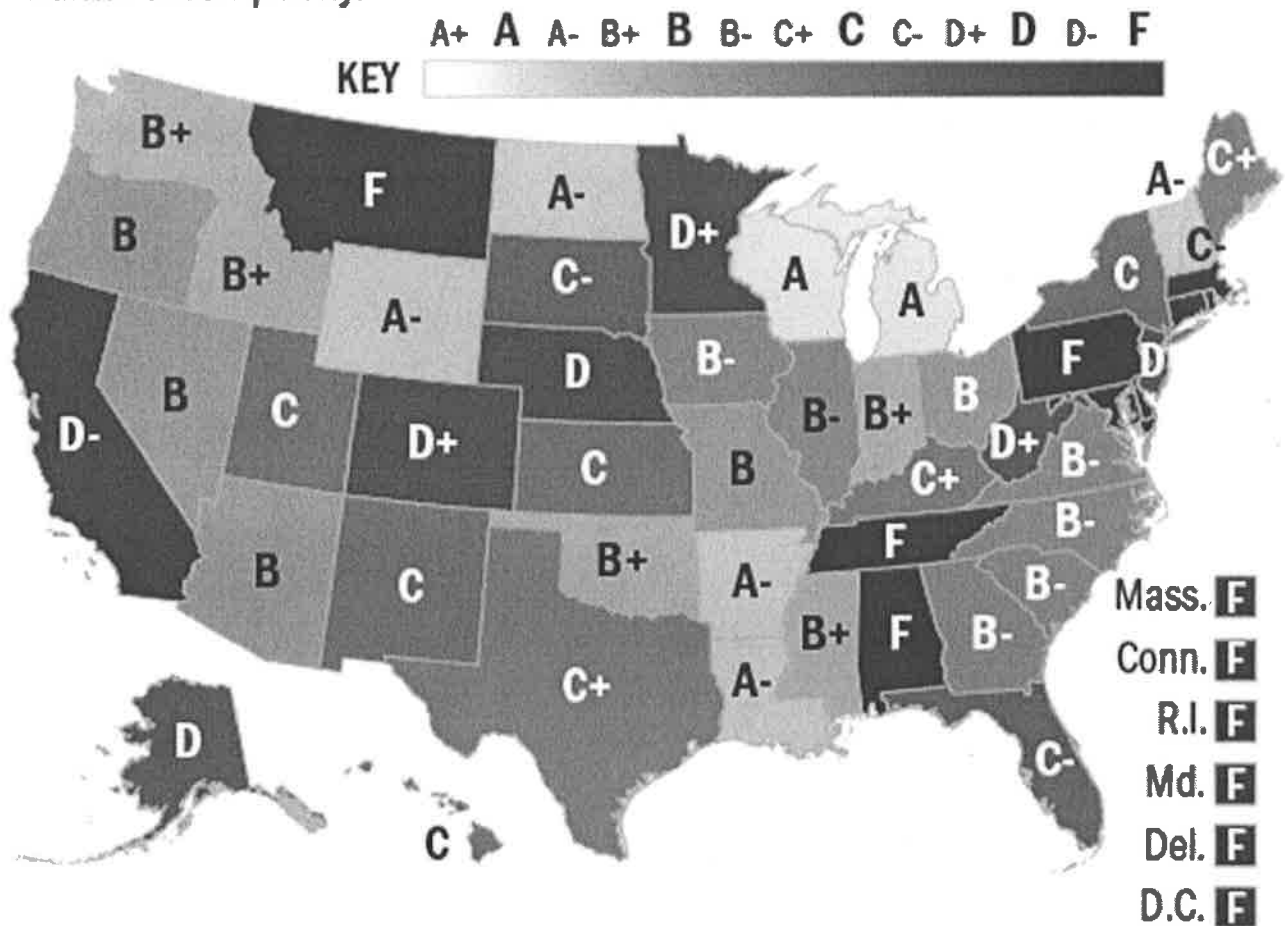
"I don't think that Pennsylvania deserves an F. I think it's graded based on the fact that that Pennsylvania has not passed a new AOT bill and that is what [Treatment Advocacy Center] wants every state to do," said Ms. Michaels.

Of the new bill, Ms. Berger said, "What it does is add one more criterion that says, this is an avenue for people who are not clearly and presently dangerous, but who have a history of bad outcomes because of a history of lack of adherence to treatment."

Without a lower outpatient treatment standard, Ms. Berger said, court-mandated outpatient treatment almost never happens: by the time a severely mentally ill person reaches the imminent harm threshold, no judge will choose to send them back into their community instead of mandating hospitalization.

States report card: involuntary treatment laws

The Treatment Advocacy Center in Arlington, Va., advocates for laws that remove barriers to treatment of severe mental illness. The center calls for a lowering of barriers to involuntary treatment and has graded every state on their legal frameworks for involuntary commitment and mandatory outpatient treatment. States like Pennsylvania that require imminent harm scored poorly.



Source: Treatment Advocacy Center

James Hilston/Post-Gazette

"Or quite frankly, you're going to take them to jail," she added. "If you did something really dangerous, who's getting called? The police."

According to Ms. Berger, in states that have adopted the lower standard for mandatory outpatient treatment they recommend, they have seen

lower rates of bad outcomes including homelessness, incarceration, and in-patient hospitalization.

She underscored, however, that the bill before the state senate prohibits forced medication and guarantees legal representation to the individual the treatment is being mandated for. "What this is is community care under court supervision, which is less restrictive than inpatient hospitalization or jail."

"You're talking about very sick people who lack insight into their illness because that's part of the illness," said Ms. Berger.

The advocates also criticized the bill for lacking new funding.

"The current bill is based on the premise that the current system can absorb the cost of the AOT procedures in it. It cannot," said Ms. Michaels.

Ms. Berger called the funding issue a "red herring."

"Pennsylvania spends more than pretty much any other state — fifth highest spender per capita, sixth highest as a percentage of public expenditure — on mental health," she said, though she admitted there would be a geographic disparity: "There is no mandate for counties to provide this."

The state Senate, the bill's remaining hurdle, is scheduled to be in session seven more days this year. "I think it has a really good chance right now," said Ms. Berger.

The bill's lead sponsor, Rep. Tom Murt, R-Montgomery, did not respond to a request for comment.

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