

House Bill 590

By: Representatives Hogan of the 179th, Oliver of the 82nd, Williams of the 148th, LaHood of the 175th, Blackmon of the 146th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 37 of the Official Code of Georgia Annotated, relating to mental health, so
2 as to provide for a grant program to establish assisted outpatient treatment programs for
3 persons with mental illness who struggle to maintain engagement with essential mental
4 health treatment; to provide legislative findings and determinations; to provide for a
5 definition; to provide grant requirements; to provide for grant application and award; to
6 establish an assisted outpatient treatment unit to provide coordination and support for
7 grantees; to provide for an advisory council; to provide for technical support; to provide for
8 research and reporting; to provide for rules and regulations; to provide for automatic repeal;
9 to authorize inpatient civil commitment for mental illness to aid a person at risk of significant
10 psychiatric deterioration in the near future; to authorize a peace officer to take custody of a
11 person in apparent mental health crisis and transport the person to an evaluation facility
12 notwithstanding the absence of evidence that the person has committed a criminal offense;
13 to provide for related matters; to provide for effective dates; to repeal conflicting laws; and
14 for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 590

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16 **SECTION 1.**

17 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended in
18 Chapter 1, relating to the governing and regulation of mental health, by adding a new article
19 to read as follows:

20 "ARTICLE 721 37-1-120.22 The General Assembly finds and determines that:

23 (1) Georgia's longstanding law authorizing outpatient civil commitment for mental
24 illness is intended to assist the subset of individuals with mental illness who struggle to
25 maintain voluntary engagement with the treatment they require to live safely in the
26 community. Many such individuals find themselves trapped in a cycle of repeated mental
27 health crises, leading to hospitalizations, arrests, or both, which would not have occurred
28 had they been receiving adequate treatment. Outpatient civil commitment is intended to
29 help such individuals overcome the factors preventing them from maintaining voluntary
30 treatment adherence, such as lack of insight, or inability to recognize their own need for
31 treatment, and challenges with executive functioning;

32 (2) As of this enactment, Georgia's outpatient civil commitment law has not fulfilled its
33 potential to help vulnerable individuals avoid hospitalization and the criminal justice
34 system. Family members of individuals in desperate need of this assistance, as well as
35 many working diligently within the mental health system to provide care, report that to
36 the extent outpatient civil commitment orders are employed at all, the system routinely
37 fails to provide any meaningful enforcement and lacks the necessary resources and
38 coordination services to ensure that individuals can access treatment and the courts can
39 track compliance and outcomes;

40 (3) In many other states, outpatient civil commitment has proven to be a much more
41 effective tool in serving the needs of its target population. An impressive body of
42 peer-reviewed research from New York, North Carolina, and Ohio has associated the
43 practice of outpatient commitment with substantial reductions in hospitalization, arrest,
44 incarceration, and a range of harmful behaviors, as well as substantial cost savings for
45 public mental health systems. However, this research also makes clear that it is not
46 simply the use of outpatient court orders that drives these outcomes. Policy choices as
47 to how outpatient commitment is implemented and resourced matter a great deal;

48 (4) A paper published in 2019 by the American Psychiatric Association's
49 federally-funded SMI Adviser initiative presents the essential elements of the effective
50 practice of 'assisted outpatient treatment' (outpatient civil commitment employed in
51 conjunction with critical resources and practices) as identified by a team of successful
52 practitioners from across the United States. In contrasting the assisted outpatient
53 treatment model as presented by SMI Adviser with the current practice of outpatient civil
54 commitment in Georgia, it is evident that our state has neither provided the resources nor
55 implemented the practices that have made assisted outpatient treatment a nationally
56 recognized evidence-based practice; and

57 (5) For the foregoing reasons, this article establishes a three-year assisted outpatient
58 treatment grant program, subject to appropriations, with the full expectation that the
59 program will establish the efficacy of the assisted outpatient treatment model in Georgia
60 and serve as a first step toward full integration of assisted outpatient treatment into the
61 routine activities of community service boards and probate courts across the state.

62 37-1-121.

63 As used in this article, the term 'assisted outpatient treatment' means involuntary outpatient
64 care, pursuant to Article 3 of Chapter 3 of this title, provided in the context of a formalized,

65 systematic effort led by a community service board in collaboration with other community
66 partners, endeavoring to:

67 (1) Identify residents of the community service board's service area who qualify as
68 outpatients pursuant to Code Section 37-3-1;

69 (2) Establish procedures such that upon the identification of an individual believed to be
70 an outpatient, a petition seeking involuntary outpatient care for the individual is filed in
71 the probate court of the appropriate county;

72 (3) Provide evidence-based treatment and case management services under an
73 individualized service plan to each patient receiving involuntary outpatient care, focused
74 on helping the patient maintain stability and safety in the community;

75 (4) Safeguard, at all stages of proceedings, the due process rights of respondents alleged
76 to require involuntary outpatient care and patients who have been civilly committed to
77 involuntary outpatient care;

78 (5) Establish routine communications between the probate court and providers of
79 treatment and case management such that for each patient receiving involuntary
80 outpatient care, the court receives the clinical information it needs to exercise its authority
81 appropriately and providers can leverage the court as a partner in motivating the patient
82 to engage with treatment;

83 (6) Continually evaluate the appropriateness of each patient's individualized service plan
84 throughout the period of involuntary outpatient care, and adjust the plan as warranted;

85 (7) Employ specific protocols to respond appropriately and lawfully in the event of a
86 failure of or noncompliance with involuntary outpatient care;

87 (8) Partner with law enforcement agencies to provide an alternative to arrest,
88 incarceration, and prosecution for individuals suspected or accused of criminal conduct
89 who appear to qualify as outpatients pursuant to Code Section 37-3-1;

90 (9) Clinically evaluate each patient receiving involuntary outpatient care at the end of the
91 commitment period to determine whether it is appropriate to seek an additional period of
92 involuntary outpatient care or assist the patient in transitioning to voluntary care; and
93 (10) Ensure that upon transitioning to voluntary outpatient care at an appropriate
94 juncture, each patient remains connected to the treatment services he or she continues to
95 need to maintain stability and safety in the community.

96 37-1-122.

97 Subject to appropriations, the department shall establish and operate a grant program for
98 the purpose of fostering the implementation and practice of assisted outpatient treatment
99 in this state. The grant program shall aim to provide three years of funding, technical
100 support, and oversight to five grantees, each comprising a collaboration between a
101 community service board and a probate court or courts with jurisdiction in the
102 corresponding service area, which have demonstrated the ability with grant assistance to
103 practice assisted outpatient treatment. Funding, technical support, and oversight pursuant
104 to the grant program shall commence no later than October 31, 2021, and shall terminate,
105 subject to the department's annual review of each grantee, three years following the date
106 of commencement.

107 37-1-123.

108 (a) No later than June 30, 2021, the department shall issue a funding opportunity
109 announcement inviting any community service board, in partnership with a court or courts
110 holding jurisdiction over probate matters in the corresponding service area, to submit a
111 written application for funding pursuant to the assisted outpatient treatment grant program.

112 (b) The department shall develop and disclose in the funding opportunity announcement:

113 (1) A numerical scoring rubric to evaluate applications, which shall include a minimum
114 score an application must receive to be potentially eligible for funding;

115 (2) A formula for determining the amount of funding for which a grantee shall be
116 eligible, based on the size of the population to be served, consideration of existing
117 resources, or both;

118 (3) A minimum percentage of a grant award that must be directed, and a maximum
119 percentage of a grant award that may be directed, for purposes of enhancing the
120 community-based mental health services and supports provided to recipients of assisted
121 outpatient treatment; and

122 (4) A minimum percentage of the total program budget that must be independently
123 sourced by the applicant.

124 (c) The funding opportunity announcement shall require each application to include, in
125 addition to any other information the department may choose to require:

126 (1) A detailed three-year program budget, including identification of the source or
127 sources of the applicant's independent budget contribution;

128 (2) A description of the population the applicant proposes to serve through assisted
129 outpatient treatment, including the number of patients anticipated to participate in the
130 program over the course of each year of grant support;

131 (3) For each element of assisted outpatient treatment, a statement of how the applicant
132 proposes to incorporate such element into its own practice of assisted outpatient
133 treatment;

134 (4) A description of the evidence-based treatment services and case management model
135 or models that the applicant proposes to utilize;

136 (5) A description of any dedicated staff positions the applicant proposes to establish;

137 (6) A letter of support from the sheriff of any county where the applicant proposes to
138 provide assisted outpatient treatment;

139 (7) A flowchart representing the proposed assisted outpatient treatment process, from
140 initial case referral to transition to voluntary care; and

141 (8) A description of the applicant's plans to establish a stakeholder workgroup, consisting
142 of representatives of each of the agencies, entities, and communities deemed essential to
143 the functioning of the assisted outpatient treatment program, for purposes of internal
144 oversight and program improvement.

145 (d) The department shall not provide direct assistance or direct guidance to any potential
146 applicant in developing the content of an application. Any questions directed to the
147 department from potential applicants concerning the grant application process or
148 interpretation of the funding opportunity announcement may only be entertained at a live
149 webinar pre-announced in the funding opportunity announcement and open to all potential
150 applicants, or may be submitted in writing and answered on a webpage disclosed in the
151 funding opportunity announcement and freely accessible to any potential applicant.

152 (e) No later than August 31, 2021, the department shall publicly announce awards for
153 funding support, subject to annual review, to the five applicants whose applications
154 received the highest scores under the scoring rubric, provided that:

155 (1) The department shall seek to ensure, to the extent practical and consistent with other
156 objectives, that at least three of the regions designated pursuant to Code Section 37-2-3
157 are represented among the five grantees. In pursuit of this goal, the department may in
158 its discretion award a grant to a lower-scoring applicant over a higher-scoring applicant
159 or may resolve a tie score in favor of an applicant that would increase regional diversity
160 among the grantees; and

161 (2) In no case shall a grant be awarded to an applicant whose application has failed to
162 attain the minimum required score as stated in the funding opportunity announcement.
163 This requirement shall take precedence in the event that it comes into conflict with the
164 requirement that a total of five grants be awarded.

165 37-1-124.

166 There shall be established within the department an assisted outpatient treatment unit to
167 provide supervision, coordination, and support to the assisted outpatient treatment grantees.
168 The assisted outpatient treatment unit shall, in collaboration with the assisted outpatient
169 treatment advisory council established under this article, develop fidelity protocols for the
170 grantees and a training and education program for use by the grantees to train and educate
171 staff, community partners, and others. No later than December 31 of each year that this
172 article is in effect, the assisted outpatient treatment unit shall submit an annual report on
173 the assisted outpatient treatment grant program to the Governor and chairpersons of the
174 House Committee on Health and Human Services and the Senate Health and Human
175 Services Committee.

176 37-1-125.

177 (a) There shall be established by the department an assisted outpatient treatment advisory
178 council, consisting of:

179 (1) The President of the Council of Probate Court Judges of Georgia, or his or her
180 designee, who shall serve as chairperson;

181 (2) The chairperson of the Behavioral Health Reform and Innovation Commission
182 established pursuant to Code Section 37-1-111, or his or her designee;

183 (3) The disability services ombudsman appointed pursuant to Code Section 37-2-32, or
184 his or her designee;

185 (4) A representative of the Georgia Association of Community Service Boards who shall
186 not be professionally affiliated with any grantee;

187 (5) A representative of the Georgia Advocacy Office;

188 (6) A representative of the Georgia Behavioral Health Services Coalition;

189 (7) An immediate family member of an individual who has struggled to maintain
190 engagement with treatment for mental illness, to be appointed by the commissioner; and

191 (8) A nationally recognized expert on assisted outpatient treatment, to be appointed by
192 the commissioner.

193 (b) The advisory council shall:

194 (1) Advise the assisted outpatient treatment unit on the development of fidelity protocols
195 for the grantees and a training and education program for use by the grantees to train and
196 educate staff, community partners, and others;

197 (2) Provide consultation to the department in the selection of an organization or entity
198 to perform research pursuant to Code Section 37-1-127;

199 (3) Provide consultation to the department in the development of rules and regulations
200 pursuant to Code Section 37-1-128;

201 (4) Review and offer comments on the assisted outpatient treatment grant program's
202 annual report, prior to its public release; and

203 (5) Provide recommendations to the department for improvements or addressing
204 challenges facing the assisted outpatient grant program.

205 (c) The assisted outpatient treatment advisory council shall convene upon the call of the
206 chairperson but no less frequently than quarterly. Meetings shall be held at the grant sites
207 on a rotating basis and shall each include a presentation on progress from the host grantee.

208 37-1-126.

209 Throughout the term of the assisted outpatient treatment grant program, the department
210 shall contract on an annual basis with an organization or entity possessing expertise in the
211 practice of assisted outpatient treatment to serve as a technical assistance provider to the
212 grantees. Prior to the conclusion of each of the first two years of the assisted outpatient
213 treatment grant program, the department, in consultation with the grantees, shall review the
214 performance of the technical assistance provider and determine whether it is appropriate
215 to seek to contract with the same technical assistance provider for the following year.

216 37-1-127.

217 (a) Prior to the commencement of funding under the assisted outpatient grant program, the
218 department shall contract with an independent organization or entity possessing expertise
219 in the evaluation of community-based mental health programs and policy to evaluate:

220 (1) The effectiveness of the assisted outpatient grant program in reducing hospitalization
221 and criminal justice interactions among vulnerable individuals with mental illness;

222 (2) The cost-effectiveness of the assisted outpatient grant program, including its impact
223 on spending within the public mental health system on the treatment of individuals
224 receiving assisted outpatient treatment and spending within the criminal justice system
225 on the arrest, incarceration, and prosecution of such individuals;

226 (3) Differences in implementation of the assisted outpatient treatment model among the
227 grantees and the impact of such differences on program outcomes;

228 (4) The impact of the assisted outpatient grant program on the mental health system at
229 large, including any unintended impacts; and

230 (5) The perceptions of assisted outpatient treatment and its effectiveness among
231 participating individuals, family members of participating individuals, mental health
232 providers and program staff, and participating probate court judges.

233 (b) As a condition for participation in the grant program, the department shall require each
234 grantee to agree to share such program information and data with the contracted research
235 organization or entity as the department may require, and to make reasonable
236 accommodations for such organization or entity to have access to the grant site and
237 individuals. The department shall further ensure that the contracted research organization
238 or entity is able to perform its functions consistent with all state and federal restrictions on
239 the privacy of personal health information.

240 (c) In contracting with the research organization or entity, the department shall require
241 such organization or entity to submit a final report on the effectiveness of the assisted
242 outpatient grant program to the Governor and chairpersons of the House Committee on

243 Health and Human Services and the Senate Health and Human Services Committee no later
244 than December 31, 2024. The department may also require the organization or entity to
245 report interim or provisional findings to the department at earlier dates.

246 37-1-128.

247 The department may adopt and prescribe such rules and regulations as it deems necessary
248 or appropriate to administer and carry out the grant program provided for in this article.

249 37-1-129.

250 The assisted outpatient treatment grant program shall be abolished and this article shall
251 stand repealed by operation of law on December 31, 2024."

252 **SECTION 2.**

253 Said title is further amended in Code Section 37-3-1, relating to definitions, by revising
254 paragraphs (9.1) and (12.1) as follows:

255 "(9.1) 'Inpatient' means a person who is mentally ill and:

256 (A)(i) Who presents a substantial risk of ~~imminent~~ harm to that person or others, as
257 manifested by either recent overt acts or recent expressed threats of violence which
258 present a probability of physical injury to that person or other persons; or

259 (ii) Who is so unable to care for that person's own ~~physical~~ health and safety as to
260 create ~~an imminently~~ a reasonable expectation that a life-endangering crisis or
261 significant psychiatric deterioration will occur in the near future; and

262 (B) Who is in need of involuntary inpatient treatment."

263 "(12.1) 'Outpatient' means a person who is mentally ill and:

264 (A) Who is not an inpatient but who, based on the person's treatment history or current
265 mental status, will require outpatient treatment in order to avoid predictably ~~and~~
266 ~~imminently~~ becoming an inpatient;

- 267 (B) Who because of the person's current mental status, mental history, or nature of the
268 person's mental illness is unable voluntarily to seek or comply with outpatient
269 treatment; and
270 (C) Who is in need of involuntary treatment."

271 **SECTION 3.**

272 Said title is further amended in Code Section 37-3-42, relating to emergency admission of
273 persons arrested for penal offenses, report by officer, and entry of report into clinical record,
274 by revising subsection (a) as follows:

275 "(a) A peace officer may take any person to a physician within the county or an adjoining
276 county for emergency examination by the physician, as provided in Code Section 37-3-41,
277 or directly to an emergency receiving facility if ~~(1) the person is committing a penal~~
278 ~~offense, and (2) the peace officer has probable cause for believing that the person is a~~
279 ~~mentally ill person requiring involuntary treatment. The peace officer need not formally~~
280 ~~tender charges against the individual prior to taking the individual to a physician or an~~
281 ~~emergency receiving facility under this Code section.~~ The peace officer shall execute a
282 written report detailing the circumstances under which the person was taken into custody;
283 and this report shall be made a part of the patient's clinical record. If the person is
284 committing a penal offense, the peace officer need not formally tender charges against the
285 person prior to taking the person to a physician or an emergency receiving facility under
286 this Code section."

287 **SECTION 4.**

- 288 (a) Except as provided in subsection (b) of this section, this Act shall become effective upon
289 its approval by the Governor or upon its becoming law without such approval.
290 (b) Sections 2 and 3 of this Act shall become effective on July 1, 2021.

291

SECTION 5.

292 All laws and parts of laws in conflict with this Act are repealed.