

**HB 79 & SB 91 – Assisted Outpatient Treatment (AOT) – Tim’s Law (January, 2017)**  
**AN ACT relating to court-ordered outpatient mental health treatment**

Assisted Outpatient Treatment – AOT – is an evidence-based treatment approach for persons with serious mental illness. It has been adopted in one form or another by 46 states. For many years, the mental health community in Kentucky has discussed ways to address the “revolving door” issues, and various legislative approaches have been proposed for the past four years. The new procedure in Sections 4 – 14 of this legislation is being named “Tim’s Law” in memory of a young man whose mother was forced to get treatment for him by taking out a Mental Inquest Warrant and seeing her son taken away in handcuffs by the sheriff to Eastern State Hospital **37 times**. Tim was never a danger to anyone but himself, as he failed to recognize his illnesses – both physical and mental – and did not take care of himself. This lack of self-care caused by his mental illness resulted in his death from natural causes before he was 50. **The goal of this legislation is to create a mechanism for court-ordered outpatient treatment for a narrowly-defined group of individuals with serious mental illness who have anosognosia (failure to recognize their mental illness) and who have been involuntarily committed to a state psychiatric hospital at least twice in the previous 12 months.**

**Part 1 [Sections 1 – 3]:** The goal is to strengthen an already-existing law (KRS 202A.081) which permits persons in the hospital under involuntary commitment to be discharged on the condition that they agree to – and comply with – court-ordered outpatient treatment. The patient’s right to legal counsel and to having a peer support specialist or other support person present are spelled out. A multidisciplinary team from a Cabinet-approved agency is added, to assist the patient in multiple ways and to provide feedback to the court of jurisdiction.

With due process, the agreed order may be extended for up to 2 additional periods of 120 days each after a hearing is held, with the same procedures and safeguards as for the initial hearing. Require that services provided to the patient under the agreed order be covered by Medicaid, if the patient is Medicaid-eligible. Require that the courts report each patient agreed order to the KY Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders and Dual Diagnoses (“HB 843 Commission”).

**Part 2 [Sections 4 – 14] – Tim’s Law:** The goal is to create a new procedure for a narrowly-defined number of individuals to access outpatient treatment under a court order without having to again be involuntarily committed. These individuals have serious mental illness, have previously been involuntarily committed at least twice in the past 12 months, and have anosognosia (failure to recognize their diagnosis of serious mental illness).

These new sections of KRS Chapter 202A create a process for District Courts to order “assisted outpatient mental health treatment” after receiving a petition, examining the petitioner, ordering an examination of the individual and setting a hearing date.

The petition to District Court for assisted outpatient mental health treatment for an individual may be filed by a qualified mental health professional, peace officer, county or Commonwealth’s attorney, spouse, relative, friend or guardian of the individual or by any other interested person. After gathering the information described above, the Court may dismiss the petition if there is no probable cause to believe the individual should be court-ordered to assisted outpatient treatment (AOT).

Tim’s Law establishes eligibility criteria which include:

- presence of a serious mental illness;
- having been involuntarily committed at least twice in the past 12 months;
- symptoms of anosognosia (failure to recognize serious mental illness in him or herself);
- evidence that the individual is unlikely to adhere to voluntary outpatient treatment;
- determination that court-ordered assisted outpatient treatment is the least restrictive alternative mode of treatment available.

Tim's Law establishes procedures which include:

- Proceedings for AOT shall be initiated by filing a verified petition in District Court by a professional, peace officer, relative or person familiar with the individual.
- Prior to the hearing, require a mental health examination and the development of a treatment plan by a qualified mental health professional, with opportunities for the individual and others requested by the individual to participate in the development of the plan. Treatment providers are required to follow any advanced directive for mental health treatment the individual may have, and to use defined evidence-based practices.
- Establishing the process for a hearing, including the individual's right to have an attorney present, as well as a peer support specialist or other support person and to present evidence, call witnesses and cross-examine adverse witnesses.
- A qualified mental health professional shall testify at the hearing, state how the individual meets criteria and present the treatment plan that is essential to maintaining the individual's health or safety.
- The court may dismiss the petition and the proceedings if it does not find by clear and convincing evidence that the individual meets the criteria for court-ordered assisted outpatient treatment.
- If the court finds by clear and convincing evidence that the individual meets the criteria for ordering assisted outpatient treatment, it may issue such an order for a period not to exceed 360 days.
- Require that the courts report every order for assisted outpatient treatment to the HB 843 Commission (KRS 210.502).
- Require the court to appoint a multidisciplinary team provided by agency approved by the Cabinet to monitor and report on the individual under each order. Require that the team is available for crisis intervention 24/7 and is adequately trained.
- Authorize a 72-hour emergency hospital admission for an individual who fails to comply with a court order for assisted outpatient treatment.
- At any time, the person under the order may move the court to stay, vacate, or modify the order.
- Provide for a process to change a treatment plan upon recommendation of a qualified mental health professional. This may be done without a hearing if the individual agrees.
- Permit an additional period of treatment to be ordered, provided certain criteria are met, including following the identical procedures utilized in the initial hearing. The individual shall be represented by an attorney in responding to the petition for additional treatment time under the court order.
- Require that services provided to the patient under an assisted outpatient treatment order be covered by Medicaid, if the patient is Medicaid-eligible.
- Implement the AOT program as adequate funding becomes available. Funding may come from local, state or federal sources, or from grants, donations, or gifts from private resources. [Note: The Substance Abuse/Mental Health Services Administration (SAMHSA) awarded grants last year to new or innovative AOT programs across the country; they are likely to issue a new round of those grants in the coming year.]