

National Law Journal March 8, 2010 Kendra's Law

ASSISTED OUTPATIENT TREATMENT

In "Court-ordered community treatment" [NLJ, Feb. 8], Vivian Berger suggests, "The debate between supporters and opponents [of assisted outpatient treatment] will furnish an occasion to review the merits of not just [New York's Kendra's Law] but also AOT in general." That would be true if the debaters based their arguments on facts. The opponents haven't.

Three studies over 10 years have shown that Kendra's Law:

- Helps the seriously mentally ill by reducing homelessness (74%), suicide attempts (55%) and substance abuse (48%).
- Keeps the public safer by reducing physical harm to others (47%) and property destruction (43%).
- Saves money by reducing hospitalization (77%), arrests (83%) and incarceration (87%).

Kendra's Law does not authorize "forcible drugging." AOT recipients must be judicially found to lack capacity, as with any other psychiatric patient.

Ms. Berger asserts that someone who "fails to comply with a court directive...may be arrested." Not true. The law explicitly precludes basing a criminal charge on a court order violation.

Opponents did contend that the positive results of Kendra's Law were due to "increased services...not coercion." But the contention is not true. Duke University researchers found that the "court order, itself, and its monitoring do appear to offer additional benefits in improving outcomes." The opponents did try to kill the bill by charging that "AOT differentially affects minorities," "expands state power" and "increases stigma." None of these is true.

Duke University found "no evidence that the AOT Program is disproportionately selecting African Americans for court orders, nor... other minority populations." Another study concluded, "It is now well settled that Kendra's Law is in all respects a constitutional exercise of the states police power and its parens patriae power." Three studies investigated "stigma." None found an increase. One found a decrease.

The National Alliance on Mental Illness and National Sheriffs Association both endorse Kendra's Law because it carefully, intentionally and successfully balances the liberty and best interests of the mentally ill with legitimate safety concerns of the public. The legislature should examine the facts, not the myths, and make it permanent.

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