

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 473 Session of
2003

INTRODUCED BY BISHOP, THOMAS, TURZAI, DIVEN, SURRA, STABACK,
MELIO, TIGUE, PISTELLA, SATHER, McILHATTAN, HERSHEY, CRUZ,
HARHAI, DeLUCA, KIRKLAND, JAMES, WATERS, PALLONE, LEDERER,
McGEEHAN AND BUTKOVITZ, FEBRUARY 25, 2003

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 25, 2003

AN ACT

1 Amending the act of April 14, 1972 (P.L.221, No.63), entitled,
2 as amended, "An act establishing the Pennsylvania Advisory
3 Council on Drug and Alcohol Abuse; imposing duties on the
4 Department of Health to develop and coordinate the
5 implementation of a comprehensive health, education and
6 rehabilitation program for the prevention and treatment of
7 drug and alcohol abuse and drug and alcohol dependence;
8 providing for emergency medical treatment; providing for
9 treatment and rehabilitation alternatives to the criminal
10 process for drug and alcohol dependence; and making repeals,"
11 providing for involuntary commitment of drug dependent
12 persons.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 2(b) of the act of April 14, 1972
16 (P.L.221, No.63), known as the Pennsylvania Drug and Alcohol
17 Abuse Control Act, is amended by adding a definition to read:

18 Section 2. Definitions:

19 * * *

20 (b) As used in this act:

21 * * *

22 "Immediate family" means a parent, spouse, brother, sister,

1 son or daughter.

2 * * *

3 Section 2. The act is amended by adding a section to read:

4 Section 12.2. Commitment of Drug Dependent Persons.--(a) An
5 immediate family member of a drug dependent person may petition
6 the court of common pleas of the judicial district where the
7 drug dependent person is domiciled for commitment of the drug
8 dependent person to involuntary drug and alcohol treatment
9 services, including inpatient services, if the drug dependent
10 person is incapable of accepting or unwilling to accept
11 voluntary treatment. The petition must set forth sufficient
12 facts and good reason for the commitment.

13 (b) Upon petition pursuant to subsection (a), the court
14 shall order the person who is alleged to have a dependency on
15 drugs or alcohol to undergo a drug and alcohol assessment
16 performed by a psychiatrist, a licensed psychologist with
17 specific training in drug and alcohol assessment and treatment
18 or a certified addiction counselor. Assessment shall include a
19 recommended level of care and length of treatment. Assessments
20 completed by certified addiction counselors shall be based on
21 the Department of Health approved drug and alcohol level of care
22 criteria and shall be reviewed by a case management supervisor
23 in a single county authority. The court shall hear the testimony
24 of the persons performing the assessment under this subsection
25 at the hearing on the petition for involuntary commitment.

26 (c) Based on the assessment defined in subsection (b), the
27 court may order the person committed to involuntary drug and
28 alcohol treatment, including inpatient services, for up to
29 ninety days if all of the following apply:

30 (1) The court finds by clear and convincing evidence that:

1 (i) the person is a drug dependent person; and
2 (ii) the person is incapable of accepting or unwilling to
3 accept voluntary treatment services.

4 (2) The court finds that the person will benefit from
5 involuntary treatment services.

6 (3) If the court decision is inconsistent with the level of
7 care and length of treatment recommended by the assessment, the
8 court shall set forth in its order a statement of facts and
9 reasons for its disposition.

10 (d) A respondent ordered to undergo treatment due to a
11 determination pursuant to subsection (c) shall remain under the
12 treatment designated by the court for a period of ninety days
13 unless sooner discharged. Prior to the end of the ninety-day
14 period, the court shall conduct a review hearing in accordance
15 with subsection (c) for the purpose of determining whether
16 further treatment is necessary. If the court determines that
17 further treatment is needed, the court may order the respondent
18 recommitted to services for an additional period of treatment
19 not to exceed ninety days unless sooner discharged. The court
20 may continue the respondent in treatment for successive ninety-
21 day periods pursuant to determinations that the person will
22 benefit from services for an additional ninety days. The court
23 may also order appropriate follow-up treatment. If the court
24 finds, after hearing, that the respondent willfully failed to
25 comply with an order, the court may declare the person in civil
26 contempt of court and in its discretion make an appropriate
27 order, including commitment of the respondent to prison for a
28 period not to exceed six months.

29 (e) A hearing on a petition for court-ordered involuntary
30 drug and alcohol treatment services shall be conducted according

1 to the following:

2 (1) The respondent has the right to counsel and to the
3 assistance of an expert in mental health.

4 (2) The respondent shall not be called as a witness without
5 his consent.

6 (3) The respondent has the right to confront and cross-
7 examine all witnesses and to present evidence.

8 (4) The hearing shall be public unless it is requested to be
9 private by the respondent.

10 (5) A stenographic or other sufficient record shall be made,
11 which shall be impounded by the court and may be obtained or
12 examined only upon the request of the respondent or by order of
13 the court for good cause.

14 (6) The hearing shall be conducted by a judge.

15 (7) A decision must be rendered within 48 hours after the
16 close of evidence. If this time limit is not met, the petition
17 shall be deemed denied.

18 Section 3. This act shall take effect in 60 days.