

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2065 Session of
1995

INTRODUCED BY VANCE, CORNELL, TRUE, FAJT, NAILOR, FAIRCHILD,
FARGO, SCHULER, FEESE, PETTIT, NICKOL, TIGUE, D. W. SNYDER,
DeLUCA, SCHRODER, MAITLAND, EGOLF, E. Z. TAYLOR, SURRA,
HERSHEY, GEIST, TULLI, STABACK, STISH, L. I. COHEN, COY,
BELARDI, SATHER, B. SMITH, RUBLEY, YOUNGBLOOD, JAROLIN,
READSHAW, MERRY, MILLER, BOSCOLA, HENNESSEY, TRELLO,
BATTISTO, LAUGHLIN, RAYMOND, CIVERA, MANDERINO, STEELMAN,
KING, DiGIROLAMO, COLAFELLA, BARD, OLASZ, SEMMEL, STETLER,
BROWNE, FLEAGLE, CLYMER, WAUGH, FICHTER AND STRITTMATTER,
OCTOBER 4, 1995

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
FEBRUARY 7, 1996

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 adding a definition; ~~and further providing for admission of~~ <—
12 ~~minors to inpatient facilities.~~ PROVIDING FOR COMMITMENT OF <—
13 MINORS; FURTHER PROVIDING FOR FINANCIAL OBLIGATION; AND
14 PROVIDING FOR A JUVENILE INMATE SUBSTANCE ABUSE PROGRAM.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

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

1 Section 2. Definitions.

2 * * *

3 (b) As used in this act:

4 * * *

5 "Minor" means any person eighteen years of age or younger.

6 * * *

7 Section 2. Section 5 of the act is amended to read:

8 Section 5. Admissions and Commitments.--[Admissions] Except
9 as provided in section 5.1 of this act, admissions and
10 commitments to treatment facilities may be made according to the
11 procedural admission and commitment provisions of the act of
12 October 20, 1966 (P.L.96), known as the "Mental Health and
13 Mental Retardation Act of 1966."

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

15 ~~Section 5.1. Admission of Minors to Inpatient Facilities.~~ <—

16 ~~(a) A parent or guardian of a minor may apply, on behalf of the~~
17 ~~minor, for admission of the minor to a department certified~~
18 ~~inpatient drug or alcohol treatment program or facility under~~
19 ~~this section.~~

20 ~~(b) The capacity of a minor to consent to treatment for drug~~
21 ~~or alcohol abuse does not include the capacity to refuse~~
22 ~~treatment for drug or alcohol abuse in an inpatient drug or~~
23 ~~alcohol treatment program or facility certified by the~~
24 ~~department for which a parent or guardian has given consent.~~

25 ~~(c) A program or facility may not admit an individual under~~
26 ~~this section unless the program or facility has determined, in~~
27 ~~consultation with the single county authority of the county in~~
28 ~~which the admission is occurring, that:~~

29 ~~(1) The individual has an alcohol or other drug dependency~~
30 ~~that necessitates the level of care provided by the program or~~

~~facility.~~

~~(2) The individual would benefit from treatment.~~

~~(3) The parent or guardian making application for admission of the individual understands the nature of the request for admission and the nature of the treatment provided by the program or facility.~~

~~(4) Assent to the admission has been given by the director or the director's designee of the program or facility.~~

~~(d) In order for an individual to be retained for treatment under this section:~~

~~(1) The parent or guardian who applied for admission of the individual shall have the right to be actively involved in treatment.~~

~~(2) The facility must note on the application for admission whether or not the minor was admitted in accordance with the provisions of subsection (b) of this section.~~

~~(c) A facility has the right to discharge an individual admitted for treatment under this section if the individual is not complying with the treatment program or the facility's policies and procedures.~~

SECTION 9.1. STATE JUVENILE SUBSTANCE ABUSE AND CHEMICAL
DEPENDENCY ASSESSMENT AND TREATMENT PROGRAM.--(A) THE OFFICE OF
DRUG AND ALCOHOL PROGRAMS WITHIN THE DEPARTMENT OF HEALTH,
WORKING IN COOPERATION WITH THE DEPARTMENT OF PUBLIC WELFARE IS
HEREBY AUTHORIZED TO ESTABLISH A PILOT SUBSTANCE ABUSE AND
CHEMICAL DEPENDENCY ASSESSMENT PROGRAM FOR THE PURPOSE OF
ASSESSING AND TREATING SUBSTANCE-ABUSING AND CHEMICALLY
DEPENDENT JUVENILE INMATES WHILE INCARCERATED IN STATE
FACILITIES. THE PROGRAM SHALL BE CONTRACTED WITH A PRIVATE DRUG
AND ALCOHOL TREATMENT PROVIDER. THE DEPARTMENT OF HEALTH AND THE

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1 DEPARTMENT OF PUBLIC WELFARE SHALL SELECT A PILOT JUVENILE
2 FACILITY OR FACILITIES TO IMPLEMENT THE PROGRAM AND SHALL
3 COLLABORATE WITH THE COURTS, OTHER CRIMINAL JUSTICE AGENCIES AND
4 DRUG AND ALCOHOL TREATMENT PROGRAMS TO DEVELOP WRITTEN
5 GUIDELINES AND PROCEDURES GOVERNING THE SELECTION OF THE
6 JUVENILE FACILITY OR FACILITIES, OPERATION OF THE PROGRAM,
7 ELIGIBILITY OF TREATMENT PROGRAMS TO APPLY TO PROVIDE THIS
8 SERVICE AND ELIGIBILITY OF INMATES FOR THE ASSESSMENT AND
9 TREATMENT PROGRAM. THE PILOT PROGRAM ESTABLISHED UNDER THIS
10 SECTION SHALL NOT TAKE THE PLACE OF ANY OTHER EXISTING
11 THERAPEUTIC COMMUNITY DRUG AND ALCOHOL PROGRAM IN ANY STATE
12 JUVENILE FACILITY.

13 (B) ASSESSMENTS OF DRUG AND ALCOHOL ABUSE AND DEPENDENCY
14 SHALL BE PERFORMED BY DRUG AND ALCOHOL COUNSELORS WHO HAVE BEEN
15 CERTIFIED BY THE PENNSYLVANIA CHEMICAL ABUSE CERTIFICATION BOARD
16 (PCACB) OR WHO HOLD A RECIPROCITY-LEVEL CERTIFICATION BY THE
17 INTERNATIONAL CERTIFICATION RECIPROCITY CONSORTIUM (ICRC).

18 (C) IF THE ASSESSMENT DETERMINES THAT THE INCARCERATED
19 JUVENILE IS IN NEED OF ALCOHOL OR OTHER DRUG TREATMENT, THE
20 JUVENILE SHALL BE REFERRED TO THE TREATMENT PROGRAM PROVIDED
21 WITHIN THE JUVENILE FACILITY.

22 (D) THE ALCOHOL AND DRUG TREATMENT PROGRAM OR PROGRAMS
23 WITHIN THE JUVENILE INSTITUTION SHALL BE ESTABLISHED AND
24 ADMINISTERED IN A SEPARATE AREA OF THE PRISON BY PRIVATE ALCOHOL
25 AND DRUG TREATMENT PROGRAMS LICENSED BY THE OFFICE OF DRUG AND
26 ALCOHOL PROGRAMS WITHIN THE DEPARTMENT OF HEALTH. IN ADDITION TO
27 LICENSURE, DRUG AND ALCOHOL TREATMENT PROGRAMS ELIGIBLE TO APPLY
28 TO PROVIDE THIS SERVICE MUST HAVE AT LEAST FIVE YEARS'
29 EXPERIENCE IN TREATING CHEMICALLY DEPENDENT INDIVIDUALS INVOLVED
30 WITH THE CRIMINAL JUSTICE SYSTEM, FIVE YEARS' EXPERIENCE RUNNING

1 A THERAPEUTIC COMMUNITY AND BE ABLE TO PROVIDE A LONG-TERM
2 RESIDENTIAL THERAPEUTIC COMMUNITY WITHIN THE JUVENILE FACILITY.
3 IN ADDITION, AS PART OF THE APPLICATION PROCESS, THE TREATMENT
4 PROGRAM MUST DEMONSTRATE THE ABILITY TO PROVIDE POST-PRISON
5 AFTERCARE AND CONTINUING CARE TREATMENT FACILITIES.

6 (E) THE SUBSTANCE ABUSE AND CHEMICAL DEPENDENCY ASSESSMENTS
7 UNDER THIS SECTION SHALL INCORPORATE METHODS FOR DETECTION AND
8 DETERMINATION OF CHRONIC DRUG AND ALCOHOL ADDICTION AND SHALL
9 INCLUDE, BUT NOT BE LIMITED TO, DRUG AND ALCOHOL COUNSELING AND
10 EVALUATION, CHEMICAL TESTING AND ANY OTHER ACCEPTABLE MEANS FOR
11 DETECTION AND DETERMINATION OF SUBSTANCE ABUSE AND CHEMICAL
12 DEPENDENCY.

13 (F) THE OFFICE OF DRUG AND ALCOHOL TREATMENT PROGRAMS WITHIN
14 THE DEPARTMENT OF HEALTH SHALL CONDUCT AN ONGOING, COMPREHENSIVE
15 EVALUATION PROGRAM TO DETERMINE THE EFFECTIVENESS OF THE
16 SUBSTANCE ABUSE ASSESSMENT PILOT PROGRAM IN REDUCING CRIMINAL
17 BEHAVIOR, RECIDIVISM, ARREST AND COMMITMENTS TO JUVENILE
18 INSTITUTIONS. IN ADDITION, THE OFFICE OF DRUG AND ALCOHOL
19 TREATMENT PROGRAMS SHALL COLLABORATE WITH THE DEPARTMENT OF
20 PUBLIC WELFARE TO SECURE MEDICAL ASSISTANCE PAYMENTS TO COVER
21 THE COST OF DRUG AND ALCOHOL DETOXIFICATION AND REHABILITATION
22 SERVICES FOR ANY PERSON ELIGIBLE FOR THE PAYMENTS.

23 (G) ON OR BEFORE MARCH 1 OF EACH YEAR, THE DEPARTMENT OF
24 HEALTH SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY WHICH SHALL
25 INCLUDE, BUT NOT BE LIMITED TO, A COMPREHENSIVE EVALUATION TO
26 DETERMINE THE EFFECTIVENESS OF THE SUBSTANCE ABUSE ASSESSMENT
27 PILOT PROGRAM IN REDUCING CRIMINAL BEHAVIOR, RECIDIVISM, ARREST
28 AND COMMITMENTS TO JUVENILE INSTITUTIONS.

29 Section 4. Section 12 of the act is amended to read:

30 Section 12. [Consent of Minor] Parental Notification of

1 Diagnosis, Treatment or Counseling of Minor.--Notwithstanding
2 any other provisions of law, a minor who suffers from the use of
3 a controlled or harmful substance may give consent to furnishing
4 of medical care or counseling related to diagnosis or treatment.
5 The consent of the parents or legal guardian of the minor shall
6 not be necessary to authorize medical care or counseling related
7 to such diagnosis or treatment. [The consent of the minor shall
8 be valid and binding as if the minor had achieved his majority.
9 Such consent shall not be voidable nor subject to later
10 disaffirmance because of minority. Any physician or any agency
11 or organization operating a drug abuse program, who provides
12 counseling to a minor who uses any controlled or harmful
13 substance may, but shall not be obligated to inform the parents
14 or legal guardian of any such minor as to the treatment given or
15 needed.] Any physician, agency or organization operating a drug
16 abuse program that provides counseling or furnishes medical care
17 to a minor who uses any controlled or harmful substance shall be
18 obligated to inform the single county authority of the county in
19 which the physician, agency or organization operating a drug
20 abuse program provides the minor with counseling or medical
21 care. The single county authority shall be responsible for
22 informing the parent or legal guardian of any such minor as to
23 the treatment given or needed. Exemptions to this section shall
24 be granted by the single county authority if the minor can
25 present evidence that the parent or legal guardian of the minor:
26 (1) will refuse to allow the minor to live in the same
27 residence if disclosure is made regarding counseling or medical
28 care received from a physician, agency or organization operating
29 a drug abuse program;
30 (2) has emotionally or physically abused the minor or poses

1 an emotional or physical threat to the minor if disclosure is
2 made regarding counseling or medical care received from a
3 physician, agency or organization operating a drug abuse
4 program; or

5 (3) has exhibited neglect of the minor.

6 SECTION 5. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <—

7 SECTION 12.1. COMMITMENT OF MINORS.--(A) A PARENT OR LEGAL
8 GUARDIAN WHO HAS LEGAL OR PHYSICAL CUSTODY OF A MINOR MAY
9 PETITION THE COURT OF COMMON PLEAS OF THE JUDICIAL DISTRICT
10 WHERE THE MINOR IS DOMICILED FOR COMMITMENT OF THE MINOR TO
11 INPATIENT DRUG AND ALCOHOL TREATMENT SERVICES IF THE MINOR IS
12 INCAPABLE OF ACCEPTING OR UNWILLING TO ACCEPT VOLUNTARY
13 ADMISSION TO A DRUG OR ALCOHOL TREATMENT FACILITY.

14 (B) UPON PETITION PURSUANT TO SUBSECTION (A), THE COURT
15 SHALL APPOINT COUNSEL FOR THE MINOR. A MINOR WHO IS ALLEGED TO
16 HAVE A DEPENDENCY ON DRUGS OR ALCOHOL SHALL BE ORDERED TO
17 UNDERGO A DRUG AND ALCOHOL ASSESSMENT PERFORMED BY A CERTIFIED
18 ADDICTION COUNSELOR. THE COURT SHALL HEAR THE TESTIMONY OF THE
19 CERTIFIED ADDICTION COUNSELOR AT THE HEARING ON THE PETITION FOR
20 INVOLUNTARY COMMITMENT.

21 (C) THE COURT MAY ORDER THE MINOR COMMITTED TO INPATIENT
22 SERVICES FOR NINETY DAYS IF ALL OF THE FOLLOWING APPLY:

23 (1) THE COURT FINDS, BEYOND A REASONABLE DOUBT, THAT: (I)
24 THE MINOR IS A DRUG-DEPENDENT PERSON; AND (II) THE MINOR IS
25 INCAPABLE OF ACCEPTING OR UNWILLING TO ACCEPT VOLUNTARY
26 ADMISSION TO A DRUG OR ALCOHOL TREATMENT FACILITY.

27 (2) THE COURT FINDS THAT THE MINOR WILL BENEFIT FROM
28 INVOLUNTARY INPATIENT SERVICES.

29 (D) A MINOR ORDERED TO UNDERGO TREATMENT DUE TO A
30 DETERMINATION PURSUANT TO SUBSECTION (C) SHALL REMAIN UNDER THE

1 TREATMENT DESIGNATED BY THE COURT FOR A PERIOD OF NINETY DAYS
2 UNLESS SOONER DISCHARGED. AT THE END OF THE NINETY-DAY PERIOD,
3 THE COURT SHALL CONDUCT A REVIEW HEARING FOR THE PURPOSE OF
4 DETERMINING WHETHER FURTHER TREATMENT IS NECESSARY. IF THE COURT
5 DETERMINES THAT FURTHER TREATMENT IS NEEDED, THE COURT MAY ORDER
6 THE MINOR RECOMMITTED TO INPATIENT SERVICES FOR AN ADDITIONAL
7 PERIOD OF TREATMENT NOT TO EXCEED NINETY DAYS UNLESS SOONER
8 DISCHARGED. THE COURT MAY CONTINUE THE MINOR IN TREATMENT FOR
9 SUCCESSIVE NINETY-DAY PERIODS PURSUANT TO DETERMINATIONS THAT
10 THE MINOR WILL BENEFIT FROM INPATIENT SERVICES FOR AN ADDITIONAL
11 NINETY DAYS.

12 SECTION 6. SECTION 13 OF THE ACT IS AMENDED TO READ:

13 SECTION 13. FINANCIAL OBLIGATIONS.--(A) EXCEPT FOR MINORS,
14 ALL PERSONS RECEIVING TREATMENT UNDER THIS ACT SHALL BE SUBJECT
15 TO THE PROVISIONS OF ARTICLE V OF THE ACT OF OCTOBER 20, 1966
16 (P.L.96), KNOWN AS THE "MENTAL HEALTH AND MENTAL RETARDATION ACT
17 OF 1966," IN SO FAR AS IT RELATES TO LIABILITIES AND PAYMENTS
18 FOR SERVICES RENDERED BY THE COMMONWEALTH.

19 (B) IN THE CASE OF PROCEEDINGS UNDER SECTION 12.1 OF THIS
20 ACT, UNLESS THE COURT FINDS THAT THE PARENT OR LEGAL GUARDIAN IS
21 WITHOUT FINANCIAL RESOURCES, THE PARENT OR LEGAL GUARDIAN SHALL
22 BE OBLIGATED FOR ALL OF THE FOLLOWING:

23 (1) COURT COSTS.

24 (2) COUNSEL FEES FOR THE MINOR.

25 (3) THE COST OF INPATIENT SERVICES.

26 SECTION 7. NOTHING IN THIS AMENDATORY ACT SHALL RELIEVE AN
27 INSURER, HEALTH MAINTENANCE ORGANIZATION, MANAGED CARE FIRM OR
28 THIRD PARTY ADMINISTRATOR OPERATING IN THIS STATE OF ITS
29 RESPONSIBILITIES TO PROVIDE INPATIENT DRUG AND ALCOHOL SERVICES
30 PURSUANT TO ARTICLE VI-A OF THE ACT OF MAY 17, 1921 (P.L.682,

1 NO.284), KNOWN AS THE INSURANCE COMPANY LAW OF 1921, OR SECTION
2 2334 OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE
3 ADMINISTRATIVE CODE OF 1929, OR ANY OTHER LAW GOVERNING DRUG AND
4 ALCOHOL BENEFITS IN THIS STATE. A COMMITMENT ORDER ISSUED BY A
5 COURT OF COMMON PLEAS COMMITTING A MINOR TO INPATIENT DRUG AND
6 ALCOHOL SERVICES SHALL BE FORWARDED TO THE INSURER, HEALTH
7 MAINTENANCE ORGANIZATION, MANAGED CARE FIRM OR THIRD PARTY
8 ADMINISTRATOR BY THE PARENT OF THE MINOR IN CONJUNCTION WITH
9 FILING ANY CLAIM RELATING TO BENEFITS. FAILURE OF AN INSURER,
10 HEALTH MAINTENANCE ORGANIZATION, MANAGED CARE FIRM OR THIRD
11 PARTY ADMINISTRATOR OPERATING IN THIS STATE TO COMPLY WITH
12 ARTICLE VI-A OF THE INSURANCE COMPANY LAW OF 1921, OR SECTION
13 2334 OF THE ADMINISTRATIVE CODE OF 1929 IN RESPECT TO COVERAGE
14 OF MANDATED BENEFITS THAT HAS BEEN ORDERED BY A COURT SHALL
15 CONSTITUTE AN UNFAIR INSURANCE PRACTICE AND BE SUBJECT TO THE
16 PROVISIONS OF THE ACT OF JULY 22, 1974 (P.L.589, NO.205), KNOWN
17 AS THE UNFAIR INSURANCE PRACTICES ACT.

18 Section 5 8. All acts and parts of acts are repealed insofar <—
19 as they are inconsistent with this act.

20 ~~Section 6. This act shall take effect in 90 days.~~ <—

21 SECTION 9. THIS ACT SHALL TAKE EFFECT AS FOLLOWS: <—

22 (1) THE AMENDMENT OR ADDITION OF SECTIONS 12.1 AND 13 OF
23 THE ACT SHALL TAKE EFFECT IN 60 DAYS.

24 (2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

25 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 90
26 DAYS.