

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 139 Session of 1999

INTRODUCED BY BISHOP, J. TAYLOR, THOMAS, COY, BEBKO-JONES, BELFANTI, READSHAW, LAUGHLIN, CURRY, WALKO, BELARDI, PESCI, WOJNAROSKI, RAMOS, TIGUE, MELIO, ROSS, SOLOBAY, M. COHEN, L. I. COHEN, HARHAI, GRUCELA, ORIE, DeLUCA, BROWNE AND DALEY, JANUARY 26, 1999

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 26, 1999

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 \* \* \*

1 "Immediate family" means a parent, spouse, brother, sister,  
2 son or daughter.

3 \* \* \*

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

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

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

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

1     (1) The court finds by clear and convincing evidence that:  
2     (i) the person is a drug dependent person; and  
3     (ii) the person is incapable of accepting or unwilling to  
4     accept voluntary treatment services.

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

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

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

30    (e) A hearing on a petition for court-ordered involuntary

drug and alcohol treatment services shall be conducted according to the following:

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

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

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

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

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

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

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

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