

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 679 Session of
1997

INTRODUCED BY VANCE, KENNEY, TRUE, BUXTON, NAILOR, NICKOL,
OLIVER, YOUNGBLOOD, MILLER, HENNESSEY, MARKOSEK, FLEAGLE,
SATHER, DEMPSEY, WAUGH, FARGO, LEDERER, BELARDI, GORDNER,
STURLA, COY, KAISER, BROWN, L. I. COHEN, BARLEY, HALUSKA,
MASLAND, TULLI, BATTISTO, MARSICO, RUBLEY, EGOLF,
D. W. SNYDER, PLATTS, MELIO, LAUGHLIN, McCALL, LYNCH, THOMAS,
BARD, STEELMAN, TRELLO, BROWNE, MAITLAND, ROEBUCK, JAROLIN,
B. SMITH, McNAUGHTON, STABACK, TIGUE, CORNELL, RAYMOND,
SCRIMENTI, E. Z. TAYLOR, BAKER, BEBKO-JONES, SURRA, GANNON,
J. TAYLOR, SCHRODER, DeLUCA, FEESE, HUTCHINSON, CIVERA,
BOSCOLA, BENNINGHOFF, SAYLOR, BELFANTI, ROBERTS, ROSS,
DiGIROLAMO, SEYFERT, JAMES, GEIST, C. WILLIAMS, STETLER AND
GLADECK, MARCH 6, 1997

AS REPORTED FROM COMMITTEE ON HEALTH AND HUMAN SERVICES, HOUSE
OF REPRESENTATIVES, AS AMENDED, APRIL 1, 1997

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; providing for commitment of minors; and
12 further providing for financial obligation.

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:

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. ~~Sections 5 and 12 of the act are~~ SECTION 5 OF THE <—
8 ACT IS amended to read:

9 Section 5. Admissions and Commitments.--[Admissions] Except
10 as provided in section 12.1 of this act, admissions and
11 commitments to treatment facilities may be made according to the
12 procedural admission and commitment provisions of the act of
13 [October 20, 1966 (P.L.96), known as the "Mental Health and
14 Mental Retardation Act of 1966."] July 9, 1976 (P.L.817,
15 No.143), known as the "Mental Health Procedures Act."

16 ~~Section 12. [Consent of Minor] Parental Notification of~~ <—
17 ~~Diagnosis, Treatment or Counseling of Minor. Notwithstanding~~
18 ~~any other provisions of law, a minor who suffers from the use of~~
19 ~~a controlled or harmful substance may give consent to furnishing~~
20 ~~of medical care or counseling related to diagnosis or treatment.~~
21 ~~The consent of the parents or legal guardian of the minor shall~~
22 ~~not be necessary to authorize medical care or counseling related~~
23 ~~to such diagnosis or treatment. [The consent of the minor shall~~
24 ~~be valid and binding as if the minor had achieved his majority.~~
25 ~~Such consent shall not be voidable nor subject to later~~
26 ~~disaffirmance because of minority. Any physician or any agency~~
27 ~~or organization operating a drug abuse program, who provides~~
28 ~~counseling to a minor who uses any controlled or harmful~~
29 ~~substance may, but shall not be obligated to inform the parents~~
30 ~~or legal guardian of any such minor as to the treatment given or~~

needed.] ~~Any physician, agency or organization operating a drug abuse program that provides counseling or furnishes medical care to a minor who uses any controlled or harmful substance shall be obligated to inform the single county authority of the county in which the physician, agency or organization operating a drug abuse program provides the minor with counseling or medical care. The single county authority shall be responsible for informing the parent or legal guardian of any such minor as to the treatment given or needed. Exemptions to this section shall be granted by the single county authority if the minor can present evidence that the parent or legal guardian of the minor:~~

~~(1) will refuse to allow the minor to live in the same residence if disclosure is made regarding counseling or medical care received from a physician, agency or organization operating a drug abuse program;~~

~~(2) has emotionally or physically abused the minor or poses an emotional or physical threat to the minor if disclosure is made regarding counseling or medical care received from a physician, agency or organization operating a drug abuse program; or~~

~~(3) has exhibited neglect of the minor.~~

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

Section 12.1. Commitment of Minors.--(a) A parent or legal guardian who has legal or physical custody of a minor may petition the court of common pleas of the judicial district where the minor is domiciled for commitment of the minor to involuntary drug and alcohol treatment services, including inpatient services if the minor is incapable of accepting or unwilling to accept voluntary treatment. SUCH MATTERS SHALL BE HEARD BY THE DIVISION OR A JUDGE OF THE COURT ASSIGNED TO

<—

1 CONDUCT PROCEEDINGS UNDER 42 PA.C.S. CH. 63 (RELATING TO
2 JUVENILE MATTERS), INVOLVING CHILDREN WHO HAVE BEEN ALLEGED TO
3 BE DEPENDENT OR DELINQUENT.

4 (b) Upon petition pursuant to subsection (a), the court
5 shall appoint counsel for the minor. A minor who is alleged to
6 have a dependency on drugs or alcohol shall be ordered to
7 undergo a drug and alcohol assessment performed by a
8 psychiatrist, a licensed psychologist with specific training in
9 drug and alcohol assessment and treatment OR a certified <—
10 addiction counselor ~~or an individual certified by the~~ <—
11 ~~Commonwealth to perform drug and alcohol assessment.~~ The court
12 shall hear the testimony of the persons under this subsection at
13 the hearing on the petition for involuntary commitment.

14 (c) ~~The~~ BASED ON THE ASSESSMENT DEFINED IN SUBSECTION (B), <—
15 THE court may order the minor committed to involuntary drug and
16 alcohol treatment, including inpatient services for up to ~~ninety~~ <—
17 FORTY-FIVE days if all of the following apply: <—

18 ~~(1) The court finds, beyond a reasonable doubt, that: (i)~~ <—
19 (1) THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT: (I) <—
20 the minor is a drug-dependent person; and (ii) the minor is
21 incapable of accepting or unwilling to accept voluntary
22 treatment services.

23 (2) The court finds that the minor will benefit from
24 involuntary treatment services.

25 (3) WHERE THE COURT DECISION IS INCONSISTENT WITH THE LEVEL <—
26 OF CARE AND LENGTH OF STAY RECOMMENDED BY THE ASSESSMENT, THE
27 COURT SHALL SET FORTH IN ITS ORDER A STATEMENT OF FACTS AND
28 REASONS FOR ITS RECOMMENDATIONS.

29 (d) A minor ordered to undergo inpatient 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~~ FORTY- <—
2 FIVE days unless sooner discharged. ~~At the end of the ninety day~~ <—
3 PRIOR TO THE END OF THE FORTY-FIVE-DAY period, the court shall <—
4 conduct a review hearing for the purpose of determining whether
5 further treatment is necessary. If the court determines that
6 further treatment is needed, the court may order the minor
7 recommitted to inpatient services for an additional period of
8 treatment not to exceed ~~ninety~~ FORTY-FIVE days unless sooner <—
9 discharged. The court may continue the minor in treatment for
10 successive ~~ninety day~~ FORTY-FIVE-DAY periods pursuant to <—
11 determinations that the minor will benefit from inpatient
12 services for an additional ~~ninety~~ FORTY-FIVE days. <—

13 Section 4. Section 13 of the act is amended to read:

14 Section 13. Financial Obligations.--(a) Except for minors,
15 all persons receiving treatment under this act shall be subject
16 to the provisions of Article V of the act of October 20, 1966
17 (P.L.96), known as the "Mental Health and Mental Retardation Act
18 of 1966," in so far as it relates to liabilities and payments
19 for services rendered by the Commonwealth.

20 (b) In the case of proceedings under section 12.1 of this
21 act, unless the court finds that the parent or legal guardian is
22 without financial resources, the parent or legal guardian shall
23 be obligated for all of the following:

24 (1) Court costs.

25 (2) Counsel fees for the minor.

26 (3) The cost of assessment and treatment services.

27 Section 5. Nothing in this act shall relieve, restrict or
28 expand the obligations of any insurer, health maintenance
29 organization, third-party administrators, hospital plan
30 corporation or health services plan corporation doing business

1 in this Commonwealth with respect to the coverage of drug and
2 alcohol benefits, as set forth in Article VI-A of the act of May
3 17, 1921 (P.L.682, No.284), known as The Insurance Company Law
4 of 1921, section 2334 of the act of April 9, 1929 (P.L.177,
5 No.175), known as The Administrative Code of 1929, act of
6 December 29, 1972 (P.L.1701, No.364), known as the Health
7 Maintenance Organization Act, or 40 Pa.C.S. Chs. 61 (relating to
8 hospital plan corporations) and 63 (relating to professional
9 health services plan corporations).

10 Section 6. All acts and parts of acts are repealed insofar
11 as they are inconsistent with this act.

12 Section 7. This act shall take effect in 60 days.