

## 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 AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
APRIL 15, 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 A JUVENILE INMATE <—  
12 SUBSTANCE ABUSE PROGRAM AND FOR THE commitment of minors; and  
13 further providing for financial obligation.

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

16 Section 1. Section 2(b) of the act of April 14, 1972  
17 (P.L.221, No.63), known as the Pennsylvania Drug and Alcohol

1 Abuse Control Act, is amended by adding a definition to read:

2 Section 2. Definitions:

3 \* \* \*

4 (b) As used in this act:

5 \* \* \*

6 "Minor" means any person UNDER THE AGE OF eighteen years of <—  
7 age or younger.

8 \* \* \*

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

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

17 Section 3. The act is amended by adding ~~a section~~ SECTIONS <—  
18 to read:

19 SECTION 9.1. STATE JUVENILE SUBSTANCE ABUSE AND CHEMICAL <—  
20 DEPENDENCY ASSESSMENT AND TREATMENT PROGRAM.--(A) THE OFFICE OF  
21 DRUG AND ALCOHOL PROGRAMS WITHIN THE DEPARTMENT OF HEALTH,  
22 WORKING IN COOPERATION WITH THE DEPARTMENT OF PUBLIC WELFARE IS  
23 HEREBY AUTHORIZED TO ESTABLISH A PILOT SUBSTANCE ABUSE AND  
24 CHEMICAL DEPENDENCY ASSESSMENT PROGRAM FOR THE PURPOSE OF  
25 ASSESSING AND TREATING SUBSTANCE-ABUSING AND CHEMICALLY  
26 DEPENDENT JUVENILE INMATES WHILE INCARCERATED IN STATE  
27 FACILITIES. THE PROGRAM SHALL BE CONTRACTED WITH A PRIVATE DRUG  
28 AND ALCOHOL TREATMENT PROVIDER. THE DEPARTMENT OF HEALTH AND THE  
29 DEPARTMENT OF PUBLIC WELFARE SHALL SELECT A PILOT JUVENILE  
30 FACILITY OR FACILITIES TO IMPLEMENT THE PROGRAM AND SHALL

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

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

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

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

1 IN ADDITION, AS PART OF THE APPLICATION PROCESS, THE TREATMENT  
2 PROGRAM MUST DEMONSTRATE THE ABILITY TO PROVIDE POST-PRISON  
3 AFTERCARE AND CONTINUING CARE TREATMENT FACILITIES.

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

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

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

27 Section 12.1. Commitment of Minors.--(a) A parent or legal  
28 guardian who has legal or physical custody of a minor may  
29 petition the court of common pleas of the judicial district  
30 where the minor is domiciled for commitment of the minor to

1 involuntary drug and alcohol treatment services, including  
2 inpatient services, if the minor is incapable of accepting or <—  
3 unwilling to accept voluntary treatment. THE PETITION SHALL SET <—  
4 FORTH SUFFICIENT FACTS AND GOOD REASON FOR THE COMMITMENT. Such  
5 matters shall be heard by the division or a judge of the court  
6 assigned to conduct proceedings under 42 Pa.C.S. Ch. 63  
7 (relating to juvenile matters), involving children who have been  
8 alleged to be dependent or delinquent.

9 (b) Upon petition pursuant to subsection (a), the court  
10 shall appoint counsel for the minor. A minor who is alleged to  
11 have a dependency on drugs or alcohol shall be ordered to  
12 undergo a drug and alcohol assessment performed by a  
13 psychiatrist, a licensed psychologist with specific training in  
14 drug and alcohol assessment and treatment or a certified  
15 addiction counselor. The court shall hear the testimony of the  
16 persons under this subsection at the hearing on the petition for  
17 involuntary commitment.

18 (c) Based on the assessment defined in subsection (b), the  
19 court may order the minor committed to involuntary drug and  
20 alcohol treatment, including inpatient services, for up to <—  
21 forty-five days if all of the following apply:

22 (1) The court finds by clear and convincing evidence that:  
23 (i) the minor is a drug-dependent person; and (ii) the minor is  
24 incapable of accepting or unwilling to accept voluntary  
25 treatment services.

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

28 (3) Where the court decision is inconsistent with the level  
29 of care and length of ~~stay~~ TREATMENT recommended by the <—  
30 assessment, the court shall set forth in its order a statement

1 of facts and reasons for its recommendations DISPOSITION. <—

2 (d) A minor ordered to undergo inpatient treatment due to a <—  
3 determination pursuant to subsection (c) shall remain under the  
4 treatment designated by the court for a period of forty-five  
5 days unless sooner discharged. Prior to the end of the forty-  
6 five-day period, the court shall conduct a review hearing for  
7 the purpose of determining whether further treatment is  
8 necessary. If the court determines that further treatment is  
9 needed, the court may order the minor recommitted to inpatient <—  
10 services for an additional period of treatment not to exceed  
11 forty-five days unless sooner discharged. The court may continue  
12 the minor in treatment for successive forty-five-day periods  
13 pursuant to determinations that the minor will benefit from  
14 inpatient services for an additional forty-five days. <—

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

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

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

26 (1) Court costs.

27 (2) Counsel fees for the minor.

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

29 Section 5. Nothing in this act shall relieve, restrict or  
30 expand the obligations of any insurer, health maintenance

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

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

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