

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2926 Session of
1998

INTRODUCED BY BISHOP, MUNDY, BELARDI, BEBKO-JONES, LAUGHLIN,
ORIE, CARN, HARHAI, THOMAS, WOJNAROSKI, MELIO AND WASHINGTON,
NOVEMBER 10, 1998

REFERRED TO COMMITTEE ON JUDICIARY, NOVEMBER 10, 1998

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 shall 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. Such assessment shall
19 include a recommended level of care and length of treatment.
20 Assessments completed by certified addiction counselors shall be
21 based on the Department of Health approved drug and alcohol
22 level of care criteria and shall be reviewed by a case
23 management supervisor in a single county authority. The court
24 shall hear the testimony of the persons performing the
25 assessment under this subsection at the hearing on the petition
26 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) Where the court decision is inconsistent with the level
8 of care and length of treatment recommended by the assessment,
9 the court shall set forth in its order a statement of facts and
10 reasons for its disposition.

11 (d) A person 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 person
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 person in treatment for successive ninety-day
22 periods pursuant to determinations that the person will benefit
23 from services for an additional ninety days. The court may also
24 order appropriate follow-up treatment. If the court finds, after
25 hearing, that the person willfully failed to comply with an
26 order, the court may declare the person in civil contempt of
27 court and in its discretion make an appropriate order,
28 including, but not limited to, commitment of the person to
29 prison for a 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 person shall have the right to counsel and to the assistance of an expert in mental health.

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

(3) The person shall have the right to confront and cross-examine all witnesses and to present evidence in his own behalf.

(4) The hearing shall be public unless it is requested to be private by the person or his counsel.

(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 person or his counsel or by order of the court on good cause shown.

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

(7) A decision shall be rendered within 48 hours after the close of evidence.

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