

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1009 Session of 2011

INTRODUCED BY BISHOP, CARROLL, DALEY, W. KELLER, M. O'BRIEN,
MURT, STABACK, J. TAYLOR AND THOMAS, MARCH 14, 2011

REFERRED TO COMMITTEE ON HUMAN SERVICES, MARCH 14, 2011

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,
23 son or daughter.

1 * * *

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

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

12 (b) (1) Upon petition pursuant to subsection (a), the court
13 shall order the person who is alleged to have a dependency on
14 drugs or alcohol to undergo a drug and alcohol assessment
15 performed by a psychiatrist, a licensed psychologist with
16 specific training in drug and alcohol assessment and treatment
17 or a certified addiction counselor.

18 (2) The assessment shall include a recommended level of care
19 and length of treatment. An assessment completed by a certified
20 addiction counselor shall be based on the Department of Health
21 approved drug and alcohol level of care criteria and shall be
22 reviewed by a case management supervisor in a single county
23 authority.

24 (3) The court shall hear the testimony of the person
25 performing the assessment at the hearing on the petition for
26 involuntary commitment.

27 (c) Based on the assessment under subsection (b), the court
28 may order the person committed to involuntary drug and alcohol
29 treatment, including inpatient services, for up to ninety days
30 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 include in its order a statement of facts and
10 reasons for its disposition.

11 (d) (1) 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.

15 (2) Prior to the end of the ninety-day period, the court
16 shall conduct a review hearing in accordance with subsection (c)
17 for the purpose of determining whether further treatment is
18 necessary. If the court determines that further treatment is
19 necessary, the court may order the respondent recommitted to
20 services for an additional period of treatment not to exceed
21 ninety days unless sooner discharged.

22 (3) The court may continue the respondent in treatment for
23 successive ninety-day periods pursuant to determinations that
24 the person will benefit from services for an additional ninety
25 days. The court may also order appropriate follow-up treatment.

26 (4) If the court finds, after hearing, that the respondent
27 willfully failed to comply with an order, the court may declare
28 the person in civil contempt of court and in its discretion make
29 an appropriate order, including commitment of the respondent to
30 prison for a period not to exceed six months.

1 (e) A hearing on a petition for court-ordered involuntary
2 drug and alcohol treatment services shall be conducted according
3 to the following:

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

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

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

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

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

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

17 (7) A decision shall be rendered within forty-eight hours
18 after the close of evidence. If no decision is rendered within
19 that time period, the petition shall be deemed denied.

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