

PENNSYLVANIA DRUG AND ALCOHOL ABUSE CONTROL ACT - AMEND

Act of Nov. 26, 1997, P.L. 501, No. 53

Cl. 35

Session of 1997

No. 1997-53

HB 679

AN ACT

Amending the act of April 14, 1972 (P.L.221, No.63), entitled, as amended, "An act establishing the Pennsylvania Advisory Council on Drug and Alcohol Abuse; imposing duties on the Department of Health to develop and coordinate the implementation of a comprehensive health, education and rehabilitation program for the prevention and treatment of drug and alcohol abuse and drug and alcohol dependence; providing for emergency medical treatment; providing for treatment and rehabilitation alternatives to the criminal process for drug and alcohol dependence; and making repeals," adding a definition; providing for the commitment of minors; and further providing for financial obligation.

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

Section 1. Section 2(b) of the act of April 14, 1972 (P.L.221, No.63), known as the Pennsylvania Drug and Alcohol Abuse Control Act, is amended by adding a definition to read:

Section 2. Definitions:

* * *

(b) As used in this act:

* * *

"Minor" means any person under the age of eighteen years.

* * *

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

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

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. The petition shall set forth sufficient facts and good reason for the commitment. Such matters shall be heard by the division or a judge of the court assigned to conduct proceedings under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) involving children who have been alleged to be dependent or delinquent.

(b) Upon petition pursuant to subsection (a), the court:

(1) Shall appoint counsel for the minor.

(2) Shall order a minor who is alleged to have a dependency on drugs or alcohol to undergo a drug and alcohol assessment performed by a psychiatrist, a licensed psychologist with specific training in drug and alcohol assessment and treatment or a certified

addiction counselor. Such assessment shall include a recommended level of care and length of treatment. Assessments completed by certified addiction counselors shall be based on the Department of Health approved drug and alcohol level of care criteria and shall be reviewed by a case management supervisor in a single county authority.

The court shall hear the testimony of the persons performing the assessment under this subsection at the hearing on the petition for involuntary commitment.

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

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

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

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

(d) A minor ordered to undergo treatment due to a determination pursuant to subsection (c) shall remain under the treatment designated by the court for a period of forty-five days unless sooner discharged. Prior to the end of the forty-five-day period, the court shall conduct a review hearing in accordance with subsection (c) for the purpose of determining whether further treatment is necessary. If the court determines that further treatment is needed, the court may order the minor recommitted to services for an additional period of treatment not to exceed forty-five days unless sooner discharged. The court may continue the minor in treatment for successive forty-five-day periods pursuant to determinations that the minor will benefit from services for an additional forty-five days.

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

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

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

(1) Court costs.

(2) Counsel fees for the minor.

(3) The cost of assessment and treatment services.

Section 5. Nothing in this act shall relieve, restrict or expand the obligations of any insurer, health maintenance organization, third-party administrators, hospital plan corporation or health services plan corporation doing business in this Commonwealth with respect to the coverage of drug and alcohol benefits, as set forth in Article VI-A of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, section 2334 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act, or 40 Pa.C.S. Chs. 61 (relating to hospital plan corporations) and 63 (relating to professional health services plan corporations).

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

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

APPROVED--The 26th day of November, A. D. 1997.

THOMAS J. RIDGE