
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,
GLADECK AND WASHINGTON, MARCH 6, 1997

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, NOVEMBER 17, 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.

7 * * *

8 Section 2. Section 5 of the 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 3. The act is amended by adding ~~sections~~ A SECTION <—
17 to read:

18 ~~Section 9.1. State Juvenile Substance Abuse and Chemical~~ <—
19 ~~Dependency Assessment and Treatment Program. (a) The Office of~~
20 ~~Drug and Alcohol Programs within the Department of Health,~~
21 ~~working in cooperation with the Department of Public Welfare is~~
22 ~~hereby authorized to establish a pilot substance abuse and~~
23 ~~chemical dependency assessment program for the purpose of~~
24 ~~assessing and treating substance abusing and chemically~~
25 ~~dependent juvenile inmates while incarcerated in State~~
26 ~~facilities. The program shall be contracted with a private drug~~
27 ~~and alcohol treatment provider. The Department of Health and the~~
28 ~~Department of Public Welfare shall select a pilot juvenile~~
29 ~~facility or facilities to implement the program and shall~~
30 ~~collaborate with the courts, other criminal justice agencies and~~

~~drug and alcohol treatment programs to develop written guidelines and procedures governing the selection of the juvenile facility or facilities, operation of the program, eligibility of treatment programs to apply to provide this service and eligibility of inmates for the assessment and treatment program. The pilot program established under this section shall not take the place of any other existing therapeutic community drug and alcohol program in any State juvenile facility.~~

~~(b) Assessments of drug and alcohol abuse and dependency shall be performed by drug and alcohol counselors who have been certified by the Pennsylvania Chemical Abuse Certification Board (PCACB) or who hold a reciprocity level certification by the International Certification Reciprocity Consortium (ICRC).~~

~~(c) If the assessment determines that the incarcerated juvenile is in need of alcohol or other drug treatment, the juvenile shall be referred to the treatment program provided within the juvenile facility.~~

~~(d) The alcohol and drug treatment program or programs within the juvenile institution shall be established and administered in a separate area of the prison by private alcohol and drug treatment programs licensed by the Office of Drug and Alcohol Programs within the Department of Health. In addition to licensure, drug and alcohol treatment programs eligible to apply to provide this service must have at least five years' experience in treating chemically dependent individuals involved with the criminal justice system, five years' experience running a therapeutic community and be able to provide a long term residential therapeutic community within the juvenile facility. In addition, as part of the application process, the treatment~~

~~program must demonstrate the ability to provide post prison
aftercare and continuing care treatment facilities.~~

~~(e) The substance abuse and chemical dependency assessments
under this section shall incorporate methods for detection and
determination of chronic drug and alcohol addiction and shall
include, but not be limited to, drug and alcohol counseling and
evaluation, chemical testing and any other acceptable means for
detection and determination of substance abuse and chemical
dependency.~~

~~(f) The Office of Drug and Alcohol Treatment Programs within
the Department of Health shall conduct an ongoing, comprehensive
evaluation program to determine the effectiveness of the
substance abuse assessment pilot program in reducing criminal
behavior, recidivism, arrest and commitments to juvenile
institutions. In addition, the Office of Drug and Alcohol
Treatment Programs shall collaborate with the Department of
Public Welfare to secure medical assistance payments to cover
the cost of drug and alcohol detoxification and rehabilitation
services for any person eligible for the payments.~~

~~(g) On or before March 1 of each year, the Department of
Health shall submit a report to the General Assembly which shall
include, but not be limited to, a comprehensive evaluation to
determine the effectiveness of the substance abuse assessment
pilot program in reducing criminal behavior, recidivism, arrest
and commitments to juvenile institutions.~~

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 shall appoint counsel for the minor. A minor who is alleged to have a dependency on drugs or alcohol shall be ordered 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. The court shall hear the testimony of 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

1 (P.L.96), known as the "Mental Health and Mental Retardation Act
2 of 1966," in so far as it relates to liabilities and payments
3 for services rendered by the Commonwealth.

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

8 (1) Court costs.

9 (2) Counsel fees for the minor.

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

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

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

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