

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1448 Session of
2001

INTRODUCED BY MAITLAND, BARD, BARRAR, BENNINGHOFF, BUNT,
CALTAGIRONE, CAPPELLI, CLARK, L. I. COHEN, EGOLF, FLEAGLE,
FRANKEL, GODSHALL, HORSEY, JAMES, KENNEY, KIRKLAND, LEDERER,
MACKERETH, MARSICO, MELIO, S. MILLER, MYERS, NAILOR, NICKOL,
ROEBUCK, ROSS, RUBLEY, SATHER, SCRIMENTI, SOLOBAY, STERN,
T. STEVENSON, STRITTMATTER, SURRA, E. Z. TAYLOR, J. TAYLOR,
THOMAS, TIGUE, VANCE, WATSON, C. WILLIAMS, WILT, DeLUCA AND
J. EVANS, APRIL 26, 2001

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES,
APRIL 26, 2001

AN ACT

1 Amending the act of February 13, 1970 (P.L.19, No.10), entitled
2 "An act enabling certain minors to consent to medical, dental
3 and health services, declaring consent unnecessary under
4 certain circumstances," further providing for consent to
5 treatment.

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

8 Section 1. The act of February 13, 1970 (P.L.19, No.10),
9 entitled "An act enabling certain minors to consent to medical,
10 dental and health services, declaring consent unnecessary under
11 certain circumstances," is amended by adding a section to read:

12 Section 1.1. Mental Health Treatment.--(a) Outpatient
13 treatment shall include any of the following:

14 (1) Any minor who is fourteen years of age or older may
15 consent on his or her own behalf to outpatient mental health
16 examination and treatment, and the parent or legal guardian's

1 consent shall not be necessary.

2 (2) A parent or legal guardian of a minor less than eighteen
3 years of age may consent to voluntary outpatient mental health
4 examination or treatment on behalf of the minor, and the minor's
5 consent shall not be necessary.

6 (3) A minor may not abrogate consent provided by a parent or
7 legal guardian on the minor's behalf, nor may a parent or legal
8 guardian abrogate consent given by the minor on his or her own
9 behalf.

10 (b) Inpatient treatment shall include any of the following:

11 (1) A parent or legal guardian may consent to voluntary
12 inpatient treatment, pursuant to Article II of the act of July
13 9, 1976 (P.L.817, No.143), known as the "Mental Health
14 Procedures Act," on behalf of a minor less than eighteen years
15 of age on the recommendation of a physician who has examined the
16 minor. The minor's consent shall not be necessary.

17 (2) Nothing in this section shall be construed as
18 restricting or altering a minor's existing rights to consent to
19 treatment on his or her own behalf.

20 (3) Nothing in this section shall be construed as
21 restricting or altering a parent or legal guardian's existing
22 rights to object to a minor's voluntary treatment provided
23 pursuant to the minor's consent on his or her own behalf.

24 (4) A minor may not abrogate consent provided by a parent or
25 legal guardian on the minor's behalf, nor may a parent or legal
26 guardian abrogate consent given by the minor on his or her own
27 behalf.

28 (5) Any minor fourteen years of age or older and eighteen
29 years of age or younger who has been confined for inpatient
30 treatment on the consent of a parent or legal guardian and who

objects to continued inpatient treatment, may file a petition in the court of common pleas requesting a withdrawal from or modification of treatment. The court shall promptly appoint an attorney for such minor person and schedule a hearing to be held within seventy-two hours, unless continued upon the request of the attorney for the minor, by a judge or mental health review officer who shall determine whether or not the voluntary treatment is in the best interest of the minor. For inpatient treatment to continue against the minor's wishes, the court shall find the following:

(i) that the minor has a diagnosed mental disorder;

(ii) that the disorder is treatable;

(iii) that the disorder can be treated in the particular facility where the treatment is taking place; and

(iv) that the treatment represents the least restrictive alternative that is medically appropriate.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Facility" means any mental health establishment, hospital, clinic, institution, center, day-care center, base service unit, community mental health center, or part thereof, that provides for the diagnosis, treatment, care or rehabilitation of mentally ill persons.

"Inpatient treatment" means all treatment that requires full-time or part-time residence in a facility that provides mental health treatment.

"Mental health treatment" means a course of treatment, including evaluation, diagnosis, therapy and rehabilitation, designed and administered to alleviate an individual's pain and

1 distress and to maximize the probability of recovery from mental
2 illness. The term also includes care and other services which
3 supplement treatment and aid or promote recovery.

4 Section 2. This act shall take effect in 60 days.