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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1920 Session of  
2019

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INTRODUCED BY READSHAW, NEILSON, MERSKI, MILLARD, T. DAVIS,  
STAATS, KINSEY, DeLUCA, HILL-EVANS AND DEASY,  
OCTOBER 15, 2019

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REFERRED TO COMMITTEE ON HUMAN SERVICES, OCTOBER 15, 2019

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AN ACT

1 Providing for involuntary treatment requirements and procedures  
2 for individuals suffering from alcohol and other drug abuse;  
3 and imposing duties on the Department of Health and the  
4 Department of Drug and Alcohol Programs.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Involuntary  
9 Drug and Alcohol Treatment Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall  
12 have the meanings given to them in this section unless the  
13 context clearly indicates otherwise:

14 "Alcohol and other drug abuse." Alcoholism or drug  
15 addiction.

16 "Another drug." A controlled substance as defined in section  
17 2 of the act of April 14, 1972 (P.L.233, No.64), known as The  
18 Controlled Substance, Drug, Device and Cosmetic Act.

1 "Danger" or "threat of danger to self, family or others."  
2 Substantial physical harm or threat of substantial physical harm  
3 upon self, family or others.

4 "Hospital." A facility licensed as a hospital under 28 Pa.  
5 Code Pt. IV Subpt. B (relating to general and special  
6 hospitals). The term does not include either a hospital operated  
7 by the Department of Health and Department of Drug and Alcohol  
8 Programs or an inpatient unit licensed by the Department of  
9 Health and Department of Drug and Alcohol Programs.

10 "Intoxicated." Being under the influence of alcohol, another  
11 drug or both alcohol and another drug and, as a result, having a  
12 significantly impaired ability to function.

13 "Petitioner." An individual who institutes a proceeding  
14 under this act.

15 "Qualified health professional." An individual who is  
16 properly credentialed or licensed to conduct a drug and alcohol  
17 assessment and diagnosis under the laws of this Commonwealth.

18 "Residence." The legal residence of an individual as  
19 determined by applicable principles governing conflicts of law.

20 "Respondent." An individual alleged in a petition filed or  
21 hearing under this act to be an individual who is suffering from  
22 alcohol and other drug abuse and who may be ordered to undergo  
23 treatment.

24 "Treatment." Services and programs for the care and  
25 rehabilitation of intoxicated individuals and individuals  
26 suffering from alcohol and other drug abuse. The term includes  
27 residential treatment, a halfway house setting and an intensive  
28 outpatient or outpatient level of care.

29 Section 3. Involuntary treatment for alcohol and other drug  
30 abuse.

1 A court of common pleas may order involuntary treatment for  
2 an individual suffering from alcohol and other drug abuse  
3 pursuant to the procedures set forth under this act.

4 Section 4. Criteria for involuntary treatment.

5 No individual shall be ordered to undergo treatment under  
6 this act unless all of the following apply to that individual:

7 (1) The individual suffers from alcohol and other drug  
8 abuse.

9 (2) The individual presents an imminent danger or  
10 imminent threat of danger to self, family or others as a  
11 result of alcohol and other drug abuse, or there exists a  
12 substantial likelihood of such a threat in the near future.

13 (3) The individual can reasonably benefit from  
14 treatment.

15 Section 5. Initiation of proceedings and petition.

16 (a) General rule.--An individual may initiate proceedings  
17 for treatment for an individual suffering from alcohol and other  
18 drug abuse by filing a verified petition in the court of common  
19 pleas and paying a filing fee in the same amount, if any, that  
20 is charged for a petition for involuntary treatment under the  
21 act of July 9, 1976 (P.L.817, No.143), known as the Mental  
22 Health Procedures Act. The petition and all subsequent court  
23 documents shall be entitled: "In the interest of (name of  
24 respondent)." A spouse, relative or guardian of the respondent  
25 shall file the petition.

26 (b) Contents of petition.--A petition filed under this act  
27 shall set forth all of the following:

28 (1) The petitioner's relationship to the respondent.

29 (2) The respondent's name, residence and current  
30 location, if known.

1           (3) The name and residence of the respondent's parents,  
2 if living and if known, or of the respondent's legal  
3 guardian, if any and if known.

4           (4) The name and residence of the respondent's spouse,  
5 if any and if known.

6           (5) The name and residence of the individual having  
7 custody of the respondent, if any, or if the individual is  
8 not known, the name and residence of a near relative or a  
9 statement that the individual is unknown.

10          (6) The petitioner's belief, including the factual basis  
11 for the belief, that the respondent is suffering from alcohol  
12 and other drug abuse and presents an imminent danger or  
13 imminent threat of danger to self, family or others if not  
14 treated for alcohol and other drug abuse.

15          (c) Certificate and statement.--The following shall apply:

16           (1) A petition filed under this act shall be accompanied  
17 by a certificate of a physician who has examined the  
18 respondent within two days prior to the day that the petition  
19 is filed in the court of common pleas. The physician shall be  
20 authorized to practice medicine and surgery or osteopathic  
21 medicine and surgery under the act of December 20, 1985  
22 (P.L.457, No.112), known as the Medical Practice Act of 1985,  
23 or the act of October 5, 1978 (P.L.1109, No.261), known as  
24 the Osteopathic Medical Practice Act. The physician's  
25 certificate shall set forth the physician's findings in  
26 support of the need to treat the respondent for alcohol and  
27 other drug abuse. The certificate shall indicate if the  
28 respondent presents an imminent danger or imminent threat of  
29 danger to self, family or others if not treated. Further, the  
30 certificate shall indicate the type and length of treatment

1 required and if the respondent can reasonably benefit from  
2 treatment. If the physician's certificate indicates that  
3 inpatient treatment is required, the certificate shall  
4 identify any inpatient facilities known to the physician that  
5 are able and willing to provide the recommended inpatient  
6 treatment. If the respondent refuses to undergo an  
7 examination with a physician concerning the respondent's  
8 possible need for treatment for alcohol and other drug abuse,  
9 the petition shall state that the respondent has refused all  
10 requests made by the petitioner to undergo a physician's  
11 examination. In that case, the petitioner may not be required  
12 to provide a physician's certificate with the petition.

13 (2) A petition filed under this act shall contain a  
14 statement that the petitioner has arranged for treatment of  
15 the respondent. Further, the petition shall be accompanied by  
16 a statement from the individual or facility that has agreed  
17 to provide the treatment that verifies that the individual or  
18 facility has agreed to provide the treatment and the  
19 estimated cost of the treatment.

20 (d) Deposit and guarantee.--A petition filed under this act  
21 shall be accompanied by both of the following:

22 (1) A security deposit to be deposited with the clerk of  
23 the court of common pleas that will cover half of the  
24 estimated cost of treatment of the respondent.

25 (2) A guarantee, signed by the petitioner or another  
26 individual authorized to file the petition obligating the  
27 guarantor to pay the costs of the examinations of the  
28 respondent conducted by the physician and qualified health  
29 professional under section 6(b) (5), the costs of the  
30 respondent that are associated with a hearing conducted in

1 accordance with section 6 and that the court determines to be  
2 appropriate, and the costs of treatment ordered by the court.

3 Section 6. Examination, hearing and disposition.

4 (a) Examination.--Upon receipt of a petition filed under  
5 section 5 and the payment of the appropriate filing fee, if any,  
6 the court of common pleas shall examine the petitioner under  
7 oath as to the contents of the petition.

8 (b) Requirements.--If, after reviewing the allegations  
9 contained in the petition and examining the petitioner under  
10 oath, it appears to the court of common pleas that there is  
11 probable cause to believe the respondent may reasonably benefit  
12 from treatment, the court shall do all of the following:

13 (1) Schedule a hearing to be held within seven days to  
14 determine if there is clear and convincing evidence that the  
15 respondent may reasonably benefit from treatment for alcohol  
16 and other drug abuse.

17 (2) Notify the respondent, the legal guardian, if any  
18 and if known, and the spouse, parents or nearest relative or  
19 friend of the respondent concerning the allegations and  
20 contents of the petition and of the date and purpose of the  
21 hearing.

22 (3) Notify the respondent that the respondent may retain  
23 counsel and, if the respondent is unable to obtain an  
24 attorney, that the respondent may be represented by court-  
25 appointed counsel at public expense if the respondent is  
26 indigent. Upon the appointment of an attorney to represent an  
27 indigent respondent, the court shall notify the respondent of  
28 the name, address and telephone number of the attorney  
29 appointed to represent the respondent.

30 (4) Notify the respondent that the court shall cause the

1 respondent to be examined not later than 24 hours before the  
2 hearing date by a physician for the purpose of a physical  
3 examination and by a qualified health professional for the  
4 purpose of a drug and alcohol addiction assessment and  
5 diagnosis. In addition, the court shall notify the respondent  
6 that the respondent may have an independent expert evaluation  
7 of the individual's physical and mental condition conducted  
8 at the respondent's own expense.

9 (5) Cause the respondent to be examined not later than  
10 24 hours before the hearing date by a physician for the  
11 purpose of a physical examination and by a qualified health  
12 professional for the purpose of a drug and alcohol addiction  
13 assessment and diagnosis.

14 (6) Conduct the hearing.

15 (c) Findings.--The physician and qualified health  
16 professional who examine the respondent under subsection (b) (5)  
17 or who are obtained by the respondent at the respondent's own  
18 expense shall certify their findings to the court within 24  
19 hours of the examinations. The findings of each qualified health  
20 professional shall include a recommendation for treatment if the  
21 qualified health professional determines that treatment is  
22 necessary.

23 (d) Probable cause.--The following shall apply:

24 (1) If upon completion of the hearing held under this  
25 section the court of common pleas finds by clear and  
26 convincing evidence that the respondent may reasonably  
27 benefit from treatment, the court may order the treatment  
28 after considering the qualified health professionals'  
29 recommendations for treatment that have been submitted to the  
30 court under subsection (c). If the court orders the

1 treatment, the court shall order the treatment to be provided  
2 by a certified addiction counselor ????, an individual  
3 licensed or certified under the act of December 20, 1985  
4 (P.L.457, No.112), known as the Medical Practice Act of 1985,  
5 or an individual licensed or certified under the act of July  
6 9, 1987 (P.L.220, No.39), known as the Social Workers,  
7 Marriage and Family Therapists and Professional Counselors  
8 Act, or a similar board of another state authorized to  
9 provide alcohol and other drug abuse treatment.

10 (2) Failure of a respondent to undergo and complete a  
11 treatment ordered under this act is contempt of court. An  
12 alcohol and drug addiction program or individual providing  
13 treatment under this act shall notify the court of common  
14 pleas of a respondent's failure to undergo or complete the  
15 ordered treatment.

16 (e) No probable cause.--If, at any time after a petition is  
17 filed under section 5, the court of common pleas finds that  
18 there is not probable cause to continue treatment or if the  
19 petitioner withdraws the petition, then the court shall dismiss  
20 the proceedings against the respondent.

21 Section 7. Emergency involuntary treatment.

22 (a) General rule.--Following an examination by a qualified  
23 health professional and a certification by that professional  
24 that the respondent meets the criteria specified in section 4, a  
25 court of common pleas may order the respondent hospitalized for  
26 a period not to exceed 72 hours if the court finds by clear and  
27 convincing evidence that the respondent presents an imminent  
28 threat of danger to self, family or others as a result of  
29 alcohol and other drug abuse. However, if the hearing to be held  
30 under section 6 will not be held within 72 hours, the court may



1 order the respondent hospitalized until the hearing. In making  
2 its order, the court shall inform the respondent that the  
3 respondent may immediately make a reasonable number of telephone  
4 calls or use other reasonable means to contact an attorney, a  
5 licensed physician or a qualified health professional, to  
6 contact any other person to secure representation by counsel, or  
7 to obtain medical or psychological assistance and that the  
8 respondent will be provided assistance in making calls if the  
9 assistance is needed and requested.

10 (b) Release.--A respondent who has been admitted to a  
11 hospital under subsection (a) shall be released from the  
12 hospital immediately upon the expiration of the time period  
13 established by the court for the hospitalization.

14 (c) Prohibition.--No respondent ordered hospitalized under  
15 this section shall be held in jail pending transportation to the  
16 hospital or evaluation unless the court of common pleas  
17 previously has found the respondent to be in contempt of court  
18 for either failure to undergo treatment or failure to appear at  
19 the evaluation ordered under section 6.

#### 20 Section 8. Summons.

21 When a court of common pleas is authorized to issue an order  
22 that the respondent be transported to a hospital, the court may  
23 issue a summons. If the respondent fails to attend an  
24 examination scheduled before the hearing under section 6, the  
25 court shall issue a summons. A summons so issued shall be  
26 directed to the respondent and shall command the respondent to  
27 appear at a time and place specified in the summons. If a  
28 respondent who has been summoned fails to appear at the hospital  
29 or the examination, the court of common pleas may order the  
30 sheriff or any other peace officer to transport the respondent

1 to a hospital on the list provided under section 9 for  
2 treatment. The transportation costs of the sheriff or other  
3 peace officer shall be included in the costs of treatment for  
4 alcohol and other drug abuse to be paid by the petitioner.

5 Section 9. Lists of qualified hospitals and treatment  
6 providers.

7 The Department of Health and the Department of Drug and  
8 Alcohol Programs on at least an annual basis shall submit each  
9 of the following lists to each clerk of the court of common  
10 pleas in this Commonwealth:

11 (1) A list of all hospitals in the county that are able  
12 and willing to take respondents ordered to undergo 72 hours  
13 of treatment and observation under section 7.

14 (2) A list of hospitals and treatment providers in the  
15 county that are able and willing to provide treatment for  
16 alcohol and other drug abuse ordered under section 6.

17 Section 10. Civil rights and liberties of respondents.

18 An individual treated under this act shall retain the  
19 individual's civil rights and liberties, including the right not  
20 to be experimented upon with treatment not accepted as good  
21 medical practice without the individual's fully informed  
22 consent, the right as an individual receiving services to  
23 maintain the confidentiality of health and medical records, the  
24 right as an individual detained for medical purposes to receive  
25 adequate and appropriate treatment and the right to vote.

26 Section 11. Confidentiality of records pertaining to identity,  
27 diagnosis or treatment.

28 (a) General rule.--Records or information, other than court  
29 journal entries or court docket entries, pertaining to the  
30 identity, diagnosis or treatment of an individual receiving

1 treatment under this act shall be kept confidential, may be  
2 disclosed only for the purposes and under the circumstances  
3 expressly authorized under this section and may not otherwise be  
4 divulged in any civil, criminal, administrative or legislative  
5 proceeding.

6 (b) Consent.--If an individual, with respect to whom any  
7 record or information referred to in subsection (a) is  
8 maintained, gives consent in the form of a written release  
9 signed by the individual, the content of the record or  
10 information may be disclosed if the written release conforms to  
11 all of the following:

12 (1) Specifically identifies the individual, official or  
13 entity to whom the information is to be provided.

14 (2) Describes with reasonable specificity the record,  
15 records or information to be disclosed.

16 (3) Describes with reasonable specificity the purposes  
17 of the disclosure and the intended use of the disclosed  
18 information.

19 (c) Exceptions.--The following shall apply:

20 (1) Disclosure of an individual's record may be made  
21 without the individual's consent to qualified personnel for  
22 the purpose of conducting scientific research, management,  
23 financial audits or program evaluation, but these personnel  
24 may not identify, directly or indirectly, any individual in  
25 any report of the research, audit or evaluation, or otherwise  
26 disclose an individual's identity in any manner.

27 (2) Upon the request of a prosecuting attorney or the  
28 director of a mental health and addiction service, a court of  
29 competent jurisdiction may order the disclosure of records or  
30 information referred to under subsection (a) if the court has

1 reason to believe that a treatment program or facility is  
2 being operated or used in a manner contrary to law. The use  
3 of any information or record so disclosed shall be limited to  
4 the prosecution of persons who are or may be charged with any  
5 offense related to the illegal operation or use of the drug  
6 treatment program or facility, or to the decision to withdraw  
7 the authority of a drug treatment program or facility to  
8 continue operation. The court shall:

9 (i) Limit disclosure to those parts of the  
10 individual's record considered essential to fulfill the  
11 objective for which the order was granted.

12 (ii) Require, where appropriate, that all  
13 information be disclosed in chambers.

14 (iii) Include any other appropriate measures to keep  
15 disclosure to a minimum, consistent with the protection  
16 of the individuals receiving services, the physician-  
17 patient relationship and the administration of the drug  
18 treatment and rehabilitation program.

19 Section 12. Effective date.

20 This act shall take effect in 60 days.