The General Assembly of Pennsylvania

House Bill
No. 679 Session of 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, 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 a juvenile inmate substance abuse program and 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 sections A SECTION to read:

Section 9.1. State Juvenile Substance Abuse and Chemical Dependency Assessment and Treatment Program.--(a) The Office of Drug and Alcohol Programs within the Department of Health, working in cooperation with the Department of Public Welfare is hereby authorized to establish a pilot substance abuse and chemical dependency assessment program for the purpose of assessing and treating substance-abusing and chemically dependent juvenile inmates while incarcerated in State facilities. The program shall be contracted with a private drug and alcohol treatment provider. The Department of Health and the Department of Public Welfare shall select a pilot juvenile facility or facilities to implement the program and shall 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
(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.