
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 384 Session of
2017

INTRODUCED BY READSHAW, DEASY, PASHINSKI, DRISCOLL, CALTAGIRONE,
WATSON, McNEILL, MILLARD, KINSEY, WARD, NEILSON, STAATS,
BOBACK, KORTZ, D. COSTA, IRVIN, A. HARRIS, ZIMMERMAN,
V. BROWN, DeLUCA, FARRY AND THOMAS, FEBRUARY 7, 2017

REFERRED TO COMMITTEE ON HUMAN SERVICES, FEBRUARY 7, 2017

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 no such individual
8 is 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 or other drug abuse.

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

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

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

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

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

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

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

1 respondent that are associated with a hearing conducted in
2 accordance with section 6 and that the court determines to be
3 appropriate, and the costs of any treatment ordered by the
4 court.

5 Section 6. Examination, hearing and disposition.

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

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

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

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

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

1 appointed to represent the respondent.

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

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

16 (6) Conduct the hearing.

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

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

26 (1) If upon completion of the hearing held under this
27 section the court of common pleas finds by clear and
28 convincing evidence that the respondent may reasonably
29 benefit from treatment, the court may order the treatment
30 after considering the qualified health professionals'

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

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

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

23 Section 7. Emergency involuntary treatment.

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

1 alcohol and other drug abuse. However, if the hearing to be held
2 under section 6 will not be held within 72 hours, the court may
3 order the respondent hospitalized until the hearing. In making
4 its order, the court shall inform the respondent that the
5 respondent may immediately make a reasonable number of telephone
6 calls or use other reasonable means to contact an attorney, a
7 licensed physician or a qualified health professional, to
8 contact any other person to secure representation by counsel, or
9 to obtain medical or psychological assistance and that the
10 respondent will be provided assistance in making calls if the
11 assistance is needed and requested.

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

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

22 Section 8. Summons.

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

1 or the examination, the court of common pleas may order the
2 sheriff or any other peace officer to transport the respondent
3 to a hospital on the list provided under section 9 for
4 treatment. The transportation costs of the sheriff or other
5 peace officer shall be included in the costs of treatment for
6 alcohol and other drug abuse to be paid by the petitioner.

7 Section 9. Lists of qualified hospitals and treatment
8 providers.

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

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

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

19 Section 10. Civil rights and liberties of respondents.

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

28 Section 11. Confidentiality of records pertaining to identity,
29 diagnosis or treatment.

30 (a) General rule.--Records or information, other than court

1 journal entries or court docket entries, pertaining to the
2 identity, diagnosis or treatment of any individual receiving
3 treatment under this act shall be kept confidential, may be
4 disclosed only for the purposes and under the circumstances
5 expressly authorized under this section and may not otherwise be
6 divulged in any civil, criminal, administrative or legislative
7 proceeding.

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

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

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

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

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

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

29 (2) Upon the request of a prosecuting attorney or the
30 director of mental health and addiction services, a court of

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

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

14 (ii) Require, where appropriate, that all
15 information be disclosed in chambers.

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

21 Section 12. Effective date.

22 This act shall take effect in 60 days.