

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO HEALTH AND SAFETY -- COMMITMENT OF ALCOHOLICS OR
SUBSTANCE ABUSERS

Introduced By: Representatives J. Lombardi, Hull, Cruz, Morales, Potter, Stewart,
Shallcross Smith, Ajello, Slater, and Bennett

Date Introduced: March 03, 2023

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 23-1.10 of the General Laws entitled "Alcoholism" is hereby
2 repealed in its entirety.

3 ~~CHAPTER 23-1.10~~

4 ~~Alcoholism~~

5 ~~**23-1.10-1. Declaration of policy.**~~

6 ~~The problem of alcoholism, with its attendant effects upon the economic condition of~~
7 ~~alcoholics and those dependent upon them, and the substantial physical deterioration brought about~~
8 ~~by the misuse of alcohol, has, as shown by the studies, become more and more a major concern of~~
9 ~~government. Those who, through the misuse of alcohol, adversely affect their health and their~~
10 ~~economic independence have in recent years increased in number. This chapter is designed to~~
11 ~~provide proper treatment for those who have been habitually misusing alcohol as a beverage. It is~~
12 ~~the further policy of this state that alcoholics and intoxicated persons may not be subjected to~~
13 ~~criminal prosecution because of their consumption of alcoholic beverages but rather should be~~
14 ~~afforded a continuum of treatment in order that they may lead normal lives as productive members~~
15 ~~of society.~~

16 ~~**23-1.10-2. Definitions.**~~

17 ~~As used in this chapter:~~

18 ~~(1) "Alcoholic" means a person who habitually lacks self control as to the use of alcoholic~~

1 ~~beverages, or uses alcoholic beverages to the extent that his or her health is substantially impaired~~
2 ~~or endangered or his or her social or economic function is substantially disrupted;~~

3 ~~(2) "Approved private treatment facility" means a private agency meeting the standards~~
4 ~~prescribed in § 23-1.10-7(a) and approved under § 23-1.10-7(e);~~

5 ~~(3) "Approved public treatment facility" means a treatment agency operating under the~~
6 ~~direction and control of the department or providing treatment under this chapter through a contract~~
7 ~~with the department under § 23-1.10-6(g) and meeting the standards prescribed in § 23-1.10-7(a);~~

8 ~~(4) "Department" means department of behavioral healthcare, developmental disabilities~~
9 ~~and hospitals;~~

10 ~~(5) "Director" means the director of the department of behavioral healthcare,~~
11 ~~developmental disabilities and hospitals;~~

12 ~~(6) "Incapacitated by alcohol" means a person, who as a result of the use of alcohol is~~
13 ~~intoxicated to such an extent that he or she is unconscious or has his or her judgment otherwise so~~
14 ~~impaired that he or she is incapable of realizing and making a rational decision with respect to his~~
15 ~~or her need for treatment;~~

16 ~~(7) "Incompetent person" means a person who has been adjudged incompetent by the~~
17 ~~probate court of the city and town in which the person resides, or any other court of competent~~
18 ~~jurisdiction;~~

19 ~~(8) "Intoxicated person" means a person whose mental or physical functioning is~~
20 ~~substantially impaired as a result of the use of alcohol;~~

21 ~~(9) "Treatment" means the broad range of emergency, outpatient, intermediate, and~~
22 ~~inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological,~~
23 ~~and social service care, vocational rehabilitation and career counseling, which may be extended to~~
24 ~~alcoholics and intoxicated persons.~~

25 **23-1.10-3. Powers assumed by department.**

26 The department may:

27 (1) ~~Plan, establish, and maintain treatment programs as necessary or desirable;~~

28 ~~(2) Make contracts necessary or incidental to the performance of its duties and the~~
29 ~~execution of its powers, including contracts with public and private agencies, organizations, and~~
30 ~~individuals to pay them for services rendered or furnished to alcoholics or intoxicated persons;~~

31 ~~(3) Solicit and accept for use any gift of money or property made by will or otherwise, and~~
32 ~~any grant of money, services, or property from the federal government, the state, or any political~~
33 ~~subdivision of the state or any private source, and do all things necessary to cooperate with the~~
34 ~~federal government or any of its agencies in making an application for any grant;~~

1 ~~(4) Administer or supervise the administration of the provisions relating to alcoholics and~~
2 ~~intoxicated persons of any state plan submitted for federal funding pursuant to federal health,~~
3 ~~welfare, or treatment legislation;~~

4 ~~(5) Coordinate its activities and cooperate with alcoholism programs in this and other~~
5 ~~states, and make contracts and other joint or cooperative arrangements with state, local, or private~~
6 ~~agencies in this and other states for the treatment of alcoholics and intoxicated persons and for the~~
7 ~~common advancement of alcoholism programs;~~

8 ~~(6) Keep records and engage in research and the gathering of relevant statistics;~~

9 ~~(7) Do other acts and things necessary or convenient to execute the authority expressly~~
10 ~~granted to it; and~~

11 ~~(8) Acquire, hold, or dispose of real property or any interest in real property, and construct,~~
12 ~~lease, or otherwise provide treatment facilities for alcoholics and intoxicated persons.~~

13 ~~**23-1.10-4. Duties of department.**~~

14 ~~The department shall:~~

15 ~~(1) Develop, encourage, and foster statewide, regional, and local plans and programs for~~
16 ~~the prevention of alcoholism and treatment of alcoholics and intoxicated persons in cooperation~~
17 ~~with public and private agencies, organizations, and individuals and provide technical assistance~~
18 ~~and consultation services for these purposes;~~

19 ~~(2) Coordinate the efforts and enlist the assistance of all public and private agencies,~~
20 ~~organizations, and individuals interested in prevention of alcoholism and treatment of alcoholics~~
21 ~~and intoxicated persons;~~

22 ~~(3) Cooperate with the department of corrections and board of parole in establishing and~~
23 ~~conducting programs to provide treatment for alcoholics and intoxicated persons in or on parole~~
24 ~~from penal institutions;~~

25 ~~(4) Cooperate with the board of regents for elementary and secondary education, board of~~
26 ~~governors for higher education, schools, police departments, courts, and other public and private~~
27 ~~agencies, organizations, and individuals in establishing programs for the prevention of alcoholism~~
28 ~~and treatment of alcoholics and intoxicated persons, and preparing curriculum materials for use at~~
29 ~~all levels of school education;~~

30 ~~(5) Prepare, publish, evaluate, and disseminate educational material dealing with the nature~~
31 ~~and effects of alcohol;~~

32 ~~(6) Develop and implement, as an integral part of treatment programs, an educational~~
33 ~~program for use in the treatment of alcoholics and intoxicated persons, which program shall include~~
34 ~~the dissemination of information concerning the nature and effects of alcohol;~~

- 1 ~~(7) Organize and foster training programs for all persons engaged in treatment of alcoholics~~
2 ~~and intoxicated persons;~~
- 3 ~~(8) Sponsor and encourage research into the causes and nature of alcoholism and treatment~~
4 ~~of alcoholics and intoxicated persons, and serve as a clearing house for information relating to~~
5 ~~alcoholism;~~
- 6 ~~(9) Specify uniform methods for keeping statistical information by public and private~~
7 ~~agencies, organizations, and individuals, and collect and make available relevant statistical~~
8 ~~information, including number of persons treated, frequency of admission and readmission, and~~
9 ~~frequency and duration of treatment;~~
- 10 ~~(10) Advise the governor in the preparation of a comprehensive plan for treatment of~~
11 ~~alcoholics and intoxicated persons;~~
- 12 ~~(11) Review all state health, welfare, and treatment plans to be submitted for federal~~
13 ~~funding under federal legislation, and advise the governor on provisions to be included relating to~~
14 ~~alcoholism and intoxicated persons;~~
- 15 ~~(12) Assist in the development of, and cooperate with, alcohol education and treatment~~
16 ~~programs for employees of state and local governments and businesses and industries in the state;~~
- 17 ~~(13) Utilize the support and assistance of interested persons in the community, particularly~~
18 ~~recovered alcoholics, to encourage alcoholics to voluntarily undergo treatment;~~
- 19 ~~(14) Cooperate with the department of transportation and related agencies both state and~~
20 ~~local in establishing and conducting programs designed to deal with the problem of persons~~
21 ~~operating motor vehicles while intoxicated;~~
- 22 ~~(15) Encourage general hospitals and other appropriate health facilities to admit without~~
23 ~~discrimination alcoholics and intoxicated persons and to provide them with adequate and~~
24 ~~appropriate treatment;~~
- 25 ~~(16) Encourage all health and disability insurance programs to include alcoholism as a~~
26 ~~covered illness;~~
- 27 ~~(17) Submit to the governor an annual report covering the activities of the department; and~~
- 28 ~~(18) Establish alcohol and substance abuse prevention programs for students in~~
29 ~~kindergarten through grade twelve (12), in accordance with § 35-4-18. The director shall make an~~
30 ~~annual report to the governor and the general assembly on the administration of the program and~~
31 ~~shall submit to the governor and the general assembly the results of an independent evaluation of~~
32 ~~the alcohol and substance abuse prevention program established in accordance with this section.~~
33 ~~This evaluation shall address the following areas:~~
- 34 ~~(i) Program development;~~

1 (ii) ~~Implementation;~~

2 (iii) ~~Impact; and~~

3 (iv) ~~Recommendations for future needs.~~

4 ~~23-1.10-5. [Reserved.]~~

5 ~~23-1.10-6. Comprehensive program for treatment.~~

6 (a) ~~The department shall establish a comprehensive and coordinated program for the~~
7 ~~treatment of alcoholics and intoxicated persons. The director shall divide the state into appropriate~~
8 ~~regions for the conduct of the program and establish standards for the development of the program~~
9 ~~on the regional level. In establishing the regions, consideration shall be given to city, town, and~~
10 ~~county lines and population concentrations.~~

11 (b) ~~The program of the division shall include:~~

12 (1) ~~Emergency treatment provided by a facility affiliated with or part of the medical service~~
13 ~~of a general hospital;~~

14 (2) ~~Inpatient treatment;~~

15 (3) ~~Intermediate treatment; and~~

16 (4) ~~Outpatient and follow-up treatment.~~

17 (c) ~~The department shall provide for adequate and appropriate treatment for alcoholics and~~
18 ~~intoxicated persons admitted pursuant to §§ 23-1.10-11 and 23-1.10-12. Treatment may not be~~
19 ~~provided at a correctional institution except for inmates.~~

20 (d) ~~The department shall maintain, supervise, and control all facilities operated by it subject~~
21 ~~to its policies. The administrator of each facility shall make an annual report of its activities to the~~
22 ~~director in the form and manner the director specifies.~~

23 (e) ~~All appropriate public and private resources shall be coordinated with and utilized in~~
24 ~~the program whenever possible.~~

25 (f) ~~The director shall prepare, publish, and distribute annually a list of all approved public~~
26 ~~and private treatment facilities.~~

27 (g) ~~The department may contract for the use of any facility as an approved public treatment~~
28 ~~facility if the director, subject to the policies of the department, considers this to be an effective and~~
29 ~~economical course to follow.~~

30 ~~23-1.10-7. Standards for treatment facilities—Inspections—Furnishing information~~
31 ~~to department—None compliance with standards.~~

32 (a) ~~The department shall establish standards for approved treatment facilities that must be~~
33 ~~met for a treatment facility to be approved as a public or private treatment facility, and fix the fees~~
34 ~~to be charged by the department for the required inspections. The standards may concern only the~~

1 ~~health standards to be met and standards of treatment to be afforded patients.~~

2 ~~(b) The department shall periodically inspect approved public and private treatment~~
3 ~~facilities at reasonable times and in a reasonable manner.~~

4 ~~(c) The department shall maintain a list of approved public and private treatment facilities.~~

5 ~~(d) Each approved public and private treatment facility shall file with the department on~~
6 ~~request: data, statistics, schedules, and any other information that the department reasonably~~
7 ~~requires. An approved public or private treatment facility that without good cause fails to furnish~~
8 ~~any data, statistics, schedules, and any other information as requested, or files fraudulent returns,~~
9 ~~shall be removed from the list of approved treatment facilities.~~

10 ~~(e) The department, after holding a hearing, may suspend, revoke, limit, or restrict an~~
11 ~~approval, or refuse to grant an approval, for failure to meet its standards.~~

12 **23-1.10-8. Rules as to acceptance for treatment.**

13 ~~The director shall adopt and may amend and repeal rules for acceptance of persons into the~~
14 ~~treatment program, considering available treatment resources and facilities for the purpose of early~~
15 ~~and effective treatment of alcoholics and intoxicated persons. In establishing the rules the director~~
16 ~~shall be guided by the following standards:~~

17 ~~(1) If possible a patient shall be treated on a voluntary rather than an involuntary basis.~~

18 ~~(2) A patient shall be initially assigned or transferred to outpatient or intermediate~~
19 ~~treatment, unless he or she is found to require inpatient treatment.~~

20 ~~(3) A person shall not be denied treatment solely because he or she has withdrawn from~~
21 ~~treatment against medical advice on a prior occasion or because he or she has relapsed after earlier~~
22 ~~treatment.~~

23 ~~(4) An individualized treatment plan shall be prepared and maintained on a current basis~~
24 ~~for each patient.~~

25 ~~(5) Provision shall be made for a continuum of coordinated treatment services, so that a~~
26 ~~person who leaves a facility or a form of treatment will have available and utilize other appropriate~~
27 ~~treatment.~~

28 **23-1.10-9. Voluntary treatment of alcoholics.**

29 ~~(a) An alcoholic may apply for voluntary treatment directly to an approved public treatment~~
30 ~~facility. If the proposed patient is a minor or an incompetent person, he or she, a parent, a legal~~
31 ~~guardian, or other legal representative may make the application.~~

32 ~~(b) Subject to rules adopted by the director, the administrator in charge of an approved~~
33 ~~public treatment facility may determine who shall be admitted for treatment; provided, however,~~
34 ~~that a person so admitted may be held by the department for at least thirty (30) days. That person~~

1 shall be released at the end of thirty (30) days upon written request to the administrator in charge
2 of the treatment facility. If a person is refused admission to an approved public treatment facility,
3 the administrator, subject to rules adopted by the director, shall refer the person to another approved
4 public treatment facility for treatment if possible and appropriate.

5 (c) If a patient receiving inpatient care leaves an approved public treatment facility, he or
6 she shall be encouraged to consent to appropriate outpatient or intermediate treatment. If it appears
7 to the administrator in charge of the treatment facility that the patient is an alcoholic who requires
8 help, the department shall arrange for assistance in obtaining supportive services and residential
9 facilities.

10 (d) If a patient leaves an approved public treatment facility, with or against the advice of
11 the administrator in charge of the facility, the department will attempt to make reasonable
12 provisions for his or her transportation to another facility or to his or her home. If he or she has no
13 home, he or she shall be referred or advised to make contact with the appropriate state or federal
14 agency for assistance in obtaining shelter. If he or she is a minor or an incompetent person, the
15 request for discharge from an inpatient facility shall be made by a parent, legal guardian, or other
16 legal representative or by the minor or incompetent if he or she was the original applicant.

17 **23-1.10-10. Treatment and services for intoxicated persons and persons incapacitated**
18 **by alcohol.**

19 (a) An intoxicated person may come voluntarily to an approved public treatment facility
20 for emergency treatment. A person who appears to be intoxicated in a public place and to be in
21 need of help, if he or she consents to the proffered help, may be assisted to his or her home, an
22 approved public treatment facility, an approved private treatment facility, or other health facility
23 by the police.

24 (b) A person who appears to be incapacitated by alcohol shall be taken into protective
25 custody by the police and immediately brought to an approved public treatment facility for
26 emergency treatment. If no approved public treatment facility is readily available, he or she shall
27 be taken to an emergency medical service customarily used for incapacitated persons. The police,
28 in detaining the person and in taking him or her to an approved public treatment facility, are taking
29 him or her into protective custody and shall make every reasonable effort to protect his or her health
30 and safety. In taking the person into protective custody, the detaining officer may take reasonable
31 steps to protect himself or herself. If it is impracticable to take a person to an approved facility, the
32 police may take him or her into protective custody in the police station in suitable quarters, for a
33 reasonable time. A taking into protective custody under this section is not an arrest. No entry or
34 other record shall be made to indicate that the person has been arrested or charged with a crime.

1 ~~(c) A person who comes voluntarily or is brought to an approved public treatment facility~~
2 ~~shall be examined by a licensed physician as soon as possible. He or she may then be admitted as~~
3 ~~a patient or referred to another health facility, or be released to his or her own custody. The referring~~
4 ~~approved public treatment facility shall arrange for his or her transportation as provided for in §~~
5 ~~23-1.10-9(d).~~

6 ~~(d) A person who by medical examination is found to be incapacitated by alcohol at the~~
7 ~~time of his or her admission or to have become incapacitated at any time after his or her admission,~~
8 ~~may not be detained at the facility: (1) once he or she is no longer incapacitated by alcohol, or (2)~~
9 ~~if he or she remains incapacitated by alcohol for more than five (5) days after admission as a patient,~~
10 ~~unless he or she is committed under § 23-1.10-11. A person may consent to remain in the facility~~
11 ~~for as long as the physician in charge believes appropriate.~~

12 ~~(e) A person who is not admitted to an approved public treatment facility, who is not~~
13 ~~referred to another health facility, and who has no funds may be taken to his or her home, if any. If~~
14 ~~he or she has no home, the approved public treatment facility shall refer or advise him or her to~~
15 ~~make contact with the appropriate state or federal agency for assistance in obtaining shelter.~~

16 ~~(f) If a patient is admitted to an approved public treatment facility, his or her family or~~
17 ~~next of kin shall be notified as promptly as possible if requested by the patient. If an adult patient~~
18 ~~who is not incapacitated requests that there be no notification, his or her request shall be respected.~~

19 ~~(g) The police, who act in compliance with this section, are acting in the course of their~~
20 ~~official duty and are not criminally or civilly liable for acting in the course of their official duty.~~

21 ~~(h) If the physician in charge of the approved public treatment facility determines it is for~~
22 ~~the patient's benefit, the patient shall be encouraged to agree to further diagnosis and appropriate~~
23 ~~voluntary treatment.~~

24 **23-1.10-11. Emergency commitment.**

25 ~~(a) An intoxicated person who (1) has threatened, attempted, or inflicted physical harm on~~
26 ~~himself or herself or another and is likely to inflict physical harm on himself or herself or another~~
27 ~~unless committed, or (2) is incapacitated by alcohol, may be committed to an approved public~~
28 ~~treatment facility for emergency treatment. A refusal to undergo treatment does not constitute~~
29 ~~evidence of lack of judgment as to the need for treatment.~~

30 ~~(b) The certifying physician, spouse, guardian, or relative of the person to be committed,~~
31 ~~or any other responsible person, may make a written application for commitment under this section,~~
32 ~~directed to the administrator of the approved public treatment facility. The application shall state~~
33 ~~facts to support the need for emergency treatment and be accompanied by a physician's certificate~~
34 ~~stating that he or she has examined the person sought to be committed within two (2) days before~~

1 ~~the certificate's date and facts supporting the need for emergency treatment.~~

2 ~~(c) Upon approval of the application by the administrator in charge of the approved public~~
3 ~~treatment facility, the person shall be brought to the facility by a peace officer, health officer, the~~
4 ~~applicant for commitment, the patient's spouse, the patient's guardian, or any other interested~~
5 ~~person. The person shall be retained at the facility to which he or she was admitted, or transferred~~
6 ~~to another appropriate public or private treatment facility, until discharged under subsection (e).~~

7 ~~(d) The administrator in charge of an approved public treatment facility shall refuse an~~
8 ~~application if in his or her opinion the application and certificate failed to sustain the grounds for~~
9 ~~commitment.~~

10 ~~(e) When, on the advice of the medical staff, the administrator determines that the grounds~~
11 ~~for commitment no longer exist, he or she shall discharge a person committed under this section.~~
12 ~~No person committed under this section may be detained in any treatment facility for more than ten~~
13 ~~(10) days. If a petition for involuntary commitment under § 23-1.10-12 has been filed within the~~
14 ~~ten (10) days and the administrator in charge of an approved public treatment facility finds that~~
15 ~~grounds for emergency commitment still exist, he or she may detain the person until the petition~~
16 ~~has been heard and determined, but no longer than ten (10) days after filing the petition.~~

17 ~~(f) A copy of the written application for commitment and of the physician's certificate, and~~
18 ~~a written explanation of the person's right to counsel, shall be given to the person within twenty~~
19 ~~four (24) hours after commitment by the administrator, who shall provide a reasonable opportunity~~
20 ~~for the person to consult counsel.~~

21 **23-1.10-12. Involuntary commitment of alcoholics.**

22 ~~(a) A person may be committed to the custody of the department by the district court upon~~
23 ~~the petition of his or her spouse or guardian, a relative, the certifying physician, or the administrator~~
24 ~~in charge of any approved public treatment facility. The petition shall allege that the person is an~~
25 ~~alcoholic who habitually lacks self control as to the use of alcoholic beverages and that he or she:~~
26 ~~(1) has threatened, attempted, or inflicted physical harm on himself or herself or another and that~~
27 ~~unless committed is likely to inflict physical harm on himself or herself or another; or (2) will~~
28 ~~continue to suffer abnormal mental, emotional, or physical distress, will continue to deteriorate in~~
29 ~~ability to function independently if not treated, and is unable to make a rational and informed choice~~
30 ~~as to whether or not to submit to treatment, and as a result, poses a danger to himself or herself.~~
31 ~~Evidence that the person has had numerous short term, involuntary admissions to a treatment~~
32 ~~facility shall be considered by the court in making a decision pursuant to this chapter. The petition~~
33 ~~shall be accompanied by a certificate of a licensed physician who has examined the person within~~
34 ~~three (3) days before submission of the petition, unless the person whose commitment is sought~~

1 ~~has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in~~
2 ~~the petition. The certificate shall set forth the physician's findings in support of the allegations of~~
3 ~~the petition.~~

4 ~~(b) Upon filing the petition, the court shall fix a date for a hearing no later than ten (10)~~
5 ~~days after the date the petition was filed. A copy of the petition and of the notice of the hearing,~~
6 ~~including the date fixed by the court, shall be served on the petitioner, the person whose~~
7 ~~commitment is sought, his or her next of kin other than the petitioner, a parent or his or her legal~~
8 ~~guardian if he or she is a minor, the administrator in charge of the approved public treatment facility~~
9 ~~to which he or she has been committed for emergency care, and any other person the court believes~~
10 ~~advisable. A copy of the petition and certificate shall be delivered to each person notified.~~

11 ~~(c) At the hearing the court shall hear all relevant testimony, including, if possible, the~~
12 ~~testimony of at least one licensed physician who has examined the person whose commitment is~~
13 ~~sought. The person shall be present unless the court believes that his or her presence is likely to be~~
14 ~~injurious to him or her; in this event the court shall appoint a guardian ad litem to represent him or~~
15 ~~her throughout the proceeding. The court shall examine the person in open court, or if advisable~~
16 ~~shall examine the person out of court. If the person has refused to be examined by a licensed~~
17 ~~physician, he or she shall be given an opportunity to be examined by a court appointed licensed~~
18 ~~physician. If he or she refuses and there is sufficient evidence to believe that the allegations of the~~
19 ~~petition are true, or if the court believes that more medical evidence is necessary, the court may~~
20 ~~make a temporary order committing him or her to the division for a period of not more than five~~
21 ~~(5) days for purposes of a diagnostic examination.~~

22 ~~(d) If after hearing all relevant evidence, including the results of any diagnostic~~
23 ~~examination by the department, the court finds that grounds for involuntary commitment have been~~
24 ~~established by clear and convincing proof, it shall make an order of commitment to the department.~~
25 ~~It may not order commitment of a person unless it determines that the department is able to provide~~
26 ~~adequate and appropriate treatment for him or her and the treatment is likely to be beneficial.~~

27 ~~(e) A person committed under this section shall remain in the custody of the department~~
28 ~~for treatment for a period of thirty (30) days unless sooner discharged. At the end of the thirty (30)~~
29 ~~day period, he or she shall be discharged automatically unless the department before the expiration~~
30 ~~of the period obtains a court order for his or her recommitment upon the grounds set forth in~~
31 ~~subsection (a) for a further period of ninety (90) days unless sooner discharged. If a person has~~
32 ~~been committed because he or she is an alcoholic likely to inflict physical harm on himself or~~
33 ~~herself or another, the department shall apply for recommitment if after examination it is~~
34 ~~determined that the likelihood still exists.~~

1 ~~(f) A person recommitted under subsection (a) who has not been discharged by the~~
2 ~~department before the end of the ninety (90) day period shall be discharged at the expiration of that~~
3 ~~period unless the department, before the expiration of the period, obtains a court order on the~~
4 ~~grounds set forth in subsection (a) for recommitment for a further period not to exceed ninety (90)~~
5 ~~days. If a person has been committed because he or she is an alcoholic likely to inflict physical~~
6 ~~harm on himself or herself or another, the department shall apply for recommitment if after~~
7 ~~examination it is determined that the likelihood still exists. Only two (2) recommitment orders~~
8 ~~under subsection (e) and (f) shall be permitted.~~

9 ~~(g) Upon the filing of a petition for recommitment under subsection (e) or (f), the court~~
10 ~~shall fix a date for a hearing no later than ten (10) days after the date the petition was filed. A copy~~
11 ~~of the petition and of the notice of the hearing, including the date fixed by the court, shall be served~~
12 ~~on the petitioner, the person whose commitment is sought, his or her next of kin other than the~~
13 ~~petitioner, the original petitioner under subsection (a) if different from the petitioner for~~
14 ~~recommitment, one of his or her parents or his or her legal guardian if he or she is a minor, and any~~
15 ~~other person the court believes advisable. At the hearing the court shall proceed as provided in~~
16 ~~subsection (e).~~

17 ~~(h) The department shall provide for adequate and appropriate treatment of a person~~
18 ~~committed to its custody. The department may transfer any person committed to its custody from~~
19 ~~one approved public treatment facility to another if transfer is medically advisable.~~

20 ~~(i) A person committed to the custody of the department for treatment shall be discharged~~
21 ~~at any time before the end of the period for which he or she has been committed if either of the~~
22 ~~following conditions is met:~~

23 ~~(1) In case of an alcoholic committed on the grounds of likelihood of infliction of physical~~
24 ~~harm upon himself or herself or another, that he or she is no longer an alcoholic or the likelihood~~
25 ~~no longer exists; or~~

26 ~~(2) In case of an alcoholic committed on the grounds of the need of treatment, deterioration,~~
27 ~~inability to function, or the fact that he or she is a danger to himself or herself, that the deterioration~~
28 ~~no longer exists, that he or she is no longer a danger to himself or herself, that he or she is able to~~
29 ~~function, that further treatment will not be likely to bring about significant improvement in the~~
30 ~~person's condition, or treatment is no longer adequate or appropriate.~~

31 ~~(j) The court shall inform the person whose commitment or recommitment is sought of his~~
32 ~~or her right to contest the application, be represented by counsel at every stage of any proceedings~~
33 ~~relating to his or her commitment and recommitment, and have counsel appointed by the court or~~
34 ~~provided by the court if he or she wants the assistance of counsel and is unable to obtain counsel.~~

1 ~~If the court believes that the person needs the assistance of counsel, the court shall require, by~~
2 ~~appointment if necessary, counsel for him or her regardless of his or her wishes. The person whose~~
3 ~~commitment or recommitment is sought shall be informed of his or her right to be examined by a~~
4 ~~licensed physician of his or her choice. If the person is unable to obtain a licensed physician and~~
5 ~~requests examination by a physician, the court shall employ a licensed physician.~~

6 ~~(k) If a private treatment facility agrees with the request of a competent patient or his or~~
7 ~~her parent, sibling, adult child, or guardian to accept the patient for treatment, the administrator of~~
8 ~~the public treatment facility shall transfer him or her to the private treatment facility.~~

9 ~~(l) A person committed under this chapter may at any time seek to be discharged from~~
10 ~~commitment by writ of habeas corpus.~~

11 ~~(m)(1) Any aggrieved party may appeal to the superior court from a judgment of the district~~
12 ~~court by claiming the appeal in writing filed with the clerk within forty-eight (48) hours, exclusive~~
13 ~~of Sundays and legal holidays, after the judgment is entered.~~

14 ~~(2) All court actions shall be heard within fourteen (14) days after the appeal and shall have~~
15 ~~precedence on the calendar and shall continue to have precedence on the calendar on a day-to-day~~
16 ~~basis until the matter is heard.~~

17 ~~**23-1.10-13. Confidentiality of records — Availability for research.**~~

18 ~~(a) The registration and other records of treatment facilities shall remain confidential and~~
19 ~~are privileged to the patient.~~

20 ~~(b) Notwithstanding subsection (a), the director may make available information from~~
21 ~~patients' records for purposes of research into the causes and treatment of alcoholism. Information~~
22 ~~under this subsection shall not be published in a way that discloses patients' names or other~~
23 ~~identifying information.~~

24 ~~**23-1.10-14. Visitation rights — Mail and other communications.**~~

25 ~~(a) Subject to reasonable rules regarding hours of visitation which the director may adopt,~~
26 ~~patients in any approved treatment facility shall be granted opportunities for adequate consultation~~
27 ~~with counsel, and for continuing contact with family and friends consistent with an effective~~
28 ~~treatment program.~~

29 ~~(b) Neither mail nor other communication to or from a patient in any approved treatment~~
30 ~~facility may be intercepted, read, or censored. The director may adopt reasonable rules regarding~~
31 ~~the use of telephone by patients in approved treatment facilities.~~

32 ~~**23-1.10-15. Payment for treatment.**~~

33 ~~(a) If treatment is provided by an approved public treatment facility and the patient has not~~
34 ~~paid the charge for that treatment, the department is entitled to any payment:~~

1 ~~(1) Received by the patient or to which he or she may be entitled because of the services~~
2 ~~rendered; and~~

3 ~~(2) From any public or private source available to the department because of the treatment~~
4 ~~provided to the patient.~~

5 ~~(b) A patient in an approved treatment facility, or the estate of the patient, or a person~~
6 ~~obligated to provide for the cost of treatment and having sufficient financial ability, is liable to the~~
7 ~~division for cost of maintenance and treatment of the patient in an approved treatment facility in~~
8 ~~accordance with established rates.~~

9 ~~(c) The director shall adopt rules governing financial ability that take into consideration the~~
10 ~~income, savings, and other personal and real property of the person required to pay, and any support~~
11 ~~being furnished by him or her to any person he or she is required by law to support.~~

12 ~~**23-1.10-16. Limits on application of laws punishing intoxication.**~~

13 ~~(a) Neither the state, municipality, nor other political subdivision of the state or~~
14 ~~municipality may adopt or enforce a law, ordinance, resolution, or rule having the force of law that~~
15 ~~includes drinking, being a common drunkard, or being found in an intoxicated condition as one of~~
16 ~~the elements of the offense giving rise to a criminal or civil penalty or sanction.~~

17 ~~(b) Neither the state, municipality, nor other political subdivision of the state or~~
18 ~~municipality shall interpret or apply any law of general application to circumvent the provision of~~
19 ~~subsection (a).~~

20 ~~(c) Nothing in this chapter affects any law, ordinance, resolution, or rule against drunken~~
21 ~~driving, driving under the influence of alcohol, or other similar offense involving the operation of~~
22 ~~a vehicle, aircraft, boat, machinery, or other equipment, or regarding the sale, purchase, dispensing,~~
23 ~~possessing, or use of alcoholic beverages at stated time and places or by a particular class of~~
24 ~~persons.~~

25 ~~**23-1.10-17. Severability.**~~

26 ~~If any provision of this chapter or the application of that provision to any person or~~
27 ~~circumstance is held invalid, the invalidity does not affect other provisions or applications of the~~
28 ~~chapter which can be given effect without the invalid provision or application, and to this end the~~
29 ~~provisions of this chapter are severable.~~

30 ~~**23-1.10-18. Application of Administrative Procedures Act.**~~

31 ~~Except as otherwise provided in this chapter, the state Administrative Procedures Act,~~
32 ~~chapter 35 of title 42, applies to and governs all administrative action taken by the director.~~

33 ~~**23-1.10-19. Rules and regulations.**~~

34 ~~All rules and regulations promulgated in accordance with the provisions of this chapter~~

1 shall be adopted in accordance with the procedures specified in chapter 35 of title 42, the
2 Administrative Procedures Act.

3 ~~**23-1.10-20. Pilot alternative program established.**~~

4 (a) ~~There is hereby created a program for individuals impaired by substance abuse related~~
5 ~~issues, as an alternative treatment/referral service to the emergency room department, to foster their~~
6 ~~entry into a continuum of care for treatment and recovery. This pilot program shall be an addition~~
7 ~~and shall not alter the comprehensive and coordinated program for the treatment of alcoholics and~~
8 ~~intoxicated persons as set forth in § 23-1.10-6.~~

9 (b) ~~As used in this section, the following words and terms shall have the following~~
10 ~~meanings:~~

11 (1) ~~“Department” means the Rhode Island department of behavioral healthcare,~~
12 ~~developmental disabilities and hospitals.~~

13 (2) ~~“Pilot program” means the program described in this section. The pilot program shall~~
14 ~~not be subject to subsections 23-1.10-10(a), (b), (c) and (d).~~

15 (3) ~~“Substance abuse related issues” means any of the symptoms that are caused by either~~
16 ~~active substance use, substance abuse/dependence or a combination of both.~~

17 (c) ~~No later than December 31, 2012, and subject to approval of the Rhode Island executive~~
18 ~~office of health and human services, the department shall present a proposal to the governor and~~
19 ~~general assembly to expand existing service(s), that shall result in services described in subsection~~
20 ~~(a) available twenty four (24) hours a day, seven (7) days a week to implement the pilot program.~~

21 (d) ~~Subject to approval from the governor and general assembly and the receipt of required~~
22 ~~funds, the director shall commence the implementation of the pilot program.~~

23 (e) ~~The director may adopt such rules and regulations governing the management of the~~
24 ~~pilot program as he/she deems necessary to carry out the provisions of this section.~~

25 (f) ~~The pilot program shall have a duration of three (3) years, commencing on the date that~~
26 ~~the first licensed facility becomes operational.~~

27 (g) ~~The department shall provide an annual report of its findings and recommendations to~~
28 ~~the general assembly and governor no later than January 31 of each year beginning in 2014.~~

29 (h) ~~After three (3) years of operations, the department shall provide an analysis~~
30 ~~demonstrating outcomes related to the pilot program to the general assembly and governor.~~

31 SECTION 2. Chapter 23-10.1 of the General Laws entitled "Emergency Commitment for
32 Drug Intoxication" is hereby repealed in its entirety.

33 ~~CHAPTER 23-10.1~~

34 ~~Emergency Commitment for Drug Intoxication~~

1 ~~**23-10.1-1. Short title.**~~

2 ~~This chapter shall be known as the “Emergency Commitment for Drug Intoxication Law”.~~

3 ~~**23-10.1-2. Definitions.**~~

4 ~~Whenever used in this chapter, or in any order, rule, or regulation made or promulgated~~
5 ~~pursuant to this chapter, or in any printed forms prepared by the department or the director, unless~~
6 ~~otherwise expressly stated, or unless the context or subject matter otherwise requires:~~

7 ~~(1) “Approved public treatment facility” means a treatment agency operating under the~~
8 ~~direction and control of the department or providing treatment under this chapter through a contract~~
9 ~~with the department.~~

10 ~~(2) “Department” means the state department of behavioral healthcare, developmental~~
11 ~~disabilities and hospitals.~~

12 ~~(3) “Director” means the director of the state department of behavioral healthcare,~~
13 ~~developmental disabilities and hospitals.~~

14 ~~(4) “Drug intoxication” means an altered physiological substance or psychoactive~~
15 ~~substances, in which normal functioning is seriously impeded.~~

16 ~~(5) “Likely to injure him or herself or others” means:~~

17 ~~(i) A substantial risk of physical harm to himself or herself as manifested by behavior~~
18 ~~evidencing serious threats of, or attempts at, suicide or by behavior which will result in serious~~
19 ~~bodily harm; or~~

20 ~~(ii) A substantial risk of physical harm to other persons as manifested by behavior or threats~~
21 ~~evidencing homicidal or other violent behavior.~~

22 ~~(6) “Physician” means a person duly licensed to practice medicine or osteopathy in this~~
23 ~~state.~~

24 ~~(7) “Psychoactive substance” means a drug that affects the central nervous system and~~
25 ~~alters mood, perception, and/or consciousness.~~

26 ~~**23-10.1-3. General powers and duties.**~~

27 ~~(a) The department is charged with the execution of the laws relating to the emergency~~
28 ~~admission and custody of drug intoxicated individuals.~~

29 ~~(b) The department may adopt rules and regulations that it may deem necessary to carry~~
30 ~~out the provisions of this chapter to insure the safety and promote the welfare of individuals~~
31 ~~committed to its custody pursuant to this chapter.~~

32 ~~**23-10.1-4. Emergency commitment.**~~

33 ~~(a) Any police officer may take an individual into protective custody and transport him or~~
34 ~~her to the emergency room of any hospital if the officer has reason to believe that:~~

1 ~~(1) The individual is intoxicated by drugs other than alcohol and as a result is likely to~~
2 ~~injure him or herself or others if allowed to be at liberty pending examination by a licensed~~
3 ~~physician; or~~

4 ~~(2) The individual is in need of immediate assistance due to the use of drugs and requests~~
5 ~~the assistance.~~

6 ~~(b) A physician in charge of an emergency room of a hospital shall determine if any~~
7 ~~individual brought into the emergency room by a police officer, family member, or other interested~~
8 ~~person, requires emergency medical treatment for his or her condition or if the individual is~~
9 ~~appropriate for emergency commitment to an approved public treatment facility by reason of the~~
10 ~~grounds stated in this section.~~

11 ~~(c) If a physician determines, upon examination, that an individual is medically stable and~~
12 ~~appropriate for emergency commitment to an approved public treatment facility, he or she shall~~
13 ~~make application for the individual's admission to the approved public treatment facility.~~

14 ~~(d) The application for admission shall state the circumstances under which an individual~~
15 ~~was taken into custody, brought to the emergency room, or brought to an approved public treatment~~
16 ~~facility and the reason for the physician's determination that the individual needs emergency~~
17 ~~commitment for drug intoxication.~~

18 ~~(e) Upon the request of any physician making application in writing under this section, it~~
19 ~~shall be the duty of any police department of this state or any governmental subdivision of this state~~
20 ~~to whom the request is made, to take into custody and transport the individual to the designated~~
21 ~~approved public treatment facility.~~

22 **23-10.1-5. Period of treatment.**

23 ~~An individual admitted to an approved public treatment facility pursuant to this chapter~~
24 ~~shall be held for a minimum of twenty four (24) hours for evaluation, and shall be discharged no~~
25 ~~later than five (5) days measured from the date of his or her admission.~~

26 **23-10.1-6. Criminal law limitations.**

27 ~~Nothing in this chapter affects any law, ordinance, or resolution against driving under the~~
28 ~~influence of drugs, or other similar offense involving the operation of a vehicle, aircraft, boat,~~
29 ~~machinery, or other equipment, or regarding the sale, purchase, dispensing, possessing, or use of~~
30 ~~drugs.~~

31 SECTION 3. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
32 amended by adding thereto the following chapter:

33 CHAPTER 1.12

34 COMMITMENT OF ALCOHOLICS OR SUBSTANCE ABUSERS

1 **23-1.12-1. Definitions.**

2 For the purposes of this chapter the following terms shall, unless the context clearly
3 requires otherwise, have the following meanings:

4 (1) "Alcohol use disorder" means the chronic or habitual consumption of alcoholic
5 beverages by a person to the extent that:

6 (i) Such use substantially injures the person's health or substantially interferes with the
7 person's social or economic functioning; or

8 (ii) The person has lost the power of self-control over the use of such beverages.

9 (2) "Facility" means a public or private facility that provides care and treatment for a person
10 with an alcohol or substance use disorder.

11 (3) "Substance use disorder" means the chronic or habitual consumption or ingestion of
12 controlled substances or intentional inhalation of toxic vapors by a person to the extent that:

13 (i) Such use substantially injures the person's health or substantially interferes with the
14 person's social or economic functioning; or

15 (ii) The person has lost the power of self-control over the use of such controlled substances
16 or toxic vapors.

17 **23-1.12-2. District court petition.**

18 (a) Any police officer, physician, spouse, blood relative, guardian or court official may
19 petition in writing any district court or family court for an order of commitment of a person whom
20 they have reason to believe has an alcohol or substance use disorder. Upon receipt of a petition for
21 an order of commitment of a person and any sworn statements the court may request from the
22 petitioner, the court shall immediately schedule a hearing on the petition and shall cause a summons
23 and a copy of the application to be served upon the respondent. In the event of the respondent's
24 failure to appear at the time summoned, the court may issue a warrant for the respondent's arrest.

25 (b) Upon presentation of such a petition and sworn to affidavits, if there are reasonable
26 grounds to believe that such person will not appear and that any further delay in the proceedings
27 would present an immediate danger to the physical well-being of the respondent, said court may
28 issue a warrant for the apprehension and appearance of such person before it. If such person is not
29 immediately presented before a judge of the district court, the warrant shall continue day after day
30 for up to five (5) consecutive days, excluding Saturdays, Sundays and legal holidays, or until such
31 time as the person is presented to the court, whichever is sooner; provided, however, that an arrest
32 on such warrant shall not be made unless the person may be presented immediately before a judge
33 of the district court.

34 (c) The person shall have the right to be represented by legal counsel and may present

1 independent expert or other testimony. If the court finds the person indigent, it shall immediately
2 appoint counsel. The court shall order examination by a qualified physician, a qualified
3 psychologist or a qualified social worker.

4 **23-1.12-3. District court hearing and placement process.**

5 (a) If, after a hearing, which shall include expert testimony and may include other evidence,
6 the court finds that such person is an individual with an alcohol or substance use disorder and there
7 is a likelihood of serious harm as a result of the person's alcohol or substance use disorder, the court
8 may order such person to be committed for a period not to exceed ninety (90) days to a facility
9 designated by the department of behavioral healthcare, developmental disabilities and hospitals
10 (BHDDH), followed by the availability of case management services provided by BHDDH for up
11 to one year; provided that, a review of the necessity of the commitment shall take place by the
12 facility administrator on days thirty (30), forty-five (45), sixty (60) and seventy-five (75), as long
13 as the commitment continues. A person so committed may be released prior to the expiration of the
14 period of commitment, upon written determination by the administrator of the facility that release
15 of that person will not result in a likelihood of serious harm; provided that, the administrator shall
16 provide timely notification to the committing court and, if consent is obtained from the committed
17 person, to the petitioner; provided further, that the administrator shall request such consent from
18 all committed persons. Such commitment shall be for the purpose of inpatient care for the treatment
19 of an alcohol or substance use disorder in a facility licensed or approved by BHDDH. Subsequent
20 to the issuance of a commitment order, the administrator of a facility may authorize the transfer of
21 a patient to a different facility for continuing treatment; provided that, the administrator shall
22 provide timely notification of the transfer to the committing court and, if consent is obtained from
23 the committed person, to the petitioner; provided further, that the administrator shall request such
24 consent from all committed persons.

25 (b) If BHDDH informs the court that there are no suitable facilities available for treatment
26 licensed or approved by BHDDH, or if the court makes a specific finding that the only appropriate
27 setting for treatment for the person is a secure facility, then the person may be committed to:

28 (i) A secure facility for women approved by BHDDH, if a female; or

29 (ii) The adult correctional institutions or other such facility as designated by the director of
30 the department of corrections, if a male; provided, however, that any person so committed shall be
31 housed and treated separately from persons currently serving a criminal sentence. The person shall,
32 upon release, be encouraged to consent to further treatment and shall be allowed voluntarily to
33 remain in the facility for such purpose. BHDDH shall maintain a roster of public and private
34 facilities available, together with the number of beds currently available and the level of security at

1 each facility, for the care and treatment of alcohol use disorder and substance use disorder and shall
2 make the roster available to the committing court.

3 (c) Annually, not later than February 1, the director of the department of corrections shall
4 report on whether a facility other than the adult correctional institutions, is being used for treatment
5 of males and the number of persons so committed to such facility in the previous year. The report
6 shall be provided to the president of the senate and the speaker of the house of representatives.
7 Nothing in this section shall preclude a facility, including the adult correctional institutions or such
8 other facility, as may be designated by the director of the department of corrections, from treating
9 persons on a voluntary basis.

10 (d) The court, in its order, shall specify whether such commitment is based upon a finding
11 that the person is a person with an alcohol use disorder, substance use disorder, or both. The court,
12 upon ordering the commitment of a person found to be a person with an alcohol use disorder or
13 substance use disorder pursuant to this chapter, shall transmit the person's name and nonclinical
14 identifying information, including the person's social security number and date of birth, to the
15 department of the attorney general. The court shall notify the person that such person is prohibited
16 from being issued a firearm license or a license to carry a concealed weapon unless a petition for
17 relief pursuant to this section is subsequently granted.

18 (e)(1) After five (5) years from the date of commitment, a person found to be a person with
19 an alcohol use disorder or substance use disorder and committed pursuant to this chapter may file
20 a petition for relief with the court that ordered the commitment requesting that the court restore the
21 person's ability to possess a firearm, rifle or shotgun. The court may grant the relief sought in
22 accordance with the principles of due process if the circumstances regarding the person's
23 disqualifying condition and the person's record and reputation are determined to be such that:

24 (i) The person is not likely to act in a manner that is dangerous to public safety; and

25 (ii) The granting of relief would not be contrary to the public interest.

26 (2) In making the determination, the court may consider evidence from a licensed physician
27 or clinical psychologist that the person is no longer suffering from the disease or condition that
28 caused the disability or that the disease or condition has been successfully treated for a period of
29 three (3) consecutive years.

30 (f) A facility used for commitment under this section for a person found to be a person with
31 a substance use disorder shall maintain or provide for the capacity to possess, dispense and
32 administer all drugs approved by the federal Food and Drug Administration for use in opioid
33 agonist treatment, including partial agonist treatment, and opioid antagonist treatment for opioid
34 use disorder and shall make such treatment available to any person for whom such treatment is

1 medically appropriate.

2 (g) If the court grants a petition for relief pursuant to this section, the clerk shall provide
3 notice immediately by forwarding a certified copy of the order for relief to the department of the
4 attorney general, who shall transmit the order to the Department of Justice and/or the Federal
5 Bureau of Investigation of the United States to be included in the National Instant Criminal
6 Background Check System.

7 (h) A person whose petition for relief is denied may appeal to the superior court for a de
8 novo review of the denial.

9 SECTION 4. This act shall take effect upon passage.

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LC001489
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY -- COMMITMENT OF ALCOHOLICS OR
SUBSTANCE ABUSERS

- 1 This act would create a uniform process to address the issue of court ordered commitment
- 2 for both alcoholics and substance abusers.
- 3 This act would take effect upon passage.

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LC001489
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