

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 962 Session of
2023

INTRODUCED BY LAUGHLIN, A. WILLIAMS, LANGERHOLC, SCHWANK,
DILLON, FLYNN, PENNYCUICK, YAW, BROOKS AND BOSCOLA,
OCTOBER 18, 2023

REFERRED TO HEALTH AND HUMAN SERVICES, OCTOBER 18, 2023

AN ACT

Amending the act of July 9, 1976 (P.L.817, No.143), entitled "An act relating to mental health procedures; providing for the treatment and rights of mentally disabled persons, for voluntary and involuntary examination and treatment and for determinations affecting those charged with crime or under sentence," providing for involuntary examination and treatment of substance use disorders.

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

Section 1. The act of July 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures Act, is amended by adding an article to read:

ARTICLE III-A

INVOLUNTARY EXAMINATION AND TREATMENT OF

SUBSTANCE USE DISORDERS

Section 301-A. Declaration of policy.

The General Assembly finds and declares as follows:

(1) It is the policy of the Commonwealth to seek to ensure the availability of adequate treatment to persons with substance use disorders.

(2) The provisions of this act shall be interpreted in conformity with the principles of due process to make voluntary and involuntary treatment available where the need is great and its absence could result in serious harm to persons with a substance use disorder or to others.

(3) Treatment for persons with substance use disorders on a voluntary basis shall be preferred to involuntary treatment.

Section 302-A. Definitions.

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

"Drug." A substance that produces a physiological effect when ingested or introduced into the body. The term includes an illicit or legal substance.

"Substance use disorder." A treatable mental health condition that affects a person's brain and behavior, leading to the person's inability to control the person's use of legal or illegal drugs, alcohol or medications.

Section 303-A. Applicability to persons with substance use disorders.

(a) Construction.--A person with a substance use disorder who has experienced a drug overdose event may be construed as a person who is mentally ill or severely mentally disabled under this act.

(b) Immunity.--A person with a substance use disorder who has experienced a drug overdose event may not be charged and shall be immune from prosecution and for a violation of probation or parole if law enforcement only became aware of the

person's commission of an offense under The Controlled Substance, Drug, Device and Cosmetic Act, because the person received voluntary or involuntary treatment under this act. The following shall apply:

(1) This subsection may not interfere with or prevent the investigation, arrest, charging or prosecution of a person for the delivery or distribution of a controlled substance, drug-induced homicide or any other law of this Commonwealth.

(2) This subsection may not bar the admissibility of any evidence in connection with the investigation and prosecution for any other prosecution not barred by this subsection.

(3) This subsection may not bar the admissibility of any evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for the prohibition on charging or prosecuting a person as provided for by this subsection.

(4) In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer or prosecuting attorney who, acting in good faith, charges a person who is thereafter determined to be entitled to immunity under this subsection shall not be subject to civil liability for the filing of the charges.

Section 304-A. Persons who may be subject to involuntary emergency examination and treatment.

If a person experiences a drug overdose event, the person shall be in need of immediate treatment for the substance use disorder if the person has been given a life-sustaining drug by an individual, EMS provider or physician for an intentional or

unintentional drug overdose or the person has been transported to a hospital for an intentional or unintentional drug overdose. Section 305-A. Involuntary emergency examination and treatment authorized by physician or substance use disorder treatment provider.

(a) Application for examination.--Emergency examination may be undertaken at a treatment facility upon any of the following:

(1) The certification of a physician or substance use disorder treatment provider stating the need for the examination.

(2) A warrant issued by the county administrator authorizing the examination.

(3) Without a warrant, an application by a physician, substance use disorder treatment provider or other authorized person who has personally observed conduct showing the need for the examination.

(b) Examination and determination of need for emergency treatment.--A person taken to a facility shall be examined by a physician or substance use disorder treatment provider within two hours of arrival in order to determine if the person has a substance use disorder within the meaning of section 304-A and is in need of immediate treatment. If it is determined that the person has a substance use disorder and is in need of emergency treatment, treatment shall begin immediately. If the physician or substance use disorder treatment provider does not so find, or if at any time it appears there is no longer a need for immediate treatment, the person shall be discharged and returned to the place as the person may reasonably direct. The physician or substance use disorder treatment provider shall make a record

of the examination and the findings. A person may not be accepted for involuntary emergency treatment if a previous application was granted for the treatment and the new application is not based on behavior occurring after the previous application.

(c) Notification of rights at emergency examination.--Upon arrival at the facility, the person shall be informed of the reasons for emergency examination and of the right to communicate immediately with others. The person shall be given reasonable use of the telephone. The person shall be requested to furnish the names of parties whom the person may want notified of the persons custody and kept informed of the status. The county administrator or the director of the facility shall have the following duties:

(1) Give notice to the parties of the whereabouts and status of the person, how and when the person may be contacted and visited and how they may obtain information concerning the person while in inpatient treatment.

(2) Take reasonable steps to ensure that while the person is detained, the health and safety needs of any of the person's dependents are met and personal property and the premises the person occupies are secure.

(d) Duration of emergency examination and treatment.--A person who is in treatment under this section shall be discharged whenever it is determined that the person no longer is in need of treatment and in any event within 120 hours.

Section 306-A. Extended involuntary emergency treatment

(a) Persons subject to extended involuntary emergency treatment.--Application for extended involuntary emergency

treatment may be made for any person who is being treated whenever the facility determines that the need for emergency treatment is likely to extend beyond 120 hours. The application shall be filed immediately in the court of common pleas and shall state the grounds on which extended emergency treatment is believed to be necessary. The application shall state the name of any examining physician or substance use disorder treatment provider and an opinion regarding the condition of the person.

(b) Contents of certification.--A certification for extended involuntary treatment shall be made in writing upon a form adopted by the department and shall include all of the following:

(1) Findings by the judge or medical review officer as to the reasons that extended involuntary emergency treatment is necessary.

(2) A description of the treatment to be provided together with an explanation of the adequacy and appropriateness of the treatment, based upon the information received at the hearing.

(3) An explanation of the effect of the certification, the person's right to petition the court for release and the continuing right to be represented by counsel.

(c) Effect of certification.--Upon the filing and service of a certification for extended involuntary emergency treatment, the person may be given treatment in an approved facility for a period not to exceed 20 days.

(1) In addition to the treatment provided by a substance use disorder treatment provider at the facility, the director of the facility shall provide education programs to assist

the individual in finding housing, employment or other opportunities as the director deems appropriate. During the treatment period, a substance use disorder treatment provider shall continue to evaluate the person with a substance use disorder and determine if additional treatment is needed.

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