

2017 -- H 6257

LC002780

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO SUBSTANCE ABUSE - INVOLUNTARY COMMITMENT OF SUBSTANCE ABUSERS

Introduced By: Representatives Keable, Fellela, Amore, Craven, and O'Grady

Date Introduced: May 26, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 23-10.1 of the General Laws entitled "Emergency Commitment for  
2 Drug Intoxication" is hereby amended by adding thereto the following section:

3 **23-10.1-4.1. Involuntary commitment of substance abusers.**

4 (a) A person may be committed to the custody of the department by the district court  
5 upon the petition of their spouse or guardian, a relative, the certifying physician, or the  
6 administrator in charge of any approved public treatment facility. The petition shall allege that the  
7 person is a drug or intoxicating substance abuser who habitually lacks self-control as to the use of  
8 intoxicating substances and that they:

9 (1) have threatened, attempted, or inflicted physical harm on themselves or another and  
10 that unless committed are likely to inflict physical harm on themselves or another; or

11 (2) will continue to suffer abnormal mental, emotional, or physical distress, will continue  
12 to deteriorate in ability to function independently if not treated, and are unable to make a rational  
13 and informed choice as to whether or not to submit to treatment, and as a result, poses a danger to  
14 themselves. Evidence that the person has had numerous short-term, involuntary admissions to a  
15 treatment facility shall be considered by the court in making a decision pursuant to this chapter.

16 The petition shall be accompanied by a certificate of a licensed physician who has examined the  
17 person within three (3) days before submission of the petition, unless the person whose  
18 commitment is sought has refused to submit to a medical examination, in which case the fact of

1 refusal shall be alleged in the petition. The certificate shall set forth the physician's findings in  
2 support of the allegations of the petition.

3 (3) As used in this section, "drugs and intoxicating substances" shall include all  
4 substances listed in the schedules of the Controlled Substances Act, 21 U.S.C. §812, chapter 28 of  
5 title 21, and all their intoxicating substances and inhalants other than alcohol.

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

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

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

30 (e) A person committed under this section shall remain in the custody of the department  
31 for treatment for a period of thirty (30) days unless sooner discharged. At the end of the thirty  
32 (30) day period, they shall be discharged automatically unless the department before the  
33 expiration of the period obtains a court order for their recommitment upon the grounds set forth in  
34 subsection (a) for a further period of ninety (90) days unless sooner discharged. If a person has

1 been committed because they are a drug or intoxicating substance abuser likely to inflict physical  
2 harm on themselves or another, the department shall apply for recommitment if after examination  
3 it is determined that the likelihood still exists.

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

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

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

23 (i) A person committed to the custody of the department for treatment shall be discharged  
24 at any time before the end of the period for which they have been committed if either of the  
25 following conditions is met:

26 (1) In case of a drug or intoxicating substance abuser committed on the grounds of  
27 likelihood of infliction of physical harm upon themselves or another, that they are no longer a  
28 drug or intoxicating substance abuser or the likelihood no longer exists; or

29 (2) In case of a drug or intoxicating substance abuser committed on the grounds of the  
30 need of treatment, deterioration, inability to function, or the fact that they are a danger to  
31 themselves, that the deterioration no longer exists, that they are no longer a danger to themselves,  
32 that they are able to function, that further treatment will not be likely to bring about significant  
33 improvement in the person's condition, or treatment is no longer adequate or appropriate.

34 (j) The court shall inform the person whose commitment or recommitment is sought of

1 their right to contest the application, be represented by counsel at every stage of any proceedings  
2 relating to their commitment and recommitment, and have counsel appointed by the court or  
3 provided by the court if they want the assistance of counsel and are unable to obtain counsel. If  
4 the court believes that the person needs the assistance of counsel, the court shall require, by  
5 appointment if necessary, counsel for them regardless of their wishes. The person whose  
6 commitment or recommitment is sought shall be informed of their right to be examined by a  
7 licensed physician of their choice. If the person is unable to obtain a licensed physician and  
8 requests examination by a physician, the court shall employ a licensed physician.

9 (k) If a private treatment facility agrees with the request of a competent patient or their  
10 parent, sibling, adult child, or guardian to accept the patient for treatment, the administrator of the  
11 public treatment facility shall transfer them to the private treatment facility.

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

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

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

20 SECTION 2. This act shall take effect upon passage.

=====  
LC002780  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO SUBSTANCE ABUSE - INVOLUNTARY COMMITMENT OF SUBSTANCE  
ABUSERS

\*\*\*

- 1           This act would provide for the involuntary commitment of drug and intoxicating
- 2 substance abusers who are a danger to themselves or others.
- 3           This act would take effect upon passage.

=====  
LC002780  
=====