

## No. 1985-119

## AN ACT

## HB 1685

Amending the act of April 14, 1972 (P.L.221, No.63), entitled "An act establishing the Governor's Council On Drug and Alcohol Abuse; imposing duties on the council to develop and coordinate the implementation of a comprehensive health, education and rehabilitation program for the prevention and treatment of drug and alcohol abuse and drug and alcohol dependence; providing for emergency medical treatment; providing for treatment and rehabilitation alternatives to the criminal process for drug and alcohol dependence; and making repeals," further providing for powers and duties of the department and the council; and reestablishing and continuing the council.

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

Section 1. The title and sections 2, 3, 4 and 6 of the act of April 14, 1972 (P.L.221, No.63), known as the Pennsylvania Drug and Alcohol Abuse Control Act, are amended to read:

## AN ACT

Establishing the **[Governor's] Pennsylvania Advisory Council [On] on Drug and Alcohol Abuse**; imposing duties on the **[council] Department of Health** to develop and coordinate the implementation of a comprehensive health, education and rehabilitation program for the prevention and treatment of drug and alcohol abuse and drug and alcohol dependence; providing for emergency medical treatment; providing for treatment and rehabilitation alternatives to the criminal process for drug and alcohol dependence; and making repeals.

## Section 2. Definitions:

(a) The definitions contained and used in the Controlled Substance, Drug, Device and Cosmetic Act shall also apply for the purposes of this act.

(b) As used in this act:

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of the Controlled Substance, Drug, Device and Cosmetic Act.

"Council" means the **[Governor's] Pennsylvania Advisory Council [On] on Drug and Alcohol Abuse** established by this act.

"Court" means all courts of the Commonwealth of Pennsylvania, including magistrates and justices of the peace.

"Department" means the **Department of Health**.

**["Director" means the Executive Director of the Governor's Council On Drug and Alcohol Abuse.]**

"Drug" means (i) substances recognized in the official United States Pharmacopeia, or official National Formulary, or any supplement to either of them; and (ii) substances intended for use in the diagnosis, cure, mitigation,

treatment or prevention of disease in man or other animals; and (iii) substances (other than food) intended to affect the structure or any function of the body of man or other animals; and (iv) substances intended for use as a component of any article specified in clause (i), (ii) or (iii), but not including devices or their components, parts or accessories.

“Drug abuser” means any person who uses any controlled substance under circumstances that constitute a violation of the law.

“Drug dependent person” means a person who is using a drug, controlled substance or alcohol, and who is in a state of psychic or physical dependence, or both, arising from administration of that drug, controlled substance or alcohol on a continuing basis. Such dependence is characterized by behavioral and other responses which include a strong compulsion to take the drug, controlled substance or alcohol on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence. This definition shall include those persons commonly known as “drug addicts.”

“Emergency medical services” includes all appropriate short term services for the acute effects of abuse and dependence which: (i) are available twenty-four hours a day; (ii) are community based and located so as to be quickly and easily accessible to patients; (iii) are affiliated with and constitute an integral (but not necessarily physical) part of the general medical services of a general hospital; and (iv) provide drug and alcohol withdrawal and other appropriate medical care and treatment, medical examination, diagnosis, and classification with respect to possible dependence, and referral for other treatment and rehabilitation.

“Government attorney” means an attorney authorized to represent the Commonwealth or any political subdivision in any judicial proceeding within the scope of this act.

“Inpatient services” includes all treatment and rehabilitation services for drug and alcohol abuse and dependence provided for a resident patient while **[he] the patient** spends full time in a treatment institution including but not limited to a hospital, rehabilitative center[,], **or** residential facility[,], **hostel or foster home**].

“Outpatient services” means all treatment and rehabilitation services, including but not limited to medical, psychological, vocational and social rehabilitational services, for drug and alcohol abuse and dependence provided while the patient is not a resident of a treatment institution.

“Prevention, *intervention* and treatment” means all appropriate forms of educational programs and services (including but not limited to radio, television, films, books, pamphlets, lectures, adult education and school courses); planning, coordinating, statistical, research, training, evaluation, reporting, classification, and other administrative, scientific or technical programs or services; and screening, diagnosis, treatment (emergency medical services, inpatient services, intermediate care and outpatient services), vocational rehabilitation, job training and referral, and other rehabilitation programs or services.

“State plan” means the master State plan for the control, prevention, treatment, rehabilitation, research, education and training aspects of drug and alcohol abuse and dependence problems.

“Welfare assistance” means “assistance” as defined in section 402 of the Public Welfare Code and “State Blind Pension” as defined by section 502 of the Public Welfare Code.

Section 3. Council Established.—(a) There is hereby established a **[Governor’s] Pennsylvania Advisory Council [On] on Drug and Alcohol Abuse [which shall develop, adopt and coordinate the implementation of a comprehensive health, education and rehabilitation program for the prevention and treatment of drug and alcohol abuse and dependence] which shall be recognized as the advisory council to the Department of Health for drug and alcohol programs.**

(b) The council shall be composed of the **[Governor] Secretary of Health, or his designee**, who shall serve as chairman of the council, and **[six] eight** other members **[at least four of whom shall be public members who shall be appointed by the Governor and who shall have substantial training or experience in the fields of drug or alcohol education, rehabilitation, treatment or enforcement.] who shall be appointed by the Governor in accordance with the following:**

**(1) Four members shall have substantial training or experience in the fields of drug or alcohol prevention, intervention, rehabilitation, treatment or enforcement.**

**(2) One member shall be an individual with a prior history of drug and alcohol dependency.**

**(3) One member shall have no connection with or experience in drug or alcohol prevention, intervention, rehabilitation, treatment or enforcement.**

**(4) Two members shall be from the public at large. To the extent possible, all geographic areas of this Commonwealth shall be represented.** Officers and employes of the Commonwealth may be appointed as members of the council. Each member of the council, who is not otherwise an officer or employe of the Commonwealth, when actually engaged in official meetings or otherwise in the performance of his official duties as directed by the chairman, shall receive reimbursement for expenses incurred and per diem compensation at a rate to be set by the Executive Board.

(c) A majority of the members shall constitute a quorum for the purpose of conducting the business of the council, and exercising all of its powers. A vote of the majority of the members present shall be sufficient for all actions of the council.

(d) The council shall have the power to prescribe, amend and repeal bylaws, **[rules and regulations] procedures** governing the manner in which the business of the body is conducted and the manner in which the powers granted to it are exercised.

(e) **[The council shall delegate supervision of the administration of council activities to an Executive Director and such other employes as the chairman shall appoint. All employes shall possess adequate qualifications and competence. Some employes may have been drug and alcoholic abusers or drug dependent persons. Prior criminal convictions shall not be a bar to such employment. Responsibilities of the council may be delegated to the Executive Director or other designated staff members. Further, the Execu-**

tive Director may, with the approval of the council, employ personnel or consultants necessary in coordinating the formulation, implementation and evaluation of the State plan and in carrying out the council's responsibilities under this act.] *The Department of Health shall seek the written advice and consultation of the council in the following areas:*

(1) *The development and implementation of the State plan for the control, prevention, intervention, treatment, rehabilitation, research, education and training aspects of drug and alcohol abuse and dependency problems.*

(2) *The promulgation by the Department of Health of any regulations necessary to carry out the purposes of this act.*

(3) *The establishment of funding priorities for drug and alcohol programs.*

(4) *The allocation of funds for the control, prevention, intervention, treatment, rehabilitation, research or training aspects of drug and alcohol abuse and dependency problems.*

(5) *Policies pertaining to the collection and dissemination of data and statistics pertaining to drug and alcohol abuse and dependency.*

(f) *The initial terms of the eight appointed members of the council appointed hereafter shall be as follows:*

(1) *Three members for a term of three years.*

(2) *Three members for a term of two years.*

(3) *Two members for a term of one year.*

(g) *The terms of all members following initial appointment shall be for three years. No member shall serve more than two consecutive terms. A member appointed to replace a member who has resigned, died or become otherwise disqualified shall be appointed to fill the unexpired term.*

(h) *The council shall meet at least six times annually.*

(i) *The department shall submit to the council reports, on a quarterly basis, of activities of any task force or ad hoc committee designated by the Secretary of Health to advise the department on drug and alcohol issues. A representative from each advisory task force and ad hoc committee may attend council meetings.*

Section 4. [Council's] *Department's Powers and Responsibilities.—*

(a) The [council] *department* shall develop and adopt a State plan for the control, prevention, *intervention*, treatment, rehabilitation, research, education, and training aspects of drug and alcohol abuse and dependence problems. The State plan shall include, but not be limited to, provision for:

(1) Coordination of the efforts of all State agencies in the control, prevention, *intervention*, treatment, rehabilitation, research, education, and training aspects of drug and alcohol abuse and dependence problems[. **It shall allocate functional responsibility for these aspects of the drug and alcohol abuse and dependence problems among the various State agencies**] so as to avoid duplications and inconsistencies in the efforts of the agencies.

(2) Coordination of all health and rehabilitation efforts to deal with the problem of drug and alcohol abuse and dependence, including, but not limited to, those relating to vocational rehabilitation, manpower develop-

ment and training, senior citizens, law enforcement assistance, parole and probation systems, jails and prisons, health research facilities, mental retardation facilities and community mental health centers, juvenile delinquency, health professions, educational assistance, hospital and medical facilities, social security, community health services, education professions development, higher education, Commonwealth employees health benefits, economic opportunity, comprehensive health planning, elementary and secondary education, highway safety and the civil service laws.

(3) Encouragement of the formation of local agencies and local coordinating councils, and promotion of cooperation, and coordination among such groups, and encouragement of communication of ideas and recommendations from such groups to the council.

(4) Development of model drug and alcohol abuse and dependence control plans for local government, utilizing the concepts incorporated in the State plan. The model plans shall be reviewed on a periodic basis but not less than once a year, and revised to keep them current. They shall specify how all types of community resources and existing Federal and Commonwealth legislation may be utilized.

(5) Assistance and consultation to local governments, public and private agencies, institutions, and organizations, and individuals with respect to the prevention and treatment of drug and alcohol abuse and dependence, including coordination of programs among them.

(6) Cooperation with organized medicine to disseminate medical guidelines for the use of drugs and controlled substances in medical practice.

(7) Coordination of research, scientific investigations, experiments, and studies relating to the cause, epidemiology, sociological aspects, toxicology, pharmacology, chemistry, effects on health, dangers to public health, prevention, diagnosis and treatment of drug and alcohol abuse and dependence.

(8) Investigation of methods for the more precise detection and determination of alcohol and controlled substances in urine and blood samples, and by other means, and publication on a current basis of uniform methodology for such detections and determinations.

Any information obtained through scientific investigation or research conducted pursuant to this act shall be used in ways so that no name or identifying characteristics of any person shall be divulged without the approval of the [council] *department* and the consent of the person concerned. Persons engaged in research pursuant to this section shall protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons engaged in such research shall protect the privacy of such individuals and may not be compelled in any [Federal,] State, civil, criminal, administrative, legislative, or other proceeding to identify such individuals.

(9) Establishment of training programs for professional and nonprofessional personnel with respect to drug and alcohol abuse and dependence, including the encouragement of such programs by local governments.

(10) Development of a model curriculum, including the provision of relevant data and other information, for utilization by elementary and secondary schools for instructing children, and for parent-teachers' associations, adult education centers, private citizen groups, or other State and local sources, for instruction of parents and other adults, about drug and alcohol abuse and dependence.

(11) Preparation of a broad variety of educational, *prevention and intervention* material for use in all media, to reach all segments of the population, that can be utilized by public and private agencies, institutions, and organizations in educational programs with respect to drug and alcohol abuse and dependence.

(12) Establishment of educational courses, including the provision of relevant data and other information, on the causes and effects of, and treatment for, drug and alcohol abuse and dependence, for law enforcement officials (including prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officers and other law enforcement personnel), welfare, vocational rehabilitation, and other State and local officials who come in contact with drug abuse and dependence problems.

(13) Recruitment, training, organization and employment of professional and other persons, including former drug and alcohol abusers and dependent persons, to organize and participate in programs of public education.

(14) Treatment and rehabilitation services for male and female juveniles and adults who are charged with, convicted of, or serving a criminal sentence for any criminal offense under the law of this Commonwealth. Provision of similar services shall be made for juveniles adjudged to be delinquent, dependent or neglected. These services shall include but are not limited to: (i) emergency medical services; (ii) inpatient services; and (iii) intermediate care, rehabilitative and outpatient services.

The State plan shall give priority to developing community based drug or alcohol abuse treatment services in a cooperative manner among State and local governmental agencies and departments and public and private agencies, institutions and organizations. Consideration shall be given to supportive medical care, services, or residential facilities for drug or alcohol dependent persons for whom treatment has repeatedly failed and for whom recovery is unlikely.

The [council] *department* shall develop as part of the State plan and require the establishment of a system of emergency medical services for persons voluntarily seeking treatment, for persons admitted and committed pursuant to the provisions of section 5 of this act, and for persons charged with a crime under Pennsylvania law. Upon the establishment of such emergency medical services, the [council] *department*, by regulation, shall require that appropriate emergency medical services be made available to all drug and alcohol abusers who are arrested for a crime under Pennsylvania law.

The State plan shall further provide standards for the approval by the relevant State agency for all private and public treatment and rehabilitative facilities, which may include but are not limited to State hospitals and institu-

tions, public and private general hospitals, community mental health centers or their contracting agencies, and public and private drug or alcohol dependence and drug and alcohol abuse and dependence treatment and rehabilitation centers.

(15) Grants and contracts from the appropriate State department or agency for the prevention, *intervention* and treatment of drug and alcohol dependence. The grants and contracts may include assistance to local governments and public and private agencies, institutions, and organizations for prevention, *intervention*, treatment, rehabilitation, research, education and training aspects of the drug and alcohol abuse and dependence problems with the Commonwealth. Any grant made or contract entered into by a department or agency shall be pursuant to the functions allocated to that department or agency by the State plan.

(16) Preparation of general regulations for, and operation of, programs supported with assistance under this act.

(17) Establishment of priorities for deciding allocation of the funds under this act.

(18) Review the administration and operation of programs under this act, including the effectiveness of such programs in meeting the purposes for which they are established and operated, and make annual reports of its findings.

(19) Evaluate the programs and projects carried out under this act and disseminate the results of such evaluations.

(20) Establish such advisory committees as the [council] *department* may deem necessary to assist the [council] *department* in fulfilling its responsibilities under this act.

(b) In developing the State plan initially, and prior to its amendment annually, the [council] *department* shall hold a public hearing at least thirty days prior to the adoption of the initial State plan and subsequent amendments and shall afford thereby all interested persons an opportunity to present their views thereon either orally or in writing. The [council] *department*, through its [Executive Director and] staff, shall consult and collaborate with appropriate Federal and State and local departments, boards, agencies and governmental units, and with appropriate public and private agencies, institutions, groups and organizations. Otherwise the promulgation of the State plan shall conform to the procedure contained in the Commonwealth Documents Law.

(c) The [council] *department* in accordance with the State plan shall allocate the responsibility for all services, programs and other efforts provided for therein among the appropriate departments, agencies and other State personnel. The [council] *department*, through its [Executive Director and other] employes, shall have the power and its duty shall be to implement compliance with the provisions of the State plan and to coordinate all such efforts.

[(d) The council shall submit a written report of the State plan to the General Assembly as soon as practicable, but not later than one year after the effective date of this act.]

(e) The [council] *department* shall gather and publish statistics pertaining to drug and alcohol abuse and dependence and promulgate regulations, **[with the approval of the chairman,]** specifying uniform statistics to be obtained, records to be maintained and reports to be submitted, by public and private departments, agencies, organizations, practitioners, and other persons with respect to drug and alcohol abuse and dependence, and related problems. Such statistics and reports shall not reveal the identity of any patient or drug or alcohol dependent person or other confidential information.

(f) The [council] *department* shall establish an information center, which will attempt to gather and contain all available published and unpublished data and information on the problems of drug and alcohol abuse and dependence. All Commonwealth departments and agencies shall send to the [council] *department* any data and information pertinent to the cause, prevention, diagnosis and treatment of drug and alcohol abuse and dependence, and the toxicology, pharmacology, effects on the health of drug and alcohol abusers and danger to the public health of alcohol, drugs and controlled substances, and the [council] *department* shall make such data and information widely available.

(g) To facilitate the effectuation of the purposes of this act, the [council, through its Executive Director,] *department* shall require all appropriate local and State departments, agencies, institutions and others engaged in implementing the State plan to submit as often as necessary, but no less often than annually, reports detailing the activities and effects of the efforts of the aforementioned and recommending appropriate amendments to the State plan. The [Executive Director] *department* may direct **[at his discretion]** a performance audit of any activity engaged in pursuant to the State plan.

(h) The [council] *department* shall submit an annual report to the General Assembly which shall specify the actions taken and services provided and funds expended under each provision of this act and an evaluation of their effectiveness, and which shall contain the current State plan. The [council] *department* shall submit such additional reports as may be requested by the General Assembly and such recommendations as will further the prevention, treatment, and control of drug and alcohol abuse and dependence.

(i) The [council] *department* shall make provision for facilities in each city or region or catchment area which shall provide information about the total Commonwealth drug and alcohol abuse and drug and alcohol dependency programs and services.

(j) **[The council may, for the authentication of its records, process and proceedings, adopt, keep and use a common seal of which seal judicial notice shall be taken in all courts of this Commonwealth and any process, writ, notice or other document, which the council may be authorized by law to issue, shall be deemed sufficient if signed by the chairman or secretary of the council and authenticated by such seal. All acts, proceedings, orders, papers, findings, minutes and records of the council and all reports and documents filed with the council, may be proved in any court of this Commonwealth by a copy thereof certified to by the chairman or secretary of the council with the seal of the council attached.]**



*The department shall have the power to promulgate the rules and regulations necessary to carry out the provisions of this act.*

Section 6. Drug or Alcohol Abuse Services in Correctional Institutions, Juvenile Detention Facilities and on Probation and Parole.—(a) The services established by this act shall be used by the Department of **[Justice] Corrections** and the Department of Public Welfare for drug and alcohol abusers or drug and alcohol dependent offenders, including juveniles, placed on work release, probation, parole, or other conditional release. The **[council] department** shall coordinate the development of and encourage State and appropriate local agencies and departments including the **[Bureau of Correction] Department of Corrections** and Board of Probation and Parole, pursuant to the State plan, to establish community based drug and alcohol abuse treatment services and of drug and alcohol abuse treatment services in State and county correctional institutions.

Medical detoxification and treatment shall be provided for persons physically dependent upon alcohol or controlled substances at correctional institutions and juvenile detention facilities or in available appropriate medical facilities.

(b) The conditional release of any drug or alcohol abuser or drug or alcohol dependent person convicted of any Commonwealth offense may be conditioned on the person's agreement to periodic urinalysis or other reasonable means of detecting controlled substances or alcohol within the body.

(c) The **[Bureau of Correction] Department of Corrections** and Board of Probation and Parole and appropriate local agencies may transfer an offender placed on conditional release from one treatment service to another depending upon his response to treatment. The decision whether to retain or to restrict or to revoke probation or parole or other conditional release after failure to conform to a schedule for rehabilitation shall be made on the basis of what is most consistent with both the rehabilitation of the individual and the safety of the community. All reasonable methods of treatment shall be used to prevent relapses and to promote rehabilitation. The **[council] department** shall provide periodic reports and recommendations to the **[Bureau of Correction] Department of Corrections** and Board of Probation and Parole and appropriate local agencies on persons being treated pursuant to this section.

Section 2. Persons who are currently members of the Governor's Council On Drug and Alcohol Abuse, on the effective date of this act, shall serve as members of the Pennsylvania Advisory Council on Drug and Alcohol Abuse provided for in this act until their successors are duly appointed. All rules and regulations of the department and all bylaws of the council as of December 31, 1985, shall continue in effect until repealed or revised.

Section 3. This act, with respect to the Governor's Council On Drug and Alcohol Abuse, renamed the Pennsylvania Advisory Council on Drug and Alcohol Abuse, shall constitute the legislation required to reestablish an agency pursuant to the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 4. The Governor's Council On Drug and Alcohol Abuse, renamed the Pennsylvania Advisory Council on Drug and Alcohol Abuse, shall continue together with its statutory functions and duties until December 31, 1991, when it shall terminate and go out of existence unless reestablished or continued by the General Assembly. Evaluation and review, termination, reestablishment and continuation of the agency beyond December 31, 1991, shall be conducted pursuant to the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 5. All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 6. This act shall take effect January 1, 1986.

APPROVED—The 20th day of December, A. D. 1985.

DICK THORNBURGH