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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO HEALTH AND SAFETY -- EMERGENCY COMMITMENT FOR DRUG  
INTOXICATION

Introduced By: Representatives Casey, Morin, Canario, Hull, and Jacquard

Date Introduced: February 28, 2018

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-10.1-2, 23-10.1-3 and 23-10.1-4 of the General Laws in  
2 Chapter 23-10.1 entitled "Emergency Commitment for Drug Intoxication" are hereby amended to  
3 read as follows:

4 **23-10.1-2. Definitions.**

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

8 (1) "Approved private treatment facility" means a private agency meeting the standards  
9 prescribed in § 23-10.1-7.

10 ~~(1)~~(2) "Approved public treatment facility" means a treatment agency operating under the  
11 direction and control of the department or providing treatment under this chapter through a  
12 contract with the department.

13 ~~(2)~~(3) "Department" means the state department of behavioral healthcare, developmental  
14 disabilities and hospitals.

15 ~~(3)~~(4) "Director" means the director of the state department of behavioral healthcare,  
16 developmental disabilities and hospitals.

17 (5) "Drugs and intoxicating substance" shall include all substances listed in the schedules  
18 of controlled substances act, 21 U.S.C. § 812, chapter 28 of title 21, and all their intoxicating

1 substances and inhalants.

2 ~~(4)~~(6) "Drug intoxication" means an altered physiological substance or psychoactive  
3 substances, in which normal functioning is seriously impeded.

4 (7) "Incapacitated by" means a person, who as a result of the use of a controlled  
5 substance or alcohol as defined in this section, is intoxicated to such an extent that they are  
6 unconscious or have their judgment otherwise so impaired that they are incapable of realizing and  
7 making a rational decision with respect to their need for treatment.

8 ~~(5)~~(8) "Likely to injure him or herself or others" means:

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

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

14 ~~(6)~~(9) "Physician" means a person duly licensed to practice medicine or osteopathy in  
15 this state.

16 ~~(7)~~(10) "Psychoactive substance" means a drug that affects the central nervous system  
17 and alters mood, perception, and/or consciousness.

18 (11) "Substance abuser, drug abuser or intoxicating substance abuser" means a person  
19 who habitually lacks self-control as to the use of any substance as defined or listed in the  
20 schedules of the controlled substances act, 21 U.S.C. § 812, or chapter 28 of title 21 and any other  
21 intoxicating substance including alcohol.

22 (12) "Treatment" means the broad range of emergency, outpatient, intermediate, and  
23 inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological,  
24 and social service care, vocational rehabilitation and career counseling, which may be extended to  
25 substance abusers.

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 and/or those individuals who are substance  
29 abusers, drug abusers or intoxicating substance abusers.

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

33 **23-10.1-4. ~~Emergency commitment.~~ Emergency and /or involuntary commitment.**

34 (a) Any police officer may take an individual into protective custody and transport him or

1 her to the emergency room of any hospital if the officer has reason to believe that:

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

5 (2) The individual is in need of immediate assistance due to the use of drugs or controlled  
6 substance and requests the assistance.

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

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

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

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

23 (f) Any police officer, emergency medical technician, rescue personnel, fire department  
24 personnel or any other person acting pursuant to this section shall be immune from liability for  
25 exercising their discretion in securing and transporting the substance abuser or intoxicated  
26 individual to a facility against their will; provided that such person is acting in good faith and  
27 with the reasonable belief that the person is a substance abuser or under the influence of a  
28 controlled substance to such a degree that they are a danger to themselves or to others; and  
29 provided that, excessive force is not utilized by such person.

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

32 **23-10.1-4.1. Involuntary commitment of substance abusers.**

33 (a) A person may be committed to the custody of the department by the district court  
34 upon the petition of their spouse or guardian, a relative, the certifying physician, or the

1 administrator in charge of any approved public treatment facility. The petition shall allege that the  
2 person is a drug or intoxicating substance abuser who habitually lacks self-control as to the use of  
3 intoxicating substances, or that they are incapacitated by the use of a controlled substance, and  
4 that they:

5 (1) Have threatened, attempted, or inflicted physical harm on themselves or another and  
6 that unless committed are likely to inflict physical harm on themselves or another; or

7 (2) Will continue to suffer abnormal mental, emotional, or physical distress, will continue  
8 to deteriorate in ability to function independently if not treated, and are unable to make a rational  
9 and informed choice as to whether or not to submit to treatment, and as a result, poses a danger to  
10 themselves. Evidence that the person has had numerous short-term, involuntary admissions to a  
11 treatment facility shall be considered by the court in making a decision pursuant to this chapter.  
12 The petition shall be accompanied by a certificate of a licensed physician who has examined the  
13 person within three (3) days before submission of the petition, unless the person whose  
14 commitment is sought has refused to submit to a medical examination, in which case the fact of  
15 refusal shall be alleged in the petition. The certificate shall set forth the physician's findings in  
16 support of the allegations of the petition.

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

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

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

7           (e) A person committed under this section shall remain in the custody of the department  
8 for treatment for a period of thirty (30) days unless sooner discharged. At the end of the thirty  
9 (30) day period, they shall be discharged automatically unless the department, before the  
10 expiration of the period, obtains a court order for their recommitment upon the grounds set forth  
11 in subsection (a) of this section for a further period of ninety (90) days unless sooner discharged.  
12 If a person has been committed because they are a drug or intoxicating substance abuser likely to  
13 inflict physical harm on themselves or another, the department shall apply for recommitment if  
14 after examination it is determined that the likelihood still exists.

15           (f) A person recommitted under subsection (a) of this section who has not been  
16 discharged by the department before the end of the ninety (90) day period shall be discharged at  
17 the expiration of that period unless the department, before the expiration of the period, obtains a  
18 court order on the grounds set forth in subsection (a) of this section for recommitment for a  
19 further period not to exceed ninety (90) days. If a person has been committed because they are a  
20 drug or intoxicating substance abuser likely to inflict physical harm on themselves or another, the  
21 department shall apply for recommitment if after examination it is determined that the likelihood  
22 still exists. Only two (2) recommitment orders under subsections (e) and (f) of this section shall  
23 be permitted.

24           (g) Upon the filing of a petition for recommitment under subsections (e) or (f) of this  
25 section, the court shall fix a date for a hearing no later than ten (10) days after the date the  
26 petition was filed. A copy of the petition and of the notice of the hearing, including the date fixed  
27 by the court, shall be served on the petitioner, the person whose commitment is sought, their next-  
28 of-kin other than the petitioner, the original petitioner under subsection (a) of this section if  
29 different from the petitioner for recommitment, one of their parents or their legal guardian if they  
30 are a minor, and any other person the court believes advisable. At the hearing the court shall  
31 proceed as provided in subsection (c) of this section.

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

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

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

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

12 (j) The court shall inform the person whose commitment or recommitment is sought of  
13 their right to contest the application, be represented by counsel at every stage of any proceedings  
14 relating to their commitment and recommitment, and have counsel appointed by the court or  
15 provided by the court if they want the assistance of counsel and are unable to obtain counsel. If  
16 the court believes that the person needs the assistance of counsel, the court shall require, by  
17 appointment if necessary, counsel for them regardless of their wishes. The person whose  
18 commitment or recommitment is sought shall be informed of their right to be examined by a  
19 licensed physician of their choice. If the person is unable to obtain a licensed physician and  
20 requests examination by a physician, the court shall employ a licensed physician.

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

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

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

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

32 **23-10.1-7. Standards for treatment facilities -- Inspections -- Furnishing information**  
33 **to department -- Noncompliance with standards.**

34 (a) The department shall establish standards for approved treatment facilities that must be

1 met for a treatment facility to be approved as a public or private treatment facility, and fix the  
2 fees to be charged by the department for the required inspections. The standards may concern  
3 only the health standards to be met and standards of treatment to be afforded patients.

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

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

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

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

15 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- EMERGENCY COMMITMENT FOR DRUG  
INTOXICATION

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- 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.

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