

MAINE STATE LEGISLATURE

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STATE OF MAINE
LEGISLATIVE RESEARCH COMMITTEE

SUMMARY REPORT
TO THE
ONE HUNDRED AND SIXTH LEGISLATURE

VOLUME TWO

JANUARY, 1973



STATE OF MAINE

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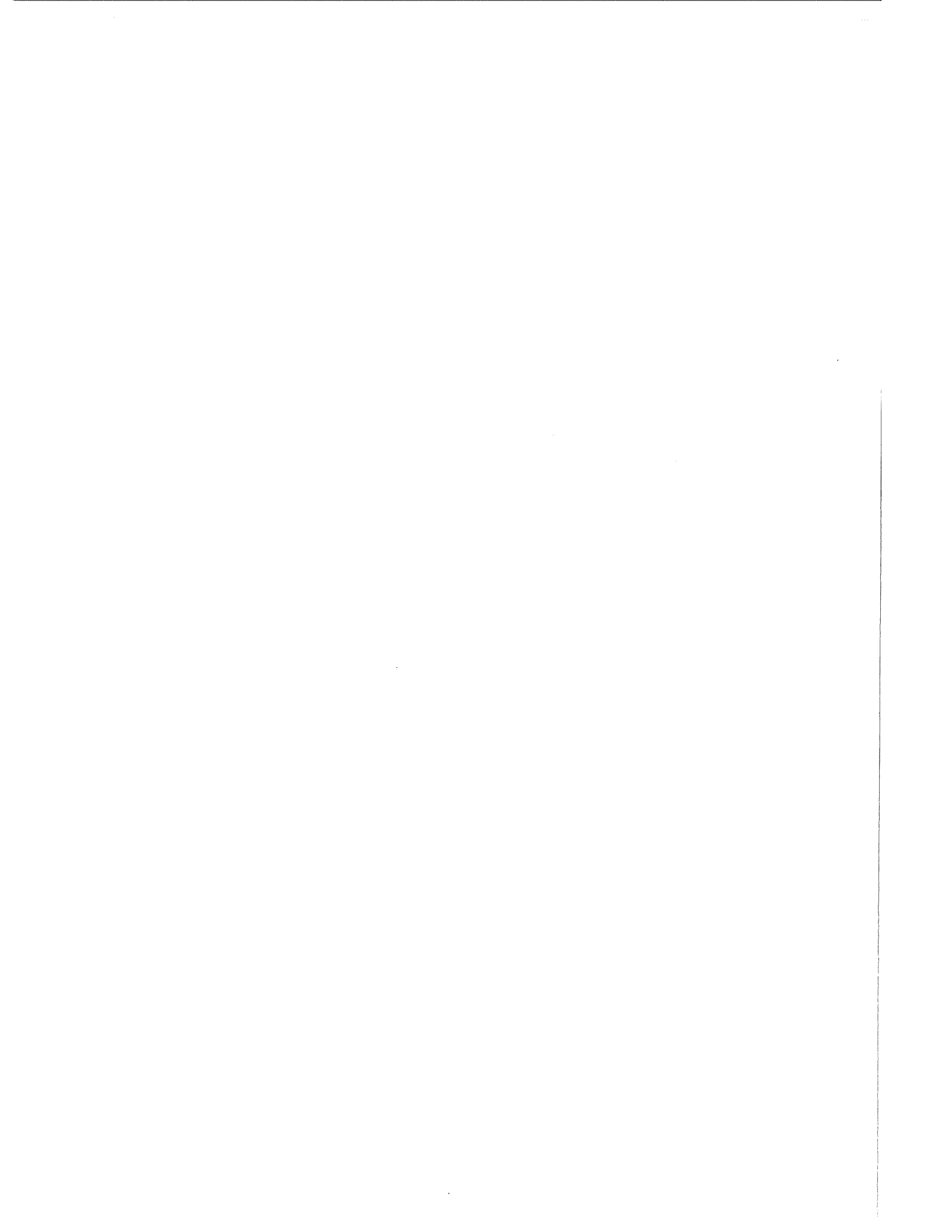
***Replaced Representative Gill

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PROPOSED BILLS TO BE SUBMITTED TO THE 106th LEGISLATURE

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STATE OF MAINE
LEGISLATIVE RESEARCH COMMITTEE
STATE HOUSE
AUGUSTA, MAINE 04330

January 3, 1973

To the Members of the 106th Legislature:

The Legislative Research Committee hereby has the pleasure of submitting to you Volume II of its report on activities for the past two years.

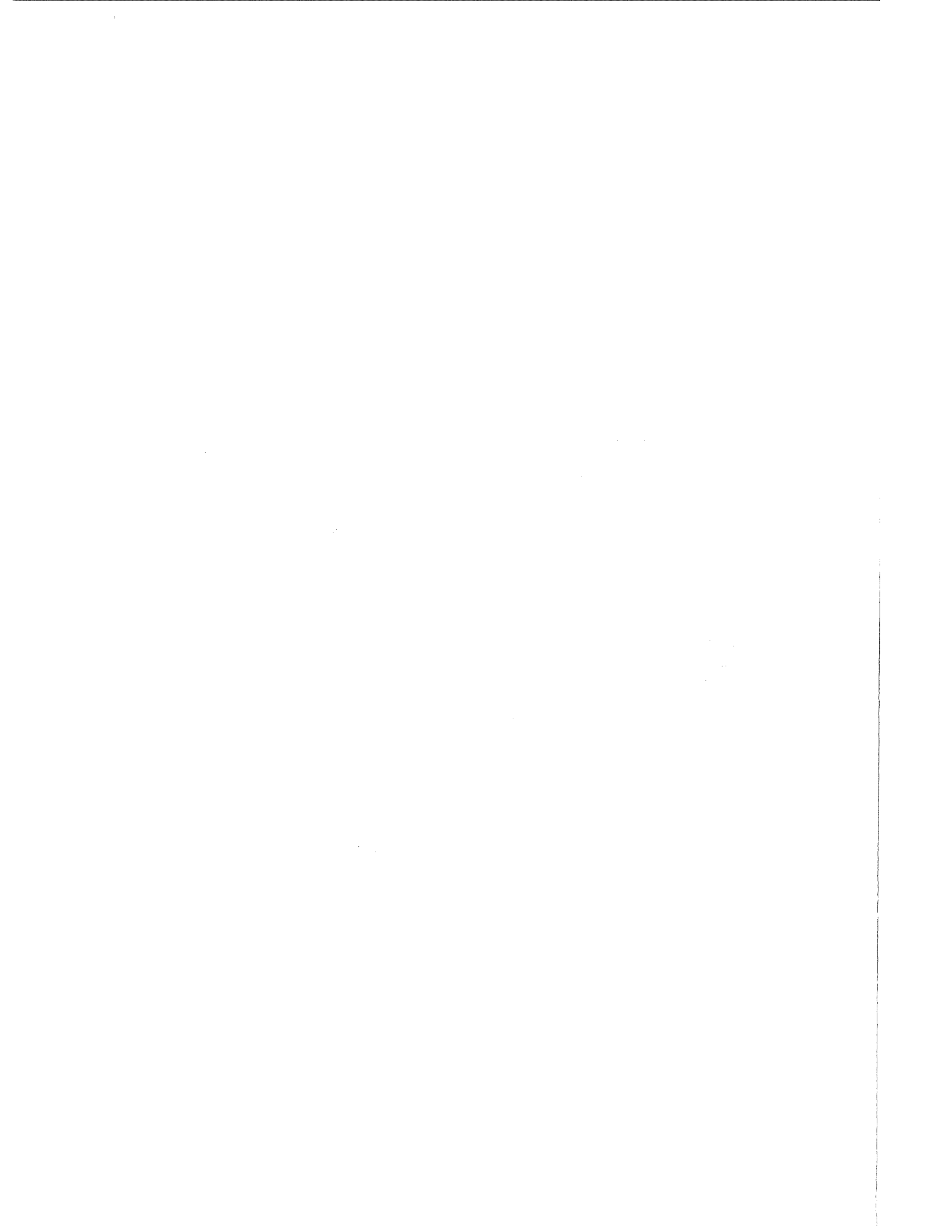
This volume, designated as the second summary volume, is a continuation of both, assigned and unassigned matters undertaken by the Committee and contains findings and recommendations pursuant thereto.

Again, we of the Committee, gratefully acknowledge our indebtedness to the many individuals, organizations and agencies for their valuable contributions to the work of the Committee and it is our hope that the information contained in this report will be of assistance to the members of the 106th Legislature and the people of the State of Maine.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "J. Sewall".

JOSEPH SEWALL, Chairman
Legislative Research Committee



STATE OF MAINE
LEGISLATIVE RESEARCH COMMITTEE

REPORT ON
INTOXICATION AND TREATMENT
to the
ONE HUNDRED AND SIXTH LEGISLATURE

JANUARY, 1973
Legislative Research Committee
Publication 106-20

INTOXICATION AND TREATMENT

ORDERED, the House concurring, that the Legislative Research Committee be authorized and directed to study the subject matter of the Bill: "An Act Providing for Clinical Treatment and Rehabilitation of Alcoholics," Senate Paper No. 3, Legislative Document No. 17, introduced at the regular session of the 105th Legislature, to determine whether the best interests of the State would be served by the enactment of such legislation; and be it further

ORDERED, that the State Departments of Health and Welfare, Mental Health and Corrections and the Office of the Attorney General be directed to provide such technical advice and other information as the Committee deems necessary to carry out the purposes of this Order; and be it further

ORDERED, that the Committee report its findings and recommendations at the next regular or special session of the Legislature; and be it further

ORDERED, that said agencies of the State be notified accordingly upon final passage of this Order.

SP. 624	In Senate Chamber	House of Representatives
Conley	Read and Passed	Read and Passed
Cumberland	June 21, 1971	June 22, 1971
	Sent down for concurrence	In concurrence

SUBCOMMITTEE ON INTOXICATION AND TREATMENT

CHAIRMAN - Gerard P. Conley

VICE CHAIRMAN - Ethel B. Baker

Roland A. Gauthier

Theodore E. Lewin

Ronald S. Wight

INTOXICATION AND TREATMENT

The 105th Legislature, by Joint Order, Senate Paper 624, directed the Legislative Research Committee to study the subject matter of "An Act Providing for Clinical Treatment and Rehabilitation of Alcoholics," Legislative Document No. 17, Senate Paper No. 3, which was introduced at the regular session, to determine whether the best interests of the State would be served by enactment of such legislation.

The object of this proposal is to provide a program for the prevention, treatment, care and rehabilitation of alcoholics in order that they may again lead normal lives as productive members of society rather than continue the existing practice of subjecting alcoholic and intoxicated persons to criminal prosecution because of their use of alcoholic beverages.

During its study of this proposal the Committee held several hearings for the purpose of providing an opportunity for interested and informed persons and agencies to express their views on the subject.

In this process the Committee became familiar with the Uniform Alcoholism and Intoxication Treatment Act as promulgated by the National Conference of Commissioners on Uniform State Laws in 1971.

This Act represents a significant breakthrough in health legislation. Until now, public intoxication has been the

responsibility of the criminal justice system in most states and has accounted for one-third of all the arrests in the United States. In addition, frequent use of civil commitment without adequate treatment for alcoholic persons is common in many states. The ineffectiveness of most current laws has been clearly demonstrated in the high recidivism rate and by the failure to meet emergency medical needs and to provide medical and social services for alcoholic individuals. With this Act, instead of police detention on criminal charges, these ill individuals would receive emergency medical treatment with appropriate follow-up care involving medical, psychological, and social services. In addition, the Act clearly stipulates restrictive provisions and procedural safeguards for civil commitment.

The Act is the result of one or more tentative drafts which have been subjected to the criticism, correction and emanation of the Commissioners who represent the experience and judgment of a select body of lawyers chosen from every part of the United States. Following approval by the National Conference on October 1, 1971 and recommendation for enactment throughout the jurisdiction of the United States, the Act was submitted and received the approval of the American Bar Association on February 17, 1972.

After study and consultation with the Commissioners of Health and Welfare, Mental Health and Corrections and Uniform State Laws of this State and the office of the Attorney General, the Committee chose to recommend and sponsor the Uniform Law with minor modifications. The Committee finds adoption

of the Uniform State Law very compelling from the point of view of being in position to obtain Federal funds. Aside from that, it is important to consider the following prefatory note developed by the National Conference.

PREFATORY NOTE

The Uniform Alcoholism and Intoxication Treatment Act was prepared in response to the Nation's changing attitudes toward alcoholism and alcohol abuse. Although the World Health Organization and the American Medical Association recognized alcoholism as a disease in the 1950's, it was not until the mid-1960's that significant changes began to take place in society's view and treatment of the alcoholic and public inebriate.

During the past five years, dramatic changes in attitude and approach have come about initially as the result of court decisions, then the recommendations of governmental and private commissions, and finally legislative reform. The first landmark decisions, Easter v. District of Columbia, 361 F.2d 50 (D.C. Cir. 1966) (en banc), and Driver v. Hinnant, 356 F.2d 761 (4th Cir. 1966), held that because alcoholism is an illness, a homeless alcoholic could not avoid being drunk in public and therefore could not be punished for his public intoxication. Although

the U. S. Supreme Court, in Powell v. Texas, 392 U.S. 514 (1968), declined to extend this holding to include an alcoholic who has a home and family, a majority of the court indicated that the punishment of a homeless alcoholic for public intoxication would violate the Eighth Amendment to the U. S. Constitution. The most important aspect to that decision was the unanimous recognition that current facilities, procedures, and legislative responses to the problem had been wholly inadequate.

In 1967 three authoritative commissions, the U.S. and the D.C. Crime Commissions and the Co-operative Commission on the Study of Alcoholism, found that the criminal law was an ineffective, inhumane, and costly device for the prevention and control of alcoholism or public drunkenness. All recommended that a public health approach be substituted for current criminal procedures. Another major effort to change public policy toward alcoholism and the treatment of public intoxication came in 1969 when the American Bar Association and American Medical Association, which earlier had collaborated on new model legislation based on the Crime Commission Reports, released a "Joint Statement of Principles Concerning Alcoholism" in which they urged State governments to adopt new comprehensive legislation in which alcoholism would be

viewed as an illness and public intoxication would no longer be handled as a criminal offense.

The first jurisdiction to begin active legislative consideration of these new proposals was the District of Columbia, where Congress enacted the District of Columbia Alcoholism Rehabilitation Act in 1968 (Public Law 90-452). Hawaii, Maryland, North Dakota, Florida, and other States have also reformed their laws governing alcoholism and intoxication in the past four years.

The growing awareness and concern with the treatment of alcoholism and public intoxication also brought a Federal response. In 1968, Congress passed the Alcoholic Rehabilitation Act of 1968 (Public Law 90-574) the first Federal law dealing specifically with the treatment of alcoholism on a national basis. Congress declared in that Act that "the handling of chronic alcoholics within the system of criminal justice perpetuates and aggravates the broad problem of alcoholism whereas treating it as a health problem permits early detection and prevention of alcoholism and effective treatment and rehabilitation, relieves police and other law enforcement agencies of an inappropriate burden that impedes their important work, and better serves the interests of the public," In 1970, this Federal

initiative in the field was substantially expanded with the enactment of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Public Law 91-616), and the establishment of the National Institute on Alcohol Abuse and Alcoholism.

The Uniform Alcoholism and Intoxication Treatment Act is designed to provide States with the legal framework within which to approach alcoholism and public intoxication from a health standpoint, as recommended by the courts, commissions, and professional organizations. The Act draws heavily upon the authoritative recommendations of the U.S. and D.C. Crime Commissions, on the recent District of Columbia and State statutes, and on model laws drafted by both the Joint Committee of the American Bar Association and the American Medical Association and the Legislative Drafting Research Fund of Columbia University.

As to funding that might be required to implement the proposed uniform law, the Committee favors financing the cost of this program by a tax involving the sale of alcoholic beverages.

Fiscal projections for implementation of the Act made for the Committee by the Bureau of Rehabilitation without prior experience and operation under a number of assumptions were given two ways:

1) based upon phased implementation

	<u>1st Year</u>	<u>2nd Year</u>
Personal Services	\$202,000	\$213,000
All Other	144,000	173,000
Capital Expenditures	<u>29,000</u>	<u>none</u>
	\$375,000	\$386,000

2) based upon complete implementation - all other

would increase to \$262,000 the first year and \$291,000 the second year.

In view of the foregoing developments, the Committee submits the following proposed legislation and urgently recommends its adoption:

AN ACT Creating the Uniform Alcoholism and Intoxication Treatment Act.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 22, c. 254, additional. Title 22 of the Revised Statutes is amended by adding a new chapter 254 to read as follows:

CHAPTER 254

UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT ACT

§ 1361. Declaration of policy

It is the policy of this State that alcoholics and intoxicated persons may not be subjected to criminal prosecution solely because of their consumption of alcoholic beverages, but rather should be afforded a continuum of treatment in order that they may lead normal lives as productive members of society.

§ 1362. Definitions

For purpose of this Act:

1. Alcoholic. "Alcoholic" means a person who habitually lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted.

2. Approved private treatment facility. "Approved private treatment facility" means a private agency meeting the standards promulgated by the division pursuant to section 1369, subsection 1 and approved under section 1369, subsection 3.

3. Approved public treatment facility. "Approved public treatment facility" means a treatment agency operating under the direction and control of the division or providing treatment under this Act through a contract with the division under section 1368, subsection 7 and meeting the standards promulgated by the division pursuant to section 1369, subsection 1 and approved under section 1369, subsection 3.

4. Commissioner. "Commissioner" means the Commissioner of Health and Welfare.

5. Department. "Department" means the Department of Health and Welfare.

6. Director. "Director" means the Director of the Division of Alcoholism Services.

7. Division. "Division" means the Division of Alcoholism Services within the department established under section 1363.

8. Emergency service patrol. "Emergency service patrol" means a patrol established under section 1377.

9. Incapacitated by alcohol. "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, is unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment.

10. Incompetent person. "Incompetent person" means a person who has been adjudged incompetent by a court.

11. Intoxicated person. "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol.

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

§ 1363. Division of Alcoholism

A Division of Alcoholism is established within the department. The division shall be headed by a director appointed by the commissioner. The director shall be a qualified professional who has training and experience in handling medical-social problems or the organization or administration of treatment services for persons suffering from medical-social problems.

§ 1364. Powers of division

The division may:

1. Plan, establish and maintain treatment programs as necessary or desirable;
2. Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including contracts with public and private agencies, organizations and individuals to pay them for services rendered or furnished to alcoholics or intoxicated persons;
3. Solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services or property from the Federal Government, the State or any political subdivision thereof or any private source, and do all things necessary to cooperate with the

Federal Government or any of its agencies in making an application for any grant;

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

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

6. Keep records and engage in research and the gathering of relevant statistics; and

7. Do other acts and things necessary or convenient to execute the authority expressly granted to it.

§ 1365. Duties of division

The division shall:

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

2. Coordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in prevention of alcoholism and treatment of alcoholics and intoxicated persons;

3. Cooperate with the Department of Mental Health and Corrections and all institutions under its control in establishing and conducting programs to provide treatment for alcoholics and intoxicated persons in or on parole from penal institutions;

4. Cooperate with the Department of Educational and Cultural Services, schools, police departments, courts and other public and private agencies, organizations and individuals in establishing programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons, and preparing curriculum materials thereon for use at all levels of school education;

5. Prepare, publish, evaluate and disseminate educational material dealing with the nature and effects of alcohol;

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

7. Organize and foster training programs for all persons engaged in treatment of alcoholics and intoxicated persons;

8. Sponsor and encourage research into the causes and nature of alcoholism and treatment of alcoholics and intoxicated persons, and serve as a clearing house for information relating to alcoholism;

9. Specify uniform methods for keeping statistical information by public and private agencies, organizations and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment;

10. Advise the Governor in the preparation of a comprehensive plan for treatment of alcoholics and intoxicated persons for inclusion in the state's comprehensive health plan;

11. Review all state health, welfare and treatment plans to be submitted for federal funding under federal legislation, and advise the Governor on provisions to be included relating to alcoholism and intoxicated persons;

12. Assist in the development of, and cooperate with, alcohol education and treatment programs for employees of state and local governments and businesses and industries in the State;

13. Utilize the support and assistance of interested persons in the community, particularly recovered alcoholics, to encourage alcoholics voluntarily to undergo treatment;

14. Cooperate with the Commissioner of Public Safety and the Commissioner of Transportation in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while under the influence of intoxicating liquor;

15. Encourage general hospitals and other appropriate health facilities to admit without discrimination alcoholics and intoxicated persons and to provide them with adequate and appropriate treatment;

16. Encourage all health and disability insurance programs to include alcoholism as a covered illness; and

17. Submit to the Governor an annual report covering the activities of the division.

§ 1366. Interdepartmental coordinating committee

1. An interdepartmental coordinating committee is established, composed of the Commissioners of Health and Welfare, Mental Health and Corrections, Educational and Cultural Services, Transportation, Public Safety and other appropriate agencies and the director. The committee shall meet at least twice annually at the call of the commissioner, who shall be its chairman. The committee shall provide for the coordination of, and exchange of information on, all programs relating to alcoholism, and shall act as a permanent liaison among the departments engaged in activities affecting alcoholics and intoxicated persons. The committee shall assist the commissioner and director in formulating a comprehensive plan for prevention of alcoholism and for treatment of alcoholics and intoxicated persons.

2. In exercising its coordinating functions, the committee shall assure that:

A. The appropriate state agencies provide all necessary medical, social, treatment and educational services for

alcoholics and intoxicated persons and for the prevention of alcoholism, without unnecessary duplication of services;

B. The several state agencies cooperate in the use of facilities and in the treatment of alcoholics and intoxicated persons; and

C. All state agencies adopt approaches to the prevention of alcoholism and the treatment of alcoholics and intoxicated persons consistent with the policy of this Act.

§ 1367. Citizens advisory council on alcoholism

1. The Governor shall appoint a citizens advisory council on alcoholism, composed of not more than 35 members. The members shall serve for overlapping terms of 3 years each; 1/3 of the members first appointed shall be appointed for one-, 2-, and 3-year terms respectively. Members shall have professional, research or personal interest in alcoholism problems. The council shall meet at least once every 3 months and report on its activities and make recommendations to the director at least once a year.

2. The council shall advise the director on broad policies, goals and operation of the alcoholism program and on other matters the director refers to it, and shall encourage public understanding and support of the alcoholism program.

3. Members of the council shall serve without compensation but shall receive reimbursement for travel and other necessary expenses actually incurred in the performance of their duties.

§ 1368. Comprehensive program for treatment; regional facilities

1. The division shall establish a comprehensive and coordinated program for the treatment of alcoholics and intoxicated persons.

2. The program of the division shall include:

A. Emergency treatment provided by a facility affiliated with or part of the medical service of a general hospital;

B. Inpatient treatment;

C. Intermediate treatment; and

D. Outpatient and followup treatment.

3. The division shall provide for adequate and appropriate treatment for alcoholics and intoxicated persons admitted under sections 1371 to 1374. Treatment may not be provided at a correctional institution except for inmates.

4. The division shall maintain, supervise and control all facilities operated by it subject to policies of the department. The administrator of each facility shall make an annual report of its activities to the director in the form and manner the director specifies.

5. All appropriate public and private resources shall be coordinated with and utilized in the program if possible.

6. The director shall prepare, publish and distribute annually a list of all approved public and private treatment facilities.

7. The division may contract for the use of any facility as an approved public treatment facility if the director, subject to the policies of the department, considers this to be an effective and economical course to follow.

§ 1369. Standards for public and private treatment facilities; enforcement procedures; penalties

1. The division shall establish standards for approved treatment facilities that must be met for a treatment facility to be approved as a public or private treatment facility, and fix the fees to be charged by the division for the required inspections. The standards may concern only the health standards to be met and standards of treatment to be afforded patients.

2. The division periodically shall inspect approved public and private treatment facilities at reasonable times and in a reasonable manner.

3. The division shall maintain a list of approved public and private treatment facilities.

4. Each approved public and private treatment facility shall file with the division on request data, statistics, schedules and information the division reasonably requires. An approved public or private treatment facility that without good cause fails to furnish any data, statistics, schedules or information as requested, or files fraudulent returns thereof, shall be removed from the list of approved treatment facilities.

5. The District Court may restrain any violation of this section, review any denial, restriction or revocation of approval and grant other relief required to enforce its provisions.

6. The division may at reasonable times enter and inspect and examine the books and accounts of any approved public or private treatment facility refusing to consent to inspection or examination by the division or which the division has reasonable cause to believe is operating in violation of this Act.

§ 1370. Acceptance for treatment; rules

The director shall adopt and may amend and repeal rules for acceptance of persons into the treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics and intoxicated persons.

In establishing the rules the director shall be guided by the following standards.

1. If possible, a patient shall be treated on a voluntary rather than an involuntary basis.

2. A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment.

3. A person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

4. An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

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

§ 1371. Voluntary treatment of alcoholics

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

2. Subject to rules adopted by the director, the administrator in charge of an approved public treatment facility may determine who shall be admitted for treatment. If a person is refused admission to an approved public treatment facility, the administrator, subject to rules adopted by the director, shall refer the person to another approved public treatment facility for treatment if possible and appropriate.

3. If a patient receiving inpatient care leaves an approved public treatment facility, he shall be encouraged to consent to appropriate outpatient or intermediate treatment. If it appears to the administrator in charge of the treatment facility that the patient is an alcoholic who requires help, the division shall arrange for assistance in obtaining supportive services and residential facilities.

4. If a patient leaves an approved public treatment facility, with or against the advice of the administrator in charge of the facility, the division shall make reasonable provisions for his transportation to another facility or to his home. If he has no home, he shall be assisted in obtaining shelter. If he is a minor or an incompetent person, the request for discharge from an inpatient facility shall be

made by a parent, legal guardian or other legal representative or by the minor or incompetent, if the minor or incompetent was the original applicant.

§ 1372. Treatment and services for intoxicated persons and persons incapacitated by alcohol

1. An intoxicated person may come voluntarily to an approved public treatment facility for emergency treatment. A person who appears to be intoxicated in a public place and to be in need of help, if he consents to the proffered help, may be assisted to his home, an approved public treatment facility, an approved private treatment facility or other health facility by the police or the emergency service patrol.

2. A person who appears to be incapacitated by alcohol shall be taken into protective custody by the police or the emergency service patrol and forthwith brought to an approved public treatment facility for emergency treatment. If no approved public treatment facility is readily available, he shall be taken to an emergency medical service customarily used for incapacitated persons. The police or the emergency service patrol, in detaining the person and in taking him to an approved public treatment facility, is taking him into protective custody and shall make every reasonable effort to protect his health and safety. In taking the person into protective custody, the detaining officer may take reasonable steps to protect himself. A taking into protective custody under this section is not an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

3. A person who comes voluntarily or is brought to an approved public treatment facility shall be examined by a licensed physician forthwith. He may then be admitted as a patient or referred to another health facility. The referring approved public treatment facility shall arrange for his transportation.

4. A person, who by medical examination is found to be incapacitated by alcohol at the time of his admission or to have become incapacitated at any time after his admission, may not be detained at the facility once he is no longer incapacitated by alcohol, or if he remains incapacitated by alcohol for more than 48 hours after admission as a patient, unless he is committed under section 1373. A person may consent to remain in the facility as long as the physician in charge believes appropriate.

5. A person, who is not admitted to an approved public treatment facility, is not referred to another health facility and has no funds, may be taken to his home, if any. If he has no home, the approved public treatment facility shall assist him in obtaining shelter.

6. If a patient is admitted to an approved public treatment facility, his family or next of kin shall be notified as promptly as possible. If an adult patient who is not incapacitated requests that there be no notification, his request shall be respected.

7. The police or members of the emergency service patrol who act in compliance with this section are acting in

the course of their official duty and are not criminally or civilly liable therefor.

8. If the administrator in charge of the approved public treatment facility determines it is for the patient's benefit, the patient shall be encouraged to agree to further diagnosis and appropriate voluntary treatment.

§ 1373. Emergency commitment

1. An intoxicated person who has threatened, attempted or inflicted physical harm on another and is likely to inflict physical harm on another unless committed, or is incapacitated by alcohol, may be committed to an approved public treatment facility for emergency treatment. A refusal to undergo treatment does not in itself constitute evidence of lack of judgment as to the need for treatment.

2. The spouse, guardian or relative of the person to be committed, or any other responsible person, may make a written application for commitment under this section, directed to the administrator of the approved public treatment facility. The application shall state facts to support the need for emergency treatment and be accompanied by a physician's certificate stating that he has examined the person sought to be committed within 2 days before the date of the application for admission and facts supporting the need for emergency treatment. A physician employed by the admitting facility or the division is not eligible to be the certifying physician. The certifying physician shall be someone other than the person making the written application for commitment.

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

4. The administrator in charge of an approved public treatment facility shall refuse an application, if in his opinion the application and certificate fail to sustain the grounds for commitment.

5. When on the advice of the medical staff the administrator determines that the grounds for commitment no longer exist, he shall discharge a person committed under this section. No person committed under this section may be detained in any treatment facility for more than 5 days. If a petition for involuntary commitment under section 1374 has been filed within the 5 days and the administrator in charge of an approved public treatment facility finds that grounds for emergency commitment still exist, he may detain the person until the petition has been heard and determined, but no longer than 10 days after filing the petition.

6. A copy of the written application for commitment and of the physician's certificate, and a written explanation of the person's right to counsel, shall be given to the person within 24 hours after commitment by the administrator, who

shall provide a reasonable opportunity for the person to consult counsel.

§ 1374. Involuntary commitment of alcoholics

1. A person may be committed to the custody of the division by the District Court upon the petition of his spouse or guardian, relative or the administrator in charge of any approved public treatment facility. The petition shall allege that the person is an alcoholic who habitually lacks self-control as to the use of alcoholic beverages and that he has threatened, attempted or inflicted physical harm on another and that unless committed is likely to inflict physical harm on another; or is incapacitated by alcohol. A refusal to undergo treatment does not in itself constitute evidence of lack of judgment as to the need for treatment. The petition shall be accompanied by a certificate of a licensed physician who has examined the person within 2 days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the physician's findings in support of the allegations of the petition. A physician employed by the admitting facility or the division is not eligible to be the certifying physician. The certifying physician shall be someone other than the person bringing the petition.

2. Upon filing the petition, the court shall fix a date for a hearing no later than 10 days after the date the petition was filed. A copy of the petition and of the notice of the hearing, including the date fixed by the court, shall

be served on the petitioner, the person whose commitment is sought, his next of kin other than the petitioner, a parent or his legal guardian, the administrator in charge of the approved public treatment facility to which he has been committed for emergency care, and any other person the court believes advisable. A copy of the petition and certificate shall be delivered to each person notified.

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

4. If after hearing all relevant evidence, including the results of any diagnostic examination by the division, the court finds that grounds for involuntary commitment have been established by clear and convincing proof, it shall make an order of commitment to the division. It may not

order commitment of a person, unless it determines that the division is able to provide adequate and appropriate treatment for him and the treatment is likely to be beneficial.

5. A person committed under this section shall remain in the custody of the division for treatment for a period of 30 days unless sooner discharged. At the end of the 30-day period, he shall be discharged automatically unless the division before expiration of the period obtains a court order for his recommitment upon the grounds set forth in subsection 1 for a further period of 90 days unless sooner discharged. If a person has been committed because he is an alcoholic likely to inflict physical harm on another, the division shall apply for recommitment, if after examination it is determined that the likelihood still exists.

6. A person recommitted under subsection 5 who has not been discharged by the division before the end of the 90-day period shall be discharged at the expiration of that period, unless the division, before expiration of the period, obtains a court order on the grounds set forth in subsection 1 for recommitment for a further period not to exceed 90 days. If a person has been committed because he is an alcoholic likely to inflict physical harm on another, the division shall apply for recommitment if after examination it is determined that the likelihood still exists. Only 2 recommitment orders under this subsection and subsection 5 are permitted.

7. Upon the filing of a petition for recommitment under subsection 5 or 6, the court shall fix a date for hearing

no later than 10 days after the date the petition was filed. A copy of the petition and of the notice of hearing, including the date fixed by the court, shall be served on the petitioner, the person whose commitment is sought, his next of kin other than the petitioner, the original petitioner under subsection 1, if different from the petitioner for recommitment, one of his parents or his legal guardian and any other person the court believes advisable. At the hearing the court shall proceed as provided in subsection 3.

8. The division shall provide for adequate and appropriate treatment of a person committed to its custody. The division may transfer any person committed to its custody from one approved public treatment facility to another, if transfer is medically advisable.

9. A person committed to the custody of the division for treatment shall be discharged at any time before the end of the period for which he has been committed if either of the following conditions is met:

A. In case of an alcoholic committed on the grounds of likelihood of infliction of physical harm upon another, that he is no longer an alcoholic or the likelihood no longer exists; or

B. In case of an alcoholic committed on the grounds of the need of treatment and incapacity, that the incapacity no longer exists, further treatment will not be likely to bring about significant improvement in the person's condition, or treatment is no longer adequate or appropriate.

10. The court shall inform the person whose commitment or recommitment is sought of his right to contest the application, be represented by counsel at every stage of any proceedings relating to his commitment and recommitment, and have counsel appointed by the court or provided by the court, if he wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for him regardless of his wishes. The person whose commitment or recommitment is sought shall be informed of his right to be examined by a licensed physician of his choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

11. If a private or public treatment facility agrees with the request of a competent patient or his parent, sibling, adult child or guardian to accept the patient for treatment, the administrator of the public treatment facility shall transfer him to the private treatment facility.

12. A person committed under this Act may at any time seek to be discharged from commitment by writ of habeas corpus.

13. The venue for proceedings under this section is the place in which person to be committed resides or is present.

§ 1375. Records of alcoholics and intoxicated persons

1. The registration and other records of treatment

facilities shall remain confidential and are privileged to the patient.

2. Notwithstanding subsection 1, the director may make available information from patients' records for purposes of research into the causes and treatment of alcoholism. Information under this subsection shall not be published in a way that discloses patients' names or other identifying information.

§ 1376. Visitation and communication of patients

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

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

§ 1377. Emergency service patrol; establishment; rules

1. The division, counties and municipalities may establish emergency service patrols. A patrol consists of persons trained to give assistance in the streets and in other public places to persons who are intoxicated. Members of an emergency service patrol shall be capable of providing first aid in emergency situations and shall transport intoxicated persons to their homes and to and from public treatment facilities.

2. The director shall adopt rules for the establishment, training and conduct of emergency service patrols.

§ 1378. Payment for treatment; financial ability of patients

1. If treatment is provided by an approved public treatment facility and the patient has not paid the charge therefor, the division is entitled to any payment received by the patient or to which he may be entitled because of the services rendered, and from any public or private source available to the division because of the treatment provided to the patient.

2. A patient in an approved treatment facility, or the estate of the patient, or a person obligated to provide for the cost of treatment and having sufficient financial ability, is liable to the division for cost of maintenance and treatment of the patient therein in accordance with rates established.

3. The director shall adopt rules governing financial ability that take into consideration the income, savings and other personal and real property of the person required to pay, and any support being furnished by him to any person he is required by law to support.

§ 1379. Criminal laws limitations

1. No county, municipality or other political subdivision may adopt or enforce a local law, ordinance, resolution or rule having the force of law that includes drinking, being a common drunkard, or being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty or sanction.

2. No county, municipality or other political subdivision may interpret or apply any law of general application to circumvent subsection 1.

3. Nothing in this Act affects any law, ordinance, resolution or rule against drunken driving, driving under the influence of alcohol, or other similar offense involving the operation of a vehicle, snowmobile, aircraft, boat, machinery or other equipment, or regarding the sale, purchase, dispensing, possessing or use of alcoholic beverages at stated times and places or by a particular class of persons.

§ 1380. Severability.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are severable.

§ 1381. Application of Administrative Code

Except as otherwise provided in this Act, the Administrative Code applies to and governs all administrative action taken by the director.

§ 1382. Short title

This Act may be cited as the Uniform Alcoholism and Intoxication Treatment Act.

§ 1383. Application and construction

This Act shall be so applied and construed as to effectuate its general purpose so far as possible to make uniform the law with respect to the subject of this Act among those

states which enact it.

Sec. 2. R. S., T. 5, §2301, sub-§1, ¶H, additional.

Subsection 1 of section 2301 of Title 5 of the Revised Statutes, as amended, is further amended by adding a new paragraph H to read as follows:

H. Approved public and private alcohol treatment facilities as defined in Title 22, §1362.

Sec. 3. R. S., T. 17, §2001, repealed. Section 2001 of Title 17 of the Revised Statutes, as amended by sections 1 and 2 of chapters 460 of the public laws of 1971, is repealed.

Sec. 4. R. S., T. 17, §2003, repealed. Section 2003 of Title 17 of the Revised Statutes is repealed.

Sec. 5. R. S., T. 20, §1231, repealed. Section 1231 of Title 20 of the Revised Statutes is repealed.

Sec. 6. R. S., T. 22, §§1351 and 1352, repealed. Sections 1351 and 1352 of Title 22 of the Revised Statutes are repealed.

Sec. 7. R. S., T. 22, §1354, amended. Section 1354 of Title 22 of the Revised Statutes is amended to read as follows:
§ 1354. Agreement for personal restraint

Before any restraint shall be imposed under the authority of section 1353, a voluntary agreement shall be made in writing by the person suffering from the effects of the use of an opiate, cocaine, chloral hydrate, other narcotics, or barbiturate ~~or the excessive use of alcohol~~, to the imposition of restraint upon his actions, if necessary, and such agreement must be witnessed by the husband, wife or parent of the person aforesaid, or one of the municipal officers of the city or town in which the person, so suffering, is a resident, and

approved, after reasonable notice, by a Justice of the Superior Court or the judge of probate in the county where the patient resides.

Sec. 8. R. S., T. 22, §4484, repealed. Section 4484 of Title 22 of the Revised Statutes is repealed.

Sec. 9. R. S., T. 34, §756, amended. Section 756 of Title 34 of the Revised Statutes, as amended by section 125 of chapter 622 of the public laws of 1971, is further amended to read as follows:

§756. Application of provisions

Sections 558, 595 and 710 apply to convicts and officers in the county jails having workshops attached thereto, ~~and in any county farm that may be established for the reformation of inebriates.~~

Sec. 10. R. S., T. 35, §§1170 and 1171, repealed. Sections 1170 and 1171 of Title 35 of the Revised Statutes are repealed.

Sec. 11. Appropriation. There is appropriated from the General Fund to the Division of Alcoholism Services in the Department of Health and Welfare the sum of \$761,000 to carry out the purposes of this Act. The breakdown shall be as follows:

	<u>1973-74</u>	<u>1974-75</u>
DIVISION OF ALCOHOLISM SERVICES		
Personal Services	(21) \$202,000	(21) \$213,000
All Other	144,000	173,000
Capital Expenditures	29,000	-----
	<hr/> \$375,000	<hr/> \$386,000

Statement of Fact

The purpose of the bill is reflected in the declaration of policy which is the first section of the bill. The Subcommittee favors the cost of this program to be financed by a tax involving sale of alcoholic beverages.