

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2542

H.P. 1857 House of Representatives, March 17, 1988
Reported by Representative FARNUM for the Commission to
Study the Use of Involuntary Services for Substance Abusers
pursuant to Resolve 1987, Chapter 72.

Reference to the Committee on Human Resources suggested
and printing ordered under Joint Rule 18.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-EIGHT

1 AN ACT to Amend the Statutes Pertaining to the
2 Emergency Treatment and Continuing
3 Supervision of Chemically Dependent
4 Persons.
5

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

8 Sec. 1. 22 MRSA §7103, sub-§§3-A, 3-B and 4-A
9 are enacted to read:

1 3-A. Approved detoxification facility. "Approved
2 detoxification facility" means an approved treatment
3 facility which meets the standards promulgated
4 pursuant to section 7115, subsections 1 and 1-A, and
5 which has been certified by the department to serve
6 chemically dependent persons subject to an emergency
7 treatment order. Procedures to decertify any facility
8 or to refuse certification to any facility shall be
9 governed by the Maine Administrative Procedure Act,
10 Title 5, chapter 375.

11 3-B. Approved extended residential care
12 facility. "Approved extended residential care
13 facility" means an approved treatment facility which
14 meets standards promulgated pursuant to section 7115,
15 subsections 1 and 1-B, and which has been certified by
16 the department to serve chemically dependent persons
17 subject to continuing department supervision.
18 Procedures to decertify any facility or to refuse
19 certification to any facility shall be governed by the
20 Maine Administrative Procedure Act, Title 5, chapter
21 375.

22 4-A. Chemically dependent person. "Chemically
23 dependent person" means an adult who, by reason of the
24 habitual and excessive use of alcohol and drugs:

25 A. Is incapable of self-management or management
26 of personal affairs; and

27 B. Poses a substantial risk of serious physical
28 harm to the person or others, as demonstrated by:

29 (1) A recent attempt or threat to harm the
30 person or others physically;

31 (2) Evidence of recent life-threatening
32 physical problems; or

33 (3) Evidence of repeated failure to obtain
34 necessary food, clothing, shelter or medical
35 care.

36 Sec. 2. 22 MRSA §7103, sub-§§14 and 15, as

1 enacted by PL 1973, c. 566, §1, are repealed.

2 Sec. 3. 22 MRSA §7103, sub-§20, as enacted by
3 PL 1973, c. 566, §1, is amended to read:

4 20. Treatment. "Treatment" means the broad range
5 of emergency, outpatient, intermediate and in-patient
6 services and care including career counseling,
7 detoxification, diagnostic evaluation, employment,
8 extended residential care, health, medical,
9 psychiatric, psychological, recreational,
10 rehabilitative, social service care, treatment and
11 vocational services, which may be extended to an
12 alcoholic, intoxicated person, drug abuser, drug
13 addict, drug dependent person, chemically dependent
14 person or to a person in need of assistance due to use
15 of a dependency related drug.

16 Sec. 4. 22 MRSA §7106, sub-§9 as amended by PL
17 1977, c. 78, §154, is further amended to read:

18 9. Agreements. Enter into agreements necessary
19 or incidental to the performance of its duties.
20 Included is the power to make agreements with
21 qualified community, regional and state level, private
22 nonprofit and public agencies, organizations and
23 individuals in this and other states to develop or
24 provide drug abuse prevention and treatment
25 facilities, programs and services. Such These
26 agreements may include provisions to pay for such
27 the prevention or treatment rendered or furnished to
28 an alcoholic, intoxicated person, drug abuser, drug
29 addict, drug dependent person, chemically dependent
30 person or person in need of assistance due to use of a
31 dependency related drug. Such These contracts
32 shall be executed only with agencies that meet the
33 standards for treatment promulgated by the office
34 under section 7115, subsection 1, and approved under
35 section 7115, subsection 3, and licensed pursuant to
36 section 7801 or other applicable provisions of law.
37 The office may engage expert advisors and assistants
38 who may serve without compensation, or to the extent
39 funds may be available by appropriation, grant, gift
40 or allocation from a state department, the office may
41 pay for such these expert advisors or assistants;

1 **Sec. 5.** 22 MRSA §7106, sub-§11, as amended by
2 PL 1977, c. 78, §155, is further amended to read:

3 11. Operating and treatment standards. Establish
4 operating and treatment standards, inspect and issue a
5 certificate of approval for any alcohol or drug abuse
6 treatment facility or program, including residential
7 treatment centers, which meet the standards
8 promulgated under section 7115, subsection
9 subsections 1, 1-A and 1-B, and licensed pursuant to
10 section 7801 and other applicable provisions of law.
11 The office shall periodically enter, inspect and
12 examine the treatment facility or program, and examine
13 their books and accounts. It shall fix and collect
14 the fees for such the inspection and certificate.
15 Insofar as licensing and certification of drug abuse
16 prevention facilities and programs may also be the
17 responsibility of another administrative unit of the
18 department, the office may assign performance of this
19 responsibility to such a unit or make other mutually
20 agreeable arrangements with such a unit for assisting
21 with performance of this responsibility;

22 **Sec. 6.** 22 MRSA §7114, sub-§3, as enacted by PL
23 1973, c. 566, §1, is repealed and the following
24 enacted in its place:

25 3. Alcoholics, intoxicated persons and chemically
26 dependent persons. The department shall provide
27 adequate and appropriate treatment and extended
28 residential care for alcoholics, intoxicated persons
29 and chemically dependent persons admitted under
30 sections 7117 to 7120-A. Treatment may not be
31 provided at a correctional institution, except for
32 inmates.

33 **Sec. 7.** 22 MRSA §7115, sub-§§1-A and 1-B are
34 enacted to read:

35 1-A. Standards concerning detoxification. The
36 department shall establish standards for the
37 reasonable restraint and treatment of chemically
38 dependent persons subject to an emergency treatment
39 order. No facility may restrain such a person against

1 that person's will unless the following criteria are
2 met:

3 A. The facility has been presented with an
4 attested copy of an emergency treatment order; and

5 B. The facility has been certified by the
6 department.

7 1-B. Standards concerning extended residential
8 care. The department shall establish standards for
9 the extended residential care of persons subject to
10 continuing department supervision. No facility may
11 provide service for such a person against that
12 person's will unless the following criteria are met:

13 A. The facility has been presented with an
14 attested copy of an order of continuing department
15 supervision; and.

16 B. The facility has been certified by the
17 department.

18 Sec. 8. : 22 MRSA §7118, as enacted by PL 1973,
19 c. 566, §1, is repealed and the following enacted in
20 its place:

21 §7118. Treatment and services for intoxicated persons
22 and chemically dependent persons

23 1. Intoxicated person. An intoxicated person may
24 come voluntarily to an approved treatment facility for
25 emergency treatment. A person who appears to be
26 intoxicated and in need of help, and who consents to
27 the proffered help, may be assisted to that person's
28 home, an approved treatment facility or other health
29 facility by the police.

30 2. Chemically dependent person. A person who
31 appears to be chemically dependent shall be taken into
32 protective custody by the police and brought to an
33 approved detoxification facility for emergency
34 treatment. If no approved detoxification facility is
35 readily available, the person shall be taken to an
36 emergency medical service. The police, in detaining

1 and taking the person to an approved detoxification
2 facility, are deemed to be taking the person into
3 protective custody and shall make every reasonable
4 effort to protect the person's health and safety. In
5 taking the person into protective custody, the
6 detaining officer may take reasonable steps in the
7 interests of self-protection. Use of protective
8 custody under this section is not an arrest. No entry
9 or other record shall be made to indicate that the
10 person has been arrested or charged with a crime.

11 3. Voluntary commitment. A person who comes
12 voluntarily or is brought to an approved treatment
13 facility or to an approved detoxification facility
14 shall be examined by a licensed physician forthwith.
15 That person may then be admitted as a patient or
16 referred to another health facility. The referring
17 approved treatment facility shall arrange for
18 transportation.

19 4. Length of stay. A person, who by medical
20 examination is found to be chemically dependent at the
21 time of admission, may not be detained at the facility
22 for more than 72 hours after admission as a patient,
23 unless committed under section 7119-A. A person may
24 consent to remain in the facility as long as the
25 physician in charge believes it appropriate.

26 5. Shelter. A person, who is not admitted to an
27 approved treatment facility, is not committed to an
28 approved detoxification facility under section 7119-A
29 or is not referred to another health facility and has
30 no funds, may be taken to the person's home, if any.
31 If the person has no home, the approved treatment
32 facility shall make a reasonable attempt to assist in
33 obtaining shelter.

34 6. Notification. If a patient is admitted to an
35 approved treatment facility or committed to an
36 approved detoxification facility, the patient's
37 guardian, family member or next of kin shall be
38 notified as promptly as possible. A patient who has
39 the capacity to withhold consent for such notification
40 shall have the right to request that there be no
41 notification.

1 7. Official duty. A police officer who acts in
2 good faith in carrying out duties under this section
3 shall be immune from any civil or criminal liability
4 for these acts. Nothing in this subsection is
5 intended to limit or to waive any provisions of the
6 Maine Tort Claims Act.

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

12 Sec. 9. 22 MRSA §7119, as enacted by PL 1973,
13 c. 566, §1, is repealed.

14 Sec. 10. 22 MRSA §7119-A is enacted to read:

15 §7119-A. Involuntary treatment of chemically
16 dependent persons

17 1. Jurisdiction. The following courts shall have
18 jurisdiction in the following matters.

19 A. The District Court shall have jurisdiction
20 over actions involving treatment orders under this
21 subchapter.

22 B. The Probate Court shall have concurrent
23 jurisdiction to hear requests for emergency
24 treatment orders under section 7120-A. The final
25 hearing under section 7120-B shall be heard in the
26 District Court.

27 2. Venue. Venue for proceedings brought under
28 this section shall be as follows.

29 A. Petitions shall be brought in the district
30 where the person alleged to be chemically
31 dependent legally resides or where the person is
32 present.

33 B. A judge from another district may hear a
34 treatment petition and make an emergency treatment

1 order if no judge is available in the district
2 where the petition is filed.

3 3. Petitioners. Petitions may be brought by the
4 following:

5 A. The department through an authorized agent; or

6 B. Three or more persons, one of whom must be a
7 licensed physician, licensed psychologist or a
8 licensed substance abuse counselor. No more than
9 one of the petitioners may be a law enforcement
10 officer and no more than one of the petitioners
11 may be the guardian or family member of the person
12 alleged to be chemically dependent.

13 4. Petitions; contents. Petitions must be sworn
14 to and contain at least the following:

15 A. Name, birth date and current residence of the
16 person alleged to be chemically dependent;

17 B. Name and address of that person's closest
18 living relative, if known, and legal guardian, if
19 any;

20 C. A summary statement of the facts which the
21 petitioner believes constitute the basis for the
22 petition;

23 D. A request for a specific court order;

24 E. A statement that the person for whom the
25 treatment is sought has the right to counsel. If
26 the person cannot afford counsel, the court may
27 appoint one;

28 F. A statement that the proceedings may lead to
29 an order of continuing department supervision;

30 G. If an emergency treatment order is sought, a
31 statement of the facts which the petitioner
32 believes substantiate the need for an emergency
33 treatment order; and

1 H. A notice of hearing.

2 5. Certifying examination. Every petition shall
3 be accompanied by a dated certificate, signed by a
4 licensed physician, stating at least the following:

5 A. That the physician has examined the person;

6 B. That the examination took place within 3 days
7 of the date of filing the petition;

8 C. A diagnosis of the person's physical and
9 mental health problems;

10 D. That the physician is of the opinion that the
11 person is chemically dependent and that, without
12 treatment, the person's condition will
13 deteriorate; and

14 E. If an emergency treatment order is sought, a
15 statement that substantiates the need for an
16 emergency treatment order.

17 If the person has refused to be examined by a licensed
18 physician, despite the petitioner's good faith attempt
19 to obtain such an examination, this fact shall be
20 stated in the petition.

21 6. Temporary order for examination. If no
22 emergency treatment order is sought and if the person
23 has refused to be examined pursuant to subsection 5,
24 the court may grant a temporary order for examination
25 prior to hearing on the petition, according to the
26 following procedure.

27 A. In addition to complying with the requirements
28 outlined in subsections 3 and 4, the petitioner
29 must request a temporary order for examination and
30 must state the reasons why such an order is sought.

31 B. If the court finds by a preponderance of the
32 evidence that the allegations of the petition are
33 true and that the person has refused to be
34 examined by a physician as required in subsection
35 5, the court may order the person to be examined

1 by a physician. This order may be made ex parte
2 and shall remain in effect for 72 hours after
3 issuance or as otherwise limited by the court.

4 C. The court may order the person alleged to be
5 chemically dependent into protective custody of a
6 law enforcement officer for the purpose of
7 providing transportation to the examination.

8 D. The results of the examination shall be
9 provided to the court. If the examining physician
10 does not certify the person to be chemically
11 dependent, the petition shall be dismissed.

12 E. The cost of any examination obtained pursuant
13 to this subsection shall be paid by the District
14 Court.

15 Sec. 11. 22 MRSA §7120, as enacted by PL 1973,
16 c. 566, §1, is repealed.

17 Sec. 12. 22 MRSA §§7120-A to 7120-D are enacted
18 to read:

19 §7120-A. Request for emergency treatment order

20 1. Request. The petitioner may request an
21 emergency treatment order with the petition.

22 2. Order. The court may order emergency
23 treatment, consisting of detoxification and necessary
24 medical care, of a person alleged to be chemically
25 dependent if it finds by clear and convincing evidence
26 presented in a sworn statement of facts or otherwise
27 that:

28 A. The person has been notified by the petitioner
29 of the petitioner's intent to request an emergency
30 treatment order on that date;

31 B. The person is chemically dependent;

32 C. Without emergency treatment, there is an
33 immediate risk of further deterioration of the
34 person's physical and mental condition; and

1 D. That a placement in an approved detoxification
2 facility is available.

3 The court may order emergency treatment of the person
4 for a period not to exceed 15 days. This order may be
5 ex parte. The court shall set hearing on the petition
6 filed pursuant to section 7119-A within the 15-day
7 emergency treatment period.

8 3. Waiver of certifying examination. The court
9 may waive a certifying examination if it finds by
10 clear and convincing evidence the following:

11 A. That the requirements of subsection 2 have
12 been satisfied;

13 B. That the petitioner has made a good faith
14 effort to secure a certifying examination; and

15 C. That the person alleged to be chemically
16 dependent has refused or is incapable of
17 consenting to such an examination.

18 4. Counsel. The court shall appoint counsel for
19 the person alleged to be chemically dependent if the
20 person is not represented and upon a showing of
21 indigency. The court shall appoint counsel at the
22 earliest opportunity in any proceeding under this
23 section or section 7120-B.

24 5. Service of emergency treatment order and
25 petition. Service of the emergency treatment order
26 and the petition shall be made on the person within 48
27 hours of the issuance of any emergency treatment
28 order, or as otherwise ordered by court. Service on
29 other parties required under section 7120-B,
30 subsection 1, paragraphs B and C shall be made as soon
31 as reasonably possible, prior to the 15-day hearing,
32 or as otherwise ordered by the court.

33 6. Custody of persons subject to an emergency
34 treatment order. Persons subject to an involuntary
35 treatment order shall be committed to the custody of
36 an approved detoxification facility, which shall be

1 responsible for providing necessary medical care to
2 those persons. The facility may employ reasonable
3 restraint to protect the safety of chemically
4 dependent persons in its custody and others.

5 §7120-B. Hearing on petitions; service; time limits
6 for hearings; findings; order

7 1. Service of petition. The petition under
8 section 7119-A shall be served as follows:

9 A. Upon the person alleged to be chemically
10 dependent by in-hand delivery by an authorized
11 agent of the department or a law enforcement
12 officer;

13 B. Upon the person's legal guardian, if known, or
14 upon at least one of the following: the person's
15 spouse, parent or parents, adult children,
16 caretaker, if one of these persons exist and can
17 be located. The petition and notice of hearing
18 shall be sent by certified mail, return receipt
19 requested, at least 7 days before the hearing; and

20 C. Upon the department, when the department is
21 not the petitioner, by certified mail, return
22 receipt requested, at least 7 days before the
23 hearing.

24 2. Time within which hearing shall be held.
25 Hearings shall be held as follows.

26 A. If an emergency treatment order is in effect,
27 the District Court shall hold a hearing on the
28 petition within 15 days of the granting of the
29 order. On motion of any party, the hearing may be
30 continued for cause for a period not to exceed 5
31 additional days. Any emergency treatment order
32 shall continue in effect for the specified time
33 period unless otherwise ordered by the court.

34 If a hearing is not held within the time periods
35 specified in this paragraph, the court shall
36 terminate the treatment order. In computing the
37 time periods set forth in this paragraph, the

1 District Court Civil Rules shall apply.

2 B. If there is not an emergency treatment order
3 in effect, hearing on the petition shall be set
4 within 30 days of the filing of the petition. If
5 the hearing is not held within this 30-day period,
6 a new certificate of examination shall be filed
7 with the court.

8 3. Court findings. After hearing, the court
9 shall find the following by clear and convincing
10 evidence before ordering continuing department
11 supervision:

12 A. That the person is chemically dependent;

13 B. That the person's chemical dependency is the
14 result of the habitual and excessive use of
15 alcohol;

16 C. That continuing department supervision is the
17 least restrictive method of preventing further
18 deterioration of the person's condition and for
19 treating the person;

20 D. That a placement in an approved extended
21 residential care facility is available for the
22 person; and

23 E. That the treatment plan offered by the
24 petitioner will benefit the person.

25 4. Order of continuing department supervision.
26 Upon making the findings described in subsection 3,
27 the court may order the person into the department's
28 supervision for a period not to exceed 90 days. The
29 90 days shall not include time spent in treatment
30 under an emergency treatment order.

31 The court shall issue an order of continuing
32 department supervision within 48 hours of the
33 hearing. If no order is issued within 48 hours of the
34 completion of the hearing, the court shall dismiss the
35 petition.

1 5. Appeals. The Maine Rules of Civil Procedure
2 shall apply to the conduct of any appeals.

3 §7120-C. Continuing department supervision

4 1. Responsibilities. The department shall be
5 responsible for the delivery of services to persons
6 ordered into its supervision, including:

7 A. Preparation of a reasonable case management
8 plan;

9 B. Regular contact with the approved extended
10 residential care facility and involvement in its
11 treatment plan;

12 C. Regular contact with the person in extended
13 residential care;

14 D. Involvement in any planning for the discharge
15 of persons placed in extended residential care; and

16 E. Petitioning the court for continuing
17 department supervision or discharge of the person
18 from department supervision, whichever is
19 reasonably warranted under the circumstances.

20 §7120-D. Post-supervision procedure

21 1. Examination after any order of continuing
22 department supervision. Every person admitted to an
23 approved extended residential care facility pursuant
24 to any order of continuing department supervision
25 under section 7120-A or 7120-B shall be examined by a
26 licensed physician within 72 hours after admission.

27 A. The administrator of the approved extended
28 residential care facility shall arrange for the
29 examination by a licensed physician for every
30 person admitted under this subchapter.

31 B. The examiner may not be the certifying
32 examiner under section 7119-A, subsection 5.

33 C. If the examination under this section is not

1 held within 72 hours of admission or if the
2 physician fails or refuses to certify that the
3 person is chemically dependent and that treatment
4 is necessary to prevent further deterioration of
5 the person's condition, the order of continuing
6 department supervision shall terminate.

7 2. Discharge. A person shall be discharged from
8 an approved extended residential care facility prior
9 to the end of the ordered supervision period if the
10 following conditions are met:

11 A. The department and the facility are satisfied
12 that the person no longer poses a risk of serious
13 physical harm to the person or others;

14 B. The department and the facility are satisfied
15 that a less restrictive plan is available and
16 appropriate to meet the person's need for
17 treatment or residential care; and

18 C. The person is in agreement with the plan to be
19 discharged or to participate in a less restrictive
20 program.

21 3. Notification to the court. The department
22 shall notify the court by sworn affidavit of the
23 reasons for discharge from continuing department
24 supervision. A copy of the affidavit shall be mailed
25 to all other parties named in the original
26 proceeding. The department shall file this
27 notification with the court within 5 days of any
28 discharge.

29 4. Habeas corpus. A person committed under this
30 chapter may at any time seek to be discharged from
31 continuing department supervision by writ of habeas
32 corpus.

33 5. Judicial review. Motions for review and
34 further orders of treatment shall be as follows.

35 A. The petitioner or the person under order of
36 continuing department supervision may move for the
37 judicial review. Notice of the review shall be to
38 all parties to the initial proceeding pursuant to

1 the Maine Rules of Civil Procedure, Rule 5.

2 B. The court may hear evidence and make any
3 further order, based upon clear and convincing
4 evidence, that is authorized under section 7120-B,
5 subsections 2 and 3. No person may receive more
6 than a total of 3 consecutive 90-day periods of
7 continuing department supervision under section
8 7120-B, subsection 4.

9 **Sec. 13.** 22 MRSA §7124, as amended by PL 1975,
10 c. 204, §§2 and 3, is further amended to read:

11 §7124. Payment for treatment; financial ability of
12 patients; counsel fees

13 1. Payment. If treatment is provided by an
14 approved ~~public~~ treatment facility and the patient
15 has not paid the charge ~~therefor~~ for that
16 treatment, the treatment facility is entitled to any
17 payment received by the patient or to which he may be
18 entitled because of the services rendered, and from
19 any public or private source available to the
20 treatment facility because of the treatment provided
21 to the patient.

22 2. Liability. A patient in an approved treatment
23 facility, or the estate of the patient, or a person
24 obligated to provide for the cost of treatment and
25 having sufficient financial ability, is liable to the
26 treatment facility for cost of maintenance and
27 treatment of the patient therein in accordance with
28 rates established.

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

35 4. Court appointed attorneys. The cost of all
36 attorneys appointed to represent indigent defendants
37 in any actions under section 7120-A or section 7120-B
38 shall be paid by the District Court.

1 Sec. 14. 22 MRSA §7126 is enacted to read:

2 §7126. Custody and transportation

3 1. Emergency treatment orders and orders of
4 continuing department supervision. Any person subject
5 to an emergency treatment order pursuant to section
6 7120-A or subject to continuing department supervision
7 pursuant to section 7120-B shall be transported to the
8 appropriate approved facility or other medical
9 facility by law enforcement personnel, or as otherwise
10 ordered by the court.

11 2. Reasonable force. Law enforcement personnel
12 may utilize reasonable force in transporting that
13 person.

14 3. Request for assistance by department. If the
15 department requests assistance from law enforcement
16 personnel to return a person to the treatment facility
17 during the period of ordered treatment, law
18 enforcement personnel shall provide reasonable
19 assistance.

20 4. Return of persons subject to emergency
21 treatment order or continuing department supervision
22 who have left treatment facility without permission.
23 If any person subject to an emergency treatment order
24 or to continuing department supervision is absent from
25 a treatment facility without permission, a law
26 enforcement officer may, upon written order of the
27 department and without the necessity of a warrant or
28 court order, take the patient into protective custody
29 and return the patient to the facility. No person may
30 be returned pursuant to this section after being
31 continuously absent from the supervision of the
32 department for at least one year.

33 5. Expenses of transport. The county in which
34 the person is found shall be responsible for any
35 transportation expenses under this section.

36 Sec. 15. Effective date. In view of the fact
37 that this Act requires the department to establish

1 standards for the certification of detoxification and
2 extended residential care facilities authorized to
3 receive chemically dependent persons, and requires
4 further that no person may be subject to involuntary
5 services unless placement in an approved facility is
6 available, this Act shall not take effect until
7 January 1, 1989.

8

STATEMENT OF FACT

9 A judicial order to secure treatment and extended
10 residential care of chemically dependent persons
11 becomes necessary when less restrictive measures have
12 failed to intervene in the progressive, fatal disease
13 of chemical dependency. Existing law requires
14 amendment because of the following problems:

15 1. Lack of due process protections for the
16 alleged chemically dependent person;

17 2. The "approved public treatment facilities"
18 defined in present law are nonexistent; and

19 3. The possible petitioners in the present law
20 are limited to family members or guardians.

21 These and other flaws prevent the use of present
22 law for obtaining judicial orders for the involuntary
23 treatment of chemically dependent persons.

24 The bill addresses these concerns in the following
25 ways: the Department of Human Services would have the
26 authority to bring petitions and to provide
27 supervision of the treatment process; the defendant's
28 rights to appointment of counsel and to notice of the
29 allegations against him and of the standards by which
30 the court will rule on the petition are clarified and
31 made more specific; the standards and procedures for
32 obtaining orders for examination and emergency
33 treatment orders have been clarified; no proceedings
34 may be initiated without prior determination that
35 placement in a detoxification facility or an extended
36 residential care facility, which meets specific
37 standards for providing appropriate treatment, is
38 available; and procedures for review, after admission

1 to a detoxification facility or an extended
2 residential care facility, have been added to the
3 present law.

4

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