



**House
Legislative
Analysis
Section**

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DRUG TREATMENT FOR MINORS

House Bill 4461 as passed by the House
Second Analysis (8-18-87)

Sponsor: Rep. Michael J. Griffin
Committee: Judiciary

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THE APPARENT PROBLEM:

Rules promulgated by the Office of Substance Abuse Services grant a person the right to refuse drug treatment and to be informed of the consequences of that refusal. A recipient also has the right to be free from physical or chemical restraints, except those authorized in writing by a physician for a specified and limited time. While these rules may strike many as a reasonable protection of individual rights, they apply to all regardless of age, and thus prevent parents from enrolling reluctant children in drug treatment programs. Rehabilitation programs for the drug-dependent can literally mean the difference between life and death, and many believe that parents should be able to choose treatment for children whose addictions have impaired their judgment and threatened their lives. Michigan parents who want to enroll an unwilling child in a drug treatment program must seek programs outside the state, placing additional strains on the family and its finances. It has been proposed that the law be changed to allow parents to obtain drug treatment for their children.

THE CONTENT OF THE BILL:

The bill would amend the Public Health Code to allow substance abuse treatment and rehabilitation services to be provided to a child under 14 years old without the child's consent, if a parent or person in loco parentis requested the services. For minors between ages 14 and 18, the bill would establish procedures for enrollment in a program, diagnostic evaluation, and court appeal that would roughly parallel those that exist in the Mental Health Code for commitment of minors.

If a minor refused drug treatment services sought by a parent, the program would have a diagnostic evaluation performed to determine whether the minor was physiologically dependent. If necessary, detoxification services could be performed with parental consent and without the minor's consent for a period of up to five days. If the diagnostic evaluation determined that a minor was physiologically dependent, substance abuse services could be performed without the minor's consent for up to seven days, pending a court hearing. Psychotropic drugs could not be used unless the minor consented or the court ordered their use.

A minor's parent or person in loco parentis could request the probate court to determine whether treatment and rehabilitation services were necessary for the minor. The court would appoint a guardian ad litem for the minor, notify various parties, and hold a hearing within seven days. If the court decided that the services were necessary, it would determine a suitable placement for the minor in the least restrictive setting available. A minor would have the right to an independent diagnostic evaluation, and that evaluation would be considered along with the treatment program's evaluation. Information obtained through the evaluations and hearing could not be used to authorize a delinquency or status offender petition under the juvenile code. The court could not order substance abuse services on the grounds that the parent was unwilling or unable to

provide or arrange for the management, care, or residence of the minor. Court records would be confidential and open only by order of the court to persons having a legitimate interest.

Within 30 days after the court ordered a minor admitted to a drug treatment program, and at 60-day intervals thereafter, the director of the program would have the minor's treatment plan reviewed, and review results would be transmitted to the minor, parent, guardian ad litem, and court. The minor could object to his or her treatment plan within 30 days after receiving the review; the guardian ad litem would have to assist the minor in properly submitting the objection. Upon receiving an objection, the court would schedule a hearing within seven business days. The court would sustain the objection and order the minor discharged unless it found by clear and convincing evidence that substance abuse treatment and rehabilitation services were necessary.

MCL 333.6113 et al.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill has no fiscal implications for the state. (6-18-87)

ARGUMENTS:

For:

By allowing families to obtain substance abuse treatment for unwilling children in Michigan, the bill would enable families to institute life-saving treatment without undergoing the hardship of traveling out of state. However, parental authority would not be absolute over a youth old enough to comprehend alternatives and take some responsibility for his or her life. The bill would include various due process protections such as court intervention, independent evaluation, appointment of a guardian ad litem, and periodic review for minors between 14 and 18 years old.

Against:

Some are skeptical of the bill's value. Success in substance abuse programs is largely dependent on the recipient's willingness to admit to a problem and make efforts towards its resolution. A rebellious adolescent is unlikely to be helped substantially by forced drug treatment, particularly in those situations where the drug dependency is not so much the cause of the child's and family's problems, but rather symptomatic of problems within the family. Further, the bill raises questions of how a child or minor is to be maintained in a program against his or her will, or what sorts of restraints will be used. Finally, the bill would create burdens for the courts of scheduling hearings under tight deadlines and paying for guardians ad litem.

Against:

Although the House-passed version of the bill places some

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restraints on the use of psychotropic drugs while the committee version did not, the bill still fails to incorporate appropriate conditions on the use of such drugs. It should at least provide some sort of guidelines on the use of psychotropic drugs, which normally would not be part of a drug rehabilitation program.

POSITIONS:

The Department of Public Health and the Office of Substance Abuse Services do not oppose the bill and prefer it to the bill as originally introduced, which failed to include due process provisions. (8-12-87)

The American Civil Liberties Union of Michigan supports the bill. (7-24-87)

The Chemical Awareness Project supports the bill. (8-12-87)

The Michigan Association of Substance Abuse Coordinators supports the bill with reservations about a provision that would allow the use of psychotropic drugs upon a minor's consent, and which would fail to provide guidelines to the court regarding the use of such drugs. (8-14-87)