

1 AN ACT relating to treatment for alcohol and other drug abuse.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 222.431 is amended to read as follows:

4 No person suffering from alcohol and other drug abuse shall be ordered to undergo  
5 treatment unless that person:

6 (1) Suffers from alcohol and other drug abuse;

7 (2) Presents an imminent threat of danger to self, family, or others as a result of alcohol  
8 and other drug abuse, or there exists a substantial likelihood of such a threat in the  
9 near future; and

10 (3) Can reasonably benefit from treatment ***in accordance with a qualified health***  
11 ***professional's recommendation.***

12 ➔Section 2. KRS 222.432 is amended to read as follows:

13 (1) Proceedings for ***up to one (1) year***~~[sixty (60) days or three hundred sixty (360)~~  
14 ~~days]~~ of treatment for an individual suffering from alcohol and other drug abuse  
15 shall be initiated by the filing of a verified petition in District Court ***in the county in***  
16 ***which the individual resides on a permanent or temporary basis.***

17 (2) The petition and all subsequent court documents shall be entitled: "In the interest of  
18 (name of respondent)."

19 (3) The petition shall be filed by a spouse, relative, friend, or guardian of the individual  
20 concerning whom the petition is filed.

21 (4) The petition shall set forth:

22 (a) Petitioner's relationship to the respondent;

23 (b) Respondent's name, residence, ***if known,*** and current location, if known;

24 (c) The name and residence of respondent's parents, if living and if known, or  
25 respondent's legal guardian, if any and if known;

26 (d) The name and residence of respondent's husband or wife, if any and if known;

27 (e) The name and residence of the person having custody of the respondent, if

1 any, or if no such person is known, the name and residence of a near relative  
2 or that the person is unknown; and

3 (f) Petitioner's belief, including the factual basis therefor, that the respondent is  
4 suffering from an alcohol and other drug abuse disorder and presents a danger  
5 or threat of danger to self, family, or others if not treated for alcohol or other  
6 drug abuse.

7 **(5) (a)** Any petition filed pursuant to this **section**~~[subsection]~~ shall be accompanied  
8 by a guarantee, signed by the petitioner or other person authorized under  
9 subsection (3) of this section, obligating that person to pay all costs for  
10 **evaluation and** treatment of the respondent for alcohol and other drug abuse  
11 that is ordered by the court **and not covered by a third-party payor pursuant**  
12 **to Section 8 of this Act.**

13 **(b) Notwithstanding paragraph (a) of this subsection, if an evaluation or**  
14 **treatment is available at no cost to the respondent and the respondent**  
15 **receives the services at no cost, the petitioner shall not be obligated to pay**  
16 **what the evaluation or treatment would have cost.**

17 **(c) No petitioner shall be required to place a deposit with the court to cover the**  
18 **costs of evaluation or treatment.**

19 ➔Section 3. KRS 222.433 is amended to read as follows:

20 (1) Upon receipt of the petition, the court shall examine the petitioner under oath as to  
21 the contents of the petition.

22 (2) If, after reviewing the allegations contained in the petition and examining the  
23 petitioner under oath, it appears to the court that there is probable cause to believe  
24 the respondent should be ordered to undergo treatment, then the court shall:

25 (a) Set a date for a hearing within fourteen (14) days to determine if there is  
26 probable cause to believe the respondent should be ordered to undergo  
27 treatment for alcohol and other drug abuse;

- 1 (b) Notify the respondent, the legal guardian, if any and if known, and the spouse,  
2 parents, or nearest relative or friend of the respondent concerning the  
3 allegations and contents of the petition and the date and purpose of the  
4 hearing; and the name, address, and telephone number of the attorney  
5 appointed to represent the respondent, if any; and
- 6 (c) 1. Cause the respondent to be examined no later than twenty-four (24)  
7 hours before the hearing date by two (2) qualified health professionals  
8 ***chosen by the petitioner***, at least one (1) of whom is a physician. The  
9 qualified health professionals shall certify their findings to the court ***at***  
10 ***least***~~[within]~~ twenty-four (24) hours ***before the hearing***~~[of the~~  
11 ~~examinations]~~.
- 12 ***2. Notwithstanding subparagraph 1. of this paragraph, if a qualified***  
13 ***health professional has examined the respondent within the last three***  
14 ***(3) months, that examination shall be admissible for the purposes of***  
15 ***subparagraph 1. and the petitioner shall need only one (1) qualified***  
16 ***health professional to examine the respondent and certify his or her***  
17 ***findings no later than twenty-four (24) hours before the hearing date.***
- 18 (3) ***(a)*** If, upon completion of the hearing, the court finds the respondent should be  
19 ordered to undergo treatment, then the court shall order such treatment for a  
20 period ***up to one (1) year***~~[not to exceed sixty (60) consecutive days from the~~  
21 ~~date of the court order or a period not to exceed three hundred sixty (360)~~  
22 ~~consecutive days]~~ from the date of the court order, whatever was the period of  
23 time that was requested in the petition or otherwise agreed to at the hearing.  
24 Failure of a respondent to undergo treatment ordered pursuant to this  
25 subsection may place the respondent in contempt of court.
- 26 ***(b) If, upon completion of the hearing, the court finds that the petitioner did***  
27 ***not file the correct paperwork, the court shall hold the petition in abeyance***

1 until the petitioner has the opportunity to file the correct paperwork.

2 (c) If, upon completion of the hearing, the court finds that there is insufficient  
3 evidence to order the respondent to undergo treatment, the court may hold  
4 the petition in abeyance to provide the petitioner an opportunity to gather  
5 additional evidence.

6 (4) At the request of the petitioner, an order issued under subsection (3)(a) of this  
7 section may be renewed for additional periods, with no single period exceeding  
8 one (1) year. The request shall be by motion. Upon receipt of the petitioner's  
9 motion for renewal, the court shall order a qualified health professional at the  
10 treatment program to examine the respondent to determine whether the  
11 respondent continues to meet the criteria for involuntary treatment established in  
12 Section 1 of this Act. Upon receipt of the evaluation from the qualified health  
13 professional, the court shall schedule the motion for a hearing, after which the  
14 court may grant or deny the motion for renewal. If the court grants the motion,  
15 the court may, based on evidence presented at the hearing, modify the terms of  
16 the initial order as to the treatment in which the respondent is ordered to  
17 participate.

18 (5) The petitioner, respondent, or treatment program may, by motion, move the court  
19 to alter or amend an original or renewed treatment order to place the respondent  
20 in a more appropriate treatment program. If contested, the court may hear  
21 evidence and may cause the respondent to be examined by a qualified health  
22 professional as to the merits of the motion.

23 (6) If, at any time after the petition is filed, the court finds that there is no probable  
24 cause to continue treatment or if the petitioner withdraws the petition, then the  
25 proceedings against the respondent shall be dismissed.

26 ➔Section 4. KRS 222.434 is amended to read as follows:

27 (1) Following an examination by a qualified health professional and a certification by

1 that professional that the person meets the criteria specified in KRS 222.431, the  
 2 District Court of any county where the person may be found~~[court]~~ may, when  
 3 presented with a petition under KRS 222.430 to 222.437, order the person  
 4 hospitalized for a period not to exceed seventy-two (72) hours if the court finds, by  
 5 clear and convincing evidence, that the person~~[respondent]~~ presents an imminent  
 6 threat of danger to self, family, or others as a result of alcohol and other drug abuse  
 7 and can reasonably benefit from treatment in accordance with the qualified  
 8 health professional's recommendation. If the court issuing an order under this  
 9 section is not the District Court of the person's permanent or temporary  
 10 residence, the court shall, after issuing the order for treatment, transfer the  
 11 action to the District Court of the county of the person's residence.

12 (2) Any person who has been admitted to a hospital under subsection (1) of this section  
 13 shall be released from the hospital within seventy-two (72) hours of admittance.

14 (3) No person~~[respondent]~~ ordered hospitalized under this section shall be held in jail  
 15 pending transportation to the hospital or evaluation unless the court has previously  
 16 found the person~~[respondent]~~ to be in contempt of court for either failure to  
 17 undergo treatment or failure to appear at the evaluation ordered pursuant to KRS  
 18 222.433.

19 (4) This section shall not limit or abridge the ability to hold or treat a person under  
 20 any other provision of law, including KRS Chapter 202A.

21 ➔SECTION 5. A NEW SECTION OF KRS 222.430 TO 222.437 IS CREATED  
 22 TO READ AS FOLLOWS:

23 If the respondent does not appear and participate in treatment as ordered under  
 24 Section 3 of this Act, the treatment program shall immediately notify the court and  
 25 present it with a report detailing the factual basis of the noncompliance. If the court  
 26 finds that the report states a basis for a finding of contempt, the court shall initiate  
 27 appropriate contempt proceedings. If found in contempt, the court may order the

1 respondent held in jail until transported to the treatment program as provided in  
 2 Section 6 of this Act.

3 → Section 6. KRS 222.435 is amended to read as follows:

4 (1) (a) When the court orders a person to~~is authorized to issue an order that the~~  
 5 ~~respondent~~ be transported to a hospital pursuant to Section 4 of this Act, the  
 6 court may issue a summons.~~[, or]~~

7 (b) If the respondent fails to:

8 1. Attend an examination required by Section 3 of this Act~~[scheduled~~  
 9 ~~before the hearing provided for in KRS 222.433];~~ or

10 2. Fails to appear and participate in treatment ordered under Section 3  
 11 of this Act; ~~[then]~~

12 the court shall~~[,]~~ issue a summons.

13 (c) A summons ~~[so]~~ issued pursuant to this subsection shall be directed to the  
 14 respondent and shall command the respondent to appear at a time and place  
 15 therein specified.

16 (2) (a) If a respondent who has been summoned fails to:

17 1. Appear at the hospital;

18 2. Appear at~~[or]~~ the examination; or

19 3. Appear and participate in treatment;~~[, then]~~

20 the court may authorize the petitioner, or another person chosen by the  
 21 petitioner,~~[may order the sheriff or other peace officer]~~ to transport the  
 22 respondent to a hospital, to an examination, or to a treatment program~~[ or~~  
 23 ~~psychiatric facility designated by the cabinet for treatment under KRS~~  
 24 ~~210.485].~~

25 (b) If the petitioner chooses not to transport the respondent, or to not designate  
 26 another person to transport the respondent, the court may order the sheriff  
 27 or other peace officer~~[ may, upon agreement of a person authorized by the~~

1            ~~peace officer, authorize the cabinet, a private agency on contract with the~~  
 2            ~~cabinet, or an ambulance service designated by the cabinet]~~ to transport the  
 3            respondent to the hospital, to an examination, or to a treatment program.  
 4            The sheriff or other peace officer may authorize the cabinet, a private  
 5            agency on contract with the cabinet, or an ambulance service designated by  
 6            the cabinet to transport the respondent on their behalf. The transportation  
 7            costs of the sheriff, other peace officer, ambulance service, or other private  
 8            agency on contract with the cabinet shall be included in the costs of treatment  
 9            for alcohol and other drug abuse to be paid by the petitioner.

10            ➔SECTION 7. A NEW SECTION OF KRS 222.430 TO 222.437 IS CREATED  
 11            TO READ AS FOLLOWS:

12            (1) Court proceedings under KRS 222.430 to 222.437 shall not be open to the public,  
 13            and persons other than the parties, attorneys, witnesses, court personnel, and  
 14            security personnel may be present only with leave of the court given for good  
 15            cause.

16            (2) Court records of a respondent made under KRS 222.430 to 222.437 shall be  
 17            confidential, and shall be subject to inspection and expungement to the same  
 18            extent and utilizing the same process as the records covered under KRS  
 19            202A.091.

20            ➔Section 8. KRS 222.470 is amended to read as follows:

21            (1) Chemical dependency treatment programs shall not be considered for receipt of  
 22            state funds if they:

23            (a)~~(1)~~ Do not submit reports as required by KRS 222.460; or

24            (b)~~(2)~~ Do not cooperate in the submission of information that would allow the  
 25            cabinet to conduct a scientific random sample survey of client-outcome  
 26            indicators as required by KRS 222.465.

27            (2) Alcohol and other drug abuse treatment services identified under this chapter

1 shall be authorized by the Department for Medicaid Services and its contractors  
2 as Medicaid-eligible services and shall be subject to the same medical necessity  
3 criteria and reimbursement methodology as for all other covered behavioral  
4 health services.

5 (3) Private insurers shall utilize their respective medical necessity criteria and  
6 reimbursement methodology for alcohol and other drug abuse treatment services  
7 identified under this chapter, in accordance with the Mental Health Parity and  
8 Addiction Equity Act of 2008 Pub. L. No. 110-343, as amended.