

HOUSE BILL 234

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

D. Wonda Johnson

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO COMMITMENT PROCEDURES; AMENDING THE DETOXIFICATION REFORM ACT TO ADD A PUBLIC SERVICE OFFICER AS AN AUTHORIZED PERSON FOR THE PURPOSE OF REQUESTING COMMITMENT OF AN INTOXICATED OR INCAPACITATED PERSON TO A TREATMENT FACILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 43-2-2 NMSA 1978 (being Laws 1977, Chapter 374, Section 1, as amended) is amended to read:

"43-2-2. DEFINITIONS.--As used in the Detoxification Reform Act:

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A. "alcohol-impaired person" means a person who uses alcoholic beverages to the extent that the person's health and well-being are substantially impaired or endangered;

B. "authorized person" means a physician, public service officer or police officer;

C. "consistent with the least drastic means principle" means that the habilitation, protective custody or treatment and the conditions of habilitation, protective custody or treatment separately and in combination:

(1) are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives or protection for the person committed; and

(2) involve no restrictions on physical movement except as reasonably necessary for the administration of treatment, for the security of the facility or for the protection of the person committed or another from physical injury;

D. "department" means the department of health;

E. "detention center" means a city, county or other jail, the administration of which agrees to accept intoxicated persons for protective custody; provided, however, that a detention center is authorized to hold a person in protective custody pursuant to Section 43-2-8 NMSA 1978 but is not otherwise subject to the provisions of the Detoxification Reform Act;

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F. "drug-impaired person" means a person who uses drugs to the extent that the person's health and well-being are substantially impaired or endangered;

G. "incapacitated person" means a person who, as a result of the use of alcohol or drugs, is unconscious or has the person's judgment otherwise so impaired that the person is incapable of realizing and making rational decisions;

H. "intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or drugs;

I. "likely to inflict serious physical harm on another" means that it is more likely than not that in the near future the person will inflict serious, unjustified bodily harm on another person or commit a criminal sexual offense as evidenced by behavior causing, attempting or threatening such harm, which behavior gives rise to a reasonable fear of such harm from that person;

J. "likely to inflict serious physical harm on [~~himself~~] oneself" means that it is more likely than not that in the near future the person will attempt to commit suicide or will cause serious bodily harm to [~~himself~~] that person's self by violent or passive or other self-destructive means as evidenced by behavior causing, attempting or threatening the infliction of serious bodily harm to [~~himself~~] that person's self;

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K. "protective custody" means confinement of an intoxicated person, for a period not less than twelve hours or more than seventy-two hours in length and under conditions consistent with the least drastic means principle;

HJC→L. "public service officer" means a civilian employee within a police department who is authorized by the police department to transport intoxicated or incapacitated persons to a treatment facility or detention center;←HJC

HJC→L M←HJC. "treatment" means the broad range of emergency, outpatient, intermediate and inpatient services and care, including protective custody, diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to alcohol-impaired, drug-impaired and intoxicated persons; and

HJC→M N←HJC. "treatment facility" means:

(1) an institution under the supervision of the department and approved by the department for the care and treatment of alcohol-impaired persons or drug-impaired persons;

(2) a public institution approved by the department for the care and treatment of alcohol-impaired persons or drug-impaired persons, but not specifically under the supervision of the department; or

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(3) any other facility that provides any of the services specified in the Detoxification Reform Act and is licensed by the department for those services."