

1 HOUSE BILL 234

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 D. Wonda Johnson

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10 AN ACT

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

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

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

19 "43-2-2. DEFINITIONS.--As used in the Detoxification
20 Reform Act:

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

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

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

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

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

13 D. "department" means the department of health;

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

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

24 G. "incapacitated person" means a person who, as a
25 result of the use of alcohol or drugs, is unconscious or has

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1 the person's judgment otherwise so impaired that the person is
2 incapable of realizing and making rational decisions;

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

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

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

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

25 L. "treatment" means the broad range of emergency,

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1 outpatient, intermediate and inpatient services and care,
2 including protective custody, diagnostic evaluation, medical,
3 psychiatric, psychological and social service care, vocational
4 rehabilitation and career counseling, which may be extended to
5 alcohol-impaired, drug-impaired and intoxicated persons; and

6 M. "treatment facility" means:

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

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

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

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