

SUBJECT: Family members filing for court-ordered chemical dependency treatment

COMMITTEE: Public Health — favorable, without amendment

VOTE: 7 ayes — Capelo, Laubenberg, Dawson, McReynolds, Taylor, Truitt, Zedler
1 nay — Naishtat
1 absent — Coleman

WITNESSES: For — None
Against — None
On — Lisa Hernandez, Texas Commission on Alcohol and Drug Abuse

BACKGROUND: Health and Safety Code, ch. 462, subch. D governs court-ordered chemical dependency treatment for adults. Any adult may file an application for court-ordered treatment of another person if the application is accompanied by a certificate of medical examination for chemical dependency. Only a district or county attorney may file an application without this certificate. Before the court may order treatment, it must have on file two certificates of medical examination completed by different physicians, each of whom had examined the patient within 30 days prior to the final hearing.

Government Code, ch. 573, subch. B defines relationships by consanguinity, affinity, and degrees of relationship. The first degree of consanguinity and affinity includes parents, spouses and their parents, and children and their spouses. The second degree includes grandparents, grandchildren, and siblings, of the person and of the person's spouse, plus spouses of the person's siblings.

DIGEST: HB 3240 would permit a family member to file an application for chemical dependency treatment for another person without a certificate of medical examination. It would only apply to family members related to a person within the second degree by affinity or consanguinity.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

Families should be able to help their loved ones who have chemical dependency problems. Current law requires them either to wait until the family member gets into trouble with authorities or to attempt to have the family member evaluated by a doctor. Chemical dependency is a difficult situation for families to handle, and the state should make it easier for families to get help.

The bill would not permit families to check their relatives in for treatment inappropriately. The requirement of two certificates of medical examination still would apply before the person was ordered to treatment. This bill simply would help families get their loved ones evaluated without waiting until they got into trouble.

Only close relatives, such as children, parents, grandparents, or siblings could apply for court-ordered treatment without certificates of medical examination. Aunts, uncles, cousins, and the like would not be able to do this.

**OPPONENTS
SAY:**

Under current law, family members, or any adult for that matter, can apply for emergency detention of another adult, so families already are capable of getting their loved ones help. The emergency detention process is well established and works to ensure that people are treated appropriately and that family members cannot threaten treatment inappropriately. Additionally, it is a better option for families and patients because it assures that the patient receives immediate intervention treatment.

Cases of divorce or child custody can become very ugly and adults might make untrue allegations about one another. The emergency detention process clearly states that a person who would be ordered for treatment must be a risk to himself or others, which must be substantiated by descriptions from two separate physicians of specific behavior, acts, attempts, or threats. While this requirement does not prevent an angry spouse from lying, it can prevent baseless allegations. This bill would not require any such corroboration of information provided by family members.