



Eastern Region Office
PO Box 40008
Philadelphia, PA 19106
215-592-1513 T
215-592-1343 F

Central Region Office
PO Box 11761
Harrisburg, PA 17108
717-238-2258 T
717-236-6895 F

Western Region Office
313 Atwood St.
Pittsburgh, PA 15213
412-681-7736 T
412-681-8707 F

TESTIMONY SUBMITTED BY
ANDREW HOOVER, LEGISLATIVE ASSISTANT
AMERICAN CIVIL LIBERTIES UNION OF PENNSYLVANIA
TO
HOUSE SUBCOMMITTEE ON DRUGS AND ALCOHOL
RE: HOUSE BILL 1594
MARCH 13, 2008
STATE CAPITOL, HARRISBURG

Good morning, Chairman Pashinski and members of the Subcommittee. My name is Andy Hoover. I am the Legislative Assistant for the ACLU of Pennsylvania. Thank you for the opportunity to testify today on House Bill 1594 regarding the involuntary commitment of drug dependent persons.

Addressing drug addiction is a serious issue that deserves serious consideration from policy makers. It is likely that there are people in the room today who have had to deal with the struggles that arise when a loved one has an addiction. The ACLU recognizes this and continues to support policies that take a comprehensive and humane approach to dealing with drug addiction. Such policies can include increased access to voluntary treatment and alternative sentencing for those convicted of non-violent drug crimes.

The co-sponsors of House Bill 1594 certainly have the best of intentions. However, committing a person to treatment against his or her will is a significant loss of liberty and freedom, and it is a policy that is inherently doomed to failure due to its punitive nature. Because this legislation puts otherwise competent individuals at risk of losing their freedom, the ACLU of Pennsylvania opposes HB 1594.

There are several issues surrounding this bill to which I'd like to draw your attention. First, if a court orders a person to treatment against his or her will, the initial treatment period is 90 days. After 90 days, the court will review the case and can order the person to continue in treatment for an additional 90 days. This re-commitment can go on indefinitely. In addition, the court can find the person in contempt of court if it finds that the person willfully defied treatment.

This is a dangerous misuse of power. It is atypical in American jurisprudence to force a person to face involuntary commitment indefinitely. In addition, the person has not been found guilty of a crime by traditional law enforcement means. These factors add up to a serious violation of liberty.

There is precedent for involuntary commitment. The Mental Health Procedures Act allows involuntary commitment if the person is a danger to himself or herself or others. But House Bill 1594 has no such provision. An otherwise functioning person who is fighting addiction could be committed against his or her will. The court simply must find that the person is drug dependent, is unwilling to accept voluntary treatment, and will benefit from treatment.

Even with a provision determining that the person is a danger, such a law would have the potential for abuse. In fact, there are examples of the Mental Health Procedures Act being misused. In some instances, individuals have remained committed for years while appellate courts considered their cases. In one reported decision, an individual remained hospitalized for more than four years, even though the Pennsylvania Supreme Court found that there had been insufficient evidence for commitment. Gibson v. DiGiacinto, 439 A.2d 105 (1981).

The ACLU has great concern that passing this bill into law also raises the possibility of misuse by family members who petition the court. In some instances, the family may have only the best of intentions. In others, they may not.

Over-arching all of these concerns is the legal definition of a drug dependent person, as defined in the Drug and Alcohol Abuse Act. The Act defines a drug dependent person as “a person who is using a drug, controlled substance or alcohol, and who is in a state of psychic or physical dependence, or both, arising from administration of that drug, controlled substance or alcohol on a continuing basis. Such dependence is characterized by behavioral and other responses which include a strong compulsion to take the drug, controlled substance or alcohol on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence.” This definition has no requirement that the person is a danger to himself or herself or others. It also does not require that the drug dependence cause any significant problems.

This broad definition of drug dependent person raises the risk of otherwise competent persons being committed against their will under House Bill 1594, and it has the potential to lead to an increase in the number of people brought into the judicial system.

Finally, if this bill becomes law and it is utilized, there will be an increased need for financial resources in the court system and in treatment facilities. It is not clear within House Bill 1594 how this will be financed.

The ACLU of PA supports comprehensive approaches to drug policy. In fact, national ACLU has an entire project dedicated to these issues. You can learn more about our Drug Law Reform Project at www.aclu.org/drugpolicy. The General Assembly can support humane approaches to drug laws, including increased access to voluntary treatment, increased use of drug courts, and alternative sentencing for non-violent drug offenders. The ACLU does not feel

that House Bill 1594 provides a constructive approach for dealing with this difficult issue, and we ask you to oppose it.