Law allowing forced treatment, personal liberty

It has raised questions of ethics, fairness over cost

of addicts

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THE CLEVELAND Plain Dealer presses for recognition of the rights of addicts, in light of the law that forces treatment without consent.

Ads to the law's requirements.

A bill that allows for the forcible treatment of addicts is under consideration by the Ohio legislature. The bill, sponsored by Rep. Tom Davis, D-Cleveland, would give the courts the authority to order addicts into treatment against their will.

The bill has drawn criticism from civil libertarians and from addicts themselves, who argue that the law violates their basic rights.

"It's a violation of personal liberty," said John Smith, an addict who has been living on the streets for several years. "I don't want to be forced to do anything against my will."

But Davis said that the bill is necessary to help addicts who are unable to get help on their own.

"We need to protect the public from the dangers of addiction," he said.

The bill has been endorsed by the Ohio Association of Addiction Counselors, which supports mandatory treatment for addicts.

But the bill has also been criticized by the Ohio Medical Association, which argues that it is a violation of the right to medical treatment.

"We are concerned that the bill could be used to deny addicts access to necessary medical care," said Dr. John Johnson, president of the association.

The bill is expected to be debated in the Ohio House of Representatives in the coming weeks.

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ADDICTS

FROM B1

Law raises questions of ethics and fairness

Ohio's law requires family members to sign an upfront agreement that they will pay the total bill for treatment and give the court a deposit for the amount.

Addicts said the court has gotten many inquiries, but that the conversation often ends once the costs, often thousands of dollars, are explained.

In the Cuyahoga County case, the woman's family had to deposit $5,000 with the court and agreed to pay the total cost of treatment, which could be double that or more.

Bill Derihan, chief executive officer of Cuyahoga County's Board of Alcohol, Drug Addiction and Mental Health Services, said that while the board supports helping those in need, blocking the option to families with means to troublesome.

"While we have problems with this, we don't change the intent to try and help someone who needs help," Derihan said. "But this is for those that have money. The question we have is what about those who don't have money? How is this fair and equitable?"

Wethington said that the Kentucky law places the responsibility for setting up and covering the costs of drug and alcohol assessments and treatment on the person asking the court to intervene.

But the bill is not obligated to pay for treatment and can use insurance or find a free treatment program.

Another debate centers on giving the court the authority to force people to get treatment they may not want, which could be challenged as a civil rights violation.

Historically, laws have existed to involuntarily commit to hospitals people with mental illness who are seen as a danger to themselves or others.

Courts and professionals must determine that the danger is pressing.

Laws on detainment found to vary widely

Up to 58 states have some type of law that allows an addict to be temporarially detained, according to a study presented in 2011 to the American Psychiatric Association.

But the laws and what they allow vary tremendously, according to published interviews with the study's author, Dr. Debra Fain, an associate professor of psychiatry at the University of Massachusetts Medical School.

In some states, police can pick up an addict for a short period of time; others allow for a few days of involuntary hospitalization.

In some instances, states like Ohio, allow for longer periods - sometimes months - of involuntary commitment to treatment.

State laws also contain a host of standards for an addict to be committed, including danger to oneself, grave disability and failure to manage personal affairs.

In Ohio, a judge or magistrate may decide to commit whether a person is a danger, along with the opinion of a doctor or treatment professional, when possible.

But the Ohio Association of County Behavioral Health Authorities chose not to support the law because of concerns about how those decisions would be made and whether they impinged on civil liberties.

Derihan, whose agency is required to provide the Cuyahoga Probate Court with a list of local treatment facilities that can be used, said the law is not so much a cure as a tool to help people make decisions about their treatment.

"If you're considering what treatment is best for you, it's being done in a more systematic way," he said.

"It's not a cure, but it's a step towards treatment," he said.

What if your child had cancer? Mother asks

In 2011, 106 people died in Cuyahoga County of unintentional drug overdoses, a number that has steadily risen since 2005.

Addiction, Wethington said, is a disease like others, except for the fact that the response to it is partially shaped by the actions and decisions of the addicted themselves.

"Would you tell someone to stop? Would you encourage them to keep going? What do you want to do?" she asked.

"The goal is to save people's lives," she said. "This is the goal with any disease. We have to have the tools available to them to recover."

Some argue that a person's judgment and decision-making ability can be so clouded by addiction that forcing them to at least temporarily may help them make a decision to get help.

Jeanne Berg, a Case Western Reserve University law and bioethics professor, said addiction can cause great damage to families and to finances.

But she is curious about how "danger" will be interpreted and whether addicts will have the right to argue against the claims of their family members that they are unable to make their own decisions.

A great many addicts function for years or decades with their diseases, she said.

The law gives the person who is family members are trying to force into treatment the right to argue against the claim that they are unable to make their own decisions.

Dr. Stuart Youngner, chairman of the department of bioethics at CWRU, said that because of a dystopian health care system and the unwillingness of society to have a larger discussion about drug use, these types of decisions are being foisted on a court system.

Traditionally, he said, involuntary commitments are reserved for very serious situations and are given narrow time frames because society places values on people's freedom to make decisions - and to be held accountable for them, like when they commit crimes.

"It's stepping down a slippery slope," he said.

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