

CHAPTER 207

MENTALLY RETARDED PERSONS

S. F. 444

AN ACT to revise and recodify the statutes providing for the treatment, training, instruction, care, habilitation, and support of mentally retarded persons in this state.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Chapter two hundred twenty-two (222), Code 1962,
2 and chapter two hundred twenty-three (223), Code 1962, as amended
3 by section two (2) of chapter one hundred forty-five (145), Acts of the
4 Sixtieth General Assembly, are hereby repealed.

1 SEC. 2. The Glenwood state hospital-school and the Woodward
2 state hospital-school shall be maintained for the purpose of providing
3 treatment, training, instruction, care, habilitation, and support of
4 mentally retarded persons in this state.

1 SEC. 3. When used in this Act, unless the context otherwise re-
2 quires:

3 1. "Hospital-schools" means the Glenwood state hospital-school and
4 the Woodward state hospital-school.

5 2. "Board" means the board of control of state institutions.

6 3. "Director" means the director of mental health.

7 4. "Superintendents" means the superintendents of the state hos-
8 pital-schools.

9 5. "Mental retardation" or "mentally retarded" means a term or
10 terms to describe children and adults who as a result of inadequately
11 developed intelligence are significantly impaired in ability to learn or
12 to adapt to the demands of society.

1 SEC. 4. The board or the director with the approval of the board
2 shall appoint a qualified superintendent for each of the hospital-schools
3 who shall receive such salary as the board shall determine.

1 SEC. 5. The superintendent shall:

2 1. Perform all duties required by law and by the board and the
3 director as approved by the board not inconsistent with law.

4 2. Oversee and insure individual treatment and professional care of
5 each patient in the hospital-schools.

6 3. Maintain a full and complete record of the condition of each pati-
7 ent in the hospital-schools.

8 4. Have custody, control, and management of all patients in such
9 manner as deemed best subject to the regulations of the board or the
10 director with approval of the board.

1 SEC. 6. No person shall be eligible for admission to a hospital-
2 school until a preadmission diagnostic evaluation has been made by a
3 hospital-school which confirms or establishes the need for admission.

1 SEC. 7. The board or the director with the approval of the board
2 shall divide the state into two (2) districts in such manner that one
3 (1) of the hospital-schools shall be located within each of the dis-
4 tricts. Such districts may from time to time be changed. After such
5 districts have been established, the director shall notify all boards of

6 supervisors, county auditors, and clerks of the district courts of the
7 action. Thereafter, unless the board or director with approval of the
8 board otherwise orders, all admissions or commitments of mentally
9 retarded persons from a district shall be to the hospital-school located
10 within such district.

1 SEC. 8. The board or the director with the approval of the board
2 may transfer patients from one (1) state hospital-school to the other
3 and may at any time transfer any patient from the hospital-schools to
4 the hospitals for the mentally ill, or from the latter to the former, or
5 make such transfers as are permitted in section two hundred eighteen
6 point ninety-two (218.92) of the Code.

1 SEC. 9. Persons admitted to the hospital-schools shall have all rea-
2 sonable opportunity and facility for communication with their friends.
3 Such persons shall be permitted to write and send letters, provided the
4 letters contain nothing of an offensive character. Letters written by
5 any patient to any member of the board or to any state or county
6 official shall be forwarded unopened.

1 SEC. 10. If any mentally retarded person shall depart without
2 proper authorization from a hospital-school, it shall be the duty of the
3 superintendent and his assistants and all peace officers of any county
4 in which such patient may be found, to take and detain the patient
5 without a warrant or order and to immediately report such detention
6 to the superintendent who shall immediately provide for the return of
7 such patient to the hospital-school.

1 SEC. 11. When any mentally retarded person departs without
2 proper authority from an institution in another state and is found in
3 this state, any peace officer in any county in which such patient is
4 found may take and detain the patient without warrant or order and
5 shall report such detention to the board. The board shall provide for
6 the return of the patient to the authorities in the state from which the
7 unauthorized departure was made. Pending return, such patient may
8 be detained temporarily at one (1) of the institutions of this state
9 governed by the board. The provisions of this section relating to the
10 board shall also apply to the return of other nonresident mentally
11 retarded persons having legal settlement outside the state of Iowa.

1 SEC. 12. All actual and necessary expenses incurred in the taking
2 into protective custody, restraint, and transportation of such patients
3 to the hospital-schools shall be paid on itemized vouchers, sworn to by
4 the claimants, and approved by the superintendent and the board from
5 any money in the state treasury not otherwise appropriated.

1 SEC. 13. In the event of a sudden or mysterious death of a patient
2 of a hospital-school or any private institution for the mentally re-
3 tardated, an investigation shall be held by the county medical examiner.
4 The superintendent of a hospital-school or chief administrative officer
5 of any private institution may request an investigation of the death of
6 any patient by the county medical examiner. Notice of the death of
7 the patient, and the cause thereof, shall be sent to the county board
8 of supervisors and to the judge of the court having had jurisdiction
9 over a committed patient. The fact of death with the time, place, and

10 alleged cause shall be entered upon the docket of the court. The parent,
11 guardian, or other person responsible for the admission of a patient to
12 such institutions may request an investigation by the county medical
13 examiner in the event of the death of the patient. The person or per-
14 sons making the request shall be liable for the expense of such inves-
15 tigation and payment therefor may be required in advance. The
16 expense of a county medical examiner's investigation when requested
17 by the superintendent of a state hospital-school shall be paid from
18 support funds of that hospital-school.

1 SEC. 14. The parent, guardian, or other person responsible for any
2 person believed to be mentally retarded within the meaning of this Act
3 may on behalf of such person request the county board of supervisors
4 or their designated agent to apply to the superintendent of any state
5 hospital-school for the voluntary admission of such person either as
6 an inpatient or an outpatient of the hospital-school. After determining
7 the legal settlement of such person as provided by this Act, the board
8 of supervisors shall, on forms prescribed by the board, apply to the
9 superintendent of the hospital-school in the district for the admission
10 of such person to the hospital-school. The superintendent shall accept
11 the application providing a preadmission diagnostic evaluation con-
12 firms or establishes the need for admission, except that no application
13 may be accepted if the hospital-school does not have adequate facilities
14 available or if the acceptance will result in an overcrowded condition.

1 SEC. 15. If the hospital-school is unable to receive a patient, the
2 superintendent shall notify the county board of supervisors of the
3 county from which the application in behalf of the prospective patient
4 was made of the time when such person may be received. Until such
5 time as the patient is able to be received by the hospital-school, the
6 care of said person shall be provided as arranged by the county board
7 of supervisors.

1 SEC. 16. The parent, guardian, or any other person responsible for
2 the voluntary admission of any person to a hospital-school may, upon
3 ten (10) days notice, obtain the discharge of such person by giving to
4 the superintendent of the hospital-school and the county board of
5 supervisors of the county from which such person was admitted writ-
6 ten notice of the desire for such discharge.

1 SEC. 17. A petition for the adjudication of the mental retardation
2 of a person within the meaning of this Act may, with the permission
3 of the court be filed without fee against such person with the clerk of
4 the district, superior, or municipal court of the county or city in which
5 such alleged mentally retarded person resides or is found. The petition
6 may be filed by any relative of such person, by a guardian, or by any
7 reputable citizen of the county of such residence or of such place of
8 finding.

1 SEC. 18. The petition shall be verified by affidavit, may be filed on
2 information or belief, and shall:

- 3 1. Allege that such person is mentally retarded within the meaning
4 of this Act.
- 5 2. Allege that the filing of the petition is conducive to the welfare of
6 such person and of the community.

7 3. List the name and residence of all known persons supervising,
8 caring for, or supporting such person, or assuming, or under obligation
9 to do so.

10 4. List the name and residence, if known, of the parents of such
11 person and of all other persons legally chargeable with the supervision,
12 care, or support of such person.

13 5. List the names of all obtainable witnesses known to the petitioner
14 by which the allegations of the petition may be established.

15 6. State whether such person has been examined by a qualified
16 physician with a view of determining his mental condition.

1 SEC. 19. The county attorney shall, if requested, appear on behalf
2 of any petitioner for the appointment of a guardian or commitment of
3 a person alleged to be mentally retarded under this Act, and on behalf
4 of all public officials and superintendents in all matters pertaining to
5 the duties imposed upon them by this Act.

1 SEC. 20. The following persons, in addition to the person alleged
2 to be mentally retarded, shall be made party respondents if the persons
3 reside in this state and their names and residences are known:

4 1. The parent or parents of said principal person.

5 2. The person with whom said principal person is living.

6 3. The person or persons assuming to give the principal respondent
7 care and attention.

8 4. The guardian, if there be such, of the person or property of the
9 principal respondent.

1 SEC. 21. Notice of the pendency of said petition and of the time
2 and place of hearing thereon shall be served upon all respondents who
3 are residents of the county in which the petition is filed, in the manner
4 in which original notices are served. The court shall by written order
5 direct the manner and time of service on all other parties. No notice
6 need be served on those who are personally before the court.

1 SEC. 22. If the person alleged to be mentally retarded is not before
2 the court, the court may issue an order requiring the person, who has
3 the care, custody, and control of the alleged mentally retarded person
4 to bring said alleged mentally retarded person into court at the time
5 and place stated in said order.

1 SEC. 23. The time of appearance shall not be less than five (5)
2 days after completed service unless the court orders otherwise. Ap-
3 pearance on behalf of such alleged mentally retarded person may be
4 made by any citizen of the county or by any relative. The district court
5 shall assign counsel for the alleged mentally retarded person. Counsel
6 shall prior to proceedings personally consult with such person unless
7 the judge appointing such counsel certifies that in his opinion, such
8 consultation shall serve no useful purpose. Such certification shall be
9 made a part of the record. An attorney so assigned shall receive such
10 compensation as the district court shall fix to be paid in the first in-
11 stance by the county.

1 SEC. 24. At any hearing for commitment under this Act, the person
2 whose commitment is sought, his appointed counsel, his own attorney,
3 if any, and any physician or psychologist whose testimony is to be

4 made a part of the record shall be present unless the presiding judge
5 shall determine that the presence will not be in the best interest of the
6 person whose commitment is sought. Such determination shall be
7 made a part of the record.

1 SEC. 25. The hearing may be heard in term time or in vacation.
2 The petition shall be taken as confessed by all respondents, except the
3 principal person, who are duly served and who do not appear at the
4 time required by the notice.

1 SEC. 26. Pending final hearing, the court may at any time after
2 the filing of the petition and on satisfactory showing that it is in the
3 best interest of the alleged mentally retarded person and of the com-
4 munity that such person be at once taken into custody, or that service
5 of notice will be ineffectual if the person is not taken into custody,
6 issue an order for the immediate production of such person before the
7 court. In such case, the court may make any proper order for the
8 custody or confinement of such person as will protect the person and
9 the community and insure the presence of such person at the hearing.
10 Such person shall not be confined with those accused or convicted of
11 crime.

1 SEC. 27. The hearing on the allegations of the petition shall be as
2 in equity proceedings. Answers to allegations shall not be required but
3 may be filed. The court may require the petitioner to answer under
4 oath such interrogatories as may be propounded by said court.

1 SEC. 28. Hearings shall be public, unless otherwise requested by
2 the parent, guardian, or other person having the custody of the men-
3 tally retarded person, or if the judge considers a closed hearing in the
4 best interests of the mentally retarded person.

1 SEC. 29. The court may, at or prior to the final hearing, appoint a
2 commission of one (1) qualified physician and one (1) qualified psy-
3 chologist who shall make a personal examination of the person alleged
4 to be mentally retarded for the purpose of determining the mental
5 condition of the person.

1 SEC. 30. Said commission shall report in writing to the court the
2 facts attending the mental condition of said person, its conclusion
3 based thereon, and its recommendations concerning such person. The
4 commission shall also report to the court sworn answers to such ques-
5 tions as may be required by the court. Such reports shall be filed with
6 the clerk of the court.

1 SEC. 31. No objections or exceptions need be made to said report.
2 The court may set the report aside, and may order a new examination
3 by the same or by a new commission, or may make such findings of
4 fact in lieu of said report as may be justified by the evidence before the
5 court.

1 SEC. 32. If in the opinion of the court, or of a commission as au-
2 thorized in section twenty-nine (29) of this Act, the person is mentally
3 retarded within the meaning of this Act and the court determines that
4 it will be conducive to the welfare of such person and of the community
5 to place the person under guardianship, or to commit the person to

6 some proper institution for treatment, training, instruction, care,
7 habilitation, and support, the court shall by proper order :

8 1. Appoint a guardian of the person of such person, provided no
9 such guardian has already been appointed.

10 2. Commit the person to a private institution of this state, duly
11 incorporated for the care of such persons, and approved by the board.
12 If the person has not been examined by a commission as appointed in
13 section twenty-nine (29) of this Act, the court shall, prior to issuing
14 an order of commitment, appoint such a commission to examine the
15 person for the purpose of determining the mental condition of the per-
16 son. No order of commitment shall be issued unless the commission
17 shall recommend that such order be issued and the private institution
18 to which the person is to be committed shall advise the court that it is
19 willing to receive the person.

20 3. Commit the person to the state hospital-school designated by the
21 director to serve the county in which the hearing is being held. The
22 court shall prior to issuing an order of commitment request that a
23 diagnostic evaluation of the person be made by the superintendent or
24 his qualified designee. The evaluation shall be conducted at the hos-
25 pital-school or at such other place as the superintendent may direct.
26 The cost of the evaluation shall be defrayed by the county of legal
27 settlement from its state institution fund unless otherwise ordered by
28 the court. Such cost may be equal to but shall not exceed the actual
29 cost of the evaluation. Persons referred by a court to a hospital-school
30 for diagnostic evaluation shall be considered as outpatients of the
31 hospital-school. No order of commitment shall be issued unless the
32 superintendent of the hospital-school shall recommend that such order
33 be issued, and shall advise the court that adequate facilities for the
34 care of such person are available.

1 SEC. 33. Any person committed to any private institution shall
2 remain under the jurisdiction of the court and the order of commit-
3 ment may at any time be set aside or modified by changing the place
4 of commitment or terminating the commitment and appointing a
5 guardian in lieu thereof.

1 SEC. 34. A guardian appointed under this Act shall have the same
2 power over the person as possessed by a parent over a minor child.
3 The guardian shall be subordinate to any duly appointed guardian of
4 the property of such person.

1 SEC. 35. Guardianship proceedings shall remain under the juris-
2 diction of the court. The court may at any time on application of any
3 reputable person terminate such guardianship, remove the guardian
4 and appoint a new guardian, or order that such mentally retarded
5 person be removed from the custody of the guardian and committed to
6 an institution or hospital-school as permitted in section thirty-two
7 (32) of this Act.

1 SEC. 36. No order shall be made discharging or varying a prior
2 order placing the mentally retarded person under guardianship with-
3 out giving one (1) or more of the relatives or a friend of the mentally
4 retarded person, his guardian, or the board notice and an opportunity
5 to be heard.

1 SEC. 37. If a hospital-school is unable to immediately receive a
 2 person committed under subsection three (3) of section thirty-two
 3 (32) of this Act, the superintendent shall notify the court of the time
 4 when such person may be received. In the meantime, said person shall
 5 be cared for under such order as the court may enter.

1 SEC. 38. Upon the entry of an order of commitment, the clerk shall
 2 deliver to a suitable person designated by the court, an order of com-
 3 mitment and a duplicate thereof commanding such person to immedi-
 4 ately deliver the committed person to the institution or hospital-school
 5 designated by the court.

1 SEC. 39. The court may for the purpose of committing said person
 2 direct the clerk to authorize the employment of one (1) or more as-
 3 sistants. No mentally retarded female shall be taken to an institution
 4 or hospital-school by any male person not her husband, father, brother,
 5 or son without the attendance of a woman of good character and
 6 mature age.

1 SEC. 40. The superintendent of the institution or hospital-school
 2 on the order of commitment shall acknowledge receipt for said person.
 3 The duplicate order shall be left with the superintendent and shall be
 4 sufficient authority to restrain and care for said committed person.

1 SEC. 41. The person executing said order shall make due return
 2 thereon of his doings and forthwith file the same with the clerk.

1 SEC. 42. No person committed under this Act shall be discharged
 2 from the institution or hospital-school except as provided in this Act.
 3 Nothing in this Act shall abridge the right of petition for a writ of
 4 habeas corpus.

1 SEC. 43. A petition for the discharge of a person who has been
 2 committed to an institution or hospital-school under this Act or to
 3 vary such order of commitment may at anytime after six (6) months
 4 from the date of such commitment be filed by the person committed or
 5 by any reputable person. If the commitment be to a private institution,
 6 the petition shall be filed with the court ordering such commitment.
 7 If the commitment be to a hospital-school, the petition shall be filed in
 8 the proper court of the county where the institution is situated.

1 SEC. 44. Discharges and modifications of orders may be made on
 2 any of the following grounds:

3 1. That the person adjudged to be mentally retarded is not mentally
 4 retarded.

5 2. That the person adjudged to be mentally retarded has improved
 6 as to be capable of caring for himself.

7 3. That the relatives or friends of the mentally retarded person are
 8 able and willing to support and care for him and request his discharge,
 9 and in the judgment of the superintendent of the institution or hos-
 10 pital-school having charge of the person, no harmful consequences are
 11 likely to follow such discharge.

12 4. That, for any other cause, said discharge should be made or such
 13 modification should be entered.

1 SEC. 45. Notice of the hearing for discharge or modification of
2 orders shall be served on the superintendent of the institution or hos-
3 pital-school and on such parties as the court may find from the record
4 are interested.

1 SEC. 46. On the hearing, the court may discharge the mentally
2 retarded person from all supervision, control, and care, or may place
3 him under guardianship, or may transfer him from a public institution
4 to a private institution, or vice versa, as the court deems appropriate
5 under all the circumstances.

1 SEC. 47. The denial of one (1) petition for discharge or modifica-
2 tion shall be no bar to another on the same or different grounds within
3 a reasonable time thereafter, such reasonable time to be determined
4 by the court.

1 SEC. 48. Any person who shall maliciously seek to have any person
2 adjudged mentally retarded, knowing that such person is not mentally
3 retarded, shall be fined not exceeding one thousand (1,000) dollars or
4 imprisoned not exceeding one (1) year in the county jail.

1 SEC. 49. The fees for attendance of witnesses and execution of
2 legal process shall be the same as are allowed by law for similar service
3 in other cases. For service as commissioner, a reasonable sum as deter-
4 mined by the court and the actual and necessary traveling expenses
5 shall be allowed.

1 SEC. 50. The costs of proceedings shall be defrayed from the coun-
2 ty treasury unless otherwise ordered by the court. When the person
3 alleged to be mentally retarded is found not to be mentally retarded,
4 the court shall render judgment for such costs against the person filing
5 the petition except when the petition is filed by order of court.

1 SEC. 51. When the proceedings are instituted in a county in which
2 the alleged mentally retarded person was found but which is not the
3 county of legal settlement of the person, and the costs are not taxed to
4 the petitioner, the county which is the legal settlement of such person
5 shall, on presentation of a properly itemized bill for such costs, repay
6 the same to the former county. When the person's legal settlement is
7 outside the state or is unknown, the costs shall be paid out of money in
8 the state treasury not otherwise appropriated, itemized on vouchers
9 executed by the auditor of the county which paid the costs, and ap-
10 proved by the board or the director of mental health.

1 SEC. 52. Costs incident to guardianship and to the hearings and
2 commitment of a mentally retarded person to an institution or hos-
3 pital-school may be collected from such mentally retarded person and
4 from all persons legally chargeable with the support of such mentally
5 retarded person.

1 SEC. 53. When in proceedings against an alleged delinquent or
2 dependent child, the court is satisfied from any evidence that such child
3 is mentally retarded, the court may order a continuance of such pro-
4 ceeding, and may direct an officer of the court or some other proper
5 person to file a petition against such child permitted under the provi-

6 sions of this Act. Pending hearing of the petition the court may by
7 order provide proper custody for the child.

1 SEC. 54. If on the conviction in the district, superior, or municipal
2 court of any person for any crime or for any violation of any municip-
3 al ordinance, or if on the determination in said courts that a child is
4 dependent, neglected, or delinquent and it appears from any evidence
5 presented to the court before sentence, that such person is mentally
6 retarded within the meaning of this Act, the court may suspend sen-
7 tence or order, and may order any officer of the court or some other
8 proper person to file a petition permitted under the provisions of this
9 Act against said person. Pending hearing of the petition, the court
10 shall provide for the custody of said person as directed in section fifty-
11 three (53) of this Act.

1 SEC. 55. Should it be found under sections fifty-three (53) and
2 fifty-four (54) of this Act that said person is not mentally retarded,
3 the court shall proceed with the original proceedings as though no
4 petition had been filed.

1 SEC. 56. If it appears at any time that a person has under the pro-
2 visions of this Act been placed under guardianship or committed to a
3 private institution and should be committed to a hospital for the men-
4 tally ill, the person may be proceeded against under the chapters re-
5 lating to the mentally ill.

1 SEC. 57. When the mental condition of a person in a private insti-
2 tution for the mentally ill is found to be such that such patient should
3 be transferred to an institution for the mentally retarded or placed
4 under guardianship, such person may be proceeded against under this
5 Act.

1 SEC. 58. Each court having jurisdiction under this Act shall keep
2 a separate docket of proceedings in which shall be made such entries
3 as shall, together with the papers filed, preserve a complete and perfect
4 record of each case. The original petitions, writs, and returns made
5 thereto and the reports of commissions shall be filed with the clerk
6 of the court.

1 SEC. 59. The board shall keep a record of all persons adjudged to
2 be mentally retarded and of the orders respecting such persons by the
3 courts throughout the state. Copies of such orders shall be furnished
4 by the clerk of the court without the board's application therefor.

1 SEC. 60. The superintendent of any hospital-school may at any
2 time return a patient to the parent, guardian, or other responsible per-
3 son or community agency, even though such patient was committed by
4 a court, upon recommendation of the professional staff of the hospital-
5 school that such patient has received maximum hospital-school benefit.
6 Such action shall be reported to the board or the director, who may
7 modify, alter, or rescind the action if deemed necessary. The action
8 shall be further reported to the board of supervisors of the patient's
9 county of legal settlement. When a patient committed by a court is to
10 be returned to a county, either by release from the hospital-school or
11 for the purpose of convalescent leave, notice shall be sent to the clerk

12 of the court which committed the patient, and to the board of super-
13 visors of both the patient's county of legal settlement and the county
14 to which the patient is to be released, thirty (30) days prior to the
15 time the patient leaves the hospital-school. Patients released from a
16 hospital-school may be placed in family care by direction of the super-
17 intendent under the supervision of the hospital-school.

1 SEC. 61. All necessary and legal expenses for the cost of admission
2 or commitment or for the treatment, training, instruction, care, habili-
3 tation, support and transportation of patients in a state hospital-school
4 for the mentally retarded shall be paid by either:

- 5 1. The county in which such person has legal settlement as defined
6 in section two hundred fifty-two point sixteen (252.16) of the Code.
- 7 2. The state when such person has no legal settlement or when such
8 settlement is unknown.

1 SEC. 62. When the board of supervisors of any county receives an
2 application on behalf of any person for admission to any hospital-
3 school or when any court issues an order committing any person to a
4 hospital-school, the board of supervisors or the court shall determine
5 and enter as a matter of record whether the legal settlement of the
6 person is:

- 7 1. In the county in which the board of supervisors or court is lo-
8 cated.
- 9 2. In some other county of the state.
- 10 3. In another state or in a foreign country.
- 11 4. Unknown.

1 SEC. 63. Whenever the board of supervisors or the court deter-
2 mines that the legal settlement of the person is other than in the county
3 in which the board or court is located, the board or court shall, as soon
4 as determination is made, certify such finding to the superintendent of
5 the hospital-school of which the person is a patient. The superintend-
6 ent shall charge the expenses already incurred and unadjusted, and all
7 future expenses of the patient, to the county so certified until said legal
8 settlement shall be otherwise determined as provided by this Act.

1 SEC. 64. Said finding of legal settlement shall also be certified by
2 the board of supervisors or the court to the county auditor of the
3 county of legal settlement. Such auditor shall lay such notification
4 before the board of supervisors of his county whereupon it shall be
5 conclusively presumed that the patient has a legal settlement in said
6 county unless the county shall, within six (6) months, in writing filed
7 with the board of supervisors or the court giving such notice, dispute
8 said legal settlement.

1 SEC. 65. If the legal settlement of the person is found by the board
2 of supervisors or the court to be in a foreign state or country or is
3 found to be unknown, the board of supervisors or the court shall im-
4 mediately notify the board of control of such finding and shall furnish
5 the board of control with a copy of the evidence taken on the question
6 of legal settlement. The care of said person shall be as arranged by the
7 board of supervisors or by such order as the court may enter. Appli-
8 cation for admission or order of commitment may be made pending
9 investigation by the board of control.

1 SEC. 66. The board of control shall immediately investigate the
2 legal settlement of the person and proceed as follows:

3 1. If the board finds that the decision of the board of supervisors or
4 the court as to legal settlement of the person is correct, the board of
5 control shall cause the person either to be transferred to a hospital-
6 school and there maintained at the expense of the state or to be trans-
7 ferred to the place of foreign settlement.

8 2. If the board finds that the decision of the board of supervisors or
9 the court is not correct, the board of control shall order the person
10 transferred to a state hospital-school and there maintained at the ex-
11 pense of the county of legal settlement in this state.

1 SEC. 67. The transfer to a hospital-school or to the place of legal
2 settlement of a mentally retarded person who has no legal settlement
3 in this state or whose legal settlement is unknown, shall be made in
4 accordance with such directions as shall be prescribed by the board of
5 control and when practicable by employees of the state hospital-school.
6 The actual and necessary expenses of such transfers shall be paid on
7 itemized vouchers sworn to by the claimants and approved by the
8 board of control from any funds in the state treasury not otherwise
9 appropriated.

1 SEC. 68. Where a person has been received into a hospital-school
2 as a patient whose legal settlement is supposedly outside the state or is
3 unknown and the board finds that the legal settlement of the patient
4 was at the time of admission or commitment in a county of this state,
5 the board shall charge all legal costs and expenses pertaining to the
6 admission or commitment and support of the patient to the county of
7 such legal settlement. The costs and expenses shall be collected as
8 provided by law in other cases.

1 SEC. 69. All necessary and legal expenses for the cost of admission
2 or commitment of a person to a hospital-school when the person's legal
3 settlement is found to be in another county of this state shall in the
4 first instance be paid by the county from which the person was ad-
5 mitted or committed. The county of legal settlement shall reimburse
6 the county so paying for all such expenses. Where any county fails to
7 make such reimbursement within sixty (60) days following submis-
8 sion of a properly itemized bill to the county of legal settlement, a
9 penalty of not greater than one (1) percent per month on and after
10 sixty (60) days from submission of the bill may be added to the
11 amount due.

1 SEC. 70. All necessary and legal expenses for the cost of admission
2 or commitment of a person to a hospital-school when the person's legal
3 settlement is outside this state or is unknown shall be paid out of any
4 money in the state treasury not otherwise appropriated. Such pay-
5 ments shall be made on itemized vouchers executed by the auditor of
6 the county from which the expenses have been paid and approved by
7 the board or the director.

1 SEC. 71. When a dispute arises between counties or between the
2 board and a county as to the legal settlement of a person committed to
3 a hospital-school, the attorney general at the request of the board shall

4 without advancement of fees cause an action to be brought in the dis-
5 trict court of any county where such dispute exists. The action shall
6 be brought to determine such legal settlement, except that such action
7 shall in no case be filed in a county in which the district court or a
8 judge thereof originally made the disputed finding. Said action may be
9 brought at any time when it appears that the dispute cannot be ami-
10 cably settled. All counties which may be the county of such legal settle-
11 ment, so far as known, shall be made defendants and the allegation of
12 settlement may be in the alternative. Said action shall be tried as in
13 equity.

1 SEC. 72. The court shall determine whether the legal settlement of
2 said mentally retarded person at the time of admission or commitment
3 was in one (1) of the defendant counties. If the court so finds, judg-
4 ment shall be entered against the county of such settlement in favor of
5 any other county for all necessary and legal expenses arising from said
6 admission or commitment and paid by said other county. If any such
7 costs have not been paid, judgment shall be rendered against the
8 county of settlement in favor of the parties, including the state, to
9 whom said costs or expenses may be due.

1 SEC. 73. If the court finds that the legal settlement of said men-
2 tally retarded person, at the time of admission or commitment was
3 outside the state or was unknown an order shall be entered that the
4 mentally retarded person shall be maintained in the hospital-school at
5 the expense of the state. In such case, the state shall refund to any
6 county all necessary and legal expenses for the cost of said admission
7 or commitment paid by a county. A decision by the court shall be final.

1 SEC. 74. Each superintendent of a state hospital-school shall cer-
2 tify to the state comptroller on a schedule approved by the comptroller
3 any amount not previously certified by him due the state for the ex-
4 penses of patients in the hospital-schools from the several counties
5 responsible under section sixty-one (61) of this Act. The comptroller
6 shall thereupon charge the amounts so certified to the proper counties.
7 The amount certified by the superintendent to the comptroller to be
8 charged against each county shall be the hospital-school's per-patient-
9 per-day cost multiplied by the number of days each patient for which
10 such county is liable to the state was carried on the rolls of the hos-
11 pital-school as an inpatient, plus the amount due for the treatment of
12 outpatients for which such county is liable to the state during the
13 period for which expenses are being certified. The per-patient-per-day
14 cost shall be determined by listing the number of days each inpatient
15 was actually in the hospital-school during the period for which ex-
16 penses are being certified and dividing the total of all such days into
17 the portion of the hospital-school's appropriation expended during
18 such period. The amount charged for the treatment of outpatients
19 shall be at a rate to be established by the board on the basis of the
20 actual cost of such treatment.

1 SEC. 75. When certifying to the comptroller amounts to be charged
2 against each county as provided in section seventy-four (74) of this
3 Act, the superintendent shall send to the county auditor of each county
4 against which he has so certified any amount, a duplicate of such cer-

5 tificate. The county auditor upon receipt of the duplicate certificate
6 shall enter the same to the credit of the state in his ledger of state
7 accounts, and shall immediately issue a notice to the county treasurer
8 authorizing the treasurer to transfer the amount from the state insti-
9 tution fund to the general state revenue. The treasurer shall file such
10 notice as his authority for making such transfer and shall include the
11 amount so transferred in his next remittance of state taxes to the
12 treasurer of state, designating the fund to which the amount belongs.

1 SEC. 76. Should any county fail to pay the bills within sixty (60)
2 days from the date of certificate from the superintendent, the state
3 comptroller may charge the delinquent county a penalty of not greater
4 than one (1) percent per month on and after sixty (60) days from
5 date of certificate until paid.

1 SEC. 77. All expenses required to be paid by counties under section
2 sixty-one (61) of this Act shall be paid from the state institution fund
3 of the county. The cost of care of patients discharged or removed from
4 the hospital-schools for placement within a county may be paid from
5 the state institution fund or the county fund for mental health of the
6 county of legal settlement.

1 SEC. 78. The cost of support of patients placed on convalescent
2 leave or removed as a habilitation measure from a hospital-school,
3 except when living in the home of a person legally bound for the sup-
4 port of such patient, shall be paid from the state institution fund or
5 the county mental health fund of the county of legal settlement. If
6 the patient has no county of legal settlement, the cost shall be paid
7 from the hospital-school support fund and charged on abstract in the
8 same manner as other state inpatients until such time as the patient
9 becomes self-supporting or qualifies for support under other existing
10 statutes.

1 SEC. 79. The father and mother of any person admitted or com-
2 mitted to a hospital-school as either an inpatient or an outpatient, and
3 any person, firm, or corporation bound by contract hereafter made for
4 support of such person shall be and remain liable for the support of
5 such person. Such person and those legally bound for the support of
6 the person shall be liable to the county for all sums advanced by the
7 county to the state under the provisions of sections sixty-one (61) and
8 seventy-eight (78) of this Act. The liability of any person, other than
9 the patient, who is legally bound for the support of any patient under
10 twenty-one (21) years of age in a hospital-school shall in no instance
11 exceed the average minimum cost of the care of a normally intelligent,
12 nonhandicapped minor of the same age and sex as such minor patient.
13 The board shall establish the scale for this purpose but the scale shall
14 not exceed the standards for personal allowances established by the
15 state department of social welfare under the aid to dependent children
16 program. Provided further that the father or mother of such person
17 shall not be liable for the support of such person after such person
18 attains the age of twenty-one (21) years and that the father or mother
19 shall incur liability only during any period when the father or mother
20 either individually or jointly receive a net income from whatever
21 source, commensurate with that upon which they would be liable to

22 make an income tax payment to this state. Nothing in this section
23 shall be construed to prevent a relative or other person from voluntar-
24 ily paying the full actual cost as established by the board for caring for
25 such mentally retarded person.

1 SEC. 80. In actions to enforce the liability imposed by section
2 seventy-nine (79) of this Act, the certificate from the superintendent
3 to the county auditor stating the sums charged in such cases shall be
4 presumptively correct.

1 SEC. 81. Any person admitted or committed to a county institution
2 or home or admitted or committed at county expense to any private
3 hospital, sanatorium, or other facility for treatment, training, instruc-
4 tion, care, habilitation, and support as a mentally retarded patient
5 thereof shall be liable to the county for the reasonable cost of such
6 support as provided in section seventy-nine (79) of this Act.

1 SEC. 82. The total amount of liability provided in section seventy-
2 nine (79) of this Act shall be allowed as a claim of the sixth (6th)
3 class against the estate of the person or against the estate of the father
4 or mother of such person.

1 SEC. 83. The board of supervisors of each county may direct the
2 county attorney to proceed with the collection of said claims as a part
3 of the duties of his office when the board of supervisors deems such
4 action advisable. The board of supervisors may and is hereby em-
5 powered to compromise any and all liabilities to the county arising
6 under this Act when such compromise is deemed to be in the best
7 interests of the county. Any collections and liens shall be limited in
8 conformance to section six hundred fourteen point one (614.1) sub-
9 section five (5) of the Code.

1 SEC. 84. The estates of all nonresident patients who are provided
2 treatment, training, instruction, care, habilitation, and support in or
3 by any hospital-school and all persons legally bound for the support of
4 such persons, shall be liable to the state for the reasonable value of
5 such services in the hospital-schools. The certificate of the superin-
6 tendent of the hospital-school in which any nonresident is or has been
7 a patient, showing the amounts drawn from the state treasury or due
8 therefrom as provided by law on account of such nonresident patient
9 shall be presumptive evidence of the reasonable value of such services
10 furnished such patient by the hospital-school.

1 SEC. 85. There is hereby established at each hospital-school a fund
2 which shall be known as the patients' personal deposit fund.

1 SEC. 86. Any funds coming into the possession of the superintend-
2 ent or any employee of a hospital-school belonging to any patient in
3 that hospital-school shall be deposited in the name of the patient in the
4 patients' personal deposit fund, except that if a guardian of the prop-
5 erty has been appointed for the person, the guardian shall have the
6 right to demand and receive such funds. Funds belonging to a patient
7 deposited in the patients' personal deposit fund may be used for the
8 purchase of personal incidentals, desires, and comforts for the patient.

1 SEC. 87. Whenever the amount in the account of any patient in the
2 patients' personal deposit fund exceeds the sum of two hundred (200)
3 dollars, the business manager of the hospital-school may apply any
4 amount of the excess to reimburse the county of legal settlement for
5 liability incurred by such county for the payment of care, support, and
6 maintenance of the patient when billed therefor by the county of legal
7 settlement. Money earned by a patient for work performed in or for a
8 hospital-school shall not be subject to this section or to attachment.

1 SEC. 88. The business manager shall deposit the patients' personal
2 deposit fund in a commercial account of a bank of reputable standing.
3 When deposits in the commercial account exceed average monthly
4 withdrawals, the business manager may deposit the excess at interest.
5 The savings account shall be in the name of the patients' personal
6 deposit fund and interest paid thereon may be used for recreational
7 purposes for the patients at the hospital-school.

1 SEC. 89. Section one hundred forty-five point one (145.1), Code
2 1962, is hereby amended as follows:

3 1. By striking subsection five (5) of such section and inserting in
4 lieu thereof the following: "Glenwood state hospital-school."

5 2. By striking subsection six (6) of such section and inserting in
6 lieu thereof the following: "Woodward state hospital-school."

1 SEC. 90. Section two hundred eighteen point one (218.1), Code
2 1962, as amended by chapter one hundred forty (140), Acts of the
3 Sixtieth General Assembly, is hereby amended as follows:

4 1. By striking subsection two (2) of such section and inserting in
5 lieu thereof the following: "Glenwood State-Hospital School."

6 2. By striking subsection three (3) of such section and inserting in
7 lieu thereof the following: "Woodward State-Hospital School."

1 SEC. 91. Section two hundred eighteen point nine (218.9), Code
2 1962, is hereby amended by striking from lines four (4) and five (5)
3 the words "Glenwood state school, the Woodward state hospital and
4 school" and inserting in lieu thereof the words "state hospital-schools
5 for the mentally retarded".

1 SEC. 92. Section two hundred eighteen point seventy-six (218.76),
2 Code 1962, as amended by section seven (7) of chapter one hundred
3 forty-three (143), Acts of the Sixtieth General Assembly, is hereby
4 amended by striking from lines six (6) and seven (7) of subsection
5 one (1) of such section the words "Glenwood state school, the Wood-
6 ward state hospital and school" and inserting in lieu thereof the words
7 "state hospital-schools for the mentally retarded".

1 SEC. 93. Section two hundred eighteen point ninety-two (218.92),
2 Code 1962, is hereby amended by striking from lines two (2) and three
3 (3) the words "Glenwood state school, Woodward state hospital and
4 school" and inserting in lieu thereof the words "any state hospital-
5 school for the mentally retarded".

1 SEC. 94. Chapter two hundred eighteen (218), Code 1962, is here-
2 by amended by adding the following section:

3 "The board of control shall direct the business manager of each

4 institution under its jurisdiction mentioned in section four hundred
 5 forty-four point twelve (444.12) of the Code, as amended by section
 6 two (2) of chapter one hundred fifty-two (152) and by chapter two
 7 hundred seventy-two (272), Acts of the Sixtieth General Assembly,
 8 to quarterly inform the auditor of the patient's or inmate's county of
 9 legal settlement of any patient or inmate who has an amount in excess
 10 of two hundred (200) dollars to his account in the patients' personal
 11 deposit fund and the amount thereof. The board shall direct the busi-
 12 ness manager to further notify the auditor of such county at least
 13 fifteen (15) days before the release of such funds in excess of two
 14 hundred (200) dollars or upon the death of such patient or inmate.
 15 If any such patient or inmate shall have no county of legal settlement,
 16 notice as required by this section shall be made to the board of con-
 17 trol."

1 SEC. 95. Section two hundred thirty point fifteen (230.15), Code
 2 1962, is hereby amended as follows:

- 3 1. By striking from line five (5) the words "or mentally retarded".
- 4 2. By striking from lines seven (7) and eight (8) the words "or
 5 mentally retarded".

1 SEC. 96. Section two hundred thirty point eighteen (230.18), Code
 2 1962, is hereby amended by striking from lines one (1) and two (2)
 3 the words "or mentally retarded".

1 SEC. 97. Section two hundred thirty point twenty (230.20), Code
 2 1962, is amended by striking all of such section after the period in line
 3 twenty-one (21).

1 SEC. 98. This Act, being deemed of immediate importance shall be
 2 in full force and effect from and after its passage and publication as
 3 provided by law, in the Highland Park News, a newspaper published
 4 at Des Moines, Iowa, and in The Sac Sun, a newspaper published at
 5 Sac City, Iowa.

Approved June 3, 1965.

I hereby certify that the foregoing Act, Senate File 444, was published in the Highland
 Park News, Des Moines, Iowa, June 10, 1965, and in The Sac Sun, Sac City, Iowa, June
 16, 1965.

GARY L. CAMERON, *Secretary of State.*

CHAPTER 208

CARE OF INSTITUTIONAL PATIENTS

S. F. 476

AN ACT relating to voluntary payments for care of patients in state institutions and
 to provide for the use of social security benefits to pay for such care.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section two hundred twenty-three point sixteen
 2 (223.16) *, Code 1962, is hereby amended by inserting in line nineteen
 3 (19) after the word "institutions" the words ", but the parents or