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Approved April 21, 1980

I hereby certify that the foregoing Act, House File 2410, was published in the Anita Tribune, Anita, Iowa on May 1, 1980, and in the Pocahontas Record-Democrat, Pocahontas, Iowa on May 1, 1980.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1063

HOSPITALIZATION OF MENTALLY ILL PERSONS

S. F. 2102

AN ACT relating to the hospitalization of mentally ill persons.

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

Section 1. Section two hundred twenty-nine point one (229.1), subsection six (6), Code 1979, is amended to read as follows:

6. "Licensed physician" means an individual licensed under the provisions of chapter 148, one hundred fifty (150) or one hundred fifty A (150A) of the Code to practice medicine and surgery, osteopathy or osteopathic medicine and surgery.

Sec. 2. Section two hundred twenty-nine point two (229.2), subsection one (1), Code 1979, is amended to read as follows:

1. An application for admission to a public or private hospital for observation, diagnosis, care and treatment as a voluntary patient may be made by any person who is mentally ill or has symptoms of mental illness. In the case of a minor, the parent ~~or~~, guardian or custodian may make application for admission of the minor as a voluntary patient, ~~however-if.~~ Upon receipt of an application for voluntary admission of a minor, the chief medical officer shall provide separate prescreening interviews and consultations with the parent, guardian or custodian and the minor to assess the family environment and the appropriateness of the application for admission. If the chief medical officer of the hospital to which application is made determines that the admission is appropriate but the minor objects to the admission, the parent ~~or~~, guardian or custodian must petition the juvenile court for approval of the admission before the minor is actually admitted. The juvenile court shall determine whether the admission is in the best interest of the minor and is consistent with his or her rights.

Sec. 3. Section two hundred twenty-nine point four (229.4), subsections one (1) and two (2), Code 1979, are amended to read as follows:

1. If the patient was admitted on his or her own application and the request for release is made by some other person, release may be conditioned upon the agreement of the patient, ~~and.~~

2. If the patient is a minor who was admitted on the application of his or her parent ~~or~~, guardian or custodian pursuant to section 229.2, subsection 1, his or her release prior to becoming eighteen years of age may be conditioned upon the consent of the parent ~~or~~, guardian or custodian, or upon the approval of the juvenile court if the admission was approved by the juvenile court; and

Sec. 4. Section two hundred twenty-nine point ten (229.10), subsection one (1), unnumbered paragraph one (1), Code 1979, is amended to read as follows:

An examination of the respondent shall be conducted by one or more licensed physicians, as required by the court's order, within a reasonable time. If the respondent is ~~taken into custody under~~ detained pursuant to section 229.11, subsection two (2) of the Code, the examination shall be conducted within twenty-four hours. If the respondent is detained pursuant to section two hundred twenty-nine point eleven (229.11), subsection one (1) or three (3) of the Code, the examination shall be conducted within forty-eight hours. If the respondent so desires, he or she shall be entitled to a separate examination by a licensed physician of his or her own choice. The reasonable cost of such separate examination shall, if the respondent lacks sufficient funds to pay the cost, be paid from county funds upon order of the court.

Sec. 5. Section two hundred twenty-nine point ten (229.10), subsection two (2), unnumbered paragraph one (1), Code 1979, is amended to read as follows:

A written report of the examination by the court-designated physician or physicians shall be filed with the clerk prior to the time set for hearing date. A written report of any examination by a physician chosen by the respondent may be similarly filed. The clerk shall immediately:

Sec. 6. Section two hundred twenty-nine point thirteen (229.13), Code 1979, is amended to read as follows:

229.13 HOSPITALIZATION FOR EVALUATION. If upon completion of the hearing the court finds that the contention that the respondent is seriously mentally impaired has been sustained by clear and convincing evidence, it shall order the respondent placed in a hospital or other suitable facility as expeditiously as possible for a complete psychiatric evaluation and appropriate treatment. The court shall furnish to the hospital or facility at the time the respondent arrives there a written finding of fact setting forth the evidence on which the finding is based. The chief medical officer of the hospital or facility shall report to the court no more than fifteen days after the individual is admitted to the hospital or facility, making a recommendation for disposition of the matter. An extension of time may be granted for not to exceed seven days upon a showing of cause. A copy of the report shall be sent to the respondent's attorney, who may contest the need for an extension of time if one is requested. Extension of time shall be granted upon request unless the request is contested, in which case the court shall make such inquiry as it deems appropriate and may either order the respondent's release from the hospital or facility or grant extension of time for psychiatric evaluation.

Sec. 7. Section two hundred twenty-nine point nineteen (229.19), Code 1979, is amended to read as follows:

229.19 ADVOCATE APPOINTED. The district court in each county shall appoint an individual who has demonstrated by prior activities an informed concern for the welfare and rehabilitation of the mentally ill, and who is not an officer or employee of the department of social services nor of any agency or facility providing care or treatment to the mentally ill, to act as advocate representing the interests of all patients involuntarily hospitalized by that court, in any matter relating to the patients' hospitalization or treatment under sections 229.14 or 229.15. The advocate's responsibility with respect to any patient shall begin at whatever time the attorney employed or appointed to represent that patient as respondent in hospitalization proceedings, conducted under sections 229.6 to 229.13, reports to the court that his or her services are no longer required and requests the court's approval to withdraw as counsel for that patient. However, if the patient is found to be seriously mentally impaired at the hospitalization hearing, the attorney representing the patient shall automatically be relieved of his or her responsibility in the case and an advocate shall be appointed at the conclusion of the hearing unless the attorney indicates an intent to continue his or her services and the court so directs. If the court directs the attorney to remain on the case he or she shall assume all the duties of an advocate. The clerk shall furnish the advocate with a copy of the court's order approving the withdrawal and shall inform the patient of the name of the patient's advocate. The With regard to each patient whose interests the advocate is required to represent pursuant to this section, the advocate's duties shall include ~~reviewing--each--report submitted-pursuant-to-sections-229.14-and-229.15-concerning-any-patient-whose interests,--as--a--patient,--the-advocate-is-required-to-represent-under-this section,-and-if-the-advocate-is-not-an-attorney,-advising-the--court--at--any time--it--appears--that--the-services-of-an-attorney-are-required-to-properly safeguard-the-patient's-interests-~~ all of the following:

1. To review each report submitted pursuant to sections two hundred twenty-nine point fourteen (229.14) and two hundred twenty-nine point fifteen (229.15) of the Code.

2. If the advocate is not an attorney, to advise the court at any time it appears that the services of an attorney are required to properly safeguard the patient's interests.

3. To make himself or herself readily accessible to communications from the patient and to originate communications with the patient within five days of the patient's commitment.

4. To visit the patient within fifteen days of the patient's commitment and periodically thereafter.

5. To communicate with medical personnel treating the patient and to review the patient's medical records pursuant to section two hundred twenty-nine point twenty-five (229.25) of the Code.

6. To file with the court quarterly reports, and additional reports as the advocate feels necessary or as required by the court, in a form prescribed by the court. The reports shall state what actions the advocate has taken with respect to each patient and the amount of time spent.

The hospital or facility to which a patient is committed shall grant all reasonable requests of the advocate to visit the patient, to communicate with medical personnel treating the patient and to review the patient's medical records pursuant to section two hundred twenty-nine point twenty-five (229.25) of the Code. An advocate shall not disseminate information from a patient's medical records to any other person unless done for official purposes in connection with the advocate's duties pursuant to this chapter or when required by law.

PARAGRAPH DIVIDED. The court shall from time to time prescribe reasonable compensation for the services of the advocate. Such compensation shall be based upon the reports filed by the advocate ~~at such times and in such forms as with~~ the court ~~shall prescribe. The report shall briefly state what the advocate has done with respect to each patient and the amount of time spent.~~ The advocate's compensation shall be paid on order of the court from the county mental health and institutions fund of the county in which the court is located.

Sec. 8. Section two hundred twenty-nine point twenty (229.20), Code 1979, is amended to read as follows:

229.20 RESPONDENTS CHARGED WITH OR CONVICTED OF CRIME.

1. If the court orders a respondent placed in a hospital or other suitable facility for psychiatric evaluation and appropriate treatment at a time when the respondent has been convicted of a public offense, or when there is pending against the respondent an unresolved formal charge of a public offense, and the respondent's liberty has therefore been restricted in any manner, the finding of fact required by section 229.13 ~~of this Act~~ shall clearly so inform the chief medical officer of the hospital where the respondent is placed.

2. When a proceeding under section 229.6 and succeeding sections of this chapter arises under ~~sections 783.5 and 789.8~~ R.Cr.P. 22(3)(C), and the respondent through his or her attorney waives the hearing otherwise required by section 229.12, the court may immediately order the respondent placed in a hospital or other suitable facility for a complete psychiatric evaluation and appropriate treatment pursuant to section 229.13. In such cases, the court may in its discretion order or waive the physician's examination otherwise required under section 229.10.

Sec. 9. Section two hundred twenty-nine point twenty-one (229.21), subsection one (1), Code 1979, as amended by section thirty (30) of House File 687, Sixty-eighth General Assembly, 1980 Session, is amended to read as follows:

1. ~~As soon as practicable after the adoption of this Act the~~ The judges in each judicial district shall meet and shall determine, individually for each county in the district, whether it appears that one or more district judges will be sufficiently accessible in that county to make it feasible for them to perform at all times the duties prescribed by sections 229.7 to 229.20 and by ~~section 125.19, subsections 1, 2, 5 and 9 (1977)~~ sections two hundred twenty-nine point fifty-one (229.51) to two hundred twenty-nine point fifty-three (229.53) of the Code. If the judges find that accessibility of district court judges in any county is not sufficient for this purpose, the

chief judge of the district shall appoint in that county a judicial hospitalization referee. The judges in any district may at any time review their determination, previously made under this subsection with respect to any county in the district, and pursuant to that review may authorize appointment of a judicial hospitalization referee, or abolish the office, in that county.

Sec. 10. Section two hundred twenty-nine point twenty-five (229.25), Code 1979, is amended to read as follows:

229.25 MEDICAL RECORDS TO BE CONFIDENTIAL--EXCEPTIONS. The records maintained by a hospital or other facility relating to the examination, custody, care and treatment of any person in that hospital or facility pursuant to this chapter shall be confidential, except that the chief medical officer ~~may~~ shall release appropriate information when under any of the following circumstances:

1. The information is requested by a licensed physician ~~or~~, attorney or advocate who provides the chief medical officer with a written waiver signed by the person about whom the information is sought, ~~or~~.

2. The information is sought by a court order, ~~or~~.

~~3. The information is requested for the purpose of research into the causes, incidence, nature and treatment of mental illness, however information shall not be provided under this subsection in a way that discloses patients' names or which otherwise discloses any patient's identity, or~~

4 3. The person who is hospitalized or that person's guardian, if the person is a minor or is not legally competent to do so, signs an informed consent to release information. Each signed consent shall designate specifically the person or agency to whom the information is to be sent, and the information may be sent only to that person or agency.

Such records may be released by the chief medical officer when requested for the purpose of research into the causes, incidence, nature and treatment of mental illness, however information shall not be provided in a way that discloses patients' names or which otherwise discloses any patient's identity.

Sec. 11. This Act takes effect January first following its enactment.

Approved May 13, 1980