February 26, 1957.
Public Health, Pharmacy.

House File 401
By KOSEK and CARSON.

Passed House, Date..... Passed Senate, Date.....
Vote: Ayes..... Nays..... Vote: Ayes..... Nays.....
Approved.....

A BILL FOR

An Act relating to the hospitalization, treatment and discharge of the mentally ill requiring the establishment of county hospitalization commissions.

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

1 Section 1. As used in this Act, the following terms shall
2 have the following meanings:
3 1. "Mentally ill individual". An individual having a
4 psychiatric or other disease which substantially impairs his
5 mental health, including:
6 a. Acute or chronic brain disorders;
7 b. Mental deficiency;
8 c. Psychotic disorders;
9 d. Psychophysiologic, autonomic and visceral disorders;
10 e. Psychoneurotic disorders;
11 f. Personality disorders, including sexual psychopaths;
12 g. Transient situational personality disorders;
13 h. Any other disease, reaction, or condition affecting the
14 intellectual or emotional integration and adjustment, by
15 whatever terms or classification known.
16 2. "Patient". An individual under observation, care,
17 or treatment in a hospital pursuant to this Act.
18 3. "Licensed physician". An individual licensed under
19 the laws of this state to practice medicine, and a medical
20 officer of the federal government while in this state in

21 the performance of his official duties.

22 4. "Designated examiner". A licensed physician registered
23 by the department of mental health as specially qualified,
24 under standards established by the department, in the
25 diagnosis of mental or related illness.

26 5. "Hospital". A public or private hospital, sanitarium,
27 or institution, or part thereof, equipped to provide inpatient
28 care and treatment for the mentally ill.

29 6. "Head of hospital". The individual in charge of a
30 hospital, or his designee.

1 Sec. 2. The head of a private hospital and the head of
2 any hospital under the board of regents may, and the head of
3 a public hospital under the department of mental health
4 shall, admit for observation, diagnosis, care, and treatment,
5 any individual who is mentally ill or has symptoms of mental
6 illness and who, being sixteen (16) years of age or over,
7 applies for admittance and any individual under sixteen
8 (16) years of age who is mentally ill or has symptoms of
9 mental illness if his parent or legal guardian applies
10 therefor in his behalf.

1 Sec. 3. The head of the hospital shall discharge any
2 voluntary patient who has recovered or whose hospitalization
3 he determines to be no longer advisable. He may also
4 discharge any voluntary patient if to do so would, in the
5 judgment of the head of the hospital, contribute to the
6 most effective use of the hospital in the care and treatment
7 of the mentally ill.

1 Sec. 4. 1. A voluntary patient who requests his release
2 or whose release is requested, in writing, by his legal

3 guardian, spouse, parent or adult next of kin shall be
4 released forthwith except that:
5 a. If the patient was admitted on his own application and
6 the request for release is made by a person other than the
7 patient, release may be conditioned upon the agreement of
8 the patient thereto;
9 b. If the patient, by reason of his age, was admitted
10 on the application of another person, his release prior to
11 becoming sixteen (16) years of age may be conditioned upon
12 the consent of his parent or guardian;
13 c. If the head of the hospital, within forty-eight (48)
14 hours from the receipt of the request, files with the county
15 hospitalization commission appointed by the court or files
16 with the district court a certification that in his opinion
17 the release of the patient would be unsafe for the patient
18 or others, release may be postponed on application for as
19 long as the hospitalization commission or the district
20 court determines to be necessary for the commencement of
21 proceedings for judicial hospitalization, but in no event
22 for more than five (5) days.
23 2. Notwithstanding any other provision of this Act,
24 judicial proceedings for hospitalization shall not be
25 commenced with respect to a voluntary patient unless release
26 of the patient has been requested by himself, his guardian
27 or any relative mentioned in subsection one (1) of this
28 section.
1 Sec. 5. The head of a private hospital and the head
2 of any hospital under the board of regents may, and the head
3 of any public hospital under the department of mental

4 health, subject to the availability of suitable accommodations
5 except in case of medical emergency, shall, receive in said
6 hospitals for observation, diagnosis, care, and treatment
7 any individual whose admission is applied for under any of
8 the following procedures:
9 1. Hospitalization on medical certification by the
10 standard nonjudicial procedure set out in section six (6)
11 of this Act.
12 2. Hospitalization without endorsement or medical
13 certification by the emergency procedure set out in section
14 seven (7) of this Act.
15 3. Hospitalization for observation, diagnosis, and
16 screening by writ of involuntary hospitalization by the
17 screening procedure set out in section eight (8) of this Act.
18 4. Hospitalization on legal order by the judicial
19 procedure set out in section nine (9) of this Act.
1 Sec. 6. 1. Any individual may be admitted to a hospital
2 upon:
3 a. Written application to the hospital by a friend,
4 relative, spouse or guardian of the individual, a health or
5 public welfare officer, or the head of any institution in
6 which such individual may be, and
7 b. Certification by two (2) designated examiners that
8 they have examined the individual and that they are of the
9 opinion that:
10 (1) He is mentally ill, and
11 (2) Because of his illness he is likely to injure himself
12 or others if allowed to remain at liberty, or
13 (3) He is in need of care or treatment in a mental

14 hospital, and because of his illness lacks sufficient
15 insight or capacity to make responsible application therefor.
16 2. The certification by the designated examiners may be
17 made jointly or separately, and may be based on examination
18 conducted jointly or separately, as the regulations of the
19 department of mental health may prescribe. An individual with
20 respect to whom such certification has been issued may not
21 be admitted on the basis thereof at any time after the
22 expiration of fifteen (15) days after the date of examination,
23 exclusive of any period of temporary detention authorized
24 under section eleven (11) of this Act. The head of the
25 hospital admitting the individual shall forthwith make a
26 report thereof to the department of mental health.
27 3. Such a certificate, upon endorsement for such purpose
28 by the secretary of the county hospitalization commission
29 or a judge of any court of record of the county in which the
30 individual is present, shall authorize any health or peace
31 officer to take the individual into custody and transport
32 him to a hospital as designated in the application.
1 Sec. 7. 1. If any health or peace officer has reason to
2 believe that:
3 a. An individual is mentally ill and, because of his
4 illness, is likely to injure himself or others if allowed to
5 remain at liberty pending examination and certification by
6 a licensed physician, or
7 b. An individual who has been certified under section six
8 (6) of this Act as likely to injure himself or others and
9 who therefore cannot be allowed to remain at liberty pending
10 the endorsement of the certificate as provided in that section,

11 such officer may take the individual into custody, apply to
12 a hospital for his admission, and transport him thereto. The
13 application for admission shall state the circumstances under
14 which the individual was taken into custody and the reasons
15 for the officer's belief. The head of the hospital admitting
16 the individual shall forthwith make a report thereof to the
17 department of mental health.

1 Sec. 8 1. Proceedings for the involuntary hospitalization
2 of an individual may be commenced by the filing of a written
3 application for voluntary hospitalization of an individual
4 or by the filing of a written application for involuntary
5 hospitalization with the district court, or by filing either
6 application with the county hospitalization commission
7 appointed by the district court; the application may be made
8 by a friend, relative, spouse, or guardian of the individual,
9 or by the individual, a licensed physician, a health or
10 public welfare officer, or by the head of any public or
11 private institution in which such individual may be. Any
12 such application shall be accompanied by a certificate of a
13 licensed physician stating that he has examined the individual
14 and is of the opinion that the individual is mentally ill,
15 and should be hospitalized; or the application shall be
16 accompanied by a written statement of the applicant that the
17 individual has refused to submit to examination by a licensed
18 physician.

19 2. Upon receipt of an application the court or the county
20 hospitalization commission shall give notice thereof to the
21 proposed patient, and to his legal guardian, if any, or to his
22 spouse, parent, or nearest known other relative or friend.

23 If, however, the court has reason to believe that notice
24 would be likely to be injurious to the proposed patient,
25 notice to him may be omitted.
26 3. As soon as practicable, after notice of the commencement
27 of proceedings is given, the court or the county hospitalization
28 commission shall appoint two (2) designated examiners to
29 examine the proposed patient and report to the court or
30 county hospitalization commission their findings as to the
31 mental condition of the proposed patient and whether or not
32 he needs custody, care, or treatment in a mental hospital.
33 One of the designated examiners may be the physician on the
34 county hospitalization commission.
35 4. The examination shall be held at a hospital or other
36 medical facility, at the home of the proposed patient, or
37 at any other suitable place not likely to have a harmful effect
38 on the patient's health. A proposed patient to whom notice of
39 the commencement of proceedings has been omitted shall not be
40 required to submit to an examination against his will; but
41 upon the report of the designated examiners of refusal by the
42 patient to submit to an examination, the court or the county
43 hospitalization commission shall give notice to the proposed
44 patient as provided under subsection two (2) of this section
45 and order him to submit to such examination.
46 5. If the report of the designated examiners is to the
47 effect that the proposed patient is not mentally ill, the court
48 or the county hospitalization commission may without taking
49 any further action terminate the proceedings and dismiss the
50 application; otherwise, it shall forthwith fix a date for a
51 hearing and give notice of such, the hearing to be held not

52 more than fifteen (15) days after receipt of the report.

53 6. The proposed patient, the applicant, or any other person

54 to whom notice is required to be given, shall be afforded an

55 opportunity to appear at the hearing, to testify, and to

56 present and cross-examine witnesses, and the court or county

57 hospitalization commission may in its discretion receive the

58 testimony of any other person. The proposed patient shall

59 not be required to be present, and all persons not necessary

60 for the conduct of the proceedings shall be excluded, except

61 that the court or county hospitalization commission may admit

62 persons having a legitimate interest in the proceedings. The

63 hearings shall be conducted in as informal a manner as may

64 be consistent with orderly procedure and in a setting not

65 likely to have a harmful effect on the mental health of the

66 proposed patient. The court or the county hospitalization

67 commission shall receive all relevant and material evidence

68 which may be offered and shall not be bound by the rules of

69 evidence. An opportunity to be represented by counsel shall

70 be afforded to every proposed patient, and if neither he nor

71 others provide counsel, the court shall appoint counsel.

72 7. If, after completion of the hearing and consideration

73 of the record, the court or the county hospitalization

74 commission finds that the proposed patient is mentally ill

75 and because of his illness is likely to injure himself or

76 others if allowed to remain at liberty; or if the finding

77 is that the patient is in need of custody, care or treatment

78 in a mental hospital and, because of his illness, lacks

79 sufficient insight or capacity to make responsible decisions

80 with respect to his hospitalization, then the court or

81 commission shall issue a writ for his hospitalization for a
82 temporary period not exceeding six (6) months, for observation,
83 diagnosis, treatment, and screening purposes.
84 8. The head of the hospital admitting a patient pursuant
85 to proceedings under this section shall forthwith make a
86 report of such admission to the department of mental health.
1 Sec. 9. 1. Whenever a patient has been involuntarily
2 admitted to a hospital for diagnosis, treatment, and screening,
3 under the provisions of section eight (8) of this Act, the
4 head of the hospital shall cause him to be examined, diagnosed,
5 appropriately treated, and evaluated or screened for future
6 disposition; and the head of the hospital shall report the
7 findings and recommendations as to future disposition of the
8 patient to the referring court, or to the county hospitalization
9 commission.
10 2. If the report from the hospital is to the effect that
11 the patient is no longer mentally ill to the extent that he
12 is likely to injure himself or others if allowed to remain at
13 liberty, and that he is not in need of custody, care, or
14 treatment in a mental hospital, then he shall be forwith
15 discharged; and the date of discharge shall be reported to
16 the referring court or county hospitalization commission.
17 3. If the report is to the effect that the head of the
18 hospital finds that the patient is mentally ill, and because
19 of his illness is likely to injure himself or others if allowed
20 to remain at liberty; or if the report is to the effect that
21 the patient is in need of custody, care or treatment in a mental
22 hospital and, because of his illness, lacks sufficient insight
23 or capacity to make responsible decisions with respect to his

24 hospitalization; then the court or the county hospitalization
25 commission shall order his hospitalization for an
26 indeterminate period, or for an additional temporary observational
27 period for further diagnosis, treatment and screening, such
28 temporary period not to exceed six (6) months; otherwise,
29 the court or commission shall dismiss the proceedings, in
30 which case the head of the hospital must be immediately
31 advised, and the patient must be discharged. If the order is
32 for a temporary period, the court or county hospitalization
33 commission at any time prior to the expiration of such period,
34 on the basis of the report by the head of the hospital or
35 after such further inquiry as it may deem appropriate, may
36 order indeterminate hospitalization of the patient or
37 dismissal of the proceedings.
38 4. The order of hospitalization shall state whether the
39 individual shall be detained for an indeterminate or for a
40 temporary period, and if for a temporary period, then for how
41 long. Unless otherwise directed by the court or county
42 hospitalization commission, it shall be the responsibility
43 for the head of the hospital to assure the carrying out of
44 the order within such period as the court or county
45 hospitalization commission shall specify.
46 5. The head of the hospital admitting a patient pursuant
47 to proceedings under this section shall forthwith make a
48 report of such admission to the department of mental health.
1 Sec. 10. 1. If an individual ordered to be hospitalized
2 pursuant to the previous section is eligible for hospital care
3 or treatment by an agency of the federal government, the court
4 or county hospitalization commission, upon receipt of a

5 certificate from such agency showing that facilities are
6 available and that the individual is eligible for care and
7 treatment therein, may order him to be placed in the custody
8 of such agency for hospitalization. When any such individual
9 is admitted pursuant to the order of such court or county
10 hospitalization commission to any hospital or institution
11 operated by any agency of the federal government within or
12 without the state, he shall be subject to the rules and
13 regulations of such agency. The chief officer of any
14 hospital or institution operated by such agency and in which
15 the individual is so hospitalized, shall with respect to such
16 individual be vested with the same powers as the heads of
17 hospitals or as the department of mental health within this
18 state with respect to detention, custody, transfer, conditional
19 release, or discharge of patients. Jurisdiction is retained
20 in the appropriate courts or county hospitalization
21 commissions of this state at any time to inquire into the
22 mental condition of an individual so hospitalized, and to
23 determine the necessity, if any, for continuance of his
24 hospitalization; and every order of hospitalization issued
25 pursuant to this section is so conditioned.
26 2. An order by a court of competent jurisdiction of
27 another state, or of the District of Columbia, authorizing
28 hospitalization of an individual by any agency of the federal
29 government shall have the same force and effect upon the
30 individual while in this state as it would have in the
31 jurisdiction in which the court entering the order is
32 situated; and the court of the state or District of Columbia
33 issuing the order shall be deemed to have retained

34 jurisdiction of the individual so hospitalized for the
35 purpose of inquiring into his mental condition and thereby
36 determining the necessity for continuance of his
37 hospitalization, as is provided in subsection one (1) of this
38 section with respect to individuals ordered hospitalized by
39 the courts or county hospitalization commissions of this
40 state. Consent is hereby given to the application of the
41 law of the state or District of Columbia in which the court
42 issuing the order for hospitalization is located, with
43 respect to the authority of the chief officer of any hospital
44 or institution operated in this state by an agency of the
45 federal government to retain custody, transfer, conditionally
46 release, or discharge the individual hospitalized.

1 Sec. 11. 1. Whenever an individual is about to be
2 hospitalized under the provisions of sections six (6), seven
3 (7), eight (8), or nine (9) of this Act, the court or
4 county hospitalization commission shall, upon the request of
5 a person having a proper interest in the individual's
6 hospitalization, arrange for the individual's transportation
7 to the hospital with suitable medical or nursing attendants
8 and by such means as may be suitable for his medical condition.
9 Whenever practicable, the individual to be hospitalized
10 shall be permitted to be accompanied by one (1) or more of
11 his friends or relatives.

12 2. Pending his removal to a hospital, a patient taken into
13 custody or ordered to be hospitalized pursuant to this Act may
14 be detained in his home, a licensed foster home, or any other
15 suitable facility, under such reasonable conditions as the court
16 or county hospitalization commission may fix; but he shall not,

17 except because of and during an extreme emergency, be detained
18 in a nonmedical facility used for the detention of individuals
19 charged with or convicted of penal offenses. The court or
20 county hospitalization commission shall take such reasonable
21 measures, including the providing of medical care, as may be
22 necessary to assure proper care of an individual temporarily
23 detained pursuant to this section.

1 Sec. 12. Whenever a patient has been admitted to a hospital
2 pursuant to section six (6) or seven (7) of this Act on the
3 application of any person other than the patient's legal
4 guardian, spouse, or next of kin, the head of the hospital
5 shall immediately notify the patient's legal guaradian, spouse,
6 or next of kin, if known.

1 Sec. 13. 1. Every patient admitted pursuant to the
2 provisions of section six (6), seven (7), eight (8), or
3 nine (9) of this Act shall be examined by the staff of the
4 hospital as soon as practicable after his admission.

5 2. The head of the hospital shall arrange for examination
6 by a designated examiner of every patient hospitalized
7 pursuant to the provisions of section seven (7) of this Act.
8 If such examination is not held within five (5) days after
9 the day of admission, or if a designated examiner after such
10 examination does not certify that in his opinion the patient
11 is mentally ill and is likely to injure himself or others if
12 allowed to remain at liberty, the patient shall be immediately
13 discharged.

1 Sec. 14. 1. The director of mental health may transfer
2 or authorize the transfer of an involuntary patient from one
3 hospital to another, if the director of mental health determines

4 that it would be consistent with the medical needs of the
5 patient to do so. Whenever a patient is transferred, written
6 notice thereof shall be given to his legal guardian, spouse
7 or parent, or if none be known, to his nearest known relative
8 or friend. In all such transfers, due consideration shall
9 be given to the relationship of the patient to his family,
10 legal guardian or to his friends, so as to maintain
11 relationships and encourage visits beneficial to the patient.
12 2. Upon receipt of a certificate from an agency of the
13 federal government that facilities are available for the care
14 or treatment of any individual, ordered hospitalized pursuant
15 to law, in any hospital for care or treatment of the mentally
16 ill, and that such individual is eligible for care or treatment
17 in a hospital or institution of such agency, the director of
18 mental health may cause his transfer to such agency of the
19 federal government for hospitalization. Upon effecting any
20 such transfer, notice shall be given to the court that ordered
21 hospitalization, and to the legal guardian, spouse, or parent;
22 or if none be known, his nearest known relative or friend shall
23 be notified thereof immediately by the director of mental
24 health. No person shall be transferred to an agency of the
25 federal government if he is confined pursuant to conviction
26 of any felony or misdemeanor, or if he has been acquitted
27 of the charge on the ground of mental illness, unless prior
28 to such transfer, the court which originally ordered confinement
29 of such person shall enter an order for such transfer after
30 appropriate motion and hearing. Any person transferred as
31 provided in this section to an agency of the federal
32 government shall be deemed to be hospitalized by such agency

33 pursuant to the original order of hospitalization.

1 Sec. 15. The head of a hospital shall as frequently as
2 practicable, but not less often than every six (6) months
3 examine or cause to be examined every patient; and whenever
4 he determines that the conditions justifying involuntary
5 hospitalization no longer exist, he shall discharge the patient
6 and immediately make a report thereof to the director of
7 mental health.

1 Sec. 16. 1. The head of a hospital may release an
2 improved patient on convalescent status when he believes
3 that such release is in the best interests of the patient.
4 Release on convalescent status shall include provisions for
5 continuing responsibility of the hospital, including a plan
6 of treatment on an outpatient basis. Prior to the end of
7 a year after release of a patient on convalescent status, and
8 not less frequently than annually thereafter, the head of the
9 hospital shall re-examine the facts relating to the
10 hospitalization of the patient on convalescent status, and
11 if he determines that in view of the condition of the
12 patient hospitalization is no longer necessary, he shall
13 discharge the patient and make a report thereof to the
14 director of mental health.

15 2. Prior to such discharge, the head of the hospital from
16 which the patient was given release on convalescent status may
17 at any time readmit the patient. If there is reason to believe
18 that it is to the best interests of the patient to be readmitted,
19 the director of mental health or the head of the hospital may
20 issue an order for immediate readmission of the patient. Such
21 an order, if not voluntarily complied with, shall, upon the

22 endorsement of a judge of a court of record or endorsement by
23 the secretary of the county hospitalization commission of the
24 county in which the patient is resident or present, authorize
25 any health or peace officer to take the patient into custody
26 and transport him to the hospital, or if the order is issued
27 by the director of mental health, to a hospital designated by
28 him.

1 Sec. 17. 1. Any patient hospitalized under the provisions
2 of section six (6) or seven (7) of this Act who requests to
3 be released or whose release is requested, in writing, by
4 his legal guardian, spouse, or adult next of kin, shall be
5 released within forty-eight (48) hours after receipt of
6 the request, except that upon application to the court,
7 which application shall be supported by a certification by
8 the head of the hospital that in his opinion such a release
9 would be unsafe for the patient or for others, release may
10 be postponed for such period, not to exceed five (5) days,
11 as the court may determine to be necessary for the commencement
12 of proceedings for a judicial determination pursuant to
13 section eight (8) of this Act.

14 2. The head of the hospital shall provide reasonable means
15 and arrangements for informing involuntary patients of their
16 right to release as provided in this section and for assisting
17 them in making and presenting requests for release.

1 Sec. 18. Any patient hospitalized pursuant to section
2 nine (9) of this Act shall be entitled to a re-examination of
3 the order for his hospitalization on his own petition or that
4 of his legal guardian, parent, spouse, relative, or friend
5 to the district court of the county in which he resides or is

6 detained. Upon receipt of the petition, the court shall
7 conduct or cause to be conducted the county hospitalization
8 commission proceedings in accordance with section nine (9)
9 of this Act, except that such proceedings shall not be
10 required to be conducted if the petition is filed sooner than
11 six (6) months after the issuance of the order of hospitalization,
12 or sooner than one (1) year after the filing of a previous
13 petition under this section.

1 Sec. 19. Every patient shall be entitled to humane care
2 and treatment and, to the extent that facilities, equipment,
3 and personnel are available, he shall be entitled to medical
4 care and treatment in accordance with the highest standards
5 accepted in medical practice.

1 Sec. 20. Mechanical restraints shall not be applied to a
2 patient unless it is determined by the head of the hospital
3 to be required by the medical needs of the patient. Every
4 use of a mechanical restraint, and the reasons therefor, shall
5 be made a part of the clinical record of the patient under
6 the signature of the head of the hospital.

1 Sec. 21. 1. Subject to the general rules and regulations
2 of the hospital, and the subject to the extent that the head of
3 the hospital determines that it is necessary for the medical
4 welfare of the patient to impose restrictions, every patient
5 shall be entitled:

6 a. To communicate by sealed mail or otherwise with persons,
7 including official agencies, inside or outside the hospital;

8 b. To receive visitors;

9 c. To exercise all civil rights, including the right to
10 dispose of property, execute instruments, make purchases,

11 enter contractual relationships, and vote, unless he has been
12 adjudicated incompetent and has not been restored to legal
13 capacity.
14 2. Notwithstanding any limitations authorized under this
15 section to the right of communication, every patient shall be
16 entitled to communicate by sealed mail with the director of
17 mental health and with the court or commission which ordered
18 his hospitalization.
19 3. Any limitations imposed by the head of the hospital on
20 the exercise by the patient of the privileges set forth in
21 subsection one (1) of this section, and the reasons for such
22 limitations, shall be made a part of the clinical record
23 of the patient.
1 Sec. 22. Any individual detained pursuant to this Act
2 shall be entitled to the writ of habeas corpus upon proper
3 petition by himself or a friend to any court generally
4 empowered to issue the writ of habeas corpus in the county
5 in which he is detained.
1 Sec. 23. 1. All certificates, applications, records,
2 and reports made for the purpose of this Act and which
3 directly or indirectly identify a patient, former patient or
4 an individual whose hospitalization has been sought under
5 this Act, shall be kept confidential and shall not be disclosed
6 by any person except in any one of the following instances:
7 a. When it is necessary to clear title to property, or
8 to transfer title to property, or to transact business in
9 which information about the patient's status is necessary for
10 the transaction;
11 b. When the individual or his legal guardian, and if he

12 is a minor, when his parent or legal guardian shall consent;

13 *c. When disclosure may be necessary to carry out any of*

14 the provisions of this Act;

15 d. When a court may direct upon its determination that

16 disclosure is necessary for the conduct of proceedings before

17 it, and that failure to make such disclosure would be contrary

18 to the public interest.

19 2. Nothing in this section shall preclude disclosure,

20 upon proper inquiry, of information as to a patient's current

21 medical condition, to any member of his family or to his

22 relatives or friends; or to hospital employees, trainees,

23 students, or interns who have a proper interest in his case,

24 in so much as such information is necessary to teach and train

25 them to care properly for said patient or similar patients.

26 3. Any person violating any provision of this section shall

27 be guilty of a misdemeanor and shall be subject to a fine of

28 not more than five hundred (500) dollars or to imprisonment

29 for not more than one (1) year, or to both fine and imprisonment.

1 Sec. 24. In addition to the specific authority granted by

2 other provisions of this Act, the director of mental health

3 shall have authority to prescribe the form of applications,

4 records, reports, and medical certificates provided for under

5 this Act and the information required to be contained in each;

6 to require reports from the head of any hospital relating to

7 the admission, examination, diagnosis, release, or discharge

8 of any patient; to visit each hospital regularly to review

9 the commitment procedures of all new patients admitted between

10 visits; to investigate complaints made by any patient or by

11 any person on behalf of a patient; and to adopt such rules

12 and regulations, not inconsistent with the provisions of this
13 Act, as he may find to be reasonably necessary for the proper
14 and efficient hospitalization of the mentally ill.

1 Sec. 25. Any person who wilfully causes, or conspires to
2 cause, the unwarranted hospitalization of any individual under
3 the provisions of this Act, or who causes or conspires to cause
4 the denial to any individual of any of the rights accorded
5 to him under the provisions of this Act, shall be punished
6 by a fine not exceeding five thousand dollars ($5,000.00) or
7 by imprisonment not exceeding five (5) years, or by both fine
8 and imprisonment.

1 Sec. 26. 1. In each county there shall be a hospitalization
2 commission which shall be composed of three (3) members. In
3 counties having two (2) places where district court is held
4 there shall be one (1) such commission at each place.

5 2. Each commission shall consist of the clerk of the
6 district court, one reputable physician in actual practice,
7 who shall be a qualified psychiatrist if one is available,
8 and one reputable attorney in actual practice. In the
9 absence or inability of the clerk to act in any case, his
10 deputy may act.

11 3. Said commission shall be appointed by the district
12 court. The appointment shall be by written order, signed
13 by the judge and recorded by the clerk. Appointments shall
14 be for two (2) years and be so arranged that the term of
15 one (1) member shall expire each year. The appointment of
16 successors may be made at any time within three (3) months
17 prior to the expiration of the term of the incumbent.

18 4. The members shall organize by choosing one (1) of their

19 number as chairman. The clerk of the district court or his
20 deputy shall be clerk of the commission. The commission shall
21 hold its meetings at the place best suited to the welfare of
22 the patient being brought before it, but ordinarily at a
23 hospital or the patient's home. It shall meet on notice of
24 the clerk or his deputy.
25 5. In the temporary absence or inability of two (2) members
26 to act, the member present may call to his aid, temporarily,
27 a person possessed of the qualifications required for a member,
28 which person may act in the same capacity as the member he
29 replaces. If one (1) of the absent members is the clerk, his
30 deputy shall act. The record in such cases must show the
31 facts of a member's absence and by whom he is replaced.
32 6. The clerk of said commission shall:
33 a. Issue all processes required to be given by the commission,
34 and affix thereto his seal as clerk of court.
35 b. File and preserve in his office all papers and records
36 connected with any inquest by the commission.
37 c. Keep separate books of the proceedings of the commission
38 with entries sufficient to show, with the papers filed, a
39 complete record of the commission's findings, writs, orders,
40 and proceedings.
41 7. The notices, reports, and communications required to be
42 given or made by said commission may be sent by mail, unless
43 otherwise expressed, and the facts and date of such sending
44 and their reception must be noted on the proper record.
45 8. The commission of hospitalization is an arm of the
46 court and, subject to the rules of the court, may represent
47 it in all civil proceedings pertaining to the protective

48 custody and the hospitalization of the mentally ill.

49 9. Compensation and expenses shall be allowed as follows:

50 a. To the member of the commission serving as physician,
51 twenty-five (25) dollars for each person brought before said
52 commission for a hearing.

53 b. To the member of the commission serving as attorney,
54 twenty-five (25) dollars for each person brought before said
55 commission for a hearing.

56 c. To the examining physician, when not a member of the
57 commission, twenty-five (25) dollars for each person examined
58 by him and, in addition, mileage of eight (8) cents a mile
59 to and from the examination and hearing.

60 d. To witnesses who volunteer information as friends or
61 members of the family, no fee shall be allowed. When witnesses
62 must be subpoenaed, the same fees as are paid witnesses in the
63 district court.

64 e. Fees on appeal shall be the same as in ordinary actions.

65 10. The compensation and expenses provided for in subsection
66 nine (9) of this section, and the fees of a peace officer, if
67 any, provided for in such cases, shall be allowed and paid out
68 of the county treasury in the usual manner.

69 11. When funds to pay the expenses of transporting a
70 patient to a hospital are needed in advance, the commission
71 shall estimate the probable expense, including the necessary
72 assistance, and not including the compensation allowed the
73 peace officer; and on such estimate, certified by the clerk,
74 the auditor of the county shall issue a county warrant for
75 the amount, as estimated, in favor of the peace officer or
76 other person executing such warrant, and who shall accompany

77 his return with a statement of the expenses incurred; and
78 the excess or deficiency may be deducted from or added to
79 his compensation, as the case may be. If funds are not so
80 advanced, such expenses shall be certified and paid in the
81 manner already prescribed in this subsection on the return
82 of warrant. When the commission orders the return of a
83 patient, compensation and expenses shall be in like manner
84 allowed.

1 Sec. 27. If any provision of this Act or the application
2 thereof to any person or circumstances is held invalid, the
3 invalidity shall not affect other provisions or applications
4 of the Act which can be given effect without the invalid
5 provisions or application, and to this end the provisions of
6 this Act are severable.

1 Sec. 28. The following chapters, Code 1954, are hereby
2 repealed: chapters two hundred twenty-two (222), two hundred
3 twenty-four (224), two hundred twenty-eight (228) and two
4 hundred twenty-nine (229).

1 Sec. 29. The following sections, Code 1954, are hereby
2 repealed:
3 Sections two hundred twenty-five point ten (225.10), two
4 hundred twenty-five point eleven (225.11), two hundred twenty-
5 five point twelve (225.12), two hundred twenty-five point
6 seventeen (225.17), two hundred twenty-five point twenty
7 (225.20), two hundred twenty-five point twenty-one (225.21),
8 two hundred twenty-five point thirty-six (225.36), two
9 hundred twenty-five point thirty-seven (225.37), two hundred
10 twenty-five point thirty-eight (225.38), two hundred twenty-
11 five point thirty-nine (225.39), two hundred twenty-five

12 point forty (225.40), two hundred twenty-five point forty-
13 one (225.41) and two hundred twenty-five point forty-two
14 (225.42); also sections two hundred twenty-six point eight
15 (226.8), two hundred twenty-six point nine (226.9), two
16 hundred twenty-six point thirteen (226.13), two hundred
17 twenty-six point fifteen (226.15), two hundred twenty-six
18 point nineteen (226.19), two hundred twenty-six point twenty
19 (226.20), two hundred twenty-six point twenty-one (226.21),
20 two hundred twenty-six point twenty-three (226.23), two
21 hundred twenty-six point twenty-four (226.24), two hundred
22 twenty-six point twenty-five (226.25), two hundred twenty-
23 six point thirty-three (226.33), two hundred twenty-six
24 point thirty-four (226.34), two hundred twenty-six point
25 thirty-five (226.35), two hundred twenty-six point thirty-
26 six (226.36), two hundred twenty-six point thirty-seven
27 (226.37), two hundred twenty-six point thirty-eight (226.38),
28 and two hundred twenty-six point thirty-nine (226.39).

EXPLANATION OF HOUSE FILE 401

This bill provides for improved procedures regarding the commitment and hospitalization of mentally ill persons.

HOUSE FILE 401

1 Amend House File 401 by striking all after the enacting
2 clause and inserting in lieu thereof the following:
3 Section 1. As used in this Act, the following terms
4 shall have the following meanings:
5 1. "Mentally ill individual". An individual having
6 a psychiatric or other disease or disorder which sub-
7 stantially impairs his mental health, including:
8 a. Acute or chronic brain disorders; including alco-
9 holism and drug addiction, and epilepsy;
10 b. Mental deficiency;
11 c. Psychotic disorders;
12 d. Psychophysiologic, autonomic and visceral disorders;
13 e. Psychoneurotic disorders;
14 f. Personality disorders, including sexual psychopaths;
15 g. Transient situational personality disorders;
16 h. Any other disease, reaction, or condition affect-
17 ing the intellectual or emotional integration and
18 adjustment, by whatever terms or classification known.
19 2. "Patient". An individual under observation, care,
20 or treatment in a hospital pursuant to this Act.
21 3. "Licensed physician". An individual licensed under
22 the laws of this state to practice medicine, and a
23 medical officer of the federal government while in this
24 state in the performance of his official duties.
25 4. "Hospital". The public hospitals, or institutions
26 or part thereof, equipped to provide inpatient care and
27 treatment for the mentally ill, under the board of control,
28 at Cherokee, Clarinda, Independence, Mt. Pleasant, Woodward and
29 Glenwood, and any which may be established in the future.
30 5. "Head of hospital". The physician administratively
31 in charge of the professional services of a hospital,
32 or his designee.
33 Sec. 2. The head of a public hospital under the
34 board of control may admit for observation, diagnosis,
35 care, and treatment, any individual who is mentally ill
36 or has symptoms of mental illness and who, being sixteen
37 (16) years of age or over, applies for admittance and
38 any individual under sixteen (16) years of age who is
39 mentally ill or has symptoms of mental illness if his
40 parent or legal guardian applies therefor in his behalf.
41 Sec. 3. The head of the hospital shall discharge any
42 voluntary patient who has recovered or whose hospitali-
43 zation he determines to be no longer advisable. He may
44 also discharge any voluntary patient if to do so would,
45 in the judgment of the head of the hospital, contribute
46 to the most effective use of the hospital in the care
47 and treatment of the mentally ill.
48 Sec. 4. A voluntary patient who requests his
49 release or whose release is requested, in writing, by
50 his legal guardian, spouse, parent or adult next of kin
51 shall be released forthwith except that:
52 a. If the patient was admitted on his own application
53 and the request for release is made by a person other
54 than the patient, release may be conditioned upon the
55 agreement of the patient thereto;
56 b. If the patient, by reason of his age, was admitted
57 on the application of another person, his release prior
58 to becoming sixteen (16) years of age may be conditioned
59 upon the consent of his parent or guardian.
60 c. If the head of the hospital, within five (5) days
61 from the receipt of the request, files with the county
62 hospitalization commission appointed by the court or
63 files with the district court a certification that in
64 his opinion the release of the patient would be unsafe
65 for the patient or others, release may be postponed
66 on application for as long as the hospitalization
67 commission or the district court determines to be
68 necessary for the commencement of proceedings for
69 judicial hospitalization, but in no event for more
70 than five (5) days.

71 2. Notwithstanding any other provision of this
72 Act, judicial proceedings for hospitalization shall
73 not be commenced with respect to a voluntary patient
74 unless release of the patient has been requested
75 by himself, his guardian or any relative mentioned in
76 subsection one (1) of this section
77 Sec. 5. The head of any public hospital under the
78 board of control, subject to the availability of suit-
79 able accommodations except in case of medical
80 emergency, shall, receive in said hospitals for observa-
81 tion, diagnosis, care, and treatment any individual
82 whose admission is applied for under any of the follow-
83 ing procedures.
84 1. Hospitalization on medical certification by the
85 standard nonjudicial procedure set out in section six
86 (6) of this Act
87 2. Hospitalization without endorsement or medical
88 certification by the emergency procedure set out in
89 section seven (7) of this Act.
90 3. Hospitalization for observation, diagnosis, treatment,
91 and screening on a writ for hospitalization by the
92 screening procedure set out in section eight (8) of
93 this Act
94 4. Hospitalization for treatment, care, and custody
95 on an order of hospitalization, the judicial
96 procedure set out in section nine (9) of this Act
97 Sec. 6. 1. Any individual may be admitted to a
98 hospital upon:
99 a. Written application to the hospital by a friend,
100 relative, spouse or guardian of the individual, a
101 health or public welfare officer, or the head of any
102 institution in which such individual may be, and
103 b. Certification by two (2) licensed physicians
104 that they have examined the individual and that they
105 are of the opinion that
106 (1) He is mentally ill, and
107 (2) Because of his illness he is likely to injure
108 himself or others if allowed to remain at liberty, or
109 (3) He is in need of care or treatment in a mental
110 hospital, and because of his illness lacks sufficient
111 insight or capacity to make responsible application
112 therefor.
113 2. The certification by the licensed physicians
114 may be made jointly or separately, and may be based
115 on examination conducted jointly or separately. An
116 individual with respect to whom such certification has
117 been issued may not be admitted on the basis thereof
118 at any time after the expiration of fifteen (15) days
119 after the date of examination, exclusive of any period
120 of temporary detention authorized under section eleven
121 (11) of this Act. The head of the hospital shall
122 admit the patient on receiving the signed application
123 and certificate (or certificates) signed by two
124 physicians upon the patient presenting himself or being
125 brought to the hospital and shall forthwith make a re-
126 port of such admission to the board of control.
127 3. Such a certificate, upon endorsement for such
128 purpose by the secretary of the county hospitalization
129 commission or a judge of any court of record of the
130 county in which the individual is present, shall
131 authorize any health or peace officer to take the
132 individual into custody and transport him to a hospital
133 as designated in the application. Any relative, friend, or
134 other person with proper interest in the patient's welfare
135 may transport the patient to the hospital with or without
136 the endorsement by the court or the county hospitalization
137 commission.
138 Sec. 7. If any health or peace officer or physician
139 has reason to believe an emergency exists, and that
140 a. An individual is mentally ill and, because of
141 his illness, is likely to injure himself or others
142 if allowed to remain at liberty pending examination
143 and certification by two licensed physicians, or

144 b. An individual who has been certified under
145 section six (6) of this Act as likely to injure him-
146 self or others and who therefore cannot be allowed
147 to remain at liberty pending the endorsement of the
148 certificate as provided in that section, such physician or
149 officer may take the individual into custody, apply
150 to a hospital for his admission, and transport him
151 thereto. The application for admission shall state
152 the circumstances under which the individual was
153 taken into custody and the reasons for the officer's
154 or physician's belief. The head of the hospital
155 admitting the individual shall forthwith make a
156 report thereof to the board of control.
157 Sec. 8. 1. Proceedings for the involuntary
158 hospitalization of an individual may be commenced
159 by the filing of a written application with the
160 district court, or with the county hospitalization
161 commission appointed by the district court; the
162 application may be made by a friend, relative, spouse,
163 or guardian of the individual, or by the individual,
164 a licensed physician, a health or public welfare
165 officer, or by the head of any public or private
166 institution in which such individual may be. Any
167 such application shall be accompanied by a certifi-
168 cate of a licensed physician stating that he has
169 examined the individual and is of the opinion that
170 the individual is mentally ill, and should be
171 hospitalized; or the application shall be accompanied
172 by a written statement of the applicant that the
173 individual has refused to submit to examination by a
174 licensed physician.
175 2. Upon receipt of an application the court or the
176 county hospitalization commission shall give notice
177 thereof to the proposed patient, and to his legal
178 guardian, if any, or to his spouse, parent, or nearest
179 known other relative or friend. If, however, the
180 court or county hospitalization commission has reason
181 to believe that notice would be likely to be injurious
182 to the proposed patient, notice to him may be omitted.
183 3. As soon as practicable, after notice of the
184 commencement of proceedings is given, the court or the
185 county hospitalization commission shall appoint a
186 licensed physician to examine the proposed patient and
187 report to the court or to the county hospitalization
188 commission his findings as to the mental condition of
189 the proposed patient and whether or not he needs
190 custody, care, or treatment in a mental hospital. The
191 licensed physician may be the physician on the county
192 hospitalization commission. If the patient is already
193 in a public hospital, having previously entered said
194 hospital under the provisions of either section two
195 (2), section six (6) or section seven (7) of this
196 chapter, and if the application for his admission
197 under the provisions of this section eight (8)
198 has been signed by the head of such public hospi-
199 tal, and if a physician on the staff of such public
200 hospital has signed a medical certificate, the court
201 or county hospitalization commission, may accept such
202 medical certificate without further medical evidence,
203 and may issue a writ for hospitalization
204 thereon as set forth hereafter in this section eight (8).
205 4. The examination shall be held at a hospital
206 or other medical facility, at the home of the pro-
207 posed patient, or at any other suitable place not
208 likely to have a harmful effect on the patient's
209 health. A proposed patient to whom notice of the
210 commencement of proceedings has been omitted shall
211 not be required to submit to an examination against
212 his will; but upon the report of the licensed physi-
213 cian of refusal by the patient to submit to an exami-
214 nation, the court or the county hospitalization
215 commission shall give notice to the proposed patient
216 as provided under subsection two (2) of this section
217 and order him to submit to such examination

218 5. If the report of the licensed physician is
219 to the effect that the proposed patient is not
220 mentally ill, the court or the county hospitalization
221 commission may without taking any further action
222 terminate the proceedings and dismiss the application;
223 otherwise, it shall forthwith fix a date for a hearing
224 and give notice of such, the hearing to be held not
225 more than fifteen (15) days after receipt of the report
226 6. The proposed patient, the applicant, or any
227 other person to whom notice is required to be given
228 shall be afforded an opportunity to appear at the
229 hearing, to testify, and to present and cross-examine
230 witnesses; and the court or county hospitalization
231 commission may in its discretion receive the testimony
232 of any other person. The proposed patient shall not
233 be required to be present, and all persons not neces-
234 sary for the conduct of the proceedings shall be
235 excluded, except that the court or county hospitali-
236 zation commission may admit persons having a legitimate
237 interest in the proceedings. The hearings shall be
238 conducted in as informal a manner as may be consistent
239 with orderly procedure and in a setting not likely
240 to have a harmful effect on the mental health of the
241 proposed patient. The court or the county hospitali-
242 zation commission shall receive all relevant and
243 material evidence which may be offered and shall not
244 be bound by the rules of evidence. An opportunity to
245 be represented by counsel shall be afforded to every
246 proposed patient, and if neither he nor others provide
247 counsel, the court or county hospitalization commission
248 shall appoint counsel.
249 7. If, after completion of the hearing and considera-
250 tion of the record, the court or the county hospitali-
251 zation commission finds that the proposed patient is
252 mentally ill and because of his illness is likely to
253 injure himself or others if allowed to remain at liberty;
254 or if the finding is that the patient is in need of
255 custody, care or treatment in a mental hospital and,
256 because of his illness, lacks sufficient insight or
257 capacity to make responsible decisions with respect to
258 his hospitalization, then the court or commission shall
259 issue a writ for his hospitalization for a temporary
260 period not exceeding six (6) months, for observation,
261 diagnosis, treatment, and screening purposes.
262 8. The head of the hospital admitting a patient
263 pursuant to proceedings under this section shall forth-
264 with make report of such admission to the board of control.
265 Sec. 9. 1. Whenever a patient has been involuntarily
266 admitted to a hospital for diagnosis, treatment, and
267 screening, under the provisions of section eight (8)
268 of this Act, the head of the hospital shall cause him
269 to be examined, diagnosed, appropriately treated, and
270 evaluated or screened for future disposition.
271 2. If it is found that the patient is no longer
272 mentally ill to the extent that he is likely to
273 injure himself or others if allowed to remain at
274 liberty, and that he is not in need of custody, care,
275 or treatment in a mental hospital, then he shall be
276 forthwith discharged; and the date of discharge shall
277 be reported to the referring court or county
278 hospitalization commission.
279 3. If it is found that the patient is mentally ill,
280 and because of his illness is likely to injure himself
281 or others if allowed to remain at liberty; or if it is
282 found that the patient is in need of custody, care or
283 treatment in a mental hospital and, because of his
284 illness, lacks sufficient insight or capacity to make
285 responsible decisions with respect to his hospitaliza-
286 tion, then a report shall be made to the court or the
287 county hospitalization commission whereupon an order
288 for his hospitalization for an indeterminate period
289 may be made, otherwise, the court or commission shall
290 dismiss the proceedings, in which case the head of the
291 hospital must be immediately advised, and the patient
292 must be discharged.

293 4. The head of the hospital admitting a patient
294 pursuant to proceedings under this section shall forth-
295 with make a report of such admission to the board of
296 control.
297 Sec. 10. 1. If an individual ordered to be hospital-
298 ized pursuant to the previous section is eligible for
299 hospital care or treatment by an agency of the federal
300 government, the court or county hospitalization com-
301 mission, upon receipt of a certificate from such
302 agency showing that facilities are available and that
303 the individual is eligible for care and treatment
304 therein, may order him to be placed in the
305 custody of such agency for hospitalization. When
306 any such individual is admitted pursuant to the
307 order of such court or county hospitalization
308 commission to any hospital or institution operated
309 by any agency of the federal government within or
310 without the state, he shall be subject to the rules
311 and regulations of such agency. The chief officer of
312 any hospital or institution operated by such agency
313 and in which the individual is so hospitalized, shall
314 with respect to such individual be vested with the same
315 powers as the heads of hospitals or as the board of
316 control within this state with respect to detention,
317 custody, transfer, conditional release, or discharge
318 of patients. Jurisdiction is retained by the appro-
319 priate courts or county hospitalization commissions
320 of this state at any time to inquire into the mental
321 condition of an individual so hospitalized, and to
322 determine the necessity, if any, for continuance of
323 his hospitalization; and every order of hospitaliza-
324 tion issued pursuant to this section is so conditioned.
325 2. An order by a court of competent jurisdiction
326 of another state, or of the District of Columbia,
327 authorizing hospitalization of an individual by any
328 agency of the federal government shall have the same
329 force and effect upon the individual while in this
330 state as it would have in the jurisdiction in which
331 the court entering the order is situated; and the
332 court of the state or District of Columbia issuing
333 the order shall be deemed to have retained juris-
334 diction of the individual so hospitalized for the
335 purpose of inquiring into his mental condition and
336 thereby determining the necessity for continuance
337 of his hospitalization, as is provided in subsection
338 one (1) of this section with respect to individuals
339 ordered hospitalized by the courts or county hospitali-
340 zation commissions of this state. Consent is hereby
341 given to the application of the law of the state or
342 District of Columbia in which the court issuing the
343 order for hospitalization is located, with respect to
344 the authority of the chief officer of any hospital
345 or institution operated in this state by an agency
346 of the federal government to retain custody, trans-
347 fer, conditionally release, or discharge the individual
348 hospitalized.
349 Sec. 11. 1. Whenever an individual is about to be
350 hospitalized under the provisions of section six (6),
351 seven (7), eight (8), or nine (9) of this Act, the
352 court or county hospitalization commission shall, upon
353 the request of a person having a proper interest in
354 the individual's hospitalization, arrange for the
355 individual's transportation to the hospital with
356 suitable medical or nursing attendants and by such
357 means as may be suitable for his medical condition.
358 If patient is a female one attendant shall be a woman,
359 unless an immediate male relative serves as an
360 attendant. Whenever practicable, the individual to be
361 hospitalized shall be permitted to be accompanied by
362 one (1) or more of his friends or relatives.

363 2. Pending his removal to a hospital, a patient
364 taken into custody or ordered to be hospitalized
365 pursuant to this Act may be detained in his home, a
366 licensed foster home, or any other suitable facility
367 under such reasonable conditions as the court or
368 county hospitalization commission may fix, but he
369 shall not, except because of and during an extreme
370 emergency, be detained in a nonmedical facility used
371 for the detention of individuals charged with or
372 convicted of penal offenses. The court or county
373 hospitalization commission shall take such reasonable
374 measures, including the providing of medical care, as
375 may be necessary to assure proper care of an individual
376 temporarily detained pursuant to this section.
377 Sec. 12. Whenever a patient has been admitted to
378 a hospital pursuant to section six (6) or seven (7)
379 of this Act on the application of any person other
380 than the patient's legal guardian, spouse or next of
381 kin, the head of the hospital shall immediately notify
382 the patient's legal guardian, spouse or next of kin,
383 if known.
384 Sec. 13. 1. Every patient admitted pursuant to
385 the provisions of section six (6), seven (7), eight
386 (8), or nine (9) of this Act shall be examined by the
387 staff of the hospital before or as soon as practicable
388 after his admission.
389 2. The head of the hospital shall arrange for exami-
390 nation by a physician of every patient hospitalized
391 pursuant to the provisions of section seven (7) of this
392 Act. If such examination is not held within five (5)
393 days after the day of admission, or if the physician
394 after such examination does not certify that in his
395 opinion the patient is mentally ill and is likely to
396 injure himself or others if allowed to remain at
397 liberty, the patient shall be immediately discharged.
398 Sec. 14. 1. The director of mental institutions
399 may transfer or authorize the transfer of an involun-
400 tary patient from one hospital to another, if the
401 director of mental institutions determines that it
402 would be consistent with the medical needs of the
403 patient to do so. Whenever a patient is trans-
404 ferred, written notice thereof shall be given to his
405 legal guardian, spouse or parent, or if none be known,
406 to his nearest known relative or friend. In all
407 such transfers, due consideration shall be given
408 to the relationship of the patient to his family,
409 legal guardian or to his friends, so as to maintain
410 relationships and encourage visits beneficial to the
411 patient.
412 2. Upon receipt of a certificate from an agency
413 of the federal government that facilities are available
414 for the care or treatment of any individual, ordered
415 hospitalized pursuant to law, in any hospital for care
416 or treatment of the mentally ill, and that such
417 individual is eligible for care or treatment in a
418 hospital or institution of such agency, the director
419 of mental institutions may cause his transfer to such
420 agency of the federal government for hospitalization.
421 Upon effecting any such transfer, notice shall be given
422 to the court that ordered hospitalization, and to the
423 legal guardian, spouse, or parent; or if none be known,
424 his nearest known relative or friend shall be notified
425 thereof immediately by the director of mental institu-
426 tions. No person shall be transferred to an agency
427 of the federal government if he is confined pursuant
428 to conviction of any felony or misdemeanor, or if he
429 has been acquitted of the charge on the grounds of
430 mental illness, unless prior to such transfer, the court
431 which originally ordered confinement of such person
432 shall enter an order for such transfer after appropriate
433 motion and hearing. Any person transferred as provided
434 in this section to an agency of the federal government
435 shall be deemed to be hospitalized by such agency
436 pursuant to the original order of hospitalization.

437 Sec. 15. The head of a hospital shall as frequently
438 practicable, but not less often than every six (6)
439 months, examine or cause to be examined every patient;
440 and whenever he determines that the conditions justi-
441 fying involuntary hospitalization no longer exist, he
442 shall discharge the patient and immediately make a report
443 thereof to the director of mental institutions
444 Sec. 16. 1. The head of a hospital may release an
445 improved patient on convalescent status when he believes
446 that such release is in the best interests of the patient.
447 Release on convalescent status shall include provisions
448 for continuing responsibility of the hospital, including
449 a plan of treatment on an outpatient basis. Prior to
450 the end of a year after release of a patient on convales-
451 cent status, and not less frequently than annually
452 thereafter, the head of the hospital shall re-examine
453 the facts relating to the hospitalization of the patient
454 on convalescent status, and if he determines that in
455 view of the condition of the patient hospitalization
456 is no longer necessary, he shall discharge the patient
457 and make a report thereof to the director of mental
458 institutions.
459 2. Prior to such discharge, the head of the hospital
460 from which the patient was given release on convalescent
461 status may at any time readmit the patient. If there
462 is reason to believe that it is to the best interests
463 of the patient to be readmitted, the director of mental
464 institutions or the head of the hospital may issue an
465 order for immediate readmission of the patient. Such
466 an order, if not voluntarily complied with, shall, upon
467 endorsement of a judge of a court of record or
468 endorsement by the secretary of the county hospitaliza-
469 zation commission of the county in which the patient is
470 resident or present, authorize any health or peace
471 officer to take the patient into custody and
472 transport him to the hospital, or if the order is
473 issued by the director of mental health, to a
474 hospital designated by him.
475 Sec. 17. 1. Any patient hospitalized under the
476 provisions of section six (6) or seven (7) of this
477 Act who requests to be released or whose release is
478 requested, in writing, by his legal guardian, spouse,
479 or adult next of kin, shall be released within five (5)
480 days after receipt of the request, except that upon
481 application to the court, which application shall be
482 supported by a certification by the head of the
483 hospital that in his opinion such a release would be
484 unsafe for the patient or for others, release may be
485 postponed for such period, not to exceed five (5) days
486 as the court may determine to be necessary for the
487 commencement of proceedings for a judicial determina-
488 tion pursuant to section eight (8) of this Act.
489 2. The head of the hospital shall provide reasonable
490 means and arrangements for informing involuntary
491 patients of their right to release as provided in this
492 section and for assisting them in making and presenting
493 requests for release.
494 Sec. 18. Any patient hospitalized pursuant to section
495 nine (9) of this Act shall be entitled to a re-examination
496 of the order for his hospitalization on his own petition
497 or that of his legal guardian, parent, spouse, relative,
498 or friend to the district court of the county in which
499 he resides or is detained. Upon receipt of the petition,
500 the court shall conduct or cause to be conducted
501 hospitalization proceedings in accordance with section
502 nine (9) of this Act, except that such proceedings
503 shall not be required to be conducted if the petition
504 is filed sooner than six (6) months after the issuance
505 of the order of hospitalization, or sooner than one
506 (1) year after the filing of a previous petition under
507 this section.

508 Sec. 19. Every patient shall be entitled to humane
509 care and treatment and, to the extent that facilities,
510 equipment, and personnel are available, he shall be
511 entitled to medical care and treatment in accordance
512 with the highest standards accepted in medical practice.
513 Sec. 20. Mechanical restraints shall not be applied
514 to a patient unless it is determined by the head of the
515 hospital to be required by the medical needs of the
516 patient. Every use of a mechanical restraint, and the
517 reasons therefor, shall be made a part of the clinical
518 record of the patient under the signature of the head
519 of the hospital.
520 Sec. 21. 1. Subject to the general rules and regula-
521 tions of the hospital, and subject to the extent
522 that the head of the hospital determines that it is
523 necessary for the medical welfare of the patient to
524 censor mail, and to impose restrictions, every patient
525 shall be entitled:
526 a. To communicate by sealed mail or otherwise with
527 persons, including official agencies, inside or out-
528 side the hospital;
529 b. To receive visitors;
530 c. To exercise all civil rights, including the right
531 to dispose of property, execute instruments, make
532 purchases, enter contractual relationships, and vote,
533 unless he has been adjudicated incompetent and has
534 not been restored to legal capacity.
535 2. Notwithstanding any limitations authorized under
536 this section to the right of communication, every
537 patient shall be entitled to communicate by sealed mail
538 with the director of mental institutions and with the
539 court or commission which ordered his hospitalization.
540 3. Any limitations imposed by the head of the hospital
541 on the exercise by the patient of the privileges set
542 forth in subsection one (1) of this section, and the
543 reasons for such limitation, shall be made a part of the
544 clinical record of the patient.
545 Sec. 22. The incompetency of a mentally ill individual
546 shall be determined in the same manner that incompetency
547 is determined in any other person, and shall be a
548 separate judicial proceeding. Any guardian appointed
549 in the case of an incompetent mentally ill individual
550 is subject to all the provisions of the general laws of
551 the state of Iowa pertaining to guardians and wards.
552 Sec. 23. Any individual detained pursuant to this Act
553 shall be entitled to the writ of habeas corpus upon
554 proper petition by himself or a friend to any court
555 generally empowered to issue the writ of habeas corpus
556 in the county in which he is detained.
557 Sec. 24. 1. All certificates, applications, records,
558 and reports made for the purpose of this Act and which
559 directly or indirectly identify a patient, former
560 patient or an individual whose hospitalization has been
561 sought under this Act, shall be kept confidential and
562 shall not be disclosed by any person except in any one
563 of the following instances:
564 a. When it is necessary to clear title to property,
565 or to transfer title to property, or to transact busi-
566 ness in which information about the patient's status is
567 necessary for the transaction;
568 b. When the individual or his legal guardian, and if
569 he is a minor, when his parent or legal guardian shall
570 consent;
571 c. When disclosure may be necessary to carry out any
572 of the provisions of this Act;
573 d. When a court may direct upon its determination that
574 disclosure is necessary for the conduct of proceedings
575 before it, and that failure to make such disclosure
576 would be contrary to the public interest.

577 2. Nothing in this section shall prelude disclosure,
578 upon proper inquiry, of information as to a patient's
579 current medical condition, to any member of his family
580 or to his relatives or friends; or to hospital employees,
581 trainees, students, interns, or other persons who have a
582 proper interest in his case, in so much as such informa-
583 tion is necessary to teach and train them to care pro-
584 perly for said patient or similar patients, or to provide
585 information required to fill out insurance claims, or to
586 prepare other documents advantageous to the patient or
587 consistent with his welfare.
588 3. Subject to the regulations of the hospital, a patient
589 may be cared for and treated by the physician of his choice;
590 and, at no expense to the hospital, may receive special care
591 and private consultation and treatment. For medical reasons
592 the physician in charge may order special treatment at hospi-
593 tal expense.
594 Sec. 25. In addition to the specific authority granted
595 by other provisions of this Act, the director of mental
596 institutions shall have authority to prescribe the form
597 of applications, records, reports, and medical certificates
598 provided for under this Act and the information required
599 to be contained in each; to require reports from the head
600 of any hospital relating to the admission, examination,
601 diagnosis, release, or discharge of any patient; to visit
602 each hospital regularly to review the commitment procedures
603 of all new patients admitted between visits; to investigate
604 complaints made by any patient or by any person on behalf
605 of a patient; and to adopt such rules and regulations,
606 not inconsistent with the provisions of this Act, as he
607 may find to be reasonably necessary for the proper and
608 efficient hospitalization of the mentally ill.
609 Sec. 26. 1. In each county there shall be a hospita-
610 lization commission which shall be composed of three (3)
611 regular members. In counties having two (2) places
612 where district court is held there shall be one (1) such
613 commission at each place. A special member may be
614 appointed whenever the court deems it advisable.
615 2. Each commission shall consist of the clerk of the
616 district court, one reputable physician in actual prac-
617 tice, who shall be a qualified psychiatrist if one is
618 available, and one reputable attorney in actual practice.
619 In the absence or inability of the clerk to act in any
620 case, his deputy may act. The special member may be a
621 psychologist, or otherwise possess technical knowledge
622 the court considers needed.
623 3. Said commission shall be appointed by the district
624 court. The appointment shall be by written order, signed
625 by the judge and recorded by the clerk. Appointments of
626 regular members shall be for two (2) years and be so
627 arranged that the term of one (1) member shall expire
628 each year. The appointment of successors may be made at
629 any time within three (3) months prior to the expiration
630 of the term of the incumbent. The term of the special
631 member shall be at the pleasure of the court.
632 4. The regular members shall organize by choosing
633 one (1) of their number as chairman. The clerk of the
634 district court or his deputy shall be clerk of the com-
635 mission. The commission shall hold its meetings at the
636 place best suited to the welfare of the patient being
637 brought before it, but ordinarily at a hospital or the
638 patient's home. It shall meet on notice of the clerk
639 or his deputy.
640 5. In the temporary absence or inability of two (2)
641 members to act, the member present may call to his aid,
642 temporarily, a person possessed of the qualifications
643 required for a member, which person may act in the same
644 capacity as the member he replaces. If one (1) of the
645 absent members is the clerk, his deputy shall act. The
646 record in such cases must show the facts of a member's
647 absence and by whom he is replaced.

648 6. The clerk of said commission shall
649 a Issue all processes required to be given by the
650 commission, and affix thereto his seal as clerk of court
651 b. File and preserve in his office all papers and
652 records connected with any inquest by the commission.
653 c. Keep separate books of the proceedings of the com-
654 mission with entries sufficient to show, with the papers
655 filed, a complete record of the commission's findings,
656 writs, orders, and proceedings.
657 7 The notices, reports, and communications required to
658 be given or made by said commission may be sent by mail,
659 unless otherwise expressed, and the facts and date of such
660 sending and their reception must be noted on the proper
661 record.
662 8. The commission of hospitalization is an arm of the
663 court and, subject to the rules of the court, may represent
664 it in all civil proceedings pertaining to the protective
665 custody and the hospitalization of the mentally ill.
666 9 Compensation and expenses shall be established by
667 the court and allowed as follows.
668 a. To the member of the commission serving as physician,
669 a reasonable and just fee, based on time and effort invol-
670 ved, not less than seven (7) dollars and fifty (50) cents
671 nor more than twenty-five (25) dollars for each person
672 brought before said commission for a hearing
673 b. To the member of the commission serving as attorney,
674 a reasonable and just fee based on time and effort invol-
675 ved, not less than seven (7) dollars and fifty (50) cents
676 nor more than twenty-five (25) dollars for each person
677 brought before said commission for a hearing
678 c To the examining physician and/or to the attorney
679 appointed to represent the patient when not a member of
680 the commission, a reasonable and just fee, based on time
681 and effort involved, not less than seven (7) dollars and
682 fifty (50) cents nor more than twenty-five (25) dollars
683 for each person examined by him and, in addition, mileage
684 of eight (8) cents a mile to and from the examination
685 and hearing
686 d. To witnesses who volunteer information as friends
687 or members of the family, no fee shall be allowed When
688 witnesses must be subpoenaed, the same fees as are paid
689 witnesses in the district court
690 e. Fees on appeal shall be the same as in ordinary
691 actions.
692 10. The compensation and expenses provided for in sub-
693 section nine (9) of this section, and the fees of a peace
694 officer, if any, provided for in such cases, shall be
695 allowed and paid out of the county treasury in the usual
696 manner.
697 11. When funds to pay the expenses of transporting a
698 patient to a hospital are needed in advance, the commission
699 shall estimate the probable expense, including the neces-
700 sary assistance, and not including the compensation allowed
701 the peace officer; and on such estimate, certified by the
702 clerk, the auditor of the county shall issue a county war-
703 rant for the amount, as estimated, in favor of the peace
704 officer or other person executing such warrant,
705 and who shall accompany his return with a statement
706 of the expenses incurred; and the excess or deficiency
707 may be deducted from or added to his compensation, as
708 the case may be. If funds are not so advanced, such
709 expenses shall be certified and paid in the manner
710 already prescribed in this subsection on the return
711 of warrant. When the commission orders the return
712 of a patient, compensation and expenses shall be in
713 like manner allowed.
714 Sec 27 1. All patients admitted to the state
715 mental health institutions at Cherokee, Clarinda,
716 Independence, Mount Pleasant, Woodward, or Glenwood,
717 whether admitted voluntarily under the provisions of
718 section two (2) of this statute, or whether admitted
719 involuntarily under the provisions of section six (6),
720 section seven (7), section eight (8), or section nine
721 (9) of this statute, shall be classified as.
722 a. Public patients; or
723 b Private patients.

724 2. The payment of the costs of hospital care and
725 the costs of professional services and treatment pro-
726 vided for public patients at public expense shall be in
727 accordance with the procedures set forth in chapter two
728 hundred and thirty (230), and elsewhere of the Code of
729 Iowa, except that public patients shall assign hospital
730 insurance benefits, if any, to the hospital, and if a
731 public patient has medical benefits, a separate account-
732 ing of the cost of the medical services provided for
733 him, based on actual cost, shall be established by the
734 head of the hospital, and claims entered by the appro-
735 priate person for payment of such benefits.
736 3. All private patients shall be kept and main-
737 tained at no expense to the state or county of legal
738 residence.
739 4. It shall be the duty of the court or of the
740 county hospitalization commission to have a thorough
741 investigation made by the appropriate county official,
742 or by an agency designated by the court or county hos-
743 pitalization commission, regarding a patient's finan-
744 cial condition and/or the financial condition of those
745 legally responsible for him. Based upon these find-
746 ings and report, if a patient is well able to pay in
747 full, or if those legally responsible for him are able
748 to pay in full, he shall be declared to be a private
749 patient and required to pay for his care in advance
750 and shall make appropriate arrangements with the head
751 of the hospital to do so. Voluntary private patients
752 may make all arrangements directly with the head of
753 the hospital at the time of admission.
754 5. If any private patient be admitted to a state mental
755 health institution and thereafter an order be issued
756 declaring the patient to be a public patient, the
757 expense of keeping said patient from the date of filing
758 of information upon said order shall be paid by the
759 state or county of legal residence as with any other
760 public patient.
761 6. If a private patient neglects or refuses to pay
762 his hospital account, the head of the hospital shall
763 make, or shall request the proper officials of the
764 county of legal residence to make an investigation, and
765 if such investigation establishes evidence that he can-
766 not or should not be declared a public patient, the cost of
767 his hospital care shall be paid by his county of legal
768 residence or by the state to the hospital in the
769 same manner as with a public patient, except the rate
770 charged shall be at the actual cost of the services
771 rendered, as determined by the head of the hospital,
772 and any such funds paid shall be charged against him
773 and collected by the county auditor in the same
774 manner as with public patients—the funds collected
775 to be sent to the comptroller, and credited to the
776 county or state as with public patients.
777 7. Every private patient, if he has an estate
778 sufficient for that purpose, or if those legally res-
779 ponsible for his support are financially able, shall
780 be liable to the county and/or state for all funds
781 paid by said county or state in behalf of such patient.
782 8. All moneys which private patients pay directly
783 to the hospital for hospital care and/or services pro-
784 vided by the hospital, and all moneys collected from
785 insurance companies for hospital benefits paid for
786 claims against all classes of patients, and all moneys
787 collected for medical service benefits paid to physi-
788 cians, when such funds may be claimed by the hospital,
789 shall be held in a special fund, to be known as the
790 Private Patient Care, Research and Education Fund, and
791 shall be and are automatically and continuously appro-
792 priated as additional funds to the hospital which col-
793 lected such funds. All funds thus collected are to be
794 used for the benefit of the hospital as determined by
795 the head of the hospital, and may be used in any manner
796 whatsoever, consistent with law, to improve the hospital

797 Such funds are subject to audit and accounting the
798 same as any public fund.
799 Should refunds be due a patient, the same shall be made
800 promptly by the head of the hospital.
801 Sec. 28. 1. As of the date this statute takes
802 effect—all patients resident in a state mental
803 health institution at Cherokee, Clarinda, Independence,
804 Mount Pleasant, Woodward, and Glenwood, or otherwise
805 under the custody and control of such institutions,
806 and for which a guardian has been appointed, shall be
807 considered to be legally incompetent. All patients
808 resident in a state mental health institution at
809 Cherokee, Clarinda, Independence, Mount Pleasant
810 Woodward, or Glenwood, or otherwise under the custody
811 and control of such institutions, who are considered
812 legally incompetent only on the grounds that they have
813 been found "insane" or "feeble minded" by the former county commission
814 of insanity, shall hereafter be considered legally com-
815 petent, unless subsequently declared incompetent by
816 the appropriate judicial proceedings, and the civil
817 rights of all such patients as set forth in this
818 statute are hereby returned to them, and they shall be
819 considered in the same manner as any patient who may
820 hereafter be admitted to a hospital under the provisions
821 of this Act.
822 2. All patients resident, on trial visit, on con-
823 valescent leave or parole, on elopement or otherwise
824 absent, who are under the legal care and custody of the
825 mental health institutes at Clarinda, Cherokee,
826 Independence, and Mount Pleasant, or who are under the
827 legal custody and/or care of the state hospital and
828 school at Woodward and the state hospital at Glenwood
829 as of the date this statute takes effect, shall be con-
830 sidered to be and are hereby declared to be admitted to
831 said state mental health institutes, or said state hos-
832 pital and school, or said state hospital under the
833 appropriate or corresponding provision of this
834 statute—as follows.
835 a. All patients who now reside in aforesaid mental
836 health institutes, or aforesaid state hospital and
837 school, or aforesaid state hospital, and who volun-
838 tarily entered at their own request, or if a minor
839 at the request of their parent or legal guardian
840 shall be considered to have entered under the provi-
841 sions of section two (2) of this Act.
842 b. All patients who now reside in, or are on visit
843 from, the aforesaid state mental health institutions
844 and who entered under a "Warrant of Admission" or
845 "Order of Admission" shall be considered to have
846 entered under a "writ of involuntary admission" under
847 the provisions of section eight (8) of this Act:
848 c. All patients who now reside in or are on visit
849 on convalescent leave or parole, on elopement or other-
850 wise absent from, the aforesaid state mental health
851 institutions, who were hospitalized under a "warrant
852 of commitment" issued by former county commissions of
853 insanity, district or juvenile court order, or order of
854 transfer from the Board of Control, shall be considered
855 to have entered under an "order of involuntary hospita-
856 lization" for an indeterminate period, under the provi-
857 sions of section nine (9) of this Act.
858 d. All patients now resident in the aforesaid state
859 mental health institutions as "guests", shall con-
860 tinue to be so considered and the admission of patients as
861 "guests" from other state institutions is authorized.
862 e. All patients resident in the aforesaid state mental
863 health institutions on a physician's certificate, shall
864 be considered resident under the provisions of Section
865 six (6) of this Act.

866 Sec. 29. If any provision of this Act or the
867 application thereof to any person or circumstances
868 is held invalid, the invalidity shall not affect
869 other provisions or applications of the Act which
870 can be given effect without the invalid provisions
871 or application, and to this end the provisions of
872 this Act are severable.
873 Sec. 30. The following chapters, Code 1954, are
874 hereby repealed: chapters two hundred twenty-two
875 (222), two hundred twenty-four (224), two hundred
876 twenty-eight (228), and two hundred twenty-nine
877 (229).
878 Sec. 31. The following sections, Code 1954, are
879 hereby repealed:
880 Sections two hundred twenty-six point eight
881 (226.8), two hundred twenty-six point nine (226.9),
882 two hundred twenty-six point thirteen (226.13), two
883 hundred twenty-six point fifteen (226.15), two hun-
884 dred twenty-six point sixteen (226.16), two hundred
885 twenty-six point eighteen (226.18), two hundred
886 twenty-six point nineteen (226.19), two hundred
887 twenty-six point twenty (226.20), two hundred twenty-
888 six point twenty-one (226.21), two hundred twenty-
889 six point twenty-three (226.23), two hundred twenty-
890 six point twenty-four (226.24), two hundred twenty-
891 six point twenty-five (226.25), two hundred twenty-
892 six point thirty-three (226.33), two hundred twenty-
893 six point thirty-five (226.35), two hundred twenty-
894 six point thirty-six (226.36), two hundred twenty-
895 six point thirty-seven (226.37), two hundred twenty-
896 six point thirty-nine (226.39).
897 Further amend House File 401 by striking the period at the
898 end of the title and adding thereto the following: "and prescrib-
899 ing certain duties of admitting officials."
900 Further amend House File 401 by striking the period at the
901 end of the title, inserting a comma in lieu thereof and adding
902 the following: "and prescribing certain duties of admitting
903 officials."

Filed
April 17, 1957.

KOSEK of Linn.

EXPLANATION OF AMENDMENT TO HOUSE FILE 401

This amendment provides for improved procedures regarding the hospitalization of mentally ill individuals.

It is based upon a "Model Act" recommended by the Council of State Governments.

The "Model Act" was first drafted about 1948 by the Federal Security Agency after an exhaustive study of the codes of various states. An attempt was made to bring together into one act all the best provisions existing in the statutes of some states. The committee, composed of lawyers sought consultation from some of the nation's leading psychiatrists. This original draft was submitted to 50 practicing attorneys throughout the nation. Based upon their criticisms, a final "Model Act" was adopted. This was submitted to the Council of States Governments—where it has been studied by the Conference of Attorney Generals, of governors and of legislators—and accepted as "recommended legislation." Many states have enacted similar legislation.

In Iowa our "county insanity commissions" replace the "probate" court of most states. The procedure of sending people in first to be "screened" has a great deal of merit. In adapting the Model Act to our local problems it was necessary to retain the "insanity commission"—but by another name. It was set up as the "county hospitalization commission" in this Act.

In Iowa a patient is required to pay if able; when a patient cannot pay, those legally responsible for him are required to pay if able.

But we handle this several different ways. Patients entering the university hospitals are declared "private" or "public" by the court. Voluntary patients entering the state mental health institutions pay and the funds are credited to sales and collections. Other patients are charged against the county of settlement, if any; against the state otherwise. The county or the state pays the hospital and the county auditor collects what can be collected from the patient, or from those legally responsible.

A method of payment which could be applied to any state institution has been sought in this bill. While the university hospitals are not brought under the Act at this time, it is hoped that all the good features of their admission and collection procedures have been written into the Act so that they might be brought under the statute within a few years.

It should be pointed out that this statute brings together into one chapter all the procedures governing admission of all forms of mental illness. It is simpler than the present Code, and the procedures to follow are much more clearly defined.

This statute adds dignity to mental illness. Our present statutes are such that a patient is automatically considered "legally incompetent" when a "Warrant of Insanity" is issued finding him "insane". From a medical point of view many people are seriously mentally ill—yet competent. Also, while many sick people are in fact "medically incompetent" (to wit, a delirious patient who has pneumonia) there is no need to declare him "legally incompetent" as a rule. This statute would insure that a mentally ill person shall be given the same consideration any other ill person is given. If he needs to be declared legally incompetent this can be accomplished, but by an entirely separate procedure, and based on the merits of the case. This statute protects and preserves the civil rights of patients admitted under its provisions in several other ways also. It adds dignity to mental illness.