

February 12, 1963.

House File 227

Board of Control.

*Pass as amended
3/20*

By ELY, CUNNINGHAM, GITTINS and
NIELSEN of Emmet (Cowden and Phelps).

Passed House, Date.....

Passed Senate, Date.....

Vote: Ayes..... Nays.....

Vote: Ayes..... Nays.....

Approved.....

A BILL FOR

An Act to revise and reorganize the statutes providing for the treatment, training, instruction, care, habilitation, and support of mentally retarded persons in state hospital-schools.

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

- 1 Chapter two hundred twenty-two (222), Code 1962, and chapter
- 2 two hundred twenty-three (223), Code 1962, are hereby repealed,
- 3 and the following enacted in lieu thereof:

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

- 1 Sec. 2. When used in this Act, unless the context otherwise
- 2 requires:

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

- 5 2. "Board" means the board of control of state institutions
- 6 established by chapter two hundred seventeen (217) of the Code.

- 7 3. "Director" means the director of mental health, provided
- 8 for in section two hundred eighteen point seventy-four (218.74)
- 9 of the Code.

- 10 4. "Superintendents" means the superintendents of the state
- 11 hospital-schools as authorized in this Act.

12 5. "Mentally retarded person" means any person afflicted with
13 mental retardation from birth or from any cause whatever so
14 pronounced that he is incapable of controlling himself and his
15 affairs without training or requires supervision, control, and
16 care for his own welfare, or for the welfare of others, or for
17 the welfare of the community, and who is not classifiable as a
18 "mentally ill person" within the meaning of the provisions of
19 this Act relating to the mentally ill.

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

1 Sec. 4. The superintendents shall:

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

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

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

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

1 Sec. 5. No person shall be eligible for admission to a
2 hospital-school until a preadmission diagnostic evaluation has
3 been made by a hospital-school which confirms or establishes the
4 need for admission.

1 Sec. 6. The board or the director with the approval of the
2 board shall divide the state into two districts and in such
3 manner that one of the hospital-schools shall be located within

4 each of the districts. Such districts may from time to time be
5 changed. After such districts have been established, the direc-
6 tor shall notify all boards of supervisors, county auditors and
7 clerks of the district courts of the action, and thereafter,
8 unless the board or director with approval of the board otherwise
9 orders, all admissions or commitments of mentally retarded
10 persons from a district shall be to the hospital-school located
11 within such district.

1 Sec. 7. The board or director with the approval of the board
2 may transfer patients of the Glenwood state hospital-school to
3 the Woodward state hospital-school, or from the latter to the
4 former, and may at any time transfer any patient from the hos-
5 pital-schools to the hospitals for the mentally ill, or from the
6 latter to the former, or as provided in section two hundred
7 eighteen point ninety-two (218.92) of the Code.

1 Sec. 8. Persons admitted to the hospital-schools shall have
2 all reasonable opportunity and facility for communication with
3 their friends. They shall be permitted to write and send let-
4 ters, provided they contain nothing of an offensive character.
5 Letters written by any patient to any member of the board, or
6 to any state or county official, shall be forwarded unopened.

1 Sec. 9. If any mentally retarded person shall depart
2 without proper authorization from a hospital-school it shall be
3 the duty of the superintendent and his assistants, and all
4 peace officers of any county in which such patient may be found,
5 to take and detain him without a warrant or order and at once
6 report such detention to the superintendent, who shall imme-
7 diately provide for the return of such patient to the hospital-

8 school. When any mentally retarded person departs without
9 proper authority from an institution in another state and is
10 found in this state, any peace officer in any county in
11 which such patient is found may take and detain him without
12 warrant or order and shall report such detention to the board of
13 control which shall provide for the return of such patient to the
14 authorities in the state where the unauthorized departure was
15 made. Pending such return such patient may be detained tem-
16 porarily at one of the institutions of this state governed by
17 the board of control. The provisions of this section relating to
18 the board of control shall also apply to the return of other
19 nonresident mentally retarded persons having legal settlement
20 outside the state of Iowa.

1 Sec. 10. All actual and necessary expenses incurred in the
2 taking into protective custody, restraint, and transportation of
3 such patients to the hospital-schools shall be paid on itemized
4 vouchers, sworn to by the claimants and approved by the super-
5 intendent and the board of control, from any money in the
6 state treasury not otherwise appropriated.

1 Sec. 11. In the event of a sudden or mysterious death of a
2 patient of a hospital-school or any private institution for the
3 mentally retarded, an investigation shall be held by the county
4 medical examiner, and the superintendent of a hospital-school or
5 chief administrative officer of any such private institution may
6 request an investigation of the death of any patient by the
7 county medical examiner. Notice of the death of the patient,
8 and the cause thereof, shall be sent to the county board of
9 supervisors, and to the judge of the court having had juris-

10 diction over a committed patient, and the fact of death with the
11 time, place, and alleged cause shall be entered upon the docket.
12 The parent, guardian or other person responsible for the ad-
13 mission of a patient to such institutions may request an in-
14 vestigation by the county medical examiner in the event of
15 the death of the patient, but the person or persons making the
16 request shall be liable for the expense of such investigation and
17 payment therefor may be required in advance. The expense of a
18 county medical examiner's investigation, when requested by the
19 superintendent of a state hospital-school, shall be paid from
20 support funds of that hospital-school.

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

1 Sec. 13. If the hospital-school is unable to receive a
2 patient, the superintendent shall notify the county board of
3 supervisors of the county from which the application in behalf of
4 the prospective patient was made of the time when such person may
5 be received, and until such time as the patient is able to be
6 received by the hospital-school the care of said person shall be
7 provided as arranged for by the county board of supervisors.

1 Sec. 14. The parent, guardian or any other person responsible
2 for the voluntary admission of any person to a hospital-school
3 may, upon ten (10) days notice, obtain the discharge of such
4 person by giving to the superintendent of the hospital-school
5 and the county board of supervisors of the county from which
6 such person was admitted written notice of the desire for such
7 discharge.

1 Sec. 15. A petition for the adjudication of the mental
2 retardation of a person within the meaning of this Act may,
3 with the permission of the court, or judge, be filed, without fee,
4 against such person, with the clerk of the district, superior,
5 or municipal court of the county or city in which such alleged
6 mentally retarded person resides or is found, by any relative of
7 such person, or by his or her guardian, or by any reputable
8 citizen of the county of such residence or of such place of
9 finding.

1 Sec. 16. Said petition shall be verified by affidavit, may
2 be on information or belief, and shall allege:

3 1. That such person is mentally retarded within the meaning
4 of this chapter.

5 2. That it is dangerous to the welfare of the community for

6 such person to be at large without care or control and the facts
7 tending to show such danger.

8 3. The name and residence of all persons, so far as known,
9 supervising, caring for, or supporting such person, or assuming,
10 or under obligations to do so.

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

14 5. Whether such person has been examined by a qualified
15 physician with a view of determining his mental condition.

1 Sec. 17. There shall be entered on the petition the names
2 of all obtainable witnesses known to the petitioner by which the
3 allegations of the petition may be established.

1 Sec. 18. The county attorney shall, if requested, appear on
2 behalf of any petitioner for the appointment of a guardian or
3 commitment of an alleged mentally retarded person, under this
4 Act, and on behalf of all public officials and superintendents in
5 all matters pertaining to the duties imposed by this Act upon them.

1 Sec. 19. The following persons, in addition to the alleged
2 mentally retarded person, shall be made party defendants if they
3 reside in this state and their names and residences are known:

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

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

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

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

1 Sec. 20. Notice of the pendency of said petition and of the
2 time and place of hearing thereon shall be served upon all

3 defendants who are residents of the county in which the petition
4 is filed, in the manner in which original notices are served.

5 The court or judge shall, by written order, direct the manner
6 and time of service on all other parties. No notice need be
7 served on those who are personally before the court.

8 If the alleged mentally retarded person is not before the
9 court, the court may issue an order requiring the person, who
10 has the care, custody and control of the alleged mentally re-
11 tarded person, to bring said alleged mentally retarded person
12 into court at the time and place stated in said order.

1 Sec. 21. The time of appearance shall not be less than five
2 (5) days after completed service, unless the court or judge
3 orders otherwise.

1 Sec. 22. The hearing may be had in term time or in vacation.
2 The petition shall be taken as confessed by all defendants, ex-
3 cept the principal defendant, who are duly served and who do
4 not appear at the time required by the notice.

1 Sec. 23. Pending final hearing, the court may, at any time
2 after the filing of the petition, and on satisfactory showing
3 that it is for the best interest of the alleged mentally retarded
4 person and of the community that such person be at once taken
5 into custody, or that service of notice will be ineffectual if
6 he is not taken into custody, issue an order for the immediate
7 production of such person before the court. In such case the
8 court or judge may make any proper order for the custody or
9 confinement of such person as will protect the defendant and the
10 community and insure the presence of such person at the hearing.
11 Such person shall not be confined with those accused or convicted
12 of crime.

1 Sec. 24. The court may require the petitioner to answer under
2 oath such interrogatories as may be propounded by said court.

1 Sec. 25. Answers are not required but may be filed. The
2 hearing on the allegations of the petition shall be as in
3 equitable proceedings.

1 Sec. 26. Trials shall be public, unless otherwise requested
2 by the parent, guardian, or other person having the custody of
3 the mentally retarded person, or if the judge considers a closed
4 hearing in the best interests of the patient.

1 Sec. 27. The court may, at or prior to the final hearing,
2 appoint a commission of one qualified physician and one qualified
3 psychologist who shall make a personal examination of the alleged
4 mentally retarded person for the purpose of determining his
5 mental condition.

1 Sec. 28. Said commission shall report in writing to the court
2 the facts attending the mental condition of said person and its
3 conclusion based thereon and its recommendations concerning such
4 person. It shall also report to the court sworn answers to such
5 questions as may be required by the court. Such reports shall
6 be filed with the clerk of the court.

1 Sec. 29. No objections or exceptions need be made to said
2 report. The court may set the report aside, and may order a new
3 examination by the same or by a new commission, or may make such
4 findings of fact in lieu of said report as may be justified by
5 the evidence before the court.

1 Sec. 30. If in the opinion of the court or judge, or of a
2 commission as provided for in section twenty-seven (27) of this
3 Act, the person is mentally retarded within the meaning of this
4 Act and the court or judge determines that it will be conducive

5 to the welfare of such person and of the community to place
6 the person under guardianship, or to commit the person to some
7 proper institution for treatment, training, instruction, care,
8 habilitation, and support, the court or judge shall by proper
9 order:

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

12 2. Commit the person to a private institution of this state,
13 duly incorporated for the care of such persons, and approved by
14 the board, but if the person has not been examined by a commis-
15 sion as provided in section twenty-seven (27) of this Act, the
16 court or judge shall, prior to issuing an order of commitment,
17 appoint such a commission to examine the person for the purpose
18 of determining his mental condition. No order of commitment shall
19 be issued unless the commission shall recommend that such order
20 be issued and the private institution to which the person is to
21 be committed shall advise the court that it is willing to receive
22 the person.

23 3. Commit the person to the state hospital-school designated
24 by the director to serve the county in which the hearing is being
25 held, and the court or judge shall prior to issuing an order of
26 commitment request that a diagnostic evaluation of the person be
27 made by the superintendent or his qualified designee. The
28 examination shall be conducted at the hospital-school or at such
29 other place as the superintendent may direct, and the cost of
30 such diagnostic evaluation shall be defrayed by the county of
31 legal settlement from its state institution fund unless otherwise
32 ordered by the court. Such cost may be equal to but shall not
33 exceed the actual cost of the examination. Persons referred by a

34 court or judge to a hospital-school for diagnostic evaluation
35 shall be considered as outpatients of the hospital-school. No
36 order of commitment shall be issued unless the superintendent of
37 the hospital-school shall recommend that such order be issued,
38 and shall advise the court or judge that adequate facilities for
39 the care of such person are available.

1 Sec. 31. The person committed to any private institution
2 shall remain under the jurisdiction of the court and the order of
3 commitment may at any time be set aside or modified by changing
4 the place of or terminating the commitment, and appointing a
5 guardian in lieu thereof; but this section shall not deprive the
6 board of power to transfer committed patients from one in-
7 stitution to another.

1 Sec. 32. A guardian appointed hereunder shall have the same
2 power over the person of his ward as possessed by a parent over
3 a minor child, but shall be subordinate to any duly appointed
4 guardian of the property of such ward.

1 Sec. 33. Guardianship proceedings shall remain under the
2 jurisdiction of the court. The court or judge may at any time,
3 on application of any reputable person, terminate such guard-
4 ianship, or remove the guardian and appoint a new guardian,
5 or may order that such mentally retarded person be removed from
6 the custody of the guardian and committed to an institution of
7 the class heretofore specified.

1 Sec. 34. No order shall be made discharging or varying a
2 prior order placing the mentally retarded person under guard-
3 ianship without giving one or more of the relatives or a friend
4 of the mentally retarded person, his guardian, or the board of

5 control, notice and an opportunity to be heard.

1 Sec. 35. If the state institution is unable forthwith to
2 receive a person committed under subsection three (3) of section
3 thirty (30) of this Act, the superintendent shall notify the
4 court or judge of the time when such person will be received and
5 in the meantime the said person shall be restrained and cared
6 for under such order as the court may enter.

1 Sec. 36. Upon the entry of an order of commitment, the clerk
2 shall deliver to any suitable person designated by the court or
3 judge, an order of commitment, and a duplicate thereof, com-
4 manding such person forthwith to deliver the committed person to
5 the institution designated by the court.

1 Sec. 37. The judge may, for the purpose of committing said
2 person, direct the clerk to authorize the employment of one or
3 more assistants. No mentally retarded female shall be taken to
4 the institution by any male person not her husband, father,
5 brother, or son, without the attendance of some woman of good
6 character and mature age.

1 Sec. 38. The superintendent shall, on the order of commitment,
2 receipt for said person. The duplicate order shall be left with
3 the superintendent and shall be his sufficient authority to
4 restrain and care for said committed person.

1 Sec. 39. The person executing said order shall make due
2 return thereon of his doings and forthwith file the same with the
3 clerk.

1 Sec. 40. No person committed hereunder shall be discharged
2 from the institution except as herein provided, except that
3 nothing herein shall abridge the right of petition for a writ of

4 habeas corpus.

1 Sec. 41. A petition for the discharge of a person who has
2 been committed to an institution under this chapter, or to vary
3 such order of commitment, may at any time after six (6) months
4 from the date of such commitment be filed by the person committed
5 or by any reputable person. If the commitment be to a private
6 institution, the petition shall be filed with the court or judge
7 ordering such commitment. If the commitment be to a state
8 institution, the petition shall be filed in the proper court of
9 the county where the institution is situated.

1 Sec. 42. Discharges and modifications of orders may be made
2 on any of the following grounds:

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

5 2. That said person has so far improved as to be capable of
6 caring for himself.

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

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

1 Sec. 43. Notice of the hearing shall be served on the
2 superintendent of the institution and on such parties as the
3 court or judge may find from the record are interested.

1 Sec. 44. On the hearing, the court may discharge the mentally
2 retarded person from all supervision, control, and care, or may

3 place him under guardianship, or may transfer him from a public
4 institution to a private institution, or vice versa, as the
5 court thinks fit under all the circumstances.

1 Sec. 45. The denial of one petition for discharge or
2 modification shall be no bar to another on the same or different
3 grounds within a reasonable time thereafter, such reasonable
4 time to be determined by the court.

1 Sec. 46. Any person who shall maliciously seek to have any
2 person adjudged mentally retarded, knowing that such person is
3 not mentally retarded, shall be fined not exceeding one thousand
4 (1,000) dollars, or imprisoned not exceeding one (1) year in the
5 county jail.

1 Sec. 47. The fees for attendance of witnesses and execution
2 of legal process shall be the same as are allowed by law for
3 similar service in other cases. For service as commissioner a
4 reasonable sum as determined by the court and the actual and
5 necessary traveling expenses shall be allowed.

1 Sec. 48. The costs of proceedings shall be defrayed from the
2 county treasury, unless otherwise ordered by the court. When
3 the person alleged to be mentally retarded is found not to be
4 mentally retarded, the court shall render judgment for such costs
5 against the person filing the petition, except when the petition
6 is filed by order of court.

1 Sec. 49. When the proceedings are instituted in a county in
2 which the alleged mentally retarded person was found, but which
3 is not his county of legal settlement, and the costs are not
4 taxed to the petitioner, the county which is the legal settlement
5 of such mentally retarded person shall, on presentation of a

6 properly itemized bill for such costs, repay the same to the
7 former county. When the person's legal settlement is outside
8 this state or is unknown, the costs shall be paid out of money
9 in the state treasury not otherwise appropriated, itemized on
10 vouchers executed by the auditor of the county which has paid
11 them, and approved by the board of control or director of mental
12 health.

1 Sec. 50. Costs incident to guardianship and to the trial and
2 commitment of a mentally retarded person to such institution,
3 may be collected of such mentally retarded person and of all
4 persons legally chargeable with the support of such mentally
5 retarded person.

1 Sec. 51. When in proceedings against an alleged delinquent
2 or dependent child, the court or judge is satisfied from any
3 evidence that such child is mentally retarded, the court or judge
4 may order a continuance of such proceeding, and may direct an
5 officer of court or other proper person to file a petition
6 against said child under this Act, and, pending hearing, may, by
7 order, provide proper custody for such child.

1 Sec. 52. If, on the conviction in the district, superior, or
2 municipal court of any person for any crime, or for any violation
3 of any municipal ordinance, or if, on the conviction in said
4 courts that a child is dependent or delinquent, and it appears to
5 the court or judge before sentence, from any evidence, that such
6 convicted person is mentally retarded within the meaning of this
7 Act, the court or judge may suspend sentence or order, and
8 may order any officer of the court or other proper person to
9 file a petition under this Act against said person and

10 pending hearing therein shall provide for the custody of said
11 person as directed in section fifty-one (51) of this Act.

1 Sec. 53. Should it be found under sections fifty-one (51)
2 and fifty-two (52) of this Act that said person is not mentally
3 retarded, the court shall proceed with the original proceedings
4 as though no petition had been filed.

1 Sec. 54. If it appears at any time that a person has been,
2 under the provisions of this Act, placed under guardianship
3 or committed to a private institution and ought to be committed
4 to a hospital for the mentally ill, he may be proceeded against
5 under the chapters relating to the mentally ill.

1 Sec. 55. When the mental condition of a person in a private
2 institution for the mentally ill is found to be such that such
3 patient ought to be transferred to an institution for the
4 mentally retarded, or placed under guardianship, such person
5 may be proceeded against under this Act.

1 Sec. 56. Each court having jurisdiction under this Act
2 shall keep a separate docket of proceedings in which shall be
3 made such entries as will, together with the papers filed, pre-
4 serve a complete and perfect record of each case. The original
5 petitions, writs, and returns made thereto and the reports of
6 commissions shall be filed with the clerk of the court.

1 Sec. 57. The board shall keep a record of all persons
2 adjudged to be mentally retarded, and of the orders respecting
3 them by the courts throughout the state, copies of which orders
4 shall be furnished by the clerk of the court without the board's
5 application therefor.

1 Sec. 58. The superintendent of any hospital-school may at any

2 time return a patient to the parent, guardian or other respon-
3 sible person or community agency, even though such patient
4 was committed by a court, upon recommendation of the professional
5 staff of the hospital-school that such patient has received
6 maximum hospital-school benefit. Such action shall be reported
7 to the board of control or director of mental health, who may
8 modify, alter or rescind the action if deemed necessary, and
9 shall be further reported to the board of supervisors of the
10 patient's county of legal settlement. If the patient was
11 committed by a court, such notice shall be sent to the clerk of
12 the court which committed the patient, and to the boards of
13 supervisors of both the county of legal settlement and the
14 county to which the patient is to be released or placed on
15 convalescent leave thirty (30) days before the patient leaves
16 the hospital-school.

17 In accordance with the above provisions, such patients may be
18 placed in family care by direction of the superintendent under
19 the supervision of the hospital-school. By the nature of such
20 service, such family care facilities shall be exempt from the
21 provisions of chapter one hundred thirty-five C (135C) of the Code.

1 Sec. 59. All necessary and legal expenses for the cost of
2 admission or commitment, for the treatment, training, instruc-
3 tion, care, habilitation, support and transportation of patients
4 in the state hospital-school for the mentally retarded shall
5 be paid:

6 1. By the county in which such person has legal settlement
7 as defined in section two hundred fifty-two point sixteen
8 (252.16) of the Code, or

9 2. By the state when such person has no legal settlement in
10 this state, or when such settlement is unknown.

1 Sec. 60. When the board of supervisors of any county receives
2 an application on behalf of any person for admission to any state
3 hospital-school for the mentally retarded, or when any court or
4 judge issues an order committing any person to a hospital-school,
5 the board of supervisors or court or judge shall determine and
6 enter of record whether the legal settlement of the person is:

7 1. In the county in which the board of supervisors or court
8 is located.

9 2. In some other county of the state.

10 3. In some other state or foreign country, or

11 4. Unknown.

1 Sec. 61. Whenever the board of supervisors or court or judge
2 determines that the legal settlement of the person is other than
3 in the county in which the board or court is located, the board
4 or court or judge shall, as soon as said determination is made,
5 certify such finding to the superintendent of the hospital-school
6 of which the person is a patient, and thereupon the superintendent
7 shall charge the expenses already incurred and unadjusted, and
8 all future expenses of the patient, to the county so certified
9 until said legal settlement shall be otherwise determined as
10 provided by this Act.

1 Sec. 62. Said finding of legal settlement shall also be
2 certified by the board of supervisors or court or judge to the
3 county auditor of the county of legal settlement. Such auditor
4 shall lay such notification before the board of supervisors of
5 his county, and it shall be conclusively presumed that the

6 patient has a legal settlement in said notified county unless
7 said county shall, within six (6) months, in writing filed with
8 the board of supervisors or court or judge giving such notice,
9 dispute said legal settlement.

1 Sec. 63. If the legal settlement of the person is found by
2 the board of supervisors or court or judge to be in some foreign
3 state or country, or unknown, the board of supervisors or court
4 or judge shall immediately notify the board of control of such
5 finding and shall furnish the board of control with a copy of the
6 evidence taken on the question of legal settlement. The care of
7 said person shall be as arranged for by the board of supervisors
8 or by such order as the court may enter. Application for ad-
9 mission or order of commitment may be made pending investigation
10 by the board of control.

1 Sec. 64. The board of control shall immediately investigate
2 the legal settlement of the person and proceed as follows:

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

9 2. If the board of control finds that the decision of the
10 board of supervisors or court or judge is not correct, the board
11 of control shall order the person transferred to a state
12 hospital-school for the mentally retarded and there maintained at
13 the expense of the county of legal settlement in this state.

1 Sec. 65. The transfer to state hospital-schools or to the
2 places of their legal settlement of mentally retarded persons

3 who have no legal settlement in this state or whose legal
4 settlement is unknown, shall be made according to the directions
5 of the board of control, and when practicable by employees of
6 state hospital-schools, and the actual and necessary expenses of
7 such transfers shall be paid on itemized vouchers sworn to by
8 the claimants and approved by the board of control, from any
9 funds in the state treasury not otherwise appropriated.

1 Sec. 66. If, after a person has been received into a state
2 hospital-school for the mentally retarded as a patient whose
3 legal settlement is supposed to be outside this state or unknown,
4 the board of control finds that the legal settlement of the
5 patient was, at the time of admission or commitment, in a county
6 of this state, the board shall charge all legal costs and ex-
7 penses pertaining to the admission or commitment and support of
8 the patient to the county of such legal settlement, and the same
9 shall be collected as provided by law in other cases.

1 Sec. 67. All necessary and legal expenses for the cost of
2 admission or commitment of a person to a state hospital-school
3 for the mentally retarded, when the person's legal settlement is
4 found to be in another county of this state, shall in the first
5 instance be paid by the county from which the person was admitted
6 or committed. The county of legal settlement shall reimburse the
7 county so paying for all such payments. Should any county fail
8 to make such reimbursement within sixty (60) days following
9 submission of a properly itemized bill to the county of legal
10 settlement, a penalty of not greater than one (1) percent per
11 month on and after sixty (60) days from submission of such bill
12 may be added to the amount due.

1 Sec. 68. All necessary and legal expenses for the cost of

2 admission or commitment of a person to a state hospital-school
3 for the mentally retarded, when the person's legal settlement is
4 outside this state or is unknown, shall be paid out of any money
5 in the state treasury not otherwise appropriated, on itemized
6 vouchers executed by the auditor of the county which has paid
7 them, and approved by the board of control or director of mental
8 health.

1 **Sec. 69.** When a dispute arises between different counties or
2 between the board of control and a county as to the legal
3 settlement of a person committed to a state hospital-school for
4 the mentally retarded, the attorney general, at the request of
5 the board of control, shall, without the advancement of fees,
6 cause an action to be brought in the district court of any
7 county where such dispute exists to determine such legal
8 settlement, except that such action shall in no case be filed in
9 a county in which the district court or a judge thereof
10 originally made the disputed finding. Said action may be brought
11 at any time when it appears that the dispute cannot be amicably
12 settled. All counties which may be the place of such legal
13 settlement, so far as known, shall be made defendants and the
14 allegation of settlement may be in the alternative. Said action
15 shall be tried as in equity.

1 **Sec. 70.** The court shall determine whether the legal
2 settlement of said mentally retarded person, at the time of
3 admission or commitment, was in one of the defendant counties.
4 If the court so finds, judgment shall be entered against the
5 county of such settlement in favor of any other county for all
6 necessary and legal expenses arising from said admission or
7 commitment, and paid by said other county. If any such costs

8 have not been paid, judgment shall be rendered against the
9 county of settlement in favor of the parties, including the
10 state, to whom said costs or expenses may be due.

1 Sec. 71. If the court finds that the legal settlement of
2 said mentally retarded person, at the time of admission or
3 commitment, was outside this state or was unknown, an order shall
4 be entered that the mentally retarded person shall be maintained
5 in the hospital-school at the expense of the state. In such case
6 the state shall refund to any county all necessary and legal
7 expenses for the cost of said admission or commitment paid by
8 said county. Any decision by the court shall be final.

1 Sec. 72. Each superintendent of a state hospital-school for
2 the mentally retarded shall certify to the state comptroller on
3 a schedule approved by the state comptroller the amount not
4 previously certified by him due the state from the several
5 counties responsible under section fifty-nine (59) of this Act
6 for the expenses of patients in the hospital-schools, and the
7 comptroller shall thereupon charge the amounts so certified to
8 the proper counties. The amount certified by the superintendent
9 to the comptroller to be charged against each county shall be
10 the hospital-school's per-patient-per-day cost multiplied by the
11 number of days each patient for which such county is liable to
12 the state was carried on the rolls of the hospital-school as an
13 inpatient, plus the amount due for the treatment of outpatients
14 for which such county is liable to the state, during the period
15 for which expenses are being certified. The per-patient-per-day
16 cost shall be found by listing the number of days each inpatient
17 was actually in the hospital-school during the period for which
18 expenses are being certified, then dividing the total of all such

19 days into the portion of the hospital-school's appropriation
20 expended during such period. The amount charged for the
21 treatment of outpatients shall be at a rate to be established by
22 the board of control on the basis of the actual cost of such
23 treatment.

1 Sec. 73. When certifying to the comptroller amounts to be
2 charged against each county as provided in section seventy-two
3 (72) of this Act, the superintendents of the hospital-schools
4 shall send to the county auditor of each county against which he
5 has so certified any amount a duplicate of such certificate.
6 The county auditor, upon receipt of such duplicate certificate,
7 shall enter the same to the credit of the state in his ledger of
8 state accounts, and at once issue a notice to his county
9 treasurer, authorizing him to transfer the amount from the state
10 institution fund to the general state revenue. The treasurer
11 shall file such notice as his authority for making such transfer,
12 and shall include the amount so transferred in his next re-
13 mittance of state taxes to the treasurer of state, designating
14 the fund to which it belongs.

1 Sec. 74. Should any county fail to pay these bills within
2 sixty (60) days from the date of certificate from the super-
3 intendent, the state comptroller may charge the delinquent
4 county a penalt of not greater than one (1) percent per month
5 on and after sixty (60) days from date of certificate until paid.

1 Sec. 75. 1. All expenses required to be paid by counties
2 under section fifty-nine (59) of this Act shall be paid from the
3 state institution fund of the county. The cost of care of
4 patients discharged or removed from the hospital-schools, for
5 placement within a county, may be paid from the state institution

6 fund or the county fund for mental health of the county of legal
7 settlement.

8 2. The cost of support of patients placed on convalescent
9 leave or removed as a habilitation measure from the hospital-
10 school, except when living in the home of a person legally
11 bound for the support of such patient, shall be paid from the
12 state institution fund, or county mental health fund, of the
13 county of legal settlement, or from the hospital-school support
14 fund and charged on abstract in the same manner as other state
15 inpatients if the patient has no county of legal settlement,
16 until such time as the patient becomes self-supporting or
17 qualifies for support under other existing statutes.

1 Sec. 76. Any person admitted or committed to a state
2 hospital-school for the mentally retarded as either an inpatient
3 or an outpatient, the spouse, father, mother, and adult children
4 of such person, and any person, firm or corporation bound by
5 contract hereafter made for support of such person shall be and
6 remain liable for the support of such person. Such person and
7 those legally bound for the support of such person shall be
8 liable to the county for all sums advanced by the county to the
9 state under the provisions of section fifty-nine (59) and
10 subsection two (2) of section seventy-five (75) of this Act;
11 provided that the liability of any person, other than the
12 patient, who is legally bound for the support of any patient
13 under twenty-one (21) years of age in a state hospital-school
14 shall in no case exceed the average minimum cost of the care of
15 a normally intelligent, nonhandicapped minor of the same age and
16 sex as such minor patient, by the family of such minor patient in

17 a private home. The board of control shall establish its own
18 scale for this purpose. Nothing in this section shall be
19 construed to prevent a legally responsible relative or other
20 person from voluntarily paying the full actual cost as estab-
21 lished by the board of caring for such mentally retarded person.

1 Sec. 77. In actions to enforce the liability imposed by
2 section seventy-six (76) of this Act, the certificate from the
3 superintendent to the county auditor stating the sums charged in
4 such cases shall be presumptively correct.

1 Sec. 78. Any person admitted or committed to a county in-
2 stitution or home, or admitted or committed at county expense
3 to any private hospital, sanitorium or other facility for treat-
4 ment, training, instruction, care, habilitation and support
5 as a mentally retarded patient thereof, and those persons legally
6 bound for the support of such persons shall be liable to the
7 county for the reasonable cost of such support as provided in
8 section seventy-six (76) of this Act.

1 Sec. 79. The total amount of assistance paid on behalf of a
2 person receiving or who has received assistance under the pro-
3 visions of this Act shall be allowed as a claim of the second
4 class against the estate of the person, or against the estate of
5 the spouse of such person or the father or mother of such person.

1 Sec. 80. The board of supervisors of each county may direct
2 the county attorney to proceed with the collection of said
3 claims as a part of the duties of his office when the board of
4 supervisors deems such action advisable, but the board of
5 supervisors may and is hereby empowered to compromise any and all
6 liabilities to the county arising under this Act when such

7 compromise is deemed to be for the best interests of the county.

1 Sec. 81. The estates of all nonresident patients who are
2 provided treatment, training, instruction, care, habilitation
3 and support in or by any state hospital-school for the mentally
4 retarded in this state, and all persons legally bound for the
5 support of such persons, shall be liable to the state for the
6 reasonable value of such services in the said hospital-schools.

7 The certificate of the superintendent of the hospital-school in
8 which any nonresident is or has been a patient, showing the
9 amounts drawn from the state treasury or due therefrom as
10 provided by law on account of such nonresident patient, shall be
11 presumptive evidence of the reasonable value of such services
12 furnished such patient by the hospital-school.

1 Sec. 82. There is hereby established at each hospital-school
2 a fund known as the patients' personal deposit fund.

1 Sec. 83. Any funds coming into the possession of the super-
2 intendent or any employee of the hospital-school belonging to
3 any patient in that hospital-school, shall be deposited in the
4 name of the patient in the patients' personal deposit fund,
5 except that if a guardian of the property of that patient has
6 been appointed, the guardian shall have the right to demand and
7 receive such funds. Funds belonging to a patient deposited in
8 the patients' personal deposit fund may be used for the purchase
9 of personal incidentals, desires and comforts for the patient.

1 Sec. 84. Whenever the amount in the account of any patient in
2 the patients' personal deposit fund exceeds the sum of two hun-
3 dred (200) dollars, the business manager of the hospital-school
4 shall apply any of the excess to reimburse the county of legal

5 settlement for liability incurred by such county for the payment
6 of care, support and maintenance of the patient, when billed
7 therefor by the county of legal settlement. Money earned by a
8 patient for work performed in or for the hospital-school shall
9 not be subject to this section or to attachment.

1 Sec. 85. The business manager shall deposit the patients'
2 personal deposit fund in a commercial account of a bank of
3 reputable standing. When deposits in the commercial account
4 exceed average monthly withdrawals the business manager may
5 deposit the excess at interest. The savings account shall be in
6 the name of the patients' personal deposit fund and interest paid
7 thereon may be used for recreational purposes for the patients
8 at the hospital-school.

1 Sec. 86. Section one hundred forty-five point one (145.1),
2 Code 1962, is hereby amended by striking all of lines fifteen
3 (15) and sixteen (16) and inserting in lieu thereof the words
4 "5. Glenwood state hospital-school.", and by striking all of
5 lines seventeen (17) and eighteen (18) and inserting in lieu
6 thereof the words "6. Woodward state hospital-school."

1 Sec. 87. Section two hundred eighteen point nine (218.9),
2 Code 1962, is hereby amended by striking from lines four (4)
3 and five (5) the words "Glenwood state school, the Woodward
4 state hospital and school" and inserting in lieu thereof the
5 words "state hospital-schools for the mentally retarded".

1 Sec. 88. Section two hundred eighteen point seventy-six
2 (218.76), Code 1962, is hereby amended by striking from lines
3 six (*) and seven (7) of subsection one (1) the words "Glenwood
4 state school, the Woodward state hospital and school" and

5 inserting in lieu thereof the words "state hospital-schools for
6 the mentally retarded".

1 Sec. 89. Section two hundred eighteen point ninety-two
2 (218.92), Code 1962, is hereby amended by striking from lines two
3 (2) and three (3) the words "Glenwood state school, Woodward
4 state hospital and school" and inserting in lieu thereof the
5 words "any state hospital-school for the mentally retarded".

1 Sec. 90. Chapter two hundred eighteen (218), Code 1962, is
2 hereby amended by adding the following section:

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

1 Sec. 91. Section two hundred thirty point fifteen (230.15),
2 Code 1962, is hereby amended as follows:

3 1. By striking from line five (5) the words "or mentally
4 retarded".

5 2. By striking from lines seven (7) and eight (8) the words
6 "or mentally retarded".

1 Sec. 92. Section two hundred thirty point eighteen (230.18),
2 Code 1962, is hereby amended by striking from lines one (1) and
3 two (2) the words "or mentally retarded".

1 Sec. 93. Section two hundred thirty point twenty (230.20),
2 Code 1962, is amended by striking all of such section after the
3 period in line twenty-one (21).

1 Sec. 94. Section four hundred forty-four point twelve
2 (444.12), Code 1962, is hereby amended as follows:

3 1. By striking from lines fifteen (15) and sixteen (16) the
4 words "the Glenwood state school, the Woodward state hospital and
5 school" and inserting in lieu thereof the words "the Glenwood
6 state hospital-school, the Woodward state hospital-school".

7 2. By striking from line twenty (20) the word "and".

8 3. By inserting after the words "Iowa City," in line
9 twenty-one (21) the words "and for the support of such mentally
10 ill or mentally retarded persons as are cared for and supported
11 by the county in the county home, or elsewhere outside of any
12 state hospital for the mntally ill or mentally retarded,".

13 4. By inserting in line thirty (30) after the words "section
14 226.32," the words "or from any state hospital-school for the
15 mentally retarded,".

1 Sec. 95. Section two hundred eighteen point one (218.1),
2 Code 1962, is hereby amended as follows:

3 1. By striking line seven (7) and inserting in lieu thereof
4 the following:

5 "2. Glenwood State Hospital-School."

6 2. By striking line eight (8) and inserting in lieu thereof
7 the following:

8 "3. Woodward State Hospital-School."

1 Sec. 96. This Act being deemed of immediate importance shall

2 take effect and be in force from and after July 1, 1963, after

3 its passage and publication in the, a

4 newspaper published in, Iowa, and in the

5, a newspaper published in

6, Iowa.

EXPLANATION OF HOUSE FILE 227

The purpose of this bill is to separate the statutes concerning mentally ill and mentally retarded persons. It makes more adequate provisions for the care and treatment of mentally retarded persons. It also revises the laws for support of mentally retarded persons in state institutions. This bill makes the laws more uniform regarding the voluntary commitment of mentally retarded persons and it clarifies the procedures for court commitment or guardianships of mentally retarded persons.