

Sta. 500-1/8

Nystrom, Chairman
Schwengels
Robinson

File 150
Government-
trom, Chairman
Schwengels
Robinson

Withdrawn 4/20(1809)
150

SENATE FILE

By DODERER, SCHWIEGER, PLYMAT,
GLUBA, RILEY, MURRAY and
HANSEN

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

A BILL FOR

1 An Act relating to the Iowa commission on alcoholism and
2 providing for a comprehensive program for the treatment,
3 education, and rehabilitation of alcoholics in Iowa.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S-56

1 Amend Senate File 150 as follows:
2 1. Page 12, line 19, by adding after the word "safety."
3 the following: "Such person once held in protective custody
4 shall not be released until there is less than five
5 of one percentum by weight of alcohol in his blood."
hundredths

Filed
February 8, 1973

By PLYMAT

1 Section 1. NEW SECTION. DECLARATION OF POLICY. It is
2 the policy of this state that alcoholics and intoxicated
3 persons may not be subjected to criminal prosecution because
4 of their consumption of alcoholic beverages but rather should
5 be afforded a continuum of treatment in order that they may
6 lead normal lives as productive members of society.

7 Sec. 2. NEW SECTION. DEFINITIONS. For purposes of this
8 Act, unless the context clearly indicates otherwise:

9 1. "Alcoholic" means a person who habitually lacks self-
10 control as to the use of alcoholic beverages, or uses alcoholic
11 beverages to the extent that his health is substantially
12 impaired or endangered or his social or economic function
13 is substantially disrupted.

14 2. "Approved private treatment facility" means a con-
15 tracting hospital, institution, detoxification center, or
16 installation providing care, maintenance, and treatment for
17 alcoholics; however, a facility shall not include a mental
18 health institute under the control of the department of social
19 services.

20 3. "Approved public treatment facility" means a treatment
21 agency operating under the direction and control of the com-
22 mission or providing treatment under this Act through a con-
23 tract with the division under section ten (10), subsection
24 seven (7) of this Act and meeting the standards prescribed
25 in section eleven (11), subsection one (1) of this Act and
26 approved under section eleven (11), subsection three (3) of
27 this Act.

28 4. "Commissioner" means the commissioner of health.

29 5. "Department" means the state department of health.

30 6. "Director" means the director of the Iowa commission
31 on alcoholism.

32 7. "Commission" means the Iowa commission on alcoholism
33 within the department.

34 8. "Emergency service patrol" means a patrol established
35 under section nineteen (19) of this Act.

1 9. "Incapacitated by alcohol" means that a person, as
2 a result of the use of alcohol, is unconscious or has his
3 judgment otherwise so impaired that he is incapable of real-
4 izing and making a rational decision with respect to his need
5 for treatment.

6 10. "Incompetent person" means a person who has been
7 adjudged incompetent by a court of law.

8 11. "Intoxicated person" means a person whose mental or
9 physical functioning is substantially impaired as a result
10 of the use of alcohol.

11 12. "Treatment" means the broad range of emergency, out-
12 patient, intermediate, and inpatient services and care, in-
13 cluding diagnostic evaluation, medical, psychiatric, psycho-
14 logical, and social service care, vocational rehabilitation
15 and career counseling, which may be extended to alcoholics
16 and intoxicated persons.

17 Sec. 3. NEW SECTION. COMMISSION CREATED. There is hereby
18 established, within the state department of health, the Iowa
19 commission on alcoholism. The commission shall consist of
20 five appointive members. The terms of office for each
21 appointive member of the commission shall be four years and
22 a member shall not be eligible for reappointment. Upon this
23 Act taking effect the governor shall appoint two members to
24 two-year terms and three members to four-year terms, such
25 that every two years either two or three of the members of
26 the commission shall have terms which shall expire.

27 Sec. 4. NEW SECTION. COMPENSATION. Each member of the
28 Iowa commission on alcoholism shall receive forty dollars
29 per day for each day spent in performance of the duties of
30 the commission. Each member shall also receive his actual
31 necessary expenses incurred in the performance of his duties.

32 Sec. 5. NEW SECTION. DIRECTOR OF COMMISSION. The
33 commission shall be headed by a director appointed by the
34 commissioner. The director shall be a qualified professional
35 who has training and experience in handling medical-social

1 problems or the organization or administration of treatment
2 services for persons suffering from medical-social problems.

3 Sec. 6. NEW SECTION. POWERS OF COMMISSION. The commission
4 may:

5 1. Plan, establish, and maintain treatment programs as
6 necessary or desirable.

7 2. Make contracts necessary or incidental to the perfor-
8 mance of its duties and the execution of its powers, includ-
9 ing contracts with public and private agencies, organizations,
10 and individuals to pay them for services rendered or furnished
11 to alcoholics or intoxicated persons.

12 3. Solicit and accept for use any gift of money or prop-
13 erty made by will or otherwise, and any grant of money, ser-
14 vices, or property from the federal government, the state,
15 or any political subdivision thereof or any private source,
16 and do all things necessary to cooperate with the federal
17 government or any of its agencies in making an application
18 for any grant.

19 4. Administer or supervise the administration of the
20 provisions relating to alcoholics and intoxicated persons
21 of any state plan submitted for federal funding pursuant to
22 federal health, welfare, or treatment legislation.

23 5. Coordinate its activities and cooperate with alco-
24 holism programs in this and other states, and make contracts
25 and other joint or cooperative arrangements with state, local,
26 or private agencies in this and other states for the treat-
27 ment of alcoholics and intoxicated persons and for the com-
28 mon advancement of alcoholism programs.

29 6. Keep records and engage in research and the gathering
30 of relevant statistics.

31 7. Do other acts and things necessary or convenient to
32 execute the authority expressly granted to it.

33 Sec. 7. NEW SECTION. DUTIES OF COMMISSION. The commission
34 shall:

35 1. Develop, encourage, and foster statewide, regional,

- 1 and local plans and programs for the prevention of alcoholism
2 and treatment of alcoholics and intoxicated persons in co-
3 operation with public and private agencies, organizations,
4 and individuals and provide technical assistance and con-
5 sultation services for these purposes.
- 6 2. Coordinate the efforts and enlist the assistance of
7 all public and private agencies, organizations, and individ-
8 uals interested in prevention of alcoholism and treatment
9 of alcoholics and intoxicated persons.
- 10 3. Cooperate with the division of corrections and board
11 of parole of the department of social services in establish-
12 ing and conducting programs to provide treatment for alco-
13 holics and intoxicated persons on parole from penal institu-
14 tions.
- 15 4. Cooperate with the department of public instruction,
16 boards of education, schools, police departments, courts,
17 and other public and private agencies, organizations and
18 individuals in establishing programs for the prevention of
19 alcoholism and treatment of alcoholics and intoxicated persons,
20 and preparing curriculum materials thereon for use at all
21 levels of school education.
- 22 5. Prepare, publish, evaluate, and disseminate educational
23 material dealing with the nature and effects of alcohol.
- 24 6. Develop and implement, as an integral part of treat-
25 ment programs, an educational program for use in the treatment
26 of alcoholics and intoxicated persons, which program shall
27 include the dissemination of information concerning the nature
28 and effects of alcohol.
- 29 7. Organize and foster training programs for all persons
30 engaged in treatment of alcoholics and intoxicated persons.
- 31 8. Sponsor and encourage research into the causes and
32 nature of alcoholism and treatment of alcoholics and intoxi-
33 cated persons, and serve as a clearing house for information
34 relating to alcoholism.
- 35 9. Specify uniform methods for keeping statistical in-

1 formation by public and private agencies, organizations, and
2 individuals, and collect and make available relevant statis-
3 tical information, including number of persons treated, fre-
4 quency of admission and readmission, and frequency and dura-
5 tion of treatment.

6 10. Advise the governor in the preparation of a compre-
7 hensive plan for treatment of alcoholics and intoxicated
8 persons for inclusion in the state's comprehensive health
9 plan.

10 11. Assist in the development of, and cooperate with,
11 alcohol education and treatment programs for employees of
12 state and local governments and businesses and industries
13 in the state.

14 12. Utilize the support and assistance of interested per-
15 sons in the community, particularly recovered alcoholics,
16 to encourage alcoholics to voluntarily undergo treatment.

17 13. Cooperate with the commissioner of public safety in
18 establishing and conducting programs designed to deal with
19 the problem of persons operating motor vehicles while in-
20 toxicated.

21 14. Encourage general hospitals and other appropriate
22 health facilities to admit without discrimination alcoholics
23 and intoxicated persons and to provide them with adequate
24 and appropriate treatment.

25 15. Encourage all health and disability insurance pro-
26 grams to include alcoholism as a covered illness.

27 16. Submit to the governor an annual report covering the
28 activities of the commission.

29 17. The commission may review all state health, welfare,
30 and treatment plans to be submitted for federal funding under
31 federal legislation, and advise the governor on provisions
32 to be included relating to alcoholism and intoxicated persons.

33 Sec. 8. NEW SECTION. INTERDEPARTMENTAL COORDINATING
34 COMMITTEE.

35 1. An interdepartmental coordinating committee may be

1 established by the governor, composed of the commissioner
2 of health, superintendent of public instruction, commissioner
3 of social services, director of the division of corrections
4 of the department of social services, state highway
5 commissioners, commissioner of public safety, and personnel
6 of other appropriate agencies. If established, the committee
7 shall meet at least twice annually at the call of the
8 commissioner of public health, who shall be its chairman.
9 The committee shall provide for the coordination of and
10 exchange of information on all programs relating to alcoholism,
11 and shall act as a permanent liaison among the departments
12 engaged in activities affecting alcoholics and intoxicated
13 persons. The committee shall assist the commissioner and
14 director in formulating a comprehensive plan for prevention
15 of alcoholism and for treatment of alcoholics and intoxicated
16 persons.

17 2. In exercising its coordinating functions, the commit-
18 tee shall assure that:

19 a. The appropriate state agencies provide all necessary
20 medical, social, treatment, and educational services for
21 alcoholics and intoxicated persons and for the prevention
22 of alcoholism, without unnecessary duplication of services.

23 b. The several state agencies cooperate in the use of
24 facilities and in the treatment of alcoholics and intoxicated
25 persons.

26 c. All state agencies adopt approaches to the prevention
27 of alcoholism and the treatment of alcoholics and intoxicated
28 persons consistent with the policy of this Act.

29 Sec. 9. NEW SECTION. CITIZENS ADVISORY COUNCIL ON
30 ALCOHOLISM.

31 1. The governor may appoint a citizens advisory council
32 on alcoholism, composed of fifteen members. If appointed,
33 members shall serve for overlapping terms of three years each;
34 one third of the members first appointed shall be appointed
35 for one, two, and three-year terms respectively. Members

1 shall have professional, research, or personal interest in
2 alcoholism problems. Upon appointment, the council shall
3 meet at least once every three months and report on its
4 activities and make recommendations to the director at least
5 once a year.

6 2. The council shall advise the director on broad policies,
7 goals, and operation of the alcoholism program and on other
8 matters the director refers to it, and shall encourage pub-
9 lic understanding and support of the alcoholism program.

10 3. Members of the council shall serve without compensa-
11 tion but shall receive reimbursement for travel and other
12 necessary expenses actually incurred in the performance of
13 their duties.

14 Sec. 10. NEW SECTION. COMPREHENSIVE PROGRAM FOR TREATMENT-
15 -REGIONAL FACILITIES.

16 1. The commission shall establish a comprehensive and
17 coordinated program for the treatment of alcoholics and in-
18 toxicated persons. Subject to the approval of the commis-
19 sioner, the director shall divide the state into appropriate
20 regions for the conduct of the program and establish stand-
21 ards for the development of the program on the regional level.
22 In establishing the regions, consideration shall be given
23 to city, town, and county lines and population concentrations.

24 2. The program of the commission shall include:

25 a. Emergency treatment provided by a facility affiliated
26 with or part of the medical service of a general hospital.

27 b. Inpatient treatment.

28 c. Intermediate treatment.

29 d. Outpatient and follow-up treatment.

30 3. The commission shall provide for adequate and appro-
31 priate treatment for alcoholics and intoxicated persons ad-
32 mitted under sections thirteen (13) through sixteen (16) of
33 this Act. Treatment may not be provided at a correctional
34 institution except for inmates.

35 4. The commission shall maintain, supervise, and control

1 all facilities operated by it subject to policies of the de-
2 partment. The administrator of each facility shall make an
3 annual report of its activities to the director in the form
4 and manner the director specifies.

5 5. All appropriate public and private resources shall
6 be coordinated with and utilized in the program if possible.

7 6. The director shall prepare, publish, and distribute
8 annually a list of all approved public and private treatment
9 facilities.

10 7. The commission may contract for the use of any facility
11 as an approved public treatment facility if the director,
12 subject to the policies of the department, considers this
13 to be an effective and economical course to follow.

14 Sec. 11. NEW SECTION. STANDARDS FOR PUBLIC AND PRIVATE
15 TREATMENT FACILITIES--ENFORCEMENT PROCEDURES--PENALTIES.

16 1. The commission shall establish standards for approved
17 treatment facilities that must be met for a treatment facility
18 to be approved as a public or private treatment facility,
19 and fix the fees to be charged by the commission for the re-
20 quired inspections. The standards may concern only the health
21 standards to be met and standards of treatment to be afforded
22 patients.

23 2. The commission periodically shall inspect approved
24 public and private treatment facilities at reasonable times
25 and in a reasonable manner.

26 3. The commission shall maintain a list of approved pub-
27 lic and private treatment facilities.

28 4. Each approved public and private treatment facility
29 shall file with the commission on request, data, statistics,
30 schedules, and information the commission reasonably requires.
31 An approved public or private treatment facility that without
32 good cause fails to furnish any data, statistics, schedules,
33 or information as requested, or files fraudulent returns
34 thereof, shall be removed from the list of approved treatment
35 facilities.

1 5. The commission, after holding a hearing, may suspend,
2 revoke, limit, or restrict an approval, or refuse to grant
3 an approval, for failure to meet its standards.

4 6. A district court judge may restrain any violation of
5 this section, review any denial, restriction, or revocation
6 of approval, and grant other relief required to enforce its
7 provisions.

8 7. Upon petition of the commission and after a hearing
9 held upon reasonable notice to the facility, a district court
10 judge may issue a warrant to an officer or employee of the
11 commission authorizing him to enter and inspect at reason-
12 able times, and examine the books and accounts of, any ap-
13 proved public or private treatment facility refusing to con-
14 sent to inspection or examination by the commission or which
15 the commission has reasonable cause to believe is operating
16 in violation of this Act.

17 Sec. 12. NEW SECTION. ACCEPTANCE FOR TREATMENT--RULES.
18 The director shall adopt and may amend and repeal rules for
19 acceptance of persons into the treatment program, subject
20 to the provisions of chapter seventeen A (17A) of the Code,
21 considering available treatment resources and facilities,
22 for the purpose of early and effective treatment of alcoholics
23 and intoxicated persons. In establishing the rules the
24 director shall be guided by the following standards:

25 1. If possible a patient shall be treated on a voluntary
26 rather than an involuntary basis.

27 2. A patient shall be initially assigned or transferred
28 to outpatient or intermediate treatment, unless he is found
29 to require inpatient treatment.

30 3. A person shall not be denied treatment solely because
31 he has withdrawn from treatment against medical advice on
32 a prior occasion or because he has relapsed after earlier
33 treatment.

34 4. An individualized treatment plan shall be prepared
35 and maintained on a current basis for each patient.

1 5. Provision shall be made for a continuum of coordinated
2 treatment services, so that a person who leaves a facility
3 or a form of treatment will have available and utilize other
4 appropriate treatment.

5 Sec. 13. NEW SECTION. VOLUNTARY TREATMENT OF ALCOHOLICS.

6 1. An alcoholic may apply for voluntary treatment directly
7 to an approved public treatment facility. If the proposed
8 patient is a minor or an incompetent person, he, a parent,
9 a legal guardian, or other legal representative may make the
10 application.

11 2. Subject to rules adopted by the director, the admin-
12 istrator in charge of an approved public treatment facility
13 may determine who shall be admitted for treatment. If a per-
14 son is refused admission to an approved public treatment
15 facility, the administrator, subject to rules adopted by the
16 director, shall refer the person to another approved public
17 treatment facility for treatment if possible and appropriate.

18 3. If a patient receiving inpatient care leaves an ap-
19 proved public treatment facility, he shall be encouraged to
20 consent to appropriate outpatient or intermediate treatment.
21 If it appears to the administrator in charge of the treatment
22 facility that the patient is an alcoholic who requires help,
23 the commission shall arrange for assistance in obtaining
24 supportive services and residential facilities.

25 4. If a patient leaves an approved public treatment
26 facility, with or against the advice of the administrator
27 in charge of the facility, the commission shall make reason-
28 able provisions for his transportation to another facility
29 or to his home. If he has no home he shall be assisted in
30 obtaining shelter. If he is a minor or an incompetent per-
31 son the request for discharge from an inpatient facility shall
32 be made by a parent, legal guardian, or other legal repre-
33 sentative or by the minor or incompetent if he was the original
34 applicant.

35 Sec. 14. NEW SECTION. TREATMENT AND SERVICES FOR

1 INTOXICATED PERSONS AND PERSONS INCAPACITATED BY ALCOHOL.

2 1. An intoxicated person may come voluntarily to an ap-
3 proved public treatment facility for emergency treatment.

4 A person who appears to be intoxicated in a public place and
5 to be in need of help, if he consents to the proffered help,
6 may be assisted to his home, an approved public treatment
7 facility, an approved private treatment facility, or other
8 health facility by the police or the emergency service patrol.

9 2. A person who appears to be incapacitated by alcohol
10 shall be taken into protective custody by any peace officer
11 or the emergency service patrol and brought to an approved
12 public treatment facility for emergency treatment. If no
13 approved public treatment facility is readily available he
14 shall be taken to an emergency medical service customarily
15 used for incapacitated persons. The peace officer or the
16 emergency service patrol, in detaining the person and in
17 taking him to an approved public treatment facility, is tak-
18 ing him into protective custody and shall make every reason-
19 able effort to protect his health and safety. In taking the
20 person into protective custody, the detaining officer may
21 take reasonable steps to protect himself. A taking into
22 protective custody under this section is not an arrest. No
23 entry or other record shall be made to indicate that the per-
24 son has been arrested or charged with a crime.

25 3. A person who comes voluntarily or is brought to an
26 approved public treatment facility shall be examined by a
27 licensed physician as soon as possible. He may then be ad-
28 mitted as a patient or referred to another health facility.
29 The referring approved public treatment facility shall ar-
30 range for his transportation.

31 4. A person who by medical examination is found to be
32 incapacitated by alcohol at the time of his admission or to
33 have become incapacitated at any time after his admission,
34 may not be detained at the facility once he is no longer
35 incapacitated by alcohol, or if he remains incapacitated by

1 alcohol for more than forty-eight hours after admission as
2 a patient, unless he is committed under section fifteen (15)
3 of this Act. A person may consent to remain in the facility
4 as long as the physician in charge believes appropriate.

5 5. A person who is not admitted to an approved public
6 treatment facility, is not referred to another health facility,
7 and has no funds, may be taken to his home, if any. If he
8 has no home, the approved public treatment facility shall
9 assist him in obtaining shelter.

10 6. If a patient is admitted to an approved public treat-
11 ment facility, his family or next of kin shall be notified
12 as promptly as possible. If an adult patient who is not
13 incapacitated requests that there be no notification, his
14 request shall be respected.

15 7. The police or members of the emergency service patrol
16 who act in compliance with this section are acting in the
17 course of their official duty and are not criminally or civilly
18 liable therefor.

19 8. If the physician in charge of the approved public
20 treatment facility determines it is for the patient's bene-
21 fit, the patient shall be encouraged to agree to further
22 diagnosis and appropriate voluntary treatment.

23 Sec. 15. NEW SECTION. EMERGENCY COMMITMENT.

24 1. An intoxicated person who has threatened, attempted,
25 or inflicted physical harm on another and is likely to in-
26 flict physical harm on another unless committed, or is in-
27 capacitated by alcohol, may be committed to an approved pub-
28 lic treatment facility for emergency treatment. A refusal
29 to undergo treatment does not constitute evidence of lack
30 of judgment as to the need for treatment.

31 2. The certifying physician, spouse, guardian, or rela-
32 tive of the person to be committed, or any other responsible
33 person, may make a written application for commitment under
34 this section, directed to the administrator of the approved
35 public treatment facility. The application shall state facts

1 to support the need for emergency treatment and be accompanied
2 by a physician's certificate stating that he has examined
3 the person sought to be committed within two days before the
4 certificate's date and facts supporting the need for emergency
5 treatment. A physician employed by the admitting facility
6 or the commission is not eligible to be the certifying
7 physician.

8 3. Upon approval of the application by the administrator
9 in charge of the approved public treatment facility, the per-
10 son shall be brought to the facility by a peace officer,
11 health officer, emergency service patrol, the applicant for
12 commitment, the patient's spouse, the patient's guardian,
13 or any other interested person. The person shall be retained
14 at the facility to which he was admitted, or transferred to
15 another appropriate public or private treatment facility,
16 until discharged under subsection five (5) of this section.

17 4. The administrator in charge of an approved public
18 treatment facility shall refuse an application if in his
19 opinion the application and certificate fail to sustain the
20 grounds for commitment.

21 5. When on the advice of the medical staff the admin-
22 istrator determines that the grounds for commitment no longer
23 exist, he shall discharge a person committed under this sec-
24 tion. No person committed under this section may be detained
25 in any treatment facility for more than five days. If a peti-
26 tion for involuntary commitment under section sixteen (16)
27 of this Act has been filed within the five days and the ad-
28 ministrator in charge of an approved public treatment facility
29 finds that grounds for emergency commitment still exist, he
30 may detain the person until the petition has been heard and
31 determined, but no longer than ten days after filing the peti-
32 tion.

33 6. A copy of the written application for commitment and
34 of the physician's certificate, and a written explanation
35 of the person's right to counsel, shall be given to the per-

1 son within twenty-four hours after commitment by the admin-
2 istrator, who shall provide a reasonable opportunity for the
3 person to consult counsel.

4 Sec. 16. NEW SECTION. INVOLUNTARY COMMITMENT OF
5 ALCOHOLICS.

6 1. A person may be committed to the custody of the com-
7 mission by a district court judge upon the petition of his
8 spouse or guardian, a relative, the certifying physician,
9 or the administrator in charge of any approved public treatment
10 facility. The petition shall allege that the person is an
11 alcoholic who habitually lacks self-control as to the use
12 of alcoholic beverages and that he has threatened, attempted,
13 or inflicted physical harm on another and that unless com-
14 mitted is likely to inflict physical harm on another; or is
15 incapacitated by alcohol. A refusal to undergo treatment
16 does not constitute evidence of lack of judgment as to the
17 need for treatment. The petition shall be accompanied by
18 a certificate of a licensed physician who has examined the
19 person within two days before submission of the petition,
20 unless the person whose commitment is sought has refused to
21 submit to a medical examination, in which case the fact of
22 refusal shall be alleged in the petition. The certificate
23 shall set forth the physician's findings in support of the
24 allegations of the petition. A physician employed by the
25 admitting facility or the commission is not eligible to be
26 the certifying physician.

27 2. Upon filing the petition, the court shall fix a date
28 for a hearing no later than ten days after the date the peti-
29 tion was filed. A copy of the petition and of the notice
30 of the hearing, including the date fixed by the court, shall
31 be served on the petitioner, the person whose commitment is
32 sought, his next of kin other than the petitioner, a parent
33 or his legal guardian if he is a minor, the administrator
34 in charge of the approved public treatment facility to which
35 he has been committed for emergency care, and any other per-

1 son the court believes advisable. A copy of the petition
2 and certificate shall be delivered to each person notified.

3 3. At the hearing the court shall hear all relevant tes-
4 timony, including, if possible, the testimony of at least
5 one licensed physician who has examined the person whose
6 commitment is sought. The person shall be present unless
7 the court believes that his presence is likely to be injurious
8 to him; in this event the court shall appoint a guardian ad
9 litem to represent him throughout the proceeding. The court
10 shall examine the person in open court, or if advisable, shall
11 examine the person out of court. If the person has refused
12 to be examined by a licensed physician, he shall be given
13 an opportunity to be examined by a court-appointed licensed
14 physician. If he refuses and there is sufficient evidence
15 to believe that the allegations of the petition are true,
16 or if the court believes that more medical evidence is
17 necessary, the court may make a temporary order committing
18 him to the commission for a period of not more than five days
19 for purposes of a diagnostic examination.

20 4. If after hearing all relevant evidence, including the
21 results of any diagnostic examination by the commission, the
22 court finds that grounds for involuntary commitment have been
23 established by clear and convincing proof, it shall make an
24 order of commitment to the division. It may not order commit-
25 ment of a person unless it determines that the commission
26 is able to provide adequate and appropriate treatment for
27 him and the treatment is likely to be beneficial.

28 5. A person committed under this section shall remain
29 in the custody of the commission for treatment for a period
30 of thirty days unless sooner discharged. At the end of the
31 thirty-day period, he shall be discharged automatically unless
32 the commission before expiration of the period obtains a court
33 order for his recommitment upon the grounds set forth in sub-
34 section one (1) of this section for a further period of ninety
35 days unless sooner discharged. If a person has been committed

1 because he is an alcoholic likely to inflict physical harm
2 on another, the commission shall apply for recommitment if
3 after examination it is determined that the likelihood still
4 exists.

5 6. A person recommitted under subsection five (5) of this
6 section who has not been discharged by the commission before
7 the end of the ninety-day period shall be discharged at the
8 expiration of that period unless the commission, before ex-
9 piration of the period, obtains a court order on the grounds
10 set forth in subsection one (1) of this section for recom-
11 mitment for a further period not to exceed ninety days. If
12 a person has been committed because he is an alcoholic likely
13 to inflict physical harm on another, the division shall apply
14 for recommitment if after examination it is determined that
15 the likelihood still exists. Only two recommitment orders
16 under subsections five (5) and six (6) of this section are
17 permitted.

18 7. Upon the filing of a petition for recommitment under
19 subsections three (3) or six (6) of this section, the court
20 shall fix a date for hearing no later than ten days after
21 the date the petition was filed. A copy of the petition and
22 of the notice of hearing, including the date fixed by the
23 court shall be served on the petitioner. The person whose
24 commitment is sought, his next of kin other than the
25 petitioner, the original petitioner under subsection one (1)
26 of this section if different from the petitioner for
27 recommitment, one of his parents or his legal guardian if
28 he is a minor, and any other person the court believes
29 advisable. At the hearing the court shall proceed as provided
30 in subsection three (3) of this section.

31 8. The commission shall provide for adequate and appro-
32 priate treatment of a person committed to its custody. The
33 commission may transfer any person committed to its custody
34 from one approved public treatment facility to another if
35 transfer is medically advisable.

1 9. A person committed to the custody of the commission
2 for treatment shall be discharged at any time before the end
3 of the period for which he has been committed if either of
4 the following conditions is met:

5 a. In case of an alcoholic committed on the grounds of
6 likelihood of infliction of physical harm upon another, that
7 he is no longer an alcoholic or the likelihood no longer
8 exists.

9 b. In case of an alcoholic committed on the grounds of
10 the need of treatment and incapacity, that the incapacity
11 no longer exists, further treatment will not be likely to
12 bring about significant improvement in the person's condi-
13 tion, or treatment is no longer adequate or appropriate.

14 10. The court shall inform the person whose commitment
15 or recommitment is sought of his right to contest the applica-
16 tion, be represented by counsel at every stage of any pro-
17 ceedings relating to his commitment and recommitment, and
18 have counsel appointed by the court or provided by the court,
19 if he wants the assistance of counsel and is unable to obtain
20 counsel. If the court believes that the person needs the
21 assistance of counsel, the court shall require, by appoint-
22 ment if necessary, counsel for him regardless of his wishes.
23 The person whose commitment or recommitment is sought shall
24 be informed of his right to be examined by a licensed physi-
25 cian of his choice. If the person is unable to obtain a li-
26 censed physician and requests examination by a physician,
27 the court shall employ a licensed physician.

28 11. If a private treatment facility agrees with the re-
29 quest of a competent patient or his parent, sibling, adult
30 child, or guardian to accept the patient for treatment, the
31 administrator of the public treatment facility shall transfer
32 him to the private treatment facility.

33 12. A person committed under this Act may at any time
34 seek to be discharged from commitment by writ of habeas corpus.

35 13. The venue for proceedings under this section is the

1 place in which a person to be committed resides or is present.

2 Sec. 17. NEW SECTION. RECORDS OF ALCOHOLICS AND
3 INTOXICATED PERSONS.

4 1. The registration and other records of treatment facili-
5 ties shall remain confidential and are privileged to the pa-
6 tient.

7 2. Notwithstanding subsection one (1) of this section,
8 the director may make available information from patients'
9 records for purposes of research into the causes and treat-
10 ment of alcoholism. Information under this subsection shall
11 not be published in a way that discloses patients' names or
12 other identifying information.

13 Sec. 18. NEW SECTION. VISITATION AND COMMUNICATION OF
14 PATIENTS.

15 1. Subject to reasonable rules regarding hours of visita-
16 tion which the director may adopt, patients in any approved
17 treatment facility shall be granted opportunities for adequate
18 consultation with counsel, and for continuing contact with
19 family and friends consistent with an effective treatment
20 program.

21 2. Neither mail nor other communication to or from a
22 patient in any approved treatment facility may be intercepted,
23 read, or censored. The director may adopt reasonable rules
24 regarding the use of telephone by patients in approved treat-
25 ment facilities.

26 Sec. 19. NEW SECTION. EMERGENCY SERVICE PATROL--ESTAB-
27 LISHMENT--RULES.

28 1. The commission, counties, and cities may establish
29 emergency service patrols. A patrol consists of persons
30 trained to give assistance in the streets and in other pub-
31 lic places to persons who are intoxicated. Members of an
32 emergency service patrol shall be capable of providing first
33 aid in emergency situations and shall transport intoxicated
34 persons to their homes and to and from public treatment facili-
35 ties.

1 2. The director shall adopt rules for the establishment,
2 training, and conduct of emergency service patrols.

3 Sec. 20. NEW SECTION. CONTRACT FOR CARE--RULES ADOPTED.

4 The commission may enter into written agreements with public
5 treatment facilities approved by the commission in accordance
6 with sections ten (10) and eleven (11) of this Act, to pay
7 for one-half of the cost of the care, maintenance, and
8 treatment of an alcoholic confined as a voluntary patient
9 within that county. Such contracts shall be for a period
10 of no more than one year. The commission shall review and
11 evaluate at least once each year all such agreements and
12 determine whether or not they shall be continued.

13 The contract may be in such form and contain provisions
14 as agreed upon by the parties. Such contract shall provide
15 that the facility shall admit and treat alcoholics whose legal
16 settlement is in counties other than the contracting county.
17 If one payment for care, maintenance, and treatment is not
18 made by the patient or those legally liable therefor within
19 thirty days after discharge the payment shall be made by the
20 commission directly to the facility. Payments shall be made
21 each month and shall be based upon the facility's average
22 daily per patient charge.

23 Sec. 21. NEW SECTION. CRIMINAL LAWS LIMITATIONS.

24 1. No county or city may adopt or enforce a local law,
25 ordinance, resolution, or rule having the force of law that
26 includes drinking, being a common drunkard, or being found
27 in an intoxicated condition as one of the elements of the
28 offense giving rise to a criminal or civil penalty or sanction.

29 2. No county or city may interpret or apply any law of
30 general application to circumvent the provision of subsec-
31 tion one (1) of this section.

32 3. Nothing in this Act affects any law, ordinance, resolu-
33 tion, or rule against drunken driving, driving under the in-
34 fluence of alcohol, or other similar offense involving the
35 operation of a vehicle, aircraft, boat, machinery, or other

1 equipment, or regarding the sale, purchase, dispensing,
2 possessing, or use of alcoholic beverages or beer at stated
3 times and places or by a particular class of persons.

4 Sec. 22. NEW SECTION. PUBLIC INFORMATION--ADOPTION OF
5 RULES--AVAILABILITY OF RULES AND ORDERS.

6 1. In addition to other rule-making requirements imposed
7 by law, the director shall:

8 a. Adopt as a rule a description of the organization of
9 his office, stating the general course and method of the
10 operations of his office and methods whereby the public may
11 obtain information or make submissions or requests.

12 b. Adopt rules of practice setting forth the nature and
13 requirements of all formal and informal procedures available,
14 including a description of all forms and instructions used
15 by the director or his office.

16 c. Make available for public inspection all rules and
17 all other written statements of policy or interpretations
18 formulated, adopted, or used by the director in the discharge
19 of his functions.

20 d. Make available for public inspection all final orders,
21 decisions, and opinions.

22 2. No rule, order, or decision of the director is effec-
23 tive against any person or party, nor may it be invoked by
24 the director for any purpose, until it has been made avail-
25 able for public inspection as herein required. This provi-
26 sion is not applicable in favor of any person or party who
27 has knowledge thereof.

28 Sec. 23. NEW SECTION. PETITION FOR ADOPTION OF RULES.

29 An interested person may petition the director requesting
30 the adoption, amendment, or repeal of a rule. The director
31 shall prescribe by rule the form for petitions and the
32 procedure for their submission, consideration, and disposition.
33 Within thirty days after submission of a petition, the director
34 either shall deny the petition in writing, stating his reasons
35 for the denials, or shall initiate rule-making proceedings

1 in accordance with chapter seventeen A (17A) of the Code.

2 Sec. 24. NEW SECTION. CONTESTED CASES--NOTICE--HEARING--
3 -RECORDS.

4 1. In a contested case, all parties shall be afforded
5 an opportunity for hearing after reasonable notice.

6 2. The notice shall include:

7 a. A statement of the time, place, and nature of the
8 hearing.

9 b. A statement of the legal authority and jurisdiction
10 under which the hearing is to be held.

11 c. A reference to the particular provisions of the statutes
12 and rules involved.

13 d. A short and plain statement of the matters asserted.

14 If the director or other party is unable to state the matters
15 in detail at the time the notice is served, the initial notice
16 may be limited to a statement of the issues involved. There-
17 after upon application a more definite and detailed statement
18 shall be furnished.

19 3. Opportunity shall be afforded all parties to respond
20 and present evidence and argument on all issues involved.

21 4. Unless precluded by law, informal disposition may be
22 made of any contested case by stipulation, agreed settlement,
23 consent order, or default.

24 5. The record in a contested case shall include:

25 a. All pleadings, motions, intermediate rulings.

26 b. Evidence received or considered.

27 c. A statement of matters officially noticed.

28 d. Questions and offers of proof, objections, and rulings
29 thereon.

30 e. Proposed findings and exceptions.

31 f. Any decision, opinion, or report by the officer presid-
32 ing at the hearing.

33 g. All staff memoranda or data submitted to the hearing
34 officer or members of the office of the administrator in con-
35 nection with their consideration of the case.

1 6. Oral proceedings or any part thereof shall be tran-
2 scribed on request of any party, but at his expense.

3 7. Findings of fact shall be based exclusively on the
4 evidence and on matters officially noticed.

5 Sec. 25. NEW SECTION. RULES OF EVIDENCE--OFFICIAL NOTICE.

6 In contested cases:

7 1. Irrelevant, immaterial, or unduly repetitious evidence
8 shall be excluded. The rules of evidence as applied in civil
9 cases in the district courts of this state shall be followed.
10 When necessary to ascertain facts not reasonably susceptible
11 of proof under those rules, evidence not admissible thereunder
12 may be admitted, except where precluded by statute, if it
13 is of a type commonly relied upon by reasonably prudent men
14 in the conduct of their affairs. The director shall give
15 effect to the rules of privilege recognized by law. Objections
16 to evidentiary offers may be made and shall be noted in the
17 record. Subject to these requirements, when a hearing will
18 be expedited and the interests of the parties will not be
19 prejudiced substantially, any part of the evidence may be
20 received in written form.

21 2. Documentary evidence may be received in the form of
22 copies or excerpts, if the original is not readily available.
23 Upon request, parties shall be given an opportunity to compare
24 the copy with the original.

25 3. A party may conduct cross-examinations required for
26 a full and true disclosure of the facts.

27 4. Notice may be taken of judicially cognizable facts.
28 In addition, notice may be taken of generally recognized
29 technical or scientific facts within the director's specialized
30 knowledge. Parties shall be notified either before or during
31 the hearing, or by reference in preliminary reports or other-
32 wise, of the material notices, including any staff memoranda
33 or data, and they shall be afforded an opportunity to contest
34 the material so noticed. The director's experience, technical
35 competence, and specialized knowledge may be utilized in the

1 evaluation of the evidence.

2 Sec. 26. NEW SECTION. DECISIONS AND ORDERS. A final
3 decision or order adverse to a party in a contested case shall
4 be in writing or stated in the record. A final decision shall
5 include findings of fact and conclusions of law, separately
6 stated. Findings of fact, if set forth in statutory language,
7 shall be accompanied by a concise and explicit statement of
8 the underlying facts supporting the findings. If, in
9 accordance with rules of the director, a party submitted
10 proposed findings of fact, the decision shall include a ruling
11 upon each proposed finding. Parties shall be notified either
12 personally or by mail of any decision or order. Upon request
13 a copy of the decision or order shall be delivered or mailed
14 forthwith to each party and to his attorney of record.

15 Sec. 27. NEW SECTION. JUDICIAL REVIEW OF CONTESTED CASES.

16 1. A person who has exhausted all administrative remedies
17 available before the director and who is aggrieved by a final
18 decision in a contested case is entitled to judicial review.
19 This section does not limit utilization of or the scope of
20 judicial review available under other means of review, re-
21 dress, relief, or trial de novo provided by law. A pre-
22 liminary, procedural, or intermediate action or ruling of
23 the director is immediately reviewable if review of the final
24 decision of the director would not provide an adequate remedy.

25 2. Proceedings for review are instituted by filing a peti-
26 tion in the district court within thirty days after the final
27 decision of the director or, if a rehearing is requested
28 within thirty days after the decision thereon. Copies of
29 the petition shall be served upon the director and all parties
30 of record.

31 3. The filing of the petition does not itself stay en-
32 forcement of the decision of the director. The director may
33 grant, or the reviewing court may order, a stay upon appro-
34 priate terms.

35 4. Within thirty days after the service of the petition,

1 or within further time allowed by the court, the director
2 shall transmit to the reviewing court the original or a
3 certified copy of the entire record of the proceeding under
4 review. By stipulation of all parties to the review
5 proceedings, the record may be shortened. A party unreasonably
6 refusing to stipulate to limit the record may be taxed by
7 the court for the additional costs. The court may require
8 or permit subsequent corrections or additions to the record.

9 5. If, before the date set for hearing, application is
10 made to the court for leave to present additional evidence,
11 and it is shown to the satisfaction of the court that the
12 additional evidence is material and that there were good
13 reasons for failure to present it in the proceeding before
14 the director, the court may order that the additional evidence
15 be taken before the director upon conditions determined by
16 court. The director may modify his findings and decision
17 by reason of the additional evidence and shall file that
18 evidence and any modifications, new findings, or decisions
19 with the reviewing court.

20 6. The review shall be conducted by a district court judge
21 without a jury and shall be confined to the record. In cases
22 of alleged irregularities in procedure before the director,
23 not shown in the record, proof thereon may be taken in the
24 court. The court, upon request, shall hear oral argument
25 and receive written briefs.

26 7. The court shall not substitute its judgment for that
27 of the director as to the weight of the evidence on questions
28 of fact. The court may affirm the decision of the director
29 or remand the case for further proceedings. The court may
30 reverse or modify the decision if substantial rights of the
31 appellant have been prejudiced because the administrative
32 findings, inferences, conclusions, or decisions are:

- 33 a. In violation of constitutional or statutory provisions.
34 b. In excess of the statutory authority of the director.
35 c. Made upon unlawful procedure.

- 1 d. Affected by other error of law.
- 2 e. Clearly erroneous in view of the reliable, probative,
- 3 and substantial evidence on the whole record.
- 4 f. Arbitrary or capricious or characterized by abuse of
- 5 discretion or clearly unwarranted exercise of discretion.

6 Sec. 28. NEW SECTION. APPEALS. An aggrieved party may
7 obtain a review of any final judgment of the court by appeal
8 to the supreme court. The appeal shall be taken as in other
9 civil cases.

10 Sec. 29. NEW SECTION. SHORT TITLE. This Act may be cited
11 as the uniform alcoholism and intoxication treatment act.

12 Sec. 30. Section one hundred twenty-three B point five
13 (123B.5), Code 1973, is amended to read as follows:

14 123B.5 COUNTIES TO SHARE HALF OF COST. Counties In
15 accordance with sections one (1) through twenty-nine (29),
16 inclusive, of this Act, counties shall pay for ~~the remain-~~
17 ing one-half of the cost of the care, maintenance, and treat-
18 ment of an alcoholic from its state institutions fund as pro-
19 vided in section 444.12. The facility shall certify to the
20 county of the alcoholic's legal settlement once each month
21 one-half of the unpaid cost of the care, maintenance, and
22 treatment of an alcoholic who has been confined as a voluntary
23 patient. Such county shall pay the cost so certified to the
24 facility from its state institutions fund. A facility may,
25 upon approval of the board of supervisors, submit to a county
26 a billing for the aggregate amount of all care, maintenance,
27 and treatment of alcoholics for each month. The board of
28 supervisors may demand an itemization of such billings at
29 any time or may audit the same.

30 Sec. 31. Section one hundred twenty-three B point ten
31 (123B.10), Code 1973, is amended to read as follows:

32 123B.10 LIEN ON REAL PROPERTY. The total cost of pro-
33 viding the care, maintenance, and treatment for an alcoholic
34 pursuant to ~~this chapter~~ sections one (1) through twenty-nine
35 (29), inclusive, of this Act shall be a lien on any real

1 estate owned by the alcoholic or owned by his spouse. Such
2 lien shall be effective against the real estate owned by the
3 spouse only if the name of the spouse is indexed by the
4 auditor. No lien imposed by this statute against any real
5 estate of a spouse prior to July 1, 1969 shall be effective
6 against the property of such spouse unless the name of the
7 spouse was indexed prior to July 1, 1969.

8 Sec. 32. Section one hundred twenty-three B point sixteen
9 (123B.16), Code 1973, is amended to read as follows:

10 123B.16 CLAIM AGAINST ESTATE. On the death of the person
11 who receives assistance under the provisions of ~~this chapter~~
12 sections one (1) through twenty-nine (29), inclusive, of this
13 Act, the total amount paid for his care, maintenance, and
14 treatment shall be allowed as a claim of the second class
15 against the estate of such person.

16 Sec. 33. Section two hundred twenty-four point one (224.1),
17 Code 1973, is amended to read as follows:

18 224.1 COMMITMENT. Persons addicted to the excessive use
19 of ~~intoxicating-liquors~~, morphine, cocaine, or other narcotic
20 drugs may be committed by the commissioners of hospitalization
21 of each county to such institutions as the commissioner of
22 the state department of social services may designate.

23 Sec. 34. Section two hundred twenty-four point two (224.2),
24 Code 1973, is amended to read as follows:

25 224.2 STATUTES APPLICABLE. All statutes governing the
26 commitment, custody, treatment, and maintenance of the men-
27 tally ill shall, so far as applicable, govern the commitment,
28 custody, treatment, and maintenance of those addicted to the
29 excessive use of such drugs ~~and-intoxicating-liquors~~.

30 Sec. 35. Section two hundred twenty-four point five
31 (224.5), Code 1973, is amended to read as follows:

32 224.5 MENTAL ILLNESS OF NARCOTIC ADDICTS. Should a per-
33 son, committed because of his excessive use of narcotic drugs
34 ~~or-intoxicating-liquors~~, become mentally ill, the commis-
35 sioner of the state department of social services, on complaint

1 of the superintendent having the custody of such person, and
2 on due hearing, may order such person committed to a hospital
3 for the mentally ill. Such order shall have the same force
4 and effect as though entered by the commissioners of hos-
5 pitalization of the county of the patient's residence, and
6 such person may appeal from such order in the same manner
7 in which appeals are allowed from the orders of the
8 commissioners of hospitalization.

9 Sec. 36. Section three hundred twenty-one B point seventeen
10 (321B.17), Code 1973, is amended to read as follows:

11 321B.17 REFERRED ON CONVICTION. After any conviction
12 for operating a motor vehicle while under the influence of
13 an alcoholic beverage under section 321.281, the court may
14 refer the defendant for treatment at a facility as defined
15 in ~~chapter-423B~~ sections one (1) through twenty-nine (29),
16 inclusive, of this Act. The court may prescribe the length
17 of time for treatment or it may be left to the discretion
18 of the facility to which the defendant was referred. A person
19 referred under this section shall be considered a state
20 patient.

21 Sec. 37. Section four hundred forty-four point twelve
22 (444.12), subsection one (1), paragraph e, Code 1973, is
23 amended to read as follows:

24 e. Care and treatment of persons admitted or committed
25 to the alcoholic treatment center at Oakdale or any facilities
26 as provided in ~~chapter-423B~~ sections one (1) through twenty-
27 nine (29), inclusive, of this Act, provided, however, that
28 any such admission shall be reported to the county board of
29 supervisors within five days by the center or facility offering
30 such treatment.

31 Sec. 38. Sections one hundred twenty-three B point one
32 (123B.1), one hundred twenty-three B point two (123B.2), one
33 hundred twenty-three B point three (123B.3), one hundred
34 twenty-three B point four (123B.4), one hundred twenty-three
35 B point seventeen (123B.17), two hundred twenty-six point

1 thirty-five (226.35), two hundred twenty-six point thirty-
2 six (226.36), two hundred twenty-six point thirty-seven
3 (226.37), two hundred twenty-six point thirty-eight (226.38),
4 two hundred twenty-six point thirty-nine (226.39), and chapter
5 one hundred twenty-three A (123A), Code 1973, are repealed.

6 Sec. 39. EFFECTIVE DATE. This Act shall become effective
7 July 1, 1974.

8 EXPLANATION

9 This bill provides for the elimination of the prosecution
10 process for intoxicated persons and alcoholics and provides
11 for statewide intoxication and alcoholism treatment facili-
12 ties. Costs of treatment would be shared with counties as
13 is presently provided, and provisions for both voluntary and
14 involuntary commitment are included.

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